

Welcome to the winter edition of the OISCNews



Welcome to this winter edition of OISCNews. As another year draws to a close we look back on 2015 with considerable satisfaction, inevitably tempered with some mild frustration! A number of significant targets have been achieved – notably the introduction of a revised Complaints Scheme and the publication of a new Code of Standards. We have been greatly encouraged by the constructive comments we have received when consulting on these documents and the support expressed for the more principle-based approach to regulation enshrined in the revised codes. And as you will see from this newsletter, numerous strands of work continue to make excellent progress.

As always, not everything has gone as smoothly as we might have wished in 2015. Our budget has decreased in line with reductions throughout the public sector, and the Triennial Review commenced in October 2014 has yet to be published. It has also been disappointing that we have not been able to introduce a

mechanism for electronic applications for registration. However, we are poised to address these issues over the coming year.

We have already prepared a draft Business Plan designed to progress current major projects (including the introduction of the new Code of Standards on 1 April) and we have plans to address a number of issues raised during the Triennial Review process to improve further the OISC's efficiency, effectiveness and interaction with advisers and other stakeholders. Specifically, we remain committed to providing online access to as many of our resources as possible, and we look forward to welcoming a new Commissioner in due course and implementing the new ideas and approaches they may bring.

I believe we can therefore look forward to the new year with great optimism; but I could not let 2015 end without mentioning yet again the departure of Suzanne McCarthy as Immigration Services Commissioner. Over the past ten years she has provided great vision and clear focus, steering the OISC safely through a series of challenges. We wish her well for the future.

Finally, I should like to take this opportunity to thank you for your support over the past year. I hope that you will all enjoy a peaceful and enjoyable Christmas holiday, and on behalf of myself and everyone else at the OISC we offer you our very best wishes for a happy and prosperous 2016.

We no longer require a current “fee scale” from those organisations that charge a fee for their advice and services. If an organisation wishes to change its fee scale at any point during the year, this should be agreed in advance with the organisation’s caseworker.



Updates & CPD

Complaints Model letter

Advisers should be aware that the OISC has published a model letter for complainants to use.

[OISC Complaints model letter](#)

The template has been designed to assist those who are dissatisfied with the advice or services they received and wish to make a complaint direct to their immigration adviser, rather than coming straight to the OISC.

The template provides advice about what the client should include in a letter of complaint and how it might look. The aim is that not only will this assist dissatisfied clients to articulate their concerns but also enable advisers to better address the issues in dispute.

Change to the Application for Continued Registration process

The OISC has reduced the documentation we require for those organisations applying for continued registration where there are no significant changes to an organisation’s status, what we term as a “repeat authorisation”.

We no longer require a current “fee scale” from those organisations that charge a fee for their advice and services. If an organisation wishes to change its fee scale at any point during the year, this should be agreed in advance with the organisation’s caseworker.

CPD Update 2015-16

Immigration advisers authorised by the OISC must make sure that they comply with its programme of continuing professional development (CPD). The CPD year ends on 31 March 2016 which means there are just over 3 months in which to complete and record all CPD activities.

The CPD section on the OISC website has now been moved to the Home page so it is much easier to locate. The CPD Guidance notes have been updated to reflect the changes to the accreditation requirements for core activities and there is also an updated list of accredited training providers who are now either accredited by the Bar Standards Board or The CPD Standards Office. Web links are provided below:

[CPD OISC quick guide](#)

[CPD OISC Training Providers in Immigration 2015.pdf](#)

Accreditation of Core Knowledge CPD Activities from 1 July 2015

From 1 July 2015 the OISC will only accept a core knowledge activity from a provider that has been accredited by either of the following two organisations:-

- Bar Standards Board
- The CPD Standards Office

The exceptions to this are in-house training and the OISC on-line immigration and asylum courses.

*it is vitally
important that
the e-mail
addresses we
have for each
adviser and, in
particularly,
organisations'
primary contact
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date*



Electronic Communications

In our December 2014 newsletter we announced that as part of our move to more electronic working, we intended to increasingly communicate with applicants, advisers and registered organisations by e-mail. As a result, over the past year, we have seen e-mail become the most commonly used form of communication between caseworkers and those the OISC regulates.

Ultimately, the OISC intends to send all correspondence electronically, although for the moment we may occasionally send important documents by hard copy where proof of delivery is required. The OISC have recently introduced electronic signatures for all staff so letters received by e-mail will be as complete as those previously received in hard copy.

This does however mean that it is vitally important that the e-mail addresses we have for each adviser and, in particularly, organisations' primary contact are kept up to date. Please make sure that you have informed the OISC of any changes to your contact e-mail address. In keeping with the move away from using hard copies, from 2016 the OISC will no longer accept faxed documents as a means of communication. Documents that need to be sent to the OISC should be scanned and sent by e-mail.

Currently the OISC aims to respond to all hard copy letters within 10 working days of receipt. With e-mailed correspondence we aim to be able to shorten this response time to five working days.



Website Documents

The OISC has recently updated its website in line with the government's [Open Standards Principles](#) and the [Home Office Open Document Format adoption plan](#). The Open Standards Principles aims to ensure all government services are accessible to its users and that the chosen standard is both affordable and flexible. Therefore, a number of OISC documents that were previously available as a Microsoft Office Word Document have now been replaced with Portable Document Format (PDF) versions. PDF documents can be accessed using Adobe Acrobat Reader software, this is free to the user and can be downloaded [here](#).

Electronic Forms

Unfortunately the work to bring in a suite of 'online application forms' (that the OISC had been working on with the Home Office) encountered significant difficulties that it has not been possible to overcome. As a result, the OISC has reluctantly withdrawn from this complex project. This decision was not taken lightly and was a great disappointment to the OISC. However, we remain fully committed to enhancing the service offered to regulated advisers and introducing digital solutions wherever possible.

As such, the OISC has launched an electronic copy of its Complaints Form [OISC Complaints form](#). This will mean complainants can complete an electronic version of this document on-line and can then e-mail it to the OISC at a dedicated OISC complaints e-mail address complaints@oisc.gov.uk.

Over the next few months, the OISC will be monitoring how this form is used and is looking to provide a similar simple solution through electronic versions of the various application forms, a project which we hope to be able to go live with in April 2016.

Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.



External Events

Alternative Dispute Resolution

All OISC organisations should now be aware of their obligations under the *Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015*. This requires fee-charging organisations to inform complainants about the possibility of ADR in certain circumstances.

Moreover, if you enter into contracts electronically, from 15 February 2016 your website must include a link to the 'Online Dispute Resolution Platform' (ODR Platform). This is required by Article 14 of the EU Regulation on Online Dispute Resolution for Consumer Disputes 2013.

Further information on both ADR and the ODR Platform can be found here: [Alternative Dispute Resolution](#). The Guidance under 'Further Reading' is particularly helpful.

Outside their legal obligations, OISC organisations should consider using ADR or ODR to resolve any complaints that they receive. This will be particularly appropriate where the disagreement between your organisation and the complainant is open to negotiation. Mediation or arbitration can help to resolve a dispute whilst preserving the relationship with your client and without incurring the higher costs of litigation.

A list of [ADR Approved Bodies.cfm](#) can be found on this link. You must refer to one of these bodies when complying with your obligations under the Regulations, but other ADR providers may also be used to resolve complaints.

Modern Slavery and Reporting

Modern slavery is a crime that encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

The Modern Slavery Act 2015 received Royal Assent on Thursday 26 March 2015 and imposes a "duty to notify" to the following public authorities in England and Wales:

- a chief officer of police for a police area,
- the National Crime Agency,
- a county council,
- a county borough council,
- a district council,
- the Greater London Authority,
- the Gangmasters Licensing Authority.

OISC advisers are asked to be aware that they may come across cases of Modern Slavery in their dealings with clients. If they do, they should report it to any of the above named organisations or report it themselves to dutytonotify@homeoffice.gsi.gov.uk



*In the current
climate the
need for good
advice to be
available to
those who can
least afford it,
poses a real
challenge*



Tribunal and ILPA

Tribunal update

First-tier jurisdiction over OISC complaint determinations

Since July 2015 five appeals have been decided in the First-tier Tribunal (FTT) and one in the Upper Tribunal (UT). In that time OISC complaint determinations have featured prominently in the FTT's considerations. In an important decision, the UT ruled that the FTT does not have power to re-open OISC complaint determinations to reach its own conclusions on the issues determined in the complaint. The FTT's consideration of complaints is to be limited to the 'seriousness' it attributes to the complaint determinations. The UT ruling is presently subject to an application to appeal to the Court of Appeal.

Ruling

In an appeal against a refusal to continue registration, the FTT considered three complaints determined and relied on in the OISC's decision. One related to events that took place five years previously, one in the previous registration year and one after the application for continued registration had been made. The FTT found that the OISC was entitled to consider all three complaints as they were relevant to the fitness and competence of the registered organisation. The FTT described that withholding significant information from a client (in this case, the content of a Home Office letter) as "reprehensible" and of submitting false documents to the immigration authorities as "grave". The FTT considered those actions together justified a finding that the adviser was no longer fit to be a registered person.

Disposals

Of the five appeals decided in the FTT since July 2015 one was dismissed, two allowed and two were disposed of by consent order. In the consent cases, the OISC agreed to further periods of registration where organisations accepted their previous transgressions, had begun to put in place corrective actions and had agreed to close OISC monitoring in the immediate future.

Meeting with ILPA

On the 16 October 2015 the OISC met with the Solicitors Regulatory Authority, Bar Standards Board, CILEX and a number of representatives from prominent legal firms and charitable organisations at a meeting hosted by the Immigration Law Practitioners Association, to discuss the provision of immigration advice and services in light of legal aid cuts.

In the current climate the need for good advice to be available to those who can least afford it, poses a real challenge and the meeting sought to consider how the voluntary sector might be enabled by the regulators to increasingly take on this work. A number of potential models were discussed, including the work of Law Schools and Law Centres and how practicing solicitors and barristers might support voluntary organisations in undertaking immigration work whilst ensuring that clients are protected through appropriate regulation.

The meeting identified the need for greater clarity and transparency around this complex area of regulation. It was acknowledged that the lack of clarity may be preventing some well run organisations taking forward innovative projects aimed at meeting client's needs.

The OISC is committed to improving information available about the regulatory scheme, and would also like to invite those considering projects to provide free immigration advice and services to contact the OISC if they have any queries about gaining registration or meeting the regulatory requirements.

“You deliberately targeted someone who was vulnerable and you preyed upon that vulnerability. The victim is a single mother who was at a low point in her life emotionally”



Prosecutions

██████████ pleaded guilty at Birmingham Magistrates’ Court to two charges of providing unregulated immigration advice or services since May 2013.

He was sentenced to a community order for 24 weeks, concurrent for each offence, and made subject to a curfew with an electronic tag fitted. He was further ordered to pay compensation of £4,400 within 14 days, for which a collection order was made.

On sentencing, District Judge Crane said: *“You have minimised the seriousness of what you have done. You weren’t authorised and you misled your clients.”*



District Judge Crane

██████████ was convicted at Westminster Magistrates’ Court of 10 charges of providing illegal immigration advice since January 2015. He was fined £1,650 and ordered to pay costs of £1,132.

On 31 July 2015, ██████████ who was struck off the solicitors’ roll in 2009 when trading as ██████████ solicitors, pleaded guilty at Westminster Magistrates’ Court to 5 charges of illegally providing immigration advice. He was sentenced to a 12 month community order and 250 hours of unpaid work. He also had to pay nearly £1,750 in costs and a victim surcharge.

██████████ a qualified barrister, was a regulated immigration adviser until his suspension on 15 May 2013 following disciplinary proceedings for professional misconduct. The OISC brought the disciplinary charge against ██████████ for misleading a client and charging for work not done. The Immigration Services (First-Tier) Tribunal imposed a two-year prohibition from providing immigration advice and services.

However, Westminster Magistrates’ Court heard that the former barrister had failed to abide by the suspension and continued to practice by submitting a Home Office application on behalf of a client, without disclosing that he was disqualified from doing so. He was given a conditional discharge for 18 months. He was also ordered to pay compensation to the victim in the sum of £2,050, prosecution costs of £1,020 and a victim surcharge of £15.

██████████ was convicted at Hammersmith Magistrates’ Court of providing unregulated immigration advice and services and on 18 September 2015 was sentenced to 26 weeks’ imprisonment suspended for 18 months. She was also ordered to pay compensation to the victim in the sum of £2,100, prosecution costs of £500 and a victim surcharge of £80. A 3 month curfew was also imposed to be enforced by electronic tag.

██████████ claimed to be an experienced immigration lawyer when introduced to a client wanting to help their partner obtain a work permit visa. In a series of meetings she charged a fee of £2,100 for her advice and services, demanding cash payments. The client became suspicious and complained to the OISC.

In sentencing District Judge Boswell said:

“You deliberately targeted someone who was vulnerable and you preyed upon that vulnerability. The victim is a single mother who was at a low point in her life emotionally as her partner had been removed from the UK.”

“In a devious and calculating way over a considerable period of time you were successful in dishonestly taking a significant amount of money from her.”



District Judge Boswell

REQUEST AN OISC SPEAKER FOR YOUR EVENT

Immigration advice organisations are invited to contact the OISC if they have an interest in receiving input or representation from the OISC at one of their future events.

Advisers organisations should email Sharon.harris@oisc.gov.uk in the first instance to register an interest. Advisers will subsequently be contacted to discuss possible options.

“The degree of culpability is high, as is the harm you have caused. You owe a considerable amount of money to individuals and have undermined the immigration system.”

Prosecutions continued

On 20 August 2015, ██████████ was found guilty at the Central Criminal Court, on 2 counts of providing immigration advice when not qualified to do so.

██████████ claimed to be an experienced immigration adviser to two clients in the Southall area seeking leave to remain in the UK. Having paid her a total sum of £9,500 without achieving any progress on their case, the clients lodged a complaint with the OISC.

██████████ appeared before Mr Recorder Aaronberg QC on 18 September 2015 who described her offences as “serious criminal conduct”. He passed a sentence of 12 months’ imprisonment suspended for 18 months on each count, a Supervision Order for 12 months, and a Community Service Order for 120 hours. Additionally, a Compensation Order in the sum of £9,500 was made in favour of the 2 complainants.

██████████ was sentenced on 7 October 2015 at Westminster Crown Court.

██████████ applied to be regulated by the OISC in January 2014 but was found not to be competent. He however continued to trade between January and December 2014.

██████████ was sentenced to 26 weeks imprisonment and ordered to pay £1300 compensation.

Upon sentencing, District Judge Mrs Coleman said, “*These are extremely serious offences. You set up a business to provide immigration advice when you were not qualified or competent to do so. The degree of culpability is high, as is the harm you have caused. You owe a considerable amount of money to individuals and have undermined the immigration system.*”

██████████, pleaded guilty at Westminster Magistrates Court on 9 December 2015, to four charges of providing unregulated immigration advice and services. He was fined a total of £500 and ordered to pay prosecution costs of £500.

OISC News is published by the Office of the Immigration Services Commissioner.

For general queries telephone our helpline on **0345 000 0046**

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