



Interpreter Protocols

Northern Territory Local Court

Table of Contents

Preamble	3
1. When to Engage an Interpreter	4
2. Responsibility to Engage the Interpreter – Procedural Matters	5
3. Court Interpreter Rosters for Aboriginal languages	7
4. Contested Matters	8
5. Bush Courts	8
6. The Selection of an Interpreter by the Aboriginal Interpreter Service, the Interpreting and Translating Service or other interpreting agencies	10
7. Taking the Interpreter’s Oath	11
8. Commencement of Proceedings when an Interpreter is Engaged	12
9. Methods of Interpretation used in Court	13
10. General Professional Conduct Rules	16
11. Assistance for interpreters from the Court	18
12. Interpreting in matters where a witness or defendant appears via audio-visual link (AVL)	20
13. Briefing an interpreter	23
14. Legal Practitioners	25
15. Particular Situations	26
16. Interpreting Sentencing Orders	28
17. Feedback	28
Acknowledgements	29

DOCUMENT ACCEPTANCE AND DISCLAIMER

This is version 2.0 dated 11 July 2019 of the Northern Territory Local Court Interpreter Protocols. This is a managed document. Changes will only be issued as a complete replacement. Recipients should remove superseded versions from circulation.

Protocols for working with Interpreters in the Northern Territory Local Court

Preamble

Fundamental principles of fairness and equity require that no person appearing before the Northern Territory Local Court should be disadvantaged in the proceedings before the Court or in understanding the procedures because of a language or other communication barrier. Many residents of the Northern Territory, especially but not exclusively Aboriginal persons, do not speak English as their first language. The provision of interpreters assists to ensure a fair trial to all parties.

These Protocols are intended to provide guidance to the Court, interpreters, interpreter services and agencies, Court Staff and legal practitioners.

1 When to Engage an Interpreter

- 1.1 An interpreter should be engaged in any proceedings where a party or witness who speaks limited English or who has difficulty communicating in English in a courtroom context is required to appear in the Court or has any other business before the Court;
- 1.2 In determining whether to engage an interpreter, parties should refer to the AIS documents 'How to decide if you should work with an interpreter – Legal' and 'Do I need an interpreter? 4 step process – Legal.'
<https://www.nt.gov.au/community/interpreting-and-translating-services/aboriginal-interpreter-service/when-to-use-an-aboriginal-interpreter>
- 1.3 If in doubt about the need for an interpreter, parties should consider calling evidence from the relevant interpreting agency or obtaining an English proficiency assessment from a suitably qualified linguist to determine whether an interpreter should be used.
- 1.4 In any case of doubt, the Judicial Officer will determine whether an interpreter is required.

2 Responsibility to Engage the Interpreter - Procedural Matters

- 2.1 This section does not cover arrangements for the engagement of interpreters for work separate to the interpreter's attendance at court on the day of the court appearance. Those arrangements will continue to be made by the party seeking the services of the interpreter and the relevant interpreter or interpreter service.
- 2.2 To maximise the ability of the interpreter services to provide an appropriate interpreter for a particular case, the party seeking to engage the services of the interpreter should allow as much notice as possible to the service.
- (a) For contested matters provide at least 4 weeks' notice;
 - (b) For other matters, where possible, provide at least 2 weeks' notice.
- 2.3 In criminal matters, the parties are to arrange interpreters for their respective witnesses or for the defendant, consistent with these Protocols (Refer to section 3 for court interpreter rosters for Aboriginal languages). However, the obligation finally rests on the Crown to ensure that all parties who need the assistance of an interpreter in the Court proceedings are provided with that assistance. The Office of the Director of Public Prosecutions or the Witness Assistance Service will arrange the booking of interpreters if required for witnesses for the Crown. For practical purposes, generally the legal representative for the defendant will arrange the booking for an interpreter for the defendant unless clear arrangements are made with the Office of the Director of Public Prosecutions or the Witness Assistance Service to arrange an interpreter for the defendant.
- 2.4 A lawyer representing a defendant will take all steps consistent with these Protocols including cooperating with the Crown, the Witness Assistance Service and the relevant interpreter service to ensure the defendant has the assistance of an interpreter.
- 2.5 The Court may directly engage the services of an interpreter whenever it considers an interpreter necessary in the absence of the parties making proper arrangements.

- 2.6 In child protection and adult guardianship matters the Court will book interpreters. Parties should advise the court as early as possible about the need for an interpreter.
- 2.7 When a party seeks to adjourn a matter on the basis of no interpreter being available the court may request that the relevant party provide the court with a document from the interpreting agency stating that no interpreter is available on the specified date.
- 2.8 When a matter is adjourned, the party seeking the assistance of an interpreter must submit an additional interpreter booking request to book an interpreter for the subsequent court appearance. The party should include the name of the interpreter on the booking request, so that wherever possible the same interpreter will be allocated.

3 Court Interpreter Rosters for Aboriginal languages

- 3.1 In certain locations, including Alice Springs, Tennant Creek, Katherine and all bush court locations, court interpreter rosters are in place to increase the availability of trained Aboriginal language interpreters. Under this roster system, the court makes a standing booking for interpreters for every day of court sittings in the respective location. The interpreters are responsible to the court and are made available by the court to any service needing the services of an interpreter.
- 3.2 Should a legal service be aware that a client or witness requires an interpreter in a language not provided by the court interpreter roster, the service should make a separate booking for an interpreter in that language.
- 3.3 The rostered interpreters will arrive at the court at 8:30am and present themselves to court staff. The interpreters will provide court staff with the names of the interpreters and the language/s that each interpreter will be interpreting.
- 3.4 The interpreters may provide the court staff and legal services with a marked court list indicating conflicts of interest and allocating preferred interpreters to defendants.
- 3.5 Parties should refer to the marked court list to be aware of any identified conflicts and to see which interpreter is allocated for each matter.
- 3.6 Services should not ask court rostered interpreters to leave the court precinct, with the exception of clients who are being held in custody in the police station where the police station is separate from the court building at bush court locations. Should a service require an interpreter away from the court precinct, the service should make a separate interpreter booking request.
- 3.7 Interpreters should follow the person requiring an interpreter through the relevant court processes on the day in question (i.e. the interpreter will follow a defendant from taking instructions through to court room interpreting and then through to any subsequent matters such as corrections assessments, signing Court Orders or debriefing with lawyers). Ensuring that the same interpreter interprets for a defendant or witness throughout the day will significantly enhance the accuracy

and efficiency of interpreting.

3.8 Where there is any conflict over the use of interpreters on the day of court, priority should be given to;

- (a) Interpreters being used in court;
- (b) Interpreters being used to take instructions from clients in custody;
- (c) Interpreters assisting with proofing a witness or speaking with a victim of crime who has attended court;
- (d) interpreters being used for corrections assessments and interpreting for the signing of formal court orders;
- (e) all other interpreting needs.

3.9 Parties and services will take all steps consistent with these protocols to work in cooperation to ensure that all witnesses and defendants requiring an interpreter have access to a Court Rostered Interpreter.

4 Contested matters

4.1 Wherever possible in contested matters, separate interpreters should be used to interpret for the defendant and witnesses. It is possible, however, for a professional interpreter to interpret for more than one party.

4.2 Parties in contested matters should make a separate interpreter booking request to the Aboriginal Interpreter Service (AIS) at least 4 weeks prior to the date of the contested hearing. This will allow the AIS to check issues such as conflict of interest and ensure that appropriately skilled interpreters are available and allocated to the hearing.

5 Bush Courts

5.1 Where time permits, Court Staff should facilitate an introduction between the Court Rostered Interpreters and the Judicial Officer prior to the commencement of proceedings.

5.2 The Judicial Officer may provide a general introduction of the interpreters and the role of the interpreter at the start of the day's proceedings, rather than at the start of each matter.

6 The selection of an interpreter by the Aboriginal Interpreter Service, the Interpreting and Translating Service or other interpreting agencies

- 6.1 When a request is received by an interpreter service for an interpreter to work in a case in the Local Court, the service will ensure so far as possible that the best interpreter available will be appointed.
- 6.2 In making this determination the interpreter service will assess the accreditation level of the interpreter and their experience in interpreting in court proceedings.
- 6.3 The interpreter service will, on all of the available material, assess if there are any conflict issues likely to arise including cultural matters that may mean a particular interpreter is inappropriate for the particular assignment.
- 6.4 The parties will provide any relevant information they are aware of to the interpreter service to assist this assessment to be made.
- 6.5 Prior to commencing proceedings, or at the commencement of a proceeding, the Judicial Officer may make enquiries about the experience and qualifications of an interpreter. If the Judicial Officer has concerns about the qualification or effectiveness of an interpreter, the Judicial Officer may raise those concerns with the parties and seek a more suitable interpreter prior to or at the start of proceedings.
- 6.6 The interpreter service will provide relevant information about the interpreter's accreditation, qualifications and experience and any further information that may be requested by the Court should a particular issue relevant to qualification or experience arise.

7 Taking an Interpreter's Oath

- 7.1 At the commencement of some Court proceedings, an interpreter will be required to take the Interpreter's Oath. This may be in a religious form or non-religious form. The forms of interpreter's oaths under the *Oaths Act* (NT) are as follows:

If religious:

"Do you swear by almighty God to well and truly interpret the evidence to be given and do all other matters and things required of you in this case to the best of your ability, so help you God?"

If non-religious:

"Do you promise to well and truly interpret the evidence to be given and do all other matters and things required of you in this case to the best of your ability?"

- 7.2 Ordinarily, the Court will require the interpreter to take an oath for hearings or in any proceeding when evidence is being interpreted. When no evidence is taken, generally an interpreter is not required to take an oath. Whether an interpreter will be sworn for proceedings that do not involve evidence being given is a matter for the Judicial Officer.

8 Commencement of Proceedings when an Interpreter is Engaged

- 8.1 At the start of proceedings when an interpreter has been assigned, the Court and the parties should ensure that the interpreter does not have any difficulty hearing all of the relevant parties.
- 8.2 The Court should ensure the interpreter has a clear view of all persons who will be speaking.
- 8.3 At the start of proceedings, the court may introduce the interpreter and explain the role of the interpreter. The form of the introduction is a matter for the Judicial Officer, however may be to the following effect:

“Today we are assisted by [name of interpreter], an interpreter with the Aboriginal Interpreter Service/Interpreting and Translating Services Northern Territory or
“Today we are assisted by [name of interpreter], a Sign Language Interpreter who will be interpreting between the [name of language] and English languages. The interpreter is bound by a professional code of ethics that requires the interpreter to interpret impartially and accurately. This means the interpreter does not take sides and does not change the meaning of what is said. The interpreter plays an important role by making sure that the defendant or witnesses are not disadvantaged because they do not speak English as their first language. Mr/Madam interpreter, if I or anyone else in this court uses terms that are unclear, I invite you to stop proceedings and seek clarification. You can interrupt proceedings by (raising your hand/standing up/stopping the interpretation and saying "Your Honour, I have a difficulty I would like to raise with you"). I thank you for your assistance today.”

9 Methods of Interpretation Used in the Court

9.1 There are various methods of interpretation that may be used in the Court :

- (a) consecutive interpreting is when the interpreter listens to a segment, may take notes while listening, and then interprets while the speaker pauses;
- (b) simultaneous whispered interpreting is interpreting while listening to the source language that is being spoken and interpreting while listening to the ongoing statements – thus the interpretation lags only a few seconds behind the speaker;
- (c) simultaneous audio interpreting is when the interpreter speaks the interpretation into a microphone which provides an audio feed to the persons requiring interpretation services who each have a set of headphones;
- (d) Auslan interpreting utilises both consecutive and simultaneous modes of interpreting depending on the context and content of the material and the needs of the person requiring the interpreter.
- (e) Sign Language interpreting, Indigenous Sign Language, and other forms of sign interpreting where Auslan is not the primary communication method used, may require a range of strategies and methods to be used by the interpreter to effect clear communication. Examples are gesture, localised sign languages, and the use of visual supports such as drawings, maps and tablet devices.
- (f) A Deaf defendant, witness or victim may have extra communication needs. In some cases it will be most effective to employ the use of a Deaf Interpreter and/or an Aboriginal Interpreter to work collaboratively with the Sign Language interpreter to meet the communication needs of the client. The Sign Language interpreter will advise as to best practice based on individual communication needs.

- (g) summarising is when the interpreter gives a summary of matters such as legal argument, dialogue between the bench and bar table about procedural or logistical matters, and other similar courtroom dialogue that is not directed at the person requiring the assistance of the interpreter; and
- (h) language assistance is where the defendant or witness does not need interpretation assistance at all times, but may have difficulty from time to time with particular words, phrases or concepts and requires limited interpretation. Generally "language assistance" is not considered to be ideal and other modes of interpreting are to be preferred.

9.2 In general:

- (a) where an interpreter is interpreting the evidence of a witness, the consecutive interpreting method is used;
- (b) whenever there is any direct speech to or from the defendant or witness who is assisted by an interpreter the consecutive interpreting method is used;
- (c) consecutive interpreting is also used for the reading of charges, agreed facts, victim impact statement and the reading of character statements or similar documents onto the transcript;
- (d) whispered simultaneous interpreting may be used when interpreting submissions to a defendant; interpreting objections made by counsel; interpreting discussion about logistical or procedural matters; interpreting jury directions and directions from a Judicial Officer or counsel to a witness and interpreting legal argument;
- (e) summarising may be used to interpret matters that an average first language speaker of English is likely to have difficulty understanding, including legal argument and submissions or discussion about procedural matters.

- (f) Interpreters working with persons who are Deaf or hard of hearing will choose to use either consecutive or simultaneous Sign Language interpretation as appropriate.

9.3 Subject to any ruling from the Judicial Officer an interpreter may use the mode of interpreting most appropriate to the circumstances and within their expertise.

10 General Professional Conduct Rules

- 10.1 An interpreter has an overriding duty to assist the Court by well and truly interpreting the evidence, the statements of counsel and the Judicial Officer to persons who are unable to communicate effectively in English or who are deaf or hard of hearing. This duty overrides any duty to a party of the case.
- 10.2 An interpreter must accurately convey the meaning from the source language to the receptor language. This is the paramount principle.
- 10.3 An interpreter is not an advocate for any party.
- 10.4 An interpreter must be unbiased and impartial. They must not act as an interpreter if they know of any conflict of interest. The interpreter should disclose to the agency or party engaging them of any possible conflict of interest. If a conflict of interest arises at the commencement of or during Court proceedings, the interpreter must advise the Court as soon as possible.
- 10.5 An interpreter must not accept an assignment to interpret in a matter in which their impartiality may be at risk because of personal beliefs, cultural or other circumstances. They should seek to withdraw from the assignment if this becomes an issue.
- 10.6 An interpreter must undertake only work they are competent to perform in the language areas for which they are trained and familiar. If during an assignment it becomes clear that the work is beyond an interpreter's competence, the interpreter should inform the Court immediately and ask the Judicial Officer to be excused from the proceedings or for appropriate assistance.
- 10.7 The interpretation should be given only in the first and second grammatical person, unless the interpreter is summarising legal argument or courtroom dialogue not directed at the person requiring the assistance of the interpreter. [See 7.1(f), 7.2(e) and "Particular situations" under 12].
- 10.8 If the circumstances permit, an interpreter must relay precisely, accurately and completely all that is said by the witness – including derogatory or vulgar

remarks and even things that the interpreter suspects to be untrue. [See "Particular Situations" under 12].

- 10.9 An interpreter must acknowledge and promptly rectify any interpreting mistakes. If anything is unclear, the interpreter should ask for repetition, rephrasing or explanation. [See "Particular Situations" under 12]. If an interpreter becomes aware that they have made a mistake they should say words to the effect of: "Your Honour, I think there may have been a mistake". The interpreter should endeavour to correct the mistake and assist the Court if necessary to correct any consequences of the mistake.
- 10.10 If a witness seeks clarification from the interpreter as to the meaning of a statement or question being interpreted to them, then the interpreter must interpret the requested clarification for the Court prior to responding to the witness. The interpreter should then provide their response in English and then to the witness in the witness's language. If the clarification involves ensuring the accuracy of the interpretation, the interpreter may engage in conversation with the witness, however the interpreter should advise the Court of this, prior to engaging in conversation with the witness.
- 10.11 An interpreter should inform the Court if a statement or question is likely to cause confusion or cannot be accurately interpreted due to cultural or linguistic differences between the source language and receptor language. The interpreter should assist counsel or the Court in reformulating the question or statement in a manner that can be accurately interpreted.
- 10.12 Where a client is Deaf and has non-standard communication patterns and cannot be accurately interpreted by the interpreter alone the Interpreter will recommend best practice to counsel or the Court.

11 Assistance for Interpreters from the Court

- 11.1 Wherever possible the Court should ensure that the interpreter has a place to sit with sufficient room to take notes if necessary. Where available, headphones and a microphone should be provided.
- 11.2 The Court should ensure the interpreter has a glass of water or access to water.
- 11.3 The Court should indicate to the interpreter how the interpreter should get the Judicial Officer's attention if a difficulty arises. [See also 6.3 above].
- 11.4 Seeking clarification is usually a sign of an experienced and competent interpreter, rather than an indication of interpreting incompetence. Interpreters are encouraged to seek clarification of unclear, technical or ambiguous terms. No indication should be given or suggestion made to the effect that an interpreter who seeks clarification is a hindrance to proceedings or is any way incompetent.
- 11.5 Interpreters are to be encouraged to use dictionaries or glossaries including those available through the internet, for difficult terms, and to be given time to use them.
- 11.6 Interpreters should be given regular and timely breaks and encouraged to ask for a break if required. Ordinarily an interpreter will start to become mentally fatigued after 20-30 minutes of constant interpreting.
- 11.7 There will be cases when the Judicial Officer notices the interpreter is having difficulty with the pace of the proceedings. In such a case, the Judicial Officer may provide direction to the interpreter about what matters must be interpreted and what matters can be summarised or need not be interpreted. In general if matters are being discussed, such as legal argument which in the Judicial Officer's view would not ordinarily be understood by the average English first language speaker, the Judicial Officer may indicate to the interpreter that these matters need not be interpreted. If the Judicial Officer determines it appropriate, the Judicial Officer may provide the interpreter with a brief

summary of the matters discussed that are to be interpreted.

- 11.8 The Judicial Officer should prevent overlapping speech occurring in the court room and ensure that the interpreter has finished interpreting a phrase before any other party speaks.
- 11.9 Where an interpreter is interpreting for a witness, including a defendant giving evidence, the Judicial Officer may explain the role of the interpreter to the witness. The explanation may be to the following effect:

This person is an interpreter. Their job is to interpret everything the lawyers and I say to you in your language, and to interpret everything you say into English. Please give your answers in short sections to give the interpreter an opportunity to interpret what you say. If you have any questions about what is happening or do not understand something please do not ask the interpreter. It is not the interpreter's job to explain things to you or answer your questions. If you have a question ask me directly, and the interpreter will interpret your question to me. Do not ask the interpreter for advice or ask the interpreter to help you answer questions.

- 11.10 Where available, the Court should provide an office, desk, computer and internet access to allow the interpreter to familiarise themselves with all relevant materials and continue to comfortably work during breaks in proceedings.
- 11.11 Wherever possible an interpreter will be provided with identification (such as a badge or other insignia) specifying their status as a "Court interpreter".

12 Interpreting in matters where a witness or defendant appears via audio-visual link (AVL)

12.1 Interpreting for a defendant who is in custody and appears via AVL:

- (a) Where the matter is listed for a short mention, such as an adjournment, the interpreter will ordinarily be present and interpret from the court room, rather than being present with the defendant in the correctional facility.
- (b) In cases where the matter is longer or more complex, the interpreter may prefer to be physically present with the defendant in the correctional facility. The relevant legal practitioner should discuss the likely length and complexity of the matter with the interpreter prior to the day of the interpreting assignment to determine whether the interpreter will interpret from the court room or from the correctional facility.

12.2 Interpreting for a witness who gives evidence via AVL:

- (a) Ordinarily, the interpreter should be located with the witness when the witness gives evidence.

12.3 Interpreting when the interpreter is present with the defendant or witness off-site;

- (a) Prior to the matter commencing, court staff should ensure that the interpreter is able to see all people in the courtroom who will speak. Ordinarily, the camera should be set up so that the interpreter can see the Judicial Officer and both legal practitioners on screen at the same time.
- (b) Prior to the matter commencing, court staff should ensure that the interpreter is able to hear people speaking from each location in the court room where speech will occur.
- (c) The screen in the court room showing the interpreter and witness/defendant should be visible to the Judicial Officer and legal practitioners, in order for the interpreter to interrupt and seek clarification as needed.

- (d) When working with an Auslan or Sign Language interpreter, the interpreter will provide additional guidance on how to position the camera.
- (e) The volume of the AVL in the court room should be sufficiently loud so that all parties can hear the interpreter when the interpreter interrupts to seek clarification.
- (f) If a briefing has not previously occurred, the legal practitioner should ensure that the interpreter receives a briefing prior to the matter commencing.
- (g) If any documents will be read onto the record or shown to a witness, the legal practitioner should ensure that copies of these documents have been provided to the interpreter prior to the matter commencing.

12.4 Interpreting when the interpreter is present in the court room and the defendant or witness appears via AVL;

- (a) Prior to the matter commencing, court staff should ensure that the interpreter is given time to speak with the defendant/witness via AVL to ensure that the interpreter and defendant/witness speak the same language and are able to communicate, and for the interpreter explain their role.
- (b) The interpreter should be provided with a seat in front of a microphone in the court room. When interpreting for a witness, the interpreter will ordinarily sit in the witness box in the court room. When interpreting for a defendant, the interpreter will ordinarily sit next to the defence lawyer, provided that the interpreter has clear access to a microphone.
- (c) Ensure that the interpreter has an unobstructed view of a screen that clearly shows the defendant/witness' face.
- (d) When working with an Auslan or Sign Language interpreter, the interpreter will provide guidance on how to position the camera. When the defendant/witness is deaf the interpreter must have a clear unobstructed view of the upper body, face and hands.

- (e) Unless a defendant or witness requests otherwise, the camera should be set up so that the defendant/witness sees the entire court room, rather than just seeing the interpreter.
- (f) At the start of a matter, the Judicial Officer may confirm, through the interpreter, that the defendant/witness is able to hear and understand the interpreter via the AVL.
- (g) In cases where the interpreter is present in the court room, simultaneous interpreting may be difficult or impossible as the defendant/witness will hear two languages simultaneously through the AVL. Where simultaneous interpreting is necessary, consider reducing the volume of the English speaking participants so that the witness/defendant can clearly hear the interpreter's voice.

13 Briefing of an Interpreter

- 13.1 The party or legal practitioner requiring the assistance of an interpreter should provide the interpreter with sufficient information to prepare for the task of interpreting. What will be required will vary from case to case.
- 13.2 If the Court is not satisfied the interpreter has been properly briefed the Judicial Officer may require the relevant party to do so.
- 13.3 At a minimum, the legal practitioner requiring the assistance of an interpreter should spend time with the interpreter prior to entering the courtroom to provide an oral briefing for the interpreter. A briefing must include informing the interpreter:
- (a) What the matter is listed for (i.e. bail application, plea of guilt, adjournment, sentencing, adult guardianship). The Legal Practitioner should ensure the interpreter understands what is likely to occur procedurally in that matter;
 - (b) What the possible and likely outcomes of the matter are on the day of the interpreting assignment;
 - (c) The charges or other details of the matter;
 - (d) The names of parties, victims and witnesses, to confirm there is no conflict of interest; and
 - (e) Any technical, unusual or sensitive words or phrases that are likely to be used.
- 13.4 In a criminal case appropriate briefing will include:
- (a) a copy of the charges and a statement of facts in cases of a guilty plea;
 - (b) any relevant documents counsel are aware will be shown to witnesses or discussed in submissions, such as photographs or maps;
 - (c) witness statements or other written material when portions of the statement will be read to a witness or Judicial Officer;

- (d) character references, victim impact statements and other documents that are to be read onto the transcript.

- 13.5 In civil cases, appropriate briefing will generally include documents such as the statement of claim and defence.
- 13.6 In any contested matter, a list of witnesses should be provided so that the interpreter may consider whether they know any of the witnesses and whether this creates a difficulty.
- 13.7 If a glossary of any technical terms is to be used in the proceedings, this should be provided to the interpreter. This includes legal or medical terms or other technical terms depending on the subject of the case.
- 13.8 The interpreter should attend the Court with enough time before the commencement of proceedings to familiarise themselves with the briefing information.
- 13.9 In many instances, the interpreter may need to have an introductory conversation with the person for whom they are interpreting. The purpose of this conversation is to ensure the interpreter speaks the same language as the person, and to ensure that clear communication between the interpreter and person requiring the interpreter is possible. Legal practitioners should facilitate this introductory conversation prior to the commencement of proceedings.

14 Legal Practitioners

- 14.1 Legal practitioners appearing in cases when an interpreter is assisting should adapt their advocacy accordingly. The principles of "Plain English" should be used. AIS Guide to Plain English can be accessed at:
<https://nt.gov.au/community/interpreting-and-translating-services/aboriginal-interpreter-service/aboriginal-language-and-plain-english-guide>
- 14.2 Short sentences are preferable. Avoid complex questions.
- 14.3 Time frames must be adjusted to take account of the time needed for interpreting. The interpreter should be able to finish the particular interpretation. Do not cut the interpreter off.
- 14.4 Avoid the use of negative assertions in questions as they are frequently a source of miscommunication (i.e. 'you never went to the store, did you?').
- 14.5 Minimise the use of innuendo, implied accusations and figurative language as these linguistic features are difficult to interpret accurately. When words have multiple meanings, be explicit about which meaning is relied on.
- 14.6 Legal practitioners should provide copies of relevant briefing documents provided in paragraph 9 to the interpreter prior to the interpreting assignment. Unless such documents, or other documents that may require interpretation have been provided to the interpreter in advance, legal practitioners should ensure that copies of these documents are available at the court appearance.

15 Particular Situations

When interpreting for the defendant the interpreter *must* interpret:

- 15.1 direct speech to the defendant, including
 - (a) charges;
 - (b) sentencing remarks;
 - (c) explanations from the bench about adjournments and court process;
 - (d) any questions put to the defendant from the Judicial Officer or defence lawyers;
 - (e) bail or any other conditions imposed by the court ;
- 15.2 speech expressly about the defendant, including
 - (a) reading of the agreed facts;
 - (b) comments by the prosecution, Judicial Officer or defence lawyer about the defendant's character, such as criminal history or prospects of rehabilitation;
 - (c) reading of character references or similar statements;
- 15.3 a prosecutor or Judicial Officer reading a victim impact statement;
- 15.4 examination and cross-examination of non-expert witnesses.

The following dialogue *may be summarised by the interpreters*:

- 15.5 directions from a Judicial Officer or counsel to a witness;
- 15.6 objections made by lawyers and answers to objections by counsel and the bench;

- 15.7 questions and answers to/from expert witnesses;
- 15.8 discussion between parties about logistical or procedural matters (suitable adjournment dates, where and when a brief should be served, the length of time required for a hearing etc.);
- 15.9 legal argument between lawyers and the bench.

16 Interpreting Sentencing Orders

- 16.1 An assignment for an interpreter to assist a person who has been sentenced by the Court is taken to include the interpretation of the formal terms of any sentencing order, including any conditions that the person may be subject to.
- 16.2 The interpreter should be present with court staff to ensure the formal order of the Court is interpreted when the formal terms of the order are presented to the person who has been sentenced.
- 16.3 A legal practitioner acting for the person who has been sentenced should assist to facilitate this process.

17 Feedback

- 17.1 All parties are encouraged to provide feedback about the service provided by interpreters in Court. This should be provided to the relevant interpreter service.

Acknowledgements

These protocols are based on the Northern Territory Supreme Court Interpreter Protocols. <http://www.supremecourt.nt.gov.au/media/documents/InterpreterProtocols.pdf>

The development of Interpreter Protocols was the subject of much discussion at the “Language and Law Conference” hosted by the Supreme Court on 25-27 May 2012. The conference was sponsored by the following organisations:

- Northern Territory Government
- Criminal Lawyers Association of the Northern Territory (CLANT)
- Law Society Northern Territory
- National Judicial College of Australia
- Judicial Conference Australia

The Interpreting and Translating Service (NT) and particularly the Aboriginal Interpreter Service (NT) have greatly assisted the Court in the development of the Protocols.

The following organisations were consulted in the development of the Supreme Court Protocols which underpin this document:

- Aboriginal Interpreter Service (NT)
- Interpreting and Translating Service (NT)
- Law Society (NT)
- Northern Territory Bar Association
- Office of the Director of Public Prosecutions (NT)
- Northern Territory Legal Aid Commission
- North Australian Aboriginal Justice Agency

- Central Australian Aboriginal Legal Aid Service
- Witness Assistance Service
- National Auslan Interpreter Booking and Payment Service
- Criminal Lawyers Association (NT)

This is the second edition of these protocols, originally commencing on 1 September 2015. The only changes that have been made are to the naming conventions of the Local Court and updating of the links contained within the policy.

These protocols will commence on 11 July 2019.

Dr John Lowndes

Chief Judge, Northern Territory Local Court