

Guidance note on Premises and Maintaining the Business in the Adviser's absence



Aim and purpose

Section 83 of the Immigration and Asylum Act 1999 places a statutory duty on the Immigration Services Commissioner to promote good practice. In accordance with this, this note sets out the Commissioner's views on premises and maintaining the business in the adviser's absence.

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Premises

1. For the purpose of this Note the word “premises” refers to any office or meeting rooms, access to and within a building, reception and any other facilities and the immediate surroundings used by the organisation in the course of business. The term “other facilities” includes use of the internet and electronic storage.
2. Organisations are under a positive duty to act always in the best interest of their clients and to place their interests first. The premises from which an organisation practises should not prejudice the safety or welfare of clients or compromise their best interests.
3. The Commissioner’s *Code of Standards* requires that clients should be able to discuss their needs with the organisation, determine whether the organisation can assist them and have explained to them what work would be undertaken on their behalf if the organisation was instructed. Often clients appreciate a face-to-face meeting to discuss their issues. To provide for this an organisation should have an office or at least a dedicated space to facilitate private discussion.
4. Although the Commissioner does not stipulate exact premises specifications, she expects that premises will be suitable for the type of work the organisation does. At a minimum, these must be large enough for clients to be able to sit and discuss their cases in a confidential setting. Thus, there must be sufficient room in the office to hold private conversations. In addition, the premises must have enough space to enable client files to be held securely.
5. The office premises must be located and designed to ensure that the safety of clients and other visitors, including OISC personnel staff, is not put at risk. Access to, and within, an organisation’s premises, for example to interview rooms, toilets and stairs, must not jeopardise the safety of visitors or pose any undue risk to them. Advisers must also consider whether their professional indemnity insurance will cover them when providing advice from their premises.
6. The premises must have a private space large enough for a client with a child in a pushchair or a person using a wheelchair to be comfortably accommodated with the door closed. Organisations are required to take reasonable steps to remove, alter or provide a reasonable means of avoiding any physical feature of their premises which makes access to a service impossible or unreasonably difficult for disabled people. Where no physical adjustments can be considered reasonable, it is possible for an organisation to provide its services by other means, such as by visiting the client or by using the telephone or internet. Organisations can find further advice on this subject from the Equality and Human Rights Commission <http://www.equalityhumanrights.com/> telephone 0845 604 6610 (England); 08456045510 (Scotland) 08456048810 (Wales).

7. Organisations are under a legal duty to comply with all relevant legislation governing businesses, business premises and employment, (Code 13). The Commissioner expects organisations and the premises from which they practise to conform to all required legislation. Health and Safety Regulations set minimum standards for employers and their business premises. You can find more information by logging onto the Health and Safety Executive's website on www.hse.gov.uk.
8. It is an organisation's duty to ensure that the Commissioner's information on their organisation is kept up to date. Organisations must notify their clients and their OISC caseworker within 10 working days if they move premises and/or open new branches (Code 54). The Commissioner must be informed of each address from which immigration advice or services are being provided. This enables the OISC to give potential clients information of where they can find regulated immigration advice and assists government departments to process applications without having to check the regulatory status of advice organisations.

Maintaining the Business in the Adviser's Absence

1. Not all organisations can arrange for their office/s to be continually staffed during opening hours. Organisations are expected, however, to put in place arrangements that enable clients to get in touch with them in case of emergencies. The organisation must leave such contact details on their premises (e.g. a notice), on their answer phone and their out-of-office auto-reply notification if on e-mail. This could be by way of using a 'Serviced Office' or message relaying facility. Whatever the arrangement made, organisations should ensure that their clients as well as their OISC caseworker are aware of what arrangement is in place.
2. The Commissioner expects that all messages or communications left for the organisation are checked regularly and dealt with as soon as reasonably possible. Organisations should refer to the Guidance note on "cover in the absence of an adviser".

CHECKLIST

This is a list of items which, while not exhaustive, organisations should think about before deciding on where they wish to locate their services particularly if they are thinking about operating from a private home:

- Will confidentiality of conversations/interviews be possible?
- Can paper files and client documents that need to be retained on the premises be capable of being stored securely?
- Will computer systems containing client information be sufficiently protected?
- Will it be possible for all clients to be made comfortable and secure?
- Will current professional indemnity insurance cover be sufficient?
- Can client files be readily and securely accessed if the organisation's staff are absent for an extended period? (see "Cover in the absence of an organisation note")
<http://oisc.homeoffice.gov.uk/servefile.aspx?docid=319>.)]
- Will OISC staff be able to carry out an audit or any regulatory activity on the premises in the normal manner?