

Advisers urged to fulfill hours and to submit them early No extension on the deadline to submit CPD requirements

The end of the 2009-10 CPD year is fast approaching. If an adviser has not completed the required number of hours (both core and non-core) and/or not entered the details into the on-line system by the deadline of 31 March 2010, they will be in breach of the Commissioner's Code of Standards.

A number of organisations and advisers can no longer legally provide immigration advice or services within the UK because they did not meet their CPD requirement for 2008-2009.

Last year a large number of advisers tried to update their CPD portfolios during the last two weeks of March, causing the system to crash.

Although improvements to the system have been made, advisers should not wait until the end of the year before updating their CPD activities. It is strongly recommended that advisers that have not recorded their CPD activities within their profile do so immediately.

The OISC can not guarantee the availability of the CPD system if a large number of advisers try to update their



News from the '09 conference

Minister of State for Borders and Immigration, Phil Woolas MP, with ?????????? at the OISC 2009 Annual Conference. Report and pictures pages 4 & 5.

profiles during the last two weeks in March.

Information on how advisers should update their CPD portfolios is contained within the newly updated CPD Guidance Booklet.

The update also includes, amongst other changes, new policies on

maternity leave, long term illness and sabbatical leave.

The CPD Guidance Booklet, along with other CPD information and forms, can be downloaded for free from the OISC website www.oisc.gov.uk.

Advisers are strongly encouraged to read this booklet.

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IN BRIEF

Bus campaign

The OISC is launching a national advertising campaign on buses about the importance of using regulated immigration advisers. The campaign will run for the whole of March.

The advertising will feature on passenger panels on local bus routes in certain areas of London and the rest of the UK where there is a high demand for immigration advice. Therefore, we have selected boroughs including Newham, Tower Hamlets, Hounslow, Islington, Haringey and Southwark.

Other locations targeted include Leeds, Glasgow, Liverpool, Folkestone and Croydon.

Guilty plea

An unregulated adviser from Leicester pleaded guilty, on 4 November 2009, to illegally providing immigration services.

Pardeep Hansrani, 51, illegally provided immigration advice in exchange for money despite never being qualified or regulated to do so. His illegal activities were discovered when one of his clients made a complaint against him to the OISC.

Hansrani was sentenced at Leicester Magistrates Court, to pay a fine of £940 and compensation to his victim of £300. In addition, he was ordered to pay the prosecution costs of £663.

Arrivals and sad departures set to make their mark in 2010

Gearing up for a year of change

As this issue explains, 2010 will be a year of arrivals and sad departures.

Parliament is in the process of considering a new Immigration Bill that will include clauses directly relevant to the OISC on subjects included in the UKBA's recent consultation on the UK's immigration advice sector.

Within the OISC, as part of our Reform and Remodel Project, changes are being made to the way we handle applications, which were highlighted at the November Annual Conference events. In addition, the Immigration and Services Tribunal, now renamed as the First-tier

Tribunal General Regulatory Chamber (Immigration Services), has been incorporated into the new Tribunals Service.

The high number of responses the OISC has received to its consultation on the Guidance on Competence demonstrated the serious consideration advisers give to that document. We are now taking into account those responses and will be making important changes to the Guidance later this year.

As advisers know, the OISC is committed to ensuring that those who need immigration advice should receive it only from those who are qualified to give it. That is why we have decided to conduct a bus advertising campaign urging

people to seek assistance from regulated advisers. As the article on this subject explains, the campaign will happen in spring, and will target key boroughs in London and across the UK with high immigrant populations.

Finally, this issue announces that Linda Allan, the OISC's Deputy Commissioner, is leaving after serving two terms as Commissioner. Linda and John Scampion set up the OISC, and it is with great sadness and with much appreciation that we mark her departure.

I know that advisers will feel the same, and will want to wish her all the best for the future.



Strong support for revising Guidance on Competence

The OISC's consultation on 'Revising the Guidance on Competence' closed on 29 January, and the responses from advisers show strong general support for the OISC's proposed changes.

There was a good response to the consultation with more than 110 responses.

The feedback received shows that advisers are, with

the exception of two proposals, overwhelmingly in favour of the changes suggested by the OISC, which will bring the Guidance up to date with legislative and other developments.

Advisers strongly backed two key proposals; reducing the number of categories of regulated work from five to the two new categories of Asylum and Managed

Migration; absorbing the current advice Level 2 into Levels 1 and 3. However, advisers did not support splitting Level 1 into two categories of Advice and Services.

Advisers agreed that the OISC should require them to demonstrate their level of competence through assessing a range of skills and knowledge.

On the other hand, a

varied response was made to how the OISC might assess the competency of those advisers authorised to represent clients at the new Immigration and Asylum Chamber in the First-tier Tribunal.

Some respondents felt a new specialist level should be introduced, while others thought the best way forward would be to assess the advocacy skills of this

group of advisers.

A full report on the results of the consultation will be published in April, and will be available on the OISC website.

Based on the results of the consultation and internal discussions, the existing Guidance on Competence will be revised later this year.

Tier 2 workers get ID cards

On 6 January, 2010, it became compulsory for migrant skilled workers and their dependants, who successfully apply to extend their stay in the UK under Tier 2 of the Points Based System, to have UKBA issued identity cards.

The UKBA began issuing compulsory identity cards for foreign nationals in November 2008 to certain categories of non-European foreign nationals when they were granted permission to extend their stay in the UK.

Since then the range of foreign national categories



required to carry such identity cards has expanded considerably. By November 2009, 100,000 cards had been issued.

The card provides a way of confirming the holder's nationality, identity and immigration status in the UK. It shows whether they have the right to work or study under the UK's PBS, and helps them to access public services.

IN BRIEF

Appeal against decision dismissed

Maxim Immigration and Advisory Services (MIAS) had their appeal against the OISC's decision to refuse their continued registration dismissed by the Immigration and Asylum Tribunal on 6 October 2009.

MIAS were first registered at Level 1 in 2004. They applied to continue their registration for 2008/09 period, with an application to add two new advisers and increase their Level of advice to Level 2 and 3.

However, the Tribunal supported the OISC's decision to refuse registration on the grounds that MIAS failed to demonstrate an adequate level of competence, and had been observed at audit to be working above their Level of registration.

Guilty on five counts

A Level 1 adviser was found guilty at Southend Magistrates Court of five counts of illegally providing immigration advice above his authorised level.

Davie Vive Kananda, 58, from Westcliff-on-Sea, traded under the organisation Strathmore Care and was registered at Level 1. However, between September 2008 and April 2009 he provided advice and services at Levels 2 and 3, including representing clients at the Asylum and Immigration Tribunal. He was deregistered by the OISC in April 2009.

Kananda was sentenced on 30 October 2009. He was fined a total of £7,500 and ordered to pay £1,000 in prosecution costs.

OISC and UKBA officials on hand to answers questions at Home Office venue

Conference is a valuable opportunity for Advisers to keep abreast of immigration developments

Approximately 300 advisers attended the three OISC Annual Conference events held at the Home Office in November.

These half-day events gave advisers the opportunity to learn about current developments in the immigration advice sector, such as the OISC's consultation on 'Revising the Guidance on Competence' and the results of the UK Border Agency's (UKBA)

consultation on 'Oversight of the Immigration Advice and Services Sector' (see pages 1 & 3).

Key speakers included the OISC Commissioner, Rob Jones, the Deputy Director of the UKBA's Policy and Strategy Group, and the Minister of State for Borders and Immigration, Phil Woolas.

Advisers were able to put questions to a panel of senior OISC and UKBA officials and meet with caseworkers.



Pictures: A panel of senior OISC and UKBA officials, on hand to field questions from delegates (below) and provide key speeches.



Your questions answered...

Is there a limit to the level of advice an adviser working under Ministerial Exemptions can provide?

No. There is no limit to the level of advice those working under Ministerial Exemptions may offer. However, anyone providing advice or services in the UK (including those working under Ministerial Orders) must comply with the OISC's Code of Standards (Sch 5 para 3 (3) of the Immigration and Asylum Act 1999).

The Code requires advisers to only provide advice and services in areas of work in which they are competent. Non-compliance could potentially result in action being taken against advisers by the OISC. We recommend that advisers working under Ministerial Exemptions should only provide advice at Level 1, unless they have some form of external certification that they are competent to provide advice at the higher advice Levels and/or experience of having done so previously.

Does an individual have to be regulated in order to complete Controlled Legal Representation (CLR) Forms?

Yes. CLR forms are submitted to the Legal Services Commission and are typically used for requesting extra funding on publicly funded cases. Only those that are regulated may offer publicly funded immigration advice or services and would therefore need to complete these forms.

However, although these forms normally relate to Level 2 and 3 cases, there is nothing to prevent an adviser from delegating the task of completing the CLR forms to advisers working at a lower level or a volunteer working under supervision.

Can an individual with a previous criminal conviction become a regulated adviser?

Yes. A previous conviction is not in itself enough to refuse a person regulation, unless it is one of the offences specifically mentioned in (Sch 5 para 4) of the Immigration and Asylum Act 1999.

However, the OISC cannot legally register or exempt someone that is not 'fit' to provide immigration advice or services. We have a duty to ensure that

advisers we regulate will act in the best interests of their clients and will not abuse their trust. Therefore, we will take into consideration the offence and the circumstances surrounding the conviction.

Can an adviser become the director of a college?

Yes. Advisers may engage in commercial activities as long as their respective businesses remain separate and distinct and do not conflict with the interests of their clients.

With regards specifically to involvement in colleges, the adviser has to ensure there is a clear differentiation between any immigration work they do for the college under Ministerial Exemption and that which they do in their capacity as an immigration adviser when not working for the college.

The adviser must also make clients aware what advice or service they are receiving and in what capacity these are being given.

Deputy Commissioner bows out after 10 years in post OISC bids farewell to Linda Allan

The Deputy Commissioner, Linda Allan is leaving the OISC in March 2010 after 10 years in post.

Linda took up her appointment in 2000, and together with the previous Commissioner, John Scampion, was instrumental in creating the OISC.

The OISC appreciates the invaluable contribution she has made during her two terms in office.

It is expected that the Minister will appoint Linda's replacement early in the coming financial year.

OISC's Deputy Commissioner Linda Allan (right), who helped to set up the OISC, is leaving after serving two terms as Commissioner.



OISC's new policy means asylum seekers will have to Fresh look at fresh claims for

The UKBA has changed its policy on allowing fresh claims for asylum by post. It now requires all such claims to be made in person. This will either be in Liverpool or at a designated reporting centre, depending on when they made their first claim for asylum in the UK.

If a claimant made their original request for asylum before the 5 March 2007 and wishes to make a fresh claim, they will need to go to Liverpool.

If a claimant made their original request after 5 March, 2007 and now wishes to make a fresh claim, they will need to do so at a designated

reporting centre.

Any fresh claims UKBA receives by post from those who do not fall within the exceptional circumstances category will not be considered. They will instead be returned to the individual (or their immigration adviser) along with information about the new policy. Where an

apply in person asylum

individual is physically unable to travel due to a disability, severe illness or if they are in prison or detention, then UKBA will make alternative arrangements enabling them to apply by post or in person locally.

Further guidance on this new policy can be found at www.ukba.homeoffice.gov.uk

Consultation outlines key changes

The UKBA, on 12 November 2009, published its response to its consultation 'Oversight of the Immigration Advice Sector' and outlined the next steps it aims to take as a result of feedback.

The consultation, which received 52 responses, sought views on a number of topics for taking forward the regulation of the immigration advice and services sector as part of the wider reform of immigration legislation.

The key findings of the consultation included:

- The immigration advice and service sector should remain regulated, although changes are required.

- The OISC should continue as the regulatory body.
- The terms 'registered' and 'exempted' should be combined into a single term 'regulated'.

- The OISC should have the power to make unannounced inspections.
- The introduction of Improvement and Prohibition Notices would be helpful.

The Government confirmed that it is looking to move towards full cost recovery, about which respondents had concerns that a greater proportion of the OISC's regulatory costs would be paid by regulated organisations.

The consultation response can be viewed in full at www.ukba.homeoffice.gov.uk.

IN BRIEF

Online applications plan

Over the coming months the OISC is introducing online application procedures for organisations to renew their annual registration, add new advisers or vary their Advice Level. This is part of the OISC's Reform and Remodel initiative, outlined in previous newsletters.

Existing advice organisations that wish to apply to renew their continued registration without changing their Advice Level or adding any new advisers can now simply complete the Repeat Authorisation form. Separate application processes are also being introduced for those organisations that wish to vary their Advice Level or add a new adviser. Applicants will be able to complete these forms electronically, thus paving the way towards paperless applications and increasing the efficiency of the entire process.

Announcements about dates as well as further details on the new processes, will be made over the next few months via e-bulletins and the OISC website.

Two-tier structure now in place for appeals

New Tribunal system goes live

On 18 January, 2010 the work of the Immigrations Services Tribunal (ImSet) transferred to a two-tier structure; the First-tier Tribunal General Regulatory Chamber (Immigration Services) and the Upper Tribunal.

Appellants will notice little difference in the initial appeals process – they will appeal to the First-tier Tribunal. The key difference is that onward appeals will be made to the Upper Tribunal, rather than the High Court. However, the rules governing the First-tier Tribunal have changed, as have the appeal forms and guidance notes for making an appeal. The new rules, forms and guidance are

available at www.immigration.servicetribunal.gov.uk

His Honour Judge The Lord Parmoor remains the head of the First-tier Tribunal. The Honourable Mr Justice (Sir Nicholas John Gorrod) Blake has been appointed as President of the Upper Tribunal.

As Nicholas Blake QC, he was chair of the Immigration Law Practitioners' Association (ILPA) from 1993 to 1997, and was prominent in the field of immigration, asylum and European free movement law. He was appointed an Assistant Recorder and then Recorder in 2000 and a High Court Judge of the Queen's Bench Division in 2007. He was knighted in 2008.

Government's draft Immigration Bill

The Government published its draft Immigration Bill on 12 November, 2009.

The bill introduces new and far-reaching changes for the future of the immigration system that aim to strengthen UK borders, simplify immigration processes and increase the

UKBA's effectiveness in removing those who do not have permission to be in the UK.

The Command Paper, 'Simplifying Immigration Law', was published alongside the bill. This Paper explains the approach that has been taken and the further work to be done. The Bill will be scrutinised during

this Parliamentary session.

The Consultation document, 'Simplifying Immigration Law – A New Framework for Immigration Rules', sets out proposals for simplifying the rules. The consultation closed on 3 February, 2010. The results of the consultation will be published by the UKBA on or before May 2010.

The Bill does not yet include the OISC clauses which follow on as a result of the UKBA's consultation on the 'Oversight of the Immigration Advice Sector' (see page 7). These clauses will be inserted at a future date.

The Immigration Bill can be viewed at www.ukba.homeoffice.gov.uk



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