

Panel on Administration of Justice and Legal Services
Performance of Court Interpreters

Background

The Chairman of the LegCo AJLS Panel has expressed concern about recent press reports in which a Magistrate ordered a case to be re-tried because he was not satisfied with the performance of the part-time interpreter. The Panel has requested information on this case as well as information on :

- (a) existing number of Court Interpreters (including both permanent and part-time Interpreters);
- (b) method of recruitment, qualification, terms of conditions and training of Court Interpreters;
- (c) arrangements for provision of interpretation service in proceedings where uncommon languages/dialects are used by the parties;
- (d) system for assessing the performance of Court Interpreters and measures to ensure that the performance of Court Interpreters, particularly part-time Interpreters, are up to standard; and
- (e) statistics on complaints against Court Interpreters and number of substantiated cases.

The Criminal Trial

2. The case involved a criminal trial in the Shatin Magistrates' Courts on 28 January 2004. The defendant was charged with two counts of common assault, one count of inflicting grievous bodily harm and one count of assault occasioning actual bodily harm. The trial was set down for one day.

3. The first witness for the prosecution gave evidence in the Indonesian language. The Judiciary supplied a part-time interpreter to provide interpretation of the Indonesian language into Cantonese.

4. The trial was aborted after half a day. The Magistrate ordered the case to be re-tried and re-fixed trial dates on 18 and 19 March 2004.

Strength of Court Interpreters

(a) Full-time interpreters

5. At present, the Judiciary has 163 full-time Court Interpreters including 2 Chief Court Interpreters, 39 Senior Court Interpreters, 61 Court Interpreters I and 61 Court Interpreters II. They are responsible for providing oral interpretation between English and Cantonese and for translation and certification services in the Judiciary. Amongst the 163 full-time Court Interpreters, 138 officers are qualified interpreters in Putonghua, 20 in Chiu Chow, 6 in Shanghainese, 6 in Hakka, 4 in Amoy, 4 in Hoklo, 2 in Toishan, 1 in Hainan and 1 in Foo Chow.

(b) Part-time interpreters

6. The Judiciary also maintains a register of part-time interpreters providing interpretation and translation in 36 languages and 17 Chinese dialects. There are currently 402 registered part-time interpreters.

7. Where there is a request for interpretation service in court in a foreign language or a Chinese dialect for which a full-time Court Interpreter is not available, the Judiciary will make arrangements for a part-time interpreter to provide the service at an hourly rate of \$204.

Qualifications and Recruitment

(a) Full-time interpreters

8. The entry qualifications required of Court Interpreters II are set out in Annex A. Recruitment follows standard Government procedures.

9. All candidates are required to take a translation test and an oral interpretation test conducted by the Civil Services Bureau. They have to pass both tests before they are invited to attend a selection interview. In general, qualifications obtained by many of the existing Court Interpreters are higher than the entry requirements¹.

¹ Of the 163 Court Interpreters, 53 are Masters' Degree holders, 81 are Bachelors' Degree holders and 22 are Higher Diploma holders. Amongst them, 10 have LLB qualification, 3 completed PCLL, 3 completed CPE and 2 were called to the Bar. Nine others have law related qualifications like LLB PRC Law; LLM PRC Law; Professional Diploma in PRC Law etc.

(b) Part-time interpreters

10. Where there is a need to increase the number of part-time interpreters in certain languages or dialects, the Judiciary will place an advertisement in one Chinese newspaper and one English newspaper (the SCMP) inviting applications. To qualify as a part-time interpreter for a foreign language, in addition to proficiency in the foreign language concerned, an applicant must possess a recognized university degree or an equivalent academic qualification and be proficient in either English or Chinese. As for Chinese dialects, an applicant is required to have attained a secondary level education and be proficient in the dialect required and in Chinese.

11. All suitable applicants for appointment as part-time interpreters are required to take written and oral entrance tests. Recommendations are sought from the relevant Consulate for appointment of an examiner who speaks the foreign language. If no examiner is available from this source, a registered part-time interpreter with a good record of performance will act as examiner. In the case of Chinese dialects, a registered part-time interpreter with a good performance record for at least 5 years will be asked to act as examiner. The Senior Court Interpreter in charge of our Part-time Interpreters Unit will be present to observe the oral test.

Training

(a) Full-time interpreters

12. To strengthen the knowledge and skills of the Court Interpreters, a job competence-based approach in planning and organizing training activities has been adopted. Apart from custom-made training activities organized in-house and training programmes for new recruits, learning opportunities provided by other training agencies or tertiary institutions are explored and utilized for Court Interpreters for performance enhancement as well as personal growth. In 2003, such training activities included workshops on Knowledge Management, a seminar on Professional English for Court Interpreters, a seminar on Professionalism of Court Interpreters, a Beijing Normal University Professional Putonghua course, experience-sharing sessions on Putonghua and Shanghainese, and workshops on management skills and stress management. A detailed list is at Annex B.

(b) Part-time interpreters

13. As regards part-time interpreters, all new recruits will attend an induction class on court structure, court procedures and code of practice. They will be given handouts on the following topics: court system in Hong Kong,

oath/affirmation of interpreter and witness, specimen charges and brief facts, the different nature of sentences in the judicial system, legal terms commonly used in court proceedings and a set of glossary of the Labour Tribunal.

14. All part-time interpreters have a copy of *Basic Guidelines for Part-time Interpreters* (copy attached at Annex C). Paragraph 7 of the Guidelines states clearly that a part-time interpreter must interpret faithfully, and should not even try to clarify issues by communicating directly with the witness.

15. Workshops for part-time interpreters have been conducted regularly to identify issues encountered and to share experience in addressing such issues. There will be a new round of four workshops in June this year.

Monitoring of Performance

(a) Full-time interpreters

16. Performance of Court Interpreters at the ranks of Senior Court Interpreters and below is regularly assessed by their supervisors in relation to oral interpretation in court and written translation/certification. Such assessments range from a few times a year to four or five times a month, depending on the performance of the Court Interpreter concerned.

17. As for junior Court Interpreters, there is an additional year-end assessment conducted by an experienced Senior Court Interpreter specially assigned to assess their court performance and written work.

18. Upon completion of assessments, feedback will be given to the officers appraised.

(b) Part-time interpreters

19. The full-time Court Interpreters of the Part-time Interpreters Unit will make four visits a month to courts where interpretation services are provided by part-time Court Interpreters to observe the general performance and behavior of the part-time interpreters. Any problems identified will be related to the part-time interpreter concerned and recorded in his/her personal file.

20. Judges, court clerks and full-time Court Interpreters on duty in court help to monitor the performance of part-time interpreters by giving feedback to the Part-time Interpreters Unit.

21. Reprimand, verbal/written warnings, temporary suspension of service or de-registration from the list may be applied to a part-time interpreter who is found incompetent. He/she is also liable to be removed from the list of part-time interpreters with proven misconduct, such as failure to declare personal interest; deliberate misinterpretation or mistranslation; acting dishonestly or in breach of the interpreter's code of ethics, etc.

Complaints

(a) Full-time interpreters

22. According to our records, there was one complaint from the public in the last three years in relation to the performance of a full-time Court Interpreter. The complaint was unsubstantiated.

(b) Part-time interpreters

23. In the past three years, there had been seven complaints in relation to the performance of part-time court interpreters in courts. Two were substantiated, resulting in de-registration in one case (Vietnamese language) and suspension from service for 2 months in the other case (Amoy dialect).

Judiciary Administration
February 2004

JUDICIARY
Court Interpreter II

Entry requirements :

- (a) a Hong Kong degree, or equivalent, and Grade E or above in Chinese Language and English Language (Syllabus B) in the Hong Kong Certificate of Education Examination, or equivalent; or
- (b) a diploma from a registered post-secondary college issued after the date of its registration, or a higher diploma from a Hong Kong polytechnic/polytechnic university, or equivalent, and Grade E or above in Chinese Language and English Language (Syllabus B) in the Hong Kong Certificate of Education Examination, or equivalent; or
- (c) a pass in 2 subjects at advanced level in the Hong Kong Advanced Level Examination and Grade C or above in 3 other subjects, including Chinese Language and English Language (Syllabus B) in the Hong Kong Certificate of Education Examination, or equivalent.

Entry Pay : Entry pay depends on qualification as shown above.

Putonghua qualification : Since 2002, new appointees have been required to pass the Putonghua Examination held by the Government prior to passage of probation bar.

**Training Courses / Workshops / Seminars
attended by Members of the Court Interpreter Grade
between Jan. 2003 and Feb. 2004**

I) Technical Skills

Attendees

A) Training Courses:

1) Courses conducted outside Hong Kong:

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|---|----|
| a) 2 Peking University Intensive Putonghua
and Hanyu Writing Skills Courses in Beijing(8x 2) | 16 |
| b) Beijing Normal University Professional Putonghua Courses in Beijing | 2 |
| c) English Total Immersion Course in England | 2 |

2) Courses conducted in Hong Kong:

- | | |
|--|----|
| a) Beijing Broadcasting Institute Intensive Putonghua Course | 6 |
| b) Preparatory Course for Putonghua Proficiency Examination Course | 22 |
| c) Putonghua Enhancement Course | 15 |
| d) Putonghua Course for Qualifying Exam. | 13 |
| e) Professional English Course, Poly U (to commence on 28.2.04) | 20 |

B) Seminars and sharing sessions:

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| a) A Saturday seminar on professionalization of CIs
on 3 June 2003 (guest speaker) | 82 |
| b) A Saturday seminar on 「我如何走向配音道路 — 也談
香港人學普通話的困難」 (guest speaker) | 99 |
| c) 3 Saturday seminars on 普通話正音工作坊 (guest speaker) | 78 |
| d) A Saturday workshop on Putonghua Toastmasters speech
craft demonstration on 11 October 2003 (guest speakers) | 69 |
| e) Sharing session on Intensive Putonghua & Hanyu Writing Skills | 26 |

C) Visits:

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| a) Saturday visit to the Weapons Training Division of the Hong
Kong Police Force (in-house training) | 24 |
| b) Saturday visit to Police and Detective Training Schools | 35 |

II) Courses organized by outside organizations

1) Courses organized by CSTDI:

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|---|----|
| a) Trim your writing for Court Interpreters | 23 |
| b) Speak Like a Native Speaker – towards better pronunciation | 23 |

c) 廣普生活詞對譯座談會	1
d) Training with the brain in mind	1
e) 暢談普通話日營	1
f) 提升部門形象寫作坊	3
g) 公文語法研習	1
h) 常用公文的寫作通則	1
i) 中級普通話	1
j) Promoting learning and Growth in department	1
2) Courses organized by other organizations:	
a) 中國文化講座(organized by OLD, CSB)	4
b) 法律與語言講座系列	5
c) Visit to Technology Court (organized by the Judicial Clerk Grade);	24

III) Management Skills

A) Courses organized by Civil Services Training & Development Institute:	
a) Supervisory management course (modules II and III)	10
b) Workshop on managing problem performance	1
c) Performance appraisal workshop	4
B) Courses organized by Human Resources Sub-section of Judiciary:	
a) Workshop on Knowledge Management	6
b) Implementing change / improvement initiative workshop	7
c) Performance management workshop	18
d) Counselling skill workshop	8
C) Others:	
a) Team-building workshop	3
b) Workshop on creating, managing and leading effective team	3

IV) Personal Growth

A) Workshops organized by Civil Services Training & Development Institute:	
a) Team-building workshop for Court Interpreters	29
B) Workshops organized by Human Resources Sub-section:	
a) Workshop on stress management	8
b) Workshops on Managing Adversity & Emotional Quotient	18
c) Workshop on Brain Gym	17
C) Others:	
a) Teambuilding workshop (organized by Bailiffs Office)	3
b) Workshop on Civil Service Integrity, ICAC Program	15

BASIC GUIDELINES

FOR

PART-TIME INTERPRETERS

Issue by: Part-time Interpreters Unit
Court Language Section
Judiciary

Revised: April 2003

Part one

Introduction

1. Part-time interpreters are non-civil service part-time interpreters registered with the Court Language Section to interpret in court proceedings and to translate/transcribe documents to be used in courts. In addition to the Judiciary, various Government departments also use Part-time interpreters in connection with their daily operations. While these guidance notes are prepared specifically for Part-time interpreters involved in court proceedings, they are, in general, also applicable to those working for Government departments.

Status

2. Part-time interpreters are not Government employees and are not entitled to any of the fringe benefits enjoyed by a Civil Servant. By the same token, they are not bound by the Civil Service Regulations.

3. On taking up an assignment to work for the Judiciary or any of the Government departments, a Part-time interpreter becomes “**an agent**” of the Government and is therefore, subject to the provisions of the *Prevention of Bribery Ordinance*. Relevant parts of the Ordinance are cited in Part Two of these notes.

Remuneration

4. The rates payable to Part-time interpreters are determined by the Government and are subject to review at reasonable intervals. For interpretation work, they are paid on an hourly basis while translation work is paid on the basis of every 100 words in the target language.

5. The current rate of payment for interpretation service is **\$204 an hour with a minimum payment of two hours' service**. With effect from 1 April 2003, from the third hour onwards payment of remuneration will be rounded off to the nearest half-hour. For translation service, the current rate of payment is **\$74 per 100 words for ordinary documents** and **\$101 per 100 words for technical documents with a minimum payment for at least 200 words**. Any number of words less than 100 words are to be taken as 100 words in the computation of payment.

6. For the purpose of computing remuneration for translation work referred to in para. 4, the calculation of the number of words is based entirely on the number of actual words in the target language. Punctuation and space between words or letters are **NOT** counted as a word or part of a word.

Etiquette

7. A Part-time interpreter must interpret faithfully — without addition or omission — everything said in court. It is anticipated that, occasionally, interpreters may encounter witnesses who speak incoherently or unintelligibly. In those circumstances, past experience shows that interpreters tend to ask questions to clarify what a witness has just said. This is what an interpreter must refrain from doing, no matter how commendable his/her intentions may be. He/she should never give the people in the courtroom an impression that he/she is engaged in a private conversation with the witness, particularly when those present do not speak the language or dialect he/she speaks. The interpreter is expected to try his/her utmost to interpret accurately and faithfully what was said in full, regardless of how little sense it may make and leave the task of clarification to counsel or the bench.

8. Where a charge is put and a plea taken from the accused, his/her answer to the **charge must be interpreted in full and in the direct speech**. In no circumstances should an interpreter draw any inference from the reply made by the accused and jump to the conclusion that he/she ‘pleads guilty’ or ‘not guilty’. Section 19(1) of the *Magistrate’s Ordinance* provides, inter alia, that if an accused pleads guilty to a charge, his/her admission shall be recorded **as nearly as possible** in the words used by him/her.

9. Part-time interpreters must speak in a clear, firm and well-modulated voice when interpreting in court proceedings. They should strive for professional detachment. Displays of emotion, bias or personal opinion should definitely be avoided.

10. All accused persons in a criminal case and all unrepresented litigants in a civil case are entitled to know everything that is said in court. It is therefore imperative for submissions made in court to be interpreted to them. This should be done simultaneously by the side of the person or persons requiring interpretation service. The voice level should be one such that it is completely audible to the person he/she is speaking to, but at the same time, not causing unnecessary interruption to the court proceedings.

11. A Part-time interpreter is also required, unless the court directs otherwise, to interpret consecutively and aloud, sentence by sentence, the judgment delivered by the judicial officer in the proceedings.

12. A Part-time interpreter must inform the Court Language Section or the Court as soon as practicable when an actual or probable conflict of interest or the appearance of a conflict of interest arises. He/she may also be required to sign a printed note to confirm that he/she has no interest or involvement in the interpretation work of the case to serve as a written record when necessary. Any condition which may infringe upon the objectivity of the interpreter, or affect his/her professional independence constitutes a conflict of interest. It shall be assumed that a conflict of interest exists when any of the following instances arise:

- (a) The Part-time interpreter is acquainted with a witness or a party to the proceedings.
- (b) The Part-time interpreter has, in any way, an interest in the outcome of the case.
- (c) The interpreter had been professionally involved in the case before it came before the court for hearing.

13. Part-time interpreters are required to keep a record of all the cases that they have been asked to act as interpreter during the investigation stage of the case. The record can be in the form of a small notebook in which the department concerned, the date and time, the case number, the nature of the charges, the dialect or language used and the defendant's name are recorded. This can serve as a reminder to them in case they need to find out if they had been engaged in a particular case. Such notebook should be kept for at least three years before being disposed of.

14. Should the interpreter find that he/she had made a mistake in his/her interpretation during the course of the proceedings, he/she shall immediately inform the court of his/her mistake and the corrections he/she wishes to make.

15. Should a Part-time interpreter encounter any difficulties in interpretation, he/she should let the court know about it immediately.

16. Part-time interpreters should avoid any discussions with counsel, parties to the case, witnesses, jurors, or any other interested persons inside or outside the courtroom.

17. Part-time Interpreters should never discuss the case with anyone including the press media whilst the case is in progress.

18. In addition to interpreting in courts, Part-time interpreters are sometimes engaged to do translation of documents to be used in courts. When doing translation of this kind, Part-time interpreters are reminded that they should faithfully and accurately translate everything in the original document into the required target language.

19. In circumstances where words not appearing in the original text have to be added in the translation in order to faithfully bring out the complete sense of the original text, those added words must be contained in parentheses.

20. Where there is a deletion in the original text, it must be indicated in the target language by adding the word 'deletion' in brackets.

21. Where there are words not legible in the original text, the same should be indicated in the target language by adding the word 'illegible' in brackets.

22. After completing a translation, the Part-time interpreter may be required to make a declaration to certify the correctness of translation.

23. A Part-time interpreter should only accept assignments in the language(s) or dialect(s) he/she has registered with the Court Language Section. A Part-time interpreter must not accept an assignment for a language or a dialect he/she had not registered with the Court Language Section even if he/she reckons that the language or dialect of the assignment is one which he/she can competently speak and write.

24. A Part-time interpreter is not permitted to make private arrangements with his/her colleagues, friends, other Part-time interpreters or any other persons to transfer, assign, re-assign, contract, or sub-contract part or whole of his/her assignment.

25. Part-time interpreters must keep all information that comes to their knowledge strictly confidential. Even seemingly unimportant information could be damaging in the wrong hands.

26. A Part-time interpreter is forbidden to counsel, advise or interject his/her personal opinions on any of the parties in the case in which he/she is involved as an interpreter. Any attempt of this kind could give rise to possible criminal prosecution.

27. **Punctuality is of paramount importance.** Part-time interpreters must arrive at the designated place of work at the appointed time punctually. Should he/she be delayed by unforeseen circumstances, he/she should take the first available opportunity to notify the Court Language Section or the user department concerned.

28. All Part-time interpreters must present themselves in respectable clothes in a court of law. Jeans and running shoes are strictly prohibited. Male interpreters must wear a tie and a jacket

Gale and Rainstorm warnings

29. Part-time Interpreters who have agreed to take up an assignment to work for the Judiciary or any of the Government departments should listen to the local radio and TV stations for announcements on adjournment and resumption of proceedings during the gale and rainstorm warnings. Part-time interpreters must inform without fail the Part-time Interpreters' Unit of the Court Language Section or the Government department concerned in the event that they are not able to take up the assignment at the adjourned hearing or on the new date. Part-time interpreters should not call the court or tribunal where they are supposed to attend.

'Retiring' Age

30. The normal retiring age for a registered Part-time interpreter is **sixty-two** and his/her name will be removed from the Master List of Part-time Interpreters. An interpreter may remain on the list after the age of 62 subject to good performance, the supply of part-time interpreters in the language/dialect concerned, and other relevant considerations.

De-registration/Suspension of Service

31. If it has come to the knowledge of the Court Language Section that a registered Part-time interpreter is no longer fit to work as an interpreter in court proceedings, the Court Language Section may suspend his/her service at any time.

32. A Part-time interpreter is liable to be de-registered and removed from the List of Part-time Interpreters when it is shown to the satisfaction of the Court Language Section that he/she has committed an act of misconduct, such as failure to declare personal interest; deliberate misinterpretation or mistranslation; commission of an act of dishonesty; or in breach of the interpreter's code of ethics, etc.

33. When a decision to de-register a Part-time interpreter is made, the Court Language Section would inform the Part-timer in writing and he/she may appeal to the Court Language Section against the decision within 14 days from the date of the letter.

Disciplinary Action

34. Disciplinary action including verbal/written warning and temporary suspension of service may be meted out to a Part-time interpreter having regard to the circumstances and seriousness of the case.

35. All Part-time interpreters should strictly follow these guidelines.

Part Two

Relevant part of the *Prevention of Bribery Ordinance* (Cap. 201)

Section 9

Corrupt transactions with agents

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his:-

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business, or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2)

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document -

- (a) in respect of which the principal is interested; and
- (b) which contains any statement which is false or erroneous or defective in any material particular; and

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- (c) which to his knowledge is intended to mislead the principal, shall be guilty of an offence.
- (4) If any agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).
- (5) For the purposes of subsection (4) permission shall:-
- (a) be given before the advantage is offered, solicited or accepted; or
 - (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 2

Interpretation

“advantage” means:

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a),(b),(c),(d),and (e).

“agent” includes a public servant and any person employed by or acting for another.

“entertainment” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

“principal” includes:-

- (a) an employer;
- (b)
- (c)
- (d)
- (e)
- (f) in the case of an employee of a public body, the public body.

Part-time