

Use of Interpreters in Domestic and Family Violence Incidents

BEST PRACTICE GUIDELINES

“DOMESTIC VIOLENCE CAN AFFECT ANYONE, REGARDLESS OF AGE, GENDER OR WEALTH, WHERE THEY LIVE OR THEIR CULTURAL BACKGROUND” NOT NOW NOT EVER 2016

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Introduction

In August 2015 the Queensland Government accepted the Special Taskforce on Domestic and Family Violence in Queensland *Not Now: Not Ever* Report (the Taskforce Report) recommendations, including:

'The Queensland Police Service strengthens policy and guideline documents to ensure the use of interpreters for victims of domestic and family violence and their families, where required' Recommendation 113.

Following a review of the Queensland Language Services Policy (LSP), the Language Services Guidelines (LSG) 2016 were developed to clarify the engagement of language services by government agencies. The QPS have since prepared this document entitled "Use of Interpreters in Incidents of Domestic and Family Violence" to provide clearer support to officers.

Purpose

These guidelines have been developed to assist officers to comply with contemporary best practice principals in the use of interpreters and translators when responding to incidents of domestic and family violence. The guidelines will assist when police engage in communication with people who:

- cannot or have difficulty communicating in English;
- are deaf and/or hearing impaired and rely on Australian Sign Language (Auslan); or
- otherwise require assistance to communicate effectively.

Background

The Taskforce Report made a series of recommendations intended to inform the development of a long term vision and strategy for Government and the community, to address domestic and family violence. In contemplating the implications of communication challenges, the Taskforce Report found:

- The lack of suitable interpreters is a barrier to victims engaging in the law and justice system;
- The need for professional and appropriate interpreters is essential at all stages of the domestic and family violence response, including at the initial police call-out, during engagement of support services, at the court registry and in the court room;
- Having professional interpreters readily available at all stages of the response to domestic family violence is consistent with a contemporary court and police response and, conversely, failure to do so affects an individual's access to justice and a party's right to be heard;
- Friends, family and community members are not considered appropriate for assisting communication or interpreting support for police or at court; and

- The use of interpreters should be available for all matters involving non-English speakers, regardless of whether the matter is criminal or civil including deaf or hearing impaired persons or any other persons having difficulty communicating.

The LSG provide a 'best practice' framework for government agencies to mitigate the challenges identified in the Taskforce Report. In applying the LSG to domestic and family violence situations, officers should be cognisant of relevant legislation and QPS operational policy including:

- *Police Powers and Responsibilities Act 2000 – s.433 Right to interpreter*
- *Police Powers and Responsibilities Regulation 2012 – Schedule 9 s.28 Right to interpreter*
- *Operational Procedures Manual – Chapters 6.3.7 Interpreters and 9.6 Investigation of domestic violence*
- *Management Support Manual – Chapter 5.9.2*
- *Queensland Language Services Policy*
- *QPS Languages Services Strategy*
- *QPS Use of Interpreters in Domestic and Family Violence Incidents - Best Practice Guidelines*
- *Cultural Support Unit, Interpreting and Translating Information webpage*
- *Regional, District and Station/Establishment Instructions.*

What are language services?

Language services are strategies put in place which address communication issues affecting people with limited proficiency in English. This may include speakers of Aboriginal and Torres Strait Islander languages and Auslan. Language services include:

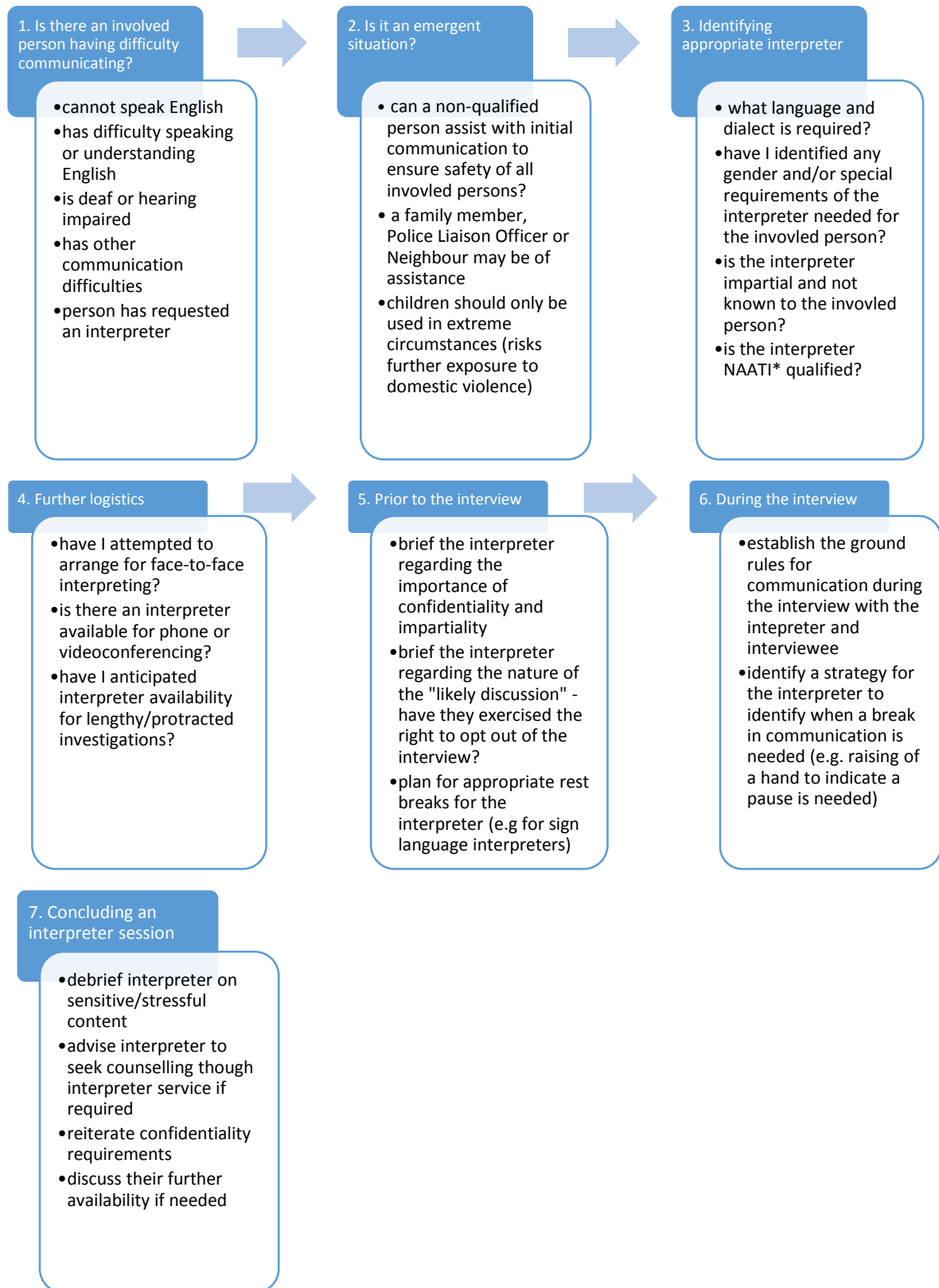
- Engagement of interpreters in person, by telephone or videoconference
- Employment of bilingual or multilingual staff
- Accreditation of bilingual or multilingual staff
- Use of multilingual information strategies i.e. brochures etc.

Why use interpreters?

The provision of language services such as interpreters provides a number of positive outcomes to the client and the QPS including:

- Ensuring non-English speakers and other people requiring language assistance have equal access to justice within the legal system;
- Helping the officer understand what has happened and to respond appropriately;
- Ensuring the conditions and requirements of domestic and family violence applications and orders are clearly explained and comprehended;
- Helping the person to navigate complex service systems;
- Ensuring legal requirements and administrative processes are met reducing the risk of re-victimising a victim or an aggrieved person, and providing an ability to engage the legal system to address issues or concerns;
- Reducing the potential for litigation and compensation claims related to inadequate QPS service provision;
- Enhancing the quality of QPS service delivery, including potential cost savings resulting from a more effective and targeted approach; and
- Ensuring good interviewing practice is maintained and officers have the best possible opportunity to ethically obtain information.

Flowchart - Use of Interpreters in Domestic and Family Violence Incidents



*NAATI – National Accreditation Authority for Translators and Interpreters

Guidelines

The term 'Interpreter' and 'Translator' are sometimes used interchangeably. The word 'interpreter' typically refers to the verbal translation of communication while 'translation' often refers to the written form.

Determining if an interpreter is required

Is there an involved person having difficulty communicating?

QPS members involved in responding to domestic and family violence incidents have a responsibility to ensure all parties are able to communicate effectively to obtain the same access to effective and efficient services as English speaking persons. Where a person has difficulty conversing in English, qualified interpreters should be used.

Is it an emergent situation?

Officers attending a domestic and family violence incident may, where the services of a qualified interpreter cannot be immediately accessed, need to utilise non-qualified interpreters. **This should be done with caution and under limited circumstances:**

- The police officer encounters a volatile situation and needs to ensure the safety of the persons involved.
- The police officer experiences immediate difficulty in communicating with the involved persons and needs to establish details of the occurrence and/or the appropriate language needed to engage a qualified interpreter.

In such circumstances, family members (not children), neighbours, Police Liaison Officers and QPS multi-lingual members may be of some assistance. The use of a child is not appropriate and may further expose a child to domestic and family violence.

A qualified interpreter will then be required where:

- **The officer reasonably suspects persons involved have difficulty communicating in English.** Noting the ability to converse in English does not necessarily indicate that a person comprehends the level of English required for a domestic and family violence incident and to understand complex legal terminology. If there is any doubt an interpreter should be engaged.
- **Upon receiving a request from a person involved** in the incident, whether or not the officer has different views about the subject's level of proficiency of English.

Note: interpreters are not limited to interviews with suspects. Witnesses and victims of domestic and family violence are particularly vulnerable to not being provided an interpreter when needed. Relying upon one involved party to provide an uncorroborated account of the incident being investigated, risks the respondent person continuing to commit domestic and family violence. Should an interpreter not be engaged for all parties requiring such support, the rights of the person may be violated and critical information regarding the incident may be lost.

Protocols for engaging interpreters

Identifying the most appropriate interpreter needed

A QPS member should consider the following criteria when determining the most appropriate interpreter to ensure the level of engagement between the client and the interpreter will sustain scrutiny and the rights of the client are maintained. Such factors include:

- Gender (Refer to recognising gender issues p. 8)
- Levels of literacy or other vulnerabilities
- Cultural and religious needs
- Dialect
- Hearing impairment and extra support needs
- Knowledge of interpreter to the person requiring support and any conflicts of interest.

It is acknowledged that in small communities or those with emerging dialects, people from the same cultural/linguistic group may know each other and this may impact on the person requiring support. For example, it may be particularly difficult to find impartial interpreters within indigenous communities.

Using an appropriately qualified interpreter

QPS members are to be client focused when engaging appropriately qualified interpreters to ensure the needs of the person requiring the interpreting services are met.

For the purposes of these guidelines, a qualified interpreter is one who holds at least one the following credentials:

- Interpreters credentialed by the National Accreditation Authority for Translators and Interpreters (NAATI) at the Recognised, Paraprofessional, Professional or Conference Levels
- Interpreters credentialed by NAATI in Auslan and as Deaf Interpreters
- Conference interpreters who are members of the International Association of Conference Interpreters (AIIC)
- Interpreters with tertiary level qualifications in interpreting.

A qualified translator is one who holds at least one NAATI accreditation at a Recognised, Paraprofessional, Professional or Advanced Translator level.

Additional NAATI credentials information can be found at https://www.naati.com.au/media/1109/outline_naati_credentials.pdf

QPS members will engage qualified interpreters in order of **recommended preference protocol** as outlined in the *QPS level of credentials summary* (Refer Attachment A). It is recommended that for all domestic and family violence interactions a 'Professional Interpreter' level or higher be used.

To obtain interpreter and translation service provider options go to the Queensland Government 'Find a translator or interpreter' webpage:

<https://www.qld.gov.au/gov/find-translator-or-interpreter>

The NAATI Online Directory also provides a search function for interpreters broken down by language need and location:

<https://www.naati.com.au/Online/PDSearch/StartNewSearch>

Maintaining confidentiality

Confidentiality is particularly important in domestic and family violence including incidents of sexual assault. To ensure confidentiality is maintained, QPS members investigating these incidents should:

- Engage qualified interpreters and translators who are governed by professional code of ethics – ‘The Australian Institute of Interpreters and Translators Incorporated Code of Ethics’ and the ‘Australian Sign Language Interpreter’s Association’ (ASLIA)
- Stress the importance of confidentiality to the interpreter prior to the session.
- Communicate the high level of confidentiality and impartiality required of the interpreter to the involved persons.

Recognising gender issues

Gender is an important consideration when engaging an interpreter, particularly in domestic and family violence incidents including where sexual assault is alleged to have occurred. Emphasis should be placed on the needs of the individual being interviewed. For example:

- Where possible, a female interpreter may be more appropriately engaged for a female victim. It is acknowledged that providing a female interpreter for a female victim may not always be possible, especially for new and emerging languages. Consideration of engaging a female telephone interpreter may be an appropriate option. A male interpreter should only be engaged for a female victim where consent has been obtained from the victim or no other operationally viable option is available.
- In some circumstances, a male person may be uncomfortable or unwilling to communicate through a female interpreter.

Language requirements

Language and dialect are important considerations in engaging an interpreter. A person requiring interpreting skills may also be able to communicate in another language. QPS officers should consider undertaking an assessment of the person’s alternate language and dialect prior to engaging an interpreter to ensure an appropriate interpreter is identified to provide the interpreting service.

Even though they may speak multiple languages, it is most appropriate to communicate in a person’s primary language. Every effort should be made to ascertain this language and engage an interpreter of this dialect.

Further logistics when engaging an appropriate interpreter

Engaging an interpreter

A range of factors should be considered when engaging an interpreter. The following list, whilst not exhaustive, provides significant points for consideration including:

- That separate interpreters be obtained for both Aggrieved and Respondent persons to ensure confidentiality of information and non-contamination of interpretation.
- Where appropriate, brief the interpreter on the nature of the 'likely discussion' and provide an opportunity for the interpreter to decline the engagement (this is of particular importance in situations involving domestic and family violence and sexual incidents).
- Establishing any conflict of interest with the interpreter in regards to the parties to ensure the interpreting is free from bias and does not impact on any legal proceedings as a result of the interpreting service. For example the interpreter may be known to the parties involved.
- Establishing the language, dialect, region, gender and cultural background preferences for the interpreter and request these from the interpreter service provider.
- Establishing communication supports and any other vulnerabilities (for example, a person with a disability who chooses to have a support person or assisted technology available).
- Requesting the same interpreter where continuity and the person's confidence in the interpreter is an important consideration. This may include from initial incident to subsequent court proceedings.
- Considering an additional interpreter be engaged when the session is likely to be 'lengthy' (for example, hearing impaired persons may require two interpreters and extra breaks during interviews due to fatigue).
- Considering the timing of travel for an on-site interpreter.

Selecting the most appropriate method of delivering interpreting

While on-site, face-to-face interpreting is the preferred first option, access to qualified interpreters particularly in rural and remote Queensland is often limited to interpreting by telephone. Telephone interpreting can also be utilised in emerging dialects or where there are no accredited interpreters who can appear in person.

QPS members should also consider the most appropriate method for delivering interpreting services given the circumstances of the situation. Advances in technology now provide opportunities for the QPS to consider alternate ways to obtain interpreting services.

Video Conference Interpreting and Video Remote Interpreting (VRI) provide both verbal and non-verbal communication channels and is an alternative to telephone interpreting. Video Conference Interpreting and VRI is reliant upon the QPS having access to video conferencing and other internet based communication facilities.

Video conference interpreting or VRI provides a practical option when sign language interpreters are not available locally as it enables individuals in the community, regardless of hearing loss or communication method, to communicate via an Auslan interpreter over the Internet. VRI provides the hearing impaired community with equitable access to information and should be used in similar situations to telephone interpreting. VRI should only be used where face-to-face interpreting is not available.

Practices to be avoided

QPS members responding to domestic and family violence incidents should avoid, except in emergent situations and where a qualified interpreter is unavailable:

- Use children as interpreters except in an emergent situation and only as a last resort. (The use of children and young relatives as interpreters will, in some circumstances, lead to further trauma for the child, including negative emotional and psychological well-being). The use of children as interpreters may cause child harm resulting in possible legal consequences for the QPS.
- Use family members, friends, community members, local community elders etc. as interpreters.
- Use bilingual/multilingual QPS members where a qualified interpreter is required. The use of bilingual staff may be perceived as a conflict of professional interest and considered to lack impartiality for the involved persons. This includes the use of bilingual staff when assisting victims understand the court process and requirements to attend, compensation applications, victim impact statements, obtaining affidavits or statements, use during a Record of Interview (ROI) or obtaining versions of an incident or service of court documents.

Interviewing with an interpreter

Prior to interviewing with an interpreter

QPS members undertaking an interpreting session should consider the following:

- Establishment of a safe and protective environment for the interpreter and involved parties
- The wellbeing of the interpreter particularly during highly stressful/graphic sessions
- Periodic breaks for interpreters, particularly for long interpreting sessions of more than an hour as fatigue can reduce the quality of interpreting
- Utilise a second interpreter in lengthy sessions (e.g. simultaneously while the other interpreter is present to ensure consistency and delivery of services or consecutively, if an interpreter requires a break or is unable to attend).

During the interview

- Establishment of the ground rules of communication for the parties involved so the interpreter and interviewee understand how the communication will be conducted.
- Development of strategies with the interpreter to signal that a break is required (for example the raising of a hand to pause the conversation).
- Speak directly to the interviewee, only addressing the interpreter if needing to provide instructions or for clarification of information.

Conclusion of service

Concluding an interpreter session

At the conclusion of an interpreting session QPS members should:

- Provide the interpreter with an opportunity to debrief about the interpreting task particularly where the situation is highly sensitive and stressful
- Advise the interpreter to access counselling through the interpreter service provider where required
- Reiterate the need for confidentiality of the matters discussed
- Discussion of further availability of the interpreter if needed for example, for protracted investigations.

Attachment A

Queensland Police Service Level of credentials summary

Type of interpreter	Levels of credentials	Engagement situations
Qualified interpreter	For languages where NAATI accreditation testing is available, NAATI issues accreditation at the following levels: <ul style="list-style-type: none"> • Paraprofessional Interpreter (lowest level) • Professional Interpreter • Conference Interpreter • Senior Conference Interpreter (highest) 	Where accreditation exists, preferred order of engagement is: <ol style="list-style-type: none"> 1. Professional Interpreter 2. Conference Interpreter 3. Senior Conference Interpreter 4. Paraprofessional Interpreter
	For languages where NAATI accreditation testing is not available, NAATI issues a recognition level: <ul style="list-style-type: none"> • Recognised Interpreter 	Where accreditation does not exist, preferred engagement is for Recognised Interpreters.
	Other qualifications include: <ul style="list-style-type: none"> • Interpreters with Australian tertiary level interpreting qualifications • conference interpreters who are members of the International Association of Conference Interpreters (AIIC) 	Where a NAATI credentialed interpreter is unavailable.
Other interpreter	No credentials or qualifications	Not to be engaged unless the situation is an emergency and a qualified interpreter is unavailable.