

# Interpreter Services Quality Framework



# *Foreword*

I thank interpreters for their work in our courts and tribunals and for their passion in ensuring everyone has access to justice. As you are all aware, people who are involved in court proceedings need to understand what is happening, and be able to understand and respond to questions they are asked. You play a fundamental role in our justice system, making sure everyone can meaningfully participate, whatever language they use.

In 2021/22, interpreters were used in 9,971 court events, using over 100 different languages. We expect our need for interpreters to keep growing.

This framework has been developed to better support you to deliver quality services in courts and tribunals. It covers everything from the qualifications we expect of interpreters to what should be interpreted in a court room, and will help the Ministry to monitor the service provided to ensure it meets the needs of its users.

Once again, thank you for your contribution to date and going forward.

Carl Crafar  
Chief Operating Officer  
Ministry of Justice

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Disclaimer: Information contained in this quality framework is not intended to be considered legal advice and you should seek independent legal advice from a qualified professional should you require it.

# Introduction

INTRO

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This chapter sets out the legislative framework and outlines roles and responsibilities across the justice sector for the interpreter service operating in courts and tribunals.

## 1.1 Background

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To enable fair access to justice, a person needs to be able to sufficiently understand what is happening in a court proceeding and comprehend and respond to questions.

Most courts and tribunals in Aotearoa New Zealand conduct their hearings in the English language. English is not a first language for some participants – this can create a linguistic and cultural barrier that could disadvantage them in the hearing process<sup>1</sup>.

Interpreters play a fundamental role for enabling access to justice by ensuring justice is equally available to all court participants, whatever language they use.

Interpreters ensure participants can communicate by converting what the participant, legal professionals and court and tribunal staff<sup>2</sup> say in English, to the participant's preferred language and vice versa.

The Ministry of Justice (the Ministry) engages interpreters for hearings in courts and tribunals where the participants have trouble understanding English or elect to communicate in te reo Māori or New Zealand Sign Language (NZSL) (which are official languages of New Zealand).

## 1.2 Purpose and scope

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### Purpose

This document sets out the Ministry's quality framework for court-appointed interpreter services.

This quality framework aims to increase access to justice for participants by ensuring the interpreter service is delivered in a nationally consistent manner that meets the needs of its users.

This document will be used by interpreters, Language Service Providers (LSPs), Ministry and court and tribunal staff, the judiciary, and legal and justice sector professionals to guide the operation of the interpreter service in courts and tribunals.

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<sup>1</sup> A 2019 study by Mai Chen, Chair of the Superdiversity Institute for Law, Policy and Business: '*Culturally and Linguistically Diverse Parties in the Courts: A Chinese Case Study*' provides examples of the barriers people can experience and how they could be addressed in the justice system.

<sup>2</sup> Refers to Ministry of Justice employees who work in Senior Courts, District Courts and Tribunals.

This is a living document and will be updated over time.

## Scope

The quality framework covers standards for:

- qualifications, certification, induction, and training for interpreters
- service delivery guidance for interpreter services
- performance monitoring
- ongoing quality improvement relating to operational service delivery.

The standards are based on the Australian 'Recommended National Standards for Working with Interpreters in Courts and Tribunals'<sup>3</sup>, adapted for the Aotearoa/New Zealand environment.

This quality framework applies to suitably qualified independent interpreters who are engaged directly by the Ministry and those engaged through an LSP. It also covers situations where a suitable (unqualified) multilingual or bilingual person provides language assistance services where a qualified interpreter cannot be found.<sup>4</sup>

The quality framework does not cover the following:

- the interpreter service used by other justice sector agencies such as the Police, Oranga Tamariki and Ara Poutama Aotearoa - the Department of Corrections
- communication assistance
- translators.

While this document does not cover interpreting services provided by other justice sector agencies, it is important to note that public servants in New Zealand “must work to make government services accessible and effective.”<sup>5</sup>

## How this document fits with other resources

This quality framework replaces earlier guidance for interpreters (*Interpreter Guidelines*).

The Ministry's [Standard Terms and Conditions for Interpreter Services in Courts and Tribunals](#) (Standard Terms) require interpreters and LSPs to deliver services in line with this quality framework.

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<sup>3</sup> Developed by the Judicial Council on Cultural Diversity, an initiative of the Chief Justices of Australia and New Zealand. [https://jcdi.org.au/publications/national\\_standards\\_interpreters/](https://jcdi.org.au/publications/national_standards_interpreters/)

<sup>4</sup> This does not apply to cases involving Deaf participants or NZSL users. A qualified NZSL interpreter will always be used in these cases.

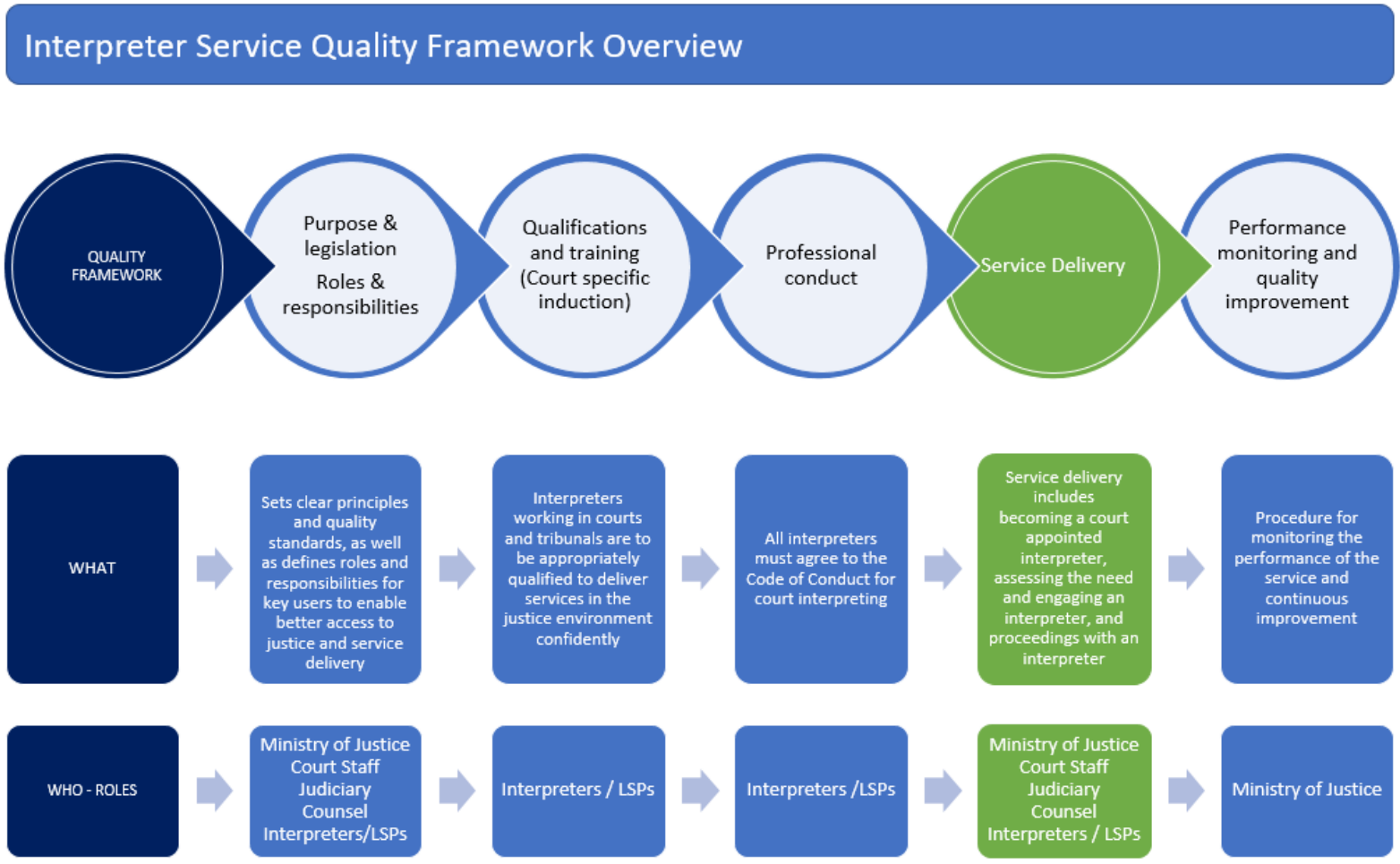
<sup>5</sup> Standards of Integrity & Conduct, Te Komihana o Ngā Tari Kāwanatanga/State Services Commission, June 2007. This is a minimum standard of integrity and conduct for the public sector, set by the Public Service Commissioner under section 17 of the Public Service Act 2020 (as a result of clause 8(2) of Schedule 1 to that Act).

The all-of-government language assistance service (LAS) provides guidance and other resources about face-to-face, video and telephone-based interpreting. This quality framework is intended to complement the LAS standards for the court and tribunal environment. Where the Ministry procures interpreter services through the LAS, this quality framework will also apply.

Participants that need an interpreter can find information on the Ministry's [website](#) about how to request an interpreter. Their counsel or support people can access this too.

The Ministry's website also provides information for interpreters about what an interpreter does, bookings, standard terms and conditions, and invoices and timesheets.

### 1.3 Quality framework overview



## 1.4 Enabling legislation

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The interpreter service aims to achieve equal access to justice as envisaged in:

- Te Tiriti o Waitangi
- New Zealand Bill of Rights Act 1990
- Human Rights Act 1993
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
- United Nations Convention of the Rights of the Child (UNCROC)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The Public Service Act 2020 and the Public Service Standards of Integrity & Conduct

Most court proceedings are in English; however, court participants have the right to speak te reo Māori<sup>6</sup> or use New Zealand Sign Language (NZSL)<sup>7</sup>. Competent interpreters must be made available by the court where a person's first or preferred language is NZSL, or they intend to speak te reo Māori.<sup>8</sup>

Section 80 of the Evidence Act 2006, which applies to both defendants and witnesses in criminal proceedings and witnesses in civil proceedings, provides an entitlement to communication assistance. Communication assistance is defined in section 4 of the Evidence Act to include oral or written interpreting of a language.

### **Criminal jurisdiction**

Interpreter services are an essential element of the right to a fair trial in criminal proceedings under section 25(a) of the Bill of Rights Act 1990. Where a participant in criminal proceedings is not fluent in English or elects to speak te reo Māori or use NZSL, the court commissions the assistance of an interpreter at no cost to the participant.

Section 24(g) of the Bill of Rights Act provides that everyone who is charged with an offence shall have the right to free assistance of an interpreter if the person cannot understand or speak the language used in court. Section 25(e) guarantees those charged with an offence the right to be present at the trial and to present a defence.

### **Children and young people**

Section 9 of the Oranga Tamariki Act 1989 prescribes for a child, young person, parent, or guardian appearing in proceedings that take place in the family or youth court under this Act to

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<sup>6</sup> Section 7 of Te Ture mō Te Reo Māori/ Māori Language Act 2016

<sup>7</sup> Section 7 of the New Zealand Sign Language Act 2006

<sup>8</sup> Section 7(3) of Te Ture mō Te Reo Māori/ Māori Language Act 2016 and section 7(3) of New Zealand Sign Language Act 2006



be provided with an interpreter where the first or preferred language is Māori or any language other than English.

Under section 11(2)(c) of the Oranga Tamariki Act 1989, if a child or young person has difficulties in expressing their views or being understood (for example, because of their age or language, or because of a disability), support must be provided to assist them to express their views and to be understood.

### **Mental health**

The Mental Health (Compulsory treatment and Assessment) Act 1992 (s6) requires a court or tribunal to ensure services of an interpreter are provided where the first or preferred language of the person is not English, or if the person is unable, because of a physical disability, to understand English.

### **Civil and family jurisdiction**

For civil and family jurisdiction matters, an application for an interpreter can be made to the court.<sup>9</sup>

The judge, other judicial officer, or their delegate as appropriate, has the discretion to decide whether an interpreter will be arranged and funded by the court. Access to justice is the primary consideration when assessing these applications. If the request is declined, the person making the request will need to arrange an interpreter at their own cost. Court and tribunal staff will provide the Ministry's list of approved court interpreters to the court user in this instance.

### **Court participants who can use interpreters<sup>ii</sup>**

Interpreters are available to any participant in a hearing (that is, applicant, plaintiff, defendant, respondent or appellant, witness, complainant, or victim giving evidence in a case) who is not fluent in English or elects to use NZSL or te reo Māori.<sup>10</sup>

### **Courts where interpreters can be used**

Interpreters can be used in all courts or tribunal hearings for any legal proceeding.

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<sup>9</sup> In *Li v Commissioner of Police* [2016] NZHC 1383, Wylie J noted the practice in civil proceedings is that the party calling a witness who is in need of an interpreter generally meets the costs involved, at least in the first instance. At [15], Wylie J commented that this practice is not necessarily consistent with s 80(3) which provides that a witness is "entitled to" communication assistance. In an appropriate case, the costs of providing that assistance should fall on the Crown. However, Duffy J considered the *Li* decision in *Zhang v King* [2016] NZHC 1479, (2016) 23 PRNZ 253 and held that there was not a general right for civil litigants to have the costs of their interpreter covered by the Court or some general fund. See also *Zinck v Sleepyhead* [1995] ERNZ 448.

<sup>10</sup> The High Court Rules 2016, rr1.11 to 1.16, set out the requirements for a party who wishes to speak use te reo Māori or NZSL.

## Out of court interpreters

As a general rule, for matters requiring an interpreter out of court (for example, communication with counsel before a hearing), the participants or their counsel need to arrange interpreters at their own expense, or through other funding arrangements such as legal aid.

A court-appointed interpreter may be used for some out of court events or services, where requested by court staff or directed by a judicial officer or their delegate. This includes some judge-directed family court services (for example when an interpreter is required for the preparation of a specialist report) and when an interpreter is required to support a witness to attend a court education session.

Ministry-funded interpreters are also available for participants accessing court-directed services (such as Restorative Justice or Family Dispute Resolution) through justice sector providers contracted to the Ministry<sup>11</sup>.

Oranga Tamariki are responsible for managing and funding the use of appropriately qualified interpreters for Family Group Conferences and other communications with children and young people. This includes when a Family Group Conference is court-directed.<sup>12</sup>

## Understanding the role of interpreters<sup>iii</sup>

Interpreters help participants get full and fair access to justice throughout the court proceeding. Interpreters facilitate communication by converting what the participant, court and tribunal staff and legal professionals speak in English to the participant's preferred language and vice versa.

The interpreter's main task is to interpret oral statements (or signed statements for NZSL interpreters), evidence, and legal exchanges for those who are not fluent in English.

The interpreter's work also helps the understanding of other people in a court or tribunal hearing, such as:

- the presiding officer of the court or tribunal who will make the decision in a case – this may be a judge, chair, or referee
- lawyers or representatives appearing for the Crown or prosecuting authority or parties to a case
- the jury if the case is a jury trial
- victims and their whānau
- media reporting the hearing
- the public, if there is an open hearing.

## Types of interpreting and translation

*Consecutive interpreting (primary type used in courts and tribunals)* – the interpreter conveys what was said, in short segments, into the target language after the speaker has paused.

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<sup>11</sup> These services are arranged by the justice sector providers contracted to the Ministry when they require an interpreter. The Central Registry (CR) is not involved.

<sup>12</sup> Section 11 of the Oranga Tamariki Act 1989

*Telephone or video interpreting* – a person is connected to a telephone or video interpreter over a 3-way conference call/ video call between two individuals who speak different languages, and a third-party interpreter. Telephone or video interpreting is becoming more frequently used in courts and tribunals.

*Adversarial interpreting* – is where an independent interpreter is engaged to check and review the quality of another interpreter’s interpreting.

*Relay interpreting* – is when one interpreter interprets from language A to language B and the other interpreter interprets language B to language C. It’s most commonly used when there are multiple target languages.

*Tandem (or team) interpreting* – involves two or more interpreters working in rotation at agreed intervals to avoid fatigue and meet occupational health and safety standards. For example, two interpreters may be required for sessions over one hour.

*Simultaneous interpreting* – the interpreter conveys what was said into the target language at the same time as the speaker talks. Spoken language interpreters use a headset and transmitter to convey what was said to the target audience through a receiver with headphones.

*Trilingual interpreting*- in situations involving Deaf people where te reo Māori is being spoken, an interpreter who is skilled in NZSL, Te Reo Māori and English is needed. These specialists are known as trilingual interpreters.

*Sight translation* – is where the interpreter verbally converts written materials from one language to another.

*Translation* – is where written materials are converted from one language to another in written form. Translation is out of scope of this framework.

*Captioning* – is where the captioner conveys what was said into written text. Captioning is out of scope of this framework.

## **The relationship between interpreters and communication assistants**

Interpreters are not communication assistants. Communication assistance is a separate service available for participants who would be otherwise unable to effectively communicate with their lawyer or understand and answer questions in a court proceeding because the participant has (or is suspected to have) an intellectual or learning disability, autism or other neurodiversity, brain injury, or under-developed language or communication skills.

Some participants may require communication assistance and an interpreter to facilitate communication if their needs go beyond interpreting between languages.

## **1.5 Roles and responsibilities**

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### **Justice sector roles and responsibilities for interpreter services**

A range of people have a duty to ensure that the interpreter service effectively increases access to justice for participants.

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**The Ministry's National Service Delivery is responsible for:**

- setting operational policy and overseeing that services are delivered
- monitoring service quality, service delivery, demand for the service, equitable service access, service coverage, and budgetary impacts
- liaising with the judiciary, counsel, Police, Oranga Tamariki, the Department of Corrections and other government agencies
- providing operational advice
- managing formal complaints and issues.

**Central Registry<sup>13</sup> is responsible for:**

- managing booking requests for court-appointed interpreters
- managing booking cancellations, adjournments, and rescheduling, when notified by the court or tribunal
- managing interpreter payments
- recording independent interpreter qualifications, certification, and training records
- managing the process for the engagement of new independent interpreters, including assisting courts with interviewing applicants as required.

**Court and tribunal staff are responsible for:**

- interviewing potential independent interpreters and deciding if they can be approved for the Ministry list
- providing induction for interpreters working in courts and tribunals
- assisting the interpreter at court
- administering the oath during proceedings
- requesting and liaising with Central Registry regarding bookings
- arranging urgent interpreter bookings outside of Central Registry business hours
- verification of interpreter timesheets
- assisting with and managing issues and complaints through to early resolution
- considering and responding to potential or actual conflicts of interests between interpreters and participants, for example requesting another interpreter or bringing the matter to the attention of the judge.

**Court Victim Advisors are responsible for:**

- being aware of the interpreter service and when to use it when assisting victims
- determining the need for an interpreter in line with this quality framework

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<sup>13</sup> Central Registry is a team within the Ministry's National Service Delivery business unit.

- initiating the request for a correct language or dialect interpreter with as much notice as possible
- providing feedback, raising any issues or complaints about interpreters to court and tribunal staff. In particular, where there are concerns about safety, family violence and sexual violence, and impartiality.

### **Judicial officers**<sup>iv</sup>

Judicial officers have a duty to ensure that proceedings are conducted in accordance with applicable principles of procedural fairness and to avoid a miscarriage of justice in criminal proceedings. To ensure those obligations are met, judicial officers should:

- determine whether there is a need for an interpreter, having regard to this framework<sup>v</sup> and, if one is required, approve the use of interpreter services in court or tribunal proceedings
- if the participant is self-represented, determine the level of interpreting assistance required
- in a criminal proceeding, ensure the defendant understands the process before entering plea and before embarking on trial
- introduce the interpreter to the court or tribunal, brief the interpreter and explain their role as an officer of the court
- ensure courtroom communication is conducted in plain English (where applicable) and at an appropriate speed to enable the interpreter to facilitate communication<sup>vi</sup>
- ensure the interpreter is provided regular breaks<sup>vii</sup>
- where necessary and where a qualified interpreter cannot be engaged (including an interpreter from a professional telephone or video interpreting service), consider, and if appropriate, approve the use of a suitable bilingual or multilingual person (who is not a professional interpreter) to act as a language assistant.<sup>viii</sup>

### **Interpreters and Language Service Providers**

Interpreters are responsible for:

- delivering interpreter services in line with Ministry requirements, including complying with this quality framework
- engaging with participants in a culturally safe way and advising court or counsel if there are cultural and other sensitivities, such as gender considerations, political, religious, or other tensions between different groups and language speakers involved in the case
- holding an appropriate interpreting credential or credentials by 1 July 2024, for languages that have a relevant interpreting credential within the National Accreditation Authority for Translators and Interpreters Ltd (NAATI). Te reo Māori and NZSL interpreters have been invited to join the NAATI framework and testing may be introduced after 1 July 2024
- maintaining NAATI credential(s).

Language Service Providers are responsible for:

- keeping a record of interpreters that have completed the Ministry's online induction training modules
- supporting or providing ongoing professional development for interpreters
- supporting ongoing quality improvement and service development improvements, such as training and improvements to processes and systems.

**Legal counsel and police prosecutors are responsible for:**

- being aware of the interpreter service and when to use it
- determining the need for an interpreter in line with this quality framework<sup>ix</sup>
- initiating the request for a correct language or dialect interpreter with as much notice as possible<sup>x</sup>
- using plain English at an appropriate speed to communicate clearly during court proceedings<sup>xi</sup>
- adequately briefing the interpreter about the case and what to expect in court<sup>xii</sup>
- providing a reasonable amount of time for the interpreter to be familiar with any relevant written materials<sup>xiii</sup>
- ensuring any documents or video/ audio in a language other than English, being referred to or tendered into evidence in proceedings, have been translated into English or other language by an accredited translator.

# Qualifications, training, and induction

This chapter sets the required professional qualifications, certification, and training for interpreters.

## 2.1 Who can provide interpreter services in courts and tribunals?

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Interpreting is a specialist skill, especially in the court environment. Being bilingual or multilingual does not qualify a person as being an interpreter. Interpreters engaged by the Ministry to provide services in the court context should be suitably qualified and hold relevant credential(s).

To be eligible to deliver interpreter services in New Zealand courts or tribunals a person must:

- a) be a New Zealand citizen or hold a permanent resident visa, or an appropriate working visa
- b) be proficient speaking English (including commonly used medical and legal terminology)
- c) hold, or be working towards, an appropriate interpreting credential or credentials, as set out in figure 1 below<sup>14</sup>
- d) complete, or be working towards completing, Ministry interpreter training modules<sup>xiv</sup>
- e) work in compliance with this quality framework, specifically the code of conduct
- f) comply with the New Zealand Society of Translators and Interpreters (NZSTI) Code of Ethics and Code of Conduct (regardless of whether or not the interpreter is a member of Te Rōpū Kaiwhakamāori ā-waha, ā-tuhi o Aotearoa/ the New Zealand Society of Translators and Interpreters)
- g) for interpreters interpreting to and/or from a sign language, comply with the SLIANZ Code of Ethics and Code of Conduct (regardless of whether or not the interpreter is a member of Te Rōpū o Ngā Kaiwhakamārama Reo Turi o Aotearoa/the Sign Language Interpreters' Association of New Zealand).

LSPs will supply interpreters who meet this eligibility criteria for work in courts and tribunals.

All three codes of conduct mentioned above (e,f,g) include a focus on professional conduct, accuracy, competency, confidentiality, impartiality, role clarity and professional development.

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<sup>14</sup> Any interpreter (whether engaged at the time of publication of this quality framework or thereafter) who does not hold an appropriate interpreting credential must be working towards obtaining one no later than 1 July 2024. Interpreters working in, to or for the justice sector from 1 July 2024 must hold an appropriate credential.

## 2.2 Criminal record checks

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All interpreters must complete a criminal record check when they begin to work in courts and tribunals, and every three years thereafter. Interpreters must share the results of their criminal record check with the LSP they work through, or for independent interpreters, the Ministry.

If an interpreter is charged with or convicted of an offence between routine criminal record checks, they must notify the LSP they work through or the Ministry if engaged directly. The Ministry will assess, at its discretion, whether it will continue to engage any interpreter who has been charged with or convicted of an offence.

Full police vetting is not mandatory. However, the Ministry may request a police vet when it deems appropriate. An interpreter should never be alone with a participant, especially if the participant is a child.



**Figure 1: Qualification, certification, and other requirements**

Type of interpreter	Qualification or certification requirements	Professional membership requirements
<b>Spoken language interpreter</b>	<p>A tertiary qualification in interpreting and/or qualification in interpreting and translation endorsed by National Accreditation Authority for Translator and Interpreters (NAATI). For more information see: <a href="#">Endorsed Qualifications Institutions</a></p> <p>Some of the most common qualifications from New Zealand educational institutions are: Bachelor of Arts (interpreting major), Graduate Diploma in Arts (interpreting), Graduate Certificate in Arts (translating), Postgraduate Certificate in Intercultural Communication and Applied Translation, Master of Translation, Master of Applied Translation and Interpreting, Master of Intercultural Communication and Applied Translation. You can see a full list <a href="#">here</a>.</p> <p>Court-appointed interpreters must also be working towards NAATI certification, and have achieved one or more of the following certifications by 1 July 2024:</p> <ul style="list-style-type: none"> <li>• Registered to apply for NAATI certification</li> <li>• Recognised Practising Interpreter credentials</li> <li>• Certified Provisional Interpreters</li> <li>• Certified Interpreters</li> <li>• Certified Specialist Legal Interpreter.<sup>15</sup></li> </ul>	<p>Membership with New Zealand Society of Translators and Interpreters (NZSTI) is preferred but not required.<sup>16</sup>.</p>
<b>New Zealand Sign Language (NZSL) interpreter</b>	<p>New Zealand Sign Language interpreters should have at least one of the following: :</p> <ul style="list-style-type: none"> <li>• Bachelor of Arts (BA) with a major in New Zealand Sign Language – English Interpreting, or Diploma in Sign Language</li> <li>• Overseas Sign Language qualification assessed by the Sign Language Interpreters Association of New Zealand.</li> </ul> <p>It is intended that NAATI certification will be used for NZSL interpreters after 1 July 2024. Once certification has been developed, interpreters will be required to have either Certified Provisional Interpreting (CPI) or Certified Interpreter (CI) certifications.</p>	<p>Membership of the Sign Language Interpreters Association of New Zealand (SLIANZ) is required and a minimum of two years' professional experience.</p> <p><u>OR</u></p> <p>The minimum experience</p>

<sup>15</sup> NAATI sets minimum standards of performance. Interpreters gain certification through passing a certification test. This recognises the interpreter has appropriate work experience, academic training, and sufficient English proficiency, ethical competency and intercultural competency. There are two main levels of testing, 'provisionally certified' and 'certified'. Recognised Practising Interpreter credentials are available for languages (such as Tongan) where NAATI currently does not offer an objective test of language skills. It is possible to verify NAATI certification on the NAATI website (<https://www.naati.com.au/>).

<sup>16</sup> NZSTI is a nationally representative body of translators and interpreters in New Zealand that promotes continued professional development, quality standards. NZSTI is not an agency and does not supply services or employ language professionals.

		required of the Language Service Provider (LSP).
<b>Te reo Māori interpreter</b>	<p>Toi Reo Māori certification issued by Te Taura Whiri i te Reo Māori and on the national interpreters register</p> <p>Or</p> <p>Written endorsement by kaumatua or kuia with te reo Māori expertise.</p>	

## 2.3 Becoming a court interpreter

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The Ministry engages suitably qualified interpreters from multiple sources to ensure it has sufficient supply to meet demand and can engage interpreters for difficult to source languages and dialects when required.

In-court interpreter services may be provided by:

- independent interpreters who are engaged directly by the Ministry
- interpreters who are engaged through LSPs who are party to one of the Government's open syndicated contracts for interpreting services
- interpreters who are engaged through LSPs who are not party to the Government's open syndicated contracts for interpreting services.

The Ministry's standard terms apply for all interpreter engagements, regardless of whether they are engaged independently or through an LSP or the LAS.

### 2.3.1 Independent interpreters

The Ministry maintains a list of suitably qualified independent interpreters and may consider applications from new independent interpreters from time to time.

Applicants may register their interest in becoming an independent interpreter by emailing their recent criminal record check, CV and application form to the Central Registry by email at [interpreters@justice.govt.nz](mailto:interpreters@justice.govt.nz)

The information submitted must include:

- interpreting qualification(s) as specified in figure 1
- relevant certification or recognition
- membership of any interpreter professional body or organisation
- experience interpreting, especially in a court environment
- location or preferred region(s) to work in
- language(s) and dialect(s) spoken
- whether the interpreter prefers working (or not working) in a specific jurisdiction, type of court or tribunal or proceeding
- confirmation that the interpreter's existing contractual agreements with any LSP allows the interpreter to provide their services directly to the Ministry.

Once the Ministry receives an application, it will assess the information provided and the applicant may be invited to an interview. If successful, the interpreter will be added to the Ministry's list of interpreters. The new independent interpreter will be required to complete the Ministry's induction process and the required online training modules.

### 2.3.2 Language Service Providers

The Ministry currently engages interpreters through a small group of LSPs who are not party to either of the government's open syndicated contracts for interpreting services.

Interpreters engaged through LSPs are required to complete the Ministry's induction and training.

### 2.3.3 Language Assistance Service (LAS)

The Ministry may engage interpreters who are party to one of the government's open syndicated contracts for interpreting services.

Interpreters engaged through the LAS who have not worked in court before are expected to complete the Ministry's induction and online training modules.

### 2.3.4 Court and tribunal induction

The Ministry provides an induction (welcome) pack for all interpreters who are new to court interpreting.

The Ministry will provide the welcome pack to independent interpreters, and LSPs will provide it to the interpreters they engage.

What	Details
<b>Welcome information pack</b>	<p>The welcome pack includes:</p> <ul style="list-style-type: none"><li>• link to the quality framework</li><li>• link to the standard terms</li><li>• timesheet and payment information</li><li>• how to arrange a court or tribunal orientation.</li></ul> <p>The welcome guide provides information about working in the court environment and what to expect, such as:</p> <ul style="list-style-type: none"><li>• points of contact for booking enquiries and questions about the hearing</li><li>• expectations and responsibilities of interpreters</li><li>• what to expect about case duration and changes to bookings</li><li>• the need to wear a microphone and be recorded so that hearings can be transcribed</li><li>• wearing identification</li><li>• where to stand or sit during the hearing</li><li>• providing the required type of interpreting for the defendant or party for whom the interpreter is interpreting, and speaking in open court</li><li>• taking an official oath</li><li>• what to wear in court, how to contact the court, court roles and responsibilities, becoming familiar with court layout</li></ul>
<b>Training modules</b>	<p>The Ministry will provide access to online introductory training modules so interpreters can learn about the justice system and the people that work within it. These brief training modules should be completed ahead of the interpreter's first assignment in court. The Ministry may also make additional training modules available from time to time that interpreters are expected to complete.</p>

### 2.3.5 Court and tribunals orientation

New court interpreters should contact the court ahead of their first assignment to arrange a time for a tour of the court or tribunal facilities including:

- court security (where they are located on each floor)
- health and safety procedures
- Wi-Fi availability
- location of key areas within the court, such as service desk, bail counter, courtrooms, toilets, cells, break areas
- how cases will be called, and what to do when they are
- where to sit or stand in the courtroom
- what will happen when the hearing starts, including taking an official oath or affirmation
- how to address the judicial officer and other relevant court protocols
- how to get timesheets signed

Court staff will provide an overview of the tikanga of the court.

New interpreters can attend court to observe an experienced court interpreter ahead of their first assignment. The Ministry will arrange this for independent interpreters, while LSPs can arrange this for the interpreters they engage. Where the court hearing is closed to the public, court or tribunal staff may be able to arrange access for interpreters with the presiding judge's approval if appropriate.

### 2.3.6 Training modules

The Ministry's interpreter training modules are mandatory for all interpreters working in Aotearoa New Zealand courts and tribunals. The brief training modules cover the foundation learning needed to work as an interpreter in Aotearoa New Zealand courts and tribunals. Interpreters will be expected to confirm they have completed these modules before their first interpreting assignment.

The Ministry will update the training modules or may make additional training modules available from time to time and all interpreters who work in courts will need to complete this training.

### 2.3.7 Ongoing professional development

To maintain professional knowledge skills, and their certification, interpreters are expected to complete continued professional development either independently or through their LSP. They should keep up to date with relevant technology, cultural understanding, and language trends.

NAATI credentials have a three-year validity period and interpreters wishing to maintain their credentialed status must successfully recertify before their credential expires. Recertification involves (among other things) being able to demonstrate that they have met the criteria, which include work practice criteria and professional development criteria. These criteria are set out on the NAATI website and in the NAATI Recertification Professional Development Catalogue.

# Code of conduct

This chapter sets out the conduct the Ministry expects of all interpreters.<sup>xv</sup>

All interpreters and LSPs must be aware of the professional conduct expected of them.

Independent interpreters may seek clarification or guidance from the Ministry if they are unsure of any situation relating to professional conduct. Interpreters engaged by an LSP can seek this guidance from their LSP.

## 3.1 Conduct expected of interpreters

### 3.1.1 General duty to the Court

<b>Officer of the court<sup>xvi</sup></b>	An interpreter has an overriding duty as an officer of the court to assist the Court impartially.  The paramount duty is to the court and not to any participant (including the person retaining or paying the interpreter).  An interpreter is not an advocate, agent or assistant for a party or witness.
<b>Duty to comply with directions<sup>xvii</sup></b>	An interpreter must comply with any direction of the court.

### 3.1.2 Conduct

<b>Disclosing a conflict of interest<sup>xviii</sup></b>	A conflict of interest arises when a person's independence, objectivity or impartiality can be called into question. A conflict of interest may occur if an interpreter has: <ul style="list-style-type: none"><li>• any personal knowledge or involvement with the case</li><li>• or may have a financial or other interest of any kind whatsoever in the outcome of the proceeding or proposed proceeding</li><li>• personal involvement with the participants or other people involved with the case such as a lawyer</li><li>• an appearance or perception of a conflict of interest.</li></ul> An example could be assisting in a hearing where a witness is a relative or close personal friend of the interpreter.
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	<p>An interpreter must address any actual, potential, or perceived conflicts of interest in a transparent way.</p> <p>Where possible, interpreters must disclose any known conflict of interest to the Central Registry team or Court Registry Officer before confirming availability for a case. If the interpreter becomes aware of a conflict of interest after taking the case, they must inform the Court Registry Officer. If the interpreter becomes aware of a conflict of interest after the case has commenced, they must immediately inform the judge who will determine what should be done. This can be done via counsel, the court taker or by speaking to the judge directly (if interpreting).</p> <p>Deaf people and NZSL interpreters may be well known to each other as it is a small and well-connected community. NZSL interpreters should make Central Registry or court and tribunal staff aware of potential conflicts.</p>
<p><b>Being impartial</b></p>	<p>An interpreter must remain impartial at all times so as to be without bias in favour of or against any person (including the person whose evidence the interpreter is interpreting and the person who has engaged or is remunerating the interpreter).</p> <p>An interpreter must not interfere with or prejudice the independence of the judiciary or the court by:</p> <ul style="list-style-type: none"> <li>• attempting to involve, lobby or influence individual judges about decisions or matters that are the responsibility of the Ministry or the judiciary</li> <li>• behaving inappropriately with the Judiciary, such as attempting to discuss with a judge the details of a case, unless required to do so for work purposes</li> <li>• having unnecessary contact with participants, jurors, and parties to the case, including their families/whānau and lawyers. This should not limit appropriate contact, such as contact needed to adequately prepare for an assignment.</li> <li>• altering or minimising a complainant's or a witness's descriptions of violence, even if they are describing interpersonal violence perpetrated by a spouse, a senior, elder or any person of high regard within a community.</li> </ul> <p>The interpreter must not act as an advocate or give legal advice to participants.</p> <p>The interpreter must not express a personal opinion on the case before the court. They must set aside any personal, religious, or cultural beliefs or circumstances that may influence their impartiality. If an interpreter considers</p>

	<p>their objectivity may be compromised, they must withdraw from the assignment.</p> <p>NZSL interpreters may need to explain terms and phrases to Deaf people and NZSL users to ensure understanding.</p>
<p><b>Keeping information private and confidential<sup>xix</sup></b></p>	<p>Interpreters must keep all case information confidential, unless a court or tribunal orders them to disclose it.</p> <p>Information that must be kept confidential includes any information the interpreter is provided to help prepare for a hearing and any notes the interpreter may take. Interpreters can keep case information secure by:</p> <ul style="list-style-type: none"> <li>• using a password or encryption on their computer</li> <li>• not leaving confidential documents where other people might see them or steal them (for example, leaving them in a car or on public transport)</li> <li>• not discussing case details in public places such as court waiting rooms</li> <li>• making phone calls or having discussions about a case at a time and a place where they will not be overheard.</li> </ul> <p>Where an interpreter is assisting both defence counsel and the prosecution to communicate with the same participant, they must ensure that information about the case or the questioning strategy heard when working with defence counsel is not shared with the prosecution and vice versa.</p> <p>If a “suppression order” is in place, this restricts publication of certain details (for example, the participant’s name or evidence given at trial). Interpreters could face legal action (including fines or imprisonment) if they breach a suppression order by disclosing any of the suppressed details.</p> <p>The interpreter should be aware that the Oranga Tamariki Act (s37) prevents disclosure of information about the proceedings of a family group conference.</p> <p>Interpreters working in the Immigration Protection Tribunal should be aware of the confidentiality requirements in section 151 of the Immigration Act 2009.</p> <p>If an interpreter thinks someone has seen documents or information relating to a case who is not entitled to do so, they must:</p> <ul style="list-style-type: none"> <li>• immediately inform the presiding judge, if the case has commenced</li> <li>• try to get the documents or information back, or stop the information spreading</li> <li>• evaluate the risk of the breach – has the information been recovered or destroyed, how many people’s information is involved, how sensitive is the information, could anyone be harmed by the misuse of the information?</li> </ul>



	<ul style="list-style-type: none"> <li>• report the breach to the Ministry as soon as practicable after becoming aware that a notifiable breach has occurred, and work with the Ministry to investigate the incident and mitigate any potential harm</li> <li>• analyse what caused the breach and take steps to prevent it happening again.</li> </ul> <p>If an interpreter is contacted directly by the participant or anyone else about the case, they must not discuss the case in any way or share any information. The interpreter must tell the Central Registry if they are contacted by anyone about a case. The Ministry will investigate the matter and respond as appropriate.</p> <p>Interpreters and Language Service Providers (LSPs) must act in accordance with the Ministry’s Privacy Guidelines for Justice Providers, the Privacy Act 2020, and any other relevant obligations.</p> <p>The Ministry’s <a href="#">Privacy Guidelines for providers of Justice Services</a> is a useful resource to help interpreters manage information in a way that is confidential, secure, and consistent with the requirements under the Standard Terms.</p> <p>It is best practice to seek the person’s consent before sharing their private information, but this is not always necessary if immediate action is needed to keep someone safe or uphold the law.</p>
<b>Duty of Competence</b>	<p>An interpreter or a LSP must only undertake work they are competent to perform in the languages they are qualified in.</p> <p>If it becomes apparent to the interpreter that they do not have the appropriate level of expertise, the interpreter must inform the court immediately to resolve the situation.</p> <p>Competency standards include: <sup>xx</sup></p> <ul style="list-style-type: none"> <li>• good comprehension of English</li> <li>• knowledge of the languages and cultures involved</li> <li>• knowledge of the subject matter and context of the legal setting</li> <li>• conversion of source language to target language to convey accurate meaning</li> <li>• delivering interpreting in a way that takes on the style of the original speaker, is in first person, and addressed to the person being questioned not at the interpreter.<sup>xxi</sup></li> </ul>
<b>Duty of Accuracy<sup>xxii</sup></b>	<p>An interpreter must at all times use their best judgement to be accurate in their interpreting or sight translation.</p> <p>Accurate means the optimal and complete transfer of the meaning of the other language into English and of English into the other language, preserving the</p>

	<p>content and intent of the other language or English without omission or distortion. This means the interpreter must not alter, add, or leave anything out when interpreting - the interpreting should be precise including, as far as possible, translating offensive language such as derogatory terms and swear words.</p> <p>Interpreters require breaks to maintain accuracy. Depending on the duration of the court hearing, the judicial officer and interpreter should agree on frequent rest breaks.</p> <p>If an interpreter considers that their interpreting or sight translation is or could be in any way inaccurate, incomplete or requires qualification or explanation then:</p> <ul style="list-style-type: none"> <li>• the interpreter must inform the party who engaged them and provide the necessary correction, qualification, or explanation to that party; and</li> <li>• if their evidence is being given or was given in Court, immediately inform the Court and provide the necessary correction, qualification, or explanation to the Court.</li> </ul>
<p><b>Managing disclosure of information relating to a case</b></p>	<p>An interpreter should take steps to prevent being in a position where a participant discloses information to them about the case, this includes:</p> <ul style="list-style-type: none"> <li>• avoiding being alone with the participant</li> <li>• explaining to the participant that they should not discuss details about the case with them</li> <li>• asking the participant to stop disclosing information if they begin talking about the case.</li> </ul> <p>Despite taking these steps, if prior to proceedings starting, the participant tells the interpreter information that the interpreter believes is relevant to the case (for example that they lied or shares what could be new evidence), the interpreter must record as accurately as possible what was said and inform the officer in charge/ prosecutor (for a prosecution witness) or the defence lawyer (for a defendant or defence witness) as soon as possible.</p> <p>If the interpreter is informed by defence counsel or the officer in charge/ prosecutor that the disclosure is substantive new information about the case, then the interpreter should submit an affidavit that includes verbatim transcript of the information disclosed. The affidavit is submitted to defence counsel for a defendant or defence witness and officer in charge/prosecutor for a prosecution witness.</p> <p>If the participant discloses information about the case to the interpreter during a trial, the interpreter should request to speak to the judge in private and tell them what they have heard.</p>

<p><b>Information is not to be used for personal gain</b></p>	<p>An interpreter must not take advantage of knowledge obtained when acting as an interpreter or through access to court information, facilities, or privileges, for their own personal gain or to benefit another person.</p> <p>If an interpreter feels their role as an interpreter is being misused by any party, they must inform the Court Registry Officer.</p>
<p><b>Unauthorised payments or gifts must not be accepted</b></p>	<p>The Ministry will authorise payment for the interpreter's services. An interpreter must not accept any other payment (remuneration), gift or gratuity.</p> <p>If anyone offers to pay an interpreter (outside of the normal payments process) or give an interpreter a gift, they must inform the Court Registry Officer.</p>
<p><b>Protecting the reputation of the court</b></p>	<p>Interpreters must exercise good judgement based on integrity and honesty in every action taken representing the court and, in all situations, where their actions could reflect on it.</p> <p>It is important that interpreters respect other professionals and the roles they are required to do. If an interpreter disagrees with a decision of another professional, it should not be debated in public or in front of the participant and their whānau.</p> <p>Interpreters are expected to act lawfully during work and in their private life. Any actions that break the law can harm the reputation of the court or the Ministry.</p> <p>Interpreters must inform the Ministry (and their LSP if relevant), if they are subject to any Police investigation, charged with or convicted of any criminal offence (except an infringement offence) or become subject to any court order in relation to a criminal matter.</p> <p>All breaches and alleged breaches of the law by interpreters are of concern, particularly where they involve dishonesty, breaches of trust or violence.</p>
<p><b>Respect for participants and cultural safety</b></p>	<p>Many people who require interpreters may face stigma and discrimination. Interpreters should behave in a manner that respects the participant's dignity. All participants must be treated with respect regardless of their mental health status, disability, age, cultural or ethnic identity, socio-economic status, language, religious or spiritual belief, sexual orientation, or gender identity.</p> <p>The interpreter must engage in ongoing self-reflection and self-awareness of their own views and biases to understand how they can impact on the delivery of their work. The interpreter must commit to acknowledging and addressing any of their own biases, attitudes, assumptions, stereotypes, prejudices, structures, and characteristics to create a culturally safe environment for all participants. Cultural competency training may be helpful and available through interpreter professional membership organisations.</p> <p>If the interpreter recognises a cross-cultural misunderstanding, or comprehension or cognitive difficulties, the interpreter should seek leave (ask the court's permission) from their judicial officer to raise the issue.<sup>xxiii</sup></p>

<b>Ethics</b>	Interpreters must comply with the Code of Ethics or similar issued by their professional body or registration body.
<b>Reporting concerns about family violence and sexual violence</b>	<p>New Zealand has very high rates of family violence and sexual violence. This means that many court participants will be affected now or at some time in their lives, whether they are involved in court due to violent crimes or for some other reason.</p> <p>The Ministry is committed to providing the best response it can to people affected by family violence and sexual violence. It's important that participants feel safe and supported by the Ministry and interpreters providing services in courts and tribunals.</p> <p>If an interpreter has concerns about a participant's safety, they should arrange to speak privately with the judicial officer or a court victim advisor about their concerns.</p> <p>Once it is available, interpreters will be expected to complete the Ministry's training to improve justice sector professionals' awareness and response to family violence and sexual violence.</p>

### 3.1.3 Court protocol

<b>Conduct in court</b>	<p>When necessary, an interpreter must bring matters of immediate concern to the attention of the court at the time they occur (including when there is a concern of family violence or sexual violence). They should arrange to speak privately with the judicial officer or a court victim advisor about their concerns.</p> <p>Requests by the interpreter to correct a mistake, for repetition, clarification and explanation should be addressed to the judicial officer rather than to the questioning counsel, or participant.<sup>xxiv</sup></p> <p>Cell phones or other devices must not be used for personal use while the court is sitting.</p>
<b>Dress standard is formal</b>	It is expected that interpreters will maintain the appropriate dress standard to reflect the function of the court. No hats, sunglasses, jeans, gang affiliated symbols or casual clothes are to be worn.
<b>Arrive on time</b>	Interpreters must arrive on time for the start of the hearing. This includes returning from breaks on time. Please arrive at least 15 minutes before the hearing is scheduled to begin. <sup>xxv</sup>
<b>Talking to a judicial officer</b>	<p>A judge of the High Court, Court of Appeal, and Supreme Court is referred to as "Justice" followed by their surname.</p> <p>A judge of the District Court or other court (such as Employment Court or Environment Court) is referred to as "Judge" followed by their surname.</p> <p>A judge may also be addressed as "Your Honour", "Sir" or "Ma'am".</p>

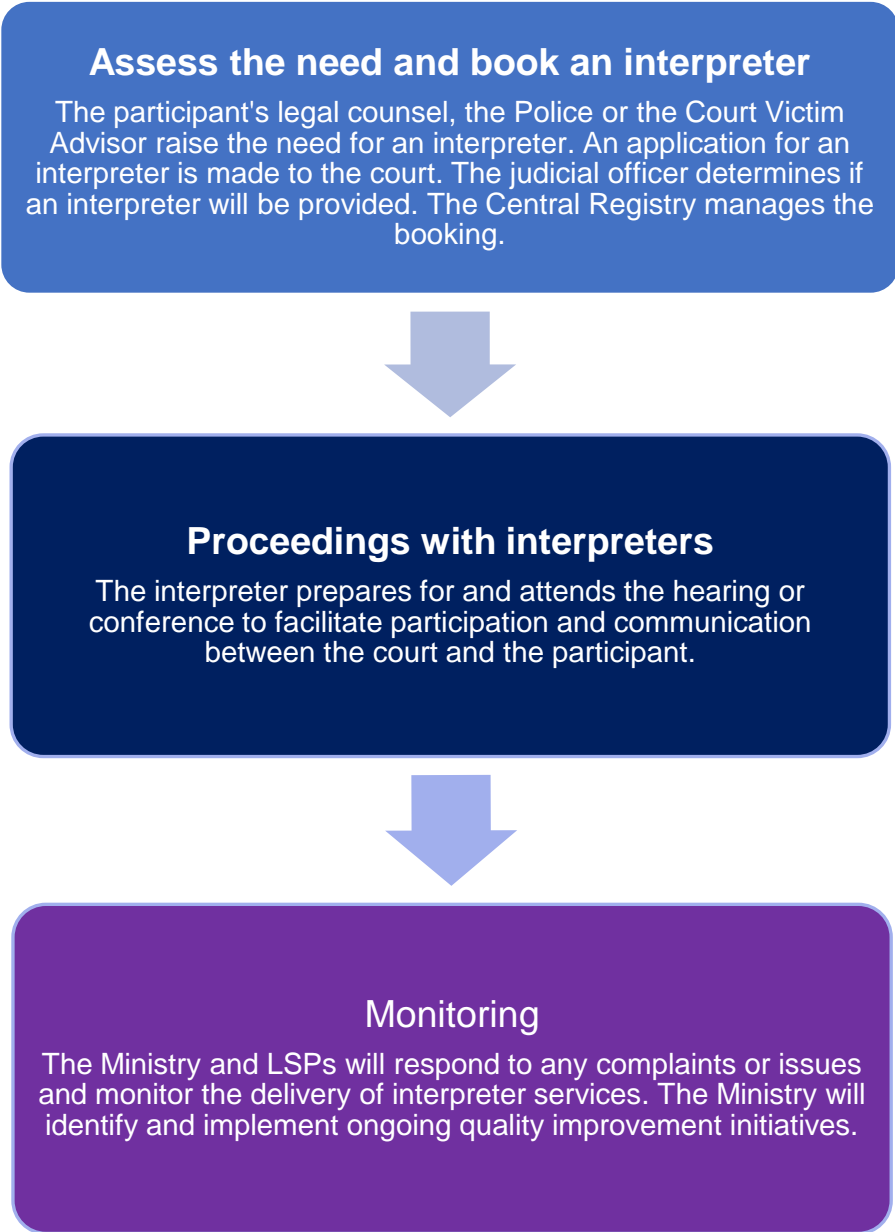
	<p>In te reo Māori, a Judge is addressed as “E te Kaiwhakawā” and Chief Judge as “E te Kaiwhakawā Matua”.</p> <p>A community magistrate or justice of the peace is addressed as “Your Worship”, “Sir” or “Ma’am”.</p> <p>A referee will instruct parties at the start of the hearing on how they’d like to be addressed.</p> <p>An interpreter must not interrupt the judicial officer when they are speaking.</p> <p>Unless told not to, an interpreter must stand when speaking to a judicial officer, or when they are spoken to by a judicial officer.</p>
<b>Seeking assistance from court and tribunal staff</b>	<p>Interpreters may ask court and tribunal staff any questions about court or tribunal procedures or seek their assistance while on a court assignment. Court and tribunal staff in the courtroom such as the Registrar (court taker) or court attendant (in a jury trial) oversee the running of the court and tribunal process, including swearing in witnesses and interpreters.</p>
<b>Compliance with court protocols and health and safety directions</b>	<p>Interpreters must comply with any court protocol in place to manage public health risks and follow the health and safety directions of court and tribunal staff.</p> <p>The interpreter will relay these to the participant as spoken.</p>

# Providing interpreter services

This chapter sets guidance on delivering the interpreter service in courts and tribunals.

## 4.1 Interpreter service overview

Figure 2: Key steps in the delivery of interpreter services



## 4.2 Assess the need for an interpreter

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This section sets out how we ensure that participants who need an interpreter are provided with one to enable access to justice.

Ultimately, the judicial officer determines when an interpreter is appointed in a court or tribunal, but they need advice from those who interact with the participant to identify when an interpreter is needed.

### 4.2.1 Who identifies the need for an interpreter?<sup>xxvi</sup>

All those who interact with a participant during the course of a court or tribunal proceeding have a role in identifying that they may need an interpreter, this includes:

- the participant themselves or their family, whānau or support people such as advocates from family and sexual violence services
- police involved in investigating the case
- legal counsel, the police officer in charge, police prosecutor or crown prosecutors, youth justice coordinators or youth advocate
- probation officer
- judicial officers
- other government or non-government agencies, for example MBIE will identify the need for an interpreter when managing a claim for the Tenancy Tribunal or Motor Vehicle Disputes Tribunal
- court or tribunal staff, including court victim advisors.

Anyone who notes that an interpreter is required should advise the participant's legal counsel. It is legal counsel or the police prosecutor's responsibility to inform the court that an interpreter is required. For witnesses, the officer in charge will consult with the police prosecution who informs the court that an interpreter is required. For victims, the police prosecutor or the court victim advisor will inform the court that an interpreter is required.

If anyone involved in the case needs an interpreter to communicate with the participant before an interpreter is formally appointed, a telephone-based interpreter can be arranged.

When a telephone/ video interpreter is needed, court or tribunal staff will access the telephone/ video interpreting service. The preferred language is selected, the system will connect to an interpreter as quickly as possible. Where possible, court or tribunal staff will schedule conference calls in advance, especially if the language is difficult to source. For Deaf participants who use NZSL and other NZSL users, a video interpreting service may be available at some courts and tribunals.

Where an interpreter is required to assist with a court orientation, then the court victim advisor should make a request for an interpreter. The court victim advisor should also make a request for the same interpreter to be used in subsequent court events, following the court orientation.

### *Self-represented participants*

For self-represented defendants who may need an interpreter, the court may appoint an amicus curiae or standby counsel who can help assess the need for an interpreter and assist the defendant to make an application. As necessary, court and tribunal staff can inform the judicial officer that an interpreter may be required.

#### 4.2.2 When it's not clear if an interpreter is required, or the participant doesn't want an interpreter

It's not always clear when a participant needs an interpreter. A participant who appears able to understand and use English in ordinary conversation may have difficulty understanding the more formal language of a courtroom.

In some instances, a participant may not want an interpreter because they consider that their English is sufficient, or they may be reluctant to involve an interpreter in sensitive and private matters. Asking the participant if they require an interpreter can be a sensitive question as they may be offended that their English proficiency is in question.

The participant's concerns should be considered but balanced against the complexity of the case and the need to ensure access to justice and procedural fairness. If there is any doubt as to comprehension, then an interpreter should be used.<sup>17</sup>

The participant's concerns could be allayed by explaining the benefits of an interpreter to the participant and that the interpreter will:

- be impartial at all times
- keep information private and confidential
- provide accurate interpreting
- advise if they have a conflict of interest
- abide by a Code of Ethics
- be provided free of charge in the courtroom, if applicable.

The following guidance should be used to assess the need for an interpreter, or when there are concerns whether an interpreter is required.

The questions are aimed at assessing whether the participant has sufficient English and would be able to understand the court environment without an interpreter.

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<sup>17</sup> In some cases, a communication assistance may be required instead or in addition to an interpreter.



**Figure 3: Guidance on how to assess the need for an interpreter** <sup>xxvii</sup>

<b>Ask the participant about using an interpreter</b>
<p>Explain the role of an interpreter and ask the participant an open question. <i>An interpreter is someone who speaks your language and speaks English. The interpreter will change everything I say into your language, and everything you say into English. The interpreter must follow rules. They can't take sides.</i></p> <p><i>Tell me what you think about asking an interpreter to help us?</i></p> <p>Arrange an interpreter if the participant:</p> <ul style="list-style-type: none"><li>• indicates they would like an interpreter</li><li>• has difficulty answering the question</li></ul> <p>If the participant indicates they do not want an interpreter, continue to the next stage.</p>
<b>Assess speaking ability</b>
<p>Ask the participant open-ended questions about themselves or their background. <i>Tell me about what happened to you last night?</i></p> <p><i>Could you please tell me about your family or where you live?</i></p> <p>Arrange an interpreter if the participant:</p> <ul style="list-style-type: none"><li>• doesn't respond with anything more than a few words</li><li>• doesn't appear to understand questions or is confused by what is happening</li><li>• isn't able to express themselves adequately or confidently in English.</li></ul> <p>If the participant is able to give satisfactory or somewhat satisfactory responses, continue to the next stage.</p>
<b>Assess comprehension</b>
<p>Ask the participant to explain information you're providing in their own words. <i>Anyone can ask for an interpreter, so they can tell their story using their own language, and to make sure they understand everything people say.</i></p> <p><i>Can you tell me back what I just said to you?</i></p> <p>Continue to the next stage to assess comprehension and communication based on the participant's response.</p>
<b>Assess communication</b>

The participant is likely to need an interpreter if they exhibit two or more of the following:

- has difficulty articulating back what has been said to them
- only speaks in short sentences (4-5 words or less) or mainly gives one-word answers
- consistently agrees with the questions or propositions put to them
- frequently responds inappropriately to comments or questions, for example, responds with “yes” to “what” or “where” questions
- uses clear words and grammar, but the meaning of the response is out of context or confusing
- contradicts themselves, and is unaware of the apparent contradictions
- does not add significant amounts of new vocabulary to the conversation. They rely on using words and phrases that you have previously said to them
- don't use English grammatically. For example, mixes up the pronouns (“he” instead of “she”) or uses the past tense incorrectly (“he look at me”)
- conversation does not flow in a normal manner as sentences or words need to be restated or simplified.

## **Considerations for assessing the need for an interpreter**

### *Participants with strong accents*

Where a participant can comprehend and speak English fully but has a strong accent, an interpreter may be needed to ensure everyone in the court or tribunal can understand the participant. In these instances, an interpreter should only be arranged as directed by the judicial officer.

If the participant does not consider that they need an interpreter, counsel or court and tribunal staff can notify the judicial officer who can assess the clarity of the participant’s speech and direct the use of an interpreter as appropriate.

### *Identify disabilities, or need for communication assistance*

Some participants may require communication assistance and an interpreter to improve their access to justice.

Communication assistants are available separately for participants who have or may have a disability or neurodiversity or under-developed language and communication skills (for more information see – [Communications Assistance](#)).

### **4.2.3 Judicial officers may approve the use of a suitable person to act as a language assistant**

Where the need for an interpreter is identified, the strong preference is to engage a qualified interpreter to facilitate communication in the court or tribunal.

However, there may be instances where a judicial officer approves the use of a suitable bilingual or multilingual person (who is not a professional interpreter) to act as a language assistant (except for NZSL interpreters). This could occur when:

- a suitably qualified interpreter cannot be located, including either a face-to-face interpreter or interpreter from a professional telephone or video interpreting service
- the nature of the proceedings does not carry a risk or expose the language assistant to potentially traumatic material
- interpreting is required and proceedings cannot be adjourned
- the language barrier is relatively minor and occasional points of clarification are required
- procedural fairness will not be compromised by engaging a language assistant rather than a qualified interpreter.<sup>18</sup>

The language assistant must be:

- able to satisfy the judicial officer that they can provide language assistance accurately and to a satisfactory level from the other language into English and from English into the other language
- aged 18 years or older.

The judicial officer will brief the language assistant to ensure they understand the expectations of their role and accept that they are an officer of the court. This means they are not the agent, assistant or advocate for the person involved in the proceedings, and that they must be impartial and accurate to the best of their ability. The language assistant will be required to take the oath or make an affirmation before acting in a proceeding.

#### 4.2.4 Requesting an interpreter for NZSL or te reo Māori

Participants that wish to use NZSL or speak te reo Māori are entitled to an interpreter. All requests to the court for NZSL and te reo Māori interpreters must be forwarded to Central Registry so that bookings can be made.

If a person wishes to speak te reo Māori, a [Notice of intention to speak Māori form](#) should be filed with the court and every other party to the proceeding or application ten working days before the case management conference or hearing<sup>19</sup>.

The court should be given ten working days' notice where possible if a person requires an NZSL interpreter. If this is not possible, requests should still be made. The [Request for an interpreter form](#) can be used.

#### 4.2.5 Requesting an interpreter for other languages

An interpreter can be requested by contacting the court. At least five to ten days' notice is preferred.

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<sup>18</sup> For example, that the use of the interpreter would result in an appeal, mistrial, or miscarriage of justice.

<sup>19</sup> The High Court Rules 2016, District Court Rules 2014 and Criminal Procedure Rules 2012 require a notice of intention to speak Te Reo Māori to be filed and served on every other person not less than 10 working days before the case management conference or hearing. The Criminal Procedure Rules 2012 require 10 working days' notice be given of the need for an NZSL interpreter.

A written request is preferred so that the right interpreter can be arranged. Written requests can be made using the [Request for an interpreter form](#) and submitting it to the court or tribunal.

If the written form is not used, a request or enquiry can be made:

- in person at the counter in court
- by phoning 0800 COURTS (0800 268 787)
- by [email](#)
- at a court appearance.

Any request for an interpreter needs to include:

- the case reference number
- contact information for the person requiring an interpreter and their role in the case
- language needed – it is essential that the correct language and dialect is specified – for example Mandarin spoken in Singapore is different from Mandarin spoken in rural China
- brief case information like the case name, date and time of the hearing, duration, and location
- any specific interpreter requirements, such as preferred interpreter, gender or cultural needs, special interpreting requirements for example, tandem, or simultaneous interpreting.

### **Requests for a specific interpreter**

Where a request is made to the Central Registry for a specific interpreter (for example, to enable consistency if the interpreter has been involved with the case previously or the party has requested a specific gender or interpreter), the Central Registry will endeavour to book a suitable interpreter, subject to availability.

### **Requests for a language assistant**

The Central Registry must only proceed with the booking for a language assistant where their use has been approved by a judicial officer.

#### **4.2.6 Booking a court-appointed interpreter <sup>xxviii</sup>**

The Central Registry<sup>20</sup> is responsible for engaging court-appointed interpreters and will assign a qualified interpreter, unless otherwise directed by a judicial officer.

Courts and tribunals should give the Central Registry as much notice as possible when an interpreter is required. At least ten working days is preferred.<sup>xxix</sup>

The Central Registry will book an interpreter using the Ministry's list of approved court independent interpreters, LSPs or through the LAS.

### **Requests made at short notice**

The Central Registry will arrange an interpreter for urgent cases, where an interpreter is required on the day or within 48 hours of the hearing time.

In urgent cases, outside of the Central Registry business hours (7am to 5pm Monday to Friday), such as public holidays or weekends, the court or tribunal may bypass the Central Registry and book an interpreter directly over the phone using the Ministry's list of approved interpreters.

Court or tribunal staff should notify the Central Registry that they have booked an interpreter outside of the Central Registry's business hours so this information can be recorded.

### **Availability request**

The Central Registry will send an email request to suitably qualified interpreters and/or LSPs seeking details about their availability to take the assignment. The first preference is to request the services of the interpreter used at any previous hearings. Central Registry will also consider if there is a suitable interpreter already booked to attend court on the date requested.

On receipt of a request, the independent interpreter will check and confirm their own availability. LSPs will check that they have a suitably qualified interpreter available on the dates requested. The interpreter or LSP should respond to the Central Registry to confirm their availability as soon as possible, but within three working days.

Where possible, the LSP should consider the nature of the case, the participant's gender preference and culture when assigning an interpreter to a case. This is to support high quality and culturally safe service delivery.

Where the independent interpreter or LSP responds confirming availability, this is considered a formal offer. When confirming their availability, the interpreter or LSP should also confirm the name and contact details of the interpreter and specify if any travel arrangements are required to be arranged by the Central Registry.

### **Booking confirmation**

To accept the offer, the Central Registry will send a Booking Confirmation to the interpreter or LSP with the event details and other relevant information to prepare for the hearing.

The booking confirmation letter will contain the details of the booking including:

- case number
- names of the parties
- language
- time and date of hearing
- address of the court or online details if held remotely
- estimated duration

The booking confirmation email will contain links to the Ministry's website where more information can be found on:

- the Standard Terms and Conditions
- the Interpreter Services Quality Framework
- timesheets
- invoicing and payment.

Bookings made for Immigration and Protection Tribunal hearings and teleconferences, remove the names of the parties for confidentiality reasons.

The Central Registry's will cc' case managers, and in some instances generic mailboxes into the Booking Confirmation email to interpreters.

### **Interpreter assignments for multiple participants**

In some cases, there may be multiple participants in the same hearing or event that require an interpreter for the same language. It is common for the same interpreter to be used for more than one party in these cases.

### **Family violence and sexual violence matters**

Where an interpreter is booked for a matter involving family violence or sexual violence, different interpreters must be assigned for the victims and witnesses than assigned for the defendant. In family violence and sexual violence cases, the characteristics (for example, gender) of the interpreter will be assigned according to the victim's preference. Court or tribunal staff, or counsel must ensure all booking requests contain the preferred gender of the interpreter where possible.

#### **4.2.7 Payment for interpreter services<sup>xxx</sup>**

The Ministry will pay for all interpreter services delivered in a court or tribunal where the use of the interpreter is judicially directed or for te reo Māori or NZSL.

A court-appointed interpreter must not receive any other payment method for the same service – this includes payment for interpreter services via legal aid, private payment or through lawyer's disbursements.

Interpreter fees for spoken languages are prescribed by the Witnesses and Interpreters Fees, Allowances and Expenses Regulations 2023 (the Regulations).<sup>21</sup>

In addition, the Ministry uses a pricing policy to set payment rates which considers the level of qualifications, skill, and experience of the interpreter.

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<sup>21</sup> The Regulations apply to any proceedings under any enactment by or under which these regulations are applied.

Where an LSP is engaged to provide services for the court or tribunal they are paid the agreed rate.<sup>xxxii</sup> The agreed rate for LSPs reflects that the provider is entitled to charge for its overheads in engaging the interpreter. The interpreter engaged through an LSP will be remunerated by the LSP at their agreed rate.

While there is no guaranteed minimum booking period, independent interpreters are generally booked for a minimum of three hours at their agreed hourly rate.

### **Duration of booking and additional time**

Interpreters are paid for the minimum duration agreed to in the Booking Confirmation. For example, if an interpreter is booked for three hours and the hearing doesn't last the full duration, interpreters are still able to claim for the three hours.

If an interpreter is required for any additional time beyond the agreed duration, interpreters can claim the extra time in 15-minute increments of their hourly booking rate. Payment of additional time needs to be recorded on the interpreter's timesheet and signed off by a court or tribunal staff member. All interpreters need to complete and submit an invoice and timesheet after a hearing.

### **Travel arrangements and costs for interpreters**

Interpreters will be paid for travel expenses, such as mileage and travel time, and any necessary flights and accommodation. These are to be arranged and agreed at the time of the booking.

The Central Registry will arrange, and book flights as required. Other local transport expenses incurred by the interpreter will be reimbursed.

The Ministry will agree to pay for reasonable expenses the interpreter incurs in the course of providing services for the courts and tribunals. This includes preparation time.

Payment, including additional time, will be made in accordance with the Ministry's payment policies on the website. For more information see:

- [Standard Terms<sup>xxxii</sup>](#)
- [Bookings & what to expect<sup>xxxiii</sup>](#)
- [Submit invoices & timesheets<sup>xxxiv</sup>](#)

#### **4.2.8 Further events and changes to the booking**

The Central Registry will manage any further events, cancellations, adjournments, and rescheduled events, as advised by the court or tribunal.

Where there are further events, the Central Registry should attempt to book the same interpreter to ensure consistency, unless there were any issues with the interpreter's conduct.

The court or tribunal must advise the Central Registry as soon as possible of any changes to the event, especially where the event is to be held remotely. Late notice of changes can incur additional costs for the Ministry.

#### 4.2.9 Engaging an interpreter privately

Where an interpreter is not appointed by the court, then the participant will need to engage and pay for an interpreter privately. This may apply when:

- an interpreter is required so the participant and counsel can communicate outside of court
- the use of an interpreter in a civil or family case has not been approved by a judicial officer or their delegate.

Court and tribunal staff can provide a list of qualified interpreters to select from.<sup>xxxv</sup>

### 4.3 Welcoming and briefing the interpreter at the court or tribunal

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#### 4.3.1 Arriving for a hearing<sup>xxxvi</sup>

Court or tribunal staff should:

- greet the interpreter and provide them with directions to the appropriate room for the hearing
- give the interpreter a portable microphone (where available), show them how to use it and where to return it at the end of the day
- introduce the interpreter to the court taker and let them know how to raise any concerns or queries and how to get their timesheet signed
- introduce the interpreter to other justice sector professionals that the interpreter may need to interact with, as required
- remind the interpreter not to engage with participants outside the hearing room, except as required to make introductions and confirm they speak the same language dialect
- provide interpreters with comfortable seating.

If the hearing is being held remotely, the court staff will meet the interpreter online before the hearing commences to make sure they have all the information they need, and the technology is working appropriately.

#### **Facilities available for interpreters working at a court or tribunal<sup>xxxvii</sup>**

Each court and tribunal has their own unique physical layout, caseload, community, and staffing situation. There may be physical limitations that impact the court's ability to provide interpreters with dedicated space to work and take breaks.



Where possible, interpreters should be provided with a dedicated room or space where they can wait until called, leave their belongings, prepare materials, be briefed and debriefed. The room or space should ideally have:

- Wi-Fi access
- table and chair
- resources – for example, dictionaries and glossaries for legal terminology.

#### 4.3.2 Meeting with counsel and the participant<sup>xxxviii</sup>

Court or tribunal staff will introduce the interpreter to counsel and the participant. The interpreter and the participant will reconfirm with counsel and court or tribunal staff they speak the same language and/or dialect.

#### 4.3.3 Briefing interpreters<sup>xxxix</sup>

Counsel must ensure that interpreters are appropriately briefed before the hearing so that everyone understands their roles, needs, and can work well together. Interpreters should tell the court or tribunal if they have not been adequately briefed.

In the case of self-represented participants, the judicial officer or adjudicator will brief the interpreter and explain their role as an officer of the court and confirm the level of interpreting assistance required.

Counsel should brief the interpreter about:<sup>xl</sup>

- the requirement to take an oath or make an affirmation
- the nature and complexity of the case
- what is likely to occur during the proceeding and what the possible outcomes are
- what to do if a conflict of interest arises during the hearing (for example the interpreter discovers that they know a witness)
- any legal and technical jargon that is likely to be used
- the requirement to return any confidential documents to the court
- whether there are any relevant written materials to be presented as evidence that have been or may need to be translated.

The interpreter and counsel should also discuss any possible cross-cultural issues that the court should be aware of. Cross-cultural communication differences may be the way a person addresses others, the use of hand gestures, or the use of or avoidance of eye-contact.

In some instances, it may not be possible for briefings to take place. Court and tribunal staff, and counsel will endeavour to provide interpreters with a briefing before a proceeding. Where necessary, the judicial officer may consider an adjournment to allow the interpreter adequate time to prepare.

Counsel may provide the interpreter with the following materials where appropriate:

## Criminal proceedings

Hearing type	Materials
<b>First or second appearance</b>	<ul style="list-style-type: none"> <li>• copy of the charging document(s)</li> </ul>
<b>After a plea of guilty</b>	<ul style="list-style-type: none"> <li>• summary of facts</li> </ul>
<b>Defended fixture</b>	<ul style="list-style-type: none"> <li>• copy of the charging document(s)</li> </ul>
<b>Oral evidence hearing</b>	<ul style="list-style-type: none"> <li>• copy of the charging document(s)</li> <li>• witness list (if available)</li> </ul>
<b>Trial</b>	<p>Before the trial, the judicial officer, counsel, and parties may agree what information the interpreter can have access to (the interpreter's bundle). This may include:</p> <ul style="list-style-type: none"> <li>• copy of the charging document(s)</li> <li>• any preliminary hearing transcripts</li> <li>• witness list (if available)</li> <li>• exhibits list (if available)</li> <li>• expert testimony and affidavits if technical or specialised</li> </ul>
<b>Sentencing</b>	<ul style="list-style-type: none"> <li>• victim impact statement(s)</li> </ul>
<b>Appeals</b>	<p>The judicial officer, counsel and parties may agree what information the interpreter can have access to (the interpreter's bundle). This may include:</p> <ul style="list-style-type: none"> <li>• copy of the Notice of Appeal</li> <li>• a summary of the evidence given at the lower court hearing</li> <li>• written submissions</li> </ul>

## Family and civil proceedings

<b>Family</b>	<ul style="list-style-type: none"><li>• application</li><li>• affidavit in support of application</li><li>• defence</li><li>• affidavit in support of defence</li><li>• any specialist reports prepared for the court</li></ul>
<b>Civil</b>	At the District Court: <ul style="list-style-type: none"><li>• statement of claim</li><li>• response of defendant</li><li>• replies</li></ul> In the High Court: <ul style="list-style-type: none"><li>• statement of claim</li><li>• statement of defence</li><li>• witness list (if available)</li><li>• replies</li></ul>
<b>Specialist Courts</b>	<ul style="list-style-type: none"><li>• overview of the case</li><li>• parties and witnesses' names</li></ul>
<b>Tribunals</b>	<ul style="list-style-type: none"><li>• application with the names of both parties</li><li>• materials relied upon by the parties for and against</li><li>• witness list (if available)</li><li>• exhibits list (if available)</li></ul>

## 4.4 During the proceedings

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### 4.4.1 Introducing the interpreter to the court

Where an interpreter is present, they will be introduced as an officer of the court. This means they will interpret everything accurately and impartially as if they were the person speaking.

Interpreters will interpret everything that is said during proceedings. This will predominately be via consecutive interpreting or simultaneous interpreting if an NZSL or te reo Māori interpreter is required.

They must interpret:

- charges and/or disputes
- sentencing remarks
- explanations from the bench about adjournments and court processes
- any questions put to the party from the judicial officer or counsel
- bail or any conditions imposed by the court
- a prosecutor or judicial officer reading a victim impact statement
- examination and cross-examination of witnesses, including expert witnesses
- direct speech by the party or witness, including any comments addressed to the interpreter
- sentences, orders, and conditions.

Judicial officers will ensure the hearing proceeds at an appropriate pace to allow interpreters to interpret what is being said.

During the hearing, it's important that they interpret everything accurately and impartially, exactly as the person said it.

The interpreter should be informed that they must advise the court if they:<sup>xii</sup>

- become aware they have a conflict of interest
- cannot interpret something for any reason
- did not accurately hear what was said
- need to correct an error
- need to refer to a dictionary or reference material
- need to explain a concept or term as it is not easily interpreted
- are unable to keep up with the evidence and require the speaker to slow down
- experience an issue with the party
- become aware of a material potential intercultural miscommunication issue
- need a break.

All requests by the interpreter during a court hearing should be addressed to the judicial officer.<sup>xiii</sup> This can be done via counsel, the court taker or by speaking to the judicial officer directly (during interpreting).

#### 4.4.2 Ensuring effective courtroom communication <sup>xiii</sup>

The judicial officer is responsible for ensuring that all parties can understand each other in the courtroom. This includes, where necessary:

- instructing lawyers and witnesses to speak clearly and at a reasonable pace, to use plain English, and to pause after each complete concept to allow the interpreter to interpret<sup>xiv</sup>
- explaining legal concepts, jargon, acronyms, and technical terms

- intervening when there is overlapping speech, or it appears that the interpreter and witness are having difficulty understanding each other
- ensuring the length of sentences and questions are manageable
- listening for inconsistencies such as irrelevant or incoherent answers.

### **Language and culture<sup>xlv</sup>**

Language and culture are closely linked so it is important to be conscious that cross-cultural misunderstandings occur. If an interpreter identifies a potential misunderstanding, they should alert the court.

The interpreter should be knowledgeable of tikanga or other culturally appropriate practices, where relevant when meeting the participant (and their support person, if they have one). The interpreter promotes the concept of rangatiratanga by ensuring the participant fully understands what is happening and can make informed decisions.

### **Location of interpreter in the courtroom**

Before the case is called, the interpreter should wait in the foyer or the gallery of the court or tribunal.

In the courtroom, interpreters must have a clear view of all parties. The interpreter should be positioned near the participant (NZSL interpreters should be positioned opposite the participant), or as otherwise directed by the judicial officer. If the interpreter is unsure where to stand, they should ask court or tribunal staff. If two NZSL interpreters are working together, they should be seated near one another.

Where a participant (the defendant) is remanded in custody, and is connected to the court remotely, the interpreter must be in clear view on their own camera or, if they are in the room with the defendant, they must both be in clear view on the screen.

### **Regular breaks<sup>xlvi</sup>**

Typically, court and tribunal proceedings will have short adjournments, usually about 15 minutes, at 11:30am and 3:30pm. The court or tribunal will adjourn for lunch at 1:00pm and resumes for the afternoon at 2:15pm.

If an interpreter requires an additional break at any time during the proceedings, they should notify the judicial officer.

Judicial officers may check if interpreters need additional breaks. The frequency of breaks will depend on a number of factors including the intensity of the pace and content of the matter.

### **Using microphones and recording the interpreting**

Interpreters should use a microphone when interpreting in court. Use of microphones ensures that those present can hear what the interpreter says and also enables an audio recording of the interpreting to be made.

Portable microphones are available for interpreters to use in many courtrooms and will be provided to the interpreter. Where a portable microphone is not available, the interpreter should speak into a fixed microphone.

Interpreters must not record any part of the hearing.

Where the hearing is held remotely, interpreters must not record, photograph, or publish any part of a remote court hearing. Interpreters must follow the [court protocol for participation in virtual hearings](#).

Where facilities allow, video recordings must be made of NZSL used in proceedings.

### **Directions to the jury**

When evidence is given through an interpreter, the judicial officer may give directions to the jury about how to evaluate the evidence. The direction may explain why an interpreter is being used and how jurors should consider the evidence given through the interpreter.

An example of a direction is:

*“When assessing whether you think a witness is telling the truth, be mindful that their body language or behaviour might be different because they have a different cultural background. Using an interpreter can make it more difficult to read a participant’s body language or behaviour<sup>xlvii</sup>”.*

### **Interpreting documents – sight translation<sup>xlviii</sup>**

If any substantial or complex documentation is to be read out or read into the court record, the interpreter should be given a copy.

Interpreters should not be expected to “sight translate” documents during the course of a hearing without prior notice. Sight unseen translation by interpreters of even simple or short documents should be avoided as far as possible.

Only short, simple documents are to be interpreted by sight translation. If it is difficult text, the interpreter shall be given time to read through it first. Longer written material will need to be separately and formally translated.

### **Concerns with the quality of interpreting during proceedings<sup>xlix</sup>**

If the accuracy of interpreting is challenged during proceedings, then the interpreter should be asked to defend, justify, or correct their interpreting.

If the participant or anyone else in a court or tribunal hearing considers that the interpreter is not interpreting accurately, they can inform the participant’s counsel or court staff at the first opportunity during the hearing.

If there appears to be concerns about the conduct or competence of the interpreter, the judicial officer may ascertain what the issue is about and seek expert opinion where necessary. If the

interpreting is not upheld, the judicial officer has the discretion to consider the appropriate remedy.

Any complaints about an interpreter after a hearing should be referred to the court or tribunal staff where the hearing was held in the first instance.

### Taking notes

Interpreters are allowed to take notes in the hearing for the purposes of providing interpreting services.

Interpreters must comply with the Privacy Act 2020. This means that any notes must only be collected, used, and shared for the purpose of delivering services, and that any notes are securely disposed of when there is no lawful reason to keep them.

Any notes taken by the interpreter in court are not part of the court record as defined in the Senior Courts Act 2019 (Schedule 2), District Courts Act 2016 (Schedule 1) or the Criminal Procedure Rules 2012. The notes can be given to court staff to dispose of securely after the hearing.

#### 4.4.3 Oath and affirmation

The interpreter must take the oath or make an affirmation that they will interpret to the best of their skill and ability. This might be at the start of the hearing (for defendants), or before a witness requiring an interpreter gives evidence.

The oath can be administered in a manner appropriate to the religious belief of the person or in any way that the person taking it declares it to be binding on them. Copies of the Koran and Old Testament should be available in all courts and tribunals.

When interpreting for a <b>defendant</b>	
<i>Oath</i>	<i>Affirmation</i>
<p>Court or tribunal staff will ask the interpreter to stand and take the bible (or other text) in their hand, and ask:</p> <p><i>“Do you swear by Almighty God that you shall truly and faithfully interpret from the _____ language into the English language, and the English language into the _____ language, all matters and things regarding the present case, to the best of your skill and ability?”</i></p> <p>The interpreter must say that they agree.</p>	<p>Court or tribunal staff will ask the interpreter to stand, and ask:</p> <p><i>“Do you solemnly, sincerely and truly declare and affirm that you shall truly and faithfully interpret from the _____ language into the English language, and the English language into the _____ language, all matters and things regarding the present case, to the best of your skill and ability?”</i></p> <p>The interpreter must say that they agree.</p>

When interpreting for a <b>witness</b>	
<i>Oath</i>	<i>Affirmation</i>
<p>Court or tribunal staff will ask the interpreter to stand and take the bible (or other text) in their hand, and ask:</p> <p><i>“Do you swear by Almighty God that you shall truly and faithfully interpret the oath or affirmation to be administered to the witness and the evidence about to be given, and all other matters and things regarding the present case, which you shall be required to interpret from the _____ language into the English language, and the English language into the _____ language, to the best of your skill and ability?”</i></p> <p>The interpreter must say that they agree.</p>	<p>Court or tribunal staff will ask the interpreter to stand, and ask:</p> <p><i>“Do you solemnly, sincerely and truly declare and affirm that you shall truly and faithfully interpret the oath or affirmation to be administered to the witness and the evidence about to be given, and all other matters and things regarding the present case, which you shall be required to interpreter from the _____ language into the English language, and the English language into the _____ language, to the best of your skill and ability?”</i></p> <p>The interpreter must say that they agree.</p>

### **Witness’s oath or affirmation (including defendant’s giving evidence)**

When a witness requiring an interpreter is called to give evidence, the interpreter will take their oath or make an affirmation, then the witness will take their oath or make an affirmation. The judicial officer or court taker administers the oath or affirmation in English, which is then to be interpreted into the witness’s preferred language.

<i>Oath</i>	<i>Affirmation</i>
<p>Court or tribunal staff will ask the witness to stand and take the bible (or other text) in their hand, and ask:</p> <p><i>“Do you swear by Almighty God that the evidence you are about to give regarding the matter now before the court shall be the truth, the whole truth, and nothing but the truth?”</i></p> <p>The interpreter will then repeat the oath in the witness’ preferred language. The witness must say that they agree, which should also be repeated by the interpreter in English.</p>	<p>Court or tribunal staff will ask the witness to stand, and ask:</p> <p><i>“Do you solemnly, sincerely and truly declare and affirm that the evidence you are about to give regarding the matter now before the court shall be the truth, the whole truth and nothing but the truth?”</i></p> <p>The interpreter will then repeat the affirmation in the witness’ preferred language. The witness must say that they agree, which should also be repeated by the interpreter in English.</p>



In some cases, grammatical differences between languages may require a different approach to interpreting the oath or affirmation. A copy of the oath or affirmation should be provided to the interpreter in advance, so the interpreter can decide the best approach to take.

#### 4.4.4 Proceedings using remote technology

The type of remote technology to be used will be determined by the court or tribunal. At present, remote appearances can be made through:

- Audio visual link (AVL)
- Teleconference
- Video-conferencing, such as Microsoft Teams (MS Teams) or Virtual Meeting Rooms (VMR).

There are four ways in which an interpreter may appear in court where there is remote participation. They are:

1. Interpreter is in court/ person being interpreted is remote – for example the participant is in custody and has connected to the court using remote technology, and the interpreter is in court.
2. Interpreter is remote/ participant is in court – the interpreter is appearing using remote technology and the participant they are interpreting for is in person at the court or tribunal.
3. Interpreter and participant are both remote, and in the same location – for example, a witness is giving evidence using remote technology and the interpreter is located with the witness to interpret their evidence.
4. Interpreter and participant are both remote, and in different locations – for example, the tribunal operates remotely, and all parties connect using remote technology.

Whichever scenario is being used:

- The interpreter should be able to see and hear all the people who will speak or use NZSL. Ideally, the interpreter should be able to see the judicial officer and counsel at the same time.
- All parties should be able to hear the interpreter. The judicial officer should be able to see the interpreter so they can signal if they need to seek clarification.
- The interpreter should have access to a microphone.
- The interpreter should be able to see the face of the person they are interpreting for (or upper body, face, and hands for NZSL). The NZSL interpreter may provide guidance on how to position cameras.
- The person being interpreted should be able to see the entire court room, rather than just the interpreter (unless they request otherwise).
- Court staff should ensure the technology is working before the hearing starts.

- The interpreter should meet the person they are interpreting for before the hearing starts to ensure they are able to communicate using the same language.
- The court taker will administer the oath or affirmation to the interpreter when required.

More information on remote technology in courts and tribunals are on the Ministry's website.

#### 4.4.5 Mode of interpreting

##### *Waitangi Tribunal*

Simultaneous interpreting is used in the Waitangi Tribunal. The interpreter is located in an interpreter booth onsite where the interpreter listens to a live stream of the hearing and interprets any te reo Māori into English.

##### *New Zealand Sign Language interpreters*

Simultaneous interpreting is used in proceedings that requires the use of two or more NZSL interpreters. The interpreters work in a buddy system and will swap out with one another every 15 minutes or so. These interpreters don't work in a booth and require frequent breaks due to the nature of their interpreting.

##### *Other courts and tribunals*

In the absence of facilities (such as booths and recording equipment) to provide simultaneous interpreting in courts and tribunals other than the Waitangi Tribunal, courts and tribunals should use consecutive interpreting unless a judge directs otherwise<sup>22</sup>.

If simultaneous interpreting is to be used, this requires:

- appropriate simultaneous interpreting equipment and appropriate physical space to be available in the courtroom for all those who need to hear/see the interpreting
- the interpreter(s) to be trained and experienced in simultaneous interpreting.

#### 4.4.6 Security, health, and safety

Court security officers are responsible for maintaining a safe and secure environment for all people within a court, including interpreters. Any safety concerns can be raised with court or tribunal staff or court security officers to then be escalated appropriately.

The interpreter's contact details are private and confidential and must not be disclosed by the court to a case party, except for the purposes of arranging and confirming a booking, briefing the interpreter and with the interpreter's permission.

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<sup>22</sup> *Abdula v R* [2011] NZSC 130

## Access to counselling services'

The Ministry acknowledges that court interpreters are sometimes exposed to distressing and traumatic material while performing their role in court. To support their wellbeing, interpreters may access up to three counselling appointments per year funded by the Ministry. [How to access counselling](#) through the Employment Assistance Programme (EAP) is outlined on the Ministry's website.

Where an interpreter is engaged through a LSP that offers counselling services to its employees or contractors, the interpreter should access counselling provided by the LSP in the first instance.

## 4.5 After the proceedings

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After the proceedings, the judicial officer may consider whether an interpreter is required to fulfil additional activities, such as interpreting:

- the outcome of the proceedings, including any orders made or bail conditions imposed
- for the defendant to facilitate communication with probation, health officials and report writers for any pre-sentencing reports
- at any future events, or that they are dismissed from future events.

## 4.6 Timesheets

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Once the hearing has finished, interpreters will go to the customer service counter and ask a member of staff to sign their timesheet.

For interpreting for a hearing via teleconference, VMR or MS teams interpreters still need to provide a timesheet, but it doesn't need to be signed off by court or tribunal staff.

## 4.7 Appeals

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While not an exhaustive list, an interpreter could become involved in an appeal if:

- an appellant or respondent requires an interpreter to communicate with their counsel to participate in a hearing
- an interpreter is asked to comment on the quality of interpreting in the previous proceedings
- the potential grounds for appeal question the quality of the interpreting provided by the interpreter in the previous proceeding.

### **Engaging an interpreter to participate in an appeal to assist an appellant or respondent**

If an interpreter assisted a participant in the previous proceeding, the same interpreter may continue to assist the participant in relation to the appeal. However, if there is any potential that the grounds for appeal may be based on the poor quality of the interpreting provided in the

previous proceeding, a different interpreter should be engaged to assist the participant during the appeal.

### **When an interpreter is asked to review previous interpreting or to be an expert witness**

A suitably qualified interpreter may be engaged privately outside of court to provide comment on the quality of interpreting in the previous court proceedings. The interpreter may prepare an affidavit for the court about the quality of the interpreting if requested.

An interpreter may act as an expert witness. An expert witness is not an advocate for the party who engages the witness, therefore the interpreter can maintain their impartiality while participating as an expert witness.

A code of conduct for expert witnesses is set out in Schedule 4 of the High Court Rules 2016.

### **When an appeal questions the quality of interpreting in a previous proceeding**

If there is any question around how interpreting was provided in a previous proceeding, the interpreter may be asked to provide an independent affidavit or affirmation<sup>23</sup>. Guidance for how to prepare an affidavit or affirmation is available on the Ministry's website ([Affidavits & statutory declarations | New Zealand Ministry of Justice](#)).

The interpreter should not disclose legally privileged information unless directed by the court.

### **Payment for interpreter time in appeals**

If the interpreter is engaged by the court to assist a participant in an appeal, payment will be made in the usual way.

If the interpreter is directed by the court to act as a witness, or acts as an expert witness, the interpreter can receive payment in accordance with the Witnesses and Interpreter Fees, Allowances and Expenses Regulations 2023.

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<sup>23</sup> Written evidence is known as an affidavit if its contents are sworn on oath on a religious scripture. The document is known as an affirmation if its contents are said to be true, but an oath is not sworn on a religious scripture.

# *Performance monitoring and ongoing quality improvement*

This chapter sets out a framework for monitoring the interpreter service standards and quality improvement.

## **5.1 Monitoring and reporting performance**

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### 5.1.1 Service level monitoring by the Ministry

The Ministry's National Service Delivery Operations Support team will prepare an annual report for the interpreter service that covers:

- trends in demand for the service by region and type of court proceeding
- relative use of independent interpreters and LSPs
- financial costs of the service
- workforce availability (including language coverage)
- workforce qualifications
- workforce training (completion of training modules and induction of new interpreters)
- numbers of complaints, types of issues raised, timeliness of complaint resolution, and complainant type
- judicial, defence counsel and prosecutor satisfaction and feedback on the service<sup>ii</sup>.

The annual report will be presented to Ministry management to provide assurance that the service is operating effectively and that any emerging issues are identified and managed as appropriate. The annual report will set out ongoing quality improvement initiatives for the service.

The Ministry may make changes to this quality framework, other operational policies or processes or provide feedback, advice and guidance to Central Registry and Court Registry Officers as part of its ongoing quality improvement activities.

Review of training and induction is likely to be at least annual during the first three years of implementation of this quality framework and will take a continuous improvement approach.

### 5.1.2 Interpreter and LSP roles and responsibilities

Interpreters and LSPs may ask defence counsel, prosecutors, and other interpreters for feedback to inform their own ongoing professional development. If the Ministry receives feedback about an interpreter this will be forwarded to the interpreter or the LSP concerned. Any formal complaints will be dealt with in accordance with the complaints process.

Interpreters and LSPs are encouraged to inform the Ministry about any matters that impact their ability to provide a high-quality interpreter service.

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## 5.2 Complaints management

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People can [Make a complaint about interpreter services | New Zealand Ministry of Justice](#).

The Ministry will follow a process for investigating and managing any complaints about interpreters. Independent interpreters and LSPs must engage constructively with this process. The Ministry can require a third-party to review the quality of interpreting if necessary.

LSPs must have a complaints policy and be able to demonstrate that they have effective systems for investigating complaints about the quality of services provided. It must reflect the Ministry's complaints management process.

## 5.3 Quality control and monitoring

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Interpreters are audio recorded in court, in some cases video recorded. The Ministry will use the recordings to analyse, review the quality of interpreting or respond to complaints or requests made by the judiciary as and when required.

From time to time, the Ministry may undertake an audit programme to provide assurance on the quality of interpreting being delivered in courts and tribunals. Audits may be conducted by the NSD Operations Support team or external contractors and must be reported in the annual report for the interpreter service.

- xv AUS Standard 3
- xv AUS Standard 2
- xv AUS Standard 18
- xv AUS Standards 16.3, 17.4 & 17.5
- xv AUS Standard 16
- xv AUS standard 17
- xv AUS Standard 14
- xv AUS Standard 15
- xv AUS Standard 21
- xv AUS Standard 22
- xv AUS Standard 25
- xv AUS Standard 14
- xv AUS Standards 24 and 26
- xv AUS Standard 12
- xv AUS standards Schedule 1
- xvi AUS Standard 18
- xvii AUS Standard 20.2
- xviii AUS Standard 20.2
- xix AUS Standard 20.7
- xx <https://www.lawsociety.org.nz/news/lawtalk/issue-918/advising-non-english-speakers2/>
- xxi AUS Standard 20
- xxii AUS Standard 20.1
- xxiii AUS Standard 20.6
- xxiv AUS Standards 20.4, 20.5
- xxv AUS Standard 22
- xxvi AUS Standard 10, 16, 21
- xxvii AUS Standards 10; 16; 21
- xxviii AUS Standards 6, 11, 23
- xxix AUS Standard 8.4
- xxx AUS Standard 7

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xxxvii AUS Standards 9.3, 9.4 and 17.1

xxxviii AUS Standard 24e

xxxix AUS Standard 24

xl AUS Standard 24.0

xli AUS Standard 17.7

xlii AUS Standard 20.4

xliii AUS Standard 17.7

xliv AUS Standard 17.9

xlv AUS Standard 20.6

xlvi AUS Standard 9.5

xlvii AUS Standard 17

xlviii AUS Standards 20.1 and 26

xlix AUS Standard 17

<sup>1</sup> AUS Standard 9.7

lii AUS Standard 9.7



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