

Guidance to Tribunal Judiciary No 02/2026

Use of Spoken and Sign Language Interpretation and Translation



Purpose of this Guidance

1. This Guidance is to assist Tribunal judiciary when a spoken or signed (British sign or other nationality, e.g. Norwegian sign) language interpreter is necessary in Tribunal proceedings.

The overriding objective (rules 2 and 3)

2. This Guidance should be applied in conjunction with the overriding objective (rule 2) of enabling the Tribunal with the assistance of the parties to deal with references and claims fairly and justly, which includes:
 - a) Dealing with the reference or claim in ways which are proportionate to the complexity of the issues and to the resources of the parties.
 - b) Seeking informality and flexibility in the proceedings.
 - c) Ensuring, so far as practicable, that the parties are on an equal footing procedurally and can participate fully in the proceedings.
 - d) Using the Tribunal's special expertise effectively.
 - e) Avoiding delay.

Who may require an interpreter?

3. An interpreter may be needed for a party or a witness and in some cases both. There may be a need for different types of interpretation. For example, a party may require a British sign language interpreter with a witness requiring a Polish spoken language interpreter.
4. Each person who requires an interpreter will have their own interpreter. An interpreter will not be asked to interpret for more than one person.

Direction for an interpreter

5. Where an interpreter is identified in the attendance form, the Tribunal administration will attend to this in advance of any hearing (including the case management hearing, where necessary).
6. The appointment of an interpreter may also be directed at the case management hearing or at an evidential hearing.
7. The Tribunal administration will engage a suitable interpreter from the professional agency used by the Scottish Courts and Tribunals Service.
8. Family members, representatives or children must not be used as interpreters for others in the hearing.

Translation of text

9. Translation converts written text into another language. Where this is necessary, the bundle or selected documents in the bundle will be translated for the appellant or claimant in advance of the hearing.
10. Where the need for translation is identified in the attendance form, the case officer will attend to this in advance of the hearing.
11. Translation may also be directed at the case management hearing or at an evidential hearing.

Information, interpretation and conduct

12. The Tribunal administration will provide the interpreter with details on the type of case (reference or claim) in advance of the hearing, along with information about common language used in the jurisdiction of the Additional Support Needs Tribunal. The information to be provided to the interpreter is found in the appendix to this Guidance.
13. A copy of the bundle will be provided to the interpreter in an in-person hearing on the morning of the hearing so that they may have relevant pages in front of them when the person is invited to refer to them.
14. In online hearings any pages from the bundle can be displayed on screen.

Interpreter confidentiality and impartiality

15. Interpreters will always maintain confidentiality. They cannot discuss or share any aspect of cases with anyone.
16. The interpreter communicates to the tribunal in the person's first language. They are not there to support any party. They do not tell the person what they should say. They do not provide any comment or any advice or guidance to the person about the case.

Interpreter accuracy and completeness

17. The interpreter must interpret everything that is said or signed, and must not add, omit or change the meaning. That includes insults and rude language. If the person is verbose or repeats or contradicts themselves, the interpretation must reflect that because the way people speak may be relevant to the tribunal.

18. If an interpreter makes a mistake, they must correct this as soon as possible by signalling to the tribunal that they wish to correct the interpretation and then give the correct interpretation.
19. Spoken and signed language interpreters will usually interpret *consecutively* in tribunal hearings. This means that a person speaks for a short segment and the interpreter interprets what they have said, and then they continue. *Simultaneous* interpreting may happen when questions are being asked of a person, which is more challenging for the interpreter.

Professional conduct

20. Interpreters must not take assignments where the parties or the person is known to them and there is a conflict of interest.
21. Interpreters should arrive at the hearing venue, or online, in time to meet the person for whom they will be interpreting.

Spoken language interpretation

22. It is important that the correct language and dialect is identified in the attendance form so that Tribunal staff can give a clear instruction when booking an interpreter.
23. Interpreters should only accept work which they believe they have the competence both linguistically and in terms of specialist knowledge or skill to carry out to the standard required in judicial proceedings. The competence to carry out interpretation shall include a sufficiently advanced and idiomatic command of the languages concerned, with awareness of dialects and other linguistic variations that may be relevant.
24. The interpreter becomes the voice of the person for whom they are interpreting.
¹ For this reason, interpreters should always interpret in the first person “**I** said **I** would go...”, and not the third person “**He** said **he** would go”, which can be confusing when eliciting evidence. If an interpreter fails to interpret in the first person, the legal judicial office holder should pause the interpretation and ask the interpreter to do so.

British [or other nationality] sign language

25. The interpreter must be placed within clear sight of the person for whom they are signing.

¹ See paras 3.8 and 3.9, National Register of Public Service Interpreters Code of Professional Conduct <https://www.nrpst.org.uk/for-clients-of-translators/code-of-professional-conduct.html>

26. A deaf person may also lipread as well as use sign language, so it is important that the interpreter faces the person throughout the hearing.

Interpretation in the hearing

27. Interpretation takes time. It is important that speakers speak for a short period and pause regularly to allow the interpreter to complete the interpretation. This is particularly important when dealing with complex issues or using complex language.
28. The interpreter may ask that the speaker slow down. They may ask for repetition, clarification or a short break, where needed. It is important that sufficient time is given where needed to protect the quality, accuracy and reliability of the interpreted evidence.
29. The tribunal should explain how the interpreter can raise any points during the hearing.

Interpreter fatigue

30. Interpretation uses considerable energy. It is therefore important that the interpreter is provided with 10-minute breaks every hour. If the tribunal notices interpreter fatigue, breaks can be taken more regularly.
31. In some hearings two interpreters may be required for the person, given the predicted length and duration of the hearing. This is most likely to arise where the person is a party and therefore entitled to be present throughout the hearing.

Online hearings

32. The interpreter should make sure their internet connection and headset are working on the morning of the hearing. Sound quality is critical. It is important that the interpreter can hear and (for signing) see the person and be heard and (for signing) be seen clearly.
33. Only one speaker should speak at a time, and they should say their name before speaking.
34. If the speaker's camera is off, the interpreter cannot see facial expressions, and this may add to the time needed for interpretation.
35. The tribunal should explain how the interpreter can raise any points during the online hearing.

General rules

36. Judicial office holders and other speakers should look at the witness or the party when speaking to them, not the interpreter. The interpreter is the communication channel not the audience.
37. Only one speaker should speak at a time, whether in an online, hybrid or in-person hearing.
38. Speakers must use a reasonable volume when speaking so that the interpreter can hear the voice they are interpreting.
39. Everyone in the hearing will have to speak at a slower and more even pace. Where *simultaneous* interpreting is being used, speed is one of the biggest challenges for the interpreter.
40. The interpreter may interrupt and ask that a question be repeated more slowly. This protects the accuracy of the record and the fairness of the process.
41. Regular breaks are important to maintain interpreter concentration and to ensure interpretation accuracy.
42. The tribunal must be alert to the difference between interpreting the oral evidence of a witness and interpreting oral submissions or legal arguments.
 - a) When considering the evidence of a witness the interpreter is interpreting spontaneous speech. The witness may be upset, anxious or confused or unused to speaking in a hearing. They may speak in fragments, change their mind, repeat themselves or use informal expressions. The interpreter will interpret what the witness says and will not tidy up their phrasing or wording.
 - b) When considering submissions the language is more formal, dense and structured. There may be references to case law, legislation and long complex sentences. A copy of the outline written submissions may be provided to the interpreter during this stage of the hearing, if this will assist in interpretation.
43. In lengthy hearings interpreters may work in pairs with one interpreting while the other is resting. Both interpreters will always be present in the hearing where this arises.

May Dunsmuir
Chamber President
September 2026

Appendix

Glossary of common words for interpreter

Tribunal language (terms in bold are defined in the glossary)

Health and Education Chamber (Additional Support Needs Tribunal)	the First-tier Tribunal for Scotland Chamber and, in brackets, the jurisdiction in the Chamber which is deciding the application
Additional support needs	the term used in the legislation (2004 Act) when a child or young person needs additional support to benefit from their school education
Disability	physical or mental condition, consistent with the definition of disability found in section 6 of the 2010 Act
Reference	a type of application made under the Education (Additional Support for Learning)(Scotland) Act 2004
Claim	a type of application made under the 2010 Act
Legal judicial office holder (called 'legal member' in the hearing)	the legally qualified chair of the tribunal hearing
Specialist judicial office holder (called 'legal member' in the hearing)	there are two in a tribunal hearing, one from an education background and one from a health or social work background
Placing request	a type of reference for a school of the parent or young person's choice
Co-ordinated support plan (CSP)	the statutory education plan in Scotland
CSP reference	a type of reference about a co-ordinated support plan

Transition reference	a type of reference about the child or young person's transition from secondary school
Individualised Education Plan	school education plan which is not statutory
Capacity	the ability to understand something and to retain the memory of that
Wellbeing	see SHANARRI in abbreviations section
Exclusion	when a pupil cannot attend school for a specific period set by the school

Legislation

Education (Additional Support for Learning)(Scotland) Act 2004	Commonly shortened to 2004 Act – the law which permits references to be made to the Tribunal
Standards in Scotland's Schools etc. Act 2000	Commonly shortened to 2000 Act - the law that sets out the mainstream school requirement and the conditions attached to this
Equality Act 2010	Commonly shortened to 2010 Act – the law that permits disability discrimination claims to be made to the Tribunal
United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Act 2024	Commonly shortened to 2024 Act – the law that incorporates the UNCRC into Scots law

Common health conditions

Autism/Autistic Spectrum Disorder/Autistic Spectrum Condition	a neurodiverse condition
Attention deficit hyperactive disorder	a neurodiverse condition, commonly shortened to ADHD

Dyslexia	a neurodiverse condition
Dyspraxia	a neurodiverse condition
Pathological demand avoidance	a neurodiverse condition
Deafness	the degree of deafness is often specified
Mental health issues	for example, anxiety, eating disorder

Common abbreviations

GIRFEC	Getting it right for every child (Scotland's long standing national commitment to providing all children and young people and their families with the right support at the right time so every child and young person can meet their potential)
SHANARRI	SHANARRI is an acronym representing eight key indicators of child wellbeing (which is a statutory concept) used in Scotland to ensure every child can thrive – the eight indicators are: Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included – we use these to test and interpret the child or young person's wellbeing
SCERTS	Social Communication, Emotional Regulation and Transactional Support – which is an educational and therapeutic framework developed to address core challenges faced by autistic children and young people
ADOS	Autism Diagnostic Observation Schedule – a tool for evaluating autism
BOSA	Brief Observation of Symptoms of Autism – a brief standardised observation tool designed to assess autism remotely or in-person using ADOS based coding
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

Placing requests – common legal defences (2004 Act)

(a) If placing the child in the specified school would—

- (i) make it necessary for the authority to take an additional teacher into employment,
- (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school

(iii) be seriously detrimental to the continuity of the child's education

(iv) be likely to be seriously detrimental to order and discipline in the school

(v) be likely to be seriously detrimental to the educational well-being of pupils attending the school

(vi) assuming that pupil numbers remain constant, make it necessary, at the commencement of a future stage of the child's primary education, for the authority to elect either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at the school

(vii) though neither of the tests set out in paragraphs (i) and (ii) is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers,

(b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child

(c) if the education authority have already required the child to discontinue attendance at the specified school

(d) if, where the specified school is a school mentioned in paragraph 2(2)(a) or (b), the child does not have additional support needs requiring the education or special facilities normally provided at that school

(e) if the specified school is a single sex school and the child is not of the sex admitted or taken to be admitted to the school

(f) if all of the following conditions apply, namely—

- (i) the specified school is not a public school,
- (ii) the authority are able to make provision for the additional support needs of the child in a school (whether or not a school under their management) other than the specified school,

(iii) it is not reasonable, having regard both to the respective suitability and to the respective cost (including necessary incidental expenses) of the provision for the additional support needs of the child in the specified school and in the school referred to in paragraph (ii), to place the child in the specified school, and

(iv) the authority have offered to place the child in the school referred to in paragraph (ii)

(g) if, where the specified school is a special school, placing the child in the school would breach the requirement in section 15(1) of the 2000 Act.

Common types of discrimination or prohibited conduct (2010 Act)

- Direct discrimination
- Indirect discrimination
- Discrimination arising from disability
- Failure to make reasonable adjustments
- Harassment
- Victimisation

Protected characteristic (2010 Act)

- The only protected characteristic which applies in this jurisdiction is *disability*.