

Client engagement and rubber-stamping

23 April 2024 | 11 am - 12 pm NZT

In today's webinar

Client Engagement: Code of Conduct - Key obligations

What is rubber-stamping?

Case law

Things to consider

Resources

Q & A

Client engagement



Code of Conduct: Key obligations

Clause 1

Be:

- honest,
- professional
- diligent
- respectful
- conduct yourself with due care
- in a timely manner



Code of Conduct: Key obligations

Clause 2(e)

Obtain and carry out the informed instructions of the client



Personal engagement with your client



Take charge of the relationship from beginning to end



Code of Conduct: Key obligations

Clause 3(c)

Act in accordance with New Zealand immigration legislation, including:

- the Immigration Act 2009
- the Immigration Advisers Licensing Act 2007
- any applicable regulations.



Code of Conduct: Key obligations

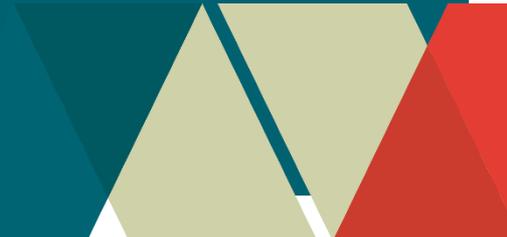
Clause 31 (a)

Do not:

- deliberately or negligently, provide false or misleading information to decision-maker or
- conceal relevant information from the decision maker



What is rubber-stamping?



Definition

A:

*[48] Typically, this occurs where a licensed immigration adviser uses agents sometimes from another country to recruit the clients, prepare the immigration applications and **send them to the licensed adviser to sign off and file with Immigration New Zealand. There is little, if any, direct contact between the licensed adviser and the client.***

[49] The practice is illegal. A person commits an offence under the Act if he or she provides “immigration advice” without being licensed or exempt from licensing. A person employing as an immigration adviser another person who is neither licensed nor exempt also commits an offence. A person may be charged with such an offence even where part or all of the actions occurred outside New Zealand.

—[INZ v Ahmed \[2019\] NZIACDT 18](#)



Definition

B:

[52] *Mr Kim has failed to (personally and directly) “obtain” the complainant’s instructions. However, he did personally undertake the substantive immigration work, so he complied with his obligation to “carry out” the complainant’s instructions. The failure to obtain the complainant’s instructions is **a limited form of rubber stamping and a breach of cl 2(e)**.*

— [ZR v Kim \[2024\] NZIACDT 06](#)



A

No direct
engagement
with client

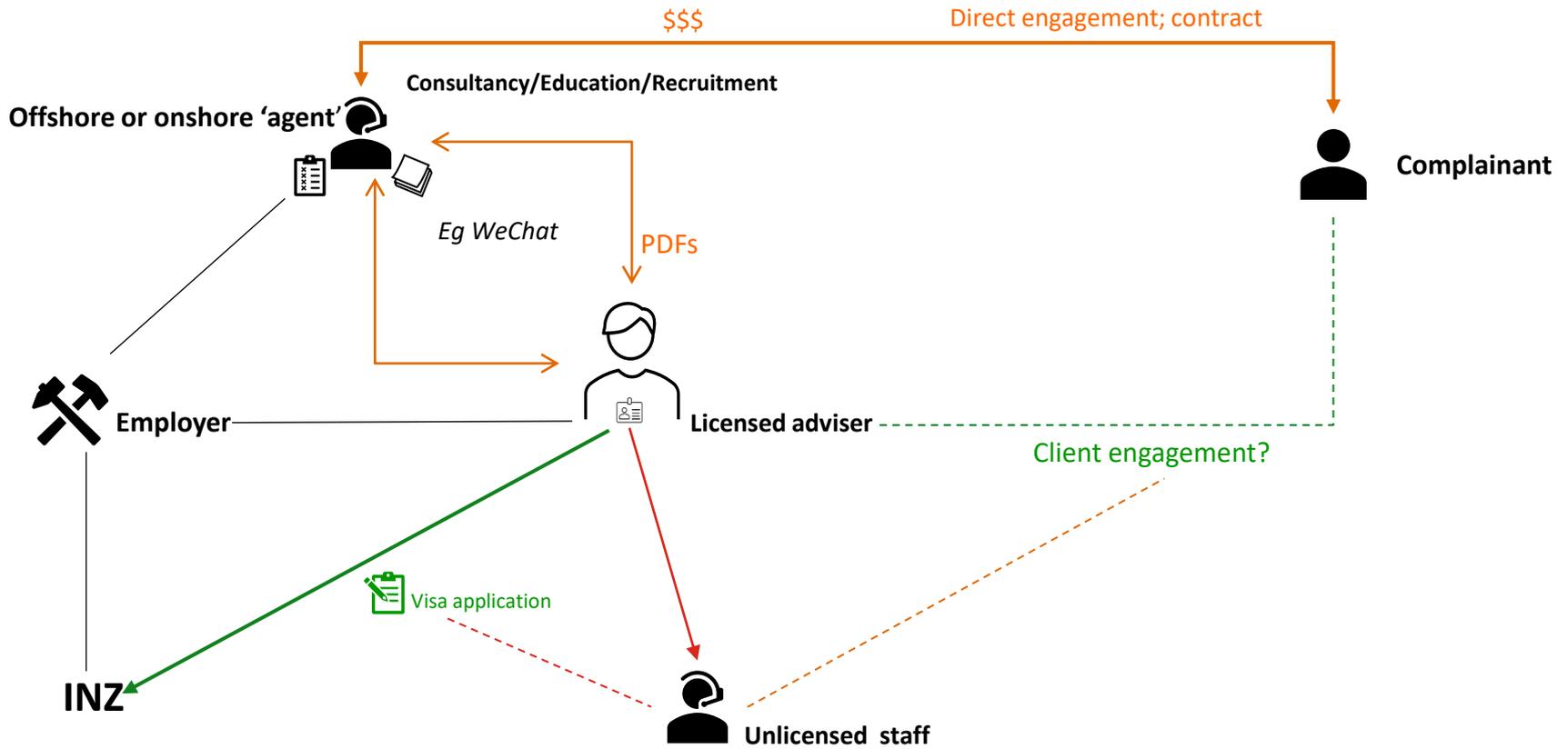
Work done
by unlicensed
staff

B

No direct
engagement
with client

Work done
by LIA





Case law



Offshore company works with a client and submits prepared documents to LIA, who then submits them to INZ. LIA has no engagement with the clients.

Eg: [MZ v Sun \[2019\] NZIACDT 12](#)

An LIA works for a company (as an employee/ contractor/ director). The same company also employs many unlicensed staff. The unlicensed staff provide immigration advice unlawfully to clients. The LIA has little to no engagement with the clients directly.

Eg: [INZ v Ahmed \[2019\] NZIACDT 18](#)



Multinational company works with a client and offshore unlicensed staff submits prepared documents to employee/contractor LIA, who then submits them to INZ. LIA has no engagement with the clients.

Eg: [II v Yue Sun \[2023\] NZIACDT 20](#)

Offshore Agent is engaged by the client to help obtain a work visa. The Agent engages the Adviser to apply for the visa. The Adviser prepares the documents and submits them to INZ. The Adviser has little to no contact with the client.

Eg: [ZR v David Kim \[2024\] 06](#)



Things to consider



**Rubber-stamping is unlawful,
because it is harmful**



Educate your staff in what they can and cannot do



Clerical work v immigration advice?

Immigration advice

*s 7(1)(a) of
the Act*

Using **knowledge** or **experience** in immigration to:

- advise, direct, assist, or represent another person
- with respect to an **immigration matter**

Clerical work *s 5 of the Act*

- Recording, organising information;
- storing or retrieving information;
- computing or data entry;
- on behalf and under the direction of another person***

Completion of visa application forms?

[XA v Hill \[2020\] NZIACDT 17:](#)

[151] ‘[A person who is not licensed] *can do no more than retrieve and then record or organise information, enter data on a computer database or hard copy schedule, or record information on a form or other like document under the direction of another person who must be a licensed adviser or a person exempt from licensing, or the client*’

[INZ v Ahmed \[2019\] NZIACDT 18:](#)

[58] ‘*Immigration applications in particular are lengthy documents with a great deal of information and supporting documentation. They should therefore be completed by an adviser, as selecting some of the information or phrasing it to fill out certain answers to the questions in the form is likely to involve knowledge or experience in immigration*’



Engage with clients personally



**Do not undertake more work
than you can handle**



Resources

- [Immigration Advisers Licensing Act 2007](#)
- [Code of conduct | IAA](#)
- [Code of conduct toolkit | IAA](#)
- [Immigration Advisers Complaints & Disciplinary Tribunal | New Zealand Ministry of Justice](#)



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Questions?



Thank you.

