

Case Summary

Complaint against the Judiciary for incorrectly informing an appellant that translation of court documents would not be provided

The complainant, an appellant in a court case, received a notification from the Judiciary regarding the date and venue of his appeal hearing, together with some other documents including a statement of findings and grounds of the decision of the magistrate on his case which was issued in English. In one of the documents he received, there was a hand-written message in Chinese indicating that no translation of the statement of findings would be provided, and that the appellant should in his own interest provide himself with a translation. The complainant felt aggrieved as he could not read English and hence was unable to understand the statement which was prepared exactly for the purpose for his appeal. He therefore complained to this Office against the Judiciary for having unreasonably and inappropriately informed him that translation of the statement of findings would not be provided.

2. This Office observes that according to the Judiciary's existing policy and practice, the magistracy will, upon receipt of an appeal, provide the parties concerned with a statement of findings written in the language in which the proceedings are conducted. If a party is not conversant with the official language being employed, he may in fact apply to the trial magistrate for a translation of the statement of findings or any court records into the other official language, and such application will be granted if the trial magistrate considers it reasonable.

3. Upon investigation by this Office, the Judiciary explained that the practice of inserting the message regarding the non-provision of translation services into a standard memorandum issued to appellants dated back to 1984 when almost all statements of findings were written in English. The Judiciary had not, as a result of oversight, reviewed such practice and removed the message which was no longer applicable. In practice, however, whenever appellants applied to the magistracy or court for a translation of court documents in connection with their appeal, such applications would be placed before the trial magistrate or judge for consideration.

4. In the light of the present complaint, the Judiciary had revised the standard memorandum to include a message advising on the procedure for

obtaining translation of the related court documents. In addition, the Judiciary was in the process of preparing a staff operational manual on appeal procedure, and as an interim measure to assist unrepresented litigants and to avoid similar problems as highlighted in the present case, had given instructions for its registry staff to inform appellants that they might apply to the court for translation of court documents.

5. The Ombudsman, having regard to the situation that a message wrongly describing the Judiciary's policy on the provision of translation of court documents had been sent to the complainant because of an oversight, considers the complaint as substantiated. The Judiciary did not have any further comment on the findings of this investigation.

Office of The Ombudsman

Ref.: OMB 1997/1471

November 1997

J147197Z D29