

Introduction

Effective communication between service providers and clients is essential to delivering high quality services.

Interpreting and translating services can make Government more accessible to people who use Auslan or speak a language other than English, and is an important way to improve communication with our diverse clientele.

Quick Reference

Interpreters and translators play a critical role in helping people connect with Government, by:

- attending appointments with clients in schools, hospitals, courts, police stations and other agencies
- providing services over the phone and through video-conferencing
- translating important information.

Who is this section for?

This is a practical guide to translating and interpreting services in Victoria.

This section sets out the Government's principles and obligations and provides direction to Victorian Government departments and funded agencies on policy, legal obligations and how to plan and deliver successful interpreting and translating services.

It has two key aims:

- to guide Government departments on their client service delivery obligations
- to help funded agencies and direct care areas of Government improve their interactions with people who use other languages.

Interpreting and translating: what's the difference?

An interpreter is a professionally qualified person who takes information from an oral or sign language and converts it accurately and objectively into another language to enable communication between two parties who use different languages.

A translator does the same with written information.

What is Auslan?

Auslan is an indigenous Australian sign language used by an estimated 15 000 to 20 000 Deaf Australians. Further information on Auslan is outlined in Appendix C.

Working with Interpreters and Translators: What you need to know

This part provides important information on Government policies, legal considerations and your consequent obligations to provide qualified, professional interpreters and translators.

Government policy and commitment

Quick Reference

The Government is committed to providing accessible services to all Victorians.

As part of this commitment, clients not able to communicate through written or spoken English should have access to professional interpreting and translating services:

- when required to make significant decisions concerning their lives or
- where essential information needs to be communicated to inform decision making.

Departments should have policies for funding and delivering translating and interpreting services that take account of Government policy, legal circumstances and the needs of current and potential clients. This includes defining situations where professional interpreters and translators 'must', 'should' and 'may' be used, based on the services provided.

Relevant policy statements

Government policies that contain a statement of commitment to access to services include Growing Victoria Together (www.growingvictoria.vic.gov.au/report.html) and Valuing Cultural Diversity (www.voma.vic.gov.au).

The Code of Conduct for the Victorian Public Sector outlines the principles governing the behaviour of Victorian Public Sector (VPS) staff. These include requirements for impartiality and responsive service. In practice, this can mean using an interpreter or translated information as part of providing culturally appropriate services.

Departmental policies

Government departments may have specific requirements for interpreting and translating services, based on their client groups and the type of services provided.

These may include:

- preferred language services providers for sourcing interpreters and translators
- methods of funding and purchasing interpreting and translating services
- arrangements for face-to-face interpreting, telephone interpreting and videoconferencing
- processes for organising translations of written information
- defined situations where interpreters 'must', 'should' and 'may' be used
- standards of accreditation required of interpreters and translators used in the agency.

To find out more, contact the relevant multicultural or diversity area within your department. Contact details for departments are available from www.voma.vic.gov.au.

When does the Government have a legal responsibility to provide an interpreter?

There are many situations where the Government should provide an interpreter to:

- protect the state from legal liability arising from language difficulties or
- ensure that a prosecution is not compromised.

Police Investigation and Questioning

There are a number of circumstances in criminal investigations and prosecutions that require an interpreter.

A police officer or an investigating official must arrange for a 'competent interpreter' to be present if an arrested person does not understand English well enough to comprehend their rights or the questions put to them.

Following arrest, if a person is asked or compelled to give forensic samples (eg fingerprinting, taking cells), the person must be informed of police intentions, in a language likely to be understood by them. This would require an interpreter where someone did not understand spoken English.

Quick Reference

Where the Government is investigating an offence - such as a workplace offence or food safety offence - questioning may occur before an arrest is made. In this situation the investigating officer must inform a person that an offence may have been committed before asking questions. This implies that the person should understand the nature of the offence and that an interpreter should be used if the person cannot understand English. Workplace safety inspectors are specifically allowed to bring interpreters onto work sites for this purpose.

Under common law, evidence should be obtained in ways that are fair to the accused criminal, or it can be excluded from a trial. This provides an incentive to police to be certain that accused people are properly informed of all matters.

Criminal trials

The law on providing interpreters at criminal trials is not uniform, but in most cases an accused person has a right to an interpreter at their trial.

In the Magistrates' Court, if an offence is punishable by imprisonment, the court must allow the accused a competent interpreter, or the hearing cannot continue.

In other courts, a person is entitled to a 'fair trial', and convictions may be set aside where this has not occurred.

While it is up to each judge to determine whether a fair trial has occurred, this can be taken to mean that an interpreter must be available if the accused cannot understand spoken English. Judges may take account of external standards, such as international agreements, including Article 14 of the *International Covenant on Civil and Political Rights* which seeks to guarantee that all prisoners shall have things explained in a language they understand, and that they are entitled to the free assistance of an interpreter.

When a person is being sentenced, the judge's decision must also be explained in a language the guilty person is likely to understand. Courts have taken this to mean an interpreter should be provided where the defendant is not capable of communicating in English.

Children

The *Children and Young Persons Act 1989* requires that proceedings before the Children's Court be comprehensible to the child and his or her parents. An interpreter must be provided if the child or their parents cannot understand or participate in the proceedings because they do not understand English.

Mental health patients

The State is required to provide interpreters to people who cannot understand spoken English in reviewing psychiatric custody against a person's will (such as involuntary or forensic patients). Similarly, certain information must be supplied to intellectually disabled persons in the language, mode of communication or terms most likely to be understood by the person. This could mean using an interpreter where someone did not understand spoken English.

Legal proceedings - civil and administrative

Where a civil action is being conducted, the party calling a witness may decide to provide an interpreter but a witness does not have an automatic right to give evidence in their native language. However for the convenience of the Court and to make the trial fair it would be preferable for the witness to give evidence through an interpreter.

In situations where employees or agents of the State need to obtain the informed consent of citizens in sensitive matters, it would be prudent to ensure that the consenting person has had access to an interpreter if necessary for truly informed consent. Some examples are:

- where the person is consenting to the release of personal or commercial information concerning their affairs,

which may be detrimental to that person

- where consent to the removal of human tissue is sought
- where consent is given by a husband to the insemination of his wife with the sperm of another man (so that he takes paternity of the child).

Finally, when entering into a contract with a person who does not speak English an interpreter should be used to ensure that the person understands the nature and effect of the contact. If this is not understood, the contract could be unenforceable.

Medical

The importance of communication between medical practitioners and patients cannot be underestimated in legal matters. The *Victorian Health Services (Conciliation and Review) Act 1987* outlines a number of 'guiding principles' for health service providers, which include promoting the provision of adequate information in terms which are understandable and participation in decision-making affecting individual health care.

If an interpreter is not provided to someone who cannot communicate verbally in English, a medical practitioner risks:

- being liable for negligence if a practitioner fails to communicate the consequences of a procedure, or where the failure to communicate leads to a shortcoming in the reasonable standard of care
- being liable for other torts (eg assault or trespass) if a procedure is performed without the consent of the patient, or her or his family
- being criminally charged with assault or criminal negligence if the practitioner was recklessly in disregard of the language situation.

Although there are certain defences available – such as the medical necessity to preserve life – practitioners should ensure that patients are sufficiently informed in clear terms before they consent to a procedure.

In most cases, the medical facility will also be liable if the practitioner is acting within the course of their employment.

Standards and Qualifications

Although it is Victorian Government policy to use NAATI-accredited professional interpreters, the law generally does not define the standards and qualifications required of interpreters. Instead, standards and qualifications are usually defined by two questions:

- whether the interpreter is ‘competent’, and
- whether a fair trial had occurred.

The *Children and Young Persons Act 1989* defines the standard required for an interpreter as being ‘competent’ or having NAATI accreditation. Following this, it is likely that having a NAATI accreditation would be one way of showing a court that an interpreter is ‘competent’. In other states ‘competent’ has meant that the Court must be satisfied of the ability and impartiality of the interpreter proposed.

The common law requires similar standards in criminal matters, to ensure that a fair trial has occurred. Trial judges have the discretion to refuse to admit evidence collected unfairly, or to direct the proceedings of a trial. If an apparently incompetent or biased interpreter has been used at any stage of the investigation it may compromise the level of communication, and the accused person may therefore have been treated unfairly.

In Court, interpreters are required to swear an oath that they will well and truly interpret the evidence, to the best of their ability. If it is found that this is not done, the interpreter may be committing perjury. This may provide basic protection against an interpreter wilfully misleading the court or the accused.

Using qualified staff

It is Government policy that interpreters and translators be professionally accredited. This means:

- You should use NAATI-accredited professional interpreters and translators. When accredited interpreters and translators are not available at this level, a NAATI-accredited para-professional or NAATI-recognised practitioner can be used. Paraprofessional and recognised interpreters may be the only ones available for less common languages. The language services provider may ask if this is acceptable to your client and you may need to assess whether your client's needs will be adequately met.
- Clients should be aware of your interpreting policy, and know when and how to ask for an interpreter.
- It is not acceptable to use children under 18 as interpreters.

A client may ask to use a family member or friend to interpret for them. Unaccredited friends or family members may not be competent, may be emotionally involved, may lack impartiality and are not bound by the same standards of conduct as qualified interpreters and translators. However, if the client understands the consequences of this choice and this action does not put the Government at risk, a family member or friend may be used.

For more information, read
Working with interpreters and
Organising translations.

Victorian Government Policy and Procedures

Your obligations

Government departments that fund or provide direct care services should establish clear policies for funding and delivering translating and interpreting services.

These policies should:

- be consistent with wider Government policy
- be consistent with other relevant departmental policies
- take into account relevant legal issues
- acknowledge the need to use NAATI-accredited practitioners where interpreters and translators are required

- define when interpreters 'must', 'should' and 'may' be used
- address the needs of current and potential clients.

Direct care areas of Government and funded agencies should:

- provide services that are responsive to cultural differences
- develop policies and practices appropriate to their agency and its role
- ensure staff respond appropriately to cultural difference.

Parts 3 and 4 can help you to develop and implement successful translating and interpreting policies.

Getting the most from Interpreting and Translating Services

Effective communication between you and your clients is essential to delivering high quality services. This part provides valuable information on how to use the translating and interpreting system to maximise effective communication.

How to find a qualified interpreter or translator

- What should I look for in an interpreter or translator?
- Where can I find interpreters and translators?

Quick Reference

Qualifications: what to look for

NAATI sets and monitors standards in Australia by accrediting translators and interpreters at different levels of competence.

While accreditation is not a guarantee of performance, it shows that the holder is

capable of working as a translator or interpreter in the languages and at the levels shown on their accreditation certificate:

- *NAATI paraprofessional interpreters* interpret general conversations of non-specialist dialogue (formerly level 2).
- *NAATI paraprofessional translators* produce translated versions of non-specialist information (formerly level 2).
- *NAATI professional interpreters* interpret a wide range of subjects involving dialogues at specialist consultations. This is considered the minimum professional standard (formerly level 3).
- *NAATI professional translators* work across a wide range of subjects with sound conceptual understanding of the material being translated. This is considered the minimum professional standard (formerly level 3).
- *NAATI conference interpreters* handle complex, technical or sophisticated interpreting. Conference interpreters practice both consecutive and simultaneous interpreting in diverse situations including conferences, high-level negotiations, and court proceedings (formerly level 4).

- *NAATI advanced translators* handle complex, technical or sophisticated translations (formerly level 4)
- *Conference interpreter (senior)* hold the highest level of accreditation, reflecting both competence and experience. This represents an international standard together with demonstrated extensive experience and leadership (formerly level 5).
- *NAATI advanced translators (senior)* hold the highest level of accreditation. Practitioners work at a level of excellence in their field, recognised through demonstrated extensive experience and leadership (formerly level 5).

NAATI also awards two qualifications that are not formal accreditations, but recognise particular language skills:

- NAATI language aides can converse in another language at an elementary level for the purpose of simple communications (formerly level 1).
- NAATI recognised practitioners are people with experience in interpreting and translating in a rare or emerging language for which there is no accreditation testing available.

Finding an interpreter or translators

Agencies can access accredited interpreters and translators in a number of ways.

Language services providers

Language services providers arrange the supply of accredited or recognised interpreters or translators.

Professional interpreting and translating agencies are listed in the Yellow Pages. Accredited interpreters and translators can be found using the NAATI Directory of Accredited and Recognised Practitioners of Interpreting and Translating, which is available at www.naati.com.au, or from the Australian Institute of Interpreters and Translators Inc. (AUSIT) website, which is available at www.ausit.org.

You should always ask for details of the NAATI credentials of interpreters and translators and ensure that professionally accredited practitioners are used wherever possible.

Direct employment

Some organisations directly employ full-time or part-time interpreters where:

- there is stable and significant demand in a given language, and/or
- interpreters using particular languages are often needed in emergency situations, such as in hospitals.

This approach is not suited to agencies with low levels of demand or where there are changing levels of demand in different languages.

Victorian Public Service Language Allowance

A salary allowance is available to bilingual Victorian Public Service (VPS) staff who use another language in their everyday work. Currently, VPS staff qualified as language aides or accredited as interpreters can be paid an allowance of \$800 to \$1 500 per annum, based on their level of NAATI accreditation or qualification.

Staff who apply for this allowance are also eligible for assistance with accreditation testing. Information on this program is available from www.voma.vic.gov.au/languageservices or from the Human Resources Branch in your department.

Where interpreter and translator services are required, it is Victorian Government policy to use NAATI-accredited professional interpreters and translators. Paraprofessional interpreters and translators should only be used where professional practitioners are not available.

Where NAATI does not accredit practitioners in a particular language, recognised interpreters may be used.

Working with interpreters

- Are staff identifying when clients need interpreters?
- Are staff working successfully with interpreters?

Identifying client need

Successful delivery of interpreting and translating services requires more than staff awareness of government policy and agency obligations. Staff must be able to put policy and obligations into practice.

They should know how to:

- identify when a client needs an interpreter, and in what situations
- communicate effectively through an interpreter and avoid communication problems
- identify and deal with sensitive gender, ethno-specific and religious issues
- determine the form of interpreting – face-to-face, telephone, video – best suited to particular situations
- deal with complaints about interpreting and translating services.

These issues are covered in Section 2 - Working with interpreters.

Working successfully with interpreters - staff awareness training

Agencies that regularly use interpreters should provide interpreter awareness training, preferably as part of staff induction.

Training should occur at all levels, from front-counter staff to senior managers.

Face-to-face training can be highly successful at overcoming initial staff resistance to interpreters, by helping staff understand the importance of addressing language barriers and how to organise interpreting services.

Most language service providers deliver low-cost, comprehensive training on working with interpreters. For information on training, contact a language services provider directly to discuss your needs.

Organising translations

- Why bother with translations?

Why bother with translations?

Translations can reduce the need for interpreters, provide more information than can be given verbally and can be used to reinforce important messages. They can be used to communicate:

- the availability of services
- details about rights and obligations
- information on medical, legal or other issues.

You are responsible for sourcing translated information prepared by professionally qualified translators in the key community languages of your client group.

Remember that if written information is necessary for people who can read English it is likely to be needed by people who cannot read English.

Section 3 - Organising translations has been written to help agencies produce written multilingual information.

Planning and Evaluation

How to assess your interpreting and translating needs

- How do I know if there's a demand for interpreting and translating?
- How can I find out which languages my clients speak and read?
- How can I plan for my interpreting and translating costs?

Understanding demand

Demand for interpreting and translating services is determined by your clients' written and spoken English proficiency and their preferred language.

Of the 20 per cent of Victorians who use a language other than English at home, many are also proficient in English and will not need an interpreter or translated information.

Approximately one in five people who use another language at home are likely to need an interpreter or translated information. English proficiency varies with language spoken, age and gender.

The need for an interpreter or translated information also depends on the nature, complexity and implications of the information to be conveyed. A client who has sufficient English to organise a parking permit may not have sufficient English to understand the implications of a complex medical procedure. Other people may not need an interpreter but may prefer written information to be translated or need assistance with writing in English. In the case of Auslan users, the majority will be comfortable reading and writing in English but may need an interpreter for face-to-face communication.

When preparing translated information it is also important to know that not all people are literate in their first language and not all languages have an established written form. In these cases, oral communication may be more effective.

Hidden demand

While statistics provide a guide to demand for translating and interpreting services, not all of those who need such services will come forward.

Hidden demand refers to:

- existing clients of a service who need an interpreter but are not asking for one, and/or
- potential clients not seeking services because they are not confident the agency will be receptive to their needs.

To assist with assessing demand, staff should be trained to identify clients who need assistance.

Sources of information

Sources of information which can be used to approximate potential demand, include:

- *ABS Census of Population and Housing*

This includes country of birth; preferred language and English proficiency data by collection districts, postcodes and local government areas; age and gender. (See www.abs.gov.au)

- *Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) Settlement Database*

This includes country of birth, immigration category, preferred language, English proficiency, year of arrival of entrants to Australia and local government area of intended residence. It is one of the few indicators of population change between censuses other than data from births, deaths and marriages. (See www.immigration.gov.au)

- *Existing client files*

Your own files may include preferred language and English proficiency by age and gender

- *Language services providers*

These services may hold data on requests for interpreting and translating services by language and region

- *Client surveys or community consultation*

These approaches allow you to collect your own data on preferred language, use of interpreters and responsiveness of current service.

ABS Census and DIMIA settlement data for Victoria can be found at www.voma.vic.gov.au or by contacting VOMA.

Planning for interpreting and translating costs

Translating and interpreting services cost money, whether they are provided through a language services provider or by in-house employees.

It is vital that you plan for this cost in advance, to ensure services are available when the need arises.

After estimating demand, you therefore need to:

- identify available funding sources and
- determine appropriate purchasing methods to maximise available resources.

Section 1 Part 4

Funding sources

Sources of funding for interpreting services vary between departments and include:

- centralised budgets for interpreting and translating services
- integration of resources into overall funding formulas based on client characteristics
- agencies funding their own interpreting and translating services within overall operating budgets.

Funded agencies and direct service areas of Government need to identify which system applies by contacting the relevant multicultural or diversity area in their department.

Fee-free services

Fee-free services may be available from the Commonwealth Translating and Interpreting Service (TIS) in limited situations, detailed in Appendix B.

Determining appropriate purchasing methods

Agencies managing their own resources should choose a method of purchasing that:

- is based on likely demand patterns and expenditure
- maximises value for money
- includes regular reporting on expenditure and unmet demand.

Whichever method you choose, it is important that frontline staff know who to contact when an interpreter or translator is needed.

Ad-hoc buying

Where demand and expenditure are low or unpredictable, you may wish to buy services on an ad-hoc basis from a recognised language services provider.

Contracts with language services providers

Where there is significant expenditure on interpreting services, you should assess the benefits of establishing a formal contract with a language services provider.

A formal contract or agreement enables you to:

- negotiate service standards and value for money, and
- incorporate features such as regular reporting on service levels and standards, staff training delivered as part of the unit price, and complaints procedures.

Contracts entered into by Government departments must comply with the policies and procedures of the Victorian Government Purchasing Board which are available at www.vgpb.vic.gov.au.

A model to help you assess your translating and interpreting needs is available at <http://www.immi.gov.au/tis/model.pdf>

How to monitor and evaluate interpreting and translating policy and procedures

- How will I monitor changing demand?
- How will I know if my policies and procedures have been successfully implemented?

Monitoring demand and measuring success

It is important to regularly assess whether interpreting and translating services are being successfully delivered.

To help with this assessment, you should:

- note clients' preferred language and interpreting needs on client records
- record expenditure on translating and interpreting services
- measure client satisfaction and client complaints
- keep appropriate data on bilingual workers and in-house interpreters.

This will enable you to compare your client group with the demographic profile of your wider catchment area or target demographic.

This has two advantages. First, it provides a broad understanding of access to your service by people from culturally and linguistically diverse backgrounds. Second, it means you can monitor changes in demand over time. You can then assess whether current service delivery arrangements provide value for money and are effective in meeting your clients' needs.

To help you monitor all elements of translating and interpreting services, the Victorian Office of Multicultural Affairs has developed recommended Victorian Government Standards for Data Collection. These are available from www.voma.vic.gov.au