

# Assessing the need for an interpreter

This information will help you assess if someone needs an interpreter to participate fully and fairly in Court and Tribunal proceedings. You can read more about working with interpreters in the Interpreter Services Quality Framework.

Interpreters are available to any person involved in a hearing (that is, an 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 New Zealand Sign Language (NZSL) or te reo Māori.

Anyone who interacts with the person has a role to play in determining whether an interpreter is needed. This includes:

- The person themselves or their family, whānau or support people
- Police
- Legal counsel
- Officer in charge, police prosecutor or crown prosecutor, youth justice coordinators
- Probation officers
- Judicial officers
- Other government or non-government agencies
- Court or Tribunal staff, including court victim advisors

It's not always clear if someone needs or wants an interpreter. They may think their understanding of English is sufficient to understand proceedings, or be reluctant to involve a stranger in sensitive and private matters.



It's important that Court and Tribunal staff and counsel approach the idea of an interpreter sensitively. Explain the benefits of having an interpreter, i.e. the interpreter will:

- provide accurate interpreting

- be impartial at all times
- keep information private and confidential
- advise if they have a conflict of interest
- abide by a code of ethics
- be provided free of charge in the courtroom if applicable

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## Guidance on how to assess the need for a spoken language interpreter

### Step One: Ask the person about using an interpreter

Explain the role of an interpreter and ask the person an open question.

*“An interpreter is someone who uses your language and speaks English. The interpreter will change everything I say into your language, and everything you say into English.”*

*“Tell me what you think about asking an interpreter to help us?”*

Arrange an interpreter if the participant indicates they would like one or has difficulty answering the question. If the participant indicates they don't want an interpreter, but you think it might be needed, continue to the next step.

### Step Two: Assess speaking ability

Ask the person open-ended questions about themselves or their background.

*“Tell me about what happened to you last night?”*

*“Could you please tell me about your family or where you live?”*

Arrange an interpreter if the person:

- doesn't respond with more than a few words, or
- doesn't appear to understand or is confused by what is happening, or
- isn't able to express themselves confidently in English

If the person is able to give satisfactory or somewhat satisfactory responses, continue to the next step.

### Step Three: Assess comprehension

Ask the person to explain information you're providing in their own words.

*"Anyone can ask for an interpreter, so they can tell their story using their own language, and to make sure they understand everything that people say. Can you tell me back what I just said to you?"*

Continue to the next step to assess comprehension and communication based on the person's response.

### Step Four: Assess communication

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

- have difficulty articulating back what has been said to them
- only speak in short sentences or mainly give one-word answers
- consistently agree with the questions or propositions put to them
- frequently responds inappropriately to comments or questions, for example, with "yes" to "what" or "where" questions
- use 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
- English grammar is difficult. For example, they mix up pronouns ("he" instead of "she") or use the past tense incorrectly ("he look at me")

- conversation doesn't flow in a normal manner as sentences or words need to be restated or simplified.

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## ***Meeting the needs of Deaf people and New Zealand Sign Language users***

Judicial officers and legal representatives have the responsibility to ensure that Deaf people and NZSL users are provided with support in both the courtroom and during instruction taking.

If a participant requires the assistance of a NZSL interpreter, counsel and court and tribunal staff should complete the standard [Request for an Interpreter form](#).

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## ***Communication assistance may also be available***

It's important for judicial officers and legal representatives to consider whether there are impairments that may affect a person's ability to comprehend court proceedings. This includes language and cognitive impairments, brain injury and mental illness.

In some cases the person may require a Communication Assistant - this could be instead of, or as well as an interpreter. For more information please see - [Communication Assistance](#).

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## ***Send a request for an interpreter to the court***

If an interpreter is needed, counsel or the person needing an interpreter should file a [Request for an Interpreter form](#) or [Notice of intention to speak Māori form](#). This should be sent to the court or tribunal to assess ten working days before the hearing.