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To promote high standards in the provision of immigration advice and services we need effective oversight of the sector. This requires strong sanctions to be in place to deal with those seeking to exploit vulnerable clients or cheat the immigration system.

Since May 2001, the Office of the Immigration Services Commissioner (“OISC”), a Non-Departmental Public Body, has been responsible for oversight of the immigration advice and services sector in the UK.

It is an offence to offer immigration advice and services without being registered with, or exempted by, the OISC. The only exceptions to this are those who are regulated by a Designated Professional Body, such as the Law Society of England and Wales and the Law Society of Scotland, their European equivalents, those who have been exempted by a Ministerial or Foreign and Commonwealth Office Order, those acting under the supervision of any of these and those acting for the Crown.

CONSULTATION PROCESS

On 14 May 2009 the UK Border Agency published the consultation paper Oversight of the Immigration Advice Sector seeking views on a number of options for taking forward the regulation of the immigration advice and services sector as part of the wider reform of immigration legislation.

The proposals detailed in the consultation paper were aimed at providing an improved regulatory framework for this sector, to ensure that advice given to applicants is of a high standard, and to discourage those who seek to operate outside the regulatory framework or abuse their clients by giving incompetent advice, charging for advice which is inept or simply not given or submit numerous speculative or unfounded applications.

The proposals were as follows:

- To leave the OISC and the regulation of immigration advice and services broadly as it is
- Consolidate OISC legislation and amend its functions and revenue raising ability
- Bring regulation of immigration advice under the Legal Services Act

The consultation document indicated that the second of these options was the UK Border Agency’s preferred approach - retaining the OISC with improvements to its regulatory and compliance capability and introducing a new fee structure on the sector to reduce the financial burden on the public purse.

The consultation document was sent to interested organisations and key stakeholders. These included representative bodies and individual organisations from across the sector. The consultation document was also made publicly available on the Home Office website.

A total of 52 replies were received during the 12 week consultation period. The breakdown of respondents by category can be seen in the graph below. The breakdown is for ease of reference only and should not be seen an official means of classifying each organisation.
The consultation paper included legal information about the public disclosure of responses.
CHAPTER 2
RETAINING EXISTING LEGISLATION AND REGULATORY FRAMEWORK

The first option we proposed was leaving the existing legislative framework for regulation of immigration advice and services in place. This would mean that the OISC would continue to regulate the sector in the same way as it does now.

Q1(a) Do you agree that it is beneficial for the immigration advice and services sector to remain regulated?

All stakeholders who replied to this question agreed. Respondents believed that the effective regulation of the immigration advice and services sector is crucial to ensuring that the advice provided to applicants is of the highest quality.

Regulation ensures that those who give immigration advice or services in the UK are fit and competent. Bad immigration advice damages many lives and, in addition, can lead to abuse of the immigration rules. The Government recognises that effective regulation of the immigration advice and services sector assists in ensuring that those seeking to exploit vulnerable people or cheat the immigration system are prevented from doing so. We will be looking to provide legislation that facilitates regulation in a proportionate, targeted and transparent manner.

“If regulation were to be abolished it would mean that unscrupulous private sector/for-profit immigration advice giving agencies would be free to exploit vulnerable clients.”

Voluntary sector organisation
Q1(b) If yes, do you think current regulation works and, if not, why not?

The majority of respondents believe the current regulation works.

Some respondents questioned whether there is sufficient distance between the UK Border Agency and the OISC for the regulator to be considered independent. Other respondents questioned whether current resources are being effectively utilised, expressing the view that the current regulatory framework is sometimes unnecessarily bureaucratic and not always cost-effective.

The OISC worked with UK Border Agency staff in 2008 to determine ways to reduce costs and improve efficiency. This work is continuing and the OISC will be further exploring the scope for more streamlined and cost effective delivery.

A few respondents also expressed concern about advisers who operate outside the UK and are able to submit applications to the UK authorities without being regulated. This presents a number of challenges and the Government will be considering whether UKBA needs to take further action in relation to immigration advisers based overseas.

“We accept the need for regulation of the sector, and appreciate having standards to live up to. We are aware of some firms acting unprofessionally, and the threat of making a complaint about them to OISC has been a useful tool at times.”

Voluntary sector organisation
CHAPTER 3
CONSOLIDATE OISC LEGISLATION AND AMEND ITS FUNCTIONS AND REVENUE RAISING ABILITY

The second option included new measures that are intended to provide greater levels of regulatory control, improving the speed of regulation and restricting access to the regulatory scheme of those who may exploit individuals seeking immigration advice or services.

Q2 Do you think that the existing regulatory structure should be retained without any changes?

Maintaining the current regulatory framework has some advantages. There would be no new costs or changes to guidance and training material arising directly from changes to the regulatory scheme. If however the current structure is not functioning effectively, we need to ensure the OISC continues to be able to enhance its oversight to ensure they are effectively protecting those people in most need of advice and looking to minimise and where possible reduce bureaucratic burdens.

The Government notes that some respondents thought the additional powers being sought ought to be unnecessary if the current system was functioning effectively. We have however identified weaknesses in legislation that are making it difficult for the OISC to regulate quickly and effectively and we will therefore be giving further consideration to whether changes are necessary.

In 2008 the UK Border Agency’s Value for Money team reviewed the OISC and looked at how they could operate more efficiently. The OISC are currently taking the recommendations forward under their “Reform and Remodel Project”. We expect these changes will improve the operation and effectiveness of regulation and will deliver greater efficiencies, which should also mean less bureaucracy for advisers going forward.

“The existing structure, whilst broadly acceptable, should be strengthened. There are still unregulated individuals out there and OISC should be given the resources to continue the good job they are doing in seeking out and prosecuting unregulated individuals.”

Private sector organisation
Q3. Do you agree that individuals who have been convicted of illegally providing immigration advice and services should be prevented from owning or participating in a regulated immigration advice organisation? If so, how long should that ban last?

Consideration needs to be given to whether there should be powers to prevent individuals who have been convicted of providing immigration advice and services illegally from owning or participating in a regulated immigration advice business and whether such restrictions should reflect the severity of the circumstances.

A large majority of the responses favoured a ban.

When considering how long such a ban should last opinions varied, but many respondents believed it should depend on the nature and the severity of the offence.

Many respondents recommended that before agreeing how long a ban should last, we should seek further advice from membership bodies such as the Law Societies and Government bodies such as Companies House in order to set transparent and pre-determined penalties terms that apply across sectors.

We will be considering the feasibility of a sliding scale and how any restrictions can reflect the severity of the situation in line with rehabilitation of offenders legislation.

“There must be discretion for all the circumstances of the case to be taken into account. The length of the ban must be proportionate to the seriousness of the offence”.

Membership body
“Once those convicted have served their sentence they should be allowed to practice albeit in a very restricted way and this could reduce any danger they may pose to the public, as they wouldn’t feel the need to go underground and provide advice and services illegally, which could be far more damaging… any ban…would be a quick fix rather than achieving any significant improvements”.

Trade Union

Q4 Do you think combining regulated and exempted advisers into a single register would be helpful?

The current distinction between Registered and Exempted advisers could be removed and replaced within a general framework of “Regulated” advisers.

Many respondents welcomed the Government's proposals to remove the current distinction between Registered and Exempted advisers replacing it with a general framework of “Regulated” advisers, to ensure all persons regulated by the Commissioner to give immigration advice are treated equally. However, a number of respondents felt that any register of those regulated should still make it clear whether the organisation is a commercial business or a voluntary organisation, and hence whether it would charge their clients for its services. The Government agrees, but notes that many organisations may increasingly do both going forward.

We will be looking at how we can still make a clear distinction between those who charge clients for advice or services and those who do not. This may well require changes to primary legislation.

"In whatever way the register is organised, it should be accessible for those seeking immigration advice and must be able to tell them what services advisers can legally offer them and whether they will be required to pay for such services”.

Trade Union
Q5  Do you think the introduction of Improvement and Prohibition Notices would be helpful?

The regulator could be given the power to issue improvement and prohibition notices against organisations. These notices could improve performance and encourage compliance. Improvement Notices would potentially be used to set out changes required by the regulator and Prohibition Notices could offer a quicker means of preventing an organisation or individual from undertaking a specific activity (e.g. giving immigration advice if the only qualified adviser has left the organisation). Improvement Notices would offer a very clear means for setting out the remedial action required by organisations and the related timescale while Prohibition Notices could protect the public by quickly preventing action that could be harmful.

Alternatively, it may be considered that such notices to increase the regulator's ability to enforce improvement are not necessary and that existing powers should be used more effectively.

Most of the undecided respondents said they were not able to express a view because too little information had been given about what is being proposed. Respondents felt that more detail was needed on the intention behind these new powers and the way in which it is proposed that they would operate.

Further details of our proposals can be found in Chapter 6: Next Steps. We believe that such notices will aid the OISC’s enforcement activities.

“We understand the Office of Fair Trading have found similar powers to be extremely useful, and believe such notices would support the regulator in having a more flexible toolkit, and contribute toward delivering proportionate and targeted regulation.”

*Membership body*
Q6 (a) Do you feel the existing audit arrangements of the OISC are effective?

It is important that the regulator is able to ensure that regulated organisations and individuals are operating and providing advice in accordance with the Commissioner’s Code and Standards and Rules.

The OISC’s existing ability to undertake audits may be seen as effective and additional powers to enter premises to conduct audit work unnecessary.

Are the OISC’s existing audit arrangements effective?

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Q6 (b) Would additional powers be helpful?

The powers to facilitate audits may, however, not be adequate and individuals who seek to frustrate and delay the audit process may be able to easily do so.

Would additional powers be helpful?

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Many respondents stressed that the existing audit arrangements of the OISC are already effective and that any additional powers may lead to an increase in registration fees, which could have a disproportionate impact on access to justice. However, the Government hopes that such additional powers will actually reduce costs by reducing the amount of time spent on arranging audit visits. We feel it is important that the regulator’s power to regulate without hindrance is clearly defined in legislation, to limit the ability of those who are looking to frustrate the system.
“Although we are not aware of any reason why the existing powers may be inadequate, we would support enhancing those powers if it is the case that individuals are able to frustrate and delay the current audit process”.

Membership body

Q7 (a) Do you agree that the cost of regulation should be paid for by the sector?

Funding of the OISC needs to be placed on a more sustainable footing in the long-term as the overall cost of regulation is currently heavily subsidised by the Government. It may be necessary for a greater proportion of the regulatory costs to be paid for by fees levied from organisations providing immigration advice and services rather than from the public purse.

Many voluntary sector organisations expressed concern that if they were charged large fees they may need to reduce their service, or cease providing advice altogether. The Government recognises this is an issue and will look to avoid inadvertently preventing some not for profit providers from continuing to provide services to vulnerable people.

Organisations that operate on a for-profit basis directly benefit from regulation in a number of ways. For example, the OISC acts against those who operate illegally and prevents them from undercutting regulated organisations. Regulation has also raised standards across the industry, which leads to the immigration advice industry being increasingly seen to provide a better quality of service. Both sectors have also benefited from such initiatives as the OISC’s Continuing Professional Development (CPD) online learning platform.

The Government does however accept that there is a fundamental difference between the private and not-for-profit sectors.

“We are not in favour of full recovery from private practice as the costs of regulation should reflect that the driver for change is government as well as practitioner behaviour”.

Voluntary sector organisation
Q7 (b) Do you have any preferences on how fees are levied (e.g. per organisation/per adviser etc.)?

Many respondents have proposed solutions which will be extremely useful in developing a workable structure. Some respondents felt it seemed reasonable to consider the volume of immigration work being undertaken by an organisation and the number and level of OISC registered advisers working within that organisation when considering potential fees. Other respondents expressed concern about a fees structure being set on a per advisor basis. There were also calls for a fees system that charges the most to those who make the most.

Organisations that operate on a not for profit basis may be seen as directly benefiting from regulation in a number of ways, such as raising the standards across the industry. Whether we should be looking for full cost recovery from the sector for all regulatory costs (other than for enforcement costs) is considered in the following questions.

“Fees should be based on the turnover of the organisation, rather than per advisor, with larger organisations bearing the higher proportion of the fees.”

Private sector organisation

Q8 Do you think that full cost recovery should be sought from the not-for-profit sector?

Many respondents stressed that the not for profit sector should not have to pay fees for regulation and were concerned that the voluntary/not-for-profit sector is already operating on limited financial resources and may be unable to afford the costs of regulation, leading to them being unable to maintain or develop immigration advice provision, reinforcing dependence on the private sector and thus exacerbating the potential for exploitation.

The Government notes that respondents felt that not for profit organisations would either have to obtain additional funding to meet the costs (and this funding is likely to be from public monies) or cut budgets to pay for it. However, Treasury guidance on fees and charges does advise that fees should be set to recover the full costs (excluding enforcement costs) of the service provided. The sector receives a number of benefits as standards across the industry are raised, leading to the immigration advice industry being seen as more professional and providing a better quality of service. We will therefore be looking for regulated organisations to meet the full cost of regulation (excluding enforcement costs), but will at the same time be giving thorough consideration to how we can avoid adversely affecting not for profit organisations.
“Many providers of immigration advice and help are small refugee community organisations, or CAB’s providing basic immigration advice as well as many other services. Funding for most community organisations is very tight anyway: they do not have the money to pay extra fees.”

Membership body

Q9  Do you think a sliding scale for recovering costs from the not for profit sector would be helpful? What factors should it take into account?

A sliding scale of cost recovery, dependent on factors such as the size of the organisation and the work undertaken, may be seen as necessary to preventing smaller organisations from being harder hit. It could be argued that the more work an organisation undertakes, the less they should pay. Alternatively, a flat fee structure may be viewed as fairer.

Once again many respondents felt that those who do not charge a fee for their services should not have to pay a fee.

We will be looking to move towards full cost recovery (excluding enforcement costs), so a greater proportion of the OISC’s regulatory costs are paid for by organisations providing immigration advice and not through the public purse. We will however at the same time be looking at how we can minimise the impact on organisations who do not charge clients for their services.

“Overall I feel that there is a high possibility that some NFP organisations would fail due to extra financial costs which they cannot meet here. It is certain that they will benefit from greater regulation as I understand much of their time is taken up with the problems poor advice results in. I therefore feel it would benefit the sector by a flat rate fee arrangement of say £100 which is manageable and allows the organisations feel that they are contributing. If they are registered and fee-earning, this can be increased.”

Private sector organisation
CHAPTER 4
REGULATION OF IMMIGRATION ADVICE UNDER THE LEGAL SERVICES ACT

The Legal Services Act, which received Royal Assent on 30 October 2007, reforms the way in which legal services are regulated and provided in England and Wales. The Act establishes an oversight regulator, the Legal Services Board, and an independent legal complaint handling body, the Office for Legal Complaints, which will administer an ombudsman scheme. Approved regulators will still be responsible for dealing with misconduct of those they regulate.

Q10 Do you think making immigration advice and services should be a reserved activity under the Legal Services Act?

Respondents were asked to consider whether it would be beneficial for the OISC to become an approved regulator that would grant rights to authorised persons with its activities overseen by the Legal Services Board.

The Legal Services Board’s own response to this consultation argued that people who have trouble with immigration issues sometimes have trouble with other issues in a ‘bundle’ of problems, and because the issues are often tackled together it is difficult to argue for different regulatory arrangements.

They would in principle be prepared to consider becoming the oversight regulator for immigration and asylum advice services in England and Wales, but said this could not be in the immediate future. They have published a wide-ranging business plan for 2009–10 and adding additional projects would currently be unmanageable. They would, though, like to undertake further analysis in 2010 – 11 for the longer term.

Many other respondents were concerned the proposal has the potential to incur extra costs and noted that whilst in principle they would normally support the regulation of legal services coming under the Legal Services Act, in this instance, the existing regulatory structure appears to be working effectively and they would be reluctant to add further costs to this sector.
The Government will continue to review its approach as the Legal Services Board continues to develop.

“Given that immigration advice and services are essentially legal services, it should follow that those regulating and providing the services should be subject to the same regulatory objectives as other providers of legal services, since the public and consumer protections and risks are similar”  
*Membership body*

“I cannot see an argument for this aside from change for the sake of change”  
*Private sector organisation*
Q11  Do you agree with our intended approach?

In the consultation we proposed that the second option, consolidating the OISC related legislation, and strengthening its powers and revenue raising ability, offered the best approach for providing effective oversight of the sector and protecting the public.

It was viewed that building upon the existing regulatory framework would ensure that we take what works from the current system and improve upon it with measures that protect the public and offer better value for money.

Most respondents did not support our intended approach in its entirety. Potential fee increases were of particular concern.

Many respondents did however welcome the Government’s specific proposals for building on the existing powers for the OISC to reinforce the level of oversight for all who provide immigration advice. This was seen by respondents as having the potential for improving standards of immigration advice and service, which would improve public confidence.

There were also calls to make the OISC more independent of the UK Border Agency. The OISC is already a non-departmental public body (NDPB), but the Government does acknowledge the benefits of a move away from UK Border Agency grant in aid funding. This will place the OISC on a more sustainable footing in the long-term whilst still protecting the public and preventing speculative or unfounded applications to the UK Border Agency.

Many of the respondents who did not agree with our intended approach had concerns about specific proposals, such as fee increases. We have addressed these concerns in this consultation response and will be giving thorough consideration to how we mitigate potential problems going forward.
“Minor improvements in the powers of the OISC could be helpful, but any increase in the load on advisers would certainly not. There are already too few good advisers.”

Voluntary sector organisation

“We feel the UK should adopt elements of self regulation of the profession, such as making the regulator more independent of UK Border Agency and allowing for greater and wider participation of industry and consumer interests in its functioning”

Voluntary sector organisation
The Government has noted the responses to the consultation and will now thoroughly consider each of the proposals outlined below and implement those which prove feasible to achieve our goals of providing more effective oversight of the sector and better value for the taxpayer. We hope to do this by consolidating and improving the OISC’s legislative powers and introducing new measures that will allow for greater levels of intervention against those who are incompetent or unfit, looking to abuse individuals seeking immigration advice/services or abuse the system.

**PREVENT AN UNFIT PERSON FROM OWNING A REGULATED ADVICE BUSINESS**

Persons convicted of assisting unlawful immigration, tampering with official documents or obstructing an Immigration Officer are currently disqualified from registration or continued registration. The Immigration and Asylum Act 1999 does not however explicitly prohibit those with convictions for offences relating to the providing of immigration advice and services illegally from owning or operating a business that provides immigration advice and services or from becoming a regulated adviser. We believe this to be an anomaly and would like to prevent those with convictions for Sections 91 or 92 of the 1999 Act from owning a regulated business or becoming regulated advisers until their conviction is spent. To enable this we expect to:

- implement a specific clause stipulating that the Commissioner is able to request information on who owns/operates a business and ask for proof of their fitness to do so at any time s/he sees fit
- and amend legislation to give the OISC power to prohibit a person who has convictions for Sections 91 or 92 of the 1999 Act from being or continuing to be the owner of a regulated advice business until the conviction is spent.

**POWER TO DEREGERISTER A BUSINESS**

We want to see the OISC Register become an accessible, up-to-date means for the public to identify quality, regulated advisers. Existing provisions allow for the removal of a firm from the Register by applying to the Immigration Services Tribunal to have an organisation charged, closed and formally removed from the Register.

However, in cases where a company has gone out of business, we will look at giving the OISC power to remove/suspend that firm from the Register. At present, the length of time needed to remove a firm from the Register means the public continue to be directed to a defunct firm. We will also be giving consideration to the circumstances in which the OISC would be able to de-register a firm and what safeguards should be in place to ensure that such a process is fair.

Within the period of regulation we expect the OISC would be able to allow the firm to rejoin the register once it had satisfied them it was once again in a position to offer the required standard of advice.

**ACCESS FOR INSPECTION**

Audit visits are an important part of the work of the OISC, as they allow for the assessment of the quality of advice.
The OISC currently make appointments to gain access to an adviser’s premises, but they sometimes find that advisors can frustrate by repeatedly cancelling appointments or refusing to allow access. Such uncooperative behaviour can be dealt with when re-registration is due, but we do however feel there is merit in considering a more effective means of encouraging compliance.

We will be further exploring the benefit of a provision to give the OISC the power to enter premises to conduct audit work. We acknowledge that respondents raised concerns about such proposals during consultation and we will therefore also be looking to ensure that such visits are reasonable by asking the OISC to sign up to the Regulators’ Compliance Code. The Regulators’ Compliance Code asks regulators to perform their duties in a business-friendly way, planning regulation and inspections in a way that causes least disruption to the economy. Further information can be found on the BIS website:


POWER TO SERVE IMPROVEMENT/PROHIBITION NOTICES

We believe the introduction of improvement and prohibition notices will aid the OISC’s enforcement activities. The introduction will not mean fundamental changes in approach by the OISC.

Currently the OISC writes to an organisation after an audit or complaint investigation to set out areas where improvement is required. The introduction of Improvement Notices would formalise that process, ensuring organisations have a clear and consistent message on improvement and a clear understanding of the expected timescale.

Following an audit or complaint investigation the OISC may determine that there are deficiencies that need to be remedied, e.g. breaches of the Commissioner’s Code or Rules. Improvement Notices would clearly set out remedial action required by firms in order to bring them up to an acceptable standard of service. We expect Improvement Notices would allow organisations a reasonable amount of time to remedy a matter of concern.

Prohibition Notices would be a prompt means for the OISC to prevent organisations from undertaking a specific activity, offering quick corrective action where an organisation is acting in breach, despite attempts by the OISC to bring them into line. We expect this will normally follow an audit or complaint investigation, where the OISC concludes that clients are at serious risk.

We will be considering whether there needs to be a right of appeal, and whether the Immigration Services Tribunal should have the power to modify such notices.

Except in instances when an appeal has been heard and the Prohibition Notice amended or dismissed, a Notice would remain in effect until such time as the Commissioner believes an acceptable solution is in place. We expect that failure to comply with a Prohibition Notice could result in a charge being brought or a Section 91 prosecution if the breach related to unauthorised activity.

DEFINITION OF TERMS – REGISTERED/EXEMPTED OR REGULATED

There are currently four main categories of organisations that may legally provide immigration advice services – those who charge their clients and are ‘registered’ by the Commissioner; those who do not charge their clients and are ‘exempted’ by the Commissioner; those who are exempted from regulation by Ministerial or Foreign and Commonwealth Office Order; and those regulated by a Designated Professional Body.

We intend to remove the distinction between being registered by the Commissioner and being exempt by the Commissioner and replacing the terms with ‘Regulated’ by the Commissioner to clarify that all of these
are subject to direct regulation by the Commissioner. We will be looking at how we can still make a clear distinction between those who provide advice for profit and those who offer advice on a not for profit basis.

Currently the OISC issues certificates authorising the giving of advice specifically to organisations and not to individual advisers. Therefore, the authorisation of an adviser is linked solely to the authorisation of particular organisation(s). Under the new proposed terminology of ‘regulated’ firms, we will also be considering suitable powers to withdraw regulation.

FUNDING

We will be looking to move towards full cost recovery (excluding enforcement costs), so a greater proportion of the OISC’s regulatory costs are paid for by organisations providing immigration advice and not through the public purse. We will at the same time be looking at how we can minimise the impact on organisations who do not charge for their services and on individuals who require access to free legal advice. A fees structure will ensure that (in line with Treasury guidance) the appropriate proportion of the regulatory costs are recovered from the sector.

BENEFITS TO THE UK BORDER AGENCY

The changes we are proposing to regulation of the sector will allow for quicker intervention, improved standards and more focused intervention where abuse or improper activity is taking place. This will help to better protect the public and prevent speculative or unfounded applications to the UK Border Agency.

Improving the regulation of the immigration advice and services sector will increase the quality of immigration advice and services and should lead to fewer unsuitable applications to the UK Border Agency. Overall it will lead to increased public confidence in the immigration advice and services market and thus greater confidence in the UK immigration process.

Enabling the OISC to undertake its compliance and regulatory work efficiently will assist in addressing illegality. Individuals illegally engaged in providing immigration advice could also be involved in other illegal activity, such as facilitation and providing false statements. Tackling illegal immigration advisers will help reduce the harm caused to the public by such crime and assist the UK Border Agency in delivering its strategic objective of tackling border tax fraud, smuggling and immigration crime.
ANNEX A
LIST OF RESPONDENTS

Administrative Justice and Tribunals Council
Advice Services Alliance
AdviceUK
Association for Visitors to Immigration Detainees
Association of Regulated Immigration Advisers
Asylum Aid
Asylum Support and Immigration Resource Team
Asylum Support Appeals Project
Asylum Support Partnership
BME Advice Network
Bail for Immigration Detainees
Bar Standards Board
Bedfordshire Refugee And Asylum Seeker Support
British Red Cross
Centre for Armenian Information and Advice
Children’s Society
Citizens Advice
Citizens Advice Scotland
Devon and Cornwall Refugee Support Council
Emigra Europe
IEPUK Ltd
Immigration Advisory Service
Immigration Law Practitioners’ Association
International Care Network
Law Centre (NI)
Law Centres Federation
The Law Society of England and Wales
Legal Services Board
Legal Services Commission
Millennium Consultants
Morgan Dias Immigration Consultants
Peterborough Racial Equality Council
Premier Visas
Public and Commercial Services Union
Queen Mary, University of London (Student and Campus Services)
Refugee and Migrant Forum of East London
Refugee and Migrant Justice
Refugee Council
St James’s Church Legal Advice Centre
Scottish Refugee Council
SkillClear
Solicitors Regulation Authority

Slough Refugee Support
Spire Healthcare
T&S Immigration Services
UK Council for International Student Affairs
UK Visa Partners
Uni Network
West Midlands Strategic Migration Partnership
Your Homes Newcastle

2 individual responses
Q12  Are there other changes in regulation you would like to see?

Respondents provided helpful suggestions including:

‘The initial testing for advisers (sic) should involve a better quality of testing. And should be more carefully geared towards the areas which different organisations tackle. In addition, we suggest that the CPD online courses be regularly checked and updated to avoid errors.’
Voluntary sector organisation

‘We are concerned at the lack of knowledge of the asylum support law and scheme amongst immigration advisers. It is our view that the regulation of immigration advisers and the monitoring of their standard of work should require that they have a good knowledge of the asylum support system and they advise accordingly.’
Voluntary sector organisation

‘The OISC needs to improve its performance in responding to requests for general guidance on and clarification of how advisers in the voluntary sector/ not for profit sector operating at Level 1 can comply with the Commissioner’s Code of Standards. Since 2001, we have often failed to get a prompt and satisfactory response from the OISC to our requests for such guidance and clarification.’
Voluntary sector organisation

‘At present there is no system for immigration advisers similar to the Solicitors Regulation Authority powers of intervention in cases where a solicitor’s firm closes down, or is required to cease work….if a regulated (or unregulated) immigration adviser closes down…the SRA has a recognised process where the clients are informed and their files kept securely, until they request them or another solicitor takes over the work…the regulator should have the responsibility to provide such a service.’
Membership body

‘We highlight our concern that where a complaint is made about an organisation that has been removed from registration or has voluntarily deregistered, the OISC plays no further role. This could cause significant injustice if the complainant would normally be entitled to compensation...we believe that the OISC should have some power to investigate and take action on such complaints...’
Membership body

‘I would like to ask that as part of your consultation, you consider the impact that the sponsor reporting duties of Tier 4, have on OISC standards.’
Voluntary sector organisation
‘...whatever is decided, it will be critical to ensure that there is consistency of regulation across the sector, irrespective of which professional, be they solicitor, barrister or other is providing advice.’

*Membership body*

‘it should be more difficult for first time immigration service providers to achieve OISC registration, with even more stringent tests and criteria to be met....this would increase the quality of those new providers...Fees for first time OISC registration applications should be increased.’

*Private sector organisation*

‘...the Home Office should spend more time on targeting those ‘agents’ that are not OISC registered.’

*Private sector organisation*

‘The OISC should be adequately resourced to carry out the functions it was set up to perform. The OISC and LSC should cross reference their auditing arrangements to decrease the regulatory burden on registered advice providers.’

*Voluntary sector organisation*

‘Information for consumers should include the results of regulatory assessments, details of accreditations held by advisors, and perhaps the outcomes achieved for clients. OISC should also consider how feedback from clients about their experiences could be harnessed to inform others. Empowering clients to share their experiences has been effective in enabling choice in the context of social and health care, and potentially has an important role to play in legal services too.’

*Public body organisation*

‘...your first task, given that people come from all over the world to the UK, is to regulate globally and effectively. Overseas, the embassies can assist with this. Currently, all law abiding UK based advisors are charged fees, prohibited from advising clients for out-of-country cases and are wrapped up in time consuming regulation whilst those abroad do not suffer at all irrespective of their performance. This is weighted considerably against UK based firms and must be addressed if advice to clients globally is to be effective and uniform. UK firms must be authorised to represent in overseas applications.’

*Private sector organisation*