

Overview of 'Recommended National Standards for Working with Interpreters in Courts and Tribunals'

WHY DO WE HAVE THE STANDARDS?

Australia is one of the world's most culturally diverse nations, with Aboriginal and Torres Strait Islander peoples numbering around 3 per cent of the total population and two thirds of Australians born overseas. While Australia benefits enormously from this diversity, it also presents systemic challenges, particularly relating to access to justice.

With over 300 languages spoken in Australian households, it's not uncommon for people coming before the courts to require an interpreter. The work of interpreters is essential to ensuring access to justice and procedural fairness for people with limited or no English proficiency in Australia's courts.

The Judicial Council on Cultural Diversity (JCCD) developed the *Recommended National Standards for Working with Interpreters in Courts and Tribunals*¹ to establish recommended and optimal practices for Australian courts, with the aim of improving access to justice and procedural fairness.

This resource has been recommended by the Council of Chief Justices.



OVERVIEW OF THE RECOMMENDED STANDARDS

Effective communication in courts is a responsibility shared between judicial officers, court staff, interpreters and members of the legal profession. As such the Standards are directed to:

- ✓ courts as institutions (including those responsible for court administration);
- ✓ judicial officers responsible for the day-to-day work of courts;
- ✓ interpreters; and
- ✓ members of the legal profession.

Recommended Standards for Courts

The Recommended Standards for courts centre on steps that can be taken from an institutional perspective, to ensure better working with interpreters, including:

- ✓ adoption of the Model Rules to give effect to the proposed standards;
- ✓ provision of information to the public about the availability of interpreters;
- ✓ facilitation of training for judicial officers and court staff on the Standards;
- ✓ assessing the need for an interpreter;
- ✓ coordination and engagement of interpreters by the court in accordance with these Standards;
- ✓ court budget for interpreters;
- ✓ appropriate support for interpreters; and
- ✓ provision of professional development to interpreters on the Standards.

¹ <http://jccd.org.au/wp-content/uploads/2017/11/Recommended-National-Standards-for-Working-with-Interpreters-in-Courts-and-Tribunals.pdf>

The *Optimal Standards for Courts* are intended to provide aspirational targets or longer-term strategies or objectives to be implemented as and when resources become available, relating to the following:

- ✓ simultaneous interpreting equipment;
- ✓ provision of tandem or team interpreting;
- ✓ provision of professional mentors; and
- ✓ establishment of an interpreter portal.

Recommended Standards for Judicial Officers

Some of the Recommended Standards for judicial officers are similar to those for the Courts, but concentrate on those aspects that are within the scope of the judicial officer to implement, including:

- ✓ undertaking training for working with interpreters;
- ✓ assessing the need for an interpreter (refer to [Factsheet – Assessing the Need for an Interpreter](#));
- ✓ conducting proceedings with an interpreter (refer to [Factsheet – Conducting Proceedings with Interpreters](#)); and
- ✓ using plain English (refer to [Factsheet – Using Plain English](#)).

Recommended Standards for Interpreters

The Recommended Standards for interpreters outline what is expected of interpreters during court proceedings, including adherence to the Court Interpreters' Code of Conduct (in Schedule 1 of the Model Rules), and practical aspects relating to interpreting in court.

Recommended Standards for Legal Practitioners

The Recommended Standards for legal practitioners relate to their particular responsibilities, including:

- ✓ assessing the need for an interpreter;
- ✓ booking interpreters;
- ✓ engaging appropriate interpreters;
- ✓ briefing interpreters;
- ✓ using plain English; and
- ✓ appropriate management of documents.

Model Rules and Model Practice Note

The Recommended Standards are accompanied by Model Rules and a Model Practice Note. Courts and Tribunals are encouraged to adopt these Rules and Practice Note to give effect to the proposed standards.

The Model Rules recognise and affirm the important role of interpreters who, as officers of the court, owe paramount duties of accuracy and impartiality to the court.

Legal Appendix: Engagement of interpreters to ensure procedural fairness – legal requirements for interpreting

The Legal Appendix is intended as a summary for judicial officers and practitioners regarding the current law on interpreters in the legal system.

Six Annexures cover practical strategies and information to facilitate better working with interpreters in Courts and Tribunals.

A note about implementation: The Recommended Standards have been specifically designed to recognise and respond to the practical limitations that may preclude achievement of optimal practices in all cases and circumstances. They embody a degree of flexibility in order to accommodate these practical limitations.

WHO PRODUCED THIS RESOURCE?

The Recommended Standards were prepared by a specialist committee appointed by the JCCD, which included representatives of the judiciary and tribunals as well as senior members of the interpreting sector. The Recommended Standards were finalised following extensive public consultation with key stakeholders.

The JCCD is an advisory body formed to support procedural fairness and equality of treatment for all court users, and to promote public trust and confidence in Australian courts and the judiciary.

Contact

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