

Confidentiality Guidance for DBI Level 2 Translation and Interpreting Services

Introduction

This '**Confidentiality Guidance for DBI Level 2 Translation and Interpreting Services**' is for DBI level 2 providers and translation and interpreting services to use for ensuring that confidentiality is upheld when translation and interpreting services are used as part of DBI level 2 delivery. This guidance applies whenever interpreter/communication support is to be provided, including when the person's first or preferred spoken language is not English; the individual's first language is British Sign Language; the person is Deafblind (dual sensory impaired); the person requests interpreting support; or the individual has a hearing impairment, is a lip reader or uses an electronic note taker. The types of interpretation/communication support services that this guidance applies to includes the following: Spoken language interpreting; British Sign Language interpreting; Other communications support, including note taking and lip speaking.

Main Section: Agreement of Confidentiality between DBI Level 2 Providers and interpreting or translation services

DBI level 2 providers are committed to partnership working with other professionals involved in the care of all service users, and this includes working with interpreting and translation services. DBI level 2 providers and any interpreting or translation services used as part of the DBI programme, must keep all personal and sensitive information confidential at all times.

It is recommended that the NHSScotland Code of Practice on Protecting Patient Confidentiality ([1]: <http://www.wdhscp.org.uk/media/1256/revised-code-of-confidentiality-final.pdf>) should be followed by DBI level 2 providers and interpreting and translation services whenever interpreting and translation services are used for DBI provision. The use of information about service users is governed by: statute law, e.g. General Data Protection Regulations ([2]: UK GDPR: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>)¹, the Data Protection Act 2018, the Human Rights Act 1998, Adults with Incapacity (Scotland) Act 2000, and many others. The UK GDPR sets out seven key principles: Lawfulness, fairness and transparency; Purpose limitation; Data minimisation; Accuracy; Storage limitation; Integrity and confidentiality (security); and Accountability. All are applicable to interpreting and translation services, but in particular, confidentiality, as well as accuracy and accountability are included.

The following is from the NHS England (there is not an NHSScotland direct equivalent), Guidance for commissioners: Interpreting and Translation Services in Primary Care ([3]: <https://www.england.nhs.uk/wp->

¹ The EU GDPR is an EU Regulation and it no longer applies to the UK. If you operate inside the UK, you need to comply with the Data Protection Act 2018 (DPA 2018). The provisions of the EU GDPR have been incorporated directly into UK law as the UK GDPR. In practice, there is little change to the core data protection principles, rights and obligations.

<content/uploads/2018/09/guidance-for-commissioners-interpreting-and-translation-services-in-primary-care.pdf>), but provides useful direct best practice guidance on confidentiality when using interpreters:

High ethical standards, including a duty of confidentiality are mandatory and this duty extends to interpreters. To safeguard and maintain the confidentiality of personal data, the interpreting agency should find a way to meet all information governance requirements when providing interpreting staff with information about assignments. All interpreters should be made aware of the Mental Capacity Legislation and how to support a person to make informed decisions. All interpreters are responsible for ensuring that any interaction is conducted in a secure environment and cannot be overheard or interrupted. Any actions identified by (in this case) DBI level 2 providers that are deemed unsafe, of a safeguarding concern or a breach of confidentiality should be reported to the interpreting agency and, where relevant, to the registering body.

The NHSScotland Interpreting, Communication Support and Translation National Policy ([4]: <http://www.healthscotland.scot/media/3304/interpreting-communication-support-and-translation-national-policy.pdf>) provides very detailed guidance on NHSScotland responsibilities to patients and carers who require support from interpreting or translation services. The policy has a wide scope in relation to interpreting or translation services that NHSScotland provides, and includes reference to confidentiality and governance. DBI level 2 providers and the interpreting or translation services that they use are not bound by this policy, but may find it useful to consider as a guide. In particular, sections 6.5 and 6.6 (on page 40 and 41) provide guidance on the roles and responsibilities of interpreters and the agencies who supply the interpreters and translators. Section 8 (pages 45 to 48) provides guidance on the appropriate governance of interpreting and translation services, including documentation, monitoring and complaints. Appendix 1 (pages 49 to 53) provides details of the legal framework in relation to providing interpreting and translation services, including the Equality Act 2010, BSL (Scotland) Act 2015, New Scots Refugee Integration Strategy 2018–2022, etc.

In Summary

DBI level 2 providers and any interpreting or translation services used as part of the DBI programme, must keep all personal and sensitive information confidential at all times. The use of personal information about DBI service users is governed by the Data Protection Act 2018 and the UK GDPR. DBI level 2 providers and any interpreting or translation services used as part of the DBI programme must adhere to the UK GDPR and its seven key principles, which include confidentiality and this forms part of the professional agreement that is place whenever DBI level 2 providers use interpreting or translation services. Interpreters and the agencies who provide interpreting and translation services for DBI level 2 providers should be fully aware of and adhere to all relevant guidance, policies and legal requirements in relation to confidentiality and governance as provided in this document and in the documents referenced within.

References

- [1] Protecting Patient confidentiality NHSScotland Code of Practice
<http://www.wdhscp.org.uk/media/1256/revised-code-of-confidentiality-final.pdf>
- [2] General Data Protection Regulations [GDPR: Information Commissioners Office (ICO) Guide to the GDPR]: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>
- [3] NHS England Guidance for commissioners: Interpreting and Translation Services in Primary Care
<https://www.england.nhs.uk/wp-content/uploads/2018/09/guidance-for-commissioners-interpreting-and-translation-services-in-primary-care.pdf>
- [4] Public Health Scotland NHSScotland Interpreting, Communication Support and Translation National Policy
<http://www.healthscotland.scot/media/3304/interpreting-communication-support-and-translation-national-policy.pdf>