

Complaints Scheme

The Advice Services Alliance's response to the
Office of the Immigration Services
Commissioner's consultation paper

On the whole we find the suggested changes to be sensible and clearly drafted. We have only one comment to make on the content of the changes and this relates to paragraphs 41 and 42 on mediation/conciliation.

We recognise that where mediation occurs it is an attempt to help the complainant obtain redress that they may not otherwise obtain. However, we do have some concerns about the process.

- We understand that OISC caseworkers are not trained in mediation techniques and that there is no mechanism for having a mediator review the mediation work. We are concerned therefore that it may not be of the highest quality and that opportunities to improve quality are being missed.
- Any agreement between parties that is mediated by an OISC caseworker does not bar a complainant from talking legal action against their adviser. However, we are concerned that unless a complainant is advised to seek independent advice on the merits of their case, they are unlikely to do so, particularly if they have received some recompense from their adviser.

In most cases it is unlikely that a complainant will have a negligence case worth taking and so we recognise that it would be counter-productive to advise all complainants to seek independent advice about their cases. However, it should be done in some cases and we are concerned that unless OISC caseworkers have training in spotting these potential cases some may fall through the net and complainants may lose out on compensation.

In order to address the above points, we suggest that at least some of your caseworkers receive training in mediation so that those caseworkers can handle the cases where mediation is appropriate.

Those caseworkers should also receive training in spotting cases where negligence may have occurred and where complainants should be advised to seek independent legal advice.