



## **Legal Interpreting Policy**

In all legal settings, as a minimum standard, a National Accreditation Authority for Translators and Interpreters (NAATI) Certified Sign Language interpreter must be engaged (Auslan<>English or Deaf interpreter). A Certified Specialist interpreter (Legal) where available, will be engaged to work in these settings. Additional information for professionals and interpreters is contained in the ASLIA legal guideline documents, OHS policy and the code of Ethics.

Two Auslan<>English interpreters are required whenever a legal assignment exceeds two hours (This is problematic depending on jurisdiction, agency policies, job type i.e. police interview or plea). See ASLIA's Occupational Health and Safety Policy for information about work conditions. Before accepting a work offer of two or more days, an interpreters will consider whether they are available for the full duration of the matter. Whenever possible the same interpreters should be used throughout a legal matter as opposed to bringing in new interpreters part way through a matter, for example, in a trial. The knowledge gained through the course of the matter will aid the interpreters in providing the most accurate and effective interpretations. If it is not possible for an interpreter to work for the entire duration of the matter, there must be a handover between the responsible outgoing to incoming interpreters (see Guidelines for interpreters in legal settings).

### **Sign Language Interpreters**

It is ASLIA policy that:

1. A NAATI Certified Specialist Interpreter (Legal) is the first preference and is the minimum acceptable credential to work in this setting. A NAATI Certified Interpreter who has extensive experience in legal interpreting is acceptable if

a specialist interpreter is not available, interpreters who do not have the minimum certification and experience will not accept jobs in any legal setting.

2. Interpreters working in legal settings should have additional training and participate in ongoing professional development (PD) in legal interpreting. This training may be provided by ASLIA, an interpreting agency, in conjunction with legal professionals or association, government, tertiary education institution, among other providers.
3. Interpreters are ethically bound to facilitate communication accurately and impartially between all parties (see ASLIA Code of Ethics). They must execute this role with total absence of bias and maintain strict confidentiality.
4. Family members and friends are not to be used in the same role as credentialed interpreters.
5. Interpreters must, if asked to provide expert evidence on language, deafness, or matters related to the case, will decline to do so. Rather than taking on the role of providing expert evidence, an Auslan/deafness consultant should be appointed for this purpose.
6. Interpreters must, before accepting a legal assignment, assess the available information provided at the time of offer to determine if they are qualified for the particular job setting. Reasons for not accepting the job offer may include credential level or experience, communication modes of the deaf client/s, personal knowledge, conflict of interest or bias.
7. 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. It is acknowledged that consecutive interpreting in a court setting will often produce higher quality interpretations to all parties.
8. Two Auslan<>English interpreters are required in any court proceedings that involve, but are not limited to, 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 (ASLIA

Occupational Health and Safety Policy), and due process for all relevant parties.

9. Where all parties in a matter use Auslan (for example, defendant, victim and/or witnesses), two teams of interpreters should be engaged, with two interpreters in each team. If, however, less than four interpreters are available to create two teams, inside the court room all of the interpreters will work as a combined team, sharing the interpreting. There are a number of exceptions within the court room where this is not applicable. An example would be when a Deaf party refuses to use the same sightline to the interpreter that the other Deaf party is using (e.g. domestic violence related matters). In such situations, the interpreters will negotiate a mutually agreeable solution. Outside of the court room, the interpreters will interpret only for their previously allocated clients.

In relation to Deaf Interpreters, it is ASLIA policy that:

1. Deaf Interpreters be engaged to enhance accuracy of communication in legal settings for deaf people with specific language or cultural differences.
2. Deaf Interpreters must have specialised training and/or experience in the use of gesture, mime, props, drawings and other tools, which increase the understanding of the deaf client and improve the communication between the client and the legal professional or the court.
3. Deaf Interpreters be engaged 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

### Version History

<i>Version Date</i>	<i>Prepared by</i>	<i>Checked by</i>	<i>Approved by motion</i>	<i>Summary of updates</i>
V1.0 2005				
V2.0 2018	Paul Heuston and Teresa Cumpston Bird	Kylie Scott De Brown David McQuiggin Christ Filipich	Approved	Template, language, content