



**Annual Report and Accounts  
2007/08**

**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 2007 – 31 March 2008**

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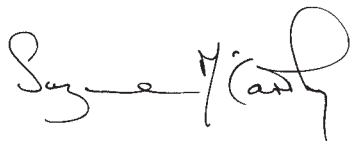
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# **Annual Report and Accounts of the Office of the Immigration Services Commissioner**

The Rt Hon Jacqui Smith MP

Madam,

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 2007 to 31 March 2008.

A handwritten signature in black ink, appearing to read 'Suzanne McCarthy'. The signature is fluid and cursive, with a large loop at the end of the last name.

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

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# Foreword



This report marks the halfway stage of my appointment as the Immigration Services Commissioner. Events of great significance for the immigration sector are happening. The introduction of the Points Based System, the expected presentation of the Simplification Bill in the 2008/09 Parliamentary Session and the start of the UK Border Agency (UKBA) are important developments both for the Office of the Immigration Services Commissioner (OISC) and for those it regulates.

Times of change also require consistency and continuity. Since it started in 2000, my Office has worked with the sector to achieve a recognised professionalism that was not previously there. Through its regulatory scheme, complaint determinations and investigations, the OISC has ensured that those who seek immigration advice or services from an OISC regulated adviser can do so with confidence and that those who receive applications, representations or submissions from such advisers can have assurance as to their quality. Thus the OISC has, and continues to achieve, its twofold purpose – protecting those who seek immigration advice or services and assisting in preventing abuse of the Government's immigration system.

During the last quarter of 2007/08, the UKBA began considering its policy around the regulation of immigration advice. After eight years of operating, it is right and proper for the UKBA to conduct a Review of the OISC's functions and work in the context of the current and future anticipated immigration sector. This Annual Report marks a crucial moment in the OISC's history as we await the Review's outcome.

As always, I owe a debt of gratitude to the Deputy Commissioner for her support, constructive suggestions and comments. My thanks go wider, as the achievements reported in the following pages were made possible by the excellent assistance of the OISC's staff. I very much appreciate their dedication to the OISC and to its aims.

It is an honour to serve as the UK's Immigration Services Commissioner, and I recognise the responsibilities that this appointment carries. Other countries look to the British regulatory model to assist them in designing their equivalent bodies. We expect that, over time, our overseas connections will increase.

I look forward to working closely both with the Deputy Commissioner and OISC staff during the coming year.

Suzanne McCarthy  
Immigration Services Commissioner  
24 June 2008

# Chapter 1: Commissioner's statement

This Annual Report is written during the UKBA's review of the OISC. I am aware that the Review Team are considering a number of options, and it is unknown at this time what decisions Ministers will make on the OISC's future. What is certain is that, over the course of the OISC's history, a professional immigration sector has emerged and that the OISC was instrumental in that development.

It is correct that the immigration environment has changed since the OISC started. What is also true is that the need for the provision of good immigration advice across the UK remains as necessary today as it did before 2000. There is a view that the introduction of the Points Based System (PBS) will do away with the need for immigration advisers. This has not been the experience of other countries that have introduced similar systems. Further, PBS will cover fewer than half of the topics on which OISC regulated immigration advisers give advice.

I am convinced that regulation of the immigration advice sector is necessary, both to ensure that a good standard of advice and assistance continues to be delivered to clients and to protect advisers from unfair, detrimental competition from unscrupulous or incompetent advisers. An adviser regulated by the OISC is determined by me to be fit and competent – and those who are entitled to display the OISC logo send out an important and strong message about the quality of their work. To remove regulation would place those who need immigration advice, government agencies and the general public at real risk. To remove regulation, ironically just at a time when other countries are moving towards introducing regulation, would in my opinion be going backwards.

The OISC has matured as an organisation. Recognising this and the shifts in policy and practice in the environment in which the organisation operates, it was decided by the OISC in 2007/08 to review its high-level strategic aims to make certain that they continue to reflect the OISC's purpose and what it wants to achieve. The restated aims are as follows:

*The OISC is an independent body committed to delivering its statutory regulatory, ombudsman and prosecutorial duties. To achieve this it is committed to:*

- working with others in ensuring the fitness and competence of the immigration advice sector in the UK;
- remaining an effective and fair regulator;
- maximising its performance capability;
- valuing its staff;
- making the best use of the finances available to it; and
- making its purposes known and understood.



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## Good adviser co-operation is necessary if the OISC is to achieve the effectiveness and efficiencies it desires

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My functions include oversight of the Designated Professional Bodies (DPBs) in their regulation of those of their members who give immigration advice or services. My report to the Home Secretary on that subject directly follows the Annual Accounts, and developments in that sector are not discussed here.

### Major developments in 2007/08

This Statement is not a comprehensive litany of OISC activities during 2007/08. Rather, I hope that by selecting certain aspects of the work done, I will enable readers to gain an understanding and appreciation of the breadth of the OISC's progress and achievements during the period.

#### Continuing evolution of the OISC's regulatory scheme

The OISC's regulatory scheme has several elements – an integrated risk-based audit process covering the main business systems and structures of adviser organisations and scrutiny of their case files; the assessment of individual adviser competence; the investigation of complaints; the prosecution of illegal advisers; and the promotion of good practice within the sector. The OISC scheme is compatible with both Better Regulation Principles and the British and Irish Ombudsman Association guidance.

In the 2006/07 Annual Report I mentioned several significant developments that took place during that year – publication of the second edition of the Commissioner's Rules and Code of Standards (successfully implemented in July 2007); the revision of the Commissioner's Complaints Scheme and the introduction of Practice Points on best practice; the completion of the competence assessment testing programme; and the reconsideration of application forms and processes.

The regulatory scheme continued to evolve during 2007/08. In particular, work was done towards producing a more robust system for assessing the risk levels of all OISC organisations. As a result, amendments were made to the internal audit report form used by OISC caseworkers and a review was undertaken of the information they need for completion of the risk assessment form. Work on this continues.

Good adviser co-operation is necessary if the OISC is to achieve the effectiveness and efficiencies it desires. For that reason it was decided that caseworkers should not consider incomplete applications from new advisers or incomplete continued registration applications from registered advisers. This policy applied to new applicants in 2007/08 and will extend to continued registration applications from 2008/09.

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## The OISC began an intensive internal investigation of its essential database needs

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A great deal of preparatory work was done during the year in connection with the planned introduction from April 2008 of our Complaint Re-direction Pilot and the OISC's programme, in conjunction with the Open University, of Continuing Professional Development. These are both discussed later in this Statement.

### **Improving the OISC internally**

Like all organisations, the OISC must constantly seek ways to work as effectively and cost-efficiently as possible. To do this successfully, staff need the right tools for the job. Budgetary restraints and public finance rules often make this difficult to realise completely.

The OISC's database is one of our most useful tools. However, it has become apparent that the current system is not as flexible as the OISC increasingly requires. Recognising this, during 2007/08 the OISC began an intensive internal investigation of its essential database needs. This process produced a detailed document, which we hope to implement in 2008/09 if our budget allows.

The OISC appreciates that, over the years, in addition to its published Code and Rules, it has acquired a valuable collection of judicial decisions, legal advice and policy decisions that require archiving. To do this, during 2007/08 the OISC began the process of developing a Knowledge Index, with the intention of rolling it out to staff in stages during 2008/09. This internal resource will assist in ensuring continued consistency of approach and decision-making.

One of our key aims is to decrease the OISC's dependency on paper. While a completely paperless office is unlikely considering the nature of the OISC's activities, we know that we can make good progress towards this and thereby make the best use of our office space. Thus, during 2007/08 we completely reassessed the storage of paper files. This work continues into 2008/09.

Many OISC staff deal with external parties. The great majority of these interactions are positive. Unfortunately, staff are sometimes subjected to unacceptable behaviour. Consequently, and in line with other organisations, the OISC decided that it was necessary to have a policy on how staff would deal with such behaviour, be it verbal, written or physical. The policy can be found on the OISC website.

OISC expects its staff to treat each other with dignity and respect. The OISC is committed to creating a culture where neither harassment nor bullying behaviour is acceptable. A new Dignity at Work Policy incorporates this commitment.



The OISC recognises the value in seeking the views of its staff. Following on from the staff survey conducted in 2006, another survey was carried out again by The Work Foundation in 2007. The majority of indicators (79%) in the second survey showed improvements, with only two displaying marginal decreases. The OISC also recognises the value and importance of maintaining and improving the organisation's environment, as far as that is possible, and continues to work towards that end.

## Preparing for the future – work in 2008/09

As indicated, the outcome of the UKBA Review of the OISC will dictate my Office's longer-term programme. As the recommendations of the Review will be incorporated into the Simplification Bill, it is anticipated that significant OISC resources will be directed towards serving that Bill's parliamentary requirements. We expect this to be a major activity during the second half of 2008/09.

Further, the OISC has both sizeable day-to-day obligations and other major work planned for the coming year. The OISC's ability to deliver this work is very dependent on the funds available. The redesign of the OISC database and the creation of the Knowledge Index have already been mentioned. I would like to say more here about other initiatives.

The PBS is a major change to the immigration process. Implementation of the system for Tier 2 (skilled workers) and Tier 4 (students) is expected to take place during 2008/09 and will see the general ending of work permits as well as the introduction of sponsorship. While the OISC will not regulate Sponsors, it will regulate those who give immigration advice or services to Sponsors on relevant matters, such as the certificates of sponsorship. The OISC is designing the regulation of this work as Government policies and procedures are settled.

As mentioned above, 1 April 2008 saw the greatly anticipated introduction of the OISC's Continuing Professional Development (CPD) programme. We are convinced that CPD will help OISC advisers to maintain and expand their knowledge and skills base and assist them in assuming increased responsibility for their own professional development. The CPD courses, available on-line, are easy to access by advisers, wherever they are located. They are also cost-effective, as advisers can save on unnecessary long journeys to venues for classroom-based training. Regulated advisers will have access to all available courses while new applicants will be able to access selected basic courses. Courses will cover a wide sweep of relevant subjects including an introduction to immigration, family migration, professional conduct, the practice of asylum law and advocacy for immigration. In



addition, as a benefit of working with the Open University (OU), OISC advisers will have access to some of the OU's development and management courses.

The Complaint Re-direction Pilot will also start in April. This pilot is an outcome of the OISC's 2007/08 review of its complaint investigations procedures and suggestions from advisers. During 2008/09 we will, with the consent of complainants and advisers and where the situation meets our criteria, remit certain complaints back to advisers for resolution rather than taking them through the OISC's investigative procedures. We estimate that around 20% of the complaints we receive could be resolved in this way. The pilot will increase the responsibility of advisers in resolving complaints and reaching an early and mutually amicable resolution where possible. It will also enable the OISC to focus its resources on those complaints that are more serious and may require disciplinary action. The pilot should prove whether re-direction can work and is sufficiently advantageous.

Chapter 3 gives details of the complaints we have received and determined during the year. Since June 2007 we have been asking complainants whose complaints we have determined why they complained to us and their feelings about the OISC's complaints process. Many of those who responded told us that one of the main reasons they complained was to protect others. It was also reassuring to receive feedback that confirmed general satisfaction with the way we handled their complaint, irrespective of the outcome.

The OISC recognises that good communication is essential to its success. In 2007/08 my Office adopted a new communication plan with the express aim of reaching those who may seek immigration advice, the different ethnic minority local communities and immigration advisers. In doing this we hope to raise greater awareness of the OISC's role and purpose.

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## **Conclusion**

Each year of my appointment has brought challenges. The coming year looks like being no exception. It is fortunate that I can rely on the Deputy Commissioner and OISC staff to meet these with positive relish.

## 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, which is led by the Director of Operations, Stephen Seymour.

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

Members of the Casework and Complaints Teams (3) have 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 2007/08, caseworkers also helped advisers understand the process of applying for registration by delivering nine application support seminars, as well as leading OISC regional Roundtable Meetings with immigration advisers in London, Newcastle and Bristol. Team members also helped prepare for the introduction of the OISC's Continuing Professional Development scheme and the OISC's regulation of those who will give assistance to Sponsors under the new Points Based System.

#### **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 section produces intelligence on prospective and regulated advisers and possible illegal activities. It also produces ad hoc reports on specific subjects.

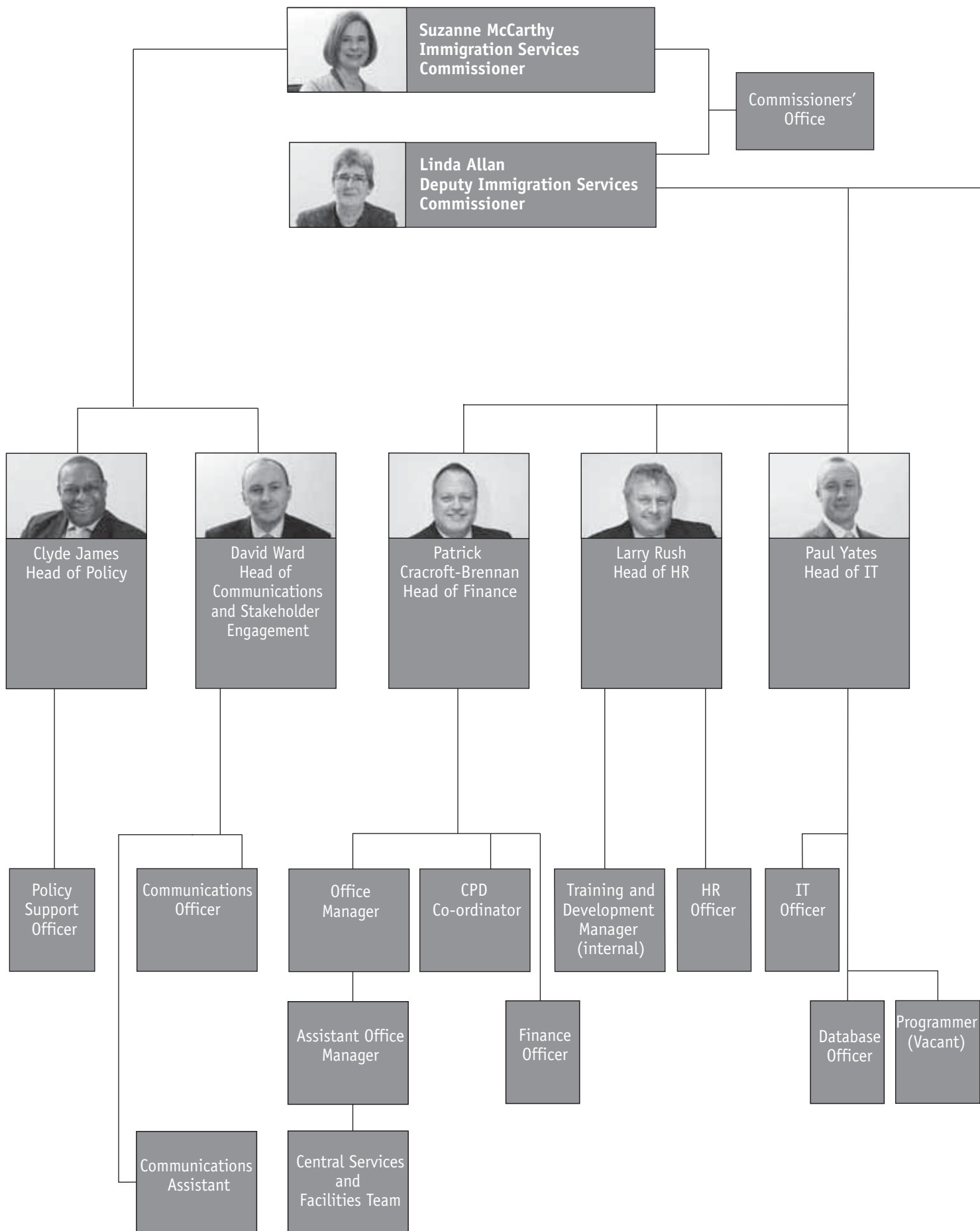


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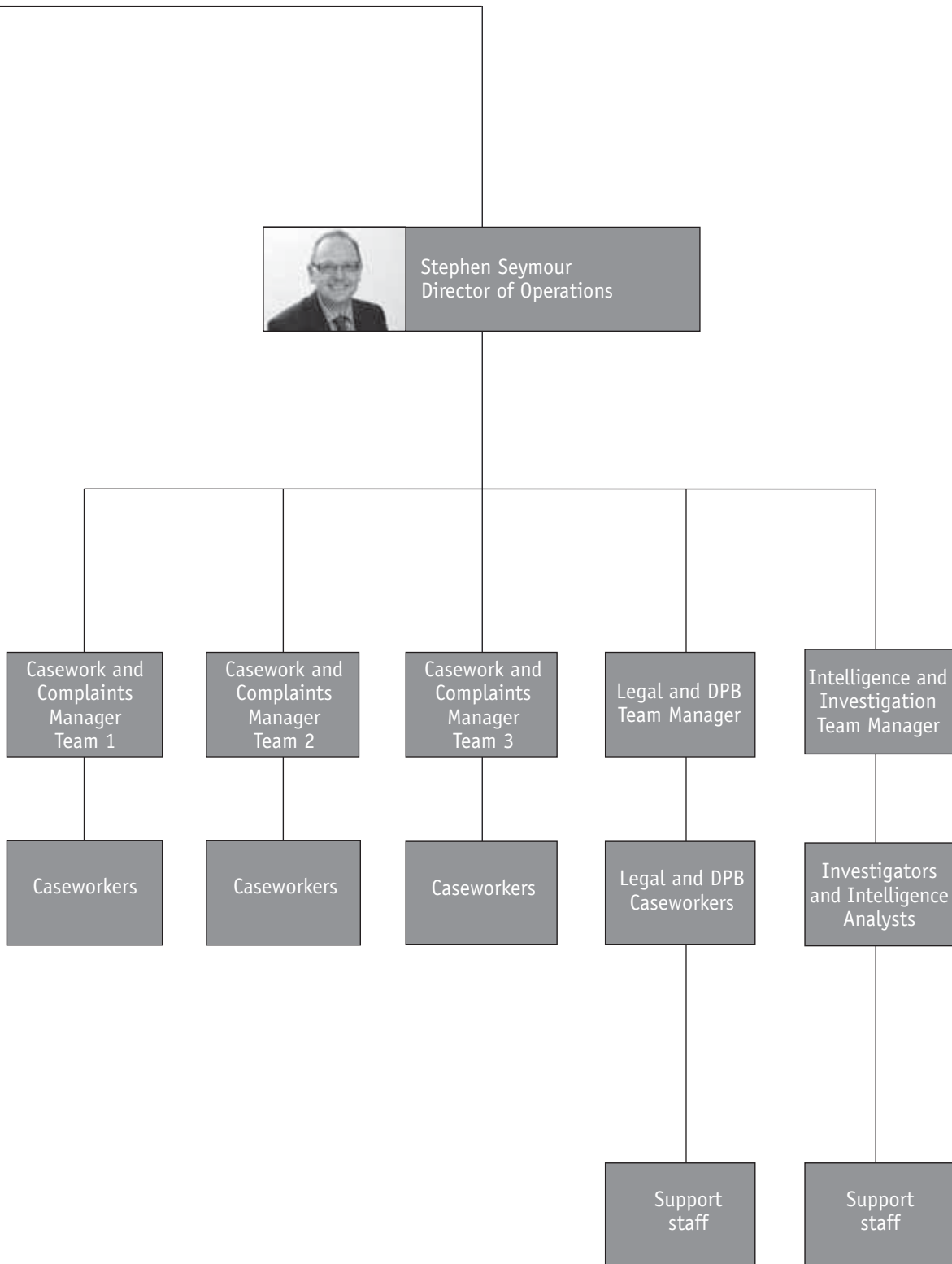
### **3. The Legal and DPB (Designated Professional Bodies) Team**

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.









## 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 payment disbursements and preparing the annual accounts and other periodic financial reporting. It also acts as secretariat for the OISC's Audit Committee and has overall responsibility for dealing with the Freedom of Information Act and Data Protection Act requests;
- **Central Services** – is the first point of contact for the public, receiving all incoming general enquiries;
- **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 managing agents, equipment engineers and other providers; and
- **Continuing Professional Development (CPD)** – 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 2007/08, the team continued its review of HR policies, ensuring the OISC's ongoing compliance with employment legislation. Revised policies relating to discipline, sick absence and probation were introduced.

Several recruitment exercises were undertaken during the year and staff attended 502 training and development days. The HR Team commissioned The Work Foundation to undertake a 'pulse' staff survey. This was a follow-up to the full staff survey carried out in 2006, and sought to test the climate on a number of

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key indicators from that survey. The feedback was generally positive and showed that the OISC has been proactive in dealing with the feedback from the 2006 survey.

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

The IT Team is responsible for the provision, maintenance and support of the Office's IT functions. During 2007/08, the team streamlined processes within the core business database for applications and continued registration and introduced processes for the Complaint Re-direction Pilot project in advance of its implementation in April 2008. The team also supported delivery of the CPD scheme. In addition, security software was upgraded and penetration tests carried out to ensure the security of data held by the OISC.

#### **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 2007/08, the team led on the implementation of the 2007 edition of the Commissioner's Code of Standards and Rules. It produced a Guidance Note on promotional material and the promotion of business and assisted the UK Council for International Student Affairs in producing a guidance note for its members. Internally, the team has worked with others in the OISC on laying the foundations for an OISC knowledge index.

## 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 Designated Professional Body, 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 those mainly 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.

# 4,061

Total number of regulated advisers as at 31 March 2008

## Statistics on regulated organisations and advisers as at 31 March 2008

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 2007	As at 31 March 2008
Registered	673	703
Exempt*	988	977
Total number of regulated organisations	1,661	1,680

\* This figure includes Citizens Advice Bureaux at Level 1.

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

	As at 31 March 2007	As at 31 March 2008
Registered	1,770	1,677
Exempt*	2,356	2,395
Total number of regulated advisers**	3,915	4,061

\*This figure includes Citizens Advice Bureaux advisers.

\*\*The total does not add up as some advisers work for more than one organisation and are counted more than once.

Total number of  
regulated premises as at 31 March 2008

# 1,954

**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	21	50	2	3	8	4	31	57	<b>88</b>
East of England	30	84	2	4	11	7	43	95	<b>138</b>
London	245	192	55	29	141	46	441	267	<b>708</b>
North East	13	32	1	2	3	4	17	38	<b>55</b>
Northern Ireland	11	30	2	1	0	2	13	33	<b>46</b>
North West	47	93	8	3	27	15	82	111	<b>193</b>
Scotland	14	79	3	1	3	1	20	81	<b>101</b>
South East England	60	138	10	7	24	8	94	153	<b>247</b>
South West England	19	66	2	1	2	3	23	70	<b>93</b>
Wales	7	46	0	0	4	1	11	47	<b>58</b>
West Midlands	22	60	2	2	16	8	40	70	<b>110</b>
Yorkshire	18	62	1	8	12	11	31	81	<b>112</b>
Other	2	2	0	0	0	1	2	3	<b>5</b>
<b>Total</b>	<b>509</b>	<b>934</b>	<b>88</b>	<b>61</b>	<b>251</b>	<b>111</b>	<b>848</b>	<b>1,106</b>	<b>1,954</b>

\*Registered.

\*\*Exempt.

**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	51	66	84	46	15
East of England	71	119	109	77	24
London	1,360	1,529	1,585	1,288	594
North East	36	34	48	27	13
Northern Ireland	7	19	13	8	1
North West	106	136	176	99	43
Scotland	41	35	49	26	3
South East England	130	118	179	89	30
South West England	27	48	36	25	5
Wales	46	5	16	4	2
West Midlands	74	107	110	65	24
Yorkshire	100	135	148	95	21
Other	4	7	7	7	2
<b>Total</b>	<b>2,053</b>	<b>2,358</b>	<b>2,560</b>	<b>1,856</b>	<b>777</b>

\*European Union and European Economic Area.

**Table 5: First-time applications**

	Registered	Exempt	Total
Applications received	169	19	<b>188</b>
Applications brought forward from 2006/07	51*	16*	<b>67*</b>
Applications approved	140	13	<b>153</b>
Applications refused	14	8	<b>22</b>
Applications withdrawn	12	3	<b>15</b>
Applications carried forward	54	11	<b>65</b>

\*Please note that these figures are slightly lower than the figures given in the Annual Report and Accounts 2006/07.



### 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	2005/06	2006/07	2007/08
Non-compliance – not fit/not competent	14	32	19
Incomplete application/information	27	16	9

### 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	2005/06	2006/07	2006/07
Did not return continued registration application	30	49	46
No longer giving immigration advice	45	14	39
Ceased trading	31	33	18
Regulation not necessary as no adviser at organisation	2	4	4
Now under a DPB	5	0	0

### Changing competence levels

We may change an organisation's or adviser's 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 be either 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



# 32%

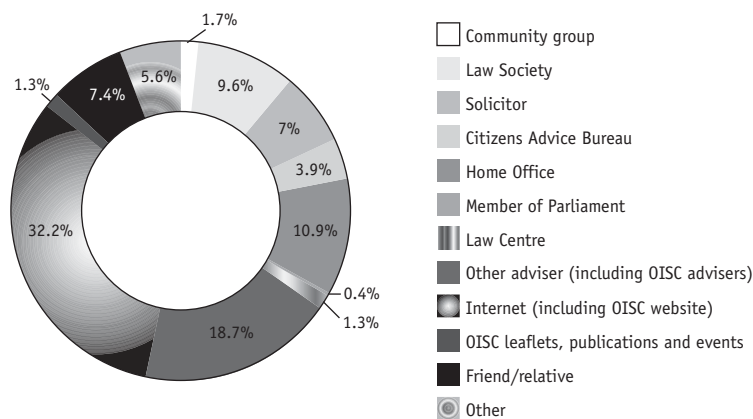
of complainants heard about the OISC through the internet

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 2007/08.

# 494

## complaints were received in 2007/08

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

Public	OISC advisers	Other	AIT*	DPB advisers	BIA**	Other public body	OISC initiated	Law centres	MP
320	28	16	36	30	12	1	41	3	7

\* Asylum and Immigration Tribunal

\*\* Border and Immigration Agency (now the UK Border Agency)

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

**Table 9: Breakdown of total complaints received 2001/02–2007/08**

	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
<b>Total</b>	<b>1,348</b>	<b>1,144</b>	<b>970</b>	<b>3,490*</b>

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

### Disposal of OISC complaint cases against regulated advisers

As of 31 March 2007, 145 cases were being investigated by the OISC. During the year, we received a further 238 complaints against OISC regulated advisers. Of the total 383 complaints, we closed 257, which is just over 66% of complaints, an improvement of 7% on the previous year.

**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	Made into DPB case	Other	Total
117	34	4	7	8	69	8	3	1	6	257

**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 were 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.

**Made into DPB case:** 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.

The general public has been the OISC's main source of information leading to investigations

**Table 11: Breakdown of appeals and charges 2003/04–2007/08**

	2003/04	2004/05	2005/06	2006/07	2007/08*
Appeals received	9	21	11	14	11
Appeals allowed	4	4	1	0	1
Appeals dismissed	2	5	3	5	3
Appeals withdrawn	0	0	5	4	6
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 in 2007/08 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. It has its own in-house team which proactively gathers intelligence on possible illegal activity. This year, as in previous years, the general public has been the OISC's main source of information leading to investigations, followed by information from our own staff.

**Table 12: Source of investigations**

AIT	BIA	Public	OISC adviser	Bar Council	MP	OISC staff	OISC intelligence	Solicitor	Total
18	9	67	6	1	1	33	10	13	<b>158</b>

Between 2001/02 and 2007/08, the OISC brought 66 prosecutions

### Disposal of investigations

We began the year with 229 cases still open from 2006/07. During 2007/08, a total of 145 investigations were closed, with a total of 224 carried forward into 2008/09.

**Table 13: Disposal of investigations**

Prosecutions	Not in public interest	Under DPB supervision	Cautions	Witness/suspect left UK	Insufficient evidence	Passed to another agency	Failure of witness co-operation	Outside time/jurisdiction	Total
15*	9	7	28**	15	54	3	8	6	145

In addition, at the end of 2007/08, there were 17 defendants awaiting trial.

\*The number of complaints dealt with by way of prosecutions was 25.

\*\*The number of complaints dealt with by way of cautions was 36.

**Table 14: Breakdown of prosecutions 2001/02–2007/08**

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
<b>Total</b>	<b>66</b>	<b>48</b>

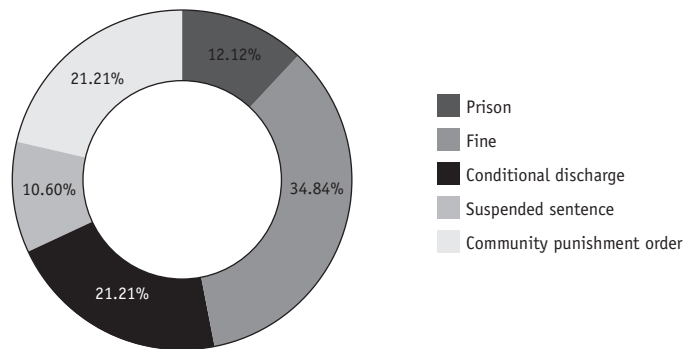
Two Failure to Attend Court (FTA) warrants were issued in 2007/08, bringing the total number of outstanding FTA warrants to nine. Three of those warrants were executed, reducing the total number to six.

Between 2001/02 and 2006/07,

# 12%

of convictions led to a prison sentence

**Figure 2: Breakdown of punishment on conviction 2001/02–2007/08**



Figures rounded to two decimal places

## 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 help 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 Commissioner decisions.
- Performance in relation to how well the OISC has controlled illegal immigration advice activity by identifying possible illegal adviser organisations and 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 2007/08

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 2008 at least 33% of all Level 2 and 3 organisations that exist at 31 March 2007.
- 4) Close 70% of written complaints about OISC advisers within six months of receipt.
- 5) Close 90% of written complaints about OISC advisers within 12 months of receipt.
- 6) 70% of Commissioner decisions to stand following an appeal being lodged with ImSET.
- 7) Identify 400 unregulated organisations.
- 8) Resolve the status of 200 unregulated organisations.

9) 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 2007/08 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 – those from organisations that wish to join the regulatory scheme, which can be either for-profit (Registered) or not-for-profit firms (Exempt), and those from Registered firms that wish to continue their registration with the OISC.

- **New applications**

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

In 2007/08 the OISC surpassed this KPI's target, having decided 78% of new applications within five months of receipt. This is a 3% improvement on 2006/07.

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

The OISC achieved 92%, thus missing the target by 3%. This is, however, a 2% improvement on 2006/07.

In October 2007 we made it a requirement that new applications would be considered only if they were complete and the correct fee submitted. This change will only start to be reflected in the data produced for KPI 1(b) during 2008/09.

Another illustration of the improvement we have made in processing new applications is the comparison between the number of new applications that were over six months old at the end of 2006/07 – 16 applications – and the number that were over six months old at the end of 2007/08 – 10 applications.



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- **Continued registration applications**

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

The OISC exceeded this target by deciding 77% of continued registration applications within three months, an 11% improvement on 2006/07.

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

The OISC achieved 89%, thus failing to meet the target by only 1%. This was, however, a satisfactory 4% improvement on the 2006/07 performance. Again, a comparison of the number of continued registration applications that were more than six months old at the end of 2006/07 and at the end of 2007/08 shows real improvement in our processing of this type of application; the figure was reduced from 17 to just seven.

The OISC has achieved improvements in these two KPIs by encouraging Registered advisers to submit more complete applications. As from April 2008 this is mandatory, with caseworkers not processing incomplete applications. However, certain matters, such as the need to reschedule audits or to arrange for an adviser who wishes to move up a level to take the necessary competence assessment, will nevertheless delay some applications being finalised.

*KPI 3 – Audit by 31 March 2008 at least 33% of all Level 2 and 3 organisations that exist at 31 March 2007.*

The target number of audits needed to meet this KPI was 110. In fact, as in 2006/07, the OISC exceeded this number and actually audited 125 Level 2 and 3 organisations in 2007/08.

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

*KPI 4 – Close 70% of written complaints about OISC advisers within six months of receipt.*

*KPI 5 – Close 90% of written complaints about OISC advisers within 12 months of receipt.*

Because of KPI 5's time period, it was only possible to report in the last Annual Report on how well the OISC had achieved against KPI 4. In that report it was stated that the OISC had failed to meet that KPI's then target of 65% by 3%.

During 2007/08 the target was raised to 70%. The OISC failed to meet this target by 4%, but the 66% it did achieve was nevertheless still a 4% improvement on the previous year.

As mentioned above, this report is the first time we can report on how well the OISC did in respect of KPI 5. The target set for that KPI was exceeded, with the OISC closing 92% of written complaints within 12 months from receipt.

Again, another comparison of improvement in this area is the number of complaints that were over six months old at the end of the year. In 2006/07 this number was 33, while in 2007/08 it had reduced to only eight.

The OISC is determined to improve the time it takes to close written complaints, and to that end it is starting a complaint re-direction pilot in 2008/09. This is described in more detail in the Commissioner's Statement. We have also decided to come in line with other regulators and ombudsmen in determining when a complaint becomes "live" for the purpose of these specific KPIs.

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

*KPI 6 – 70% of Commissioner decisions to stand following an appeal being lodged with ImSET.*

The OISC has again exceeded this target, achieving an overall success rate of 92%. During 2007/08, 61 appealable Commissioner decisions were made, which resulted in advisers lodging 11 appeals. This was in addition to the three appeals that were ongoing as at the end of 2006/07. During the year the OISC won 12 appeals;\* only one appeal was allowed. At the end of the year one case was ongoing.

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

*KPI 7 – Identify 400 unregulated organisations.*

*KPI 8 – Resolve the status of 200 unregulated organisations.*

The OISC again met KPI 7, with 400 unregulated organisations identified during the year, and exceeded KPI 8 by resolving the status of 214 unregulated organisations.

\* The number of appeals won in 2007/08 was 12. This figure differs from the combined total of appeals allowed, dismissed and withdrawn for 2007/08 in Table 11 on page 28 as three appeals were carried over from 2006/07.

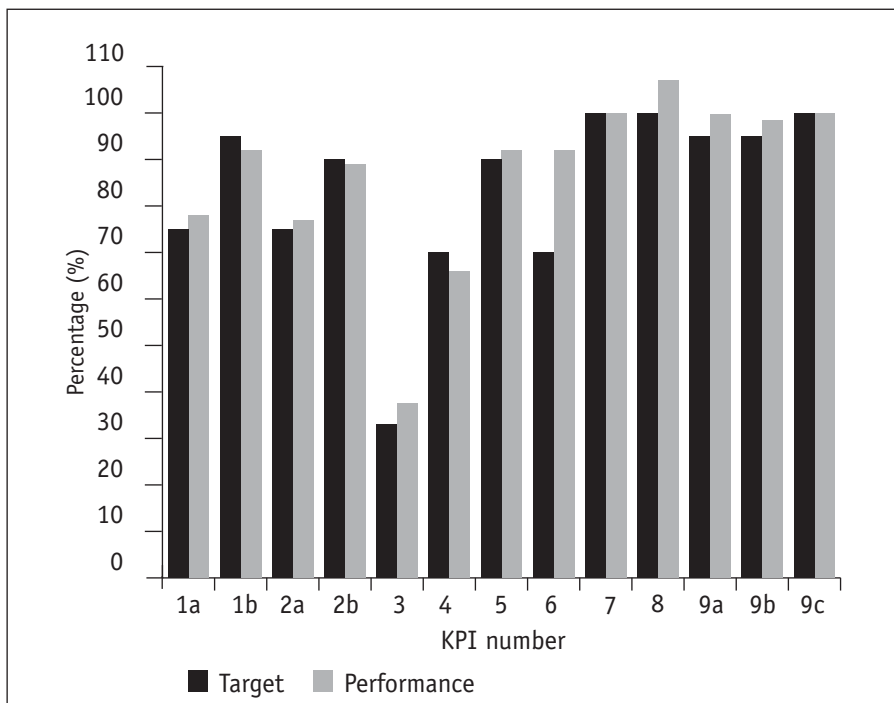
### KPIs that measure how long it takes the OISC to internally process activities

#### KPI 9 – Internal response targets:

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

The OISC again exceeded the targets set for acknowledgment of applications and complaints received, achieving 99.6% for the former and 100% for the latter. It improved its 30-day performance on the previous year by paying all but five undisputed invoices within 30 working days and thus achieving a 99.52% result. It failed by only one invoice to meet KPI 9(c), thereby achieving 99.9% against the 100% required.

**Figure 3: 2007/08 KPIs – Performance against targets**



#### KPIs for 2008/09

The 2008/09 KPI measures are the same as those set for 2007/08 except in respect of written complaints about OISC advisers to be closed within six months of receipt, where the target has been increased from 70% to 75%.

## Chapter 5: Working with others

Engaging those with an interest in the sector helps the OISC to fulfil its role and promote understanding of its functions. This chapter provides a flavour of some of the activities the OISC has undertaken and the stakeholders with whom it has engaged.

### Meetings and speaking engagements

The Commissioner and others have spoken with many organisations during the year, both in the UK and abroad. The Commissioner spoke at the Immigration Services Tribunal's Conference in December, and chaired a workshop at the British and Irish Ombudsman Association's April Conference. She conducted a number of briefings with various stakeholders including the Refugee Council, Asylum and Immigration Tribunal judges and officials at their Taylor House and Haddon Cross premises in London, and judges and bar students of the Inner Temple.

Regular meetings were held with various professional representative bodies including the Immigration Law Practitioners' Association (ILPA) and the Association of Regulated Immigration Advisers (ARIA). The Commissioner also met throughout the year with politicians and civil servants including the Conservative Shadow Minister for Immigration Damian Green MP, and Lin Homer, Director General of the then Border and Immigration Agency (BIA), now the UKBA (UK Border Agency). Relationships with key bodies in Scotland continued to be supported through meetings with the Scottish Strategic Co-ordination Group, the Scottish Refugee Council, the Scottish Legal Complaints Commission and the Scottish Legal Aid Board.

Further afield, the Commissioner was a principal speaker at the Annual Conference of the Canadian Society of Immigration Consultants in May. During the year, she also met with a Parliamentary Select Committee from South Africa and Romanian Embassy representatives. A meeting was held with Professor Park, an immigration expert from South Korea, and discussions continued to take place between the Commissioner and her counterparts in Australia.

### Consultations

The OISC values opportunities to contribute its views on relevant issues, and has responded to a range of consultations, listed in Annex B.

### External training

During 2007/08, the OISC ran 81 courses for advisers working in Exempt organisations. The courses were delivered without charge and covered various aspects of immigration, asylum and nationality law. Course topics ranged from

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## OISC advisers, like other professionals, must remain aware of developments and keep up-to-date

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'Visiting and Studying in the UK' at Level 1 to 'Presenting Immigration Appeals' at Level 3, and were held in Birmingham, London and Manchester.

Training was also undertaken in Scotland, with the Scottish Refugee Council as the main provider of training for Exempt organisations. Seventeen agencies, representing a range of sectors including education, local government and the voluntary sector attended the OISC-supported training courses held in Glasgow.

### **Continuing Professional Development (CPD)**

The OISC's CPD scheme was further developed during 2007/08 and started on 1 April 2008. A number of advisers were involved in preparatory testing. CPD will be compulsory for all OISC regulated advisers, both Registered and Exempt.

OISC advisers, like other professionals, must remain aware of developments and keep up-to-date. This is especially important in a sector where rules and legislation frequently change. They also need to be alert to best practice and ways in which they can improve their service to their clients.

To encourage and assist advisers to complete their CPD, The Open University (OU) has developed and will manage an on-line learning platform for the OISC. The OU is converting OISC classroom training into an e-learning format and these courses will be available to all OISC regulated advisers without charge. Advisers will also be able to undertake, without charge, a range of the OU's own management and personal development on-line courses.

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## In 2007/08 the OISC distributed 38,200 publications to advisers and a range of other stakeholders

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### **Raising awareness**

The OISC promotes awareness and understanding of its services among a range of audiences including immigration advisers, advice organisations and people seeking or receiving immigration advice. A range of methods are used:

- *Newsletters* – the OISC external newsletter to advisers was redesigned and doubled in size from four to eight pages in 2007/08;
- *Publications* – a range of promotional and information materials is published in a variety of languages;
- *Roundtables* – a programme of regional events at which OISC staff and advisers can share and discuss issues of concern. Five were held in 2007/08 in Newcastle, London, Birmingham and Bristol;
- *Annual Conference* – an event attended by OISC staff, advisers and key partners; and
- *Media Relations* – during 2007/08 these were mainly focused on reporting the results of OISC prosecutions.

In 2007/08, the OISC distributed 38,200 publications to advisers and a range of other stakeholders. A full list of the OISC's publications can be found in Annex A. Current publications are available for download from our website at [www.oisc.gov.uk](http://www.oisc.gov.uk). Many are available in different languages.



## 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 2007/08, we received 23,862 telephone, voicemail and e-mail enquiries about our work.

## Chapter 6: Governance

The Immigration Service 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 Commissioners 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 delivery of her responsibilities as to issues of risk, control and governance is the OISC's Audit Committee. Its 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's terms of reference were revised in December 2005. This changed the Committee's membership to three independent members, who took up their appointments in August 2006.



## Chapter 7: Remuneration report

Part V of the Immigration and Asylum Act 1999 (the Act), 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.

### Remuneration (audited information)

The salary, pension entitlements and the value of any taxable benefits in kind of the most senior members of the OISC during 2007/08 were as follows:

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
	Salary, including performance pay (£k)	Benefits in kind (rounded to nearest £100)	Real increase in pension and related lump sum at age 60 (£k)	Total accrued pension at age 60 at 31/03/08 and related lump sum (£k)	Cash equivalent transfer value (CETV) at 31/03/07 or start date (nearest £k)	CETV at 31/03/08 or leaving date (nearest £k)	Real increase in CETV after adjustment for inflation and changes in market factors (nearest £k)
Suzanne McCarthy	108	0	2.5-5 plus 0-5	55-60 plus 0-5	1,102	1,297	195
Linda Allan	76	0	0-2.5 plus 0-2.5	30-35 plus 0-5	533	613	80

### 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.

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## Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the employer and treated by HM Revenue and Customs as a taxable emolument.

## Civil Service Pensions

Pension benefits are provided through the Civil Service Pensions 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 joining from October 2002 may 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 in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated 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 the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for 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). Employees 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).

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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 purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries 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 drawn.

### **Real increase in CETV**

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

## Annex A: OISC publications

### General information

- General Information about the OISC (26 languages)
- How to Find an Adviser (26 languages)
- OISC News (external newsletter, three issues annually)
- Legal Advice for People Who Are Detained by the Immigration Services

### 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
- Support and Training for OISC Regulation (PDF only)

### 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 (26 languages)

## Annex B: Responses made to external consultations in 2007/08

1. Initial Consultation on the Review of the Bar Standards Board's Code of Conduct  
Issued by: Bar Standards Board  
Responded: August 2007
2. Effective consultation: asking the right questions, asking the right people, listening to the answers  
Issued by: Cabinet Office  
Responded: September 2007
3. Alternative Business Structures –  
The Public Interest: Delivering Scottish Legal Services  
Issued by: Law Society of Scotland  
Responded: January 2008
4. Bar Standards Board Complaints and Disciplinary Processes Consultation Paper  
Issued by: Bar Standards Board  
Responded: February 2008
5. BIOA Principles of Good Governance  
Issued by: British and Irish Ombudsman Association  
Responded: March 2008
6. Legal Services Act: Character and Suitability test for non-lawyer managers of an LDP  
Issued by: Solicitors Regulation Authority  
Responded: March 2008

All consultation responses are available on the OISC website at [www.oisc.gov.uk](http://www.oisc.gov.uk).

## Annex C: Glossary

<b>AIT</b>	<p><b>Asylum and Immigration Tribunal</b> Appeals against UKBA decisions are considered by the AIT.</p>
<b>ARIA</b>	<p><b>Association of Regulated Immigration Advisers</b> ARIA is a trade body whose membership is open to OISC advisers.</p>
<b>DPB</b>	<p><b>Designated Professional Body</b> The DPBs are:</p> <ul style="list-style-type: none"> <li>• the Law Society of England and Wales;</li> <li>• the Law Society of Scotland;</li> <li>• the Law Society of Northern Ireland;</li> <li>• the Institute of Legal Executives;</li> <li>• the General Council of the Bar of England and Wales;</li> <li>• the General Council of the Bar of Northern Ireland; and</li> <li>• the 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> ILPA is a professional body whose membership is open to OISC advisers.</p>
<b>ImSET</b>	<p><b>Immigration Services Tribunal</b> Decisions made by the Immigration Services Commissioner to refuse or vary registration, withdraw exemption or lay a disciplinary charge, carry a right of appeal to ImSET.</p>

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<b>PBS</b>	<p><b>Points Based System</b></p> <p>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 to reflect workers' aptitude, experience and age, as well as the demand for their skills in any given sector, to allow the UK to respond flexibly to changes in the labour market.</p>
<b>Registered organisations</b>	<p>Organisations termed 'Registered' are those – mainly operating in the private sector – that 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 its 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.</p>
<b>UKBA</b>	<p><b>UK Border Agency (formerly the Border and Immigration Agency and before that the Immigration and Nationality Directorate)</b></p> <p>The UK Border Agency is the Home Office agency that deals with immigration, asylum, nationality and citizenship issues.</p>
<b>UKvisas</b>	<p>In 2007/08 UKvisas ran the UK's visa service through British diplomatic posts overseas and was a joint Home Office and Foreign and Commonwealth Office unit. UKvisas has been incorporated within the UKBA.</p>
<b>WP(UK)</b>	<p><b>Work Permits (UK)</b></p> <p>In 2007/08 WP(UK) administered work permits and other immigration employment matters. WP(UK) has been incorporated within the UKBA.</p>

# Statement of Accounts 2007/08

## Foreword

This Statement of Accounts reports the results of the Office of the Immigration Services Commissioner (OISC) for the year 1 April 2007 to 31 March 2008. 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 body corporate by authority of the Act.

The Act established the OISC as an independent body remitted 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. It is also required 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 setting 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 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 2007/08 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 Mrs McCarthy held the following public appointment:

- Member, Public Guardian Board.

### **4. Corporate governance**

This Statement of Accounts includes on pages 56 to 58 a statement on the system of internal control.

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 to provide internal audit services from 1 April 2001.

During 2007/08 £9,130 (2006/07: £8,900) was paid to the 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 2007/08 was £17,000 (2006/07: £17,000). There were no fees paid in respect of non-audit work during 2007/08 (2006/07: £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) – three years from 1 August 2006;
- Terry Price – three years from 1 August 2006; and
- John King – two years from 1 August 2006.

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

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

## 5. 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.

In accordance with Schedule 5 paragraph 20 of the Act, the OISC's financial statements cover the period 1 April 2007 to 31 March 2008 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.

The accounts for the year 1 April 2007 to 31 March 2008 are set out on pages 62 to 65. The notes on pages 66 to 76 form part of the accounts.

The OISC received £4,494,992 in Grant in Aid for the year ended 31 March 2008.

## **6. Research and development**

No research and development was undertaken in the year ended 31 March 2008.

## **7. Charitable donations**

No charitable donations were made in the year ended 31 March 2008.

## **8. Changes in fixed assets**

The OISC purchased additional IT equipment of £11,615, additional office equipment of £7,473 and spent £24,911 on office refurbishments 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 2008, 99% (2006/07: 98%) of invoices, totalling £1,439,404 (2006/07: £1,707,964), were paid within 30 days of receipt. The payment delays were due to disputes with suppliers regarding over-charging for goods and services.

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 the use of the

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.

## **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. Throughout the period, staff training has been a priority.

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.

## **16. Future developments**

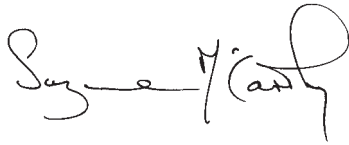
The OISC will continue to concentrate on delivery of its principal activities in order to ensure that those who provide immigration advice or services are fit and competent to do so and to drive out unregulated activity. The OISC intends to maintain and build on the respect and recognition it has achieved 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, as appropriate.

## **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
- 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  
24 June 2008

## 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* (FRoM) 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 FRoM 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*.

## 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 departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money*.

The OISC is an executive, Non-Departmental Public Body of the Home Office. I am accountable to the Secretary of State through the UK Border Agency Sponsor Unit, which is responsible for advising the Home Secretary on the OISC's objectives and targets in support of the Commissioner's statutory responsibilities as a regulator.

### 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 2008 and up to the date of approval of the Annual Report and Accounts, and accords with HM Treasury Guidance.

During 2007/08 further efforts have been made to reduce the number of cheques issued by the OISC in order to reduce the risk of theft and misappropriation. Creditors are now regularly paid by inter-bank transfers.

### 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/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 which includes non-executive members, the OISC's

Senior Management Team acts in this capacity, meeting monthly under my chairmanship to discuss, 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 associated measures 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.

The OISC's Audit Committee and Senior Management Team, respectively, regularly reviewed the key corporate risks during 2007/08. The OISC has been mindful of the need adequately to 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 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 comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit Committee and received assurance from the Home Office Audit and Assurance Unit (AAU) that the OISC's system of internal control is sound and for the most part operating effectively.

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

- the Commissioner'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 and the Heads of Communications and Stakeholder Engagement, Finance, Human Resources, Information Technology and Policy;

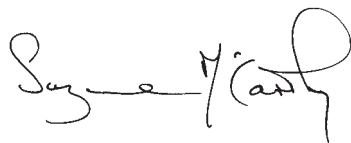


- the OISC's Audit Committee. During 2007/08 the Audit Committee's membership consisted of three non-executive members, one of whom was the Committee's chairman. I also attended the Audit Committee meetings together with the Deputy Commissioner, the Head of Finance and representatives from the National Audit Office and the Home Office AAU;
- risk management arrangements, as described above, under which key risks that could affect the achievement of the OISC's 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 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. They comply with the Government 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 2007/08 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.

For 2007/08, 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

24 June 2008

## **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 2008 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, the Remuneration Report and the financial statements in accordance with the Immigration and Asylum Act 1999 and 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 Secretary of State's directions made thereunder. I report to you whether, in my opinion, the information, which comprises the Commissioner's Statement, the Statistical and Key Performance Indicators Reports, the Governance Statement, the Commissioner's Report on Regulation by Designated Professional Bodies of their members, the unaudited part of the Remuneration Report and the Foreword 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 which 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.

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 sections entitled The Organisation and Working with Others. 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 and 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.

## 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 2008 and of its net expenditure 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 and Secretary of State's directions made thereunder; and
- information, which comprises the Commissioner's Statement, the Statistical and Key Performance Indicators Reports, the Governance Statement, the Commissioner's Report on Regulation by Designated Professional Bodies of their Members, the unaudited part of the Remuneration Report and the Foreword to the Accounts, included within the Annual Report, 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.

T J Burr  
Comptroller and Auditor General  
National Audit Office  
151 Buckingham Palace Road  
Victoria  
London SW1W 9SS

7 July 2008

## Income and expenditure account

### For the year ended 31 March 2008

	Note	2007/08		2006/07	
		£'000	£'000	£'000	£'000
<i>Expenditure</i>					
Employment costs	4	(2,956)		(2,803)	
Running costs	5	(1,530)		(1,436)	
Depreciation	6/7	(103)		(100)	
Revaluation	7	1		(3)	
Cost of capital		(16)		(14)	
<b>Total operating costs</b>			(4,604)		(4,356)
<i>Other income</i>					
Fee income	3	760		812	
Other income	3	12		9	
Interest receivable		18		24	
			790		845
<b>Net operating costs before appropriations</b>			<b>(3,814)</b>		<b>(3,511)</b>
Reversal cost of capital			16		14
<b>Net operating costs for the year before appropriations to the Home Office</b>			<b>(3,798)</b>		<b>(3,497)</b>
Appropriation due to the Home Office			(645)		(817)
<b>Retained deficit for the year</b>	19		<b>(4,443)</b>		<b>(4,314)</b>

All operations are continuing

The notes on pages 66 to 76 form part of these accounts.

## Statement of recognised gains and losses

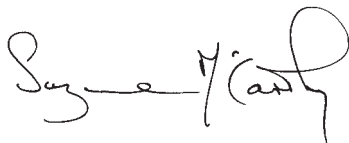
	Note	2007/08 £'000	2006/07 £'000
Unrealised deficit for the year before appropriations to the Home Office		(3,814)	(3,511)
Other net (losses)/gains recognised in reserves:			
Unrealised (loss)/profit on revaluation of assets	11	<u>(1)</u>	<u>3</u>
<b>Total recognised losses in the year</b>		<b><u>(3,815)</u></b>	<b><u>(3,508)</u></b>

The notes on pages 66 to 76 form part of these accounts.

## Balance sheet

### As at 31 March 2008

	Note	2007/08		2006/07	
		£'000	£'000	£'000	£'000
<i>Fixed assets</i>					
Intangible assets	6		13		19
Tangible assets	7		351		403
			<u>364</u>		<u>422</u>
<i>Current assets</i>					
Debtors	8	476		294	
Bank	10	99		291	
		<u>575</u>		<u>585</u>	
Creditors – amounts due within one year	9	(293)		(375)	
Net current assets/(liabilities)			<u>282</u>		<u>210</u>
Total assets less current liabilities			<u>646</u>		<u>632</u>
Creditors – amounts after more than one year	9		(174)		(212)
			<u><b>472</b></u>		<u><b>420</b></u>
<i>Capital and reserves</i>					
General reserve	11		467		414
Revaluation reserve	11		5		6
			<u><b>472</b></u>		<u><b>420</b></u>



Suzanne McCarthy

Immigration Services Commissioner and Accounting Officer  
24 June 2008

The notes on pages 66 to 76 form part of these accounts.

## Cash flow statement

### For the year ended 31 March 2008

	Note	2007/08 £'000	2006/07 £'000
<b>Operating activities</b>			
Net cash outflow from operating activities	12	(4,799)	(4,594)
<b>Returns on investments and servicing of finance</b>			
Interest received		18	24
<b>Capital expenditure</b>			
Cash outflow to acquire fixed assets		(33)	(21)
Net cash outflow before financing		<u>(4,814)</u>	<u>(4,591)</u>
<b>Financing</b>			
Grant in Aid	11	4,495	4,313
Fee/other income received	3(a)(b)	772	821
Less amounts appropriated to Home Office		<u>(645)</u>	<u>(817)</u>
<b>Decrease in cash</b>	10	<u><u>(192)</u></u>	<u><u>(274)</u></u>

The notes on pages 66 to 76 form part of these accounts.



## 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.

#### Grant in Aid

Grant in Aid and grant received used to finance activities and expenditure that support 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.

### Depreciation

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

Office refurbishments	over the remaining term of the lease
Computer equipment	four years
Furniture and office equipment	up to ten years
Database software	ten years

Software and systems development expenditure on IT systems, other than the database software, is written off in the period in which it is incurred. During the period to 31 March 2008 this amounted to £14,649 (2006/07: £24,460).

### Fee income

Fee receipts for registration and continued registration are recognised in the profit and loss 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 and to handle complaints on their behalf. 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.

### 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

	2007/08	2006/07
	£'000	£'000
Adviser fees	614	647
Designated Professional Bodies	146	165
	<u>760</u>	<u>812</u>

### (b) Other income

	2007/08	2006/07
	£'000	£'000
Court costs	11	8
Other income	1	1
	<u>12</u>	<u>9</u>

The monies received from advisers and Designated Professional Bodies are 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

	2007/08	2006/07
	£'000	£'000
<b>Commissioners</b>		
Salaries and emoluments	184	180
Social security contributions	20	20
Pensions contributions	47	46
<b>Staff</b>		
Salaries and emoluments	2,079	1,950
Social security contributions	165	157
Pensions contributions	404	380
Staff secondments	(35)	-
Agency/contractor	92	70
<b>Total employment costs</b>	<b>2,956</b>	<b>2,803</b>
Salaries and emoluments	2,263	2,130
Social security contributions	185	177
Pensions contributions	451	426
Staff secondments	(35)	-
Agency/contractor	92	70
	<b>2,956</b>	<b>2,803</b>

The Commissioner and Deputy Commissioner are ministerial appointments.

At 31 March 2008 the OISC employed 67 staff (66 at 31 March 2007).

The average number of employees during the year ended 31 March 2008 by category of employment was:

	2007/08	2006/07
Management	6	6
Casework	42	40
Secretarial/administrative support	17	19
<b>Total</b>	<b>65</b>	<b>65</b>

### **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's 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 2007/08, employers' contributions of £443,679 were payable to the PCSPS (2006/07: £425,821) 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 will be revised but the rates will remain the same. The contribution rates are set to meet the costs of benefits accruing during 2007/08 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 £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. In addition, employer contributions of £1,032, 0.8% of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefit on death in service and ill health retirement of these employees.

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**

	<b>2007/08</b>	<b>2006/07</b>
	£'000	£'000
Accommodation costs	487	478
Advertising and publicity	75	219
Audit fee – external	17	17
Audit fee – internal	9	9
Legal costs	188	102
Recruitment	33	58
Training	64	61
Information technology	163	202
Office supplies and services	80	78
Operating lease payments	9	10
Community training	70	118
Travel and subsistence	35	41
CPD development costs	192	–
Sundries	108	43
<b>Total</b>	<b>1,530</b>	<b>1,436</b>

**6 Intangible fixed assets**

	<b>Database software</b>
	£'000
Cost at 1 April 2007	328
Cost at 31 March 2008	328
Amortisation at 1 April 2007	309
Provided during the year	6
Amortisation at 31 March 2008	315
<b>Net book value at 31 March 2008</b>	<b>13</b>
Net book value at 31 March 2007	19

**7 Tangible fixed assets**

	<b>Office refurbishments</b>	<b>Furniture and office equipment</b>	<b>Computer equipment</b>	<b>Total</b>
	£'000	£'000	£'000	£'000
Cost at 1 April 2007	335	245	194	774
Additions	25	8	11	44
Disposals	-	-	-	-
Revaluation	-	7	(8)	(1)
Cost at 31 March 2008	<u>360</u>	<u>260</u>	<u>197</u>	<u>817</u>
Depreciation at 1 April 2007	117	131	123	371
Provided during the year	36	24	37	97
Depreciation on disposals	-	-	-	-
Revaluation	-	4	(6)	(2)
Depreciation at 31 March 2008	<u>153</u>	<u>159</u>	<u>154</u>	<u>466</u>
<b>Net book value at 31 March 2008</b>	<b><u>207</u></b>	<b><u>101</u></b>	<b><u>43</u></b>	<b><u>351</u></b>
Net book value at 31 March 2007	<u>218</u>	<u>114</u>	<u>71</u>	<u>403</u>

**8 Debtors**

	<b>2007/08</b>	<b>2006/07</b>
	£'000	£'000
Other debtors	190	23
Season ticket loans to staff	22	20
Sundry prepayments	264	251
<b>Total</b>	<b><u>476</u></b>	<b><u>294</u></b>

## 9 Creditors

	2007/08	2006/07
<b>Amounts falling due within one year</b>	£'000	£'000
Trade creditors	133	191
Accruals	49	83
Taxation and social security	63	62
Home Office	9	–
Accommodation rent-free period	39	39
<b>Total</b>	<b>293</b>	<b>375</b>
	2007/08	2006/07
<b>Intra-government balances</b>	£'000	£'000
Balances with central government bodies	72	62
Balances with bodies external to government	221	313
<b>Total</b>	<b>293</b>	<b>375</b>
	2007/08	2006/07
<b>Amounts falling due after more than one year</b>	£'000	£'000
Accommodation rent-free period	174	212
<b>Total</b>	<b>174</b>	<b>212</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 Analysis of changes in cash

	2007/08	2006/07
	£'000	£'000
Balance at 1 April	291	565
(Decrease)/increase in cash	(192)	(274)
<b>Balance at 31 March</b>	<b>99</b>	<b>291</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.



**11 Reserves**

	General reserve	Revaluation reserve	Total
Balances at 1 April 2007	414	6	420
Grant in Aid received towards resource expenditure	4,463	–	4,463
Grant in Aid received towards purchase of fixed assets	32	–	32
Net operating costs for the year after appropriations	(4,443)	–	(4,443)
Revaluation of fixed assets	1	(1)	–
<b>Balances at 31 March 2008</b>	<b>467</b>	<b>5</b>	<b>472</b>

**12 Reconciliation of total operating costs to cash outflow from operating activities**

	2007/08		2006/07	
	£'000	£'000	£'000	£'000
Total operating costs		(4,604)		(4,356)
<i>Add back non-cash items:</i>				
Cost of capital	16		14	
Depreciation	103		100	
Net (gain)/loss on revaluation of fixed assets	(1)		3	
		118		117
<i>Add changes in working capital:</i>				
Increase in debtors relating to operating income	(182)		(157)	
Decrease in creditors relating to operating income	(131)		(198)	
		(313)		(355)
<b>Net cash outflow from operating activities</b>		<b>(4,799)</b>		<b>(4,594)</b>

**13 Capital commitments**

At 31 March 2008 there were no capital commitments (31 March 2007: nil).

## 14 Commitments under operating leases

	2007/08		2006/07	
	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		6		6
After more than five years	263		263	

## 15 Contingent liabilities

There were no contingent liabilities at 31 March 2008 (31 March 2007: nil).

## 16 Post balance sheet events

There are no post balance sheet events to report. The Annual Report and Accounts were authorised for issue on 7 July 2008.

## 17 Related party transactions

The Home Office, as sponsor department, is a related party to the OISC. During the year ended 31 March 2008, the Home Office provided the OISC with Grant in Aid (Note 11). A small number of transactions were made with other government departments and other central government bodies.

During the year ended 31 March 2008 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.

## 18 Losses and special payments

There were no losses or special payments to report.

## 19 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.

## 20 Financial instruments

FRS 13, *Derivatives and Other Financial Instruments*, requires disclosure of the role financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. 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 13 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.

As permitted by FRS 13, debtors and creditors that mature or become payable within 12 months from the balance sheet date have been omitted from the currency profile.

**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.

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

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## Introduction

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

The DPBs are as follows:

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

During 2007/08 the DPBs continued to work constructively with my Office and me, and I met with senior representatives of the Solicitors Regulation Authority, the Legal Complaints Service, the Institute of Legal Executives and the Law Society of Scotland. I would like to thank their Chairmen and members of their executives for their co-operation.

As mentioned in my 2006/07 report, the Law Society of England and Wales and the General Council of the Bar of England and Wales have separated their respective regulatory and representative functions. The bulk of my Office's interactions during the year were with their respective regulatory bodies.

I am aware that the Legal Services Act 2007 will remove, once the necessary provisions are implemented, much of my oversight authority over the DPBs in England and Wales. In recognition of that, I am considering the extent and content of future reports beginning with my 2008/09 report.

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

### **Matters for discussion brought forward from the 2006/07 report**

In my 2006/07 report I indicated that I intended to explore the following issues:

- the time taken to allocate cases;
- utilisation of the threshold test;
- the time taken to close cases;
- the time taken to bring cases before the Solicitors Disciplinary Tribunal (SDT);
- the Memorandum of Understanding; and
- disciplinary and enforcement procedures.

#### **The time taken to allocate cases**

My last report expressed my concern about delays in allocating cases to Legal Complaints Service (LCS) caseworkers. That report also mentioned that I understood that the LCS was addressing this problem with considerable success. However, my Office became aware that lengthy delays again affected some cases over the summer of 2007. In response, the LCS introduced a number of initiatives to reduce delays, such as cross-training caseworkers from other specialist teams to deal with immigration cases. These initiatives were largely successful until December 2007, when a significant increase in complaints and enquiries was received, causing another backlog. The LCS has since made more resources available to handle immigration complaints, with the result that the backlog has been cleared and the average length of time to allocation has again reduced.

#### **Utilisation of the threshold test**

The threshold test is the mechanism by which the LCS identifies which cases it must pass to the Solicitors Regulation Authority (SRA) for possible regulatory action. I consider the threshold test to be vital to the delivery of effective regulation of solicitors.

While auditing LCS files in the early part of the year, my staff identified a number of instances where it was not clear whether the LCS had applied the threshold test correctly or at all. This was brought to the LCS's attention, and assurances were given to me that LCS caseworkers apply the threshold test to each file whenever information about a solicitor's conduct comes to their attention. The audits in the latter part of the year have found evidence of an improvement in the consistency with which the application of the threshold test is recorded. My staff will continue to monitor the application of the test.

### **The time taken to close cases**

Both the LCS and the SRA have been working to close cases in good time and particularly to resolve older cases. These efforts have resulted in the quicker resolution of immigration complaints. This year the LCS completed over 72% of its closures within six months, and 87% within nine months. The SRA completed 50% of its closures within six months, and 71% within nine months. By comparison, in 2006/07 a little over 45% of the Law Society's closures of immigration complaints were completed in six months, and 62.5% within nine months.

The figures for last year refer to the combined performance of the SRA and the LCS. From this report onwards I will deal with the performance of each of those bodies separately.

### **The time taken to bring cases before the Solicitors Disciplinary Tribunal**

My last report raised my concern regarding the length of time before cases came to the SDT. In order to understand more fully the work involved in this process, my staff are receiving information on all immigration cases that the SRA is preparing to bring before the SDT. This is a valuable source of information about how the SRA regulates those solicitors who provide immigration advice. While it is not ideal that cases should take a matter of months to reach the SDT, I recognise that the process is inherently painstaking and can be subject to delays from a number of sources. My Office will continue to work with the SRA's Interventions and Disciplinary Unit (IDU) to identify any instances where avoidable delays can be removed.

### **The Memorandum of Understanding**

The OISC, the LCS and the SRA have been working on agreeing a revised Memorandum of Understanding, which we hope will be approved by the beginning of 2008/09.

### **Disciplinary and enforcement procedures**

The SRA regulates solicitors in various ways. Accordingly, as mentioned above, my staff are increasing their links with the IDU and developing connections with several other SRA regulatory units including the Fraud Intelligence Unit, Forensic Investigations and the Practice Standards Unit. I view this broadening of contacts as a natural development of my oversight role and consistent with the SRA's holistic regulatory approach.

## Main findings

My last report outlined my changed approach to my oversight role, with a move towards a more strategic approach using a system of random and thematic file inspections and assessing complaints files against a set of objective criteria covering each stage of an investigation.

I am now in the second year of applying these methods, which I feel have shown themselves to be valuable and efficient mechanisms. My staff and I have continued to review the OISC's approach in line with changes made by the LCS and SRA to their operations. For example, my staff have carried out a thorough review of the criteria they use when auditing SRA files, so that they can efficiently capture more relevant data about the different ways in which the LCS and the SRA handle complaints.

Some of the main findings from the file inspection programme undertaken during the year have already been mentioned. The other most significant points are as follows:

- SRA and LCS caseworkers continue, on the whole, to identify the main issues of complaint promptly and accurately;
- during the course of the year my auditors have seen increased evidence of effective internal liaison between both organisations; and
- the LCS has generally been punctual in replying to complainants in immigration cases and keeping them informed about their complaint's progress.

In line with the generally positive audit findings, I have decided to reduce the frequency of OISC staff audit visits from 1 April 2008, with audits taking place every two months rather than monthly.

I was disappointed that in July 2007 the SRA introduced its new Code of Conduct without sufficient prior consultation with the OISC. Having considered the new Code, I had concerns about some of its provisions, particularly its treatment of supervision. For example, I felt that the new Code created an increased risk of sham supervision. In addition, I wondered if the SRA had the necessary resources and processes in place needed to enforce the new Code. I met with Antony Townsend, the SRA's Chief Executive, to explain my concerns. As a result of discussions, my staff are working with the SRA to produce a guidance note on supervision in immigration work.

The SRA and the LCS continue to develop their regulatory and complaints-handling tools in anticipation of the Legal Services Act 2007. My Office has contributed to a number of consultations, seeking to keep in the foreground the needs of vulnerable users of immigration advice and services.

During this year I wrote to the SRA about the possibility of activating the powers specified in section 90 of the Immigration and Asylum Act 1999. These powers would make a range of sanctions available to the SRA when it upheld a complaint against a non-solicitor providing immigration advice or services under a solicitor's supervision. In my opinion, implementation of these powers would assist the SDT in imposing pragmatic and proportionate penalties. The OISC continues to work with the SRA on this matter.

My primary interest in overseeing the immigration-related work of the LCS and the SRA is to assure myself that these organisations have in place suitable processes to generate high-quality decisions with minimal delay. For that reason my Office will continue to monitor certain key indices, such as the operation of the threshold test, throughout next year.

### **Matters for discussion for 2008/09**

Considering previous discussions and the information provided, I intend to discuss and/or agree the following with the LCS and the SRA during 2008/09:

- 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 – effective risk management is a vital part of the reasoning behind the new SRA Code of Conduct, and my staff will work with the SRA to understand how it expects to quantify and manage risk; and
- the activation of section 90 of the Immigration and Asylum Act 1999.



## Statistics

**Table 1a: Immigration complaints received by the LCS, 2007/08**

From the OISC	From other sources	Total
51	451	<b>502</b>

**Table 1b: Immigration complaints received by the SRA, 2007/08**

From the OISC	From other sources	Total
9	119	<b>128</b>

**Table 2a: Immigration complaints closed by the LCS, 2007/08**

From the OISC	From other sources	Total
49	469	<b>518</b>

**Table 2b: Outcomes of closed LCS immigration complaints, 2007/08\***

Upheld	Conciliated	Not upheld	Withdrawn	No response	Other	Total
45	216	118	35	70	34	<b>518</b>

**Table 2c: Age profile of closed LCS immigration complaints, 2007/08**

0-3 months	4-6 months	7-9 months	10-12 months	13-18 months	>19 months	Total
196	181	74	39	23	5	<b>518</b>

**Table 3a: Immigration complaints closed by the SRA, 2007/08**

From the OISC	From other sources	Total
28	152	<b>180</b>

**Table 3b: Outcomes of closed SRA immigration complaints, 2007/08\***

Upheld	Conciliated	Not upheld	Withdrawn	No response	Other	Total
43	6	104	0	3	24	<b>180</b>

**Table 3c: Age profile of closed SRA immigration complaints, 2007/08**

0-3 months	4-6 months	7-9 months	10-12 months	13-18 months	>19 months	Total
60	38	32	4	28	18	<b>180</b>

\* The SRA and the LCS list 18 possible outcomes for complaints in this period. For convenience, these have been rationalised under the present six headings.

## **The General Council of the Bar of England and Wales (including the Bar Standards Board)**

Relatively few complaints have been received during 2007/08 against barristers providing immigration advice or services, and my staff have continued to monitor the progress of all complaints received using the information regularly supplied to them by the Bar Standards Board (BSB). In addition, BSB staff have worked with members of my Investigations and Intelligence Team in connection with a number of OISC criminal prosecutions.

### **Matters for discussion brought forward from the 2006/07 report**

In my last report I stated my intention to discuss with the BSB its continuing preparations for implementation of the Legal Services Act 2007. On the whole, I consider that it is preparing well for the Act's introduction. As part of this process the BSB has run a series of consultations to which my Office has responded. I was particularly interested in the consultation on complaints handling and disciplinary procedures. In my response I made the points that the BSB needed to promote awareness and understanding of its reformed process, particularly among lay clients, as well as safeguarding the rigour of its investigations and disciplinary measures. I believe that the reforms proposed will allow the BSB to deal with complaints more efficiently and proportionately.

### **Matters for discussion for 2008/09**

I intend 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.

## Statistics

**Table 4: Immigration complaints received by the BSB, 2007/08**

From the OISC	From other sources	Total
5	5	10

**Table 5a: Immigration complaints closed by the BSB, 2007/08**

From the OISC	From other sources	Total
7	8	15

**Table 5b: Outcomes of closed BSB immigration complaints, 2007/08**

Upheld	Conciliated	Not upheld	Withdrawn	No response	Other	Total
3	0	10	1	0	1	15

**Table 5c: Age profile of closed BSB immigration complaints, 2007/08**

0–3 months	4–6 months	7–9 months	10–12 months	13–18 months	>19 months	Total
1	5	0	2	2	5	15

Six of the seven cases that took over a year to close went to Disciplinary Tribunal hearings. As is the case with the Solicitors Disciplinary Tribunal, I recognise that the process of preparing a case for a tribunal hearing takes time and careful preparation. I hope that the BSB's proposed reforms will assist it in making the complaints handling process quicker.

## The Institute of Legal Executives

I report with satisfaction on a productive year in the working relationship between the OISC and the Institute of Legal Executives (ILEX). We have signed a Memorandum of Understanding and agreed a protocol allowing the OISC to receive copies of Tribunal papers. These matters were highlighted as concerns in my previous Annual Report.

ILEX has also expressed an interest in activating the powers specified in section 90 of the Immigration and Asylum Act 1999. Considering that ILEX currently has no powers to take disciplinary action against those who provide immigration advice or services under the supervision of one of its members, I believe that activating this section would be beneficial for both ILEX and the general public.

## **Matters for discussion brought forward from the 2006/07 report**

I identified the following as matters for discussion with ILEX:

- completion of the OISC/ILEX Memorandum of Understanding; and
- its response to the Legal Services Bill and in particular its proposed accreditation scheme.

### **Memorandum of Understanding**

As stated above, the Memorandum of Understanding was agreed.

### **ILEX's response to the Legal Services Act and in particular its proposed accreditation scheme**

ILEX has confirmed to me that the introduction of an accreditation scheme for immigration work will be one of its regulatory Board's first priorities. ILEX had hoped to have the board members in place by March 2008, but this I understand proved impossible because certain staff changes needed to be made first. It is expected that the Board will be appointed before autumn 2008. I will, of course, follow the Board's development with interest.

### **Matters for discussion for 2008/09**

I intend to discuss the following issues with ILEX during 2008/09:

- 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.

## Statistics

**Table 6: Immigration complaints received by ILEX, 2007/08**

From the OISC	From other sources	Total
4	0	4

**Table 7a: Immigration complaints closed by ILEX, 2007/08**

From the OISC	From other sources	Total
11	0	11

**Table 7b: Outcomes of closed ILEX immigration complaints, 2007/08**

Upheld	Conciliated	Not upheld	Withdrawn	No response	Other	Total
7	0	2	0	0	2*	11

**Table 7c: Age profile of closed ILEX immigration complaints, 2007/08**

0–3 months	4–6 months	7–9 months	10–12 months	13–18 months	>19 months	Total
2	6	2	1	0	0	11

## The Law Society of Scotland

This year has seen further progress in the working relationship between the OISC and the Law Society of Scotland (LSS). The LSS provides information about all immigration complaints, as agreed last year, and my staff now also inspect a quarterly sample of the complaints that the LSS receives directly. The OISC and the LSS have updated their Memorandum of Understanding accordingly.

### Matters for discussion brought forward from the 2006/07 report

I intended to discuss the following issues with the LSS during the past year:

- my oversight of direct complaints; and
- the arrangements for the implementation of the Legal Profession and Legal Aid (Scotland) Act 2007.

\* These two cases were closed because the ILEX member complained about had already been excluded from membership, and so the complaints could not be investigated.

### **OISC oversight of direct LSS complaints**

As mentioned above, my staff now inspect direct LSS complaints, and they select a sample of closed files each quarter. I consider this arrangement to be a valuable part of my oversight of the LSS's regulation, particularly because OISC referrals account for only a small proportion of the LSS's total complaints workload.

### **Arrangements for the implementation of the Legal Profession and Legal Aid (Scotland) Act 2007**

The Legal Profession and Legal Aid (Scotland) Act 2007 does not currently apply to immigration advice and services. Nevertheless, the reform of legal services in England and Wales by the Legal Services Act 2007 will have a knock-on effect on the regulation of legal advice in Scotland. The LSS has started to consult stakeholders about possible amendments to its regulatory arrangements.

### **Matters for discussion for 2008/09**

I intend to discuss the following issues with the LSS in 2008/09:

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

## Statistics

**Table 8: Immigration complaints received by the LSS, 2007/08**

From the OISC	From other sources	Total
2	17	<b>19</b>

**Table 9a: Immigration complaints closed by the LSS, 2007/08**

From the OISC	From other sources	Total
1	15	<b>16</b>

**Table 9b: Outcomes of closed LSS immigration complaints, 2007/08**

Upheld	Conciliated	Not upheld	Withdrawn	No response	Other	Total
3	3	6	0	3	1	<b>16</b>

**Table 9c: Age profile of closed LSS immigration complaints, 2007/08**

0–3 months	4–6 months	7–9 months	10–12 months	13–18 months	>19 months	Total
7	3	6	0	0	0	<b>16</b>

## **The Faculty of Advocates, the Law Society of Northern Ireland and the General Council of the Bar of Northern Ireland**

No complaints were received or are outstanding in respect of immigration advice or services provided by members of any of these DPBs.





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