

Submission Template

**The right to interpretation and translation and the right to
information in criminal proceedings in the EU**

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QUESTIONS

As envisaged in the section on Research Methodology, please note that some questions require consultation with organisations and/or practitioners working in relevant fields covered by the research to cross-check findings from the desk research with respect to the way in which the examined rights are applied in practice (such as judges, lawyers, interpreters and translators or civil society organisations active in the field of legal assistance in criminal proceedings).

SECTION A: The right to interpretation and translation in criminal proceedings

1.	RIGHT TO INTERPRETATION ¹	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</p> <p>b) How it works in practice for the various stages of the proceedings to ascertain whether suspected or accused persons speak and understand the language of the proceedings?</p> <p>c) Who bears the cost of interpretation at each stage?</p> <p>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p>.Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
1.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a) England and Wales: The custody officer or other custody staff as directed by the custody officer shall determine whether a suspect under arrest or a detainee requires an interpreter.² For suspects who are not under arrest, but interviewed under caution pursuant to section 10 of the Police and Criminal Evidence Act 1984 Code C (PACE Code C), the interviewing officer is responsible for determining whether they require an interpreter and to ensure the provision of</p>

¹ See in particular Articles 2 and 4 and related recitals of Directive 2010/64/EU.

² UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Paragraph 3.5 (c)(ii) and 3.12 (a).

	<p>interpretation and translation services.³ Chief police officers are responsible for making sure appropriate arrangements are in place to provide appropriately qualified independent persons to act as interpreters.⁴ With regard to persons in Wales, separate Welsh Language Schemes apply and are produced by the police and crime commissioners of Wales in accordance with the Welsh Language Act 1993.⁵ In both England and Wales, if a custody officer determines that a person requires an interpreter, arrangements must also be made for an interpreter to explain the grounds and reasons for any continued detention, be present at the magistrates' court for any hearing and explain any offence with which the detainee is charged.⁶</p> <p>Scotland: A constable is responsible for determining the need for interpretation at the police station.⁷ A constable must take all reasonable steps to determine whether a person in police custody or attending the police station voluntarily requires any interpretation assistance because the person does not speak or understand English.⁸</p> <p>Northern Ireland: The custody officer is responsible for determining whether the suspect or detainee requires an interpreter.⁹ If a suspect who is not under arrest or a person attends the police station voluntarily to assist with an investigation and they are cautioned under section 10 of PACE (Northern Ireland) Order 1989 Code C (PACE Code C (NI)) (in other words they are a suspect who is not under arrest or in custody), the interviewer is responsible for determining whether the person requires an interpreter and the provision of interpretation and translation</p>
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³ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Paragraph 3.21.

⁴ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Paragraph 13.1.

⁵ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.1C.

⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.10.

⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 3(2). A constable is defined in regulation 2(1) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014.

⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 3(2)(a) and (b).

⁹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.5(c)(ii) and 3.7, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

		<p>services and is responsible for informing them of that right.¹⁰ The Chief Constable is responsible for making sure appropriate arrangements are in place for provision of suitable qualified interpreters for people who do not understand English.¹¹</p>
		<p>b) England and Wales: The procedure for determining whether a person needs an interpreter might involve a telephone interpreter service or using cue cards or similar visual aids which enable the person to indicate their ability to speak and understand English and their preferred language.¹² It has been observed that there is no right-based or risk assessment-based question during the booking-in process to assess whether interpretation is needed; police officers rely on their discretion and common sense to identify the need for interpretation.¹³ The <i>Inside Police Custody</i> study observed that custody officers have various techniques for identifying the need for an interpreter, although officers tend to rely on perception. There are also a number of different verification methods used by police officers to identify a suspect's level of English.¹⁴ In order to identify the correct language the custody officer refers to a poster near the custody desk or uses the Language Line Language Identification Card.¹⁵ Usually the police officers would “<i>err on the side of caution and instruct an interpreter where they were not sure</i>”.¹⁶ It is possible for an interpreter to attend the police station to assess the extent to which the person can speak and</p>

¹⁰UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.16(b), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>..

¹¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.1 and 13.1A,, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

¹² UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), note 13B.

¹³ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 171.

¹⁴ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 171, paragraph 4.1.

¹⁵ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 184, paragraph 4.3.

¹⁶ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 172, paragraph 4.1.

understand English.¹⁷ When the custody officer assesses that a person requires interpretation services, he or she will call Language Line who will initially provide interpretation by telephone to assist with the notification of rights and the decision to detain (the booking-in procedure).¹⁸

Scotland: When the constable in charge determines that interpretation services might be required, he or she will contact Global Language Solutions and organise for an interpreter to attend in person.¹⁹ As in England and Wales there is no formal assessment of the need for interpretation, police officers rely on their discretion and common sense to identify the need for interpretation.²⁰ Police Scotland stated that where suspect persons are to be interviewed under caution, take part in an Identification parade, cautioned and charged or to complete the drink drive procedure, an interpreter will be called to attend the police station where the person's first language is not English.²¹ The identification of the preferred language may be able to be communicated in English, but where the person has no or little English then language identification posters and cards are available within custody centres or to officers. Global Language Services Ltd also produce a language identification leaflet.²² A telephone interpreter service is also available which could be used to clarify where language or dialect identification is an issue.²³ However all interpretation which occurs at the police station in Scotland is in person.²⁴

Northern Ireland: The custody officer uses similar methods to those used by police in the rest of the United Kingdom. The custody officer uses the telephone interpreter service through The Big

¹⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), note 13B.

¹⁸ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 154, paragraph 3.2.

¹⁹ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 154, paragraph 3.2.

²⁰ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 171.

²¹ UK, representative of the Police Scotland.

²² UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 184, paragraph 4.3 and representative of the Police Scotland.

²³ UK, representative of the Police Scotland.

²⁴ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 152.

	<p>Word, a language solution provider, as well as using the language identification poster, which covers 34 languages in order to ascertain which language is being spoken.²⁵</p>
	<p>c) England and Wales: Interpreters are provided at public expense and all reasonable attempts shall be made by the police to make the suspect understand this.²⁶ The Metropolitan Police Service pay for interpreters used during police proceedings.²⁷ Scotland: All interpretation assistance must be provided free of charge.²⁸ This is paid for by Police Scotland. Northern Ireland: Interpreters are provided at public expense.²⁹ The Police Service of Northern Ireland covers the cost of interpretation for suspects or accused persons during the police questioning phase.³⁰</p>
	<p>d) England and Wales: On arrival at the police station the custody officer must tell the person under arrest of their right to interpretation and translation.³¹ If the custody officer determines that the person does not speak or understand English or has a hearing or a speech impediment, the custody officer must ensure that an interpreter is called to give assistance “<i>without delay</i>”.³²</p>

²⁵ UK, representative of the Police Service of Northern Ireland.

²⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.1B.

²⁷ UK, Metropolitan Police (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), paragraph 14, available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

²⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 16.

²⁹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.1B, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³⁰ UK, representative of the Police Service of Northern Ireland.

³¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.1(a)(iv).

³² UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.12.

Where a person has been charged or summonsed to appear in the magistrates' court within two working days, the police must arrange the interpreter for the court hearing.³³

Scotland: If a constable determines that a person requires interpretation assistance, the constable must ensure arrangements are made for interpretation or translation “*as soon as reasonably practicable*” after arrival at the police station or other premises where the person is being questioned.³⁴ Police Scotland say that if a person requires an interpreter, none of the specific procedures will commence unless an interpreter is available and accordingly operational demands are the driver for this to be completed as promptly as possible. Police Scotland is not aware of a specific deadline time publicised to officers. Sometimes geographical issues and demand for interpretation services will impact on the arrival time but where particular challenges or delays are due to the interpreter, then the custody staff may decide submit reports to senior staff within the force which outline where any issues with the contractor were experienced.³⁵ Police Scotland reported that they have Standard Operating Procedures (SOP) in respect of interpreting and translation services and there is other guidance available to police officers. However, Police Scotland does not publish their SOPs.³⁶

Northern Ireland: The custody officer must ensure an interpreter is called “*without delay*”. When a custody officer cannot establish effective communication with a person charged with an offence and there is doubt about their ability to hear, speak or understand English, arrangements must be made as soon as practicable for an interpreter to explain the offence and any information given by the custody officer.³⁷ Under the face to face interpretation contract, it is specified that the contractor should aim to provide an interpreter generally within 48 hours' notice but occasionally a shorter period of notice, as little as two hours, may need to be given to meet operational requirements. In emergency requests, the contractor must arrive within a maximum of two hours anywhere in Northern Ireland, where the need arises. Response times must take into

³³ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 4.4.1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>

³⁴ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 3(3)(a).

³⁵ UK, representative of the Police Scotland.

³⁶ UK, representative of the Police Scotland.

³⁷ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.7 and 13.9; available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

		<p>consideration the numerous demands and obligations placed on the Police Service of Northern Ireland (PSNI), for example, legislative constraints in respect of detained persons and obtaining evidence and the investigation of serious crime.³⁸</p>
<p>1.1.2</p>	<ul style="list-style-type: none"> • court hearings; 	<p>a) England and Wales: It is the responsibility of the magistrates' court to arrange the interpreter for the defendant where the police have charged a person with an offence or summonsed a person for a court appearance, if the court hearing is more than two days after the charge or summons. The police must provide the court with all the relevant information.³⁹ Where a case is committed, sent for trial or transferred to the crown court, the crown court will arrange any interpreter necessary to interpret for the defendant during court proceedings.⁴⁰ The court must facilitate the participation of the defendant which includes finding out whether the defendant needs interpretation because he does not speak English or he has a hearing or speech impediment.⁴¹ It is the judge's responsibility to ensure the defendant speaks the language of the court adequately. The interpretation provided should enable the defendant to understand the case against him and to defend himself, by being able to put before the court his or her version of the events. This may extend to a degree of subsequent control over the adequacy of the interpretation provided. The judge in particular is required to treat the defendant's interests with "<i>scrupulous care</i>".⁴² In most cases the police ascertain whether a defendant requires interpretation services by the first hearing or the legal representatives will identify the need, but it is for the judge in the case to decide that an interpreter is required.⁴³ HMCTS reported that once the court is made aware that a defendant requires an interpreter they will ensure that an interpreter is arranged for every hearing at which the defendant is due to attend. In a situation where the need for an interpreter is identified at a hearing, the judge will determine whether, due to the type of hearing, it would be possible to</p>

³⁸ UK, representative of the Police Service of Northern Ireland.

³⁹ UK, HM Government (2007) Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 4.5.1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

⁴⁰ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 4.5.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

⁴¹ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 3.9(4).

⁴² UK, HM Government (2007) Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 3.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

⁴³ UK, representative of the HM Court and Tribunals Service.

	<p>proceed without an interpreter in that instance. If it is not possible to proceed in the absence of an interpreter the judge will instruct that efforts are made to arrange an interpreter. There should not be any instances where an interpreter is refused by the court.⁴⁴ Where a defendant requires interpretation, the court officer must arrange for interpretation to be provided at every hearing which the defendant is due to attend.⁴⁵ The criminal practitioner reported that there are certain crown court judges who question the need for interpreters if the defendant has been in the country for a lengthy period but on the whole if a lawyer, as an officer of the court, says his client needs an interpreter one is provided.⁴⁶</p> <p>Scotland: The court must take all reasonable steps to determine whether the person subject to criminal proceedings requires any interpretation assistance because the person does not speak English, does not understand English, has a hearing or speech impediment.⁴⁷ Where the court determines that a person requires interpretation assistance, it must ensure that arrangements are made for the person to be provided with that assistance at every hearing at which the person is due to appear, for the purpose of safeguarding the fairness of the proceedings in accordance with Directive 2010/64/EU.⁴⁸ Ultimately the court has to be satisfied that the accused is fit to plead or stand trial and can comprehend the conduct of proceedings against them.⁴⁹</p> <p>Northern Ireland: The judge has the responsibility for deciding if the defendant requires interpretation.⁵⁰ The chief clerk shall appoint an interpreter for a defendant in a hearing, where an interpreter is required.⁵¹ If the chief clerk has not appointed an interpreter, the court may give a direction about the appointment of an interpreter if a defendant needs one.⁵²</p> <p>b) England and Wales: In practice the police or the Crown Prosecution Service (CPS) or the defendant's legal representatives ascertain whether the defendant speaks or understands the</p>
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⁴⁴ UK, representative of the HMCTS.

⁴⁵ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 3.9(5)(a).

⁴⁶ UK, criminal practitioner.

⁴⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 8(1).

⁴⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 8(2).

⁴⁹ UK, representative of the Scottish Courts and Tribunals Service.

⁵⁰ UK, representative of the Northern Ireland Courts and Tribunals Service.

⁵¹ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(2)

⁵² UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(7).

language of the proceedings and will inform the court that the defendant requires interpretation.⁵³ In order to assist the court, the police will, within three working days of the charge or summons or two days before the hearing, provide the court with all the relevant information including the language and dialect spoken by the defendant, the names of interpreters used by the police and defence solicitors and any particular difficulties which may be encountered by, for example, using an interpreter from a particular ethnic group or political affiliation.⁵⁴ However, it is for the judge at court to decide whether the defendant requires interpretation services.⁵⁵

Scotland: If an accused requires interpretation services, this should be communicated to the court by the police and the Crown Office and Procurator Fiscal Service (COPFS) who will have had prior dealings with the accused and should have assessed his or her requirements. If an accused appears directly from custody, the police will arrange for the attendance of an interpreter on behalf of Scottish Court and Tribunals System (SCTS).⁵⁶

Northern Ireland: The interpretation needs of a defendant are initially identified by the Police Service of Northern Ireland at the investigation stage. If it has been overlooked or missed at the investigation stage, the need for interpretation would be identified by the defendant's solicitor or the judge during initial questioning.⁵⁷

c) **England and Wales:** The judge at court will make provision for the payment of an interpreter for a defendant out of central funds because of the accused's lack of English.⁵⁸

Scotland: All interpretation assistance must be provided free of charge.⁵⁹ The Scottish Courts and Tribunals Service covers the cost of interpretation for the accused. COPFS makes

⁵³ UK, representative of the HM Courts and Tribunals Service.

⁵⁴ UK, HM Government (2007) Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), page 5, paragraph 4.5.1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>.

⁵⁵ UK, representative of the HM Courts and Tribunals Service.

⁵⁶ UK, representative of the Scottish Courts and Tribunals Service.

⁵⁷ UK, representative of the Northern Ireland Courts and Tribunals Service.

⁵⁸ UK, HM Government (1985) Prosecution of Offences Act 1985 (1985 c 23) Section 19 (3)(b). See also UK Lord Chief Justice of England and Wales (2014) Practice Direction Costs in Criminal Proceedings Amendment no 1 (23 July 2014) [2014] EWCA Crim 1570, paragraph 2.5 and representative of the HM Courts and Tribunals Service.

⁵⁹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 16.

		<p>arrangements for and covers the cost of interpretation for crown witnesses and arrangements for defence witnesses generally lie with the legal representatives for the defence.⁶⁰</p> <p>Northern Ireland: In cases prosecuted by the Public Prosecution Service (PPS), the cost of supplying the interpreter for defendants at the first court appearance is paid for by the Police Service of Northern Ireland (PSNI). The cost of providing in-court interpretation for defendants at second and subsequent hearings was jointly met by the Northern Ireland Courts and Tribunal Service (NICTS), the PPS and the Department of Justice (DoJ).⁶¹ However the NICTS say that this is no longer the case and the cost of in-court interpretation between the court and defendant is paid for by the NICTS. Other agencies pay for their own interpreters, for example, the PPS pay for prosecution witnesses and the Legal Service Commission (since 1 April 2015, the Legal Services Agency) pay for defence witnesses.⁶² NICTS will arrange and pay for an interpreter to support a non-English speaking defendant in criminal cases prosecuted by all other agencies, for example, TV Licensing, Driver and Vehicle Licensing, Crown Solicitors Office in extradition cases.</p> <p>d) England and Wales: Where a judge has ordered that an interpreter is required, the court will as soon as possible book an interpreter through the Ministry of Justice’s contracted service provider⁶³ to attend all hearings, including trial, which the defendant is due to attend.⁶⁴</p> <p>Scotland: As soon as possible after the judge has made the order that an interpreter is required.⁶⁵</p> <p>Northern Ireland: Interpretation is provided at each stage of the process as soon as possible.⁶⁶</p>
1.1.3	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) England and Wales: The custody officer at the police station is responsible for ensuring that the interpreter attends the magistrates’ court for the hearing of an application for a warrant of further detention or any extension or further extension of such warrant to explain any grounds and reasons for the application and any information about the authorisation of their further detention</p>

⁶⁰ UK, representative of the Scottish Courts and Tribunals Service.

⁶¹ UK Northern Ireland Courts and Tribunal Service (2013) *Interpreter and translation services*, Belfast, available at: <http://www.courtsni.gov.uk/en-gb/services/interpretation-services/Pages/default.aspx>. See also UK, Northern Ireland Court Service (2010) *Consultation Paper: Provision of In-Court Interpretation Services*, Belfast, Northern Ireland Court Service, pages 6 – 7, available at: www.courtsni.gov.uk/en-gb/Publications/Public_Consultation/Documents/Consultation%20Paper%20Provision%20of%20In-Court%20Interpretation%20Services/p_pc_Provision_of_InCourt_Interpretation_Services.pdf .

⁶² UK, representative of the Northern Ireland Courts and Tribunals Service.

⁶³ UK, Capita TI are the sole contractor under the Ministry of Justice Language Services Framework Agreement (November 2014).

⁶⁴ UK, representative of the HM Courts and Tribunals Service.

⁶⁵ UK, representative of the Scottish Courts and Tribunals Service.

⁶⁶ UK, representative of the Northern Ireland Courts and Tribunals Service.

		<p>given to them by the court.⁶⁷ For all other interim hearings, see 1.1.2(a) under ‘court hearings’ above. The same rules apply. Scotland: See 1.1.2(a) above. The same rules apply. Northern Ireland: See 1.1.2(a) under ‘court hearings’ above. The same rules apply.</p> <p>b) See 1.1.2(b) under ‘court hearings’ above. The same rules apply.</p> <p>c) See 1.1.2(c) under ‘court hearings’ above. The same rules apply.</p> <p>d) See 1.1.2(d) under ‘court hearings’ above. The same rules apply.</p>
1.1.4	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	<p>a) England and Wales: If a detainee wishes to exercise the right to consult and communicate privately with a solicitor in accordance with paragraph 6.1 Police and Criminal Evidence Act Code C and the detainee cannot communicate with the solicitor because of language, hearing or speech difficulties, an interpreter must be called.⁶⁸ PACE Code C paragraph 13.9 does not restrict the provision of interpretation services to any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings. The provision of an interpreter is for any communication between a suspect or solicitor. It is set out in PACE Code C that interpretation services should be provided to enable a suspect to understand their position and be able to communicate effectively with police officers, interviewers, solicitors and appropriate adults, in the same way as a person who can speak and understand English and would not require an interpreter.⁶⁹ Interpretation services are usually</p>

⁶⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014) Paragraph 13.10.

⁶⁸ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.9.

⁶⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.1A.

provided by an interpreter attending in person.⁷⁰ A police officer or any police staff may not be used for this purpose.⁷¹ The solicitor attending a suspect at the the police station will also assess whether a suspect requires interpretation services, but in most cases an interpreter will have already been called by the custody officer.⁷² However, the *Inside Police Custody* study noted that in a number of instances a suspect had been able to understand the booking-in procedure and answer some straightforward questions, but when the interrogation began and the language became more technical, the level of understanding deteriorated and an interpreter was required.⁷³ The solicitor instructed by the suspect may use the same interpreter as the one called by the police. The Law Society of England and Wales advises that if the police interpreter is used, the solicitor should seek the consent of the suspect and advise that the interpreter is independent and their code of conduct requires them to maintain confidentiality.⁷⁴ The criminal practitioner we contacted told us that he has never had concerns about an interpreter who has been called by the police, but if his client had a concern, he would request a different interpreter. He always advises his client about an interpreter's duties with regard to impartiality and independence and confidentiality. In his experience the interpreters are always independent and impartial. In fact, they usually have a great deal of empathy with his clients.⁷⁵

Scotland: As in England and Wales, lawyers in Scotland do not usually need to assess whether interpretation is necessary, as the constable in charge of booking-in will have already assessed the need. However, the *Inside Police Custody* study reported cases where interpreters had not been called by the police, but when the solicitor spoke to the suspect it was clear they did not speak or understand English.⁷⁶ In Scotland, the interpreter used for the booking-in procedure

⁷⁰ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 156, paragraph 3.3.

⁷¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.9.

⁷² UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 176, see also page 183.

⁷³ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 178, paragraph 4.2.

⁷⁴ UK, The Law Society of England and Wales (2012), *Use of Interpreters in Criminal Cases* (24 January 2012), paragraph 4.1.1, available at: www.lawsociety.org.uk/support-services/advice/practice-notes/interpreters-in-criminal-cases/.

⁷⁵ UK, criminal practitioner.

⁷⁶ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 176.

	<p>would also be available for solicitor-client private consultation, as that interpreter would be present at the police station.⁷⁷ If, however, because of the remoteness of the police station or the rarity of the language it is not possible for the interpreter to attend in person, the interpretation may be provided by telephone.⁷⁸ In Scotland, the explanatory note attached to the 2014 regulations states that interpretation is to be provided for safeguarding the fairness of the proceedings in accordance with the Directive, including interpretation between a solicitor and his client in direct connection with any other questioning or hearing during the proceedings or with the lodging of an appeal or other procedural application.⁷⁹ The condition applies in principle in Scotland, but interpretation, in practice, is available for any communication between a solicitor and his client and the solicitor will determine his client's needs.⁸⁰ Northern Ireland: The police arrange the initial interpretation at the police station when they identify that the suspect/accused person requires interpretation services. [Under revised PACE Code C (Northern Ireland), the provision of interpretation services is not restricted to communication in direct connection with any questioning or hearing during criminal proceedings.⁸¹ The provision of an interpreter is for any communication between a suspect or solicitor. It is set out in PACE Code C (Northern Ireland) that interpretation services should be provided to enable a suspect to understand their position and be able to communicate effectively with police officers, interviewers, solicitors and appropriate adults, in the same way as a person who can speak and understand English and would not require an interpreter.⁸² The lawyer we contacted in Northern Ireland determines his own client's interpretation needs and would generally err on the side of caution and ask for an interpreter.⁸³ The criminal practitioner reported that the</p>
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⁷⁷ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 156, paragraph 3.3.

⁷⁸ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 157, paragraph 3.3.

⁷⁹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), Explanatory Note, paragraph (b).

⁸⁰ UK, criminal practitioner.

⁸¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers, paragraph 13.9, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

⁸² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers, paragraph 13.1A, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

⁸³ UK, criminal practitioner in Northern Ireland.

	<p>interpreter is used to assist with communication between him and his client and will also interpret during the interview with the police. The lawyer and the police in his experience use the same interpreter, he has never seen two interpreters at the police interview stage. He also stated that there are not that many interpreters based in Northern Ireland because it is a small jurisdiction. In his view the standard of interpretation is high and he has never been concerned about the quality of an interpreter.⁸⁴</p> <p>b) England and Wales: The Law Society of England and Wales has published guidance on using language interpreters for criminal practitioners.⁸⁵ This gives guidance on identifying suitably qualified interpreters and identifying interpreter needs. There are facilities at the police station to allow lawyers, suspects and interpreters to communicate privately.⁸⁶ A practitioner reported that in his experience, no formal procedure is followed for the identification of interpretation needs by solicitors. Ultimately, if a suspect requests an interpreter at the police station or court, one is provided. It is usually obvious once the solicitor has attempted to speak to a client that an interpreter is required.⁸⁷</p> <p>Scotland: A solicitor informed us that he assesses his client's needs using a combination of information from the police or court and his own observations. He may also obtain information from the client and their friends or family.⁸⁸ At the police station, a lawyer who took part in the <i>Inside Police Custody</i> study reported that there are often no facilities to allow private communication between a solicitor, client and an interpreter.⁸⁹</p> <p>Northern Ireland: A criminal practitioner reported that he would err on the side of caution and instruct an interpreter. Even when the client has good English it is unlikely they will understand some of the more technical terminology used in police stations and how officers' conduct interviews.⁹⁰</p>
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⁸⁴ UK, criminal practitioner in Northern Ireland.

⁸⁵ UK, The Law Society of England and Wales (2012) *Use of Interpreters in Criminal Cases* (24 January 2012), available at: www.lawsociety.org.uk/support-services/advice/practice-notes/interpreters-in-criminal-cases/.

⁸⁶ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 164.

⁸⁷ UK, criminal practitioner in England.

⁸⁸ UK, criminal practitioner in Scotland.

⁸⁹ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 164.

⁹⁰ UK, criminal practitioner in Northern Ireland.

c) **England and Wales:** The Legal Aid Agency of England and Wales pays for an interpreter, required by a solicitor, for taking instructions from a client outside the courtroom, provided the cost is reasonable.⁹¹ An interpreter is a person who is providing expert services and, under the Criminal Legal Aid (Remuneration) Regulations 2013, will be paid at the rates set out in the Regulations.⁹²

Scotland: The Scottish Legal Aid Board pays for interpretation services required by a defendant who does not speak English or who is deaf or hard of hearing. Solicitors acting for the accused person can claim “*outlays actually and reasonably incurred*”.⁹³ The Scottish Legal Aid Board provides guidance on interpretation and translation fees allowed under the Scottish Government Legal Aid Contract.⁹⁴

Northern Ireland: The Legal Services Agency Northern Ireland (previously the Northern Ireland Legal Services Commission) is responsible for the payment of an interpreter’s fees incurred during pre-trial preparation.⁹⁵ In court, the Northern Ireland Courts and Tribunals Service pays the costs of interpretation for the defendant, but the Legal Services Agency pays the costs of interpretation for defence witnesses.⁹⁶ Expenses “*properly incurred in pursuance of [...] [a criminal aid] certificate*” shall be “*defrayed out of moneys provided by the [Northern Ireland] Assembly.*”⁹⁷

d) **England and Wales:** A solicitor should inform the court as soon as possible that their client requires interpretation services, if it only becomes apparent that the defendant requires an interpreter after being released from the police station or after the case has been committed,

⁹¹ UK, HM Government (2013) Legal Aid Agency *Guidance on the Remuneration of Expert Witnesses* (updated April 2015), page 15, paragraph 6.29, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/420106/expert-witnesses-fees-guidance.pdf

⁹² UK, HM Government (2013) The Criminal Legal Aid (Remuneration) Regulations 2013 (SI 2013/435), regulation 16 and schedule 5.

⁹³ UK, HM Government Criminal Legal Aid (Scotland)(Fees) Regulations 1989, regulation 8 (b) and (c).

⁹⁴ UK, Scottish Legal Aid Board (2012) *Guidance on interpreting and translation fees*, Edinburgh, Scottish Legal Aid Board (SLAB), available at: www.slab.org.uk/providers/Interpreting.html.

⁹⁵ UK, HM Government (2011) P Luney and J Coffey, Northern Ireland Courts and Tribunals Service, *Consultation on the Provision of In-Court Interpretation Services: Summary of Responses and Way Forward* (21 January 2011), page 20, paragraph 4.4(i), available at: <http://bit.ly/1ENDwYs>.

⁹⁶ UK, representative of the Northern Ireland Courts and Tribunals Service.

⁹⁷ UK, HM Government (1981) Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, 1981/228, Part III, section 36(1). See also UK, HM Government (2005) Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005, SR 2005/113 rules 7 and 8 and UK, HM Government (2009) The Magistrates’ Courts and County Courts Appeals (Criminal Legal Aid)(Costs) Rules (Northern Ireland) 2009, SR 2009/313, rule 7.

		<p>transferred or sent for trial.⁹⁸ An interpreter should be provided as soon as possible. This in practice means suspects often speak to an interpreter by telephone on arrival at the police station.⁹⁹</p> <p>ScotlandThe solicitor we contacted from Scotland informed us that there is no timeframe but that there is a regulatory basis for this which in his experience is under used.¹⁰⁰</p> <p>Northern Ireland: [The criminal practitioner in Northern Ireland we contacted did not provide timescales, but stated that the timeframe is based on how long interpreter needs. There is no official line on this although the court will put pressure on the solicitor to progress the case.¹⁰¹</p>
1.2	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>England and Wales: The Metropolitan Police Service maintain their own official list of approved Metropolitan Police Service Interpreters, which is maintained by the Language and Cultural Services Branch of the police.¹⁰² If it is not possible to find an interpreter for a rare language, police should use the emergency back-up mechanism set out in the Standard Operating Procedures.¹⁰³ The agreement of a senior officer (Inspector or above within the Police Service) should be obtained for using an interpreter drawn from other sources.¹⁰⁴ The Contracts Management Team at HM Courts and Tribunals Service will first contact the contractor, Capita TI. If Capita TI are unable to find an appropriate interpreter, the courts can use databases such as the National Register of Public Service Interpreters (NRPSI) to try to source a suitable interpreter. The Contracts Management Team within the Courts and Tribunals Service have a list of other interpreters to contact in such a situation. During court hearings or trial the judge will decide how to proceed if no interpreter is available.¹⁰⁵ In cases where the language spoken is so rare that a registered interpreter is not available, it may be necessary to engage two interpreters: the first to</p>

⁹⁸ UK, The Law Society of England and Wales (2012), *Use of Interpreters in Criminal Cases* (24 January 2012), paragraph 5.3.1, available at: www.lawsociety.org.uk/support-services/advice/practice-notes/interpreters-in-criminal-cases/.

⁹⁹ UK, criminal practitioner in England.

¹⁰⁰ UK, criminal practitioner in Scotland.

¹⁰¹ UK, criminal practitioner in Northern Ireland.

¹⁰² UK, Metropolitan Police (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), paragraph 5.2, available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

¹⁰³ UK, Metropolitan Police (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), paragraph 5.3, available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

¹⁰⁴ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 3.4.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

¹⁰⁵ UK, representative of the HM Court and Tribunals Service.

		<p>interpret from the rare language to another language (not English) and the second to interpret from the other language to English.¹⁰⁶ A criminal practitioner reported that this is not usually an issue in London where he practices. However, he has had experience of a multi-defendant case in Wolverhampton Crown Court involving a number of Vietnamese defendants where the court could not find enough interpreters for communication during the trial to be effective. This led to unnecessary delays.¹⁰⁷</p> <p>Scotland: For the police in Scotland all arrangements are made through Global Language Services Ltd, who would be expected to source the required language.¹⁰⁸ The Scottish Courts and Tribunals Service is obliged to provide an interpreter for the court and occasionally it is necessary to go outside of Scotland to find a suitable interpreter, starting with suppliers in England and Wales.¹⁰⁹</p> <p>Northern Ireland: The Police Service of Northern Ireland uses the Big Word telephone interpretation service to ascertain which language is being spoken. If no interpreter can be found through the Big Word, it is up to the contractor, Flex Language Services, to source a suitable interpreter.¹¹⁰ The Northern Ireland Courts and Tribunals Service responded that there are centrally managed contracts for face to face interpretation and written translation. If required an interpreter will be sourced from across the UK or further afield if necessary.¹¹¹ The criminal practitioner we contacted has not had to deal with a client for whom he cannot find an interpreter.¹¹²</p>
1.3	Please describe procedures in place, if any, to ensure that suspects or accused	<p>England and Wales: If the suspect challenges a decision by a custody officer or interviewer that they do not require an interpreter, the matter will be reported to an inspector to be dealt with as a complaint under paragraph 9.2 of PACE Code C or under paragraph 12.9 PACE Code C, if the challenge is made during the interview.¹¹³ On application by the defendant, the court must give</p>

¹⁰⁶ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 4.9.7, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>.

¹⁰⁷ UK, criminal practitioner in England.

¹⁰⁸ UK, representative of the Police Scotland.

¹⁰⁹ UK, representative of the Scottish Courts and Tribunals Service.

¹¹⁰ UK, representative of the Police Service of Northern Ireland.

¹¹¹ UK, representative of the Northern Ireland Courts and Tribunals Service.

¹¹² UK, criminal practitioner in Northern Ireland.

¹¹³ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.10D.

<p>persons have the right to challenge the decision that no interpretation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>any direction which the court thinks appropriate, where no interpretation has been provided.¹¹⁴ The HM Courts and Tribunals Service confirmed that it is for the judge in the case to make the decision about whether interpretation is needed.¹¹⁵ In the experience of a criminal practitioner, it is rarely necessary to make such a challenge, because custody sergeants tend to err on the side of caution and provide an interpreter when requested.¹¹⁶</p> <p>Scotland: Where a constable has determined that a person does not require interpretation assistance, the person may ask for a review of this decision by an appropriate constable.¹¹⁷ A person is entitled to complain if the interpretation assistance is not provided within a reasonable period of time or if the interpretation assistance is of insufficient quality to safeguard the fairness of the police proceedings.¹¹⁸ If the appropriate constable, on reviewing the original determination or considering the complaint, decides that a person requires interpretation assistance, the constable must give such direction as necessary to safeguard the fairness of the police proceedings.¹¹⁹ If the court decides that a person does not require interpretation assistance, the accused person can apply to the court for a review of its determination.¹²⁰ If the interpretation assistance is not provided or the assistance provided is of such insufficient quality, the accused person may apply to the court to give a direction in order to safeguard the fairness of the proceedings.¹²¹ The applications under regulations 11 and 12 of the Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 can be made orally, must be made as soon as reasonably practicable and the court must give the prosecutor an opportunity to</p>
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¹¹⁴ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction (SI 2014/1610)(14 October 2014) Rule 3.9(5)(d)(i).

¹¹⁵ UK, representative of the HM Court and Tribunals Service.

¹¹⁶ UK, criminal practitioner in England.

¹¹⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 3(2) and 5(2). 'Appropriate Constable' is defined in regulation 2(1) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014.

¹¹⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 6(1).

¹¹⁹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulations 5(3) and 6(2).

¹²⁰ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 11(2).

¹²¹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 12(1) and (2).

		<p>make representations.¹²² The Scottish Courts and Tribunals Service confirmed that this is the procedure which is followed in courts in Scotland.¹²³</p> <p>Northern Ireland: At the time of the initial report, there was no statutory provision for challenging the decision that no interpretation is needed for police proceedings. However, the Department of Justice in Northern Ireland completed a consultation in February 2015 on revisions to the PACE Code (Northern Ireland) to make statutory provision for EU Directive 2010/64.¹²⁴ The revised PACE Code C came into force on 1 June 2015.¹²⁵ In the revised code there is a provision for suspects or accused persons to challenge the decision that no interpretation is needed. The challenge will be reported to the inspector and treated as a complaint for the purposes of 9.3 of PACE Code C (Northern Ireland) or 12.10 of PACE Code C (Northern Ireland), if the challenge is made during an interview.¹²⁶ In court proceedings, a defendant can make an application to the court and the court can make a direction, which it considers appropriate, where no interpreter has been appointed by the chief clerk.¹²⁷</p>
1.4	With regard to remote interpretation via communication technologies :	

¹²² UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 13.

¹²³ UK, representative of the Scottish Courts and Tribunals Service.

¹²⁴ UK, Department of Justice (2014), Consultation letter from Department of Justice, Northern Ireland to consultees, *Refresh of PACE Codes of Practice A-H* (17 November 2014), available at: www.dojni.gov.uk/index/public-consultations/archive-consultations/pace-codes-refresh-2014-consultee-letter-2.pdf.

¹²⁵ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

¹²⁶ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.10D, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

¹²⁷ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(7).

a) Can communication technologies for the purpose of remote interpretation be used? If so, at what stage(s) of the proceedings?

England and Wales: Yes, communication technologies can be used at all stages of the proceedings.¹²⁸ The guidance notes for PACE Code C states that “telephone interpreter service maybe used”.¹²⁹ The Metropolitan Police in their standard operating Procedures set out guidelines for use of the telephone interpreting service.¹³⁰ However, at the police station, telephone interpreting should only be used for brief and straightforward communications, such as making appointments or booking-in at the police station. It is not appropriate for evidential purposes, such as interview. However, sometimes it is not possible to secure the attendance of a face to face interpreter within a reasonable amount of time and the matter may be time critical (i.e. there is the risk that evidence will degrade). In such circumstances, if telephone interpreting is used, the interpreter should be UK based and drawn from the National Register of Public Service Interpreters (NRPSI). Audio recordings of both parts of the conversation must be made by, for example, a speakerphone.¹³¹ A criminal practitioner reported that remote interpretation by telephone and videolink is commonplace at the police station. At court it is more usual to have an interpreter present and in his experience remote technologies have not been used in court.¹³² There is a statutory provision to allow a defendant to give evidence by way of a live link (although this provision is not yet in force), but this does not refer specifically to a defendant requiring interpretation.¹³³ Part 29 of the Criminal Procedure Rules allows the judge to make directions concerning a defendant’s evidence, although these specifically relate to the use of live link and intermediaries in criminal hearings for vulnerable defendants.¹³⁴ There is no specific statutory provision relating to the use of remote technologies either at the police station or in court.

Scotland: At the police station the usual practice is that interpreters attend at the station to provide interpretation. However, sometimes because of geographical or time constraints, other

¹²⁸ UK, representative of the Metropolitan Police.

¹²⁹ UK, HM Government (2014), Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014) note 13B.

¹³⁰ UK, Metropolitan Police (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), paragraph 10, page 25; available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

¹³¹ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 9.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

¹³² UK, criminal practitioner in England.

¹³³ UK, HM Government (1999) Youth Justice and Criminal Evidence Act 1999, section 33A, inserted by section 47 of the Police and Justice Act 2006.

¹³⁴ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction (SI 2014/1610)(14 October 2014), part 29.

	<p>technologies need to be used. A constable can decide to use remote interpretation using communication technology, but only if the constable considers that it would be appropriate in the circumstances and would not prejudice the fairness of the police proceedings.¹³⁵ A criminal practitioner reported that communication technology for the purposes of remote interpretation would only be used at the police station¹³⁶. A court may arrange for interpretation assistance to be provided from a remote location by means of communications technology, only if it is appropriate and would not prejudice the fairness of proceedings.¹³⁷ The regulations allow for communication technologies, but in practice it would be unlikely for this to happen. The current practice is that interpreters attend personally in court.¹³⁸</p> <p>Northern Ireland: Telephone interpretation may be used to assess which language the suspect or accused person is speaking when attending the police station either as a suspect or if the accused is under arrest,, however it is not used for police questioning. The guidance notes for the new PACE Code C (Northern Ireland) states that “telephone interpreter service maybe used”.¹³⁹ At all stages of the proceedings communication technologies can be considered by and ordered to be used at the discretion of the judge.¹⁴⁰ The judge at court can give directions allowing evidence to be given by way of live link, but there is no specific provision relating to interpretation for a defendant being allowed in this way.¹⁴¹</p>
<p>b) Which technologies are used, if any (videoconference, telephone, internet, etc.)</p>	<p>England and Wales: At the police station, the police officer can communicate with the interpreter using the telephone to translate rights and entitlements while in police custody and police may use video for the interviews. The Metropolitan Police Service have their own video conferencing equipment on a secure network.¹⁴² It was noted in the empirical study, <i>Inside Police Custody</i>, that remote interpretation by video is increasingly being used by the Metropolitan Police Service in</p>

¹³⁵ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 3(4).

¹³⁶ UK, criminal practitioner in Scotland.

¹³⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 8(3).

¹³⁸ UK, representative of the Scottish Courts and Tribunals Service.

¹³⁹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), note 13A, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

¹⁴⁰ UK, representative of the Northern Ireland Courts and Tribunals Service.

¹⁴¹ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 44S.

¹⁴² UK, representative of the Metropolitan Police.

London.¹⁴³ Where no tape-recording facilities are available for the police interview, the interpreter is required under PACE Code C, Note 12A to make a note of the interview in the native language of the interviewee and to allow the person to sign it, if correct. This can only be done face to face.¹⁴⁴ HM Courts and Tribunals Service use telephone interpreting through their contractor Capita TI.¹⁴⁵ Video link interpreting is increasingly being considered as a means of overcoming shortages of interpreters and Language Service Professionals (for deaf and hard of hearing persons), but its reliability in ensuring an appropriate level of accuracy and reliability for evidential purposes has not yet been adequately assessed.¹⁴⁶ The *Inside Police Custody* study observed a number of problems with the quality of interpretation when remote technologies were used instead of face to face interpretation.¹⁴⁷

Scotland: The Regulations allow for the use of communication technologies, but in practice it would be unlikely for this to happen. It is usual for interpreters to attend in person at the police station. The current practice is that interpreters attend personally in court.¹⁴⁸ A criminal practitioner reported to us that only a telephone would be used for remote interpretation and only at the police station.¹⁴⁹

Northern Ireland: The Police Service of Northern Ireland use telephone interpreting. All technologies can be considered/explored at the discretion of the judge. All courts have video conferencing equipment and special arrangements can be made if necessary.¹⁵⁰ The criminal

¹⁴³ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 153, footnote 60.

¹⁴⁴ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 9.1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>.

¹⁴⁵ UK, representative of the HM Court and Tribunals Service.

¹⁴⁶ HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 9.4, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>.

¹⁴⁷ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), pages 162 and 163.

¹⁴⁸ UK, representative of the Scottish Courts and Tribunals Service.

¹⁴⁹ UK, criminal practitioner in Scotland.

¹⁵⁰ UK, representative of the Northern Ireland Courts and Tribunals Service.

		practitioner we contacted reported that there is a dual telephone handset at the police station which allows for telephone translation between the custody officer and the detained person. ¹⁵¹		
	c) Do competent authorities rely on the tools developed in the context of European e-Justice (e.g. information on courts with videoconferencing equipment provided on the European E-justice Portal)? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	England and Wales: No Scotland: No Northern Ireland: No.		
	TRAINING¹⁵²	Yes	No	Brief Description
1.5	Are providers of judicial training requested to pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and	Yes		England and Wales: In the crown court, the induction course for all new judges and recorders sitting in the crown court refers to the need to take translation and interpretation issues into account in the preparation papers for the course. There is also a complete module on interpreters in the compulsory case management course: “Crown Court Trial seminar” provided by the Judicial College. ¹⁵³ The Judicial College also runs a Circuit Seminars programme whereby each of the six Circuits provide local training which is attended by almost all of the Circuit Judges and Recorders who sit in the crown court. There will be a new Vulnerable Witnesses module in the 2015-

¹⁵¹ UK, criminal practitioner in Northern Ireland.

¹⁵² See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

¹⁵³ UK, Judicial College, Courts Judiciary Prospectus April 2014 – March 2015, *Criminal law: Crown Court Trial Seminar*, page 36, available at: www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/judicial-college-prospectus-2014-15-v8.pdf.

	<p>effective communication? If yes, briefly provide details.</p>		<p>16 programme and part of that module will deal with the use of interpreters and in particular some of the common problems that arise during the course of a trial.¹⁵⁴ All judges sitting in criminal proceedings are obliged to read the <i>Equal Treatment Bench Book</i>, which gives guidance on judicial conduct, in the context of equality and non-discrimination. This forms part of their judicial training. One of the principles set out is good communication, “<i>Effective Communication underlies the entire legal process; ensuring that everyone involved understands and is understood; otherwise the legal process will be impeded or derailed</i>”.¹⁵⁵ A section in the <i>Equal Treatment Bench Book</i> provides guidance on the judge’s role in proceedings where a defendant in criminal proceedings needs an interpreter.¹⁵⁶</p> <p>Scotland: In October 2013, the Judicial Institute organised a series of courses for Senators of the College of Justice on Foreign Language Interpretation in the Scottish Courts. The seminars covered Directive 2010/64/EU and its implication for Scottish law. One day courses are also being offered to Sheriffs, Stipendary Magistrates and Justices of the Peace in 2015. Sessions on interpretation have also featured at a number of Justices of the Peace conferences in 2014. Interpretation in the court and working with interpreters are a compulsory part of the induction training for prospective Justices of the Peace in Scotland.¹⁵⁷</p> <p>Northern Ireland: The Judicial Studies Board in Northern Ireland is preparing a training workshop later this year for all judiciary (including magistrates’ and crown court judges) on the issues involved in the use of interpreters in courts. This was specifically instigated in response to the requirements set out in Directive 2010/64/EU by the Judicial Studies Board chairman who identified this training requirement.¹⁵⁸</p>
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¹⁵⁴ UK, representative of the Judicial College.

¹⁵⁵ UK, Judicial College (2013) *Equal Treatment Bench Book* (November 2013), page 12, paragraph 7, available at: www.judiciary.gov.uk/publications/equal-treatment-bench-book/ .

¹⁵⁶ UK, Judicial College (2013) *Equal Treatment Bench Book* (November 2013), pages 146 – 147, available at: www.judiciary.gov.uk/publications/equal-treatment-bench-book/ .

¹⁵⁷ UK, representative of the Judicial Institute for Scotland.

¹⁵⁸ UK, representative of the Northern Ireland Judicial Studies Board.

2.	RIGHT TO TRANSLATION OF DOCUMENTS ¹⁵⁹	Brief Description
2.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Which documents (according to national law or established practice) are considered essential to translate in order to safeguard the fairness of the proceedings?</p> <p>b) Who bears the cost of translation at each stage?</p> <p>c) What is the timeframe (deadline) for the translation of documents at each stage of the proceedings?</p> <p>Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.</p>
2.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a) England and Wales: Any written translation, oral translation and oral summaries of essential documents shall be provided in a language the detainee understands.¹⁶⁰ Essential documents are those records which are required to be made in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C and which are relevant to decisions to deprive a person of their liberty, any charge and any record considered necessary to enable a detainee to defend themselves in criminal proceedings and to safeguard the fairness of the proceedings.¹⁶¹ PACE Code C, Annex M, paragraph 2 contains a table of documents which are considered essential for the purposes of PACE Code C and which must be translated, subject to paragraphs 3 to 7 of PACE Code C, Annex M. This includes authorisation for detention before and after charge given by the custody and review officers, authorisation to extend detention without charge beyond 24 hours given by a superintendent, a warrant of further detention issued by the magistrates' court and any extensions of the warrant and an authority to detain in accordance with the directions in a warrant of arrest.</p>

¹⁵⁹ See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

¹⁶⁰ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.10B.

¹⁶¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 1.

	<p>The police must also translate a written notice showing the particulars of the offence for which he or she has been charged or been told that they might be prosecuted for, written interview records and a written statement under caution.</p> <p>Scotland: All essential documents are required to be translated, if it is determined that a person does not understand English.¹⁶² An essential document is any document relating to the person in police custody, which authorises the deprivation of that person's liberty by a constable or charges the person with having committed an offence and is required by any enactment to be provided to the person in writing.¹⁶³ A document authorising the deprivation of liberty includes a document signed by a senior police officer at the investigation stage. A document charging a person with having committed an offence would cover decisions by the police to charge.¹⁶⁴ Police Scotland stated that although there is a requirement to provide a written translation, often for practical reasons, there would be an oral translation given at the time by interpreters present at the police station. This is possible because under the regulations a person can be provided with a translation of part of a written document or oral translations or summaries, provided this does not prejudice the fairness of the proceedings.¹⁶⁵ In Scotland, the most frequent document to be translated is the Solicitor Access Recording Form (SARF). This document explains to a suspect their rights and options regarding solicitor access.¹⁶⁶ Where the person is to be released on an Undertaking to Appear at Court at a fixed time and date they are issued with (and sign) a form which outlines the arrangements in this regard.¹⁶⁷ Accused persons are also asked to sign the form utilised during the drink drive procedure and also to sign the print out of their readings form the breath analysis equipment; and this would be completed via the support of an interpreter.¹⁶⁸ The oral translation of documents outlined above takes place routinely in Scotland for procedural or investigative processes, as these are not essential documents authorising the deprivation of liberty in terms of the Right to Interpretation and Translation (Scotland) Regulations 2014.</p>
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¹⁶² UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014) regulation 4(1).

¹⁶³ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 4(4).

¹⁶⁴ UK, representative of the Police Scotland.

¹⁶⁵ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 4(3).

¹⁶⁶ UK, representative of the Police Scotland.

¹⁶⁷ UK, representative of the Police Scotland.

¹⁶⁸ UK, representative of the Police Scotland.

	<p>However, the police are guided by the general rule of fairness to the accused in Scottish law and the recognised requirement for persons to understand fully their dealings with the Police.¹⁶⁹ Police Scotland reported that they have standard operation procedures (SOP) in respect of interpreting and translation services, but that they do not routinely publish their SOPs.¹⁷⁰</p> <p>Northern Ireland: At the time of the initial report, there were no statutory provisions setting out which documents are essential to translate in the course of police proceedings. However, following consultation on the PACE Code C for Northern Ireland to make provision for Directive 2010/64 EU, the Department of Justice in Northern Ireland (DOJ NI) introduced amendments to PACE Code C on 1 June 2015, which mirror the amendments recently made to PACE Code C in England and Wales. Under the revised PACE Code C, essential documents comprise records required to be made in accordance with PACE Code C which are relevant to decisions to deprive a person of their liberty, to any charge and to any record considered necessary to enable a detainee to defend themselves in criminal proceedings and safeguard the fairness of the proceedings.¹⁷¹ Annex M of the revised PACE Code C contains a table of essential documents which are the same documents in the English and Welsh version of Annex M to PACE Code C, referred to in 2.1.1(a) above.¹⁷²</p> <p>b) England and Wales: Interpretation and translation services provided at the police station are provided “<i>at public expense</i>”.¹⁷³ The police pay for any translation carried out at the police station. Scotland: All written or oral translations or oral summaries of essential documents must be provided “<i>free of charge</i>”.¹⁷⁴ Police Scotland bear the cost of any document required by the regulations to be translated.</p>
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¹⁶⁹ UK, representative of the Police Scotland.

¹⁷⁰ UK, representative of the Police Scotland.

¹⁷¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 1, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

¹⁷² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015) Annex M, paragraph 2, available at: www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf.

¹⁷³ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.1B.

¹⁷⁴ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 16.

Northern Ireland: Interpretation and translation services for suspects or accused persons at the police station are paid for by the Police Service of Northern Ireland.¹⁷⁵

c) **England and Wales:** In relation to the essential documents which are required to be translated, any record of authorisation for detention, before or after charge, authorisation to extend detention without charge beyond 24 hours, a warrant of further detention given by the magistrates' court and any extension of this warrant, an authority to detain in accordance with a warrant of arrest should be translated as soon as practicable after each authorisation has been recorded in the custody record, and it should be provided as soon as practicable after the translation has been created, whilst the person is detained or after they have been released.¹⁷⁶ Where a defendant is given a written notice showing the particulars of the offence charged (required by PACE Code C, paragraph 16.3) or the offence for which the suspect has been told they may be prosecuted, the translation has to be created and provided as soon as practicable after the person has been charged or reported.¹⁷⁷ Written interview records or a written statement under caution must be created contemporaneously by the interpreter for the person to check and sign and the translation must be provided to the person as soon as practicable after the person has been charged or told they may be prosecuted.¹⁷⁸

Scotland: The translation of documents must be provided within a reasonable time period.¹⁷⁹ The translation would routinely be completed orally by the interpreter at the time, on most occasions, because the interpreter would be present at the police station.¹⁸⁰ Where a written translation is required or requested, then the officer in charge of the case would be required to assess the

¹⁷⁵ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.1B, available at: www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf .

¹⁷⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 2(i) and note M3 in Annex M.

¹⁷⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 2(ii).

¹⁷⁸ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 2(iii).

¹⁷⁹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014) Regulation 4(2)(a).

¹⁸⁰ UK, representative of the Police Scotland.

		<p>urgency in each case. For example, if the person were released on an undertaking then it would be expected to be available prior to this date.¹⁸¹</p> <p>Northern Ireland: For the translation of statements made at a police station – the time frame is “<i>in due course</i>”.¹⁸² Under the 2015 PACE Code C, the time frame will follow the rules set down in PACE Code C, Annex M for England and Wales (see above). The Interpreting Services Contract states that the contractor should be able to provide text translation and speech to text transcription within a maximum 48 hour period (i.e. in less than two days).¹⁸³</p>
<p>2.1.2</p>	<ul style="list-style-type: none"> • court hearings; 	<p>a) England and Wales: At court, it is the judge who decides which documents are to be translated. On application or on its own initiative, the court may require a written translation to be provided for the defendant of any document or part of a document.¹⁸⁴ A criminal practitioner informed us that there is no specific definition of ‘essential documents’. It is usual for the defence solicitor to obtain translations of documents and not the court. To obtain funding for this, the solicitor must get prior authority from the Legal Aid Agency.¹⁸⁵ The HMCTS reported that they are not aware of ‘essential documents’ which are required to be translated. It is the role of the judge to consider whether the defendant requires a written translation of all or part of a document. Generally it would be those that are needed by defendants in order to understand what is being said against them and to instruct their lawyers. The court will make this direction on its own initiative or after a formal application from the parties.¹⁸⁶</p> <p>Scotland: The court hearing the proceedings must take all reasonable steps to determine whether the accused person requires a translation of all essential documents because he does not understand English.¹⁸⁷ An essential document means a document authorising the deprivation of the person’s liberty, a document charging a person with having committed an offence, a court judgment relating to the proceedings and any document which the court determines to be</p>

¹⁸¹ UK, representative of the Police Scotland.

¹⁸² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.4(c), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

¹⁸³ UK, representative of the Police Service of Northern Ireland.

¹⁸⁴ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), rule 3.9(5)(c).

¹⁸⁵ UK, criminal practitioner in England.

¹⁸⁶ UK, representative of the HM Courts and Tribunals Service.

¹⁸⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 9(1).

	<p>essential for the purpose of safeguarding the fairness of the proceedings.¹⁸⁸ A document authorising the deprivation of liberty includes a court order committing the accused to be remanded in custody or detention or sentenced to custody. A document charging a person with having committed an offence would include documents issued by the crown to indict or serve a summary complaint. If the terms of an indictment or a complaint were modified as proceedings progress, this may be dealt with by oral translation, as typically charges are amended or dropped to the benefit of the accused. A court judgment in summary proceedings is not digitally recorded so would be translated orally. In solemn proceedings, court judgments are digitally recorded and if necessary a transcription can be made and translated.¹⁸⁹</p> <p>Northern Ireland: The court, either on application by the defendant or of its own motion, where it is satisfied that a document is essential and considers it is essential to the fair trial of the defendant, may order that a written translation of a document (or a passage within a document) should be provided.¹⁹⁰ Courts will translate court documents as required, for example, court transcripts, bail conditions and court orders. Other documents, for example witness statements, would usually be translated by other criminal justice agencies.¹⁹¹ NI Courts and Tribunals Service (NICTS) confirmed that there is no specific definition of essential documents in the courts and which documents are to be translated is done on a case by case basis by the judge. NICTS also stated that the court does not produce many documents and documents relating to the trial will already have been disclosed to or given to the defendant by the time the case reaches court.¹⁹²</p> <p>b) England and Wales: The cost of translation is paid for from central funds.</p> <p>Scotland: All written or oral translations or oral summaries of essential documents must be provided “<i>free of charge</i>”.¹⁹³ The court will bear the cost of any essential documents which are ordered by the court to be translated. If a formal request is made to the court for translation the court would determine who should pay for any transcription or translation requirements.¹⁹⁴</p>
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¹⁸⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 9(4).

¹⁸⁹ UK, representative of the Scottish Courts and Tribunals Service.

¹⁹⁰ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(6).

¹⁹¹ UK, representative of the Northern Ireland Courts and Tribunals Service.

¹⁹² UK representative of the NICTS.

¹⁹³ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 16.

¹⁹⁴ UK, representative of the Scottish Courts and Tribunals Service.

		<p>Northern Ireland: All written or oral translations or oral summaries of documents are paid for by the Northern Ireland Courts and Tribunals Service.¹⁹⁵</p> <p>c) England and Wales: There is no set timeframe but as soon as the court makes the order, the court will contact the contractor to arrange the translation.¹⁹⁶</p> <p>Scotland: If a formal request is made to the court for translation, the court would determine the necessary timeline. It is desirable that documents be provided as soon as possible. Where it is otherwise necessary to have documents translated by the Scottish Courts and Tribunals Service contractors, they should be provided within ten calendar days of instruction from the court.¹⁹⁷</p> <p>Northern Ireland: The contract stipulates that documents will be translated within 48 hours.¹⁹⁸</p>
2.1.3	<ul style="list-style-type: none"> any necessary interim hearings; 	<p>a) Same rules as for court hearings in 2.1.2 apply.</p> <p>b) Same rules as for court hearings in 2.1.2 apply.</p> <p>c) Same rules as for court hearings in 2.1.2 apply.</p>
2.1.4	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection with any 	<p>a) England and Wales: The documents which are usually translated are the Notice of Rights and Entitlements at the police station, the charge sheet/indictment and witness statements. These documents are often translated orally rather than in writing. A criminal practitioner reported that he has obtained written translations of key evidence, when he requested a translation or required one.¹⁹⁹</p> <p>Scotland: [Waiting for responses from practitioners] A criminal practitioner reported that he would ask the court for translation of the prosecuting document. The solicitor will translate the letter to their client and the terms of engagement.²⁰⁰</p>

¹⁹⁵ UK, representative of the Northern Ireland Courts and Tribunals Service.

¹⁹⁶ UK, representative of the HM Court and Tribunals Service.

¹⁹⁷ UK, representative of the Scottish Courts and Tribunals Service.

¹⁹⁸ UK, representative of the Northern Ireland Courts and Tribunals Service.

¹⁹⁹ UK, criminal practitioner in England.

²⁰⁰ UK, practitioner in Scotland.

	questioning or hearing during the proceedings?	<p>Northern Ireland: [] The documents translated are the Notice of Rights and Entitlements in the police station, including right to silence, right to a lawyer, right to have someone informed of your arrest etc, also right to consult codes of practice for PACE and Preliminary Enquiry papers / depositions which set out the details of the prosecution case when the case goes to court²⁰¹ The changes to PACE Code C, which includes a list of what documents are required to be translated, came into force on 1 June 2015, see 2.1.1(a) above.²⁰² During court proceedings, there is no requirement for the Public Prosecution Service to serve the papers in the native language of the defendant The defendant's solicitor can request authority from the Legal Services Authority to get the papers translated. This is always granted in the experience of the criminal practitioner we contacted.²⁰³</p> <p>b) England and Wales:. The cost of translation will be borne by the Legal Aid Agency when the defendant is legally aided. Prior authority is required for any disbursements of £100 or over.²⁰⁴ Scotland: [] The court bears the cost of translating court documents. The legal aid fund for other documents.²⁰⁵ Northern Ireland: [].The Legal Services Agency in Northern Ireland bears the cost of translation. The defendant's legal representative must get prior authority from the Legal Services Agency before obtaining the translation. The Legla Services Agency pay Flex Language Services directly.²⁰⁶</p> <p>c) England and Wales:.Translation of documents should be provided as soon as possible.²⁰⁷ Scotland: [.According to the criminal practitioner we contacted in Scotland, there is no timeframe fro the provision of a translation of documents.²⁰⁸</p>
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²⁰¹ UK, criminal practitioner in Northern Ireland.

²⁰² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 1, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

²⁰³ UK, criminal practitioner in Northern Ireland.

²⁰⁴ UK, criminal practitioner in England.

²⁰⁵ UK, criminal practitioner in Scotland.

²⁰⁶ UK, criminal practitioner in Northern Ireland.

²⁰⁷ UK, criminal practitioner in England,

²⁰⁸ UK, criminal practitioner in Scotland.

		<p>Northern Ireland: .. There is not a specific timeframe, but is based on how long the interpreter needs to do the translation. Although the court will be putting pressure on the solicitor to progress the case.²⁰⁹</p>
<p>2.2</p>	<p>How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>England and Wales:The custody officer is the person who authorises that an oral translation or oral summary of documents listed in sections (i) and (ii) of the table of essential documents set out in Annex M of PACE Code C is to be provided through an interpreter instead of a written translation. An oral translation or summary may only be provided if it would not prejudice the fairness of the proceedings by adversely affecting or otherwise undermining or limiting the ability of the suspect in question to understand their position and to communicate effectively with police officers, interviewers, solicitors and appropriate adults with regard to their detention and the investigation of the offence in question and to defend themselves in the event of criminal proceedings. The quantity and complexity of the information in the document should always be considered.²¹⁰ Written interview records and written statements under caution (listed in section (iii) of the table) cannot be provided orally through an interpreter.²¹¹ In practice, according to the Metropolitan Police Service, this is usually carried out using telephone interpretation in the custody suite.²¹² At court this is a matter for the judge’s discretion on a case by case basis.²¹³ A criminal practitioner reported that it is usual practice for documents to be translated orally. He would agree to this practice provided his client agrees.²¹⁴</p> <p>Scotland: A person may be provided with an oral translation or an oral summary of an essential document, instead of a written translation, unless this would prejudice the fairness of the police or court proceedings.²¹⁵ At the police station it is the practice to translate documents verbally by an interpreter. This impacts on the requirements to provide written translations in terms of the legislation, and will impact on any requests by the accused. The custody staff or investigating</p>

²⁰⁹ UK, criminal practitioner in Northern Ireland.

²¹⁰ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 3.

²¹¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 3.

²¹² UK, representative of the Metropolitan Police.

²¹³ UK, representative of the HM Court and Tribunals Service.

²¹⁴ UK, criminal practitioner in England.

²¹⁵ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 4(3)(b) and Regulation 9(3)(b).

		<p>officer would make this decision.²¹⁶ At court, this would be for the judge to determine at a hearing.²¹⁷</p> <p>Northern Ireland. Under the revised PACE Code C (Northern Ireland), the provisions for the oral translation or an oral summary of records are the same as those for England and Wales in PACE Code C (see above).²¹⁸ In any court hearing, including trial, this is a decision for the judge, if he or she considers that the provision of an oral translation or oral summary would not prejudice the fairness of proceedings.²¹⁹</p>
2.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no translation is needed?</p> <p>Please cross-check findings from the desk research by consulting relevant</p>	<p>England and Wales: The procedures mirror those for challenging the decision that no interpretation is needed. If the suspect challenges a decision by a custody officer or interviewer not to translate a requested document, the matter will be reported to an inspector to be dealt with as a complaint under paragraph 9.2 or paragraph 12.9 of PACE Code C.²²⁰ The court, on application by the defendant, may give a direction to translate documents, including where no translation is ordered or provided in response to a previous application by the defendant.²²¹</p> <p>Scotland: The procedures mirror those for challenging the decision that no interpretation is needed. If a constable has determined that a person does not require a translation of all essential documents, the person may ask for a review of this decision by an appropriate constable.²²² An appropriate constable is a constable who is the rank of inspector or above and has not been involved in the investigation.²²³ A person is entitled to complain if he or she does not receive a written translation, oral translation or oral summary of all essential documents within a reasonable period of time or if the written or oral translation or oral summary is of insufficient quality to</p>

²¹⁶ UK, representative of the Police Scotland.

²¹⁷ UK, representative of the Scottish Courts and Tribunals Service.

²¹⁸ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 3, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

²¹⁹ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(6)(b).

²²⁰ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.10D.

²²¹ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction (SI 2014/1610)(14 October 2014), rule 3.9(5)(d)(ii).

²²² UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 5(2).

²²³ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 2(1).

	<p>organisations and/or practitioners.</p>	<p>safeguard the fairness of the proceedings.²²⁴ If the appropriate constable on reviewing the original determination or considering the complaint decides that a person requires a written or oral translation or oral summary of essential documents, the constable must direct that a translation is necessary to safeguard the fairness of the police proceedings.²²⁵ If a court determines that an accused does not require a translation of all essential documents, the accused may apply to court to review its determination.²²⁶ If an accused, entitled to translation of all essential documents, is not provided with a written translation, oral translation or oral summary of all essential documents within a reasonable period of time or it is of insufficient quality to safeguard the fairness of the proceedings, the accused may apply to court to give a direction to safeguard the fairness of the proceedings.²²⁷</p> <p>Northern Ireland: Under the revised PACE Code C (NI), if a suspect or accused person challenges a decision by the custody officer or interviewer not to translate a requested document, the matter will be referred to an inspector to be dealt with as a complaint under paragraph 9.2 or 12.9 of draft PACE Code C (NI).²²⁸ In court proceedings, a defendant may apply to the court and the court may give any direction which it considers appropriate, where on a previous application under Rule 47B(6) of the Crown Court Rules (Northern Ireland), the court determined that there was no need for translation of the document, or a passage thereof, specified in the application.²²⁹ A criminal practitioner in Northern Ireland reported that he had never had a request for a translator refused. He reported that the prosecutor would wish to ensure that the defendant understands the proceedings.²³⁰</p>
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²²⁴ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 6(1).

²²⁵ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulations 5(3) and 6(2).

²²⁶ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 11(2).

²²⁷ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 12 (1) and (2).

²²⁸ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.10D, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

²²⁹ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(7)(b).

²³⁰ UK, criminal practitioner in Northern Ireland.

		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?		x	<p>England and Wales: Any written interview records or written statement under caution provided by the suspect to the police are required to be checked and signed.²³¹ Documents, which are required to be signed, are usually translated orally at the police station before they are signed by a suspect, but there is no specific legal requirement that these documents must be translated. The Guidance notes in the revised PACE Code C states that should be a procedure for determining whether a suspect who requires an interpreter requires assistance in accordance with paragraph 3.20 of PACE Code C (in relation to people who are blind, seriously visually impaired or unable to read) to help them check and if applicable sign any documentation.²³² A criminal practitioner informed us that there is no specific statutory requirement stating that all documents which a defendant/suspect signs at the police station or at court have to be translated if English is not his or her first language. It is good practice to orally translate documents, rather than there being a particular statutory requirement to translate.²³³ A criminal practitioner stated that if he is putting forward a client's account in writing in a police interview, he will always ensure the documents is translated and the interpreter signs the statement to confirm this fact. The police are required to follow this procedure.²³⁴ The criminal practitioner also reported that he is not aware of a legal requirement for all documents which a defendant has to sign to be translated, but it is good practice for the document to be orally translated before the defendant signs it. This would be done by the interpreter at the police station.²³⁵</p> <p>Scotland: An accused person is required to sign an Undertaking Form, the Solicitor Access Recording Form(SARF) and in relation to drink drive related offences, an accused person is asked to sign receipt of the printout which contains their readings from the breath analysis equipment and they are asked to sign the form utilised</p>

²³¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 2.

²³² UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), note 13C.

²³³ UK, criminal practitioner in England.

²³⁴ UK, criminal practitioner in England.

²³⁵ UK, criminal practitioner.

			<p>during the drink drive procedure. However, there is no specific statutory requirement that these documents have to be translated. These are likely to have been explained by an interpreter to the accused person and Police Scotland would not routinely provide additional written translations.²³⁶ At court, if an accused had to sign a document, for example a bail order, this would be signed in court at the time, the bail conditions having been read out by the judge and conveyed to the accused by the interpreter. The accused would convey understanding and agreement to the conditions through the interpreter. A translated version of the document would be provided to the accused later.²³⁷ Section 9 of the Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 sets out the essential documents which are required to be translated by court. It does not specify that all documents which an accused or suspected person is required to sign have to be translated, either in relation to police documents or documents produced by the court. Police Scotland confirmed that in terms of oral interpretation when this is required, it will take place in each case where the person's first language is not English - this is part of Lord Advocates's Guidelines and are included within Police Scotland's Standard Operating Procedures (SOP), which are not published. The position regarding the translation of documents will be in terms of the 2014 Regulations, and where an Undertaking form is signed by an accused, this is a document that requires to be provided to the person in writing and accordingly this will always be translated and sent to them.²³⁸</p> <p>Northern Ireland: Under the amendments to the PACE Code C for Northern Ireland, any written interview records or written statement under caution provided by the suspect to the police are required to be checked and signed.²³⁹ PSNI confirmed that there was no requirement that documents signed by the suspect or accused have to be translated, other than the two documents mentioned above.²⁴⁰ There is no</p>
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²³⁶ UK, representative of the Police Scotland.

²³⁷ UK, representative of the Scottish Courts and Tribunals Service.

²³⁸ UK, representative of the Police Scotland.

²³⁹ UK, HM Government (2015) Department of Justice for Northern Ireland, Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 2, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

²⁴⁰ UK, representative of the Police Service of Northern Ireland.

				statutory requirement that all documents which a defendant has to sign have to be translated either by the police or by the court. ²⁴¹
2.5	Is it possible to waive the right to translation of documents and if so, what form can it have and under which conditions can it be accepted?	x		<p>England and Wales: In relation to proceedings at the police station, a suspect may waive their right to a written translation of essential documents (as defined in paragraph 2 of Annex M PACE Code C) but only if they do so voluntarily after receiving legal advice or having full knowledge of the consequences and give their unconditional and fully informed consent in writing.²⁴² No police officer or a member of police staff should do or say anything with the intention of persuading a suspect who is entitled to a written translation of an essential document to waive that right.²⁴³ There are particular rules on the consent of persons who are mentally disordered or otherwise mentally vulnerable persons and the consent of juveniles.²⁴⁴</p> <p>Scotland: An accused person entitled to be provided with a translation of all essential documents in a case may waive that right in respect of any or all of the documents. The waiver must be voluntary, unequivocal and informed by legal advice, unless the accused person otherwise fully understands the consequences of waiving the right.²⁴⁵</p> <p>Northern Ireland: In the revised PACE Code C (Northern Ireland), a suspect may waive their right to a written translation of essential documents (as defined in paragraph 2 of Annex M PACE Code C (NI)), but only if they do so voluntarily and after receiving legal advice or having full knowledge of the consequences and give their unconditional and fully informed consent in writing.²⁴⁶ If the custody officer has any doubts about whether the suspect fully understands the consequences of waiving</p>

²⁴¹ UK, criminal practitioner in Northern Ireland.

²⁴² UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 3.

²⁴³ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 6 and notes M2 and M3.

²⁴⁴ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), Annex M, paragraph 7.

²⁴⁵ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 (19 May 2014), regulation 15.

²⁴⁶ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 4, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

				their right to a written translation of an essential document, he or she should seek advice from an inspector or above. ²⁴⁷ In any court hearing, a defendant may waive his or her right to a written translation of a document (or a passage within a document). The defendant must unequivocally and voluntarily waive his right to translation and must have received legal advice or otherwise have full knowledge of the consequences of such a waiver. ²⁴⁸ This should be recorded on the computer in the Integrated Court Operating System (ICOS by selecting the order, CRINTR (Court Record Interpreter): <i>Defendant Waives Right to a Written Translation</i> . ²⁴⁹
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3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION²⁵⁰			
3.1	With regard to use of registers of interpreters and translators in EU Member States:	Yes	No	Brief Description
	a) Do national databases or registers exist for legal translators and interpreters?		x	England and Wales: There is no centralised or national database of translators and interpreters. Interpreters and translators for court work should be selected through the Ministry of Justice (MoJ) Framework Agreement, which is contracted out to Capita TI. ²⁵¹ If interpreters or translators are not available through Capita TI, then the National Register of Public Service Interpreters (NRPSI) can be consulted. In a case involving a deaf person, interpreters should be selected through the MoJ Framework Agreement or from the Council for the Advancement of Communication with Deaf People (CACDP) National Directory of Sign Language Interpreters (now

²⁴⁷ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), Annex M, paragraph 9, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

²⁴⁸ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(6)(a).

²⁴⁹ UK, representative of the Northern Ireland Courts and Tribunals Service.

²⁵⁰ See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

²⁵¹ UK, Crown Prosecution Service (2011) *Legal Guidance: Interpreters* (August 2011), available at: www.cps.gov.uk/legal/h_to_k/interpreters/index.html.

			<p>known as the National Registers of Communication Professionals working with Deaf and Deafblind people (NRCPD).²⁵²The Metropolitan Police Service have opted out of the Framework Agreement²⁵³ and have their own official list of Metropolitan Police Interpreters.²⁵⁴ Chief police officers have discretion when choosing which individuals or organisations they use to provide interpretation and translation services provided they are compatible with the requirements of EU Directive 2010/64.²⁵⁵ Other databases are available such as the Association of Police and Court Interpreters (APCI) and the Institute of Translating and Interpreting (ITI).</p> <p>Scotland: There is no central database of interpreters used by the Scottish criminal justice system. A variety of contracts have been established relating to the provision of interpreting services. One of these is the Scottish Government Framework Contract for Interpreting, Translation and Transcribing services. The Crown Office and Procurator Fiscal Service and the Scottish Courts Service use Global Services Language Limited in the first instance and then Global Connections (Scotland) Ltd.²⁵⁶ Police Scotland have a separate contract and Global Services Language limited is the sole service provider for them and Police Scotland rely on their database.²⁵⁷ The Scottish Legal Aid Board (SLAB) publishes a register of interpreters and translators who are willing to work at SLAB rates on their website. The Scottish Legal Aid Board does not endorse individual interpreters or</p>
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²⁵² UK, Crown Prosecution Service (2011) *Legal Guidance: Interpreters* (August 2011), available at: www.cps.gov.uk/legal/h_to_k/interpreters/index.html.

²⁵³ UK, Society of Official Metropolitan Interpreters UK Ltd (2012) Written evidence to the Justice Committee (August 2012), footnote 12, available at: www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/645/645vw23.htm.

²⁵⁴ UK, Metropolitan Police Service (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

²⁵⁵ UK, HM Government (2014) *Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers* (2 June 2014), note 13A.

²⁵⁶ UK, The Working Group on Interpretation and Translation (WGIT) and Skills for Justice (2012) *Interpreting the Scottish Criminal Justice System Project: Enhancing the Professionalising of the Provision of Interpreting in the Scottish Criminal Justice System: Key Findings of a Scoping Exercise* (April 2012, revised April 2013)(Interpreting in the Scottish Criminal Justice System Project), page 11, available at: www.copfs.gov.uk/images/Documents/Equality_Diversity/Skills%20for%20Justice%20report.pdf.

²⁵⁷ UK, representative of the Police Scotland.

			<p>translators.²⁵⁸ The Law Society of Scotland maintains a register of interpreters and translators which is available to solicitors.</p> <p>Northern Ireland: There is no central register or database in Northern Ireland. The Police Service of Northern Ireland (PSNI) have a contract with Flex Language Services for face to face non-English interpretation, a contract with Action on Hearing Loss for face to face deaf/hard of hearing interpretation and a contract with the Big Word for telephone interpretation, translation and transcription. The PSNI do not have access to the databases or registers of the contractor. The Northern Ireland Courts and Tribunals Service (NICTS) uses the NRPSI for interpretation work in complex criminal trials and locally sourced interpreters in all other criminal proceedings.²⁵⁹ Centrally managed contracts for face to face interpretation and written translation are in place for NICTS.²⁶⁰</p>
	<p>b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is membership/registration mandatory?</p>	x	<p>England and Wales: Whilst it is not a mandatory requirement to be listed on a database or a register, in order to provide interpreting or translation services, the police and the courts in England and Wales are recommended to use interpreters either through the Ministry of Justice Framework Agreement or by selecting an interpreter listed on the NRPSI as that will guarantee that certain minimum standards are met and the interpreter/translator is following the NRPSI Code of Conduct.²⁶¹ Thus it is strongly recommended that interpreters and translators are registered. The Metropolitan Police Service only use translators or interpreters listed in their official list.²⁶² The <i>National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System (The National Agreement)</i> states that “[...] the standard requirement is that every interpreter/LSP(Language Services Professional) working</p>

²⁵⁸ UK, Scottish Legal Aid Board (2012) *Guidance on interpreting and translation fees* Edinburgh, available at:

www.slab.org.uk/providers/Interpreting.html .

²⁵⁹ UK, Northern Ireland Court Service (2010), *Consultation Paper: Provision of In-Court Interpretation Services*, paragraphs 7.1.1 and 7.1.2, page 12, available at: www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/Documents/Consultation%20Paper%20Provision%20of%20In-Court%20Interpretation%20Services/p_pc_Provision_of_InCourt_Interpretation_Services.pdf .

²⁶⁰ UK, representative of the Northern Ireland Courts and Tribunals Service.

²⁶¹ UK, Crown Prosecution Service (2011) *Legal Guidance: Interpreters* (August 2011), available at:

www.cps.gov.uk/legal/h_to_k/interpreters/index.html .

²⁶² UK, Metropolitan Police Service (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), available at:

www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf and representative of the Metropolitan Police.

			<p><i>in courts and police stations should be registered with one of the recommended registers.</i>²⁶³ The <i>National Agreement</i> recommends that registration with either the NRPSI or CACPD provides a number of safeguards as to the interpreter's competence, reliability and security vetting.²⁶⁴</p> <p>Scotland: There is no requirement for an interpreter to be listed on a register or database within the Scottish criminal justice system.²⁶⁵</p> <p>Northern Ireland: The Police Service of Northern Ireland have contracts with various providers (see answer to 3.1(a) above) who retain this information. For the NI Courts and Tribunals Service, interpreters and translators used in complex criminal trials must be registered with the NRPSI and possess a Diploma in Public Service Interpreting (DPSI) or an OCN Level 3 qualification and proven experience.²⁶⁶ A criminal practitioner in Northern Ireland reported that for publically funded cases through the Legal Services Agency, they are required to use the approved contractor (Flex Language Services).²⁶⁷</p>
	c) Who has access to these databases?	<p>England and Wales: Anyone can access the NRPSI through their website.²⁶⁸ It is publicly available. Within the Metropolitan Police Service, any police officer can access the official list on</p>	

²⁶³ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 3.3.1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

²⁶⁴ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 3.3.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

²⁶⁵ UK, The Working Group on Interpretation and Translation (WGIT) and Skills for Justice (2013), *Interpreting the Scottish Criminal Justice System Project: Enhancing the Professionalising of the Provision of Interpreting in the Scottish Criminal Justice System: Key Findings of a Scoping Exercise* (April 2012, revised April 2013), page 20, available at: www.copfs.gov.uk/images/Documents/Equality_Diversity/Skills%20for%20Justice%20report.pdf .

²⁶⁶ UK, Northern Ireland Court Service (2010), *Consultation Paper: Provision of In-Court Interpretation Services*, paragraph 7.1.2, page 12, available at: www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/Documents/Consultation%20Paper%20Provision%20of%20In-Court%20Interpretation%20Services/p_pc_Provision_of_InCourt_Interpretation_Services.pdf; representative of the Northern Ireland Courts and Tribunals Service.

²⁶⁷ UK, criminal practitioner in Northern Ireland.

²⁶⁸ UK, National Register of Public Service Interpreters website; available at: www.nrpsi.co.uk/

		<p>the Metropolitan Police Service’s intranet.²⁶⁹ Language and Cultural Services are responsible for maintaining it.²⁷⁰ It has been noted that police officers in England and Wales have no influence over the choice of interpreter to be used.²⁷¹ A criminal practitioner reported that because the Ministry of Justice have outsourced interpretation services to Capita TI, both the police and the courts now book interpreters through this company. Criminal practitioners do not have access to the database or interpreters used by Capita TI. Solicitors used to be able to access a list of approved interpreters for court hearings.²⁷²</p> <p>Scotland: Police Scotland use a sole service provider, Global Language Services Limited who maintain their own database.²⁷³ The police do not have access to the database. The Law Society’s register is available to all solicitors in Scotland. The register on the Scottish Legal Aid Board’s website is available to the public.²⁷⁴</p> <p>Northern Ireland: The NRPSI is publicly available, so anyone can access it. The contracted providers have access to their own database.</p>
	<p>d) Which professional qualifications are needed by:</p> <ul style="list-style-type: none"> • translators and • interpreters <p>in order to be registered in the database?</p>	<p>England and Wales: Both the NRPSI and CACDP/ NRCPP registers have codes of conduct which set out the criteria and standards required for registering and what is expected in terms of competence, qualification and professional conduct. The competent authorities should be satisfied that the interpreter or translator engaged meets those standards to ensure their professional accountability, and that any gender, religious, political and cultural issues are addressed.²⁷⁵ In order to be registered on the NRPSI register, an interpreter has two options: full registration status or interim registration status. Full registration status requires, as a minimum, a public service interpreting qualification at Level 6, for example, Institute of Linguists</p>

²⁶⁹ UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 5.2, available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf .

²⁷⁰ UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 5.2(2), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf and representative of the Metropolitan.

²⁷¹ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects’ Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 153.

²⁷² UK, criminal practitioner in England.

²⁷³ UK, representative of the Police Scotland.

²⁷⁴ UK, Scottish Legal Aid Board (2012) *Guidance on interpreting and translating fees: register of interpreters* (last updated 9 March 2015), available at: www.slab.org.uk/export/sites/default/common/documents/profession/guidance_manuals/Register_of_Interpreter.pdf .

²⁷⁵ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraphs 13.1 and 13.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

		<p>Level 6 Diploma in Public Service Interpreting (DPSI) (broadly equivalent to a qualification at Honours degree level), attainment in the language to be registered and English and 400 hours' public service interpreting experience. Interim registration requires either a public service interpreting qualification at minimum Level 6 attainment in the language to be registered and English with less than 400 hours public service interpreting experience, or more than 400 hours public service interpreting experience plus a degree level qualification with an interpreting and translating component. Interim registrants are expected to move to full registration within five years. There are separate criteria for rare languages where there is no Public Service Interpreting qualification available.²⁷⁶ The National Registers of Communication Professionals working with Deaf and Deafblind people (NRCPD) lists British Sign Language (BSL)/English Interpreters, Lipspeakers, Speech to Text Reporters and Deaf/blind Manual Interpreters. Interpreters who have a least a level 3 Certificate in BSL/English, Level 3 in Lipspeaking and Speech to Text Reporting can be full members of the NRCPD, and therefore qualified for interpreting in the criminal justice system.²⁷⁷</p> <p>Scotland: As it is not necessary to be registered to provide interpretation and translation services to the competent authorities within the criminal justice system in Scotland, there are no minimum requirements, although many of the interpreters listed on the Scottish Legal Aid Board's register have the Diploma in Public Service Interpreting (DPSI).</p> <p>Northern Ireland: The Police Service of Northern Ireland have contracted out translation and interpretation services. The face to face interpretation contract with Flex Language Services requires that interpreters must have one of the following: Open College Network Level 3 accreditation in community interpreting (spoken language); and/or registration with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) (sign language).²⁷⁸ The NICTS requires that for complex criminal trials all interpreters must</p>
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²⁷⁶ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), Annex A, paragraph 1, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>. Full, up to date criteria can be found at: www.nrpsi.org.uk/downloads/CriteriaforEntryApril2011.pdf.

²⁷⁷ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), Annex A, paragraphs 4 and 5, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>. See also National Registers of Communication Professionals working with Deaf and Deafblind people (NRCPD), available at: www.nrcpd.org.uk/page.php?content=72.

²⁷⁸ UK, representative of the Police Service of Northern Ireland.

		have the Diploma in Public Service Interpreting (DPSI). For less complex cases, cases in the magistrates' courts, all crown court arraignments, pleas and mentions, the court can use a local language interpreter qualified to the Open College Network (OCN) Level 3 accreditation in community interpreting. ²⁷⁹	
e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).	x		England and Wales: The Metropolitan Police Service in their standard operating procedures (SOP) state that " <i>Interpreters must be independent and impartial. Their position of independence should not be compromised in any way, either by their own actions, or by those of an officer</i> " ²⁸⁰ The SOP also sets out the interpreter's code of ethics, which states that " <i>Interpreters will at all times observe the concept of impartiality, and will withdraw from any assignment where this is compromised.</i> " ²⁸¹ When an interpreter arrives at the police station the officer must ensure that the interpreter is not known to the suspect to ensure independence. ²⁸² Adherence to this Code is monitored by the Language and Cultural Services branch of the Metropolitan Police Service. ²⁸³ HM Courts and Tribunals Service have to arrange their interpreters and translators through the Ministry of Justice Framework Agreement and rely on Capita TI to ensure the independence of interpreters and translators. ²⁸⁴ The Ministry of Justice Framework Agreement ²⁸⁵ includes a Code of Conduct which interpreters and translators employed under the contract are expected to abide by. According to paragraph 1 of the specification, one fo the

²⁷⁹ UK, Northern Ireland Court Service (2010), *Consultation Paper: Provision of In-Court Interpretation Services*, paragraphs 7.1.1 and 7.1.2, page 12, available at: www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/Documents/Consultation%20Paper%20Provision%20of%20In-Court%20Interpretation%20Services/p_pc_Provision_of_InCourt_Interpretation_Services.pdf .

²⁸⁰ UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 3.2(1). See also 4(7) and 5.5(16), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf .

²⁸¹ UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 4.1(3), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf .

²⁸² UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 7(2), (5) and (6), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf .

²⁸³ UK, Metropolitan Police Service (2010) Working with Interpreters and Translators: Standard Operating Procedures (August 2010), paragraph 4.1(17), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf .

²⁸⁴ UK, representative of the HM Courts and Tribunals Service.

²⁸⁵ UK, Ministry of Justice (2011) Agreement between the Ministry of Justice and Applied Language Solutions relating to Language Services, 19 August 2011, page 102; available at:

<https://online.contractsfinder.businesslink.gov.uk/Common/View%20Notice.aspx?site=1000&lang=en&NoticeId=352922>.

			<p>overarching deliverables under the contract is to ensure that the interpreter/translator adheres to the Code of Conduct set out in Appendix B of the contract and any other rules or guidance set by central government. The Code of Conduct includes requirements that interpreters/translators must observe absolute confidentiality and act impartially at all times.²⁸⁶</p> <p>Scotland: In Scotland, the police officers rely on Global Language Services to ensure interpreters are suitably qualified and independent, but the police usually check the interpreter’s credentials by asking to see their accreditation documents.²⁸⁷</p> <p>Northern Ireland: For the PSNI and the NICTS, this is handled through the contractors. It is for them to ensure the independence of interpreters and translators.²⁸⁸ The current specification details the ethical and professional conduct required during all bookings and the contractors have a code of conduct in place to ensure interpreters meet the professional standards required. Interpreters must:</p> <ul style="list-style-type: none"> • declare conflicts of interest; • state immediately if the person for whom they are interpreting is known to them; • respect confidentiality at all times; • not give advice to any person taking part in the booking; • not accept any kind of gift; • be impartial at all times. <p>Individual interpreters who provide Court based interpretations are required to take an oath that they will faithfully and accurately interpret the proceedings and be subject to the direction of the judge.²⁸⁹</p>
	f) Is access to existing databases provided	x	The UK criminal justice agencies do not use the European e-Justice portal. The NRPSI register is publically available and legal representatives in England and

²⁸⁶ UK, Ministry of Justice (2011) Agreement between the Ministry of Justice and Applied Language Solutions relating to Language Services, 19 August 2011, page 110; available at:

<https://online.contractsfinder.businesslink.gov.uk/Common/View%20Notice.aspx?site=1000&lang=en&NoticeId=352922>.

²⁸⁷ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects’ Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 191, paragraph 6.1.

²⁸⁸ UK, representative of the Police Service of Northern Ireland and representative of the Northern Ireland Courts and Tribunals Service.

²⁸⁹ UK, representatives of the Police Service of Northern Ireland, the Northern Ireland Courts and Tribunals Service and the HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(3).

	through the European e-Justice portal ? ²⁹⁰ How is this register available to legal counsel and relevant authorities?			Wales, Scotland and Northern Ireland can access this in order to find an appropriate interpreter/translator. The databases/registers maintained by the interpretation and translation providers contracted by the various criminal justice agencies mentioned in 3.1(a) are not publically available and are not available to legal representatives. Defence solicitors do not have access to the Capita TI database, but it is open to a defence solicitor to book any interpreter for purposes such as attending a client to take instructions, if the interpreter will work within the fee structure of the Legal Aid Agency and prior authority is obtained from the Legal Aid Agency. ²⁹¹
	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?		x	However, the <i>National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System</i> states that “[...] the standard requirement is that every interpreter/LSP working in courts and police stations should be registered with one of the recommended registers.” ²⁹² The courts in England and Wales must engage interpreters and translators through the Ministry of Justice Framework Agreement and therefore are required to use the Capita TI database of interpreters and translators (see 3.1(a) above). Police Scotland and the Scottish Courts and Tribunals Service make their own arrangements (see 3.1(a) above). Both the Northern Ireland Police Service and the Northern Ireland Courts and Tribunals Service have contracts with interpretation and translation providers and are required to use these providers in order to find inpreters and translators (see 3.1(a) above). A criminal practitioner in Northern Ireland stated that they are required to use the interpreters and translators listed in the databases of the contracted firm as the Legal Services Agency would not fund the engagement of an unapproved interpreter/translator. It is the funding requirements which restricts who the criminal defence lawyers can instruct. ²⁹³

²⁹⁰ <https://e-justice.europa.eu/home.do?plang=en&action=home>

²⁹¹ UK, criminal practitioner in England.

²⁹² UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 3.3.1, available at:

<http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

²⁹³ UK, criminal practitioner in Northern Ireland.

3.2	With regard to other mechanisms/procedures:	Yes	No	Brief Description
	a) Are there other mechanisms or procedures in place to ensure the quality and independence of interpretation and translation during the course of the proceedings? Are there any quality checks? Who is responsible for carrying them out?	x		<p>England and Wales: The Metropolitan Police Service (MPS) did not give detail about how this is done under their standard operating procedures. However, interpreters on the recommended registers (either NRPSI or CACPD) will have a standard criminal record check (now known as a disclosure and barring check (DBS)) and will be subject to police vetting.²⁹⁴ The Association of Chief Police Officers (ACPO) has a national vetting policy for interpreters engaged by the police. Police forces take responsibility for undertaking and recording the outcome of checks they carry out on the interpreters they use. Interpreters should be vetted to the ACPO vetting standard, which includes a counter-terrorist check.²⁹⁵ The MPS require that all official interpreters and translators are vetted to counter-terrorism level and have signed the Official Secrets Act 1989.²⁹⁶ The Contracts Management Team of HM Courts and Tribunals Service carry out a regular audit. There have also been investigations conducted by the National Audit Office, the Public Accounts Committee and the Justice Committee of the House of Commons (JC), all of whom have made recommendations relating to quality standards.²⁹⁷ The Ministry of Justice commissioned an independent review of the quality arrangements under the Ministry of Justice Language Services Framework, which reported in November 2014.²⁹⁸ The key findings of the report were that qualifications are the most robust and reliable measure of interpreter quality and an appropriate tool to ensure quality. Rare language interpreters are characterised by having no relevant qualifications,</p>

²⁹⁴ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 6.1.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

²⁹⁵ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraphs 6.2.1 and 6.2.2, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

²⁹⁶ UK, Metropolitan Police Service (2010) *Working with Interpreters and Translators: Standard Operating Procedures* (August 2010), paragraph 3.2(2), available at: www.met.police.uk/foi/pdfs/policies/interpreters_and_translators_sop.pdf.

²⁹⁷ UK, Optimity Matrix (2014), *Independent Review of Quality arrangements under the Ministry of Justice Language Services Framework Agreement*, London, Ministry of Justice, page 6, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/388333/matrix-report.pdf.

²⁹⁸ UK, Optimity Matrix (2014), *Independent Review of Quality arrangements under the Ministry of Justice Language Services Framework Agreement*, London, Ministry of Justice, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/388333/matrix-report.pdf.

			<p>so for rare languages qualifications are not a benchmark of quality. It was found that interpreters for deaf and deafblind people followed the requirements under the Framework Agreement (FA) which were acceptable as those interpreters were drawn from relevant registers and databases. There are differences in the quality requirements across the justice sector this is due to risk and complexity/ importance of the work. Most of the people working in the justice sector were happy with the tiering system, which helps to match suitably qualified interpreters to those cases which require their skills and experience, although some commented that the tiered system is overly complex and difficult to use effectively. The evaluation procedure at the hiring stage is not always satisfactory as there is insufficient focus on qualifications and experience. There is a need for ongoing monitoring and spot-checks as a means of assuring quality. It was recognised that Continuous Professional Development (CPD) is important for the development of appropriately qualified interpreters and translators, but interpreters and translators were dissatisfied with the level of CPD training offered in the sector. The complaints procedure should facilitate the proper investigation and resolution of issues, but some participants were not satisfied with the procedure under the FA. On the basis of its findings, Optimity Matrix made the following recommendations: Qualifications and experience to be used as an indicator of quality, combined with a simplified tiered system to improve transparency in the allocation of interpreters to jobs; improve the efficient use of qualified interpreters by continuing to increase the efficiency of the current system of booking and allocating language services and the use of video interpreting technology within the courts.; improve Continuous Professional Development by implementing the CPD programme already allowed for in the FA. The overarching purpose of the CPD programme would be maintenance and development of the interpreter skill set, as well as a tool to facilitate the appraisal of interpreters; improve assessment of rare language interpreters (at the hiring stage); improve the ongoing quality assessment of interpreters. It is recommended that the existing FA requirement for ongoing evaluation of quality, including spot checks, be properly implemented. Optimity</p>
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			<p>Matrix also made an observation that there needs to be better regulation of the interpretation industry.²⁹⁹</p> <p>The Ministry of Justice (MoJ) responded to the report in December 2014.³⁰⁰ In response to the first recommendation, the MoJ stated that they would defer further work on this until the next tender exercise for the FA. The MoJ accepted the recommendation about the efficient use of interpreters, but did not accept the recommendation about developing CPD training, as interpreters and translators are self employed and it would be inappropriate to compel them to attend CPD courses. The MoJ accepted in principle the need to improve the assessment of rare language interpreters. The MoJ did not accept that it was their responsibility to improve the ongoing quality assessment of interpreters, this is the role of Capita TI and they are satisfied with Capita TI's quality assurance procedures and they do not need to carry out any further work to fulfil this recommendation. The MoJ fully accepted the observation about regulation of the interpretation industry, but this is not something that is within the MoJ remit.³⁰¹</p> <p>Scotland: In Scotland the Working Group on Interpretation and Translation commissioned a scoping exercise in 2012,³⁰² which examined the quality of interpreting and translating services in Scotland and considered whether there needs to be a professionalisation of interpreting services in the Scottish criminal justice system. The standards and qualifications of interpreters will be part of the contract and service level agreement arrangements between the police and the service provider, Global Language Services Limited. Individual officers and staff</p>
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²⁹⁹ UK, Optimity Matrix (2014), Independent Review of Quality arrangements under the Ministry of Justice Language Services Framework Agreement', London, Ministry of Justice, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/388333/matrix-report.pdf, pages 7 – 12.

³⁰⁰ UK, HM Government (2014), *An Independent Review of Quality Arrangements under the Ministry of Justice Language Services Framework Agreement: Government Response*, London, Ministry of Justice, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/395193/government-response-to-matrix-review.pdf.

³⁰¹ UK, HM Government (2014), *An Independent Review of Quality Arrangements under the Ministry of Justice Language Services Framework Agreement: Government Response*, London, Ministry of Justice, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/395193/government-response-to-matrix-review.pdf.

³⁰² UK, Skills for Justice and the Working Group on Interpretation and Translation (2012), *Enhancing the Professionalising of the Provision of Interpreting in the Scottish Criminal Justice System: Key Findings of a Scoping Exercise*, Sheffield, Skills for Justice, available at: www.copfs.gov.uk/images/Documents/Equality_Diversity/Skills%20for%20Justice%20report.pdf.

			<p>would be expected to highlight any particular issues or concerns as they are identified with their line management.³⁰³ The court cannot check the literal accuracy of translation and interpretation. However, the court can and does assess whether the interpreter is audible and comprehensible to the accused and, if the accused is represented, the defence solicitor may object to the performance of the interpreter, as may the prosecutor. It is ultimately for the court to be satisfied as to the qualifications and experience of the interpreter present.³⁰⁴</p> <p>Northern Ireland: The contractor must ensure that interpreters used to deliver the contract services are fully competent and qualified and should have proven experience of interpreting. The contractor is required to provide and update lists of available/suitable interpreters to the Contracts Management Team at the NI Courts and Tribunals Service (NICTS).³⁰⁵ The contractor must provide details on how service providers recruit, select, train and monitor interpreters and work closely with the NICTS to ensure all interpreters are vetted accordingly to ensure their suitability to work closely with the NICTS and the public. The contractor is responsible for the professional development, accountability and quality of all the interpreters used to provide the service and must provide and routinely update the NICTS with information about how this is being managed. Performance monitoring systems have been put in place by the NICTS contract manager including 6 monthly contract review meetings, bi-monthly performance review meetings and weekly exchange and resolution of issues with the provider. The contractor is also required to provide monthly performance reports to the NICTS contract manager so that performance may be assessed. NICTS is currently putting in place systems to conduct a spot check to test the quality of the interpreters provided by using another recognised interpreter. In the event that the interpreter's integrity or ability is discredited in any way, the NICTS has the right to require the contractor to cease to use the interpreter through the contract.³⁰⁶</p>
	b) Is there any procedure in place to ensure that	x	<p>England and Wales: Yes. If a suspect or detainee complains about the quality of the interpretation or translation, the custody officer or interviewer (if applicable) is</p>

³⁰³ UK, representative of the Police Scotland.

³⁰⁴ UK, representative of the Scottish Courts and Tribunals Service.

³⁰⁵ UK, representative of the Northern Ireland Courts and Tribunals Service.

³⁰⁶ UK, representative of the Northern Ireland Courts and Tribunals Service.

<p>suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>		<p>responsible for deciding if a different interpreter should be called or a further translation should be provided in accordance with the procedures set by the chief officer.³⁰⁷ The decision of the custody officer in principle could be subject to judicial review. The question would be whether the power was lawfully exercised. However, judicial review should be considered as a remedy of last resort.³⁰⁸ In most cases, challenging a custody officer's decision will be dealt with under police procedures. The decision should be made in compliance with procedures set by the chief officer. But the most up to date procedures are those set out in the Metropolitan Police: Working with Interpreters and Translators: Standard Operating Procedures (August 2010). The complaint procedure is set out in paragraph 15.1, page 46 of the Standard Operating Procedures. The criminal practitioner we were in touch with stated that this decision could be challenged by way of a judicial review, but it would not have practical effect on the defendant's detention. Judicial review proceedings would usually be brought after proceedings have been completed.³⁰⁹ At court, on application by the defendant, the judge can give a direction for interpretation by a different interpreter, where the defendant complains about the quality of interpretation or of any translation.³¹⁰ If a registered interpreter or Language Service Professional (LSP) has breached the standards set out in the NRPSI and CACDP Code of Conduct, the relevant authority (ie police force or court) should raise a complaint with the NRPSI or the Registration Panel of which the LSP is a member, it is then for the relevant disciplinary body to take action.³¹¹ Scotland: Yes. A person may complain to an appropriate constable, if the interpretation assistance or any written or oral translation or summary provided at the police station is not of sufficient quality to safeguard the fairness of the proceedings.³¹² An appropriate constable is defined as a constable who is the rank</p>
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³⁰⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.10A and paragraph 13.10C.

³⁰⁸ UK, *Kay v Lambeth LBC* (2006) UKHL 10, 8 March 2006.

³⁰⁹ UK, criminal practitioner.

³¹⁰ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction (SI 2014/1610)(14 October 2014), rule 3.9(5)(d)(iii).

³¹¹ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraphs 13.1 – 13.4, available at:

<http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjonline.gov.uk/guidance/race-confidence-and-justice/>.

³¹² UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, regulation 6(1)(b).

			<p>of inspector or above and has not been involved in the investigation in connection with which a person is in police custody or is attending voluntarily at a police station or other premises of the purpose of being questioned by a police constable.³¹³ Where the court has determined that a person is entitled to interpretation assistance or requires a written or oral translation or oral summary of essential documents, that person may apply to the court for a direction, if the interpretation or translation is of insufficient quality to safeguard the fairness of the proceedings.³¹⁴ The guiding principle is to safeguard the fairness of the proceedings, thus it would be in the judge's discretion to order a review of interpretation/translation if an accused person queries the independence of an interpreter/translator. The accused (or their legal representative in court) may challenge the interpreter's performance or independence.³¹⁵</p> <p>Northern Ireland: Yes. At the police station, there is no current procedure for this. Under the proposed amendments to PACE Code C (NI), if the suspect or detainee complains that he or she is not satisfied with the quality of the interpretation, the custody officer or the interviewer is responsible for deciding whether a different interpreter should be called in accordance with the procedures set down by the Chief Constable.³¹⁶ If a detainee complains that they are not satisfied with the quality of the translation, the custody officer or the interviewer is responsible for deciding whether a further translation should be provided in accordance with the procedures set out in the arrangements made by the Chief Constable.³¹⁷ In principle the decision of the custody sergeant could be subject to judicial review, see the response on England and Wales above. The decision of the custody</p>
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³¹³ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, regulation 2 (1).

³¹⁴ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, regulation 12(1) and (2).

³¹⁵ UK, representative of the Scottish Courts and Tribunals Service.

³¹⁶ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraphs 13.1A and 13.10A, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³¹⁷ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.10C, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

			<p>officer/sergeant should be made in compliance with procedures set by the Chief Constable. As the new PACE Code has only just come into force there are no procedures which have been published yet. PSNI suggested that the only procedure is when a person complains about the quality or independence of an interpreter, this would be reviewed by the custody sergeant. Any complaints or concerns regarding the standard and behaviour of an interpreter engaged by the Northern Ireland Courts and Tribunals Service should immediately be referred to the Head of Customer Services Group.³¹⁸ At any stage during court proceedings, the judge will consider any issues about the quality or independence of the interpreter. If on an application by the defendant, who needs interpretation, it is submitted that the quality of interpretation or translation is not sufficient to safeguard the fairness of the proceedings, the court may give any direction which it considers appropriate.³¹⁹ A Northern Ireland criminal practitioner reported to us that his experience of this was in a police station in relation to a murder interview, where the client at quite a late stage in a series of interviews raised concerns about the interpreter, the Police response was to provide a new interpreter immediately. In another case, family members of his client at court complained about quality of the court interpreter, but the second interpreter acting on behalf of the Defendant resolved the issue directly with the court interpreter.³²⁰</p>
	c) Are there any mechanisms in place that allow for the replacement of the appointed interpreter or a new translation when the quality of the interpretation	x	<p>England and Wales: Yes, where there is any doubt as to the competency of an interpreter, a new interpreter will be booked to carry out the interview.³²¹ The defendant can make an application to the court (see 3.2(b) above). In the experience of a defence solicitor, if a defendant complains about interpretation during proceedings, the court does arrange for an alternative interpreter. If the quality of the interpretation or independence of the interpreter is questioned, this is usually raised by the defence lawyer at court and considered by a judge who</p>

³¹⁸ UK, Northern Ireland Court Service (2010), Consultation Paper: Provision of In-Court Interpretation Services, paragraphs 7.1.1 and 7.1.2, page 12, available at: www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/Documents/Consultation%20Paper%20Provision%20of%20In-Court%20Interpretation%20Services/p_pc_Provision_of_InCourt_Interpretation_Services.pdf .

³¹⁹ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(7)(c).

³²⁰ UK, criminal practitioner in Northern Ireland.

³²¹ UK, representative of the Metropolitan Police.

	or the independence of the interpreter is considered insufficient? If yes, briefly provide information.		ultimately has the power to pause proceedings until a suitable interpreter is found. A criminal practitioner has had experience of trials in the crown court being halted because of a complaint about the quality of interpretation. ³²² Scotland: See 3.2 (b) above. If the court is satisfied that an interpreter needs to be replaced it is likely the case would be adjourned until a suitable interpreter was found. ³²³ Northern Ireland: See 3.2(b) above. The prosecution or defendant may object to the interpreter at court on any reasonable ground. If the court upholds the objection, the interpreter shall not be sworn or make his affirmation and the chief clerk shall appoint another interpreter. ³²⁴ The contract specifies that if the quality of the interpretation service is not to a high standard and is rejected by the client, any repeat/corrective work will be at the contractor's cost. ³²⁵
3.3	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons which affect their ability to communicate effectively? ³²⁶ If yes, briefly provide information on those mechanisms considering the following vulnerable groups:	x	
	a) suspect or accused persons with physical impairment or disability;		England and Wales: Vulnerable includes those under 18 years of age and people with a mental disorder or learning disability; a physical disorder or disability; or who are likely to suffer fear or distress in giving evidence because of their own

³²² UK, criminal practitioner in England.

³²³ UK, representative of the Scottish Courts and Tribunals Service.

³²⁴ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(4) and (5).

³²⁵ UK, representative of the Northern Ireland Courts and Tribunals Service.

³²⁶ See in particular recital 27 of Directive 2010/64/EU.

			<p>circumstances or those relating to the case.³²⁷ If there are any requirements for sign language interpretation this is provided by Capita TI. The court will let Capita TI know its requirements. Capita TI organises interpretation and translation for vulnerable defendants. See also 3.3(b) below. If there is a deaf defendant who requires interpretation or translation into a sign language other than British sign language there may need to be arrangements to have two interpreters to provide the interpretation at the police station or at court, this is known as relay interpreting.³²⁸</p> <p>Scotland: Interpreters are also available for sign language and the police force has guidance to ensure that blind persons are fully aware of any documentation they may have to sign.³²⁹ Accused who are children or considered to be vulnerable are allowed to have a supporter or appropriate adult in court.³³⁰ The court may determine, due to the vulnerability of the accused; that the court must be closed to the public while the evidence of the accused is being given. In other situations, the court has a discretion to deal with such situations as they arise and it is for the court to determine how best to proceed. The accused may have a supporter in court, who is allowed to accompany and support witnesses in accordance with section 271 of the Criminal Procedure (Scotland) Act 1995. In practice this may be a relative or more usually a trained supporter from a support organisation such as Victim Support Scotland.³³¹ The Scottish Court and Tribunals Service understands that the Scottish Government may be giving consideration to the use of intermediaries in such circumstances, but this has not yet been legislated for.³³²</p> <p>Northern Ireland: Persons with a speech impediment or visual impairment, blind or unable to speak or deaf shall be treated as such for the purposes of the PACE Code</p>
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³²⁷ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), practice direction I, 3D.1

³²⁸ UK, HM Government (2007), Office for Criminal Justice Reform, *National Agreement on the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings in the Criminal Justice System* (2007), paragraph 4.9.7, available at: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/race-confidence-and-justice/>.

³²⁹ UK, representative of the Police Scotland.

³³⁰ UK, representative of the Scottish Courts and Tribunals Service.

³³¹ UK, representative of the Scottish Courts and Tribunals Service.

³³² UK, representative of the Scottish Courts and Tribunals Service.

			<p>C (NI).³³³ A suspect who requires an interpreter or appropriate assistance to enable effective communication (see paragraphs 3.5(c)(ii) and 3.12 PACE Code C (NI)) shall not be interviewed without an independent person capable of interpreting or without assistance.³³⁴ The NI Courts and Tribunals Service has a contract in place with Action on Hearing Loss (RNID) for provision of sign language and speech to text services. There is a separate Department of Justice Intermediaries Scheme.³³⁵ The Youth Justice Agency and Social Services are involved in criminal cases involving children.³³⁶</p>
	b) suspect or accused persons with intellectual impairment or disability;		<p>England and Wales: At the police station a person who appears to be mentally disordered or otherwise mentally vulnerable should be treated as such for the purpose of the PACE Code C. ³³⁷ Guidance Note 1G defines mentally vulnerable.³³⁸ In such cases an appropriate adult should be called to attend the police station to assist the vulnerable defendant.³³⁹ There is no statutory provision for a vulnerable defendant to give evidence through an intermediary. However, this can be arranged at the judge's discretion.³⁴⁰ Section 104 of the Coroners and Justice Act 2009 (not yet in force) creates a new section 33BA of the Youth Justice and Criminal Evidence Act 1999. Once implemented, this will allow a defendant to give evidence through an intermediary. The court is required to take every reasonable step to facilitate the</p>

³³³ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 1.6, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³³⁴ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.5, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³³⁵ UK, Northern Ireland Department of Justice Intermediaries scheme: www.dojni.gov.uk/registered-intermediary-schemes

³³⁶ UK, representative of the Northern Ireland Courts and Tribunals Service.

³³⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 1.7.

³³⁸ UK, HM Government (1983) 'Mental disorder' is defined in the Mental Health Act 1983, section 1(2).

³³⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.15.

³⁴⁰ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), practice direction I, 3F.3.

			<p>participation of any person, including the defendant.³⁴¹ This includes enabling a witness or defendant to give their best evidence, and enabling a defendant to comprehend the proceedings and engage fully with his or her defence. The pre-trial and trial process should, so far as necessary, be adapted to meet those ends. Regard should be had to the welfare of a young defendant as required by section 44 of the Children and Young Persons Act 1933, and generally to Parts 1 and 3 of the Criminal Procedure Rules (the overriding objective and the court's powers of case management).³⁴²</p> <p>Scotland: See 3.3(a) above. In Scotland appropriate adults are appointed for persons with mental disabilities. The purpose of these persons is to facilitate the processes the police have to carry out and support the subject to understand and respond accordingly. This is in accordance with Mental Health (Care and Treatment) (Scotland) Act 2003. The appropriate adult would utilise their skills and experience in dealing with such persons, in order to ensure their understanding of the procedures adopted by the Police.</p> <p>Northern Ireland: If an officer suspects or has been told in good faith that a person may be mentally disordered or otherwise mentally vulnerable, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of the PACE Code (NI).³⁴³ Guidance note 1G PACE Code C (NI) defines mentally vulnerable.³⁴⁴</p>
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility		<p>England and Wales: If anyone appears to be under 17 (or between 17 and 18), they will be treated as a juvenile for the purposes of PACE Code C.³⁴⁵ If a detainee is a juvenile, the custody officer must as soon as practicable inform an appropriate adult of the grounds of detention and where they are and ask the appropriate adult</p>

³⁴¹ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), rule 3.9(3)(a)(b).

³⁴² UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), practice direction I, 3D.2.

³⁴³ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 1.4, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁴⁴ UK, HM Government (1986) 'Mental disorder' is defined in Article 3(1) of the Mental Health (Northern Ireland) Order 1986.

³⁴⁵ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 1.5 and paragraph 1.5A.

	(please distinguish between the two).		<p>to attend the police station.³⁴⁶ When the defendant is under the age of 18, the court shall have regard to the defendant's welfare as required by section 44 of the Children and Young Persons Act 1933, and generally by Parts 1 and 3 of the Criminal Procedure Rules (the overriding objective and the court's powers of case management).³⁴⁷</p> <p>Scotland: See 3.3(a) above. In terms of children (in Scotland currently aged under 16 or under 18 but subject of a Supervision Order), they have additional rights in respect of their parents being notified and to be present during interviews etc.; this is additional to the solicitor access rights.³⁴⁸</p> <p>Northern Ireland: (i) Children for the purposes of police questioning are treated as juveniles if they are under the age of 17.³⁴⁹</p> <p>(ii) where a child under the age of 17 has been arrested or detained at the police station, the custody officer must, as soon as practicable, contact an appropriate adult,³⁵⁰ who may or may not be the parent or person with parental responsibility and inform them of the grounds for the juvenile's detention and their whereabouts and ask them to attend the police station.³⁵¹ On arrival at the police station, the appropriate adult should be provided with written guidance as to their role.³⁵² If the</p>
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³⁴⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.15. See also para 1.7 for the criteria for 'appropriate adult'.

³⁴⁷ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), practice direction I, 3D.2.

³⁴⁸ UK, representative of the Police Scotland.

³⁴⁹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 1.5, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁵⁰ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 1.7, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁵¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.10, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁵² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), note 1AA available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

			appropriate adult does not speak or understand English or appears to have a hearing or speech impediment, an interpreter should be called, unless the interview is urgent and paragraphs 11.1 or 11.18 PACE Code C (NI) apply. ³⁵³
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ³⁵⁴ If yes, briefly provide information on how this procedure is organised in practice.	Yes	<p>England and Wales: The custody officer or interviewer must record in the custody record or the interview record action taken to call an interpreter, when an urgent interview is carried out in accordance with paragraphs 13.2. and 13.5 in the absence of an interpreter and when a detainee has been assisted by an interpreter for the purpose of providing or being given information or being interviewed.³⁵⁵ Additionally the custody officer must record action taken in accordance with Annex M PACE Code C: when a written translation of an essential document is provided, when an oral translation or oral summary of an essential document is provided instead of a written translation and the authorising officer's reasons why this would not prejudice the fairness of the proceedings, when a suspect waives their right to translation of an essential document and when a non-essential document is not translated and the reason for refusing to translate it.³⁵⁶ The court officer must record where interpretation is required for a defendant and any agreement by that defendant to do without the written translation of a document.³⁵⁷ The court clerk will record this on the court file for the case.</p> <p>Scotland: The constable is required to record whether interpretation assistance has been provided, the fact that an oral translation or oral summary of an essential document has been provided and the fact that a waiver (under regulation 15(1) Right to Interpretation and Translation in Criminal Proceedings (Scotland) 2014) has been given by the person in police custody.³⁵⁸ The clerk of the court must make a record of the fact that interpretation assistance or an oral translation or oral</p>

³⁵³ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.6, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁵⁴ See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

³⁵⁵ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.11 (a), (c) and (d).

³⁵⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 13.11 (e) and Annex M, paragraphs 3, 4 and 8.

³⁵⁷ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Direction(SI 2014/1610)(14 October 2014), rule 5.4(1)(n).

³⁵⁸ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, regulation 7.

			<p>summary of an essential document has been provided.³⁵⁹ Clerks of court have been asked to note the use of interpreters in the record of proceedings.³⁶⁰</p> <p>Northern Ireland: The custody officer must record when a decision is made that a detainee requires an interpreter.³⁶¹ If the detainee requires an appropriate adult, either because he is a juvenile or mentally disordered or otherwise mentally vulnerable, this must be complied with in the presence of the appropriate adult.³⁶² Action taken to call an interpreter under section 13 PACE Code C (NI) and any agreement to be interviewed in the absence of an interpreter must be recorded.³⁶³ The custody officer makes a note on the custody record. The custody officer will complete form INTR1 for face to face interpreters and INTR2 for a translation request. A record will also be made on the internal computer system. A police officer may also make a note that translation or interpretation have occurred in the police officer's pocket notebook.³⁶⁴ At court, the chief clerk shall record the identity of any interpreter appointed at a hearing, any decision to provide an oral translation or oral summary of an essential document or a passage, any waiver by a defendant who needs interpretation of his right to translation and any direction given under Rule 47B (7) of the Crown Court Rules (Northern Ireland).³⁶⁵</p>
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³⁵⁹ UK, HM Government (2014) Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, regulation 14(a) and (b).

³⁶⁰ UK, representative of the Scottish Courts and Tribunals Service.

³⁶¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.5(d), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>).

³⁶² UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.12, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>..

³⁶³ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 13.11, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>..

³⁶⁴ UK, representative of the Police Service of Northern Ireland.

³⁶⁵ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 47B(8).

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1. PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ³⁶⁶	Brief Description
1.1	<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) What information is provided?</p> <p>b) How is it provided (e.g. orally or in writing)?</p> <p>c) What is the timeframe (deadline) for providing information at each stage of the proceedings?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
• police questioning;	<p>a) England and Wales: When a person is brought to the police station under arrest or is arrested at the police station, the custody officer must make sure the person is told clearly about their right to consult privately with a solicitor and that free independent legal advice is available (in accordance with section 6 of the Police and Criminal Evidence Act 1984, Code C (PACE Code C)), the right to have someone informed of their arrest (in accordance with section 5 PACE Code C), the right to consult the Codes of Practice (see Note 3D PACE Code C) and if applicable their right to interpretation and translation, in accordance with paragraph 3.12 PACE Code C and their right to communicate with their High Commission, Embassy or Consulate in accordance with paragraph 3.12A PACE Code C.³⁶⁷ The custody officer must also tell the person about their right to be informed about the offence and any further offences for which they are arrested whilst in custody and why they have been arrested and detained.³⁶⁸ The detainee must also be given a written notice of their rights, set out in the Notice of Rights and Entitlements, which includes receiving information about the right to remain silent and the right to have access to case materials. A person who is not arrested but cautioned</p>

³⁶⁶ See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

³⁶⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.1(a).

³⁶⁸ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.1(b).

under section 10 of PACE Code C must be told that they are not under arrest and can leave when they wish, but if they remain they are entitled to obtain free and independent legal advice and shall be given a notice explaining the arrangements for obtaining legal advice. The interviewer must also ensure that the provisions of Code C and rights and entitlements and safeguards applicable to suspects under arrest are applied insofar as they can be applied to suspects who are not under arrest. This includes informing them of the offence they are suspected of and reasons for that suspicion, to be cautioned as required, determining whether an appropriate adult needs to be called and determining whether they require an interpreter or translation services and informing them of that right. The person attending voluntarily is not entitled to a written notice of their rights.³⁶⁹ If a person has been cautioned under section 10 of PACE Code C, whether or not they have been arrested or detained, he or she must be provided with information required by EU Directive 2012/13.³⁷⁰

Scotland: The regulations state that the suspect or accused must be provided with information which satisfies the requirements of Articles 3 and 4 of Directive 2012/13/EU.³⁷¹ Suspects should be informed of their right of access to a lawyer, entitlement to free legal advice, the right to be informed of the accusation, the right to interpretation and translation and the right to remain silent. Suspects or accused persons on arrest are entitled to a written Letter of Rights (which is non-statutory). A suspect arrested at common law or detained under section 14 of the Criminal Procedure (Scotland) Act 1995 (as amended by Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010) is entitled to be informed of the general nature of the offence, which he/she is suspected of having committed, and the reason for his/her detention or arrest. Once at the police station he/she is entitled to have intimation of the arrest or detention and the location of the police station sent to a solicitor and one other reasonably named person. If a suspect's detention is terminated, the suspect must be informed of that immediately.³⁷² A suspect who is detained, arrested or merely attending voluntarily at a police station now has a statutory right to a private consultation

³⁶⁹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.16, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³⁷⁰ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.21, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³⁷¹ UK, HM Government (2014) the Right to Information (Suspects and Accused)(Scotland) Regulations 2014, regulation 3(2).

³⁷² UK, HM Government (1995) Criminal Procedure (Scotland) Act 1995 (as amended by Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010), sections 14, 15 and 15A.

with a solicitor before questioning begins and at any other time during questioning. The consultation may be by telephone as well as in person.³⁷³

Northern Ireland: When a person is brought to the police station under arrest or arrested at the police station, the custody officer must make sure the person is told about their right to have someone informed of their arrest (in accordance with section 5 PACE Code C (NI)), their right to consult privately with a solicitor and that free independent legal advice is available, their right to consult the Codes of Practice and, if applicable, their right to interpretation and translation and the right to communicate with their High Commission, Embassy or Consulate.³⁷⁴ The detainee also has a right to be informed about the offence, any further offences for which they have been arrested whilst in custody and why they have been arrested and detained.³⁷⁵ The detainee is also entitled to receive a written notice containing information about their rights whilst they are in detention.³⁷⁶ A person who is not arrested but cautioned under section 10 of PACE Code C must be told that they are not under arrest and can leave when they wish, but if they remain they are entitled to obtain free and independent legal advice and shall be given a notice explaining the arrangements for obtaining legal advice. The interviewer must also ensure that the provisions of Code C and rights and entitlements and safeguards applicable to suspects under arrest are applied insofar as they can be applied to suspects who are not under arrest. This includes informing them of the offence they are suspected of and reasons for that suspicion, to be cautioned as required, determining whether an appropriate adult needs to be called, determining whether they require an interpreter or translation services and informing them of that right and determining whether they require a registered intermediary to assist with communication during an interview. A person attending voluntarily is not entitled to a written notice of their rights.³⁷⁷ If a person has

³⁷³ UK, HM Government (1995) Criminal Procedure (Scotland) Act 1995 (as amended by Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010), section 15A(5).

³⁷⁴ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.1(a), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁷⁵ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.1(b), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

³⁷⁶ UK, Notice of Rights and Entitlements.

³⁷⁷ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.16(b).

		<p>been cautioned under section 10 of PACE Code C, whether or not they have been arrested or detained, he or she must be provided with information required by EU Directive 2012/13.³⁷⁸</p>
		<p>b) England and Wales: The information is provided both orally and in writing.³⁷⁹ Scotland: The information can be provided verbally or in writing.³⁸⁰ However a written Letter of Rights should be provided once they are arrested and detained. Northern Ireland: The information is provided both orally and in writing.³⁸¹</p>
		<p>c) England and Wales: The information must be provided when a person is brought to the police station under arrest or as soon as he or she is arrested at the police station, if they have gone to the police station voluntarily.³⁸² If the person is not arrested but cautioned under section 10 of PACE Code C, the person who gives the caution must at the same time inform the person of their rights, that is; they are not under arrest, they are not obliged to remain at the station but if they remain at the station they may obtain free and independent legal advice if they want.³⁸³ Scotland: The information must be provided as soon as reasonably practicable.³⁸⁴ Northern Ireland: The information must be provided when a person is brought to the police station under arrest or as soon as he or she is arrested at the police station, if they have gone to the police station voluntarily.³⁸⁵ If the person is not arrested but cautioned under section 10 of PACE Code C, the person who</p>

³⁷⁸ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.21.

³⁷⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.1 and 3.2.

³⁸⁰ UK, HM Government (2014) The Right to Information (Suspects and Accused)(Scotland) Regulations 2014, regulation 3(2).

³⁸¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.1 and 3.2, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³⁸² UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.1.

³⁸³ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.21 (b).

³⁸⁴ UK, HM Government (2014) The Right to Information (Suspects and Accused)(Scotland) Regulations 2014, regulation 3(2).

³⁸⁵ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.1, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

	<p>gives the caution must at the same time inform the person of their rights, that is; they are not under arrest, they are not obliged to remain at the station but if they remain at the station they may obtain free and independent legal advice if they want.³⁸⁶</p>
<ul style="list-style-type: none"> • court hearings; 	<p>a) England and Wales: A defendant is given a leaflet called <i>Going to court</i>, when he or she is charged with an offence. The leaflet explains the criminal process, when the defendant is expected to be at court, the rights of defendants, help in finding a solicitor, what happens if the defendant fails to appear at court on the day of the hearing and what to do if the defendant is unable to attend court. There is also information on what happens when the defendant arrives at court and an explanation of the different courts in the criminal justice system and their layout. The leaflet also provides details of organisations and agencies who can assist the defendant.³⁸⁷</p> <p>Scotland: Accused persons in Scotland do not receive written information about their rights. The Right to Information (Suspects and Accused)(Scotland) Regulations 2014 do not apply to court proceedings. Courts do not advise the accused about their procedural rights unless the accused person appears to be unrepresented, in which case the court may recommend they obtain legal representation and, in certain circumstances, may appoint a duty solicitor to act on their behalf. Where the accused is unrepresented the court will advise the accused on the relevant procedure to be followed during the hearing.³⁸⁸ If an accused is legally represented the defence solicitor would provide such advice. If an accused is not legally represented or refuses legal representation the court would give such advice orally. Where an interpreter is in attendance the interpreter would interpret the advice and let the court know if the accused understood it.³⁸⁹</p> <p>Northern Ireland: Once a defendant is charged with an offence by the Police Service of Northern Ireland, the defendant will receive a leaflet entitled <i>Attending Court as a Defendant in a Criminal Court</i>³⁹⁰ It explains what</p>

³⁸⁶ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.16(b), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

³⁸⁷ UK, Home Office (2004): *Criminal Justice System, Going to Court: Information for you*, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/100725/621108.pdf .

³⁸⁸ UK, representative of the Scottish Courts and Tribunals Service.

³⁸⁹ UK, representative of the Scottish Courts and Tribunals Service.

³⁹⁰ UK, Department of Justice: Northern Ireland Courts and Tribunals Service (2012), *Attending Court as a Defendant in a Criminal Court*, available at: www.courtsni.gov.uk/en-GB/Publications/UsefullInformationLeaflets/Documents/p_uil_attending_as_a_defendant_in_a_criminal_court/Attending-as-a-Defendant.pdf .

	<p>a defendant needs to do when they arrive at court, advises a defendant to seek legal advice, and it explains the structure of the court system in Northern Ireland. The leaflet also gives a list of the courts in Northern Ireland. A criminal practitioner in Northern Ireland reported that the defendant will receive Preliminary Enquiry papers from the Public Prosecution Service or depositions before he attends court. These will be served on the defendant personally.³⁹¹</p>
	<p>b) England and Wales: It is given orally and in writing. See answers to 1.1(a) above. Scotland: Information is given orally.³⁹² Northern Ireland: It is given orally and in writing. See response to 1.1(a) above.</p>
	<p>c) England and Wales: The Defendant receives the leaflet when he or she has been charged with an offence. Scotland: During the proceedings as and when it is appropriate to give the accused person information. Northern Ireland: The leaflet would be given to the defendant by the Public Prosecution Service when he or she is summonsed to appear at court.³⁹³</p>
<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) England and Wales: See 1.1(a) above Scotland: See 1.1(a) above. Northern Ireland: See 1.1(a) above.</p>
	<p>b) England and Wales: See 1.1(b) above. Scotland: See 1.1(b) above. Northern Ireland: See 1.1(b) above.</p>
	<p>c) England and Wales: See 1.1(c) above. Scotland: See 1.1(c) above. Northern Ireland: See 1.1(c) above.</p>
<ul style="list-style-type: none"> • any communication 	<p>a) England and Wales: The accused person receives information from the custody officer at the police station. The solicitor will make sure that the accused receives information on the rights on arrest, access to a</p>

³⁹¹ UK, criminal practitioner in Northern Ireland.

³⁹² UK, representative of the Scottish Courts and Tribunals Service.

³⁹³ UK, representative of the Northern Ireland Courts and Tribunals Service.

	<p>ion between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings ?</p>	<p>free and independent lawyer, for their embassy to be informed, to remain silent (caution on arrest), rights whilst detained at police station, right to an interpreter free of charge.³⁹⁴ Scotland: [The criminal practitioner in Scotland did not respond to this question directly, but, in response to another question, he reported that the accused receives a letter of rights.³⁹⁵] Northern Ireland: The legal representative will ensure that the suspect/accused person receives the notice setting out their rights at the Police Station. The detained person is advised of rights, including right to lawyer, right to have someone informed that you are detained, right to consult, view PACE codes of practice, (a copy will be provided upon request). The Preliminary Enquiry papers or depositions are served personally on the defendant or through his solicitor at the Magistrates Court level.³⁹⁶</p> <p>b) England and Wales: The criminal solicitor speaks to his client about his rights, thus the information is provided orally.³⁹⁷ Scotland: [The criminal practitioner in Scotland did not respond to this question. Northern Ireland: [The information given to the suspect or accused person is provided by their legal representative both in writing and orally.³⁹⁸</p> <p>c) England and Wales: The Criminal practitioner reported that a suspect's rights on arrest are given in writing at the police station. The Metropolitan Police Service has this document in a number of languages. If they do not have this document in the language required then it is usually translated orally by the interpreter. At court, there is no document that the criminal practitioner is aware of outlining the defendant's rights. The court procedure is always fully explained to the defendant orally by the interpreter.³⁹⁹ Scotland: [The criminal practitioner in Scotland did not respond to this question. Northern Ireland: This was not answered directly by the criminal practitioner from Northern Ireland, but the information is given to the defendant as the case progresses.</p>
<p>1. 2</p>	<p>Do authorities provide information about any other procedural</p>	<p>England and Wales: The information provided to the defendant in criminal proceedings is set out at 1.1(a) above. The rights which are additional to the rights set out in Article 3 of Directive 2012/13/EU are: the right to inform someone of the detainee's arrest and detention (this is additional to the right to contact a solicitor), the right to consult the PACE codes of practice, the right, if the defendant is not British to communicate with their High Commission, Embassy or Consulate (see paragraph 3 of PACE), a right to a copy of the custody</p>

³⁹⁴ UK, criminal practitioner in England.

³⁹⁵ UK, criminal practitioner in Scotland.

³⁹⁶ UK, criminal practitioner in Northern Ireland.

³⁹⁷ UK, criminal practitioner in England.

³⁹⁸ UK, criminal practitioner in Northern Ireland.

³⁹⁹ UK, criminal practitioner.

	rights (apart from those established in Article 3 of the Directive)? If yes, briefly provide information.	<p>record, the right to have access to prosecution materials and documents, right to know how long he or she will be detained for and the right to medical assistance.</p> <p>Scotland: The information provided to the accused in criminal proceedings is set out at 1.1(a) above. The rights which are additional to the rights set out in Article 3 of Directive 2012/13/EU are: the right to have someone told that the accused is at the police station, right to know why he or she is being detained, if the accused/detainee is under 16 (or 18 and subject to a supervision order), they have a right to be visited by a parent or guardian and if the accused/detainee is not British, they have a right to communicate with their High Commission, Embassy or Consulate.</p> <p>Northern Ireland: The information provided to the defendant in criminal proceedings is set out at 1.1(a) above. The Police Service of Northern Ireland also provides information about arrangements for obtaining legal advice, their right to have someone informed of their arrest and detention, the right to consult the Codes of Practice, their right to a copy of the custody record, the right to have access to materials and documents which are essential to effectively challenging the lawfulness of their arrest and detention for any offence, the maximum period for which they may be kept in police detention without being charged, when detention must be reviewed and when release is required, their right to communicate with their High Commission, Embassy or Consulate, their right to medical assistance and their right if prosecuted to have access to the evidence in the case before their trial.⁴⁰⁰ There is also a booklet in the High Court provided for Personal Litigants, in other words, those who are not legally represented, although this seems to be more applicable in the Civil Cases.⁴⁰¹</p>
2.	LETTER OF RIGHTS ⁴⁰²	Brief Description
2.1	What rights does the letter of rights provide information	England and Wales: In England and Wales, the police provide the detainee with a Notice of Entitlements or Rights ⁴⁰³ which contains the following information: the rights under paragraph 3.1, 3.12 and 3.12A PACE Code C, the arrangements for obtaining legal advice in accordance with section 6 of PACE Code C, the right to a copy of the custody record, the right to remain silent as set out in the caution given in accordance with section 10 PACE Code C, the right to have access to materials and documents which are essential to

⁴⁰⁰ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.2(a), available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>.

⁴⁰¹ UK, criminal practitioner in Northern Ireland.

⁴⁰² See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

⁴⁰³ UK, Home Office, Crime and Policing Guidance (2013): *Notice of Entitlements and Rights: A person's rights in police detention (English)*, London, Home Office, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/332266/CodeC-NoRE.pdf.

<p>about? What information is included in the letter of rights when children are arrested or detained?</p>	<p>effectively challenging the lawfulness of their arrest and detention for any offence and any further offences for which they are arrested whilst they are in custody, in accordance with paragraphs 3.4(b), 15, 15.7A(c) and 16.7A PACE Code C, the maximum period for which they may be kept in police detention without being charged, when detention must be reviewed and when release is required, the right to medical assistance in accordance with section 9 of PACE Code C, the right, if they are prosecuted to have access to the evidence in the case before their trial. The notice also mentions the provisions relating to the conduct of interviews and their statutory rights to make representations whenever the need for their detention is reviewed and the notice lists entitlements under the PACE Code C concerning reasonable standards of physical comfort, adequate food and drink, access to toilets and washing facilities, clothing, medical attention and exercise when practicable.⁴⁰⁴ There is no separate letter of rights given to children when they are arrested, but they are entitled to an easy-read version of the notice of rights and this should only be read to them and given to them in the presence of an appropriate adult.⁴⁰⁵ A criminal practitioner confirmed that there is no separate Notice of Rights and Entitlements for children, but a child's rights will only be given in the presence of an adult and interpreter if required.⁴⁰⁶</p> <p>Scotland: There is no statutory provision to provide a letter of rights. The Scottish Government have published a non-statutory letter of rights for use at police stations throughout Scotland.⁴⁰⁷ The Criminal Justice (Scotland) Bill was introduced into the Scottish Parliament on 20 June 2013, which, if passed, will put the provision of the information contained in the Letter of Rights on a statutory footing.⁴⁰⁸ In a recent communication with the Police Scotland, it was noted that the Bill will be implemented by 1 April 2016 and will introduce significant changes to police procedures in Scotland.⁴⁰⁹ The Right to Information (Suspects and Accused Persons) (Scotland) Regulations 2014 require that all persons in police custody are provided with information about their rights, verbally and in writing. In this regard, a letter of rights must be provided to every detained suspect and arrested person, unless there is a particular reason for not doing so.⁴¹⁰ There is no</p>
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⁴⁰⁴ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.2.

⁴⁰⁵ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraphs 3.2, 3.3A and note 3A.

⁴⁰⁶ UK, criminal practitioner in England.

⁴⁰⁷ UK, Scottish Government (2013): *Letter of Rights*, available at: www.gov.scot/Resource/0042/00426561.pdf.

⁴⁰⁸ UK, Scottish Government: *Law, Order and Public Safety, Letter of Rights*; available at: www.gov.scot/Topics/archive/law-order/letterofrights.

⁴⁰⁹ UK, representative of the Police Scotland.

⁴¹⁰ UK, Police Scotland (2015) *Police Service of Scotland: Solicitor Access Guidance Document*, paragraph 1.4, available at: http://www.scotland.police.uk/assets/pdf/151934/184779/psos_solicitor_access_guidance_document_ver_1.00.pdf?view=Standard.

		<p>additional information included in the letter of rights given to suspects or accused persons who are children, but the police must ensure that the child understands the information that has been given to them.⁴¹¹</p> <p>Northern Ireland: The Police Service of Northern Ireland provide suspects detained at the police station with a Notice of Entitlements and Rights (NoRE). This Notice contains the following information: the right to consult with a solicitor and apply for legal aid, the right to inform someone of arrest and the right to consult the Codes of Practice. Additionally the notice tells the suspect of the right to medical assistance, right to silence, the right to know what the suspect has been charged with, the right to see documentation about arrest and detention, the right to an interpreter, the right to contact an embassy or consulate if the suspect is not British, the right to know how long they will be detained for and the right of the suspect's solicitor to see the prosecution evidence before the court hearing. In addition the suspect is entitled to visit and contact with outside persons, one telephone call, writing materials, reasonable standards of physical comfort, adequate food and drink, access to toilet and washing facilities, replacement clothing, medical attention and exercise.⁴¹²</p> <p>There is no separate letter of rights given to children when they are arrested, but they must be told that they should be assisted by an appropriate adult, who must be present when certain procedures are carried out, for example when the NoRE is given to them. A criminal practitioner in Northern Ireland confirmed that in order to ensure that the child understands what is happening in Police detention there will always be an appropriate adult attending the police station. The appropriate adult is formally advised both by the custody sergeant and by the police officer conducting the interview that they are not there to act as an observer but they are there to facilitate communication with the detained person.⁴¹³</p>
2.2	At what stage of the proceedings is the letter of rights provided?	<p>England and Wales: The suspect or detainee will be entitled to receive a written notice of their rights whilst they are at the police station.⁴¹⁴ There is no timescale given in the PACE Code of Practice. A defence solicitor indicated that the Notice of Rights and Entitlements is given when detention is being authorised at the police station.⁴¹⁵</p>

⁴¹¹ UK, representative of the Police Scotland.

⁴¹² UK, Police Service of Northern Ireland, Notice of Rights and Entitlements (NoRE), page 1 and page 6.

⁴¹³ UK, criminal practitioner in Northern Ireland.

⁴¹⁴ UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraphs 3.1 and 3.2.

⁴¹⁵ UK, criminal practitioner in England.

	<p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners</p>	<p>Scotland: Anyone in police custody is entitled to information about their rights (either verbally or in writing). This information must be given as soon as reasonably practicable.⁴¹⁶ The Letter of Rights will be given to the suspect or accused person at the police station.⁴¹⁷</p> <p>Northern Ireland: A person is entitled to receive the Notice of Entitlements and Rights when they are being booked into custody.⁴¹⁸</p>
<p>2.3</p>	<p>Is the letter of rights drafted in simple and accessible language? How do competent authorities</p>	<p>England and Wales: Yes and additionally there is an easy-read version available for any suspects or detainees at the police station.⁴¹⁹ The <i>Inside Police Custody</i> study, which examined four jurisdictions in Europe, observed that the Notice of Rights and Entitlements given to suspects in England and Wales is “<i>formulated in simple, straightforward language and ... in an inviting tone.</i>”⁴²⁰</p> <p>Scotland: There is also a large-print version of the Letter of Rights, but it is the same as the standard Letter of Rights. The police must ensure that the suspect or accused person understands their rights.⁴²¹ The police must also complete a Solicitor Access Recording Form which informs a suspect of his right to consult with a solicitor. The <i>Inside Police Custody</i> study revealed that police officers and lawyers in Scotland considered</p>

⁴¹⁶ UK, HM Government (2014) Right to Information (Suspects and Accused Persons)(Scotland) Regulations 2014, SSI 2014/159, regulation 3.

⁴¹⁷ UK, Scottish Government (2013) *Letter of Rights*, available at: www.gov.scot/Resource/0042/00426561.pdf

⁴¹⁸ UK, representative of the Police Service of Northern Ireland.

⁴¹⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), note 3A PACE Code C, available at: www.gov.uk/notice-of-rights-and-entitlements-a-persons-rights-in-police-detention .

⁴²⁰ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects’ Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 235.

⁴²¹ UK, representative of the Police Scotland.


<p>verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners</p>	<p>that the SARF procedure was complicated and written in difficult and inaccessible language.⁴²² The Criminal practitioner we contacted agreed that the letter of rights is not in simple and accessible language.⁴²³</p> <p>Northern Ireland: The Police Service of Northern Ireland provide suspects and detained persons with a Notice of Rights and Entitlements (NoRE). This is in a similar style to the one produced in England and Wales and is in simple accessible language,. A criminal practitioner in Northern Ireland considers that the language of the Notice of Rights and Entitlements is reasonably clear.⁴²⁴ However the PSNI reported that the current version is very long, contains quite a lot of jargon and is not ‘user-friendly’, in other words it is hard for the typical person attending the police station to understand. An easy read version is being considered for publication. The custody sergeant would assist the suspect or defendant to understand their rights listed in the document. If the defendant has an appropriate adult or registered intermediary and/or a legal representative, they would also help the defendant to understand the document.⁴²⁵</p>
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⁴²² UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects’ Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), pages 230 – 234.

⁴²³ UK, criminal practitioner.

⁴²⁴ UK, criminal practitioner in Northern Ireland.

⁴²⁵ UK, representative of the PSNI.

<p>2.4 Please provide an existing example of a model letter of rights that is being used in 'everyday' cases, and also an existing example of a letter of rights that is being used with respect to the European arrest warrant (in the original language and the English translation). Please include any other letter of rights in other languages that may exist in your country (including</p>	<p>England and Wales – Home Office Notice of Rights and Entitlements : www.gov.uk/notice-of-rights-and-entitlements-a-persons-rights-in-police-detention .</p> <p>The Welsh version is available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/315687/PACE_CODE_C_UPDATED_APRIL_2014_WelshX.pdf</p> <p>Scotland: UK, Scottish Government: Letter of Rights, available at: www.gov.scot/Resource/0042/00426561.pdf</p> <p>Northern Ireland: UK, Police Service of Northern Ireland, Notice of Rights and Entitlements (NoRE).</p>  <p>Notice of Rights and Entitlements.pdf</p> <p>There is no separate letter of rights being used with respect the European Arrest Warrant in the United Kingdom. The suspect/detained person will receive a Notice of Rights and Entitlements, if he or she is arrested/detained in England, Wales or Northern Ireland and a Letter of Rights if he or she is arrested/detained in Scotland.</p>
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	their English translations).	
3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION⁴²⁶	Brief Description
3.1	What information is provided to the suspects or accused persons regarding what they have been accused of and how is it provided (e.g. orally or in writing)	<p>England and Wales: A person must be informed of the fact of and reason for his or her arrest on being arrested or as soon as practicable after arrest.⁴²⁷ The suspect will be told orally and given a written notice/charge sheet showing particulars of the offence. As far as possible the particulars of the charge will be stated in simple terms. If the detainee is a juvenile or otherwise vulnerable, a copy of the notice should be given to the appropriate adult which sets out the offences with which he is charged.⁴²⁸ The charge sheet provided to the suspect is usually in English but will be translated orally, either in person or by telephone to record the suspect's reply to the caution.⁴²⁹ At a hearing before the judge, the court clerk will read aloud every charge on the indictment to the defendant or it will be placed before the defendant in writing and the court clerk will ask the defendant whether he pleads guilty or not guilty.⁴³⁰ The prosecutor must serve a draft indictment on the crown court officer not more than 28 days after service on the defendant and copies of the documents containing the evidence on which the charge or charges are based, in a case where the defendant is sent for trial.⁴³¹ The court must serve a copy of the indictment on all parties.⁴³² Criminal Procedure Rules (CPR) 14.2 sets out the form and content of the indictment.</p> <p>Scotland: In Scotland persons are only verbally cautioned and charged by police. When a person is arrested or detained, the police must inform him or her of the suspicion and the general nature of the</p>

⁴²⁶ See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

⁴²⁷ UK, HM Government (1984) Police and Criminal Evidence Act 1984, section 28.

⁴²⁸ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 16.3.

⁴²⁹ UK, criminal practitioner in England.

⁴³⁰ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 3.24(b)(i) and (ii).

⁴³¹ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 14.1(1)(a).

⁴³² UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 14.1(3)(b).

		<p>offence and the reason for detention.⁴³³ When a suspect is taken to the police station, the custody sergeant is obliged to inform the suspect of the grounds of his detention but not the nature of the offence, nor why detention was necessary.⁴³⁴ After a person has been formally charged, police officers will respond to any questions or enquiries the accused may have to assist their understanding, notwithstanding part of the caution and charge process involves asking the person if they understood the charge and if they wish to make any reply.⁴³⁵ Notice of the charges will be served on the accused by the crown before the start of a trial. In solemn proceedings the charges on the indictment will be read out in open court for the benefit of the jury where the accused has pled not guilty. In summary proceedings the charges on the complaint will not normally be read out, they will be in writing only.⁴³⁶</p> <p>Northern Ireland: The information regarding what the suspect/accused person has been charged with is contained on the charge sheet which is read out to the suspect by the custody sergeant and a written copy is also given to the suspect/accused person by the custody sergeant, which sets out the particulars of the offence or offences, the officer's name and case reference number..⁴³⁷</p>
3.2	<p>At which stage of the proceedings is the information provided? Please cross-check findings from the desk research by</p>	<p>England and Wales: The suspect or accused person must be given details of the accusation upon arrest or as soon as practicable after arrest.⁴³⁸</p> <p>Scotland: A suspect will be cautioned and charged when the investigating officer is of the opinion that there is sufficient evidence to do so.⁴³⁹ This will have been served on the accused by the crown before the case comes to court.⁴⁴⁰</p>

⁴³³ UK, HM Government (1995) Criminal Procedure (Scotland) Act 1995, section 14(6).

⁴³⁴ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 240, paragraph 4.1.

⁴³⁵ UK, representative of the Police Scotland.

⁴³⁶ UK, representative of the Scottish Courts and Tribunals Service.

⁴³⁷ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 16.3, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf>. and representative of the Police Service of Northern Ireland.

⁴³⁸ UK, HM Government (1984) Police and Criminal Evidence Act 1984, section 28.

⁴³⁹ UK, representative of the Police Scotland.

⁴⁴⁰ UK, representative of the Scottish Courts and Tribunals Service.

	consulting relevant organisations and/or practitioners.	Northern Ireland: A suspect will be informed of the ground(s) of arrest upon arrest or as soon as practicable after arrest. ⁴⁴¹ A written copy of the charge is provided to the suspect/accused person when he is released from custody. ⁴⁴²
3.3	How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?	<p>England and Wales: At crown court the judge may make an order amending the indictment.⁴⁴³ Where the prosecutor intends to include in the draft indictment counts which differ materially from, or are additional to, those on which the defendant was sent for trial then the defendant should be given as much notice as possible at the earliest possible opportunity.⁴⁴⁴</p> <p>Scotland: If the prosecutor wishes to amend the charges (and principally this will involve deleting charges or parts of charges, or amending the terms of charges to the benefit of the accused) it will make an application to the judge on which the judge will rule. If the accused is represented their solicitor will explain this; if they are not represented the court will explain this.⁴⁴⁵</p> <p>Northern Ireland: The defendant will be told through communication with their solicitor or at a court hearing.⁴⁴⁶ An indictment, which sets out the details of the accusation or charge, can only be amended with the permission of the court.⁴⁴⁷ A criminal practitioner from Northern Ireland reported that at the preliminary enquiry stage, when a direction has been given by the public prosecution service (PPS) as to what charges they will be proceeding with a copy of the preliminary enquiry papers which includes details of the charges is served personally on the defendant. If the charges are changed or amended later in the crown court process then the lawyers would advise the detained person as to the changes.⁴⁴⁸</p>

⁴⁴¹ UN, HM Government (1989) Police and Criminal Evidence (Northern Ireland) Order 1989, paragraph 30(3).

⁴⁴² UK, representative of the Police Service of Northern Ireland.

⁴⁴³ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 3.22(1)(b).

⁴⁴⁴ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), practice direction II, 14A.1.

⁴⁴⁵ UK, representative of the Scottish Courts and Tribunals Service.

⁴⁴⁶ UK, representative of the Police Service of Northern Ireland.

⁴⁴⁷ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), rule 33.

⁴⁴⁸ UK, criminal practitioner in Northern Ireland.

4.	RIGHT OF ACCESS TO CASE MATERIALS ⁴⁴⁹	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p>England and Wales: As well as providing copies of all of the documents containing the evidence on which the charge or charges are based, in a case to a defendant, the prosecutor is required to disclose prosecution material (subject to public interest requirements) not previously disclosed that might reasonably be considered capable of undermining the case for the prosecution against the defendant or of assisting the case for the defendant.⁴⁵⁰ Sections 2 and 3 of the Criminal Procedure and Investigations Act 1996 define prosecution material, and prescribe how it must be disclosed.⁴⁵¹</p> <p>Scotland: The police are obliged to reveal to the Crown Office and Procurator Fiscal Service (COPFS) all information that might be relevant to the issue of whether the accused is guilty or innocent.⁴⁵² The prosecutor is obliged to disclose all material information for or against the accused (subject to any public interest considerations), this includes statements but also all information of which the prosecutor is aware. Material means information which is likely to be of real importance to any undermining of the prosecution case, or the casting of reasonable doubt on it and of positive assistance to the accused or any evidence that the prosecutor is likely to rely on in proceedings against the accused.⁴⁵³ In complex cases physical productions/material (e.g. weapons, blood-stained clothing, etc.) are lodged with the court prior to the start of a trial and may, by appointment, be viewed by the defence prior to trial, though more generally access to productions would take place earlier in arrangements between the prosecution and the defence.</p> <p>Northern Ireland: The Criminal Procedure and Investigations Act 1996 extends to Northern Ireland, so the rules on disclosure applicable to England and Wales apply to Northern Ireland.</p>

⁴⁴⁹ See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

⁴⁵⁰ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996 (CIPA), section 3(1). See also: UK, HM Government (2013), Attorney General's Office, *Attorney General's Guidance on Disclosure for investigators, prosecutors and defence practitioners* (December 2013), page 4, paragraph 1.

⁴⁵¹ UK, HM Government (2015) Criminal Procedure and Investigations Act (section 23(1) Code of Practice (January 2015), pages 4 and 5.

⁴⁵² UK, Crown Office and Procurator Fiscal Service (2011) *Criminal Justice and Licensing (Scotland) Act 2010, Code of Practice: Disclosure of Evidence in Criminal Proceedings* (6 June 2011), page 5, available at: www.copfs.gov.uk/publications/prosecution-policy-and-guidance .

⁴⁵³ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 121 and UK, Crown Office and Procurator Fiscal Service (2011) *Criminal Justice and Licensing (Scotland) Act 2010, Code of Practice: Disclosure of Evidence in Criminal Proceedings* (6 June 2011), paragraph 4.1, available at: www.copfs.gov.uk/publications/prosecution-policy-and-guidance .

<p>4.2</p> <p>At what stage of the proceedings is access to case materials granted? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>England and Wales: The prosecutor is required to disclose prosecution material not previously disclosed to the defendant in a magistrates' court, as soon as is reasonably practicable after the defendant pleads not guilty, or in the crown court, as soon as is reasonably practicable after the case is transferred for trial, or after the evidence is served where the case is sent for trial, or after a count is added to the indictment; and in either case there is a continuing duty on the prosecutor to provide case materials as they become available.⁴⁵⁴ The Crown Prosecution Service (CPS), which is the prosecution authority for England and Wales, provided an update on disclosure in criminal proceedings which has undergone changes due to an initiative called Transforming Summary Justice. The magistrates' court proceedings have already been updated, but the crown court cases are currently undergoing a similar review. Cases are categorised into either GAP (guilty anticipated plea) or NGAP (not guilty anticipated plea) in the magistrates' court. The police make this assessment based on the responses in interview and the nature of the evidence. Papers must be served on the defence for a GAP hearing (which takes place 14 days from charge) 5 days before the hearing, though in some cases it might be closer to the hearing. NGAP cases will have the first hearing 28 days after charge and papers including the unused material (if a not guilty plea has been notified) will be served about 5 days before. Variations in the time frame will occur depending on the sized or complexity of the case. If no not guilty plea was notified, unused material will follow within 2 weeks. If a defendant appears in custody, he or his representative will be given advance information for the hearing. The process is governed by the custody time limit regime where service usually follows court orders for service, such orders being designed to ensure the defendant has the case materials in good time for his or her preparation. If counts in the crown court are added to the indictment, the defence will get the papers at the same time.</p> <p>Scotland: The prosecutor must disclose to the accused material information, as defined by section 121(3) of Criminal Justice and Licensing (Scotland) Act 2010, as soon as practicable after the appearance of the accused or the recording of the plea.⁴⁵⁵ There is a continuing duty to disclose relevant material information throughout the proceedings.⁴⁵⁶ The Crown Office and Procurator Fiscal Service (COPFS) of Scotland, who are the prosecution authority in Scotland reported that the disclosure obligations of the prosecutor is triggered when the accused first appears in court or pleads not guilty in response to a summary complaint.⁴⁵⁷ The COPFS stated that there is no specific</p>
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⁴⁵⁴ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, sections 3 and 7A.

⁴⁵⁵ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 121(2).

⁴⁵⁶ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 123.

⁴⁵⁷ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 121(1).

timeframe for providing disclosure of material and they have a continuing duty of disclosure. The prosecutor will disclose information to the defence as soon as practicable.. Documentary evidence is disclosed to defence solicitors electronically and they will disclose as and when they receive it, subject to any public interest considerations. In general initial disclosure of case materials will be made before the intermediate hearing (diet) in the summary proceedings and before the first hearing in solemn proceedings. The prosecutor aims to disclose all relevant materials before the trial.⁴⁵⁸

Northern Ireland: See the answer on England and Wales above. The criminal practitioner we contacted in Northern Ireland stated that if the case is to be dealt with at the magistrates court, statements are served at first court appearance to allow the defendant to indicate a plea of guilty or not guilty. If the case is transferred to the crown court then preliminary enquiry papers are served 8-12 months after first court appearance. If the case starts in the crown court papers, including statements of evidence, are served before the defendant's first court appearance which is between 8-12 months after the police interview. If the material needs to be translated, the prosecution serve the papers in English and translation is arranged by the defendant's solicitor.⁴⁵⁹ The Public Prosecution Service (PPS), who are the prosecution authority for Northern Ireland, reported that in the magistrates court prosecution papers are served in summons cases in advance of first appearance and in most charge cases on the first appearance. Disclosure of that material which assists the defence or undermines the prosecution will be served as soon as is reasonably practicable following a not guilty plea. In crown court case the prosecution evidence will be served by way of preliminary enquiry or committal papers. This will occur when the papers have been completed following receipt of the evidence from police and a decision having been taken to prosecute a case on indictment. If the case is not a remand case the committal papers will be served before a first appearance. Disclosure in the crown court will occur as soon as is reasonably practicable upon committal and is limited to those materials that assist the defence or undermine the prosecution. There are no formal time limits for the service of papers (and no custody time limits) other than those imposed by the judge but delay in service of papers or disclosure can lead to an abuse of process application. The PPS are also under a continuing duty of disclosure.⁴⁶⁰

⁴⁵⁸ UK, representative of the Crown Office and Procurator Fiscal's Service.

⁴⁵⁹ UK, criminal practitioner of Northern Ireland.

⁴⁶⁰ UK, representative of the Public Prosecution Service of Northern Ireland.

<p>4.3</p>	<p>Under what circumstances is access to material refused? Who takes the decision of refusal?</p>	<p>England and Wales: The prosecution may refuse to disclose material, if it does not fulfil the disclosure test ⁴⁶¹ or if it would not be in the public interest to disclose it. The prosecutor must make an application to the court for an order that the material should not be disclosed in the public interest. Material must not be disclosed to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly..⁴⁶² The judge at court makes this decision.⁴⁶³</p> <p>Scotland: The prosecution might refuse access to material on public interest grounds. The defence may challenge this and the court will decide whether to grant access.⁴⁶⁴ The defence solicitor must lodge an application with the court setting out why they believe that the prosecution has disclosable material and why they seek disclosure of it. The court will make a ruling on whether the information should be disclosed to the accused under section 121(3) of the Criminal Justice and Licensing (Scotland) Act 2010.⁴⁶⁵ If the prosecutor considers that disclosure of information would be likely to cause a real risk of substantial harm or damage to the public interest, the prosecutor must apply to the court for an order under section 145 Criminal Justice and Licensing (Scotland) Act 2010.⁴⁶⁶</p> <p>Northern Ireland: See the answer on England and Wales above.</p>
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⁴⁶¹ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, section 3(1). See also UK, Attorney General's Office (2013) Attorney General's Guidelines on Disclosure, December 2013, paragraph 34; available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262994/AG_Disclosure_Guidelines_-_December_2013.pdf

⁴⁶² UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, section 3(6) and UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 22.3.

⁴⁶³ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, section 3(6) and UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 22.3.

⁴⁶⁴ UK, representative of the Scottish Courts and Tribunals Service.

⁴⁶⁵ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 128.

⁴⁶⁶ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 141.

5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES⁴⁶⁷	Brief Description
5.1	<p>In which languages can information be provided for the following?</p>	<p>England and Wales: see below 5.1(a) to 5.1(d). Scotland: The Scottish Courts and Tribunals Service (SCTS) answered 5.1(a) to (d) as follows: The SCTS will attempt to provide translation of court proceedings in any language, including for example bail orders, but would not normally provide information on items a) to d) unless directed by the court.⁴⁶⁸ Northern Ireland: NI Courts and Tribunals Service answered this question as follows: Under the NICTS contract with the Telephone Interpreting service they can be connected to a global network of over 8,000 qualified linguists with a choice of over 250 languages and dialects. Under the contract for face to face interpretation the NICTS provider offers all major world languages. Some of these are listed below. This list is not exhaustive. Afrikaans, Albanian, Amharic, Assyrian, Azeri, Algerian, Arabic (All), Assamese Bengali, Bosnian, Bulgarian, Belorussian Catalan, Chinese - Cantonese, Chinese - Mandarin, Croatian, Czech Danish, Dutch, Dari English, Estonian Farsi, French, Flemish Georgian, German, Greek, Gujarati Hakka, Hindi, Hok Kien, Hungarian Indonesian, Irish, Italian Japanese Korean, Kurdish, Kannada, Kosovo, Latvian, Lithuanian Macadonean, Malay, Malayalam, Marathi, Moldovan, Ndebele, Nepalese, Norweigan</p>

⁴⁶⁷ See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

⁴⁶⁸ UK, representative of the Scottish Courts and Tribunals Service.

	<p>Oriya Polish, Portuguese, Punjabi, Pashto, Papiamento, Persian Romanian, Russian Serbian, Serbo-Croat, Shona, Sign Language, Slovak, Slovene, Somali, Spanish Swahili, Swedish, Scottish, Sanskrit Tagalog, Tamil, Tetum, Thai, Turkish, Twi, Tigrinya, Telegu Ukrainian, Urdu, Ulster Scots Vietnamese Welsh Yoruba</p>
a) information on procedural rights	<p>England and Wales: Information on procedural rights is provided in the Notice of Rights and Entitlements which is translated into 54 languages. If the Notice of Rights and Entitlements cannot be provided in the language of the suspect/accused then the interpreter at the police station will provide a translation or the Notice will be translated over the phone.⁴⁶⁹</p> <p>Scotland: Information on procedural rights is provided in the Letter of Rights which is translated into 33 languages. Where the Letter of Rights is not available in the appropriate language (it is available in 34 languages - the web site has been updated since Police Scotland's first response), the matter would be dealt with in terms of the specific circumstances of each case and again the use of an Interpreter could be used to deal with these circumstances or if deemed required could be subject of translation and then provided to the accused. There is no specific legislative requirement or specific Police Scotland guidance in this regard.⁴⁷⁰</p> <p>Northern Ireland: The Police Service of Northern Ireland will provide a translation where the language can be identified and an interpreter/translator is available.⁴⁷¹</p>
b) letter of rights	<p>England and Wales: The Notice of Rights and Entitlements is translated into 54 languages. . If the Notice of Rights and Entitlements cannot be provided in the language of the suspect/accused then the interpreter at the police station will provide a translation or it will translated over the phone.⁴⁷²</p> <p>Scotland: The Scottish letter of rights is translated into 33 languages. Where the Letter of Rights is not available in the appropriate language (it is available in 34 languages - the web site has been</p>

⁴⁶⁹ UK, criminal practitioner.

⁴⁷⁰ UK, representative of the Police Scotland.

⁴⁷¹ UK, representative of the Police Service of Northern Ireland.

⁴⁷² UK, criminal practitioner.

	<p>updated since Police Scotland's first response), the matter would be dealt with in terms of the specific circumstances of each case and again the use of an Interpreter could be used to deal with these circumstances or if deemed required could be subject of translation and then provided to the accused. There is no specific legislative requirement or specific Police Scotland guidance in this regard.⁴⁷³</p> <p>Northern Ireland: The Notice of Rights and Entitlements is translated into Romanian, Irish, Cantonese, Mandarin, Hindu, Urdu, Tetum, Russian, Portuguese, Polish, Lithuanian, Latvian, Arabic or where language is identified, where translation is available and requested.⁴⁷⁴</p>
c) information about the accusation	<p>England and Wales: The suspect will be told orally and given a written notice showing particulars of the offence. As far as possible the particulars of the charge will be stated in simple terms (see answer to 3.1 above). If the interpreter attends at the police station, information about the accusation will be provided to the accused through the interpreter.</p> <p>Scotland: The Notice of charge detailing the offences is an essential document to be translated under the Right to Interpretation and Translation (Scotland) Regulations 2014, but in practice the information about the accusation is given verbally (see answer to 3.1 above). Police Scotland stated that although there is a requirement to provide a written translation, often for practical reasons there would be an oral translation given at the time by interpreters present at the police station. This is possible because under the Regulations a person can be provided with a translation of part of a written document or oral translations or summaries, provided this does not prejudice the fairness of the proceedings.</p> <p>Northern Ireland: The Police Service of Northern Ireland will provide a translation where the language can be identified and an interpreter/translator is available.</p>
d) case materials	<p>England and Wales: Aside from essential documents which are required to be translated under PACE Code C, Annex M, paragraph 2, full translations of all case materials would not be practical, however, translations of case materials will be done orally if no written translation is readily available.⁴⁷⁵</p> <p>Scotland: Under the Right to Information (Suspects and Accused)(Scotland), the police must make available to the accused/suspect any documents essential to challenging effectively the lawfulness of the person's detention or arrest and where these documents are essential documents under the Right to Interpretation and Translation (Scotland) Regulations 2014, a written or oral translation must be provided to a suspect or accused person who does not speak English.</p>

⁴⁷³ UK, representative of the Police Scotland.

⁴⁷⁴ UK, representative of the Police Service of Northern Ireland.

⁴⁷⁵ UK, criminal practitioner in England and Wales.

		Northern Ireland: The Police Service of Northern Ireland will provide a translation where the language can be identified and an interpreter/translator is available.		
		Yes	No	Brief Description
5.2	Is there any procedure to ensure that suspects or accused persons have the right to challenge the failure or refusal to provide information on the following? If yes, briefly describe the procedure where relevant.			
	a) information on procedural rights	x		England and Wales and Northern Ireland: If a suspect or an accused person has not received information on procedural rights, they can ask the custody officer to provide the information or the matter can be reported to an inspector to deal with as a complaint for the purposes of 9.2 PACE Code C or of paragraph 12.9, if the challenge is made during an interview. ⁴⁷⁶ Under this procedure the complaint must be made as soon as practicable to an officer of inspector rank or above not connected with the investigation. ⁴⁷⁷ In the case of a suspect who is not detained, if information is not provided, the matter must be reported to an inspector to deal with. ⁴⁷⁸

⁴⁷⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.26 (a).

⁴⁷⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 9.2.

⁴⁷⁸ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.26 (b).

			<p>Scotland: Under the Right to Information (Suspects and Accused Persons) Regulations 2014, the chief constable should publish guidance on how a suspect or accused person can seek a review of a failure or refusal by a constable to provide the information,⁴⁷⁹ but this has not been published. Police Scotland informed us that any challenge for failure to provide information, letter of rights or information about the accusation would be dealt with under the processes in place in Scotland in respect of 'Complains About the Police' http://www.scotland.police.uk/about-us/police-scotland/complains-about-the-police/.⁴⁸⁰</p>
b) letter of rights	x		<p>England and Wales and Northern Ireland: If a suspect or an accused person has not received a copy of the Notice of Rights and Entitlements or has not been given an opportunity to read the Notice, the suspect or the accused can complain and the matter shall be reported to an inspector to deal with as a complaint for the purposes of 9.2 PACE Code C or of paragraph 12.9, if the challenge is made during an interview.⁴⁸¹ Under this procedure the complaint must be made as soon as practicable to an officer of inspector rank or above not connected with the investigation.⁴⁸² In the case of a suspect who is not detained, there is no requirement to provide a written notice in addition to the information provided in paragraph 3.21 of PACE Code C.⁴⁸³..</p> <p>Scotland: see response to 5.2(a) above.</p>
c) information about the accusation		x	<p>England and Wales and Northern Ireland: There is no formal procedure for complaining under PACE Code C, although the suspect and accused could use the procedure set out in paragraph 9.2, although it does not specifically refer to complaints about a failure or refusal to provide information about the accusation. Additionally, the defendant could pursue a complaint under the police force complaints procedure or by referring the matter to the Independent Police Complaints Commission (IPCC).⁴⁸⁴</p> <p>Scotland: see response to 5.2(a) above.</p>

⁴⁷⁹ UK, HM Government (2014) the Right to Information (Suspects and Accused)(Scotland) Regulations 2014, regulation 4(4).

⁴⁸⁰ UK, representative of the Police Scotland.

⁴⁸¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.26 (a).

⁴⁸² UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 9.2.

⁴⁸³ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.26 (b).

⁴⁸⁴ UK, HM Government (2015), *Being Arrested: Your Rights, Complaining about your Treatment*; available at: <https://www.gov.uk/arrested-your-rights/complaining-about-your-treatment-by-the-police>.

	d) access to case materials	x		<p>England and Wales: The prosecution are required to serve on the defendant all documents containing the evidence on which the charge or charges are based and all prosecution material which might reasonably be considered capable of undermining the case for the prosecution or assisting the case for the defendant (see answer to 3.1 and 4.1 above). The defendant can make an application to the court if the prosecution refuses or fails to provide documents relevant to his or her case.⁴⁸⁵ If the court makes an order that it would not be in the public interest to disclose material to the defendant, the defendant is able to apply to the court to review this decision.⁴⁸⁶</p> <p>Scotland: The competent authorities are obliged to disclose all information (case materials) that might be relevant for or against the accused (subject to any public interest considerations), this includes statements but also all information of which the Crown is aware. (see the answers to 3.1 and 4.1 above). If the accused person considers that the prosecutor has failed to provide relevant or material information, he or she may apply to the court for an order to provide that information.⁴⁸⁷ There is further provision for a review/appeal of a decision on disclosure of case materials.⁴⁸⁸</p> <p>Northern Ireland: This would be dealt with upon application of the defence solicitor to the court, if the Public Prosecution Service refuses to provide access to case materials. The Criminal Procedure and Investigations Act 1996 extends to Northern Ireland, therefore, the rules on disclosure applicable to England and Wales apply to Northern Ireland.</p>
5.3	Is any official record kept to note the provision of information about the following?			

⁴⁸⁵ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, section 8 and UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 22.5: *Defendant's application for prosecution disclosure*.

⁴⁸⁶ UK, HM Government (1996) Criminal Procedure and Investigations Act 1996, sections 14 and 15 and UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 22.6(2): *Review of public interest ruling*.

⁴⁸⁷ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, section 128.

⁴⁸⁸ UK, HM Government (2010) Criminal Justice and Licensing (Scotland) Act 2010, sections 129 and 130.

	If yes, briefly describe where relevant.		
	a) information on procedural rights	x	<p>England and Wales: The custody officer is responsible for keeping a record of a suspect's detention at the police station.⁴⁸⁹ A record will be made of the fact that the suspect has been given the Notice of Rights and Entitlements and the suspect will be asked to sign the custody record to acknowledge receipt of the notice.⁴⁹⁰ The custody officer will inform the suspect of their right to legal advice and whether they want someone informed of their detention and the custody officer will ask the suspect to sign the custody record to confirm the suspect's decisions in this regard.⁴⁹¹ Paragraph 2.1 PACE Code C – a separate custody record must be opened for arrested persons – this does not include people not deprived of liberty, there is no requirement to keep a record about the information given to a person who attends a police station voluntarily.</p> <p>Scotland: A constable must record when a suspect is provided with information which satisfies the requirements of Articles 3 and 4 of the Right to Information in Criminal Proceedings Directive 2012/13/EU.⁴⁹² The Investigating Officer or the Senior Investigation Officer is responsible for ensuring that suspects are afforded their rights and that this process is recorded on the Solicitor Access Recording Form (SARF).⁴⁹³ In relation to court proceedings, for 5.3(a) to (d), these would not tend to be recorded on court files. Only documents translated by Scottish Courts and Tribunals Service or by direction of the court will be recorded.⁴⁹⁴ There is no requirement for a suspect to sign the SARF when he or she receives information on procedural rights. The only time a suspect's or accused's signature is required is when a suspect or accused person waives their right to solicitor</p>

⁴⁸⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 2.

⁴⁹⁰ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.2A.

⁴⁹¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.5(a) and (b).

⁴⁹² UK, HM Government (2014) Right to Information (Suspects and Accused Persons)(Scotland) Regulations 2014, SSI 2014/159, regulation 3(3).

⁴⁹³ UK, Police Scotland (2015) *Police Service of Scotland Solicitor Access: Guidance Document* (20 March 2015), paragraph 12.8.1.

⁴⁹⁴ UK, representative of the Scottish Courts and Tribunals Service.

			<p>access and/or their right to a private consultation with a solicitor.⁴⁹⁵ The provision of rights to the suspect and the suspect's decisions should be recorded in the Standard Prosecution Report (Police Interview/Text of Admissions). A summary of the actions by the police to secure the suspect's rights should be made, and that these actions are recorded on SARF (Case Related Document). Where a decision has been taken by police to delay the provision of rights (in truly exceptional and compelling circumstances), this should be referred to in the same section of the report, or if appropriate, under separate communication to the Crown Office and Procurator Fiscals Service (COPFS).⁴⁹⁶ Police Scotland informed us that compliance with the Right to Information (Suspect and Accused Persons) Scotland Regulations 2014 would be recorded on the Prisoner Processing system and would not be signed for by an accused or suspect. Most custody areas are subject of CCTV coverage and compliance would also be recorded via this mechanism in most cases. Notwithstanding that the SARF procedure and Form is subject of signature by a suspect.⁴⁹⁷</p> <p>Northern Ireland: The custody officer is responsible for keeping a record of the suspect's/detainee's detention at the police station. A record must be opened as soon as practicable after the suspect has been brought to a police station under arrest; arrested at the station having gone there voluntarily; attends a police station in answer to street bail; or is produced to a police station from a custodial establishment under section 16 of the Prison (Northern Ireland) Act 1953.⁴⁹⁸ A record will be made of the fact that the suspect has been given the Notice of Rights and Entitlements and the suspect will be asked to sign the custody record to acknowledge receipt of the notice.⁴⁹⁹ The custody officer will inform the suspect of their right to legal advice and whether they want someone informed of their detention and the custody officer will ask the suspect to sign the custody record to confirm the suspect's decisions in this regard.⁵⁰⁰ There is no requirement for the police to maintain</p>
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⁴⁹⁵ UK, Police Scotland (2015) Police Service of Scotland Solicitor Access: Guidance Document (20 March 2015), paragraph 3.5.1.

⁴⁹⁶ UK, Police Scotland (2015) Police Service of Scotland Solicitor Access: Guidance Document, page 29.

⁴⁹⁷ UK, representative of the Police Scotland.

⁴⁹⁸ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 2.1.

⁴⁹⁹ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.2A.

⁵⁰⁰ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.5(b).

			a record for voluntary attenders. However, the PSNI keep a record in the 'voluntary attendance book' which contains similar information to a custody record and is signed by both the voluntary attender and the custody officer. This record will also record if the voluntary attender left the police station and the time. ⁵⁰¹
	b) letter of rights	x	<p>England and Wales: The custody officer is responsible for recording the fact that the suspect has received the Notice of Rights and Entitlements and shall be asked to sign the custody record to acknowledge receipt of the notice. Any refusal to sign must be recorded on the custody record.⁵⁰²</p> <p>Scotland: The Investigating Officer or the Senior Investigation Officer is responsible for ensuring that suspects are afforded their rights and that this process is recorded on the Solicitor Access Recording Form (SARF).⁵⁰³ A suspect is only required to sign SARF when he or she waives his or her right to solicitor access and/or right to a private consultation with a solicitor.⁵⁰⁴</p> <p>Northern Ireland: The custody officer is responsible for recording the fact that the suspect has received the Notice of Rights and Entitlements, and shall be asked to sign the custody record to acknowledge receipt of the notice. Any refusal to sign must be recorded on the custody record.⁵⁰⁵</p>
	c) information about the accusation	x	<p>England and Wales: The custody officer must note on the custody record that the suspect has been arrested and what he or she has been arrested for.⁵⁰⁶ The court officer must record each charge or indictment against the defendant.⁵⁰⁷ There is no requirement for a signature to confirm that the suspect or accused has received this information.</p> <p>Scotland: If a suspect's status changes from voluntary attender to detainee or from detainee to arrest, this information must be recorded on SARF and on the custody record. The suspect's change of status and a summary of relevant information should be provided</p>

⁵⁰¹ UK, representative of the Police Service of Northern Ireland.

⁵⁰² UK, HM Government (2014) Police and Criminal Evidence Act 1984 (PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.2A.

⁵⁰³ UK, Police Scotland (2015) *Police Service of Scotland Solicitor Access: Guidance Document*(20 March 2015) paragraph 12.8.1.

⁵⁰⁴ UK, Police Scotland (2015) *Police Service of Scotland Solicitor Access: Guidance Document* (20 March 2015), paragraph 3.5.1

⁵⁰⁵ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 2.7.

⁵⁰⁶ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.4(a).

⁵⁰⁷ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 5.4(a).

			<p>with an indication that full information is contained in SARF (Case Related Document).⁵⁰⁸ Ssee also 5.3(a) and (b) above.</p> <p>Northern Ireland: The custody officer must make a note on the custody record that the detainee has been arrested and what he has been arrested for.⁵⁰⁹ The indictment (which sets out the offences with which the defenedant is charged) is prepared by the prosecution and lodged with court. This document is kept on the court file and a copy is served on the defendant.⁵¹⁰</p>
	d) access to case materials	x	<p>England and Wales: Documents and materials which are essential to effectively challenging the lawfulness of the detainee’s arrest and detention must be made available to the detainee or their solicitor. At the police station, the decision about whether particular documents and case materials should be disclosed to the defendant rests with the custody officer. A note will be made on the suspect’s custody record of the decision to disclose case materials and when the disclosure was made and what documents were disclosed.⁵¹¹ The court officer must record each determination, direction or order made in relation to disclosure of material.⁵¹² Also the court officer must record the court’s reasons for a decision, where legislation requires those reasons to be recorded.⁵¹³</p> <p>Scotland: See 5.3(a) and (b) above.</p> <p>Northern Ireland: Documents and materials which are essential to effectively challenging the lawfulness of the detainee’s arrest and detention must be made available to the detainee or their solicitor. The decision about whether such documents should be disclosed will be made by the custody officer who will make a note of the fact that documents or materials have been made available and when. The investigating officer should make a separate note of what has been made available and how it is made available in a particular case.⁵¹⁴ The Public Prosecution Service Case File. Everything is</p>

⁵⁰⁸ UK, Police Scotland (2015) *Police Service of Scotland Solicitor Access: Guidance Document*, (20 March 2015), page 29.

⁵⁰⁹ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.4(a).

⁵¹⁰ UK, HM Government (2014) Crown Court Rules (Northern Ireland) 1979 (as amended November 2014), Part IV, sections 19 – 20, 32 and 38.

⁵¹¹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.4(b).

⁵¹² UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 5.4(c).

⁵¹³ UK, HM Government (2014) Criminal Procedure Rules and Criminal Practice Directions (SI 2014/1610)(14 October 2014), rule 5.4(f).

⁵¹⁴ UK, HM Government (2015) Department of Justice for Northern Ireland: Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.4 (b).

				recorded via the computerised court record Integrated Court Operation System – ICOS) but a paper record is also kept on a file. ⁵¹⁵
5.4	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons (e.g. because of any physical impairments which affect their ability to communicate effectively (persons with hearing, sight or speech impediments), intellectual disabilities or in case of children and the holder of parental responsibility) in relation to: a) suspect or accused persons with physical impairment or disability;			

⁵¹⁵ UK, representative of the Northern Ireland Courts and Tribunals Service.

	<p>b) suspect or accused persons intellectual impairment or disability;</p> <p>c) suspect or accused children who are suspects/defendants and/or the holder of parental responsibility.</p> <p>If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?</p>			
	a)	x		<p>England and Wales: A vulnerable person is entitled to have an appropriate adult present when information on procedural rights is being given, orally or in writing to the suspect.⁵¹⁶</p>

⁵¹⁶ UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 245, paragraph 5.

	<ul style="list-style-type: none"> • information on procedural rights 			<p>Appropriate adults can be parents, guardians or social workers.⁵¹⁷ Appropriate adults look after the welfare of the vulnerable suspect or child under 18, to ensure communication is conducted properly, to facilitate communication with the police and to ensure the detained person understands his or her rights.⁵¹⁸ The police officer must assess the ability of the suspected person to understand what he is told. If the custody officer considers it is necessary to have an appropriate adult then one will be called to attend the police station.⁵¹⁹ In the experience of a criminal solicitor, language makes no difference to the treatment of a vulnerable suspect.⁵²⁰</p> <p>Scotland: At the police station interpreters will be available for deaf people who require sign language interpreters. Police Scotland has guidance to ensure that blind persons are fully aware of any documentation they may have to sign.⁵²¹ Where vulnerable accused are legally represented most of the communication at court would be through the legal representative. If they are not legally represented at the outset the court would normally appoint a legal representative to protect their interests. The court, having consulted with the prosecution and defence, would determine if any further specialist support measures were required. In relation to the Scottish Courts and Tribunals Service, this would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.⁵²² Accused who are children or considered to be vulnerable are also allowed to have a supporter or appropriate adult in court,⁵²³ who is allowed to accompany and support witnesses under section 271 of the Criminal Procedure (Scotland) Act 1995. In practice</p>
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⁵¹⁷ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 1.7.

⁵¹⁸ UK, Home Office and National Appropriate Adult Network [2011] *Guide For Appropriate Adults* (February 2011), available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/117682/appropriate-adults-guide.pdf and UK Home Office (2003) *Guidance for Appropriate Adults* (16 April 2003), available at: www.gov.uk/government/publications/guidance-for-appropriate-adults.

⁵¹⁹ UK, HM Government (2014) Police and Criminal Evidence Act 1984(PACE) Code C Revised Code of Practice for the Detention, Treatment and Questioning of Persons By Police Officers (2 June 2014), paragraph 3.15. See also UK, J Blackstock, E Cape, J Hodgson, A Ogorodova and T Spronken (2014) *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* (Intersentia, Cambridge, UK 2014), page 245.

⁵²⁰ UK, criminal practitioner in England.

⁵²¹ UK, representative of the Police Scotland.

⁵²² UK, representative of the Scottish Courts and Tribunals Service.

⁵²³ UK, representative of the Scottish Courts and Tribunals Service.

			<p>this may be a relative or more usually a trained supporter from a support organisation such as Victim Support Scotland.⁵²⁴</p> <p>Northern Ireland: Where a suspect/detainee is a vulnerable adult, the custody officer must ensure an appropriate adult is informed and ask the appropriate adult to attend the police station.⁵²⁵ Information on procedural rights must only be provided in the presence of an appropriate adult where the suspect is a vulnerable adult.⁵²⁶</p>
	b)	x	<p>England and Wales: See 5.4(a) above.</p> <p>Scotland: At the police station an appropriate adults will represent persons with mental disabilities. The purpose of appropriate adults is to facilitate the processes the police have to carry out and support the suspect/accused person to understand and respond accordingly. This applies to people who are mentally vulnerable under the Mental Health (Care and Treatment) (Scotland) Act 2003. The appropriate adult would utilise their skills and experience in dealing with such persons, in order to ensure an understanding of the procedures adopted by the Police.⁵²⁷ At court, this would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: See 5.4(a) above.</p>
	c)	x	<p>England and Wales: A juvenile (a person under the age of 18) will always have an appropriate adult with them when they are being detained at the police station and the appropriate adult will be present when the juvenile is given information on procedural rights. Appropriate adults look after the welfare of a child under 18, to ensure communication is conducted properly, to facilitate communication with the police and to ensure the detained person understands his or her rights.⁵²⁸</p>

⁵²⁴ UK, representative of the Scottish Courts and Tribunals Service.

⁵²⁵ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.10, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

⁵²⁶ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.12, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

⁵²⁷ UK representative of the Police Scotland.

⁵²⁸ UK, Home Office and National Appropriate Adult Network [2011] *Guide For Appropriate Adults* (February 2011), available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/117682/appropriate-adults-guide.pdf and UK Home Office (2003) *Guidance for Appropriate Adults* (16 April 2003), available at: <https://www.gov.uk/government/publications/guidance-for-appropriate-adults>.

				<p>Scotland: At the police station, where the suspect is a child then a responsible adult would be required to be present when information on procedural rights is being given. The responsible adult is generally the parent or guardian but he or she can be a social worker, where the child has no parent or guardian or where the local authority has parental rights.⁵²⁹ This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: In the case of a juvenile (a child under the age of 18), paragraph 3.8 PACE Code C (Northern Ireland) applies. Where a suspect/detainee is a child under 18, the custody officer must ensure an appropriate adult is informed and ask the appropriate adult to attend the police station.⁵³⁰ Information on procedural rights must only be provided in the presence of an appropriate adult where the suspect is a child under 18.⁵³¹</p>
• letter of rights	a)	x		<p>England and Wales: There is an easy read version of the Notice of Rights and Entitlements, which can be given to a suspect at his or her request or the request of the appropriate adult.⁵³² The Notice of Rights and Entitlements, however, is not available in Braille or other formats suitable for suspects with physical impairments or disabilities.</p> <p>Scotland: There is only one version of the letter of rights. An appropriate adult would assist a defendant with physical impairments or disabilities.</p> <p>Northern Ireland: The Police Service of Northern Ireland provided one version of the Notice of Entitlements and Rights. The Notice is not produced in alternative formats.</p>
	b)	x		<p>England and Wales: There is an easy read version of the Notice of Rights and Entitlements, which can be given to a suspect at his or her request or the request of the appropriate adult..⁵³³</p>

⁵²⁹ UK, representative of the Police Scotland.

⁵³⁰ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.10, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

⁵³¹ UK, HM Government (2015) Department of Justice for Northern Ireland Police and Criminal Evidence (Northern Ireland) Order 1989 Code C, Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (1 June 2015), paragraph 3.12, available at: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/16-06-pace-code-c-2015.pdf..>

⁵³² UK, Home Office (2012) *Notice of Rights and Entitlements: Easy Read* (26 March 2012), available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/321616/ERDraft3_07-01-14.pdf .

⁵³³ UK, Home Office (2012) *Notice of Rights and Entitlements: Easy Read* (26 March 2012), available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/321616/ERDraft3_07-01-14.pdf .

			<p>Scotland: There is only one version of the letter of rights. An appropriate adult would assist a defendant with physical impairments or disabilities.</p> <p>Northern Ireland: The Notice of Rights and Entitlements is provided to vulnerable suspects in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>
	c)	x	<p>England and Wales: There is an easy read version of the Notice of Rights and Entitlements, which can be given to a suspect at his or her request or the request of the appropriate adult..⁵³⁴</p> <p>Scotland: The letter of rights would be given and read to a child in the presence of a responsible adult who will be a parent, guardian or social worker (see 5.4(c) above).</p> <p>Northern Ireland: The Notice of Rights and Entitlements will be given to a child or read to a child in the presence of an appropriate adult.</p>
<ul style="list-style-type: none"> • information about the accusation 	a)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>
	b)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects)</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>
	c)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects)</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>

⁵³⁴ UK, Home Office (2012) *Notice of Rights and Entitlements: Easy Read* (26 March 2012), available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/321616/ERDraft3_07-01-14.pdf .

<ul style="list-style-type: none"> • access to case materials 	a)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects)</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>
	b)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>
	c)	x	<p>England and Wales: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p> <p>Scotland: See previous answers on vulnerable suspects. The information would be provided in the presence of a responsible or appropriate adult. This would be dealt with on a case by case basis and the court will determine how proceedings are to be conducted.</p> <p>Northern Ireland: Information about the charge/accusation is provided in the presence of an appropriate adult (see previous answers on vulnerable suspects).</p>