

# Practice Note on Registered Organisations Investigating Clients' Complaints



1. This Practice Note identifies points for a registered organisation to consider when they receive a complaint from a client. It should be read in accordance with Code 79 of the Code of Standards.

## Receiving a complaint

2. Clients may raise their complaint in a variety of ways, for example, by email, letter or in person. In whatever way the complaint is brought to the registered organisation's attention it will need to be dealt with according to that organisation's OISC approved complaints procedure as required under Code 79. This includes notifying the client that they have the right to complain to the Commissioner at any time.
3. A registered organisation resolving complaints using its internal complaints procedure may result in a quick and amicable resolution of the complaint and may also identify learning points for the registered organisation.
4. Client's complaints should be quickly acknowledged in writing. This should explain how the complaint will be handled, by whom and over what timescale. The timescale needs to be realistic as while it may be possible to deal with some complaints quickly, others may take longer. Giving unrealistic promises about when the matter will be concluded can make the situation worse by raising false expectations.
5. Ignoring a complaint will not make it go away and may make the situation worse. It is very important for clients to know that their complaint is being taken seriously and that investigating their complaint will be a priority.

## Investigating the complaint

6. The registered organisation may wish to consider whether to discuss the client's complaint with them, either by telephone or in a face-to-face meeting. Engaging in this way with the client may assist the registered organisation in understanding their concerns as well as in resolving the matter by avoiding the need for a formal investigation. If that is agreeable to the client, the registered organisation should ask them to confirm this in writing.
7. It is important for the registered organisation to be honest and objective when investigating complaints and to have an open mind about any findings uncovered. It should not take the complaint as a personal criticism and it is important that any discussion about the complaint does not become defensive and unsympathetic.
8. The manner in which a registered organisation and its authorised advisers communicate to clients is important as it will help in the effective resolution of the client's concerns. Authorised advisers should:
  - Ensure that their body language and tone of voice reflects that they are listening to the client and taking their concerns seriously;

- Remain calm and courteous both orally and in writing to the client irrespective of the client's behaviour;
- Only interrupt the client if constructive questions need to be asked;
- Use terminology that the client will understand and avoid the use of legal jargon wherever possible; and
- Be mindful and respectful of cultural differences.

### Conclusion of the investigation

9. The conclusion of the investigation should pull together the findings in relation to each of the client's specific concerns.
10. It is important for the registered organisation to refer to any evidence collected during the investigation (such as the signed client care letter, attendance notes of meetings, and Home Office correspondence) or to refer to guidance on the Home Office's website to support its conclusions.
11. All of this material should be referred to in a letter to the client confirming the outcome of the registered organisations complaint investigation. If appropriate, the letter should also explain what improvements the registered organisation has made or will make as a result of the client raising their complaint. A template of such a letter is attached.
12. If the complaint is found to be justified all or in part, it is often the case that clients will simply want an acknowledgement of what went wrong and offered a suitable remedy.
13. The remedy needs to be proportionate to the mistake made and sometimes this may only be an apology. However, where there is evidence that the mistake has adversely affected a client's immigration status or their chances of a favourable decision from the Home Office, the registered organisation should look to do more to correct the situation as well as address any financial loss that the client may have consequently suffered.
14. Taking responsibility for errors made can help registered organisations to ensure they are not repeated.
15. If the situation can be resolved, it should be possible for the relationship between client and adviser to continue. If that is not possible, the adviser should take steps to close the client's matter as quickly as possible and refer the client to another adviser.

### Learning Points

16. As part of the complaint investigation process, the registered organisation should evaluate what issues the complaint has raised and consider how those might be avoided in future. It is often sensible as part of this process to review the registered organisation's internal policies and procedures to see where improvements can be made.
17. This process can include registered organisations asking if the difficulty was due to one or more of the following:
  - ⇒ The nature of the service provided;
  - ⇒ The quality of the service provided; and/or

⇒ The organisation's processes and policies.

## Alternative Dispute Resolution

18. From 1 October 2015, all businesses became bound by [The Alternative Dispute Resolution for Consumer Disputes \(Competent Authorities and Information\) Regulations 2015](#). The Regulations apply to service contracts, and so are applicable to registered OISC organisations that charge for the advice and services they provide. Organisations that do not charge clients are not bound by the Regulations, but they may also wish to consider using Alternative Dispute Resolution (ADR).
19. In particular, registered organisations should be aware of [Section 19](#) of the Regulations. This requires that, when a business has exhausted its internal complaint handling procedure, it must inform the consumer by letter or email:
  - (a) that the trader cannot settle the complaint with the consumer;
  - (b) of the name and website address of an ADR entity which would be competent to deal with the complaint, should the consumer wish to use alternative dispute resolution; and
  - (c) whether the trader is obliged, or prepared, to submit to an alternative dispute resolution procedure operated by that ADR entity.
20. Therefore when a registered organisation that charges fees receives a complaint about its advice and services, and is unable to resolve it with the client, it must send the client the above information. The relevant ADR entities for OISC advisers are those authorised by the Chartered Trading Standards Institute. One such entity is 'Small claims Mediation' which will handle complaints about OISC registered organisation but you can look for any suitably competent ADR entity.
21. As is clear from the legislation there is no obligation to use ADR to resolve a complaint. However, all registered organisations may wish to consider doing so where this would be appropriate. The registered organisation is also entitled to tell clients who complain about the services provided that it will not be submitting to ADR but intends to refer the complaint to the OISC's complaint scheme.
22. Further, if a registered organisation enters into contracts electronically, as of 9 January 2016 the website of that organisation must include a link to the 'Online Dispute Resolution Platform' (ODR Platform). This is required by Article 14 of the [EU Regulation on Online Dispute Resolution for Consumer Disputes 2013](#).

## Investigation finding's template letter

Dear (client's name),

### **Your complaint**

*I refer to the complaint you brought to our attention on [date] regarding the immigration advice and services provided to you by our organisation. I have investigated this [matter/these matters] in accordance with our organisation's complaint procedure. My findings and conclusions are explained below.*

*It may help for me to first summarise the concerns you have raised: [list these]*

*I shall respond to each of these in turn referring, as necessary, to the client care letter you signed dated XXX, which set out your instructions together with other evidence relevant to my organisation's investigation. For ease of reference, I have attached a copy of the client care letter [and other notes such as attendance notes and other communications between yourself and my organisation and with other parties/organisations (e.g. Home Office)] to this letter.*

*In this part of the letter you will need to explain what enquires have been conducted. For example, if the matter concerned whether documents were lodged with the Home Office in time, you may wish to refer to the Recorded Delivery number issued and the Royal Mail Track and Trace service confirming the date the correspondence was signed for by the recipient.*

*In the next section you should provide a summary of the outcome of the investigation in respect of each concern the client has raised. If a mistake has been found, it is useful to explain what steps your organisation has taken or will take as a result.*

### **Conclusion**

*The conclusion of the letter should confirm the overall findings. It will need to be made clear whether or not the client's concerns were found to be justified or not all or in part. If the former, the organisation will wish to explain the remedy or remedies the organisation is proposing such as paying compensation and/or taking certain action. The letter should conclude by advising the client that they can contact the OISC. If the organisation is unable to resolve the complaint, the letter should include details of an authorised ADR organisation and confirm whether the organisation is prepared to submit to ADR procedure.*

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