



Information for the Legal System of Australia: Dealing with Deaf Individuals in the Court System of Australia

Australian Sign Language (Auslan)-English interpreters, accredited by NAATI, (National Accreditation Authority for Translators and Interpreters) facilitate access to communication between deaf individuals and legal professionals in the court system of Australia. In addition, an Auslan-English interpreter can work in tandem with a Deaf Interpreter to enhance the accuracy of communication in legal settings for deaf people with specific language difficulties or a foreign sign language, intellectual or mental disabilities.

Auslan is the recognised community language of the Australian Deaf community, a minority community of people who share a language and identity that is based on their shared experiences of living with deafness in a hearing world. The Disability Discrimination Act of Australia provides that a deaf person has the right to an Auslan-English interpreter to access information and communication within the legal system.

Not all deaf people use Auslan as their preferred method of communication. Communication variation can include:

- A deaf person may use Auslan, which is the recognised language of the Australian Deaf community.
- Some deaf individuals make use of their residual hearing, cochlear implants, hearing-aids, speech and lipreading.
- Other deaf individuals may use a range of non-standard communication methods that may include particular school or family signs, signs from a particular age group, region or ethnic community.
- Aboriginal and Torres Strait Islander deaf people may use a variant of Auslan that is specific to their community or a sign system that is unique and community-based.
- In addition, sign language users with a physical or mental illness, or a cognitive disability may also present with specific linguistic challenges.

All of these individuals have specific communication needs that require a NAATI accredited Auslan-English interpreter, or a Deaf Interpreter, who has specialised training in one or all of these different communication methods.

Deaf People in Court

The following points need to be considered whenever a deaf person interacts with the court system:

- The ability to converse in written or spoken English does not necessarily indicate that a person comprehends the English spoken by judicial officers, lawyers, police officers etc. or that the person understands written English. A NAATI accredited, experienced, professional Auslan-English interpreter is crucial for most deaf people in a legal setting.

- The court may need to recognise that in regard to some deaf individuals with additional disabilities, the issue of competence to stand trial may be of serious concern. Put simply, these deaf individuals may be denied the justice others routinely receive because they lack the capacity to understand what transpires in a legal setting or court of law. To assist the court, the deaf individual may need to be referred to an appropriate psychologist so that an assessment can be undertaken. Notwithstanding the assessment, proceedings may need to be adjourned, to provide the deaf individual with additional information regarding basic legal terminology and Auslan equivalents, legal concepts and court procedures.
- The court may need to acknowledge and allow for *consecutive* rather than *simultaneous* interpreting. *Consecutive* interpreting occurs when the interpreter delivers the message in the other language after the speaker has finished speaking. *Simultaneous* interpreting allows the interpreter to begin delivering the message in the other language at the same time as the speaker continues to speak in the first language. There will be some time lag in the delivery. Interpreters may prefer to wait for the legal professional to speak a few sentences in English, and then pause, to allow the information to be interpreted accurately into Auslan. This affords the interpreter more time to explain, and where necessary, draw pictures or even mime or act out situations for deaf individuals with minimal language skills.
- Family members and close personal friends should not be used as interpreters in legal settings. The whole interpreting process may be undermined due to lack of interpreting competence, bias, or personal interest of the family member or friend. Appropriately trained and NAATI accredited Auslan-English and Deaf Interpreters are required to adhere to ASLIA's Code of Ethics and Guidelines for Professional Conduct, thus ensuring the quality of the interpreting process.

In order to fully participate in the court, some deaf individuals may require a community worker who can communicate directly with them in Auslan. There are several organisations in Australia that provide Community Workers fluent in Auslan. For further information about Community Workers, Auslan-English interpreters or Deaf Interpreters, please contact your state Deaf Society.