



## Legal Interpreting Policy

### **Preamble:**

Interpreting in legal settings can be extremely complex and is therefore one of the most challenging situations in which interpreters work. To ensure that the legal process is not compromised an Auslan (Australian Sign Language) interpreter with NAATI (National Accreditation Authority for Translators and Interpreters) accreditation at the Interpreter level should be booked to work within the legal framework in Australia. To do otherwise could compromise the legal process or proceedings.

No two Deaf individuals are the same in respect to their communication preferences. A Deaf person may use Auslan which is the recognised language of the Australian Deaf Community. However, some deaf individuals make use of their residual hearing, hearing-aids, speech and lipreading skills. Other Deaf individuals may use a variety of non-standard communication methods that include family signs, or signs from a particular age group, region or ethnic community. Other individuals may rely on a system of communication based on their educational background such as Signed English, which combines contrived signs with English grammar, that bear no relation to Auslan, the community language. Aboriginal and Torres Strait Islander Deaf people may use a variety of Auslan that is unique to their community or a sign system that is unique and community-based.

Deaf individuals may be involved in all kinds of legal settings and on both sides of the legal fence. Whether they appear as complainants, defendants, victims, offenders, witnesses or to take care of personal business that involves legal issues, Deaf individuals have the same right to full and clear communication. Legal offices, police stations and tribunals/courts are just some of the legal settings that will require sign language interpreting for a Deaf person by a qualified, accredited interpreter.

An interpreter provides access to all parties involved in the communication process, including *both* the Deaf individual and the legal professional.

### **Auslan- English Interpreters**

ASLIA asserts that:

1. The legal rights of Deaf people can only be assured, and the integrity of the legal process can only be safeguarded, by using NAATI Interpreter level interpreters in all legal settings.
2. Interpreters working in legal settings should have additional training and undertake ongoing professional development in legal interpreting. This training may be provided by ASLIA or an interpreting agency, in conjunction with legal professionals.

3. Interpreters will be bound by the ASLIA Code of Ethics thus ensuring maintenance of high standards of professional conduct in their identity and capacity as an interpreter.

Note: This code is not binding on the actions of family, friends, advocates, or bilingual staff of legal agencies. Family members and friends should never be used in the same role as professional interpreters. Children, young relatives or other family members are never appropriate interpreters in any context. Communication may be altered due to lack of competence in English or Auslan (or varieties thereof), or due to bias or personal interest of the family member. This can seriously undermine the whole interpreting process.

4. Interpreters must, if asked to provide expert testimony on language, deafness, or matters related to the case, either decline to do so, or withdraw as an interpreter from the case. Instead, an Auslan/deafness consultant or advocate should be appointed for this purpose.

5. Interpreters must, before accepting a legal assignment, assess the information provided by the booking agency to determine if s/he is qualified for the particular setting. Reasons for not accepting the assignment may include accreditation level or experience, communication modes of the Deaf client/s, personal knowledge or bias in the case.

6. Interpreters in legal settings may interpret in *consecutive* or *simultaneous* mode, depending on the linguistic complexity of the context and the speed of delivery of English or Auslan.

7. Two interpreters are essential in any court that involves a contest, including family court mediations, committal hearings, trials or any hearing that involves witness statements and examinations. Interpreter fatigue leads to reduced accuracy and has the potential to impact on the health and safety of the interpreter.

**Note:** Two Auslan-English interpreters are essential whenever a legal assignment exceeds two hours. Occupational Health and Safety issues involved in sign language interpreting are a real and ever-present risk. Auslan-English interpreters need breaks every hour and will need recovery time after several hours of constant interpreting. In unusual cases of several days duration, it may be necessary to have a team of more than two interpreters. (See the ASLIA OH&S Policy for further information).

8. When interpreters are booked for clients in court on opposing sides (for example, an alleged offender and witnesses; husband and wife in family court), two teams of interpreters should be engaged, with two interpreters in each team. If only one interpreter is available for each opposing side, those interpreters will work with separate clients outside the court room, but when inside, the interpreters will work as a team, sharing the interpreting in the public setting. At no time should two interpreters work 'in stereo' in the court room, for the same OH&S reasons.

9. Interpreters alone cannot solve all the difficulties arising when eliciting evidence in a court room. Issues of legal and/or linguistic incompetence to stand trial may need to

be considered. (See the ASLIA Information for the Legal System - Dealing with Deaf persons with specific linguistic or cultural differences).

### **Deaf Interpreters**

ASLIA asserts that:

1. There is an ongoing need for the training and accreditation of Deaf Interpreters to enhance accuracy of communication in legal settings for Deaf people with specific language or cultural differences. Deaf Interpreters have specialised training and/or experience in the use of gesture, mime, props, drawings and other tools, which will increase the understanding of the Deaf client and improve the communication between the client and the legal professional or the court.
2. Deaf Interpreters enhance the work of hearing Auslan-English interpreters in legal settings with Deaf individuals who:
  - Use idiomatic non-standard signs or gestures that may be unique to a family, community, region, or a particular ethnic/cultural or age group within the community.
  - Use a foreign sign language
  - Are of Aboriginal or Torres Strait Islander descent and use a unique variety of Auslan or a community-based sign system.
  - Have minimal or limited communication skills
  - Have an additional disability such as mental illness, physical disability or a cognitive disorder
  - Are deafblind or Deaf with a vision impairment
3. Deaf Interpreters working in legal settings should have additional training and undertake ongoing professional development in legal interpreting. This training may be provided by ASLIA or an interpreting agency, in conjunction with legal professionals.
4. Deaf Interpreters are equally bound by the ASLIA Code of Ethics thus ensuring maintenance of high standards of professional conduct in their identity and capacity as an interpreter

Additional information for interpreters is contained in the ASLIA Guidelines for Interpreters in Legal Settings. Information regarding access for Deaf individuals in courts is contained in the ASLIA position paper: Information for the Legal System – Dealing with Deaf Individuals in the Court System of Australia.