

The Australasian Institute of
Judicial Administration Incorporated

*Interpreter Policies, Practices and Protocols
in Australian Courts and Tribunals
A National Survey*

Professor Sandra Hale
University of New South Wales

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The Australasian Institute of Judicial Administration Incorporated (“AIJA”) is an incorporated association affiliated with Monash University. Its main functions are the conduct of professional skills courses and seminars for judicial officers and others involved in the administration of the justice system, research into various aspects of judicial administration and the collection and dissemination of information on judicial administration. Its members include judges, magistrates, legal practitioners, court administrators, academic lawyers and other individuals and organisations interested in improving the operation of the justice system.

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Sandra Hale
University of New South Wales¹

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The
AUSTRALASIAN INSTITUTE OF JUDICIAL ADMINISTRATION
&
The
INTERPRETING AND TRANSLATION RESEARCH GROUP
UNIVERSITY OF WESTERN SYDNEY**

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PREFACE

The genesis for this survey was a conference on interpreters convened by the AIJA in March 2009 in Fremantle, Western Australia. That conference brought together judicial officers, court administrators, practitioners and interpreters to look at contemporary issues and problems affecting interpretation and translation in courts and tribunals.

There was considerable support at the conference for a project which might ultimately lead to the development of a protocol for interpreters. To that end, Professor Hale was asked to look, initially, at current policies, practices and protocols in Australian courts as an initial step towards the development of a code of practice for interpreters and interpreting in courts and tribunals.

The Institute is delighted to present the results of Professor Hale's survey which is a valuable contribution to the work of interpreters and translators in Australian courts and tribunals. The Institute is grateful to Professor Kathy Mack of Flinders University for her helpful comments in relation to Professor Hale's initial draft.

The Institute looks forward to the work in relation to interpreters and interpreting and I thank Professor Hale for her work to date.

The Hon Patrick Keane
Chief Justice, Federal Court of Australia
AIJA President

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First of all, I would like to thank Professor Greg Reinhardt, Executive Director of AIJA, for his interest and enthusiasm about interpreting issues which led to the organisation of the conference: “The use of interpreters in courts and tribunals”, held in Fremantle, Western Australia from 12-14 March 2009, and consequently to this project. I would also like to thank AIJA and its research committee for deeming this project important and providing part of the funding.

I thank the University of Western Sydney for also funding part of the project through the Interpreting and Translation Research Group of which I was leader at the time. I am most grateful to the different research assistants who collaborated in the collection and analysis of the data and the editing of the final monograph: Silvia Martinez, Dr Ron Brooker, Dr Robyn Madden and Alejandra Hayes.

I would like to also thank all those who helped distribute the call for participants.

And finally, I would like to thank all the anonymous participants: judicial officers, tribunal members, registrars and practising interpreters, without whose responses, this project would not have been possible.

Abbreviations

AAT	Administrative Appeals Tribunal
AGD	Attorney General's Department
AIJA	The Australasian Institute of Judicial Administration
AUSIT	The Australian Institute for Interpreters and Translators
CJC	Community Justice Centre
CRC	Community Relations Commission for a multicultural New South Wales
DIAC	Department of Immigration and Citizenship
DJAG	Department of Justice and Attorney General
Is	Interpreters
ITRG	Interpreting & Translation Research Group (University of Western Sydney)
JQ	Questionnaire for judicial officers and tribunal members
IQ	Questionnaire for interpreters
JOs	Judicial Officers (This includes tribunal members, commissioners, arbitrators, magistrates, judges and registrars that hear cases)
NAATI	National Accreditation Authority for Translators and Interpreters
MRT/RRT	Migration and Refugee Review Tribunals
OMA	Office of Multicultural Affairs
OMI	Office of Multicultural Interests
SSAT	Social Security Appeals Tribunal
WCC	Workers Compensation Commission

EXECUTIVE SUMMARY

“There is a general dissatisfaction among the interpreters...and it seems that all the complaints fall on deaf ears; not surprising that not many are ready to accept the legal/tribunal interpreting jobs nowadays! Hope some good will come out of this.” (Quote by one of the interpreter respondents)

i. Background

According to the 2006 Census, over half a million people in Australia do not speak English well or at all. Many of these residents may need to access the justice system at one time or another. Being able to understand and be understood in one's own hearing or trial is a human and legal right. For those who do not speak the language of the legal system that right can only be exercised through the provision of adequate and competent interpreting services.

In Australia, court interpreters are not required to be qualified. Generally NAATI accreditation will be desired, where such is available. However, no preference or monetary incentive is given to the best-qualified interpreters. Anecdotal evidence suggests that there is dissatisfaction about the state of court interpreting from the courts and tribunals as well as from the practising interpreters themselves, especially from those who are highly qualified. On the one hand, judicial officers and tribunal members complain about the poor quality of interpreting services and the lack of availability of interpreters in some languages. On the other hand, interpreters complain about the poor working conditions and low remuneration and the lack of recognition for their work and their qualifications.

In 2009, The Australasian Institute of Judicial Administration (AIJA) organised a conference on working with interpreters: “The use of interpreters in courts and tribunals”, held in Fremantle, Western Australia from 12-14 March. At that conference it became apparent that there were no consistent practices around Australia on the use of interpreting services. This national survey is the result of the recommendations arising from that conference and was jointly funded by AIJA and the University of Western Sydney's Interpreting and Translation Research Group, which the author led at the time of the study.

The general aim of this exploratory study was to conduct an overview of current interpreting practices in Australian courts and tribunals for bilingual or multilingual cases to ascertain the strengths and weaknesses and make recommendations for a consistent national protocol on working with interpreters in the justice system. The project consisted of three parts: 1. A review of the publicly accessible guidelines and policies for working with interpreters found on relevant web sites (see Appendix 1); 2. A survey of tribunal members, magistrates and judges using an on-line questionnaire; and 3. A survey of interpreters through another on-line questionnaire (see Appendix 2).

The results of the study are presented below in sections. Section 1 provides an introduction to the study and presents the demographic details of the sample. Section 2 outlines the results relating to quality of interpreting. Section 3 presents the results

surrounding issues of working conditions and status of interpreters. Section 4 discusses remuneration. Section 5 describes the current practices in bilingual proceedings and section 6 discusses the development of a national protocol.

ii. Summary of results

The review of publicly available web-based policies and guidelines on interpreters in courts and tribunals confirmed that there is no uniformity across states or jurisdictions with regards to the type of guidelines available and their contents. Such lack of uniformity leads to confusion among judicial officers and tribunal members as well as among interpreters and non-English speakers. Guidelines for working with interpreters are diverse and found in a wide range of sources, also making it difficult for judicial officers and tribunal members to easily access them. Most guidelines are not specific to the legal sector but are generic in nature. Although some guidelines are fairly comprehensive (e.g. NSW and Victoria Departments of Justice and the Refugee/Migration Review tribunals), the results of our survey indicate that most judicial officers and tribunal members are not familiar with these guidelines and hence they are not consistently implemented in the practice.

The questionnaires were completed by 148 judicial officers and tribunal members (JOs henceforth), and by 138 practising interpreters. This was a good response rate compared to previous surveys of the same populations. Just under half of the respondents came from NSW, but there was representation from all states. Similarly, although the highest group of JO respondents were magistrates, there was a balanced representation from all court jurisdictions and tribunals. The interpreters who responded worked in all the different courts and tribunals.

The question of quality and qualifications was a complex one. Many JOs complained about the poor quality of interpreting services, especially in some languages, yet few of them gave preference to the best-qualified interpreters when it came to hiring them. NAATI accreditation was the only benchmark most JOs used to assess quality, with none taking tertiary qualifications in Interpreting into account. Some JOs were content to make do with family, friends and fellow prisoners or travellers, while others were aware of the risks associated with such practices. Some argued that the shortage of qualified interpreters in some languages made it impossible for them to demand any type of minimum qualifications. A few stated that their choice of interpreter depended on the circumstances and on the type of case: the less important the case, the less important the qualification of the interpreter. Interestingly, a majority of JOs stated that they do not have a say in the choice of interpreter. Although JOs do not insist on hiring trained interpreters, they notice the difference in interpreter skill levels, even among those who hold the same NAATI accreditation. Similarly, a majority of JOs stated having felt dissatisfied with interpreting services at least sometimes. Interestingly, the courts and tribunals that give preference to the best qualified interpreters proportionally report being less dissatisfied than those that do not give preference. This correlation, however, does not seem evident to JOs, who, according to the interpreter respondents, are not concerned about the quality of interpreting. The trained interpreters expressed frustration that the system appears to prefer cheaper, less qualified interpreters than themselves, and that there are no real incentives for interpreters to become trained.

Nevertheless, the majority of respondents in this survey, both JOs and interpreters, supported the need to introduce compulsory legal interpreting training.

Quality of interpreting is closely linked to the conditions under which interpreters are expected to work. Interpreters expressed very strong views about their professional needs, which included the provision of preparation background materials prior to the assignment and adequate physical working conditions during the assignment. JOs were in the main against providing interpreters with any background materials or information, many due to the misconception that interpreters ‘simply’ interpret word for word, are not party to the proceedings and do not need to know anything about it before the commencement of the hearing. On the other hand, the interpreters pleaded for understanding of the nature of their role, which requires contextual information for them to prepare content and terminology in order to be ready to perform optimally. Many interpreters expressed frustration at being mistrusted by those with whom they have to work and being made to feel uncomfortable or incompetent if they requested clarification of any kind. There were some interesting correlations found between providing background materials to interpreters and other variables. Adjournments are more likely to occur when interpreters are not provided with materials; JOs who accept interpreters regardless of their qualifications are less likely to provide them with preparation materials and JOs who explain the interpreter’s role are more likely to provide background materials.

With regards to physical working conditions, both JOs and interpreters agreed that they are rarely provided with regular breaks, despite the existing guidelines, which state this should happen. In terms of the provision of a seat, water and table for interpreters, JOs believed these were provided much more frequently than what the interpreters reported. The results showed that very few interpreters are confident enough to request any of the basic working conditions when they are not provided.

Remuneration was a point of great dissatisfaction for most interpreters. A number of issues was raised by the interpreters. Many complained that they are only paid by the hour when interpreting in courts and tribunals but expected to keep the full day free of other appointments in case they were needed for the full day. Some JOs complained that interpreters are often unavailable after the standard two hours for which they have been booked. The trained interpreters complained about the lack of recognition of their higher-level skills, which are not remunerated accordingly. Some agencies pay between \$2 and \$5 extra for the first hour only to interpreters with the higher NAATI accreditation level, but formal tertiary interpreting qualifications are not taken into consideration at all. A number of interpreters complained about perceived exploitation from different interpreter agencies, and some JOs in turn also complained about the lack of transparency from contracting agencies. The majority of respondents agreed with a differential pay rate system where the better-qualified interpreters are remunerated at a higher rate.

A number of questions were posed to both samples about the current practices during proceedings. Two questions were uncontroversial: the use of the direct approach while interpreting, and the way interpreters were addressed by JOs as Mr/Madam Interpreter. Respondents were split about whether the role of the interpreter should be explained at the outset and if so who should perform such a

task. Some of the JOs' explanations of the interpreter's role, however, revealed misunderstandings about the nature of interpreting. There was little consensus about whether interpreters should alert JOs of potential cross-cultural misunderstandings. While just over half of the interpreters said they were willing to alert the court/tribunal of cross-cultural misunderstandings, the majority of JOs said they expected to be alerted to potential cross-cultural misunderstandings. With regards to what should be interpreted during the proceedings, both samples agreed that other witnesses' testimonies and objections should always be interpreted in the simultaneous mode, whereas there was less agreement regarding the interpretation of legal arguments.

Different answers were elicited about how both samples deal with complaints. Most JOs would allow the interpreters to respond, but very few knew what to do if they needed to obtain an independent expert assessment of the interpretation. Most interpreters stated that they would like to be given the opportunity to respond and many strongly stated that if their performance is to be questioned and assessed, it must be by an expert with higher qualifications than their own, and not by any bilingual person, including bilingual lawyers.

There was overwhelming support for a national protocol that would uniformise practices across jurisdictions at a national level. Many called for compulsory training for JOs as well as for interpreters. While most agreed that improvements are needed, some also noted the costs associated with such improvements, including the cost of training and of paying professional rates to qualified interpreters.

Each of the sections contains recommendations relevant to the content discussed therein. Sixteen recommendations were made which are listed together in the section below.

iii. Recommendations

- Recommendation 1: That all courts and tribunals always give preference to the best-qualified interpreters.
- Recommendation 2: That all interpreters be required to state their qualifications at the commencement of proceedings.
- Recommendation 3: That all interpreters who work in courts and tribunals complete formal legal interpreting training.
- Recommendation 4: That special legal interpreting training scholarships be established
- Recommendation 5: That NAATI introduce a specialist legal interpreter accreditation.
- Recommendation 6: That a national register of qualified legal interpreters be established
- Recommendation 7: That lawyers, tribunal members and judicial officers receive basic training on how to effectively work with interpreters.
- Recommendation 8: That interpreters be provided with adequate working conditions in the court or tribunal
- Recommendation 9: That interpreters be provided with background information and materials where available, before the case, in order to adequately prepare for their assignment.
- Recommendation 10: That two interpreters be used to work as a team for long trials
- Recommendation 11: That differential pay rates be implemented according to qualifications
- Recommendation 12: That interpreters be booked and paid for a minimum of a full day at court, and a minimum of half a day for tribunals, regardless of the actual duration of the case
- Recommendation 13: That more transparent contracting practices be implemented
- Recommendation 14: That better feedback mechanisms be established for judicial officers, tribunal members and interpreters
- Recommendation 15: That a national register of interpreting experts be established
- Recommendation 16: That a national protocol on working with interpreters in courts and tribunals be established.

1. Introduction

Quote 1: “Last week I was called by an interpreting colleague with a problem. She was standing in the registry of the District Court having been asked by the judge, counsel and everyone else in the courtroom to find some ‘better interpreters’. The problem was that the interpreters sent by the agencies who have snaffled the contracts to provide language specialists to the courts were only sending ‘paraprofessional’ interpreters. These people had little experience or skills in interpreting and most had never worked in a courtroom before. In addition, the matter in question was a criminal trial. The freedom or imprisonment of the defendants was at stake. The bumbling efforts of these unskilled, inexperienced paraprofessionals was jeopardising the proper administration of justice in NSW, and the Court recognised it.

My friend had contacted me because I was a fully accredited interpreter with conference and courtroom experience. In addition I was a former lawyer so perfectly suited for this sort of work. Would I do it? Sure, I said. But who was going to employ me? And then the fun and games began. The court registrar was very anxious to employ me, but could only do so if I was contracted through one of two agencies – Fine – I said I'd call them and ask them to put me on their panels. But it wasn't that easy. Ironically, at both agencies I had trouble communicating with the staff – it would be kind to say their English skills were average. But more importantly, when I asked what rates they were paying for a full day's interpreting in court (7 hours), by a skilled professional interpreter in a serious criminal trial they offered me...\$200. Yes that's right, \$200. I didn't know what to say. There was a long silence. All I could come up with was this – and it's absolutely true: ‘Yesterday, I employed a man with a truck to move a pile of dirt from my garden. He charged me \$77/hour plus tip fees for this manual labour. All up \$450 for about four hours work. How can you offer me \$200?’ This fell on deaf ears at one of the agencies, although there was some muttered discussion in another language at the other agency and then I got: ‘We give you \$220. But that final offer, okay?’ No, it's not okay.” (Quote by a French interpreter posted on the AUSIT² e-bulletin in 2010).

The quotation above is illustrative of the main issues surrounding court interpreting in Australia: quality, status, remuneration and working conditions. These examples are typical of interpreters' experiences in Australia. There is an inherent contradiction between the courts' high expectations of interpreting performance and the absence of any requirement for training. On the one hand, there is dissatisfaction from within the legal system concerning the inadequate supply of competent interpreters. On the other hand, competent interpreters report frustration

² AUSIT is the Australian Institute for Interpreters and Translators.

at the lack of recognition for their skills and training, poor working conditions and low remuneration. This unfortunate situation has forced highly qualified interpreters to leave the profession, thus increasing the shortage of competent interpreters. It is a situation that has been described in numerous reports written over the past forty years. These reports have highlighted the deficiencies of interpreting in Australia and have recommended specialist legal interpreting training and adequate remuneration for interpreters (Australian Department of Immigration, 1973; Australian Institute of Multicultural Affairs, 1982; Commission of Inquiry into Poverty, 1975; Committee on Overseas Professionals Qualifications, 1977; Commonwealth Attorney General's Department (CAGD), 1991; Law Institute of Victoria, 2010; Review of Post-Arrival Programs and Services for Migrants, 1978; Senate Standing Committee on Education and the Arts, 1984; Women's Legal Resources Centre, 1994). Despite this extensive documentation and concrete recommendations, the situation on the ground has altered but little. There have been very few improvements. Legal interpreting training is still only optional, courts and tribunals do not give preference to the best-qualified interpreters, and remuneration continues to be well below professional levels.

The reality across Australia is that interpreting services are used regularly in courts and tribunals when one of the participants does not speak or understand English well or at all. While no statistics are kept for interpreter service use in the courts, other figures indicate that residents who are unable to communicate well in English are at a distinct disadvantage in official domains, such as the legal system. According to the last national census (Australian Bureau of Statistics, 2006), 561 419 people reported being in such linguistic disadvantage. Additionally, for some tribunals, interpreted proceedings constitute the majority of all cases. For instance, in 2008-09, interpreters were used in 90% of Refugee Review Tribunal cases and in 67% of Migration Review Tribunal cases³. It should be evident, therefore, that quality interpreting services are crucial for the adequate conduct of legal bilingual proceedings. Inadequate interpreting will inevitably lead to unfair outcomes and if detected, to costly appeals (see Hayes & Hale, 2010).

More specifically, despite the crucial nature of interpreters in the legal system, quality is often taken for granted. There is still a naive assumption that as long as someone speaks two languages (to whatever degree of competence) and swears on oath to interpret faithfully, quality will be guaranteed. This misconception is perpetuated by the belief that interpreting is a simple word-matching exercise, as reflected in the comment by a judicial officer in the quotation below:

“No preparation required...they are simply translating literally what is said in Court verbally” (Quote from a judicial officer responding to the questionnaire).

If interpreting consisted of ‘simply translating literally’, training would be superfluous and there would be no instances of poor interpretation. Yet, complaints about inadequate interpreting abound (Berk-Seligson, 2000; Dobinson & Chiu, 2005; Morris, 2009), indicating that such a claim is nothing but a myth. The Honourable Len Roberts-Smith (2009), an ex Western Australian Supreme Court

³ <http://www.mrt-rrt.gov.au/Tribunal/annrpts/mrt-rrt/ar0809/part-4.html#socialjustice>

judge, reviewed the main cases where language issues led to jurisdictional error and concluded that the underlying causes were either not hiring an interpreter at all, or hiring one without the high level skills required to perform the task, even when they were accredited by NAATI at the professional level. Roberts-Smith's observations are corroborated by the results of data-based research (Hale, 2004; Lee, 2009) that has shown that NAATI accreditation alone is not sufficient for legal interpreters to perform competently. Indeed, these studies evidence that such high level skills can only be acquired through rigorous specialised training of already highly competent bilinguals (For a discussion on such skills, see Hale, 2011).

However, interpreter competence alone cannot guarantee adequate interpretation. Other factors beyond the interpreter's control may also influence the quality of the interpretation. As Laster and Taylor comment:

“Many of the deficiencies blamed on individual interpreters, now and in the past, are the result of systemic problems, such as the lack of uniform education and testing to promote high levels of technical competence, and the failure to develop proper mechanisms for service delivery. Underlying these, of course, are inadequacies in the resources for legal interpreting services and levels of pay for interpreters” (Laster & Taylor, 1994 p. 14)

It is clear that even highly competent interpreters will experience difficulty in performance when working conditions are poor, when the other participants misunderstand their role, do not trust them, or do not cooperate in the process (Hale, 2010; Mikkelson, 2008; Morris, 2008). This situation is exacerbated by attitudinal resistance at the institutional level; for instance when interpreters are seen as outsiders who temporarily come into the court or tribunal rather than being considered as official members of the professional team. Additionally, a situation frequently exists where the most basic needs to perform an adequate job are not always provided, as the results of this study will reveal.

Nevertheless, while this report details a certain systemic bias and intrinsic problems in the judicial system, it is also evident that cause for optimism is justified. Quite simply, this optimism is people-centred. Indeed, the solution/s could even be said to be nascent within the people who contributed to this study. There is enormous goodwill and social awareness across all levels, and latent desire by judicial officers/ tribunal members and interpreters to bring about change as an issue of social justice. Indeed, this encouraging raised awareness and growing interest in interpreting issues among the judiciary and tribunal members in Australia, has been evidenced in training modules, conferences and workshops on the topic organised by the different bodies to which these professionals belong. Moreover, even the existence of this current project is testament to an increased collaboration between all sides to effect positive change. We confidently expect that the results of this study will lead to concrete improvements through the implementation of its recommendations, some of which repeat recommendations made over thirty years ago and which are long overdue. Such action is imperative to ensure equitable access to justice irrespective of participants' language backgrounds.

1.1 Aims of the study

In 2009, The Australasian Institute of Judicial Administration (AIJA) organised a conference on working with interpreters: “The use of interpreters in courts and tribunals”, held in Fremantle, Western Australia from 12-14 March. At that conference it became apparent that there were no consistent practices around Australia on the use of interpreting services. This national survey was the result of the recommendations arising from that conference and was jointly funded by AIJA and the University of Western Sydney’s Interpreting and Translation Research Group, led by the author.

The general aim of this exploratory study was to conduct an overview of current interpreting practices in Australian courts and tribunals for bilingual or multilingual cases to ascertain the strengths and weaknesses and make recommendations for a consistent national protocol on working with interpreters in the justice system. The project consisted of three parts: 1. A review of the publicly accessible guidelines and policies for working with interpreters found on relevant web sites (see Appendix 1); 2. A survey of tribunal members, magistrates and judges using an on-line questionnaire; and 3. A survey of interpreters through another on-line questionnaire (see Appendix 2). Additional comments from interpreters were also obtained through an existing judicial interpreters’ social on-line network called “Australian forensic interpreters” (<http://ausfint.ning.com/>).

1.2 Data and methodology

1.2.1 Guidelines and policies on working with interpreters

A search of policies, protocols and guidelines for working with interpreters in courts and tribunals was conducted from December 2009 to June 2010. The search resulted in the review of 104 websites relating to all Australian jurisdictions (Federal, State and Territories) (see Appendix 1). The relevant parts of the websites were reviewed against the questions in the questionnaires administered to interpreters, judicial officers and tribunal members, and relevant aspects will be cited and discussed under the different sections presented below.

The websites reviewed fall under three major categories:

Government or Professional: Government home pages, departments of justice and Attorney General, multicultural affairs, judicial commissions or professional councils.

Courts: court websites in each jurisdiction.

Tribunals: tribunals where interpreters may be used. Bodies such as remuneration review tribunals or specialised professional tribunals were excluded, as they would be unlikely to deal with interpreters.

The types of policy documents or guidelines that were found and analysed fall into three categories:

Policy documents - These were general policy documents on access and equity issues, multiculturalism or language services published by government departments (Justice/Attorney General or Multicultural

Affairs), or by the courts and tribunals which made some mention of interpreter provision and minimum requirements.

Guidelines on how to work with interpreters for judicial officers or tribunal members - These were documents developed by government departments, particularly those associated to multicultural affairs, on the use of interpreting services in general. Some were specific to courts and tribunals and developed by Justice/Attorney General's departments. There were also a small number of guidelines published by specific courts and tribunals for their officers or members.

Guidelines for interpreters on how to work within the court or tribunal - There was little information available for interpreters.

1.2.2 The questionnaires

The major part of the study consisted of the two questionnaires: one for judicial officers and tribunal members (JOQ) and the other for interpreters (IQ). The questionnaires were delivered on-line using the Survey Monkey software. The JOQ contained 38 questions, and the IQ contained 35 questions. They both had a mixture of closed and open ended questions and were divided into three main areas: issues of quality (training, accreditation, qualifications, and satisfaction with services); issues of process (hiring practices, working conditions provided to interpreters, protocols on working with interpreters) and issues of remuneration. Both questionnaires were analysed quantitatively using the SPSS program and qualitatively using the NVivo program.

The sampling method was systematic but non probabilistic. Interpreters received invitations to participate through the AUSIT e-bulletin, an online forensic interpreters forum, the different government and private interpreter agency panels and NAATI. Tribunal members and judicial officers received invitations to participate through AIJA, all state departments of justice, the National Judicial College of Australia and the different tribunals. Participation was voluntary and subject to respondents meeting the basic criteria: judicial officers and tribunal members with experience in working with interpreters and interpreters with experience in working in courts and tribunals. As there are no figures available on the total numbers of those who qualified to take part in the survey, we cannot calculate an exact response rate. However, we can estimate a response rate by using the number of paying members of the two professional associations: 850 paying members of AIJA and 541 paying members of AUSIT⁴. Based on these figures, the response rate is approximately 20% (17.4% for JO/TMs and 25% for interpreters), which is the standard expected response rate for self selected questionnaires. This rate is in fact higher than that of previous similar surveys (Hale, 2011). While we cannot claim representativeness to the whole population of judicial officers, tribunal members and interpreters, the sample is large enough to make generalisations based on the results. The questionnaires were piloted and amended before being sent out to the full list of participants. Ethics clearance was obtained from the University of Western Sydney's Human Ethics Research Committee (approval number H7531).

⁴ These figures were obtained from AIJA and AUSIT.

1.3 The respondents

148 judicial officers and tribunal members completed the questionnaire. As shown on Table 1.1, tribunal members comprised 40% and judges and magistrates together comprised 43% of the sample, which provided a balanced spread between the two groups. There were 26 (17.6%) registrars in the sample who responded on behalf of the court in which they work. For ease of reference the term “judicial officer” (JO) will be used to refer to the whole sample. The interpreters’ questionnaire was answered by 138 interpreters.

Table 1.1: Judicial position

	Frequency	Percent
Judge	29	19.6
Magistrate	35	23.6
Tribunal member	58	39.2
Registrar	26	17.6
Total	148	100.0

1.3.1 Respondents’ age and gender

46% of the JOs respondents were female and 54% were male, with the majority (69.5%) being in the 51–60 age group. 80% of males were over 50 years of age but only 54% of females were in that age bracket. The sample is again distinguished by gender on the positions that the respondents held. Males held 49% of judge or magistrate positions compared to 36% held by females.

In contrast with the JO sample, there was a much higher representation of women (66%) than men (34%) among the interpreters, which is consistent with an apparent trend in the field⁵. In terms of age, the biggest age group for interpreter respondents was also the 51–60, with 37% of the respondents falling in that category. However, the interpreters were slightly younger than the JOs, with 49.3% of interpreters being under 50 and only 29.7% of JOs in that age bracket. Only 13.8% of the interpreters were over 60 compared to 23.6% of JOs.

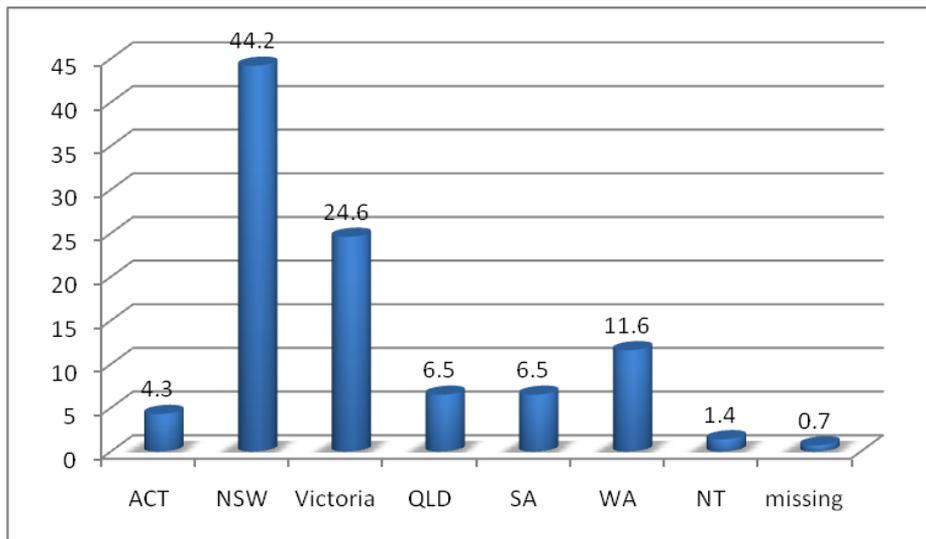
⁵ This is based on anecdotal evidence, as there are no statistics kept on interpreter gender.

1.3.2 Respondents by state

New South Wales dominated the JO sample with 49%. Victoria (11%), Queensland (10%), South Australia (13%) and Western Australia (14%) were comparable in numbers, while Tasmania, the Northern Territory and New Zealand had only a few respondents.

According to the 2006 Census (Australian Bureau of Statistics, 2006), the Northern Territory, Victoria and New South Wales have the highest percentages of the population who do not speak English well or at all, with 4.9% for the Northern Territory, 3.8% for Victoria and 3.7% for New South Wales. This is partly reflected in the number of interpreters available in Victoria and New South Wales but not in the Northern Territory, where there are very few interpreters. The highest percentage of interpreters who answered the questionnaire (44.2%) came from New South Wales, followed by Victoria (24.6%), as seen in Figure 1.1.

Figure 1.1: Interpreter respondents by State



1.3.3 Respondents' work experience

Length of time in their current position as JO was evenly spread across the first three five-year groups, with 31.1% being in the job for less than five years, 27.7% from 6 to 10 years and 27.7% from 11 to 20 years. Only 12.2% had worked in the current position for over 20 years.

For interpreters, experience was evenly distributed, with 30% having less than five years experience, 24% from 6 to 10 years, 27% from 11 to 20 years and only 16% with over 20 years experience.

1.3.4 Courts and tribunals where the respondents work

A large variety of courts and tribunals were represented in the JO sample, as shown in Table 1.2. The highest percentage (37%) were Local/Magistrates Court personnel while the various tribunal members also featured highly (33.9%). There was one respondent from New Zealand. The call for participants was sent to all the members of AIJA, which includes New Zealand, but only one responded.

Table 1.2: JO respondent courts and tribunals

	Frequency	Percent
Local/Magistrates Court	54	36.5
District/County Court	11	7.4
Supreme Court	11	7.4
Family Court	3	2.0
Federal Magistrates Court	4	2.7
Federal Court	5	3.4
MRT-RRT	14	9.5
Consumer, Trader & Tenancy Tribunal (or equivalent)	8	5.4
Workers Compensation	8	5.4
Industrial Commission / Court	6	4.1
Guardianship Tribunal	2	1.4
Land and Environment Court	3	2.0
Administrative / Decisions Appeal Tribunal	17	11.5
High Court of New Zealand	1	0.7
Mental Health Review Board / Tribunal	1	0.7
Total	148	100.0

The interpreters reported working in many different legal settings. Respondents were able to select more than one option. The courts or tribunals listed by the interpreters included three state courts, three federal courts and three tribunals. 86% worked in Local/Magistrates Courts, 74% in the Family Court, 71% in the District/County Courts, 59% in the Workers Compensation commissions, 57% in the Migration/Refugee Review Tribunals (MRT/RRT), 54% in the Consumer, Trader and Tenancy Tribunal (or equivalent), 52% in the Federal Magistrate's Court, 49% in the Supreme Court, and only 39% in the Federal Court.

1.3.5 Frequency of interpreted cases

Just over half of the JOs (52%) heard interpreted cases at least once a month, with 48% hearing cases with interpreters less than once a month. A considerable number (28.4%), though, stated they hear cases with interpreters at least once a week. The majority of interpreter respondents (73.8%) worked in courts and tribunals at least once a month, with 33.3% working in these settings at least once a week.

1.3.6 Interpreter respondents' qualifications and accreditation

The interpreter respondents were asked to indicate their highest interpreting qualification and NAATI accreditation. 64.4% had either TAFE or university training, with 30.4% having no interpreting qualifications at all. As to NAATI accreditation, over 88% were at or above the Paraprofessional Interpreter level, with 65% having the highest accreditation level for which there is examination in Australia: the Professional level (formerly known as Level 3).

2. Quality of interpreting

2.1 Existing recommendations on qualifications and training

The need for better qualified interpreters has been recognised over the years in many reports about interpreting (Australian Department of Immigration, 1973; Australian Institute of Multicultural Affairs, 1982; Commission of Inquiry into Poverty, 1975; Committee on Overseas Professionals Qualifications, 1977; Commonwealth Attorney General's Department (CAGD), 1991; Law Institute of Victoria, 2010; Review of Post-Arrival Programs and Services for Migrants, 1978; Senate Standing Committee on Education and the Arts, 1984; Women's Legal Resources Centre, 1994). However, the recommendations for compulsory training have not yet been implemented, despite the increase in the number of good quality formal degree courses in the country. Furthermore, formally qualified interpreters are rarely given preference over unqualified interpreters when allocating interpreting assignments.

Our review of the current policies and guidelines on interpreters revealed some interesting facts. There are numerous documents at state and federal levels that contain references to interpreter quality and qualifications. At the state level, there are guidelines and recommendations produced by the various Departments of Justice, Bench books, and state tribunal guidelines. At the federal levels, there are specific guidelines for the different federal courts and tribunals.

In New South Wales, the Department of Justice and Attorney General (DJAG) recommends that the Community Relations Commission For a Multicultural NSW (CRC), who supply most of the interpreters for court work, prioritise allocation of assignments to NAATI level 3 interpreters for all languages where that level of accreditation is available. The Western Australian Department of the Attorney General also recommends that interpreters be accredited at the professional NAATI level when such is available. However, the document also comments on the insufficiency of NAATI accreditation at any level for court interpreting, explaining that:

It is important to note that, first, none of the NAATI levels of accreditation involve specialist examination or legal interpreting accreditation. All are generalist levels, although individuals may choose to specialise in particular areas such as law, medicine, social work or the like. ... Finally, there is a strong academic view that the NAATI examination, at any level, is not adequate to test court interpreters” (WA Department of the Attorney General, 2009b, p. 7.3.5).

The document then refers to the Magistrates Court Information Bulletin No 5 of 2006 where the judicial officer is given the discretion to use the services of unaccredited community members when accredited interpreters are not available (WA Department of the Attorney General, 2009, p. 7.3.5)

Whereas the Western Australian Attorney General’s Department allows for “non-accredited community members” to be used as interpreters only when accredited interpreters are not available, the Family Court of Western Australia, on the other

hand, encourages the use of unaccredited interpreters for some cases, as evidenced in its statement: “[f]or undefended divorce proceedings the assistance of a friend to act as interpreter is encouraged and will be sufficient.” (Family Court of Western Australia, 2006, p. 1).

Queensland has the most progressive policy on interpreters. The “Multicultural Queensland: making a world of difference” policy (Queensland Government, 2004) which formed the basis for the Department of Justice and Attorney General’s Language Services policy (2009) is the only public document found by this review that recommends the use of interpreters with specialist skills for legal and health settings (Queensland Government, 2004, p. 10). It provides detailed information about interpreters’ qualifications and the requirement to give preference to the best-qualified interpreters, as cited below:

Depending on availability and the interpreting task, the ideal order of preference protocol for engaging professional interpreters is:

1. Interpreter (Formerly Level 3) (in a legal/health setting it may be preferable to request an interpreter with specialist skills in the relevant area)
2. Paraprofessional interpreter (Formerly level 2)
3. NAATI Recognised or other interpreter registered with TIS
 - Non-professional interpreters should not be used unless the situation is urgent and a professional interpreter is unavailable (Queensland Government, 2004, p. 10).

The recommendation to engage an interpreter with specialist skills in legal settings is further pursued through the Queensland Supreme Court’s Equal Treatment Bench book (2005), as cited below:

Legal interpreting is a more specialised field than generalist interpreting, and the Bureau of Ethnic Affairs and Department of Justice have identified the following required competencies for legal interpreters:

- Comprehensive knowledge about the Australian legal system;
- Thorough understanding of the roles of lawyers and judicial officers;
- Sensitivity to legal culture;
- Command of legal terminology;
- Understanding of the structure of the legal systems in Australia and the country where the target language is spoken;

- Tertiary-level education or equivalent life experience;
- Ability to interpret consecutively and simultaneously;
- Commitment to ethical principles in legal settings;
- Understanding of lawyers' expectations and how to work professionally with them. (Supreme Court of Queensland, 2005, p. 66)

The ACT has commissioned an internal discussion paper on the use of interpreters in ACT courts and tribunals (Edwards, 2010). This document also discusses the importance of using “competent” interpreters, which it defines as “trained” and not only accredited. In addition, the paper briefly discusses the limitations of the NAATI accreditation system, identifying “... that firstly, NAATI does not provide accreditation in all languages and secondly it does not test for competencies such as specialisation in courtroom interpreting or medical interpretation.” (Edwards, 2010, p. 8). It also expands on the importance of allowing interpreters to prepare prior to a hearing and the possible need of using more than one interpreter.

All other available guidelines on interpreters only recommend NAATI accreditation, making no mention of any training, specialised or otherwise.

2.2 Current system of accreditation

Currently in Australia, accreditation by the National Accreditation Authority for Translators and Interpreters (NAATI) can be obtained by sitting an external examination without any prior interpreting training required or by completing a NAATI approved formal interpreting course at University or TAFE. In order to sit for the external examination, candidates must have knowledge of the two languages, an undergraduate degree in any discipline or NAATI Paraprofessional accreditation (which does not require an undergraduate degree). Those who take the NAATI Paraprofessional route may have only a secondary or even primary education. As some of the reviewed documents stated, the NAATI Interpreter examination is generic in nature and passing the NAATI examination does not guarantee competence in legal interpreting; yet once accredited at this level, interpreters are deemed qualified to act as interpreter in both courts and tribunals.

Pre-service training is optional. NAATI approves a variety of courses at the same level of accreditation, which include TAFE advanced diplomas and university undergraduate and post-graduate degrees. The pathway to obtaining accreditation is therefore very diverse, with obvious differences across those who hold the same level of accreditation but have obtained it through different means. Many NAATI accredited interpreters, even among the trained ones, may not have received any specialist legal interpreting training before entering the profession. Currently, only some formal courses offer a legal specialisation. Interpreters accredited at the same

NAATI level, therefore, will have different qualifications and skill levels. This explains the comments from the JOs⁶ which appear below:

Quote 1: “NAATI 3 is the benchmark, and we aim for that, although I know it guarantees little in terms of quality.”

Quote 2: “I am concerned that too much weight is placed on NAATI level 3 accreditation. In my experience level 3 NAATI accreditation counts for nothing and most of my preferred interpreters are not level 3 accredited.”

Another JO stated that they have “... seen a variety of skill levels”. These comments reflect the current level of dissatisfaction with the existing accreditation system, where the same level of accreditation does not guarantee the same level of competence or skill in legal interpreting.

2.2.1 The judicial officers’ opinions about the current system

Quote 3: “My experience over the years is that the rules for qualification as an interpreter are not nearly stringent enough. Just as migration agents are apparently able to qualify with little or no English the same position appears to be applicable with interpreters. This difficulty applies in the main to interpreters in the South East Asian languages and is almost never applicable in relation to European languages.”

The open-ended questions in the questionnaire for JOs elicited many calls for more stringent requirements for interpreters, as highlighted in the quote above. Again, there were comments about the lack of uniformity across different interpreters holding the same NAATI accreditation level, some lacking the basic competencies, as expressed in the quote below:

Quote 4: “The standard of interpreters varies widely - even amongst those with the same level of NAATI accreditation...For e.g. ... on occasions where an interpreter has indicated that they are having difficulty interpreting a word and I have suggested they refer to their dictionary it is rare that they have one with them, at times interpreters have paraphrased rather than interpreted and it is not unusual for an interpreter to comment on responses given by witnesses e.g. "they [the witness] don't seem to have understood your question because they have said...”

Despite some strong opinions about interpreters’ lack of competence, the results of the survey show that not all JOs see a connection between competence and accreditation levels or training and that little is done to ensure that the best qualified interpreters are being hired, as will be shown in section 2.3.

⁶ Note that the abbreviation JO will be used throughout to represent both Judicial Officers and Tribunal Members.

2.3 Minimum interpreter qualifications required

The survey asked JOs to state what minimum qualifications they required of interpreters working in their court or tribunal. Just over half of the sample (53%) stated they require interpreters with the NAATI Paraprofessional (formerly Level 2) or Professional (formerly Level 3) accreditations. They were also asked if they required specialised interpreting training, and only 16% chose this option. Notably, however, there was a substantial number (17%) who indicated “Don’t know”, and 11% who stated they do not require any qualification at all.

Thirty-nine respondents offered extra explanations for their answers. The majority of these (25) stated that they did not know the minimum qualifications required by their court or tribunal because their registry/office arranged the bookings and they relied on the interpreter agency to set the required qualifications. Eight respondents stated that they use whatever interpreter is available at the time, some arguing that there are no available qualified interpreters in certain languages and they therefore cannot demand quality. Others seem to believe that any bilingual is good enough, including friends, fellow prisoners or fellow travellers, as expressed in the quotes below:

Quote 5: “No regular practice, if all else fails, apparently fluent ‘friend’ is acceptable.”

Quote 6: “I have on occasion used prisoners to interpret for other prisoners out of necessity.”

Quote 7: “With some of the newly arrived African people, we take whatever we can get. There are few, for example, accredited Dinka interpreters available to us as yet.”

Quote 8: “I try to use the telephone interpreter service. If that's not available I use whoever can help — usually fellow travellers.”

Some respondents stated that their choice of interpreter depended on the circumstances and on the type of case: the less important the case, the less important the qualification of the interpreter. Over half of the JO sample (60%) were aware that tertiary training for interpreters was available, yet only 16% stated they require interpreters to be trained, which indicates that most JOs do not see a direct connection between quality and training. Similarly, the question on whether interpreters were asked to state their qualifications indicated once again that JOs may not deem interpreter qualifications all that important. Only 37% answered they ask interpreters to state their qualifications at the commencement of proceedings, with 62% answering they do not.

2.3.1 Preference given to the best-qualified interpreters

A further indication of the importance afforded to interpreting qualifications is whether JOs give preference to the best-qualified interpreters. Regardless of the language and the highest level of qualification and accreditation available for that language, this is a simple practice that could be currently implemented. However, only 38% indicated their court or tribunal gives preference to the best qualified

interpreters, with 14% stating they do not and a high percentage (47%) answering that they do not know, which is consistent with the answers to the previous question.

While JOs expressed concern about poor quality interpreting, interpreters, on the other hand, expressed concern about the system's apparent disregard for quality. The trained interpreters expressed frustration that the system appears to prefer cheaper, less qualified interpreters than themselves, and that there are no real incentives for interpreters to become trained.

One interpreter complained that the current practice does not give preference to the best-qualified interpreters or to those with the highest NAATI accreditation, as can be read in quote 9 below:

Quote 9: "In the past we have noticed that Paraprofessional Auslan Interpreters have been doing assignments. We were told that Professional Auslan Interpreters should be used in Court. We had been told that there were no Professional Interpreters available at the time. This was strange because we had all been available on different days but had not been asked to do an assignment on that day. I was informed about a Paraprofessional Interpreter who had been interpreting in Court for many years, this was someone who had failed their NAATI Professional accreditation 3 times! When I wrote a letter about my concern it was never answered."

2.3.2 Having a say in the choice of interpreter

The majority of JOs (70%) does not have a say in the choice of interpreter. This lack of control is very significant. Interestingly, however, when asked whether they thought they should have a say in the choice of interpreters, only 28% thought they should, and over half (52%) thought they should not, with 20% not responding at all, which may indicate ambivalence about the topic. Either they do not consider the point to be important enough for them to ensure that they are allocated the best qualified interpreter, or they trust that those in charge of booking the interpreter will ensure that the best interpreters are hired.

Those who stated they do have a say were asked how they exercised this choice. The majority in this group stated that they provide feedback on the interpreter's performance, ask for the good interpreters to be rehired and refuse using the services of the incompetent or unethical interpreters. Another group stated that they set specific requirements when requesting an interpreter, such as country of origin, gender, special cultural requirements and no family relations between the interpreter and the non-English speaker. These requirements, however, do not reflect any level of qualification or accreditation. Five respondents said that they do not accept interpreters with less than NAATI Level 3, presumably for those languages for which that NAATI accreditation level is available. One respondent stated that they ask the agency to always accept the best-qualified interpreter. Although some JOs have a say in the choice of interpreter, some indicated that the shortage of qualified interpreters makes it impossible to demand that only qualified interpreters be hired, as expressed by one JO from Tasmania:

Quote 10: "Although I have a choice, the availability of

interpreters is very limited. There are very few interpreters with the appropriate qualifications for court work in Tasmania (in fact it has been asserted that there are none).”

One can argue, however, that regardless of the number of qualified interpreters available in each language combination, preference to the best available interpreter could still be given. In some cases, flying in interpreters from other states or using teleconference or videoconference facilities could be other options used to overcome lack of supply. Additionally, the acknowledgement that there are few competent interpreters available should lead to a call for compulsory training, rather than to a resignation that nothing can be done about the problem.

2.3.3 What do JOs do when qualified interpreters are unavailable

The questionnaire asked JOs what they do when interpreters with the minimum qualifications required by them or their court or tribunal are not available. This question resulted in 42% answering they would adjourn proceedings until a qualified interpreter is available. Respondents from courts were more likely to adjourn hearings until a qualified interpreter is available than tribunals, who more frequently take other options. Similarly, male JOs were more likely to adjourn a hearing until a qualified interpreter is available than females, who most often adopt other alternatives. Of the other options, 23% stated that they “accept other interpreters regardless of qualifications”. Telephone interpreting services was an option for 14% of the cases, with only 2% opting for video conferencing, and 11.5% answered that their decision would depend on the seriousness of the case. A number of JOs offered alternative answers that reflect the different attitudes held by the respondents. Some said that it depended on the language. In languages where there were not many qualified interpreters, they would proceed with the aid of a friend, family, lawyer or fellow prisoner or defendant, as expressed by one respondent in the quote below:

Quote 11: “After finalising their matter I do my best to persuade another defendant, one with the necessary skills, to help others from their culture or community with whom they share a common language, whether dealing with African, Asian, Aboriginal or any other people.”

Comments such as the above indicate a clear lack of appreciation of the importance of competent interpreters in ensuring accuracy and fairness when non-English speakers are involved in a case. Issues of impartiality are also overlooked when using the services of non professional interpreters. Not all respondents agreed with settling for less, as expressed by the respondent cited below:

Quote 12: “Unfortunately this happens too often in regional locations. Having started with a lesser qualified interpreter on occasions it has been necessary to adjourn the hearing because the interpreter’s skills were insufficient.”

In line with the sentiment expressed in the quote above, ten other respondents stated that they would hire interpreters from overseas, interstate or use teleconference or videoconference facilities to conduct their case rather than opt for less qualified interpreters, thus demonstrating their understanding for the need for competent interpreters.

Two other respondents said they rely on the interpreter's experience and good reputation if they do not have NAATI professional accreditation. Interestingly, no one mentioned formal qualifications as an indicator of quality. Finally, four indicated that they would proceed if they are satisfied that the "party seems to understand enough" or if they are satisfied that the interpreter is competent enough. It is difficult to envisage how they would be able to ascertain that the party understands or that the interpreter is competent when they are not interpreting experts themselves. While blatant mistakes and unethical behaviour can be detected by monolinguals, many interpreting errors can be subtle though significant, and only be detected by interpreting experts. A recent Danish-French case in Denmark illustrates one such example (Martinsen & Dubslaff, 2010). The judge spoke some French and believed she was competent enough to assess the interpreter's competence. However, an independent assessment by an interpreting expert identified many significant interpreting errors, which were undetected by the judge. It is therefore very risky for JOs to rely on their own superficial evaluation of the interpreter's performance to decide whether they are competent enough.

A number of respondents expressed the predicament in which they find themselves with the shortage or lack of qualified interpreters in Aboriginal languages for remote areas. For these languages there are no qualified interpreters overseas or interstate, and despite the courts' best efforts to find competent interpreters, it may not be possible, as explained in the quote below:

Quote 13: "Recently we have had great difficulty getting Indigenous interpreters for hearing participants from a remote community — although apparently a service exists in the area there was no one who could act as an interpreter despite two adjournments. Eventually the hearing proceeded and a family member assisted. In one case the hearing was adjourned when the interpreter announced mid hearing that she had to leave as she had another commitment."

The shortage of qualified interpreters in many languages is a real obstacle to providing adequate interpreting services for many non-English speakers. However, the shortage of qualified interpreters in some languages cannot be used as an excuse for not demanding the highest qualifications in the languages for which they exist, or for not taking steps to address the issue through the provision of adequate training and remuneration.

Other reasons given for not requiring qualified interpreters were not as valid. Some argued that less serious cases warrant less qualified interpreters. It is worth questioning whether any case can be considered "not serious enough" to risk using the services of an unqualified interpreter, including friends and family, which may lead to hidden misunderstandings, adjournments or even appeals and consequent extra costs.

2.4 Specialised training

The survey showed overwhelming support for compulsory legal interpreting training for interpreters from JOs and interpreters alike; 78% of interpreters and 77% of JOs support compulsory legal training for interpreters.

There was an association found between gender and the need for compulsory legal interpreting training among interpreters: females were proportionally more in favour of compulsory training than were males. There was also a relationship between age and the support for compulsory training. Younger respondents in both samples were more in favour of compulsory legal interpreting training than the older ones. While not significant, there was a relationship between supporting compulsory training for interpreters and having experienced dissatisfaction with interpreter services. Those JOs who had not experienced dissatisfaction with interpreters in the past, were less likely to support compulsory legal training for interpreters, as they saw no need for it. However, there was also a relationship found between those who were less dissatisfied and those who gave preference to the best-qualified interpreters. Such correlation indicates that better qualified interpreters provide more satisfactory services, thus indirectly supporting the need for training.

2.5 Levels of satisfaction with interpreting services

The level of satisfaction with interpreting services may shed light on the need to improve interpreter competence. The question on how often tribunal members and judicial officers felt dissatisfied with the interpreters' services they received revealed that almost 60% (58.8%) felt dissatisfied sometimes, with 11.5% feeling dissatisfied often or very often, and 30% never experiencing dissatisfaction. This shows that over 70% have felt dissatisfied with interpreting services at least sometimes. When we consider the consequences of incompetent interpreting on the fairness of bilingual cases, such a figure becomes alarming. An interesting finding was that the courts that give preference to the best qualified interpreters have proportionally less occasions of being dissatisfied than those that do not give preference. Those who do not give preference to the best-qualified interpreters express dissatisfaction 4.25 times more than those who do.

2.6 Training on how to effectively work with interpreters

While there was strong support for the need for compulsory legal interpreting training for interpreters, a considerable number of answers also expressed the need for judicial officers, tribunal members, lawyers and other court and tribunal personnel to learn more about the needs of interpreters, the interpreting process and how to best work with interpreters, arguing that much of the misunderstanding about the role of the interpreter can be overcome through education (see quote 14 below).

Quote 14: "Generally I think it is lawyers who would benefit from training in working with interpreters, not the interpreters. Lawyers often ask unnecessarily complex questions in cross-examination which are hard to understand in English, let alone once interpreted into another language."

Some tribunals, such as the MRT/RRT and WCC of NSW currently run regular sessions for their members on working with interpreters. Similarly, state judicial commissions, the National Judicial College of Australia and the Australasian Institute of Judicial Administration have also organised sessions, workshops and conferences on this topic. This increased level of interest has led to a raised awareness of interpreting issues among many judicial officers and tribunal members.

2.7 Recommendations relating to qualifications and quality of interpreting

2.7.1 Recommendation 1: That all courts and tribunals always give preference to the best-qualified interpreters.

A number of JOs relied on the contracting interpreter agencies to supply them with the best-qualified interpreters as a matter of course. However, most agencies that supply courts and tribunals with interpreters do not include any interpreting formal qualifications on their interpreters' profiles and therefore cannot give preference to the best-qualified interpreters, despite the fact that some policies indicate such preference should be given. Some of the agencies have a rotating system, where interpreters, regardless of their qualifications, level of skill or positive or negative feedback, are allocated work on a rotational basis. Similarly, both the NAATI and the AUSIT directories only list the interpreter's NAATI accreditation level and ignore any extra formal qualifications.

Formal qualifications should be taken into consideration when hiring interpreters to work in courts and tribunals, as expressed in some of the cited policies and discussion papers. The results of the survey also showed positive correlations between giving preference to trained interpreters and being satisfied with their services. Similarly, trained interpreters were more likely to fulfil the judicial officers' high expectations due to their training. The survey also showed that those judicial officers who give preference to the best-qualified interpreters are less likely to adjourn cases. Courts and tribunals should play a more active role in the selection of interpreters and insist on being provided with extra information on interpreter qualifications. Some of the JO respondents expressed frustration at not being provided with enough information about the interpreter from the booking agency.

The highest level of qualification will depend on the language concerned. For some languages (for example Arabic, Auslan, French, Chinese and Spanish), there is a considerable supply of highly qualified interpreters who are accredited at the NAATI Professional level and have university degrees in Interpreting. For other languages only NAATI Professional accreditation is available, and for others only NAATI Paraprofessional accreditation or recognition is available. (See Appendix 3 for a list of current languages accredited by NAATI.)

2.7.2 Recommendation 2: That all interpreters be required to state their qualifications at the commencement of proceedings.

A study of appeals on the basis of incompetent interpreting (Hayes & Hale, 2010) found that interpreter qualifications rarely appeared on the record of the case. It was therefore impossible to ascertain whether there was a relationship between appeals and interpreter qualifications. In order to allow the judicial system to assess this impact on the administration of justice, we recommend that interpreters state their highest level of NAATI accreditation and any relevant formal training at the commencement of proceedings and that this be entered into court/tribunal records.

2.7.3 Recommendation 3: That all interpreters who work in courts and tribunals complete formal legal interpreting training.

Recommendations for compulsory specialised legal interpreting training for all interpreters working in the legal system have appeared in numerous reports in the past thirty years (Committee on Overseas Professionals Qualifications, 1977; Commonwealth Attorney General's Department (CAGD), 1991; Law Institute of Victoria, 2010; Senate Standing Committee on Education and the Arts, 1984; Women's Legal Resources Centre, 1994). Our own review of current policies, guidelines and discussion papers also found recommendations for specialist legal interpreting training (Edwards, 2010; Queensland Government, 2004; Supreme Court of Queensland, 2005).

To date, this recommendation has not been implemented. We strongly believe the implementation of this recommendation is long overdue. We further argue that interpreter quality will not improve until such a requirement is put into place.

We recommend that the requirement for legal interpreting training be phased in gradually and according to languages, commencing with the languages for which there is NAATI Professional accreditation and current courses available, followed by the languages for which there is only Paraprofessional accreditation and lastly by the languages for which there is only NAATI recognition.

2.7.4 Recommendation 4: That special legal interpreting training scholarships be established

A number of JOs suggested the establishment of scholarships to train interpreters. We recommend that legal firms, interpreting agencies, departments of justice and other relevant legal bodies be encouraged to provide at least one scholarship per year for legal interpreting training. We suggest that current practising interpreters with NAATI Professional accreditation who do not hold formal training be trained first.

We further recommend that funding be made available to train interpreters in the new emerging and Aboriginal languages for which there is a noticeable shortage of interpreters.

2.7.5 Recommendation 5: That NAATI introduce a specialist legal interpreter accreditation.

As previously explained, the current NAATI accreditation examination is generic in nature and does not guarantee competence in legal interpreting. The examination has been criticised and considered inappropriate to assess interpreters who are to work in the legal setting (see Dueñas González, Vásquez, & Mikkelson, 1991; Roberts-Smith, 2009). Recommendations for specialised testing have been presented to NAATI in the past, and NAATI has considered the possibility but has not as yet implemented any such recommendations. We recommend that such an accreditation be awarded only upon successful completion of NAATI approved formal specialist legal interpreting courses.

2.7.6 Recommendation 6: That a national register of qualified legal interpreters be established.

We recommend that a national register be established for formally qualified legal interpreters, to be used by all courts and tribunals. We further recommend that when qualified registered legal interpreters are not available in one state, a registered interpreter from another state be hired. We believe that the use of unqualified interpreters is currently unjustified for the major established languages. If recommendations 3 and 4 are implemented, a pool of qualified interpreters in the new and emerging languages, as well as in Aboriginal languages will also become available, making the use of unqualified interpreters unjustified in any language.

The establishment of a national register would generate a number of benefits:

- Interpreters would be able to specialise in legal interpreting rather than be generalists
- Currently, interpreters in the languages of less demand do not have enough work to warrant any educational investment on their part. A national register would allow such interpreters to work across the different states, either by travelling to the site or by interpreting via telephone or video conference
- The states which do not have a high supply of local interpreters would benefit from a national pool of the best qualified legal interpreters
- Courts and tribunals would benefit from better services from specialised professionals

2.7.7 Recommendation 7: That lawyers, tribunal members and judicial officers receive basic training on how to effectively work with interpreters.

Previous reports have recommended training for legal professionals on how to work with interpreters (Commonwealth Attorney General's Department (CAGD), 1991; Gilligan, 1982; Law Institute of Victoria, 2010; Women's Legal Resources Centre, 1994). The results of this survey reinforced that need.

We recommend that law degrees include a module on working with interpreters taught by interpreting experts. Where a university has an interpreting program as well as a law program, we recommend that joint practical simulated interpreted sessions be held between law and interpreting students. These sessions may include simulated lawyer-client conferences as well as moot court practice with a non-English speaking witness and interpreter.

We further recommend that all judicial officers and tribunal members undergo basic training on how to work with interpreters, in the form of at least a one to two-hour workshop. Currently some tribunal members and judicial officers are provided with such training (e.g. RRT/MRT, WCC of NSW, National Judicial College,

Judicial Commission of NSW). We recommend that such training become available and mandatory for all tribunal members and judicial officers.

We also recommend that other court personnel who have dealings with interpreters (such as registrars, prosecutors, clerks, police) also avail themselves of such training.

3. Working conditions and status

Quote 15: “At a recent district court assignment I was asked to interpret for the witness and did so for an hour - standing in front of the microphone beside the witness box. During the break I asked the court clerk for a seat and was seated beside the witness in the witness box. After the break Her Honour seemed quite perturbed to return and find the interpreter seated. Admittedly, seating for interpreters when interpreting in court is not always a problem. But the fact that a chair, a place to rest your notepad, and a glass of water - all essential tools - are not automatically provided for the interpreter does seem to sum it all up. How can we be respected as a professional when not treated as such? How can we be expected to do our best when our working conditions are so non-conducive?” (Quote by an Indonesian interpreter, posted in the Australian Forensic Interpreters forum in 2010)

The conditions under which interpreters are asked to work can significantly impact on the quality of their performance. The quote above indicates that the most basic working conditions are not always provided for interpreters to be able to perform adequately. Basic physical conditions include a comfortable position, a table on which to lean to take notes, a seat, drinking water and good acoustics. As the interpreter cited above commented, being respected as a professional is often reflected in the way interpreters are treated by the court and the conditions with which they are readily provided. Some interpreters in the sample expressed frustration at not being heard about these issues, as one interpreter respondent stated in the quote below:

Quote 16: “I appreciate your research. I had a meeting in relation to exactly these issues with a Registrar of Melbourne Magistrates Court yesterday as I am now experiencing the consequences that I am not allocated work lately for my voicing the issues in relation to the conditions of work and pay in the Court.”

Some interpreters were not specific about which conditions needed improvement, others mentioned occupational health and safety issues relating to fatigue and stress and a considerable number of interpreter respondents spoke of the fundamental need to hear and understand the utterances so they can interpret accurately. A good number (23) mentioned the need for enhanced technologies in the courtroom to improve the acoustics, such as microphones and headsets. Some respondents simply asked for consideration from the speakers who should speak clearly so they can be understood. They also asked for a dedicated work-station for them in the courtroom, consisting of a table and a seat, where they can work, away from the defendant,

surrounded by electronic dictionaries and electronic access to the tendered documents so they can do any relevant sight translation. These are the types of conditions routinely provided to conference interpreters. Having a dedicated space would also avoid the need for the interpreter to be standing or sitting very close to the offender, which may lead to safety issues (see Quote 17 below). Some asked about legal protection and insurance for interpreters.

Quote 17: “Interpreters are expected to sit in the dock with a charged criminal. While this has not presented a danger to me before, this should be risk-assessed. Often the prison guards are at a considerable distance and the interpreter is right next to the prisoner!”

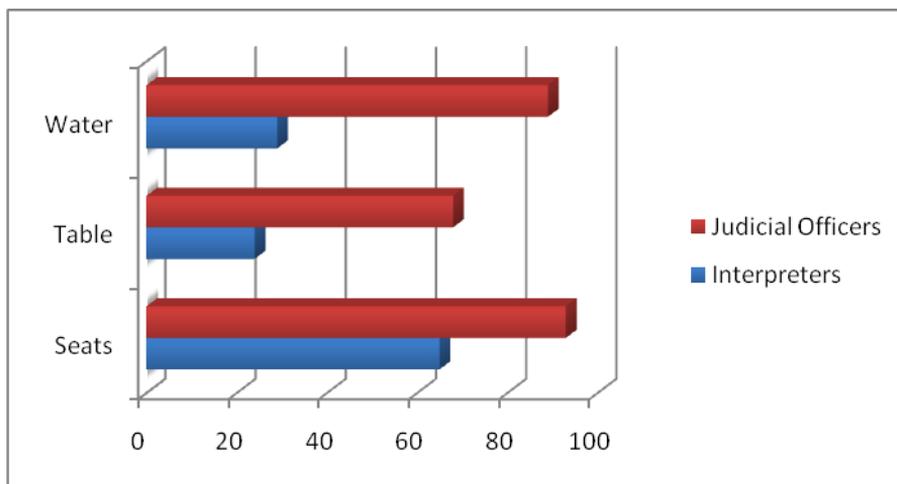
The interpreter respondents also asked for a special interpreter waiting room, where they can prepare for the case, removed from the non-English speaker, which would avoid any of the fraternising with the non-English speakers to which some JOs objected. An interpreter waiting room is already provided by some courts and tribunals (e.g. RRT/MRT). Such a room can also be a place for interpreters to debrief after a challenging case, as expressed by one interpreter in the Quote below:

Quote 18: “Give the interpreter a private room for resting space and somewhere they can go to unwind. I have sometimes interpreted very serious or traumatising court cases and have no place to go just to shut down before going home or lunch time.”

3.1 Provision of basic physical conditions

The questionnaires asked both samples (interpreters and JOs) about provisions of different working conditions for interpreters in the court or tribunal. JOs believed that seats (93%), tables (68%) and drinking water (89%) were regularly provided. However, only 65% of interpreters stated they are always, and 28% sometimes, provided with seats; 24% are always provided with a table and 35% are provided with a table sometimes and only 29% state always being provided with drinking water, with 50% responding “sometimes”. These responses clearly show that JOs believe interpreters are afforded these basic working conditions more often than they really are, as seen in Figure 3.1.

Figure 3.1: Water, a table and a seat provided to interpreters in courts and tribunals



3.2 Provision of breaks

When asked about the provision of breaks, 30.4% of JOs answered interpreters get a break every 30–40 minutes, with a similar percentage of interpreters stating that they are given breaks every 30–40 minutes, either always (6%) or at least sometimes (27.4%). It is a point of concern, however, that over half of the respondents (59.4% of interpreters and 51.4% of JOs) reported that interpreters never get these breaks. This is in stark contrast with the conditions afforded to conference interpreters who work in pairs, at intervals of 30 minutes each, and have a clause for formal breaks included in their contracts. It is also interesting to note that most guidelines on interpreters stipulate the need for breaks to be provided, as can be seen in the citations below:

“Give the interpreter a break at appropriate points in the hearing (at a minimum ten minutes every 1½ hours). Invite him/her to request a break if required” (Migration/Refugee Review Tribunal, n.d., p. 2).

“Give the interpreter regular breaks (every 30 minutes) and ensure they have a glass of water and a suitable place to sit — this helps ensure they can maintain their concentration. It has been shown that an interpreter’s skill level declines before they perceive that they are tired.” (Judicial Commission of NSW, 2006, p. 3305)

“NAATI recommends that interpreters should be given regular breaks, as interpreting requires a high degree of concentration.” (Supreme Court of Queensland, 2005, p. 66)

“Give the interpreter regular breaks — this helps ensure they can maintain their concentration.” (WA Department of the Attorney General, 2009a, p. 7.3.8)

“Interpreting is demanding mentally and requires intense concentration, hence if the matter is lengthy the Court will need to adjourn to ensure precision is maintained.” (Federal Court, n.d., p. 2)

“Members should monitor the interpreter in case he/she wants to signal a break, e.g. if a language segment is too long, there are many technical terms, or there is some element of the hearing that the interpreter might not understand.” (Social Security Appeals Tribunal, 2010, p. 2)

Interestingly, there was a relationship between requiring minimum qualifications and providing breaks. Those JOs who do not require minimum qualifications do not provide interpreters with breaks every 30 to 40 minutes. JOs who require the higher qualifications are more likely to provide breaks, a possible sign of recognition of interpreters as professionals.

Interpreters’ open answers highlighted the need for breaks. Many asked for regular breaks every 30 minutes and some argued for the need for two interpreters for long trials, as is also the case in conference interpreting. When interpreters were asked whether they requested these basic conditions when they were not offered, only 9% of interpreters stated they always do, with 48% requesting them sometimes and 38% never requesting them, as can be seen in Table 3.1.

Table 3.1: Interpreter requests seat, table, water or breaks

	Frequency	Percent
Always	12	8.7
Sometimes	66	47.8
Never	53	38.4
No response	7	5.1
Total	138	100.0

It seems that interpreters are reluctant to impose any of their needs on the court/tribunal and make do with whatever is provided to them. It may very well be that JOs would be happy to provide any of these basic conditions upon request. However, some interpreters expressed feeling intimidated by the court or made to feel that they are not allowed to speak at all, as expressed by the Indonesian interpreter above (quote 15) or the quote below:

Quote 19: “I do not feel comfortable or welcomed to ask questions.”

The onus should not be on interpreters to ask to be provided with basic working conditions, but on the court/tribunal itself, as stated in the cited policies. One JO (see quote 20) agreed that interpreters should be encouraged to take control of their role:

Quote 20: "... Interpreters should be told that they have the right to take control of their role and be clear about their task. Judicial attitudes that are overbearing of interpreters must be stamped out."
(JO respondent)

Despite the views expressed above, when the interpreters in the sample were asked whether they generally felt respected as professionals, first by JOs and second by lawyers, the majority (88%) answered "yes" to the first question. A smaller but still substantial percentage (79%) felt respect as a professional from lawyers. This result is consistent with a recent survey of practising interpreters, which found that trained interpreters felt more respect from other professionals than untrained interpreters (Hale, 2011). This was further confirmed in this survey, where a pair of apparently naturally occurring relationships were, "feelings of service inadequacy", "feeling respected by judicial officers/tribunal members" and "feeling respected by lawyers".

There was also a relationship between untrained interpreters and feelings of inadequacy. Untrained interpreters felt feelings of inadequacy more often than trained interpreters. Those lacking confidence in their adequacy of service also felt they were not respected by JOs or lawyers. It would appear that only a minority of JOs may not treat interpreters with respect, but importantly, that the system itself is not adequately set up for professional interpreters to be provided with their professional needs to perform their duties.

3.3 Briefings, background information and preparation materials

Another major factor that can influence interpreter performance is being well prepared for the assignment. In order to prepare adequately, interpreters need to be briefed and provided with as much background information and materials as possible prior to their assignment. This is also standard practice in international fora where conference interpreters are provided with the presentations and other relevant materials to prepare in advance.

3.3.1 Interpreter briefings

One popular comment from the interpreters' open answers was the need for briefing and debriefing. Some existing guidelines on working with interpreters already recommend that interpreters be briefed before the commencement of their assignment, as seen in the citations below:

"Immediately before the interview you may want to arrange a short briefing session with the interpreter to provide general background information, such as specific terms used in the agency and what you want to achieve from the interview." (Victorian Multicultural Commission, 2010, p. 21; Victorian Office of Multicultural Affairs, 2003, p. 35)

"Ensure that the interpreter is adequately briefed about the nature

of the session and any business unit or agency-specific terminology” (Victorian Department of Justice, 2006, p. 15)

A considerable number of interpreter respondents (32) argued for the need to be briefed before the case and complained that such a practice is very rare. The two quotes below express the interpreters’ frustration regarding the lack of understanding about their needs from those with whom they work. Many asked for briefing sessions at least 30 minutes before the case and for debriefing sessions afterwards, especially after emotionally charged cases, where they have had to interpret, in the first person, distressing victim or perpetrator accounts, without any counselling or any consideration for their mental and emotional state afterwards.

Quote 21: “Some lawyers seem to think the best way to go is to have an interpreter whose mind is a blank slab before entering the witness stand. It is a misconception.”

Quote 22: “Although I have always been treated respectfully in court situations I have often been baffled by the lawyers’ assumptions at times that the interpreter will be able to convey the meaning intended even though only the scantiest of information has been provided at the outset. The lawyers themselves are thoroughly familiar with their material and move the interrogation on swiftly whilst the interpreter is left struggling to keep up and is frequently forced to ask for clarification. A decent briefing would reduce the need for this. The lack of empathy on the part of lawyers with the task we face can be quite staggering. Exposure to second language learning as well as working with interpreters should be a compulsory part of all legal training in my view.”

Some suggested that the non-English speaker needs to be briefed, either by the judicial officer or another court official, to avoid their asking the interpreter questions about the case, which can compromise their impartial ethical position. This is reflected in Quote 23 below.

Quote 23: “A need for a brief introduction to the court system for the NESB client. Often they are completely lost about the proceedings. I have had many experiences where people ask me "what should I say?" when asked what they are pleading: guilty/not guilty, etc. Need for a person of power –i.e. the judge, to tell the person they should not have conversations with the interpreter unless it's through their lawyer.”

3.3.2 Background preparation materials and access to relevant documents during the hearing

One of the major complaints from interpreters in the survey was the lack of preparation materials to prepare for their assignments. They feel they are not trusted by the courts and tribunals and express frustration at being the only ones in the case who do not know anything about it or have access to the documents. Some judicial officers and tribunal members supported the provision of background materials. Indeed, some current policies already support the initiative. For instance, the NSW

Department of Justice and Attorney General recommend that courts “provide relevant contextual information in advance to interpreters” (NSW Department of Justice and Attorney General, 2009, p. 4). The ACT’s discussion paper on the use of interpreters also highlights the need for interpreters to be able to prepare before their assignment (Edwards, 2010, p. 4). The new guidelines for interpreters published by Queensland courts also mention the need for interpreters to be briefed and to have access to the brief of evidence (Queensland Courts, 2010, p. 1).

Not surprisingly, an overwhelming 84% of interpreters who responded to the questionnaire stated they are not provided with background materials/information to prepare for the case before the commencement of the legal proceedings. Consistent with the interpreters’ responses, only 21% of the JOs said interpreters were provided with background materials. This is despite the fact that some guidelines specifically request that interpreters be provided with background materials or with a briefing, as expressed in the citations below:

“When booking a hearing and confirming that an interpreter is required, if known briefly state subject area of the hearing (e.g. “Falungong” or “Diabetes”), so that the most suitable interpreter can be located and can prepare in advance for the hearing.” (Migration/Refugee Review Tribunal, n.d., p. 1)

“Give as much notice as possible when requesting interpreting services. Brief interpreters on the nature of the assignment, providing relevant documents where appropriate.” (Queensland Government, 2004, p. 11)

Some relationships were found between providing interpreters with preparation materials and other variables. Proportionally four times more JOs who adjourn hearings do not provide interpreters with background materials. Five times more JOs who accept an available interpreter regardless of qualifications also do not provide interpreters with background materials. There is also a substantial imbalance between not providing background materials for interpreters when JOs do not have a say in the choice of interpreter. Another significant association was found between explaining the interpreter’s role and providing background materials. JOs who explain the interpreter’s role are more likely to provide background materials. The reverse is true for those who do not explain the interpreter’s role.

These correlations are interesting, as they shed light on both the reasons for providing or not providing preparation materials, and the consequences of not doing so. For example, the fact that more adjournments take place when preparation materials are not provided could be interpreted as a consequence of inadequate conditions. The fact that those JOs who will accept any interpreter do not provide preparation materials may indicate a lack of appreciation for the complexity of the interpreting task, which they consider requires neither qualified interpreters nor any preparation on the interpreter’s part. On the other hand, when JOs explain the interpreter’s role, they are more likely to provide materials because they understand more fully what interpreting implies. When JOs do not have a say in the choice of interpreters, they may not have a say on what conditions the interpreters are given either.

The JOs who stated that interpreters are not provided with preparation materials were asked to explain the reasons why. The majority of their responses fell under the category of “Unnecessary or Inappropriate”, as seen in quotes 24-26 below:

Quote 24: “Generally no need to. They just have to interpret for the person.”

Quote 25: “It is not necessary and indeed undesirable.”

Quote 26: “These are matters before the court and they need only interpret the words spoken.”

This response reflects, firstly, a lack of understanding of the complexity of interpreting and the real need to prepare in order to perform adequately; and secondly, a mistrust of interpreters who cannot be made privy to confidential details because they are “not party to the proceedings”. This attitude of mistrust can be understood when non-professional interpreters are concerned. However, it cannot be justified with professional interpreters who are bound by a code of confidentiality and who should be treated as part of the professional team. The next most popular reason was that of practical impossibility, due to a lack of protocol. Other reasons provided include the following: to ensure impartiality and confidentiality; because the interpreter will charge for the time; because it has never been requested; and because it is not the court’s responsibility.

These open answers are illuminating. The words used by these JOs about the work of the interpreter demonstrate not only a lack of appreciation for the complexity of the task in expressions such as “they just have to interpret for the person” or “they need only interpret the spoken words”, but also a misconception about the meaning of accurate interpreting; still believing it to mean a word-for-word matching exercise, as expressed in the quote, “No preparation required... they are simply translating literally”. These misconceptions reinforce the need for JOs to receive mandatory training about interpreting.

The interpreters were also asked to expand on their answers about the provision of preparation materials. The few who stated they sometimes are provided with some materials, said that the type of materials they are given include statements, affidavits, sometimes even court transcripts or police tapes, charge sheets, fact sheets or the brief, statement of claim, and other information pertinent to the case. The fact that some interpreters are being provided with this type of material indicates that it is indeed possible. Some mentioned that it is only provided upon request. The remaining 84% of interpreters who indicated they do not receive any preparation material, all held very strong views about the usefulness of it and listed the type of material they need to perform adequately. Their responses are summarised in Table 3.2 below.

Table 3.2: Type of materials/information required as expressed by interpreter respondents

Type of material/information	Reason
Briefing on background and status of the case; if it is a part-heard matter, where they are up to; type of matter; charges; number of witnesses.	To orient themselves; to read up on similar types of matters to understand the context and the content; to be ready.
Fact sheets, affidavits, witness statements, charge sheets.	To prepare the terminology.
All written materials that will be tendered in court which interpreters will need to interpret/sight translate.	Written speech is very difficult to interpret when it is read out. Any documentation that the interpreter is expected to sight translate must be handed to the interpreter beforehand.
Names of participants (defendants, legal representatives, others to whom reference is made).	Names of defendants in case there is any conflict of interest and they need to disqualify themselves. Names of other participants so that they can repeat them correctly, especially when they are difficult names.

The open answers from the interpreters reveal a firm commitment to quality and a plea to be given the opportunity to perform to their optimum capacity by providing them with the basic tools of their profession. Interpreters want to dedicate the necessary time to preparing for their assignments and want to be taken seriously as dedicated professionals. The interpreters' responses demonstrate an intense feeling of frustration at being tasked to interpret faithfully and facilitate communication without being afforded the information they need in order to do it.

Quote 27: "General background information would be ideal. It is a horrible experience to be 'walking blind' not knowing what the witness is referring to. These moments are excellent examples of trust, i.e. I trust everyone else knows what I'm talking about because I feel like all I'm doing is translating words (very dangerous!). Also a vocabulary if the subject matter is technical in nature (the only place I have had access to one is when working in an AGM with an Administrator who was thoughtful enough to provide such information). Whenever possible, as the above resources are not given, I engage the non-English speaking person in conversation to glean as much information from them as may be necessary without being intrusive."

As quotes 27 and 28 state, interpreters are the only ones in the room who do not know anything about the case for which they must interpret everything. Expressions such as "walking blind", "interpreters are not walking dictionaries", "I am the *only* person involved in the case who knows *nothing* about the case", "feeling your way forward in a dark room", "people talk ... in shorthand reference to the events", all

portray a clear representation of interpreters’ feelings of frustration, powerlessness and isolation.

Quote 28: “A brief summary of the case and the parties involved. It is my greatest frustration that as one employed to enable smooth communication I am the only person involved in the case who knows nothing about the case. It’s like feeling your way forward in a dark room as people talk as they do, in shorthand reference to the events and I am often unclear about the appropriate tense, sex or single/plural choice which are often not clear in the LOTE.”

One important concern expressed by a number of JOs about providing interpreters with background information and materials about the case prior to commencing, was the need for confidentiality, especially for the Refugee Review Tribunal. Confidentiality concerns would be overcome by booking the interpreter to commence some time before the case in order to prepare. The interpreters were asked if they would like paid preparation time. Respondents were overwhelmingly in favour, with 84% saying “yes”, only 4% saying “no”, and 11% saying “don’t know”. The length of time they deemed necessary for preparation was between 15 and 30 minutes for over half (57.4%) of the sample. Table 3.3 shows the distribution of these responses.

Table 3.3: Length of time sufficient for interpreter preparation

	Frequency	Percent
15 minutes	35	25.4
30 minutes	44	31.9
45 minutes	8	5.8
60 minutes	18	13.0
Other	18	13.0
No response	15	10.9
Total	138	100.0

A number of JOs also expressed the need to provide background materials for interpreters to prepare for their assignments in their open answers. Concrete suggestions were made about providing interpreters with the necessary briefing, such as Quotes 29 and 30 below.

Quote 29: “Given that there are a number of matters that recur in this jurisdiction such as spouse cases and refugee matters it would be appropriate to provide the interpreter with text which alerts them to the language and the general issues of the matter under consideration. Perhaps a short synopsis with each visa case under consideration could be prepared and provided to the interpreter on confirmation of the booking.”

Quote 30: “Additional time allocated to any hearings in which interpreters are used. Time allocated to brief the interpreter prior to the commencement of the hearing. Written outline of the jurisdiction provided to the interpreter with key words explained, brief outline of the normal hearing process.”

3.4 Recommendations relating to working conditions

3.4.1 Recommendation 8: That interpreters be provided with adequate working conditions in the court or tribunal

Poor working conditions will not only impinge on the quality of the interpretation, they will also breach Occupational Health and Safety regulations. Basic working conditions, such as regular breaks, comfortable seating arrangements and drinking water should be provided without any further consideration and without the interpreter’s need to request them. We recommend the following working conditions in order of priority:

1. A dedicated workstation
2. This can be as simple as a table and a chair for the interpreter to sit at, where s/he can lean to take notes, have drinking water and resource materials. Ideally, the interpreter’s workstation would also have a computer where all materials used in court can be viewed and where electronic and online dictionaries can be accessed, similar to an interpreter’s booth used in conference interpreting settings
3. Drinking water
4. Drinking water to be provided as a matter of course
5. Regular breaks
6. Regular 10 minute breaks at least every 60 minutes or the use of two interpreters for long trials to work as a team, taking turns every 30 minutes, with a 30 minute break after 2 hours, as is the case in conference interpreting
7. Adequate acoustics to allow interpreters to hear what is being said
8. Preferably, interpreters should be provided with headphones to hear and microphones to speak through to avoid the need to sit/stand very close to the non-English speaker to whisper in his/her ear.
9. An interpreter’s preparation/waiting room
10. Some jurisdictions and tribunals already provide an interpreter’s waiting room to avoid close contact between interpreter and non-English speaker before the commencement of the case. We recommend that all courts and tribunals offer interpreters a room with internet facilities where they can prepare for the case beforehand. Such a room can also be used for briefing and de-briefing.

3.4.2 Recommendation 9: That interpreters be provided with background information and materials where available, before the case, in order to adequately prepare for their assignment.

We offer the following recommendations:

1. That as much information as possible about the case be provided when booking the interpreter, and that such information be made available to the interpreter when the assignment is accepted. A password protected website where documents can be made available to interpreters would avoid the need to supply any paper copy of documents.
2. That interpreters be booked to start at least 30 minutes before the commencement of the hearing and be provided with all the documentation that will be used in the case for them to prepare in the interpreter's room
3. That interpreters be briefed before the commencement of the case
4. That during the case, interpreters be provided with all documents read in court/tribunal so that they can sight translate them to the non-English speaker if appropriate
5. That interpreters be permitted to consult references when interpreting difficulties arise

3.4.3 Recommendation 10: That two interpreters be used to work as a team for long trials

Conference interpreters work in pairs. The main benefit of team work is quality assurance. Interpreters can avoid fatigue by interpreting for 30 minutes each. They can also help each other with their interpretation as well as check on the accuracy of each others' interpretations. This would also avoid the need for external expert advice on the quality of the interpretation.

We recommend that research be conducted to compare the performance of interpreters when working in pairs and interpreters working alone.

4. Remuneration

Quote 31: “The bottom line is that if we work with organisations that look after and value their interpreters, we can rely on their services. If we work with organisations that treat them as moneymaking machines, we can't. Unfortunately government tends to view interpreters as some form of casual but illiterate clerical officer who can be whistled up like dogs, paid a pittance, and dropped like a dirty pair of underpants when no longer needed.” (Quote from a judicial officer)

Thirty four years ago, one of the major reports on interpreting recommended adequate remuneration for professional interpreters:

The Working Party emphasises that its findings and recommendations depend for their effectiveness on the adoption by the Australian and State governments of an occupational classification that gives adequate recognition to the qualifications and contribution of the interpreters and translators at the various levels of skill. There is also an obligation on others using the services of interpreters and translators to recognise that the quality of services provided by tertiary trained personnel calls for commensurate remuneration. (Committee on Overseas Professionals Qualifications, 1977, p. 4)

As the results of this study show, interpreters are still struggling to be duly recognised and to receive remuneration that is commensurate with their qualifications and skills. Adequate remuneration is essential in attracting competent interpreters and retaining them as practitioners. As previously mentioned, the attrition rate for university trained interpreters is unfortunately very high, caused by the low rate of pay, poor working conditions and lack of recognition as trained professionals (Ozolins & Hale, 2009). The rate at which interpreters are paid reflects the legal system's commitment to quality and their appreciation of the complexity of court interpreting.

Issues of remuneration predominated in the open ended answers from the interpreter respondents. A number of respondents simply stated that they needed to be paid more, in accordance with the complexity of their work and qualifications. Some argued for differential pay according to qualifications and experience. A few spoke of being paid travel time, especially when they are required to travel for long periods to get to the job. The need to pay cancellation fees was also raised, as was the need to pay for the booked time, rather than for the actual time, as expressed in Quote 32 below.

Quote 32: “I was once paid approx \$110 for interpreting at a tribunal. The hours were from 10.00 am to 12.00 and after lunch from 1.30 to 3.30. The agency's policy was to pay in a minimum of 2-hour blocks but basically I was at the court for the full day. It would have been impossible to do any other assignment that day. It would be good if the courts appreciated the work of interpreters and paid in amounts of a minimum of a half a day or a full day regardless of what agencies charge for other work. Court work

can be quite stressful and at this particular tribunal they should have had 2 interpreters as I was interpreting nonstop, for lawyers on both sides: questions, responses, witnesses etc... exhausting!"

Some strong views were expressed about the undesirability of working for private agencies. Some argued that the courts should contract their interpreters directly or that there should be more transparency in the contracting practices. Many commented that they were being exploited by agencies (see Quotes 32 and 33 below).

Quote 32: "We are forced to work through agencies, so as that is the case, then there should be some sort of universal law which they need to follow as far as rate of payment is concerned. As it stands today we have to work for the agencies and accept the rate which they deem necessary to pay us. There is a general dissatisfaction among the interpreters regarding this matter. And it seems that all the complaints falls on deaf ears, not surprising that not many are ready to accept the legal/tribunal interpreting jobs nowadays. Hope some good will come out of this."

Quote 33: "All government departments should establish their own interpreter services directly if possible and pay better rates to interpreters instead of involving private interpreting/translating agencies. These private agencies have been ripping off interpreters for a number of years. Not only are they paying low rates to interpreters for court jobs, but also not making any Superannuation Guarantee contributions for interpreters at all. The rates paid to interpreters are already outdated. Therefore, there must be regulations for interpreters made by the parliament to control this issue."

4.1 Rates of pay

The survey asked the interpreters to state their average hourly rate. As shown in Table 4.1, the sample is split at the \$35–\$50 category with 50% indicating they earn on average more than \$65 an hour. Interestingly, there were no responses in the \$51–\$65 category at all, producing a \$15 gap within the interpreters' sample. It is worth mentioning at this point that the majority of interpreters work freelance and are not guaranteed a weekly income, nor do they receive any benefits that are common to full-time employees, such as holiday leave, sick leave or superannuation. The CRC are the only notable exception to this trend. This interpreter service employs its interpreters as casual employees under an industrial award, which entitles them to more benefits. Another point to highlight is that the current practice is to be paid a higher rate for the first hour (such as \$65), but a much lower rate for subsequent hours. Similarly, court appearances are paid as a half or full day, at an average of \$200 for a full day⁷.

⁷ Although the survey did not ask for the rate for a full day interpreting in court, the average of \$200 was calculated from discussions on rates of pay on both the AUSIT e-bulletin and the Australian Forensic Interpreters forum.

Table 4.1: Interpreter average hourly rate of pay

	Frequency	Percent
Less than	30	21.7
\$35-50	37	26.8
\$66-80	59	42.8
More than	10	7.3
No response	2	1.4
Total	138	100.0

Table 4.2 shows that New South Wales has the highest paid interpreters while Western Australia has proportionally the lowest paid interpreters.

Table 4.2: Interpreter average hourly rate of pay by State or Territory

	<\$35	\$35-50	\$66-80	>\$80	Total
ACT	0	2	1	1	4
NSW	4	11	34	6	55
NT	0	0	2	0	2
QLD	4	1	3	0	8
SA	3	2	2	0	7
VIC	11	11	7	2	31
WA	6	4	4	1	15
Total	28	31	53	10	122

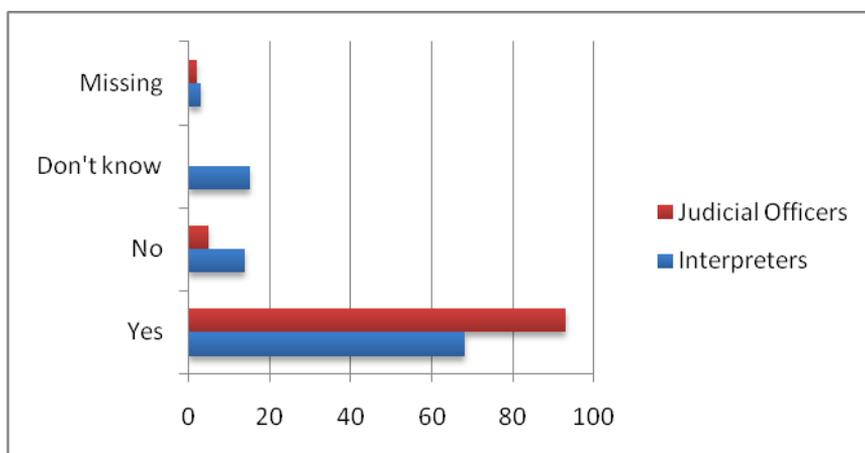
Interpreters were asked to indicate whether they were satisfied with their rate of pay. The results indicate a general dissatisfaction with their remuneration, with 68% of interpreters stating they were dissatisfied and only 25% expressing satisfaction.

4.2 Differential pay rates according to qualifications

Currently, some interpreter agencies apply a slightly higher pay rate for interpreters who hold a higher NAATI level (between \$2 and \$5 extra per hour, for the first hour only). However, there is no recognition whatsoever of formal qualifications.

Both samples in the survey supported differential pay rates according to qualifications, with JOs showing a considerably higher degree of support (93%) than interpreters (68%), as shown in Figure 4.1. This result is consistent with the 65% of the interpreters in the sample who are trained. There was a clear correlation between those with higher qualifications and those wanting differential pay.

Figure 4.1: Support for differential pay rates according to qualifications



There was also a correlation between the JOs who supported differential pay rates according to training and those who also supported the requirement of minimum qualifications for interpreters.

4.3 Recommendations on remuneration issues

4.3.1. Recommendation 11: That differential pay rates be implemented according to qualifications

“Inadequately paid employment will not attract competent people to the profession. Offering pay at a level that takes no account of interpreting skills as distinct from linguistic ability results in unskilled people being employed to do skilled work, and serious adverse consequences occur for lives of people whose affairs are affected by the inevitable misunderstandings” (Committee on Overseas Professionals Qualifications, 1977, p. 14).

The results of the survey showed strong support for differential pay rates, both from judicial officers and tribunal members as well as from interpreters. Offering more pay to interpreters who are better qualified would act as an incentive to obtain further training. However, the difference needs to be substantial. Formally trained professional interpreters need to be remunerated accordingly. In order for this to happen, courts and tribunals must be willing to pay more for quality. We recommend that rates be based on conference interpreting⁸ rates and that a rate schedule be established for the different levels of qualification, accreditation and registration. We recommend a working group be formed to propose a fee schedule.

4.3.2 Recommendation 12: That interpreters be booked and paid for a minimum of a full day at court, and a minimum of half a day for tribunals, regardless of the actual duration of the case

A number of JOs complained that interpreters are sometimes unavailable for the whole day due to other commitments, forcing the case to be adjourned. Interpreters also complained that they are often booked for the minimum of two hours and are later expected to stay for longer. As interpreters are paid by the hour, they must, of necessity, accept other assignments for the remainder of the day. The only way to solve this problem is for courts and tribunals to book the interpreter for a set number of hours and to pay them for the agreed time regardless of the duration of the case. This is also common practice for conference interpreters.

4.3.3 Recommendation 13: That more transparent contracting practices be implemented

The results of the survey revealed some concerns about interpreter agencies' practices. Some complained that the margins gained by the agencies were too great. Others complained about the agencies' inability to hire the best qualified interpreters. Some interpreters complained about the lack of respect they experience from some agencies. The quotation that appears in the introduction of this report summarises many of these concerns. It is worth noting here, that there are agencies that treat interpreters well and pay higher rates. However, they are not always the agencies that provide interpreting services to the courts and tribunals.

We recommend:

1. That a standard on-line booking pro-forma be developed to be used by all courts and tribunals when booking interpreters. The pro-forma should include as much information as possible about the court/tribunal's interpreting requirements as well as background information for the interpreter.

⁸ There is a misconception that conference interpreting is more difficult than court interpreting and requires higher level skills from interpreters, thus justifying a higher rate of pay. Court interpreters are required to interpret in all interpreting modes (consecutive, simultaneous and sight translation); work alone and interpret into two languages in a variety of different registers. Conference interpreters normally interpret into one direction only in the formal register, work in pairs and generally only in the simultaneous mode with the aid of equipment. For an in-depth discussion about the differences between court and conference interpreting, see Hale (2007).

2. We further recommend that all parties (interpreter and JO) be made fully aware of the conditions of the contract under which the interpreter is hired, including:

- a. Date and time for which the interpreter is hired
- b. Breaks required by the interpreter
- c. Fee paid to the interpreter for the entire assignment, including per diem if the interpreter is required to travel
- d. Hourly rate agreed on for overtime if needed
- e. Cancellation fee

5. Current Practices during proceedings

This section deals with issues of protocol during the actual bilingual proceedings. This included how interpreters are addressed by the JO, whether the role of the interpreter is explained before commencing and by whom, what approach to interpreting is taken during the proceedings, what steps are taken by JOs and interpreters when clarifications are required, including those relating to cross-cultural issues or what action is taken when speakers do not allow the interpreter to finish interpreting. This section also dealt with how complaints are handled and with obtaining expert advice.

5.1 Addressing the interpreter

The first question was about how to address the interpreter. In the main, interpreters and judicial officers (66% of both groups) agree on using Madam/Mr Interpreter as the preferred form of address in court. “By title” was preferred by more JOs (7%) than interpreters (1%), but the interpreters were distinguished from the JOs by their response of “I don’t care” at 20%, which did not have a parallel item in the JOs’ survey. It appears therefore, that this question does not represent an issue.

5.2 Explaining the interpreter’s role

JOs were asked whether they explain the role of the interpreter to the parties or whether they expect the interpreter to explain it before they start. It appears that JOs are split on whether they give the explanation before commencing proceedings (48.6% said “yes” and 49.3% said “no”, with 2% missing), but that over half (56.1%) do not expect the interpreter to explain the role themselves. Only 12.2% said they expect interpreters to explain their role. There were 32% “missing” cases.

There were some interesting relationships found between those JOs who explained the role of the interpreter and other variables. JOs who do not ask interpreters to state their qualifications do not expect them to explain their role either. JOs who have a say in the choice of interpreter are more likely to explain their role. When JOs explain the interpreter’s role, they are also more likely to provide them with background materials.

Another significant relationship was found between explaining the role and telling interpreters that they can interrupt. JOs who explained the role of the interpreter were also more likely to tell the interpreters they have permission to interrupt. It seems that when JOs explain the interpreter’s role, they are more aware of them, of their needs and of the difficulty of their job. Those who answered “yes” to explaining the role were asked to state in an open answer what they said when explaining it.

The open answers reveal varying degrees of understanding of the interpreter’s role, ranging from those who believe the interpreter “simply translates literally word-for-word” (see Quote 34 below) to sophisticated explanations of the meaning of interpreting accurately, in the first person (see Quote 35 below).

Quote 34: “That the interpreter’s role is to simply translate what is said literally and not to enter a conversation or answer any question.”

Quote 35: “This person is the interpreter. Their role is to interpret what I say to you in your language and what you say to me in English. They are an accredited professional interpreter. This means they are bound by rules of confidentiality not to repeat anything they hear in this room outside of the room once they leave. It is important that you speak in short clear sentences to give the interpreter an opportunity to interpret everything that you say to the tribunal. If you have any questions or you do not understand something, please do not compromise the interpreter by asking them any questions directly. It is important to ask the tribunal. It is important to remember that the interpreter is not here as your advocate. You must present your own case and the interpreter will interpret for you.”

5.3 Interpreting approach

Interpreters and JOs agreed on the approach the interpreter should adopt when interpreting: The majority of JOs (69.6%) and of interpreters (63%) prefer to use the 1st/2nd grammatical persons when interpreting. This point, therefore, seems to cause no difficulties among trained interpreters. However, as one JO stated (see quote 36 below), untrained interpreters tend to opt for the third grammatical person when interpreting (see Hale, 2011).

Quote 36: “I am surprised how at times the basics seem lacking. For e.g. I expect in the context of a Tribunal hearing that an interpreter will interpret in the 1st person without being asked to do so”

5.4 Controlling the flow of proceedings

The behaviour of the participants of the interaction is also important. For example, interpreters need to be allowed to finish interpreting before the next person takes his/her turn, hence overlapping speech cannot occur in interpreted proceedings. Speakers need to pause at regular intervals to allow for consecutive interpretation; the interpreter must be permitted to stop proceedings to ask for or make a clarification when needed.

The survey asked interpreters whether they stopped proceedings if they needed clarification. An overwhelming majority (95%) said “yes” and only seven said “no”. Higher NAATI accreditation was also associated with being more likely to stop proceedings when a speaker interrupts.

JOs were also asked whether they give permission to interpreters to interrupt, and 97% said they do. However, only 60% of the JOs explicitly tell interpreters they have permission to interrupt.

In response to how such interpreter interruptions are perceived by the court/tribunal, the interpreters' responses were positive, with 62% stating that they are always received well; 42% they are usually received well, depending on the member, magistrate or judge and only 1.7% stating they are never received well.

The open answers provided by the interpreters offer some interesting insights. A number of interpreters stated that the JOs are courteous and respectful, but that the lawyers are annoyed by their requests for clarifications, as they may be interfering with their tactics. Some interpreters felt they were treated better by tribunal members than by court personnel, whereas others expressed the opposite opinion. A high percentage of them opined that the way such interruptions were received depended on how much the JO knew about interpreting issues, as expressed in quote 37 below.

Quote 37: "Depends on the judge. Some of them are really well aware of the specific nature of the interpreter's job and are very co-operative, some are ignorant..."

One interpreter commented that a judge belittled him/her when a request was made to consult a dictionary (see quote 38). This situation is of concern. As we showed above, one JO complained that interpreters did not have dictionaries to consult difficult words when needed. We can see that some JOs feel interpreters who do carry dictionaries must be incompetent for doing so. This again demonstrates a lack of understanding of the work of an interpreter and an inconsistency in expectations.

Quote 38: "Once I was really nervous and forgot the meaning of a word, I asked to look up my electronic dictionary and was belittled by the judge. I felt really stupid."

Two of the quotations below (quote 39 & 40) highlight the important issue of physical location of the interpreter, which sometimes makes it impossible for them to hear the proceedings or to seek clarification. This is common when the interpreter is required to sit next to the non-English speaker at the back of the court to interpret simultaneously in the whispering mode.

Quote 39: "Usually received ok if I am actively interpreting. But I usually don't ask for clarification if whispering to client, as I don't expect this would be received well (i.e. might be seen as interrupting proceedings or not totally relevant) - often it is hard to hear what solicitors are saying when they have their back towards us and this makes it hard to interpret what they are saying to the bench."

Quote 40: "Badly, not by judges or prosecution but mainly by defence lawyers. Judges and the prosecution are reasonably helpful and try hard to roll the proceedings on smoothly. On the other hand, often, in criminal cases, defence lawyers lower their voices intentionally and speak very quietly so as to give a certain impression to the jury. This makes the interpreter's job very very hard."

The few interpreters who stated they never interrupt proceedings to seek clarification gave a number of reasons for their decision. These interpreters felt such interjections would not be welcome and would be interpreted by the court/tribunal as incompetence on their part:

Quote 41: “On one occasion I had my competence questioned because of having to interject to clarify information.”

Some argue that the incorrect perception about their role makes it difficult for them to interrupt:

Quote 42: “Because as an interpreter I am made to feel as an instrument only to clarify words and not as a professional who is a very significant part of the whole case, and I feel there is some disrespect of the profession still with some legal representatives and some magistrates.”

Some argue that there is no time for them to interrupt, because the proceedings are too fast and the court/tribunal does not take account of the presence of the interpreter. These answers indicate that permission to interrupt when needed should be made explicit by the JO to the interpreter at the commencement of the proceedings.

It is not uncommon for court participants to start their turn before the interpreter has finished interpreting. JOs were asked what action they take when such is the case. 83% stated they stop the party interrupting and 8.8% said they would let the interpreter deal with the situation. Only 1.4% said they would do nothing and 6.8% did not respond.

Interpreters were also asked what they do if speakers start to speak before they finish interpreting. They were given a number of options, which appear in Table 5.1 below.

Table 5.1: Interpreter action if others speak before they have finished interpreting

Action taken	
Stop interpreting	21.7%
Continue interpreting over the top of the interruption	22.5%
Stop the party interrupting	34.1%
Ask judicial officer/tribunal member to deal with situation	41.3%

A breakdown of the interpreters’ responses shows that there is no consistent practice when confronted with overlapping speech, which indicates that interpreters rely on their own judgment when deciding what to do in the absence of any existing protocol. The highest percentage of responses (41.3%) stated that they would ask the JO to deal with the situation. This is followed by their stopping the party themselves (34.1%), continuing interpreting over the top of the other speaker (22.5%) and

stopping the interpretation altogether (21.7%). However, it may be that interpreters do not have to concern themselves very much with overlapping speech, as 83% of the JOs indicated that they stop the party who is interrupting and only 9% let the interpreter handle the situation.

5.5 Alerting the court/tribunal to potential cross-cultural differences

A point of contention among interpreters and interpreting service users concerns when interpreters should intervene to alert others about a potential cross-cultural misunderstanding. Some interpreter guidelines, such as the RRT/MRT's, state that it is up to the member to ask the applicant about any potential cross-cultural misunderstanding. However, there may be instances where neither the member nor the applicant is aware of cross-cultural differences and the interpreter is the only one who can detect potential miscommunication.

Interpreters will usually avoid offering any extra information unless it impacts on their ability to interpret accurately. There are a number of reasons for this. The main reason is that cross-cultural issues can be vague and interpreters may not be convinced about the source of certain misunderstandings, especially in languages spoken in a variety of different countries. Some interpreters are not confident enough to raise any issues unless asked to do so, and some will offer their own individual advice, which may be nothing more than a lay opinion. This is an area that requires research in order to clarify the type of cross-cultural misunderstanding that can occur beyond the accurate rendition of utterances.

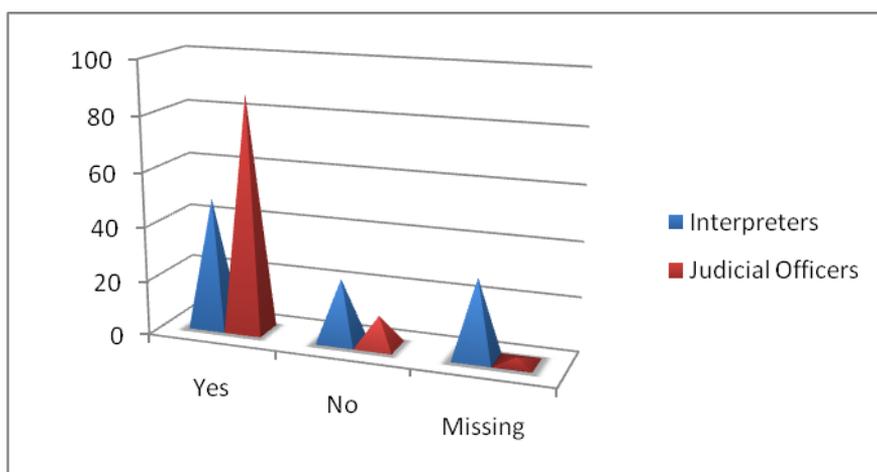
The results of the survey confirm the lack of consensus concerning this issue. Over half of the interpreter sample (55%) said that they were willing to alert the court of potential cross-cultural misunderstandings but 24% said "no". There was a large proportion of "missing" responses (21%) to this question, possibly because they were unsure about what they should do when confronted with such a situation. Perhaps not surprisingly, alerting the court/tribunal to potential cross-cultural misunderstandings correlated with how long interpreters had been working as an interpreter in the legal setting, with the court or tribunal in which they work and with their qualifications. More experienced interpreters who appear in higher courts more often, and are better qualified are more likely to alert the court/tribunal to potential cross-cultural misunderstandings.

The open answers presented a variety of views from the interpreters. A high proportion of interpreters qualified their willingness to alert the court only when it was absolutely necessary or relevant to the case, or when it impinged on their ability to interpret faithfully. Others said that they do it only upon request from the court/tribunal. Some argued that the system does not allow it, that there is no time or adequate protocol to inform them when or how to perform such a task. A considerable number were totally against it, some stating that they had been taught it was not their role to offer such extra information. This is an area of great uncertainty for interpreters, and as one of them stated, "this area needs very clear policies around it especially about how much influence and weighting such information can hold".

Surprisingly, there was very strong support (87%) from JOs to being alerted to potential cross-cultural misunderstandings.

As Figure 5.1 below shows, there is a considerable difference between what JOs expect and what interpreters do. While the large percentage of missing responses in the interpreters' sample may indicate that they do not know what they should be doing, it is clear that almost a half do not alert the court/tribunal to any potential cross-cultural misunderstandings. The majority of JOs (87%), on the other hand, expect that they will be alerted to such misunderstandings. This is a considerable disparity.

Figure 5.1: Alerting the court to potential cross-cultural misunderstandings



The JOs were also given the option to expand on their reasons. The answers provided by the JOs were very similar to those provided by the interpreters. For the most part, JOs expect interpreters to alert them to cross-cultural misunderstandings if they impinge on their ability to interpret faithfully or to be adequately understood. Some provide the caveat that interpreters may not be cultural experts and therefore they need to tread with care. Some mention the crucial role of cultural insights when Aboriginal defendants are concerned, which may not be the case with defendants from other cultural groups. Some misunderstand cross-cultural insights with accurate interpreting. For example, Quote 43 mentions that cross-cultural explanations may be necessary when a “literal” translation is not possible and quote 44 mentions instances when technical terminology may not exist in the other language. Such situations are common and do not fall under the category of “cross-cultural differences” but simply cross-linguistic differences. Trained interpreters will be equipped to interpret these differences adequately without the need to intervene.

Quote 43: “This is important with respect to all interpreters. Simply translating words (most good interpreters use first person as it is easier for them) does not accurately communicate meaning when the shade of meaning is defined by cultural context.”

Quote 44: “Has arisen where technical language or other words do not have equivalent meaning in the other language.”

Some JOs also warn against interpreters overstepping their role:

Quote 45: “This is a complex area - I would expect to be corrected if there is some confusion regarding references to biological relations for example or where there are many correct answers to a single question. But I do not want the interpreter to start assisting the applicant with cross-cultural misunderstandings of how to give evidence, for example. That would be my role.”

Interestingly, support for compulsory legal training for interpreters came with the strong expectation that interpreters should alert JOs to any cross-cultural misunderstandings.

5.6 Interpreting objections and other speech not addressed to the witness

Trained interpreters are taught to interpret everything that transpires in the courtroom/tribunal to the non-English speaker in order to make him/her linguistically present. This is achieved by using the simultaneous whispering interpreting mode. Untrained interpreters may not have the skills to perform such a task. Consequently, the practice is not consistent and some JOs do not allow interpreters to interpret anything other than the non-English speaker’s own testimony. One of the interpreters in the sample stated that “interpreters are actually banned by magistrates/judges from interpreting answers that were given to objected questions”. Often it is counsel who object to interpreters interpreting simultaneously to the witness, as expressed in Quote 46 from one of the interpreters in the survey:

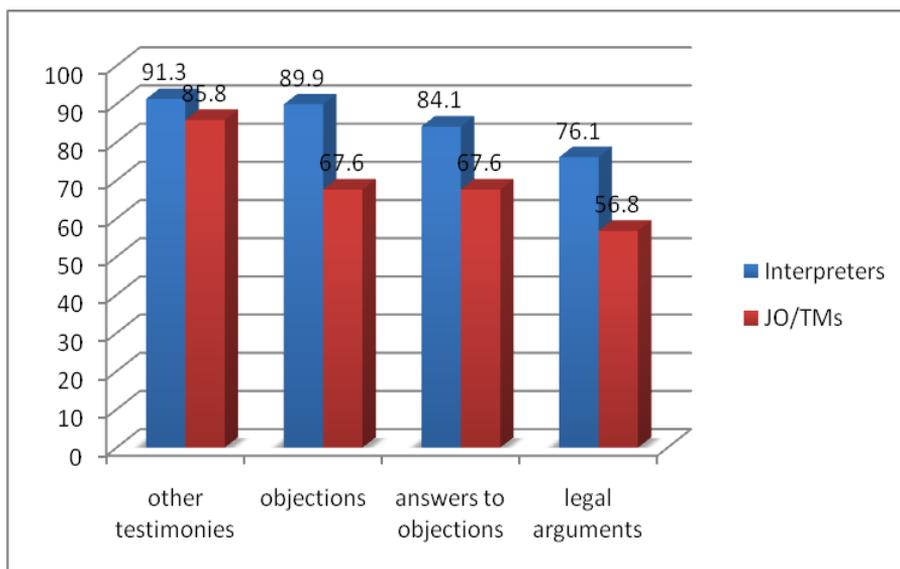
Quote 46: “On a couple of occasions my actions have come into question when interpreting legal argument or objections (‘Your Honour: I demand to know what the interpreter is telling the witness’) but these have been easily explained (‘Your Honour, I am merely doing my job interpreting everything that is being said in this courtroom. If this witness spoke English he/she would know exactly what is happening’).”

Interpreters were asked whether objections and answers to objections as well as legal arguments and other witnesses’ testimony were interpreted. The average response rate for “yes” was almost 90% with the less central “legal argument between lawyers and the bench” trailing at 76%. A consistent result was found between the NAATI accreditation of respondents and the mode of interpreting they used. The higher the accreditation (which is usually linked to training in this sample), the more these interpreters used the simultaneous mode for interpreting legal arguments and other witnesses’ testimony.

JOs were asked what they expected interpreters to interpret. The interpreters’ and JOs answers are compared in Figure 5.2. Whereas 90% of interpreters stated that they interpret objections to the non-English speaker, only 68% of JOs expect them to do so. While 84% of interpreters say they interpret answers to objected questions, only 68% of JOs expect them to interpret. Only 57% of JOs expect interpreters to

interpret legal arguments between lawyers and the bench to a non-English speaker, while 76% of interpreters say they always do. Nevertheless, both groups coincide on which aspects of the proceedings are more important and should be given preference when deciding whether to interpret them or not. These are, in order of importance: other testimonies, objections, answers to objections and legal arguments.

Figure 5.2: Interpreting objections, legal arguments and other testimonies – what interpreters do and what JOs expect



Some interesting associations were found. Providing interpreters with background materials was positively associated with the expectations regarding the interpretation of objections and their answers respectively. Interestingly, dissatisfaction with interpreting services was aligned with the expectation from JOs that interpreters interpret other witnesses' testimony to a non-English speaker. There is, therefore, an underlying link. Trained interpreters are more likely to interpret everything in the simultaneous mode and JOs are more satisfied with interpreters who do this, once more reinforcing the importance of interpreter training.

JOs were then asked to say what they would do if the interpreter did not interpret everything as expected. 75% of the JOs stop proceedings and direct the interpreter, 19%, however, did not respond, possibly because it did not apply to them.

5.7 Dealing with complaints

5.7.1 What the policies and guidelines state about complaints and feedback mechanisms

Most available interpreter guidelines include an item on complaints and feedback. However, the results of the survey revealed that most JOs were unaware of any such

procedures and that they would not know exactly how to handle complaints. At the federal level, the Family Court of Australia, the Federal Court, the Federal Magistrates' Court, the MRT/RRT and the SSAT all include some guidelines on feedback and complaint procedures.

The Family Court of Australia encourages “clients” to provide feedback on the quality of interpreting to the Complaints Officer, who will handle the complaint “in accordance with standard handling procedures” (Family Court of Australia, n.d., p. 2), without providing any further information about such procedures. The Federal Magistrates' Court encourages its registries to have a feedback mechanism and to use existing forms available by some interpreter agencies to express dissatisfaction about poor interpreting performance (Federal Magistrates Court, n.d., p. 4). The SSAT offers similar guidelines, stating that a feedback mechanism should be established to “ensure that clients of the SSAT are assisted by high calibre interpreters” and that all complaints should be handled “in accordance with standard complaints handling procedures” (Social Security Appeals Tribunal, 2009, p. 5). The presiding member is advised to write a “formal note to the Director” when dissatisfied with the interpreter’s performance (Social Security Appeals Tribunal, 2010, p. 2).

The Federal Court offers more detailed guidelines to judicial officers who may be confronted with a complaint about the interpreter in the court, providing a typical example of a bilingual lawyer objecting to the interpreter’s rendition, as expressed in the citation below:

...a lawyer present who also speaks the language being interpreted may assert that the interpreter is wrongly or inadequately interpreting the language. If the matter seems serious and is pressed, a short voir dire examination should be held to determine whether the particular interpreter is to continue. If need be, the person who says that matters have gone amiss should give evidence on the subject. The Judge may decline to permit a particular person to continue as interpreter.

The Judge may be persuaded for that or another reason that the extant interpretation arrangements are inadequate. Such arrangements should not be permitted to continue. It is rare that no other interpreter can be found. (Federal Court, n.d., p. 3).

The MRT/RRT offers similar guidelines, citing as an example a migration agent’s complaint about the interpreter’s performance, and offering three options to be taken by the member in such cases:

a) establish on the spot if there is a problem and deal with it as you see fit; b) invite the agent to identify specific concerns in writing after the hearing; c) adjourn and continue with a different interpreter” (Migration/Refugee Review Tribunal, 2010, p. 2).

At the state level, two NSW tribunals provide some guidelines on this point: Community Justice Centres (CJC) and the Workers Compensation Commission (WCC). The CJC requests its staff to provide the interpreter service with feedback

on quality. Presumably, this includes instances of good quality as well as of poor quality (NSW Community Justice Centre, 2009, p. 2). The WCC provides much more detailed guidelines. It divides its guidelines into three parts: complaints by clients, complaints by arbitrators, and unlike the others, complaints by interpreters:

Complaints by clients: If a complaint is made the Commission will follow the complaint-handling process in its Access and Equity Service Charter. This includes investigating the complaint and responding in writing to the complainant. The complaint should be:

- in writing
- addressed to the Registrar
- signed by and identify the complainant

Complaints by arbitrators: Arbitrators are expected to give written notice of complaints about interpreters to the Registrar with reasons. Arbitrators are encouraged to give feedback about interpreters used in proceedings.

Complaints by interpreters: Interpreters with complaints are expected to give written details of their complaint to the service provider who in turn submits the complaint to the Commission.

The Commission may notify the service provider that a particular interpreter is not to be used for future Commission assignments. (NSW Workers Compensation Commission, n.d., p. 3).

In Victoria, reference to feedback and complaints about interpreting appear in the Victorian Multicultural Commission document. This document emphasises the need to ensure the highest quality of interpreting and the interpreter's obligation to abide by the AUSIT code of ethics. It states that when interpreters fail to comply with their obligations, action must be taken in order to maintain the "professional standards of interpreting in Australia" (Victorian Multicultural Commission, 2010, p. 22). Those with complaints are directed to the language service providers' complaints handling procedures. In addition, this document is the only one that advises that interpreters should be addressed in the first instance when a complaint arises:

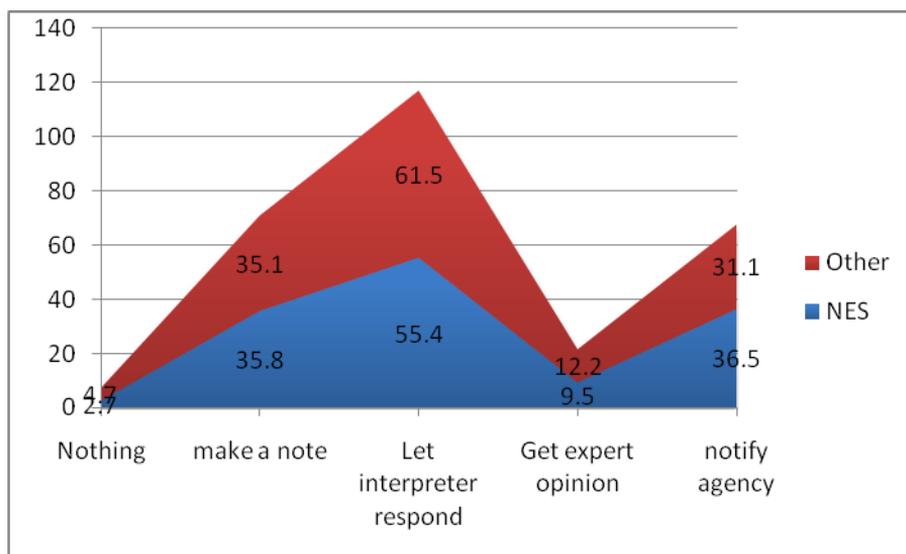
If there are issues with the performance of a specific interpreter, discuss this with the interpreter in the first instance and, if not resolved, contact your language service provider to make a formal complaint. (Victorian Multicultural Commission, 2010, p. 22).

5.7.2 JOs' responses about handling complaints

The survey asked two questions on this issue: what JOs do if the non-English speaker complains about the interpreter and what they do if someone else in the hearing room complains about the interpreter (e.g. family, friend, lawyer or migration agent). The results are slightly different for these questions. However, in both cases over half of the sample would allow the interpreter to respond (55.4% if the non-English speaker complains, and 61.5% if someone else complains). JOs are

slightly more likely to get an expert assessment of the interpreter’s performance when someone else complains (12.2%) than when the non-English speaker complains (9.5%). This response, however, was the least popular, after the “nothing” response. The other answers do not differ much between them, as seen in Figure 5.3.

Figure 5.3: What JOs do when there are complaints about the interpreter, by source of complaint



Open responses expressed the need to make judgements on a case-by-case basis and, if the complaint is deemed to be serious enough, to adjourn the case and book another interpreter. Some of the responses stated that the complaints may be due to dialectal, cultural or political differences rather than to interpreter incompetence. Others mentioned that they would inform the person complaining of the interpreter’s qualifications and ask for theirs, as expressed in Quote 47, with one going so far as to say that they would tell the non-English speaker that they are not allowed to complain (Quote 48).

Quote 47: “I usually also inform the person of the qualifications of the interpreter and ask the complainant if they have any qualifications to interpret. Generally, we work it out between us - often by me putting the question in a different way at the time and perhaps later in the hearing if I still have concerns.”

Quote 48: “Tell the non-English speaker that they are not allowed to complain about the interpreter.”

Some complained about the interpreters themselves, as presented in Quotes 49 and 50 below.

Quote 49: “A major problem for me has been that interpreters in South East Asian languages cannot speak English adequately and one wonders how they became interpreters at all.”

Quote 50: “Actually the only time it happened the lawyer spoke both languages, both better than the interpreter. He was able to fix any errors from then on and he sometimes did so.”

The majority of the responses, however, mentioned that they had never had to deal with a complaint, some stating they would not know what to do if one ever arose.

5.7.3 Interpreters’ responses about handling complaints

Interpreters were also asked what they would do if complaints were made about their performance in the court. The vast majority expressed the desire to know exactly what the complaint was about and to be given the right of reply. Some wanted to see the transcript or hear the recording of the disputed interpretation to be able to respond to the complaint.

The next most popular, and less proactive, answer was to do nothing and wait for instruction from the bench. This was followed closely by those who provided a somewhat defeatist answer to simply withdraw from the case. The next group of answers indicated that this had never happened and they did not know what to do, as they had never thought of it.

Other answers indicated a humble attitude. Some said they would welcome the feedback, acknowledge the mistake and apologise. Others would seek further training to improve their performance. A similar number responded in a defensive way, stating that they would reject the criticism, state their credentials and state that they were interpreting to the best of their skill and ability.

Interestingly, some argued that the criticism may not be justified for a number of reasons: lawyers of the losing side often use the interpreter as a scapegoat; non-English speakers may not have a good command of their first language and may not understand the accurate interpretation of formal legal language; poor working conditions may impinge on their ability to hear and understand correctly or fatigue may be the cause of poor performance when breaks are not provided; and bilingual lawyers, with a rudimentary knowledge of the language other than English, may criticise interpreters for using words they do not understand, as expressed in quote 83 below.

Quote 51: “this happened to me and the complainant was the defendant's lawyer who happened to be bilingual, but only speaks the regional dialect of the language which he acquired from his parents. Because he could not understand some words I used (standard language) he assumed I was misinterpreting into Arabic. I explained the situation to the judge who still decided to replace me with another interpreter who speaks the same dialect. I don't

know how this is allowed to happen although it contradicts the court's requirement that the interpreter renders what's being said accurately!"

A group of interpreters expressed the view that if their interpreting is challenged, it should be reviewed by an interpreting expert, who must be better qualified than themselves, and not just by any bilingual person.

5.7.4 Expert assessments

The next question on the questionnaire was about obtaining expert assessments if and when required. This question elicited a variety of open responses, with the majority of JOs stating they had never had the need to hire the services of an expert and if they were to need one, they were unsure about what process to follow (see quote 52).

Quote 52: "I wouldn't know where to find someone to do this and I am not sure that my Court would pay for it."

The next most popular response was to ask the interpreter agency to provide an expert. Other individual answers include contacting NAATI, getting an independent interpreter and leaving it up to the parties to resolve. Some answers convey a level of frustration with the administration (see quote 53).

Quote 53: "If I asked for one I would be more likely to find myself in the middle of a bureaucratic barney centred around the needs of administrators than actually get any concrete assistance."

This seems to be an area that would greatly benefit from some clear guidelines. A recent study of appeals on the basis of incompetent interpreting (Hayes & Hale, 2010) also highlighted the inexistence of a protocol for assessing interpreter proficiency. Often it was the monolingual judge who decided whether the interpreter was competent enough, without any expertise to do so.

5.8 Recommendations on complaints and feedback

5.8.1 Recommendation 14: That better feedback mechanisms be established for judicial officers, tribunal members and interpreters

Currently some tribunals provide their members with a feedback sheet to comment on the interpreter's performance. Some also provide interpreters with the opportunity to make comments. However, the guidelines that exist on feedback and complaint mechanisms are neither clear nor comprehensive. Furthermore, the survey results showed that many JOs were unsure about what steps to take when confronted with complaints.

We recommend that clear, uniform guidelines on providing feedback and dealing with complaints be part of the national proposed protocol to be used by all courts and tribunals. We further recommend that the feedback provided by JOs and interpreters be made available to all the relevant parties. An on-line feedback page

would facilitate a dialogue between judicial officer/members and interpreters and lead to potential improvements.

5.8.2 Recommendation 15: That a national register of interpreting experts be established

The results of this study as well as a previous one (Hayes & Hale, 2010) demonstrated that there is no consistent approach to reviewing an interpreter's challenged performance. The interpreters who replied to this questionnaire resented the practice of hiring another interpreter who is not better qualified than themselves, or worse still, any bilingual person, including lawyers, to assess their performance. We recommend that a national register of highly qualified Interpreting experts in different languages be established for the courts to hire as expert witnesses when needed. Such experts should preferably hold a PhD in Interpreting or relevant related field, as well as NAATI accreditation where appropriate and practical experience.

6. A national protocol for working with interpreters in courts and tribunals

Quote 54: “Protocols should be in place in every court to ensure that judges understand their duties in ensuring that a trial involving a non-English speaking person is a fair trial. Because issues about interpreters do not arise every day or week or even every month in my court, when an interpreter is needed it can surprise the judge. Established protocols will undoubtedly steer even a newly appointed judge on the right track. Issues concerning the use of interpreters are not covered in any criminal procedure material available to judges. A protocol is needed”.
Quote by a judicial officer.

6.1 Recommendation 16: That a national protocol on working with interpreters in courts and tribunals be established.

Currently, the different guidelines that exist on how to work with interpreters are not uniform, are often contradictory and are found in multiple documents that are difficult to access by most judicial officers and tribunal members. As the JO cited above commented, an established protocol can be used to guide new judicial officers and tribunal members as well as interpreters. We therefore, recommend that a national protocol be written which includes all of the items presented in this study, in the form of a small booklet, accessible online, that can be easily consulted by judicial officers and tribunal members during a hearing or trial.

We recommend the contents of the protocol include the following items:

1. Appointing the best interpreter/s
2. Providing the interpreter with relevant information/materials to prepare before the case
3. Providing interpreters with a room in the court/tribunal where they can wait and prepare, be briefed and de-briefed
4. Introducing the interpreter
5. Asking the interpreter to state name and qualifications and show credentials
6. Informing the interpreter of his/her right to interrupt proceedings when needed to clarify, ask for repetition, etc
7. Introducing the interpreter to the rest of the court/tribunal as an independent professional
8. Statement of the interpreter’s role
9. Clarification on when and how interpreters can alert judicial officers and tribunal members of cross-cultural issues
10. Using the direct approach of interpreting (1st and 2nd grammatical persons)
11. Using the appropriate modes of interpreting depending on the circumstance
12. Controlling the flow of proceedings to allow for interpretation
13. Providing interpreters with adequate physical working conditions during the hearing (A dedicated work-station, drinking water, headphones and microphone, computer and internet access)
14. Dealing with complaints against the interpreter
15. Obtaining expert advice on interpreting competence

We recommend that each hearing/court room have a copy of the protocol for easy reference by the presiding officer.

We recommend that a working group be established to implement this recommendation, comprising university and TAFE interpreting educators, practising interpreters, judicial officers and tribunal members and representatives from NAATI and AUSIT.

We acknowledge that these recommendations have financial implications. Nevertheless, we believe that improvements in this area are long overdue and adequate funding must be made available to redress over forty years of neglect in the area of court interpreting and thus aim to achieve equitable outcomes for all who access the legal system, regardless of the language they speak.

Appendices

Appendix 1: Websites reviewed to identify JO and interpreter protocols, by jurisdiction.

A1.1 Federal websites

Organisation	Website	Date accessed
Attorney General's Department	http://www.ag.gov.au/	28/02/2010
Department of Immigration and Citizenship	http://www.immi.gov.au/	16/12/2009
High Court of Australia	http://www.hcourt.gov.au/	16/12/2009
Federal Court of Australia	http://www.fedcourt.gov.au/	16/12/2009
Family Court of Australia	http://www.familycourt.gov.au/wps/wcm/connect/FCOA/home	17/11/2009
Federal Magistrates Court of Australia	http://www.fmc.gov.au/	16/12/2009
Council of Australasian Tribunals	http://www.coat.gov.au/index.htm	Private communication Feb 2010
Administrative Appeals Tribunal	http://www.aat.gov.au/	16/12/2009
Australian Human Rights Commission	http://www.humanrights.gov.au/	16/12/2009
Fair Work Australia	http://www.fwa.gov.au/	14/01/2010
Migration/Refugee Review Tribunal	http://www.mrt-rrt.gov.au/	16/12/2009
National Native Title Tribunal	http://www.nntt.gov.au/Pages/default.aspx	14/01/2010
Social Security Appeals Tribunal	http://www.ssat.gov.au/	16/12/2009

A1.2 Australian Capital Territory websites

Organisation	Website	Date accessed
ACT Government	http://www.act.gov.au/	21/01/2010
Department of Justice and Community Safety	http://www.justice.act.gov.au/	26/07/2010
Restorative Justice Unit	http://www.jcs.act.gov.au/restorativejustice/Home.htm	21/01/2010
Supreme Court	http://www.courts.act.gov.au/supreme/	21/01/2010
Magistrates Court and Tribunals	http://www.courts.act.gov.au/magistrates/index.html	21/01/2010
ACT Civil and Administrative Tribunal	http://www.courts.act.gov.au/magistrates/index.html	21/01/2010

A1.3 New South Wales websites

Organisation	Website	Date accessed
NSW Government	http://www.nsw.gov.au/	18/12/2009
Department of Justice and Attorney General	http://www.lawlink.nsw.gov.au/Lawlink/DiversityServices/ll_DiversitySrvces.nsf/pages/cald_index	18/12/2009
Community Relations Commission	www.crc.nsw.gov.au	17/02/2010
Judicial Commission of New South Wales	www.judcom.nsw.gov.au	17/03/2010
Supreme Court of NSW	www.lawlink.nsw.gov.au/sc	16/12/2009
Chief Industrial Magistrates Court	http://www.lawlink.nsw.gov.au/lawlink/cim/ll_cim.nsf/pages/cim_index	16/12/2009
District Court	www.lawlink.nsw.gov.au/dc	16/12/2009
Local Courts	http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_index	16/12/2009
Coroner's Court	http://www.lawlink.nsw.gov.au/lawlink/coroners_court/ll_coroners.nsf/pages/coroners_index	17/11/2009
Children's Court	http://www.lawlink.nsw.gov.au/lawlink/childrens_court/ll_cc.nsf/pages/CC_index	17/11/2009
Drug Court	http://www.lawlink.nsw.gov.au/Lawlink/drug_court/ll_drugcourt.nsf/pages/adrgcrt_index	21/12/2009
Land and Environment Court	www.lawlink.nsw.gov.au/lec	21/12/2009
Mental Health Review Tribunal	http://www.mhrt.nsw.gov.au/contacts.htm	11/03/2010
Victims Compensation Tribunal	http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/Vs_aboutus#tribunal	11/03/2010
Youth Drug and Alcohol Courts	http://www.lawlink.nsw.gov.au/lawlink/drug_court/ll_drugcourt.nsf/pages/ydrgcrt_index	11/03/2010
Community Justice Centres	http://www.lawlink.nsw.gov.au/lawlink/Community_Justice_Centres/ll_cjc.nsf/pages/CJC_publications	11/03/2010
Administrative Decisions Tribunal	www.lawlink.nsw.gov.au/adt	21/12/2009
Anti-Discrimination Board	http://www.lawlink.nsw.gov.au/adb	24/11/2010
Consumer, Trader and Tenancy Tribunal	http://www.cttt.nsw.gov.au/default.html	18/12/09
Dust Diseases Tribunals	http://www.lawlink.nsw.gov.au/lawlink/ddt/ll_ddt.nsf/pages/DDT_index	21/12/2009
Guardianship Tribunal	http://www.gt.nsw.gov.au/	21/12/2009
Industrial Relations Commission	www.lawlink.nsw.gov.au/irc	21/12/2009
Workers Compensation Commission	http://www.wcc.nsw.gov.au/default.htm	21/12/2009

A1.4 Northern Territory websites

Organisation	Website	Date accessed
Department of Justice (Northern Territory Courts)	http://www.courts.nt.gov.au/	07/01/2010
Department of the Chief Minister (Multicultural Affairs)	http://www.dcm.nt.gov.au/strong_community/a_great_place_to_live_and_work/multicultural_affairs	25/05/2010
Department of Housing, Local Government and Regional Services	http://www.dlgh.nt.gov.au/ais	07/01/2010
Supreme Court	http://www.supremecourt.nt.gov.au/	07/01/2010
Magistrates Court	http://www.nt.gov.au/justice/ntmc/	07/01/2010
Anti Discrimination Commission	http://www.adc.nt.gov.au/	07/01/2010

A1.5 Queensland websites

Organisation	Website	Date accessed
Queensland Government	http://www.qld.gov.au/	07/01/2010
Department of Justice and Attorney General	http://www.justice.qld.gov.au/	25/05/2010
Multicultural Affairs Queensland	http://www.multicultural.qld.gov.au/	07/01/2010
Legal Services Commission	http://www.lsc.qld.gov.au/32.htm	25/01/2010
Queensland Courts (links to all courts and Qld Civil and Administrative Tribunal)	http://www.courts.qld.gov.au/	07/01/2010
Queensland Civil and Administrative Tribunal	http://www.qcat.qld.gov.au/	06/04/2010
Land Court of Queensland	http://www.landcourt.qld.gov.au/	25/05/2010
Youth Justice Services	http://www.communityservices.qld.gov.au/youth/youth-justice/services/	25/05/2010
Q-Comp (Workers Compensation Regulatory Authority)	http://www.qcomp.com.au/	25/05/2010

A1.6 South Australia websites

Organisation	Website	Date accessed
Justice Portfolio	http://www.justice.sa.gov.au/	25/05/2010
Multicultural SA	www.multicultural.sa.gov.au	25/05/2010
Courts Administration Authority	www.courts.sa.gov.au	08/01/2010
South Australian Industrial Relations Tribunals	www.industrialcourt.sa.gov.au	08/01/2010
Residential Tenancies Tribunal	http://www.ocba.sa.gov.au/tenancies/res/tentribunal/index.html	25/05/2010
Guardianship Board	http://www.guardianshipboard.sa.gov.au/	25/05/2010
Centre for Restorative Justice	http://www.restorativejustice.com.au/	25/05/2010
Equal Opportunity Commission	http://www.eoc.sa.gov.au/site/home.jsp	25/05/2010

A1.7 Tasmania websites

Organisation	Website	Date accessed
Department of Justice	http://www.justice.tas.gov.au/	08/01/2010
Department of Premier and Cabinet	http://www.dpac.tas.gov.au/divisions/cdd/multitas/interpreter	27/05/2010
Supreme Court	http://www.supremecourt.tas.gov.au/home	08/01/2010
Magistrates Court	http://www.magistratescourt.tas.gov.au/home	08/01/2010
Guardianship and Administration Board	http://www.guardianship.tas.gov.au/home	08/01/2010
Mental Health Tribunal	http://www.mentalhealthtribunal.tas.gov.au/	27/05/2010
Workers Rehabilitation and Compensation Tribunal	http://www.workerscomp.tas.gov.au/	27/05/2010
Industrial Commission	http://www.tic.tas.gov.au/	27/05/2010
Forensic Tribunal	http://www.forensictribunal.tas.gov.au/	27/05/2010
Health Practitioners Tribunal	http://www.healthpractitionertribunal.tas.gov.au/home	27/05/2010
Resource Management and Planning Appeal Tribunal	http://www.rmpat.tas.gov.au/	27/05/2010

A1.8 Victoria websites

Organisation	Website	Date accessed
Victorian Government	http://www.vic.gov.au/	03/06/2010
Department of Justice	http://www.justice.vic.gov.au/	21/12/2009
Victorian Multicultural Commission (formerly VOMA)	http://www.multicultural.vic.gov.au/	13/01/2010
Judicial College of Victoria	http://www.judicialcollege.vic.edu.au	13/01/2010
Victoria Legal Aid	www.legalaid.vic.gov.au/	13/01/2010
Supreme Court	www.supremecourt.vic.gov.au	21/12/2009
Magistrates Court	http://www.magistratescourt.vic.gov.au/	21/01/2010
County Court	http://www.countycourt.vic.gov.au	21/01/2010
Coroners Court	http://www.coronerscourt.vic.gov.au/	21/01/2010
Children's Court	http://www.childrenscourt.vic.gov.au	13/01/2010
Victorian Civil and Administrative Tribunal	http://www.vcat.vic.gov.au/	13/01/2010
Victims of Crime Assistance Tribunal	http://www.vocat.vic.gov.au	13/01/2010
Neighbourhood Justice Centre	http://www.neighbourhoodjustice.vic.gov.au/site/page.cfm	21/01/2010
Mental Health Review Board	http://www.mhrb.vic.gov.au/	03/06/2010
Accident Compensation Conciliation Service	http://www.conciliation.vic.gov.au	01/07/2010

A1.9 Western Australia websites

Organisation	Website	Date accessed
Department of the Attorney General	http://www.department.dotag.wa.gov.au/	14/01/2010
Office of Multicultural Interests	http://www.omi.wa.gov.au/	14/01/2010
Victorian Multicultural Commission (formerly VOMA)	http://www.multicultural.vic.gov.au/	14/01/2010
Supreme Court	www.supremecourt.wa.gov.au	14/01/2010
District Court	http://www.districtcourt.wa.gov.au/	14/01/2010
Magistrates Court	http://www.magistratescourt.wa.gov.au/	14/01/2010
Coroners Court	http://www.coronerscourt.wa.gov.au/	14/01/2010
Family Court	http://www.familycourt.wa.gov.au/	14/01/2010
Industrial Magistrates Court	http://www.imc.wa.gov.au/	14/01/2010
Childrens Court	http://www.childrenscourt.wa.gov.au/	14/01/2010
State Administrative Tribunal	http://www.sat.justice.wa.gov.au/	14/01/2010
Industrial Relations Commission	http://www.wairc.wa.gov.au/	14/01/2010
WorkCover	http://www.workcover.wa.gov.au	14/01/2010
Mental Health Review Board of Western Australia	http://www.mhrbwa.org.au/	14/01/2010

Appendix 2: Questionnaires

A2.1 Questionnaire for Judicial Officers/Tribunal Members

1. Please indicate your gender
 - Female
 - Male
2. Your age group
 - Under 40
 - 41-50
 - 51-60
 - Over 60
3. Are you a:
 - Judge?
 - Magistrate?
 - Tribunal member?
 - Other (please specify)
4. Please indicate how long you have been working in this capacity
 - Less than 5 years
 - 6-10 years
 - 11-20 years
 - Over 20 years
5. In what state or territory do you work?
 - ACT
 - NSW
 - Victoria
 - QLD
 - SA
 - Tasmania
 - WA
 - NT (Judicial Officers)
6. In which court or tribunal do you work?
 - Local/Magistrates Court
 - District/County Court
 - Supreme Court
 - Family Court
 - Federal Magistrates Court
 - Federal Court
 - MRT/RRT
 - Consumer, Trader and Tenancy Tribunal (or equivalent)
 - Workers Compensation
 - Other (please specify)
7. How often do you hear cases with interpreters?
 - More than once a week
 - Once a week
 - More than once a month
 - Once a month
 - Less than once a month
8. What are the major languages other than English for which interpreters are required in your court or tribunal? Please list the top 3:

9. What minimum qualifications do you require of interpreters?
 - None
 - NAATI Paraprofessional (Level 2), if accreditation available for language.
 - NAATI Professional (Level 3), if accreditation available for language
 - Specialised interpreting training
 - NAATI + Specialised interpreting training
 - Other (please specify)
10. What do you do if an interpreter with the minimum qualifications required in question 9 is not available onsite at the specified time?
 - Adjourn hearing until qualified interpreter is available
 - Accept available interpreter, regardless of qualifications.
 - Use telephone interpreting service with interpreter that meets the required qualifications.
 - Use video interpreting service with interpreter that meets the required qualifications.
 - Go ahead with hearing without interpreter
 - Other (please specify)
11. Were you aware that tertiary qualifications are available to train as an interpreter?
 - Yes
 - No
12. Do you ask interpreters to state their qualifications at the commencement of the proceedings?
 - Yes
 - No
13. Does your court or tribunal give preference to the best qualified interpreters?
 - Yes
 - No
 - Don't know
14. Do you have a say in the choice of interpreter?
 - Yes
 - No
15. If yes, how do you exercise this choice?
16. If not, do you think you should have a say?
 - Yes
 - No
17. How often have you felt dissatisfied with the services provided by interpreters in the last 2 years?
 - Very often
 - Often
 - Sometimes
 - Never
18. Would you support the requirement for compulsory legal interpreting training for interpreters?
 - Yes
 - No

19. Would you support differential remuneration for interpreters according to qualifications and specialised training?
 - Yes
 - No
 - Don't know(Judicial Officers)
20. How do you address interpreters in the courtroom or tribunal?
 - As Madam or Mr Interpreter
 - By first name
 - By surname
 - By title (e.g. Dr)
 - I don't address them at all
 - Other (please specify)
21. Do you explain the interpreter's role to all parties before commencing?
 - Yes
 - No
22. If yes, what do you say?
23. If not, do you ask the interpreter to explain their role to all parties before commencing?
 - Yes
 - No
24. Are interpreters provided with the following during proceedings?
 - A seat
 - A table to write on
 - Drinking water
 - Breaks every 30 to 40 minutes
25. Are interpreters provided with background materials/information to prepare for the case in advance?
 - Yes, what materials?
 - No. Why not?
26. Are interpreters permitted to stop the proceedings to ask for clarification if needed?
 - Yes
 - No
27. Do you tell interpreters that they have permission to interrupt if they need to?
 - Yes
 - No
28. Do you expect interpreters to interpret in:
 - First person (As if they were the original speaker)
 - Third person (Reporting on the original speech)
 - In whichever mode the interpreter feels comfortable
29. Do you expect interpreters to alert you to potential cross-cultural misunderstandings?
 - Yes
 - No
 - Comments (optional)
30. Do you expect interpreters to interpret the following? (you can select more than one) (Possible answers: Yes, No, Not Applicable)
 - Objections (Interpreted to the non English speaker)
 - Answers to objected questions (Interpreted to the court/tribunal)

- Legal arguments between lawyers and bench (interpreted to the non English speaker)
 - Other witnesses' testimonies (interpreted to the non English speaker)
31. If you expect the interpreting of any of the above, what do you do if you notice the interpreter is NOT providing that interpretation?
- Nothing
 - Stop proceedings and direct the interpreter to interpret
 - Other (please specify)
32. What do you do if the non English speaker complains about the interpreter? (You can select more than one)
- Nothing
 - Make a note in the case notes or transcript
 - Allow the interpreter to respond
 - Ask for an expert assessment of the interpreting service
 - Notify the interpreter booking agency
 - Other (please specify)
33. What do you do if someone else in the courtroom or hearing room complains about the interpreter's accuracy? (e.g. family member or friend, legal representative/migration agent, another interpreter) (You can select more than one)
- Nothing
 - Make a note in the case notes or transcript
 - Allow the interpreter to respond
 - Ask for an expert assessment of the interpreting service
 - Notify the interpreter booking agency
 - Other (please specify)
34. If you require an expert assessment of the interpreter's performance, who do you engage to provide this?
35. What do you do if any of the speakers starts to speak before the interpreter finished interpreting?
- Nothing
 - Stop the party that's interrupting
 - Let the interpreter handle it
 - Other (please specify)
36. What aspects of working with interpreters do you think need clarification or clearer guidelines within your organisation?
37. Please list concrete items you would like to see included in a national protocol for working with interpreters in Australian courts and tribunals (optional)
38. Other comments

Thank you for your participation!

A2.2 Questionnaire for Interpreters

1. Please indicate your gender
 - Female
 - Male
2. Your age group
 - 30 or under
 - 31-40
 - 41-50
 - 51-60
 - Over 60
3. In what state or territory do you work?
 - ACT
 - NSW
 - Victoria
 - QLD
 - SA
 - Tasmania
 - WA
 - NT
4. Please indicate how long you have been working as in interpreter in legal settings
 - Less than 5 years
 - 6-10 years
 - 11-20 years
 - Over 20 years
5. In which court or tribunal do you work? (You can select more than one)
 - Local/Magistrates Court
 - District/County Court
 - Supreme Court
 - Family Court
 - Federal Magistrates Court
 - Federal Court
 - MRT/RRT
 - Consumer, Trader and Tenancy Tribunal (or equivalent)
 - Workers Compensation
 - Other (please specify)
6. How often do you work in courts and tribunals?
 - More than once a week
 - Once a week
 - More than once a month
 - Once a month
 - Less than once a month
7. What is your main language combination?

8. What is your highest interpreting qualification?
 - None
 - TAFE qualification
 - Undergraduate University Degree
 - Postgraduate University Degree
 - Other (please specify)
9. What is your NAATI accreditation?
 - Not accredited
 - Recognition
 - Paraprofessional Interpreter (formerly Level 2)
 - Interpreter (formerly Level 3)
 - Conference Interpreter (formerly Level 4)
 - Conference Interpreter (Senior) (formerly Level 5)
10. How often have you felt inadequate with the services you provided?
 - Very often
 - Often
 - Sometimes
 - Never
11. Do you think compulsory legal interpreting training for interpreters is needed?
 - Yes
 - No
 - Don't know
12. How do you like to be addressed in the courtroom or tribunal?
 - As Madam or Mr Interpreter
 - By first name
 - By surname
 - By title (e.g. Dr)
 - I don't care
 - Other (please specify)
13. Are you provided with the following during proceedings? (Possible responses: Always, Sometimes, Never)
 - A seat
 - A table to write on
 - Drinking water
 - Breaks every 30 to 40 minutes
 - Other (please specify)
14. If not, do you ask for them?
 - Always
 - Sometimes
 - Never
 - Other (please specify)
15. Are you provided with background materials/information to prepare for the case in advance?
 - Yes
 - No
16. If yes, what materials/information are you provided with?
17. If no, what materials/information would you like to be provided with?

18. Would you like to have paid preparation time immediately before the hearing?
 - Yes
 - No
 - Don't know
19. If yes, how long do you consider sufficient time?
 - 15 minutes
 - 30 minutes
 - 45 minutes
 - 60 minutes
 - Other (please specify)
20. Do you stop the proceedings to ask for clarification if you did not understand anything?
 - Yes
 - No
21. If yes, how is this received by the court/tribunal?
22. If not, why not?
23. Do you interpret in:
 - First person (As if you were the original speaker)
 - Third person (Reporting on the original speech)
 - Either first or third, depending on the situation
24. Do you alert the court/tribunal to potential cross-cultural misunderstandings?
 - Yes. How?
 - No. Why not?
 - Other comments
25. Do you interpret the following? (you can select more than one) (Possible answers: Yes, No, Not applicable)
 - Objections (Interpreted to the non English speaker)
 - Answers to objected questions (Interpreted to the court/tribunal)
 - Legal arguments between lawyers and bench (interpreted to the non English speaker)
 - Other witnesses' testimonies (interpreted to the non English speaker)
26. If you do interpret any of the above, please indicate the mode you use for each interaction (Possible answers: Short consecutive, Simultaneous)
27. What do or would you do if any of the parties in the court/tribunal make a complaint in relation to the quality of your interpreting?
28. What do you do if any of the speakers starts to speak before you finished interpreting?
 - Continue interpreting over the top of the interruption
 - Stop the party that's interrupting
 - Stop interpreting
 - Ask the judicial officer/tribunal member to deal with the situation
 - Other (please specify)
29. Generally, do you feel respected as a professional by the judicial officers/tribunal members?
 - Yes
 - No
 - Other (please specify)

30. Generally, do you feel respected as a professional by the lawyers?
- Yes
 - No
 - Other (please specify)
31. On average, what is your hourly rate of pay for interpreting in courts and tribunals?
- Less than \$35
 - \$35 - \$50
 - \$51 - \$65
 - \$66 - 80
 - More than \$80
32. Are you satisfied with the rate of pay?
- Yes
 - No
 - Other (please specify)
33. Do you think there should be differential rates of pay according to qualifications?
- Yes
 - No
 - Don't know
34. Please list concrete items you would like to see included in a national protocol for
35. working with interpreters in Australian courts and tribunals (optional)
36. Other comments

Thank you for your participation.

Appendix 3: NAATI accreditation by testing and course work

A3.1 Languages in which NAATI accreditation by test is available

Accreditation by sitting a NAATI test is available in the following languages:

Albanian (Committee on Overseas Professionals Qualifications), Amharic (Committee on Overseas Professionals Qualifications), Arabic (Committee on Overseas Professionals Qualifications), Armenian (Para), Auslan (Committee on Overseas Professionals Qualifications), Bangla (Committee on Overseas Professionals Qualifications), Bosnian (Committee on Overseas Professionals Qualifications), Bulgarian (Committee on Overseas Professionals Qualifications), Burmese (Committee on Overseas Professionals Qualifications), Cantonese (Committee on Overseas Professionals Qualifications), Croatian (Committee on Overseas Professionals Qualifications), Czech (Committee on Overseas Professionals Qualifications), Dari (Committee on Overseas Professionals Qualifications), Dinka (Para), Dutch (Committee on Overseas Professionals Qualifications), Filipino (Committee on Overseas Professionals Qualifications), Finnish (Committee on Overseas Professionals Qualifications), French (Committee on Overseas Professionals Qualifications), German (Committee on Overseas Professionals Qualifications), Greek (Committee on Overseas Professionals Qualifications), Hakka (Chinese) (Para), Hazaragi (Para), Hindi (Committee on Overseas Professionals Qualifications), Hungarian (Committee on Overseas Professionals Qualifications), Indonesian (Committee on Overseas Professionals Qualifications), Italian (Committee on Overseas Professionals Qualifications), Japanese (Committee on Overseas Professionals Qualifications), Khmer (Committee on Overseas Professionals Qualifications), Korean (Committee on Overseas Professionals Qualifications), Lao (Committee on Overseas Professionals Qualifications), Macedonian (Committee on Overseas Professionals Qualifications), Malay (Committee on Overseas Professionals Qualifications), Mandarin (Committee on Overseas Professionals Qualifications), Maltese (Committee on Overseas Professionals Qualifications), Nuer (Para), Oromo (Para), Persian (Committee on Overseas Professionals Qualifications), Polish (Committee on Overseas Professionals Qualifications), Portuguese (Committee on Overseas Professionals Qualifications), Punjabi (Committee on Overseas Professionals Qualifications), Pushto (Para), Romanian (Committee on Overseas Professionals Qualifications), Russian (Committee on Overseas Professionals Qualifications), Samoan (Committee on Overseas Professionals Qualifications), Serbian (Committee on Overseas Professionals Qualifications), Sinhalese (Committee on Overseas Professionals Qualifications), Slovak (Committee on Overseas Professionals Qualifications), Somali (Committee on Overseas Professionals Qualifications), Spanish (Committee on Overseas Professionals Qualifications), Swahili (Para), Tamil (Committee on Overseas Professionals Qualifications), Tetum (Para), Thai (Committee on Overseas Professionals Qualifications), Tigrinya (Para), Tongan (Committee on Overseas Professionals Qualifications), Turkish (Committee on Overseas Professionals Qualifications), Ukrainian (Committee on Overseas Professionals Qualifications), Urdu (Committee on Overseas Professionals Qualifications) and Vietnamese (Committee on Overseas Professionals Qualifications). (NAATI, 2010a)

In addition to current testing, in 2011 NAATI is running a New Interpreter's Project aimed at increasing the number of accredited and recognised interpreters in some new and emerging languages. The languages included in this project are: Acholi, Ahmaric, Arabic (Sudanese), Bari, Burmese, Chaldean, Creole, Dari, Dinka, Dzhongka, Eastern Kaya, Ewe, Falam (China), Fanti, Fula, Fur, Gan, Hakka (China), Hazaragi, Hmong, Ikbo, Kachin, Kakwa, Kannadal, Karen, Khmer, Kikuyu, Kingoni, Kinyarwanda, Kirundi, Kono, Kpelle, Krio, Kuku, Kurdish (Kurmanji), Kurdish (Sorani), Kurdish Southern (Feyli), Lao, Liberian Pidgin, Lingala, Lisu, Loko, Luo, Madi, Mandingo, Mara (China), Maru, Mende, Mina, Mizo (China), Moru, Nepali, Nuer, Oromo, Pojulu, Rohingya, Shilluk (Chollo), Sinhalese, Siym, Somali, Sukuma, Susu, Swahili, Tamil, Temne, Tidim (China), Tigre, Tigrinya, Tshiluba, Twi, Uighur, Uzbek, Watchl, Yalunka, Zande, Zomi (China), Zonot (China). (NAATI, 2010b)

A3.2 Courses approved by NAATI for accreditation by course work

State	Institution	Course	Accreditation Type and Level	Approved Languages	Link	Reapproval Date
NSW	Abbey College Australia	Advanced Diploma of Translating	Professional Translator	Chinese (English into Chinese only), Korean	www.abbeycollege.com.au	31/12/2011
NSW	TAFE NSW - Sydney Institute (Petersham)	Diploma of Interpreting	Paraprofessional Interpreter	Auslan, Cantonese, Greek, Indonesian, Korean, Mandarin, Spanish, Thai, Vietnamese	http://www.sit.nsw.edu.au/courses/search.php?cid=22947&area=petersham&Media_Index_ID=45	31/12/2011
NSW	TAFE NSW - Sydney Institute (Petersham)	Diploma of Interpreting and Translating	Paraprofessional Interpreter	Korean, Mandarin	http://www.sit.nsw.edu.au/courses/?Media_Index_ID=169&area=courses	31/12/2011
NSW	TAFE NSW - Sydney Institute (Petersham)	Advanced Diploma of Interpreting	Professional Interpreter	Auslan, Cantonese, Greek, Korean, Mandarin, Spanish, Vietnamese	http://www.sit.nsw.edu.au/courses/?Media_Index_ID=169&area=courses	31/12/2011
NSW	TAFE NSW South Western Sydney Institute (Bankstown)	Diploma of Interpreting	Paraprofessional Interpreter	Vietnamese		31/12/2012
NSW	TAFE NSW South Western Sydney Institute (Granville)	Diploma of Interpreting	Paraprofessional Interpreter	Arabic, Mandarin, Persian (Farsi), Vietnamese	http://www.swsi.tafensw.edu.au/courses/search_results.aspx?loc=4&key=Interpreting	31/12/2011
NSW	TAFE NSW South Western Sydney Institute (Granville)	Advanced Diploma of Interpreting	Professional Interpreter	Arabic, Persian(Farsi)	http://www.swsi.tafensw.edu.au/courses/search_results.aspx?loc=4&key=Interpreting	31/12/2011
NSW	TAFE NSW - South Western Sydney Institute (Liverpool College)	Diploma of Interpreting	Paraprofessional Interpreter	Khmer		31/12/2011
NSW	TAFE NSW - Northern Sydney Institute (Meadowbank)	Diploma of Interpreting	Paraprofessional Interpreter	Japanese		31/12/2011
NSW	Macquarie University	Postgraduate Diploma in Translating and Interpreting	Professional Interpreter and Professional Translator (both directions)	Auslan, Chinese (translation only), French, Japanese, Korean, Mandarin (interpreting only), Spanish	http://www.ling.mq.edu.au/postgraduate/coursework/tip.htm	31/12/2011

State	Institution	Course	Accreditation Type and Level	Approved Languages	Link	Reapproval Date
NSW	Macquarie University	Postgraduate Diploma in NZSL or Auslan/English Interpreting (External Mode)	Professional Interpreter	Auslan, New Zealand Sign Language (NZSL)	http://www.ling.mq.edu.au/postgraduate/coursework/tip.htm	31/12/2011
NSW	Macquarie University	Master of Translating and Interpreting	Professional Interpreter and Professional Translator (both directions)	Auslan, Chinese (translation only), French, Japanese, Korean, Mandarin (interpreting only), Spanish	http://www.ling.mq.edu.au/postgraduate/coursework/tip.htm	31/12/2011
NSW	Macquarie University	Master of Translating and Interpreting (External Mode)	Professional Interpreter	Auslan	http://www.ling.mq.edu.au/postgraduate/coursework/tip.htm	31/12/2011
NSW	Sydney Institute of Interpreting and Translating (SIIT)	Advanced Diploma of Translating	Professional Translator (both directions)	Chinese	http://www.siiit.nsw.edu.au/	30/05/2011
NSW	Sydney Institute of Interpreting and Translating (SIIT)	Advanced Diploma of Interpreting	Professional Interpreter	Mandarin	http://www.siiit.nsw.edu.au/	31/12/2011
NSW	Sydney Institute of Interpreting and Translating (SIIT)	Diploma of Interpreting and Translating	Paraprofessional Interpreter	Mandarin	http://www.siiit.nsw.edu.au/	31/12/2011
NSW	University of New South Wales	Master of Arts in Interpreting and Translation Studies (MAITS)	Professional Translator (both directions)	Chinese, French, German, Indonesian, Japanese, Korean, Lao, Mandarin, Russian, Spanish	http://www.handbook.unsw.edu.au/postgraduate/plans/2009/MODLBS8225.html	31/12/2011
NSW	University of New South Wales	Master of Arts in Chinese-English Translation (MACET)	Professional Translator (both directions)	Chinese	http://www.handbook.unsw.edu.au/postgraduate/plans/2009/CHINDS8225.html	31/12/2011
NSW	University of New South Wales	Masters of Arts (Extension) by coursework in Interpreting and Translation Studies	Professional Interpreter and Professional Translator (both directions)	Chinese (translation only), French, German, Indonesian, Japanese, Korean, Mandarin (interpreting only), Russian, Spanish	http://www.handbook.unsw.edu.au/postgraduate/programs/2010/8229.html	31/12/2011

State	Institution	Course	Accreditation Type and Level	Approved Languages	Link	Reapproval Date
NSW	University of Western Sydney - Bankstown Campus	Graduate Diploma in Translation	Professional Translator (both directions)	Arabic, Chinese (translation only), Japanese, Spanish	http://handbook.uws.edu.au/hbook/course.aspx?course=1638.2	31/12/2012
NSW	University of Western Sydney - Bankstown Campus	Graduate Diploma in Interpreting	Professional Interpreter	Arabic, Japanese, Mandarin (interpreting only), Spanish	http://handbook.uws.edu.au/hbook/course.aspx?course=1637.1	31/12/2012
NSW	University of Western Sydney - Bankstown Campus	Bachelor of Arts in Interpreting and Translation	Professional Interpreter and Professional Translator (both directions)	Arabic, Chinese (translation only), Japanese, Mandarin (interpreting only), Spanish	http://handbook.uws.edu.au/hbook/course.aspx?course=1519.2	31/12/2012
NSW	University of Western Sydney - Bankstown Campus	Master of Interpreting and Translation	Professional Translator (both directions) and Professional Interpreter	Arabic, Chinese (translation only), Japanese, Mandarin (interpreting only), Spanish	http://handbook.uws.edu.au/hbook/course.aspx?course=1639.1	31/12/2012
NT	Institute for Aboriginal Development	Diploma of Interpreting	Paraprofessional Interpreter	Ayawarra, Anmatyerre, Eastern Arrente, Kaytetye, Luritja, Pitjantjatjara, Warlpiri, Warumungu	http://www.iad.edu.au/courses/Interpreting.htm	31/12/2011

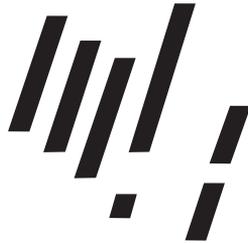
Source: (NAATI, 2011)

References

- Australian Bureau of Statistics. (2006). *Census of population and housing*.
- Australian Department of Immigration. (1973). *Report on the survey of interpreting and translating needs in the community*. Canberra: Department of Immigration, Survey Section.
- Australian Institute of Multicultural Affairs. (1982). *Evaluation of post-arrival programs and services*. Melbourne: Council of the Australian Institute of Multicultural Affairs.
- Berk-Seligson, S. (2000). Interpreting for the police: Issues in pre-trial phases of the judicial process. *Forensic Linguistics*, 7(2), 212-237.
- Commission of Inquiry into Poverty. (1975). *Migrants and the legal system*. Canberra: Australian Government Publishing Service.
- Committee on Overseas Professionals Qualifications. (1977). *The language barrier*. Canberra: Australian Government Publishing Service.
- Commonwealth Attorney General's Department (CAGD). (1991). *Access to interpreters in the Australian legal system*. Canberra: Australian Government Publishing Service.
- Dobinson, I., & Chiu, T. (2005). Access and equity: The New South Wales court interpreter service. Current issues in criminal justice. *Journal of the Institute of Criminology*, 17(1), 30-46.
- Dueñas González, R., Vásquez, V., & Mikkelsen, H. (1991). *Fundamentals of court interpretation*. NC: Carolina Academic Press.
- Edwards, M. (2010). *Draft discussion paper on the use of interpreters in ACT courts and administrative tribunal*. Canberra
- Family Court of Australia. (n.d.). Interpreters policy: Guidelines to ensure uniform access to interpreter services throughout the Family Court of Australia. Retrieved from <http://www.familycourt.gov.au/wps/wcm/connect/FCOA/home> on 17/11/2009
- Family Court of Western Australia. (2006). Court funded interpreter services policy. July 2006. Retrieved from http://www.familycourt.wa.gov.au/i/interpreter_services.aspx on 14/01/2010
- Federal Court. (n.d.). *Federal court benchbook: 9.3 interpreters (received from. E. Connolly in email correspondence on 04/02/2010)*.
- Federal Magistrates Court. (n.d.). Interpreter and translator policy. Retrieved from <http://www.fmc.gov.au/services/html/interpreters.html> on 16/12/2009
- Gilligan, C. (1982). *In a different voice: Psychological theory and women's development*. Cambridge: Harvard University Press.
- Hale, S. (2004). *The discourse of court interpreting. Discourse practices of the law, the witness and the interpreter*. Amsterdam and Philadelphia: John Benjamins.
- Hale, S. (2007). The challenges of court interpreting: Intricacies, responsibilities and ramifications. *Alternative Law Journal*, 32(4), 198-202
- Hale, S. (2010). The need to raise the bar. Court interpreters as specialized experts. In M. Coulthard & A. Johnson (Eds.), *The routledge handbook of forensic linguistics* (pp. 440-454). London and New York: Routledge.
- Hale, S. (2011). The positive side of community interpreting. *Interpreting*, 13(2), 234-248.
- Hayes, A., & Hale, S. (2010). Appeals on incompetent interpreting. *Journal of Judicial Administration*, 20, 119-130.
- Judicial Commission of NSW. (2006). Equality before the law. Bench book. Retrieved from <http://www.judcom.nsw.gov.au/publications/benchbks/equality> on 17/03/2010
- Laster, K., & Taylor, V. (1994). *Interpreters and the legal system*. Sydney: The Federation Press.
- Law Institute of Victoria. (2010). *Interpreting fund scoping project*. Melbourne: Law Institute of Victoria.
- Lee, J. (2009). Interpreting inexplicit language during courtroom examination. *Applied Linguistics*, 30(1), 93-114.

- Martinsen, B., & Dubslaff, F. (2010). The cooperative courtroom. A case study of interpreting gone wrong. *Interpreting*, 12(1), 21-59.
- Migration/Refugee Review Tribunal. (2010). *Checklist for working with interpreters in MRT-RRT hearings* Retrieved from email communication with P. McIntosh on 23/12/2010
- Migration/Refugee Review Tribunal. (n.d.). *Guidelines for working with interpreters in MRT-RRT hearings* (received from P. McIntosh by email on 16/12/2009)
- Mikkelson, H. (2008). Evolving views of the court interpreter's role. Between scylla and charybdis. In C. Valero Garcés & A. Martin (Eds.), *Crossing borders in community interpreting. Definitions and dilemmas*. (Vol. 76, pp. 81-97). Amsterdam & Philadelphia: John Benjamins Publishing Company.
- Morris, R. (2008). Missing stitches. An overview of judicial attitudes to interlingual interpreting in the criminal justice systems of Canada and Israel. *Interpreting*, 10(1), 34 - 64.
- Morris, R. (2009). Taking liberties? Duplicity or the dynamics of court interpreting. In D. Russell & S. Hale (Eds.), *Interpreting in legal settings* (pp. 1-25). Washington D.C: Gallaudet University Press.
- NAATI. (2010a). Accreditation by testing: Information booklet. Retrieved from <http://www.naati.com.au/at-testing.html> on 14/01/2011
- NAATI. (2010b). New interpreters project: Information booklet. Retrieved from <http://www.naati.com.au/tw-nip.html> on 14/01/2011
- NAATI. (2011). Naati approved Australian courses. Retrieved from <http://www.naati.com.au/at-approvedcourses.html> on 17/01/2011
- NSW Community Justice Centre. (2009). 2009 policy: Use of interpreters. Retrieved from http://www.lawlink.nsw.gov.au/lawlink/Community_Justice_Centres/ll_cjc.nsf/pages/CJC_publications on 11/03/2010
- NSW Department of Justice and Attorney General. (2009). *AGD interpreter and translation service provision recommendations* (received by email from J. Haraksin).
- NSW Workers Compensation Commission. (n.d.). *Internal policy: Provision of interpreter services* (received by email from S. Leatham on 08/12/2009).
- Ozolins, U., & Hale, S. (2009). Introduction: Quality in interpreting. A shared responsibility. In S. Hale, U. Ozolins, & L. Stern (Eds.), *Critical link 5. Quality in interpreting. A shared responsibility* (pp. 1-10). Amsterdam / Philadelphia: John Benjamins.
- QLD Department of Justice and Attorney-General. (2009). Language services policy. Retrieved from http://www.justice.qld.gov.au/__data/assets/pdf_file/0005/33683/DJAG-Lang-Serv-Policy.pdf on 07/01/2010
- Queensland Courts. (2010). *Interpreters: Understanding your role in Queensland courts and tribunals*. Retrieved from AUSIT e-bulletin on 08/01/2011
- Queensland Government. (2004). Multicultural queensland: Making a world of difference policy (incorporating language services policy). Retrieved from http://www.multicultural.qld.gov.au/media/maq_making_world_difference_policy.pdf on 14/12/2009
- Review of Post-Arrival Programs and Services for Migrants. (1978). *Migrant services and programs: Report*. Canberra: Australian Government Publishing Service.
- Roberts-Smith, L. (2009). Forensic interpreting - trial and error. In S. Hale, U. Ozolins, & L. Stern (Eds.), *Critical link 5. Quality in interpreting: A shared responsibility* (pp. 13-35). Amsterdam/Philadelphia: John Benjamins P/C.
- Senate Standing Committee on Education and the Arts. (1984). *A national language policy*. Canberra: Australian Government Publishing Service.
- Social Security Appeals Tribunal. (2009). *Interpreter policy* (received by email from B. Carrol on 29/07/2010).
- Social Security Appeals Tribunal. (2010). *Members handbook part i interpreters* (received by email from B. Carrol on 29/07/2010).

- Supreme Court of Queensland. (2005). Equal treatment benchbook. Retrieved from http://www.courts.qld.gov.au/The_Equal_Treatment_Bench_Book/S-ETBB.pdf on 18/12/2009
- Victorian Department of Justice. (2006). Language services policy and guidelines for working with interpreters and translators. Retrieved from [http://www.justice.vic.gov.au/wps/wcm/connect/justlib/doj+internet/home/your+rights/equal+opportunity/justice+-+language+services+policy+and+guidelines+for+working+with+interpreters+and+translators+\(pdf\)](http://www.justice.vic.gov.au/wps/wcm/connect/justlib/doj+internet/home/your+rights/equal+opportunity/justice+-+language+services+policy+and+guidelines+for+working+with+interpreters+and+translators+(pdf)) on 21/12/2009
- Victorian Multicultural Commission. (2010). Using interpreting services: Victorian government policy and procedures. Retrieved from <http://www.multicultural.vic.gov.au/images/stories/pdf/2383%20vmc%20interpreter%20manual%20web.pdf> on 17/12/2010
- Victorian Office of Multicultural Affairs. (2003). Improving the use of translating and interpreting services: A guide to Victorian government policy and procedures. Retrieved from http://www.eduweb.vic.gov.au/edulibrary/public/teachlearn/student/lem/Full_policy.pdf on 13/01/2010
- WA Department of the Attorney General. (2009a). Equality before the law. Bench book. Retrieved from http://www.supremecourt.wa.gov.au/publications/pdf/equality_before_the_law_benchbook.pdf on 14/01/2010
- WA Department of the Attorney General. (2009b). Language services policy. Retrieved from http://www.department.dotag.wa.gov.au/_manifest/language_services_policy.jmf on 14/01/2010
- Women's Legal Resources Centre. (1994). *Quarter way to equal: A report on barriers to access to legal services for migrant women*. Sydney: Women's Legal Resources Centre.



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