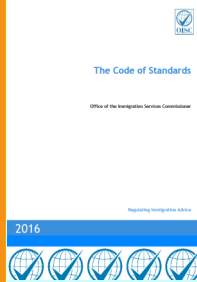




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The OISC's new Code of Standards has arrived!

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458689/Code_of_Standards_2016.pdf).



It was published on the OISC's website on 7 September 2015 and will come into effect on **1 April 2016**.

This document is the culmination of a two-year process. In that time we ran two separate 12-week public consultations on:

1. The general approach to the new Code, and
2. The specifics of the proposed Code

These consultations yielded over 100 responses. We also discussed the new document with stakeholders and key influencers to ensure a robust Code that is sufficiently flexible to cover the many areas of immigration and asylum advice that OISC registered organisations provide.

It also takes account of how registered organisations are structured and also how advice and services are delivered in an age that increasingly uses digital solutions. The Code aims to meet the regulatory needs of the sector both now and in the future

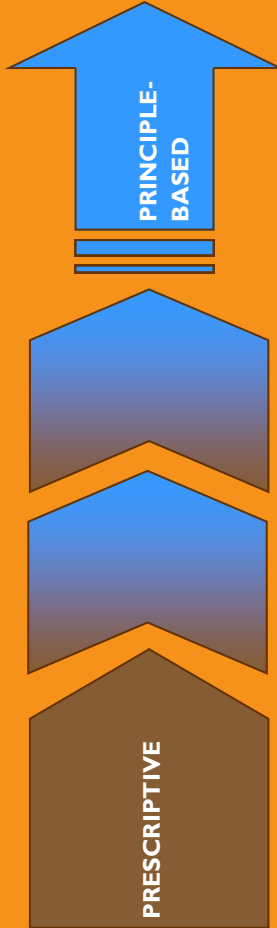
The new Code will come into effect on 1 April 2016 allowing organisations and advisers seven months to read and understand what the new Code means for them. It also allows plenty of time for businesses and advisers to make any changes so that they meet the new requirements. Up until 1 April 2016, the existing Code (dated December 2012) will continue to apply.

Advisers will readily notice some of the differences between the old Code of Standards and this new document. We will explore these variations and our new approach in this and subsequent newsletters. We will examine how we interpret the Code and how the OISC will operate in line with principle-based regulation.

You will also notice that we have a second document to support the new Code of Standards, known as "Guidance Notes". This is an important document that registered organisations and advisers must read and understand. While it does not form part of the Code, it explains and amplifies certain codes and provides indicative behaviours that organisations, advisers and the OISC can use to ensure compliance with the Code of Standards.

Over the coming months in the lead up to implementation, we will issue more newsletters specifically on the new Code of Standards and what organisations and advisers will need to do to ensure compliance.





Principle-Based Regulation

- What is principle-based regulation?

The new Code of Standards makes a bold step in OISC regulation from a prescriptive, rules-centred approach, to one that is more founded on principle-based regulation.

Principle-based regulation uses a broad set of statements that set standards that must be satisfied. It is up to regulated advisers and organisations to decide how to most appropriately achieve them. However, they must meet the standard set by the Code. This differs from regulation founded on a strict set of rules which leaves less to the regulated parties to decide and requires the regulator to set out a more specific rule book. Following the Legal Services Act 2007 and the establishment of the Legal Services Board, the legal services sector has been moving towards principle-based regulation over the last few years. The move towards this type of regulation puts the sector on a similar type of regulatory regime as those providers of immigration advice and services overseen by other legal service regulators.

In adopting this approach the OISC took many factors into account – including the nature of the registered sector, especially its maturity and complexity. While some prescriptive rules remain, especially in the area of client care, there is a more permissive approach in general. Organisations will now have increased flexibility in how they deliver the outcomes that the OISC requires, and many will find a closer fit between meeting their own business objectives and meeting regulatory

requirements. The less restrictive approach does not mean a lowering of standards and will put the onus on those who run the organisation to decide how they are going to comply with a particular principle and ensure that the practice of the organisation does indeed meet the standards the OISC sets.

Well managed firms with good governance procedures who engage positively and openly with the new Code of Standards should expect to experience real benefits in the form of a ‘regulatory dividend’ - higher professional standards, the improvement of services through innovation and increased client satisfaction. For consumers, principle-based regulation will be of benefit by facilitating a more innovative and competitive immigration advice sector and the delivery of improved services.

CPD for Immigration Advisors

The OISC on-line Professional Conduct course has been updated in line with the new Code of Standards. We recommend that all advisers take this course before 1 April 2016 so that they are aware of the new Codes and how they relate to the work of a regulated immigration adviser. By taking this course, not only will advisers learn about the new Codes but they will also be awarded 3.5 hours of non-core CPD on passing the associated quiz.



Principle-Based Regulation continued & Question Time

Can you give some examples of what you mean?

Yes, the first example of the more principle-based approach is in relation to policies and procedures that we require registered organisations to have. The new Code will require organisations to have a written equality and diversity policy that meets current statutory requirements (Code 16), this is in stark contrast to the previous Code of Standards' Code 29 which set out all of the protected characteristics under present legislation and required a commitment from the organisation to this aim. Similarly 2012's Code 14 required a procedure for ensuring confidentiality, the 2016 version requires that advisers ensure confidentiality. It is still extremely important that organisations have processes to maintain confidentiality (and the OISC may require the organisation to demonstrate this) but how the organisation satisfies that principle is up to the organisation.

Most striking is the "Running the organisation", section. In the 2012 version Codes 52, 56 and 57 went into great detail about the management policies that organisations must have in place to manage their staff, structures and organisations. The 2016 Code of Standards simply requires that an organisation has, and effectively applies, appropriate management structures to maintain a viable business. This is the essence of principle-based regulation. It is up to the registered organisation to determine what is appropriate for them. Whatever policy or structure is produced must be effectively applied and engaged with by the whole organisations and not just be a document that exists on a file somewhere.

Guidance Notes

To further explain and amplify some of the codes we have introduced this new document.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458690/Guidance_Notes_to_accompany_the_Code_of_Standards_April_2016_2_.pdf

Guidance Notes that accompany a specific code or codes will assist in their application, but they are not themselves provisions of the Code. If a Registered organisation or adviser fails to follow a Guidance Note, then the Commissioner may consider that they have acted in breach of the accompanying provision(s) of the Code,

although whether a failure to follow the guidance would amount to a breach of a Code would depend on the circumstances. An example of one of the new Guidance Notes is:

Code 74 – Business Promotion

An example of touting for the business of providing immigration advice or services would be cold calling people offering to provide them with immigration advice or services or attending the Home Office with the intention of encouraging individuals to instruct the organisation.

The OISC's suite of previously published Guidance and Practice Notes are currently being reviewed and updated, where appropriate, in line with the new Code of Standards. We will provide further information on this in the run up to implementation.

Any Questions?

If you have any questions about the new Code of OISC processes then please e-mail your caseworker directly or e-mail to info@OISC.gov.uk putting "Code of Standards" in the subject box. We will answer them, individually (if the question is specific to an individual adviser or organisation) or if it is a more general issue that other advisers may find useful, in our newsletter.

