



The OISC duties and scope of note

- 1.1 The Office of the Immigration Services Commissioner 's (OISC) functions relate to the promotion of good practice amongst those who provide immigration advice and immigration services in the course of business, and ensuring advisers are fit and competent.
- 1.2 The provision of immigration advice and immigration services in the United Kingdom is governed by Part V Immigration and Asylum Act 1999 (the Act). All those that provide immigration advice or immigration services must abide by the Commissioner 's *Code of Standards*. The Commissioner is under a duty to investigate complaints made against anyone that provides immigration advice and services. She may seek to take regulatory, or where there are allegations of criminal activity, prosecutor action against those that are found in breach of the Act.
- 1.3 This note relates to:
- Elected officials, such as
 - Members of Parliament;
 - MPs staff;
 - local councillors; and
 - ministers of religion

2. OISC Position in relation to Elected Officials and Ministers of Religion

- 2.1 Taking in to account parliamentary debates on the subject and the detail of the Immigration and Asylum Act 1999, it is the OISC 's view that Members of Parliament, their staff, local councillors and ministers of religion may provide free immigration advice and services at OISC level 1 as part of their constituency or pastoral roles, and without OISC authorisation. If those in 1.3 above provide immigration advice or services other than this they must be authorised by the OISC. These positions must be currently held. Further detail is given below.

3. Practice

- 3.1 The definition of an elected official for the purposes of this note includes members of all the following UK legislatures namely:
- The House of Commons
 - The House of Lords
 - Members of the European Parliament (MEPs)
 - Members of the Scottish Parliament (MSPs)
 - Northern Ireland Assembly Members
 - National Assembly for Wales Members, *Assembly Members (AMs)* or in Welsh as *Aelod y Cynulliad (AC)*.
- 3.2 MPs staff are people that directly work for MPs as defined in 3.1 above. They are most likely to be called constituency workers.
- 3.3 A local councillor is a member of a local government council, such as a city council.



3.4 The definition of a minister of religion is set out in the Immigration Rules,

“ a minister of religion means a religious functionary whose main regular duties comprise the leading of a congregation in performing the rites and rituals of the faith and in preaching the essentials of the creed ”.

3.5 Those named in 1.3, as defined, may provide free immigration advice to their “ constituency ” or “ congregation ” at OISC level 1 without OISC authorisation. They must not run a separate, unregulated business giving immigration advice or services.

3.6 Elected officials and ministers of religion, as defined, who provide immigration advice above Level 1, or who give advice to people outside their constituency or congregation/flock, and members of religious groups who are not “ ministers of religion ”, must be authorised by OISC in order to provide immigration advice. If they do not they will be in breach of section 84 of the Immigration and Asylum Act 1999.

4. Level 1 work

4.1 The OISC defines Level 1 work in its “ Guidance on Competence ”, as making applications within the immigration rules and making general enquiries about the status of a case. Involved casework and appeals are not allowed. Where cases become complicated or an application is refused the matter must be referred to a suitably qualified adviser as soon as possible.

5. Best Practice

5.1 Members of Parliament, their staff, local councillors and ministers of religion are reminded that even though they may provide immigration advice at Level 1 without OISC authorisation, they should consider whether in doing so they are acting in an individual ’ s best interests doing so, or whether it would be better to make an appropriate referral.