



Respect, recognition and reward

The critical role of language services for CALD women affected by family violence

**Submission by Professionals Australia
to the Royal Commission into Family Violence
on behalf Translators and Interpreters Australia**



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Foreword

Failure to provide appropriate language services can act as a serious barrier to effective access to health care, to legal services and in turn justice and a proper right of redress, and to government-provided support services for culturally and linguistically diverse (CALD) women affected by family violence.

The consequences of failure in the context of CALD women impacted by family violence can be devastating.

Access to high-quality, accredited and experienced specialist interpreters and appropriate operating protocols have a direct impact on the extent to which support services are effective in responding to the needs of CALD women impacted by family violence.

Professionals Australia thanks you for the opportunity to highlight these issues for the consideration of the Royal Commission.



Chris Walton
Professionals
Australia CEO



Submission

Professionals Australia is an organisation registered under the Fair Work Act 2009 representing over 25,000 professionals including professional engineers, scientists, veterinarians, surveyors, architects, pharmacists, information technology professionals, managers, transport industry professionals and translators and interpreters throughout Australia.

Our translator and interpreter members come from over 80 language groups and across specialisations including courts/legal, health/medical, economics/political, conference, Centrelink/social services, education, tourism, technical, theology, marketing/advertising and commercial business.

Professionals Australia makes this submission to the Royal Commission into Family Violence in response to its call for submissions about systemic responses to family violence, any gaps or deficiencies in current responses and barriers preventing particular groups from benefiting from family violence services.

We are committed to understanding and helping address the barriers to equitable access to services caused by lack of proficiency in the English language for women affected by family violence.

This submission aims to:

- place the imperative to provide interpreters to facilitate access to effective Government service delivery in a legislative/policy context;
- highlight deficiencies in existing language service arrangements which compromise victims/survivors access to legal/court, medical/health and Government-provided support services;
- briefly highlight a selection of significant issues for interpreters working in family violence support settings; and
- make recommendations in the key areas of training and operating protocols and offer a set of initiatives which we believe, if implemented, would help address some of the issues and problems raised.

Terms of reference

This submission predominantly addresses Item 2 of the terms of reference, which is as follows:

Investigate the means of having systemic responses to family violence, particularly in the legal system and by police, corrections, child protection, legal and family violence support services.

More specifically, it addresses the following questions set out in the issues paper:

Tell us about any gaps or deficiencies in current responses to family violence, including legal responses, and

What barriers prevent people in particular groups and communities in Victoria from engaging with or benefiting from family violence services?



Legislative/policy context

The Victorian Government guidelines on policy and procedures in relation to using interpreting services say of the issue of duty of care:

In relation to language services, the government and its funded agencies have a duty to ensure that members of the public understand the information that is being provided to them, and should provide appropriately trained and accredited interpreters when required.¹

The guidelines also say:

'The Multicultural Victoria Act 2011 states that all individuals in Victoria are equally entitled to access opportunities and participate in and contribute to the social, cultural, economic and political life of the state' and that 'Interpreting and translation services are crucial to ensuring this is achieved'.²

The guidelines also refer to the Victorian Charter of Human Rights and Responsibilities Act 2006 and the Victorian Equal Opportunity Act 2012 as additional legislative bases for ensuring appropriate service delivery and access to the relevant language services in order to effect this.



Deficiencies in existing language service arrangements in the family violence setting

The failure of interpreters to observe the confidentiality and impartiality requirements of the AUSIT professional code of ethics³ in the family violence context seriously compromises the access of victims/survivors to the relevant legal/court, medical/health and Government-provided support services

We provide the following examples of what happens when those impacted by family violence do not have access to high-quality specialised interpreting services. These examples show just how serious a barrier the lack of access to high-quality specialised interpreting services can be.

Failure to interpret impartially/non-judgementally and refrain from intervening

*The Centre receives complaints by migrant women that interpreters are 'aggressive', 'distort their words', and cause them distress by asking them to repeat embarrassing or personal details in police interviews.'*⁴

*An interpreter 'told the woman's husband the address of the women's shelter - she thought the woman was lying and therefore her husband needed to know'.*⁵

*An interpreter 'tried to convince the woman to reconcile with her husband'.*⁶

*Interpreters 'criticised women for taking legal action'.*⁷

*There is evidence of a female interpreter who interrupted a therapeutic counselling session to advise a client that, according to the Koran, women must obey their husbands' sexual demands.*⁸

The use of accredited interpreters who are aware of their obligations under the professional code of ethics to remain impartial, and to refrain from being judgemental or intervening in any way is critical.

Failure to interpret accurately and without omission

Interpreters are required by the code of ethics to interpret accurately and without omission. This includes being comfortable interpreting using sexually explicit terms.

*There is an example of an interpreter in Queensland who would not use the words 'penis' or 'vagina' in a sexual assault proceeding.*⁹

It is not uncommon that interpreters tell victims they should withdraw or purposely fail to accurately interpret for them. [Anonymous source, Information provided to Professionals Australia, 2015]

The use of accredited interpreters who are aware of their obligation to interpret accurately under the professional code of ethics is critical.

Failure to provide independent interpreting services

Use of same interpreter for victim/survivor and perpetrator

I have had direct experience of perpetrators interpreting for the victim/survivor, and interpreters interpreting for both victim/survivor and perpetrator. I was booked for a 'mediation meeting' where family violence was discussed. My non-English-speaking client

was the male. When I got there I was told I would interpret for both parts (male and female) if necessary. The woman was distressed at first not knowing why her ex-partner had an interpreter booked. She believed she was at a disadvantage (I had the impression she thought I would be 'on his side') and therefore feared of the possible outcome of this meeting. [Anonymous source, Information provided to Professionals Australia, 2013]

In my experience, agencies may try to provide female interpreters in domestic violence cases but police often request a male due to the perpetrator's aggression. This suggests the same interpreter is being used for both victim/survivor and perpetrator. [Anonymous source, Information provided to Professionals Australia, 2013]

Service providers reported that interpreters 'are not well trained in family violence [...] and are unable to either accurately interpret matters or on occasions have been aggressive to victims'. The research found that women were left with a great sense of fear and unwillingness to disclose their experiences of family violence when only one interpreter is booked for both her and the perpetrator¹⁰. The study concludes by recommending consistent use of interpreters and that these 'need to be rigorously trained in appropriate interpreting techniques, [...] on the issues of family violence'¹¹, and 'confidentiality issues'¹². [Research undertaken by inTouch Multicultural Centre Against Family Violence (2011)]

Interpreters should never be put in the position of being asked to interpret for both victim/survivor and perpetrator as it seriously compromises their obligations under the professional code of ethics to act with impartiality. Perpetrators should at no stage be permitted to interpret for the victim/survivor.

Use of family members as interpreters

There are instances of children having to interpret for their mothers and having to listen and interpret about violence and sexual assault encounters. Also, there is evidence of women not disclosing these events to protect their children from listening to them. [Anonymous source, Information provided to Professionals Australia, 2013]

The use of children or family members represents a serious breach of privacy for victims/survivors of family violence. The interpreter providing professional services in a family violence situation clearly needs to be at arms' length from the family.

Use of interpreters themselves involved as offenders in domestic violence cases

I am aware of instances where the interpreters engaged to provide interpreting services in a domestic violence case are themselves offenders - submitting a police check every three years to agencies is not enough. [Anonymous source, Information provided to Professionals Australia, 2013]

The use of an interpreter who is convicted of a family violence-related offence potentially represents a conflict of interest and a serious compromise to the requirement for impartiality under the professional code of ethics.¹³

Use of interpreters known to victim/survivor

Emerging language and smaller or remote communities often have fewer numbers of interpreters available and it is not uncommon for the victim/survivor to know the interpreter. This creates issues of confidentiality and impartiality.

These examples show the extraordinarily serious consequences when the confidentiality and impartiality requirements of the professional code of ethics are breached.



Failure to provide an interpreter

While this submission details some of the problems which may arise when interpreters **are** provided, it is important to highlight the fact that the failure to provide an interpreter is one of the most critical barriers to effective access to support services for CALD women in the family violence context.

It is essential that the Victorian Government Guidelines in relation to assessing the need for an interpreter are enforced to ensure interpreters are provided where needed and, in turn that systemic responses in the family violence context are as effective as possible.¹⁴

Issues for interpreters working in the family violence setting

Lack of specialised training

The need for specialised training to work in often difficult family violence settings is a critical issue for interpreters.

Vicarious/secondary trauma

Interpreting in the context of family violence-related circumstances including torture and trauma/sexual assault crisis centres and women's refuges is potentially distressing or traumatising so the issue of vicarious or secondary trauma for interpreters is a real one.

Need for confidentiality

I have witnessed women disclose violence in a community-based pain management counselling session, a home visit for an Occupational Therapist evaluation, and a maternal health home visit after birth. There is no way I can disclose these instances because it could put the individuals in serious danger and I'm bound by strict rules of confidentiality.
[Anonymous source, Information provided to Professionals Australia, 2015]

Interpreters should be provided with specialised training and support to deal with the unique issues such as these that arise in the family violence context.



Recommendations

Training

Training for interpreters working in family violence-related areas, and training of professionals in the use of interpreters in legal/court and medical/health settings are both critical.

General training for those working in family violence-related areas

- Provide training in cross-cultural awareness for all those in family violence related areas including judges, doctors, police, social workers, community workers and interpreters themselves.¹⁵ A significant obstacle to good practice is “when key players, i.e. police, social workers, community workers, do not take the time or see the need for [this kind of] training”;¹⁶
- Provide training in awareness that male violence is a crime,¹⁷ equal opportunities practice and legislation¹⁸ and the principles of gender equality as enshrined in legislation;¹⁹
- Provide training on the needs and experiences of women service users,²⁰ including the fact that women affected by family violence are a diverse group with diverse needs. They include “migrant women, women asylum seekers, refugees, disabled women, women living in institutions, lesbians, prostitutes, trafficked women” and others.²¹ Because women’s experience of male violence can “be influenced by a number of .. external factors such as race, age, sexual orientation, religious beliefs, ethnic origins”²², they may experience multiple forms of discrimination, and training in diversity awareness is therefore critical.

Specialised training for interpreters working in family violence-related areas

- Provide general training as described above, and in addition:
- Identify suitable interpreters for specialist training on issues of violence against women;²³ particularly women to ensure an adequate supply of female interpreters where this is requested;
- Provide Government support for the training of specialist interpreters in the area of family violence out of the pool of specialist health and legal interpreters;
- Reiterate the particular need for confidentiality and non-judgemental/impartial interpreting in the family violence area in line with the interpreter’s obligations under the professional code of ethics;
- Reiterate the particular need to refrain from intervening or expressing personal opinions when interpreting in the family violence context in line with the interpreter’s obligations under the professional code of ethics;
- Reiterate the particular need to interpret accurately in line with the interpreter’s obligations under the professional code of ethics;
- Ensure specialist interpreters are comfortable with the use of sexually explicit terms;²⁴
- Provide training in the ‘effects of secondary traumatisation’;²⁵ and
- Ensure financial incentives are built into the accreditation system to encourage interpreters with the appropriate backgrounds to upgrade their skills and undertake further specialist training.

Specialised training for those who engage interpreters in family violence-related settings

The specific training and initiatives required will depend on the setting (for example, court/legal, medical/health) and a full discussion is beyond the scope of this submission. In general terms, we concur with the Victorian Government Guidelines on Policy and Procedures set out in the publication “Using Interpreting Services”.²⁶

Training for those who engage interpreters would include as a minimum:

- how to assess the need for an interpreter as set out in the guidelines across Government and agencies to ensure an interpreter is provided if needed;
- the need to engage accredited interpreters as a minimum (because of the particular need to observe the professional code of conduct in family violence settings);



- the need to engage accredited female interpreters with experience and specialist training in interpreting in family violence-related situations wherever possible;
- the need to ensure separate interpreters are provided for the victim/survivor and perpetrator; and
- the need to ensure the perpetrator is never permitted to interpret for the victim/survivor.

Specific recommendations about training/initiatives in the court/legal context are set out in Appendix 1 for consideration.

Operating protocols

The following protocols in family violence-related support services would support good practice:

- Reiterate the process for ***Assessing the need for an interpreter*** as set out in the Victorian Government Guidelines across Government and agencies to ensure an interpreter is provided if needed;
- Use accredited interpreters as a minimum standard;
- Use accredited female interpreters with experience and specialist training in interpreting in family violence-related situations wherever possible;
- Ensure separate interpreters are provided for the victim/survivor and perpetrator;
- Ensure perpetrator never interprets for victim/survivor;
- Provide relevant documents, forms and information in first language of victims/survivors;
- Require disclosure of relevant charges (domestic abuse, sexual assault or child abuse) for those interpreting in family violence cases;
- Require disclosure of any prior acquaintance in interpreting situations involving emerging languages, and/or smaller and remote communities; and
- Require agencies to provide access to support and ongoing training for those who experience vicarious/secondary trauma “in order to minimise the personal impact of the distressing or traumatic incidences they are called upon to interpret”.²⁷

Initiatives

We respectfully suggest that the Victorian Government consider the following initiatives:

National protocol

Lead the establishment of a national protocol on specialised training for, and working with interpreters in family violence contexts.

Women-only interpreting services

Consider supporting the development of women-only interpreting services for use in family violence-related contexts.

Scholarships to support interpreter training

Consider funding interpreter scholarships for women in emerging languages and/or remote communities where there may be a shortage of female interpreters available.

Update guidelines

Consider updating the “Using Interpreting Services” guidelines or developing new guidelines specific to the family violence setting.

Contract for the provision of language services

Consider including a commitment to observing guidelines and/or protocols in contractual terms when the contract for the provider of language services to Government is next negotiated.



In summary

Our intention in this submission was to show:

- the extent to which the failure to provide high-quality specialised interpreting services operates as a barrier to effective service delivery for CALD women in the context of family violence;
- that the way interpreting services in the family violence context are currently delivered results in significant costs in human/social terms across the health, legal, government support settings; and
- that effective systemic responses may be seriously compromised by interpreters not being provided or, when provided, failing to comply with their obligations under the professional code of ethics.

The material confirms that there is a clear and urgent need for change in this critical area.



A note about the translating and interpreting industry

As the union representing translating and interpreting professionals, Professionals Australia is working closely with practitioners, business, government and professional bodies with a view to creating a sustainable, competitive, fit-for-purpose and efficient language services industry.

In particular, we work closely with AUSIT, the professional association representing translators and interpreters and administers the code of ethics.

The Office of Multicultural Affairs and Citizenship (OMAC) is currently leading stakeholder discussions.

In the medium to long-term, we hope this work will positively impact the operating environment for our members, lead to systemic improvements which will create incentives and appropriate recognition and reward for specialist training and, in turn, bring about improvements to the quality and consistency of interpreting services.

While a comprehensive discussion of the problems that currently exist in the industry is beyond the scope of this submission, we refer you to our two key publications as background:

Lost in Translation: Barriers to building a sustainable Australian translating and interpreting industry

This document is available at <http://www.professionalsaustralia.org.au/translators-interpreters/wp-content/uploads/sites/43/2015/03/Lost-in-Translation-issuu.pdf>.

The Case for Change: Consequences and costs of failures in the translating and interpreting industry

This document is available at http://www.professionalsaustralia.org.au/translators-interpreters/wp-content/uploads/sites/43/2015/03/The-Case-for-Change_EMAIL.pdf.

Acknowledgements

Professionals Australia wishes to acknowledge the assistance of Olga Garcia-Caro and Professor Sandra Hale in the preparation of this submission.



Appendix 1

- Recommendations about training/initiatives in the court/legal context

In the legal/court context, the United Nations Entity for Gender Equality and the Empowerment of Women (2011) released the following suggestions for working with the justice sector to end violence against women and girls.²⁸ We note with concern that there are some suggestions listed that would contravene the AUSIT code of ethics and at no stage do we endorse those items (for example, the items suggesting that interpreters should be trained to explain protections offered, the sentence imposed, etc. or creating a group of volunteer interpreters) but we present the extract in full for information purposes:

Establish and expand language-accessible services

Ministries should prioritize language-accessible services and interpretation in the justice sector. Language barriers should be fully addressed in court processes: Language barriers can be insurmountable for victims of violence. Ministries should support the provision of signs and interpreters in court buildings and for all cases involving violence against women. The following strategies will increase access to justice for women and girls:

- Install signage in court facilities in local languages with picture signs for women with low or no literacy.
- Use language identification cards to identify the language of women and girls who approach court services.
- Provide court documents, forms, and necessary information in local languages.
- Provide interpreters for all court hearings. This may be costly, but it is fundamental to increasing access to justice.
- Train interpreters to explain the protections offered, the sentence imposed, and victim options for input, restitution, and compensation.
- Train interpreters in issues of violence against women. Publish standards of conduct for interpreters in cases of violence against women.
- Establish a licensing procedure for interpreters in cases of violence against women so that qualified interpreters may be accessible to court administrators.
- Train interpreters to work with disabled victims.
- Provide brochures and posters on court information in relevant local languages. Utilize input from women's NGOs in developing these brochures and posters.
- Develop volunteer interpreter programmes with proper training for court work.
- Publish laws and court decisions in all local languages. This may also be costly but is essential to gain public trust in an open and impartial judicial sector.
- Provide videos in common local languages to explain the court process to survivors. This will help the survivor know what to expect and make the court process less intimidating.
- Educate on cultural differences as well as language differences.

An additional set of recommendations for court interpreters to ensure best practice interpretation for survivors of all types of violence against women and girls:

1. Implement testing, training, and monitoring procedures which assess interpreter proficiency as well as understanding of legal and ethical obligations.
2. Provide interpreters with specialized training in issues of domestic violence, sexual assault, and child abuse. Emphasize the link between confidentiality and victim safety. Teach interpreters how violent offenders may use the court process to intimidate and threaten survivors.
3. Train interpreters on the effects of secondary traumatization and provide them with supervision and support.
4. Train judges and lawyers on effective use of interpreters and how to monitor interpreters for bias on issues such as domestic abuse or sexual assault.
5. Require interpreters to undergo background checks to identify any history of domestic abuse, sexual assault, or child abuse. Question them before each case on possible conflict of interest (Huelgo et al., 2006).

We also endorse the recommendations set out in Professor Sandra Hale's "Interpreter Policies, Practices and Protocols in Australian Courts and Tribunals: a National Survey".²⁹ Recommendations are as follows:

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



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LOST IN TRANSLATION

Barriers to building a sustainable Australian
translating and interpreting industry



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Lost in translation: barriers to building a sustainable Australian translating and interpreting industry.

A report by the Association of Professional Engineers, Scientists and Managers, Australia

2012

ABOUT APESMA

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is an organisation registered under the Fair Work Act 2009 representing over 25,000 Professional Engineers, Professional Scientists, Veterinarians, Professional Surveyors, Architects, Pharmacists, Information Technology Professionals, Managers, Transport Industry Professionals and Translating and Interpreting Professionals throughout Australia. APESMA is the only industrial association representing exclusively the industrial and professional interests of these groups.

Association of Professional Engineers,
Scientists and Managers, Australia (APESMA)

GPO Box 1272, Melbourne, Vic. 3001

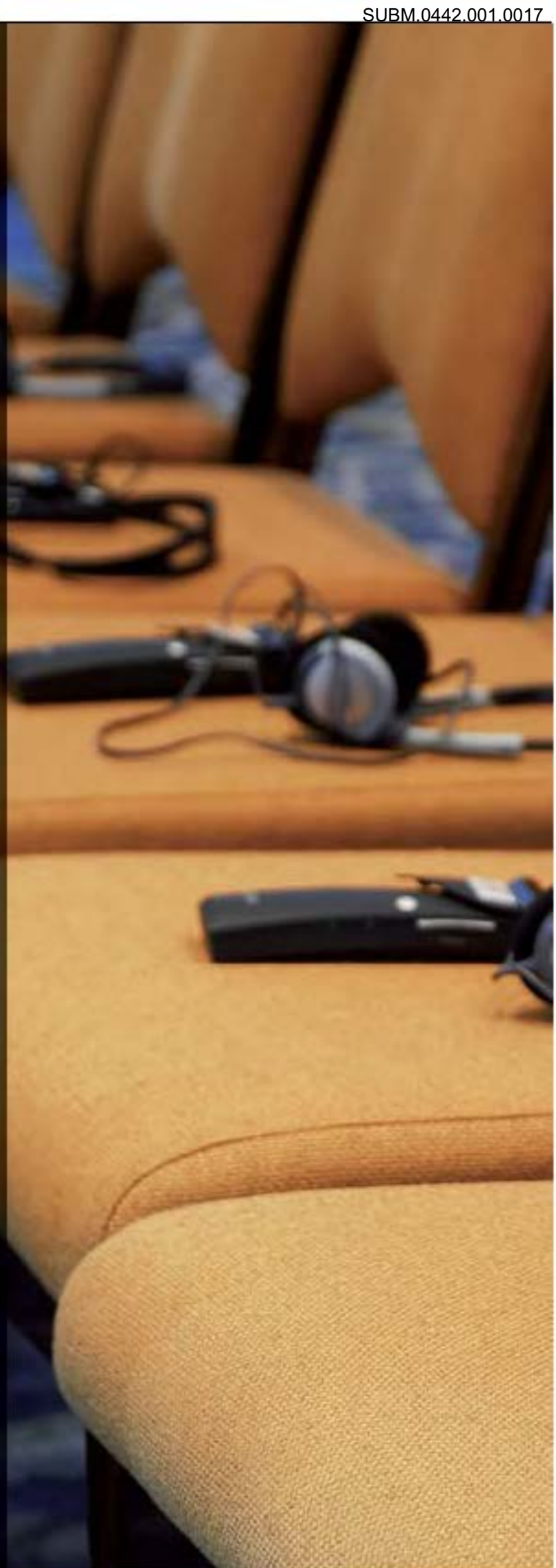
e: translatorsandinterpreters@apesma.com.au

w: www.apesma.com.au/groups/translators-and-interpreters

t: **1300 APESMA | 1300 273 762**

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FOREWORD

Translators and Interpreters perform a vital service for the community and contribute their expert skills in a diverse range of settings.

They provide assistance for those who face language barriers to full participation in the community and play a vital role in maximising the social and economic benefits of Australia's cultural diversity.

Translators and Interpreters help maintain the integrity of our courts and justice system, ensure access to health care and information, support access to Government services and provide assistance in commercial settings.



Chris Walton
APESMA CEO

In a very direct sense, ensuring the values of equal treatment and protection from discrimination are upheld in all these settings relies on creating a Translating and Interpreting industry which can meet the needs of the community as well as the Translating and Interpreting professionals themselves.

The importance of protecting these fundamental rights was highlighted recently by the World Justice Project which suggested that access to Translators particularly for disadvantaged groups was limited. "In this area", the report says, "Australia scores lower than almost all high-income countries." "Another area of concern" the report notes, "is discrimination. While the country ranks among the best in the world in protecting most fundamental rights, it lags behind in guaranteeing equal treatment and non-discrimination, especially for immigrants and ethnic minorities. In this area, Australia ranks last among all high-income countries and ranks 40th globally."¹

Critical questions currently face the industry ... To what extent have quality and professionalism been lost through the process of outsourcing and can the loss be justified in terms of savings and efficiencies? Can we hope to sustain the profession when deprofessionalisation and lack of recognition of the status of Translators and Interpreters are impacting service provision? How do we ensure that professional development practices continue to support the Translating and Interpreting profession? What is the role of agencies in maintaining professional standards and do their current practices provide appropriate, adequate and fair operating structures to support Translators and Interpreters? What is the role of the professional bodies and how can they play a more effective role in the industry? How do we attract the next generation of Translating and Interpreting professionals to the industry and ensure that new graduates are supported and mentored? How have globalisation and developments in technology affected the industry? Fundamentally, what kind of support, structures and practices will be necessary to create a sustainable industry with the capacity to deliver the high-quality effective service levels all stakeholders agree are essential? These questions go to the heart of what it means to be a Translating and Interpreting professional in 2012 and beyond.

Since the late 1980s when many of the services were contracted out by public sector agencies, Translators and Interpreters have generally experienced a decline in their pay and conditions in real terms. A range of the expenses formerly covered by employers are now being borne by the Translators and Interpreters themselves. The profession is marked by low rates of pay that have not kept pace with the cost of living. Notice periods, minimum terms of engagement and cancellation fees provide no offset for the income insecurity which marks the industry.

The 2011 On Call decision² also created much uncertainty around contractor/employee status and many Translators and Interpreters are unsure about their personal rights and obligations as well as the obligations of those engaging them. Issues around qualifications, accreditation, professional recognition, deprofessionalisation and professional isolation also create uncertainty and have the potential to fundamentally compromise the sustainability of the profession.

APESMA has conducted this research to encourage a focus on, and debate around, the issues affecting Australia's Translating and Interpreting industry. We see it as critical that we play an active and considered role in identifying and responding to the challenges which face the profession and industry—challenges that can only be tackled with the cooperation and commitment of major stakeholder groups and Translators and Interpreters themselves.

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- 1 Agrast, M., Botero, J., Ponce, A., WJP Rule of Law Index 2011. Washington, D.C.: The World Justice Project., Downloaded at: http://worldjusticeproject.org/sites/default/files/wjproli2011_0.pdf December 2011
 - 2 On Call Interpreters and Translators Agency Pty Ltd v Commissioner of Taxation (No 3) [2011] FCA 366 (13 April 2011)

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) conducted this survey to explore the key concerns of Translators and Interpreters and identify some of the major barriers to creating a Translating and Interpreting industry which can meet the current and future needs of the community as well as the Translators and Interpreters themselves.

The comments of survey respondents were included wherever possible to allow the Translators and Interpreters to speak for themselves about the issues which most concern them.

KEY FINDINGS

Value of Translating and Interpreting services

Translating and Interpreting professionals want their contribution acknowledged and appropriately recognised. While 66 per cent thought their services were valued either highly or very highly by those to whom they provided services, there was a significant level of concern about the lack of value attached to Translating and Interpreting work by Government departments, labour hire and booking agencies and the general community with 51, 61 and 60 per cent of respondents respectively saying that their work was valued only moderately, somewhat, little or not at all.

Income

Income insecurity and incomes not keeping pace with inflation were key work issues for Translating and Interpreting professionals. 89 per cent of respondents indicated that lack of income security was a major problem while 87 per cent said incomes not keeping pace with inflation was a significant concern. The survey showed the potential for declining rates of pay and conditions to seriously impact service quality.

Contractor/employee status

28 per cent of respondents reported that they did not have a clear understanding of their status as an employee or contractor, and 40 per cent did not have an understanding of the different rights and obligations attached to each method of engagement.

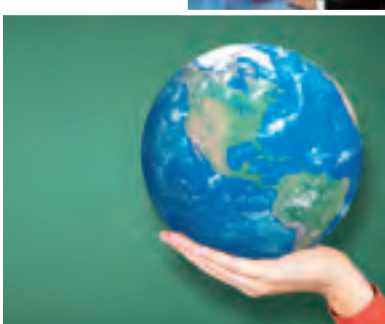
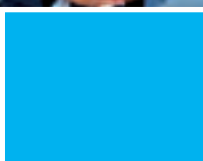
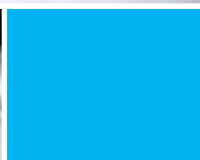
Deprofessionalisation

86 per cent of respondents were concerned or very concerned about deprofessionalisation of the industry.

Industry viability

Almost a third of respondents said they intended to leave the profession in the next five years. Of those, a massive 84 per cent said a review of their hourly rate would alter their intention.

Only 25 per cent said they were positive about the role and opportunities available in the Translating and Interpreting industry in the upcoming 12 months while 30 per cent reported that they were not positive and expected more of the same. 57 per cent said they thought the industry was becoming less attractive to new people.



The objective of exploring Translators and Interpreters' experience of changes to the profession since services were largely outsourced in the late 1980s was to help understand the complexities of the industry, to identify some of the barriers to creating a sustainable industry into the future, and in turn, to provide an evidence-base for working with the industry to bring about positive change.

To this end, one of the key questions the survey put to Translators and Interpreters was what, in their view, have they or the industry lost as a result of the trend to outsourcing since the late 1980s.

While reward and recognition were clearly key concerns, the issues respondents identified overwhelmingly went beyond pecuniary interest and personal rewards to the larger issues and problems which mark the profession and industry as a whole. On the following page is a selection of their responses.

WHAT'S BEEN LOST?

"Professionalism, staff development, recognition, respect and mentoring and peer support."

"Work opportunities, high standard of service and recognition of qualifications and experience."

"Pay rates have reduced or remained static whilst expenses have increased. Professional status was only in its infancy when outsourcing was introduced, resulting in the undermining and deprofessionalisation of the Translating and Interpreting industry."

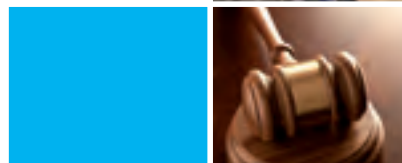
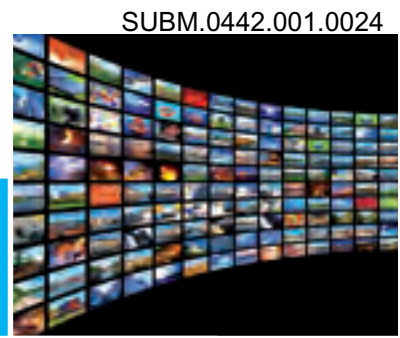
"Lots ... i.e. kilometres travelled to and from jobs not paid, booking fee not paid, cancellation fees reduced drastically, term of payment extended to almost two months instead of 14 days. Lack of recognition ... one-sided contracts favouring the language service provider. Having to pay indemnity and public liability insurance, no workcover or super entitlements."

"Since the late 1980s we have collectively experienced a continual reduction in our pay and conditions in real terms. Our status as Translators and Interpreters is not properly valued and respected by some ... this situation is deeply unsatisfactory ... because we know that we are getting exploited ... we continue to feel anxious and insecure about our long-term future."

"Everything. I've been working in the industry for 18 years and I have no superannuation, no security and no money. I've invested an enormous amount of time and energy in my education and in my work but have gained nothing. The money I earn merely covers my spendings and the most basic needs. I feel like I've volunteered for 18 years because I love to help my community but I haven't been properly rewarded."

"We have no work mates. No communications between us. We don't belong anywhere ... it's a sad job."

"The quality of the work plays a secondary role ... in the end, those who want to do a good and thorough job get priced out of the market."



EXECUTIVE SUMMARY



Being valued

One of the most fundamental findings of the survey was that Translating and Interpreting professionals want their contribution acknowledged and appropriately recognised. While 66 per cent thought their services were valued either highly or very highly by those individuals to whom they provided services, there was a significant level of concern about the value attached to Translating and Interpreting work by Government departments, labour hire and booking agencies and the general community with 51, 61 and 60 per cent of respondents respectively saying that their work was valued only moderately, somewhat, little or not at all. The lack of recognition for the value of the work of Translators and Interpreters has a direct impact on the viability of the industry and profession.

Work challenges

The survey found that income insecurity and incomes not keeping pace with inflation were key work issues for Translating and Interpreting professionals. This was followed by significant levels of concern about covering costs such as communications tools and vehicle/travel expenses, lack of payment for travel time, insufficient minimum terms of engagement, insufficient notice of cancellation and cancellation fees, and the lack of time allowed for briefing prior to engagement including access to background documents etc. Many respondents noted the low level of retirement earnings they had arising from their insecure employment and low rates of pay, and reported that professional isolation was a common experience. Each of these concerns has the potential to operate as a disincentive to retaining experienced, qualified Translators and Interpreters in the industry.

Agencies

With placements sourced via labour hire and booking agencies, the survey sought data on issues Translating and Interpreting professionals had with the agencies through which they operated. There was significant concern about hourly rates, the gap between the rates agencies charge clients and the fee received by the Translators and Interpreters, agencies sending non-qualified individuals to jobs and possible favouritism by agencies in the allocation of work. The lack of opportunity to negotiate terms fair to both parties was also an issue.

Contractor or employee

The survey indicated that there was some confusion amongst the Translating and Interpreting profession about their status as employees or contractors, and the rights and obligations attached to each method of engagement. 28 per cent reported that they did not have a clear understanding of their status as an employee or contractor, and 40 per cent did not have a clear understanding of the different rights and obligations attached to each method of engagement. Uncertainty about contractor/employee status and the potential for misclassification introduces a serious level of risk to the industry.

Deprofessionalisation

86 per cent of respondents were concerned or very concerned about deprofessionalisation of the industry including the use of non-accredited in-house staff and/or friends or relatives to do Interpreting and Translating work. The survey provided an insight into the broad range of factors contributing to deprofessionalisation.

Perceptions of the industry and employment intentions

The survey indicated that there are grounds for serious concern about the long-term viability of the Translating and Interpreting industry as it is currently structured. Almost a third of respondents said they were intending to leave the profession in the next five years. Only 25 per cent said they were positive about the role and opportunities available in the Translating and Interpreting Industry in the upcoming 12 months while 30 per cent reported that they were not positive and expected more of the same. 38 per cent said they were taking a wait-and-see approach about prospects in the industry and the opportunities available.

Another of the more critical findings overall was that 57 per cent said they thought the industry was becoming less attractive to new people. This, combined with the fact that 78 per cent of respondents said they were not aware of mentoring and peer support being made available to those entering the profession, suggests that attraction and retention of quality Translating and Interpreting professionals to the industry is potentially a major problem in the longer-term.

Lack of networking with peers and colleagues was found to be a significant issue with 31 per cent of respondents indicating that professional isolation and its consequences were a concern for them.



CONCLUSION

This report details a range of serious barriers to the ongoing development of a stable, skilled national Translating and Interpreting workforce with the capability and capacity to meet the needs of the community over the next decade.

The survey findings confirm that the Translating and Interpreting industry is at the crossroads with widespread concern about recognition of the value of Translating and Interpreting services, remuneration and conditions for Translators and Interpreters, the role labour hire and booking agencies play in the industry, and uncertainty around contractor/employee status, with deprofessionalisation, professional isolation and lack of peer support all creating disincentives to remaining in the industry.

Creating a vibrant local Translating and Interpreting industry—which will meet the needs of the community, provide protection from discrimination and value equal treatment and the rights of the individual—will require change and the constructive engagement of key stakeholders including Translators and Interpreters themselves.

Unless the barriers identified in this report are acknowledged and the threats to quality and professionalism in the industry addressed, we risk losing the opportunity to create a sustainable world-class Translating and Interpreting industry in Australia as we move toward 2020.

FINDINGS



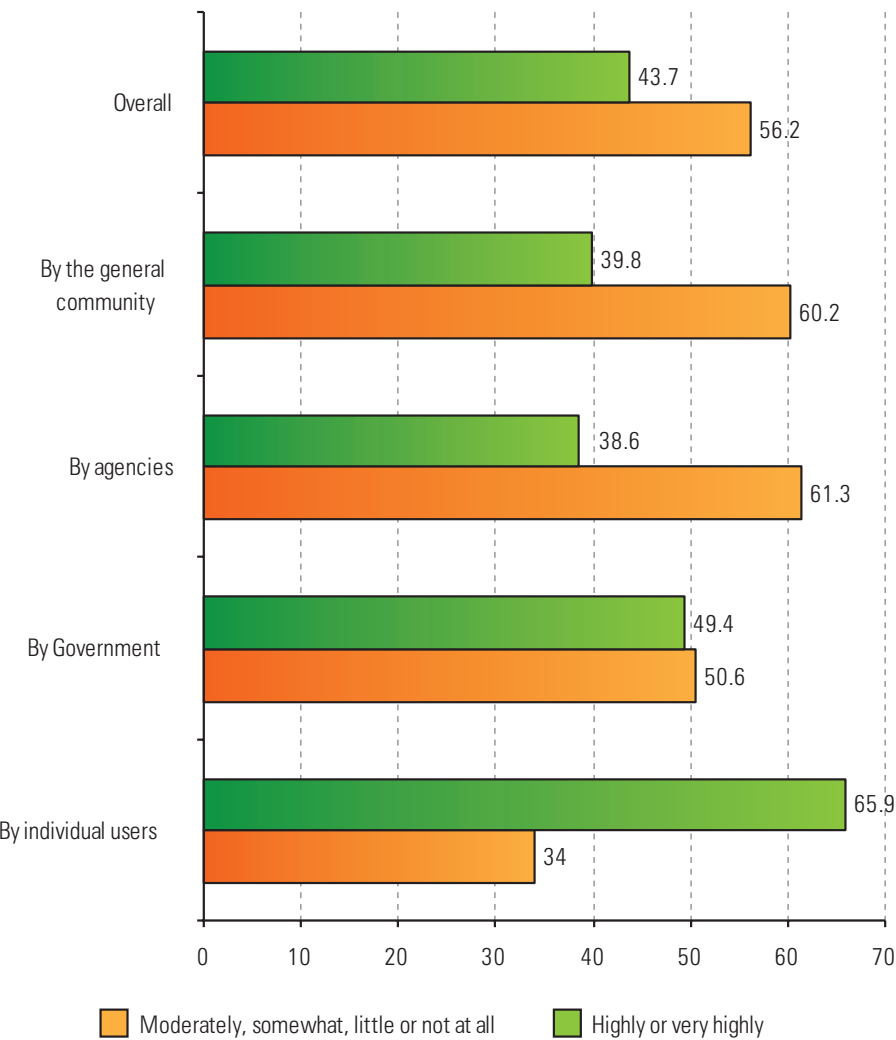
BEING VALUED

One of the most fundamental findings of the survey was that Translating and Interpreting professionals want their contribution acknowledged and appropriately recognised.

Of concern was the fact that overall 56.2 per cent of respondents reported that Translating and Interpreting work was valued only moderately, somewhat, little or not at all by key stakeholders.

More specifically, while 65.9 per cent thought their services were valued highly or very highly by those for whom they directly provided Translating and Interpreting services, there was a significant level of concern about the value attached to Translating and Interpreting work by Government departments, labour hire and booking agencies and the general community with 50.6, 61.3 and 60.2 per cent of respondents respectively saying that their work was not valued highly. Figure 1 sets out respondents’ perceptions of the value of Translating and Interpreting services.

Figure 1—Value of services



Of concern was the fact that overall 56.2 per cent of respondents reported that Translating and Interpreting work was valued only moderately, somewhat, little or not at all by key stakeholders.

WORK CHALLENGES

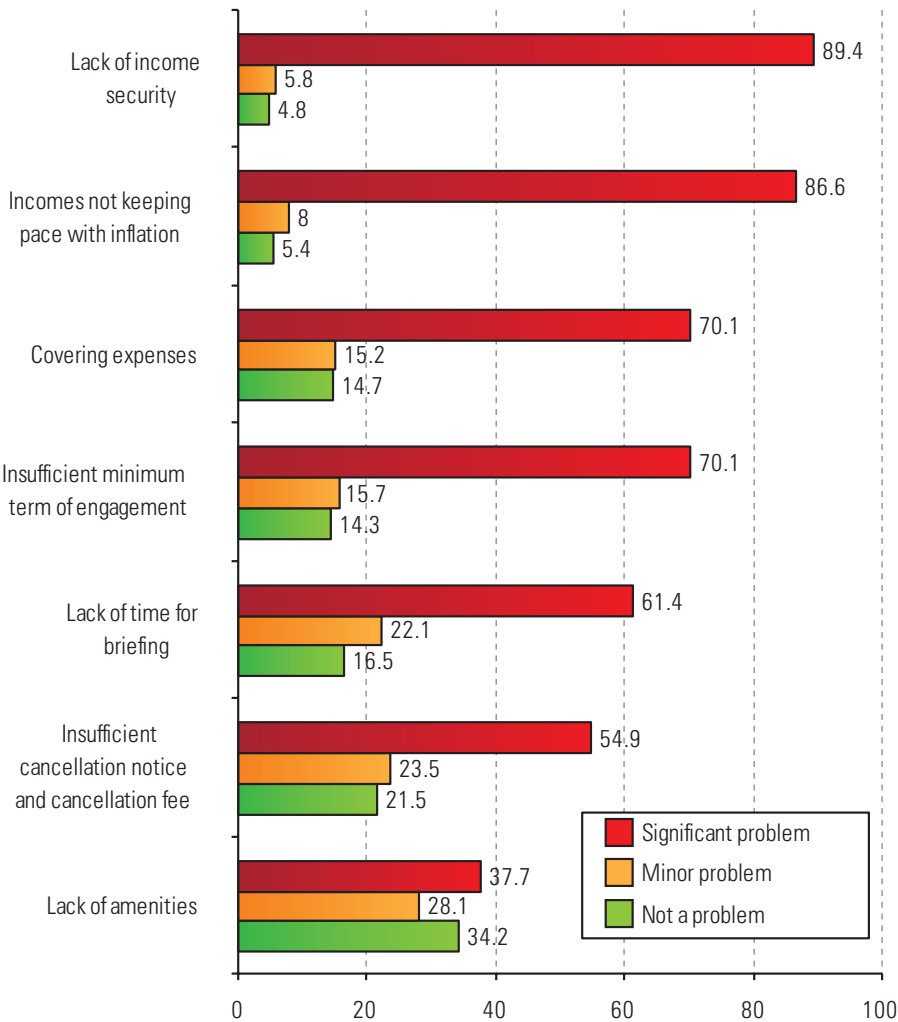


89.4 per cent of respondents indicated that lack of income security was a significant or moderate problem, while 86.6 per cent said incomes not keeping pace with inflation was a problem.

The survey found a range of key work challenges for Translating and Interpreting professionals.

89.4 per cent of respondents indicated that lack of income security was a significant or moderate problem (see also page 16) while 86.6 per cent said incomes not keeping pace with inflation was a problem (see also page 13). 54.9 per cent of respondents reported that insufficient minimum terms of engagement and insufficient notice of cancellation and cancellation fees were a moderate or significant concern. 61.4 per cent indicated that lack of time allowed for briefing prior to engagement including access to background documents etc. was a concern while 37.7 per cent said lack of amenities (such as access to table and chair, breakout room, access to water, etc.) was a concern. Many respondents also noted the low level of retirement earnings they had arising from their insecure employment and low rates of pay. Figure 2 sets out the work challenges reported by Translators and Interpreters.

Figure 2—Work challenges for Translators and Interpreters



RATES OF PAY

86.6 per cent said incomes not keeping pace with inflation was a significant or moderate problem.

Comments on rates of pay were extensive and the responses generally highlighted four areas of concern:

- > the lack of appropriate reward for the skills and experience required to provide quality Translating and Interpreting services
- > how rates have failed to keep pace with the cost of living
- > perceptions of Translators and Interpreters’ pay rates relative to other occupations
- > the link between declining pay rates and loss of service quality.

Many Translators noted the push for lower rates and faster turnaround times, meaning those who allow time to do a thorough job and uphold professional standards were priced out of the market (see also deprofessionalisation section on pages 20-22). Table 1 below sets out some of the typical comments.

Table 1—Comments on rates of pay

> Pay is growing increasingly worse
> Not an attractive job if you look at it from a financial point of view
> Challenging role for a small income
> My income is low and doesn’t keep up with the increase in the cost of living
> Very low remuneration given the time, effort and dedication the profession requires
> Rates of pay are too low—some agencies have not reviewed rates of pay in 15 years
> This is the only industry where rates have been steadily declining for the past twenty years
> The income is not fair pay for such a responsible, valuable, specialised profession. We are paid less than a cleaner gets per hour and we carry professional indemnity and public liability. 20 years ago I was getting paid more \$ per hour than I am today. 20 years ago cleaners were being paid almost half of what they are paid today. Where is the logic?
> Abysmally low interpreting rates—hourly rates on par with fast-food employees
> Ridiculously low wages for incredibly difficult (if done professionally) work
> The income is just not appropriate, interpreters are not valued and the rates ... are decreasing instead of increasing
> Insufficient remuneration—the present rates ... are in fact quite insulting
> Rates have stagnated. Job security has disappeared entirely ... but rates [have] not risen to compensate
> Everyone is after the cheapest possible solution which by necessity can mean ... a lowering of standards and quality
> The quality of the work plays a secondary role. In this world of easy and quick telecommunications, quotes are easily obtained from many practitioners all over the world, and in the end, those who want to do a good and thorough job get priced out of the market.



This is the only industry where rates have been steadily declining for the past twenty years.

EXPENSES

Expenses emerged as a key concern. 70.1 per cent of respondents indicated that covering expenses was a moderate or significant concern.

“A casual labourer gets \$18 an hour, job security, superannuation, days off, etc. I had \$15 per hour and nothing more but three times the expenses. Who in his right mind would want to do interpreting?”

“... kilometres travelled to and from jobs not paid, booking fee not paid, cancellation fees reduced drastically, term of payment extended to almost two months instead of 14 days—these are the expenses I have to cover ...”

The survey asked Translators and Interpreters about the types of expenses they covered to get a feel for the costs being borne which were, prior to outsourcing, either covered by the employer or not required. The scope of expenses covered was broadranging and is summarised in Table 2.

Table 2—Costs borne by Translators and Interpreters

Travel	Petrol, travel time, parking fees (up to \$12 for 90 minute hospital booking), traffic navigator, road tolls, car maintenance, parking fines when engagement is longer than expected
Stationery	Paper, ink, dictionary, diary, street directory, standard envelopes and express post envelopes, travel log book, photocopying
Communications/ computer	Smartphone or Blackberry (to receive bookings), computer hardware and software including upgrades, broadband internet, home telephone rental and calls, mobile phone, printer, printer consumables, scanner, postage, surge protector, laptop, PAYPAL fees for those who do work for international clients, fax, website design and maintenance, electronic dictionary, electronic diary, translation software, advertising
Training and professional development	Courses, workshops in specialist areas, language development, fees for taking and re-sitting NAATI accreditation tests, reaccreditation costs
Insurances	Professional indemnity insurance, salary continuance in lieu of workers compensation for contractors
Clothing	Appropriate to various work environments for example very dark clothing required by AUSLAN interpreters, sun protection clothing in the case of outdoor work, satchel or backpack, professional clothing suitable for court appearances
Professional memberships	AUSIT, NAATI membership and listing in directory
Home office expenses	Utilities—electricity/gas etc.
Other	Accountant’s fees, bank fees, courier costs, annual police checks, book-keeping.

70.1 per cent of respondents indicated that covering expenses was a moderate or significant concern.

ENTITLEMENTS

Many respondents highlighted the issue of the entitlements they no longer receive, in particular, sick leave, annual leave and superannuation.

A selection of responses is set out in Table 3.

Table 3—Comments on loss of entitlements

> No holiday/sick pay
> Employee entitlements such as holiday and sick leave, superannuation etc. have been lost
> Loss of income, superannuation contributions, sick leave, annual leave
> Sick days pay
> Sick leave, annual leave, some superannuation contribution, car... everything
> Professional indemnity insurance, public liability insurance, income holiday "pay" provision, income protection insurance, no workers compensation.. superannuation, provision for any stress or special circumstances where no pay is earned, private health insurance, parking, comprehensive automobile insurance
> No leave and superannuation entitlements
> Loss of the travel allowance ... loss of superannuation
> Superannuation payments have gone but rates not risen to compensate. Conditions (such as reimbursement of expenses) [have been] eroded.



Employee entitlements such as holiday and sick leave, superannuation etc. have been lost.

HOURS/INSECURE WORK

The lack of paid working hours available, income insecurity and poor quality Translating and Interpreting jobs (defined as jobs which do not provide sufficient income to be the principal employment and/or compensation for income insecurity) were major concerns. 89.4 per cent of respondents indicated that lack of income security was a significant or moderate problem.

A selection of respondents’ comments relating to work insecurity are set out in Table 4 below.

Table 4—Comments on insecure work

> I’ve been working in the industry for 18 years and I have no superannuation, no security and no money. I’ve invested an enormous amount of time and energy in my education and in my work but I have gained nothing. The money I earn merely covers my spendings and the most basic needs. I feel like I’ve volunteered for 18 years because I love to help my community but I haven’t been properly rewarded.
> You can’t really make a living out of Interpreting and Translating
> You will be starved if you rely on this job as a breadwinner
> [You can’t gain] ... sufficient hours to generate a fair income
> Basically, the earning is close to part-time work earning. It is not easy to make a full-time earning for Translating and Interpreting work
> It’s not a career in most cases—more of a paid part-time hobby
> It is impossible to earn a living salary from it
> Not enough income to sustain yourself and a family
> Unstable income
> Because there is so little work around ... not many people can make a living out of this
> Income is not guaranteed
> Full-time positions are very rare ... hence [it’s] hard to get a mortgage or financially support children at school
> No steady income ... not dependable as a full-time job
> The work has become more ad hoc and there is no job certainty and no sense of community
> [There is a] lack of job security, especially for those who are the main earners for their families
> [There is] no predictability of work flow
> Job security has disappeared entirely ... but rates [have] not risen to compensate.

Basically, the earning is close to part-time work earning.

It is not easy to make a full-time earning for Translating and Interpreting work

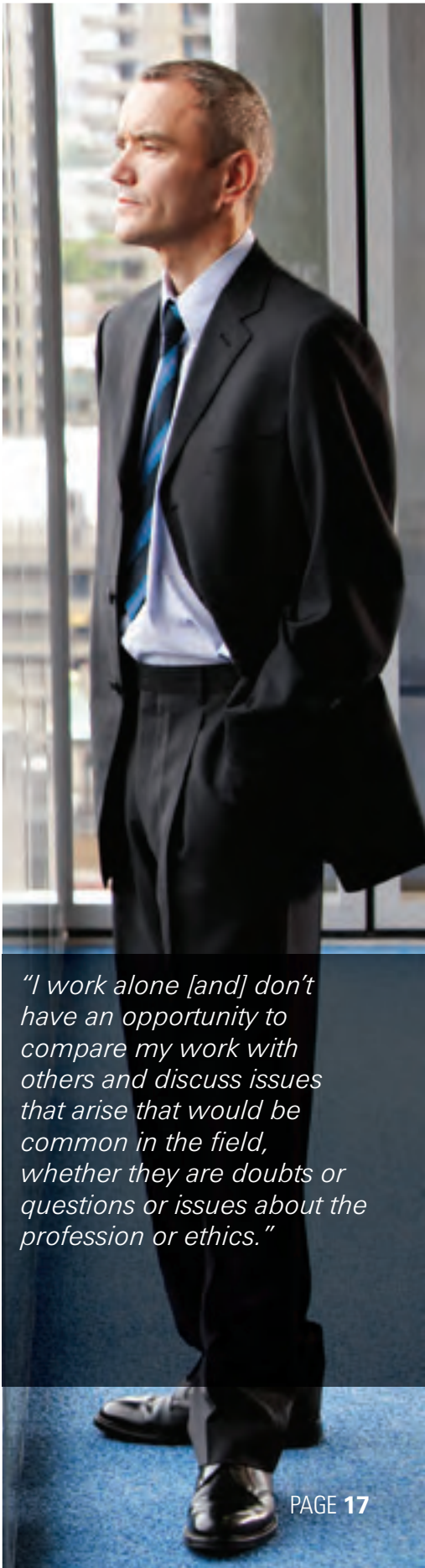
PROFESSIONAL ISOLATION

30.6 per cent of respondents reported professional isolation or lack of interaction with Translating and Interpreting colleagues as a problem.

Table 5 sets out a selection of respondents’ comments on professional isolation and the lack of mentoring or peer support in the Translating and Interpreting industry.

Table 5—Comments on professional isolation and lack of peer support

> It is a very lonely job. You work by yourself and there is no debriefing, can’t talk to your colleagues
> The biggest [problem with lack of interaction] is lack of unity
> It is not a big problem at this stage because I know and have contact with colleagues but this was different in the earlier years of working as a Translator/Interpreter, and I am forever grateful to a couple of senior colleagues for answering my questions and giving me some orientation. I sometimes miss the support of, and more direct interaction with, colleagues ... when problematic situations arise at work
> The interpreter can feel lost and very isolated, which causes stress and makes you feel depressed. As a result ... I have a lack of motivation and am losing interest in the job, even [though] it can be very interesting and enjoyable at times
> I have worked in isolation for nearly 20 years
> There is no sharing of knowledge/problems encountered and this does not allow [you] to grow as a professional
> I do not get to speak with other[s] ... and understand what problems they are having and to be able to speak about the ones I have. It would be great to be able to share experiences
> [It would be good to have the] ability to discuss the practice in general. It is a lonesome role [and it] would be nice to have an opportunity to have “colleagues”
> Generally get a bit lonely just working at home all the time. Would appreciate [the] opportunity to work with others ... and [have] more face to face with clients ... General lack of human interaction ... is a problem
> I never get a chance to debrief with colleagues, even after a very difficult or intense session
> I work alone [and] don’t have an opportunity to compare my work with others and discuss issues that arise that would be common in the field, whether they are doubts or questions or issues about the profession or ethics
> Not able to share resources and knowledge [or] exchange valuable information
> [There is a] lack of sense of belonging
> I would like to have a feeling that I belong to a group of like-minded people. I would like to be able to discuss things that concern me with people that perhaps have gone through the same concerns in the past
> Big time. I feel that we are rivals rather than colleagues
> We have no work mates. No communications between us. We don’t belong anywhere ... It’s a sad job.

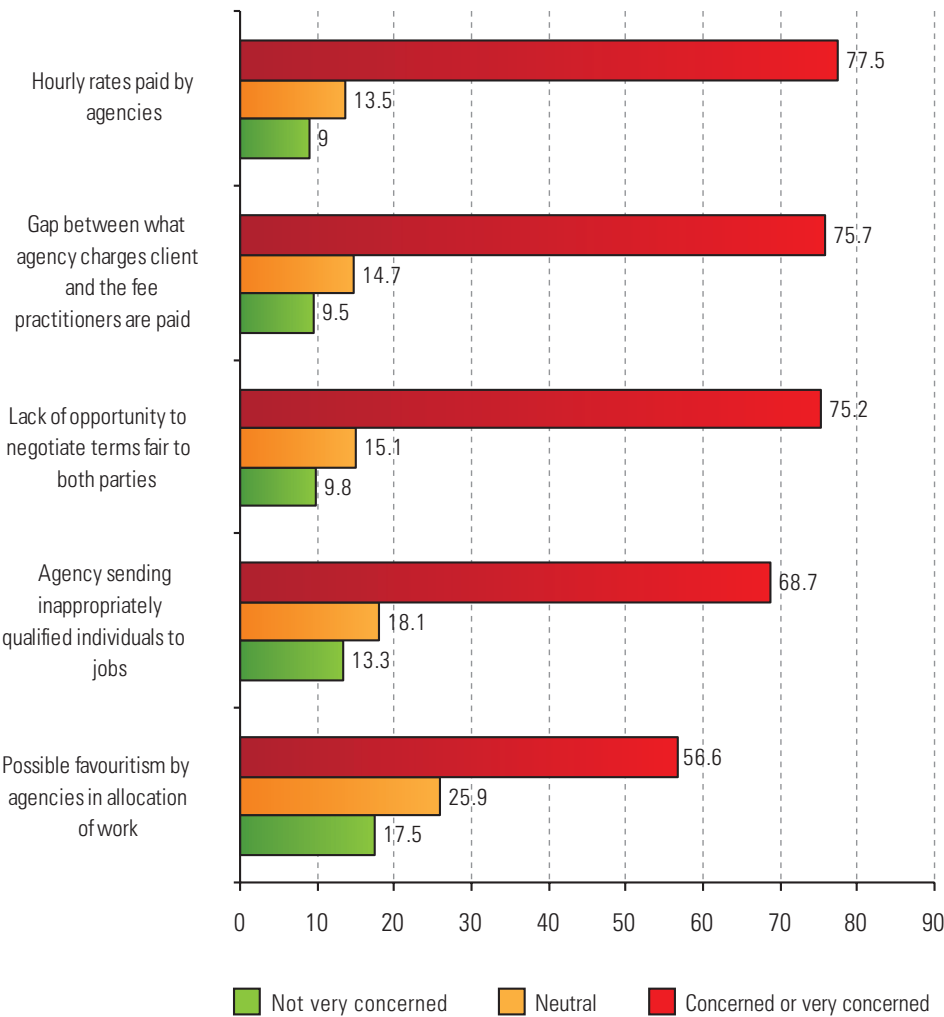


AGENCIES

With most Interpreting and some Translating work sourced via labour hire and booking agencies, the survey explored Translators and Interpreters’ perceptions of the agencies through which they operated.

As the data set out in Figure 3 shows, there was significant concern about hourly rates, the gap between what the agency charged and the fee received by the Translators and Interpreters, the lack of opportunity to negotiate terms fair to both parties, agencies sending non-qualified individuals to jobs and possible favouritism in work allocation.

Figure 3—Concerns about labour hire and booking agencies



... there was significant concern about hourly rates, the gap between what the agency charged and the fee received by the Translators and Interpreters ...

These data highlight the need for labour hire and booking agencies to be part of an industry-wide solution to the issues highlighted.

CONTRACTOR OR EMPLOYEE

The survey indicated that there was some confusion amongst the Translating and Interpreting profession about their status as employees or contractors, and the rights and obligations attached to each method of engagement.

28.2 per cent reported that they did not have a clear understanding of their status as an employee or contractor, and 39.5 per cent did not have a clear understanding of the different rights and obligations attached to each method of operation.

In view of the different definitions of employee/contractor status in different states and under different legislation, the complexity of taxation laws in particular the Personal Services Income Rules, and the recent On-Call decision which established an entitlement to superannuation for those contractors engaged under a contract that is wholly or principally for the provision of labour, this level of uncertainty is not surprising. The extent of uncertainty is potentially understated in the survey because of the lack of understanding of the Translators and Interpreters themselves about how to define their status.

Because of liability for retrospective payments and significant penalties where misclassification occurs, uncertainty about contractor/employee status introduces a high level of risk to the industry and operates as a potential barrier to long-term stability.



28.2 per cent reported that they did not have a clear understanding of their status as an employee or contractor, and 39.5 per cent did not have a clear understanding of the different rights and obligations attached to each method of operation.

DEPROFESSIONALISATION

86.4 per cent of respondents were concerned or very concerned about deprofessionalisation of the industry.

Deprofessionalisation is a process which occurs in a workplace or industry when non-qualified or less qualified individuals are used to perform work which is more properly performed by appropriately qualified/accredited individuals.

It is a defining issue for the Translating and Interpreting profession.

A self-perpetuating Translating and Interpreting profession and industry requires:

- > training and accreditation systems which ensure the consistent supply of high-quality Translating and Interpreting practitioners
- > a relevant current code of ethics and systemic maintenance of ethical standards
- > appropriate rewards and incentives for upgrading training and updating skills
- > a stable employment market and sufficient work opportunities to sustain the local market
- > fair and agreed rates of pay and conditions to avoid aggressive minimising of labour costs or a “race to the bottom”
- > the market and general community to understand that bi or multilingual and non-accredited individuals have not had their language skills formally assessed and should not be engaged in the capacity of a qualified Interpreter or Translator
- > the market to be informed about tradeoffs in price, quality and turnaround time
- > market demand for skilled, experienced and appropriately trained and accredited practitioners.

Deprofessionalisation is clearly a complex issue and a detailed analysis is outside the scope of this report, but respondents’ comments confirmed a range of factors that appear to be contributing to deprofessionalisation in the Translating and Interpreting industry.

These factors include the use or oversupply of non-accredited Translators and Interpreters, little differentiation between rates paid to accredited and non-accredited practitioners, perceptions of declining demand/work opportunities, the fact that those purchasing Translating and Interpreting services are often not informed about tradeoffs in quality, turnaround and price, offshoring and rates of pay in competition creating a “race to the bottom”.

Table 6 sets out a selection of comments around deprofessionalisation.

Deprofessionalisation is a process which occurs in a workplace or industry when non-qualified or less qualified individuals are used to perform work which is more properly performed by appropriately qualified/accredited individuals.

Table 6—Comments on factors contributing to deprofessionalisation of the Translating and Interpreting industry

Use or oversupply of non-accredited Translators and Interpreters	The [problem] ... with our industry is ... the use of non-accredited individuals. As a Professional, I feel like I've wasted two years studying to get the accreditation ... when I see any non-accredited relative, friend or an employee doing my job for the same money or less or even free
	A large number of unaccredited bilingual workers filling interpreting roles are flooding the market. After 12 years working as a professional Interpreter I am finding the industry less attractive
	The rates have been reduced and parasites have entered the industry—bottom-feeder agencies and non-accredited Translators and Interpreters
	The industry lost its better practitioners ... and gained a whole lot of “dodgy” and “bodgy” practitioners
	Putting unprofessional people in these positions looks bad for the industry as a whole and devalues the hard work and dedication people in this industry have for their profession
	The use of unaccredited interpreters posing as professionals is a concern
Declining demand/work opportunities	Because of the economic recession, there are fewer chances for the Interpreters to work
	Globalisation, the internet and advances in machine translation technology ... have contributed to the decline of career opportunities
Purchasers not informed	The real issue for me ... is that nobody advising or selling to the end-customer can sensibly advise the latter about the trade-offs in terms of quality, price and turnaround. Basically, nobody understands how to assess quality
	The rates ... in Australia are low because the services are ultimately being devalued by ignorance
	Government clients tend to get three quotes for smaller jobs and are often not qualified to tell if one Translator is better than another
	[There is no] understanding by those hiring as to what a properly qualified and experienced Interpreter is able to do versus shonky, unqualified and unprofessional speakers of languages
Offshoring	The trend seems to be to source Translating and Interpreting services cheaper and cheaper and pay the Translator or Interpreter less and/or expect more/faster service
	Outsourcing and the development of the Internet has opened the international marketplace to all Translators. It has provided more opportunities but, at the same time, created more competition in terms of fees and turnaround times
	When an organisation like [organisation name withheld] outsources translations to overseas Translators, the situation for local Translators looks bleak
	The number of agencies getting low-paid and very poor quality Translators in developing countries to do the initial translation [is increasing]
	Loss of economic activities to other countries causing local industry to die
	Translation jobs are being done by Translators living overseas who are not NAATI accredited and at a very cheap rate
	[Services are now outsourced to] India and China (globalisation) leading to reduced fees
	Outsourcing to cheaper countries ... can only be detrimental to the profession in Australia
	Lots of inexperienced Translators overseas are used by agencies to perform work previously done by experienced Translators in Australia resulting in the end-users being provided with poorly translated documents without knowing
	Translators outside Australia have been engaged by the agencies as they charge only a fraction of what should be charged in Australia ... so income is lost and therefore the quality of translations is lost
Race to the bottom	It is annoying to have to engage in a game of email ping pong with an agency who offers a piece of work saying they may be given the job and ask me how much (ie how little) would I do it for. They are so obviously sending the same piece of work to other Translators with the same offer. Obtaining work in these circumstances simply becomes a race to the bottom in terms of pay and is usually a waste of my time.

DEPROFESSIONALISATION (CONTINUED)



The consequences of deprofessionalisation are generally lack of public trust in the profession, ineffective use of taxpayer funds and problems with the quality of services provided.

The survey showed evidence of the link between deprofessionalisation and the loss of service quality.

The consequences of deprofessionalisation are generally lack of public trust in the profession, ineffective use of taxpayer funds and problems with the quality of services provided.

The survey showed evidence of the link between deprofessionalisation and the loss of service quality and a selection of indicative comments is set out in Table 7.

Table 7—Comments on the link between deprofessionalisation and loss of service quality

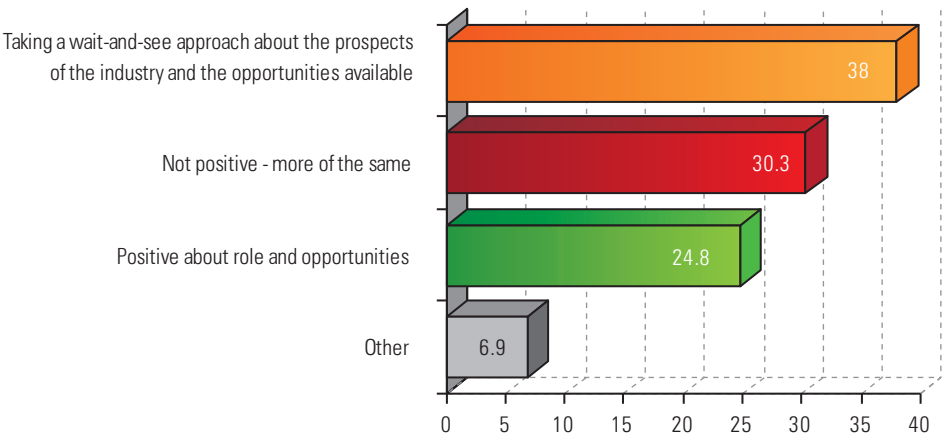
Lack of public trust in the profession	> The industry lost most credibility and interpreters are nowadays not viewed as independent professionals but as “shady” at best
Ineffective use of taxpayer funds	> Unqualified or poor quality practitioners often act in serious court cases covered by the employer’s assurance that they are qualified, with often serious consequences [when they are not]
Problems with quality of services	> Practitioner providers [agencies] don’t really care about the quality of service by the practitioners they provide, their ability, ethics, etc. and client satisfaction > [There are] fewer big jobs and the risk that .. organisations are using unqualified persons and internet tools to obtain an ‘adequate’ translation rather than a professional and reliably accurate translation by a qualified Translator > Everyone is after the cheapest possible solution which by necessity can mean also a lowering of standards and quality > Quality has plummeted > There are a lot of companies who don’t understand the process of translation and either go for the cheapest quotes resulting in their documents being poorly translated, or ask their translation agency to turn around large documents within a very short space of time. The latter results in the agent having to employ many Translators and often nobody is coordinating terminology issues. This process produces a non-coherent document where important key words are translated in many different ways and the document will be very confusing to end-users.

The comments set out in Tables 6 and 7 show that deprofessionalisation has the potential to seriously compromise the credibility of the industry and operates as a considerable barrier to creating a sustainable local Translating and Interpreting industry.

PERCEPTIONS OF THE INDUSTRY AND EMPLOYMENT INTENTIONS

Almost a third of respondents said they were intending to leave the profession in the next five years. As set out in Figure 4, only 24.8 per cent said they were positive about the role and opportunities available in the Translating and Interpreting industry in the upcoming 12 months, while 30.4 per cent reported that they were not positive and expected more of the same. 38 per cent said they were taking a wait-and-see approach about prospects in the industry and the opportunities available.

Figure 4—Perceptions of industry over next 12 months



Of those who were intending to leave the profession, a massive 83.8 per cent said a review of their hourly rate would alter their intention while over half said having some or all of their expenses paid would positively affect their intentions. As set out in Table 8, other actions which would affect respondents’ intention to leave the industry included a review of workload to provide fewer or a greater number of hours, a review of the availability of training and professional development opportunities, more flexible work arrangements and more notice of cancellations.

Table 8—Factors which would affect intention to leave the profession

	Per cent
Review of hourly rate	83.8
Some or all of your expenses being covered	52.0
Review of workload to provide fewer or a greater number of hours	43.0
Review of the availability of training and professional development opportunities	30.7
More flexible work arrangements	20.2
More notice of cancellations	18.8

Another of the more critical findings overall was that 57 per cent of respondents said they thought the industry was becoming less attractive to new people. This combined with the fact that 77.8 per cent said they were not aware of mentoring and peer support being made available to those entering the profession suggests that attraction and retention of quality Translating and Interpreting professionals to the industry is potentially a major problem in the longer-term.



Only 24.8 per cent said they were positive about the role and opportunities available in the Translating and Interpreting industry in the upcoming 12 months, while 30.4 per cent reported that they were not positive and expected more of the same.

CONCLUSION

This report details a range of serious barriers to the ongoing development of a stable skilled national Translating and Interpreting workforce with the capability and capacity to meet the needs of the community over the next decade.

The survey findings confirm that the Translating and Interpreting Industry is at the crossroads with widespread concern about recognition of the value of Translating and Interpreting services, remuneration and conditions for Translators and Interpreters, the role agencies play in the industry, and lack of clarity and uncertainty around contractor/employee status, with deprofessionalisation of the industry, professional isolation and lack of peer support all acting as disincentives to remaining in the industry.

The survey highlighted the extent of the threats to the viability of the industry, the need for the reinforcement of professional identity for Translators and Interpreters, the importance of a considered and consultative industry-based approach to reform, and the fundamental links between recognition, reward and service quality.

Unless the barriers identified in this report are acknowledged and the threats to quality and professionalism in the industry addressed, we risk losing the opportunity to create a sustainable world-class Translating and Interpreting industry in Australia as we move toward 2020.



ABOUT THE SURVEY

The online survey was conducted by APESMA from late December 2011 through to early 2012 using Survey Monkey. The sample was drawn from the NAATI National Directory and comprised those who were engaged as contractors or employed or usually employed as Translators and Interpreters either through an agency or other means and was directed at both Translators and Interpreters although some respondents noted that some of the questions were more relevant to the community interpreting field. Respondents were from 72 language groups and worked across specialisations including courts/legal, health/medical, economics/political, conference, Centrelink/social security, education, tourism, technical, United Nations, theology, marketing/advertising and commercial/business. The sample also included Australian Sign Language (AUSLAN) Interpreters.

A total of 2680 surveys were circulated by email with 247 returned due to incorrect or out-of-date email address. A total of 840 Translators and Interpreters completed and returned the survey meaning the response rate was 34.5 per cent. Responses were split 36.1 per cent male and 63.9 per cent female broadly reflecting the gender breakdown of the Translating and Interpreting workforce reported by the 2006 Census which was 32 per cent male and 68 per cent female.

The survey utilised qualitative as well as quantitative methods to draw out detail and variation as well as patterns and convergences in responses.

ACKNOWLEDGEMENT

APESMA would like to thank the Translators and Interpreters who took time out of their busy schedules to help us understand their experiences, and provide considered comments on their profession and industry.

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**Association of Professional Engineers, Scientists
and Managers, Australia (APESMA)**

GPO Box 1272, Melbourne, Vic. 3001



e: translatorsandinterpreters@apesma.com.au
w: www.apesma.com.au/groups/translators-and-interpreters

t: **1300 APESMA | 1300 273 762**

THE CASE FOR CHANGE

Consequences and costs of failures
in the translating and interpreting industry



APESMA
Making a positive difference
to professionals at work



The case for change: a report on consequences and costs of failures in the translating and interpreting industry

Association of Professional Engineers, Scientists and Managers, Australia (APESMA), 2013

ABOUT APESMA

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is an organisation registered under the Fair Work Act 2009 representing over 25,000 professionals including professional engineers, scientists, veterinarians, surveyors, architects, pharmacists, information technology professionals, managers and translating and interpreting professionals throughout Australia.

APESMA is the only industrial association to represent exclusively the industrial and professional interests of these professionals. This paper was prepared with the assistance of APESMA's translator and interpreter members.

e: translatorsandinterpreters@apesma.com.au

w: www.apesma.com.au/groups/translators-and-interpreters

t: 1300 APESMA | 1300 273 762

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What becomes clear is that the quality of translating and interpreting services is not only an issue of access and equity - but one of risk. This paper reveals an extraordinary level of unmanaged risk and exposure to serious litigation across multiple settings when the system fails

Chris Walton, APESMA CEO

A note about our framework

Direct quantification of the value of translating and interpreting services and the cost of failure can be problematic. The reasons are threefold: the first is the sheer diversity of settings in which the work of translators and interpreters occurs making it difficult to capture and measure consequences; the second is that translating and interpreting services are “enablers” which makes it difficult to capture the cost and value of outcomes which arise as a consequence of the services provided; and the third is the economic paradigm through which value and failure are generally evaluated.

Some would suggest that consequences that are difficult to quantify should not be included in an analysis of risk and the cost of failure. APESMA would argue that to omit these consequences effectively values them at zero which is the only value we know they do not have. We do not see it as sufficient to focus exclusively on quantifiable economic consequences such as lost job opportunities, the cost to taxpayers of aborting or appealing court cases, waste resulting from inappropriate or inefficient procurement processes and/or unnecessary expenditure. We are of the view that the difficult to quantify but nonetheless real costs of failure in the form of, for example, diminished empowerment, stress on individuals and families and pain and anguish following a delayed or incorrect diagnosis, a suspension of payment based on inaccurate information, or a wrongful conviction and subsequent jail term are critical to understanding the real costs and real risks - financial and otherwise - of system failure.

Scope of this paper

Among the most critical settings in which translators and interpreters work are medical and health, court and legal, government service provision (such as Centrelink) and immigration. Translators and interpreters help maintain the integrity of our courts and justice system, ensure access to health care services and medical information, play a critical role in providing access and equity in relation to the delivery of human services and government programs, and have a fundamental role in the management and delivery of immigration services. Examples of failure and risk in these settings are the focus of this paper.

Acknowledgements

In looking at the court/legal setting, this report draws on the work of Sandra Hale and her report “Interpreter Policies, Practices and Protocols in Australian Courts and Tribunals”¹ and, in the medical/health context, on the work of Rachel Vanstone and the 2012 Foundation House report called “Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health”.² We acknowledge their absolutely critical contributions to the understanding of problems and solutions in these settings. This paper reproduces some of the failures in the specialised medical/health and court/legal settings set out by Hale and Vanstone in their reports.

We also acknowledge the 2009 report of the Commonwealth Ombudsman’s office “Use of interpreters” in our analysis of problems evident in the important setting of the delivery of federal Government services.³

We would also like to acknowledge the contribution of translators and interpreters who provided many of the examples of system failure included in this report.



FOREWORD

The consequences of translating and interpreting failure can be devastating.

In the medical/health setting, lives may be endangered, families and individuals may experience severe stress and trauma, quality of life may be significantly reduced and additional unnecessary burden may be imposed on the health care system.

In the legal context, the effects can be miscarriages of justice, aborted trials, wrongful arrests and convictions, inappropriate sentencing, misunderstood bail conditions, inappropriate jail terms, misinterpreted community orders and/or charges which can compromise the system's integrity and result in additional workload for an already overloaded court and legal system.

In the context of the delivery of Australian government services and programs, the consequences of failure can range from wrongly suspended payments, to incorrect debts being raised against individuals, to failure to access government programs due to lack of understanding of the program itself or the documentation that underpins it.

In the immigration setting, protection visas and refugee applications may be wrongly granted, refused or cancelled and the integrity and fairness of the system compromised. The reasons for an irregular maritime arrival may be misunderstood, the information presented to Refugee Review Tribunal and Migration Review Tribunal hearings may be inaccurate or distorted and even foundation documents such as the rights and responsibilities agreement provided on arrival misinterpreted.

The failures in process, protocols and policy set out in this document show that the way provision of translating and interpreting services is currently handled can result in significant costs in human/social terms across the health, legal, government and immigration settings.

What becomes clear is that the quality of translating and interpreting services is not only an issue of access and equity - but one of risk. This paper reveals an extraordinary level of unmanaged risk and exposure to serious litigation across multiple settings when the system fails - the evidence confirms that there is a clear and urgent need for change.



Chris Walton
APESMA CEO

What happens when a translator or interpreter should be engaged and isn't, or when the person providing the translating or interpreting service doesn't have the experience or the level of training needed?

INTRODUCTION

We know that the work of translators and interpreters is widely misunderstood and often undervalued.

They perform a vital service for the community and contribute their expert skills in a diverse range of settings. They are a means to providing access and equity for those who face language barriers to full participation in the community and they play a vital role in maximising the social and economic benefits of Australia's cultural diversity.

But what happens when a translator or interpreter should be engaged and isn't, or when the person providing the translating or interpreting service doesn't have the experience or the level of training needed? What happens when those in institutional settings don't understand the role of the translator or interpreter? How do we evaluate and quantify costs, gain a proper appreciation of the nature and extent of consequences, and manage the risk attached to system failures when they occur?

This paper considers these questions and details some examples of consequences when failures occur in the medical/health setting, the court/legal setting, the government services setting and the immigration setting.



MEDICAL/HEALTH SETTING

Translators and interpreters provide a vital means of communication between patients, their families and their medical practitioners.

Making sure you have the best possible services in place is vital in ensuring that what is being provided by way of treatment is what is needed in the patient's circumstances. Lack of communication or miscommunication can have catastrophic consequences.

As set out by Vanstone in the Foundation House report, in the medical and health contexts, failure to engage qualified experienced interpreters can lead to:

- > reduced quality of care;
- > reduced client safety and compromised patient care;
- > reduced/compromised access to health care;
- > stress and trauma for patients and families;
- > lack of patient comprehension of medical procedures and failure to obtain informed consent; and
- > unnecessary health expenditure.⁴

There are also serious consequences when breaches of professional ethics occur and/or where health professionals are unaware of the requirements and parameters of the translator/interpreter's role.

Reduced quality of care

Some examples of reduced quality of care include misdiagnosis, errors and misunderstandings about treatment plans, failure to provide oral interpretation or written translations of important documents, delayed or misunderstood reporting of symptoms – each of which have potentially dire consequences.

When I had a caesarean I did not have an interpreter. I was by myself in the room with the doctor and nurses. I would have liked one there, especially to explain all the anaesthetic things and what was going to happen, actually for many things.

Nicolaou, M. (2011) The pregnancy and birth experience of women from refugee backgrounds living in the Outer East of Melbourne, EACH Social and Community Health, p.12 in Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.18

Failure to engage a qualified interpreter was considered by HREOC to be a contributing factor to the involuntary commitment of a Bosnian refugee with an intellectual disability who was misdiagnosed as having PTSD (post-traumatic stress disorder)

HREOC, (2005) Not for service: experiences of injustice and despair in mental health care in Australia, p.262 in Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.19

A client of a refugee background was admitted to [a] Melbourne hospital via the Emergency Department with breathing difficulties and was isolated with suspected TB. Hospital staff and visitors wore full gown and mask. The hospital did not have an interpreter on staff that spoke Kirundi, Swahili or Congolese. Ward staff decided not to use an interpreter as the woman's children (aged 13 and 15) spoke good English. A social worker visited the client two days later and arranged a phone interpreter where it was discovered that the client was frightened that she was dying of AIDS as she had seen a lot of this in Africa.

Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.23

I was asked to interpret over the phone when the doctor was getting consent for a procedure.

[Translator, 2012]

I was left alone to complete forms with patients and to sight-translate documents for them.

[Translator, 2012]

The Kimberley Interpreting Services (KIS) states that 'Low levels of communication between health professionals and their patients lead to inadequate diagnosis and poor treatment.'

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p.13

Reduced client safety and compromised patient care

Some of the specific consequences include medication errors such as when to take medicine and the correct dosage, and failure to understand instructions including those of GPs, medical specialists explaining procedures and hospital staff explaining discharge instructions.

A 35-year-old woman who was an Afghan refugee who spoke very little English presented with pain and swelling in her left leg. Her 15-year-old daughter spoke on behalf of her mother. The GP explained he thought the patient may have a deep vein thrombosis and needed to either go immediately to the local hospital for investigation or to the local radiology clinic for a test to determine if a clot was present, providing the daughter with a referral and letter. The patient and her daughter had gone home and waited for the arrival of other family members who were able to read English to explain the content of the GP's letters to them. Unfortunately the patient died two days after the consultation after collapsing at home before those with English skills were able to explain the letters.

Bird, Sara.(2010) Failure to Use an Interpreter. Australian Family Physician, Vol. 39, No. 4, Apr 2010: 241-242.

A client told of waiting in a GP clinic for 4 hours, as the clinic had a policy of not engaging interpreters. When another community member arrived for their own appointment and offered to help the participant with translation, the assistance was gladly accepted. Unfortunately, the community member incorrectly interpreted that the medication being prescribed is in order to help the client put on weight. The client refuses to take the medication as a result of this misinformation. A subsequent visit to her GP with the use of an interpreter revealed that the medical was actually to reduce cholesterol.

EACH (2011) Refugee Health Nurse Program Evaluation Project 2011, p. 22

An interpreter I know turned up at a hospital and was asked to sight-translate a 22 page document for the patient in a clinical trial and then sign it with the patient.

[Translator, 2012]

Several health service providers stated that communication difficulties made it difficult to make Indigenous patients comprehend the importance of medication, the need for medication to be taken regularly and the correct dosage to be taken. [A health administrator] in Broome recounted overhearing a conversation between two nurses at the Broome hospital just prior to discharging an Indigenous patient who did not speak English. She said that having wondered what to do with the prescribed medication, the nurses decided to just put it in his bag because they felt "he wouldn't take it in any case".

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p.15

Reduced/compromised access to health care

Specific consequences include failure to obtain necessary information from patient, to communicate instructions to ensure the accuracy of the test and to communicate the results of tests back to the patient.

I went to have some blood tests. The person doing the test was asking me questions but I couldn't understand anything. There was no interpreter. I couldn't ask for one because I don't speak any English. Some days later they called me on the mobile. He was talking in English. I tried to get someone off the street to listen and translate but the doctor just kept talking, talking and then hung up the phone. I don't know how to get the results of my tests

Brough, C. (2006) Language Services in Victoria's Health System: Perspectives of Culturally and Linguistically Diverse Consumers, CEH, p.14 cited in Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.18

Stress and trauma for patients and families

The consequences of using minors and/or family members as interpreters are potentially dire with significant impacts on quality of care.

I was very embarrassed to be talking about my pregnancy with my son and I could see that he was not very happy or comfortable himself.

Australian Human Rights Commission (2010), In our own words African Australians: A review of human rights and social inclusion issues, p.18 cited in Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.23

If I wanted to go to the doctor, my daughter has to cancel her day from school and then take me.

Hunderson, S. and Kendall, E. (2011), Culturally and linguistically diverse peoples' knowledge of accessibility and utilisation of health services: exploring the need for improvement in health service delivery, Australian Journal of Primary Health, Vol. 17, p.197- cited in Foundation House, (2012) Exploring Barriers and Facilitators to the Use of Qualified Interpreters in Health, p.23

I went to the Monash Medical Centre and was told to go home by the doctor because the family is interpreting for the patient and he didn't need me.

[Translator, 2012]

When telephone interpreting is offered to doctors in hospitals (particularly for late afternoon and emergency department appointments), many doctors refuse as they consider it sub-optimal care. Unfortunately, this then puts the patient in the position of having to use a bilingual relative instead, or reschedule the appointment. The latter rarely happens.

[Interpreter, 2013]

Lack of patient comprehension of medical procedures and failure to obtain informed consent

Failure to use an interpreter can lead to significant anguish and trauma when a patient does not understand the procedure or surgery which is to be, or has been, performed. There are potential legal implications where patients experience the types of compromised health care set out in the examples below for the health practitioners, surgeons and hospitals who perform procedures and surgery without obtaining informed medical consent.

An interpreter was called to attend a pre-admission interview for tympanoplasty surgery. During the interview it emerged that a bilingual relative had been the interpreter for the consent, and it became clear that the patient had not understood the nature of the operation and was having a panic attack. The relative could not understand why the patient was worried about the operation since it would improve the patient's hearing and quality of life. Asked what was the matter, the patient explained that for three months since the consent there had been moments of panic and sadness and sleeplessness, and even thoughts of self-harm, because of knowing the ear was going to be removed and a patch of skin put in its place. The interpreter and medical staff were able to reassure the patient that this was not the case, and that it was only the hole in the eardrum which was being fixed using a skin graft. Nevertheless it took a long time to calm the patient down. Who can compensate for three months of unnecessary anguish?

[Interpreter, 2013]

[A health worker] stated that a significant number of Aboriginal patients did not understand interactions with health professionals, adding that she had come across cases of Indigenous post-surgery patients who were not aware of the nature of the surgical procedure they had undergone.

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p. 14

Multiple participants spoke of an incident in a local hospital where a refugee client was awaiting surgery to remove a pin from inside one of their limbs. The interpreter provided was of a different dialect, and incorrectly interpreted that the surgeon needed to remove the limb. The patient was prepped and about to be given anaesthetic. Faced with a sudden and unnecessary amputation, the patient became extremely distressed. It was not until another concerned passer-by investigated further that the dialect mismatch was discovered. An interpreter from the correct dialect was then engaged and the situation which had caused this patient such unnecessary distress was resolved.

EACH (2011) Refugee Health Nurse Program Evaluation Project 2011, p. 23

A dental hospital had adopted a policy that interpreters must be used when working with patients who didn't speak English, but when a problem with high interpreting budget costs in their student clinic arose, they "solved" the problem by issuing a directive that interpreters were only to stay for one hour and that it was the responsibility of the interpreter to leave when the hour was up. The student would generally perform a variety of tests to diagnose the problem and develop a treatment plan. Problems arose when the interpreter would be required to leave prior to the explanation of the proposed treatment plan following the tests and diagnosis. On one occasion, a patient who spoke and understood very little English was distressed about the interpreter having to leave prior to the student's diagnosis and explanation of the treatment plan. In desperation he offered to pay the interpreter himself. In this case, because the interpreter pointed out how critical it was that they remain on site for the explanation of the treatment plan, the Clinic agreed to pay for the additional time but the incident clearly shows patients are being denied essential information about their dental health.

[Interpreter, 2013]

Reports of several cases of patients giving consent to surgery at doctors' private practices without an interpreter, or even sent to the hospital without a correctly completed consent form with nurses, anaesthetists and interpreters on the day of the operation left to bear the brunt of the patients upset, or even rage, at not knowing exactly the nature of the operation. In one case, the patient refused to consent to the operation and asked to leave.

[Interpreter, 2013]

Unnecessary health expenditure

Unnecessary health expenditure as set out in the Foundation House report include:

- > Higher attendance rates at clinics;
- > Increased diagnostic investigations;
- > Higher hospital admission rates;
- > Increased length of stay in hospital and emergency departments;
- > Decreased likelihood that clients will seek early treatment at the onset of cardiovascular disease;
- > More frequent intravenous hydration;
- > Higher emergency department return rates; and
- > Higher rates of failure to attend appointment rates (client does not know about the appointment).⁵

The Ethnic Communities' Council of Victoria's "An Investment Not an Expense"⁶ paper talks about health literacy defined as "the degree to which individuals have the capacity to obtain, process and understand basic health information and services needed to make appropriate health decisions"⁷. They suggest that there are strong correlations between low health literacy and higher rates of hospitalisation, and that increasing health literacy is likely to reduce health costs through the prevention of illness and chronic disease.⁸ "Non-English speaking patients", they suggest, "are found to spend more time in hospital, be more likely to suffer adverse clinical reactions and have higher readmission and diagnostic testing rates."⁹ The paper goes on to cite an example where increased investment in language services resulted in larger cost savings elsewhere:

Northern Health found that, by increasing interpreter requests (from 17,000 in the 2007-8 financial year to almost 40,000 in the 2010-11 financial year), increasing in-house staff, providing transcultural training sessions and translated documents, they were able to reduce the length of stay (LOS) for CALD patients by almost three days. Northern Health is now able to see more patients every year than was previously possible, because patients spend less time in hospital; hence the unit cost per patient staying in hospital has dropped dramatically, while at the same time patient health has improved.

Ethnic Communities' Council of Victoria (2012), pp.20-21

From Diversit-e issue 2, 2010, a diversity health e-magazine

The cost of providing interpreter services for patients who do not speak English well is often seen as prohibitive. In reality the costs of failing to address language barriers in health care settings is greater. Inability to communicate effectively with patients from non-English speaking communities can compromise patient care and influence the capacity to obtain informed consent, ensure medication compliance and provide appropriate emergency treatment.

Research indicates that providing health care interpreters to non-English speaking patients can actually reduce costs. Using professional interpreters in hospital settings can shorten the time patients from non-English speaking backgrounds spend in emergency departments. Employing interpreters can also reduce follow up visits and ensure compliance with out-patient visit schedules and drug regimes. Patients are generally more satisfied with their hospital experience when a professional interpreter is provided.

... the use of professional interpreters can reduce communication and medical errors; increase patient comprehension; improve clinical outcomes; increase patient satisfaction and contribute to improved access to services.

Source: Diversit-e issue 2, 2010, a diversity health e-magazine

Breaches of professional ethics and/ or health professionals being unaware of the parameters of the translator/ interpreter’s role

There are also serious failures in the system when medical and allied health professionals are not aware of the relevant guidelines and code of ethics which apply and interpreters are asked to act in a manner inconsistent with them.

.....
In a Victorian public hospital, the doctor explained to the patient the risks of laparoscopy. It was the first time the female patient had heard of the procedure and she asked the interpreter directly what she should do. The interpreter replied that she couldn’t give any advice and then told the doctor what their brief exchange was about (which is what interpreters are meant to do i.e. report all exchanges that may occur during an interpreting session). The doctor replied “What do you mean you can’t give her advice? Surely you have an opinion about it? There’s nothing wrong with telling her what you think.” Throughout the rest of the consultation the doctor tried to get the interpreter to convince the patient she should have a laparoscopy.

[Interpreter, 2013]

.....
At the end of a medical appointment with an Italian patient (who was perfectly courteous and as helpful as he could be, but obviously had little or no English language skills), the doctor was writing up his notes and muttered to me that “you might as well be working with animals”. I was so stunned all I could say was “I beg your pardon?” but I told the agency employing me about the incident and said I would not work again with that doctor and that I thought he should be reported. He wasn’t of course, and for all I know he might still be treating patients with the same brutish ignorance, much as I hope not.

[Interpreter, 2013]

.....
The doctor said to the client: “How long have you been living in Australia?” She said that she’d been here 15 years, to which the doctor replies: “I don’t think you need an interpreter. Your English seems perfect to me”. He nevertheless allows the interpreter to do her work.

[Interpreter, 2013]

.....
Halfway through the appointment the patient is asked to go to another room and change. The interpreter is asked to go with her to “help her get undressed and stay there in case she needs any help”.

[Interpreter, 2013]

These examples of failures in process, protocols and policy show that the ways translating and interpreting is currently handled pose serious threats to life, health, safety and/or well-being.

Australians are rightly proud of their universal health care system. Everyone, regardless of who they are, should be able to access medical help, where and when they need it – and that includes those who require interpreters. The evidence outlined herein serves to underline the urgent need for intervention/action to ensure equitable health outcomes and mitigation of risk through high-quality, reliable and easily accessed translating and interpreting services.

I went to have some blood tests. The person doing the test was asking me questions but I couldn’t understand anything. There was no interpreter. I couldn’t ask for one because I don’t speak any English.



LEGAL/COURT SETTING

Our justice system relies on the accurate transmission of facts and their accurate recording. A fair system is one in which our legal system is transparent and understandable to all participants.

But what happens when parties to proceedings can't understand – or are informed incorrectly about – the matters under consideration? The legal system is complex and governed by rules, proceedings and terminology which are specialised and difficult to understand, even for many with English as a first language. Justice can only be served when interpreting services of a high-standard are available when people require them.

As set out by Hale¹⁰ in her survey of Australian courts and tribunals, in the legal and court contexts, failure to engage qualified experienced and adequately trained interpreters can have wide-ranging implications.

Documented consequences include:

- > flawed interpreting processes or failure to engage an accredited interpreter leading to aborted trials, criminal convictions being overturned and serious charges unable to be pursued;
- > lack of access to impartial and informed advice with the inappropriate use of family and community members and other non-disinterested parties for translating and interpreters in specialised field;
- > waste in the form of unnecessary expenditure on appeals and re-running aborted trials;
- > compromised access to right to legal process, representation and documentation in own language leading to wrongful convictions, inappropriate or incorrect charges being laid, mitigating circumstances not being taken account of, lack of comprehension of bail conditions, sentencing, charges and court proceedings generally; and
- > in the case of domestic violence and sexual assault, serious consequences including stress and trauma for victim and relatives including children asked to interpret for them, inappropriate intervention or advice, failure to provide access to legal rights including protection, conflicts of interest and breaches of confidentiality.

Flawed and unjust legal proceedings

Consequences of the failure to provide appropriate interpreting services include aborted trials in serious cases such as alleged murder, sex offences and drug dealing, as well as criminal convictions being overturned and serious charges unable to be pursued.

There was a case in the Northern Territory involving an Aboriginal who was deaf, and he was charged with murder - the Ebatarinja case. In that case they couldn't find a suitable interpreter with the necessary qualifications, so the accused was unable to understand the charges. In spite of this, they had a preliminary hearing, and the legislation covering that preliminary hearing required it to be conducted in the presence or hearing of the defendant, and then the defendant, having heard that evidence, has a right of reply. The High Court said that preliminary hearing was a nullity, because the defendant was not present for all intents and purposes. They had to go back to stage one of the trial process and have another preliminary or committal hearing.

Reported in the ABC Law Report - 22.5.2007 - <http://www.abc.net.au/radionational/programs/lawreport/interpreters-in-the-courtroom/3250562> (Ebatarinja vs. Deland (1998) 194 CLR 44)

The effect of the decision was that the murder charge was permanently stayed.

Equal Opportunity Commission Western Australia (2010), Indigenous interpreting service: is there a need?, p.16

Stepan Kerkyasharian is chair of the New South Wales Community Relations Commission. One of the commission's jobs is to run the interpreter services used by New South Wales courts. He takes the commission's role very seriously, because he says there was a case some time ago where a convicted drug dealer was effectively let off the hook and his conviction overturned because of flaws in interpreting.

Reported in the ABC Law Report - 22.5.2007 - <http://www.abc.net.au/radionational/programs/lawreport/interpreters-in-the-courtroom/3250562>

In Kalgoorlie recently the District Court was forced to abort a case because of the unavailability of an adequate interpreter for the accused. The accused was charged with serious sexual offences.

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p.17

Lack of access to impartial and informed advice with the inappropriate use of family and community members

The consequences of the inappropriate use of family and community members is a fundamental lack of access to impartial and informed advice or representation as shown in the examples below.

The following appeared in a local newspaper in Ryde, NSW - Gladesville police are seeking volunteers who speak fluent English and another language to develop a register of local residents willing to assist in dealing with victims of crime. Police often deal with people who do not speak English and need to exchange information in a prompt manner. Once established, police may call upon a volunteer on the register by phone to help in translating information to victims of crime. All languages are sought after, however translators in immediate need include Korean, Mandarin and Cantonese speakers. Call the Gladesville Police on [number withheld] for further information.

Children as young as 10 used as interpreters in Family Court counselling

Family Court Chief Justice Alastair Nicholson said ... that the court faced a considerable shortage of qualified interpreters. A senior Family Court staff member said children as young as 10 had interpreted for parents in counselling sessions concerning issues such as child custody. Justice Nicholson said interpreters were usually available for court hearings but not always for counselling. So children and other family members filled in. "What in fact ends up happening is sometimes children are involved as interpreters, or other family members, and that's not satisfactory," he said. Justice Nicholson said people were being forced to discuss intimate details in front of their children and other relatives. "What we find is unsatisfactory is there is insufficient government funding, particularly Federal Government money." A spokeswoman for Commonwealth Attorney-General Daryl Williams said last night that providing interpreting services was a matter for the court.

Fergus Shiel, Law Reporter, date: 30/04/2003, Publication: The Age, p.3

I was talking to a Chinese lawyer the other day in [the Magistrates] court. He told me that he has always translated all his clients' Chinese documents although he is not an accredited translator. He would then ask his clients to sign a document stating they were accurate translations of the original. Bi-lingual lawyers who are not accredited interpreters interpret for their clients in courts and magistrates allow this to happen.

[Interpreter, 2012]

In the Supreme Court a judge tells the defence lawyer: 'Your client doesn't need a professional Interpreter - he can get a friend or a family member to help him next time'.

[Interpreter, 2012]

Waste in the form of unnecessary expenditure on appeals and re-running aborted trials

Translation disparity leads to aborted trial

A dispute about the alleged mistranslation of the Indonesian word for push has cost taxpayers tens of thousands of dollars after it caused a criminal trial to be aborted. The suspected mistake occurred as an accused Indonesian people smuggler gave evidence in the New South Wales District Court last month.

The matter was raised by an Indonesian speaking juror in a note to the judge alerting him to some discrepancies in the translation of the questions put to the accused. The problem, which retired District Court judge David Freeman said he had not encountered in 31 years on the bench, led to the discharge of the jury on the 10th day of the trial, which will have to be held again next year.

In a second note, the juror gave two examples: in one the words 'did you stop anyone moving' were allegedly translated as 'did you push anyone' and in the other the interpreter allegedly translated the word 'deny' as 'push'.

The head of the school of language and linguistics at the University of NSW, associate Professor Ludmila Stern, said some interpreters were not very good and their work should be assessed by independent experts or other interpreters.

In this case, lawyers debated for several hours if the trial should be aborted, or the accused be asked to give his evidence again with the help of another interpreter. Ironically, the interpreter criticised by the juror was used only after the accused's lawyer had criticised an earlier interpreter.

The problem was exacerbated because the juror had told the other jurors about the observations.

Judge Freeman said he could not question the juror to determine what the impact on the jury might have been because 'I must not intrude into the jury room. I can't ask you questions about what you are thinking or why you are thinking it because that would be entirely improper. Eventually, he agreed that the trial had to be aborted.'

Geesche Jacobsen, date: 8/11/2011, Publication: The Age

Also reported in ABC Law Report - 6.12.2011 - <http://www.abc.net.au/radionational/programs/lawreport/courtroom-interpreters/3713316>

In this particular trial, the charge was sexual harassment. The court interpreter used the word rape for sexual harassment, believing that, culturally speaking, they were dealing now with rape - the cultural interpretation got in the way of the semantics. In this case, the defence was alerted to the situation by an instructing solicitor who spoke Arabic and who drew their attention to the fact that the interpreter chose the word 'rape' whereas the interpreter should have used the word 'sexual harassment' and the defence actually spoke to the judge and they had to abort the case because of the confusion between the words sexual harassment and rape.

Reported in ABC Law Report - 6.12.2011 - <http://www.abc.net.au/radionational/programs/lawreport/courtroom-interpreters/3713316>

A 2010 research project found a total of 119 appellate cases in which the standard of interpreting was cited as one of the grounds for appeal. This figure did not include cases where no interpreter was booked for the hearing, trial or interrogation when the person involved needed one, where an interpreter in the wrong language or dialect was booked or where the record of interview was conducted through bilingual police officers, family members or other ad hoc interpreters. The data was largely made up of criminal appeals and appeals against Refugee Review Tribunal decisions.

Hayes, A. & Hale, S. (2010). Appeals on incompetent interpreting. Journal of Judicial Administration 20, pp. 119-130

... the availability and utilisation of interpreters in the provision of services to Indigenous people will lead to efficiency in service provision by minimising duplication and wastage. For example, magistrates have stated that they have been required to postpone court cases due to a suitable interpreter not being available.

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p. 4

Compromised access to right to legal process, representation and documentation in own language

The consequences include wrongful convictions, inappropriate or incorrect charges being laid, mitigating circumstances not being taken account of, and a lack of comprehension of bail conditions, sentencing, charges and court proceedings generally.

There was a case in 1998 - Gradige and Grace Brothers. The case which began in the Compensation Court and then went to the New South Wales Court of Appeal involved a deaf worker who was using an Auslan or sign interpreter. She was in the witness box giving her evidence, and then legal argument began about some question that was asked or some answer that she gave. So the legal argument commenced, but the interpreter kept signing, and the employer's counsel essentially told him to stop, the worker's counsel said 'Yes, that's fair enough, he should stop,' and indeed the judge then directed the interpreter to stop.

The interpreter refused saying essentially, 'It's my job to interpret everything taking place in this court, and I have to make this person linguistically present.' In the Compensation Court the judge refused to take it any further, the case went on appeal, then the Court of Appeal said, 'The interpreter was right. That was an essential requirement' - that the defendant has to be present. A witness or a defendant is not only entitled to have their words accurately interpreted back to the court, they're also entitled to know everything that is going on in the court, to be present.

Reported in the ABC Law Report - 22.5.2007 - <http://www.abc.net.au/radionational/programs/lawreport/interpreters-in-the-courtroom/3250562>

Magistrates in the Pilbara and the Goldfields stated that in their view there are injustices happening everyday because Aboriginal people do not understand court proceedings including sentences and the consequences of breaching sentences/court orders such as community orders, bail undertakings and suspended prison sentences.

Equal Opportunity Commission Western Australia (2010), Indigenous Interpreting Service: is there a need?, p. 4

I once did a job [in the Family Court] involving an Indonesian woman who was having a dispute with her ex-husband over visitation rights with their child. I had done several jobs previously involving this woman, with sympathetic agencies who took the time to see that everything was interpreted fully. However, when I did the job at the Family Court, the whole thing was so rushed that I had grave concerns, which I expressed to the judge, as to the client's opportunity to have the proceedings fully interpreted and to understand what was happening. The judge rambled on and on and did not allow sufficient opportunity for her ramblings to be interpreted, although she did allow the husband to dominate the proceedings. I decided then that I would no longer be a party to such flawed and unjust proceedings. I no longer take jobs at the Family Court.

[Interpreter, 2012]

... language difficulties usually denied Aboriginal defendants the benefits of pre-sentence reports which are powerful tools and in some instances can mean the difference between a term of imprisonment or not. The magistrate stated that 'Given the importance of this document and its power as a sentencing tool it is an injustice that negative judgements are formed by the court officers and sometimes by the judicial officer when an accused cannot fully participate in the process or is being misunderstood due to language barriers'.

Equal Opportunity Commission Western Australia (2010) Indigenous Interpreting Service: is there a need?, p. 18

Mrs F, an elderly non-English speaking women, took out a mortgage on the home in which she lived in order to loan money to a family member. Failure of this family member to repay the loan meant that Mrs F, who had no income apart from her pension, could not repay the mortgage and entered into default in the mortgage on the home. A victim of financial elder abuse, Mrs F came to PILCH without the resources to afford a lawyer and in danger of losing her home. With the help of her son who did speak English, she obtained PILCH's assistance and was referred to a barrister and a law firm that agreed to provide pro bono representation in a civil claim against the family member who incurred the loan. There was specific urgency to the situation as Mrs F was in ill health.

In order to bring a claim for repayment of the loan so that Mrs F would not default on her mortgage, Mrs F's pro bono solicitors had to draft an Affidavit. Mrs F could not do this without the assistance of an interpreter. While PILCH as a CLC had access to a limited amount of funding for interpreting services, these were not sufficient to meet all of Mrs F's requirements for an interpreter at this stage of proceedings. Due to the complexity of the matter and the need to obtain instructions and a detailed account of the matter from Mrs F, more than one session between Mrs F and her pro bono lawyers was necessary. An interpreter was required for each session.

When the case went to mediation, Mrs F required the further use of an interpreter present with the pro bono barrister and solicitor. The amount of time required was for the entire duration of a court day on two separate occasions. PILCH did not have access to any interpreter fund to cover this amount and neither Mrs F nor her son could afford to pay the cost for this. The referred lawyers who were acting on Mrs F's behalf were doing so for free and had already incurred costs on behalf of their client. Therefore, PILCH was forced to carry these expenses to ensure that Mrs F could understand and participate in the mediation. These expenses were significant and impossible to budget for as the amount of time required for an interpreter in each case cannot be predicted.

Mrs F's matter was settled at mediation. Without the support of PILCH and her pro-bono lawyers, Mrs F would have had no recourse to participate in this process – indeed could not have brought her case and might have lost her home.

Law Institute of Victoria Interpreting Fund Scoping Project Final Report¹¹

Magistrates have stated that they have been required to postpone court cases due to a suitable interpreter not being available

During a injury compensation claim interview it emerged that non-English speakers were interviewed almost a year after a traffic incident by the police during a home visit (without an interpreter) during which they were asked to present at the police station for an interview to clarify what occurred at the time of the incident. No interpreter was provided at the police station, so the clients attended with a bilingual relative as interpreter. The driver of the vehicle, an elderly person with limited English, was fined for dangerous driving (remember this was almost a year after the original incident). A few weeks later the client received a claim for injury compensation. A more recent interview with the interpreter (and without the relative present) revealed that the actions of the driver at the time were due to circumstances which were not made clear in the original police interview, which – had they been known - would have resulted in a lesser charge. Also, since no-one was injured or reported being injured (neither police nor ambulance were called to the scene) at the time, the client did not understand why it had taken a year to get a fine and, on top of that, get a claim for injury compensation.

[Interpreter, 2013]

Serious consequences for victims of domestic violence and sexual assault

Consequences including stress and trauma for victims and relatives including children asked to interpret for them, inappropriate intervention or advice, failure to provide access to legal rights including protection, conflicts of interest, lack of cultural sensitivity, inappropriate culturally-based intervention and breaches of confidentiality.

The Centre receives complaints by migrant women that interpreters are ‘aggressive’, ‘distort their words’, and cause them distress by asking them to repeat embarrassing or personal details in police interviews

[Multicultural Centre Against Family Violence (2010). *I lived in fear because I knew nothing: barriers to the justice system faced by CALD women experiencing family violence* Melbourne: InTouch Inc., p.21].

An interpreter ‘told the woman’s husband the address of the women’s shelter - she thought the woman was lying and therefore her husband needed to know’

(Community Health Action Group (2004). *Lost in translation: A discussion paper on interpreting issues in health care settings in Queensland. Queensland, p. 25*).

An interpreter ‘tried to convince the woman to reconcile with her husband’, or interpreters ‘criticised women for taking legal action’

(Hunter, R. (2006). *Narratives of domestic violence*, Sydney Law Review, Vol. 28. p.747).

There is an example of an interpreter in Queensland who would not use the words ‘penis’ or ‘vagina’ in a sexual assault proceeding.

[Ozolins, Uldis. “Social Workers, the Law and Interpreters.” In *In the Shadow of the Law: The Legal Context of Social Work Practice*. Eds. Philip Swain and Simon Rice. 3rd ed. Sydney: The Federation Press, 2009, pp.20-35].

There is evidence of a female interpreter who interrupted a therapeutic counselling session to advise a client that, according to the Koran, women must obey their husbands’ sexual demands.

[Allimant, A., Martinez, B., Wong, E. (2006). *Changes and challenges in the therapeutic relationship when using an interpreter*, *Lighting the Path: Reflections on Counselling, Young Women and Sexual Assault, Brisbane: Zig Zag Young Women’s Resource centre, pp.151-65*].

There are instances of children having to interpret for their mothers and having to listen and interpret about violence and sexual assault encounters. Also, there is evidence of women not disclosing these events to protect their children from listening to them.

[Interpreter, 2013]

I have had direct experience of perpetrators interpreting for the victim/survivor, and interpreters interpreting for both victim/survivor and perpetrator. I was booked for a “mediation meeting” where family violence was discussed. My non-English-speaking client was the male. When I got there I was told I would interpret for both parts (male and female) if necessary. The woman was distressed at first not knowing why her ex partner had an interpreter booked. She believed she was at a disadvantage (I had the impression she thought I would be “on his side”) and therefore feared of the possible outcome of this meeting.

[Interpreter, 2013]

Priding itself on being a civil society, Australia has over many years worked to ensure that even the most disadvantaged in society can have access to relevant services. We work to ensure that in a legal setting everyone is provided with representation should they need it. How can we ensure those levels of representation are adequate if there are inadequate translating and interpreting services? How do we ensure that members of the community are not treated unfairly simply because they couldn’t be understood, or they didn’t understand?

These examples of failures in process, protocols and policy show that the way translating and interpreting in the courts and other legal settings is currently handled poses serious threats to access to justice. It is resulting in extraordinary levels of stress and trauma, waste of taxpayer dollars and an additional burden placed on the system – they serve to underline the urgent need for intervention/action to guarantee the integrity of the legal and court system, to reduce the instances where the system fails, and to manage risk where failures occur.



GOVERNMENT SERVICES SETTING (INCLUDING HUMAN SERVICES)

Great amounts of time, effort and resources are expended each year to ensure that Australians are aware of – and are appropriately accessing – the resources provided by government to ensure our society retains its fairness and commitment to the principles of access and equity. However, the system can be complex and difficult to navigate - even more so for those facing the challenge of language barriers.

Failure to engage qualified experienced interpreters in the context of the delivery of government and human services at the Federal level (including Centrelink) can lead to:

- > financial hardship;
- > failure to receive and provide accurate information;
- > breaches of duty of care with use of non-credentialed interpreters; and
- > compromised access to, or understanding of, government support programs.

Financial hardship

A woman and her husband had separated and, while they shared the care of their child, the husband received the Centrelink benefits for the child. The mother said that she signed some documents at Centrelink giving the father the right to receive the Centrelink payments instead of her but she said she didn't know English and didn't understand what she was signing. A later attempt by her to get this step reversed has not been successful as Centrelink asserted that she has signed a document authorising the payments to go to the father of the child. While it is not known whether an interpreter was requested or suggested by Centrelink, it is clear that had the woman had access to an interpreter in this situation, she would have been clearer about her rights and exactly what she was signing.

[Interpreter, 2012]

Failure to receive and provide accurate information

An Indigenous woman with limited English language skills from a remote community complained that Centrelink had raised a debt against her for reasons she did not understand. It was established that, at the start of the debt period, the woman had told Centrelink she was about to start work. Centrelink had confirmed this with her employer. The complainant started work and subsequently completed several forms (in English) in which she incorrectly reported to Centrelink that she had not worked. Her third form contained inconsistent information which caused Centrelink to contact her to clarify her earnings. A debt was then raised. A Centrelink officer discussed the debt with the woman and determined that she had not understood her obligations. An interpreter had not been used during any of Centrelink's communication.

Commonwealth Ombudsman's Report on Indigenous Language Interpreters and Government Communication, p.11

An Australian Government entity hosting a party of international VIPs had organised for them to meet representatives of an Aboriginal community during their visit in Australia. The Aboriginal spokesperson had prepared a two-page briefing which was translated by an overseas-based translator who was not familiar with the issues and not a native speaker of the target language. The translation was not reviewed by a local translator. The result was serious distortion of meaning throughout the document, depicting the Aboriginal spokesperson's views as much more critical than intended in the source document. Unaware of the poor quality of the translation, the VIPs took it at face value and were incensed by the distorted views it contained, which led to extreme confusion and misunderstanding during the meeting with the Aboriginal community.

[Interpreter, 2012]

A language service provider had sponsored the provision of conference interpreting services during a major conference involving presentations by government ministers from overseas countries. Unable to secure the services of experienced conference interpreters, the language service provider relied on a para-professional interpreter who was clearly out of their depth. Eventually, the interpreter simply failed to attend, leaving the presenters and the language service provider without access to conference interpreting services. The credibility of the Language Service Provider and the Conference were seriously compromised.

[Interpreter, 2012]

Breaches of duty of care with the use of non-credentialed interpreters

A member of the public attended a local police station [operated by the Australian Federal Police (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.

Commonwealth Ombudsman's Report on the Use of interpreters, Report No. 3, 2009, p.12

Compromised access to, or understanding of, government programs

A resident of a remote Indigenous community complained that NT departmental staff and building contractors had not used interpreters when they met with residents to discuss Strategic Indigenous Housing and Infrastructure Program (SIHIP) plans in that community. Consequently some residents did not understand the nature of the work that was planned, where they would move to while work was being done and whether they would be re-allocated the same house. [The Commonwealth Ombudsman] raised this with FaHCSIA because it administers the statutory lease over this community and jointly administers SIHIP. In response FaHCSIA organised a meeting attended by an Indigenous language interpreter, at which the SIHIP program and other housing-related matters were explained to the community. This was followed by a second meeting. The complainant subsequently confirmed that the community felt they now understood how SIHIP would operate in that community.

Commonwealth Ombudsman's Report on Indigenous Language Interpreters and Government Communication, p.15

.....
A member of a remote Indigenous community complained in 2009 that residents had been asked to sign tenancy agreements for their public houses, but the agreements had not been explained to them before they were signed and interpreters had not been used. The community did not understand the purpose and effect of the documents.

Commonwealth Ombudsman's Report on Indigenous Language Interpreters and Government Communication, p.3

Our welfare system is there to help the most vulnerable in our society and to support those in need. Services are bound to be compromised if members of the community accessing the services can't be understood or effectively delivered to every segment of society, especially those who face language barriers.

These examples of failures in process, protocols and policy show not only that there are significant opportunities to improve the way translating and interpreting is handled in the delivery of human services as the foundation of our safety net, but also the urgent need to meet duty of care obligations through the use of high-quality, reliable and easily accessed translating and interpreting services.

A member of a remote Indigenous community complained that residents had been asked to sign tenancy agreements, but the agreements had not been explained to them before they were signed and interpreters had not been used.



IMMIGRATION SETTING

Great care must be taken to ensure that there is transparency in our immigration processes and that the system is functioning fairly and efficiently. Because decisions made in this setting can so profoundly impact an individual's circumstances, the processes must be fair, equitable and understood by all.

Failure to engage qualified experienced interpreters in the context of the delivery of immigration services can lead to:

- > legitimate refugees being wrongly refused protection visas;
- > irregular maritime arrivals being wrongly granted protection visas;
- > serious breaches of the professional code of ethics;
- > compromised access to other appropriate visas;
- > failure to receive a fair hearing before a tribunal;
- > visas wrongly cancelled;
- > administrative inefficiency and double-handling;
- > lack of access to procedural fairness and compliance with duty of care obligations;
- > stress on family members and others when asked to interpret;
- > waste arising from errors in allocating credentialed interpreters;
- > use of non-credentialed individuals to undertake interpreting function; and
- > compromised access to, or understanding of, rights on arrival.

Legitimate refugees may be wrongly refused protection visas

There are examples in the hundreds of bilingual individuals rather than NAATI-accredited interpreters being used at the initial processing, entry interview, migration agreement Immigration Advice and Application Assistance Scheme (IAAAS) interview and protection visa interview stages. This creates major questions about professional standards and quality of interpreting and about the fairness and legitimacy of the processes used when dealing with irregular maritime arrivals.

[Interpreter, 2013]

Irregular maritime arrivals may be wrongly granted protection visas

There are examples of non-NAATI-accredited interpreters inaccurately recording responses at the initial processing and entry interview stages which may support the granting of protection visas in inappropriate circumstances. These individuals effectively cross the line and become advocates for the individuals concerned.

[Interpreter, 2013]

Serious breaches of the professional code of ethics

The use of non-credentialed interpreters who fail to understand the need to abide by the requirements of the code of ethics has potentially serious consequences. A non-credentialed interpreter is reported to have said: "Interpreting is a very easy job – you can say anything and get away with it as the ... white man does not know what our person is saying and similarly our person would not know what the white man said."

[Interpreter, 2013]

Compromised access to appropriate visas

An individual's application to the Refugee Review Tribunal for a protection visa was refused. On appeal, a report on major omissions and interpreting errors of the previous hearing was submitted as expert evidence in the Federal Magistrates Court; as a result the magistrate ordered that the case be sent back to the RRT for review due to severe misinterpretations which led to the original decision. The individual received compensation and the case was reheard before a senior member with a different interpreter.

Failure to receive a fair hearing before a tribunal

A few years ago, a senior interpreter was asked to review the tapes of a case that came before the Refugee Review Tribunal. The application had been denied and it was thought that the standard of interpreting had been the cause of misunderstandings between the applicant and the tribunal member hearing the case. After listening to the tapes, the senior interpreter confirmed numerous errors in the interpreting which was due, in their opinion, to using an interpreter with insufficient professional skills and general knowledge. The applicant was provided with another chance to present his case.

[Interpreter, 2013]

Visas wrongly cancelled

A complaint [to the Commonwealth Ombudsman] was made on behalf of a Ms A whose visa had been cancelled by the Department of Immigration and Citizenship (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.

Commonwealth Ombudsman's Report on the Use of interpreters, Report No. 3, 2009, p.13

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 [the Ombudsman's] investigation, DIAC agreed to conduct the interview again with an independent interpreter and to make a new decision on Mr D's visa application.

Commonwealth Ombudsman's Report on the Use of interpreters, Report No. 3, 2009, p.123

Administrative inefficiency and double-handling

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.

Commonwealth Ombudsman's Report on the Use of interpreters, Report No. 3, 2009, p.13

A non-credentialed interpreter is reported to have said: “Interpreting is a very easy job – you can say anything and get away with it”

There are numerous examples where processing, entry interviews, migration agreement Immigration Advice and Application Assistance Scheme (IAAAS) interviews and protection visa interviews have had to be repeated when a protection visa is refused but it becomes evident that a NAATI-accredited interpreter was not used at one or all of these stages.

Lack of access to procedural fairness and compliance with duty of care obligations

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.

Commonwealth Ombudsman’s Report on the Use of interpreters, Report No. 3, 2009, p.14

Waste arising from errors in allocating appropriate interpreters

There are numerous examples of interpreters being engaged throughout the irregular maritime arrivals process who speak the wrong language, for example Dari instead of Hazaragi, or dialect requiring postponement of interview until an appropriate interpreter is booked.

[Interpreter, 2012]

Use of age-inappropriate persons to undertake interpreting function

There are reports of a bilingual child (a 17-year old) being used in a detention centre.

[Interpreter, 2013]

Compromised access to, or understanding of, rights on arrival

The translation of material provided to those embarking on the irregular maritime arrivals process at times lack clarity and has led to misunderstandings about the rights and obligations of these individuals, and the programs to which they have access.

These examples of failures in process, protocols and policy all show that there are significant opportunities to improve the way translating and interpreting is handled in the delivery of immigration services and programs.

Changes in policy – and disagreement about policy – are a source of longstanding debate, however, every effort must be made to ensure that current policy and processes are understood and implemented fairly in an effort to maintain the integrity of the immigration system and mitigate the risks associated with delivery of poor quality services in this critical area.

CONCLUSION

The examples of failures in process, protocols and policy set out in this document show that the way translating and interpreting in a range of settings is currently handled results in not only extraordinary costs in human/social terms but also significant risk and exposure for government and organisations across the health, legal, government services and immigration settings.

This evidence-base shows that there is a clear and urgent need for change.

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Association of Professional Engineers,
Scientists and Managers, Australia
(APESMA)

GPO Box 1272, Melbourne, Vic. 3001



e: translatorsandinterpreters@apesma.com.au

w: www.apesma.com.au/groups/translators-and-interpreters

t: 1300 APESMA | 1300 273 762