

Licensed Immigration Advisers Code of Conduct 2008

Pursuant to section 37 of the Immigration Advisers Licensing Act 2007, the Minister of Immigration makes the following code of conduct:

Contents

General

- 1 Title
- 2 Commencement

Schedule

Licensed Immigration Advisers Code of Conduct

- 1 **Title**
This code of conduct is the Licensed Immigration Advisers Code of Conduct 2008
- 2 **Commencement**
This code of conduct comes into force on 4 May 2008

Dated at Wellington this _____ day of _____ 2008

Hon Clayton Cosgrove
Minister of Immigration

Schedule
Licensed Immigration Advisers Code of Conduct

1 Obligations to Clients

1.1 Care, Respect, Diligence and Professionalism

A licensed immigration adviser must, with due care, diligence, respect and professionalism:

- a) perform his or her services; and
- b) carry out the lawful informed instructions of clients; and
- c) take reasonable steps to ensure clients' interests are represented if the adviser cannot for any reason continue as a representative; and
- d) work in a manner that does not unnecessarily increase costs; and
- e) acknowledge the cultural norms and values of clients; and
- f) facilitate the provision of interpreters and translators where appropriate; and
- g) when requested, assist clients to access information about the Treaty of Waitangi and tikanga (Maori customs and traditions).

1.2 Confidentiality

A licensed immigration adviser:

- a) must preserve the confidentiality of clients; and
- b) must not disclose confidential information, other than for the purposes of the administration of the Immigration Advisers Licensing Act 2007, the promotion of the immigration interests of clients to Immigration New Zealand, as required by law, or otherwise without the client's prior consent.

1.3 Document Security

A licensed immigration adviser must:

- a) ensure any personal documents belonging to or relating to clients are held securely whilst in the adviser's possession; and
- b) return passports and other personal documents to clients, on request, without delay and in a secure manner.

1.4 Code of Conduct

A licensed immigration adviser must:

- a) explain to and provide clients with a copy of the Licensed Immigration Advisers Code of Conduct before any agreement is entered into; and
- b) display the Licensed Immigration Advisers Code of Conduct in a prominent place at the adviser's place of business at all times.

1.5 Written Agreements

A licensed immigration adviser must ensure that:

- a) before any agreement is entered into, clients are made aware, in writing and in plain language, of the terms of the agreement and all significant matters relating to it; and
- b) agreements contain a full description of the services to be provided by the adviser; and
- c) clients are advised that they are entitled to seek independent legal advice before entering into agreements; and
- d) clients confirm in writing that they accept the terms of agreements; and
- e) changes to the terms of agreements are recorded and agreed in writing.

1.6 Work Within Limits of Knowledge and Skills

A licensed immigration adviser must work within the scope of his or her individual knowledge and skills.

2 Obligations to the Minister of Immigration, the Department Handling Immigration Matters, the Immigration Advisers Authority and Immigration Tribunals

2.1 Legislation and Operating Requirements

A licensed immigration adviser must, at all times:

- a) act in accordance with New Zealand laws and the laws of other jurisdictions if working and living offshore; and
- b) act in accordance with immigration legislation, including the Immigration Act 1987 and regulations made under it, the Immigration Advisers Licensing Act 2007, and applicable international obligations; and
- c) comply with the operating requirements of Immigration New Zealand; and
- d) comply with the operating requirements of the Registrar of Immigration Advisers; and
- e) meet the procedural and operating requirements for managing appeals and appearing before immigration tribunals; and
- f) uphold the integrity of New Zealand's immigration system and the Immigration Advisers Authority; and
- g) maintain respectful and professional relationships; and
- h) hold written authority from clients to act on their behalf; and
- i) take all reasonable steps to submit applications in a timely manner to ensure that clients maintain lawful immigration status.

2.2 Vexatious Applications, Appeals, Requests and Claims

If a proposed application, appeal, request or claim is vexatious or grossly unfounded (for example, it has no hope of success) a licensed immigration adviser must:

- a) encourage the client not to lodge it; and
- b) advise the client in writing that, in the adviser's opinion, it is vexatious or grossly unfounded; and
- c) if the client still wishes to lodge it, seek written acknowledgement from the client that he or she has been advised not to.

3 Business Management

A licensed immigration adviser must maintain professional business practices relating to finances, records, documents, contracts and staff management, including:

- a) confirming in writing to clients when applications have been lodged, with ongoing timely updates; and
- b) confirming in writing to clients when work ceases part way through the immigration process on clients' instructions or by the action of the adviser; and
- c) obtaining agreement in writing to any material increase in costs as soon as the increase is known to the adviser; and
- d) providing any refunds payable upon completing or ceasing a contract for services; and
- e) maintaining complete client records that track all transactions for a period of 7 years and making those records available for inspection on request by the Authority; and
- f) confirming in writing the details of material discussions with clients; and
- g) maintaining correct and up to date business contact details.

4 Client Funds

A licensed immigration adviser must:

- a) establish and maintain a separate clients' bank account for holding all clients' funds paid in advance for fees and/or disbursements; and
- b) withdraw funds held on behalf of clients only when payments for fees and/or disbursements fall due; and
- c) use funds held on behalf of clients only for the purpose for which they were paid to the adviser.

5 Misrepresentation

5.1 Advisers

A licensed immigration adviser must not, in a false, fraudulent or deceptive manner, misrepresent or promote:

- a) himself or herself; or
- b) his or her business; or
- c) his or her clients or the clients' immigration opportunities; or
- d) New Zealand's immigration requirements.

5.2 Applications

A licensed immigration adviser must not knowingly provide false or misleading documentation with any application, appeal, request or claim, or conceal relevant information relating to any appeal, request, or claim.

6 Conflicts of Interest

A licensed immigration adviser, in relation to immigration matters, must not:

- a) represent a client who has potentially conflicting interests with another client of the adviser; or
- b) represent a client with whom he or she has a potential conflict of interest; or
- c) enter into an arrangement with a client other than for the provision of immigration advice if the arrangement creates a potential conflict of interest;

unless the client agrees in writing to representation or the arrangement subsequent to the adviser disclosing the potential conflict.

7 Disclosure

A licensed immigration adviser must disclose:

- a) to clients - any financial and non-financial interests in goods or services recommended or supplied to clients;
- b) to the Immigration Advisers Authority - any information that would have a material effect on the adviser's licence;
- c) to Immigration New Zealand - any relevant change in circumstances relating to the representation of clients or to clients' immigration applications;
- d) to immigration tribunals – any change in circumstances relating to the representation of clients or to the factual circumstances relating to a matter before a tribunal.

8 Fees

A licensed immigration adviser must:

- a) set fees that are fair and reasonable in the circumstances; and
- b) before commencing work incurring costs, set out the fees and disbursements (including Immigration New Zealand fees and charges) to be charged, including the hourly rate and the estimate of the time it will take to perform the services, or the fixed cost for the services; and
- c) set out payment terms and conditions; and
- d) ensure that fees, disbursements and payment terms and conditions are provided to clients in writing prior to the signing of any written agreement; and
- e) each time a fee is payable, provide clients with an invoice containing a full description of the services that the invoice relates to.

9 Provision of Complaints Procedures

A licensed immigration adviser must:

- a) develop and maintain internal procedures for the resolution of complaints; and
- b) explain to and provide clients with a copy of the adviser's internal complaints procedure before any agreement is entered into; and
- c) explain to, and provide clients with, the details of the complaints and disciplinary procedures that are outlined in the Immigration Advisers Licensing Act 2007; and
- d) where complaints have been received by the Registrar of Immigration Advisers, provide timely responses to requests by the Registrar, as required by the Registrar's operating requirements.

10 Display of Licence

A licensed immigration adviser must:

- a) display the adviser's licence in a prominent place in the adviser's place of business at all times; and
- b) provide evidence of being licensed to clients on request.