



Consultation Response Annex B

Please send your completed response forms by no later than 23 October 2023 to consult@oisc.gov.uk

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Questions

1

Do you support the introduction of overarching Principles, with Codes which underpin each Principle?

2

Do you have any views on the proposed approach on the breach of the Principles and Codes?

3

Do you have any comments on the introductory statements in the Code of Standards at Annex A? If yes, please set them out.

4

Do you think the sector is ready for this kind of principle-based approach? What are the possible impacts on the sector?

5

Do you support the removal of the requirements or obligations that exist within the 2016 version of the Code of Standards (as set out in paragraph 12 of the consultation document)?

6

Do you support the addition of the new requirements to the new Code of Standards (as set out in paragraph 13 of the consultation document)?

7

What guidance or other support might regulated advisers or organisations find helpful in supporting them with understanding and complying with the new Code of Standards?

1

Principle 1.

Uphold the law.

Codes - You must:

- 1.1 Act in accordance with UK Law.
- 1.2 Not knowingly or recklessly allow clients, the Commissioner, the Home Office, the courts and/or third-party agencies to be misled.
- 1.3 Not abuse any judicial and/or immigration process.

Comments

2

Principle 2.

Comply with your legal and regulatory requirements to the OISC acting openly, promptly and co-operatively.

Codes - You must:

- 2.1 Only work for the specific organisation(s) you are authorised to work for under the OISC regulatory scheme.
- 2.2 Ensure that no unauthorised person(s) provide(s) immigration advice and/or immigration services on your behalf.
- 2.3 Not operate above your authorised Level or in Categories for which you are not authorised.
- 2.4 Seek written authorisation from the Commissioner to allow persons to operate above their authorised Level or in Categories for which they are not authorised, but within the Level and Categories granted to the organisation.
- 2.5 Only outsource work within your approved level and categories and obtain the client's prior consent to seek additional advice, opinions and other professional services on their behalf.
- 2.6 Have and implement an effective written procedure for the handling of complaints.
- 2.7 Notify the Commissioner in writing of any significant change to the business and/or of any significant changes to the personal circumstances of regulated advisers and those involved in the running of the business within a reasonable period of time.
- 2.8 Immediately notify the Commissioner in writing of any criminal charge, conviction and/or civil proceedings issued against regulated advisers and those involved in the running of the business.
- 2.9 Apply in writing to the Commissioner if you wish to be exempted from any part of the Code of Standards. You must await prior written approval of the exemption.

Comments

3

Principle 3.

Maintain high standards of professional and personal conduct, ensure public trust and confidence in the OISC regulatory scheme and do not bring the OISC into disrepute.

Codes - You must:

- 3.1 Display the OISC registration number where appropriate.
- 3.2 Only use the OISC logo in accordance with the instructions contained in your approval letter from the Commissioner.
- 3.3 Not tout for the business of providing immigration advice or immigration services.
- 3.4 Not include criticism of other organisations or advisers in any promotional material.
- 3.5 Not make publicly, orally or in writing, promotional statements about your success rates.
- 3.6 Not have an organisation name that has the potential to confuse or mislead clients. The Commissioner has the power to require you change your name.
- 3.7 Obtain the Commissioner's authorisation before making any change(s) to the organisation's name or legal status.
- 3.8 Act in a way that upholds public trust and confidence in the OISC regulatory scheme and in the immigration advice and/or services provided by authorised persons.

Comments

4

Principle 4.

Behave with honesty and integrity.

Codes - You must:

- 4.1 Conduct yourself with honesty and integrity in all your dealings.
- 4.2 Promptly report to the Commissioner any indication of serious misconduct of which you become aware within your organisation.
- 4.3 Promptly report any serious misconduct of which you become aware to the relevant authority.
- 4.4 Not demand or accept from any organisation or person, directly or through an intermediary, an inducement, be it financial or otherwise, for referring or recommending a client.
- 4.5 Not offer, directly or through an intermediary, an inducement, be it financial or otherwise, to any other organisation or person for referring or recommending a client.
- 4.6 Not charge clients directly or indirectly a fee for the provision of immigration advice where you have registered with the Commissioner as a non-fee charging organisation.
- 4.7 Inform your client(s) of the availability of Legal Aid and free legal advice where appropriate.

Comments

5

Principle 5.

Act competently and respect confidentiality.

Codes - You must:

- 5.1 Provide prompt, clear and competent advice to your clients.
- 5.2 Maintain the required level of competence in your immigration and/or asylum work and ensure that your immigration and asylum knowledge is current and of sufficient depth for your role.
- 5.3 Be able to demonstrate that you are compliant with the Commissioner's Continuing Professional Development requirements.
- 5.4 Be fit to provide immigration advice and/or services.
- 5.5 Maintain confidentiality in respect of your client's affairs except where to do so would conflict with the law or the Code or where your client explicitly authorises you to disclose confidential information.

Comments

6

Principle 6.

Act in the best interest of your client, deal with clients professionally and ensure they receive a good quality of service.

Codes - You must:

- 6.1 Always act in the best interest of your client.
- 6.2 Explain to your clients and potential clients, fully and clearly, in writing, where there is a real or potential conflict of interest. In these circumstances written consent must be obtained before acting for the client.
- 6.3 Provide all prospective clients with an effective client care letter.
- 6.4 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.
- 6.5 Ensure that each of your clients is kept regularly informed, in writing, of the progress of their case.
- 6.6 Have arrangements in place to ensure that, should you be temporarily unable to work, the client's case can continue to be progressed.
- 6.7 Return all documents relating to the client's case when requested and without delay.
- 6.8 Provide the client with a closure letter/statement where a client's case is concluded, or where the client withdraws their instructions, or you have decided to withdraw from the case.
- 6.9 Transfer all documents relating to the client's case and the client's file where a client requires that their case be transferred, irrespective of whether any payment is outstanding. All documents relating to the client's case and the client's file must be transferred as soon as possible and, in any event, no later than three working days of the request being made.
- 6.91. Retain all client files and records for at least six years, thereafter, securely destroying the files and records.

Comments

7

Principle 7.

Treat everyone fairly and without prejudice.

Codes - You must:

- 7.1 Treat everyone fairly, with dignity and without prejudice
- 7.2 Provide each client with equal opportunity to secure a favourable outcome in their matter, irrespective of their vulnerability or susceptibility to discrimination.
- 7.3 Show due respect to your clients, the Commissioner, the Courts and Tribunals and all other third-party agencies and/or organisations.

Comments

8

Principle 8.

Manage your business affairs and client records effectively.

Codes - You must:

- 8.1 Have an effective governance structure, governance arrangements, processes, and policies, to support and maintain a viable and sustainable business.
- 8.2 Have current and adequate professional indemnity insurance.
- 8.3 Maintain complete, clear and accurate financial records.
- 8.4 Implement and maintain an effective file management system.
- 8.5 Keep a complete record of all your dealings with and on behalf your clients in the form of attendance notes.
- 8.6 Store client records securely and ensure the records are accessible to the client at any time and available to the Commissioner upon request.
- 8.7 Ensure that where you retain a client's original documents, the client has a copy of those documents. The original documents must be returned to the client as soon as possible after they have served their purpose.

Comments

9

Principle 9.

Charge fairly and transparently, dealing appropriately with client money.

Codes - Organisations that charge clients fees must:

- 9.1 Have a fee scale and the organisation must only charge a reasonable fee that directly relates to the work done where you charge for your immigration advice and/or immigration services.
- 9.2 Submit an invoice to the client when payment is required and provide the client with proof of payment of the sum taken.
- 9.3 Ensure that, where the client has given prior authorisation for payments to be made from a credit or debit card, you only take fees invoiced seven days after the invoice has been provided to the client.
- 9.4 Hold client money in a distinct client account that is separate from your business account where you take money in advance or hold money for a client.
- 9.5 Promptly return to the client any remaining money in the client account at the end of the client's case or when the client has decided to terminate their instructions, or the organisation has withdrawn from the case.
- 9.6 Promptly return to the client any refund(s) received in respect of any disbursement(s).
- 9.7 Promptly return money to a client where there is agreement to a refund and/or where a client is entitled to a refund.

Comments

General comments on the overall document including potential impacts.



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