



Welcome to the 2019 spring edition of the OISCNews



And so we come to the end of another business year with feelings of both relief and satisfaction. But there is no respite as we immediately start looking forward to the challenges and opportunities that will present themselves in 2019/20.

Although we are still working hard to produce a formal record of our efforts in the year just ended (which we aim to publish in July as our Annual Report and Accounts) it is not too soon to reflect on the progress we continue to achieve and to record my appreciation for the dedication and commitment of everyone who has worked so hard on behalf of the OISC over the past twelve months.

This Newsletter describes the successful outcome of a number of initiatives we have undertaken and projects we will pursue, allowing the regulatory regime to evolve for the benefit of both consumers and advisers whilst at the same time maintaining a robust enforcement regime which succeeds in bringing

criminals to justice. In this context I am particularly pleased to report that the OISC has just secured an important conviction at The Old Bailey of an EU lawyer who had claimed to supervise a number of companies providing immigration advice in the UK in a scheme designed to circumvent UK regulation. Read our [press release](#) for details.

Looking ahead, I am pleased to report that the Immigration Minister, Caroline Nokes, has approved the OISC's Business Plan for 2019/20 and this can now be found on our website. This closely follows the format of its predecessor, encouraging us to make further progress in demonstrating the successful achievement of our key aims ("Authorising only those demonstrably fit and competent"; "Improving the quality of immigration advice" and "Protecting people") whilst managing our own resources efficiently and effectively.

However, the really good (and extremely recent!) news is that we will shortly have a new Commissioner to lead the OISC, since on Friday 3 May it was announced that John Tuckett would assume the role of Immigration Services Commissioner during the summer (click [here](#) for more) . We warmly welcome this appointment and everyone is looking forward to working with him in the months and years ahead. I am confident that John will in due course be grateful to receive suggestions from advisers on the priorities to be addressed; but in the meantime I welcome your continuing support in ensuring that consumers are protected through the availability of professional and accessible regulated immigration advice and services.



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Registration for EU Settlement Scheme

The new EU Settlement Scheme was officially opened on 30 March with 50,000 applications made in its first two days in operation. In order to assist the Home Secretary’s commitment to ensure that everyone can access this scheme, particularly vulnerable persons such as the homeless, elderly or disabled, the OISC has been working with community and voluntary organisations who may be in a good position to reach those who might be unaware of the scheme.

Such organisations have been advised as to what help and support can be given that does not fall under regulation through our [Immigration Assistance](#) document published in October. In addition, where such organisations want to be able to actually advise clients to make straight forward applications for settlement under this scheme, the OISC has designed an application process for them to gain registration - limited to just this one area of work. This [application process](#) became available on 1 February.

Organisations that are already registered with the Commissioner at Level 1 in Immigration work can of course provide immigration advice and services related to this new scheme. It is also likely that our advisers who are regulated at OISC level 2 or 3 may find more complex cases being referred or signposted to them where Level 1 advisers believe that the client will have problems in successfully gaining settled status or where applications are fully refused.

Registered organisations who charge a fee for their advice and services do need to be mindful that should they wish to undertake work in this area either at Level 1 or above, they may need to submit a revised fee scale for approval by their OISC caseworker. At the higher levels a refusal of settled status may be covered by their existing fee scales, however those wishing to undertake Level 1 work in this area would need to think carefully about what would be considered a reasonable fee (in line with Code 61).

The Home Secretary reports that to date ‘nearly four out of five of those who have applied did not need to provide any additional evidence or send in their documents for checking’.

Fee scales submitted to the Commissioner for this work should reflect that, for the majority of clients, preparation work to support these applications will be greatly reduced.

The Commissioner will seek compelling argument to support any proposed fees which reflect much more than an initial consultation fee as it is expected that advice given to most EU citizens and their family members under this scheme will be one-off advice without the need for ongoing correspondence.



Welcome to the OISC Online Presentation

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We are pleased to announce the launch of the latest OISC online presentation called ‘Welcome to the OISC’.

This online presentation offers an overview and guidance on the responsibilities an adviser and organisation has to the Commissioner and to clients. These are:

- To remain fit and competent;
- To comply with the OSIC Code of Standards;
- To act in the best interests of the client.

Areas covered include records and record keeping, how the OISC assesses ongoing compliance and working with the OISC.

For those setting up a new business, being aware of the responsibilities of the organisation from the outset will help you set up practices that build compliance into your system. This presentation will help you get started.

For those joining an existing organisation, it is important that you are able to identify if it operates in a compliant manner, and has processes in place to allow you to operate in line with the Commissioner’s Code of Standards. Again, this online presentation will help you to identify important responsibilities that advisers, at times, get wrong.

We strongly recommend that all newly regulated advisers watch this online presentation as soon as they can after registration and that this should be noted in their CPD record which will be reviewed at audit by the OISC caseworker.

All other advisers may find the online presentation helpful as well, and we therefore suggest that it be added to each CPD Plan for this current year.

The online presentation lasts for 25 minutes and can be found [here](#) on the OISC website in the section ‘Guidance and practice notes for registered immigration advisers’.



Client Accounts

In January the OISC wrote to all registered organisations regarding difficulties some new and existing organisations were reporting in opening or maintaining a client account.

Code 64 of the Code of Standards requires that if you take money in advance of the advice or services being provided, this must be held in a client account.

Firstly, we would like to thank the many advisers who took the time to respond. We received responses from 129 organisations. While the majority of the respondents were still able to operate a client account, many of these accounts appear to have been operating for some years. It did however, appear to be the case that banks now have stricter rules in allowing new client accounts to be opened and the following points were noted in the responses:

- ◆ Some banks allow a client account in one branch, but not in another branch
- ◆ Some banks are more flexible in allowing a client account
- ◆ Having a business account with the bank could be a positive factor in being allowed a client account as is the length of time the client has been a bank customer.
- ◆ Some of the client accounts have various restrictions, such as no debit card. This means that it is not possible to pay the Home Office fees or tribunal fees directly from this account.

For those who have been unsuccessful in opening an account the following reasons have been given by the banks:

- ◆ The organisation was not regulated by one of the Professional Bodies in Schedule I of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

- ◆ The bank had no knowledge of client accounts
- ◆ The bank no longer offered client accounts
- ◆ The bank wanted to know the name of the person whose funds would be held - in other words a client account for a single client and not a general account

A small number of organisations stated that as an alternative to a client account, they opened a second business account, savings account or Treasury account, and use that as their client account. However, there are a number of issues with these accounts, such as interest paid on the money, no access to a debit card and not being able to pay Home Office or Tribunal fees directly.

More importantly, this means funds paid to this type of account by the client are considered business assets and are not afforded the protection offered by a client account in the event of bankruptcy.

Some organisations which have been refused a client account have had to change their working practices, such as only collecting fees at the end of the case; asking clients to pay disbursement fees directly to the third parties e.g. Home Office; limiting the type of cases they take on.

While it is reassuring that the majority of those who responded have indicated that they are able to successfully operate a client account, the Commissioner believes that Code 64 may need to be reconsidered given the difficulties encountered particularly by new organisations seeking registration. The principle of businesses not spending client money until after work is completed is one which the Commissioner stands by, but it may be the case that achieving this through the operation of a client account needs further consideration.

As a result, the Commissioner will in the 2019-20 business year, look to consult on the possible amendment of Code 64.



“You knew and
simply didn’t care.”



Action Against Illegal ‘Advisers’ Part I

Mrs Alina Dyer, 46, a businesswoman of Tersha Street, Richond, was sentenced to 9 months imprisonment, suspended for two years, after she was found guilty of one charge of providing unregulated immigration advice. Mrs Dyer was also ordered to pay £500 in compensation.

Mrs Dyer gave immigration advice to the victim while in London, between August 2015 - January 2017, which as she was unregistered, was illegal.

Alina Dyer was an OISC registered immigration adviser until she withdrew from regulation in May 2015. In court, Mrs Dyer stated that she set up a business in Cyprus providing immigration advice with her husband; he moved to Cyprus to manage the company while she remained in the UK.

In sentencing, HHJ Korner QC said, “You have been convicted on what in my view was overwhelming evidence that you were giving advice in respect of immigration matters. You told such obvious lies in the witness box that it was clear that you decided whatever happened you were not going to admit that you had been so advising.

“You utterly failed to tell her (the victim), and lied about that in the witness box, that you were not permitted to provide the services which in the past you had been so able to do and you knew that she was a vulnerable witness or person.

“You knew and simply didn’t care. “

Mr. Ngoyi Malumba, 55, of Frodsham Street, Manchester, pleaded guilty to giving immigration advice and services to 200 clients who believed that he was qualified.

Mr. Malumba, operated Tameside Human Rights Watch, from offices in Wilmslow Road, Rusholme, Manchester.

The OISC initiated an investigation in response to concerns raised about Mr. Malumba’s competence after he represented a client at a hearing in the First-tier Tribunal at Hatton Cross, West London.

In sentencing at Manchester Crown Court (Crown Square) HH Judge Timothy Smith said: “Whatever lay in the motivation, you were wrongly acting on behalf of potentially or actually vulnerable people detained and looking for advice and representation in relation to asylum, extradition deportation or their immigration status. “

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“ A message must go out loud and clear ... if they are caught the consequences will be severe”



Action Against Illegal ‘Advisers’ Part 2

Ms. Ghazala NAZIR of Jubilee Close, Pinner, Middlesex, was sentenced at Southwark Crown Court after being found guilty of providing unqualified immigration advice and immigration services

The offences took place between July 2015 and September 2016 in Dalston, Hackney. Errors made by Ms. Nazir, who portrayed herself as a qualified practitioner, caused a delay in the process resulting in inconvenience and stress to the complainant, as well as financial loss.

Ms. Nazir received:

- ◆ For each count, a twelve month prison sentence, to be run concurrently and suspended for two years.
- ◆ A Rehabilitation Activity Requirement of 60 days.
- ◆ A Compensation Order to be paid to the complainant of £1050.

In sentencing HH Judge Gledhill QC said: “A message must go out loud and clear to people who attempt to get easy money from people in vulnerable positions, that if they are caught the consequences will be severe.”

Ms. Namrata THAKKAR of Priory Gardens, London, Acton, pleaded guilty to two counts of providing unregulated immigration advice and services between 1 January 2016 and 18 March 2017.

Ms. Thakkar was employed as a recruitment consultant/immigration adviser between May 2012 and January 2016.

When her employment was terminated she continued to provide immigration advice, which she was no longer qualified to provide.

She was sentenced to 12 weeks’ imprisonment, suspended for one year. She was also ordered to pay prosecution costs of £1500 and a victim surcharge of £115.

On sentencing District Judge Blake, said, “I see these as very serious offences where the starting point for sentence is one of custody....I give you credit for the guilty pleas, the considerable mitigation that you have repaid the fees charged, and your deteriorating health issues”

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“We hope to have the new website pages up and running on our site over the coming months ”



OISC Website Update

As part of the OISC’s move to empowering consumers we are proud to announce that work has commenced on a new section of our website designed specifically for them. We hope that the information contained in these new webpages will help to educate and inform prospective and existing consumers.

The new webpages will include information about who the OISC are and what individuals can expect from us in terms of our service standards, as well as explaining the levels and categories of registration, what they mean for prospective consumers, assisting them to select the right OISC adviser to help with their immigration matter. There will also be information for consumers warning them about the problems posed by, as well as the consequences of, using illegal unregulated advisers.

We have also created a guide on what consumers themselves should do to make sure they are getting the best from their advisers once they have been engaged. Finally, we have created a guide, based on the Code of Standards and Guidance on Competence, to the service standards that all OISC regulated organisations must provide.

As well as this new content, we have also created a consumer survey, designed to allow us to access feedback from consumers about their experiences of dealing with OISC regulated organisations.

This information will help us as we draft guidance for the regulated sector, as well as allowing us to highlight aspects of service, good or bad, that are consistently being raised by consumers. The survey is anonymous and we will not be able to identify any particular organisation from the information provided.

The more people who complete it, the more useful it is for us and for the regulated sector, so we would appreciate it if, at the end of a client’s case, all regulated organisations would discuss the survey with their clients, explain what is for and ask them to complete it. It can be found on the home page of our website or directly via this [link](#).

We’ve been piloting the survey with a handful of organisations for a couple of months now and the feedback has been overwhelmingly positive. We hope to have the new website pages up and running on our site over the coming months and we would encourage all advisers to keep checking our website and to let us have your thoughts and feedback!

Amendments to the SRA

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The SRA recently announced new regulations which will come into effect on the 25th November 2019 which may affect solicitors working in OISC regulated firms.

The main amendment, which may affect OISC regulated organisations, is allowing solicitors to carry out ‘non-reserved’ legal work, such as immigration advice and services, from within a business not regulated by a legal services regulator.

Some OISC regulated advisers are also solicitors with valid practising certificates. Currently however only those with special permission granted by the SRA can advise the public as a solicitor in relation to immigration matters from within OISC regulated organisations.

The OISC is considering carefully what the amendments to the SRA’s rules will mean for the OISC regulatory scheme and discussions on this matter with the SRA are ongoing.

We will report back to the sector in due course.

Immigration Advisers Feature in BBC Documentary

A three-part BBC TV documentary with the working title, “Who Should Get a British Passport?”, will soon be airing on BBC 2. It will be a blunt look into the world of immigration advice and services. BBC were unable to confirm dates at time of publication but it is expected to air over the next few months on Tuesday at 9pm. Click [here](#) for more details.

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.

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



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

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