



**LEGAL SERVICES
BOARD**

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Freedom of Information request

Date request received: 27 September 2016

Date of response: 26 October 2016

LSB reference: 20160927-01

Request:

Please send me all records, minutes, agendas, details of attendees together with dates for all meetings the LSB has had with the Office of the Immigration Services Commissioner for the years 2015 and 2016.

Response:

I write in response to your email of 27 September 2016 in which you ask for records of meetings the Legal Services Board (LSB) has held with the Office of the Immigration Services Commissioner for the years 2015 and 2016.

I can confirm the LSB holds some of the information you have requested which is set out in the table below.

Date of Meeting	Agenda Y/N	Minutes Y/N	Attendees
25 August 2015	Y [Attached: 1 2015 08 25 OISC meeting agenda.pdf]	Y [Attached: 2 2015 08 25 OISC meeting note.pdf]	Stephen Seymour, OISC Emma Kelly-Dempster, LSB Paul Greening, LSB
02 December 2015	N	Y [Attached: 3 2015 12 02 OISC meeting note.pdf]	Richard Moriarty, LSB Paul Greening, LSB Dr Ian Leigh, OISC Stephen Seymour, OISC
01 July 2016	N	Y [Attached: 4 2016 07 01 OISC meeting note.pdf]	Neil Buckley, LSB Paul Greening, LSB Dr Ian Leigh, OISC Stephen Seymour, OISC

The information that has been redacted from the documents 3 and 4 has been withheld under the Data Protection Act as personal information.

If you are dissatisfied with our response to your request for information, you have the right to ask for an internal review or to submit a complaint (see LSB's Freedom of information – Complaints procedure:

http://www.legalservicesboard.org.uk/can_we_help/lrb_policies_procedures/freedom_of_information/index.htm.

Attachment 1 2015 08 25 OISC meeting agenda

From: Emma Kelly-Dempster
Sent: 13 August 2015 15:57
To: 'Stephen Seymour'
Subject: RE: Legal Services Board's review of the legal services regulators' performance
Attachments: 20150728_The RSF for regulators.docx

Hi Stephen

Further to our correspondence in July (see emails below), I wanted to confirm the purpose of the regulatory standards exercise and the types of questions we would like to discuss with OISC. I have also attached a copy of the regulatory standards framework which those attending may wish to review before we meet. Are you able to confirm who we will meet with? From the LSB it will be myself and Paul Greening.

Purpose of the exercise

As OISC are aware from my emails, the LSB is carrying out a review of the legal services regulators' performance against our regulatory standards framework. The purpose of this work is to assess how well the regulators:

- deliver an outcomes based approach to regulation that creates benefits for consumers
- understand the risks to consumers presented by the market and address them through their work
- supervise the regulated community at an individual and an entity level to mitigate risk
- manage their enforcement function
- lead their organisations to ensure that they have the capacity and capability to achieve the four bullet points above.

We consider that the effective implementation of all of the above will result in a regulatory regime that delivers efficient and appropriate regulation for practitioners while ensuring that the public and consumers are protected from unacceptable levels of risk. Further information on this and previous exercises can be found here: [Projects - Legal Services Board - Developing regulatory standards](#)

Areas for discussion

With the regulatory standards framework in mind, at the meeting we would like to understand:

- how OISC interacts with the legal service regulator(s)
- the nature of OISC's relationship with those legal service regulator(s) it interacts with
- what OISC considers that the legal service regulator(s) do well
- what OISC considers the legal service regulator(s) could do better.

Whilst we will cover the above areas at our meeting, there will also be time for attendees to discuss with us anything else they think is relevant to our regulatory standards exercise.

Other matters

We also wanted to reiterate that we will share with the relevant legal services regulators a note of our discussion and the name of your organisation but we will not attribute comments to named individuals. The purpose in sharing the information with the legal services regulators is so we can give them an opportunity to respond to any points raised. We also note that as we are subject to the Freedom of Information Act 2000 and the Data Protection Act 1998, we would have to consider any request received for the note of this meeting carefully and decisions on disclosure of information would be made on a case by case basis. All attendees should be mindful of this during the meeting.

I hope that this email is clear but if you or any other attendees have any questions before our meeting on Tuesday 25 August, please do contact me.

Kind regards

Emma

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Summary of feedback

Office of Immigration Services Commissioner (OISC) August 2015

Background

1. OISC is an executive non-departmental public body, sponsored by the Home office which regulates immigration organisations and advisers, ensuring they are fit and competent and act in the best interest of their clients. Its main duties are to:
 - Decide applications from those wishing to become regulated.
 - Publish a code of standards for those it regulates;
 - Investigate complaints about regulated immigration advisers;
 - Ensure those it regulates remain fit and competent and comply with the Code of Standards or take action to de-regulate those persons.
 - Prosecute those who operate illegally
 - Maintain oversight of the designated professional bodies in Scotland and Northern Ireland.
2. The policy and legal framework for immigration changes over time, and this inevitably impacts on the nature and intensity of OISC's role and activity. OISC is currently waiting for the conclusion of its triennial NDPB review by the Home Office.

Relationship and interaction with the legal services regulators

General

3. OISC's relationships are principally with the Solicitors Regulation Authority (SRA), Bar Standards Board (BSB) and the regulatory arm of the Chartered Institute of Legal Executives (CILEx Regulation). OISC has separate Memoranda of Understanding with the SRA, the Bar Council and CILEx Regulation. For all three regulators, meetings and liaison tend to be case driven rather than thematic or issues driven.
4. If non-case specific issues do arise, however, it is OISC that generally raises these with regulators. OISC are of the view that it is understandable that the three regulators do not have constant contact with OISC, as immigration advice and services are just one part of the totality of legal activity in England and Wales – albeit there is a potentially high impact if things go wrong. OISC consider that they have good, open and constructive relationships with all three regulators. Comments provided on the regulators should be seen in this context.

SRA

5. There are regular meetings with SRA, on average one every two months on criminal enforcement issues. SRA are receptive and prepared to engage constructively on cases. Communications are, in part, made easier in relation to criminal enforcement issues because the SRA and OISC use similar intelligence and prosecution processes. At a case level, the relationship is generally positive and there is a willingness to develop communication gateways, gather intelligence and if necessary assist each other in the prosecution of cases. Although, OISC did note that the SRA used to involve it much more in enforcement proceedings and that it was kept updated on immigration cases before the Solicitors Disciplinary Tribunal which seems to have fallen away recently.
6. In respect of general regulatory matters, the OISC noted that the SRA is going through a very innovative period and pushing forward with reforms. There are latent risks attached with this constant change, for example changes to the way continuous professional development is managed and the potential impact on the competency of solicitors providing immigration advice and services. An additional aspect is that the OISC are not always confident that the SRA are fully cognisant as to the particular risks associated with immigration work; particularly as this area is one where the market is changing and demands therefore differ. OISC noted that the SRA do not usually approach it to discuss the wider regulatory issues and concerns that might be simmering in respect of the immigration sector. Supervision by solicitors of non-qualified staff remains a concern to the OISC, due to the lack of any standards for effective supervision or knowledge of who may be providing immigration advice under the supervision of a solicitor. Additionally, there is no duty to inform clients that the person providing the advice is not qualified, but is operating under supervision from a named solicitor. OISC are concerned that this may lead to poor service being provided to vulnerable consumers.
7. OISC understands that SRA are currently undertaking a review of immigration services provided by solicitors, but no details are known.

BSB

8. Generally constructive interactions which are mostly case driven. The BSB is in the process of conducting a thematic review of immigration services provided by barristers. This demonstrates that the BSB is interested and engaged in the issue and indeed have involved OISC in the review. However, OISC are concerned that the BSB's enforcement and discipline structure can lead to slow resolution of cases. OISC appreciates that the BSB needs to ensure that procedurally it is thorough, but cases can take years to complete, in which time a barrister might continue to practice and pose an ongoing risk to consumers. OISC's impression is that if the BSB is presented with a very complex or a more unusual enforcement case, it can struggle to navigate itself through its process quickly. OISC also noted that the BSB does not have a similar intelligence/criminal enforcement capability to both the OISC and the SRA which can make collaboration perhaps more challenging than it would otherwise be. Having said that, the BSB are very cooperative and always prepared to help OISC.

CILEx Regulation

9. CILEx regulation has less contact with OISC but continues to have good communication channels with it. Only around 20 individuals are authorised to provide immigration

advice. However, staff at CILEx Regulation are very helpful and it has a solid well thought through regulatory framework which CILEx Regulation engaged with OISC in its development. One concern it had was, if the number of legal executive providers were to expand rapidly, this could present greater risks, including entry into the market of criminal or poor providers. OISC emphasised, as with all the regulators, it was a matter of matching capacity and resources with emerging demands, and it felt confident that CILEx Regulation would be able to adapt proportionately and maintain constructive relations with OISC.

Attachment 3 2015 12 02 OISC meeting note

From: Paul Greening
Sent: 08 December 2015 11:49
To: Antonet Abbink
Subject: OISC Meeting Notes 2 December 2015

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Antonet

I provide below a note of the main headlines from the meeting Richard and I had with OISC on 2 December. Please let me know if you have any questions. Thanks

Paul

- [REDACTED] OISC was still undergoing its triennial review and did not yet have a date for its completion, and no firm indication from the Home Office (OISC's sponsoring Govt. Department) as to what the result of the review will be.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] raised a question about the Law Centre Network (LCN). The LCN had raised a concern about dual regulation between OISC and the SRA, including where solicitor-only law centres providing immigration advice are, in addition to SRA regulation, required to be regulated as an entity, by OISC.
- [REDACTED] aware of the LCN's concerns and recognised that it was an important issue for those law centres affected. [REDACTED] happy for OISC to have a dialogue with the LCN and SRA about dual regulation but was not sure that much could be done about it within the current regulatory architecture. It was clear that individual solicitors should be regulated by the SRA but that OISC should regulate the entities. [REDACTED] not consider it to be a large scale problem, as law centres made up a very small percentage of the entities it regulates.
- On interactions with the SRA and BSB, [REDACTED] OISC had good working relations with both approved regulators, [REDACTED]
- [REDACTED]
- [REDACTED] updated Dr Leigh and Stephen Seymour about the direction of travel on government thinking in respect of a review of the Legal Services Act and regulation of legal services. Dr Leigh said that OISC would probably feed views into government, but it did not have a dedicated policy team or individual. [REDACTED]

The meeting was cut short at this point due to a fire alarm.

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Attachment 4 2016 07 01 OISC meeting note

From: Paul Greening
Sent: 04 July 2016 11:24
To: Neil Buckley
Subject: Meeting with the OISC Friday

Neil

I provide below a short bulleted note of the headlines from our meeting with the OISC. Please feel free to edit or add anything I may have missed. Happy to send to colleagues in the usual way.

Thanks

Paul

Meeting with Dr Ian Leigh, Deputy Commissioner of the Office of the Immigration Services Commissioner (the OISC) held on Friday 1 July

- Neil and I had a meeting with Dr Ian Leigh, Deputy Commissioner of the OISC and Stephen Seymour, Head of Operations at the OISC, on 1 July.
- This was an introductory meeting. Dr Leigh explained the role of the OISC, its statutory responsibility for immigration advisers and operational structure.
- Dr Leigh confirmed that the OISC was still the subject of its second triennial review. A report was completed by the sponsor department, the Home Office, in mid-2015 but had not yet been signed off by Ministers and the Cabinet Office. As a result, the OISC has put recruitment of a new Commissioner on hold until the report and recommendations have been approved. [REDACTED]
[REDACTED] Dr Leigh is acting Commissioner in the meantime.
- The OISC overall focus was on trying to improve the quality of legal advice provided by immigration advisers and to weed out bad practice. It prosecutes around 15 cases per year (although we were not told how many of these prosecutions led to a conviction).
- [REDACTED]
- [REDACTED]
- The OISC had seen the results of the recent SRA and BSB research into asylum and immigration advice services [REDACTED]
[REDACTED] The OISC had been consulted by the BSB for its research but not by the SRA for its.
- The OISC is in the process of developing a new approach to CPD to make it less prescriptive and more outcome focussed. [REDACTED]

- On McKenzie Friends, we said we noted the OISC response to the Lord Chief Justice consultation and its concerns about the risks posed to vulnerable clients seeking immigration and asylum advice from unregulated individuals. Whatever code is developed for Mckenzie Friends the OISC said this should not undermine or conflict with the OISC's statutory role and responsibilities.
- It was noted in the meeting that the Competition and Markets Authority Report was due to be published the week commencing 4 July.
- The OISC Annual Report is due to be published on 7 July 2016.
- Neil and Dr Leigh agreed they should aim to keep in touch and meet around every 12 months.

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