



Office of the Immigration Services Commissioner

Code of Standards

2024

Introduction

This introduction forms part of the Code of Standards (the Code).

The Code is made in accordance with paragraph 3 (1) of Schedule 5 of the Immigration and Asylum Act 1999 (the Act), as amended. The term 'Commissioner' for the purpose of the Code includes the Immigration Services Commissioner, the Deputy Commissioner, their staff and any agent acting for them, or on their behalf.

The Code applies to any organisation or person providing immigration advice or immigration services in the UK in relation to a "relevant matter" as listed in section 82 of the Act except for those listed in Schedule 5, paragraph 3 (3).

The Code sets the standards of conduct which are expected to be met by regulated advisers and regulated organisations and delivered for clients.

It is intended that the Code should meet the OISC's regulatory objectives, which are to:

- promote good practice to immigration advisers
- set standards for immigration advice and services
- make sure those standards are upheld

Compliance with the Code

The Code of Standards is comprised of nine core Principles derived from the OISC regulatory objectives set out above. The nine Principles permeate our entire regulatory arrangements; you must adhere to the Principles at all times. We believe our set of Principles reflect the universal values we expect all those we regulate to hold.

The Principles are underpinned by specific Codes. The Codes listed under each Principle are not exhaustive. An adviser may breach a Principle without breaching any of the listed Codes if they live up to the letter of the Codes but not the spirit of that Principle. Advisers must not only follow what is written in the Principle but must also adhere to its intention. For example, under Code 3.3 advisers are prohibited from touting for the business of providing immigration advice or services. By using a third party to tout for business the adviser may not have breached the Code but without doubt they would have breached the spirit of the Principle.

Failure to meet a Code requirement will in most cases result in the Principle being found to be in breach. An adviser may, however, in exceptional circumstances breach a Code without breaching the Principle. For example, under Principle 6 Code 6.4, advisers are required to obtain a signed and dated copy of the client care letter or evidence of their agreement electronically. Where it is not possible for the adviser to get the client's agreement – such as where the client is in detention – the Commissioner may decide, based on evidence that the client was fully aware of the action being taken on their behalf and it was in their best interest to proceed that, although Code 6.4 has not been met, Principle 6 has not been breached.

You are accountable for compliance with this Code and our other regulatory requirements that apply to you and must always be prepared to justify your decisions and actions. A serious failure to meet our standards or a serious breach of our regulatory requirements may result in us taking regulatory action against you. A failure or breach may be serious either in isolation or because it comprises a persistent or concerning pattern of behaviour.

Guidance Notes assist in the application and interpretation of the Principles and the Codes, but they are not themselves provisions of the Code. If a regulated organisation or adviser fails to follow a Guidance Note, then the Commissioner may consider that they have acted in breach of the Principle or accompanying Codes - although whether a failure to follow the guidance would amount to a breach of a Code provision would depend on the circumstances.

The OISC does not require regulated organisations to seek permission for a departure from the guidance, but organisations need to be prepared to explain why a departure was appropriate and prove that the Principle was still adhered to when work is being reviewed at premises audit or through a complaint investigation. Where departures from the guidance are not found to be meeting the specified Code, organisations found in breach will, at a minimum, be required to adjust their processes.

In essence, organisations may find that following the guidance provides a simple method for ensuring compliance with the Principle, while departure from it has some risks. Organisations need to determine for themselves if they believe they can manage such risks. This should be possible where the Principle is carefully considered, and actions and outcomes clearly documented.

Where a complaint is made about the conduct of anyone subject to the Code, the OISC will assess whether the alleged conduct has breached the Principles within the Code of Standards, or failed to meet any of the individual Codes. The investigation into the conduct will be carried out in accordance with the [OISC Complaint Scheme](#).

In this Code references to:

- 'the Commissioner' refers to the Immigration Services Commissioner;
- 'organisations' encompasses both registered organisations and advisers even if the word adviser is not used. Some Codes refer to advisers and this is to make clear where there are personal responsibilities;
- 'written notifications and communications' where referred to in the Code, can be given by hard copy letter, email or fax;
- 'You' and 'your' means OISC advisers or the regulated entity or those working for it.

Code of Standards

The Code of Standards sets out the nine core Principles to which advisers and organisations must adhere in their conduct, practice and professional performance.

Each Principle is supported by a series of Codes. You must adhere to the Principles and comply with the Codes.

The OISC issues Guidance Notes in respect of the Code of Standards to assist advisers and organisations to remain compliant.

Principle 1: Act in a way that upholds the Rule of Law and proper administration of justice

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 tribunals and/or third-party agencies to be misled.
- 1.3 Not abuse any judicial and/or immigration process.

Principle 2: Behave with honesty and integrity

Codes - You must:

- 2.1 Conduct yourself with honesty and integrity in all your dealings.
- 2.2 When providing immigration advice or services to clients, or when interacting with prospective clients or third parties, clearly identify yourself.
- 2.3 Promptly report to the Commissioner any indication of serious misconduct of which you become aware within your organisation.
- 2.4 Promptly report any serious misconduct of which you become aware to the relevant authority.
- 2.5 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.

- 2.6 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.
- 2.7 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.
- 2.8 Inform your client(s) of the availability of Legal Aid and free legal advice where appropriate.

Principle 3: Comply with your legal and regulatory requirements to the OISC acting openly, promptly and co-operatively

Codes - You must:

- 3.1 Only provide immigration advice and immigration services on behalf of the specific organisation(s) you are authorised to work for under the OISC regulatory scheme.
- 3.2 Ensure that no unauthorised person(s) provide(s) immigration advice and/or immigration services on your behalf.
- 3.3 Not provide immigration advice and/or services, or operate above your authorised Level or Category, without the written permission of the Commissioner.
- 3.4 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.
- 3.5 Have and implement an effective written procedure for the handling of complaints.
- 3.6 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.
- 3.7 Immediately notify the Commissioner in writing of any criminal charge, conviction and/or relevant civil proceedings issued against regulated advisers and those involved in the running of the business.
- 3.8 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.

Principle 4: Act competently and respect confidentiality

Codes - You must:

- 4.1 Be fit to provide immigration advice and/or services.
- 4.2 Provide prompt, clear and competent advice to your clients.
- 4.3 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.
- 4.4 Be able to demonstrate that you are compliant with the Commissioner's Continuing Professional Development requirements.
- 4.5 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.

Principle 5: Act in the best interest of your client, deal with clients professionally and ensure they receive a good quality of service

Codes - You must:

- 5.1 Always act in the best interest of your client.
- 5.2 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.
- 5.3 Provide all prospective clients with an effective client care letter.
- 5.4 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.
- 5.5 Ensure that each of your clients is kept regularly informed, in writing, of the progress of their case.
- 5.6 Have arrangements in place to ensure that, should you be temporarily unable to work, the client's case can continue to be progressed.
- 5.7 Return all documents relating to the client's case when requested and without delay.

- 5.8 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.
- 5.9 Transfer, as soon as possible and without prejudice to the client, their file and all documents where requested by the client, irrespective of whether any payment is outstanding.
- 5.10 Retain all client files and records for at least six years, thereafter, securely destroying the files and records.

Principle 6: Maintain high standards of professional and personal conduct, ensure public trust and confidence in the OISC regulatory scheme and do not bring the regulatory scheme into disrepute

Codes - You must:

- 6.1 Display the OISC registration number where appropriate.
- 6.2 Only use the OISC logo in accordance with the instructions contained in your approval letter from the Commissioner.
- 6.3 Not tout for the business of providing immigration advice or immigration services.
- 6.4 Not include criticism of other organisations or advisers in any promotional material.
- 6.5 Not make publicly, orally or in writing, promotional statements about your success rates.
- 6.6 Not have an organisation name that has the potential to confuse or mislead clients. The Commissioner has the power to require you to change your name.
- 6.7 Obtain the Commissioner's authorisation before making any change(s) to the organisation's name or legal status.
- 6.8 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.

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 Home Office, the courts and tribunals and all other third-party agencies and/or organisations.

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.

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 only charge a reasonable fee that directly relates to the work done.
- 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.

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