

9 July 2002

Mr Howell Rees

Committee on Equality of Opportunity

The National Assembly for Wales

Cardiff

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Dear Mr Rees,

Thank you for your letter of 15th May 2002. I would like to thank the Committee on Equality of Opportunity for its invitation to speak with its members. It was a very valuable day during which I gained a useful and interesting understanding of the issues faced in Wales.

Turning to the issues discussed at the meeting on 24th April which you highlighted in your letter, below is further guidance on the main issues raised.

- **Language of Complaints**

I was asked at the Committee to consider removing from the website the statement that complaints are only taken in English. As I explained to the Committee, that was our initial position but one which we were very keen to move from. We have now been able to move from it and do receive complaints in languages other than English and have made an appropriate change to the website entry. The current website, however, does not provide information on 'how to make a complaint', in any other languages apart from English.

The OISC is aware of the importance of easy enabling access to information such as the Complaints Scheme. We are currently looking at ways in which the website can be improved and enhanced to ensure that it is user friendly. This review does include language development of the site.

- **The Position of Citizens Advice Bureaux Within the OISC Scheme**

A number of CABs do not provide immigration advice. Of those that do, there are few that provide advice above level 1. The OISC has accepted that all CABs are capable of providing immigration advice at level 1 based upon the assurances provided by NACAB in the Memorandum of Understanding. In simple terms, the OISC accepts that all bureaux are capable of delivering immigration advice at Level 1 due to the training programmes currently in place for advisers, the advice session supervisor system and the NACAB Information System which all bureaux use as the basis for their advice in this subject area.

The OISC has also accepted that individual advisers working at Level 1 do not have to declare their competence as individuals. This agreement is unique to advisers working at Level 1 within the CAB Service.

However, it is important to note that should a CAB provide immigration advice or services above Level 1, this 'block exemption', does not apply and that the specific CAB is required to apply to the OISC for exemption at the higher level.

- **Work Permit Clarification**

The Immigration and Asylum Bill, which is currently making its way through Parliament, clarifies the situation with regards to work permits. The Bill proposes to make work permits a 'relevant matter'; this means that work permits will become one of the categories of work that are regulated by the OISC scheme. The Immigration and Asylum Bill is scheduled to be passed in the autumn of 2002 and will take effect before the start of 2003. This amendment is supported by Work Permits (UK) and OISC.

In the interim, OISC considers that work permit applications are within the regulatory scheme. Work permit applications are inevitably and inextricably linked with immigration matters. If someone is applying for a work permit, this has implications for their immigration status. The work permit is of no use without an immigration application being made either from abroad, at a port or to the Home Office. These immigration applications are an inevitable consequence of the work permit being obtained and advice should be provided at that stage. OISC has taken leading counsel's opinion on this matter.

Employers advising their own employees on work permits and related immigration matters are not within the OISC scheme under SI 2002 No. 9 The Immigration and Asylum Act 1999 (Part V Exemption: Relevant Employers) Order 2002. This order is in force until 31st December 2002. It is likely that this Order will be made indefinite once work permits are added to the list of work covered by the OISC scheme.

- **Student Unions Clarification**

In clarification of the minutes of the meeting on 24th April 2002 at the National Assembly, it is the case that state colleges and universities, student unions and state regulated health sector bodies, while originally subject to section 84 of the Immigration and Asylum Act 1999, were given a block exemption, the result being that while they still maintain a duty to follow the Commissioner's Codes

of Standards and complaints scheme, they do not need to apply for registration or exemption. It should be noted that these organisations are regulated by the OISC.

● Designated Professional Bodies

Although the OISC does not have any direct regulatory power over the below listed designated professional bodies, it can take complaints about them if the issue relates to immigration advice and services. These complaints are then referred to the appropriate enforcement/ regulatory body.

- The Law Society
- The Law Society of Scotland
- The Law Society of Northern Ireland
- The Institute of Legal Executives
- The General Council of the Bar
- The Faculty of Advocates
- The General Council of the Bar of Northern Ireland

Complaints concerning breach of OISC rules and codes	124
Complaints against DPB regulated advisers	181
Complaints / Section 91 investigations	99
Complaints out of OISC jurisdiction (out of time)	13
Total	417

(end of April 2002)

● Impact of The scheme in Wales

In terms of organisations within the OISC scheme, the numbers reflect a limited impact. There are currently 3 registered organisations (for profit) and 1 exempted (not for profit). To date there have been no complaints lodged with the OISC about organisations in Wales. With regards to intelligence information, the figures are again limited with only 1 issue being brought to the OISC's attention involving a solicitor in Cardiff. Information regarding illegal provision of immigration advice or services in Wales by those not registered or exempted by the OISC is consistent with these statistics. Currently there are only 2 ongoing investigations relating to organisations based in Wales who are allegedly providing immigration advice and services without being registered or exempted and who are not authorised to provide such advice through membership of a DPB.

Although it appears at this point in time that the issue of immigration advice and services is limited in Wales, this does not sideline our anticipated role in Wales. We aim to remain active in the region and to continue to promote the work of the OISC and the protection afforded to the recipients of immigration advice and services. Although the

OISC's Community Awareness Programme is in its early stages, we have endeavoured to participate in relevant events in Wales such as the 3rd Welsh National CLS Conference.

We strongly value the development of good relationships with key stakeholders across the country and, as such, the support of the Committee and the National Assembly for Wales is of vital importance to our work.

Yours sincerely,

John Scampion

Immigration Services Commissioner