

Practice Note on Promotional Material, the Promotion of Business and Advertising



Introduction

1. This Practice Note covers how immigration advice and services might be promoted to potential clients while maintaining compliance with the OISC's Code of Standards. In particular, compliance with Codes 18-19 and 73-78 of the Code.
2. Code 49 requires a registered organisation to have and effectively apply management structures and policies to support and maintain a viable and sustainable business. These should include identifying who at the registered organisation has overall responsibility for overseeing the promotion and advertising of that organisation.

Promotional Material and the Promotion of Business

3. Although not limited to online material, promotional material includes information contained on a registered organisation's website or on social media whether or not that organisation offers immigration advice and services solely online or in a more traditional manner through face-to-face meetings with clients.
4. Further to paragraph 2, a registered organisation is solely responsible for the content of its website, and any online presence it has set up for promotional purposes.
5. A registered organisation must ensure that they are able to easily contact their website developer, if used, to effect any changes to its website as may be requested by the Commissioner. Any such changes to the website of a registered organisation or to any social media presence should be able to be made promptly.
6. The website, online presence or any other promotional material of a registered organisation should accurately represent that organisation, the services offered, and the qualification of the authorised adviser allowing them to provide that service. This might include the following examples, although this list is not exhaustive:
 - The promotional material should not suggest, either expressly or implicitly, that the organisation is larger than it is, or comprises a team of authorised advisers, when in fact it consists of a sole adviser; and
 - The promotional material should not include potentially misleading descriptions of the reputation of the registered organisation. For example, a newly registered organisation with a small client base should not describe itself as being an established organisation and a market leader.
7. Where the website of a registered organisation displays client testimonials, these should only contain information that has been volunteered freely by the client, the client should be made aware that the information may be included on the website as a testimonial, and the testimonial should be accurate and not misleading. The Commissioner may request to see records, including the corresponding case file for example, of such testimonials.
8. If the website or online material of a registered organisation is provided in a language

other than English, where for example the organisation primarily deals with clients of one nationality or ethnicity, an identical version of that material in English should also be easily accessible.

9. Where a registered organisation is a company registered with Companies House, the website of that organisation should contain details of that registered entity. This includes where the registered organisation provides immigration advice and services using a trading name different to the name of the registered company.
10. Whether or not a registered organisation offers immigration advice and services solely online or in a more traditional manner through face-to-face meetings with clients, its website and any online presence must, in accordance with Code 70, prominently display the OISC's regulatory details and unique number. It should also include the OISC logo.
11. Where a registered organisation offers immigration advice and services online, a client or prospective client using the organisation's website should be able to contact that organisation directly. Accordingly, the website should contain either a contact telephone number or an email address where this can be done.
12. A registered organisation's website should include a privacy policy statement which advises a visitor (including a prospective or actual client) of how their data will be used, disclosed and managed.
13. A registered organisation must ensure that its website does not include any material that violates copyright or trademark laws.

Advertisements

14. Further to paragraph 2, a registered organisation is solely responsible for the content of any advertisements it authorises.
15. Advertisements can be written or oral. For example, a registered organisation might place an advertisement for its services in a local newspaper, or on a local radio station.
16. Registered organisations are under a duty to ensure that the information contained in any advertisement is accurate. To do otherwise may mislead potential clients, which could have serious consequences for them. The issues raised at paragraphs 6 and 7 which apply to online promotional material, should equally apply to advertisements.
17. An advertisement can be deceptive in various ways. For example, if it:
 - contains a false statement of fact;
 - conceals or omits important facts;
 - promises to do something, but there is no intention of carrying it out; and/or
 - creates a false impression of the organisation.

Marketing

18. Registered organisations should be cautious when approached by third parties offering 'marketing' or referral arrangements to drive potential clients to advisers.
19. When considering entering into an arrangement, be it oral or a written contract with a third party company, the Commissioner would advise that a registered organisation take the following steps:
 - know who they are dealing with by researching who the company is;
 - consider the contract being offered and whether it is committing the registered organisation to a position it may be unable to sustain, for example if the registered organisation will be able to effectively deal with a sudden large influx of clients;
 - consider client expectations and what exactly is being said or promised to such clients by the third party firm;
 - review payment arrangements and in particular who will be collecting the applicants fees and when these fees are payable bearing in mind that there are specific Codes that relate to fee payments;
 - keep in mind the Commissioner's Codes on the referral of clients which do not permit the registered organisation to pay a fee or request a fee for such referrals;
 - consider what continued involvement the third party has in the applicant's case after the registered organisation has been instructed. In addition, authorised advisers must also consider issues of client confidentiality.

Complying with UK Legislation

20. Registered organisations are required to always act in accordance with UK law, pursuant to Code 1 of the Code of Standards. Registered organisations must therefore conform to all relevant legislation in its promotional material and advertising.
21. Registered organisations must ensure that they do not breach the *Consumer Protection from Unfair Trading Regulations 2008*. This act prohibits certain misleading omissions, misleading actions and aggressive commercial practices and makes it a criminal offence to engage in the prohibited activity.
22. When advertising, registered organisations should also be aware of the Codes issued by the Committee of Advertising Practice (CAP). For further information advisers should visit the CAP's website at <https://www.cap.org.uk/Advertising-Codes.aspx>.

Touting

23. Code 74 prohibits advisers from touting for clients. Touting is when any person looks to solicit business typically in a high-pressured, persistent manner. A registered organisation should refer to the Commissioner's Guidance Note to accompany the Code of Standards for further reference to what might constitute touting.
24. Registered organisations are, however, not prevented from pursuing legitimate business interests. For example, touting does not include where registered organisations approach current or former clients with a view to providing further services within the organisations level of authorisation. For example, an authorised adviser may have assisted a client in obtaining leave to remain in the UK and they may wish to offer to assist them further in obtaining settlement. While such approaches are permitted, they must not become harassment.

Complaining about Another Adviser

25. It is important that advisers complain to the OISC if they are concerned about another adviser's fitness and competence. They must not, however, make adverse comments, in their advertising or other promotional material, regarding such concerns about another adviser.

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