

## **Use of interpreters**

**AUSTRALIAN FEDERAL POLICE  
CENTRELINK  
DEPARTMENT OF EDUCATION, EMPLOYMENT  
AND WORKPLACE RELATIONS  
DEPARTMENT OF IMMIGRATION AND CITIZENSHIP**

**March 2009**

Report by the Commonwealth Ombudsman,  
Prof. John McMillan, under the *Ombudsman Act 1976*

REPORT NO. **03|2009**

## Reports by the Ombudsman

Under the *Ombudsman Act 1976* (Cth), the Commonwealth Ombudsman investigates the administrative actions of Australian Government agencies and officers. An investigation can be conducted as a result of a complaint or on the initiative (or own motion) of the Ombudsman.

The *Ombudsman Act 1976* confers five other roles on the Commonwealth Ombudsman—the role of Defence Force Ombudsman, to investigate action arising from the service of a member of the Australian Defence Force; the role of Immigration Ombudsman, to investigate action taken in relation to immigration (including immigration detention); the role of Postal Industry Ombudsman, to investigate complaints against private postal operators; the role of Taxation Ombudsman, to investigate action taken by the Australian Taxation Office; and the role of Law Enforcement Ombudsman, to investigate conduct and practices of the Australian Federal Police (AFP) and its members. There are special procedures applying to complaints about AFP officers contained in the *Australian Federal Police Act 1979*. Complaints about the conduct of AFP officers prior to 2007 are dealt with under the *Complaints (Australian Federal Police) Act 1981* (Cth).

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## EXECUTIVE SUMMARY

The Australian Government aims to provide accessible government services for all. People from culturally and linguistically diverse backgrounds may require an interpreter to access a range of government services.

Many Australian Government agencies use independent interpreters and multilingual staff. However, complaints to the Commonwealth Ombudsman indicate that interpreter services are not always provided in an accessible, responsive and fair manner.

As a result, the Ombudsman initiated an own motion investigation to consider the use of interpreters by four agencies—the Australian Federal Police (AFP), Centrelink, the Department of Education, Employment and Workplace Relations (DEEWR) and the Department of Immigration and Citizenship (DIAC).

The investigation examined whether agencies have clear and comprehensive policies in place to guide staff in the use of interpreters. We also considered the provision of staff training, a community language scheme for multilingual staff, recordkeeping, complaint handling mechanisms and the way in which agencies address challenges when using interpreters.

Centrelink's policies generally align with best practice principles in the use of interpreters. The AFP, DIAC and DEEWR need to improve their policies and training for staff (including contractors). The AFP also needs to improve its complaint handling processes to capture better information regarding complaints about interpreters.

Finally, there is a need for greater collaboration and coordination across government agencies to develop joint strategies and solutions to address the challenges faced by agencies in providing timely, high quality interpreter services.

As a result of this investigation we have identified eight best practice principles against which agencies can assess their own policies and procedures.

## PART 1—INTRODUCTION

1.1 All people in Australia are entitled to access government services and to expect the Australian Public Service to deliver services ‘fairly, effectively, impartially and courteously to the Australian public and [to be] sensitive to the diversity of the Australian public’.<sup>1</sup> Agencies need to be mindful of the linguistic diversity of the Australian public and be aware that some groups may have special communication needs.

1.2 The Australian Government first introduced a ‘strategy to improve delivery of government services to Australia’s diverse population’ in 1985.<sup>2</sup> In 1998 the *Charter of Public Service in a Culturally Diverse Society* was published with principles to guide agencies in their delivery of services. In 2006 the guide was replaced by a new Access and Equity Framework.

1.3 The 2006 Access and Equity Framework ‘encourages Australian Government agencies to take a greater leadership role regarding diversity issues and promotes a whole-of-government approach. The framework deals specifically with interpreter services and encourages agencies to use interpreter services, or to recruit and train staff who have appropriate linguistic and cultural skills, to enable effective communication with clients and members of the public.

1.4 Interpreting is the oral rendering of the meaning of the spoken or signed word from one language into another language.<sup>3</sup> An interpreter may be needed to provide interpreting assistance between a client and staff member of a government agency, to ensure both people understand each other clearly.

1.5 Some people are not able to communicate in English with a government official. Others may be able to converse in English but require an interpreter to understand complex information of a technical or legal nature, or they may require an interpreter during stressful or emotional situations when their command of English decreases temporarily.

1.6 Correct use of a skilled interpreter ensures the agency receives and provides accurate information, meets its duty of care obligations and can obtain informed consent from clients where required. Both the client and agency can have greater confidence in each other’s understanding of the conversation and the level of service provided. The effective use of interpreters is therefore both an access and equity issue and an important factor in good administrative decision making.

1.7 Complaints to the Ombudsman have highlighted problems relating to the use of interpreters by government agencies. These include:

- failure to provide an interpreter
- using an interpreter of the wrong language or dialect
- problems with a family member being used as an interpreter

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<sup>1</sup> Australian Public Service Values, section 10 of the *Australian Public Service Act 1999*.

<sup>2</sup> Department of Immigration and Citizenship, *Accessible Government Services for All, 2006 Annual Report*, available on DIAC’s website at: [www.immi.gov.au/living-in-australia/a-diverse-australia/government-approach/government-services/index.htm](http://www.immi.gov.au/living-in-australia/a-diverse-australia/government-approach/government-services/index.htm)

<sup>3</sup> Definition by the National Accreditation Authority for Translators and Interpreters at: [www.naati.com.au/an-faq.html](http://www.naati.com.au/an-faq.html)

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- lack of awareness by some agency staff about the need for an interpreter
- lack of awareness and training for agency staff in how to work effectively with interpreters.

1.8 In order to examine the nature and extent of the above problems, the Ombudsman initiated an own motion investigation in May 2008 into the use of interpreters by the AFP, Centrelink, DEEWR and DIAC.

### Scope of investigation

1.9 The investigation examined how the AFP, Centrelink, DEEWR and DIAC are working to meet the principle of open and effective communication through the use of interpreters where required, for people from linguistically diverse backgrounds, including Indigenous people.

1.10 The investigation specifically focused on:

- agency policies and the advice provided to staff on the use of interpreters
- public information provided by agencies to promote and inform clients of the availability of interpreter services
- the training provided to staff on the use of interpreters
- whether the agency has a scheme in place to utilise staff who have interpreting skills
- whether there is a requirement for such staff to be accredited with the National Accreditation Authority for Translators and Interpreters (NAATI)
- the arrangements agencies have in place to deal with complaints made by staff or clients about the use of an interpreter, including the use of interpreters in complaint handling
- other issues and challenges for agencies in the use of interpreters.

1.11 The scope of the investigation did not include the use of translators (a person who translates written documents from one language into another) or interpreters for people with a hearing impairment (for example, using AUSLAN).

### Methodology

1.12 We analysed complaints received by the Ombudsman's office for relevant issues, and invited the agencies involved to provide copies of their policies on the use of interpreters and other information relevant to the scope of the investigation.

1.13 The agency responses were analysed against the four principles contained in the 2006 Access and Equity Framework, which apply to all Australian Government agencies:

- Responsiveness—delivering programs and services that are accessible, fair and responsive to clients' diverse needs including cultural and linguistic background. Accessibility should apply across the full range of government services, from processing an application for a government benefit to providing involuntary services such as immigration detention services.
- Communication—ensuring open and effective channels of communication and providing information in a timely manner in appropriate formats and languages. This includes recruiting and training staff who have appropriate

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linguistic and cultural skills, or using interpreter services to ensure effective communication with clients.

- Accountability—establishing mechanisms to encourage feedback from people of all cultural and linguistic backgrounds and allowing them to register complaints and raise concerns. Agencies should respond to concerns raised by clients to improve their performance.
- Leadership—collaborating with other agencies and organisations to identify and address issues relating to cultural diversity. Important elements include publicising good practices, sharing information, coordinating programs and collaborating on projects.

## Key terms and organisations

### *Client*

1.14 The agencies discussed in this report use a range of terms to refer to the people to whom they provide services. For ease of reference, this report will use the term 'client' to refer to a person in contact with a government agency.

### *NAATI*

1.15 NAATI is a national standards body owned by the federal, state and territory governments of Australia. It is also an advisory body for the translation and interpreting industry in Australia, providing advice on standards and accreditation as well as the role, skills and conduct of translators and interpreters in various settings.<sup>4</sup>

1.16 NAATI sets and maintains the standards of translation and interpreting at four accreditation levels, and accredits translators and interpreters who meet the specified standards. NAATI conducts translator and interpreter accreditation tests in various cities in Australia and New Zealand and approves translation and interpreting courses at tertiary institutions in Australia. NAATI accreditation is the only credential officially accepted for the profession of translation and interpreting in Australia. All government translation and interpreter services require translators and interpreters to be NAATI accredited whenever possible.

### *TIS National*

1.17 The Translating and Interpreting Service (TIS) National provides interpreter services for people who do not speak English and for the English speakers who need to communicate with them. TIS National has more than 30 years of experience in the interpreting industry and has access to over 1,300 contracted interpreters across Australia, speaking more than 120 languages and dialects. TIS National is available 24 hours a day, seven days a week to any person or organisation in Australia.<sup>5</sup>

1.18 TIS National is operated by DIAC. The Australian Government, through TIS National, provides free interpreter services to non-English speaking Australian citizens or permanent residents communicating with certain approved groups and individuals including:

- private medical practitioners providing Medicare-rebate services and their reception staff to arrange appointments and provide results of medical tests

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<sup>4</sup> [www.naati.com.au/an-index.html](http://www.naati.com.au/an-index.html)

<sup>5</sup> [www.immi.gov.au/living-in-australia/help-with-english/help\\_with\\_translating/index.htm](http://www.immi.gov.au/living-in-australia/help-with-english/help_with_translating/index.htm)

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- pharmacies for the purpose of dispensing Pharmaceutical Benefits Scheme (PBS) medications
- non-profit, non-government, community-based organisations for case work and emergency services where the organisation does not receive funding to provide these services
- Members of Parliament for constituency purposes
- local government authorities to communicate with non-English speaking residents on issues such as rates, garbage collection and urban services
- trade unions to respond to members' enquiries or requests
- Emergency Management Australia.

1.19 Organisations can apply for a fee exemption for calls through TIS National. Otherwise, services are provided on a fee-for-service basis. Government agencies obtaining services on a client's behalf usually pay for the service without cost to the client. For example, the AFP and DIAC provide free access to interpreter services through TIS National for clients accessing their services. Centrelink provides free access to its own interpreter services.



## PART 2—THE AGENCIES

### Australian Federal Police

#### **Agency role**

2.1 The AFP is the Australian Government's primary law enforcement agency. It maintains a number of offices in each state and territory throughout Australia, and also overseas. In addition, the AFP performs community policing services in the Australian Capital Territory (ACT), Jervis Bay, the External Territories and at Australia's major airports. The AFP also provides assistance with United Nations peace-keeping roles and other forms of direct international policing and training.

#### **Policy on the use of interpreters**

2.2 Section 23N of the *Crimes Act 1914* (Cth) (Crimes Act) requires an investigating official to secure an interpreter when questioning an arrested person who is unable to communicate with reasonable fluency in English. Section 23YDA provides that a constable must obtain an interpreter before performing certain actions. The right of an arrested person to an interpreter and the requirement to maintain a list of interpreters for Indigenous people also applies in the ACT in relation to certain offences under s 23A(6) and 23J of the Crimes Act and s 187 of the *Crimes Act 1900* (ACT).

2.3 The AFP's governance framework includes two instruments which provide the AFP with guidance on the use of interpreters—the *AFP Practical Guide on Interpreters/Translators* covers AFP members and the *ACT Policing Practical Guide: Interpreters/Translators* applies to AFP members undertaking community policing in the ACT. Both policies require AFP members to arrange for an interpreter where a person has difficulty in understanding or speaking with reasonable fluency in the English language and the AFP member intends to interview, interrogate or take a statement from the person.

2.4 The AFP policy recommends that AFP members contact TIS National or the Community Relations Commission in some states, noting that TIS National provides a priority access number for police and other emergency services. However, the instrument does not provide the contact details for either organisation, unlike the ACT community policing policy which includes TIS National's phone number. Instead, the AFP policy notes that general managers in each region are required to maintain a register of suitable and competent interpreters.

2.5 The AFP policy is silent on the use of interpreters overseas. However, the AFP advised the Ombudsman's office that suitable multilingual local residents or interpreters contracted by existing AFP missions and other Australian Government agencies, such as the Department of Foreign Affairs and Trade, are used by AFP members overseas.

### Centrelink

#### **Agency role**

2.6 Centrelink delivers a range of services and payments to eligible retirees, families, carers, students, people looking for work, parents, farmers and people with disabilities. Centrelink also works with other government departments and community

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organisations to link people to the services and resources they need to move from welfare to work. Centrelink has over 27,000 staff and operates 300 Customer Service Centres and more than 20 call centres across Australia. In 2006–07 Centrelink's call centres received over 30 million telephone calls. The department also has over 500 agents and access points in rural and remote Australia.

### ***Policy on the use of interpreters***

2.7 Centrelink employs and manages a national panel of about 2,500 contract interpreters who speak over 190 different languages. In addition, Centrelink contracts an external organisation to provide sessional interpreter services in 60 Centrelink offices in 30 different languages. Centrelink operates its own multilingual call centre, which allows callers to speak to a Centrelink staff member in their preferred language. It also provides interpreter services to other Australian Government agencies including the Family Court of Australia and Health Services Australia.

2.8 Centrelink provides guidance to its staff on the use of interpreters through a series of policy documents covering such topics as interpreter services, communicating with customers using interpreter services and booking an interpreter for an appointment. These policies provide clear, step-by-step guidance to staff regarding why and how to access an interpreter. Centrelink also provides a list of languages by country, to help staff identify the range of languages a client may speak. Guidance on serving customers with special communication needs is also provided.

## **Department of Education, Employment and Workplace Relations**

### ***Agency role***

2.9 DEEWR was created on 3 December 2007, bringing together elements of the former Department of Education, Science and Training; Department of Employment and Workplace Relations; and the Youth and Early Childhood functions from the former Department of Family, Community Services and Indigenous Affairs. The department employs approximately 6,000 staff responsible for implementing government policies and programs to provide education and training opportunities for Australians, to increase employment participation and to promote fair and productive workplaces.

### ***Policy on the use of interpreters***

2.10 DEEWR delivers employment services to job seekers through its Job Network. The Job Network consists of a number of private employment service providers contracted by DEEWR to deliver services on its behalf. These contractors are known as Job Network Providers and are required to demonstrate cultural sensitivity in dealing with Indigenous clients and clients from culturally and linguistically diverse backgrounds, as part of their contract with DEEWR.

2.11 DEEWR does not have a whole-of-agency policy on the use of interpreters. Rather, information is embedded in subject-specific guidelines and 'toolboxes', primarily directed at contract providers. These toolboxes include relevant statistics, case studies and training material.

2.12 The Culturally and Linguistically Diverse Employment Services Toolbox includes information on when to use an interpreter to help clients overcome possible language barriers. Employment service providers are able to access interpreters through TIS National at their own cost, while Job Network members are able to

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access a Job Seeker Account provided by DEEWR to assist with the cost of interpreter services for certain job seekers. DEEWR also advises that job seekers who are not eligible for interpreter services under the Job Seeker Account are still entitled to receive interpreter services under the employment services contract, which contains a clause that entitles all job seekers to receive access to an interpreter, if required.

2.13 DEEWR addresses the needs of Indigenous clients in a separate policy document, the Indigenous Toolbox. This toolbox notes that there are approximately 200 Indigenous languages and that English may not be the first language for many Indigenous clients. However, the toolbox does not mention the need to engage an interpreter for those Indigenous clients who do not speak English. DEEWR states that its Indigenous employment area does not have a formal policy on the use of interpreters. The decision to use an interpreter is made in consultation with local communities, DEEWR staff and Indigenous Coordination Centre managers.

## Department of Immigration and Citizenship

2.14 DIAC is responsible for administering the 2006 Access and Equity Framework. This includes suggesting strategies that Australian Government agencies can use to implement the principles contained in the framework. DIAC reports annually on agencies' performance against the framework and uses the report to highlight and share good practices across government.

### ***Agency role***

2.15 DIAC manages and provides services for the entry and stay of people through the migration, temporary entry, refugee and humanitarian visa programs. Other roles include settlement services for migrants, border security, compliance services and the management of immigration detention facilities. DIAC has a network of offices in each state and territory in Australia and in 68 locations overseas, operated by over 7,000 staff. In 2006–07 DIAC's call centres in Australia received 1.7 million telephone calls and scheduled over 167,000 appointments for DIAC clients.<sup>6</sup>

2.16 TIS National is the primary provider of interpreter services for DIAC. Overseas, DIAC may use locally engaged staff with language skills or interpreters contracted by the International Organisation for Migration, United Nations agencies or other agencies.

### ***Policy on the use of interpreters***

2.17 DIAC does not have a whole-of-agency policy on the use of interpreters for DIAC clients. Rather, guidance is embedded within subject-specific policies. Although these policies may provide information in context, it is difficult to assess their effectiveness due to the spread of information across such a large range of policy documents. There is also significant variation in the amount of detail provided to DIAC staff in different areas of the organisation regarding the use of interpreters.

### ***Visa processing***

2.18 DIAC does not have an overarching policy covering the use of interpreters in all types of visa processing. The only specific guidelines DIAC provided to the Ombudsman's office relate to the use of interpreters in assessing visa applications from asylum seekers. The Protection Visa Procedures Manual contains detailed instructions on the use of interpreters in relation to protection visa applications lodged

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<sup>6</sup> [www.immi.gov.au/about/reports/annual/2006-07/html/overview/the-year-at-a-glance.htm](http://www.immi.gov.au/about/reports/annual/2006-07/html/overview/the-year-at-a-glance.htm)

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in Australia. This includes the need to consider the gender of the interpreter, and to check whether the client knows the interpreter or whether they have any concerns about the interpreter selected to assist with the interview. Other advice includes considering the length of the interview and the need to provide a break for the interpreter if it is prolonged.

2.19 The manual also contains advice for case managers on how to handle a complaint about an interpreter used in an interview. The manual notes the need to consider whether a further interview may be required if an error in interpreting occurred that impacted on the integrity of the interview and subsequent decision. The policy manual for assessing protection visa applications outside Australia contains some of the same guidance, although in less detail.

### ***Compliance***

2.20 The compliance policy generally makes it clear that compliance officers need to arrange an interpreter when required. Some aspects of the policy for compliance staff is impractical. For example, there is a requirement to ask a client to sign a declaration acknowledging that their request for an interpreter will delay the conduct of an interview with compliance officers regarding the officer's decision to detain the person. Given the person requires an interpreter to communicate with DIAC staff, it is not clear how compliance officers explain the form to the client.

### ***Detention***

2.21 DIAC revised its policy on the use of interpreters in immigration detention centres in September 2008. The revised immigration detention instruction states that an interpreter should be used for all formal communication with detainees who do not understand English well. However, the experience of our office in dealing with complaints suggests there is often a need to use an interpreter for less formal communication as well—for example, to ensure people in detention can participate in meetings and consultation forums or where detention staff conduct random searches of detainee rooms. Sometimes other detainees are used to interpret in these situations. The use of a TIS interpreter in these situations is advisable to avoid misunderstandings or complaints. People detained in community detention also require assistance in accessing interpreters to make medical and other types of appointments by telephone.

2.22 The new policy assigns responsibility to the detention service provider for assessing each detainee's understanding of, and ability to communicate in, English. It is not clear by what means or methods the detention service provider is to undertake this task and whether or not its staff are sufficiently skilled to make this assessment. In a case study set out in part 3 of this report, our office was advised that a detainee did not require an interpreter. However it was clear to our staff that the person could not communicate effectively in English.

### ***Settlement services***

2.23 DIAC also contracts out settlement services to other organisations. DIAC states that it provides guidance to these contractors on the need to use interpreters to assist clients who do not speak English.

**BEST PRACTICE PRINCIPLE 1: Agency policies on the use of interpreters**

Australian Government agencies that provide services to the public should have a clear and comprehensive overarching policy on the use of interpreters that covers all programs and services delivered by the agency, including contracted services. Such a policy should refer to any legislative requirements and specify when agency and contracted staff should use an interpreter, including whenever one is requested by a client or whenever the staff member needs one to communicate effectively with a client (whether formally or informally). The policy should also provide clear steps on how to arrange for an interpreter, including contact details and agency cost codes where applicable. This information should be readily accessible to all agency staff.

## PART 3—ISSUES ARISING FROM COMPLAINTS

3.1 The 2006 Access and Equity Framework includes four principles. One principle is responsiveness. Responsiveness is defined as ‘the extent to which programs and services are accessible, fair and responsive to the individual needs of clients.’<sup>7</sup> Complaints to the Ombudsman have shown that, in relation to the use of interpreters, this means:

- accessible services—clients need to be made aware of the interpreter services that are available, how to access them and whether they are free
- responsive services—clients should be able to access interpreter services when they need them
- fair services—interpreter services should be delivered fairly.

### Public awareness of interpreter services

3.2 Agencies must advise clients that interpreter services are available. Agencies have a responsibility to promote interpreter services across a range of service channels including agency websites, call centre telephone lines, brochures and forms, agency ‘shop fronts’ and through agency staff who contact clients directly. Agencies are also responsible for ensuring that their contractors promote the interpreter services that are available and provide access as required.

3.3 In this investigation we chose to focus on agency websites to examine accessibility via one service channel. However, it is equally important that staff promote access to interpreters through all service channels and contact with clients. Information on how to access an interpreter varies significantly between the different agency websites.<sup>8</sup>

#### *Centrelink website*

3.4 The Centrelink home page ([www.centrelink.gov.au](http://www.centrelink.gov.au)) includes a flashing multilingual banner in the top right of the screen with a link labelled, ‘we speak your language’. Clicking on this banner provides a direct link to Centrelink information in a range of languages other than English, as well as information about interpreter services. There is also a link to the telephone number for Centrelink’s dedicated multilingual call centre, which connects clients to a Centrelink staff member who speaks their language.

3.5 In addition, there is a link to the same content from the left hand panel on the homepage, also titled ‘We speak your language’. As well as information about interpreter services, Centrelink also provides targeted information for newly arrived migrants and temporary residents under the link ‘We speak your language/Have you recently moved to Australia?’

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<sup>7</sup> Accessible Government Services for All, 2006 Annual Report, Department of Immigration and Citizenship, page 7, available on DIAC’s website at: [www.immi.gov.au/living-in-australia/a-diverse-australia/government-approach/government-services/index.htm](http://www.immi.gov.au/living-in-australia/a-diverse-australia/government-approach/government-services/index.htm)

<sup>8</sup> The information included here was correct at 22 January 2009.

### **DIAC website**

3.6 There are no direct links on DIAC's home page ([www.immi.gov.au](http://www.immi.gov.au)) to information about accessing interpreter services. A search of the sitemap reveals a page labelled 'Help with English'. From the home page this can be accessed through 'Home/Living in Australia/Help with English'. The 'Help with English' page includes a link to the TIS National page, which advises clients to telephone TIS for a telephone interpreter. Alternatively, the contact number for TIS National can be accessed through the 'Contact Us/National Telephone Numbers' page on the DIAC website.

### **AFP website**

3.7 There are no direct links on the AFP home page ([www.afp.gov.au](http://www.afp.gov.au)) to information about accessing interpreter services or any other non-English information. The contact page includes a reference to translating and interpreter services under 'T' with a link to information about TIS National on DIAC's 'Help with English' web page (see above).

### **DEEWR website**

3.8 There are no details regarding interpreters on the DEEWR home page ([www.deewr.gov.au](http://www.deewr.gov.au)). The 'Contact' page refers to TTY services for the hearing impaired, but does not include any references to interpreter services for clients who do not speak English. Nor does it provide links to information in other languages.

### **BEST PRACTICE PRINCIPLE 2: Promote access to interpreter services**

Australian Government agencies should provide a direct link on their website home page to information on interpreter services and other relevant information for non-English speakers, including information translated into other languages.

## **Providing accessible, responsive and fair interpreter services**

3.9 A failure to provide access to an interpreter is often due to a lack of awareness by agency staff about the need to provide one. As the case study *Bring your own* shows, the fact that an agency has a policy in place regarding the provision of interpreters does not always result in fair and responsive services being provided.

### **CASE STUDY: Bring your own**

A member of the public attended a local police station (operated by the AFP) and requested the assistance of an interpreter. Instead of arranging for an interpreter to be provided, the police officer told the person to come back with someone who could interpret for them. When the Ombudsman identified this failure and raised it with the AFP, steps were taken to remind staff of their responsibility to provide fair access to an interpreter. The AFP did not apologise to the person concerned.

3.10 In other cases, staff may be aware of the need to use an interpreter to interpret oral information, but neglect to use an interpreter to explain written information to the client. In the case *No explanation*, agency staff asked a client to sign a written undertaking, without using an interpreter to explain the contents and the significance of what they were signing. This could discredit any subsequent assertion by the agency that the client understood the undertaking they made.

**CASE STUDY: No explanation**

A complaint was made on behalf of a Ms A whose visa had been cancelled by DIAC on arrival in Australia. Although Ms A was provided with an interpreter, DIAC did not use the interpreter to explain the notice of intent to cancel Ms A's visa when asking her to sign this form.

3.11 Helping a client to access an interpreter can be as easy, at times, as picking up the phone and connecting a client with a telephone interpreter. In other cases, agency staff need to plan ahead. Where an agency is aware in advance that a client will need an interpreter to communicate or access certain services, agency staff should ensure that one is provided. In addition to meeting access and equity obligations, this also ensures agency resources are used well, as the case study *Failed appointment* shows.

**CASE STUDY: Failed appointment**

An immigration detainee required an appointment with an optometrist. An interpreter was needed to facilitate communication between the optometrist and the client. The detention provider contracted by DIAC did not book an on-site interpreter in advance. The client was escorted to the appointment only to discover that an interpreter was not available at short notice. As a result, the consultation had to be rescheduled to a later date when an interpreter could be arranged

3.12 Where it has been identified that an interpreter is required, it is important that agency staff use the interpreter and do not try to communicate with the client in English instead, even if this means rescheduling the appointment.

3.13 In other cases, the need for an interpreter may not be foreseeable. In a case where the client becomes stressed or the information being discussed is of a technical nature, it may become apparent that an interpreter would improve the communication. In this case, agency staff should be flexible and either suspend or reschedule the interview to a time when an interpreter is available.

3.14 Access to interpreter services should be provided fairly and without discrimination. Agency staff should refrain from making judgements about a client's capacity to communicate or understand information in English, which may decrease in stressful or emotional situations.<sup>9</sup> As a general rule, if a client requests an interpreter, the agency should respond to this request and endeavour to provide one, wherever possible.

3.15 Similarly, it is open to an agency to decide that an interpreter is required, even if the client disagrees. If staff believe that communication would be enhanced by the use of an interpreter, it is open to them to suspend or postpone the interview until such time as one can be arranged.

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<sup>9</sup> NAATI, 'Working effectively with Interpreters'.



**CASE STUDY: Fairness—DEEWR/Job Network**

A job seeker was required to undertake a training course as part of a Job Network activity agreement. The complainant requested an interpreter but was allegedly told that as he had secured two jobs previously without using an interpreter, he must have a basic understanding of the English language and therefore did not need an interpreter. The complainant said he was also advised by the Job Network provider that he could take a friend with him to the course to help with interpreting.

**CASE STUDY: Fairness—DIAC/GSL (Australia) Pty Ltd**

Mr B approached Ombudsman staff during a complaint clinic held at an immigration detention centre. Mr B, a detainee, was unable to explain his complaint or understand questions in English and readily accepted the offer of an interpreter. Unfortunately, a telephone interpreter was not available in the required language on the spot. The Ombudsman officer made arrangements to telephone Mr B some days later with an interpreter on the line.

The GSL officer who answered the call advised that Mr B did not require an interpreter and that GSL and DIAC staff were able to communicate with him in English satisfactorily. The Ombudsman officer advised GSL that Mr B appeared not to understand English adequately and had accepted the offer of an interpreter. The Ombudsman officer then proceeded to talk with the detainee using the interpreter.

**BEST PRACTICE PRINCIPLE 3: Provide fair, accessible and responsive services**

Australian Government agencies should endeavour to provide an interpreter to facilitate communication wherever necessary. Staff should record clients' interpreter needs in the agency's system and plan ahead to meet client needs. If a request for an interpreter is not met, the reasons for this should be recorded. Staff should be flexible enough to arrange an interpreter if it becomes apparent that assistance is required.

## PART 4—WHO CAN BE USED AS AN INTERPRETER?

### Use of bilingual and multilingual agency staff

4.1 It is increasingly common for agencies to employ staff who have language skills and are able to provide interpreter services for clients. This can be as simple as staff in a multilingual call centre providing information to a client in their language. However, it can also have its dangers as clients may perceive there is a conflict of interest in a government official fulfilling both the role of decision maker and that of interpreter. Therefore, it is important that Australian Government agencies clearly specify in their policies who can be used as an interpreter.

4.2 The AFP policy makes no mention of the use of AFP members with language skills. However, the AFP advised our office that members with specific language skills are used to interpret as required for operational purposes. These members are not necessarily accredited and do not provide interpreting for evidentiary purposes.

4.3 The ACT Policing Annual Report 2002–03 states that the AFP developed a skills database which records relevant skills, including currency in a second language, for every member of ACT Policing. The report noted that the database was particularly useful in addressing the need for interpreters during the Bali bombing investigations and AFP operations in the Solomon Islands.<sup>10</sup>

4.4 Centrelink has 700 bilingual staff working throughout Australia who are paid a community language allowance in recognition of their language skills. These staff are required to either hold NAATI accreditation or pass the Community Language Proficiency Test designed specifically for Centrelink staff and administered by the University of New South Wales.

4.5 DEEWR advises that language allowances are provided to DEEWR staff to encourage and support appropriately accredited staff with interpreter skills. DEEWR also advises its contracted employment service providers that a culturally sensitive service provider is one that employs bilingual staff.

4.6 DIAC provides a community language allowance to staff with language skills, who must be NAATI accredited or otherwise qualified where NAATI accreditation is not available.

4.7 Multilingual detention staff may utilise their skills without accreditation to communicate with detainees for informal communication such as providing advice on sporting, recreational and cultural activities. In addition, DIAC advises that monitoring staff, who visit employers to ensure they are complying with their sponsorship obligations in relation to temporary skilled visa holders, are required to use their knowledge of other languages as part of their role but are not required to be accredited with NAATI. This may not be a concern if they were only using their language skills to briefly explain things such as the fact that they were arranging an interpreter on the telephone. However, the use of non-accredited interpreters to communicate important information regarding sponsorship obligations, which will later be relied on to assess the employer's compliance with immigration laws, leaves the department open to criticism and the risk that such information will be discredited.

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<sup>10</sup> ACT Policing Annual Report 2002–03, page 82.

## Commonwealth Ombudsman—Use of interpreters

4.8 Agencies also need to be sensitive to the potential for a staff interpreter to be perceived as biased by some clients. For example, DIAC policy regarding interviewing asylum seekers overseas states that staff are not to be used as interpreters, due to the potential for a real or perceived conflict of interest. DIAC also notes that there where an onsite interpreter is used in a detention centre on a regular basis, there can be a risk that detainees may view this person as lacking independence from immigration or detention centre processes.

### Use of family or friends as interpreters

4.9 NAATI has published a *Concise guide to working effectively with translators and interpreters in Australia*.<sup>11</sup> This guide states that agency staff should not use a friend, relative or child to interpret on behalf of the client.

4.10 The use of a child can seriously distort the power and authority relationships within the family and a child should not be put in a position of having to take responsibility for the outcome if a mistake is made. Furthermore, the child may be exposed to information that is not appropriate for their age.

4.11 Similarly, friends or relatives should not be used as the client may not wish to disclose personal information through a friend or relative. In addition, while the friend or relative may 'speak the same language' they may lack the specialist terminology required to accurately interpret what is being said or be too emotionally involved to interpret impartially. There is also a risk that they may deliberately or inadvertently block out parts of the message to the client or change the client's message to the agency staff member.

4.12 The AFP's policy for community policing in the ACT makes it clear that only independent and accredited interpreters should be used for communication that will be used for evidentiary purposes, and not friends or family members of the person to be questioned.

4.13 Centrelink policy notes that it is preferable to use a qualified interpreter rather than a friend or family member during interviews, to avoid potential problems with language competency, impartiality and confidentiality.

4.14 DEEWR advises its contracted employment service providers that it is culturally sensitive to use professional interpreters. However, the use of friends or family members of clients as interpreters is not specifically addressed. DEEWR advises that it contracts social research organisations to undertake employment research and evaluation and that these organisations may request agreement from a client to have a household member interpret for them or they may use an independent interpreter.

4.15 DIAC's general detention procedures are unclear regarding the use of friends or family members as interpreters. Section 4.2 of the procedures outlines DIAC's duty of care when seeking information about a detainee's health or medication requirements. It notes that officers should make all reasonable efforts to obtain responses to questions using an appropriately qualified NAATI interpreter, but then later states that officers could also seek this information from other persons present such as family or friends. This is contrary to section 18 of the procedures, which states that family members or friends of clients should not be used as interpreters unless exceptional circumstances exist.

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<sup>11</sup> [www.naati.com.au/pdf/publications/concise\\_guide\\_for\\_working\\_with\\_ti\\_in\\_australia.pdf](http://www.naati.com.au/pdf/publications/concise_guide_for_working_with_ti_in_australia.pdf)

4.16 DIAC did not provide any policy advice on the use of family or friends in general visa processing. In relation to offshore humanitarian visa processing, there is a policy which makes it clear that friends or family members of the applicant are not to be used as interpreters, to avoid compromising the integrity of the interview.

**BEST PRACTICE PRINCIPLE 4: Specify who can be used as an interpreter**

An Australian Government agency's policy on interpreters should clearly state who should and should not be used as an interpreter. The use of friends, family members and children as interpreters should be avoided. Bilingual and multilingual staff members who hold the required accreditation or equivalent qualification can be used as interpreters, where appropriate. If the agency believes it is not appropriate to use staff as interpreters in some instances, this should be clearly specified in the agency's policy.

**Staff training in working with interpreters**

4.17 Effective communication also requires agency staff to take into account any political, cultural or religious sensitivities when selecting an interpreter. This is covered in the NAATI guide and NAATI training on working with interpreters. Agency staff need training to be skilled in assessing such sensitivities and discussing these with the client. Training in working with interpreters also assists staff to understand the things they can do to maximise the effectiveness of their interaction with clients and interpreters. Some examples include:

- ensuring the client has no objections to the interpreter being used
- ensuring the client can indicate if any communication difficulties arise
- speaking directly to the client, rather than to the interpreter
- using short phrases and sentences to assist the interpreter
- ensuring the client is aware they can complain about the interpreter.

4.18 Such training should also cover the need to guard against any possible conflict of interest between an interpreter and the client.

4.19 The AFP advises that training in using interpreters is provided to members during their initial recruit training. This training includes the client's right to an interpreter and how to contact a telephone interpreter. Any further skills are developed through on-the-job training and experience.

4.20 Centrelink has developed a comprehensive range of training modules to support staff in serving clients from culturally and linguistically diverse backgrounds. This includes multicultural customer service training, training on working with interpreters and a guide to ethnic naming practices. These materials are also made available to members of the public and community groups.

4.21 Centrelink also has a network of around 70 Multicultural Service Officers (MSOs) whose role includes raising the awareness, skills and competencies of Centrelink staff in dealing with customers from diverse backgrounds. MSOs also monitor, develop, establish and supervise interpreter services and employ bilingual staff and interpreters, particularly in regional and rural areas.

4.22 DEEWR advises there is no specific whole-of-agency training provided to staff. Those staff whose roles may reasonably require them to engage with clients

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from culturally and linguistically diverse backgrounds are provided with written guidance and instructions concerning the use of interpreters. Call centre staff receive training on managing calls from clients using a TIS National interpreter.

4.23 Trades Recognition Australia (TRA), an agency within DEEWR's portfolio responsible for assessing overseas qualifications, recently provided its staff with training on TRA's new policy on the use of interpreters, which was developed in response to a complaint to the Ombudsman. In relation to training for its contracted service providers, DEEWR advises that service providers have access to written material in subject-specific 'tool boxes'. DEEWR does not provide or arrange for other forms of practical training for employment service providers, to assist them to meet their obligation to deal with clients in a culturally sensitive way.

4.24 DIAC advises that staff performing client contact roles in Australia have access to the NAATI training course, 'Working with interpreters', which is delivered locally by DIAC state and territory offices and overseas posts. However, there are some exceptions. Staff deciding onshore protection (refugee) visa applications do not have access to the training, as DIAC states that the Protection Visa Procedures Manual provides sufficient guidance without the need for formal training. DIAC also advises that training is currently being developed for staff processing applications for subclass 457 temporary business long-stay visas to match that already being provided to 457 visa monitoring staff.

4.25 DIAC provides training at the national level for compliance officers involved in locating unlawful non-citizens and considering visa cancellations. This training is provided through DIAC's College of Immigration courses and includes a two-hour training session provided by accredited staff from NAATI.

4.26 Training for DIAC detention staff makes reference to the instructions relating to the use of interpreters in immigration detention centres. Similarly, detention service provider staff receive training in the immigration detention standards including the use of interpreters. However, we are not aware of them receiving practical training in working with interpreters, such as that offered by NAATI.

4.27 Australian-based officers sent on overseas postings receive training on working with interpreters prior to departure through the Overseas Training Course.

### **BEST PRACTICE PRINCIPLE 5: Provide staff training**

All staff involved with client contact should receive practical training in working with interpreters to ensure they are equipped with the required skills to effectively communicate with clients through an interpreter and know how to deal with any sensitivities or conflicts of interest. Staff training should extend to personnel contracted to provide services on the agency's behalf as well as staff providing interpreter services under a community language allowance.

## PART 5—PROVIDING A QUALITY SERVICE

### Recordkeeping

5.1 The client record kept by an agency should contain details of the client's need for an interpreter and any decisions made by the agency where this is an issue. An adequate record is important to provide an effective service to the client and in facilitating the accountability of the agency. Keeping records of a client's interpreter requirements removes the need for the client to repeatedly request access to an interpreter. It also ensures the agency can act to meet those needs efficiently.

5.2 Records are also important where a client is offered an interpreter but declines to use one. In the case study *Interpreter not wanted*, an agency's records were used in investigating a complaint that an interpreter was not provided. The records showed that an interpreter was offered but declined. Therefore the records were able to provide evidence that the agency had acted reasonably in trying to ensure effective communication with the client.

#### **CASE STUDY: Interpreter not wanted**

Mr C alleged that a DIAC removals officer had asked him to sign papers which he did not understand. Mr C said he was not provided with an interpreter to explain the contents of the documents and was unable to make an informed decision to sign them. Investigation revealed Mr C had been offered an interpreter but had declined to use one.

5.3 The *AFP Practical Guide on Interpreters/Translators* requires AFP members to make a formal record whenever an interpreter is used. The *ACT Policing Practical Guide: Interpreters/Translators* does not refer to recordkeeping requirements.

5.4 Centrelink staff record a client's interpreter needs on the client's record. Once this is done, any time an appointment is booked for that client, the system will automatically request an interpreter in the client's preferred language. Centrelink clients can view details of their appointments, including the use of an interpreter, through the online services page on Centrelink's website.

5.5 Most DEEWR guidelines do not address recordkeeping in relation to using an interpreter. The exception is the Employment Services Complaints Management Guidelines, which notes that staff should record the TIS National job number provided by the interpreter. The Culturally and Linguistically Diverse Toolbox also notes that culturally sensitive service providers should collect data on the client's main language other than English in accordance with the Australian Bureau of Statistics' Standards on Cultural and Language Diversity.

5.6 DIAC compliance officers are required to record in their compliance notebooks when an interpreter has been used, including the name of the interpreter and other relevant details such as the TIS National job number. The immigration portal IT system also has a function to record interpreter requirements including language/dialect. DIAC's policy on the use of interpreters in immigration detention requires the detention service provider to record details of the use of an interpreter in a log, including personal details of the detainee who required the interpreter, the interpreter's ID, the date, start and end time of the call and details regarding the subject matter of the call.

5.7 The onshore protection visa procedures require DIAC staff to record the date, location, case, applicant, interviewer, interpreter and observer details relating to visa assessment interviews. Many DIAC templates and forms also require details of the interpreter to be recorded where one is used.

**BEST PRACTICE PRINCIPLE 6: Maintain good records**

Australian Government agencies should keep a client's record of interpreter needs, including language and dialect, any gender or other requirements, and whether an interpreter is required for oral and/or written communication. Where an interpreter is used, staff should record relevant identifying details. Where an interpreter is offered but declined by the client, this should also be recorded.

## **Service standards and charters**

5.8 All Australian Government agencies are required to have a service charter that sets out the role of the agency, the services it provides and the rights and responsibilities of its clients. This includes the standard of service people can expect to receive when dealing with an agency. Agencies can be accountable for providing access to interpreter services by including a statement or standard about interpreter services in their charters.

### ***AFP***

5.9 The AFP service charter states under the heading 'The standard of service you can expect from the AFP':

The AFP recognises the diverse nature of Australian society and seeks to ensure that the provision of services is appropriate to the needs of clients.

5.10 The charter does not state that clients can request an interpreter if they need one and that they can expect the AFP to provide one. A link to AFP contacts does provide a further link to information about TIS National on DIAC's website and a telephone number for an interpreter.

### ***Centrelink***

5.11 Centrelink's customer service charter clearly states that clients can expect to be provided with an interpreter if required:

You can expect us to make it easy for you to use our services. We will do this by ... providing interpreter ... services if you need them.<sup>12</sup>

5.12 Furthermore, clients are advised that Centrelink interpreter services are free, confidential and that Centrelink interpreters are bound by a Code of Ethics that ensures client information remains private. Centrelink's charter also advises Indigenous clients that some Centrelink staff can speak Aboriginal and Torres Strait Islander languages.

### ***DEEWR***

5.13 DEEWR has a number of service charters available for specific areas of the department. The 2008 charter relating to workplace relations includes a reference to

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<sup>12</sup> [www.centrelink.gov.au/internet/internet.nsf/about\\_us/customer\\_charter.htm#what\\_expect](http://www.centrelink.gov.au/internet/internet.nsf/about_us/customer_charter.htm#what_expect)

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contacting TIS National for an interpreter, under the feedback section.<sup>13</sup> The 2004 charter relating to education, science and training makes no reference to accessing interpreter services.<sup>14</sup>

### **DIAC**

5.14 DIAC's client service charter also contains a service standard relating to access to interpreters:

In all of our service delivery, we will actively address your diverse needs, including engaging an interpreter if you need one.<sup>15</sup>

5.15 DIAC's charter also includes service standards for the provision of interpreters by TIS.

### **Complaint mechanisms**

5.16 Agencies should have an effective mechanism for dealing with complaints about the way an interpreter was used by an agency, any failure to provide an interpreter or the way the interpreted information was used in an agency's decision-making process. This should include the capacity to complain in a language other than English, as well as complaining about access to, or the quality of, an interpreter.

### **AFP**

5.17 The AFP has a complaints brochure and complaints form available on its website, although a search under 'complaints' is required to locate this information as there are no links from the contact page. The brochure is provided in English only, but does include the TIS telephone number under 'other useful contacts'. The form is also in English only.

5.18 The AFP advised that any complaints relating to the AFP's use of interpreters would be investigated under Part V of the *Australian Federal Police Act 1979*. Complaints relating to independent interpreters would be dealt with by management action with the specific contractor. The AFP advises it does not possess the reporting function to provide accurate statistics on the number of complaints received about the use of interpreters. A manual search identified only one complaint regarding a failure by the agency to provide an interpreter.

### **Centrelink**

5.19 Clients wanting to make a complaint can access a 'comment card' on Centrelink's website in English and 12 other languages. The comment card displays Centrelink's multilingual call centre phone number at the start of the form as well as Centrelink's general phone number, which clients can use to make a complaint by telephone. An online feedback form is also available separately on Centrelink's website under the 'Feedback' link at the bottom of the page. This form is in English only and is not linked to the comment card.

5.20 A complaint about the use of an interpreter may be received by one of Centrelink's MSOs, a language service coordinator, Centrelink's complaints phone line or during a face-to-face interview with a client. Centrelink's Multicultural Services

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<sup>13</sup> [www.dewr.gov.au/dewr/aboutus/deewrservicecharter.htm](http://www.dewr.gov.au/dewr/aboutus/deewrservicecharter.htm)

<sup>14</sup> [www.dest.gov.au/portfolio\\_department/dest\\_information/corporate\\_plans\\_policies/service\\_charter/open\\_for\\_business\\_service\\_charter\\_2004.htm](http://www.dest.gov.au/portfolio_department/dest_information/corporate_plans_policies/service_charter/open_for_business_service_charter_2004.htm)

<sup>15</sup> [www.immi.gov.au/about/dept-info/standards/standards.htm](http://www.immi.gov.au/about/dept-info/standards/standards.htm)



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Branch (MSB) is responsible for managing language services policy and operations, including interpreter services. Language service coordinators are located in each state and territory and are responsible for engaging and managing interpreters locally. The MSB is responsible for making decisions to include or exclude interpreters from Centrelink's national panel of interpreters.

5.21 Centrelink advises that in the course of investigating the complaint, both the complainant and the interpreter are given an opportunity to provide information relevant to the investigation. If the outcome warrants it, a warning letter may be sent to the interpreter to ensure they understand their obligations and are committed to performing at the level Centrelink expects. In the case of more serious allegations, the outcome may be that an interpreter is removed from the panel of interpreters. If a complainant requires an interpreter to assist them in making a complaint about another interpreter, Centrelink provides an appropriate alternative interpreter to assist them in their communication.

5.22 Over the last two financial years, Centrelink's Language Services Unit recorded 780 performance-related issues with interpreters. Of these, approximately 5% were compliments; 5% were about invoicing issues; and 10% related to interpreters declining to accept an interpreter assignment. A further 15% were about interpreters being late and 40% related to interpreters not attending an appointment. The remaining 25% were about other performance-related issues. The outcome of investigations into these issues resulted in two interpreters being removed from Centrelink's panel of interpreters.

### ***DEEWR***

5.23 DEEWR receives complaints through its Customer Service Line, with the assistance of a TIS National interpreter if necessary. Information about making a complaint is not available on DEEWR's website; there are no applicable links and a search facility is not provided.

5.24 DEEWR advised that the complaints it does receive largely relate to service providers not using interpreters when required by job seekers, particularly for complex matters. Some job seekers also complained that interpreters had provided incorrect information about them to the service provider.

5.25 DEEWR states that it monitors its employment service providers by conducting compliance activities including file reviews and reviewing complaint registers, to ensure providers are treating clients with cultural sensitivity. DEEWR also monitors job seeker satisfaction with employment service providers and reports that job seekers who are Indigenous or from a culturally or linguistically diverse background report slightly higher rates of satisfaction than all job seekers combined.

### ***DIAC/TIS National***

5.26 DIAC's website includes a direct link titled 'compliments and complaints' on its homepage which provides clients with information in English about DIAC's complaints policy and how to make a complaint. Clients can complain using an online form, telephoning DIAC's Client Service Feedback Line, writing to DIAC directly or using the tear-off feedback form attached to DIAC's *Compliments and Complaints* brochure. A link to DIAC's complaints brochure in English and 29 other languages is also provided, and gives information about using TIS to make a complaint.

5.27 TIS National has a complaint handling process in place for receiving, recording and taking action on complaints made by DIAC staff, departmental clients

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and other users of TIS National regarding the conduct or professional standard of TIS National interpreters. Complaints are investigated and interpreters contacted and given the opportunity to comment. If appropriate, an interpreter may be counselled. In serious matters, consideration may be given to suspending or terminating an interpreter's contract with TIS National.

5.28 In relation to DIAC's contracted settlement service providers, DIAC advises that quality assurance reviews are undertaken to confirm that services are being delivered according to contract specifications, including complaint handling processes.

5.29 DIAC statistics on complaints received about interpreter services show that in 2006–07 it received 489 complaints relating to over 600,000 telephone and onsite interpreter services provided. In 2007–08 DIAC recorded 472 complaints for more than 660,000 interpreter services.

5.30 In 2007–08 the complaints were about interpreter conduct (45%), followed by non-attendance (27%), aborted call (8%), late arrival (7%), standard of interpreting (6%), the interpreter not being available for a pre-booked call (4%) and the interpreter answering their mobile phone while interpreting (2%). The majority of complaints were received from non-DIAC sources (412 complaints) with a small number reported by DIAC staff (60 complaints). The majority of complaints received from non-DIAC persons or agencies were resolved within 48 hours (77%), while 80% of complaints from DIAC staff were resolved within 48 hours.

### Dealing with complaints

5.31 As with any administrative decision, the quality of information and natural justice considerations affect the credibility and reasonableness of the decision. Where a dispute arises over the information provided through an interpreter, it may be necessary for the agency to provide a further opportunity for the client to provide information, with a different interpreter. The agency may also need to reconsider its original decision in light of the new information, particularly if there is a significant variation. This is demonstrated in the case studies *Unqualified* and *Misinterpreted*.

#### **CASE STUDY: Unqualified**

Mr D was applying for a visa from outside Australia, and complained that he had been interviewed using an interpreter who was not qualified. Mr D claimed incorrect information had been provided on his behalf, resulting in DIAC refusing Mr D's visa application. As a result of our investigation, DIAC agreed to conduct the interview again with an independent interpreter and to make a new decision on Mr D's visa application.<sup>16</sup>

<sup>16</sup> DIAC advises that it will only agree to revisit a decision if the decision is affected by jurisdictional error. In this case it appears DIAC found the standard of interpretation was so inadequate that the person's main claims were not presented.

**CASE STUDY: Misinterpreted**

Mr E complained about his application for skills recognition with TRA. TRA contacted Mr E's employer by telephone to confirm details about Mr E's work experience. The employer requested an interpreter but TRA declined to provide one. The interview was conducted in English with information gained from the interview used to refuse Mr E's application for skills recognition. Mr E complained that information provided by his employer had been misinterpreted due to language difficulties. As a result of our investigation, TRA conducted the interview a second time with an interpreter and remade the decision. TRA also developed a policy on the use of interpreters to guide assessors in future.

**BEST PRACTICE PRINCIPLE 7: Provide an accessible complaint handling mechanism**

Australian Government agencies should have an accessible complaint handling mechanism that allows clients to complain about access to, or the use of, an interpreter, including the quality of interpreting. The complaint handling mechanism should be accessible to clients who do not speak English. Agencies should collect information about complaints and use this data to improve interpreter services. Where a dispute arises over the accuracy of interpreted information, the agency should consider obtaining the information again through another interpreter and reconsider the original decision if appropriate.

## PART 6—CHALLENGES

### Finding qualified interpreters

6.1 A special challenge facing agencies is the sourcing of interpreters for new and emerging languages, particularly in rural and regional areas of Australia. This challenge was mentioned by the AFP, Centrelink and DIAC.

6.2 The AFP reported difficulties in gaining 24-hour access to interpreters who speak the required language, are NAATI accredited and hold the appropriate security clearance. The AFP also reported difficulty in finding interpreters who are willing to interpret for the AFP in court and are not associated with those involved in the trial. Similarly, DIAC reported that it can be a challenge to find an interpreter for visa applicants from small communities where the interpreter is acquainted with most members of that community, creating a conflict of interest.

6.3 Given that agencies face similar challenges, there may be scope for them to collaborate together to find solutions. For example, it may be that Centrelink could assist by providing an interpreter, on occasion, drawing on the considerable number of multilingual Centrelink staff and its panel of accredited interpreters. Other agencies may also have access to interpreters who could assist in certain situations. Collaboration across federal, state and territory and even local governments would help to identify these opportunities, where they exist.

6.4 Centrelink and DIAC provided information to show how they are taking steps to address these challenges. For Centrelink, this includes:

- adding 84 new African languages to its panel of interpreters in recent years
- putting measures in place to ensure high quality interpreting in languages where NAATI accreditation is not yet available
- working with NAATI in ensuring testing processes are developed and implemented for the most needed new and emerging languages
- working with NAATI and other education providers, such as TAFEs, to develop and promote workshops and training courses to introduce people to the profession of interpreting
- conducting interviews and familiarisation sessions for all new interpreters who are applying to join Centrelink's panel of interpreters to emphasise the requirements of the interpreting process
- increasing the use of telephone interpreting to cater to clients living across Australia
- introducing an Interactive Voice Response system to streamline the connection of telephone interpreters to Centrelink staff.

6.5 DIAC has recently provided additional funding to NAATI to conduct promotional workshops and subsidise fees to encourage the recruitment of potential interpreters in languages where shortages occur. This includes new and emerging languages in metropolitan areas and all languages in regional locations.

**BEST PRACTICE PRINCIPLE 8: Promote qualified interpreters**

Australian Government agencies should encourage the development of interpreters in emerging languages and work together to provide timely access to qualified interpreters.

**A lead role for DIAC**

6.6 DIAC has historically been responsible for taking the lead in promoting access and equity strategies across government. In 2002, DIAC published the *Language Services Guidelines: A Toolkit for Commonwealth Agencies*. This guide expanded on the principles of the *Charter of Public Service in a Culturally Diverse Society*, which was replaced by the *Access and Equity Framework* in 2006.

6.7 The *Language Services Guidelines* was supported by a tool, designed to assist agencies and other organisations to estimate their requirements for interpreter services. The *Model for Assessing Translating and Interpreting Requirements* provides a useful guide for developing specifications for funding agreements, tenders or grant submissions as well as projecting budget requirements. The cost of interpreter services is an important consideration that must be factored into the cost of service delivery for agencies and their contractors. A failure to estimate and allocate sufficient funding should not be an excuse for limiting the availability of interpreter services or denying access to clients who need them.

6.8 An updated whole-of-government guide on the use of interpreters would be helpful to ensure consistency in the approach and level of services offered by government agencies. Clients may access multiple services from a range of government agencies. Interpreter services should be provided in a consistent manner and clients should have similar access to agency complaint handling procedures. DIAC can take a lead role in promoting interpreter services by developing and promoting an updated *Language Services Guidelines* and *Model for Assessing Translating and Interpreting Requirements* for all government agencies. We understand DIAC plans to work with NAATI to produce an updated guide at some time in the future.

**RECOMMENDATION 1**

DIAC should take a lead role in promoting interagency cooperation and the use of interpreter services by developing an updated *Language Services Guidelines* and *Model for Assessing Translating and Interpreting Requirements* for all government agencies.

## PART 7—CONCLUSIONS AND RECOMMENDATION

7.1 Interpreter services are an important element in delivering accessible government services and ensuring that clients can communicate effectively with government agencies. However, there is considerable variation in the level of service provided to clients and the degree of support provided to staff.

7.2 Australian Government agencies need to have a clear and comprehensive policy on the use of interpreters and multilingual staff, which is readily accessible to all staff. Staff need to be given the opportunity to participate in training regarding working with interpreters, to equip them with the skills required to communicate effectively through an interpreter. This training is also important to raise staff awareness regarding the need to use an interpreter, to ensure the diverse needs of clients are taken into account. Agencies have a responsibility to ensure their contracted service providers also have access to this training and meet the same standards of service expected of the agency.

7.3 Clients also need to know how to access interpreter services. Improvements can be made to agency websites and service charters to provide adequate information to clients about the standard of service they can expect to receive, as well as the avenues available to make a complaint should they be dissatisfied with the provision or conduct of an interpreter or agency staff member. Agency recordkeeping needs to be adequate to facilitate the investigation and resolution of such complaints.

7.4 Finally, there is a need for greater collaboration and coordination across government agencies to develop joint strategies and solutions to address the challenges faced by agencies in providing timely, appropriate interpreter services. While some agencies are already showing leadership in this area, there is a need for a more proactive approach on the part of other agencies.

### **RECOMMENDATION 1**

DIAC should take a lead role in promoting interagency cooperation and the use of interpreter services by developing an updated *Language Services Guidelines* and *Model for Assessing Translating and Interpreting Requirements* for all government agencies.

### **BEST PRACTICE PRINCIPLES FOR USE OF INTERPRETERS**

#### **1. Agency policies on the use of interpreters**

Australian Government agencies that provide services to the public should have a clear and comprehensive overarching policy on the use of interpreters that covers all programs and services delivered by the agency, including contracted services. Such a policy should refer to any legislative requirements and specify when agency and contracted staff should use an interpreter, including whenever one is requested by a client or whenever the staff member needs one to communicate effectively with a client (whether formally or informally). The policy should also provide clear steps on how to arrange for an interpreter, including contact details and agency cost codes where applicable. This information should be readily accessible to all agency staff.

## **2. Promote access to interpreter services**

Australian Government agencies should provide a direct link on their website home page to information on interpreter services and other relevant information for non-English speakers, including information translated into other languages.

## **3. Provide fair, accessible and responsive services**

Australian Government agencies should endeavour to provide an interpreter to facilitate communication wherever necessary. Staff should record clients' interpreter needs in the agency's system and plan ahead to meet client needs. If a request for an interpreter request is not met, the reasons for this should be recorded. Staff should be flexible enough to arrange an interpreter if it becomes apparent that assistance is required.

## **4. Specify who can be used as an interpreter**

An Australian Government agency's policy on interpreters should clearly state who should and should not be used as an interpreter. The use of friends, family members and children as interpreters should be avoided. Bilingual and multilingual staff members who hold the required accreditation or equivalent qualification can be used as interpreters, where appropriate. If the agency believes it is not appropriate to use staff as interpreters in some instances, this should be clearly specified in the agency's policy.

## **5. Provide staff training**

All staff involved with client contact should receive practical training in working with interpreters to ensure they are equipped with the required skills to effectively communicate with clients through an interpreter and know how to deal with any sensitivities or conflicts of interest. Staff training should extend to personnel contracted to provide services on the agency's behalf as well as staff providing interpreter services under a community language allowance.

## **6. Maintain good records**

Australian Government agencies should keep a client's record of interpreter needs, including language and dialect, any gender or other requirements, and whether an interpreter is required for oral and written communication. Where an interpreter is used, staff should record relevant identifying details. Where an interpreter is offered but declined by the client, this should also be recorded.

## **7. Provide an accessible complaint handling mechanism**

Australian Government agencies should have an accessible complaint handling mechanism that allows clients to complain about access to, or the use of, an interpreter, including the quality of interpreting. The complaint handling mechanism should be accessible to clients who do not speak English. Agencies should collect information about complaints and use this data to improve interpreter services. Where a dispute arises over the accuracy of interpreted information, the agency should consider obtaining the information again through another interpreter and reconsider the original decision if appropriate.

**8. Promote qualified interpreters**

Australian Government agencies should encourage the development of interpreters in emerging languages and work together to provide timely access to qualified interpreters.



## APPENDIX A—AGENCY RESPONSES

Each agency was provided with an opportunity to comment on the draft report. All of the agencies responded positively to the report and indicated they would actively consider the best practice principles for the use of interpreters.

**AFP** confirmed its commitment to improve the AFP complaint handling processes in line with the best practice principles. The AFP noted their complaint handling process have also been the subject of a separate review and ongoing liaison with our office.

**Centrelink** was pleased that the report recognised its policies generally align with the best practice principles. Centrelink stated it is keen to participate in any cooperative efforts aimed at delivering whole-of-government guidance on interpreting and translating in the Commonwealth sector.

**DEEWR** stated it appreciates the opportunity to consider ways to enhance the delivery of accessible services and provided additional information in relation to its provision of interpreter services including:

- Child Care Benefit, Child Care Tax Rebate and Jobs, Education and Training (JET) Child Care fee assistance are delivered to families on DEEWR's behalf by the Family Assistance Office (FAO). The FAO offers interpreter services to families for a wide range of languages.
- Child care family payment information fact sheets on the [mychild.gov.au](http://mychild.gov.au) website also refer customers to the Centrelink/FAO multilingual line 131 202 for interpreter services.
- The Australian Government has announced new employment services for implementation from 1 July 2009. The new employment services will connect job seekers to assistance more tailored to their needs and will focus on the most highly disadvantaged job seekers, which includes many Indigenous and culturally and linguistically diverse job seekers. A new Employment Pathways Fund will provide credits to job seekers that providers can utilise as necessary according to the job seeker's tailored assistance, which may include purchasing interpreter services.
- The new employment services contract stipulates that an interpreter must be provided where required. The systems to support the new services will provide mechanisms for DEEWR, inter-related agencies (such as Centrelink) and providers to record and/or confirm the need for interpreter services when job seekers register, or at a later date if the need for an interpreter was not immediately identified. For the most disadvantaged job seekers identified as requiring an interpreter, additional Employment Pathways Fund credits will be made available for interpreter services.

**DIAC** advised it is developing a Language Services Policy to provide direction to DIAC staff, contracted service providers, clients and the public on the importance of language services and how to determine:

- when client information or services should be provided in languages other than English
- what is the best way of providing information in languages other than English
- how to choose which language/s to use

## Commonwealth Ombudsman—Use of interpreters

- what resources are available for providing language services.

DIAC accepted the Ombudsman's recommendation to take a lead role in promoting interagency cooperation and the use of interpreter services by developing an updated *Language Services Guidelines* and *Model for Assessing Translating and Interpreting Requirements* for all government agencies. DIAC advised it intends to update these guidelines as suggested and welcomes the opportunity to promote greater collaboration and coordination across agencies.