



### Welcome to the winter edition of the OISCNews



**W**elcome to this the winter edition of **OISCNews**. It has been some time since our last newsletter, but as you will see from this edition we have been extremely busy in many key areas. Unfortunately, certain administrative issues have progressed somewhat less smoothly! For example, although our Annual Report and Accounts for 2015/16 was finalised in mid-July it cannot be made available publicly until it has been laid before Parliament by the Home Office. Similarly, we still await publication of the Triennial Review of the OISC which was started as long ago as October 2014. And this in turn has delayed the recruitment of an Immigration Services Commissioner to replace Suzanne McCarthy who left us more than a year ago. The good news is that despite all this uncertainty the OISC has never lost sight of its responsibility to maintain a robust consumer-focused regulatory regime.

In this newsletter you will see some of the progress that we have made in recent months. There is a focus on the revised CPD arrangements which will start in April 2017, providing greater detail about the new scheme and how you can comply with its requirements. You will also notice more information on our website; and we will be running a series of seminars on the new CPD scheme, starting next month in London.

In this issue we also highlight a new suite of practice notes that has been developed and is now available on our website. Linked to this we will be starting our first Thematic Review in early 2017. The aim of this exercise will be to benchmark advisers' website presence and then publish guidance on best practice so as to raise standards and awareness within the sector as well as include any findings which suggest there are areas requiring further improvement.

We continue to use our own website and other media to promote the use of registered advisers – as emphasised by my colleague Stephen Seymour in a recent interview broadcast on **talkRADIO**; and we have also recently published a document that clarifies the OISC's responsibilities in relation to the regulation of solicitors providing immigration advice and services.

In terms of governance, Terry Price has kindly agreed to continue to serve as Chairman of the OISC's external Audit and Risk Assurance Committee (ARAC) for a further two years (until 31/12/18). I am also pleased that both Peter Wrench and Alan Rummins have accepted an invitation to serve until the end of their second three-year term of appointment on 12 March 2018. The fourth member of the ARAC, John King, will be stepping-down at the end of 2016 after many years in the role. I would like to thank him for his years of dedicated and valued service.

I should also like to take this opportunity to thank my own staff and everyone within the OISC's regulatory scheme for all their effort and the support they have given throughout this challenging year. Whilst I look forward with optimism to the many opportunities which lie ahead for 2107 and beyond, I trust that you and yours will first enjoy a peaceful and refreshing Christmas break – and I offer you all my very best wishes for a happy and prosperous New Year.

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# Continuing Professional Development

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## Code 6:

*Advisers must be able to demonstrate that they are compliant with the Commissioner's Continuing Professional Development requirements.*

## Revised CPD Scheme 2017

**The revised OISC Continuing Professional Development scheme will come into operation on 1 April 2017 and we can now provide details on its [structure and format](#).**

This revised scheme is not prescriptive about how much or little CPD activity is undertaken by advisers, but a principle based scheme that is focused on the outcomes of learning and development. It places the responsibility on advisers and organisations to demonstrate to the OISC that they are taking action to remain fit and competent in the areas that they are authorised to operate in.

The scheme will require organisations to concentrate on the quality of service currently provided and the service they aim to provide in the future; strengths and weaknesses; and what they need to do to ensure each adviser's skills and knowledge are up-to-date.

Organisations can decide how much and in what format each adviser should undertake any required learning and development as long as it contributes to that adviser remaining fit and competent.

At registration and continued registration each organisation will be required to sign a declaration on behalf of all their advisers confirming compliance with Code 6. This is an important declaration which will hold the organisation responsible for maintaining both its and its advisers, continuing competence.

Review and inspection of an organisation's compliance with Code 6 will take place during a premises audit, as part of a complaint investigation where it is relevant to do so and by dip sampling. [Records](#) must be kept with supporting evidence. It is important to recognise that there is a duty on organisations and advisers to demonstrate to the Commissioner that they have considered CPD and not for the Commissioner to demonstrate that they have not.

Where it is evident that a failure to plan or complete appropriate CPD has resulted in a failure to deliver fit and competent advice and services, sanctions will be placed on the organisation and the non-compliant adviser.

A CPD [Guidance Booklet](#) is available on the OISC website and this will allow you to familiarise yourself with the new scheme. This booklet also provides a suggested model on how to approach CPD for those advisers who may need guidance and whose organisation does not already have a process in place.

The OISC will be running seminars on the new CPD scheme in the New Year. The first of these seminars will be held in London on Friday, 13 January 2017 and Friday, 20 January 2017 invitations have been sent out and places are **still** available. A seminar will be held in Sheffield on 24 February 2017. Invitations will be sent out in the next few weeks. These seminars will provide advisers with the opportunity to ask questions about the new scheme and to understand what is required of them to ensure continued compliance with CPD and Code 6.



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*We are keen to ensure that registered organisations operate in an open and transparent manner with their clients.*



## OISC Improving Focus

### Due Diligence

**An effective method of recruiting and developing staff is through supervision.** We have issued guidance on what organisations need to do to apply to the OISC for authorisation when it wishes to supervise a person. The guidance explains that those employed by organisations and who are being supervised do not have to apply to become registered with the OISC, at least not initially.

As with all businesses, it is your responsibility to ensure that you employ the right people to provide the right advice at the right time. It is your responsibility, not the Commissioner's, to ensure that whomever you employ to provide immigration advice and services is "fit and competent" to do so. Just as you would carry out due diligence with a client or the money that they give you, you are expected to carry out due diligence with your employees or prospective employees. Due diligence is action that is considered reasonable for you to take to ensure that you keep yourself and others safe. In relation to your employees, tasks you should undertake include:

- checking their identities and references;
- being satisfied that what they have told you about their employment or academic history is true
- ensuring that they have the right to work in the UK
- being satisfied that they have the right skills to do their job properly
- being satisfied that they will be a benefit and not a risk to your business or clients.

### Thematic Reviews

**In the New Year the OISC will be conducting its first thematic review.** The first of these reviews will be of registered organisations' websites. The aim of this exercise will be to benchmark website activity and then publish guidance on best practice so as to raise standards and awareness within the sector as well as include any findings which suggests there are areas requiring further improvement.

Organisations will be selected at random and their website content will be reviewed to assess their continued compliance with the OISC's Codes of Standards. This is very much about identifying good practice and feeding back to the sector as a whole what might be done to better serve their clients. We are keen to ensure that registered organisations operate in an open and transparent manner with their clients.

The key areas that the OISC will focus on include ensuring organisations:

- ✓ advertise at the correct OISC authorised Levels and categories
- ✓ display their unique registration number and OISC logo
- ✓ display the organisation's and adviser contact details
- ✓ do not make misleading statements or make claims of success rates

We look forward to updating you in the near future with our findings.

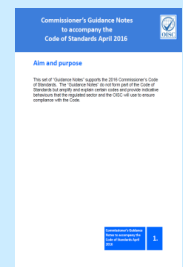
### Practice Notes to accompany the 2016 Code of Standards

**Since the implementation of the 2016 Code of Standards and Guidance documents in April 2016, we have been working to produce an updated set of practice notes to accompany the new Codes.** The practice notes provide authorised advisers with our views as to good practice in the areas covered by the notes. The practice notes outline how registered organisations and advisers might be able to demonstrate compliance with the Code of Standards in a range of situations and better serve their clients. The following notes are currently available on our [website](#):

- Invoicing clients
- Investigating client's complaints
- Signposting and referral
- Licensed Access Scheme
- Immigration advisers and parliamentarians

On **5 December** we added the following notes to complete the current suite of notes:

- Vulnerable clients
- Promotional Material
- Premises
- Cover in the absence of an adviser, inability to work and closing a business



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*There have been a number of cases where students have fallen for visa scams and international students are being duped out of (sometimes) thousands of pounds.*



## Using Authorised Advisers Makes Sense!

### The Benefits of Using a Legal Immigration Adviser



We have recently published a note informing the public on the risks of [unregulated immigration advice](#). We have stressed that a person who is not registered with the OISC or a member of an [approved professional body](#) has not been

assessed as being fit and competent to provide them with immigration advice or services.

Such advisers may have little or no knowledge of immigration law and practice. They cannot be held to account by the OISC or any other regulator for their actions, or any money they may have paid to them.

The benefits of using an OISC registered immigration adviser were outlined:

- √ An OISC registered adviser must act professionally and comply with the Commissioner's [Code of Standards](#)
- √ .
- √ Advisers must be open and honest with them about their prospects of success and should only advise them to proceed with an application if they have a realistic chance of being granted leave to enter or remain in the UK.

The public is reminded that an OISC registered immigration adviser:

- will have a 10 digit registration number and be listed on the [register of immigration advisers](#)
- must have a good and up-to-date knowledge of the UK's immigration law and practice
- is bound to act in their best interests and give accurate advice
- must keep any advanced payment made to them in a separate client account until services are provided, and have proper accounting records
- must keep proper client records for 6 years
- is authorised to represent them and must tell them about their visa or other outcome in a timely manner
- undertakes continuing professional development in order to

- maintain knowledge of immigration law and policy
- can charge fees only that are appropriate for the complexity of the work undertaken
- can only give advice appropriate to the level they are authorised to by the OISC
- must have an established complaint scheme should things go wrong
- must carry insurance against giving poor advice



### On The Air

**On 1 October Stephen Seymour, our Director of Operations, was interviewed by Alexis Conran on the talkRADIO programme - The Radio Hustle.** Also on the show was Dominic Scott UKCISA's Chief Executive. They talked about the dangers of scammers and visa scams that have specifically targeted international students. There have been a number of cases where students have fallen for visa scams and international students have been duped out of (sometimes) thousands of pounds. In addition there are stories that students are being scammed on applying for jobs post degree.

Stephen spoke about the OISC's role and the advantages of using regulated advisers and what to look out for with scammers. He echoed the warnings about the risks of people receiving unregulated, uninsured and unprofessional advice and promoted OISC registered organisations and urged listeners to look for the OISC's global tick logo as a sign of quality and certainty.



Alexis Conran

# Prosecuting Illegal Immigration “Advisers”



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*“This is exactly the sort of case parliament had in mind and you should not have provided unqualified advice and services to persons who were already vulnerable because of their position.”*

**Since our last newsletter we have successfully prosecuted eight people. Here are some of those convictions.**

On 20 July, ██████████ of Putney, London, pleaded guilty to a charge of providing unregulated immigration advice and services at Westminster Magistrates’ Court.

She was sentenced to a £1,200 fine, she was ordered to pay compensation of £1,125 and costs of £991, in addition to a victim surcharge of £120.

██████████ is a prominent figure within the Persian community and has appeared regularly as a community TV presenter. She operated under 2 business names, ██████████, advertising in a Persian community publication and a company website.

██████████ London, pleaded guilty at Southwark Crown Court on 27 June 2016, to 3 charges of providing unregulated immigration advice or services committed since April 2015. A further 4 offences were ordered to be left on file.

On 25 July 2016 she was sentenced to 8 months’ imprisonment for each offence, to be served concurrently. Judge Martin Beddoe described her actions as incompetent and said that she had put her interests above anyone else’s. Whatever qualifications she held in her home country she was not qualified here in the UK. He found that she had committed the offences on a commercial basis.



██████████ pleaded guilty at Reading Magistrates’ Court on 25 February 2016, to 6 counts of providing unqualified immigration advice or services between October 2013 and February 2015.

During sentencing District Judge Davinder Lachhar said, *“This legislation was passed to protect persons from unqualified persons like you when they are seeking immigration advice.*

*“This is exactly the sort of case parliament had in mind and you should not have provided unqualified advice and services to persons who were already vulnerable because of their position.*

██████████ was convicted on 26 August 2016 at Westminster Magistrates’ Court of providing unregulated immigration advice. On 29 September 2016 he was sentenced to a fine of £200, ordered to pay compensation to the victim of £900 prosecution costs of £500 and a victim surcharge.

In September 2014 ██████████ a former independent councillor candidate in the London Borough of Waltham Forest, claimed to be an experienced immigration adviser when introduced to a client requesting immigration advice. ██████████ told the complainant that he could make an application for the client. He took an initial payment of £1,000 from the client. The complainant became suspicious when there was no contact from the Home Office. When challenged, ██████████ had no explanation and the complainant demanded a refund. ██████████ agreed to repay the money in instalments, but after one payment of £100 the payments stopped. When the complainant contacted ██████████ about this, he became abusive and stated that he had no intention of making any further payments. A complaint was then lodged with the OISC.

██████████ of London, N8, was sentenced on 9 November 2016 at Westminster Magistrates’ Court to 16 weeks imprisonment, having pleaded guilty to the charge of providing unregulated immigration advice. He was also ordered to pay £1,666.58 costs, £1,000 compensation to the victim and a victim surcharge of £80.

██████████ describes himself on his website as a British-Persian international relations researcher and political columnist; also a member of the UK Political Studies Association. He advertised his services as a professional interpreter and translator in Dari, English, Farsi and French. ██████████ met with a person at a café in Brent Cross shopping centre who was seeking immigration advice and representation. ██████████ went on to provide the grounds of a false asylum application, which was presented to the Home Office in support of the claim.

Sentencing the magistrate said, *“This offence happened over a protracted period of time, you were not qualified and you knew that it was a criminal offence. You suggested a fraudulent asylum claim and took money for that. You also made threats to expose the victim to the Home Office to secure payment from the victim.”*



*Fee charging organisations and charities or other non-commercial advice services may employ in-house solicitors who can provide legal advice within that organisation .....They cannot, however, provide immigration advice and services to the public as solicitors; this is beyond the scope of their regulation by the SRA.*



# Solicitors and the OISC



## OISC regulation and solicitors

We recently published a document that clarifies the jurisdiction of the OISC in relation to solicitors.

### Solicitors that do not require OISC regulation

Where a solicitor holds a current practising certificate **and** is working in a traditional law firm or an SRA regulated Alternative Business Structure (ABS), both the individual solicitor and the organisation are regulated by the SRA. Neither the organisation, nor the individual solicitor or any non-solicitor advisers who are supervised by the solicitor (whether or not under a contract of employment), need apply to the OISC for regulation.

### Solicitors that may require OISC regulation

Fee charging organisations and charities or other non-commercial advice services may employ in-house solicitors who can provide legal advice within that organisation without a requirement for the individual to be authorised by the OISC. They cannot, however, provide immigration advice and services to the public **as** solicitors; this is beyond the scope of their regulation by the SRA.

If they wish to provide immigration advice and services to the public they **must** therefore make an application to the OISC to be authorised as part of an OISC registered organisation. If approved, they will be acting as an OISC registered adviser rather than as a solicitor.

This does not prevent a solicitor maintaining their practising certificate as they may work elsewhere in that capacity.

## Solicitors who work in Law Centres and organisations that meet the SRA Practice Framework Rules

Solicitors working in law centres are regulated by the SRA as individuals. They do not need to apply to the OISC for registration. However, the law centre itself will need to be regulated as an entity and this may be by the OISC or the SRA (if the law centre chooses to become an ABS). This is the case even where all advisers at the law centre are SRA regulated solicitors.

Some charities and other non-commercial advice services may be in a similar situation. They may have solicitors advising the public on immigration matters, regulated by the SRA as individuals. These organisations also need to have the entity regulated by either the OISC or by the SRA (as an ABS), irrespective of whether all advice providers are solicitors.

Where the law centre wants to have immigration advice and services provided by volunteers or employees who are not solicitors individually regulated by the SRA, then the individuals must apply for OISC registration.

### Further guidance....

...can be found on the OISC web page [oisc-regulation-and-solicitors](http://www.oisc.gov.uk/oisc-regulation-and-solicitors)



# REQUEST AN OISC SPEAKER FOR YOUR EVENT

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*“we have listened to the representations that we received on the current fee levels and have decided to take stock and review the immigration and asylum fees”*



## Immigration Rules Change

On 3 November the government announced changes to the Immigration Rules. These changes affect applications made on or after 24 November unless stated otherwise.

### Tier 2

- Increasing the Tier 2 (General) salary threshold for experienced workers to £25,000, with some exemptions
- Increasing the Tier 2 (Intra-Company Transfer) salary threshold for short term staff to £30,000
- Reducing the Tier 2 (Intra-Company Transfer) graduate trainee salary threshold to £23,000 and increasing the number of places to 20 per company per year
- Closing the Tier 2 (Intra Company Transfer) skills transfer sub-category

The date from which intra company transfers will be liable for the health surcharge will be announced in due course.

### Tier 4

A number of changes are being made, including amendments to the academic progression rule, maintenance requirements for the Doctorate Extension Scheme and evidence of overseas qualifications, UK qualifications used as evidence, and a series of minor and technical adjustments.

### English language requirement

A new English language requirement at level A2 of the Common European Framework of Reference for Languages is being introduced for non-EEA partners and parents.

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](mailto:sharon.harris@oisc.gov.uk) in the first instance to register an interest. Advisers will subsequently be contacted to discuss possible options.

This affects those applying to extend their stay after 2.5 years in the UK on a 5-year route to settlement under [Appendix FM \(Family Member\)](#) of the Immigration Rules. The new requirement will apply to partners and parents whose current leave under the family Immigration Rules is due to expire on or after 1 May 2017. More information is available in the [statement of changes](#).

## Change in Tribunal Fees and then a Reversal

**The First-tier Tribunal (Immigration and Asylum Chamber) Fees (Amendment) Order 2016 was laid and brought the fee changes into effect on 10 October 2016.** These changes represented an almost 500% increase in some cases.

**However,** on 25 November the **Rt Hon. Sir Oliver Heald QC MP** Minister of State for Courts and Justice made a written statement to Parliament reversing the fee increase and announcing a review. He stated, *“we have listened to the representations that we received on the current fee levels and have decided to take stock and review the immigration and asylum fees, to balance the interests of all tribunal users and the taxpayer and to look at them again alongside other tribunal fees and in the wider context of funding for the system overall.*



Sir Oliver Heald QC MP  
Minister of State for Courts and Justice

*From today all applicants will be charged fees at previous levels and we will reimburse, in all cases where the new fees have been paid, the difference between that fee and the previous fee.”*

There will be further announcements in the near future.

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

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