



information sheet

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ILPA members listed in the directory at www.ilpa.org.uk provide legal advice on individual cases. ILPA does not do so.

The ILPA information service is funded by the Joseph Rowntree Charitable Trust.

An archive of information sheets is available at www.ilpa.org.uk/info-service.html

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13 December 2018

Immigration Legal Advice

This information sheet seeks to explain what 'legal advice' is in immigration contexts, who can provide such advice and the consequences of obtaining improper immigration advice. Immigration legal advice is provided when an individual takes action on behalf of another individual by pursuing or representing their matters before UK immigration authorities such as the Home Office (UK Visas and Immigration), the Immigration and Asylum Chamber of the Tribunals etc. Individuals or organisations who provide immigration advice must be regulated appropriately, irrespective of whether that individual/organisation provides that advice for free or on a paid-for basis. Immigration advice does not include offering basic information on e.g. the asylum process to e.g. community organisations.

Background

Immigration advisers provide advice and services on issues such as:

- asylum claims,
- entry clearance applications for leave to enter/remain in the UK,
- immigration employment documents (such as sponsor licences),
- nationality and/or citizenship,
- residence,
- deportation/ removal,
- applications for immigration bail and/or appeals against deportation.

Pursuant to s.84(1) of the *Immigration and Asylum Act 1999*, it is unequivocally stated that: "*No person may provide immigration advice or immigration services unless he is a qualified person.*" Section 84(2) of the 1999 Act goes on to define a qualified person. In effect, a qualified person is someone who is registered to provide immigration advice by the Office of the Immigration Services Commissioner ('OISC'), someone who is regulated by a designated professional body, or is the equivalent of a qualified person in another EEA State. It is a criminal offence for an unregulated individual/organisation to offer immigration advice.

Designated bodies include:

- The General Council of the Bar – for barristers in England and Wales,
- The Law Society of England and Wales – for solicitors in England and Wales,
- The Chartered Institute of Legal Executives – for legal executives,
- Faculty of Advocates – for barristers in Scotland,
- Law Society of Scotland – for solicitors in Scotland,
- General Council of the Bar of Northern Ireland – for barristers in Northern Ireland,
- Law Society of Northern Ireland – for solicitors in Northern Ireland.

This means that if you are e.g. seeking legal advice on your immigration matters, and approach a private solicitors' firm, then that firm's solicitors will all be members of their relevant Law Society, and thus they are qualified to provide immigration advice to you. It is important to note, "*qualified*" only means that they are not committing a criminal offence by providing you with immigration advice, it does not mean that they necessarily have the best expertise within immigration law.

The Office of the Immigration Services Commissioner

OISC advisers must comply with the OISC [code of standards](#), and can be identified by their 10 digit registration number that can be cross-checked with the [OISC register](#). An OISC adviser is regulated to a certain level, and there are three levels of competence. Advisers must work within what is/is not permitted based on their [level of competence](#).

Within the context of Brexit, it is important to understand that if someone is helping you fill in a form by e.g. translating the form and its accompanying guidance note, this is not considered to be immigration advice, and the person offering such assistance need not be regulated by the OISC. Further, if your employer is seeking advice from another company to get advice on how their workers' leave affects their obligations, then the organisation providing this advice need not be regulated. On the other hand, if an individual worker is seeking advice regarding e.g. extending their leave, then the organisation offering this advice will need to be regulated appropriately. The OISC have issued [guidance](#) on what is and is not immigration advice in the context of the EU Settlement Scheme.

Finally, if you turn to an immediate family member, or a close friend, for occasional help with your immigration issue, that person need not be regulated, however, no fee can be charged for such help. If your family member or close friend does charge a fee for their help, they must be regulated by a relevant body such as the OISC.

Further Reading

For more information regarding regulation, please see:

<https://www.barcouncil.org.uk/>

<https://www.lawsociety.org.uk/>

<http://www.advocates.org.uk/>

<https://www.lawscot.org.uk/>

<http://www.barofni.com/>

<https://www.lawsoc-ni.org/>

<https://www.cilex.org.uk/>

<https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>