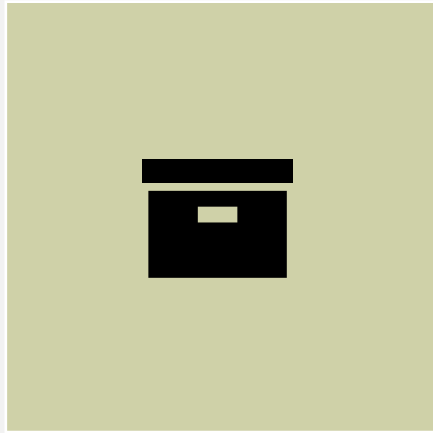


Webinar 2: Client files

19 September 2023 3-4 pm NZST



Maintaining
Client files

- Why must advisers maintain client files?

Content of
client files

- A closer look at Clause 26

Pain points

- Common mistakes



Maintaining Client Files



Professional obligations and competencies

- Competency Standard 6
- Clause 26 of the Code of Conduct
- Section 57 of the Immigration Advisers Licensing Act 2007



Failure to produce a client file



A breach of the Code



Clause 26(e) of the Licensed Immigration Advisers Code of Conduct 2014



Obstructing an inspection



**It is an offence
to obstruct an inspection**



Section 69 of the Immigration Advisers Licensing Act 2007



The benefits of record-keeping

Risk Management

Comply with obligations



Prevent misunderstanding

Evidence of competency

Manage multiple cases efficiently

Keep client/ new representative informed



Why does the Authority inspect client files?



- Administer the licensing regime
- Obtain information in relation to complaints
- Investigate offences

Section 56 of the Immigration Advisers Licensing Act 2007



Questions?



Content of Client Files



What does the Authority expect?

Clause 26(a)

What must be in the file?

Clause 26(d)

Well-managed filing system

Clause 26(e)

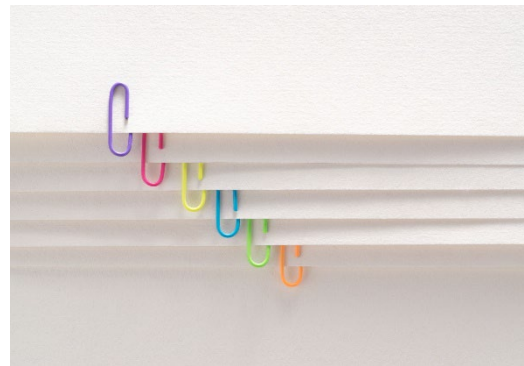
Maintain and produce file



Clause 26(a) of the Code:

Full copies of:

- Client's immigration matter
- Written agreements
- Written communications
- Invoices and receipts
- Personal documents supplied to the adviser
- Evidence of the safe return of the client's original documents



If you are inspected:

- Provide correct client file or requested records
- Provide full client file
- Make use of checklist
- Add a cover letter if anything missing
- Label file components clearly
- An index or table of contents are always helpful



If there has been a complaint against you?



- It is an obligation to submit the requested client file.
- What do client files tell us?



Clause 26(d): 'well-managed filing system'

- Well-managed
- Easy to use
- Easily accessible



[BC v Murthy \[2023\] NZIACDT 8:](#)

'...an obligation to retain, organise and be able to conveniently retrieve such hard copy and electronic documents as are created and obtained from the client or others.'



Important to remember



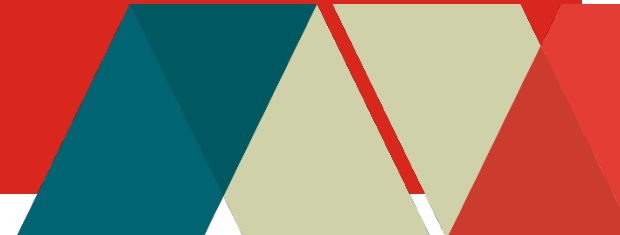
**It is your personal responsibility
to maintain client files**



Questions?



Pain-points



Overview

- Missing client communications and records of material discussions – see *May 2023 Webinar*
- Incomplete client file for inspection
- Failure to produce client file for inspection
- Failure to release copies to client or new adviser
- Invoices (missing; incorrect)
- Client account information and client ledgers (missing; incorrect)
- Internal complaints procedure and professional standards
- File notes?



Failure to maintain client file - Clause 26 (a)

[TA v Tian \[2022\] NZICADT 7](#)

'Ms Tian was required by the Authority to provide her client file in respect of the complainant, by email dated 16 March 2021. A reminder was sent to her on 24 March 2021. She did not produce a client file to the Authority. She has provided no evidence of such a file. The failure to maintain a client file is a breach of cl 26(a)'



Clauses 26(e) and (f)

[NG v Murthy \[2023\] NZIACDT 10:](#)

- release copies of all lodged applications and correspondence to new adviser/ lawyer (Clause 26 (f))
- only need to do it once
- file notes need not be released, but must be produced to the Authority (Clause 26(e))



Invoices

- Full description of services
- Match to payment milestones

| YOUR LOGO HERE | | <h1>Tax Invoice</h1> | | |
|--|---|----------------------|--|------------|
| [Your Company Name] | | | | |
| Supplier GST Number: | | | | |
| To: | [Client Name] [Company Name] [Street Address] [City – Postcode] [COUNTRY] | Date: | Our Reference: Licensed Adviser Name: Licensed Adviser Number: | |
| | | Invoice No. | | |
| Reference: Invoice for Professional Services and Disbursements | | | | |
| Item No. | Service Description | Price (NZ dollars) | GST | Total |
| 1 | Fee for work on preparing work visa application prior to lodgment. | \$1,000.00 | \$150.00 | \$1,150.00 |
| 2 | Translation costs | \$100.00 | \$15.00 | \$115.00 |
| Total amount payable | | | | \$1,265.00 |
| Total amount received to date | | | | \$0.00 |
| Total balance amount due (NZ dollars) | | | | \$1,265.00 |
| Payment terms: within 20 days of issue of this invoice | | | | |
| [YOUR FOOTER HERE] | | | | |

Question 1: Invoices

X and his client, Jane Doe conclude an agreement in terms of which X will prepare and lodge Ms Doe's work visa application. X's professional fee of \$1 000 (incl GST) is due upon visa approval. Ms Doe is responsible for paying the visa application fee herself. X lodges the visa application on 3 June 2023. On 27 June 2023, INZ sends a PPI letter, to which X responds on 4 July 2023. INZ approves the visa application on 20 July 2023. X sends Ms Doe an invoice:

X Immigration Advisory Services

Date: 20 June 2023

Invoice No: 123

To: Jane Doe

75 Sunshine Street

Auckland

| Item no. | Service | Amount |
|----------|--------------|----------------|
| 1 | Visitor Visa | \$ 1000 |
| | Total | \$ 1000 |



Question 1: Invoices: Choose the correct option

- A: The invoice does not describe the services in a sufficiently detailed manner.
- B: The invoice does not match the agreement.
- C: The invoice was sent before the fee was payable.
- D: The invoice reflects the incorrect amount.
- E: A, B and C are the correct options.
- F: All of the above options are correct.

[The correct answer is **E**]



Client ledger

- When is it required?
- What should it include?
 - Date of transaction
 - Type of transaction
 - Amount of transaction
 - Client name
 - Purpose of transaction
 - Related invoice number



Fast Immigration Ltd

Client name: Jane Doe

File number: ABC 123

| Date | Description | Reference | Invoice | Credit | Debit |
|----------|---|---------------|-----------|---------|---------|
| 1/12/22 | Advance payment of service fees and disbursements for [type] visa application | Doe - ABC 123 | | \$5000 | |
| 10/12/22 | Disbursement – translation services | Doe - ABC 123 | INV 123-1 | | \$ 500 |
| 3/01/23 | Disbursement – INZ visa application fee | Doe - ABC 123 | INV 123-2 | | \$ 1000 |
| 3/01/23 | Transfer to practice account: Professional fees - Stage 1 | Doe - ABC 123 | INV 123-3 | | \$ 2000 |
| 5/02/23 | Transfer to practice account Professional fees - Stage 2 | Doe - ABC 123 | INV 123-4 | | \$ 1500 |
| | | | | \$ 5000 | \$ 5000 |



Question 2: File notes

Do you keep file notes as part of your client files?

A: Always

B: Never

C: Sometimes



File notes: Are they mandatory?

BC v Murthy [2023] NZIACDT 8:

The obligation to maintain a well-managed ‘filing’ system (cl 26(d)) is not an obligation to create documents (such as notes of discussions), but an obligation to retain, organise and be able to conveniently retrieve such hard copy and electronic documents as are created and obtained from the client or others. There are other specific provisions in cl 26 and elsewhere in the Code requiring the creation of documents (for example, cls 26(b) and (c), 18(a), 22 and 23).

[...]

While she did not create file records of discussions, that is not a breach of cl 26(a) or (d) or any other provision of the Code ...



Question 3: Complaints Procedure

When do you give your client(s) a copy of your internal complaints procedure?

- A. Immediately, at our initial consultation.
- B. It is unnecessary to give my clients a copy, as my complaints procedure is posted on my website.
- C. Before entering into a written agreement with my client.
- D. I attach it to the written agreement with my client.



Question 3: Complaints Procedure - Discussion

Depending on the circumstances, advisers may end up using a combination of the options listed above (except for option B, which is manifestly incorrect).

Bear in mind that following provisions of the Code of Conduct:

Clause 17(c) states:

Before entering into a written agreement with the client, a licensed immigration adviser must advise the client that they have an internal complaints procedure and provide them with a copy of it.

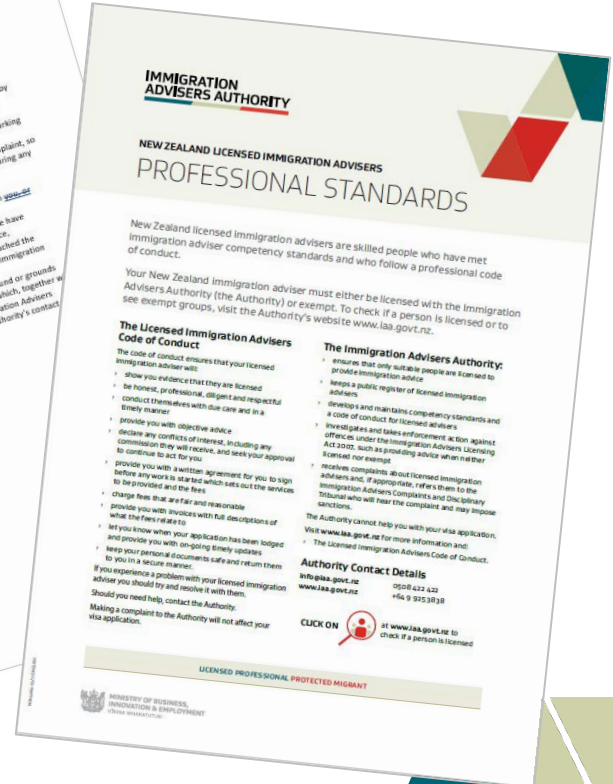
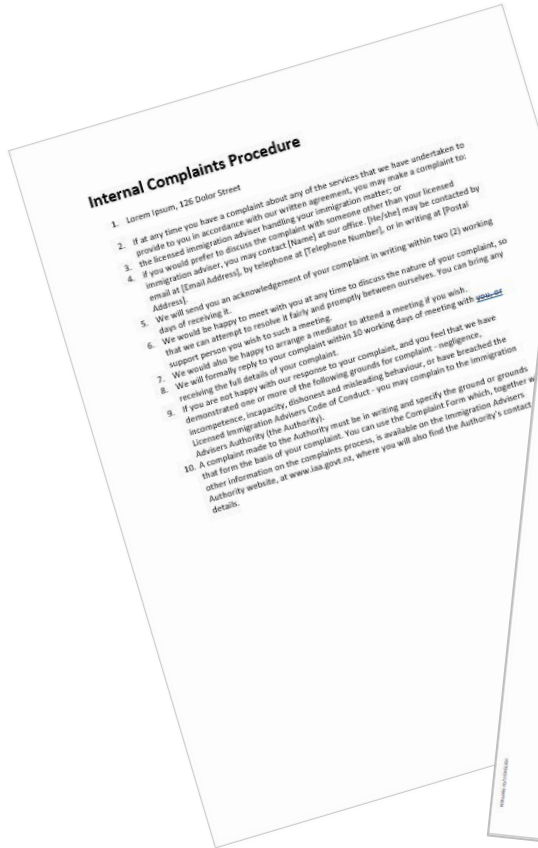
In addition, Clause 19(n) provides

A licensed immigration adviser must ensure that a written agreement contains a record that a copy of the adviser's internal complaints procedure has been provided to the client.



Complaints procedure and professional standards

- Clause 17
- Clause 19 (m)
- Clause 19 (n)



Resources

Finding more information



IAA Website:

- [Immigration Advisers Licensing Act 2007](#)
- [Code of Conduct 2014](#)
- [Competency Standards 2016](#)

- [Written agreement checklist](#)
- Inspection checklist
- [Code of Conduct Toolkit](#)



- Have we done a good job?
- How can we do better?

We want to hear from you

- Complete post-webinar survey
- Email us at info@iaa.govt.nz



Thank you.

Questions?

