



A positive future for EU citizens in the UK

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Charitable Incorporated Organisation regulated
by the Charity Commission (1184580) and
Scottish Charity Regulator (SCO52326).
Accredited by OISC (N201900057).

Consultation response: OISC Fee-charging proposals

June 2024

Settled is a charity, accredited OISC Level 3, with a small staff team and a large pool of volunteers. Team-members variously hold OISC Level 1(EUSS), OISC Level 1, 2 and 3.

Settled recognises the importance of OISC's role in regulating and maintaining standards in immigration advice and addressing poor quality and exploitative advisers.

We fully support the mission of the OISC as described in the consultation document *"that everyone who is seeking immigration advice receives good and reliable advice and is protected from the risks and dangers of illegal advice or poor service."*

Highly significant is the statement from the consultation document that *"Good quality advice and services benefits the Home Office by assisting clients to accurately present their cases, allowing effective decision making. The non-fee charging organisations provide a valuable service to the public increasing the provision of immigration advice particularly as demand for good quality immigration advice has continued to grow."*

Our view on the proposed fee structure is this:

1. Organisations that provide immigration advice for free (and cover the cost of doing so by other efforts) should not be charged a fee by the regulator OISC.
2. If a fee for regulation is introduced for organisations that provide immigration advice for free, then it should be a fee per organisation and not a fee per adviser. Emphasising that we believe no fee should be charged, if there were a fee then we believe that more than £400 a year (including in future years over the long term) would be unaffordable for most charities, and this would need to reduce to £300 if there were additional charges.
3. If a fee for regulation per adviser is introduced for organisations that provide immigration advice for free, then it should be a fee per paid employee and there should not be a fee for volunteers. Emphasising that we believe no fee should be charged, if there were a fee per employee then we believe that more than a nominal

fee of £30 a year would be unaffordable for most charities. A fee of any kind for volunteers would be absolutely unaffordable.

Explanation of our views:

1. Immigration advice that helps those in the UK to maintain proper immigration status, is a social good. Inability to access good quality, tailored, free immigration advice puts people in jeopardy.

- (i) Maintaining proper immigration status is critical for migrants in the UK. Without proper immigration status, they are liable for removal from the UK and they cannot work, rent a property, open a bank account, obtain a driving license and they are likely to have problems accessing healthcare. Digital systems (EUSS View and Prove and EVisas) lead to new difficulties. It is unlawful for employers and landlords to employ/rent to migrants without evidence of the right to remain. Because of the wide-ranging personal risks for migrants that have difficulties maintaining their immigration status, it is vital that they access expert advice to resolve problems quickly.
- (ii) It is also important that migrants who do not have a problem with their immigration status but nonetheless are having difficulty accessing their rights, perhaps because of discrimination (eg proving their right to work), can access expert advice on how to access their rights.
- (iii) Settled works with those who are struggling to resolve their immigration status, exercise rights and access services, because of multiple vulnerabilities, including those with protected characteristics. Our clients include those with language and literacy barriers, the elderly, families with children and looked-after children, those who are isolated and excluded, those with mental and physical health problems, suspected victims of exploitation and abuse, trafficking and modern-day slavery, those who are impoverished or homeless/destitute, those with addictions, recently arrived Ukrainians and the Roma community. Providing them with good quality free immigration advice can be an important step towards improving their life-chances in the UK. Conversely, if they fail to find good quality free immigration advice then their vulnerabilities escalate and the risk of harm becomes more likely, with the possibility of a 'second Windrush'.

2. The non-fee charging sector is under enormous pressure already.

- (i) The OISC has noted that the number of non-fee charging immigration advisers has more than doubled since 2017. It should not be assumed that this means there is plenty of spare capacity in this sector – far from it. The increased capacity is more than outweighed by the increased demand which organisations face from migrants in the UK. This is not only because of the increase in number of migrants with difficulties but also because of the shortage of providers. It is well documented that legal aid provision has reduced since 2010 and immigration advice across the UK is patchy and often poor quality (see Jo

Wilding's report at <https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>).

- (ii) Charitable organisations providing non-fee charging immigration advice services are highly driven to alleviate distress and injustice for as many people as possible and work under pressure. Their staff work on lower than average salaries, and they run from very modest offices in poor neighbourhoods. Even so, it can be very difficult to sustain services. For example, in Settled's case we have had to reduce our telephone helpline service because the number of calls coming through were far more than we could respond to. We do not have spare resources to cope with additional costs.

3. Our operating model means the introduction of fees as proposed would be onerous.

- (i) It is self-evident that if immigration advice organisations which do not charge a fee to their clients, are themselves charged a regulatory fee, then they cannot pass this charge on to their clients. As a charity focussed on helping vulnerable groups, we are providing advice to those who, if we were to introduce a charge, would likely not use our services. Settled is relentlessly fundraising to sustain its free services. The local authorities and other organisations that refer people to us for advice are also not able to provide us with funds. We rely on writing applications for grants, mostly from charitable trusts and foundations, and competition is fierce. Our current funders are not likely to increase their grants to cover a new regulatory fee, and so we do not know where we would find the funds to pay for it.
- (ii) Settled can only afford to help as many people as it does (we provide direct, individual advice to around 230 a week) because we rely on a network of up to 100 volunteer advisers. If Settled had to pay a per head regulatory fee for each of these volunteers, per year that would add a substantial new cost to our organisation. As volunteers are already gifting us their time it is not feasible for us to ask them to contribute to the regulatory fee. It is in the nature of volunteers that there is a higher turnover than with paid staff, with some volunteers leaving after around 6-9 months. This means the per head fee has a greater impact on organisations reliant on volunteers than those reliant on a more stable paid workforce.

4. There are wider impacts and costs if organisations like ours cannot function – everyone loses.

- (i) It is superficial to believe that increasing revenue for OISC through charging regulatory fees to the non-fee charging organisations represents a cost saving for the Home Office because any savings are vastly outweighed by the indirect costs if those organisations cannot properly function. For example:
- (ii) The Home Office benefits from non-fee charging immigration organisations being 'the first port of call' for worried individuals. Without a robust non-fee charging

sector, the Home Office would receive a far larger number of direct enquiries, putting its administrative services under strain.

- (iii) The Home Office benefits from non-fee charging immigration organisations supporting individuals with immigration applications so that it is easier for Home Office staff to make decisions 'right first time' or to quickly resolve difficulties that arise in decision-making – for example if an individual needs to provide further evidence. Without us, their operations become less effective.
- (iv) A very long list of diverse organisations refer people to Settled for help, and rely on us being a non-fee charging immigration advice service. The full list is too long to repeat here but as an indication – local authorities throughout the UK, GPs and NHS services, embassies and consulates of EU member states and Ukraine, Citizens Advice, Migrant Help, the Red Cross, the Refugee Council, the Salvation Army, the Big Issue, the Simon Community, the Association of Ukrainians in the UK, the Roma Support Group, Mosques in Leicester and Manchester, Doctors of the World, AgeUK. They refer to us because they lack the capacity, expertise and skills to deal with certain individuals. Without us, all of their services would be impacted by overloaded demand that they could not refer on. There is increased likelihood that people would not receive the advice that they need. There is also the risk that well-intentioned professionals who lack accreditation and expertise would give poor advice, which jeopardises their careers and organisations since it is unlawful, and can cause serious harm to their clients – we already see some instances of this.
- (v) Mistakes in wider society – eg employers wrongly turning away potential employees who have the right to work, or health professionals mistakenly telling migrants with leave to remain that they will incur a high charge if they come into hospital for an operation or to have a baby, will go uncorrected, which impacts our economy and communities.
- (vi) If there is not a robust non-fee charging immigration advice sector, then rogue advisers will flourish. Settled frequently helps people who approach us after they have paid money to someone who is not qualified and has given them bad advice, and there is the risk that this problem will worsen, which is completely counter to the mission of the OISC.

5. Charge the bad not the good!

Given all the points raised above, we believe it is very important not to put any additional burden on the non-fee charging immigration advice sector. We urge OISC to seek other ways to meet their need to raise funds. We would like to suggest that OISC looks at options for raising additional charges against those immigration advisers that are in breach of OISC requirements, providing poor advice and exploiting vulnerable migrants, and not those who are working under pressure to further the mission of the OISC.