Immigration Advice Authority

Promoting best practice, protecting advice seekers

Border Security, Asylum and Immigration Act 2025: financial penalties consultation

Seeking views on the Immigration Advice Authority's proposed approach to financial penalties

Date published: 23 November 2026

Overview

The Immigration Advice Authority (IAA) is consulting on its proposed approach to using the financial penalties powers granted by the Border Security, Asylum and Immigration Act 2025. These powers will enable the IAA to impose financial penalties in specified circumstances, subject to the commencement of the relevant legislative provisions. This consultation seeks views on our proposed guidance, including the principles, methodology and practical operation of those powers, and how penalties should be assessed and applied in practice.

Contents

1. Why we are consulting 3
2. Who this consultation is for 3
3. Background 3
4. Scope of the financial penalties regime 4
   4a. Objectives of the regime 4
   4b. Who may be fined 5
5. Circumstances in which we will consider fining 5
   5a. Fining registered advisers 7
   5b. Fining those who provide or advertise advice unlawfully 7
6. Fining factors 9
7. Aggravating and mitigating factors 9
8. Methodology 10
   8a. Fixed fines 10
   8b. Variable fines 11
   the number and amount of any penalties already imposed and repeated or deliberate continuation of an advertisement 11
   8c. Calculation of fines 12
   8d. Appeals and fairness 12
   8e. Enforcement of penalty notices 13
9. Respond to the consultation 13
10. Timings and next steps 13

1. Why we are consulting

The Immigration Advice Authority (IAA) is committed to ensuring that any use of financial penalties is fair, transparent, proportionate and effective. We believe consultation is the best way to achieve this.. In addition, our primary legislation[1] states that 'Before preparing or revising guidance under this section, the Commissioner must consult such persons as the Commissioner considers appropriate'.

The introduction of financial penalties forms part of wider reforms intended to strengthen the regulatory framework for immigration advice and improve protection for advice seekers. These changes will allow us to be a more robust regulator.

2. Who this consultation is for

A range of people will be interested in this consultation. This might include:

- individuals seeking immigration advice and services
- individuals who have received immigration advice and services, including those who may have concerns about the quality of that advice
- immigration advisers and organisations regulated by the IAA or other professional bodies including both for-profit and not-for-profit organisations
- consumer, advice-sector and representative bodies
- other regulators and professional bodies with an interest in the immigration advice sector
- government departments, public bodies and policymakers with an interest in immigration advice regulation

3. Background

The Border Security, Asylum and Immigration (BSAI) Act 2025 received Royal Assent in December 2025 and provides the IAA with a range of new powers. The new financial penalties powers form part of a wider enforcement framework and are intended to provide an additional regulatory and enforcement tool

[1] Border Security, Asylum and Immigration Act 2025 Schedule 1 Part 92G paragraph 4

alongside existing powers. The powers are designed to support deterrence, encourage compliance and strengthen public confidence in the immigration advice regulatory regime, while ensuring that regulatory action remains proportionate to the seriousness of the conduct concerned. National media reporting, along with our own enforcement work, has highlighted the extent of the problem presented by unlawful immigration advice and the detrimental impact on both advice seekers, and public confidence in the immigration advice sector. It is vital in this context that the IAA can be seen to demonstrate greater robustness. The aim of the regime is to encourage compliance and hold to account non-compliance..

Financial penalties are not intended to replace prosecutions or other regulatory sanctions, but rather to provide a broader range of enforcement responses that can be applied according to the circumstances of each case.

Some of these powers require secondary legislation before they can be commenced. The fixed fines within the financial penalties provisions are subject to the affirmative procedure and will therefore require Parliamentary approval before they come into force.

Subject to completion of the necessary legislative and implementation processes, the IAA currently expects these powers to be commenced in October 2027.

4. Scope of the financial penalties regime

The following sets out how we intend to use our regulated and unregulated fining powers.

4a. Objectives of the regime

The proposed financial penalties regime is intended to:

- protect the public and advice seekers from unlawful, unregulated and poor-quality immigration advice;
- deter misconduct and non-compliance
- encourage behavioural change and future compliance

- strengthen public confidence in the regulation and provision of immigration advice and services and promote and maintain the reputation of the sector
- provide a proportionate response to regulatory breaches
- provide the IAA with a broader range of enforcement tools to address misconduct effectively.

In exercising these powers, the IAA will seek to ensure that financial penalties are applied fairly, consistently and proportionately to the seriousness of the conduct involved.

4b. Who may be fined

The IAA will be able to issue a financial penalty to individuals and organisations in certain circumstances where immigration advice or immigration services have been provided or advertised either in breach of the law, or where regulated organisations have failed to meet the requirements set for them.

This **may** include:

- advisers who **are registered** with the IAA
- organisations **who are registered with** the IAA
- individuals or organisations **who are not registered or regulated by another approved body** that provide or advertise immigration advice or immigration services. For the purposes of these powers, a person or organisation is authorised to provide immigration advice or immigration services if they are registered with the IAA or otherwise permitted to do so by law through an approved professional or regulatory body
- **other people in certain circumstances** – see below

5. Circumstances in which we will consider fining

The IAA has a suite of powers which it uses to hold **registered advisers and organisations,** as mentioned above, to account. The legislation (section 92c[2])

[2] Border Security, Asylum and Immigration Act 2025 Schedule 1 Paragraph 9

enables the Commissioner to issue **fixed or variable** monetary penalties, where **a relevant person** has:

- failed to comply with the Code of Standards ("the Code")
- failed to assist with complaint investigations
- failed to comply with regulatory requirements listed within the primary legislation as detailed in the Act[3]
- obstructed the Commissioner in exercising regulatory functions

Penalties may also be imposed on **other people[4] in certain circumstances** – for example, where an individual is working with or for a firm but is not themselves an immigration adviser (e.g. managers, administrative assistants or accountants) and fails to assist with investigations.

The meaning of a relevant person – called a 'qualified person' within the statute – is such that this also applies to **bodies corporate**, i.e. organisations.

For those **providing or advertising advice unlawfully**, the legislation again enables fixed or variable monetary penalties. These people are referred to as 'unqualified person' within the statute and again this applies to bodies corporate, i.e. organisations. The legislative mechanism for doing so is also set out under section 92c (5):

'The Commissioner may give an unqualified person a penalty notice if the Commissioner is satisfied on the balance of probabilities that the person has committed an offence under section 91 or 92b.'

Following this consultation, secondary legislation will be produced which will insert fixed figures into statute for any **'fixed'** penalties. **Variable penalty notices** on the other hand, will be determined by the Commissioner considering the circumstances surrounding the conduct and evaluating the factors contributing to it, as detailed below.

For both regulated and unregulated persons, we can issue fines on the balance of probability. This means that we need to be satisfied that it is more likely than not that the conduct we are fining for took place.

[3] Immigration and Asylum Act 1999 Schedule 5
[4] Border Security, Asylum and Immigration Act 2025 Schedule 1 Paragraph 9

5a. Fining registered advisers

For registered advisers, we anticipate using a graduated model. Fining will be used alongside our current processes, and forthcoming new powers such as our ability to require the repayment of fees and payment of compensation, and changes to our ability to suspend and cancel advisers.

At the lowest level, educational interventions and good practice recommendations would be used where no formal breach or non-compliance has occurred. Warnings and action plans would remain appropriate for minor non-compliance. Fixed penalties would be available for significant or repeated non-compliance and administrative failures, such as:

- the failure to maintain client records effectively
- the failure to respond promptly to requests for information as part of a complaint investigation
- unreasonable delay in agreeing an audit date

Variable penalties would be reserved for more serious breaches, harmful conduct, and significant regulatory failures. Failures would be such as:

- significant breaches of the Code of Standards
- working above authorised levels
- significant failure to comply with a complaint investigation
- failures in fitness short of that which would merit cancellation

The ability of the IAA to impose restrictions and conditions on registration, or to require supervision, would continue to be available where ongoing oversight is required.

5b. Fining those who provide or advertise advice unlawfully

For those who are providing advice or advertising unlawfully, financial penalties enable early disruption and offer a powerful new tool alongside the IAA's existing enforcement regime. The basis for fining is based on two offences already investigated and prosecuted by the IAA:

- s. 91 Immigration and Asylum Act (IAA) 1999 – pertaining to persons who have provided immigration advice / services in contravention of s. 84 IAA 1999
- s. 92b IAA 1999 – pertaining to unauthorised advertising of immigration services

The ceiling limit for fines for unregulated persons under s. 91 IAA 1999 is £15,000 and under s. 92b is £2,500 which represents the amount that can be imposed on summary conviction as a court fine (which can be combined with a prison sentence) following prosecution of the same offence.

For **unlawful advice giving and unlawful advertising**, our current view is that the fining regime needs to be able to meet the diverse nature of the cases we encounter under sections 91 and 92B of the IAA 1999, which vary significantly in seriousness and financial gain for the perpetrators. The extent of harm to victims and the impact on the confidence of the public in the sector also vary significantly. The framework we design for offences under s. 91 and s. 92b will need to adapt and respond to the variety of offences captured under this legislation. It may include both fixed and variable penalties for different levels of offending.

Financial penalties provide the IAA with additional enforcement actions, enabling early disruption, and expanding our enforcement toolkit. We are clear that **prosecution is not replaced by fining or other penalties**. Prosecuting for s. 91 and s. 92b continues to be appropriate for the more serious offending, and/or repeat serious offending. It will remain the preferred response where harm, culpability and public interest demand it. Our amended criminal enforcement policy, which we will publish in 2027, will set out how we assess cases to ensure the most appropriate course of enforcement action is taken.

In terms of escalation, we imagine fining for the lower to medium end of the offending scale. **The seriousness and circumstances of the offence, alongside public interest and evidential considerations will determine the appropriate enforcement response; we are proposing a proportionate, risk-based approach to setting and issuing fines.**

5c. How fining will work alongside other provisions

As part of the full suite of new powers being brought in by the BSAI Act 2025, the IAA will also be able, following on from a complaint, to compel payment to

persons to whom the advice or services were provided, an amount specified in the order by way of compensation in respect of any loss, inconvenience or distress suffered by the person as a result of the provision of the advice or services.

This power, amongst others, will be the subject of a further consultation in mid-2027. Where a fine and compensation order are given to an individual or organisation who does not have the means to pay both, we propose that **compensation should be prioritised**. More details will follow on this in 2027.

6. Fining factors

In determining whether a financial penalty should be imposed, and the amount of any penalty, the IAA proposes to carry out an analysis using the following factors. These factors are aligned with those set out in our IAA Code of Standards.

- nature, gravity, impact and duration of the conduct
- whether the conduct was intentional
- whether the conduct was reckless
- the level of actual or potential harm the conduct caused
- the individual or organisation's likelihood of future compliance
- whether the conduct constituted exploitation for financial gain
- the need to uphold the reputation of the immigration sector/system
- the creation of a deterrence effect
- the need to protect advice seekers
- consideration of the individual or organisation's financial status
- consideration of consistency and fairness

7. Aggravating and mitigating factors

When determining the level of a penalty, the IAA will also consider aggravating and mitigating factors.

The IAA proposes that aggravating factors **may include:**

- the obstruction of regulatory processes
- repeated breaches

- previous conduct
- dishonesty and lack of integrity
- lack of remorse and insight

Mitigating factors **may include**:

- cooperation with the IAA
- self-reporting
- remediation of issues identified
- prompt corrective action
- a strong history of compliance
- demonstration of honesty and integrity
- insight and remorse

The weight attached to such factors will depend on the circumstances of the individual case.

8. Methodology

8a. Fixed fines

As set out above, the IAA proposes that fixed fines may be deployed **for either regulated or unregulated persons.** This would be on the basis of significant or repeated non-compliance and administrative failures for regulated persons, and for low-level advertising and provision of unlawful advice offences under s. 91 and s.92b.

In the forthcoming statutory instrument several levels of fixed fine may be specified which mount in value depending on the nature of the conduct. Any fixed fines may be associated with an 'instance' of non-compliance or failure for regulated persons or where there are reasonable grounds to suspect a s. 91 or s. 92b offence has been committed on the balance of probabilities by unregulated persons.

What constitutes an 'instance' will be assessed pragmatically and on a case-by-case basis by trained IAA staff. For example, it may be possible that several fixed fines are issued relating to wrongdoing impacting the same client, if the evidence demonstrates each 'instance' can be distinguished, and that this

approach is proportionate overall. All such judgments will be assessed pragmatically and on a case-by-case basis by trained IAA staff considering the objectives, factors and aggravating and mitigating factors listed above and considering whether a fine or an alternative approach is preferable.

8b. Variable fines

As outlined above, the IAA proposes that variable penalty notices may be issued to either **regulated or unregulated persons** in a variety of different circumstances. For regulated persons, the IAA proposes that these be linked to more serious breaches, harmful conduct, and significant regulatory failures. For those who are not regulated, the IAA proposes that these be issued where there are reasonable grounds to suspect a s. 91 or s. 92b offence has been committed, on the balance of probabilities. As with fixed penalties, variable penalty notices will be attached to an 'instance' of conduct (breach, harmful conduct, regulatory failure, or offence). Trained IAA staff will calculate the level of such variable penalty notices pragmatically and on a case-by-case basis considering the objectives, fining factors and aggravating and mitigating factors listed above and weighing up whether a fine or alternative approach is preferable. As is the case with fixed fines, the IAA reserves the right to decide to issue several variable penalty notices relating to wrongdoing impacting the same client, if the evidence demonstrates each instance can be distinguished and this approach is proportionate overall.

For s .92b offences, where the original advertisement is positively renewed or the scope extended, the IAA proposes that we may issue a further fine. This will depend on a range of factors including:

- the length of time between the original publication and its extension or renewal
- whether the extension required a positive decision or further payment
- whether the terms, audience or reach of the advertisement changed
- whether the person had been warned of the breach before renewing or extending it
- the number and amount of any penalties already imposed and repeated or deliberate continuation of an advertisement

8c. Calculation of fines

The IAA proposes to calculate penalties using a **staged approach**. First, we would assess the seriousness of the wrongdoing using the fining factors, to identify an appropriate starting point. We would then consider aggravating and mitigating factors and adjust the penalty where appropriate. Finally, we would consider the individual's or organisation's financial circumstances and the need for the penalty to be proportionate, effective and dissuasive. Factors we might consider when assessing the individual or organisation's financial circumstances **may include**:

- annual income or earnings
- turnover and profitability
- available cash reserves
- assets held by the individual or organisation
- outstanding debts and financial obligations
- the size and nature of the business
- the number of people employed by the organisation
- any other information relevant to the individual's or organisation's ability to pay

Fining decisions will be based on the facts of each case and will not be applied mechanistically. This approach is intended to promote consistency, transparency and fairness in regulatory decision-making.

8d. Appeals and fairness

Before imposing a financial penalty, the IAA will provide the recipient with an opportunity to make representations in response to a notice of intent. The IAA will make use of the appeals procedure listed in the relevant primary legislation and so we are not consulting on this aspect of the plans.[5]

Decisions will be taken in accordance with **forthcoming published guidance** and will take account of the specific circumstances of each case. The IAA intends to ensure that decisions are supported by a clear rationale and that recipients can exercise any statutory rights of appeal.

The IAA also proposes to maintain appropriate internal oversight arrangements to support consistency and proportionality in decision-making.

[5] Border Security, Asylum and Immigration Act 2025 Schedule 1 Paragraph 5

8e. Enforcement of penalty notices

If the recipient of a financial penalty fails to pay the whole or any part of the penalty, the IAA can recover the sum via the County Court (in England, Wales and Northern Ireland) and the Sheriff Court of any sheriffdom (in Scotland). The details are listed in the relevant primary legislation.[6]

9. Respond to the consultation

To respond to the consultation, please complete the consultation survey.

If you have any problems accessing the survey, email surveys@immigrationadviceauthority.gov.uk.

10. Timings and next steps

Following this consultation, the IAA intends to publish final guidance on how financial penalties will be used. The results of this consultation will feed into production of that guidance.

This consultation will be open for 8 weeks and will close at 11.59pm on 18 January 2027. If you wish to respond, please do so before this deadline.

We will publish a full response to the consultation in 2027, setting out an analysis of the responses received. In due course we will also publish final guidance on how financial penalties will be used.

[6] Border Security, Asylum and Immigration Act 2025 Schedule 1 Paragraph 9