Part 4.
When and why is an interpreter needed?

Introduction

As part of a MHAA, AMHPs have a duty to interview "in a suitable manner", a legal provision that includes paying attention to a person's language requirements. Our research indicates that the current guidance for AMHPs as to when and why an interpreter may be needed tends to focus on what is recommended and not the how. It is also aspirational, lacking a true reflection of the practical complexities encountered in the professional field. For example, in the MHA Code of Practice it is recommended that registered, qualified interpreters be sought with expertise in mental health interpreting and appropriate in terms of sex, religion or belief, dialect, cultural background, and age (see https://assets.publishing.service.gov.uk/media/5a80a774e5274a2e87dbb0f0/MHA_Code_of_Practice.PDF). It is also suggested that relatives and friends or untrained interpreters should only be used exceptionally. We do not disagree with such recommendations but are aware that on occasion there are difficulties in sourcing the right interpreter and that arrangements will need careful consideration. This part of the guidance will consider when to use an interpreter, what kind of interpreters are required, including how to discern their experience, and what compromises might be involved. The issue of when remote interpreting may be appropriate is covered in Part 13 Governance, accountability and safeguarding.

When is an interpreter required?

Beyond the relevant sections of the MHA Code of Practice (DoH 2016 para 4.6, 8.35, 14.42, 14.116, 14.117), in practice, it may not always be apparent that an interpreter is warranted. For example, an AMHP may be told in advance that a person's spoken English is fluent although their home language is different, or that a deaf person manages well with lipreading and spoken language. In reality, these assumptions may not be correct, or an individual's linguistic fluency in a second language is being affected by their mental condition, or that a person's language preference has not been honoured (see Part 3 Legal decision making). A multi-lingual individual may also have fluctuating fluency in languages by context or subject.

- If there is any doubt about whether an interpreter might be required, good practice dictates that one should be provided regardless.

Who is a suitable interpreter?

The choice of an interpreter in a MHAA is the responsibility of the AMHP who is also responsible for finding one, booking them usually through an agency and making any arrangements required for them to be present. By liaising with the interpreting agency in advance, the AMHP can communicate specific requirements, thus enabling the agency to identify an interpreter whose qualifications and profile align with the demands of each specific assessment. For example, consideration should be given to matching language, the level of experience, training and expertise in mental health and cultural considerations as explained below:

Language match. Clearly the interpreter must use the language of the person being assessed. However:

- It is not always clear what language an individual is using. One good practice idea is to have a pre-prepared card with different languages written on it so that an individual might point to the right one (See for example the Language Identification Chart produced by the National Register of Public Service Interpreters: https://www.nrpsi.org.uk/news-posts/Language-Identification-Chart.html). This does not always work because of barriers to literacy but it is worth having the resource just in case.

Also:

- The same language can have different forms that are regional ('dialects') or social ('sociolects') within a country. For example, Arabic is not spoken the same way in all Arabic-speaking countries. Ascertaining where an individual is from or the community they are part of in the UK is also important in ensuring a good language match.

In addition:

- Dialects exist within languages. Just because someone is fluent in one dialect of a language does not mean they are fluent in another dialect of the same language. The dialect that is used can betray other features of an interpreter including class, political, religious or cultural affiliation. This can create difficulties in the acceptability of the interpreter for the person being assessed. See Part 9 for further discussion on cultural sensitivity and cultural brokerage.
- Efforts should be made to try to ascertain the dialect in advance or if this is not possible to be sensitive to the impact and acceptability of a clash of dialects in considering whether the interpreter is a suitable match.

Qualifications and experience of the interpreter. Most AMHPs in our research assumed that all interpreters who might be on the books of an agency or on a local authority/health Trust list have specific qualifications in being an interpreter. This is not true. A large percentage of spoken language interpreters who work formally as such, do not have any specific qualification in interpreting, only fluency in the languages and some experience. Language ability does not necessarily equip a person to be an interpreter as specific skills and techniques are required (and taught) for effective work as an interpreter. Sign language interpreters generally have much higher qualifications as interpreters because formal registration as a sign language interpreter requires the completion of an interpreting course equivalent to British Sign Language Level 6 in the National Vocational Qualifications. There are scarcely any specialist spoken language interpreting courses in the UK that focus on mental health. CPD in sign language interpreting in mental health does exist but not as a formal qualification.

To overcome some of these difficulties, good practice might be:

- regional cooperation between AMHP teams and local interpreter agencies to provide joint and reciprocal training aimed at enhancing interpreters' awareness of working under the MHA and enhancing AMHPs awareness of the skills, requirements and contributions of interpreters. This guidance and the resources supplied are offered to enable and enhance such co-operative joint learning.

We suggest that in requesting an interpreter and making clear what the assignment is, the AMHP includes the following information to ensure the best fit possible:

- The assignment does not concern mental health in a general sense, but one that ideally requires experience of interpreting within a MHAA context.
- If an interpreter does not have this experience, ideally a more experienced interpreter is required who is used to complex assignments.
- If an interpreter is used who proves to be very good for MHAAs that AMHPs keep a note of them and share this information in their network and encourage agencies to mark their profiles as suitable for this kind of work.

Booking an interpreter

Our research has shown that systems to support sourcing interpreters and booking them vary on a regional basis with some AMHPs having good online access to comprehensive lists of interpreters and agencies, and others having more ad hoc local arrangements. This can be particularly challenging for out of hours MHAAs. In some cases, agencies will not provide interpreters unless the clear method of payment has been established with approval for any specific booking. In other regions in which interpreting demand has traditionally been higher, the system may be more well established.

- It is good practice for AMHPs to be familiar with sourcing and booking interpreters well in advance of when they might need to do so for any given case.
- In the case of BSL interpreters, the duty to provide language access for deaf people falls under the **anticipatory duty** of the Equality Act 2010 meaning there is a legal responsibility to ensure such arrangements in are in place in advance of them being required. Reasonable adjustments in relation to disabled people is the only anticipatory duty in the Equality Act.

What kind of interpreter and interpreting?

Part 7 of the guidance considers different interpreting modalities that are available and also focusses on key points to consider when engaging a remote rather than in person interpreter.

Compromises and pragmatism in practice

Despite following good practice in ensuring an appropriate interpreter is present, there remain compromises that might have to be made and advantages and disadvantages carefully considered on an individual basis whilst upholding the responsibilities and duties of interpreter provision. Circumstances such as those outlined below are a real challenge for AMHPs to weigh up within their role. For example:

- That to secure a suitable interpreter may cause undue delay and distress to the person being assessed.
- That only an interpreter who has no mental health training or experience is available.
- That an interpreter can only be secured remotely because of an uncommon language when in person interpreting is preferable.

If an interpreter cannot be secured in a timely manner, someone who is not officially an interpreter such as a relative, another professional or an advocate can be used as a last resort, but this must be exceptional and justified because having no interpreter outweighs the risk of involving an ad-hoc interpreter. On such occasions care must be taken regarding ethical principles such as confidentiality, power or family dynamics (See also Part 8 on Stopping a MHAA).

If an interpreter has little or no training in mental health a briefing should take place (see Part 5) with reference to key mental health and legal concepts and terms (see Part 6).

If an interpreter is only available via telephone or another remote video device, careful consideration needs to be given to the physical management of this MHAA. For example, where is the device to be placed or is a speaker phone to be used. Moreover, where a person may be hearing voices as one possible manifestation of their mental health problem careful attention needs to be given to the impact a disembodied voice may have.

INforMHAA: Interpreter-mediated Mental Health Act Assessments

Best practices for Approved Mental Health Professionals and Interpreters working together

Document Description

This document is an **extracted section** from **INforMHAA Project Guidance & Resources** for use as a handy reference.

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