



# Advice NI Response

## OISC consultation

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## Advice NI Consultation Response on:

- (i) changes to the Office of the Immigration Services Commissioner's fee structure
- (ii) issues affecting migrants / refugees / asylum seekers in NI

### About Advice NI and the independent advice network

Advice NI is a membership organisation and service provider that exists to provide leadership, representation, support and services for the Independent Advice Network and people in Northern Ireland. We support 65 members across NI, providing advice on benefits, debt, housing, employment and consumer related issues.

Advice NI also delivers a range of advice services to the public via a Freephone helpline which includes Debt & Money, Benefits, Tax Credits & HMRC products/services, EU Settlement Scheme and Business Debt. See [www.adviceni.net](http://www.adviceni.net) for more on the work of the independent advice network.

Our latest annual report<sup>1</sup> highlights that 1% of the work of the network (amounting to over 2,600 enquiries) relates to immigration advice, in other words the work of those members operating under the Advice NI Level 1 exemption or under their own registration. Please note this does not include EUSS enquiries. Delivery includes face-to-face, outreach and online advice services. Over 80% of member organisations have less than 15 paid workers.

### NI Context

As per the Dr Jo Wilding research<sup>2</sup>, we would wish to point out the particular unique circumstances of NI in terms of the issue of immigration advice:

- NI faces the additional issue of a land border with the EU, meaning it has cross-border workers and potentially complex questions around entitlements to housing and social security which do not arise in the rest of the UK.
- Some issues relating to the CTA (Common Travel Area) are unique to NI<sup>3</sup>. There have been long standing concerns about racial profiling (can be evidenced on the buses between Belfast and Dublin).
- Legal aid is available for the full range of immigration work as well as asylum in Northern Ireland. The Law Society of NI's website listed 99 firms doing immigration legal aid work at the start of the research, but many of these firms did not undertake immigration work in practice. Although all immigration and asylum work remain in the scope of legal aid, in practice provision is limited by very low fees.
- To note that while both universities here offer a law degree, we understand that neither of them have a module on immigration advice.
- There were only 63 grants for Representation in the First-Tier Tribunal in 2021, which does not appear to be adequate provision for representation on appeals, given the number of people in asylum support in NI during the same period.
- There are two OISC Level 3 organisations in NI; four non-fee charging OISC Level 2 offices are registered, but three of these are Barnardos offices, which work only with children, and the

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<sup>1</sup> [Annual Report 2023 | Advice NI](#)

<sup>2</sup> [No access to justice: how legal advice deserts fail refugees, migrants and our communities - Refugee Action \(refugee-action.org.uk\)](#)

<sup>3</sup> <https://nwmf.org.uk/common-travel-area-cta-brief-background-and-its-origins/>

other was only accredited to do EUSS work. There are 56 offices registered at Level 1. The Citizens Advice Bureau in NI closed on 1 January 2019 and many offices moved under the umbrella of Advice NI, which has since acquired the same Level 1 exemption as Citizens Advice Bureaux. There are 35 Advice NI members on the register.

- Advice NI members report clients trying to access their face to face services from outside Northern Ireland, from right across the UK, which speaks to the level of demand for immigration advice services and the pressures on the staff providing these services.
- Some Advice NI members report the real risk of being forced to step away from immigration advice, if forced to incur additional costs via these proposed changes to the fee structure. For those that remain, these proposals will undoubtedly place more pressure on their ability to recruit and retain staff and place an increased bureaucratic workload on organisations, especially smaller organisations, which have little spare capacity to absorb this additional workload.
- There is a lack of data on which to draw more robust conclusions about access to immigration legal advice and representation in NI, but the evidence points to a significant shortage at all levels.
- Approximately 4,468 undocumented people including 1,742 children, though this is thought by interviewees to be an underestimate.
- The immigration services infrastructure is poor, meaning that people have to travel to enrol biometrics, attend legal appointments and hearings, but face difficult journeys on often poor public transport in order to do so, if they live outside Belfast.
- Recruitment of qualified advisers is very difficult throughout NI, because there are few immigration solicitors and few OISC-accredited advisers, especially given the salaries organisations can afford to pay.
- Quality is repeatedly cited as a problem, particularly when non-specialists take on immigration work without the necessary knowledge or experience.
- Compliance with NI Section 75 legislation, which places a statutory obligation on Public Authorities to carry out their functions with due regard to the need to promote equality of opportunity and good relations in respect of religious belief, political opinion, gender, race, disability, age, marital status, dependants and sexual orientation.
- Most clients have multiple vulnerabilities, including lack of English language and digital skills.
- Understanding complex immigration law and practice can be difficult even for English speakers.
- Clients getting advice from unregulated advisers not aware of OISC and it's regulatory role.
- Poor immigration advice may result in clients not following up with their immigration application.
- Clients often do not have the finances to pay for professional immigration advice to challenge wrong Home Office decisions. Therefore these people are unable to access rights and entitlements and face poverty and social exclusion.

**(i) Advice NI response to the consultation on the proposed changes to the Office of the Immigration Services Commissioner's (OISC) fee structure**

To summarise the proposed changes:

- Proposal 1: new charges applied separately for organisations and individual advisers;
- Proposal 2: introducing charges to the non-fee charging sector;

- Proposal 3: Introducing charges at different points or for specific services;

Advice NI response:

Advice NI understands the pressures facing Office of the Immigration Services Commissioner in terms of capacity to meet demand. However we are very concerned about the potential impact of the introduction of charging given the unique circumstances that exist in NI. Already we see demand far exceeding supply in terms of immigration advice services and it is undoubtedly fair to say that the proposed changes to the fee structure will hinder as opposed to help address this situation; increasing the risk that the costs to organisations and individual advisers may increase the risk that providers may decide to not register and withdraw their services in this area.

This in turn will negatively impact on training and support services, making these services less viable in the context of working with fewer frontline providers in this area.

Whilst lack of access to services inevitably leaves people at risk of serious harm, it also means providers are currently operating at capacity, with staff under considerable pressure to cope with the level of demand hitting their services, with some being forced to limit their provision. The introduction and increase of fees will add to the pressure on organisations struggling to meet demand

This in turn may lead to an explosion in unregulated service provision. This would be unacceptable for a number of reasons: (i) service users may very well receive a substandard service which would be detrimental to their case and to their general health and well-being; (ii) unregulated services will need to be properly investigated and appropriate action taken – a situation which will absorb OISC time and resources and so perversely will place more demands on their services.

Similarly, with less regulated provision and more unregulated provision, the quality will undoubtedly suffer, leading to the more people challenging decisions, with the associated additional costs that this will generate.

There is also a certain lack of logic to the approach being contemplated by the Home Office. On the one hand funding is being provided for services such as the EUSS provision, but on the other hand these resources are being 'clawed back' in terms of the proposed changes to the fee structure.

Advice NI is also concerned that the changes to the fee structure may not have any impact on the capacity of OISC to improve its service provision, for the obvious reason that OISC is funded through 'Grant-in Aid' by the Home Office whereas the fees are payable directly to the Home Office.

There is no reference in the consultation to the issue of 'blanket' registration. This relates to the situation where currently three membership organisations (Advice NI, Citizens Advice England & Wales, Citizens Advice Scotland) have Level 1 exemption based on certain criteria being fulfilled and regulatory functions being conducted by these 'umbrella' organisations. Given that this model eases the cost of regulation on OISC, it is only right and fair that currently an exemption is in place and equally it is only right and fair that this exemption carries forward into any future fee structure.

With regard to proposal 1, we accept that the decision to move from a banded to individualised fee structure creates a fairer system in principle and is in keeping with the approach in most other professions. However, this raises the question of whether the registration and regulation of organisations and advisers should be more clearly separated, as at present an adviser can only be registered and regulated in association with a particular organisation. For example, it is unclear how

the OISC will charge advisers working for more than one organisation, particularly where that is split between fee charging and non-fee charging organisations.

We are also concerned that the proposed fee structure takes no account of the organisation or adviser's capacity to pay. For example, the General Medical Council offers a discount to doctors on registration costs when their income is below a certain threshold. They also offer a reduced fee for newly qualified doctors, whose rates of pay are lower. This would also have the advantage of reducing barriers to entry for newly qualified advisers, giving time for them to integrate into the regulatory environment.

On proposal 2, we believe that it is important to set the substantial rise in free immigration advice services in the proper context. As we know from our own experience as a provider of funded services, the principal reason for this increase has been the need to support a significant part of the population to apply for status through the EU Settlement Scheme, as well as other defined immigration schemes such as those made available to people arriving from Ukraine, Syria and Yemen in recent years. A significant proportion of the advice work conducted in this area has been by non-fee charging organisations. However, as the focus on these schemes reduces, there is less funding available to non-fee charging organisations, and therefore the costs of registration have to be absorbed within general running costs, which are themselves subject to substantial pressures at a time of straitened budgets and rising costs.

The availability of funding is a significant issue for non-fee charging organisations, as the number of funders in this area are limited, and funding streams are often restricted to narrow criteria. As a result, charitable and voluntary agencies are only able to offer immigration advice in a limited range of circumstances. The need for the development of a unique accreditation for EUSS advice is a good example. We would argue, contrary to the OISC's assertion, that it is not the funding challenges faced by the OISC which reduces the standard of immigration advice in the UK, and in Northern Ireland particularly, but the lack of financial backing for the sector. All non-fee charging organisations in Northern Ireland, including Advice NI, have faced significant challenges recruiting and retaining qualified advisers, and increasing the cost of regulation will only exacerbate this problem.

We would strongly advocate for the retention of the Commissioner's discretion to exempt certain organisations and advisers from substantial fees. Whilst we recognise the constraints imposed by Treasury rules in this area, the Home Office must make the case for a clear demarcation between organisations that charge for advice and those that do not. Whatever benefits may accrue from the professional status afforded by registration must be offset against the wider social and budgetary benefits that accrue from the provision of high-quality and free immigration advice, including a reduction in costs to the Home Office and the justice system when immigration cases are presented effectively. In addition, we would argue that there is a duty of care to the most vulnerable in society to be afforded the same access to justice as anyone else in society.

Ultimately Advice NI believes that more resources need to be put into advice services in NI, not increased charges which risk reducing capacity.

## **(ii) Issues affecting migrants / refugees / asylum seekers in NI**

It is worth emphasising the often hardship and destitution being endured by many clients. Some do not have adequate resources to eat properly; some are reliant on crisis interventions such as

foodbanks but sometimes foodbanks are unable to cater properly for the food and other requirements of these clients.

Sometimes hostels, hotels and other accommodation provide meals which are culturally inappropriate.

People whose applications turned down very often find themselves destitute and street homeless.

Equally people whose applications are successful find themselves put out of accommodation, their National Asylum Support is terminated, they are forced towards temporary accommodation which has limited availability, children's schooling is disrupted and they have to endure the Universal Credit 5 week wait.

Larne House Visitor Group volunteer: "By way of background Larne House is a Short Term Holding Facility at the back of the Larne PSNI station where people are detained for up to 7 days before being released or more usually sent to one of the Immigration Removal Centre's in England or Scotland. As volunteers (entirely volunteer-led org) we visit in pairs and have a rota going to visit on Tuesday evenings and Saturday afternoons. The people we visit are, in our experience, those who have crossed the border not understanding they don't have the correct visa to be in the UK, people who do not have the right to work in the UK, 'failed' asylum seekers, or those who have completed (an often very short) prison sentence. Many people we visit have been living and working in NI for many years and have families here. Immigration advice is of therefore of the utmost importance and is almost impossible to get in NI. In our experience those working in immigration advice are either overloaded and cannot take on additional clients at such short notice or else charge fees that the people we visit cannot afford. People we visit are therefore reliant on the 30 minutes immigration advice they can get (if they know to ask for it) once transferred to the IRC in England or Scotland. Over the past year we have found that women in particular are more likely to be moved at very short notice around the 'detention estate', making it almost impossible for them to access immigration advice. Accessible, quality, immigration advice for all that need it, often at very short notice and often at weekends, is so important to enable those being detained to challenge their detention and sort out visa irregularities."

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