



REFERRING RESIDENTS FOR IMMIGRATION ADVICE

Residents often approach local councillors with issues to do with their immigration status, and may be in need of legal advice. For example, they may need to regularise their status, extend their visa or get help to claim asylum.

They may also already have a lawyer, but be having trouble getting the right support. Sadly, there are a lot of bad legal advisors out there. Going through the immigration system is incredibly expensive and complicated, and people's future is on the line when they come to make an application. As such, many people are in a very vulnerable position, and in need of advice.

Sadly, there are many people who seek to exploit this vulnerability by providing poor quality advice, often when they are not qualified to do so, and charging huge amounts of money.

However, it's easy to do some research and make sure residents are getting advice from a qualified professional. This is a guide to supporting residents to find good quality immigration advice, and ensure that they are getting a good service.

WHO CAN GIVE IMMIGRATION ADVICE?

You do not have to be a qualified solicitor to give immigration advice. However, you do have to be qualified to give immigration advice. It is **against the law** to provide immigration advice without the correct qualifications, even if the advice is provided for free.

In order to give immigration advice, a person must be registered either with the Office of the Immigration Services Commissioner (OISC) or the Solicitors Regulation Authority (SRA).

Solicitors must be registered with the SRA, but other types of advisors can give immigration advice as long as they are registered with the OISC.

Not all forms of support constitute legal advice. Explaining the immigration rules that exist is not legal advice, and is instead known as legal support. If, however, someone is explaining how the rules apply to an individual's specific circumstances and advising them whether and how to apply under a certain route, this becomes legal advice.

Anyone talking through the immigration system to support someone who is going through the system should be very careful not to dispense specific advice tailored to an individual's circumstances, as this can be defined as legal advice. As above, it would be against the law to provide this without the right qualifications.

OTHER TYPES OF ADVICE

Migrant constituents may need legal advice from a different kind of advisor. For example, if they present with an issue relating to their housing, or their access to healthcare, in many cases an immigration advisor will not be able to help.

You may want to help them search for a community care lawyer – these are lawyers who support people with issues relating to adult social care, social services, care in institutional accommodation or from health and housing services.

A community care lawyer will not necessarily be qualified to give immigration advice, and vice versa, so it's important to get details of the exact issue before signposting someone for legal advice.

CHECKING AN ADVISOR'S QUALIFICATIONS

It's easy to check online about whether an advisor has the right qualifications to be giving immigration advice. You can search on the OISC website [here](#). Click on 'Organisation and/or Advisor' and you will be able to search the OISC register by the advisor's name.

An advisor from a regulated organisation should also be able to give clients their organisation's OISC ID number (a 9-digit number with either F or N at the start). You can also search the register by the organisation's ID number, and check that they have someone by the correct name employed.

If you don't get any results, you can double check by searching the name of the organisation in the [OISC register](#), a list of all regulated organisations and individuals. You can also check them against the list of people who have been banned from giving immigration advice.

If the person giving advice says they are a solicitor, you can check that they have the right qualifications by searching the [SRA register](#).

CHARGES AND LEGAL AID

Good quality legal advice can be very expensive. However, people looking for immigration advice should be made aware at the outset of how much they will be charged.

Advisors should be transparent about how much their overall fees will be, or how much they charge for each piece of work they will need to do.

Different legal firms will have different pricing guidelines for various types of applications. Not all applications of the same type will be the same price, as one applicant's circumstances might be more complicated than another's, and require a more detailed application.

However, residents and anyone supporting them can research other law firms to find out how much other advisors generally charge for the type of application they are making.

People making some types of applications can get free legal advice – this is called Legal Aid. Legal Aid is available as a matter of course for people applying for:

- Asylum
- Humanitarian protection
- Leave to remain based on their right to life (Article 2) or their right not to suffer torture or inhuman or degrading treatment or punishment (Article 3)
- Immigration bail (if they are being detained in an Immigration Removal Centre)
- Indefinite leave to remain as a victim of domestic violence
- Leave to remain as a victim of human trafficking or modern slavery
- Leave to remain as a lone child wanting to stay in the UK

People making other types of applications can't usually get Legal Aid.

However, a lawyer might be able to apply for Exceptional Case Funding, which would mean they could get funding to provide legal advice for free if the Legal Aid Agency (the body that administrates legal aid) agrees that the person cannot afford legal advice, has a strong enough case, cannot do the application themselves, and that their human rights would be at risk if they did not have access to legal aid.

If all of the above conditions are met, people making the following types of applications may be able to get Legal Aid:

- Application for leave to remain as a partner
- Application for leave to remain as a parent
- Application for leave to remain because they have lived in the UK for 20 years

Finding a Legal Aid lawyer is increasingly difficult. However, residents should be aware that, if they are making any of the above applications, they may be eligible for free legal advice.

People making certain types of application may also be able to apply for something called a fee waiver. This is where they prove to the Home Office that they cannot afford the application fee, and so do not have to pay it.

GENERAL EXPECTATIONS

There are some general rules of thumb that people seeking legal advice should have in mind when working with advisors.

- Advisors should send clients a Client Care Letter when they take on the case. This is an official letter that includes details of the advisor's qualifications, details about how the case will be funded and whether the client will pay, and any advice given
- Many advisors are extremely busy, especially if they are providing Legal Aid. However, they should respond to questions from clients in a timely manner
- Likewise, while the Home Office is very slow to respond to applications, if a client has not heard back about their application in 12 months, they can ask their legal advisor's opinion about taking action
- Advisors should be upfront about how much they will charge for each part of a client's application, and provide an itemised breakdown if possible

If a resident is unhappy about the service they are getting from a legal advisor, they usually have to complain to the organisation or legal firm in the first instance. If they are not satisfied with the response from the organisation, they can seek support from the [Legal Ombudsman](#).

WHAT IS EXPECTED OF CLIENTS

Clients also have responsibilities to their solicitors or advisors. The relationship between a client and their solicitor should be open and collaborative.

- Clients should be honest with their solicitors, and try to make sure they have all the information they need
- Clients should engage with the process - for example, by attending meetings on time and supplying documents as requested by their solicitor
- Clients should ask questions if they don't understand anything about the process
- Clients may have other people or organisations supporting them - but they should check with their lawyer before, for example, contacting the Home Office or speaking to a journalist about their case

If you would like further information about any of the above, you can contact the **Migrant Champions Network**. We will be able to signpost you to further support, and may be able to help you speak to a legal advisor.