

From: Amanda Penfold [mailto:amandap@visalegal.com]
Sent: 15 March 2012 13:55
To: Consultations
Subject: Regulation of Immigration advice and services: March 2012 Consultation

Dear Sirs,

I am a level 3 OISC regulated advisor and have experience of immigration and asylum work within both privately and publicly funded SRA regulated solicitors firms. I agree that there are many client's who receive extremely poor immigration advice and that as one of the most vulnerable sections of society, they should be protected from incompetent and dishonest immigration advisors.

From my experience, however I would say that the OISC are by far the most pro-active when it comes to regulating and policing the immigration advisors under their jurisdiction. The SRA are not equipped to regulate or police immigration advisors specifically as they are not a regulatory body as such and are more of a solicitor's representative body. They have outsourced their immigration accreditation in relation to publicly funded immigration and asylum work to the LSC, who were never set up as a regulatory body, but instead as a body to oversee public funding.

I am extremely concerned that the SRA, in their attempts to protect the interest of their members, will push for immigration advice not offered by barristers or CILEX members, to be regulated solely by them, despite their complete lack of competence in this area.

The majority of examples that I have seen in relation to incompetent and dishonest immigration advice have been through privately funded solicitors practices. I have always advised my clients to make formal complaints to the SRA and latterly the Legal Ombudsman when the incompetent or dishonest advice given has caused a detriment to my client's case. It is very difficult, however, to persuade someone who is not au fait with the legal complaints system in the UK to follow through the very long winded complaints procedure put in place by the Legal Ombudsman.

In comparison, the OISC complaints and fraud departments are very pro-active and will follow complaints and tip offs from clients and non-clients alike without expecting the complainant to follow through the various 'filtering' mechanisms that may result in complaints to the Legal Ombudsman being artificially lowered and allowing the continuation in practice of incompetent and dishonest solicitors.

The one criticism I would make of the OISC, would be that they are ill equipped to deal with the wind up of firms that close down and subsequent transfer of client's files. This is an area that seems to need improvement.

It would appear that the SRA is the organisation that needs the most attention and increased regulation and I would suggest that all solicitors and non-solicitors offering immigration advice and services should be regulated by either the OISC in whatever amended form it would need to take or the LSC if publicly funded.

The OISC could become a qualifying regulator in relation to immigration and asylum services, as CILEX did last year. It would be a mistake to lose the expertise of the OISC in an attempt to simplify the framework of immigration advice and would do nothing to improve services in this area as the worst offenders are 'regulated' by the SRA already. It would also be a mistake to bring the OISC under the cumbersome Legal Ombudsman for complaints, as it is the specialist nature and fast, pro-active action of the OISC that make their

complaints procedure better for immigration and asylum clients than that offered by the Legal Ombudsman currently.

Finally, it appears from your analysis that you may be looking at removing asylum work from the OISC remit as you infer that privately funded asylum clients must have been deceived in some way if they are not taking up the offer of legal aid and have a case with merit. We always refer asylum or low income clients to good legal aid firms or law centres, but the restriction in matter starts often makes it very difficult to obtain public funding in the timescales involved. Other clients who have been recommended to us by former clients often do not want to be referred, even when we explain how good the firms are that we refer to and the benefits of having their case taken by a firm who have a legal aid franchise re payments for expert reports etc.

If the purpose of your consultation is to improve the quality of immigration advice and make the choices clearer to clients, then you will not shut out the OISC as the only specialist regulator and you will clamp down on the private solicitors firms who give all immigration lawyers a bad name.

Regards

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