

Interpreters and translators - Other Bench Books

NSW

Judicial Commission of NSW, [Civil Trials Bench Book \(2022\)](#).

Section [1-0900] discusses the issues related to litigants and witnesses requiring the assistance of an interpreter in the preparation and giving of evidence.

Judicial Commission of NSW, [Equality before the Law: Bench Book \(2022\)](#).

In the context of people from CALD backgrounds, 3.3.1 discusses the assessment of need for an interpreter or translator, the engagement of appropriate services and liability for costs, national standards to be adhered to, and guidelines for judicial officers when working with interpreters in court. In the context of Aboriginal people, 2.3.3.4 notes that an interpreter should be used where there is any doubt about an Aboriginal person who speaks Aboriginal English understanding the questions being asked.

Judicial Commission of NSW, [Local Court Bench Book \(2022\)](#).

Section [14-000] discusses the issues related to parties and witnesses requiring the assistance of an interpreter during court proceedings.

QLD

Magistrates Court of Queensland, [Domestic and Family Violence Protection Act 2012 Bench Book \(2021\)](#).

Chapter 11.3 discusses the court's option to engage interpreters or other assistance to explain the proposed order to the parties.

Queensland Courts, [Supreme and District Courts Criminal Directions Benchbook \(2022\)](#).

Chapter 21 discusses issues relating to interpreters and translators.

Supreme Court of Queensland, [Equal Treatment Benchbook \(2nd ed, 2016\)](#).

- Chapter 6, 'Effective Communication in Court Proceedings' focuses on the issues judges may encounter when dealing with legal matters involving people from culturally and linguistically diverse backgrounds and identifies some guidelines and strategies that judges may choose to employ to address such issues. The first part of the Chapter looks at the use of interpreters and translators in

court to enable comprehension and prevent misunderstanding. It provides a detailed overview of the different interpretation techniques and the standards of accreditation before examining the issue of legal interpreting in Part III (p.46). The bench book notes the *Guidelines for Magistrates and Judges on Working with Interpreters in Court* that have been developed at p.47.

- > Chapter 9 of the bench book, 'Aboriginal and Torres Strait Islander Language and Communication', also looks at interpretation and translation in court proceedings. It highlights significant cases which have recognised the importance of defendants being able to understand the proceedings and evidence in a criminal trial, before providing an overview of how to determine competency in English generally and practical difficulties specifically in Aboriginal interpreting (such as lack of trained interpreters, inability to obtain the services of an interpreter, effects of the court environment, use of untrained interpreters, lack of conceptual equivalence in the language, and language/semantic differences).
- > Chapter 11, 'Persons with Disability', also looks at the specific issues arising in relation to communication and interpreters for people with a disability (p.130 onwards)

Vic

Judicial College of Victoria, [Family Violence Bench Book \(2014\)](#).

2.4 notes that a witness may give evidence through an interpreter. 5.6.1 notes factors that may explain the small number of applications for intervention orders by people from CALD backgrounds recorded as accessing interpreter services. 5.6.4 notes that language and literacy issues, a lack of knowledge of Australian law and available services, and poor interpreting services are among a range of barriers inhibiting the ability of people from CALD backgrounds to access the family violence system.

WA

Department of Justice (WA), [Equal Justice Bench Book \(2nd edition September 2021\)](#).

A very detailed section on interpreting and translating is provided from 7.3.1. It highlights when to use an interpreter or translator, including the different translating techniques that may be used by translators. The presumption that people who need a translator are provided one is noted, with reference to the specific relevant legislative provisions from 7.3.1.1. While there is no right to an interpreter in WA, the importance of having access to one when necessary for a fair trial is emphasised, along with a useful overview of when an interpreter should be used. The section goes on to detail the type of interpreter or translator to use, specific suppliers of interpreters, information on who pays for an interpreter or translator, and practical considerations for working with an interpreter. The added difficulties of cultural differences in understandings of the role of the legal system is also explored from 7.3.1.1, while practical difficulties

involved in the availability of interpreters for people speaking Aboriginal languages is specifically highlighted in 9.3.4 (including useful contacts).

Fryer-Smith, Stephanie, *Aboriginal Benchbook for Western Australia Courts* (Australian Institute for Judicial Administration, 2nd ed, 2008).

- > 'Chapter Six: Pre-Trial Matters' deals specifically with interpreters from 6:16. Includes discussion of the right to an interpreter, practical difficulties (such as determining competency in English, obtaining services of accredited interpreters, lack of conceptual equivalence of words/phrases, interpreter's conduct etc), and calls for accredited Aboriginal Interpreter Training Programs. It also provides appendices detailing guidelines for testing whether an Aboriginal interpreter is required, and contacts for interpreter services in WA.

International

Neilson, Linda C, *Domestic Violence Electronic Bench Book* (National Judicial Institute, 2020).

Section 20.9.1 considers language issues, including the right to an interpreter (Section 20.10.1.1), and assessing the need for an interpreter (Section 20.10.1.2). Relevant considerations when choosing an interpreter include whether the proposed interpreter is related to any party, is aligned with any party, is familiar with the particular dialect, and is competent, as well as whether the interpreter understands the impact of domestic violence on the victim, and whether the interpreter's gender may impact the victim's testimony (Section 20.10.1.3). It is also noted in Section 18.2.7 that it is important to ensure that the relevant parties have 'confidence in the ability and neutrality of the interpreter, particularly if the interpreter is a member of either party's community'.