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**Annual Report and Accounts  
2008/09**

**The Commissioner's Report  
on regulation by Designated  
Professional Bodies of  
their members**



# **Annual Report and Accounts of the Office of the Immigration Services Commissioner**

**1 April 2008 to 31 March 2009**

**Incorporating the Commissioner's Report on regulation by Designated  
Professional Bodies of their members**

Presented to Parliament by the Secretary of State in pursuance of paragraph 21(3) of Schedule 5 to the Immigration and Asylum Act 1999 and by the Comptroller and Auditor General in pursuance of paragraph 20(3) of that Act.

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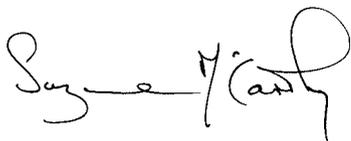
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## **Annual Report and Accounts of the Office of the Immigration Services Commissioner**

The Rt Hon Alan Johnson MP

Sir,

I have pleasure in submitting the Annual Report and Accounts of the Office of the Immigration Services Commissioner as required by paragraph 21(3) of Schedule 5 to the Immigration and Asylum Act 1999. The Report covers the period 1 April 2008 to 31 March 2009.

A handwritten signature in black ink, appearing to read 'Suzanne McCarthy', with a large, stylized flourish at the end.

Suzanne McCarthy  
Immigration Services Commissioner and Accounting Officer  
Office of the Immigration Services Commissioner  
Counting House  
53 Tooley Street  
London, SE1 2QN

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# Foreword



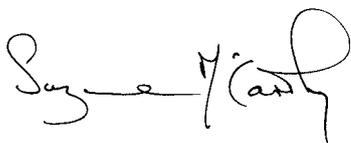
Good immigration advice is in everyone's interest. As the Immigration Services Commissioner my role is to ensure that those who give immigration advice or services in the UK are fit and competent.

Bad immigration advice damages many lives, and, in addition, can lead to abuse of the immigration rules. My Office, the OISC, appreciates the heavy responsibility and expectation placed on it to deliver good quality regulation for the benefit of those needing immigration advice, for those giving such advice, for the government and for the general public.

This Report highlights the issues and developments that the OISC has engaged with over the past financial year and the significant activities that are planned for next year. In particular, 2008/09 saw both the start of the United Kingdom Border Agency and the introduction of the Government's Points Based System (PBS). As a result of the PBS, those seeking entry into the UK via Tier 2 (employment) or Tier 4 (education) will invariably be located overseas when looking for advice about coming to this country and/or when submitting an application to do so. This has given added impetus to the work we are doing with our international 'sister' regulators, which I describe in more detail in my Commissioner's Statement.

Equally important is the fact that we expect that 2009/10 will see the introduction of legislation that will lay the foundation for the future of regulation of the immigration advice sector in this country and make changes to the OISC's scope and powers. Work within the OISC during next year should also result in major alterations to the way the Office operates.

In previous reports I have mentioned the contributions of the Deputy Commissioner specifically and of OISC staff generally. Events during 2008/09 have again demonstrated why I owe them all much thanks. They have continually shown their strong commitment and fortitude in dealing with the many challenges that have come towards us. I very much look forward to working with them in 2009/10, which, as previously mentioned, I expect will be a year of exciting and testing experiences.



Suzanne McCarthy  
Immigration Services Commissioner  
25 June 2009

# Chapter 1: Commissioner's Statement

The end of 2008/09 saw the United Kingdom Border Agency (UKBA) consulting on the future regulation of the UK's immigration advice sector. This follows the Agency's review of my Office mentioned in last year's Commissioner's Statement. In that Statement I made the point that, while the immigration sector had evolved greatly since the OISC started, the need for good immigration advice had not diminished. I am pleased that the consultation document acknowledges this as well as the valuable contribution that the OISC has made to date in the development and regulation of the sector. In addition, it recognises that, in building on the current regulatory framework, more can be done to protect those who require assistance and those who rely on the sector to give good immigration advice and services. I welcome the Government's preference for the OISC to continue as part of the Home Office family enhanced with new powers and clearer legislation.

The consultation summarises the valuable contribution that the OISC has made since it started operating in 2001 including:

- explicit recognition within the UK of the role and work of immigration advisers;
- establishing a baseline for adviser fitness and competence and working with advisers to increase the professionalism of the sector;
- creating a public register of OISC regulated immigration advisers;
- introducing a one stop complaints scheme for the provision of immigration advice and services; and
- prosecuting those who provide immigration advice and services illegally.

Developments in respect of each of the above are described in this Report.

The expectation is that the consultation's outcome will be translated into clauses in the Immigration Bill. The Bill is expected to enter Parliament in autumn 2009. The consultation also refers to possible new provisions that may be contained in the Bill, including replacing the terms 'Registered' and 'Exempt' OISC advisers with the all-embracing category of 'Regulated' advisers, giving me the power to issue improvement and prohibition notices as an additional means of improving performance and compliance and ensuring that persons who have been convicted of providing immigration advice and services illegally will not be able to be involved with an OISC regulated immigration advice business.

The consultation and the prospective Bill are about the future. My Office is, however, a dynamic organisation, and this Report also describes what has happened during the past year and what is planned for the immediate future.

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One of the most significant recent events was the introduction of the Government's Points Based System (PBS). In my written evidence to the Home Affairs Select Committee in July 2008, I expressed my welcome in principle for this simpler and more transparent migration system. As explained in last year's report, while the OISC does not regulate Sponsors, it does regulate those who act as representatives for Sponsors by providing immigration advice and services on relevant matters such as obtaining the necessary certificates of sponsorship.

As I mentioned in last year's Statement, a belief existed that the PBS would essentially obliterate the need for immigration advisers. I publicly disagreed with that view, not least because the PBS will affect only about 40% of the immigration advice provided. In fact, since 2004/05 the OISC has seen an increase in the number of immigration advisers involved in business migration. As my Office expected, the number of regulated organisations shows no sign of reduction. This is consistent with the experience of the OISC equivalent Canadian and Australian regulatory bodies following the introduction of similar schemes in their respective countries.

The introduction of the PBS has moved entry clearance decisions overseas, and with no appeal available in the UK, we anticipate that the demand by those located outside the UK for advice on UK immigration rules will rise. Like our Canadian and Australian counterparts, we believe that co-operation between international regulators will assist those who need advice to find reputable advisers.

The OISC's first duty is, of course, being an effective and efficient national regulator. Among the most significant recent developments helping us to achieve that goal was the delivery towards the end of 2008/09 of the OISC's newly designed website. Security issues forced us significantly to reduce our former website's presence. This imperative allowed us, however, to rethink our website and to develop a site that is easier to navigate and understand as well as providing more information both to regulated advisers and those who may be thinking about entering the profession. I hope that all readers of this Report will take the time to look at the new site ([www.oisc.gov.uk](http://www.oisc.gov.uk)).

As mentioned above, part of the website is specifically devoted to advisers' interests and concerns. This is only one example of new initiatives that are primarily directed at assisting advisers. As advisers will know, on 1 April 2008 the OISC's Continuing Professional Development (CPD) programme of online courses, developed with the Open University, was introduced. Consequently, regulated advisers operating anywhere in the UK can easily access suitable training. A wide

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range of courses is available covering both specialist immigration subjects and management issues.

Another initiative that started in April 2008 was the Complaints Re-direction Pilot. Under the OISC's Code of Standards, every regulated organisation is required to have a process for dealing with complaints made against their organisation. Under the pilot, suitable complaints received by my Office were re-directed back to the organisation with the consent of both the complainant and the regulated firm. The pilot has confirmed our hope that, in the large majority of such complaints, re-direction would result in faster resolution and a satisfactory outcome for the complainant, allowing the OISC to concentrate its limited resources on the more difficult and sensitive complaints. We surveyed complainants and advisers who had been involved in re-directed complaints, and all those who replied confirmed that they were satisfied with the process. Responding advisers also indicated that examining the complaint in-house helped them to identify and make improvements to their systems and processes. As a result of the success of this pilot, the OISC has decided to adopt re-direction as a permanent feature of its complaint processing system.

My Office has, as in previous years, continued asking complainants about their experiences of our complaints process. The responses received shows both a high degree of satisfaction with the way my Office handles complaints and reflects concern on the part of many complainants to protect others from bad advisers.

We also want to know what advisers think of how we work with them in order to inform and improve our operations. To do this, in February 2009 we started piloting four adviser satisfaction surveys covering how we handle new applications for regulation; consider continued registration applications; conduct audits; and process complaints. My Senior Management Team and I will be monitoring the progress of this pilot throughout 2009/10 and looking with interest at the response that we receive.

The OISC works to ensure the integrity of the immigration sector both by admitting and retaining in its scheme only those advisers who meet its requirements of fitness and competence and by preventing the giving of illegal immigration advice. By doing so, my Office preserves the reputation and integrity of the immigration advice profession. During 2008/09, for example, the OISC conducted a special initiative aimed at stopping illegal advisers from advertising their services in certain Chinese language papers. As a result, some 30 potentially illegal advertisements were identified, several individuals were cautioned and the publications' editors alerted.



In addition to the OISC's main activities of regulation, complaint determinations and investigating possible illegal activity, two main interconnected projects will dominate our time and energy during 2009/10 – the Reform and Remodel project and the development of the OISC's new database.

Over the years the OISC has developed and its operational requirements have changed. The OISC has always sought efficiencies and savings, and this has increasingly become an imperative as the pressure on our budget increases. During 2008/09, with the assistance of members of the UKBA's Process Improvement Unit, we thoroughly examined our operational business processes. This allowed us to identify where improvements and efficiencies might be made. The result of that work has led to an ambitious business improvement project, the Reform and Remodel project, which will be delivered during 2009/10. The outcome will include changes to our organisational structure, processes and procedures, which in turn should lead to reductions in how long it takes to consider applications and investigate complaints, increase our operational productivity and improve job satisfaction. We expect that the combination of these outcomes will lead to a stronger in-house culture of performance management, which we will track through a revised set of performance measures.

The OISC is heavily dependent on its database. The current database was acquired when the OISC started in 2001 and was heavily tailored to meet the OISC's original requirements. Over time, as the OISC's work has evolved, the database has increasingly been unable to provide my Office with the necessary flexibility. Leaving the database in place would certainly hinder our ability to achieve the improvements and efficiencies that we anticipate being delivered through the Reform and Remodel project.

My Office has been fortunate in securing sufficient capital funding from the UKBA to allow us during 2009/10 to acquire a new database. This will mean that we will be able to call on a completely integrated, streamlined and easy to use system that, with an eye to the future, can be modified to meet our changing requirements such as the possible introduction of electronic auditing.

The programme I have described above will require the dedication and energies of the Deputy Commissioner, the OISC's Senior Management Team and every member of my staff. I know from past experience that I can count on their commitment. I sincerely value and thank them for their collective and individual contributions.

## Chapter 2: The organisation

### **The Commissioner's Office**

The Commissioner's Office consists of the Immigration Services Commissioner, Suzanne McCarthy, the Deputy Immigration Services Commissioner, Linda Allan, and their administrative support team.

### **The Operational Teams**

Five separate but interlinking teams make up the OISC's operational capability.

#### **1. The Casework and Complaints Teams**

Led by the Interim Head of Casework and Complaints, Amy Jupp, the members of the three Casework and Complaints Teams come from a variety of backgrounds across the private, public and voluntary sectors. These three teams are primarily responsible for delivery of the OISC's regulatory and complaints functions, and act as the main contact point for regulated advisers. The teams ensure compliance with the OISC's regulatory scheme by conducting audits, considering applications for new and continued registration, evaluating competence assessments and investigating complaints.

During 2008/09, caseworkers also helped advisers understand the process of applying for registration by delivering ten application support seminars, as well as leading four OISC regional Roundtable Meetings with immigration advisers in London, Leicester and Manchester. Team members also helped advisers access the OISC's CPD scheme during its first year of implementation.

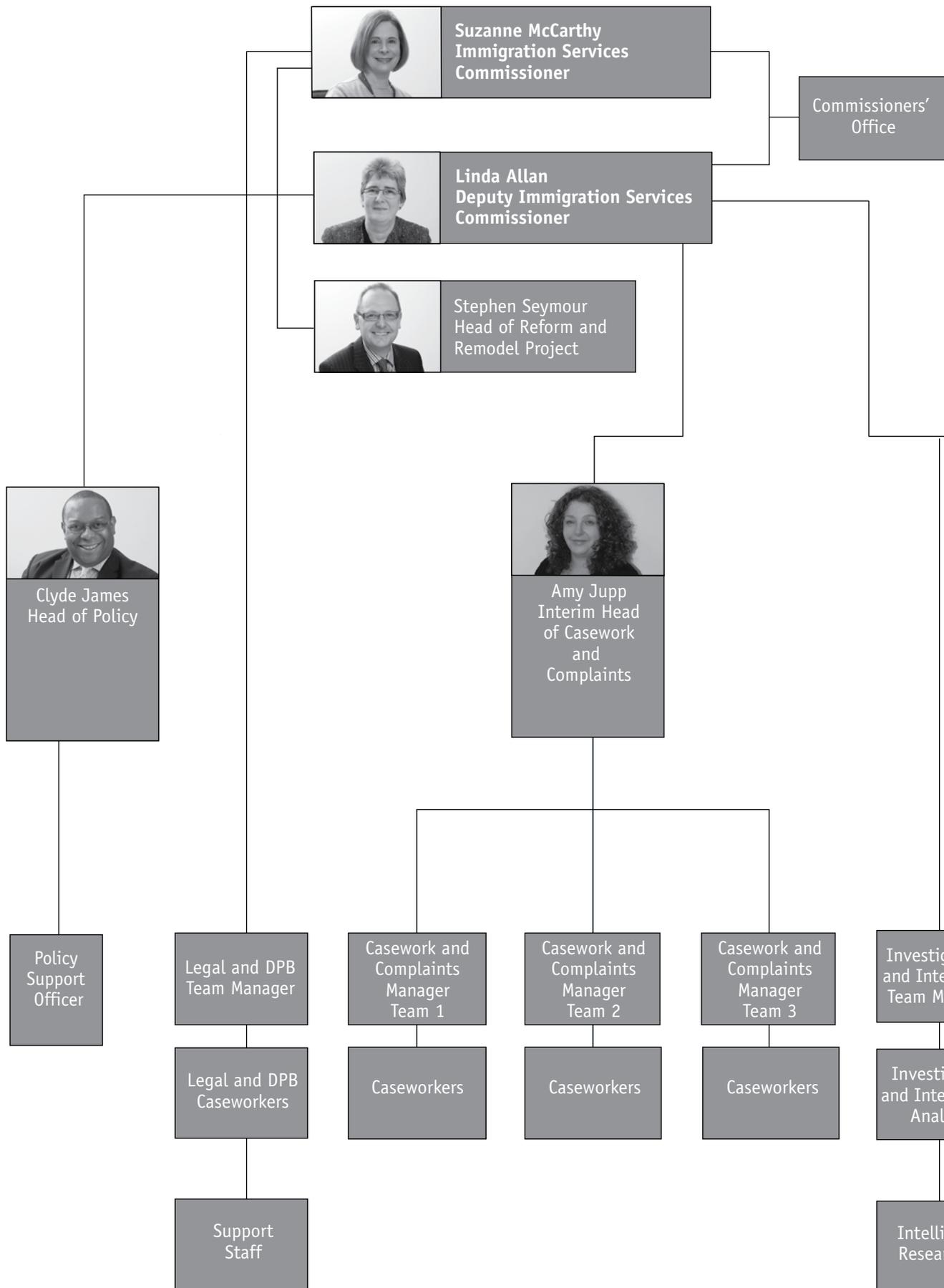
#### **2. The Investigations and Intelligence Team**

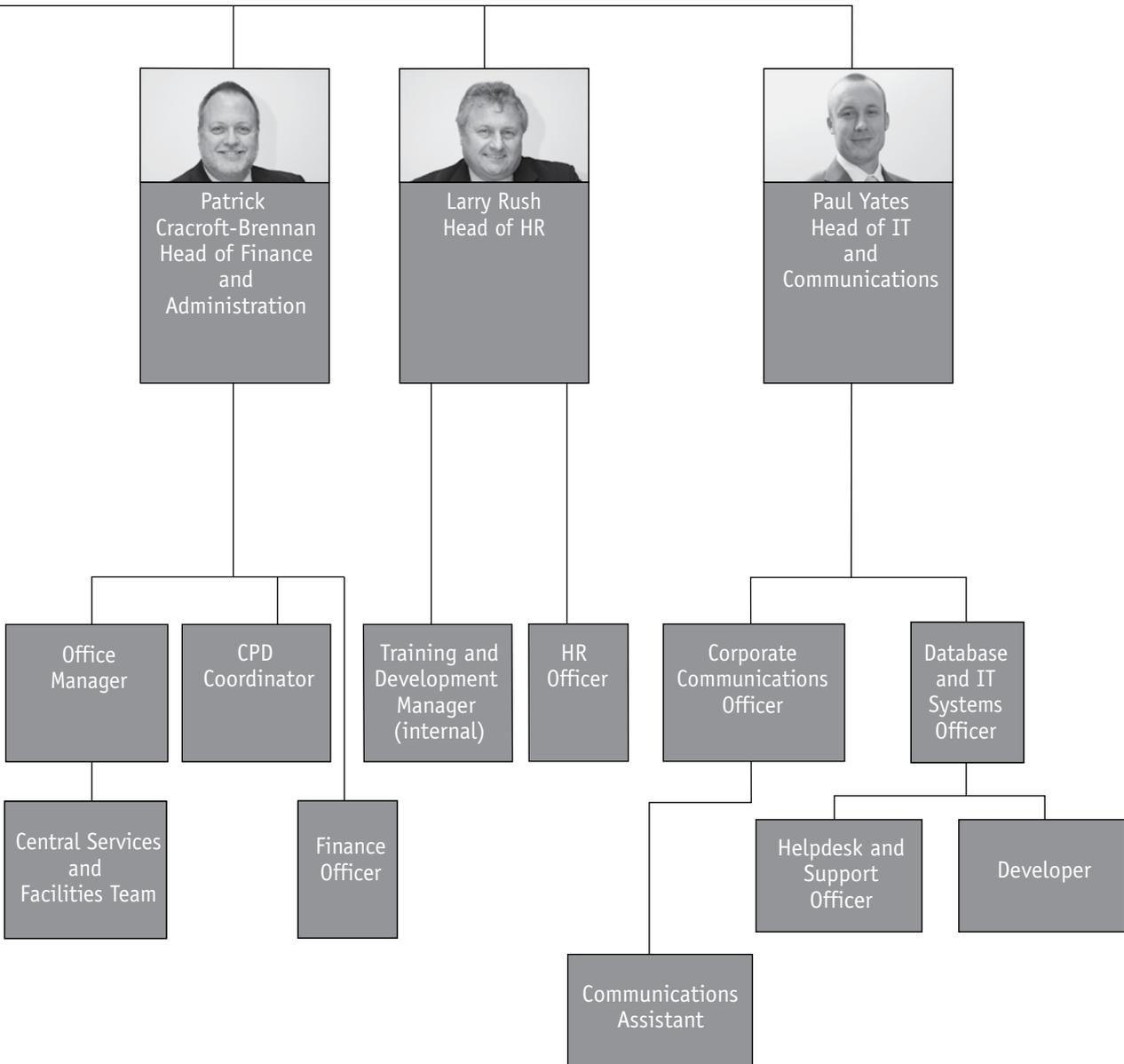
The team seeks out and investigates alone, or jointly with other UK investigative bodies, allegations of unregulated activity relating to immigration advice or services. As part of this work, the team investigates and leads on the prosecution of specific OISC offences before the criminal courts. The intelligence team produces intelligence on prospective and regulated advisers and possible illegal activities. It also produces ad hoc reports on specific subjects.



### **3. The Legal and DPB (Designated Professional Bodies) Team**

The Commissioner has a duty to report on the effectiveness of DPBs in their regulation of those of their respective members who give immigration advice or services. To fulfil this duty the DPB team monitors the way in which those bodies process complaints about immigration advice and services, and how they regulate their members. The legal team ensures the good conduct of cases when a Commissioner's decision is appealed to the Immigration Services Tribunal (ImSeT). It also gives advice, internally, regarding the OISC's legal responsibilities.





Investigations  
Intelligence  
Manager

Investigations  
Intelligence  
Systems

Intelligence  
Researchers



## The Corporate Support Service Teams

### 1. The Communications and Stakeholder Engagement Team

This team uses planned and integrated communications to contribute towards meeting the needs of the OISC's key stakeholders. It manages both internal and external communications and is responsible for producing and undertaking a range of events, publications and media activities. The team organises events with regulated advisers such as the Annual Conference and Roundtable Meetings. It produces the Annual Report as well as internal and external newsletters, and liaises with a range of media.

### 2. The Finance and Administration Team

The Finance and Administration Team is divided into four sections with responsibility for the following functions:

- **Finance** – prepares the annual budget and oversees the OISC's income and expenditure. Specific responsibilities include creditor payments, administering staff expenses and preparing the annual accounts and other periodic financial reporting. It also acts as the secretariat for the OISC's Audit Committee and has overall responsibility for dealing with Freedom of Information Act and Data Protection Act matters.
- **Central Services** – is the first point of contact for the public, receiving all incoming general enquiries and processing all applications for registration and re-registration. They also provide administrative support to the Casework and Complaints Teams.
- **Facilities** – has responsibility for ensuring that the office has the necessary equipment and other provisions to operate effectively. As part of its role, it liaises with the managing agents, equipment engineers and other providers.
- **Continuing Professional Development** – works in conjunction with the Open University to provide the CPD scheme for OISC regulated advisers.

### 3. The Human Resources (HR) Team

The HR Team is responsible for providing a comprehensive personnel, training and development service for OISC staff. During 2008/09, the team continued its review of HR policies, ensuring the OISC's ongoing compliance with employment legislation. The team undertook a consultation exercise relating to disability and published the OISC's Disability Equality Scheme on 3 December 2008.

Several recruitment exercises were undertaken during the year and staff attended 419 training and development days.



The Office of the Immigration Services Commissioner lost 372.75 working days due to sick absence in the 2008/09 financial year, the equivalent of 2.37% of the total number of working days available.

#### **4. The Information Technology (IT) Team**

The IT Team is responsible for the provision, maintenance and support of the office's IT functions. During 2008/09, the IT Team was restructured to enable greater focus on the development and support of internal applications. It identified the cause, and managed the resolution, of two serious technical problems within the business database. Additionally, the management reporting tools were completely overhauled, resulting in more reliable and robust business data being available to assist with the management of the OISC.

The team also started preparing for the design and implementation of the new OISC business database, a project that is due to deliver in March 2010.

#### **5. The Policy Team**

The team's functions include providing guidance on the OISC's regulatory scheme, interpreting relevant legislation and case law, and contributing to discussions on possible legislative changes. Members of the team represented the OISC at various stakeholder events and meetings, and assisted the Commissioner in responding to various external consultations as listed in Annex B.

During 2008/09, the team with others in the OISC furthered the development of an OISC knowledge index. The team also assisted in meetings with various MPs and external bodies.

## Chapter 3: Statistical report

### Regulation of immigration advice

It is illegal to offer immigration advice and services without being directly regulated by the OISC. The only exceptions to this are those who are regulated by a DPB, such as the Law Society of England and Wales, or those who have been exempted by a Ministerial Order.\*

The types of organisation that the OISC regulates range widely from small community-based organisations and sole traders through to national charities with multiple offices and large specialist, profit-making advisory services. Statute distinguishes between regulated organisations by dividing them into two specific categories: 'Registered' and 'Exempt'. The OISC defines these in the following way:

- Registered organisations are mainly those operating in the private sector. They charge for their advice or services either through a straightforward fee or via charges made as part of a larger advice package, for example a private college that offers immigration advice as part of its student services. Voluntary and community sector organisations, including charities and local authorities that charge for their services, are included in this group.
- Exempt organisations generally operate in the voluntary or community sector. They do not charge clients for the immigration advice or services they provide. These bodies are referred to as 'Exempt' only because they are exempted from paying any registration fee to the OISC.

The OISC's regulatory framework is based on four cornerstones: the Code of Standards, the Commissioner's Rules, the Guidance on Competence and the Complaints Scheme. The Commissioner's Rules, which focus mainly on financial management and control, apply only to Registered organisations, while the other three apply to all organisations. These documents set out what is expected of regulated immigration advisers in terms of skills, experience and aptitudes.

The OISC's approach to regulation is both targeted and proportionate. Wherever possible, the OISC supports and encourages organisations to come into its scheme and to develop and improve the level of service they offer to their clients.

\* Ministerial Orders give specific exemption from regulation and relate to the NHS, publicly funded educational institutions and relevant employers.

## Statistics on regulated organisations and advisers as at 31 March 2009

The following statistics outline the size of the regulated sector and how it breaks down by level of regulation, type of regulation, type of advice being offered and location.

**Table 1: Total number of organisations**

|   | As at 31 March 2008 | As at 31 March 2009 |
|---|---------------------|---------------------|
| Registered                              | 703                 | 753                 |
| Exempt*                                 | 977                 | 970                 |
| Total number of regulated organisations | 1,680               | 1,723               |

\* This figure includes Citizens Advice Bureaux at Level 1

**Table 2: Total number of regulated advisers**

|                                      | As at 31 March 2008 | As at 31 March 2009 |
|--------------------------------------|---------------------|---------------------|
| Registered                           | 1,677               | 1,851               |
| Exempt*                              | 2,395               | 2,386               |
| Total number of regulated advisers** | 4,072               | 4,199               |

\* This figure includes one adviser at each of the Citizens Advice Bureaux

\*\* Some advisers work for both Registered and Exempt organisations and thus are not included twice in the final totals

**Table 3: Total number of regulated premises per region per level**

|                    | Level 1    |            | Level 2   |           | Level 3    |            | Total      |              | Overall total |
|--------------------|------------|------------|-----------|-----------|------------|------------|------------|--------------|---------------|
|                    | Reg*       | Ex**       | Reg       | Ex        | Reg        | Ex         | Reg        | Ex           |               |
| East Midlands      | 20         | 48         | 3         | 3         | 13         | 5          | 36         | 56           | <b>92</b>     |
| East England       | 26         | 81         | 4         | 4         | 14         | 9          | 44         | 94           | <b>138</b>    |
| London             | 282        | 192        | 50        | 31        | 146        | 43         | 478        | 266          | <b>744</b>    |
| North East         | 26         | 33         | 3         | 3         | 8          | 4          | 37         | 40           | <b>77</b>     |
| Northern Ireland   | 7          | 30         | 2         | 0         | 0          | 2          | 9          | 32           | <b>41</b>     |
| North West         | 50         | 94         | 10        | 2         | 26         | 14         | 86         | 110          | <b>196</b>    |
| Scotland           | 13         | 79         | 2         | 2         | 4          | 1          | 19         | 82           | <b>101</b>    |
| South East England | 58         | 137        | 10        | 6         | 20         | 8          | 88         | 151          | <b>239</b>    |
| South West England | 15         | 64         | 1         | 1         | 3          | 4          | 19         | 69           | <b>88</b>     |
| Wales              | 6          | 48         | 0         | 0         | 5          | 1          | 11         | 49           | <b>60</b>     |
| West Midlands      | 25         | 61         | 3         | 1         | 18         | 10         | 46         | 72           | <b>118</b>    |
| Yorkshire          | 22         | 60         | 4         | 6         | 15         | 15         | 41         | 81           | <b>122</b>    |
| Other***           | 2          | 3          | 2         | 0         | 0          | 1          | 4          | 4            | <b>8</b>      |
| <b>Total</b>       | <b>552</b> | <b>930</b> | <b>94</b> | <b>59</b> | <b>272</b> | <b>117</b> | <b>918</b> | <b>1,106</b> | <b>2,024</b>  |

\* Registered

\*\* Exempt

\*\*\* Region unidentified at time of print

**Table 4: Total number of OISC regulated individual advisers per region per category**

|                    | Asylum       | Entry clearance | Nationality and citizenship | EU and EEA*  | Detention  |
|--------------------|--------------|-----------------|-----------------------------|--------------|------------|
| East Midlands      | 71           | 80              | 108                         | 69           | 33         |
| East England       | 99           | 140             | 148                         | 103          | 62         |
| London             | 1,524        | 1,724           | 1,772                       | 1,476        | 692        |
| North East         | 54           | 65              | 99                          | 55           | 28         |
| Northern Ireland   | 11           | 18              | 20                          | 13           | 1          |
| North West         | 108          | 145             | 210                         | 107          | 43         |
| Scotland           | 49           | 43              | 60                          | 34           | 5          |
| South East England | 145          | 145             | 195                         | 114          | 35         |
| South West England | 25           | 38              | 48                          | 21           | 5          |
| Wales              | 44           | 25              | 42                          | 24           | 2          |
| West Midlands      | 86           | 132             | 158                         | 99           | 35         |
| Yorkshire          | 150          | 185             | 197                         | 136          | 39         |
| Other**            | 5            | 11              | 11                          | 11           | 4          |
| <b>Total</b>       | <b>2,371</b> | <b>2,751</b>    | <b>3,068</b>                | <b>2,262</b> | <b>984</b> |

\* European Union and European Economic Area

\*\* Region unidentified at time of print

**Table 5: First-time applications**

|   | Registered | Exempt | Total      |
|---|------------|--------|------------|
| Applications received                     | 199        | 28     | <b>227</b> |
| Applications brought forward from 2007/08 | 54         | 11     | <b>65</b>  |
| Applications approved                     | 172        | 17     | <b>189</b> |
| Applications refused                      | 10         | 4      | <b>14</b>  |
| Applications withdrawn                    | 8          | 4      | <b>12</b>  |
| Applications carried forward              | 58         | 10     | <b>68</b>  |



### Rejecting applications and withdrawing exemption

Refusing an organisation's application for entry into the regulatory scheme or to be re-registered, or withdrawing an organisation's exemption, are serious matters and are not actions that the OISC takes lightly. While our caseworkers make every effort to help organisations, it is the Commissioner's statutory duty to protect the public from unfit or incompetent immigration advisers.

**Table 6: Reasons for refusal or withdrawal of exemption**

| Reasons for refusal or withdrawal of exemption | 2006/07 | 2007/08 | 2008/09 |
|--|---------|---------|---------|
| Non-compliance – not fit/not competent         | 32      | 19      | 9       |
| Incomplete application/information             | 16      | 9       | 6       |

### Organisations leaving the scheme

Organisations leave the OISC's scheme for a number of reasons, as indicated in Table 7.

**Table 7: Reasons for departure**

| Reason for departure                                   | 2006/07 | 2007/08 | 2008/09 |
|--|---------|---------|---------|
| Did not return continued registration application      | 49      | 46      | 65      |
| No longer giving immigration advice                    | 14      | 39      | 34      |
| Ceased trading   | 33      | 18      | 18      |
| Regulation not necessary as no adviser at organisation | 4       | 4       | 8       |
| Now under a DPB  | 0       | 0       | 2       |

### Changing competence levels

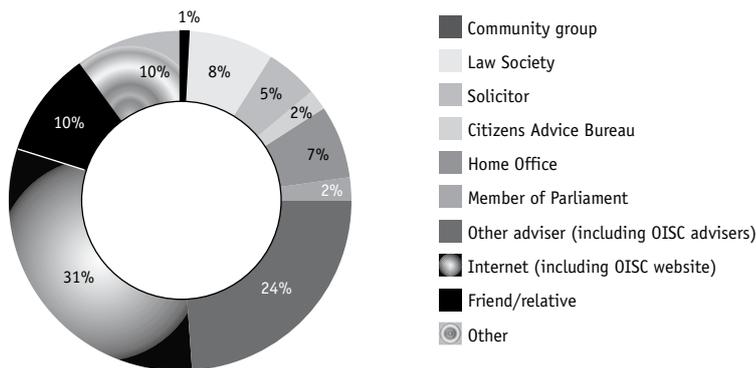
We may change an organisation's or adviser's competence level for a number of reasons. Where there is an increase in level, the organisation or adviser will have applied to move up and will have undertaken competence assessment at the higher level before being approved. Where the level is decreased, this may either be because the organisation or adviser tells us that they no longer wish to operate at the higher level or because we consider, based on competence assessment and/or audit, that they are no longer fit and/or competent to operate at that level.

The requirement for advisers to sit formal competence assessment came into force on 1 April 2005.

## Complaints

The OISC's Complaints Scheme forms an important part of our regulatory function. Complaints help the OISC to monitor how well advisers are serving their clients, and are taken into account during audits. Complaints against unregulated advisers also help bring illegal activity to our attention.

**Figure 1: How complainants heard about the OISC\***



\* These figures are based on responses given to the question 'How did you hear about the OISC?' in the OISC's complaints form. As the complaints form is just one of the means by which the OISC receives complaints, the above does not represent the total number of complaints the OISC received in 2008/09

**Table 8: Who the OISC received complaints from**

| Public | OISC advisers | AIT* | DPB advisers | UKBA | Other public body | OISC initiated | Law centres | MP | Other |
|--------|---------------|------|--------------|------|-------------------|----------------|-------------|----|-------|
| 322    | 25            | 26   | 49           | 15   | 4                 | 38             | 3           | 8  | 11    |

\* Asylum and Immigration Tribunal

As in previous years, by far the single largest group of complainant is the general public.

**Table 9: Breakdown of total complaints received 2001/02–2008/09**

|              | Complaints against OISC regulated advisers | Complaints against DPB regulated advisers | Complaints against unregulated advisers | Total number of complaints received |
|--------------|--|---|---|-------------------------------------|
| 2001/02      | 120  | 178                                       | 91                                      | 417*                                |
| 2002/03      | 120  | 204                                       | 178                                     | 502                                 |
| 2003/04      | 138  | 217                                       | 116                                     | 471                                 |
| 2004/05      | 238  | 163                                       | 140                                     | 541                                 |
| 2005/06      | 255  | 170                                       | 143                                     | 568                                 |
| 2006/07      | 239  | 114                                       | 144                                     | 497                                 |
| 2007/08      | 238  | 98  | 158                                     | 494                                 |
| 2008/09      | 280  | 116                                       | 105                                     | 501                                 |
| <b>Total</b> | <b>1,628</b>                               | <b>1,260</b>                              | <b>1,075</b>                            | <b>3,991</b>                        |

\* Includes 28 complaints that were outside the OISC's jurisdiction

### **Disposal of OISC complaint cases against regulated advisers**

As of 31 March 2008, 127 cases were being investigated by the OISC. During the year, we received a further 280 complaints against OISC regulated advisers. Of the total 407 complaints, we closed 244.

**Table 10: How the OISC disposed of complaint cases against regulated advisers**

| Substantiated | Unsubstantiated | Conciliated | Suspended investigation | No supporting evidence | Not OISC regulated | Withdrawn | Passed to Intelligence | Re-directed | Other | Total |
|---------------|-----------------|-------------|-------------------------|------------------------|--------------------|-----------|------------------------|-------------|-------|-------|
| 112           | 24              | 7           | 1                       | 8                      | 57                 | 3         | 3                      | 1           | 28    | 244   |

**Substantiated:** The organisation was found to have breached the Commissioner's Rules or Code of Standards and/or a sanction was applied

**Unsubstantiated:** No breach was found

**Conciliated:** The complainant and the organisation came to an agreed settlement (for example, the organisation handed over the complainant's file in return for unpaid fees) and the OISC was satisfied that no further investigation was required

**Suspended investigation:** The investigation of the complaint was suspended because, for example, either the firm or the complainant was involved in ongoing legal proceedings

**No supporting evidence:** Evidence was not forthcoming to support the complaint

**Not OISC regulated:** The organisation left the regulatory scheme before the complaint could be determined or the complaint did not relate to a matter with which the OISC can deal

**Withdrawn:** The complainant withdrew their complaint

**Passed to Intelligence:** The details of the complaint were passed to the OISC's Investigations and Intelligence Team for analysis as the complaint did not relate to a regulated adviser, member of a DPB or someone otherwise exempt. Although the matter is not 'closed', it is no longer considered a complaint under the Immigration and Asylum Act 1999

**Re-directed:** The complaint was passed to a DPB

**Other:** For example, the complaint was made anonymously and did not provide enough information for the OISC to open an investigation

## Appeals and charges before the Immigration Services Tribunal (ImSeT)

Certain decisions by the Commissioner to refuse or vary registration or to withdraw exemption carry a right of appeal to ImSeT. Similarly, our decision to lay disciplinary charges is considered by ImSeT.

**Table 11: Breakdown of appeals and charges 2003/04–2008/09**

|                   | 2003/04 | 2004/05 | 2005/06 | 2006/07 | 2007/08* | 2008/09 |
|-------------------|---------|---------|---------|---------|----------|---------|
| Appeals received  | 9       | 21      | 11      | 14      | 11       | 8       |
| Appeals allowed   | 4       | 4       | 1       | 0       | 1        | 1       |
| Appeals dismissed | 2       | 5       | 3       | 5       | 3        | 4       |
| Appeals withdrawn | 0       | 0       | 5       | 4       | 6        | 2       |
| Charges brought   | –       | 1       | 2       | 2       | –        | –       |
| Charges upheld    | –       | 1       | 0       | 2       | –        | –       |
| Charges dismissed | –       | 0       | 1       | 2       | –        | –       |
| Charges withdrawn | –       | 0       | 0       | 0       | –        | –       |

\* The combined total of appeals allowed, dismissed and withdrawn is less than the number of appeals received, as one appeal was carried over into 2008/09

## Investigating illegal activity

The OISC undertakes investigations based on information from a range of sources. The Office has its own in-house team that proactively gathers intelligence on possible illegal activity. This year, as in previous years, OISC staff have been the OISC's main source of information leading to investigations, followed by information from the general public.

**Table 12: Source of investigations**

| AIT | UKBA | Public | OISC adviser | Other government agency | OISC staff | Solicitor | Other | Total |
|-----|------|--------|--------------|-------------------------|------------|-----------|-------|-------|
| 6   | 7    | 34     | 1            | 1                       | 46         | 9         | 1     | 105   |

## Disposal of investigations

We began the year with 224 cases still open from 2007/08. During 2008/09 we received a further 105 complaints about unregulated advisers. A total of 166 investigations were closed, with a total of 163 carried forward into 2009/10.

**Table 13: Disposal of investigations**

| Prosecutions | Not in public interest | Under DPB supervision | Cautions  | Witness/suspect left UK | Insufficient evidence | Passed to another agency | Outside time/jurisdiction | Total      |
|--------------|------------------------|-----------------------|-----------|-------------------------|-----------------------|--------------------------|---------------------------|------------|
| 13(41)*      | 29                     | 4                     | 27 (29)** | 25                      | 29                    | 7                        | 2                         | <b>166</b> |

Figures outside brackets represent the actual number of persons convicted/cautioned. Bracketed figures represent the number of separate complaints disposed of through conviction/caution

\* The number of complaints dealt with by way of prosecutions was 41

\*\* The number of complaints dealt with by way of cautions was 29

In addition, at the end of 2008/09, there were 18 defendants awaiting trial.

**Table 14: Breakdown of prosecutions 2001/02–2008/09**

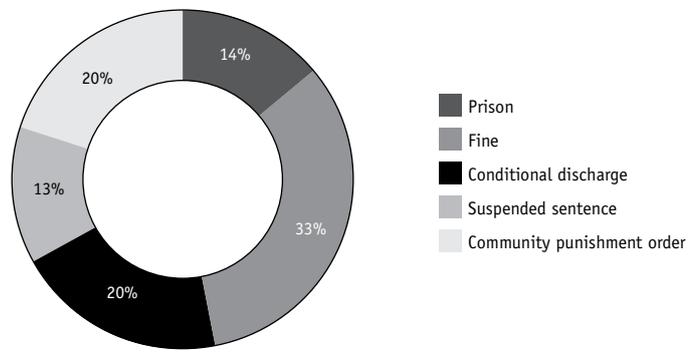
| Year         | Prosecutions | Formal cautions administered |
|--------------|--------------|------------------------------|
| 2001/02      | 1            | 0                            |
| 2002/03      | 8            | 1                            |
| 2003/04      | 13           | 3                            |
| 2004/05      | 7            | 3                            |
| 2005/06      | 14           | 8                            |
| 2006/07      | 8            | 5                            |
| 2007/08      | 15           | 28                           |
| 2008/09      | 13           | 27                           |
| <b>Total</b> | <b>79</b>    | <b>75</b>                    |

Two Failure to Attend Court (FTA) warrants were issued in 2008/09, bringing the total number of outstanding FTA warrants to eight. Subsequently, two of those warrants were executed, bringing the total number of outstanding warrants to six.

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Those convicted of illegally providing or advertising immigration advice can expect sanctions ranging from fines and community punishment orders through to a maximum of two years' imprisonment.

**Figure 2: Breakdown of punishment on conviction 2001/02–2008/09**



## Chapter 4: Key Performance Indicators

The OISC has been measuring its performance against published Key Performance Indicators (KPIs) since their introduction in 2005/06. The data produced helps the OISC examine and assess delivery of its key day-to-day functions.

The OISC's KPIs measure three main areas:

- Performance in relation to regulatory activities in conjunction with new applications and regulated advisers. These KPIs monitor application processing, aspects of the audit programme, complaint determinations and challenges made against the Commissioner's decisions.
- Performance in relation to how well the OISC has controlled illegal immigration advice activity by identifying possible illegal adviser organisations and in settling the status of these bodies.
- Performance in processing internal operations, particularly the acknowledging of applications and complaints and the time taken to pay undisputed invoices.

### KPIs for 2008/09

The KPIs for this period were:

- 1a) Decide 75% of new applications within five months of receipt.
- 1b) Decide 95% of new applications within eight months of receipt.
- 2a) Decide 75% of applications for continued registration within three months of receipt.
- 2b) Decide 90% of applications for continued registration within six months of receipt.
- 3) Audit by 31 March 2009 at least 33% of all Level 2 and 3 organisations that exist at 31 March 2008.
- 4a) Close 75% of written complaints about OISC advisers within six months of receipt.
- 4b) Close 90% of written complaints about OISC advisers within 12 months of receipt.
- 5) A total of 70% of Commissioner's decisions to stand following an appeal being lodged with ImSeT.
- 6) Identify 400 unregulated organisations as possibly providing immigration advice and services.

- 
- 
- 7) Resolve the status of 200 unregulated organisations.
  - 8) Internal response targets:
    - a) Acknowledge 95% of applications and written complaints made to the OISC about immigration adviser services within five working days.
    - b) Pay 95% of undisputed invoices within 30 working days.
    - c) Pay 100% of undisputed invoices within 60 working days.

## The OISC's 2008/09 performance as measured against its KPI targets

### KPIs that measure how well the OISC has dealt with applications and audits

Applications fall into two types – applications to join the regulatory scheme from either for-profit (Registered) or not-for-profit (Exempt) firms, and those from Registered firms wishing to continue their registration with the OISC.

- **New applications**

The two KPIs in this category were both met during 2008/09.

*KPI 1a) – Decide 75% of new applications within five months of receipt.*

In 2008/09 the OISC decided 84% of new applications within five months of receipt, a 6% improvement over 2007/08.

*KPI 1b) – Decide 95% of new applications within eight months of receipt.*

The OISC achieved a target of 96%, meeting the target for the first time and showing a 4% improvement over 2007/08.

At the end of 2008/09 there were five applications over six months old, in comparison with ten that remained at the end of 2007/08 and 16 at the end of 2006/07.

- **Continued Registration applications**

The two KPIs in this category were also met during 2008/09.

*KPI 2a) – Decide 75% of applications for continued registration within three months of receipt.*

The OISC exceeded this target by deciding 84% of continued registration applications within three months, a 7% improvement over 2007/08.

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*KPI 2b) – Decide 90% of applications for continued registration within six months of receipt.*

The OISC decided 97% of these applications, an improvement of 9% over the 2007/08 result and meeting the target for the first time.

At the end of 2008/09 there were 11 continued registration applications that were more than six months old. This, however, compares favourably with the number of similar applications at the end of 2006/07, which were 17.

- **Audits**

*KPI 3 – Audit by 31 March 2009 at least 33% of all Level 2 and 3 organisations that exist at 31 March 2008.*

The target for 2008/09 was 132. By 31 March 2009 the OISC audited 142 Level 2 and 3 organisations.

### **KPIs that measure complaint processing**

Both KPIs in this category were met in 2008/09.

*KPI 4a) – Close 75% of written complaints about OISC advisers within six months of receipt.*

While the target for this KPI was raised to 75% in 2008/09, the OISC met it closing 86% of written complaints within the period required, showing a continued improvement year on year (2006/07 – 62%; 2007/08 – 66%).

*KPI 4b) – Close 90% of written complaints about OISC advisers within 12 months of receipt.*

KPI 4b)'s target was exceeded, with the OISC closing 99% of written complaints within the period, an improvement over 2007/08 of 7%.

Another measure is the number of complaints over six months old at the end of the year, which were 16 at the end of 2008/09. In 2007/08 these stood at eight compared with 33 in 2006/07. While this figure appears to be an increase in the number of complaints over six months old at the end of the year, this has to be viewed in context, as during 2008/09 the number of complaints received against OISC advisers increased by 18%.

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### **KPIs that measure the number of Commissioner's decisions that remain standing following an appeal to ImSeT**

*KPI 5 – A total of 70% of Commissioner's decisions to stand following an appeal being lodged with ImSeT.*

The OISC exceeded this target, achieving an overall success rate of 86%. During 2008/09, 78 appealable Commissioner's decisions were made, which resulted in advisers lodging eight appeals. This was in addition to one appeal that was ongoing at the end of 2007/08. During the year seven appeals were heard. The OISC won six appeals. Only one appeal was allowed. At the end of the year two cases were ongoing.

### **KPIs that measure the OISC's control of illegal immigration advice and service activities**

*KPI 6 – Identify 400 unregulated organisations as possibly providing immigration advice and services.*

*KPI 7 – Resolve the status of 200 unregulated organisations.*

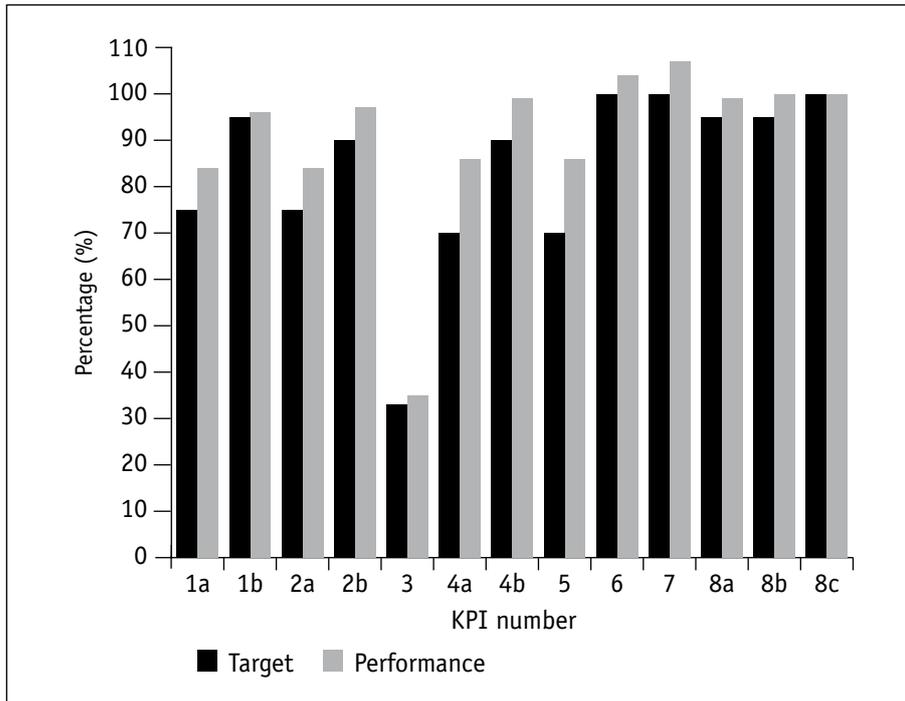
The OISC again met KPI 6 and KPI 7 respectively by identifying 414 unregulated organisations and resolving the status of 214 unregulated organisations.

### **KPIs that measure how long it takes the OISC to internally process activities**

*KPI 8 – Internal response targets:*

- a) Acknowledge 95% of applications and written complaints made to the OISC about immigration adviser services within five working days.*
- b) Pay 95% of undisputed invoices within 30 working days.*
- c) Pay 100% of undisputed invoices within 60 working days.*

The OISC met all of these KPIs, achieving 99% for KPI 8a), and 100% for KPIs 8b) and 8c).

**Figure 3: 2008/09 KPIs – performance against targets**

### Key Performance Indicators for 2009/10

As we anticipate significant changes in our operations as a result of the Reform and Remodel project mentioned elsewhere in this Report, it was decided that the 2008/09 KPIs should continue unchanged for 2009/10. The KPIs are being reviewed as part of that project, and it is anticipated that a revised set of KPIs will be introduced in 2010/11.

## Chapter 5: Working with others

The OISC actively seeks ways of engaging with others in order to fulfil its role and promote understanding of its functions. This chapter gives a flavour of the activities the OISC has undertaken, and the stakeholders with whom it has engaged, over the past year.

### Meetings and Speaking Engagements

The Commissioner and others have spoken with many individuals and organisations both in the UK and abroad. In particular, the Commissioner spoke at the UK Council for International Student Affairs Annual Conference, the British Red Cross Network Day in Glasgow, and at four Immigration Advisory Service events across the UK (three of them jointly sponsored by the Association of Regulated Immigration Advisers (ARIA)). The Commissioner also delivered presentations to MPs' staff, to Home Office officials and to UKBA regional staff.

Regular meetings continued to be held with various stakeholders, including the Immigration Law Practitioners' Association (ILPA) and ARIA. The Commissioner also met with the Immigration Minister, Rt Hon Phil Woolas, and with politicians from all the main political parties including Rt Hon Charles Clarke MP, Rt Hon Keith Vaz MP and Rt Hon Chris Huhne MP. In addition, she held discussions with the Chief Executive and Deputy Chief Executive of the UKBA, Lin Homer and Jonathan Sedgwick, as well as with all of the Agency's Regional Directors. Furthermore, the Deputy Commissioner and the OISC's Director of Operations, following written evidence submitted by the Commissioner, gave oral evidence before the Home Affairs Select Committee.

Relationships with key UK stakeholders were maintained during the year through ad hoc meetings. Illustrative of these were the meetings held with representatives of the Scottish Refugee Council, the Local Government Association, the London Councils, the National Council for Voluntary Organisations, the Migrants' Rights Network, Praxis Community Projects, the Council of Ethnic Minority Voluntary Sector Organisations, the Scottish Legal Complaints Commission and the Trading Standards Institute.

The Commissioner was a principal speaker at the Global HR Forum in Seoul, South Korea, where she was able to meet with representatives of both the Canadian Society of Immigration Consultants and Australia's Migration Agents Registration Authority.



## Consultations

The OISC responds to consultations on issues relevant to its work. Consultations on which it responded during 2008/09 are listed at Annex B.

## Continuing Professional Development

CPD is now compulsory for all OISC regulated advisers and the first year of the scheme ended on 31 March 2009. Advisers each have their own online CPD portfolio in which to record their training. This portfolio also gives them access to the OISC e-learning courses and to a number of Open University personal development and managerial courses.

A small percentage of advisers showed a keen interest in the scheme from the start date of 1 April 2008. However, the majority did not commence using their CPD portfolio until the last quarter of the CPD year. In many cases this was not because they had carried out no training, but because they had not yet entered the details online. It is expected that there will be a number of advisers who do not comply with the scheme, and they will be dealt with individually by their OISC caseworker. Non-compliance could result in the adviser being de-regulated.

Feedback received from advisers has been extremely positive regarding the OISC online courses, especially from the not-for-profit organisations. Advisers also found the Open University personal development courses to be useful.

Advisers received details on the CPD scheme by letter and email before the start date of 1 April 2008, and by email a number of times during the year. They also received information at the OISC conferences, in the OISC Newsletter and at Roundtable Meetings. In addition, advisers were able to contact the CPD Coordinator directly.

We are confident that year two of the CPD scheme will see advisers keeping their online portfolio updated regularly now that they are familiar both with the requirements of the scheme and the online systems, and we trust that there will not be a last minute rush at the end of the second year as with the first year.

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## Raising Awareness

The OISC works to promote awareness and understanding of its services among a range of audiences, including immigration advisers, advice organisations and people seeking or receiving immigration advice by, for example:

- the publication of an Adviser Newsletter;
- production of a range of promotional and information materials (available as downloads from the OISC's website ([www.oisc.gov.uk](http://www.oisc.gov.uk)) – a full list of OISC publications is listed at Annex A);
- a programme of regional Roundtable Meetings at which OISC staff and advisers share and discuss issues of concern. Four such events were held in 2008/09 in London, Leicester and Manchester; and
- an Annual Conference.

In 2008/09, the OISC distributed 23,875 publications to advisers and a range of other stakeholders. Many are available in different languages.

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## Enquiries

The service provided by the OISC's front desk team is vital to getting the organisation's messages across. Each year, the Central Services Team takes thousands of calls and responds to many requests for information. In 2008/09, we received 28,836 telephone, voicemail and email enquiries about our work.

## Chapter 6: Governance

The Immigration Services Commissioner is a Corporation Sole and is accountable for all actions undertaken in her name by the OISC. She is the Office's Accounting Officer\* and Consolidation Officer. She is personally responsible for safeguarding the public funds for which she has charge, for ensuring propriety and regularity in the handling of those funds and for the day-to-day operations and management of the OISC. The Commissioner is answerable to the Home Secretary for the Office's activities and performance, and is accountable to Parliament through the Secretary of State. The relationship between the Home Office and the OISC is conducted in accordance with the joint Management Statement and Financial Memorandum. This requires, among other things, that the Commissioner must take note of any directions given by, or on behalf of, the Home Secretary and of any guidance issued by the Home Office.

Monthly strategic management meetings, which are attended by the Commissioner and the Deputy Commissioner and members of the Office's Senior Management Team, are the OISC's main decision-making forum. These meetings are used to consider significant strategic and operational matters, to monitor the OISC's activities and to make sure that consequential decisions are taken.

### **The OISC's Audit Committee**

Supporting the Commissioner in the delivery of her responsibilities as to issues of risk, control and governance is the OISC's Audit Committee, which is composed of three Non-Executive members, one of whom is the chair. The Committee's main aims are to ensure the proper stewardship of the OISC's resources and assets, to oversee financial reporting and to monitor the effectiveness of audit arrangements (internal and external), internal controls and the management of risk throughout the organisation. It accordingly makes recommendations to the Commissioner.

The Audit Committee reviewed its terms of reference in December 2008.

\* Please see 'Statement of Accounting Officer's responsibilities' in the Statement of Accounts 2008/09 on p56

## Chapter 7: Remuneration report

Part V of the Immigration and Asylum Act 1999, as amended, created the role of the Immigration Services Commissioner and the Office of the Immigration Services Commissioner, an independent, UK-wide, non-departmental public body (NDPB). The Commissioner heads the OISC, and she and the Deputy Commissioner are ministerial appointments. Suzanne McCarthy assumed her appointment on 5 September 2005. Her appointment is for the statutory five-year period, ending in September 2010. Linda Allan was reappointed on 5 June 2005 for the statutory five-year period, ending in June 2010.

### Salary and Pension Entitlements

The following sections provide details of the remuneration and pension interests of the most senior members of the OISC.

#### Remuneration

|   | 2008/09<br>salary<br>£'000 | 2007/08<br>salary<br>£'000 |
|---|----------------------------|----------------------------|
| Suzanne McCarthy*<br><i>Commissioner</i>  | 93                         | 108                        |
| Linda Allan<br><i>Deputy Commissioner</i> | 76                         | 76                         |

\* The Commissioner has reduced her working hours as from 21 November 2008, at which point her salary reduced from £108,745 p.a. to £65,247 p.a.

#### Salary

'Salary' includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances; and any other allowances to the extent that they are subject to UK taxation.

#### Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the OISC and treated by HM Revenue and Customs as a taxable emolument. Neither the Commissioner nor the Deputy Commissioner received benefits in kind for 2008/09 or 2007/08.

## Pension benefits

|   | Accrued pension at pension age as at 31/3/09 and related lump sum   | Real increase in pension and related lump sum at pension age | Cash equivalent transfer value (CETV) at 31/03/08* | CETV at 31/3/09 | Real increase in CETV as funded by employer |
|---|---|--|--|-----------------|---|
|   | £   | £  | £'000  | £'000           | £'000                                       |
| Suzanne McCarthy<br><i>Commissioner</i>   | 55,606 of which 55,207 (abated to 45,281) is in payment and 175,000 lump sum of which 175,000 has been paid | (10,541) plus 175,000 lump sum                               | 1,237  | 1,291           | (42)  |
| Linda Allan<br><i>Deputy Commissioner</i> | 34,818 and nil lump sum   | (132) and nil lump sum                                       | 582  | 592             | (3)   |

\* The figure is different from the closing figure in last year's accounts. This is due to the CETV factors being updated to comply with the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008

## Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes: either a 'final salary' scheme (**classic**, **premium** or **classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded, with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic**, **premium**, **classic plus** and **nuvos** are increased annually in line with changes in the Retail Prices Index (RPI). Members who joined from October 2002 could opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (**partnership** pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for **classic** and 3.5% for **premium**, **classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic**, there is no automatic lump sum. **Classic plus** is essentially a hybrid, with benefits for service before 1 October 2002 calculated broadly as per **classic** and benefits for service from October 2002

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worked out as in **premium**. In **nuvos** a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and, immediately after the scheme year end, the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The **partnership** pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of **classic**, **premium** and **classic plus** and 65 for members of **nuvos**.

Further details about the Civil Service pension arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk).

## Cash Equivalent Transfer Value

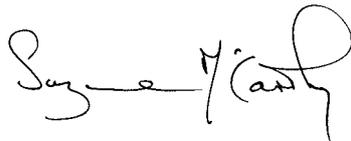
A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional years of pension benefits at their own cost. CETVs are calculated in accordance with the

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Occupational Pension Schemes (Transfer Values) (Amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax, which may be due when pension benefits are taken.

### **Real increase in CETV**

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement), and it uses common market valuation factors for the start and end of the period.



**Suzanne McCarthy**  
**Immigration Services Commissioner and Accounting Officer**  
25 June 2009

# Annex A: OISC publications

## **General information**

- General Information about the OISC (15 languages)
- OISC News (external newsletter, three issues annually)

## **Materials relating to the regulatory scheme**

- The Code of Standards and the Commissioner's Rules
- Guidance on Competence
- Advertising Immigration Advice CD Rom

## **Materials relating to the application process**

- Exemption Application Form
- Exemption Application Notes
- Registration Application Form
- Registration Application Notes
- Continued Registration Application Form

## **Guidance notes for regulated advisers**

- Cover in the Absence of an Adviser
- Meeting Clients' Needs and Client Care
- Premises
- Promotion and the Promoting of Business
- Resolution of Complaints
- Signposting and Referrals
- Supervision

## **Practice notes for regulated advisers**

- Bail
- Fees and Accounts
- Licensed Access

## **Materials relating to the Complaints Scheme**

- The Complaints Scheme
- The Immigration Services Commissioner's Complaints Scheme – Complaints Form (15 languages)

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### **Materials relating to CPD**

- CPD Introduction
- CPD Frequently Asked Questions
- CPD Guidance Booklet
- Data Protection Act Statement

Since **1 April 2009** all publications, with the exception of the General Information leaflet, Complaints Form and the OISC Newsletter, are only available as PDF downloads from the OISC website.

## Annex B: Responses made to external consultations in 2008/09

1. Requirements for Lawyers Qualifying as Solicitors in England and Wales  
Issued by: Solicitors Regulation Authority  
Responded: April 2008
2. Legal Services Act: Changes to 'Framework of Practice' Rules  
Issued by: Solicitors Regulation Authority  
Responded: April 2008
3. UK Borders Act 2007: Consultation on the 'Code of Practice about sanctions for non-compliance with Biometric Registration Regulations'  
Issued by: UKBA/BIA  
Responded: April 2008
4. Legal Services Act: Changes in regulatory processes for firms and individuals  
Issued by: Bar Standards Board  
Responded: April 2008
5. Legal Services Act 2007: Information requirements from firms in the context of a risk-based approach to regulation  
Issued by: Bar Standards Board  
Responded: April 2008
6. Legal Services Act 2007: Client financial protection  
Issued by: Bar Standards Board  
Responded: April 2008
7. Legal Services Act 2007: Implications for the regulation of the Bar in England and Wales  
Issued by: Bar Standards Board  
Responded: May 2008
8. Scottish Legal Complaints Commission Draft Rules  
Issued by: Scottish Legal Complaints Commission  
Responded: June 2008
9. Review of Public Access Rules  
Issued by: Bar Standards Board  
Responded: June 2008
10. Standards for Solicitors in Scotland  
Issued by: The Law Society of Scotland  
Responded: June 2008

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11. Legal Services Act 2007: Draft SRA Practising Regulations (2009)  
Issued by: Solicitors Regulation Authority  
Responded: June 2008
  
  12. Standards for solicitor higher courts advocates and outline proposals for a new accreditation scheme  
Issued by: Solicitors Regulation Authority  
Responded: July 2008

## Annex C: Glossary

|                             |  |
|-----------------------------|--|
| <b>AIT</b>                  | <p><b>Asylum and Immigration Tribunal</b><br/>Appeals against UKBA decisions are considered by the AIT.</p>  |
| <b>ARIA</b>                 | <p><b>Association of Regulated Immigration Advisers</b><br/>ARIA is a trade body whose membership is open to OISC advisers.</p>  |
| <b>DPB</b>                  | <p><b>Designated Professional Body</b><br/>The DPBs are the:</p> <ul style="list-style-type: none"> <li>• Law Society of England and Wales;</li> <li>• Law Society of Scotland;</li> <li>• Law Society of Northern Ireland;</li> <li>• Institute of Legal Executives;</li> <li>• General Council of the Bar of England and Wales;</li> <li>• General Council of the Bar of Northern Ireland; and</li> <li>• Faculty of Advocates.</li> </ul> <p>The Immigration Services Commissioner has statutory oversight responsibilities in respect of the effective regulation by these bodies of their members in the provision of immigration advice and/or services.</p> |
| <b>Exempt organisations</b> | <p>Organisations classified as 'Exempt' by the OISC generally operate in the voluntary or community sector. They do not charge clients for the advice or services they provide, and are referred to as 'Exempt' only because they do not have to pay the OISC's registration fee.</p>  |
| <b>Home Office</b>          | <p>The Home Office is the UK government department with responsibility for immigration and nationality matters.</p>  |
| <b>ILPA</b>                 | <p><b>Immigration Law Practitioners' Association</b><br/>ILPA is a professional body whose membership is open to OISC advisers.</p>  |
| <b>ImSeT</b>                | <p><b>Immigration Services Tribunal</b><br/>Decisions made by the Immigration Services Commissioner to refuse or vary registration, withdraw exemption, or to lay a disciplinary charge, carry a right of appeal to ImSeT.</p>   |

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|---------------------------------|--|
| <b>PBS</b>                      | <b>Points Based System</b><br>The PBS is a new immigration system designed to ensure that only those with the right skills or the right contribution can come to the UK to work and study. Points are awarded on workers' skills to reflect aptitude, experience, age and also the demand for those skills in any given sector, to allow the UK to respond flexibly to changes in the labour market.   |
| <b>Registered organisations</b> | Organisations termed 'Registered' are mainly those operating in the private sector. They charge for their advice or services either through a straightforward fee or via charges made as part of a larger package. This would include, for example, a private college that offers advice as part of their student services. If voluntary and community sector organisations, including charities and local authorities, charge for their services to cover their costs, they are also included in this group. Some Registered organisations may hold Legal Services Commission contracts enabling them to provide free advice to some clients while charging others. |
| <b>UKBA</b>                     | <b>The UK Border Agency (formerly the Border and Immigration Agency and before that the Immigration and Nationality Directorate)</b><br>The UKBA is the Home Office agency that deals with immigration, asylum, nationality and citizenship issues.  |

# Statement of Accounts 2008/09

## Foreword

This Statement of Accounts reports the results of the Office of the Immigration Services Commissioner (OISC) for the year 1 April 2008 to 31 March 2009. It has been prepared in accordance with the Accounts Direction given by the Secretary of State for the Home Department with the consent of HM Treasury, in accordance with Schedule 5 paragraph 20 (1 and 2) of the Immigration and Asylum Act 1999 (the Act).

## 1. History

The OISC was established on 22 May 2000 as a corporation sole by authority of the Act.

The Act established the OISC as an independent body with a remit to promote good practice by those who provide immigration advice or immigration services, and to ensure that those who do so are fit and competent. The OISC was also to operate a complaints scheme regarding all who provide immigration advice or services.

The OISC has the status of an executive non-departmental public body established by statute. It is financed by Grant in Aid from the Home Office (Request for Resources 1). The Secretary of State for the Home Department is answerable to Parliament for the OISC and is responsible for making financial provision to meet its needs. The Commissioner is a corporation sole.

The Act provides that the OISC shall have a Commissioner and Deputy Commissioner appointed by the Secretary of State for the Home Department.

The OISC occupies offices at 53 Tooley Street, London SE1 2QN.

## 2. Principal activities

The OISC carries out the statutory functions set out in the Act, namely to:

- promote good practice by those who provide immigration advice or immigration services;
- decide if it needs to make or alter rules regulating any aspect of the professional practice, conduct or discipline of:
  - (a) registered persons; and
  - (b) those employed by, or working under the supervision of, registered persons in connection with the provision of immigration advice or immigration services;

- 
- register qualified persons under section 84 (2) of the Act;
  - prepare and maintain a register of qualified persons registered under the Act, which must be available for inspection during reasonable hours and copies of the register must be provided on payment of a reasonable fee;
  - prepare and issue a code that sets standards of conduct, which those to whom the code applies are expected to meet;
  - exempt, under section 84 (4) (a) of the Act, persons providing immigration advice or services from the requirement to register;
  - keep a record of persons to whom a certificate of exemption has been issued under section 84 (4) (a) of the Act;
  - establish a scheme for the investigation of relevant complaints made to the OISC in accordance with the provisions of the scheme;
  - determine complaints under the complaints scheme and give a decision in writing; and
  - investigate all allegations of criminal behaviour involving the unlawful provision of immigration advice or services, or the advertising of such, and where necessary to prosecute offenders through the criminal courts.

In carrying out these functions, the OISC seeks to ensure that customers are dealt with effectively and expeditiously and that its services are delivered in ways appropriate to its stakeholders' needs. The OISC also seeks to promote public understanding of its role and to bring its existence and purpose to the attention of those seeking or providing immigration advice or services.

### **3. Commissioner and Deputy Commissioner**

The Home Secretary under the Act appointed Suzanne McCarthy as the Immigration Services Commissioner for a period of five years from 5 September 2005. The Home Secretary, also under the Act, reappointed Linda Allan as Deputy Immigration Services Commissioner for a period of five years from 5 June 2005.

During the year 2008/09 neither the Commissioner nor the Deputy Commissioner held company directorships or other significant interests which could have posed a conflict with their management responsibilities at the OISC.

In addition to holding the post of Immigration Services Commissioner, during the year Ms McCarthy held the following public appointments:

- Non-Executive Director – Office of the Public Guardian
- Member – The Pensions Regulator's Determinations Panel

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The Commissioner reduced her working hours with effect from 21 November 2008. Information on salary and pension entitlements for the Commissioner and Deputy Commissioner is contained in the Remuneration Report (see page 39).

## 4. Corporate governance

This Statement of Accounts includes a statement on the system of internal control (see pages 57 to 60).

The operating and financial systems have been developed to respond to, and satisfy the needs of, the OISC and to safeguard the OISC's assets against unauthorised use or disposition.

The assurance obtained from the systems and adherence to them is of particular importance to the OISC because of the small size of its finance unit.

The OISC appointed the Home Office Audit and Assurance Unit (AAU) to provide internal audit services from 1 April 2001.

During 2008/09, £6,279 (2007/08: £9,130) was paid to the Home Office Audit and Assurance Unit in respect of audit services and further assurance services, whereby the Unit provided guidance and validation regarding the work of the OISC.

Arrangements for external audit are provided under Schedule 5 paragraph 20 of the Act, which requires the Comptroller and Auditor General to examine, certify and report on the Statement of Accounts and to lay copies of it before each House of Parliament. The fee for this service during 2008/09 was £19,000 (2007/08: £17,000). A fee of £3,000 was also payable for the first round of audit work relating to the transition to International Financial Reporting Standards, carried out in 2008/09. There were no fees paid in respect of non-audit work during 2008/09 (2007/08: £Nil).

An Audit Committee was set up in November 2001 and was chaired by the Commissioner until the appointment of Tim Cole, a non-executive member, as Chairman in March 2003. The Audit Committee adopted revised terms of reference in December 2005. The current members of the Audit Committee and their terms of appointment are:

- Tim Cole (Chairman) – appointed until 31 December 2010
- Terry Price – appointed until 31 July 2009
- John King – appointed until 31 July 2011

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The Senior Management Team reviews the financial accounts on a monthly basis. Defined expenditure authorisation limits are in place, and the team compares actual costs with approved budgets on a monthly basis.

The Senior Management Team, chaired by the Commissioner, also meets monthly in order to review and advise on the OISC's policy and management and to monitor major strategy, budgetary and operational issues and activities. The corporate risk register, which was last substantially revised during 2006/07, is owned by this group and reviewed quarterly.

## 5. Results for the period

The accounts for the year 1 April 2008 to 31 March 2009 are set out on pages 64 to 67. The notes on pages 68 to 82 form part of the accounts.

In accordance with Schedule 5 paragraph 20 of the Act, the OISC's financial statements cover the period 1 April 2008 to 31 March 2009, and are prepared on an accruals basis in accordance with the Accounts Direction issued to the Commissioner by the Secretary of State for the Home Department with the consent of HM Treasury.

Grant in Aid from the Home Office funds the activities of the OISC. In 2008/09 the resource allocated to the OISC by the Home Office was £4,270,000 (2008: £4,494,992). This resource has been used efficiently to meet the year's business plan targets. In achieving this, the OISC has operated within the limits set out in the Financial Memorandum and has not spent over the budget.

The total operating costs during the year were £4,210,305, of which £2,822,139 were employment costs. The net value of intangible assets has increased by £283,238 as a result of a change in accounting policy, details of which can be found in Note 1 to the accounts (see page 68).

## 6. Research and development

The OISC incurred development costs of £151,927 (2008: £194,776) on the CPD platform during the year ended 31 March 2009.

## 7. Charitable donations

No charitable donations were made in the year ended 31 March 2009.

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## 8. Changes in fixed assets

The OISC purchased additional IT equipment worth £19,418 and spent £151,927 on its CPD platform during the year.

## 9. Post balance sheet events

There were no post balance sheet events.

## 10. Compliance with public sector payment policy

The OISC policy, in line with the Better Payment Practice Code, is to pay all invoices within 30 days of receipt, unless a longer payment period has been agreed or the amount billed is in dispute. In the year ended 31 March 2009, 100% (2007/08: 99%) of invoices, totalling £1,367,653 (2007/08: £1,439,404), were paid within 30 days of receipt.

In November 1998 the Late Payment of Commercial Debts (Interest) Act came into force. This provided small businesses with a statutory right to claim interest from large businesses (and all public sector bodies) on payments that are more than 30 days overdue. Amended legislation (the Late Payment of Commercial Debts Regulations 2002) came into force on 7 August 2002 providing all businesses, irrespective of size, with the right to claim statutory interest for the late payment of commercial debts. No such claims were received during the year.

## 11. Environmental policy

The OISC seeks to minimise the impact of its activities on the environment. It has adopted the Home Office Environmental Policy in as far as it applies to the OISC. The OISC benefits from energy saving lighting in its office premises, and seeks to use recycled materials where such alternatives are available and provide value for money. It is seeking to reduce the use of paper by maximising usage of its intranet and website for the dissemination of information. The OISC also sorts its waste paper and other waste for recycling purposes.

## 12. Employment policies

The employment policies adopted by the OISC seek to create an environment in which all employees can give their best, and can contribute to the OISC's and their own success.

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### **13. Equal opportunities**

The OISC is committed to achieving equality of opportunity for all existing and potential employees.

### **14. Staff involvement and development**

The OISC is committed to keeping its staff informed of performance, development and progress. The OISC encourages staff involvement in its development.

The OISC recognised the Public and Commercial Services Union in June 2003. The OISC also consults with staff who are not in the Union.

### **15. Employees with disabilities**

The OISC gives full and fair consideration to applications for employment from people with disabilities, having regard to the nature of their employment. Similarly, the OISC seeks to enable members of staff who may have become disabled to continue their employment. The OISC published its Disability Equality Scheme on 1 December 2008.

### **16. Future developments**

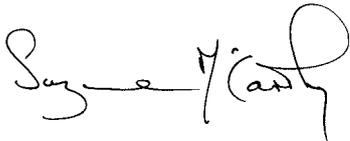
The OISC will continue to concentrate on delivery of its principal activities in order to ensure that those who provide immigration advice or services are fit and competent to do so, and in order to drive out unregulated activity. The OISC intends to maintain and build on the respect and recognition it has achieved, both with regards to the contribution it makes to the sector and the experience it has gained since it began operating. The OISC will work to remain an effective regulator by both ensuring that advisers give a good quality service to their clients and by providing a good service to regulated advisers and to others in the sector.

### **17. Disclosure of relevant audit information**

As Accounting Officer I confirm that:

- there is no relevant audit information of which the auditors to the Office of the Immigration Services Commissioner are unaware;
- I have taken all the steps I ought to ensure that the said auditors are aware of relevant audit information; and

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- I have taken all the steps I ought to establish that the said auditors are aware of such information.



**Suzanne McCarthy**  
**Immigration Services Commissioner and Accounting Officer**  
25 June 2009

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## Statement of Accounting Officer's responsibilities

Under the Immigration and Asylum Act 1999, the Secretary of State has directed the Immigration Services Commissioner to prepare, for each financial year, a Statement of Accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the OISC and of its income and expenditure, total recognised gains and losses, and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual* (FReM) and in particular to:

- observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the FReM have been followed, and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on a going concern basis.

The Accounting Officer of the Home Office has designated the Immigration Services Commissioner as the Accounting Officer of the OISC. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OISC's assets are set out in the Accounting Officers' Memorandum issued by HM Treasury and published in *Managing Public Money*.

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## Statement on internal control

### Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the OISC, its policies, aims and objectives, while safeguarding the public funds and Office assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money*.

The OISC is a non-departmental public body of the Home Office. I am accountable to the Secretary of State and through him to Parliament.

### The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable, and not absolute, assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the OISC's policies, aims and objectives; to evaluate the likelihood of those risks being realised and the impact should they be realised; and to manage them efficiently, effectively and economically. The system of internal control has been in place in the OISC for the year ended 31 March 2009 and up to the date of approval of the Annual Report and Accounts, and accords with HM Treasury guidance.

### Data handling

The OISC's systems for the handling of data were reviewed during the year by the Office of the Chief Information Officer in the Home Office and were found to be satisfactory.

There have been no losses of information during the year, including any losses of personal protected data, which would be required to be reported to the Information Commissioner's Office. The OISC is continuing to develop policies and procedures for information management that are broadly in accord with the Home Office's Information Risk Management Policy, but which are adapted as appropriate to an organisation the size of the OISC.

### Capacity to handle risk

Under the OISC's risk management arrangements, senior members of staff are responsible for the management of key risks that could affect the achievements of the OISC's aims and objectives, in particular the achievement of corporate/

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business plan targets. These arrangements are discussed and documented in our annual corporate governance document. The OISC has provided guidance to managers and staff on managing risk, and further guidance is provided as appropriate in response to new risks.

### **The risk and control framework**

As a corporation sole and Accounting Officer I have the right to make all decisions regarding the running of the OISC personally. While the organisation does not have a management board that includes non-executive members, the OISC's Senior Management Team acts in this capacity, meeting monthly under my chairmanship to discuss and make recommendations to me and monitor major strategy, budgetary and operational issues and activities.

Risks that could affect the achievement of the OISC's objectives are identified and key risks are actively managed. The Senior Management Team reviews the corporate/business plan and risks on a regular basis.

The OISC's current register of risk covers:

- accommodation and workplace;
- finance;
- government relationships;
- operational systems;
- performance and working practices;
- regulatory system;
- reputation; and
- staffing.

Sections on information assurance and the OISC's database will be added to the corporate risk register during 2009/10.

Both the OISC's Audit Committee and the Senior Management Team regularly reviewed the key corporate risks during 2008/09. The OISC has been mindful of the need to adequately protect the data it holds.

The relevant OISC procedures and practices were reviewed during the year to ensure that they provided the appropriate level of protection and security. All staff were made aware of their responsibilities.

### **Review of effectiveness**

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal

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control is informed by the work of the internal auditors and the senior managers within the OISC who have responsibility for the development and maintenance of the internal control framework, and by comments made by the external auditors in their management letter and other reports. The Audit Committee has advised me on the implications of the result of my review on the system of internal control.

The effectiveness of the system of internal control was maintained and reviewed through:

- the OISC's Senior Management Team, which met under my chairmanship on a monthly basis to consider both strategic and operational issues. The team consists of the Deputy Commissioner, the Director of Operations, the Interim Head of the Casework and Compliance Teams and the heads of various corporate support services;
- the OISC's Audit Committee. During 2008/09, the Audit Committee's membership consisted of three non-executive members, one of whom was the Committee's chairman. I also attended the Audit Committee meetings together with the Deputy Commissioner, the Head of Finance and representatives from the National Audit Office and the Home Office AAU;
- risk management arrangements, as described above, under which key risks that could affect the OISC achieving its objectives have been managed actively, with progress being reported to both senior management and the OISC's Audit Committee; and
- regular reports by the Home Office's AAU, complying with the Government's Internal Audit Standards, which include an independent opinion on the adequacy and effectiveness of the OISC's internal controls together with recommendations for improvement, where necessary.

The OISC has appointed the Home Office's AAU as its internal auditors. It complies with the Government's Internal Audit Standards. The work of the AAU is informed by the analysis of the risk to which the body is exposed, and the internal audit plans are endorsed by the OISC's Audit Committee and approved by me. Each year the AAU provides me with a report on its internal audit activity in the OISC. The report includes the AAU's independent opinion on the adequacy and effectiveness of the OISC's system of internal controls, together with recommendations for improvement. In their 2008/09 report, the AAU stated that the OISC's system of internal control is sound and for the most part operating effectively, and that the processes for addressing and managing the risks to the objectives are effective and adequately controlled.

The OISC continues to keep its arrangements under review in response to external developments, including changes in the business environment.

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For 2008/09, I am able to report that there were no material weaknesses in the OISC's system of internal controls that affected the achievement of aims and objectives.



**Suzanne McCarthy**  
**Immigration Services Commissioner and Accounting Officer**  
25 June 2009

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## **The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament**

I certify that I have audited the financial statements of the Office of the Immigration Services Commissioner for the year ended 31 March 2009 under the Immigration and Asylum Act 1999. These comprise the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### **Respective responsibilities of the Immigration Services Commissioner/Accounting Officer and auditor**

The Immigration Services Commissioner as Accounting Officer is responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Immigration and Asylum Act 1999 and the Secretary of State's directions made thereunder; and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view, and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Immigration and Asylum Act 1999 and the Secretary of State's directions made thereunder. I report to you whether, in my opinion, the information, which comprises the Commissioner's Statement, Key Performance Indicators and Governance included in the Annual Report is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities that govern them.

In addition, I report to you if the Office of the Immigration Services Commissioner has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

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I review whether the Statement on Internal Control reflects the Office of the Immigration Services Commissioner's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Office of the Immigration Services Commissioner's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the unaudited part of the Remuneration Report, the Foreword, the Commissioner's Statement, The Organisation, Statistical Report, Working with others and the Commissioner's Report on regulation by Designated Professional Bodies of their members. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### **Basis of audit opinions**

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgements made by the Immigration Services Commissioner/Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Office of the Immigration Services Commissioner's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

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## Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Immigration and Asylum Act 1999 and directions made thereunder by the Secretary of State, of the state of the Office of the Immigration Services Commissioner's affairs as at 31 March 2009 and of its net expenditure, recognised gains and losses and cash flows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Immigration and Asylum Act 1999 Act and the Secretary of State's directions made thereunder; and
- information, which comprises the Management Commentary, Key Performance Indicators and Governance, is consistent with the financial statements.

## Opinion on regularity

In my opinion, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Report

I have no observations to make on these financial statements.

Amyas C E Morse  
Comptroller and Auditor General  
National Audit Office  
151 Buckingham Palace Road  
Victoria  
London SW1W 9SS

1 July 2009

## Income and Expenditure Account

For the year ended 31 March 2009

|  | Note | 2008/09 |                | 2007/08 (restated) |                |
|--|------|---------|----------------|--------------------|----------------|
|  |      | £'000   | £'000          | £'000              | £'000          |
| <i>Expenditure</i>   |      |         |                |                    |                |
| Employment costs   | 4    | (2,821) |                | (2,928)            |                |
| Running costs  | 5    | (1,239) |                | (1,351)            |                |
| Depreciation   | 6/7  | (125)   |                | (103)              |                |
| Revaluation  | 7    | 1       |                | 1                  |                |
| Cost of capital  |      | (25)    |                | (16)               |                |
| <b>Total operating costs</b>   |      |         | <b>(4,209)</b> |                    | <b>(4,397)</b> |
| <i>Other income</i>  |      |         |                |                    |                |
| Fee income   | 3    | 855     |                | 760                |                |
| Other income   | 3    | 25      |                | 12                 |                |
| Interest receivable  |      | 6       |                | 18                 |                |
|  |      |         | 886            |                    | 790            |
| <b>Net operating costs before appropriations</b>                                 |      |         | <b>(3,323)</b> |                    | <b>(3,607)</b> |
| Reversal cost of capital   |      |         | 25             |                    | 16             |
| <b>Net operating costs for the year before appropriations to the Home Office</b> |      |         | <b>(3,298)</b> |                    | <b>(3,591)</b> |
| Appropriation due to the Home Office   |      |         | (885)          |                    | (645)          |
| <b>Retained deficit for the year</b>   | 20   |         | <b>(4,183)</b> |                    | <b>(4,236)</b> |
| All operations are continuing  |      |         |                |                    |                |

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## Statement of Recognised Gains and Losses

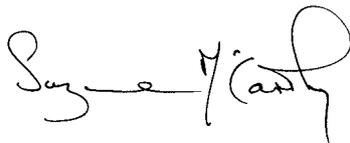
|  |      | 2008/09        | 2007/08 (restated) |
|--|------|----------------|--------------------|
|  | Note | £'000          | £'000              |
| Cumulative impact of the change in accounting policies |      | -              | 207                |
| Net (losses)/gains on revaluation of assets            | 12   | (1)            | (1)                |
| <b>Total recognised losses in the year</b>             |      | <b>(3,324)</b> | <b>(3,609)</b>     |

The notes on pages 68 to 82 form part of these accounts.

## Balance Sheet

As at 31 March 2009

|  | Note | 2008/09     |            | 2007/08 (restated) |            |
|--|------|-------------|------------|--------------------|------------|
|  |      | £'000       | £'000      | £'000              | £'000      |
| <i>Fixed assets</i>                              |      |             |            |                    |            |
| Intangible assets                                | 6    |             | 290        |                    | 220        |
| Tangible assets                                  | 7    |             | 329        |                    | 351        |
|  |      |             | <u>619</u> |                    | <u>571</u> |
| <i>Current assets</i>                            |      |             |            |                    |            |
| Debtors  | 8    | 486         |            | 476                |            |
| Cash   | 11   | <u>157</u>  |            | <u>99</u>          |            |
|  |      | 643         |            | 575                |            |
| Creditors – amounts due within one year          | 9    | (279)       |            | (293)              |            |
| Provisions                                       | 10   | <u>(82)</u> |            | <u>-</u>           |            |
| Net current assets/ (liabilities)                |      |             | <u>282</u> |                    | <u>282</u> |
| Total assets less current liabilities            |      |             | 901        |                    | 853        |
| Creditors – amounts due after more than one year | 9    |             | (135)      |                    | (174)      |
|  |      |             | <u>766</u> |                    | <u>679</u> |
| <i>Capital and reserves</i>                      |      |             |            |                    |            |
| General reserve                                  | 12   |             | 760        |                    | 674        |
| Revaluation reserve                              | 12   |             | 6          |                    | 5          |
|  |      |             | <u>766</u> |                    | <u>679</u> |



**Suzanne McCarthy**

**Immigration Services Commissioner and Accounting Officer**

25 June 2009

The notes on pages 68 to 82 form part of these accounts.

## Cash flow statement

For the year ended 31 March 2009

|  |         | 2008/09      | 2007/08 (restated) |
|--|---------|--------------|--------------------|
|  | Note    | £'000        | £'000              |
| <b>Operating activities</b>                            |         |              |                    |
| Net cash outflow from operating activities             | 13      | (4,042)      | (4,592)            |
| <b>Returns on investments and servicing of finance</b> |         |              |                    |
| Interest received                                      |         | 6            | 18                 |
| <b>Capital expenditure</b>                             |         |              |                    |
| Cash outflow to acquire fixed assets                   | 6 & 7   | <u>(171)</u> | <u>(240)</u>       |
| Net cash outflow before financing                      |         | (4,207)      | (4,814)            |
| <b>Financing</b>                                       |         |              |                    |
| Grant in Aid   | 12      | 4,270        | 4,495              |
| Fee/other income received                              | 3(a)(b) | 880          | 772                |
| Less amounts appropriated to Home Office               |         | <u>(885)</u> | <u>(645)</u>       |
| Decrease/(increase) in cash                            | 11      | <b>58</b>    | <b>(192)</b>       |

The notes on pages 68 to 82 form part of these accounts.

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## Notes to the accounts

### 1. Accounting policies

#### Basis of accounts

These financial statements have been prepared in accordance with the HM Treasury *Government Financial Reporting Manual* and applicable accounting standards. They are in a form as directed by the Secretary of State with the approval of HM Treasury. The following accounting policies have been consistently applied in dealing with items considered material in relation to the financial statements.

#### Accounting conventions

The accounts meet:

- the disclosure requirements of the Companies Act 1985, as amended, to the extent that such requirements are appropriate to the OISC;
- the accounting standards issued by the Accounting Standards Board;
- the disclosure and accounting requirements of HM Treasury; and
- the requirements of the Accounts Direction and the Financial Memorandum issued to the OISC by the Secretary of State for the Home Department.

The accounts have been prepared under the historical cost convention modified to account for the revaluation of fixed assets as the value to the business by reference to their current costs.

#### Change of accounting policy

The OISC capitalises expenditure relating to software and development of IT systems in the accounting period in which it was incurred. This is a change in accounting policy from previous years, when such expenditure, other than on the database software, was regarded as revenue expenditure.

The impact of the change on the results of the current year is shown below. The expenditure on the CPD delivery platform and related software licences is not amortised until the accounting period commencing 1 April 2008, the date on which the CPD delivery platform became operational.

|                             | <b>At 31 March<br/>2008<br/>(as previously<br/>stated)</b>        | <b>Impact of<br/>adopting<br/>the new policy</b> | <b>At 31 March<br/>2008<br/>(restated)</b>                |
|-----------------------------|---|--|---|
|                             | <b>£'000</b>  | <b>£'000</b>                                     | <b>£'000</b>  |
| Net expenditure for 2007/08 | 4,443   | (207)  | 4,236   |
| Net intangible assets       | 13  | 207  | 220   |
| General reserve             | (467)   | (207)  | (674)   |
|                             | <b>At 31 March 2009<br/>(without applying<br/>the new policy)</b> | <b>Impact of<br/>adopting<br/>the new policy</b> | <b>At 31 March 2009<br/>(applying the new<br/>policy)</b> |
|                             | <b>£'000</b>  | <b>£'000</b>                                     | <b>£'000</b>  |
| Net expenditure for 2008/09 | 4,260   | (77)   | 4,183   |
| Net intangible assets       | 6   | 284  | 290   |
| General reserve             | (476)   | (284)  | (760)   |

### Grant in Aid

Grant in Aid and grant received used to finance activities and expenditure that supports the statutory and other objectives of the OISC are treated as financing credited to the General Reserve because they are regarded as contributions from a controlling party.

Grant relating to capital expenditure used to acquire specific capital items is credited to a government grant reserve. It is released to expenditure over the expected useful life of the asset it has been used to acquire and an equal amount transferred from the government grant reserve is released to income.

### Fixed assets

Assets are capitalised as fixed assets if they are intended for use on a continuous basis and their original purchase cost, on an individual or grouped basis, is £1,000 or more. Fixed assets are valued at current replacement cost by using the *Price Index Numbers for Current Cost Accounting* published by the Office for National Statistics, except in their year of disposal and acquisition when their current and historical costs are not materially different. Intangible assets are recorded at historic cost and are not revalued as no reasonable index exists for the OISC database.

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## Depreciation

Depreciation is provided on all fixed assets on a straight-line or a reducing balance basis to write off the cost or valuation evenly over the asset's anticipated life as follows:

|                                |   |
|--------------------------------|---|
| Office refurbishments          | on a straight-line basis over the remaining term of the lease |
| Computer equipment             | on a reducing balance basis over four years                   |
| Furniture and office equipment | on a reducing balance basis up to ten years                   |
| Database software              | on a straight-line basis over ten years                       |
| CPD platform                   | on a reducing balance basis over five years                   |
| CPD licences                   | on a straight-line basis over the life of the licence         |

Software and systems development expenditure on IT systems, other than the database software or the CPD platform and related software licences, is written off in the accounting period in which it is incurred. During the period to 31 March 2009 this amounted to £13,478 (2007/08: £14,649).

## Fee income

Fee receipts for registration and continued registration are recognised in the Income and Expenditure Account as and when fees are received.

The Commissioner is required to prepare an Annual Report for the Secretary of State on the extent to which each Designated Professional Body has provided effective regulation of its members in their provision of immigration advice or immigration services. The Commissioner is authorised to charge the Designated Professional Bodies for these services. The charge is set by statute in a Fee Order. The Fee Order is made after the end of the financial year in which the work was undertaken. Hence fee income from the Designated Professional Bodies is receivable in the accounting year after the work has taken place.

## Notional charges

In accordance with HM Treasury's publication *Government Financial Reporting Manual*, a notional charge for the cost of capital employed in the period is included in the Income and Expenditure Account, along with an equivalent reversing notional income to finance the charge.

The charge for the period is calculated using HM Treasury's discount rate of 3.5% applied to the mean value of capital employed during the period.

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### **Operating leases**

The OISC has an operating lease in respect of the premises it occupies in Tooley Street, London. The OISC's commitments are disclosed in Note 14. The rental agreement contained a rent-free period, the benefits of which are spread over the life of the lease and further details of which are disclosed in Note 9. There are no finance leases.

Payments made under operating leases on equipment are charged to expenditure on a straight-line basis.

### **Pension costs**

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS), which is a defined benefit scheme and is unfunded and non-contributory. The OISC recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. The rate of the employer's contribution is determined from time to time by the Government Actuary and advised by HM Treasury. Contributions are charged to the income and expenditure account.

### **Value Added Tax**

The OISC is not eligible to register for VAT and all costs are shown inclusive of VAT.

## **2. Financial targets**

The OISC has no formal agreed financial targets.

### 3. Income

#### (a) Fee income

|                                | 2008/09      | 2007/08      |
|--------------------------------|--------------|--------------|
|                                | <b>£'000</b> | <b>£'000</b> |
| Adviser fees                   | 717          | 614          |
| Designated Professional Bodies | 138          | 146          |
|                                | <u>855</u>   | <u>760</u>   |

#### (b) Other income

|              | 2008/09      | 2007/08      |
|--------------|--------------|--------------|
|              | <b>£'000</b> | <b>£'000</b> |
| Court costs  | 24           | 11           |
| Other income | 1            | 1            |
|              | <u>25</u>    | <u>12</u>    |

The monies received from fees and other income is passed on to the Home Office, and are shown in the Income and Expenditure Account as Appropriations due to the Home Office.

## 4. Employment costs

|                               | 2008/09             | 2007/08 (restated)  |
|-------------------------------|---------------------|---------------------|
|                               | £'000               | £'000               |
| <b>Commissioners</b>          |                     |                     |
| Salaries and emoluments       | 169                 | 184                 |
| Social security contributions | 18                  | 20                  |
| Pensions contributions        | 42                  | 47                  |
| <b>Staff</b>                  |                     |                     |
| Salaries and emoluments       | 2,037               | 2,056               |
| Social security contributions | 160                 | 163                 |
| Pensions contributions        | 390                 | 401                 |
| Staff secondments             | (58)                | (35)                |
| <b>Agency/contractor</b>      | 63                  | 92                  |
| <b>Total employment costs</b> | <b><u>2,821</u></b> | <b><u>2,928</u></b> |
| Salaries and emoluments       | 2,206               | 2,240               |
| Social security contributions | 178                 | 183                 |
| Pensions contributions        | 432                 | 448                 |
| Staff secondments             | (58)                | (35)                |
| Agency/contractor             | 63                  | 92                  |
|                               | <b><u>2,821</u></b> | <b><u>2,928</u></b> |

The Commissioner and Deputy Commissioner are ministerial appointments.

The audited accounts for 2007/08 reported £2,956,000 for total employment costs. In the current year £28,000 has been capitalised. For more details see 'Change of accounting policy' in Note 1.

At 31 March 2009 the OISC employed 64 staff (67 at 31 March 2008).

The average number of employees on a full-time equivalent basis during the year ended 31 March 2009 by category of employment was:

|                                    | 2008/09   | 2007/08   |
|------------------------------------|-----------|-----------|
| Commissioners                      | 2         | 2         |
| Management                         | 6         | 6         |
| Casework                           | 41        | 42        |
| Secretarial/administrative support | 17        | 17        |
| <b>Total</b>                       | <b>66</b> | <b>67</b> |

During the year the OISC also employed an average of two secretarial/administrative support staff through staff agencies.

### Pensions contributions

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the OISC is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007. Details of the resource accounts of the Cabinet Office: Civil Superannuation can be found at [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk).

For 2008/09, employers' contributions of £423,786 were payable to the PCSPS (2007/08: £443,679) at one of four rates in the range 17.1% to 25.5% of pensionable pay, based on salary bands. The scheme's actuary reviews employer contributions every four years following a full scheme valuation. From 2008/09, the salary bands were revised but the rates remained the same. The contribution rates are set to meet the costs of benefits accruing during 2008/09 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £8,794 (2007/08: £6,167) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3% to 12.5% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay.

There were no contributions due to the partnership pension providers at the balance sheet date nor were there any contributions prepaid at that date.

### Audit Committee

The three non-executive members of the Audit Committee are paid £350 per day plus travel costs for attendance at Audit Committee meetings. None has received more than £1,500 during the year.

## 5. Running costs

|                                      | 2008/09      | 2007/08 (restated) |
|--------------------------------------|--------------|--------------------|
|                                      | £'000        | £'000              |
| Accommodation costs                  | 613          | 487                |
| Information technology               | 114          | 163                |
| Legal costs                          | 110          | 188                |
| Advertising and publicity            | 89           | 75                 |
| Office supplies and services         | 77           | 80                 |
| Website                              | 44           | -                  |
| Training                             | 44           | 64                 |
| Provision for bad and doubtful debts | 33           | -                  |
| Travel and subsistence               | 30           | 35                 |
| Recruitment                          | 23           | 33                 |
| Audit fee – external                 | 22           | 17                 |
| Sundries                             | 14           | 108                |
| Operating lease payments             | 8            | 9                  |
| Community training                   | 7            | 70                 |
| CPD costs*                           | 5            | 13                 |
| Audit fee – internal                 | 6            | 9                  |
|                                      | <u>1,239</u> | <u>1,351</u>       |

\* The audited accounts for 2007/08 reported £192,000 for CPD costs. In the current year £179,000 of this has been capitalised. For more details, see 'Change of accounting policy' in Note 1.

## 6. Intangible fixed assets (restated)

|  | Database<br>software<br>£'000 | CPD<br>platform<br>£'000 | CPD<br>licences<br>£'000 | Total<br>£'000 |
|--|-------------------------------|--------------------------|--------------------------|----------------|
| Cost at 1 April 2008                   | 328                           | 195                      | 12                       | 535            |
| Additions                              | -                             | 152                      | -                        | 152            |
| Cost at 31 March 2009                  | 328                           | 347                      | 12                       | 687            |
| Amortisation at 1 April 2008           | (315)                         | -                        | -                        | (315)          |
| Provided during the year               | (7)                           | (69)                     | (6)                      | (82)           |
| Amortisation at 31 March 2009          | (322)                         | (69)                     | (6)                      | (397)          |
| <b>Net book value at 31 March 2009</b> | <b>6</b>                      | <b>278</b>               | <b>6</b>                 | <b>290</b>     |
| Net book value at 31 March 2008        | 13                            | 195                      | 12                       | 220            |

The intangible fixed assets have been restated to show the capitalisation of the CPD platform and the CPD licences. More information regarding this is contained in Note 1 under 'Change of accounting policy'.

## 7. Tangible fixed assets

|  | Office<br>refurbishments | Furniture<br>and office<br>equipment | Computer<br>equipment | Total             |
|--|--------------------------|--------------------------------------|-----------------------|-------------------|
|  | £'000                    | £'000                                | £'000                 | £'000             |
| Cost at 1 April 2008                   | 360                      | 260                                  | 197                   | 817               |
| Additions                              |                          |                                      | 19                    | 19                |
| Revaluation                            | -                        | 6                                    | (5)                   | 1                 |
| Cost at 31 March 2009                  | <u>360</u>               | <u>266</u>                           | <u>211</u>            | <u>837</u>        |
| Depreciation at 1 April 2008           | (153)                    | (159)                                | (154)                 | (466)             |
| Provided during the year               | (36)                     | (24)                                 | (35)                  | (95)              |
| Change in depreciation method*         | -                        | 22                                   | 30                    | 52                |
| Revaluation                            | -                        | (3)                                  | 4                     | 1                 |
| Depreciation at 31 March 2009          | <u>(189)</u>             | <u>(164)</u>                         | <u>(155)</u>          | <u>(508)</u>      |
| <b>Net book value at 31 March 2009</b> | <u><b>171</b></u>        | <u><b>102</b></u>                    | <u><b>56</b></u>      | <u><b>329</b></u> |
| Net book value at 31 March 2008        | <u>207</u>               | <u>101</u>                           | <u>43</u>             | <u>351</u>        |

\* During the year the OISC changed the method by which it depreciates furniture and office equipment and computer equipment so that the cost of them is written off over the items' expected useful lives on a reducing balance basis rather than a straight-line basis. This change in depreciation method has necessitated a reduction in the accumulated depreciation on these assets as well as a one-off adjustment to the depreciation for the year. The net effect of these adjustments is shown above.

## 8. Debtors

|                                      | 2008/09           | 2007/08           |
|--------------------------------------|-------------------|-------------------|
|                                      | £'000             | £'000             |
| Debtors                              | 188               | 190               |
| Season ticket loans to staff         | 23                | 22                |
| Prepayments                          | 308               | 264               |
| Provision for bad and doubtful debts | (33)              | -                 |
| <b>Total</b>                         | <u><b>486</b></u> | <u><b>476</b></u> |

## 9. Creditors

| Amounts falling due within one year | 2008/09    | 2007/08    |
|-------------------------------------|------------|------------|
|                                     | £'000      | £'000      |
| Trade creditors                     | 151        | 133        |
| Accruals                            | 33         | 49         |
| Taxation and social security        | 56         | 63         |
| Home Office                         | -          | 9          |
| Accommodation rent-free period*     | 39         | 39         |
| <b>Total</b>                        | <b>279</b> | <b>293</b> |

| Intra-government balances                   | 2008/09    | 2007/08    |
|---|------------|------------|
|   | £'000      | £'000      |
| Balances with central government bodies     | 56         | 72         |
| Balances with local authorities             | 101        | 95         |
| Balances with bodies external to government | 122        | 126        |
| <b>Total</b>                                | <b>279</b> | <b>293</b> |

| Amounts falling due after more than one year | 2008/09    | 2007/08    |
|--|------------|------------|
|  | £'000      | £'000      |
| Accommodation rent-free period               | 135        | 174        |
| <b>Total</b>                                 | <b>135</b> | <b>174</b> |

\* Accrued rent: During 2003–05, the OISC negotiated a ten-year lease on Floor 5, Counting House, 53 Tooley Street, London SE1 2QN. As part of this agreement the OISC was granted an 18-month rent-free period, from 29 September 2003 to 31 March 2005. In accordance with UK GAAP and UIFT Abstract 28 – Operating Lease Incentives, the OISC has spread the cost of the lease on an effective straight-line basis from the start of the rent-free period to the end of the extended lease on 28 September 2013. As a result, notional rent charges for the rent-free period have been charged to the Operating Cost Statement.

## 10. Provisions

|                              | 2008/09   | 2007/08  |
|------------------------------|-----------|----------|
|                              | £'000     | £'000    |
| Provision for rent increase* | 82        | -        |
| <b>Total</b>                 | <b>82</b> | <b>-</b> |

\* On 28 September 2008 the OISC's landlord exercised its right to increase the rent payable on the fifth anniversary of the lease. The landlord proposed increasing the annual rent from £257,660 to £421,000. The OISC's representatives are still discussing the rent increase with the landlord. The provision represents that proportion of the rent increase applying to the period 29 September 2008 to 31 March 2009.

## 11. Analysis of changes in cash

|                             | 2008/09      | 2007/08      |
|-----------------------------|--------------|--------------|
|                             | <b>£'000</b> | <b>£'000</b> |
| Balance at 1 April          | 99           | 291          |
| (Decrease)/increase in cash | 58           | (192)        |
| <b>Balance at 31 March</b>  | <b>157</b>   | <b>99</b>    |

The OISC has no borrowings and relies on departmental grants for its cash requirements, and is therefore not exposed to liquidity risks. It also has no material deposits and all material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk.

The OISC holds no cash balances with the Office of the Paymaster General. All amounts are held in commercial bank accounts.

## 12. Reserves (restated)

|  | General reserve<br>£'000 | Revaluation reserve<br>£'000 | Total<br>£'000 |
|--|--------------------------|------------------------------|----------------|
| Balances at 1 April 2008                               | 674                      | 5                            | 679            |
| Grant in Aid received towards resource expenditure     | 4,240                    | -                            | 4,240          |
| Grant in Aid received towards purchase of fixed assets | 30                       | -                            | 30             |
| Net operating costs for the year after appropriations  | (4,183)                  | -                            | (4,183)        |
| Revaluation of fixed assets                            | (1)                      | 1                            | -              |
| <b>Balances at 31 March 2009</b>                       | <b>760</b>               | <b>6</b>                     | <b>766</b>     |

### 13. Reconciliation of operating surplus to cash outflow from operating activities

|   | 2008/09 |                | 2007/08 (restated) |                |
|---|---------|----------------|--------------------|----------------|
|   | £'000   | £'000          | £'000              | £'000          |
| Total operating costs   |         | (4,209)        |                    | (4,397)        |
| <i>Add back non-cash items:</i>                               |         |                |                    |                |
| Cost of capital   | 25      |                | 16                 |                |
| Depreciation  | 125     |                | 103                |                |
| Net (gain)/loss on revaluation of fixed assets                | (1)     |                | (1)                |                |
|   |         | 149            |                    | 118            |
| <i>Add changes in working capital:</i>                        |         |                |                    |                |
| Increase in debtors relating to operating income              | (12)    |                | (182)              |                |
| Increase/(decrease) in creditors relating to operating income | 30      |                | (131)              |                |
|   |         | 18             |                    | (313)          |
| <b>Net cash outflow from operating activities</b>             |         | <b>(4,042)</b> |                    | <b>(4,592)</b> |

### 14. Capital commitments

At 31 March 2009 there were no capital commitments (31 March 2008: nil).

### 15. Commitments under operating leases

|                                      | 2008/09           |           | 2007/08           |           |
|--------------------------------------|-------------------|-----------|-------------------|-----------|
|                                      | Land and building | Equipment | Land and building | Equipment |
| <i>Operating leases that expire:</i> | £'000             | £'000     | £'000             | £'000     |
| Within one year                      | -                 | -         | -                 | -         |
| Within two to five years             | 263               | 7         |                   | 6         |
| After more than five years           | -                 |           | 263               |           |

### 16. Contingent liabilities

There were no contingent liabilities at 31 March 2009 (31 March 2008: nil).

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## 17. Post balance sheet events

There are no post balance sheet events to report. The Annual Report and Accounts were authorised for issue on 1 July 2009.

## 18. Related party transactions

The Home Office, as sponsor department, is a related party to the OISC. During the year ended 31 March 2009, the Home Office provided the OISC with Grant in Aid (see Note 12). A small number of transactions were made with other government departments and other central government bodies.

During the year ended 31 March 2009 neither the Commissioner, Deputy Commissioner, key managerial staff nor other related parties undertook any material transactions with the OISC.

Balances with central government bodies are detailed in Note 9.

## 19. Losses and special payments

There were no losses or special payments to report.

## 20. Results for the period

The financial resource allocated to the OISC has been used to meet the year's business plan targets. In achieving this, the OISC has operated within the limits set out in the Financial Memorandum and has not overspent the budget.

## 21. Financial instruments

FRS 29, *Financial Instruments: Disclosures*, requires disclosure of the significance of financial instruments for the entity's financial position and performance, the nature and risks to which the entity is exposed and how those risks are managed. Because of the wholly non-trading nature of its activities and the way in which executive agencies are financed, the OISC is not exposed to the degree of financial risk faced by business entities. Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which FRS 29 mainly applies. The OISC has no powers to borrow or invest surplus funds and no transactions in foreign currency. Financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the OISC in undertaking its activities.

**Liquidity risk**

The OISC is financed by Grant in Aid funded through the resource account of the Home Office. The OISC is not therefore exposed to any liquidity risks.

**Interest rate risk**

The OISC is not exposed to any interest rate risk as it has no significant debt.

**Foreign currency risk**

The OISC is not exposed to any significant foreign currency risk.

**Credit risk**

The OISC is not exposed to any significant credit risk.

# The Commissioner's Report on regulation by Designated Professional Bodies of their members

## Introduction

This Report, which is made in accordance with Part V of the Immigration and Asylum Act 1999, gives my opinion on the extent to which the Designated Professional Bodies (DPBs) listed below have provided effective regulation of their members in relation to the provision of immigration advice and/or services. The Report comments both on how those bodies dealt with complaints referred to them by the OISC and with complaints directly received by them.

The DPBs are the:

- Law Society of England and Wales;
- Law Society of Scotland;
- Law Society of Northern Ireland;
- Institute of Legal Executives;
- General Council of the Bar of England and Wales;
- General Council of the Bar of Northern Ireland; and
- Faculty of Advocates.

In line with the reforms set out in the Legal Services Act 2007, the Law Society of England and Wales and the General Council of the Bar of England and Wales have separated their regulatory and representative functions. Accordingly, most of my Office's interactions have been with their respective regulatory and complaints-handling bodies – the Legal Complaints Service (LCS), the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB).

The implementation of key provisions of the Legal Services Act 2007 in 2010 will place the DPBs in England and Wales (the Law Society of England and Wales, the General Council of the Bar of England and Wales and the Institute of Legal Executives) under the oversight of the Legal Services Board (LSB), and my responsibility to report on their performance will cease. This is therefore my penultimate report on their performance. I expect, however, to continue to report on the performance of DPBs in Scotland and Northern Ireland.

During 2009/10, I will be closely monitoring how the DPBs in England and Wales manage the transition to oversight by the LSB, as well as exploring the arrangements that the OISC will need to have in place for working with the LSB.

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## **The Law Society of England and Wales (including the Solicitors Regulation Authority and the Legal Complaints Service)**

### **Matters for discussion brought forward from the 2007/08 Report**

In my 2007/08 Report, I indicated that I intended to discuss and/or agree the following with the LCS and the SRA:

- the Memorandum of Understanding;
- changes in the regulation of solicitors in accordance with the Legal Services Act 2007;
- the new SRA Code of Conduct;
- risk management by the SRA; and
- the activation of section 90 of the Immigration and Asylum Act 1999.

### **The Memorandum of Understanding**

I am pleased to confirm the signing of a revised Memorandum of Understanding between the OISC, the LCS and the SRA, which recognises recent changes both in our respective organisations and in our working practices.

### **Changes in the regulation of solicitors in accordance with the Legal Services Act 2007**

The OISC has participated in the SRA's extensive public consultation exercise on proposed changes to the way it regulates solicitors, and OISC staff have been involved in discussions on key issues with senior SRA staff. I have generally been supportive of the changes that the SRA intends to introduce, and have consistently emphasised the importance of robust enforcement in delivering adequate protection for the public.

### **The new SRA Code of Conduct**

In my last Report, I expressed concerns about the SRA's treatment of supervision in its revised Code of Conduct and, in particular, that the Code may have created an increased risk of sham supervision. I also questioned whether the SRA had the necessary resources to enforce the Code.

Through its file audit mechanisms, my team has observed over the period the SRA's handling of a number of cases of allegedly inadequate supervision. So far there has been no evidence of the new Code functioning markedly less well than its predecessor. Nevertheless, the supervision of immigration practitioners remains a key concern of mine.

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During the year my staff worked with the SRA in producing a new guidance note on supervision, and I expect to receive the final draft of this note early in 2009/10.

### **Risk management by the SRA**

In September 2008 my staff visited the SRA's Risk Assessment Designation Centre and observed its risk assessment processes. This was a useful exercise in understanding how the SRA quantifies and manages risk. Subsequent oversight activity has further informed my Office about the practical application of risk assessment to live cases. I am satisfied in principle that the SRA's approach to risk assessment is effective. My staff will continue to monitor how it functions in practice.

### **Section 90 of the Immigration and Asylum Act 1999**

My 2007/08 Report mentioned that I had written to the SRA about the possibility of activating the powers specified in section 90 of the Immigration and Asylum Act 1999, enabling the Solicitors Disciplinary Tribunal (SDT) to restrict, suspend or prohibit the provision of immigration advice by solicitors and their employees. Following discussions with senior staff at the SRA and the SDT, and taking account of the operational difficulties likely to be encountered by the SDT in exercising these powers, I have decided not to pursue this matter at this time.

I remain concerned, however, about the powers available to the SRA to take action against unadmitted practitioners should it be necessary. To that end, my staff will continue to discuss with them how the public can best be protected in the context of the SRA's new regulatory arrangements. In particular, the new powers that the SRA will exercise to regulate firms as well as individuals will create an opportunity to reinforce the regulatory protection offered to the public. My staff are in discussion with the SRA about these issues, and they have received assurances that firm-based regulation will give the SRA greater powers to take action against non-solicitor staff where necessary.

### **Oversight**

Throughout the year, my Office's oversight of the LCS and the SRA has built on the more strategic approach outlined in my 2006/07 Report. This approach involves random and thematic file inspections and the assessment of complaints files against a set of objective criteria covering each stage of an investigation. The detail of oversight is under constant review to keep pace with the evolution of the SRA and the LCS, and to promote effectiveness and proportionality.

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I noted with concern a marked increase in the time taken by the SRA to allocate cases during the year. The SRA has explained that this was due to increased numbers of cases received and staffing issues. It has given assurances to me that it will, in future, allocate its cases more quickly. My staff will continue to monitor the SRA's allocation times during 2009/10.

That issue aside, audit findings have been generally positive. I therefore consider it proportionate to reduce the frequency of OISC audit visits in the next business year from bimonthly to quarterly.

#### **Matters for discussion for 2009/10**

I intend to discuss and/or agree the following with the LCS and the SRA during 2009/10:

- ongoing changes to the regulation of solicitors in line with the implementation of the Legal Services Act 2007; and
- arrangements for the transfer of oversight responsibilities to the LSB.

## Statistics

**Table 1a: Immigration complaints received by the LCS, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 57            | 449                | 506   |

**Table 1b: Immigration complaints received by the SRA, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 14            | 115                | 129   |

**Table 2a: Immigration complaints closed by the LCS, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 66            | 496                | 562   |

**Table 2b: Outcomes of closed LCS immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 69     | 212         | 134        | 36        | 41          | 70    | 562   |

**Table 2c: Age profile of closed LCS immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 282        | 168        | 56         | 41           | 15         | 562   |

**Table 3a: Immigration complaints closed by the SRA, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 15            | 164                | 179   |

**Table 3b: Outcomes of closed SRA immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 29     | 0           | 118        | 1         | 5           | 26    | 179   |

**Table 3c: Age profile of closed SRA immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 97         | 47         | 20         | 12           | 3          | 179   |

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## The Bar Standards Board

### Matters for discussion brought forward from the 2007/08 Report

I intended to discuss the following with the BSB during 2008/09:

- the BSB's ongoing reforms in line with the forthcoming implementation of the Legal Services Act 2007; and
- the specific impact of those reforms for complaints handling.

The BSB has continued to take measures to prepare for the introduction of the Legal Services Act 2007, consulting extensively on proposed changes to its regulation. These proposals include allowing barristers to join Legal Disciplinary Partnerships or to form partnerships of barristers. My Office has participated in these consultation exercises, supporting the introduction of changes consistent with the intentions of the Legal Services Act but emphasising the importance of a robust regulatory framework to protect the public.

The BSB has implemented changes following its consideration during 2008/09 of its complaints and disciplinary processes. My Office has not yet seen evidence of these reforms impacting significantly on the BSB's handling of immigration complaints, but will continue to monitor this in the coming year.

My staff have also been liaising with the BSB to ensure that the Bar's Code of Conduct is clear about the regulatory position regarding non-practising barristers who wish to provide immigration advice and services, namely that such barristers must be regulated by the OISC.

### Matters for discussion for 2009/10

I intend to continue discussing the following with the BSB during 2009/10:

- the BSB's ongoing reforms in line with the implementation of the Legal Services Act 2007;
- the specific impact of those reforms for complaints handling; and
- arrangements for the transfer of oversight responsibilities to the LSB.

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## Statistics

**Table 4: Immigration complaints received by the BSB, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 14            | 3                  | 17    |

**Table 5a: Immigration complaints closed by the BSB, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 4             | 1                  | 5     |

**Table 5b: Outcomes of closed BSB immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 0      | 0           | 4          | 0         | 0           | 1     | 5     |

**Table 5c: Age profile of closed BSB immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 0          | 2          | 2          | 1            | 0          | 5     |

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## The Institute of Legal Executives

### Matters for discussion brought forward from the 2007/08 Report

I identified the following as matters for discussion with the Institute of Legal Executives (ILEX):

- the establishment of the ILEX regulatory Board;
- following the regulatory Board becoming operational, the development of an accreditation scheme for immigration work; and
- work towards activation of section 90 of the Immigration and Asylum Act 1999.

### The establishment of the ILEX regulatory Board and the development of an accreditation scheme for immigration work

The ILEX regulatory Board, ILEX Professional Standards Ltd (IPS), was established during 2008/09, and I met its Chairman, Alan Kershaw, in June 2008. The establishment of IPS necessitated alterations by ILEX to its internal regulations, and the Board began its work in October 2008. I understand that it expects to decide how to take forward its accreditation scheme during 2009/10.

### Section 90 of the Immigration and Asylum Act 1999

I understand that in April 2008 ILEX wrote to the UK Border Agency requesting that an Order be made under Section 90 of the Immigration and Asylum Act 1999 granting it disciplinary tribunal powers to restrict, suspend or prohibit the provision of immigration advice or services by its members and their employees. I have been informed that instructions have now been given for an Order to be drafted and prepared for the Minister of State's approval, although it is not expected that it will be ready to come into force before the end of 2009/10.

### Matters for discussion for 2009/10

I intend to discuss the following issues with ILEX during 2009/10:

- progress in applying section 90 powers by ILEX's disciplinary tribunal;
- progress in developing an accreditation scheme for immigration work; and
- arrangements for the transfer of oversight responsibilities to the LSB.

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**Statistics**

**Table 6: Immigration complaints received by ILEX, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 4             | 4                  | 8     |

**Table 7a: Immigration complaints closed by ILEX, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 5             | 2                  | 7     |

**Table 7b: Outcomes of closed ILEX immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 3      | 0           | 1          | 0         | 1           | 2     | 7     |

**Table 7c: Age profile of closed ILEX immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 3          | 0          | 0          | 0            | 4          | 7     |

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## The Law Society of Scotland

### Matters for discussion brought forward from the 2007/08 Report

I intended to discuss the following issues with the Law Society of Scotland (LSS) during the past year:

- reform of the provision and regulation of legal services in Scotland; and
- findings from inspections of LSS direct complaints.

### Reform of the provision and regulation of legal services in Scotland

From 1 October 2008 the Scottish Legal Complaints Commission (SLCC) became the official gateway for all complaints about Scottish lawyers, including those providing immigration advice and services. It also took on responsibility for the handling of complaints about service from that date, and will assume the role of the Scottish Legal Services Ombudsman in respect of conduct complaints.

Consequently, I will lose my oversight role in respect of service complaints, although I will retain my oversight responsibilities in respect of conduct complaints. In view of the overlap in responsibilities, my staff are working with the SLCC on a Memorandum of Understanding, which we hope to sign in 2009.

### Findings from inspections of LSS direct complaints

Reviews of LSS direct complaint files raised a number of issues including:

- the reporter system (ensuring independence and objectivity in reports);
- the fact that the LSS does not investigate complaints from third parties such as the Asylum and Immigration Tribunal; and
- awareness of immigration law and practice by reporters and LSS staff.

My staff met senior officials from the LSS in July 2008 to discuss these matters. They were informed that the LSS had reviewed its investigation processes. As a result, it had introduced a new system for investigating complaints about solicitors' conduct from 1 October 2008. Under the new system, complaints will be investigated by LSS caseworkers rather than external reporters, and third party complaints may be accepted. I was satisfied that, in principle, the new system should promote effective complaints handling. We were also informed that LSS staff would be given specific training on immigration law and practice.

While I welcome these developments, I recognise that it may be some time before they are fully implemented. In the meantime, my staff will continue to raise any issues of concern with the LSS and work with that organisation to improve the quality of immigration complaints handling within the existing system, which will continue to apply to all complaints relating to Scottish solicitors instructed before October 2008.

### Matters for discussion for 2009/10

I intend to discuss and/or agree the following issues in 2009/10:

- progress on the proposed new processes for conduct complaints; and
- the impact of further legal services reform.

### Statistics

**Table 8: Immigration complaints received by the LSS, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 5             | 9                  | 14    |

**Table 9a: Immigration complaints closed by the LSS, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 2             | 9                  | 11    |

**Table 9b: Outcomes of closed LSS immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 1      | 2           | 4          | 1         | 3           | 0     | 11    |

**Table 9c: Age profile of closed LSS immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 3          | 5          | 1          | 0            | 2          | 11    |

## The Law Society of Northern Ireland

Earlier this reporting year, my staff met senior officials of the Law Society of Northern Ireland (LSNI) and discussed the nature and extent of immigration work in Northern Ireland, the LSNI's complaints system and legal services reform. Following this meeting, arrangements were put in place for the LSNI to provide information on direct complaints every six months.

Subsequently, the OISC received a complaint against a Northern Irish solicitor, which highlighted the need for a Memorandum of Understanding with the LSNI. My staff are currently working with the LSNI to finalise this document. At the LSNI's request, I recently met their Chief Executive, Alan Hunter, and other senior LSNI officials to discuss matters of mutual and strategic interest. The expectation is that the Memorandum of Understanding will be signed early in 2009/10.

### Matters for discussion for 2009/10

I intend to discuss and/or agree the following issue in 2009/10:

- the Memorandum of Understanding between the OISC and the LSNI.

**Table 10: Immigration complaints received by the LSNI, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 1             | 1                  | 2     |

**Table 11a: Immigration complaints closed by the LSNI, 2008/09**

| From the OISC | From other sources | Total |
|---------------|--------------------|-------|
| 1             | 0                  | 1     |

**Table 11b: Outcomes of closed LSNI immigration complaints, 2008/09**

| Upheld | Conciliated | Not upheld | Withdrawn | No response | Other | Total |
|--------|-------------|------------|-----------|-------------|-------|-------|
| 1      | 0           | 0          | 0         | 0           | 0     | 1     |

**Table 11c: Age profile of closed LSNI immigration complaints, 2008/09**

| 0-3 months | 4-6 months | 7-9 months | 10-12 months | >12 months | Total |
|------------|------------|------------|--------------|------------|-------|
| 0          | 1          | 0          | 0            | 0          | 1     |

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## **The General Council of the Bar of Northern Ireland**

Earlier this year, my staff met the Chief Executive of the General Council of the Bar of Northern Ireland in Belfast and discussed the nature and extent of immigration work carried out by barristers in Northern Ireland, the Bar's complaints system and legal services reform.

No complaints were received or are outstanding about immigration advice or services provided by members of the General Council of the Bar of Northern Ireland.

## **The Faculty of Advocates**

No complaints were received or are outstanding about immigration advice or services provided by members of the Faculty of Advocates.



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