

Aim and purpose

Promoting good practice is a statutory duty of the Immigration Services Commissioner. This note and others in the Office of the Immigration Services Commissioner's (OISC) series of Guidance and Practice Notes gives guidance on various subjects. This particular note is on the use of promotional material and the promotion of businesses by regulated immigration advisers.

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Introduction

The phrase “immigration advice and services” covers a wide variety of activities (see Commissioner’s introduction to the *Code of Standards* [the *Code*]. Regulated advisers must meet the standards set out in the *Code* (<http://oisc.homeoffice.gov.uk/servefile.aspx?docid=6>). Central to this is the requirement in **Code 9**, requiring advisers to always act in their client’s best interests and to put their interests before their own.

2. The promotion by an adviser to provide immigration advice and services can take various forms ranging from face-to-face meetings and advertisements in electronic and print media, to the names that advisers give to their organisations. This Guidance Note covers how such advice and services should be promoted to potential clients and the standards that the OISC expects advisers to comply with in their promotion.

Promotional Material and the Promotion of Business

3. **Codes 72 -80** specifically cover the subjects of promotional material and the promotion of business, and should be read in conjunction with the rest of the *Code*.

4. It is important that clients are able to take informed decisions about both the immigration services they need and the selection of an adviser. The description of the advice and services offered is, therefore, very important. It is deliberately misleading and potentially seriously prejudicial to a client’s best interests for an adviser to offer a service for which he/she is not authorised by the OISC to provide - see **Code 73**.

5. An adviser’s website is promotional material, and the *Code* explicitly includes websites used by advisers in relation to their businesses. Advisers should therefore keep the following in mind if they are intending to include the internet as part of their marketing strategy:

- While many websites are structured in such a way that material can be copied and lifted from them, this is not an appropriate way to build a site. If advisers wish to use content that has been created by others, they should get prior permission to do so.
- Advisers should not include on their sites any material that violates copyright or trademark laws.
- Advisers should never reveal another person’s personal information, such as names, addresses or other personal data, without first getting their consent.

- The website must at a minimum prominently display the OISC's regulatory details including the adviser's unique number and the OISC logo.

A client or potential client using the web should be able to contact the organisation that runs the site, although it is not necessarily for them to know the name of the staff member who receives messages. Accordingly, advisers' websites may include the following contact details to assist enquirers:

editor@thiswebsite.com
info@thiswebsite.com
membership@thiswebsite.com
webmaster@thissite.com

- Advisers' websites should include a privacy statement which advises a visitor of the use, if any, that will be made of their email address should that person choose to contact the advice organisation.
- Advisers should not use their websites and links to:
 - harm others
 - interfere with others' work
 - invade others' privacy, or
 - collate data for resale
- Advisers should not use abusive or objectionable language when
- responding to messages sent to them via their website or place offensive material on their website.

Advertisements

6. **Codes 74-78**, concerning advertisements and their contents, are self-explanatory. Advisers' attention is specifically drawn to the Guidance Note on Business Names <http://oisc.homeoffice.gov.uk/servefile.aspx?docid=240>).

Advertisements can be written or oral. An adviser cannot avoid direct responsibility for an advertisement by stating that its content was decided or signed off by someone else in the organisation.

7. Advisers are under a duty to ensure that the information contained in any advertisement is correct. To do otherwise may mislead potential clients, which could have serious consequences for them.

8. An advertisement can be deceptive in various ways. For example, if it:

- Contains a false statement of fact.
 - Conceals or leaves out important facts.
 - Promises to do something, but there is no intention of carrying it out;
- and/or
- Creates a false impression.

Trade Descriptions Act 1968

9. Advisers must be careful to avoid breaching the Trade Descriptions Act 1968.

This Act makes it a criminal offence to make a statement that is known to be false or misleading, or to recklessly make a statement that is false or misleading with respect to any of the following matters:

- i. The provision of services, accommodation or facilities – such as an adviser promoting themselves as being a solicitor when they are not, or saying they have a 100% guaranteed success rate;
- ii. The nature of any services, accommodation or facilities provided;
- iii. The time and/or manner in which, or persons by whom, any services, accommodation or facilities will be provided; or
- iv. The examination, approval or evaluation by any person of any services, accommodation or facilities provided, such as falsely claiming a service has been approved or accredited by the Community Legal Services (CLS) or the UKBA.

Further information on these and other issues to do with trade descriptions can be found at: <http://www.tradingstandards.gov.uk/index.cfm>

10. OISC regulated advisers when advertising should also be aware of the following Codes issued by the Committee of Advertising Practice (CAP).

- The British Code of Advertising, Sales Promotion and Direct Marketing
- The Television Advertising Standards Code
- The Radio Advertising Standards Code

For further information advisers should visit the CAP's website at <http://www.cap.org.uk/cap/> or contact the CAP at:

Committee of Advertising Practice
Mid City Place
71 High Holborn
London, WC1V 6QT
Telephone: 020 7692 222
Email: enquiries@cap.org.uk

11. In addition to the above, advisers must be aware of:

The Consumer Protection (Distance Selling) Regulations 2000. These regulations concern cancellation rights for on-line services. Further information can be found at http://www.direct.gov.uk/en/Governmentcitizensandrights/Consumerrights/Situationsthatcanchangeyourconsumerrights/DG_183048

Touting

12. **Code 79** prohibits advisers from touting for clients. Touting means the preying on vulnerable potential clients in an inappropriate or high-pressured manner and especially at an inappropriate time. An adviser handing out unsolicited business cards at an airport would, for example, most likely fall foul of this Code. The Code extends to advisers approaching potential clients at hearing centres or elsewhere.

13. Nothing in this Code, however, prevents advisers from pursuing legitimate business interests. It is acceptable, for example, for an adviser to send mailshots to commercial organisations or to local authorities seeking referrals from them. They must not, however, offer or accept any inducement for such a referral –see **Code 46**.

14. Advisers are allowed to approach current or former clients with a view to providing extra services. For example, an adviser may have assisted a client in obtaining leave to remain in the UK and they may wish to offer to assist them further in obtaining settlement. While such approaches are permitted, they must not become harassment.

Complaining about another adviser

15. It is important that advisers complain to the OISC if they are concerned about another adviser's fitness and competence. They must not, however, make adverse comments, in their advertising or other promotional material, regarding such concerns about another adviser.

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