Recent Developments in Alternative Dispute Resolution

Update No. 9

June 2003

advice services alliance

COMMUNITY FUND
Lottery money making a difference

© ASA June 2003

12th Floor New London Bridge House, 25 London Bridge St, London SE1 9ST ☎ 020 7378 6428 www.asauk.org.uk info@asauk.org.uk

The Advice Services Alliance is a company limited by guarantee, registered in England & Wales No.3533317, registered office as above.

ADR Update No. 9

Contents

News and information **2**
Two new cases confirm the risks of refusing ADR 2
ADR for public authorities 2
A Social Housing Ombudsman for Wales? 3
New mediation practice journal 3
Making amends – government report on clinical negligence 3
LCD departmental report to parliament 2002-3 4
Proposed merger of Mediation UK and National Family Mediation 4
Civil mediation trends 5
Postgraduate certificate in conflict resolution and mediation studies 5
FAInS 5

ADR schemes **6**
Court Mediation Schemes 6
Disputes about web domain names 7

Comment and discussion **7**
Alternative Dispute Resolution – the key issues for debate 7

Ombudsman news **8**
Local Government Ombudsman – new leaflet 8
Ombudsman remedies 8
Ombudsmen and ADR 9
Complaints about Telecommunications companies 9

ADR feature **10**
The Office of the Immigration Services Commissioner (OISC) 10

*This **ADR Update** is intended to inform the advice sector of developments and initiatives in alternative dispute resolution. ASA wants to encourage dialogue between advisers and ADR providers so that the growing field of ADR develops in a way that ensures access to justice and informed choice. If you know of others who might like to receive a copy of **ADR Update**, either by post or by email, or if you would like more information about any of these topics, please contact Val Reid, ASA's policy and development officer for ADR. The **ADR Update** can also be downloaded from the ASA website:*

val.reid@asauk.org.uk
www.asauk.org.uk
ASA, 12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9ST
020 7378 6428

*ASA has also published **Advising on ADR: The essential guide to appropriate dispute resolution** (June 2000). The guide can be ordered for £20 from York Publishing Services, 64 Hallfield Road, Layerthorpe, York YO31 7ZQ, Fax: 01904 430868.*

News and information

Two new cases confirm the risks of refusing ADR

In March this year, the case of Leicester Circuits Ltd v Coates Brothers plc was heard in the Appeal court. As in the case of Dunnett v Railtrack (see ADR Update number 5 April 2002) an applicant who won his case at appeal was made to pay a substantial part of the costs of the case because on this occasion they withdrew from an agreed mediation at the insistence of their insurers. The judge said that withdrawal from mediation, just because you think you are in the right, or that it might not succeed, is contrary to the spirit of the Civil Procedure Rules. The argument that mediation was merely a "form of negotiation which came to nothing" was equally unacceptable. He stated that the whole point of proceeding with mediation once you have agreed to it, is that "the most difficult of problems can sometimes be, indeed often are, resolved." The costs of the case from the date of the "unexplained withdrawal" from mediation should therefore be paid by the party who withdrew. "We do not for one moment assume that the mediation process would have succeeded, but certainly there is a prospect that it would have done if it had been allowed to proceed. That therefore bears on the issue of costs."

In another case, in May this year, the court imposed costs penalties on the Ministry of Defence in a dispute about the meaning of a clause in a tenancy lease. In the Royal Bank of Canada Trust Corporation Ltd v Secretary of State for Defence, the landlord had offered to try to resolve the matter through ADR, but the MOD, the tenant in this case, refused on the grounds that a point of law needed to be established. In fact the MOD won the case, but again were penalised on costs because of their refusal to mediate, particularly bearing in mind the government pledge that departments would use ADR to resolve disputes wherever appropriate, and wherever the other side agreed. In fact, the original pledge by the Lord Chancellor did specify that there may be "disputes where a legal precedent is needed to clarify the law or where it would not be in the public interest to settle," but it seems from this case that the courts are increasingly restrictive in deciding what is or isn't an appropriate reason to refuse to mediate.

ADR for public authorities

On June 3rd CEDR launched a guide on ADR for public authorities, which aims to provide information about mediation and other ADR options for managers in government departments and local authorities. CEDR suggests that some of the factors which indicate that a case is suitable for ADR rather than litigation include:

- The need to preserve a commercial relationship
- An attempt to minimise costs, risk and stress
- A desire to communicate more effectively between the parties
- A move to find a way out of deadlock

The guide also suggests that cases may not be suitable for ADR when:

- Direct negotiations are progressing well
- A legal precedent is required
- A speedy injunction is needed

It is worth noting that the guide also suggests that one reason for public authorities to favour mediation rather than litigation is to "avoid a potentially damaging or unhelpful precedent"! The guide is, on the whole, aimed at contractual disputes, rather than disputes between public authorities and individuals. However, advice workers helping clients to make an informed decision about which method of dispute resolution to use should still think carefully about this one. Often a legally established precedent is a way of ensuring access to rights or entitlements not just for an individual, but for many other

people who may wish to rely on such a precedent in the future. Agreeing to mediation or some other form of ADR may resolve an individual problem with less stress, cost and risk, and may prevent deterioration of a difficult relationship, but it may also enable an authority to avoid a precedent on which other individuals might need to rely. These are some of the factors which advice agencies should take into account when advising clients on appropriate dispute resolution, though recent court cases are increasingly establishing limited reasons for refusal to attempt to mediate (see notes on Royal Bank of Canada Trust Corporation Ltd v Secretary of State for Defence in this Update).

The guide costs £30, and more information and details can be found on the CEDR website:

www.cedr.co.uk/index.php?location=/news/press/20030604.htm

A Social Housing Ombudsman for Wales?

The Government published a draft Housing Bill for consultation in March 2003. One of the suggestions is that there should be a Social Housing Ombudsman for Wales; the proposal is that the existing Commissioner for Local Administration in Wales (in effect the Welsh Local Government Ombudsman) should also take on responsibility for investigating complaints against social landlords in Wales, as well as her existing responsibility for Local Authority landlords.

In England and Scotland, complaints about registered social landlords are dealt with by the Independent Housing Ombudsman; the Housing Act 1996 requires all social landlords to belong to the scheme, but it does not include local councils: council tenants must complain to the Local Government Ombudsman. Currently in Wales complaints about social landlords go to the Housing Performance and Finance Division at the National Assembly for Wales.

New mediation practice journal

A new journal called “Mediation in Practice” has been launched by Mediation UK and the UK College of Family Mediators. It will be published twice a year, and aims to “reflect and consider in some depth issues in mediation practice in the context of family and wider community issues”.

The first edition, published in April this year, includes articles about:

- restorative justice in schools
- family mediation intake interviews
- elder abuse
- mediation in Muslim divorces
- involving third parties in mediation

Subscription is £18 pa, and there are more details on the UK College of Family Mediators website on:

www.ukcfm.co.uk/journal1.htm

Making amends – government report on clinical negligence

On 30 June, the Government's Chief Medical Officer published a report into clinical negligence in the NHS. The report makes a series of recommendations on dealing with this issue, and asks for responses on implementation; the suggestions include an increased use of mediation in resolving clinical negligence disputes. There will be more detailed information on this in the next Update. Read the report on:

www.doh.gov.uk/makingamends/index.htm

LCD departmental report to parliament 2002-3

In its annual report this year, the LCD outlined its commitment to ADR, and highlighted the targets against which it will measure achievements.

The changes to the Civil Procedure Rules in 1999 aimed to "make procedures, and therefore costs, more proportionate to the issues at stake, to deal with cases faster, to encourage early settlement (out of court, where possible), and to discourage ill-founded claims". The LCD report suggests that pre-action protocols are working well to promote early settlements, that the number of last minute settlements is falling, and settlements before the hearing day have become more common, though it does not give figures or sources for these statistics, or evidence that they are linked to increased use of ADR.

The report also re-states the LCD's commitment to "encourage the use of Alternative Dispute Resolution, while recognising that some situations can only be resolved by an external authority". The LCD is not yet able to say whether it is meeting its target to "increase the number of disputes resolved with funding from the Community Legal Service through Alternative Dispute Resolution, including mediation (SDA 13)," as there is as yet no baseline from which to measure any changes. The LSC and their Research Centre are currently working on this, as part of the Legal Needs Survey, and hope to have such a baseline in place by April 2004.

More information on the LCD website at:

www.lcd.gov.uk/dept/report2003/index.htm

N.B. Following the reshuffle on June 12th, the LCD is now the Department for Constitutional Affairs. The website address is so far unchanged.

Proposed merger of Mediation UK and National Family Mediation

The Trustees of Mediation UK and NFM issued a joint statement on June 20th proposing to merge the two groups to create a "single organisation to represent mediation services in the not-for-profit sector". NFM recently moved to Bristol to share premises and admin support with Mediation UK; the UK College of Family Mediators, which represents both NfP and for-profit family mediators, is already based there.

National Family Mediation is the national umbrella group which represents NfP family mediation services. It has supported the network through the implementation of LSC contracts for mediation, and the accompanying Mediation Quality Mark (MQM) requirements. There are 63 family mediation services in England and Wales which are members of NFM.

Mediation UK is the umbrella group which represents community mediation services, which provide a wide range of options including neighbour mediation, peer mediation in schools and victim/offender mediation. There are 221 community mediation services affiliated to Mediation UK. From January this year, community mediation services have had the opportunity to apply for the Mediation Quality Mark; not many have yet done so, partly because LSC contracts are not available for community mediation, and so resources are limited.

The resulting organisation would, in effect, represent all not-for-profit mediation in the UK (though family mediation in Scotland is represented by a separate body). The trustees suggest that one of the advantages of the merger would be to provide a framework for developing mediation in a variety of contexts, and also raising the profile of mediation nationally as an option in a wide range of disputes.

NFM services will have an opportunity to discuss the proposed change at a forum at the end of June, and there will be news of any further developments in the next edition of ADR Update (September 2003).

Civil mediation trends

Centre for Effective Dispute Resolution (CEDR) mediation statistics 2002-3

CEDR is a civil mediation provider of mediation services and mediation training, with a wider remit to provide information and education about civil mediation. CEDR mediators mainly deal with civil and commercial cases, not family mediation or neighbour mediation. Each year they publish mediation statistics which give an idea of overall trends in ADR.

CEDR completed 516 mediation cases over the year 2002 – 2003. Interestingly, over this year there has been a 50% increase in mediation by agreement between the parties, and a 30% decrease in mediations referred by the courts while proceedings are stayed. The number of mediations referred before the start proceedings through the two court-based mediation schemes involving CEDR, in London and Birmingham, has risen by 148%. CEDR interprets these figures as being an indication of both the increased acceptance of the benefits of mediation prior to litigation (rather than waiting for courts to force the issue once proceedings have begun) and also the fear of cost penalties for those who refuse to consider mediation, following a number of significant cases over the last year.

It is worth noting that 95% of cases were conducted within a single day, and 78% reached an agreement through mediation, a rate which remains unchanged from previous years.

The types of cases which are dealt with by CEDR mediators are dominated by:

- Sale/supply of goods 18%
- Finance 15%
- Professional negligence 13%
- Construction and engineering 9%
- Property 9%
- Employment 7%

More details on the CEDR website on:

www.cedr.co.uk

Postgraduate certificate in conflict resolution and mediation studies

Birkbeck College (University of London) and the Institute of Family Therapy are offering this one year part-time course, which will look at the cultural, social, ethical, legal and moral issues surrounding conflict resolution. The course starts in October 2003 on Wednesday mornings, and will cost £888 p.a.

More details in the "training courses" section of the IFT website on:
www.instituteoffamilytherapy.org.uk

FAInS

An update on the FAInS project contributed by Simone Hugo at the LSC:

The Family Advice & Information Service (FAInS) is about to enter the first phase of full pilot operation in England and Wales, following a successfully completed full pilot phase. The pre-pilot areas of Cardiff, Exeter and Nottingham will be joined by several new areas - Basingstoke, Hartlepool, Leeds, Lincoln, Mansfield and Stockton on Tees.

The FAInS project, which was introduced by the Lord Chancellor in March 2001, aims to help couples dissolve broken relationships in ways that minimise the distress both to the couple and to any children involved, and which promote ongoing family relationships and cooperative parenting. Central to the project is the provision of

tailored advice and information that is appropriate to the client and their situation, and helps them to access services that may assist in resolving disputes, or may help those who are trying to save their relationship. The project will also look at specialist services that are available specifically for children who are caught up in family breakdown.

The pilot project will build on existing best practice and existing services, and will enable people to access a range of services through a single point of reference. Currently the Family Advice & Information Service is supplied by family solicitors. However, other service models are being considered and may be piloted at a later stage.

Interdisciplinary working and local partnership between the legal and advice sectors is key to the effectiveness of the Family Advice and Information Service. FAInS suppliers need to have an understanding and a good local knowledge of specialist advice services, in order to be able to signpost and refer clients appropriately.

For more information you can view the FAInS web pages at:
www.legalservices.gov.uk/fains

or you can contact the project team on fains@legalservices.gov.uk or 020 7759 0315.

ADR schemes

Court Mediation Schemes

There are now a number of court-based mediation schemes throughout the country which offer applicants to local civil courts an opportunity to consider and, if appropriate, to try mediation before continuing with the litigation process.

The scheme at Birmingham Civil Justice Centre was launched by the Lord Chancellor in December 2001, and is open to all cases where the amount in dispute is more than £5,000. CABx carry leaflets about the scheme, and can refer parties for more information. When a defence is filed, the court will send information about the scheme to both parties and their legal advisers; and at any stage of the court process a judge can suggest that the parties consider using the scheme. Mediation fees are subsidised, and each party contributes on a sliding scale, depending on the sum in dispute, between £75 and £250. If mediation results in an agreed solution to the dispute, the Mediation Clerk will issue a consent judgement or a Tomlin order as appropriate. If an agreement is not reached, the Mediation Judge will issue case management directions.

The Leeds Pilot Scheme was introduced in July 2000. In this scheme details of the mediation option are sent to all parties by the court with the allocation questionnaires, and where both parties agree a mediator is allocated by the local law society from their panel of mediators. The first year's operation of this scheme was evaluated for the Lord Chancellor's Department by Leeds Metropolitan University in September 2001. During this period 19 enquiries about mediation were received, of which 15 proceeded to mediation appointments – a comparatively low level of interest. It is interesting to note that in all but one of these cases it was the solicitor or legal adviser who had recommended mediation to their client. A similar scheme has also been operating in the Manchester courts since December 2000. Details of the Birmingham, Leeds and Manchester schemes can be found on the Association of Northern Mediators website on: www.northernmediators.co.uk/schemes.html

A similar scheme linking mediation with local courts was launched at Norwich county court on July 1st this year. More details can be found on the "Mediators in East Anglia" website on: www.mediatorsineastanglia.org.uk/press.html

Disputes about web domain names

Nominet UK is the registry for *.uk* internet names, a not for profit organisation that is recognised by the internet industry, users and the UK Government. It also provides a dispute resolution service where users have a complaint about someone else hijacking their domain name. It receives between 40 and 50 complaints each month, and around 55% of these are settled through a free informal mediation procedure provided by Nominet. Those that are not settled this way are referred to an independent expert for a binding decision, though this costs £750 +VAT. More information on:

www.nominet.org.uk

Comment and discussion

Alternative Dispute Resolution – the key issues for debate

ASA has just published a policy consultation paper on ADR. Over recent years the government has promoted ADR not only as one way of resolving disputes, but as the first and most appropriate way. Increasingly provision is being made to restrict access to legal aid and to court procedures for those who have not first considered ADR, and to apply cost penalties to those who unreasonably refuse to engage in it. Provisions for cost penalties for those refusing ADR were dormant in the Civil Procedure Rules from 1998, and the first case which publicly drew attention to them (Cowl v. Plymouth) was in December 2001. Since then, a number of cases have confirmed that even parties who win their case on legal grounds can have cost penalties applied if they have refused to consider or even to engage in ADR. Funding Code requirements to try ADR have been in place since 2000, but ASA is not yet aware of any cases where parties have been refused legal aid for representation because the LSC considered ADR a more appropriate way to resolve the dispute.

It is important that these significant changes to the way justice is accessed in this country do not slip into the legal system unnoticed and unchallenged. The advice sector works with some of the most disadvantaged and socially excluded people and communities, and it is vital that they are not further disempowered by restricting access to enforcement of their legal rights through the courts. That is why ASA believes that the advice sector should be thinking, debating and consulting on these issues now.

This consultation paper addresses 6 key issues:

- In which types of dispute is ADR appropriate?
- What is the role of ADR in the litigation process?
- Should ADR ever be compulsory?
- How are quality standards for ADR best ensured?
- Should more ADR be funded by the Government?
- How should people get to know about ADR?

A copy of the paper can be downloaded from the ASA website on: www.asauk.org.uk

You can also request a copy by post or email from Val Reid on: val.reid@asauk.org.uk

or by phoning ASA on: 020 7378 6428

Responses to any of the questions in the paper should be made by the end of August, and ASA plans to hold a national forum to debate these issues on September 18th 2003. If you would be interested in receiving an invitation to this event, please let ASA know. Following the forum, ASA will produce a position paper on the Advice Sector view on the ADR policy issues raised here.

Ombudsman news

Local Government Ombudsman – new leaflet

The leaflet about the LGO service has been revised, and the new version became available in April this year. This leaflet is much less wordy than the old one, and a key innovation is the new LGO Adviceline with a lo-call phone number:

0845 602 1983.

This means that instead of trying to explain in the leaflet the complicated rules about what comes under the jurisdiction of the Ombudsman and what doesn't, people with a complaint are encouraged to do one or more of the following:

- check out more details of the ombudsman service on the website
- phone the Adviceline to discuss the concern and find out whether the Ombudsman can deal with it
- send in a complaint and the Ombudsman will reply within 5 days to let them know whether the complaint can be investigated

Old stocks of the leaflet should be destroyed, and new leaflets can be ordered free of charge from 020 8467 7455 or via the website:

www.lgo.org.uk/pubsorder.htm

Ombudsman remedies

The LGO has published an updated version of the guidelines used when considering remedies for justified complaints. The LGO's aim is, as far as possible, to "put the complainant back into the position s/he would have been in but for the fault". The guidelines are used by the Local Government Ombudsman when assessing and recommending appropriate remedies, but are also intended for use by councils dealing with their own complaints. They are also very useful for advisers in advice agencies, Law Centres and CABx in helping clients evaluate the potential outcomes of different dispute resolution procedures, and deciding which is the most appropriate.

Remedies which the ombudsman can recommend include:

- An apology
- A review of the Authority's practices
- A specific action
- Financial compensation

Compensation should take into account:

- Money due to the complainant
- Quantifiable loss
- Loss of a non-monetary benefit
- Loss of value
- Lost opportunity
- Distress
- Time and trouble
- The effect of the complainant's own actions

The guidelines also include discussion of remedies in specific types of dispute including council housing repairs, neighbour nuisance, council housing management, housing benefit, council tax benefit and planning, and guidance on time and trouble payments.

More details can be found on the LGO website on:

www.lgo.org.uk/pdf/remedies.pdf

Ombudsmen and ADR

Increasingly ombudsman schemes are using negotiation, informal resolution or mediation to encourage settlement of complaints brought to them, before undertaking a formal investigation and report. This is partly motivated by increasing pressure on their limited resources, and partly by the desire to ensure that complainants get the most appropriate outcome in the least possible time.

Margaret Doyle has just completed a survey of Ombudsman schemes an their use of ADR procedures, and the results are on the British and Irish Ombudsman Association website. Her key findings were that:

- Nearly every ombudsman service uses some form of informal resolution, and a majority of services (or at least those responding to the survey) use an ADR process
- Different ombudsman schemes use terms such as mediation and conciliation in different ways – key definitions are needed

Margaret Doyle concludes that the flexibility of these options "fits well with the appropriate dispute resolution agenda" and that ADR processes are "essential tools in the ombudsman's toolkit". She welcomes their use as an initiative that serves the interests of both ombudsmen and users, but also identifies some reservations:

- There seems to be a degree of confusion amongst ombudsmen about the criteria used to decide whether to attempt to resolve the dispute informally or through mediation, or whether to undertake a formal investigation. There is also confusion about whether the final decision about which process to use should be made by the ombudsman's office, or by the complainant. There needs to be clarity about how these processes fit into the ombudsmen's role and how decisions are made.
- Informal resolutions or mediated agreements are private and confidential, and therefore information about the settlement is not available to other complainants, legal advisers, or organisations whose practice might be affected by the decision. Because of the role of ombudsmen in influencing good practice, confidentiality in individual cases can be problematic, and some way of publishing results in anonymised form needs to be explored.

The full survey, responses and analysis can be found on the BIOA website on:
www.bioa.org.uk

Complaints about Telecommunications companies

The new Telecommunications Ombudsman is up and running, as reported in ADR Update No. 7. The Ombudsman is Elizabeth France, and she has been accepting complaints about member companies since January 1st 2003. Founder members were:

- Broadsystem Ventures Ltd
- BT
- Centrica (One Tel and British Gas Communications)
- ntl Group Ltd
- Powergen UK plc
- Virgin Mobile Telecoms Ltd
- Vodafone Ltd

They have now been joined by:

- Thus
- United Utilities

The service is free and independent, but like all ombudsmen will only accept a case after the company's own complaints system has been tried. Also, complaints must:

- have happened on or after 1st January 2003
- be notified to the company within 12 months
- come from residential or small business customers or their representatives

The Ombudsman won't deal with complaints about commercial decisions about whether to provide a product or service, about companies that are not yet members, or with problems that she thinks would be better dealt with by the courts or other complaints procedures. She will also try to find an informal solution to the dispute if the parties can agree on this; if they cannot, she will undertake a formal investigation and make a decision.

Telecom companies are obliged to accept the Ombudsman's decision and the proposed remedy if the complainant accepts it. The person complaining does not have to accept the decision; if they are not satisfied they are free to try to resolve the dispute another way, including going to court. The maximum financial compensation the Ombudsman can order is £5000, but she can also require a product or service to be provided, or demand an apology or an explanation.

The quickest way to make a complaint is on the phone. A complaint form will shortly be available on line on the website:

Lo-call phone number 0845 050 1614

Text phone: 0845 051 1513

Website www.otelo.org.uk

ADR feature

Each edition of the ADR Update will feature information about an ADR scheme that has not received a great deal of publicity, but might well be useful for advisers and their clients to know about.

The Office of the Immigration Services Commissioner (OISC)

This independent public body was set up in 1999 under the Immigration and Asylum Act to monitor the competence of immigration advisers, and to prevent exploitation and bad practice. All advisers in the for profit sector are required to be registered with the OISC unless they are regulated by the Bar Council, the Law Society or a number of other related bodies; non-solicitor advisers need to get an exemption certificate.

The OISC is responsible for providing a code of standards for immigration advisers, keeping a register of approved advisers, and dealing with complaints about poor practice. Advisers in both the for profit and not for profit sectors must meet the OISC standards; for profit advisers are registered, and not for profit advisers get a certificate of exemption; both must be displayed in their office, along with the OISC "global tick" logo showing that standards have been met. The OISC website has an adviser finder page, where you can search for approved immigration advisers by location, organisation or adviser name on

www.oisc.org.uk/adviser_finder/adviser_finder.stm

The OISC also produces leaflets for advisers and clients – a recent partnership between the OISC, the LSC, the Law Society and others has produced a leaflet for immigration detainees on the right to legal advice, guidance on who can provide it, how to find a legal representative, what to expect from him/her, and how to complain. It is available in print versions, or on the OISC website, in 16 languages. There is also a quarterly newsletter with up-to-date information about training, legislation and developments in immigration procedures, which is available on the OISC website on www.oisc.org.uk/about_oisc/pdfs/Issue8.pdf

In areas of work where there are both regulators and ombudsmen, usually the regulators will be responsible for codes of practice and the ombudsman for investigating complaints. There is no separate ombudsman for immigration advisers, so the OISC acts not only as a regulator, but also as a quasi-ombudsman by investigating complaints about immigration advisers. Complaints can be about any immigration adviser, whether or not they are registered, exempted, or a member of another professional body such as the Law Society. Complaints can be made by clients, advisers, members of the public or government officials, and the Commissioner himself can initiate an investigation into an adviser if he believes that there is a problem. Complaints must be about the competence or fitness of an adviser or their staff, or a breach of the code of standards, and must be made within six months. The sort of issues which form the subject of a complaint can be:

- Failing to carry out work
- Failing to represent the client at a hearing
- Not being registered with the OISC
- Not giving written notice of likely fees
- Withholding clients' money

Complaints about Home Office staff of other government employees should be made to the Parliamentary Ombudsman, not to the OISC.

The OISC can negotiate redress for complainants, though the remedies are limited. However, complaints have a more wide-ranging significance than resolving the individual case. At the recent British and Irish Ombudsman Association conference, the Immigration Services Commissioner, John Scampion, made the point that not enough complaints are received by his office for him to fulfil his regulation role appropriately. More complaints mean that the regulator has a better idea of the problems and issues which clients are facing from immigration advisers, from the incompetent to the "exploitative buccaneers." Many clients are reluctant to complain because of past experiences of bureaucracy, fear, and low expectations, but the OISC is encouraging advice sector workers with immigration clients to consider making a complaint where appropriate, in order to help build up an accurate picture of the state of immigration advice and the competence or incompetence of advisers.

ASA will be revising and re-issuing their briefing on the work of the OISC later this year, which will be circulated to the UK advice networks, and posted on the ASA website.

Help with making a complaint to the OISC is available from the OISC helpline:

0845 000 0046

More details on the OISC website on:

www.oisc.org.uk