

**Application for Registration**

**for Level 1 Immigration**

**(limited to the EU Settlement**

**Scheme)**

**Guidance Notes**

May 2022

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**Do I need to apply for Registration?**

The document below details what support organisations can provide to EU Citizens on immigration matters without the need for regulation by the OISC (Office of the Immigration Services Commissioner) or a Designated Qualifying Regulator such as the Solicitors Regulation Authority, Bar Standards Board or CILEx Regulation (and their equivalent organisations in Scotland and Northern Ireland).

The document also details what support organisations can provide which does fall for regulation.

Immigration Assistance Practice Note

If your organisation wish to provide support to EU Citizens that wish to make an application under the EU Settlement Scheme this guidance note provides details about how to apply for regulation.

**Types of organisations that may apply**

The OISC Level 1 EU Settlement Scheme registration is for organisations that are able to offer their clients either free advice and services or charge only a modest fee to contribute to the running of the organisation on a not for profit basis.

Those organisations that are already registered with the Charity Commissions for England and Wales, Northern Ireland and the Scottish Charity Regulator should make this clear on their application form. Those organisations that are not registered charities may still apply but must demonstrate that they are a not for profit organisation.

Irrespective of whether the organisation is a registered charity or not, if it intends to charge for its services it must do so consistent with UK Charity law and act on a not for profit basis.

Those organisations offering free advice to clients will pay the OISC no fee for their application for registration. Those that charge clients for their services, either directly or indirectly will pay a fee (see below for further details).

Organisations that wish to operate on a for profit basis to provide advice and services on the EU Settlement Scheme should apply for registration with the OISC at Level 1 Immigration which will enable them to provide advice and services across the full range of immigration matters.

**What work is permitted at Level 1?**

The Guidance on Competence explains how the three Levels of OISC registration operate.

Advisers who are authorised to provide advice and services related to Level 1 Immigration limited to the EU Settlement Scheme should be aware of the limitations of the advice and services they can provide. Such advisers can make applications for EU Citizens and their family members under the EU Settlement Scheme, where such applications rely on the straightforward presentation of facts to meet the criteria set out by the Home Office under the scheme. Such applications will not be discretionary or concessionary in nature and applicants will not have an immigration history that is likely to adversely affect the application in question.

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Where a case becomes complicated or an application is refused an adviser must refer the client as soon as possible to an adviser authorised to practise at OISC Level 2 or 3.

**Proof of right to work**

Applicant advisers applying for authorisation at Level 1 Immigration limited to the EU Settlement Scheme must have permission to work in the UK. Details of evidence that needs to be provided to the Commissioner is set out on the Statement of Competence that each applicant adviser must complete.

**Registration Period**

The period of OISC registration under the Level 1 EU Settlement Scheme will be two years from the date of OISC registration.

**Do I need to submit an application fee?**

Organisations pay no fee for their application where the organisation-

a) provides immigration advice or immigration services in the course of a
business that is not for profit; and

(b) does not charge a fee, directly or indirectly, for the provision of that advice or those services.

Unless your organisation can meet both these criteria then you need to submit an application fee with the application for registration

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**How do I apply for registration?**

To apply for registration you need to complete the following steps:

1. **Complete Disclosure and Barring Service Check (for new advisers)**

All new applicant advisers applying for registration to provide immigration advice and services are required to apply for a Disclosure and Barring Service (DBS) check. Details on how to apply for a DBS check can be found on our website.

Everyone in your organisation who is listed as a new adviser in your application (unless previously registered with the OISC within the last 6 months) must obtain a DBS check-standard disclosure and will be asked to provide evidence that a DBS check has been requested in their competence statement.

The OISC will not make a decision on the application unless each candidate has obtained a DBS check. The DBS check is likely to take several weeks to complete.

The OISC is committed to treating applicants who have a criminal record fairly, and has a written policy on how it assesses convictions when deciding applications for. A copy is available on the OISC website.

Convictions under sections 25 or 26(1)(d) or (g) of The Immigration Act 1971, will mean an adviser is automatically disqualified from registration.

1. **Read the Commissioner’s Code of Standards, Guidance on Competence and Guidance on Fitness**

Copies of the Code of Standards, Guidance on Competence and the Guidance on Fitness can be downloaded from the OISC website. You should study them carefully before making your application. The Code of Standards sets the standards by which you must operate if you are registered by the OISC.

1. **Complete an electronic application form for registration online**

The first section is called Organisation details. You must provide all the information requested, including Adviser details and all declarations. You must also provide details of those owning and/or running the organisation.

To assess your suitability for registration, the OISC will consider your fitness and competence to provide immigration advice and services. The form makes clear where you are required to provide information and documentation which will assist us in deciding the application. Guidance is provided in these notes and with the model documents available on the OISC website.

Guidance for completing required documentation can be found with the Model Documents on our website.

At each stage of the application you will be asked to confirm that you have read and understood the relevant Codes on the pages headed Declaration.

You must complete a new adviser application form and competence statement for each new adviser (unless previously registered with the OISC within the last 6 months).

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1. **Pay the application fee**

A fee must accompany your application for registration if you intend to charge for immigration advice and services.

The scale of fees is set by the Immigration and Nationality and Immigration Services Commissioner (Fees) (Amendment) Regulations 2022 No. 296

**Level Number Registration Continued**

**of Fee Registration**

**advisers Fee**

**1** n/a £733 £733

The registration (application) fees collected by the OISC are determined by the Home Office under statutory powers and must accompany applications.

The OISC has no power to refund application fees in respect of withdrawn or unsuccessful applications and refunds will be made in only the most exceptional circumstances.

When making payment, please send your application fee by BACS or online transfer to the account detailed below:

Sort code: 60-70-80

Account no: 10014934

Account Name: OISC No2 Account

Bank: NatWest

Please quote your organisation’s name as the reference when sending BACS payments. Cheques should be made payable to: The Office of the Immigration Services Commissioner

**If you pay by cheque please ensure you print your full name and organisation number clearly on the back of the cheque so the OISC can match your payment to your application.**

1. **Check you have a complete application**

At page 11 of the application form is a page headed **Application Checklist.** When you feel you have completed the application form, provided all information and documentation required, you should check your application against that Checklist. If your application is complete it is ready to be submitted to the OISC. Upon receipt of a completed application we will assign a caseworker to assess your suitability for registration.

1. **Submit your application**

Application forms should be completed electronically and submitted to the OISC *OneDrive* folder via the OISC website. The process is simple and secure and full instructions on how to do this are provided online.

If you experience any problems completing or uploading your electronic application form please email info@oisc.gov.uk or telephone 0345 000 0046 for further assistance.

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**What happens when I have submitted my**

**application?**

Once you have submitted all the required information and documentation, we will consider your application. The material you have submitted will be assessed for compliance with the Code of Standards.

Should we have queries regarding the documents you have submitted, the caseworker considering your application will contact the primary contact that you have nominated on your application form. Your caseworker will also advise you if you need to make any amendments to the documents provided to ensure they meet our requirements.

If during your application, you become unavailable for contact or fail to respond adequately and in a timely manner to the Commissioner’s requests for information, including failure to attend a pre-registration audit, the Commissioner will be unable to verify that you are fit and competent to provide immigration advice. Please note that it is your responsibility as an applicant to be able to meet the requirements of the application process and the Commissioner expects you to be in a position to implement any requests in relation to your application for as long as is necessary following its submission. **Failure to comply with the above may lead to the refusal of your application.**

**Adding New Applicant Advisers after the**

**submission of your Application for**

**Registration**

The OISC will consider your application for registration on the applicant advisers included with the original documentation and upon which an applicable fee has been paid (if appropriate).

Should you wish to add an applicant adviser not included in your original application, you may do so, but we will consider and decide the original application first.

Once that decision has been made, we will consider separately, any applications from additional advisers that you wish to add to your original application.

**Timescales for deciding an Application for**

**Registration**

The OISC will aim to make a decision on your application for Level 1 Immigration limited to EUSS within four – six weeks from the date of submission.

In order to process your application quickly the OISC requires that you respond to any requests for additional information or amendments to the documents that we need you to make by the deadlines we request of you.

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**Details of those owning and/or running the**

**organisation**

The organisation must provide information in relation to its owners and/or those running the organisation. Please complete the relevant sections of the application form for those owning and/or running the organisation.

For the OISC’s purposes a person is considered an owner of the business if they own at least 40% of the business. A person is considered to be involved in running an immigration advice organisation if they occupy one or more of these roles: (Private Firms) Self-employed sole trader; Partner; a Company Director (executive or non-executive) Company Treasurer or Secretary or (Charities) Chief Executive Officer or a Trustee.

For further information please see The Guidance on Fitness (Owners)

**What qualifications am I expected to have?**

You do not need any specific qualification to apply for registration. However, your competence and fitness will be thoroughly assessed before you will be approved. You will need to satisfy the OISC that you have the knowledge and skills to practise competently in relation to Level 1 Immigration limited to the EU Settlement Scheme.

Your organisation will need to satisfy the OISC that you have the resources, management structures and procedures needed in accordance with the Commissioner’s Code of Standards.

**What if I have no previous experience of**

**immigration work?**

Having no previous experience in immigration work will not disqualify your application from consideration. Applicants may be able to demonstrate experience in the advice giving sector outside of immigration work and must have undertaken suitable training in immigration law and practise. We will take into consideration the information that you provide on your competence statement and any formal training that you have undertaken.

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**Will the OISC train me to become an**

**immigration adviser?**

No, the OISC will not train you to become an immigration adviser.

The OISC produce guidance and practice notes for registered advisers to assist organisations in maintaining compliance with the regulatory scheme. Also, as a registered adviser you will be able to access any webinars or workshops which the OISC host, but these tend to focus on the regulatory requirements. Authorised advisers are required to ensure they keep up to date with changes in immigration law through designing and undertaking relevant CPD, but you are expected to be fully competent in the areas of immigration law you are seeking authorisation in at the point in which you apply to the OISC.

**Can I provide immigration advice and**

**services whilst my application is being**

**assessed?**

No. You must not provide immigration advice and services until the Commissioner has approved your application.

If we become aware that you are practising illegally, i.e. without authorisation, this could affect the Commissioner's decision as to whether or not to approve your application.

Also, it is a criminal offence punishable by fine and/or imprisonment for anyone to provide, or offer to provide, immigration advice and services without being approved to do so by the Commissioner (or other body as defined in Section 82(2) of the Act).

**Is my authorisation transferable to another**

**organisation?**

Your authorisation is not automatically transferable.

If you are currently registered (or were registered within the last 6 months) and are seeking to join an organisation that is applying for registration, the applicant organisation should add you to the registration application but does NOT need to submit a Competence Statement on your behalf, undertake a DBS check or provide identity documents and proof of right to work (unless evidence of further leave to remain in the UK is required).

If you were previously registered by the Commissioner but it has been over 6 months since you left the regulatory scheme, and you wish to join an existing or new applicant organisation, then you do need to submit a new competence statement and will need to apply for a new DBS check.

Please note that the applicant will need to wait for the Commissioner to approve the application before they can provide immigration advice and services on behalf of the registered organisation.

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**Data Protection (GDPR)**

The OISC is registered with the Information Commissioner under the provisions of the General Data Protection Regulation and Data Protection Act 2018.

The Commissioner is a data controller in relation to the information received by her for the purposes of her functions under The Act.

Section 93 of The Act, prohibits the disclosure of information received by the Commissioner except with lawful authority, including where disclosure is necessary in the public interest.

The Commissioner may, for example, take the view that, in all the circumstances of a case, disclosure to an elected representative, e.g. an MP, is necessary in the public interest.

Information held by the OISC is not passed to others for marketing or similar purposes.

The OISC publishes details relating to registered organisations on the OISC register and adviser finder. These include a contact name, the address of the organisation and the names of all advisers at each organisation. If you do not wish such details to appear on the adviser finder please inform us in writing as soon as possible.

For further information as to how the OISC handle personal data relating to advisers and applicants, please see the OISC Privacy Notice.

**If you’ve understood everything so far, you**

**are now ready to complete the application**

**form**

Go through each section providing as much detail as possible, completing the tick boxes where appropriate.

It is essential that you give us as much detail as possible about your organisation so that we will gain an understanding of the way your organisation will operate. This should reduce the time your application will take to process.

We have provided Model Documents on our website to assist you with our requirements.

The answers and documentation you provide must accurately reflect of the way you intend to work.

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**Competence Code 5**

**See application form page 7**

Code 5 says organisations and must act competently when giving immigration advice or services.

Guidance on what knowledge and skills are required of advisers seeking authorisation at Level 1 Immigration limited to the EU Settlement Scheme, are set out on the Competence Statement that must be completed by each applicant adviser. As an organisation you should review this list with applicant advisers and satisfy yourself that they are aware of and competent to deal with each of the areas listed here.

Each applicant adviser must then complete a Competence Statement and sign the declaration (unless previously registered with the OISC within the last 6 months).

The Competence Statement is an opportunity for an adviser to provide evidence of the knowledge, skills, training and experience they have that prove that they are competent to give advice. The more detail that is provided, including dates, details of courses and the types of applications the adviser has worked on, the quicker the statement can be assessed.

If you do not submit a Competence Statement providing this information, we cannot be satisfied that you comply with Code 5.

**Client Care Letter Codes 23-26**

**See application form page 7 and model document on website**

Code 23. An organisation must provide all prospective clients with a client care letter.

A prospective client is someone, for example:

* with whom an adviser has had an initial consultation; and
* there is an expectation of a continuing professional relationship.

This person can be distinguished from someone who asks one-off questions and who has no expectation or gives no indication of intending to instruct the registered organisation or adviser further, for example where an individual attends a drop-in advice centre. This remains the situation even if a client returns for one-off advice again at a later point on the same matter.

It is likely that many organisations applying for registration at Level 1 Immigration limited to the EU Settlement scheme will provide advice in this manner and may not therefore need to submit to the Commissioner a draft Client Care letter. If this is the case this should be evident to us from the business plan you submit to us.

Code 24. The adviser must take reasonable steps to ensure that the prospective client understands the contents of their client care letter before being asked to agree it. The organisation should not do any further work until the client care letter has been agreed, other than in exceptional circumstances.

Code 25. An organisation must keep a record of the client’s agreement to their client care letter either by way of a signed and dated copy of the letter or evidence of their agreement electronically.

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Code 26. A client care letter must contain:

1. a statement identifying the client for whom the organisation is acting;
2. a statement of the client’s immigration status, if known;
3. full details of the client’s instructions, advice given and the work agreed to be done with estimated timeframes;
4. confirmation of the costs estimated or agreed;
5. confirmation that if client money is held by the organisation on behalf of the client,
such money remains the client’s until the client is invoiced and payment is due;
6. information explaining what, if any, additional costs may be incurred for which the client may become liable;
7. contact details of the adviser dealing with the matter including their name, address, telephone number and email address;
8. confirmation that if the client is required to hand over any original documents to the organisation, the client will, if necessary, be given copies of those documents as soon as reasonably practicable;
9. the organisation’s complaint-handling procedures;
10. all other terms and conditions of the agreement, and, if online selling regulations are relevant, the client’s protections under relevant legislation;
11. confirmation that the organisation is regulated in the UK by the Commissioner and that the Commissioner has the power to examine the client’s file; and

confirmation that the organisation retains full responsibility for all work done on behalf of the client.

**Client Closure Letter Codes 46 & 47**

**See application form page 7 and model document on website**

Code 46. On completion of a client’s case an organisation should provide the client with a written statement including the following information:

1. confirmation that the case has been completed including a statement of the case’s outcome and implications. This should include any dates or restrictions on the client’s leave, if known;
2. a list of the original documents returned to the client; and
3. a final financial statement, if appropriate.

Code 47. Where the client’s case has not been completed, but the client has withdrawn their instructions or the organisation has decided to withdraw from the case, an organisation must make every effort to provide the client with a written statement including the following information:

1. confirmation that the case has been completed including a statement of the case’s outcome and implications. This should include any dates or restrictions on the client’s leave, if known;
2. a list of the original documents returned to the client; and
3. a final financial statement, if appropriate.

Codes 46 and 47 apply to all clients who have been issued with a Client Care Letter in line with Codes 23 to 26.

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**Running the organisation Codes 49 to 51**

**See application form page 8 and business plan model document on website**

Code 49 says organisations must have and effectively apply appropriate management structures, governance arrangements, processes and policies to support and maintain a viable and sustainable business. These must be available for inspection by the Commissioner.

Code 50 says organisations must inform the Commissioner of the individual who has specific overall responsibility for those who give immigration advice or immigration services within their organisation.

Code 51 says organisations must have a business plan for its current business year together with cash flow/funding projections.

The business plan should set out the aims and objectives of the organisation and how the organisation plans to meet them. These should be divided into the short term, for the next year, and the long term, for the subsequent two years.

The business plan should be reviewed annually.
**Constructing a business plan**

You will need to consider the following and may wish to include within your business plan:

* The short-term objectives of your organisation
* The organisation’s objectives for the subsequent 2 years
* Details of the individual who has overall responsibility for those that give immigration advice or services
* How much will you need to invest in training
* Financial requirements/Cash flow – During start up and thereafter e.g. buying computers, renting a business premise, staff salary, advertising costs.

**Professional Indemnity Insurance Code 52**

**See application form page 8**

Code 52 places an obligation on organisations to have adequate professional indemnity insurance cover in respect of any civil liability incurred in relation to their work and advice services.

To demonstrate you comply with Code 52 it is not necessary at the application stage for insurance cover to be activated, although no application can be approved until it is. You can submit an insurance quotation to show that your insurance is ready to be activated.

If you do not supply your insurance quotation or your insurance schedule and certificate, we cannot be satisfied you will comply with Code 52.

Please note the Commissioner recommends cover to be at least £250,000.

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**Fees and accounts Codes 58 to 69**

**See application form page 9 and model document on website**

Codes 59 to 61 state that organisations must have a written fee scale, which must be authorised by the Commissioner and must be produced to the Commissioner on request. The Commissioner must be informed in writing of any proposed changes to that fee scale and the organisation must await authorisation from the Commissioner before implementing any changes.

Code 61 place obligations on organisations to charge fees that are reasonable that directly relates to the work done and must not charge for work that is unnecessary or unauthorised by the client.

We suggest you give consideration to the following points when drafting your organisation’s fee scale:

* You should draft your fee scale with consideration of the principles outlined in Codes 59 to 61.
* The OISC will take a serious view of fees that it may consider too high.
* The range of payment options available to clients (i.e. cash, cheque or, where appropriate, credit card or electronic payments) can be included on your fee scale.
* Discounting and refund policies can also be offered to clients where appropriate.
* We recommend that you charge a fixed fee for your services except in exceptional circumstances.

**Procedure for handling complaints Code 79**

**See application form page 10 and model document on website**

The information below provides guidance on what the Code relating to complaints mean and what the Commissioner expects you to do with regard to complaints handling

Code 79 says organisations must have, and effectively apply, a written procedure for the handling of complaints approved by the Commissioner which includes a statement informing clients that they have the right to complain to the Commissioner at any time.

Your complaint procedure should define the timescales involved for investigating and

determining the complaint, as well as the name of the person responsible for any complaint. It must include details of the OISC's complaints scheme and be clear that the client can complain directly to the Commissioner at any time.

A good complaints procedure should include, but is not limited to, the following:

* Details of how to complain to the registered organisation;
* Details of how to complain to the OISC;
* Details of who to complain to at the registered organisation;
* Details of timescales for acknowledging and investigating complaints;
* Details of how complaints are investigated;
* Details of how a complaint investigation will be communicated to a complainant
* Details of the potential action that may be taken following a complaint; and
* Details of how complaints will be recorded in a central complaints log held by the registered organisation.

For further detailed guidance, please refer to the following – Dealing with clients concerns

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