



## Welcome to the Spring edition of the OISCNews



**Welcome to this spring edition of OISCNews, published on 1 April 2016 – the day that the OISC’s new Code of Standards comes into force.** The development of this Code was driven by the former Immigration Services Commissioner, Suzanne McCarthy, but a large number of other people both within and outside the OISC have been responsible for bringing it to fruition. I wish to thank them all for the tremendous effort they have devoted to this major project.

The Code of Standards is one of the cornerstones of the OISC’s regulatory regime. It sets the standards concerning professional practice, conduct and discipline across the whole of the immigration advice sector. The new Code has significantly changed the emphasis from a prescriptive to a more principle-based approach. This approach recognises the increasing professionalism of registered organisations and our commitment to reducing the burdens on business wherever possible, while continuing to provide protection for the many vulnerable clients who rely upon advice from OISC-regulated advisers.

The consultation process to produce this document took over two years and was conducted in two distinct stages. In the seven months since the Code of Standards was launched we have also published three newsletters specifically on different aspects of the new Code and developed a series of seminars to help ensure advice organisations fully understand its requirements. We have also undertaken a huge amount of work “behind the scenes” modifying

and updating numerous documents containing references to numbered codes.

As you would expect, the fundamental change in approach adopted by this new Code of Standards will allow us to streamline other aspects of our regulatory framework. This newsletter explores some of those changes, specifically in the way we are rationalising our application forms, model documents and guidance notes – including taking steps towards further electronic communication with regulated advisers, as promised in our winter newsletter.

In this newsletter you will find regular items such as Continuing Professional Development, criminal prosecutions, and activity at the First-tier Tribunal (Immigration Services) – where we have continued to use the power to suspend advisers charged with serious offence which was introduced by the Immigration Act 2014.

We also use this newsletter to highlight a growing concern: the threat that OISC registered advisers may be vulnerable to being used by third parties to defraud clients out of thousands of pounds with the false promise of jobs. My colleague Deirdre Gilchrist has already written to advisers about this, but I would also urge advisers to exercise extreme caution when dealing with third parties. It must be remembered that your primary duty is to your clients and their best interests.

However, despite the challenges that we all face, I remain highly optimistic about the regulatory regime for which I am responsible. I am convinced that the changes the OISC is continuing to introduce will be beneficial to advisers, clients and ourselves as regulators. I look forward to continuing to work with you and to receiving your feedback; but in the meantime I should like to take this opportunity to offer you my very best wishes for a happy, successful and prosperous new business year!

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# NEW OISC CODE OF STANDARDS GOES LIVE!

## Office of the Immigration Services Commissioner News

1 April 2016

*“Advisers  
and advice  
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will now  
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power to  
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them.”*



On 1 April 2016 the latest edition of the Commissioner’s Code of Standards—[oisc-code-of-standards 2016](#) will be implemented after two public consultations.

Organisations and advisers will find the following:

- ◆ The new Code of Standards incorporates the Commissioner’s Rules into one document that sets the standards concerning professional practice, conduct and discipline across the whole of the immigration advice sector.
- ◆ There is a more principle-based approach. Advisers and advice organisations will now have greater power to develop their businesses as best suits them. This is in recognition of the greater maturity and professionalism of the sector. Though some prescriptive rules remain, how policies and procedures are implemented is for each organisation to determine, as long as they remain within the principles laid out in the Code of Standards.
- ◆ A shorter document. There are 85 Codes as opposed to the last iteration that contained 95 Codes and 24 Rules.
- ◆ In support of the Code of Standards there is a set of “Guidance Notes”. The “Guidance Notes” do not form part of the Code of Standards but amplify and explain certain codes and provide indicative behaviours that the regulated sector and the OISC will use to ensure compliance with the Code.

The new Code of Standards was published on 7 September 2015 and the OISC is offering a series of seminars and has published a number of newsletters to help ensure advice organisations fully understand changes made to the Code and the new requirements.



## The Code of Standards

Office of the Immigration Services Commissioner

Regulating Immigration Advice

2016



1 April 2016

*“An adviser who moves from one OISC regulated organisation to another following a break of providing immigration advice and services of less than 6 months, must complete CPD for the current year.”*



# Continuing Professional Development

## CPD Year 2016-17

**The new CPD year 2016-17 is now underway and it is a good time to review your skills and knowledge with regards to your ongoing work and business plans.** A self-development plan should be produced focusing on what you need to learn and how this might be carried out. To assist you with this a form can be downloaded from the home page of your CPD account in the 'Resource' section together with the CPD Guidelines that contain all the information you require on how to comply.

### Accreditation of Core Knowledge CPD Activities

It is important to remember that any external core CPD activity you undertake must be accredited by one of the following two organisations in order for it to be accepted by the OISC for CPD purposes.

- Bar Standards Board (BSB)
- The CPD Standards Office

Advisers can find in their CPD on-line account a list of core CPD providers who have obtained this accreditation and also guidance notes on how to fully comply with the requirements.

- proof of attendance, such as the Certificate of Attendance

Advisers should note that when claiming their core CPD hours they will need to provide the following:-

- the provider's CPD accreditation code;
- the number of CPD hours awarded.;
- the accrediting body; either the BSB or The CPD Standards Office.

The exceptions to this requirement are:

1. In-house training (if it meets the OISC requirements as detailed in the guidance notes)
2. OISC on-line course.

### CPD Compliance and New Advisers

**All advisers who were regulated by the OISC before 1 April 2016 must comply with the CPD requirements for this current year 2016-17 and each subsequent year.** Guidance notes are available on the home page of the CPD website which we recommend you read [cpd-for-regulated-immigration-advisers-guidance](#)



1 April 2016

*The Commissioner recommends that advisers exercise caution before entering into such contracts. A number of advisers have found themselves falling foul of these contracts, receiving more complaints, and.....becoming the subject of a police investigation”*



# Risk!



## Contract Risk

**The Commissioner has recently become aware of a number of registered organisations that have been approached by third parties that offer ‘marketing’ or referral arrangements to point potential clients towards advisers.**

The Commissioner recommends that advisers exercise caution before entering into such contracts. A number of advisers have found themselves falling foul of these contracts, receiving many complaints, and in some instances becoming the subject of a police investigation. When considering entering into an arrangement with a third party company, the Commissioner would advise that you take the following steps into account.

1. Know who you are dealing with
2. Consider carefully the contract being offered
3. Consider client expectations
4. Review payment arrangements
5. Remember the Commissioner’s Codes on referrals
6. Remember the Commissioner’s Codes on confidentiality

Should you enter into such an arrangement and find that clients are either having applications refused because documents provided to support an application are deemed to be fraudulent, or clients are feeding back to you concerns regarding the third party company, you would be advised to take immediate action to look into the matter and should consider terminating your contract and informing the OISC of your concerns.

Advisers are reminded of their obligations under **Codes 20, 21, 22, 37, 38** and **84**.

1 April 2016

*“Any adviser that moves from one organisation to another must wait for the Commissioner to confirm the change in writing”*

## Registered advisers that move from one organisation to another

**Authorisation with the Commissioner is not automatically transferable when an adviser moves from one organisation to another.**

How advisers seek authority to provide immigration advice or services at a different OISC registered organisation varies according to how long a break there has been between leaving one organisation and starting at a different one. Previously, those that had a break of less than 3 months enjoyed a simplified application process. The OISC is pleased to announce that it has now extended the simplified application process period from 3 to 6 months.

Where an adviser moves from one organisation to another (and where there is no increase in level/category) within **6 months** of finishing at one organisation and applying to start at a new one, the new organisation should contact its OISC caseworker in writing and request that the applicant be granted authorisation under their registration, providing the name of the adviser and the name of the organisation they were those previously authorised under. Such applicants will not normally be required to undertake a competence assessment unless issues of concern were raised during their previous authorisation.

The adviser will be registered at the new organisation under the same terms as their previous registration (e.g. if they have a CPD

non-compliance condition attached, this will transfer with the adviser).

Any adviser that moves from one organisation to another must wait for the Commissioner to confirm the change in writing before the individual can provide immigration advice and services on behalf of the new registered organisation.

However, if the gap between organisations is 6 months or over the new organisation must :

- ◆ Submit a new adviser application form and competence statement;
- ◆ Complete a DBS check; and
- ◆ Provide Proof of Right to Work

Where the applicant adviser has been previously authorised by the Commissioner, the applicant may still be required to take a new OISC competence assessment. This will, however, normally only be the case where the applicant has last taken the assessment over 2 years from the date of this new application, or where issues of concern were raised regarding their competence when previously registered.





1 April 2016

*“We have reduced the number of policies and procedures that are required as part of any application for registration.”*



# Simplified Forms!

## Changes to Application Forms

**As a result of the implementation of the new Code of Standards, the OISC has reviewed and updated its various application forms.** We have also taken the opportunity to make some further changes to the application forms which will help simplify the application process.

Registered advisers and organisations will notice the following:

- √ All of our application forms, guidance notes and model documents have been updated in line with the new Codes. These new forms and documents are now available on the OISC website.
- √ In line with the new Codes we have reduced the number of policies and procedures that are required as part of an application for registration. We no longer request sight of the following documentation/information as part of the application:
  - ◇ Details of resources and training;
  - ◇ Signposting and referral procedure;
  - ◇ Policies on Confidentiality, Publicity and the Use of Experts.
- √ We have made some changes to the way organisations at Level 2 apply to raise their level of registration. Those applying to go from Level 2 to Level 3, will now do this in the same way as those at Level 1 apply for higher authorisation, by making a continued registration application. Those applying will need to pay a continued registration fee for this application but will be granted a new 12 month registration period from the date of the decision, whether the application is actually approved at Level 3 or not. This

negates the need for a further continued registration application to be submitted from some organisations shortly after the consideration of the raising levels application.

Following a review of the declaration by owners and trustees of registered organisations, we have simplified the forms for some types of organisations. The new continued registration application forms allows charitable organisations to easily deal with the requirement for declarations from trustees by allowing one person to make the declaration on behalf of all the trustees.

## Electronic Applications

**In our December Newsletter we explained how we would be monitoring the use of an electronic version of the OISC complaints form.** The use of the form has proved successful and thus we have been looking to expand the use of electronic forms across other areas of the OISC.

A new application form will now be introduced for continued registration. Rather than having to complete an empty form, this new version will be pre-populated with the key details that the organisation has previously supplied to the OISC. The form will allow those applying for continued registration on the same basis as their previous terms of registration, to simply check and confirm that the details held remain valid and correct, and return the form, together with any necessary accompanying documents and fee, to the OISC.

The new form has been designed to allow applicants to type directly onto it. The form still requires signatures and therefore may still need to be printed when all the other information has been completed if sending by post. Alternatively, forms can also be scanned and e-mailed back to the Commissioner.

1 April 2016

*“The seminars are open to advisers and regulatory compliance officers within registered organisations.”*



## COMPETENCE & SEMINARS NEWS

### Competence Assessments

The dates and locations of the OISC Competence Assessments for the period April 2016 to July 2016 are listed below. Information about further dates and venues can be found here [competence-assessment-centres-oisc](http://competence-assessment-centres-oisc)

Date	Level	Location & Time
27/04	Level 1	Student Central Bloomsbury
26/05	All Levels	Student Central Bloomsbury
31/05	All Levels	Manchester Civil Justice Centre
29/06	Level 1	Student Central Bloomsbury
28/07	Level 1	Student Central Bloomsbury

On 21 January we published the [oisc-level-1-exam-resource-booklet](#) and the [oisc-levels-2-and-3-exams-resource-booklet](#).

On 8 March we published [oisc-competence-assessment-tips](#).

This document provides tips on sitting the OISC competence assessments.

It includes sections on:

- the OISC exam resource book;
- preparation for the assessment;
- time management in the assessment; and
- achieving top marks

General guidance on the competence assessment marking scheme can be found by following the link : [oisc-level-1-assessments-general-marking-scheme](#)

### Code of Standards Seminars

We are presenting a series of seminars to assist advice organisations to become fully conversant with the changes made to the new Code.

These seminars will help participants develop a thorough understanding of the requirements for professional conduct and client care in the context of our new principle-based approach to the regulation of immigration advice and services.

Currently we have planned the following events. The seminars will be held in central London.

13 <sup>th</sup> May 2016	30 <sup>th</sup> June 2016
AM – Code of Standards	AM – Code of Standards
PM - Code of Standards	PM – Code of Standards

We will hold further seminars in the coming months in London, Glasgow, Manchester and Sheffield.

Places will be limited so only one person from each particular organisation may attend. Please note that the allocation of places is generally on a “first come, first served” basis. The seminars are open to advisers and regulatory compliance officers within registered organisations. There will be 50 places available at each seminar, so if you are invited, please ensure that you attend.



1 April 2016

*“It would be  
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## At the Tribunals



### Suspension applications

The Immigration Act 2014 strengthened the Commissioner’s powers to enable him to regulate organisations more effectively and offer better protection to the public. One of these new powers was to be able to apply to the First-tier Tribunal to suspend the registration of an adviser where they have been charged with a serious criminal offence such as offences involving dishonesty or deception; an indictable offence; or an offence under s.25 or 26(1)(d) or (g) of the Immigration Act 1971.

The Tribunal provided guidance on the approach that should be taken when deciding whether or not to grant a suspension application made by the OISC. The principles include:

- whether there would be a serious risk to the public due to the nature of the charge;
- whether public confidence in the Commissioner’s scheme would be damaged if the adviser continued to practise; and
- the impact that any suspension would have on the adviser and their clients.

This guidance has been fully taken into account in the cases that have come to the OISC’s attention since this power’s introduction. To date the Commissioner has successfully applied to suspend the registration of three advisers who had been charged with serious criminal conduct. A further application was withdrawn when the adviser withdrew from the regulatory scheme.

### Professional Indemnity Insurance and Freedom of Information requests

In a recent decision, the **First-tier Tribunal (Information Rights)** held that the Commissioner had acted correctly by refusing to disclose details of the Professional Indemnity Insurance (PII) of an organisation no longer registered by him following a Freedom of Information Act request by a former client. Holding PII and providing evidence of this to the Commissioner is a mandatory requirement for all advisers. The Tribunal held that the Commissioner had correctly applied the public interest balance test in refusing disclosure because the Immigration and Asylum Act 1999 placed a duty on the Commissioner to protect the confidentiality of material, including details of PII, provided under compulsion by advisers to them.

The Tribunal accepted the Commissioner’s argument that the identity of the insurer would serve no purpose in any civil proceedings against the insured. The purpose of PII would be to protect the insured by providing cover for the legal costs and expenses in defending any possible claims made against them. In this case, any action would lie against the insured and not the insurer. It would be “**contrary to common sense**” to force the Commissioner to disclose details of PII where it would not be capable of assisting any action against the insured. The Tribunal also ruled that this course of action would not outweigh the Commissioner’s duty of confidence to advisers.



1 April 2016

benefit from  
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over **£500,000**.  
The judge  
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## PROSECUTIONS



On 4 March 2016 at Southwark Crown Court, Judge Nicolas Lorraine-Smith issued a confiscation order against [REDACTED] of London.

He was ordered to pay £55,789 within the next 3 months or serve a further 18 months' imprisonment in default of payment.

[REDACTED] had been convicted of providing illegal immigration advice and services on 3 July 2015 and sentenced to 15 months' imprisonment.

At the time of the original sentencing Judge Nicolas Lorraine-Smith said: “You knew what you were doing was wrong and you have done everything possible to avoid detection and conviction”.

His Honour Judge Lorraine-Smith said he had no hesitation in finding that [REDACTED] had a criminal lifestyle and that he was a “fraudsman to his fingertips”. He had told lies throughout proceedings and his explanations of his financial affairs were simply unbelievable - rarely had he heard a less credible witness.

“I'm satisfied you are manipulative and greedy. You have been preying on vulnerable people who needed immigration advice.

[REDACTED] benefit from crime was found to be over £500,000, however he only had £5,789 left in bank accounts that could be traced. As many of these were in false names, the Judge was satisfied that [REDACTED] had “hidden assets” of £50,000. The Judge said that the victims of [REDACTED] crimes should now receive compensation.



Judge Nicolas Lorraine-Smith

[REDACTED] West Midlands, pleaded guilty at Westminster Magistrates' Court on 3 February 2016, to 10 charges of providing unregulated immigration advice or services committed since September 2013.

He asked for one further offence to be taken into consideration. The offences were considered so serious that he was committed to Southwark Crown Court for sentencing.

On 3 March 2016 he was sentenced by Judge Pitts at Southwark Crown Court to 9 months' imprisonment, suspended for 2 years and ordered to work 200 hours unpaid community work within the next 12 months. He was also ordered to pay costs of £1,881.20 and to repay all his victims the monies he had charged them.

Judge Pitts describing his actions as:

“The deliberate and dishonest targeting of vulnerable victims”.



[REDACTED] Kent pleaded guilty at the City of London Magistrates' Court on 3 February 2016 to 6 charges of providing unregulated immigration advice or services since April 2012.

She was sentenced at the City of London Magistrates' Court on 22 March 2016 to 12 weeks' custody, suspended for 6 months. She was ordered to pay compensation of £986 and costs of £1,621, with a victim surcharge of £80.

On sentencing, the senior magistrate said:

“The offences are very serious. You were not entitled to give advice and the advice you did give was incompetent.”

1 April 2016

*“checks by landlords in relation to the Right to Rent Scheme, or by carriers and road hauliers in... Carriers’ Liability or employers in... Right to Work penalties, is.... not regulated by the OISC.”*

## REQUEST AN OISC SPEAKER FOR YOUR EVENT



### New Application and Service Fees Announced by UKVI.

On 26 February, the Home Office laid legislation in Parliament, which makes changes to specific application fees.

The new legislation came into effect on 18 March 2016.

The main changes are:

- visas offered to workers and students, will be increased by 2%
- a 2% increase will apply to all visit visas
- an increase of up to 25% will apply to settlement, residence and nationality fees,
- an increase of up to 33% for optional premium services offered by the Home Office.

Fees for applications for Citizenship and Right of Abode have also changed.

Fees for all sponsorship categories will be held at the current rates

Immigration advice organisations are invited to contact the OISC if they have an interest in receiving input or representation from the OISC at one of their future events.

Advisers organisations should email [sharon.harris@oisc.gov.uk](mailto:sharon.harris@oisc.gov.uk) in the first instance to register an interest. Advisers will subsequently be contacted to discuss possible options.

### Right to Rent and Other Schemes

The new Right to Rent rules mean that landlords need to carry out checks on all new adult tenants to make sure they have the right to rent property in the country.

Right to Rent, which also applies to people who are subletting their property or taking in lodgers, was introduced in the Immigration Act 2014. Landlords who fail to carry out checks risk a potential penalty of up to £3,000 per tenant.

Landlords must check identity documents for all new tenants and take copies. A wide range of documents can be used for the checks. UK Visas and Immigration is making changes to the Immigration Rules affecting various categories. The OISC does not consider that checks landlords must make in relation to the Right to Rent Scheme, or by carriers and road hauliers in relation to Carriers’ Liability or employers in relation to Right to Work penalties, is covered as a “relevant matter” under s.82 of the Immigration and Asylum Act 1999. Such checks are therefore **not** regulated by the OISC.

OISC News is published by the Office of the Immigration Services Commissioner.

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