

**IMMIGRATION
ADVISERS AUTHORITY**



The End of the Client Relationship

27 October 2022 3-4pm NZST

Overview:

- 2021 Migrant Survey results and recap
- Reasons to end the client relationship
- Terminating the relationship: Code of Conduct provisions
- Refund requests
- Internal complaints process
- Complaints against licensed advisers (IAA)
- Risk management practice
- Resources

2021 Migrant Survey results



Recap



The Start of Client Relationship

**IMMIGRATION
ADVISERS AUTHORITY**

The Start of the Client Relationship

28 April 2022 3-4pm (NZST)

MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

New Zealand Government

Recap

▶ The Client Relationship (part 2)

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**IMMIGRATION
ADVISERS AUTHORITY**

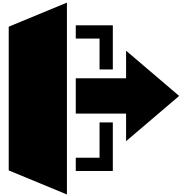
The Client Relationship (part 2)

25 August 2022 3-4pm NZST

 **MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

New Zealand Government

Reasons



End of the Client Relationship



Immigration matter finalised



Migrant doesn't wish to proceed



Conflict of interest arising



False and misleading information

Scenario 1: The Dishonest Client

X is a resident visa applicant who has engaged your services. He admits to you that his work experience is not as extensive as previously submitted to INZ. Two of his work references are in fact, fake. He is concerned that if INZ were to find out the truth, he will lose his chances of obtaining residence. What should you do?

A: You ignore X's admission. The application has a great chance of succeeding and it is your job to carry out X's instructions.

B: You are under an obligation to act in the best interests of your client. This means doing your best to ensure that INZ do not find out about the fake references.

C: You inform X about the potential consequences of continuing to misrepresent himself to INZ and discuss ways to remedy the situation.

D: You phone your client and tell him that you cannot work with somebody who is being dishonest. The relationship ends right there and then.

Answer:

The correct answer is **C**.

Clause 31(b) of the Code provides as follows:

31. A licensed immigration adviser must:

[...]

b. if they become aware that false or misleading documentation has been provided to, or that relevant information has been concealed from, the decision maker in regard to any immigration matter they are representing:

i. inform the client about the potential consequences of continuing to misrepresent themselves to the decision maker

ii. discuss with the client the ways the misrepresentation or concealment could be remedied, and

iii. should the client not consent to take action to remedy the situation, terminate their services to the client in writing.

Scenario 2: Termination

X is adamant that you should not inform INZ of the forged references, since he considers it unlikely they will find out. He says there is too much at stake and he does not want to do anything that will jeopardise his chances. What should you do?

A: You phone X and terminate your services. You also inform INZ you will no longer be representing X.

B: You terminate your services with X in writing, and you inform INZ that you will not be representing X.

C: You inform INZ of X's deception anyway, as you know it is in your client's best interest to be truthful.

Answer

The correct answer is **B**.

Clause 28 of the Code provides as follows:

A licensed immigration adviser must ensure that:

a. the termination of services, for any reason, is confirmed to the client in writing

b. where they cease to act for the client for any reason other than the completion of agreed services, they inform Immigration New Zealand or the Immigration and Protection Tribunal, as appropriate, that they are no longer representing the client, and

c. if, for any reason, the adviser cannot continue to act for the client, the adviser fully updates the client on the status of their immigration matter and advises them of where they could get assistance.

Terminating the relationship

Immigration matter not finalised



Terminate in writing

Inform decision -maker

Update client

TERMINATION OF SERVICES

28. A licensed immigration adviser must ensure that:

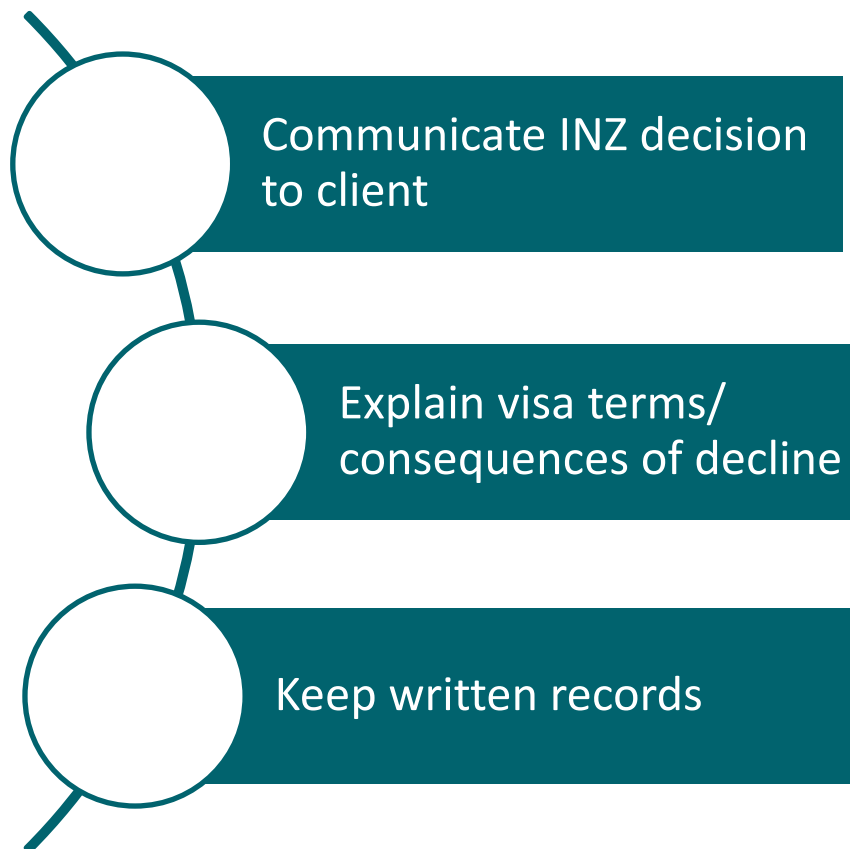
a. the termination of services, for any reason, is confirmed to the client in writing

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c. if, for any reason, the adviser cannot continue to act for the client, the adviser fully updates the client on the status of their immigration matter and advises them of where they could get assistance.

Terminating the relationship

Immigration matter finalised



FILE MANAGEMENT

26. A licensed immigration adviser must:

a. maintain a hard copy and/or electronic file for each client, which must include:

[...]

iii. copies of all written communications (including any file notes recording material oral communications and any electronic communications) between the adviser, the client and any other person or organisation

[...]

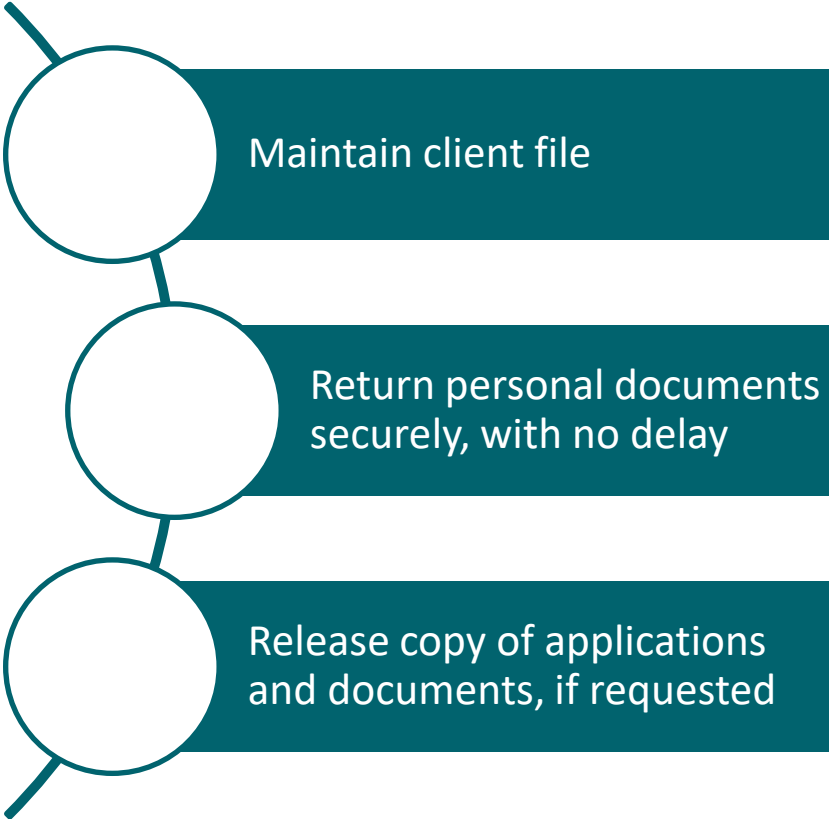
b. confirm in writing to the client when applications have been lodged, and make on-going timely updates

c. confirm in writing to the client the details of all material discussions with the client

d. maintain a well-managed filing system

Terminating the relationship

Always:



Maintain client file

Return personal documents securely, with no delay

Release copy of applications and documents, if requested

FILE MANAGEMENT

26

f. when requested by the client or their new licensed or exempt immigration adviser, release a copy of all applications lodged on behalf of the client and all correspondence relating to the client.

DOCUMENT SECURITY AND RETURN

27. A licensed immigration adviser must:

a. ensure any financial and personal documents belonging to or relating to the client, whether held physically or electronically, are held securely whilst in the adviser's possession, and

b. when requested or required, return passports and other personal documents to the client without delay and in a secure manner.

Scenario 3: Personal documents

X has engaged a new adviser. He phones you to remind you that you still haven't returned his passport, which you currently have in your work safe. You, in turn, remind him that you are still waiting to be paid for services you have already performed for him. What do you do next?

A: You arrange with X to collect the passport from your office in person.

B: You ensure that the money X owes you has been deposited in your account and you drop the passport in the post box outside his residence.

C: You arrange with X to collect the passport from your office in person but explain that you will only hand the passport over if X has brought the outstanding fee amount with him.

D: You courier the passport to X without delay.

E: Both Option A and Option D are correct.

F: Option A and Option C are correct.

Answer:

The correct answer is **E**.

Clause 27 of the Code provides as follows:

A licensed immigration adviser must:

[...]

b. when requested or required, return passports and other personal documents to the client without delay and in a secure manner.

A good option for the return of personal documents to meet the requirements of clause 27(b) is to use a courier that either uses a track and trace number, or requires a signature, before personal documents are handed over. Another method is to have the client come to the adviser to collect them in person and sign a document acknowledging receipt of their personal documents.

Other Client Requests

- Refund Requests (Clause 24)
- Internal Complaints Process (Clause 15)

Refund Requests

Clause 24

LIA must:

- a. Ensure that refunds given are fair and reasonable in the circumstances
- b. Ensure that refund obligations can be met, and
- c. Promptly provide any refunds payable upon completing or ceasing a contract for services

Internal Complaints Process

Clause 15

LIA must:

- a. Develop and maintain an internal complaints procedure that notes that the client may also complain to the IAA, and
- b. If a complaint is made to the adviser, follow their internal complaints procedure

Internal Complaints Process

- Information to be included
- Role and value of the internal complaints procedure
- Example of what is included in the internal complaints procedure can be found on our website:

<https://www.iaa.govt.nz/for-advisers/adviser-tools/code-of-conduct-toolkit/professional-practice/complaints-procedure/>

Internal Complaints Process

Important Notes:

- Deal with client professionally and take them seriously to cater their issues as much as possible; and
- If the complaint reaches the Authority for referral to the Tribunal provide clear written records, be professional with all interested parties and be honest

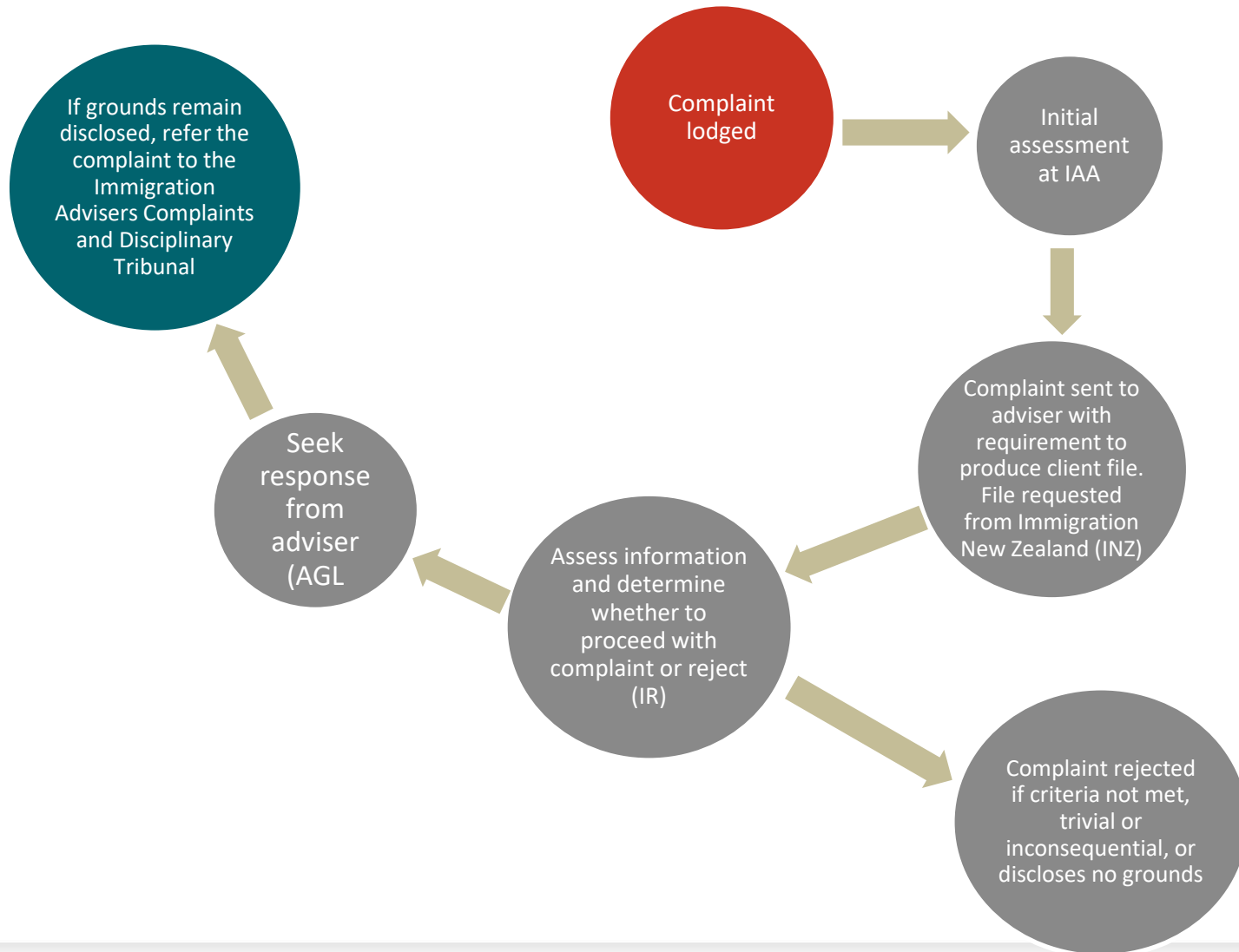
Complaints about licensed immigration advisers

Grounds for complaint

Section 44(2) of the Immigration Advisers Licensing Act 2007:

- Negligence
- Incompetence
- Incapacity
- Dishonest or misleading behaviour
- Breach of the Licensed Immigration Advisers Code of Conduct 2014 (the Code)

The complaints process (LIA)



The Tribunal (IACDT)

Disciplinary Sanctions:

- Caution or censure
- Require the adviser to undertake specified training
- Suspension
- Cancellation
- Order preventing the adviser from reapplying for a licence for up to two years
- Order for payment of a penalty not exceeding \$10,000
- Order for the payment of costs
- Order directing adviser to refund fees or expenses
- Order directing adviser to pay reasonable compensation

Risk Management Practice

- Liaising with various stakeholders for advice
- Obtaining legal advice when necessary
- Keeping up-to-date with current immigration policy and procedures
- Using debt collection agency for unpaid fees
- Active record management of all forms of communication

Active Record Management



All Correspondence
with Clients and other
Stakeholders



E.g. Phone Call, Text
Messages, Email,
Offline Meetings at the
office, Online
Meetings, Posts etc.

Active Record Management

- What and how should it be recorded?

Date and Time

Summary of Events/Dialogue

Method of Communication

Continuous Active Process

*Post/Courier Delivery
& Return Log Books*

Internal Risk Assessments

Recording/Archived Folder

*List of Records Offline and/or Online
(for possible disputes)*



Resources

IAA Website:

- [2021 Migrant Survey Results](#)
- [Immigration Advisers Professional Standards](#)
- [Code of Conduct 2014](#)
- [Code of Conduct Toolkit](#)
- [Competency Standards 2016](#)
- [Written Agreement - Guidance and checklist for licensed advisers](#)
- [Complaint Process Flowchart](#)
- [Past webinars](#)

Feedback? Further questions?

- How can we do better?
- Have we done a good job?
- Whatever the feedback, compliments or complaints, we want to hear from you.

Email us at info@iaa.govt.nz
with “**Feedback-Webinar**” in the subject line.