Cover in the Absence of an Adviser

Aim and purpose

Absence from time to time from the organisation is, of course, to be expected. However, it is important that such an absence does not prejudice clients' interests.

This note addresses the arrangements that organisations should make to cover for an adviser's absence. It takes into account planned and unplanned absences.

While this note is mainly aimed at sole practitioners, there are areas of good practice that should be noted by all advisers regardless of the size of their organisation.

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Holiday or other planned absence

Advisers may be away from their organisation due to holiday arrangements or other planned absence such as family duties or jury service. There is a continuing duty on the organisation and the adviser to ensure that during such periods the adviser's practice will carry on with minimum interruption and inconvenience to their clients. Adequate arrangements must be made for the organisation to be properly administered and for client work to be effectively handled during the period of absence, whatever its length.

When an adviser expects to be away for more than one week, they must have a system in place to cover any emergencies that may arise on their case files. Such a system could include a reciprocal arrangement with another suitably qualified adviser whereby the latter will check the former's hard and electronic mail and telephone messages at least three times a week and agree to undertake to do all necessary work on any urgent matters, such as completing and filing appeal applications.

It is not expected that the covering adviser would take on new work or receive monies on behalf of the absent adviser. Therefore, the former should not normally be given access to the latter's client account, make withdrawals or pay disbursements. They can, and should, deposit monies received into the latter's client account. If fee payments are to be made to the UKBA, for example, the client should be advised by the person covering to make these directly to the appropriate authority.

Should an emergency situation arise for a client, the covering adviser must obtain that client's written authority for them to act on the client's behalf.

The adviser who anticipates that they are going to be absent from their office for more than five working days should inform their clients in writing of how long they will be away for, the contact details of the person covering for them or the organisation which will be looking after the business in their absence and the arrangements they have put in place for the handling of emergencies. The adviser must also prominently display this information at their premises (e.g. a notice), and record it as a message on both their answer phone and out-of-office autoreply email notification system.

If a supervising adviser will be away for a month or more, arrangements must include another adviser who is qualified to supervise taking on their supervisory responsibilities during their absence. The “substitute” supervisor must be able to satisfy the Commissioner that they are compliant with Codes 26 and 27 of the *Code of Standards* on supervisors. If it is not possible to make such a supervision arrangement, then the Commissioner must be informed immediately. Being unable to make an adequate supervision arrangement will be considered a “significant change” under Code 5.

Taking Advantage of an Adviser’s Absence

The OISC is aware of the potential for business rivals to seek to take an unfair advantage of an adviser’s absence. The Commissioner regards such behaviour as a breach of professional etiquette. Whilst clients may exercise their right to change advisers at any time, they should not be induced to do so. Such inducement may be found to be a breach of various Codes including Codes 12, 37 to 39 and 43.

Pregnancy

While the issues surrounding pregnancy are similar to those of planned absences, other considerations also need to be taken into account. If the pregnant adviser is a sole trader, they must give serious thought to the disposition of their clients’ cases during the period of their planned maternity leave. This also applies to advisers taking paternity leave. It is unlikely that such leave will be short term, (i.e. under five days), and appropriate steps need to be taken to ensure that clients continue to receive a seamless service.

Long-term Sickness and Other Extended Unplanned Absences

Advice organisations must have systems in place to cover extended sickness or other unplanned extended absences of more than five working days, including arranging for a designated person to be able to attend to all emergency work that has, or may, arise. In cases of long-term absence (i.e. for more than a month), the organisation must arrange for another regulated organisation or adviser qualified to oversee the running of the business to take on that responsibility during the period of absence.