



GUIDELINE

WORKING WITH INTERPRETERS IN QUEENSLAND COURTS AND TRIBUNALS

Issued: 13 December 2024

1. Application

- 1.1. This Guideline applies to civil and criminal proceedings in Queensland Courts and Tribunals.
- 1.2. Queensland Courts and Tribunals includes the Supreme Court of Queensland (Court of Appeal and Trial Division), the District Court of Queensland, the Magistrates Courts of Queensland, the Planning and Environment Court, the Land Court of Queensland, the Childrens Court of Queensland, the Queensland Civil and Administrative Tribunal, and any other court or tribunal which determines that it will adopt this Guideline.

2. Purpose

- 2.1. Queensland Courts and Tribunals recognise the need for some participants in criminal and civil proceedings, who have limited English proficiency, to be assisted by an interpreter in order to properly understand and participate in the proceeding.
- 2.2. Interpreters play an important role in the administration of justice in Queensland Courts and Tribunals. Interpreters owe to the Court or Tribunal in which they are providing their services paramount duties of accuracy and impartiality in the performance of their role as an interpreter. This duty overrides any duty they owe to any party, even if the interpreter is engaged directly by that party.
- 2.3. Queensland Courts and Tribunals have resolved to adopt and implement, with appropriate adaptations for regional and other circumstances, parts of the [Recommended National Standards for Working with Interpreters in Courts and Tribunals](#) (Second Edition), published by the Judicial Council on Diversity and Inclusion (**JCDI**). The adapted Standards which are adopted and implemented by Queensland Courts and Tribunals are set out in Schedule 1 to this Guideline.
- 2.4. The purpose of this Guideline is:
 - (a) to identify the parts of the Recommended National Standards which are adopted and implemented by Queensland Courts and Tribunals; and
 - (b) to clarify the obligations of Courts and Tribunals, Judicial Officers, Interpreters, Legal Practitioners and Parties when working with interpreters.

3. Continuing application of the existing law, practice and procedure

- 3.1. This Guideline does not change the existing law and practices of Courts and Tribunals in relation to:
- (a) when an interpreter may be engaged;
 - (b) the role of an interpreter; and
 - (c) who is responsible for paying for the services of an interpreter.
- 3.2. This Guideline is to be read with chapter 11, part 2 of the *Criminal Practice Rules 1999* (Qld) and chapter 11, part 6 of the *Uniform Civil Procedure Rules 1999* (Qld), and any practice directions issued by a Queensland Court or Tribunal in relation to interpreters.
- 3.3. This Guideline and the Standards set out in Schedule 1 are intended to operate flexibly, at the direction of the judicial officer of the Court or Tribunal concerned, depending on the individual circumstances of each case.

SCHEDULE 1 – STANDARDS FOR WORKING WITH INTERPRETERS IN QUEENSLAND COURTS AND TRIBUNALS

Definitions

In these Standards:

“**ASLIA**” means Australian Sign Language Interpreters’ Association, the national peak organisation representing the needs and interests of Auslan/English interpreters and Deaf Interpreters in Australia;

“**AUSIT**” means Australian Institute of Interpreters and Translators, the national association for the translating and interpreting profession;

“**Certified Interpreter**” means a person certified by NAATI as a Certified Interpreter;

“**Certified Provisional Interpreter**” means a person certified by NAATI as a Certified Provisional Interpreter;

“**Certified Specialist Interpreter**” means a person certified by NAATI as a Certified Specialist Interpreter in the legal or health domain;

“**Certified Specialist Legal Interpreter**” means a person certified by NAATI as a Certified Specialist Legal Interpreter;

“**Certified Translator**” means a person certified by NAATI as a Certified Translator;

“**court**” means the Queensland Courts and Tribunals referred to in paragraph 1.2 of the Guideline;

“**Court Interpreters’ Code of Conduct**” means schedule 2 to this Guideline;

“**interpret**” means the process whereby spoken or signed language is conveyed from one language (the source language) to another (the target language) orally;

“**judicial officer**” includes judges, magistrates and tribunal members;

“**language**” includes Auslan and other signed languages;

“**NAATI**” means National Accreditation Authority for Translators and Interpreters, the body responsible for setting and monitoring the standards for the translating and interpreting profession in Australia through its certification system;

“**Qualified Interpreter**” means a person qualified for court interpreting because they have all of the following attributes:

- a tertiary (VET or university) qualification in interpreting; and
- accreditation from NAATI; and
- membership with a professional body (eg AUSIT, ASLIA or other recognised State or Territory based interpreter association); and
- experience interpreting in court.

“**Recognised Practising Interpreter**” means a person holding the NAATI award of Recognised Practising Interpreter, which requires the person to demonstrate English

proficiency, ethical competency, intercultural competency and complete a minimum amount of introductory interpreter training, but there is no testing of the person;

“**sight translate**” means the process whereby an interpreter or translator presents a spoken interpretation of a written text;

“**Standards**” means the standards set out in this schedule 1, which have been adapted from the Recommended National Standards (Second Edition) published by the Judicial Council on Cultural Diversity, for Queensland Courts and Tribunals;

“**Suitable Person**” means an interpreter who has some of the attributes of a qualified interpreter or where no interpreter can be found, a bilingual;

“**translate**” means the process whereby written language is conveyed from one language (the source language) to another (the target language) in the written form.

Standards for Courts

Queensland Courts and Tribunals adopt and implement the following standards.

Standard 1 – Model Rules

- 1.1 The recommended Model Rules have been adopted. See chapter 11, part 2 of the *Criminal Practice Rules 1999* (Qld) and chapter 11, part 6 of the *Uniform Civil Procedure Rules 1999* (Qld).

Standard 2 – Proceedings generally to be conducted in English

- 2.1 Proceedings in courts are conducted in English.¹

Standard 3 – Engagement of interpreters to ensure procedural fairness

- 3.1 Courts will endeavour to accommodate the language needs of parties and witnesses with limited English proficiency in accordance with the requirements of procedural fairness.

Note: This does not affect the fundamental distinction between criminal and civil proceedings in Queensland Courts and Tribunals:

- (a) In criminal proceedings, the court will bear the cost of interpreting the proceeding to an accused person. Unless the court otherwise orders,² the costs of interpreting between the court and a witness are to be borne by the party calling the witness.³
- (b) In civil proceedings, in the absence of an express legislative provision to the contrary,⁴ the costs of an interpreter are borne by the party to the proceeding

¹ See r 54AC of the *Criminal Practice Rules* and r 429VC of the *Uniform Civil Procedure Rules*.

² See s 131A of the *Evidence Act 1977* (Qld).

³ See rr 54AD and 54AE of the *Criminal Practice Rules*.

⁴ See, for example, ss 29 and 44 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) and s 84 of the *Domestic and Family Violence Protection Act 2012* (Qld).

who requires an interpreter, including to interpret between the court and a witness called by that party.⁵

Standard 4 – Provision of information to the public about the availability of interpreters

- 4.1 Basic information about the role of interpreters in the legal system, in languages commonly used by court users, should be readily available on court websites and in hard copy from court registries. This information should include the contact details of organisations through which interpreters may be engaged.
- 4.2 Information about the circumstances in which a court may provide an interpreter should be published on court websites and be available in hard copy from court registries.
- 4.3 If a court is responsible for the engagement of an interpreter in some or all kinds of matters, an application form for the provision of an interpreter in languages commonly spoken by court users should be readily available online and in hard copy from court registries. The form should make provision for a person to request that particular cultural or other considerations are taken into account in selecting an interpreter.

Standard 5 – Training of judicial officers and court staff

- 5.1 Judicial officers and court staff should be familiar with the role of the interpreter.
- 5.2 Training should be provided for judicial officers on working with interpreters in accordance with these standards.
- 5.3 Training should be provided for court staff on the policies and procedures which apply to the engagement of interpreters in courts and working with interpreters in accordance with these standards.

Standard 6 – Engaging an interpreter in accordance with these standards

- 6.1 Where an interpreter is engaged by the court, the court should endeavour to ensure that the interpreter is selected in accordance with standard 11 of these standards, and having regard to the relevant legislation.⁶
- 6.2 In the selection of an interpreter, courts will endeavour to ensure the interpreter is appropriate, taking into account any cultural and other reasonable concerns relevant to the proceedings.

Note: Where a Court or Tribunal is responsible for engaging an interpreter:

- (a) The Court or Tribunal will engage the interpreter in accordance with approved arrangements.
- (b) The Court or Tribunal will have regard to the recommended hierarchy of qualifications in recommended national standard 11, and endeavour to engage a qualified interpreter in accordance with the recommended order of preference protocol in the [*Queensland Language Services Guidelines*](#).

⁵ See rr 429VD and 429VE of the *Uniform Civil Procedure Rules*.

⁶ For example, rr 54AF and 54AG of the *Criminal Practice Rules*.

- (c) If there are specific cultural or other reasonable concerns relevant to a proceeding in which a party requires an interpreter, it is the obligation of the party to identify this to the Court or Tribunal. The Court or Tribunal will endeavour to accommodate cultural or reasonable other concerns raised by a party, but this may not always be possible.

Standard 7 – Budget for interpreters

- 7.1 If the court is responsible for the engagement of interpreters either directly or through an interpreting service, court budget allocations should provide and support interpreting services to court users with limited English proficiency in accordance with these standards.

Standard 8 – Coordinating the engagement of interpreters

- 8.1 This standard applies where the court is responsible for the engagement of the interpreter either directly or through an interpreting service.
- 8.2 A member(s) of registry staff will have responsibility for coordinating interpreting arrangements.

Contact details are as follows:

- (a) for proceedings in the Supreme Court of Queensland, the District Court of Queensland, the Childrens Court of Queensland and the Planning and Environment Court in Brisbane: courtinterpreterscourts.qld.gov.au;
 - (b) for proceedings in the Magistrates Courts of Queensland in Brisbane: courthouse.brisbane@justice.qld.gov.au;
 - (c) for those courts, located outside Brisbane, contact details can be found at: <https://www.courts.qld.gov.au/contacts/courthouses>;
 - (d) for proceedings in the Land Court of Queensland: landcourt@justice.qld.gov.au;
 - (e) for proceedings in the Queensland Civil and Administrative Tribunal: enquiries@qcat.qld.gov.au.
- 8.3 Courts should have a system for booking interpreters that ensures interpreting services are used efficiently and with appropriate consideration to providing interpreters with as much notice as possible in relation to the assignment of work.
 - 8.4 To maximise the ability of interpreting services to provide an appropriate interpreter for a particular case, courts seeking to engage the services of the interpreter should give as much notice as possible.
 - 8.5 Where Auslan interpreters are engaged to work with a deaf party or witness, they should work in tandem with two (or more) interpreters, given the simultaneous mode of their work and risk of occupational injury.

Standard 9 – Support for interpreters

- 9.1 Courts should endeavour to provide adequate and appropriate working conditions to support interpreters in the performance of their duties to the best of their ability.

- 9.2 [Not adopted – remuneration of interpreters is the subject of the Queensland government’s Standing Offer Arrangement with providers of interpreter services.]
- 9.3 In order to provide practical support for interpreters and protect their independence, courts should endeavour, subject to availability and the logistics of particular Court or Tribunal buildings, to provide interpreters with a dedicated space where they can wait until called, leave their belongings, prepare materials, and be briefed and debriefed. The space should be close to courtrooms, and be equipped with wireless internet, to enable interpreters to use online resources such as dictionaries and terminology banks to prepare for their cases.
- 9.4 In the courtroom, courts should endeavour, subject to availability and the logistics of particular Court or Tribunal buildings, to provide interpreters with a dedicated location where they can see all the parties. Where a working station or booth is not feasible, interpreters should be provided with a chair and table and sufficient room to work, together with any necessary equipment such as, for example, headphones, subject to availability.
- 9.5 Interpreters should be provided with regular breaks during proceedings.
- 9.6 [Not adopted – the interpreting service providers on the Queensland government’s Standing Offer Arrangement have counselling services available to interpreters should they be required.]
- 9.7 Where the court is responsible for the engagement of interpreters directly or through an interpreting service, the court should implement procedures for the provision of feedback to and from interpreters on interpreting performance and associated matters, either coordinated through the interpreter service or through the court.
- 9.8 Courts should advise NAATI when they have been unable to secure the services of an interpreter.
- 9.9 Court procedures should be adapted to ensure that the most efficient use is made of the interpreter’s time and skills. The court may at any time make directions regarding a range of issues concerning the retainer and role of the interpreter in proceedings.

Standard 10 – Assessing the need for an interpreter

- 10.1 [Not adopted]

Standard 11 – Engaging an interpreter

- 11.1 This standard applies where the court is responsible for the engagement of the interpreter either directly or through an interpreting service, or required to determine whether or not a particular individual should be permitted to carry out the office of interpreter.⁷
- 11.2 Courts should prefer to engage a Qualified Interpreter. Where a Qualified Interpreter cannot reasonably be obtained, a Suitable Person may be engaged

⁷ See rr 54AF and 54AG of the *Criminal Practice Rules* and rr 429VF and 429VG of the *Uniform Civil Procedure Rules* – as to who may act as an interpreter generally, and the circumstances in which the court may grant leave for a person to act as an interpreter.

instead. Where possible, the following order of preference for an interpreter's level of certification and qualification should be followed:

1. Certified Specialist Legal Interpreter
2. Certified Interpreter
3. Certified Provisional Interpreter
4. Recognised Practising Interpreter
5. Suitable Person

- 11.3 When engaging an interpreter, whether a Qualified Interpreter or otherwise, the court should also endeavour to take into account:
- the extent and level to which the person has pursued formal education and interpreter training, especially legal interpreting training;
 - the level of their NAATI accreditation;
 - whether or not the person is a current member of AUSIT, ASLIA or other recognised State or Territory based association requiring adherence to a code of ethics and/or standards; and
 - any experience interpreting in court, including the nature of that work.

An interpreter will be required to complete the “[Interpreter professional background information” form](#).”

- 11.4 For languages in Tier A, a Certified Interpreter, or a Certified Specialist Interpreter if available, should be engaged, subject to cultural and other reasonable concerns.
- 11.5 For all other tiers, if a Certified Specialist Legal Interpreter or Certified Interpreter is not reasonably available, then, subject to cultural and other reasonable concerns:
- (a) For languages in Tier B:
 - (i) a Certified Provisional Interpreter should be engaged if one is available; or
 - (ii) if a Certified Provisional Interpreter is not reasonably available, the judicial officer may grant leave for a Suitable Person to carry out the office of interpreter.
 - (b) For languages in Tier C:
 - (i) a Certified Provisional Interpreter should be engaged if one is available; or
 - (ii) if a Certified Provisional Interpreter is not reasonably available, the judicial officer may grant leave for a Suitable Person to carry out the office of interpreter.
 - (c) For languages in Tier D:
 - (i) a Certified Provisional Interpreter should be engaged if one is available; or
 - (ii) if a Certified Provisional Interpreter is not reasonably available, a Recognised Practising Interpreter should be engaged if there is one available; or

- (iii) if neither a Certified Provisional Interpreter nor a Recognised Practising Interpreter is reasonably available, the judicial officer may grant leave for a Suitable Person to carry out the office of interpreter.

Standard 12 – Provision of professional development to interpreters on the Standards

- 12.1 Where the court is responsible for engaging interpreters, either directly or through an interpreting service, interpreters should be provided with induction and continuing training, either by the court or by the interpreting service, to ensure that interpreters understand their role and responsibilities under the Code of Conduct for Interpreters.⁸

Note: As part of Queensland Courts and Tribunals' approved arrangements for the provision of interpreting services, interpreter suppliers are required to provide their interpreters with induction and training.

Standards for Judicial Officers

Judicial officers in Queensland Courts and Tribunals will have regard to and endeavour to accommodate the following standards, subject to the particular circumstances of each case and the direction of the judicial officer of the Court or Tribunal concerned.

Standard 13 – Judicial officers' duties

- 13.1 Queensland judicial officers will apply the relevant provisions of the *Criminal Practice Rules 1999* and the *Uniform Civil Procedure Rules 1999*, where applicable.

Standard 14 – Plain English

- 14.1 Judicial officers should use their best endeavours to use plain English to communicate clearly and articulately during court proceedings.

Standard 15 – Training of judicial officers for working with interpreters

- 15.1 Judicial officers should undertake training on working with interpreters [see also standard 5 above.]

Standard 16 – Assessing the need for an interpreter

- 16.1 The fundamental duty of the judicial officer is to ensure that proceedings are conducted fairly and in accordance with the applicable principles of procedural fairness, including by ensuring an interpreter is available to persons of limited English proficiency.
- 16.2 To ensure that criminal proceedings are conducted fairly and that there is no miscarriage of justice, courts should ensure that an interpreter is provided to an accused of limited English proficiency.
- 16.3 [Not adopted]

⁸

The Code of Conduct for Interpreters is set out in schedule 5A to the *Criminal Practice Rules* and in schedule 1D to the *Uniform Civil Procedure Rules*.

Standard 17 – Proceedings with an interpreter

- 17.1 Judicial officers should endeavour to ensure that the interpreter has been provided with appropriate working conditions, as outlined in standard 9.
- 17.2 In making directions as to the conduct of proceedings,⁹ judicial officers should consider whether and to what extent interpreters should be briefed on the nature of a matter prior to the commencement of proceedings and, if so, give consideration as to the time which an interpreter may reasonably require to become familiar with the briefing material. Briefing may include the provision of materials which may otherwise have required sight translation, subject to standard 26.
- 17.3 Interpreters should be afforded reasonable time to familiarise themselves with materials that are relevant for the process of interpretation in the particular case.
- 17.4 Except where a Qualified Interpreter has been engaged, judicial officers should ascertain the competence of an interpreter by reference to their certification status, qualifications and court experience, as well as whether they are members of AUSIT, ASLIA or other recognised State or Territory based association requiring adherence to a code of ethics and/or standards. If the judicial officer is concerned about any of these matters, they may raise this with the parties to ascertain whether another interpreter is available, and should consider adjourning the proceedings until one is available.
- 17.5 At the start of proceedings, and before an interpreter commences interpreting, judicial officers should introduce the interpreter and explain their role as an interpreter.
- 17.6 Judicial officers should confirm that the interpreter has acknowledged the Code of Conduct for Interpreters and understands their duties as an interpreter working in courts.
- 17.7 Judicial officers should inform the interpreter to alert the court, and if necessary to interrupt, if the interpreter:
 - (a) becomes aware that they may have a conflict of interest in the proceedings;
 - (b) cannot interpret the question or answer for any reason;
 - (c) did not accurately hear what was said;
 - (d) needs to correct an error;
 - (e) needs to consult a dictionary or other reference material;
 - (f) needs a concept or term explained;
 - (g) is unable to keep up with the evidence; or
 - (h) needs a break.
- 17.8 Judicial officers may become aware that an interpreter has a conflict of interest in the proceedings. In such cases, judicial officers should permit the interpreter to withdraw from the proceedings if necessary and adjourn the proceedings until

⁹ See r 54AL of the *Criminal Practice Rules* and r 429VL of the *Uniform Civil Procedure Rules*, in relation to the giving of directions in relation to interpreters.

another interpreter can be found, or consider another appropriate strategy to address the conflict.

- 17.9 Judicial officers should speak at a speed and with appropriate pauses so as to facilitate the discharge by the interpreter of their duty to interpret.

Standards for Interpreters

Interpreters working in Courts and Tribunals are expected to adhere to the following recommended national standards:

Oath or affirmation

Interpreters working in Courts and Tribunals will be required to make an oath, or affirmation, in the appropriate form under the *Oaths Act* 1867 (Qld), before the interpreter commences to undertake their role.

Standard 18 – Interpreter’s duty to the court

- 18.1 An interpreter owes a paramount duty to the court to be accurate to the best of the interpreter’s ability and impartial.¹⁰ This duty overrides any duty that person may have to any party to the proceedings, even if that party is engaged directly by that party.

Standard 19 – Court Interpreters’ Code of Conduct

- 19.1 Interpreters must ensure that they are familiar with, and comply with, the Code of Conduct for Interpreters.¹¹

Standard 20 – Duties of Interpreters

- 20.1 Interpreters must diligently and impartially interpret communications in connection with a court proceeding as accurately and completely as possible.
- 20.2 Interpreters must comply with any direction of the court.
- 20.3 Where the interpreter becomes aware that they may have a conflict of interest, the interpreter must alert the court to the possible conflict of interest immediately, and if necessary withdraw from the assignment or proceed as directed by the court.
- 20.4 Requests by the interpreter for repetition, clarification and explanation should be addressed to the judicial officer rather than to the questioning counsel, witness or party.
- 20.5 There may be occasions when the interpreter needs to correct a mistake. All corrections should be addressed to the judicial officer rather than to the questioning counsel, witness or party.
- 20.6 If the interpreter recognises a potential cross-cultural misunderstanding, or comprehension or cognitive difficulties on the part of the person for whom the interpreter is interpreting, the interpreter should seek leave from the judicial officer to raise the issue.

¹⁰ See r 54AH of the *Criminal Practice Rules* and r 429VH of the *Uniform Civil Procedure Rules*.

¹¹ The Code of Conduct for Interpreters is set out in schedule 5A to the *Criminal Practice Rules* and in schedule 1D to the *Uniform Civil Procedure Rules*.

- 20.7 Interpreters must keep confidential all information acquired, in any form whatsoever, in the course of their engagement or appointment in the office of interpreter (including any communication subject to client legal privilege) unless:
- (a) that information is or comes into the public domain; or
 - (b) the beneficiary of the client legal privilege has waived that privilege.

Standards for Legal Practitioners

Legal practitioners are expected to comply with the following standards.

Standard 21 – Assessing the need for an interpreter

- 21.1 To ensure that proceedings are conducted fairly and that there is no miscarriage of justice, legal practitioners should endeavour to ensure an interpreter is provided to parties and witnesses of limited English proficiency.
- 21.2 [Not adopted]

Standard 22 – Booking interpreters

- 22.1 To maximise the ability of interpreting services to provide an appropriate interpreter for a particular case, the party seeking to engage the services of the interpreter should give as much notice as possible.
- 22.2 When applying for a hearing date, parties or their legal advisors should draw the availability of the interpreter to the court's attention for the judicial officer to take into account where possible.

Standard 23 – Engaging an interpreter in accordance with these Standards

- 23.1 Parties engaging an interpreter should select interpreters in accordance with standard 11 of these standards, and having regard to the relevant legislative requirements.¹²

Standard 24 – Briefing Interpreters

- 24.1 The legal representatives for a party are to use their best endeavours to ensure that interpreters who are engaged are familiar with, understand and are willing to adopt the Code of Conduct for Interpreters and understand their role as an interpreter working in a court.
- 24.2 The legal representatives for a party should ensure that interpreters (whether or not engaged by those legal representatives) are appropriately briefed on the nature of the case prior to the commencement of proceedings. The interpreter should be provided with all relevant materials, including those that the interpreter will need to either sight translate or interpret, subject to standard 26.
- 24.3 An interpreter should be afforded a reasonable amount of time to familiarise themselves with materials that are relevant for the process of interpretation in the particular case.

Standard 25 – Plain English

- 25.1 Legal practitioners should use their best endeavours to use plain English to communicate clearly and coherently during court proceedings. Legal practitioners

¹² See r 54AF of the *Criminal Practice Rules* and rr 429VF of the *Uniform Civil Procedure Rules*.

should speak at a speed and with appropriate pauses so as to facilitate the discharge by the interpreter of their duty to interpret.

Standard 26 – Documents

- 26.1 Legal practitioners should ensure that any document in a language other than English which is to be referred to or tendered into evidence in proceedings has been translated into English or the other language by a NAATI Certified Translator, where available.
- 26.2 Legal practitioners should not require interpreters to sight translate during the course of a hearing without prior notice (“sight unseen”) long, complex or technical documents. Sight unseen translation by interpreters of even simple or short documents should be avoided as far as possible.