

Freedom of Information Request

FOI/AH/16/35

OISC AND PROFESSIONAL INDEMNITY INSURANCE

22 November 2016

Please can you provide me with the regulatory history of [REDACTED]. Please can you also provide a copy of its professional indemnity insurance.

RESPONSE

9 December 2016

Thank you for your letter dated 22 November 2016 which has been passed to me to deal with. I am the Information Officer for the Office of the Immigration Services Commissioner (OISC) and have considered your request under the Freedom of Information Act 2000.

I can confirm [REDACTED] were registered by the OISC from [REDACTED].

You have also requested the details of the Professional Indemnity Insurance (PII) of [REDACTED]. It is a requirement of registration with the OISC for any adviser to have PII. However, the Commissioner is not able to provide details of an organisation's policy to a third party. The legal basis for this conclusion can be found below.

In brief, the disclosure of the PII policy would be of no benefit to a claim for damages. Such a claim would be against the organisation, not against its insurer. In the event of a successful claim, any monetary remedy would therefore be enforceable against the Defendant, not against the insurer. The insurance gives protection to the Defendant in the event of any adverse determination, but does not give the Claimant an alternative person against whom they can make a claim.

I have enclosed a decision by the First-tier Tribunal (*EA/2014/0296 Pradip Bhavsar V Information Commissioner & OISC*) supporting the Commissioner's position.

The Legal Basis

The Commissioner is exempted from providing this information under section 44(1)(a) of the Freedom of Information Act 2000:

44 Prohibitions on disclosure.

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the

*public authority holding it—
(a) is prohibited by or under any enactment,*

The Commissioner is so prohibited by section 93(2) of the Immigration and Asylum Act 1999 (as amended):

93 Information.

[...]

(2) No relevant person may at any time disclose information which—

(a) has been obtained by, or given to, the Commissioner under or for purposes of this Act,

(b) relates to an identified or identifiable individual or business, and

(c) is not at that time, and has not previously been, available to the public from other sources,

unless the disclosure is made with lawful authority.

I have considered whether the disclosure would be made with lawful authority under section 93(3) of the same Act and I am not satisfied that it would be. In particular, disclosure would not be made “for the purposes of any civil or criminal proceedings” (section 93(3)(c)). This is because, as explained above, the details of the PII policy would not in any way benefit a claim against the organisation.

Therefore disclosure of the PII policy cannot be justified.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request. Please quote the above reference number in any request for an internal review.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Details on how to do this are on his website at <http://ico.org.uk/>.

Your faithfully,

For and on behalf of the Office of the Immigration Services Commissioner