

Aim and purpose

The law¹ says that the Immigration Services Commissioner must promote good practice. This note explains her views on good practice in relation to the local resolution of complaints. It should not be viewed as direct instructions, but rather as a view on best practice. It has been developed with the assistance of the National Consumer Council and the Chartered Institute of Arbitrators. Their help is gratefully acknowledged.

The law requires the Commissioner to establish and administer a complaints scheme. This gives her the power to launch investigations where there are concerns about the fitness and competence of someone providing immigration advice or immigration services.

Even good advisers get complaints. Having a complaints procedure in place will help you deal with any complaints you may receive.

However, a complaint need not reach the stage of a formal investigation by the Commissioner. She encourages advisers to take responsibility for complaints made to them. Good professional advice organisations have robust complaints procedures in place and proactively deal with complaints.

¹ Section 83(3) of the Immigration and Asylum Act 1999

1. Organisations with an appropriate complaints-handling procedure that allows complaints to be effectively dealt with at local level are more likely to:
 - retain the goodwill and business of their clients; and
 - avoid the OISC and the Immigration Services Tribunal getting involved.
2. The Commissioner stresses that advisers are the experts in complaint situations and are the best people to try and deal with complaints. The client will generally recognise that there is a problem and will want it fixed, but may not fully understand their legal position or the immigration process. It is the adviser's responsibility to properly explain the situation so that clients can make informed decisions (refer to the Code of Standards on client care, Codes 51–54).
3. This Note concentrates on how advisers may try to resolve complaints with dissatisfied clients. Dealing with complaints in this way may allow them to be resolved quickly. Advisers may also learn from dealing with complaints in this way.
4. **It is emphasised that such resolution of complaints is not designed to replace the OISC's complaints process and, if clients prefer to come straight to the OISC, they must not be prevented from doing so.**
5. The Commissioner's Code of Standards deals with complaints in Codes 18–20.

Code 18: An adviser must have an internal complaints procedure explaining to whom complaints should be made and who has overall responsibility for the complaints process.

6. A complaints procedure should not simply be a paper exercise. It should clearly explain how complaints will be dealt with.
7. Complaints can be verbal or written. A client may express dissatisfaction with the standard of service either face-to-face, over the telephone or in writing. The Commissioner believes that best practice in such situations would be:
 - Acknowledging and listening – an adviser must listen to the complainant's concerns and acknowledge them. The adviser should not interrupt except to ask constructive questions. The Commissioner understands that matters can easily become hostile if advisers treat complaints as personal affronts. The Commissioner believes that carefully listening to the client's concerns can prevent this from happening.

8. If the complaint is in writing, it should be acknowledged both immediately by telephone and as soon as possible in writing. This gives the adviser the chance to outline their complaints procedure and the issues as they see them and will give the complainant an understanding of how their complaint will be handled and the timescale involved.
- Establishing exactly what the problem is – this should come from listening to the client or taking note of the contents of the complainant's letter. Clients need to know that their complaint is taken seriously and that something will be done. There will be occasions when nothing can be done, for example when an application has been refused. While the adviser might not be able to do anything about the practicalities of the client's case, it may be sensible to look at the adviser's internal policies and procedures and learn from any mistakes made.
 - Make resolving the complaint a priority – clients want their problems dealt with. Complaints solved quickly and appropriately usually result in greater goodwill towards the adviser. Ignoring a complaint will not make it go away and may make the situation worse. Complaints must be given priority to allow the situation to be resolved and remedial action taken.
 - Time frame – the complainant should be given a realistic time frame in which the complaint will be resolved. While it may be possible to deal with minor complaints immediately or on the same day, others may take longer. Giving false promises about when the matter will be dealt with can make the situation worse.
 - Assurance – the client must be assured that the adviser will do everything in their power to resolve the situation. This means that the adviser and client must share an understanding of the problem and, if possible, what the outcome should be.
 - Responsibility – clients need to know that someone is taking responsibility for their complaint. It is recommended that advisers have someone specifically designated to handle complaints. This may not always be possible, but a named individual must take responsibility for handling the complaint and the complainant must be informed who this person is. It is also vital that if responsibility lies with the adviser, they take individual responsibility and do not try to shift the focus onto another party. It is important to be as honest and as objective as possible. Taking responsibility for errors will help ensure they are not repeated in the future.

- Resolution – ideally, the resolution of any complaint should be beneficial to both the client and the adviser. If the situation can be resolved, it should be possible for the relationship between client and adviser to continue. If the situation cannot be resolved and the client and adviser cannot work together any more, the adviser should take steps to close the matter as quickly as possible and refer the client to another adviser (see Guidance Note on signposting and referrals). The adviser should then evaluate the problems that have arisen and look for ways to ensure they are not repeated.

Details of how the complaint is to be resolved must be put in writing to the client, together with a satisfaction survey form to ensure they are content with the decision made and the processes used. The client should be reminded in writing that if they are still unhappy, they can complain directly to the OISC.

Code 19: Records should be kept of complaints made and how they were resolved.

9. All complaints must be recorded. Advisers must not consider any matter as trivial and decide not to record it. Evidence that all complaints are treated seriously is proof of a robust complaints system. The complaint file may either be a hard copy file or an electronic file that the Commissioner or OISC staff can get access to. It would also be good practice to ensure that a copy of correspondence with the client is kept on file. This may be looked at during audit.

Code 20: An adviser must display information regarding the Immigration Services Commissioner's complaints scheme, including any leaflet provided by the OISC.

10. The client must be made aware of the OISC and told that they can complain to the Commissioner at any time. A copy of the complaints scheme and the Commissioner's complaint leaflet should be made available if a client asks for it.
11. Although the OISC aims to resolve complaints it receives quickly, the process is a legal one and the investigation process may take six months or more. A complaint dealt with by the adviser directly can be handled much more quickly and may prevent client dissatisfaction from getting worse.

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