

VISA PAK ISSUE 425 — 10 JANUARY 2020

## CREATING AND USING AMS WARNINGS ABOUT COURT DECISIONS

The purpose of this item is to convey a recent opinion from the Office of the Ombudsman in relation to alerts and warnings about judicial decisions. The Ombudsman looked at an individual case where an existing character warning related to a conviction was added to with bullet points taken from the subsequent unsuccessful appeal against conviction.

The Ombudsman's view is that it is unfair for an immigration officer to be permitted to take into account select sentences from a judgment without obtaining a copy of the actual judgment in order to understand the context of the findings. Such judgments often involve weighing and balancing of a variety of positive and negative factors. He recommended that a copy should be made available where possible in order to promote informed decision making.

### **What to do when raising warnings relating to judicial judgments**

If you obtain a court or Tribunal decision about an applicant, and it would be appropriate to raise an information warning for the benefit of future INZ decision making, you should limit the content to the date of the decision, the outcome of the decision and where to find it. Avoid the inclusion of other details or points that were made.

It is important to include instructions for where to access the full judgment in the warning, where possible. For example, the full decision may be available through an internet search, through one of MBIE's subscription services such as Westlaw, or it may be best to direct the reader to email someone or request an INZ application.

### **What to consider when taking such a warning into account**

If you are processing an application with an existing warning about a court or tribunal decision, be cautious not to include selected information in your decision making, including character waiver assessments, without considering the full decision.