



Office of the Immigration  
Services Commissioner

# Annual Report and Accounts 2017/18

*Incorporating the Deputy Commissioner's Report on Regulation  
by the Designated Professional Bodies of their Members*



HC 1368

# Office of the Immigration Services Commissioner Annual Report and Accounts

**1 April 2017 to 31 March 2018**

**Incorporating the Deputy Commissioner's Report on Regulation by the Designated Professional Bodies of their Members**

Annual Report presented to Parliament pursuant to paragraph 21(3) of Schedule 5 to the Immigration and Asylum Act 1999.

Accounts presented to Parliament pursuant to paragraph 20(3) of Schedule 5 to the Immigration and Asylum Act 1999.

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Any enquiries regarding this publication should be sent to us at:  
Office of the Immigration Services Commissioner, 5th Floor, 21 Bloomsbury Street, London WC1B 3HF

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# Annual Report and Accounts of the Office of the Immigration Services Commissioner

**Dear Home Secretary,**

I am pleased to submit the Annual Report and Accounts of the Office of the Immigration Services Commissioner as required by paragraph 21(3) of Schedule 5 to the Immigration and Asylum Act 1999. The Report covers the period 1 April 2017 to 31 March 2018.

**Dr Ian Leigh**

*Deputy Immigration Services Commissioner and Accounting Officer*

Office of the Immigration Services Commissioner  
21 Bloomsbury Street, London, WC1B 3HF

13 July 2018

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# Part 1: Performance Report Overview

## **Deputy Commissioner's Statement**



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### **Introduction**

My Statement, together with material contained in the following six sections, provides an Overview of the OISC's activities. That is followed by a Performance Analysis which describes the organisation's achievement against its Key Performance Indicators (KPIs). Together, this material constitutes the Performance Report required by the *Government Financial Reporting Manual (FReM)*.

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### **Role and structure of the OISC**

The OISC is an executive non-departmental public body established by the Immigration and Asylum Act 1999 to regulate the provision of immigration advice and services throughout the UK. Since then its powers have been strengthened by numerous amendments made to this Act, but its statutory remit has remained unchanged.

The OISC seeks to protect consumers by ensuring the continuing fitness and competence of authorised advisers and organisations, setting standards for registration and promoting good practice throughout the sector. It also operates a scheme to receive complaints relating to immigration advice (whether or not provided by registered organisations) and it enforces the regulatory regime by identifying and, where appropriate, prosecuting individuals who are acting illegally. Finally, the Immigration Services Commissioner monitors the effectiveness of regulation of the immigration advice sector by bodies in Scotland and Northern Ireland which are beyond the jurisdiction of the Legal Services Board (LSB). Each of these activities – and the teams that undertake the work – is described more fully in subsequent sections of this Overview.

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### **Performance**

The OISC continues to measure its operational performance against a set of quantitative KPIs covering regulatory duties, enforcement activity and internal operations, allowing year-on-year comparisons to be made. It is also now collecting and analysing data which provides evidence of performance against a set of outcome-based objectives reflecting the organisation's wider strategic aims. In 2017/18 the OISC met 12 of the 14 targets contained within its KPIs. Further details are contained in the Performance Analysis which appears later in this Report.

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### **Significant developments**

The OISC is led by the Immigration Services Commissioner – a corporation sole – supported by the Deputy Commissioner. In September 2015 the Commissioner, Suzanne McCarthy, reached the end of her second, five-year term of appointment and was required by statute to stand down. Since then, and throughout 2017/18, I have been

acting on behalf of the Commissioner in accordance with the provisions of the 1999 Act. Although the absence of a Commissioner for over two and a half years has placed great strain on those who have been required to assume additional responsibilities, this has not prevented the organisation from making significant progress in fulfilling its statutory duties, maintaining a robust regulatory regime, and developing both its internal processes and its outward-facing interaction with stakeholders.

The OISC is proud that its core activity remains precisely that for which it was established: protecting consumers by ensuring that they have access to knowledgeable and trustworthy immigration advisers. Throughout 2017/18 the essential regulatory functions of processing applications for registration, liaising with advisers, handling complaints and auditing premises have continued to be performed efficiently and effectively by responsible and dedicated staff, as described later in this Report.

Although we have not sought to make any fundamental changes to the regulatory regime in 2017/18, much effort has been devoted to working with the non-fee charging sector to ensure that the OISC's requirements are well understood and proportionate. Specifically, a small team has been established to work with the community and voluntary sector, understanding the role of organisations in this area and helping them to apply for registration – particularly when they operate in a narrow field which falls to be regulated but does not fit neatly into the OISC's broad regulatory framework.

There are, however, a number of other significant projects worth highlighting. First, considerable effort has been devoted to developing a Performance Management Framework. This is described in detail in the Performance Analysis section of this Report; but it has involved a fundamental reappraisal of what outcomes the OISC is seeking to achieve and it has involved all areas in assessing their performance and benchmarking it against comparable organisations. The structures for corporate reporting of indicators have in parallel been reviewed and strengthened, as have the mechanisms for formal quarterly monitoring of targets contained in the 2018/19 Business Plan.

Staff throughout the organisation were involved in the second initiative – preparation for commencement of the General Data Protection Regulation (GDPR) in May 2018. This project has been greatly assisted by work undertaken in 2016/17 to strengthen information security mechanisms throughout the organisation, including the development of comprehensive information asset registers. The chair of the Information Security Monitoring Board (the OISC's head of ICT) has led this work, ably assisted by two members of the Legal Team who have received detailed training on GDPR.

Third, a major exercise has been undertaken to refresh membership of the OISC's Audit and Risk Assurance Committee. Four new individuals have been recruited with effect from 1 April 2018 to replace members who have each served at least six years on the Committee. I should particularly like to record my thanks to Peter Wrench and Alan Rummins, whose terms of appointment came to an end in March 2018, for the support and constructive challenge they both provided throughout their tenure.

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## Continuing priorities

Interactions with external stakeholders have continued to feature prominently in the OISC's work programme. Productive debate has taken place with other legal services regulators, and the OISC continues to monitor their response to the market study on Legal Services published by the Competition and Markets Authority (CMA) in December 2016. Although the scope of this study was strictly limited to 'authorised' providers of reserved legal services regulated by bodies overseen by the LSB – and therefore excluded the OISC – we are keen to adapt and embrace any resulting initiatives that will benefit consumers seeking advice from those we regulate. Specifically, we are closely following the debate over transparency requirements.

The OISC has continued to devote considerable effort to its statutory duty to promote good practice among authorised advisers, both directly and indirectly. A successful series of workshops and seminars has once more

been undertaken and one of these (concerning improving customer satisfaction to benefit both the client and the registered organisation) has been adapted and released on YouTube where it will be more widely available to advisers. A new project has also been initiated to conduct a series of thematic reviews of adviser practice. This will allow us to confirm that the *Code of Standards* is being observed, and to identify and encourage examples of best practice by publishing the results in the quarterly OISC Newsletter.

Enforcement activities have again played a key role in ensuring that the organisation fulfils its statutory obligations regarding consumer protection. A large number of criminal prosecutions have been initiated, but for reasons beyond our control many have failed to reach the point of sentencing (which is necessary for them to count towards the KPI target). However, regardless of the number of convictions actually secured, conducting investigations and launching prosecutions continues to assist greatly in disrupting criminal activity. The Intelligence and Investigations Team has also remained active in raising awareness of the OISC and its prosecutorial role with other government departments while maintaining and developing profitable contacts with related enforcement agencies throughout the UK.

As ever, all individuals and teams continue to provide invaluable support and rise to the challenge of fluctuating workload and unforeseen priorities. Of particular note this year is the Human Resources Team who have not only had to undertake numerous recruitment exercises to ensure that the OISC is staffed with competent and well-qualified staff, but who have also made major amendments to update key corporate policies and taken the lead on defending a long-standing employment tribunal case.

I am proud to be able to report such strong progress and achievement throughout the organisation in 2017/18. I am indebted to my colleagues for all their efforts in support of the OISC, those it regulates and the consumers it seeks to protect.

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## Key risks

The principal risk faced by the OISC in 2017/18 came from initiatives on the part of its parent department which were launched without taking full account of the OISC's relevant duties and powers. The Home Office has – quite reasonably – embarked upon a programme which will increasingly allow individuals to provide information and submit applications by completing electronic forms. This initiative has been supplemented by enhanced opportunities for such consumers to seek assistance from resources such as major public libraries and other local authority staff. Unfortunately, the instructions for making use of these mechanisms have not always been clear about when such issues and guidance constitute immigration advice and services that can only be handled by an authorised individual.

The OISC fully supports the Home Office's objective of making its processes more efficient, effective and customer-friendly. Moreover, we readily acknowledge that many individuals are capable of handling straightforward immigration matters themselves. However, it is essential that those who do require advice understand – and are informed of – the need to seek assistance from a regulated professional. Policy officials have accepted this message. Home Office materials now include such guidance and this episode has resulted in a significantly improved working relationship which has mitigated the risk. This new and enhanced understanding has extended into consideration of specific issues such as spurious appeals and Judicial Review applications judged to be 'totally without merit', and wider discussions over immigration policy regarding EU exit where the OISC's responsibilities are now well understood and acknowledged.

The scope of the OISC's regulatory remit continues to be challenged – notably by individuals seeking to claim exemption from the requirement of registration by virtue of supervision by a lawyer in another European Union country. Having sought expert legal advice on this question, we are pursuing action against certain individuals and organisations we believe to be acting unlawfully and who have been the subject of numerous complaints. Persons using this as a potential loophole to evade proper regulation pose a significant risk to those seeking immigration advice and services.

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## Looking ahead

The appointment of a new Immigration Services Commissioner (only the third in the 17-year history of the OISC) will have a profound influence on the OISC's future governance, strategy, regulatory approach and priority for resource allocation. Unfortunately, it appears unlikely that this appointment will be made in time to influence the Corporate Plan and Business Plan for 2019/20 which will be developed later in the year.

The UK's exit from the European Union in March 2019 will inevitably be accompanied by significant changes to the immigration rules. However, the OISC has no intention of diverting from or expanding the statutory role it has pursued since it was established in 2000. It will continue to maintain a robust regulatory regime which ensures – as Parliament intended – that consumers of immigration services are protected despite their vulnerability by ensuring that the advisers it regulates are fit and competent, and that those who seek to operate illegally will be identified and their activities curtailed.

The OISC has identified communications as an imperative for concerted action in 2018/19. It is essential that the organisation becomes well known not just by those seeking immigration advice or wishing to become authorised advisers, but also by anyone who has received poor immigration advice from either a regulated or an unregulated source – and who wishes to complain. Raising the organisation's profile within the law enforcement community, other legal services regulators and government departments is also essential. As described in the section on risk above, we will continue to work closely with policy officials in the parent department to ensure they maintain a detailed appreciation of the role and responsibilities of the OISC.

The new arrangements for continuing professional development (CPD) have now been in place for one year, so during 2018/19 a desktop audit of this initiative will be undertaken and any necessary changes made. A whole suite of electronic application forms is now in place, which is intended to reduce the burden on authorised advisers. Take-up has been somewhat slower than expected, so effort will be devoted to encourage advisers to take advantage of this mechanism.

Finally, we look forward to working with the newly appointed members of our Audit and Risk Assurance Committee and, in the much longer term, welcoming a new Immigration Services Commissioner to provide renewed strategic leadership over the subsequent five years, building upon the strong regulatory foundations established by their predecessors and confirming the OISC as a fully fit-for-purpose legal services regulator.

# The Organisation

## The Commissioners

The OISC is led by two Commissioners, both appointed by Home Office Ministers. The post of Immigration Services Commissioner fell vacant with the departure of Suzanne McCarthy on 4 September 2015. Since that date the Deputy Immigration Services Commissioner, Dr Ian Leigh, has been assuming the responsibilities of both Commissioners.

## The Operational Teams

Six separate, but interlinked, teams deliver the OISC's regulatory functions, led by the Director of Operations. The roles of these teams are summarised here, together with the regulatory activity they undertake.

### The Applications and First Contact Team

The Applications and First Contact Team (AFCT) deals with enquiries from the public, authorised advisers and those considering joining the OISC's scheme. It has responsibility for the initial handling of applications to enter the regulatory scheme, and takes final decisions on the more straightforward applications. AFCT also coordinates the OISC competence assessment process including facilitating its test centres, and it administers Disclosure and Barring Service checks on behalf of the Office.

### The Compliance and Complaints Teams

Led by the Head of Operational Regulation, the members of the two Compliance and Complaints Teams (CCTs) come from a variety of backgrounds across the private, public and voluntary sectors. The teams' caseworkers have primary responsibility for the delivery of the OISC's regulatory and complaints functions and their main focus is ensuring continued compliance with the *Code of Standards*. They conduct premises audits and investigate complaints made about authorised advisers. The teams are also responsible for the delivery of the OISC's workshop and seminar programme and they provide the main point of contact for authorised advisers. The CCTs also include two software developers whose principal role is to enhance the OISC's regulatory database, 'Themis', guaranteeing its continuing accuracy, accessibility and functionality. Specifically, they ensure that reports can be produced which provide data to confirm the organisation's KPIs and underpin its outcome objectives.

### The Operational Services and Support Team

The Operational Services and Support Team (OSST) provides administrative support to the CCT, as well as having responsibility for updating the information on the OISC's database. This team arranges the programme of premises audits for the compliance caseworkers, manages the workshop and seminar events, undertakes research and project work for the operational area and calculates the operational teams' Business Impact Targets scores. The OSST is responsible for selecting and overseeing those complaints deemed suitable to be investigated under the Commissioner's re-direction scheme and it also coordinates our presence on GOV.UK.

### The Legal Team

The Legal Team provides general legal advice and policy guidance to the Office and oversees the conduct of cases in the civil courts and tribunals. It assists the Commissioner in fulfilling oversight regulation of the Designated Professional Bodies (DPBs) (see report later in this Overview) and responds to freedom of information requests

and subject access requests made under Data Protection legislation on behalf of the organisation. The team was also involved in preparations for the commencement of the General Data Protection Regulation (GDPR) and Data Protection Law Enforcement Directive (DPLED).

## **The Intelligence and Investigations Team**

The Intelligence and Investigations Team is responsible for identifying and taking enforcement action, alone or jointly with other UK investigative bodies, against persons acting unlawfully. It focuses particularly on those who may be causing the most harm or posing the greatest threat to consumers. To achieve this objective, the team deals with complaints and serious breaches concerning sections 91 and 92B of the Immigration and Asylum Act 1999 and other offences including section 2 of the Fraud Act 2006: 'fraud by false representation'. The team also supports OISC caseworkers when conducting audits and applying for and executing 'enter and inspect' warrants, and it fosters joint-working relationships with external partners to enhance intelligence sharing.

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## **The Corporate Support Service Teams**

### **The Finance Team**

The Finance Team is responsible for preparing the OISC's annual phased budget, producing monthly management accounts, monitoring actual spend against budget, forecasting for full year spend and liaising with external and internal stakeholders including auditors.

The Head of Finance provides support to the OISC's Audit and Risk Assurance Committee, and has responsibility for asset management. She liaises with the OISC's Sponsor Unit regarding general finance and other audit issues. She represents the OISC at Home Office working groups concerned with financial reporting matters and risk improvement forums.

Other specific responsibilities of this team include maintenance of the OISC's accounting records, creditor payments, administering payroll and staff expenses, production of the OISC's annual accounts and contributing to the Home Office's consolidated accounts and other financial reports, including financial returns to the Cabinet Office and HM Treasury.

### **The Human Resources and Corporate Support Team**

The team provides a comprehensive personnel, training and development service for OISC staff. It is also responsible for facilities management and health and safety issues within the OISC, the handling of complaints made against staff from external organisations or persons, and the provision of corporate support for the Commissioners, the Senior Management Team and the Audit and Risk Assurance Committee.

Throughout 2017/18 the team continued its cyclical review and updating of HR policies, ensuring that they meet the organisation's business needs and comply with employment and other legislation. Six recruitment exercises were also undertaken during the year.

During 2017/18, 11 substantive complaints were investigated of which one was partly upheld, and nine were not upheld. No cases were upheld in full. At the end of the year one complaint raised during that period was still under investigation.

A total of 123 days was allocated to staff training and development, including staff receiving support in their further education studies. There were 354 sick days taken by OISC staff, 279 being of short-term duration (2.32%) and 75 of long-term duration (0.63%). This equates to 6.53 days, average per person overall compared to the latest comparison figures available from the public sector of 8.3 days, average per person. Long-term sick absence has a disproportionate impact on the organisation, given our small number of staff. The OISC's short-term absence figure equates to an average sickness rate of 5.15 days per person.

## The Information and Communications Technology (ICT) Team

The ICT Team comprises the Head of ICT and the ICT systems manager. Together, they provide the OISC with a range of ICT services that can be grouped into three core activities:

- Maintaining appropriate ICT hardware, software and infrastructure for the organisation
- Securing the ICT against threats and providing business continuity resilience
- Providing ICT support to the staff of the OISC.

Work within these three areas accounts for much of the daily activity of the team. However, in addition to this the team is also involved in a significant amount of project work for the OISC, both within their own area and in support of the organisation's other teams.

The most significant project undertaken during the year was the introduction of new hardware and software (purchased in 2016/17) for OISC staff to support the continuing move towards a more mobile workforce. New and more capable laptops, running a new operating system version, were configured in line with the National Cyber Security Centre guidelines, tested and then issued to staff throughout the year. This was undertaken together with another project which updated the OISC's remote access connectivity, allowing OISC staff improved access to resources while working away from the office.

A number of other technical projects were undertaken during the year, including upgrading the OISC's leased line capacity, upgrading the OISC's firewall software, decommissioning a number of older, unused servers, and dealing with the repercussions of the WannaCry / NotPetya malware outbreak (the OISC was not affected by this). Numerous changes were also made to the OISC's data backup regime.

Additionally, the ICT Team was involved in delivering online seminars and benchmarking corporate projects. Both of these projects are discussed in more detail elsewhere in this Report.

In his role as chair of the Information Security Monitoring Board, the Head of ICT has also overseen the revision of the Information Security Strategy and Policy Documents and production of the Information Security Annual Report. He has coordinated the ongoing review and update of the OISC's information asset register and has, alongside the OISC's Data Protection Officers, been developing the OISC's approach to GDPR and DPLED compliance.

# Regulation of Immigration Advice and Services

The OISC regulates a wide variety of organisations ranging from small, community-based bodies and sole traders through to national charities with multiple offices and large, specialist profit-making advisory services.

The OISC confirms adviser competence and fitness in a number of ways such as through its application processes, competence assessment programme and audit activity. Our approach to regulation remains targeted and proportionate using risk-based criteria.

For the purpose of understanding the provision of immigration advice and services within the sector, it is helpful to be able to report data in relation to advice providers who charge a fee for their work and those who do not. The data in this chapter is therefore presented as relating to 'fee charging' and 'non-fee charging' registered advisers and organisations.

The OISC regulates organisations and advisers at three different Advice Levels:

- **Level 1:** Advice and Assistance – advisers are authorised to make simple applications allowed under the Immigration Rules and some limited applications outside the rules which require no detailed representation
- **Level 2:** Casework – advisers are authorised to do both Level 1 work and the more complex Immigration Rules applications, all applications outside the Immigration Rules and applications as allowed under the Home Office's concessionary or discretionary policies
- **Level 3:** Advocacy and Representation – advisers are authorised to do any work permitted at Levels 1 and 2, as well as all appeals work against a Home Office immigration decision and the conduct of specialist casework. Where authorised to do so, advisers may also undertake the management of cases requiring Judicial Review.

A detailed description of areas of work covered by each of these Levels is contained in the *Guidance on Competence* available on the OISC's website.

The Level at which an organisation is authorised to work is determined by the Advice Level of the highest authorised adviser in that organisation.

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## Key regulatory documents

The most recent *Guidance on Competence* was published in March 2017 and came into force on 1 July 2017. This was made consistent with the revised *Code of Standards* and also reflected changes that had been made to the Immigration Rules in recent years. The new document also introduced a new category of work called Judicial Review Case Management (JRCM), for which advisers already authorised at Level 3 were eligible to apply. In April 2017 the OISC published a detailed practice note regarding the operation of JRCM and the competence, skills and aptitudes required by advisers seeking authorisation in this area. On 1 June 2017, the application forms for this new area of work became available. To date, 24 advisers have applied for authorisation in the new category and 11 have been approved. While numbers are currently small, the Commissioner recognises that many organisations have struggled to set up the required arrangements with suitable counsel (i.e. those with permission to conduct litigation). It is hoped that more chambers will be available to take instruction of this nature from OISC authorised advisers in future.

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## Assessing fitness and competence of new applicants

It is our statutory duty to ensure that those who are regulated by the Commissioner are both fit and competent to provide immigration advice and services. This requirement is rigorously applied to both individuals and organisations seeking entry to the scheme and those already within the scheme.

In 2017/18, 626 candidates undertook a formal written assessment as part of their application for regulation or continued regulation at a higher level of authorisation. This was an increase of 73 candidates over the number that attempted a written competence assessment in the previous business year. Of the 519 candidates who sat the Level 1 assessment, 198 (38%) were successful and 321 (62%) were unsuccessful. These results show an improvement in overall success rates of candidates taking the Level 1 assessment. In 2015/16, 25% of candidates who took the Level 1 assessment were successful, while in 2016/17, 36% were successful.

Regarding Level 2 and 3 assessments, in the 2017/18 business year, 47% of the 86 candidates who sat the Level 2 assessment were successful, while 33% of the 39 candidates who sat the Level 3 assessment were successful. These figures are slightly lower than last year's success rates at 51% (24 candidates) for Level 2, and 40% (16 candidates) for Level 3. It is, however, noted that fewer candidates attempted the higher level assessments in 2016/17.

Candidates who underwent the competence assessment during 2017/18 were invited to complete a survey commenting on their experience of the process and 158 responses were received. Comments on the assessment itself showed that candidates found the instructions regarding the assessment process and invitation to be clear and the assessment venues to be good. Other comments included a request for additional time for the assessment (despite a 25% increase in the time allowed for each section since July 2016), requests for longer notice periods for candidates taking re-takes and an update of the sample papers available on the OISC website. These points will be given consideration in our planning for the year ahead.

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## Assessing fitness and competence of registered organisations

Once organisations have obtained registration, an ongoing assessment of their fitness and competence is carried out through a programme of premises audits, compliance with Continuing Professional Development (CPD) requirements and the investigation of any complaints received about authorised advisers. All three processes contribute to the decision to grant or refuse the annual continued registration application.

In 2017/18 the OISC undertook 362 premises audits, adopting a risk-based approach to the selection of those organisations. 19 of these audits were pre-registration audits on organisations seeking registration, while 343 were conducted on those already registered and practising.

Regulatory action may be taken against organisations which are found to be in breach of the *Code of Standards*, particularly where there is evidence of serious breaches in fitness or competence, or repeated breaches of any code. During 2017/18, five organisations were refused continued registration based on findings made at a premises audit. For other organisations, the issues identified act as a notice to improve and most organisations are sent an Identified Issues Report following their audit. Of such reports, 87% were sent within 10 working days and 95% were sent within 20 working days.

Diligence in client care and a failure to keep sufficient records remain the most common breaches of the *Code of Standards* found at audit, with increasing numbers of breaches being identified in these areas in this business year. Of the organisations audited in 2017/18, 75% were found in breach of diligence in client care (2016/17: 63%) while 63% were found to maintain insufficient records (2016/17: 53%). A new workshop for advisers piloted in February 2018 regarding consumer satisfaction aims to raise awareness around diligence in client care. Further workshops or online seminars are being considered in the coming business year for newly registered organisations that will emphasise the necessity of good record keeping as part of an introduction to the OISC scheme.

Organisations that are subject to a premises audit are also invited to feedback on the process and their experience of the audit through an adviser survey. We are pleased to report that most advisers find the audits conducted by the OISC to be a positive experience. Some 24% of advisers who responded to the survey in 2017/18 indicated that they were satisfied with the conduct of the audit while 77% indicated they were strongly satisfied. About 98% of those who responded to the survey said they found the audit helpful to them and their organisation.

2017/18 has been a transitional year for authorised advisers undertaking further professional development activity with the OISC's revised CPD scheme having come into effect on 1 April 2017. The revised scheme requires registered organisations to plan appropriate CPD activities with staff each year. This may tie into the organisation's already established training and development processes (often linked to appraisal processes) or may be a standalone activity. To demonstrate compliance, registered organisations are required to show evidence of CPD planning, implementation and evaluation.

Compliance in this transition year has been assessed through dip sampling of organisations subject to premises audit, or where a complaint against the competence of an adviser has suggested that there may be a training need. Of 59 audits conducted where CPD was specifically checked, only 24% of these organisations were deemed to be fully compliant. Some 46% were deemed to be partially compliant (some CPD activity had been completed but they had not produced a plan or record of what had been done, or a plan had been produced but the training had not yet taken place) and 30% of these organisations were found to be non-compliant and in breach of the relevant Code.

The OISC believes that while CPD activity being undertaken under the revised scheme is more focused on the needs of individual advisers, registered organisations have a responsibility to be fully compliant with our requirements going into the new business year. To ensure this is the case, we will be undertaking a full Thematic Review of CPD activity in the autumn of 2018.

The investigation of complaints about authorised advisers forms an important regulatory tool in the assessment of the fitness and competence of regulated organisations and individuals. In the 2017/18 business year the OISC continued to see a reduction in the number of complaints received against authorised advisers (142, as opposed to 166 in 2016/17 and 255 in 2015/16). The low number of complaints may be seen as an indicator of improving standards. Therefore, the OISC will be focusing on increasing the publicity of its *Complaints Scheme* in the new business year to ensure that the decreasing numbers of complaints are not as a result of consumers being unaware of the scheme, or insufficiently confident to make a complaint should they need to do so.

Where complaints against registered firms are substantiated, three sanctions are available to the Commissioner. The lightest of these is for the determination to be laid on file and considered when the organisation next applies for continued registration. This allows the Commissioner to consider if breaches found against organisations are one-off incidents (that the organisation has learned from and resolved) or if they reflect continuing issues of concern that may need to be considered further. In 2017/18, four organisations were refused continued registration with complaints laid on file forming part of the decision. In addition, one organisation withdrew from the scheme following the determination of complaints found.

At the other end of the scale, the Commissioner has the power to cancel registration immediately where the findings of a single complaint are so serious that immediate action must be taken, or to take a charge before the First-tier Tribunal (Immigration Services). The Commissioner is pleased to report that these powers did not need to be invoked against any registered organisation during 2017/18.

The Commissioner additionally has the power to cancel the registration of an organisation that fails to engage with a complaint investigation. Again, however, such action did not need to be taken during 2017/18 as the Commissioner was able to progress all investigations satisfactorily.

It is important for both the registered organisation and the complainant that complaints are handled by the OISC promptly. Of complaints determined or resolved by the Commissioner in 2017/18, 91% were completed within five months of receipt. Of determined complaints, 87% found that a breach of the *Code of Standards* had taken place. This figure compares favourably with the figure of 91% found last year. The most common area of breach

continues to relate to diligence in client care which was found to be breached (to a greater or lesser extent) in 72% of all determined complaints. Again, there is a suggestion of improvement in this area. In 2016/17, breaches of codes related to diligence in client care were found in 87% of all complaints that were substantiated.

In addition to action taken on complaints, the OISC has also continued in 2017/18 to make use of powers granted to the Commissioner by the Immigration Act 2014 to suspend advisers charged with indictable offences or those involving deception or dishonesty. In 2017/18 the OISC suspended three advisers on this basis.

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## Efficiency and effectiveness

In 2017/18, the OISC continued its move towards increased digital working when the application form for advisers seeking authorisation in Judicial Review Case Management joined the suite of electronic applications available since June 2017.

A review of the electronic application process for all OISC applications was undertaken in September 2017. The review indicated that although initial take-up of the new process was slower than we had hoped, no technical issues or problems existed and feedback from users on the new process was extremely positive. Since November 2017 we have received increased numbers of applications through the new electronic process and 419 applications for registration, continued registration, new adviser and new Category or Level applications. The OISC is looking to increase the number of applications received electronically further in the 2018/19 business year.

The Operations Team also continued work begun in 2016/17 to ensure that our database of registered Citizens Advice Bureaux (CABx) operating at Level 1 is fully up to date. There were concerns that individual bureaux had not been keeping the Commissioner abreast of changes of address, or the merger or closing of branches. This lack of communication led to the Register containing details of branches that were, in some cases, no longer providing immigration advice and services. Work with the National Association of Citizens Advice Bureaux (NACAB) has allowed the OISC to consolidate the list of Bureaux which operate at Level 1. This has resulted in some adjustment of our CABx figures (a reduction of 28 registered offices) which can be seen in our regulatory statistics. A meeting with Citizens Advice Scotland (CAS) also allowed the OISC to confirm that the Register was correct and up-to-date in relation to CABx offering immigration advice and services at Level 1 in Scotland. Similar checks are currently under way for CABx operating at Level 1 in Northern Ireland.

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## Working with advisers, advice organisations and other stakeholders

Premises audits and complaints investigations provide OISC caseworkers with welcome opportunities to meet advisers and advice organisations face-to-face. Caseworkers are also available by telephone and email to deal with queries advisers may have regarding their regulatory responsibilities and any applications for continued registration or variation of registration the organisation wishes to make. We are pleased to report that working relationships are extremely good and that most advice organisations place great value on the arrangement whereby each body is assigned a named caseworker as their principal point of contact with the OISC.

Work to encourage and support applications from the non-fee charging sector has continued this year through the OISC's Voluntary Sector Support Group. The group (made up of OISC caseworkers) has, in particular, worked closely with two prominent charities: 'Rights of Women' and 'Refugee Action'. Both have been undertaking major projects to provide training and support to community-based organisations seeking or considering OISC regulation. We have been happy to provide advice to these groups regarding regulatory requirements and the application process in order to help build capacity within the immigration advice sector. Such work has also been beneficial to the OISC in helping to identify challenges regulation brings to community voluntary organisations

and to assist us in developing a dedicated section of our website which aims to address such challenges and provide additional guidance to this sector.

In addition, the Voluntary Sector Support Group has provided advice and assistance on a number of issues such as the training and assessment requirements for staff advising on very specific areas of work. These include leave requirements of volunteers, work that can be carried out without the need for regulation, and advice on supervision. The group has also spoken with a number of universities about establishing free immigration advice services provided by Law Clinics organised by those bodies. The OISC has been pleased to be able to assist such Law Clinics to gain regulation and provide local immigration advice and services through their students, who themselves gain valuable experience of this challenging area of law.

Working with the community voluntary sector has also provided an opportunity for the OISC to consider the messages it puts out to consumers and to consider the specific needs of certain groups. We have worked with particular organisations such as the Eastern European Resource Centre to help them create tailored information for their community about finding regulated advisers and how to complain where poor advice and services have been provided. In March 2018 the OISC also met a number of prominent charities in Scotland including Citizens Advice Scotland, Scottish Refugee Action and Scottish Detainee Visitors, as well as caseworkers from the offices of Deirdre Brock MP and Patrick Grady MP, the Law Society of Scotland, and the Scottish Legal Aid Board to discuss the specific issues facing migrants in Scotland and the availability of good immigration advice in the nation.

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## Developing and supporting the immigration advice sector

Training and experience are vital aspects of the growth of a good and well supplied immigration advice sector. In 2017/18 the OISC undertook a thematic review of the operation of its policy allowing advisers to be authorised to act as supervisors. This policy permits advisers to work under the supervision of higher level advisers for a limited period in order to gain the necessary experience to increase their level of authorisation. The review found that there were 26 organisations which had staff working under supervision arrangements that had been agreed with the OISC. Of these organisations 64% were fee charging, while 36% were non-fee charging. Some 81% of these firms were found to be fully compliant with the supervision scheme in the way that supervision was being carried out. Feedback from the majority of supervisors involved in the scheme was extremely positive, noting that the scheme increased the ability of the organisation to meet the needs of its clients while allowing them to plan their organisation's development more effectively.

In 2017, the OISC carried out a thematic review of the websites of 70 randomly selected OISC regulated organisations. The results of the review were published in the April 2017 newsletter and indicated that there was a high degree of compliance regarding the information they are required to supply on their websites. Although a small number of organisations were found to be providing information that may be construed as misleading, or failing to display evidence of regulation adequately, this was not endemic. Most firms were, in fact, providing user-friendly websites that gave helpful information to consumers.

The provision of key information to clients and prospective clients has been a major focus of work undertaken by the OISC this year – both with registered organisations and other stakeholders. In December 2016, the Competition and Markets Authority (CMA) published its report into the legal services market which concluded that competition in legal services for individual consumers and small businesses is not working well. Specifically, the report observed that there is not enough information available on price, quality and service to help those who need legal support to choose the best available option. While OISC registered firms fell outside the scope of the report, we have been working closely with other legal service regulators to keep abreast of action they are taking in relation to the report's recommendations.

We are currently involved in specific discussions with the other legal regulators on price transparency and moves to ensure that clients have easily accessible information about the costs and extent of services involved when choosing which legal professional they should instruct on their immigration matter.

During 2017/18 the Solicitors Regulation Authority (SRA), Bar Standards Board (BSB) and CILEx Regulation undertook consultations which looked at the themes of transparency and making legal services more consumer friendly both for individuals and small businesses. In June 2017, the BSB published guidance for the public and legal professionals who support migrant groups on accessing immigration and asylum advice and services. This document contained information on all sources of such legal services and was written in consultation with the OISC and other regulators. More joined-up guidance is planned for the year ahead.

The OISC was also delighted to join the Legal Choices website this year. Hosted by the SRA, this website informs consumers of the many sources of regulated legal advice available to them, and it is a major achievement for the OISC and its register of organisations and advisers to be recognised as a key resource for consumers seeking specialist, cost-effective advice about immigration matters. The OISC will also be contributing to the further development of the website through our membership of the Legal Choices Advisory Panel.

The OISC has also been considering information that would be useful to consumers. We have reviewed our own website and updated the information that is available about selecting and instructing an OISC authorised adviser. This has resulted in the inclusion of some additional information on what to look for to confirm that an organisation or adviser is or is not regulated, together with information on how to make a complaint to the OISC. A full review of the OISC website is planned for the 2018/19 business year, with an expected redesign to ensure the website is more accessible and consumer-focused.

The issue of consumer needs has been further promoted with registered organisations through the launch of a new workshop for advisers on Consumer Satisfaction. This workshop was piloted in London on 23 February 2018 and was attended by 23 advisers. Responses to that event were extremely positive and the OISC has converted this workshop into our first online accessible seminar. While inevitably this has to be a shortened version of the face-to-face seminar, it provides training that can be undertaken at a time and place to suit advisers. Reaching advisers through the mechanism of online seminars is an area the OISC will be looking to develop further in the new business year.

The OISC delivered ten other face-to-face seminars to authorised advisers this year. Four related to Ethics, three to Audit and Compliance and three to Complaints. As in previous years, these seminars proved popular and 323 advisers in total attended them. The events are consistently oversubscribed and those advisers able to attend participate enthusiastically and enjoy the opportunity to meet both OISC caseworkers and fellow advisers.

In addition to meeting with the registered sector, the OISC has attended strategic meetings with the Home Office and legal services regulators to share information on issues such as the suspected abuse of the immigration systems around spurious appeals and 'totally without merit' Judicial Review Applications. We have also worked closely with the Home Office and our own Home Office sponsor unit to consider the effects of the UK's exit from the EU on the immigration system, the likely increase in demand for immigration advice and services over the transitional period, and possible impact on the legislation which defines the OISC's duties and powers.

## Regulatory Statistics

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### Numbers of regulated organisations and advisers as at 31 March 2018

The data below show that during 2017/18 the overall number of registered organisations decreased by 20 with the number of authorised advisers decreasing by 80 (see Tables 1 and 2).

Tables 3 and 4 provide some information as to the Level of those that are regulated. At Level 1, 63% of organisations are registered, 9% are registered at Level 2 and 28% at Level 3. Similarly, in relation to the Level of authorisation of individual advisers within registered organisations, most advisers (74%) are authorised to practise at Level 1. Level 2 advisers make up 10% of the advice sector and Level 3 advisers 16%. These figures include 356 Level 1 CABx, where it is assumed one adviser works at each CABx organisation.

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## Movement within the OISC regulated sector

An organisation that wishes to give immigration advice or services in the UK may only do so in compliance with the Immigration and Asylum Act 1999. New organisations are required to apply for entry into the OISC scheme. Table 5 shows the number of such applications the OISC received during 2017/18 and how they were resolved. The 2017/18 business year shows a continuing increase in the number of new applications received, with 173 applications received this year compared to 154 applications received in 2016/17, and 147 received in 2015/16.

Of those that apply for registration (173 new applications in the 2017/18 business year plus 33 applications brought forward from the previous year) only organisations that can demonstrate they are fit and competent to provide immigration advice and services are allowed entry into the scheme. Table 5 shows that in 2017/18, 56% of organisations that applied for registration were approved, 18% were refused, 4% withdrew during the application process and 22% have been carried into the new business year for a decision.

Registered organisations are normally required to apply annually for a continuation of their registration. Table 6 shows the number of such applications the OISC received during 2017/18 and how they were dealt with.

In 2017/18, 135 organisations left the OISC scheme for a variety of reasons. Twenty-two of these related to the work undertaken to consolidate details of CAB offices that were still providing immigration advice and services. Nine organisations were refused continued registration by the Commissioner, while four withdrew from the scheme following concerns raised by the OISC. A number of organisations no longer required regulation by the OISC as they had stopped providing immigration advice or services, had merged with another OISC registered organisation or became regulated by another legal services regulator.

While the OISC recognises that the pressures that remain on small businesses may result in advisers leaving the scheme and the sector, we are reassured by the fact that at the end of the 2017/18 there were 785 organisations that were still in the OISC scheme five years after first gaining regulation.

There has been an increase in numbers of authorised advisers leaving the scheme, with 502 leaving in 2017/18 compared with 462 that departed in 2016/17.

Registered organisations may seek to add new advisers to their organisation or to increase the Level of authorisation of their existing advisers and/or the Level of the organisation as a whole. Table 7 shows the number of such applications the OISC received during 2017/18 and the decisions reached.

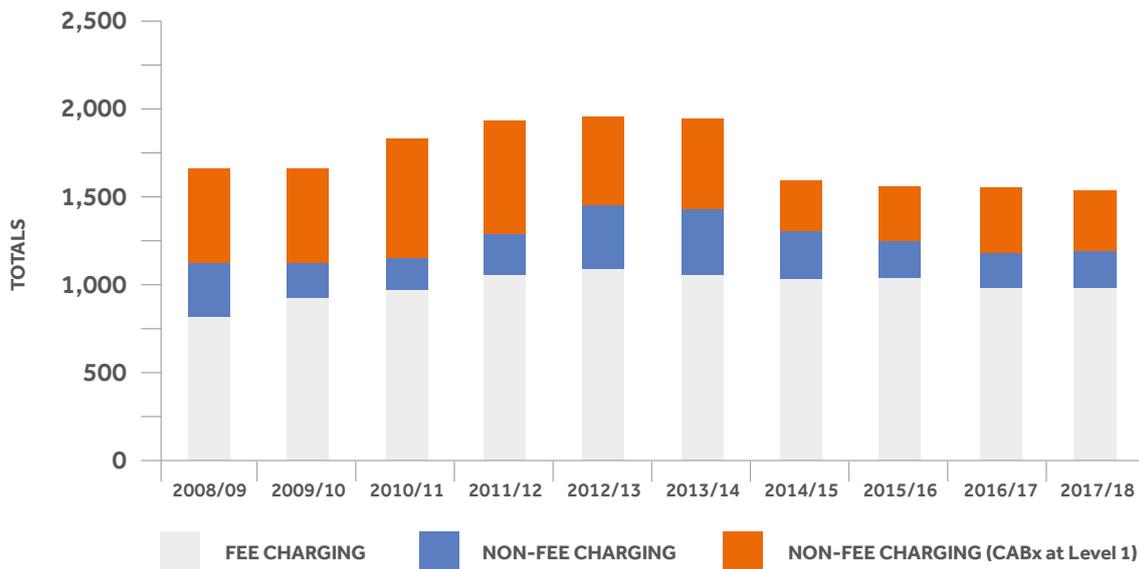
The Commissioner received 1,059 applications for continued registration and decided 1,048 of these applications during the business year. Of these applications, a high proportion (99%) were successful at gaining continued registration, which suggests that initial checks on organisations granted entry to the scheme are effective at ensuring that only those that are, and are likely to remain, fit and competent are granted registration.

As well as advisers joining the regulatory scheme as part of an organisation's application for registration (131 advisers applied this way) the Commissioner considered 413 applications by individuals to join existing organisations, in total considering 544 new adviser applications. Of these applications, 80% (435 advisers) were successful.

**Table 1: Total number of registered organisations**

	As at 31 March 2018	As at 31 March 2017
Fee charging	996	995
Non-fee charging	215 (plus 356 CABx operating at Level 1)	208 (plus 384 CABx operating at Level 1)
<b>Total number of registered organisations</b>	<b>1,567</b>	<b>1,587</b>

**Figure 1: Fee charging and non-fee charging organisations 2008-18**

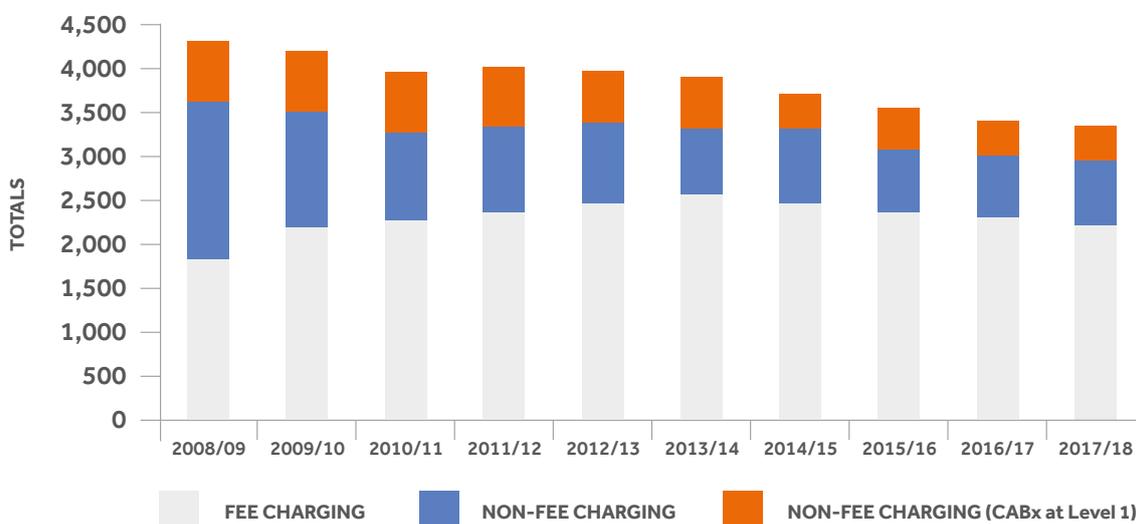


**Table 2: Total number of authorised advisers**

	As at 31 March 2018	As at 31 March 2017
Fee charging	2,209	2,309
Non-fee charging (Excluding Level 1 CABx)	746	701
Fee charging and non-fee charging (Some advisers are both fee charging and non-fee charging)*	26	23
Total number of authorised advisers (Excluding Level 1 CABx – 356 in 2018 and 384 in 2017)	2,981	3,033
<b>Total of authorised advisers including CABx**</b>	<b>3,337</b>	<b>3,417</b>

\*Some advisers are both fee charging and non-fee charging advisers who work for more than one organisation, these have not been double counted in the total.

**Figure 2: Fee charging and non-fee charging advisers 2008-18**



**Table 3: The number of registered organisations by advice level as at 31 March 2018**

	Fee charging	Non-fee charging	Total
Level 1	523	96*	619*
Level 2	96	52	148
Level 3	377	67	444
<b>Total</b>	<b>996</b>	<b>215*</b>	<b>1,211*</b>

\*This figure excludes 356 CABx registered at Level 1.

**Table 4: The number of authorised advisers by advice level as at 31 March 2018**

	Fee charging	Non-fee charging	Fee charging and non-fee charging*	Total
Level 1	1,548	554**	6	2,108**
Level 2	216	118	5	339
Level 3	445	74	15	534
<b>Total</b>	<b>2,209</b>	<b>746</b>	<b>26</b>	<b>2,981</b>

\* Some advisers are both fee charging and non-fee charging advisers who work for more than one organisation. These have not been double counted in the total.

\*\*This figure excludes 356 CABx registered at Level 1.

**Table 5: Applications by previously unregistered organisations to join the OISC regulatory scheme**

	Fee charging	Non-fee charging	Total
New applications received	134	39	173
Applications brought forward from 2016/17	25	8	33
Applications approved	89	25	114
Applications refused	33	4	37
Applications withdrawn	6	3	9
Applications carried forward	31	15	46

**Table 6: Applications for continued registration**

	Fee charging	Non-fee charging	Total
Continued registration applications received	878	181	1,059
Continued registration applications brought forward from 2016/17	37	3	40
Continued registration applications approved	859	177	1,036
Continued registration applications refused	9	0	9
Continued registration applications withdrawn	3	0	3
Continued registration applications carried forward	44	7	51

**Table 7: Applications to add new advisers or increase Levels of operation**

	Approved	Refused	Total
Applications for advisers to apply or join an existing or new registered organisation	435	109	544
Applications from registered organisations to change Level	16	2	18
Applications from authorised advisers to change Level	47	25	72

## Complaints

Complaints are an important element of the regulatory process. Complaints about authorised advisers help the OISC to monitor competence and fitness, while complaints about unregulated advisers help to bring illegal activity to the OISC's attention.

**Table 8: Breakdown of total complaints received 2001-18**

	Complaints about OISC regulated advisers	Complaints about advisers under approved regulators	Complaints about unregulated advisers	Total number of complaints received
2001 to 2013	2,909	1,514	1,509	5,932
2013/14	268	52	144	464
2014/15	195	52	147	394
2015/16	225	18	158	401
2016/17	166	26	146	338
2017/18	142	21	134	297
<b>Total</b>	<b>3,905</b>	<b>1,683</b>	<b>2,238</b>	<b>7,826</b>

**Table 9: How the OISC disposed of complaint cases about authorised advisers in 2017/18\***

Substantiated	60
Unsubstantiated	6
Re-directed and successfully resolved by organisation	30
Closed as outside time and/or jurisdiction	7
Closed due to insufficient evidence	14
Closed due to failure in complainant cooperation	5
Closed due to organisation no longer registered	18
Investigation suspended due to ongoing legal action	0
<b>Total</b>	<b>140</b>

\*These totals include complaints carried forward from previous years

## Appeals, Courts and Tribunals

The OISC's in-house Legal Team is responsible for providing general legal advice and policy guidance to the Office. It oversees the conduct of cases in the civil courts and Tribunals and assists the Commissioner in fulfilling his oversight regulation of the Designated Professional Bodies.

### Appeals made against a Commissioner's appealable decision and charges brought by the Commissioner

The Commissioner has a statutory duty to ensure that advisers are fit and competent and to protect the public from those that are not. Removing an organisation or adviser from the regulatory scheme is a serious decision, which the Commissioner does not take lightly. Such decisions, among others, carry a right of appeal to the First-tier Tribunal (FTT). This body also considers the Commissioner's applications to lay disciplinary charges against authorised advisers as well as applications to suspend advisers after they have been charged with an indictable criminal offence or one involving dishonesty or deception. If a charge is upheld, the Tribunal may prohibit an adviser from giving immigration advice and/or services for a defined period or indefinitely.

During 2017/18 the Commissioner made 80 appealable decisions resulting in 11 appeals being lodged with the Tribunal (2016/17: 94 appealable decisions and 10 appeals lodged).

Appeals before the FTT can be heard 'on the papers', if both parties consent. Attendance is not required, but relevant documentation for consideration must be submitted. Often appeals lodged by appellants failing competency tests are dealt with by a paper hearing. If, however, appellants indicate that they would like to attend a hearing then both parties and witnesses are required to attend. If either party is dissatisfied they can appeal the FTT's decision to the Upper Tribunal.

**Table 10: Breakdown of appeals and charges 2008-18**

	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18
Appeals lodged	8	6	7	10	6	11	13	10	10	11
Appeals allowed	1	2	0	3	2	0	1	2	0	0
Appeals dismissed	4	3	1	3	7	8	6	3	5	4*
Appeals withdrawn	2	3	4	2	0	1	2	4	4	1
Charges brought	0	2	3	0	1	0	0	0	64	0

*\*This figure includes three Appeals that were struck out. The OISC is able to apply to the Tribunal to 'strike out' the appeal if it believes it lacks merit and has no prospect of success at the Tribunal.*

At the end of 2017/2018 there were ten appeals still to be heard by the FTT.

One appeal was dismissed, following a full hearing, where the Tribunal upheld the Commissioner's decision to cancel an organisation's registration concerning issues of fitness. A further three appeals were struck out by the Tribunal after applications by the OISC. One organisation did not submit a valid appeal, having lodged it before the Commissioner's decision to refuse had been made. The second appeal was struck out following successful charges brought against the adviser, as outlined in last year's Report. The third strike out application involved the appellant being featured in an undercover report by ITN. The appellant was seen advising what he thought was a Ukrainian immigration overstayer on how to make an application for asylum which the appellant was not permitted to do at Level 1. He was also seen to be advising on how to make false asylum claims. In addition, an audit of the organisation had revealed breaches of the *Code of Standards*. The Tribunal allowed this strike out and agreed that the appeal had little prospect of success.

Another appeal having been listed for a three-day hearing was withdrawn by the appellant on the third day of the appeal. A further appeal that concerned competency issues was settled by way of a consent order at the Tribunal. The appellant undertook to abide by the terms as outlined in the order.

The OISC continues to use its suspension powers and made three successful applications to the Tribunal to suspend the registrations of advisers and organisations in accordance with paragraph 4B(1) of Schedule 6 to the Immigration and Asylum Act 1999 after they have been charged with a number of serious criminal offences. One such application concerned the adviser being charged with two counts of fraud and one count of conspiracy. The second application concerned an adviser being charged with conspiracy to pervert the course of justice. In the third application the adviser had been charged with attempted murder, the alternative offence of dangerous driving and also grievous bodily harm. In this case the adviser was suspended, but since there were other advisers at the organisation not connected with the criminal matter the organisation was permitted to continue its registration and to serve its clients. At the end of the 2017/18 business year there are four suspended advisers in total, one remaining suspended from the previous year and they will remain so until their criminal cases have been dealt with.

As outlined in last year's Report, the OISC successfully used its Charge sanction to prohibit an adviser from providing immigration advice and/or services for an indefinite period. This adviser joins a list of four other persons who have previously been prohibited from providing immigration advice and/or services for an indefinite period.

During this reporting period all of the Commissioner's appealed decisions stood at the Tribunal, so the OISC's KPI five outturn is 100%. There are currently ten outstanding appeals.

The Legal Team also becomes involved in those matters that have been appealed to the higher courts and this year has been involved in cases before both the Upper Tribunal and the Court of Appeal.

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## Ancillary legal activity

The Legal Team has continued to deal with Freedom of Information and Data Protection requests and continues with the OISC's preparation for commencement of the General Data Protection Regulation (GDPR) and Data Protection Law Enforcement Directive (DPLED). The team has dealt with a variety of external and internal policy queries regarding OISC legislative and jurisdictional matters and has continued to liaise with other regulatory bodies such as the Bar Standards Board, the Solicitors Regulation Authority, CILEx Regulation and other interested parties.

# ***The Deputy Commissioner's Report on Regulation by the Designated Professional Bodies of their Members***

This Report, which is made in accordance with Part V of the Immigration and Asylum Act 1999, provides the Deputy Commissioner's opinion on the extent to which the Designated Professional Bodies (DPBs) have provided effective regulation of their members in the provision of immigration advice and/or services. The DPBs are the Law Society of Scotland, the Law Society of Northern Ireland, the Faculty of Advocates and the General Council of the Bar of Northern Ireland.

No complaints were received or were outstanding as at 31 March 2018 in respect of the Faculty of Advocates or the General Council of the Bar of Northern Ireland.

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## The Law Society of Northern Ireland

This year, the Society has continued focusing on immigration matters and has established an Immigration Practitioners Group (IPG) to promote the interests of Immigration Practitioners and to share knowledge among practitioners on immigration related issues. The Society has provided a series of CPD seminars on immigration law and practice and introduced a new course for members presenting cases at the Tribunal. The Society also plans to host an immigration conference in November 2018. We are informed that the Society's Library has recently introduced an initiative whereby judgments relating to immigration law are directly shared with the IPG. The Society has also published an article about the OISC in its membership publication *The Writ*. The Deputy Commissioner is pleased to note these activities of the Society and his Office will continue liaison in the coming year.

The Society received four immigration complaints in the year, none being referred from the OISC. The first complaint concerned the issue of undue delay, the failure of a solicitor to keep the client properly informed, failure to provide client information and not providing information relating to costs.

The second complaint involved allegations of delay, failing to keep the client properly informed and withholding documents. The complaint also contained an allegation of failing to consider the matter in accordance with the solicitor's firm's in-house complaints procedure.

The third complaint involved the issue of failing to keep the client properly informed and acting contrary to client instructions and not considering client complaints under the solicitor's own in-house complaints procedure.

Investigations into these three complaints are continuing and the OISC will monitor progress in the coming year.

The fourth complaint concerned issues of delay and failing to keep the client properly informed. This complaint was partially upheld resulting in a portion of the solicitor's fee being waived.

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## The Law Society of Scotland

Following on from the decision of the Court of Session, the Society challenged the competency of the re-categorisation exercise of existing hybrid complaints (conduct and service). However, the Court held that the Scottish Legal Complaints Commission (SLCC) was able to re-categorise the complaints. Moving forward, issues in new complaints are now only categorised as either conduct or service, although complaints may contain some conduct issues and some service issues. If matters of service and conduct arise in the same complaint, the Society and the SLCC will liaise as to which investigation should proceed first. On conclusion of the first investigation, the file is sent to the other organisation for a separate investigation.

The OISC will continue liaison with the Society and discuss the impact of this litigation.

The Society has received four immigration complaints from the SLCC this year.

One complaint concerned issues about the solicitor's failure to pay counsel's fees. This matter is awaiting a hearing before the Scottish Solicitors' Discipline Tribunal. Two further complaints concerned allegations against solicitors in the same firm. Both complaints involved issues of failing to advise properly. The Professional Conduct Sub-Committee decided that advice had been given properly and no further action was required and the complaints were closed. The fourth complaint involved a number of issues such as misleading the Court and other solicitors, putting inappropriate pressure on the complainer to withdraw his action and not forwarding important correspondence to new representatives. The Committee is currently awaiting a report on this complaint before considering further action.

The OISC will continue monitoring the progress of these open complaints in the coming year.

## Investigating Illegal Activity

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### Introduction

The Intelligence & Investigations (I&I) Team has a national responsibility for dealing with complaints and serious breaches of the Immigration and Asylum Act 1999, including taking enforcement action against persons or organisations acting unlawfully. We focus particularly on those that may be causing the most harm or posing the greatest threat to consumers. During 2017/18 we considered an initiative to charge suspects with offences wider than under sections 91 and 92B of the 1999 Act, including section 2 of the Fraud Act 2006: 'Fraud by false representation'.

The impact of such offences on victims cannot be overstated, with many left fighting to stay in the UK due to poor or misleading advice which has left them with a blemished immigration compliance record. Many will have been relieved of large amounts of money, have no access to redress and often feeling too vulnerable to complain. With Section 2 of the Fraud Act 2006 carrying a maximum sentence of ten years' imprisonment, it was considered that this would more closely reflect the severity of the offending. It is important that victims know what information and support is available, from reporting a crime through to giving evidence at court, and from whom to request help if they are not receiving it. Additionally, it is the OISC's view that those who are prepared to break the law by providing illegal immigration advice are more likely to have no hesitation about abusing the UK immigration system and in particular Immigration and Asylum tribunal appeal routes.

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## An outline of the offences

The Immigration and Asylum Act 1999 created the criminal offence of providing unqualified immigration advice and services concerned with applications made to enter or remain in the UK. The Act makes a distinction between advice and services, with the latter including making representations to courts, tribunals and government departments. There is also the associated offence of the unlawful advertising of the provision of immigration advice and services. The Fraud Act 2006 offence of 'Fraud by false representation' is considered when a defendant dishonestly misleads a client or court that they are authorised to provide immigration advice and services when the opposite is true. As already mentioned, this criminal offence attracts a much higher penalty than section 91.

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## The Intelligence Team

Under the direction of the Head of Intelligence and Investigations, the primary role of the Intelligence Team is to provide supporting information to assist OISC caseworkers and criminal investigators in their operational and investigative roles. In particular, caseworkers are provided with relevant information to inform them in making their decisions on applications for registration and to assist with the premises audit process. Investigators are provided with the relevant information concerning providers of unlawful immigration advice and services, allowing them to target those who present the highest cause for concern.

The Intelligence Team is compliant with the National Intelligence Model and in line with the 'intelligence cycle', collates, analyses and disseminates new intelligence/information received from various sources including the Home Office, Solicitors Regulation Authority, Action Fraud, various police agencies and not forgetting the public, on prospective and regulated advisers and alleged illegal unregulated activity. Further to this, they monitor deregulated organisations, organisations refused registration, organisations suspended from the OISC scheme and individuals who have been convicted of providing unlawful immigration advice and/or services. The aim is to ensure they are not continuing to operate within the immigration advice sector illegally.

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## The Investigation Team

The Investigation Team leads on criminal prosecution casework for offences relating to the unlawful provision of immigration advice and services and unlawful advertising. Investigations can be carried out solely by the OISC or with key partner investigative agencies, which is becoming increasingly common due to the complexities of cases. The role of the investigating officer is to ensure, as far as practicable, that all information/evidence relevant to the investigation has been identified and secured, and to take responsibility for the case from the initial complaint through to conviction. The Investigation Team is very much victim-focused, notifying the individual at an early stage of who is conducting the investigation, keeping them updated throughout and seeking victim compensation. It also provides support to caseworkers when conducting audits and applying for and executing 'enter and inspect' warrants.

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Investigative practice continues to become more challenging due to offenders using more sophisticated methods to provide unlawful immigration advice and services as well as to conceal their activity. The increasing use of social media and call centres to mask the activities of unregulated advisers, the extensive amount of fraudulent activity and the use of encrypted electronic storage devices means investigative practices have constantly to adapt to overcome such barriers.

This year, OISC investigations have again benefited from the assistance of the Home Office Crime and Financial Investigation Team and the London Regional Asset Recovery Team. Search warrants continue to be a useful investigative tool. The team executed nine in 2017/2018 with all but one resulting in the seizure of relevant evidence, namely correspondence relating to Home Office immigration applications, and bank statements and letters between client and adviser. Recognising that prosecution is not always possible, the team considers crime prevention and disruption strategies including the taking down of websites advertising immigration advice and/or services unlawfully. The team has also introduced the 'simple caution' processed by the police on our behalf and used as a case disposal option.

The Intelligence & Investigations (I&I) Team seeks to identify trends through reported complaints and intelligence sources. In particular we are monitoring the effect of the UK's exit from the EU. There can be no doubt that until those EU citizens have confidence in their future immigration status, the uncertainty is likely to cause anxiety. This is coupled with those who seek to scare and take advantage of those communities with a view to financial exploitation. The OISC has begun to consider how it will communicate with these communities to give them the information needed to access authorised immigration advice and the confidence to provide the I&I Team with information to investigate and potentially prosecute those that seek to take advantage of EU citizens and the UK immigration process.

**Table 11: Section 91 / 92B convictions counted at date of sentence**

2017/18	4
2016/17	16
2015/16	14

**Table 12: OISC prosecutions 2017/18 – Heaviest sentencing outcome for each case**

Custodial sentence	2
Suspended prison sentence	2
Community punishment order	0
Fine	0
Conditional discharge	0

The lower number of convictions for 2017/18 does not accurately reflect the prosecution activity initiated by the OISC. At 31 March 2018 there were 20 prosecutions either awaiting trial or sentencing – nine of which were in the court process in March 2017. There are many reasons for delays as cases progress through the court system. The increasing complexity of certain cases, particularly those where criminal charges other than under section 91 of the 1999 Act have been brought or where there are multiple defendants, has resulted in fewer effective trials (which go ahead as planned). Cases are allocated through a process called 'listing', which takes account of the needs of the witnesses, court capacity and most importantly the expected length of trial. It is this last point which has resulted in cases being listed far into the future due to court availability. It is reasonable to assume that the more complex cases take longer to prosecute than others, or they are delayed.

There are varied reasons why defendants have frustrated the flow of cases progressing through the court system. These have included failing to attend for their first appearance, applying for cases to be dismissed, cases being adjourned for medical reasons and requesting adjournments to obtain or change their defence team.

**Table 13: Simple cautions and reprimands**

	OISC reprimand	Simple caution*
2017/18	1	1
2016/17	0	N/A

\*Simple cautions were introduced in 2017.

**Table 14: Disposal of investigations 2017/18**

Prosecution	4
Prosecution acquittal	1
OISC reprimand	1
Simple caution	1
Disruption*	5
Not in the public interest	8
Under approved regulator	3
Witness / Suspect left UK	12
Insufficient evidence	61
Passed to OGD	4
Failure of witness to cooperate	16
Outside time / jurisdiction	4
<b>Total</b>	<b>120</b>

\*Disruption relates to websites unlawfully advertising immigration services which have been amended or taken down as a result of OISC intervention.

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## New initiatives

During 2016/17, the OISC adopted a different type of caution as an outcome of a section 91 investigation. It is the same as that used by the police, known as a 'simple caution'. This new process administered by the police is used for offending where the impact on the victim has been minimal. This caution is recorded on the Police National Computer and more importantly will assist in formally identifying the person being cautioned by way of biometrics (photograph, fingerprints and DNA) which can be verified against records stored on national biometric crime databases. The 'OISC Reprimand' has now replaced the OISC caution and is used for minor offending.

The OISC Head of I&I has also been working closely with an investigative journalism company based in Belfast to look at whether the demand for immigration advice has increased as a result of asylum seekers being located to Northern Ireland. She has also delivered a presentation to the Refugee & Asylum Seeker Coordination Forum hosted by the British Red Cross in Derby.

Previously, we considered whether there were areas of covert investigatory tactics provided by the Regulation of Investigatory Powers Act 2000 that could be proportionately adopted by the I&I Team to provide more sophisticated techniques to the current investigatory 'toolkit'. Work is now being undertaken with the Home Office Immigration Enforcement crime teams to progress such tactics.

There have also been discussions with the National Crime Agency's social media team to identify opportunities to disrupt unlawful immigration advisers who advertise using social media.

### Case study 1:

In May 2017, the OISC was contacted by a Member of Parliament writing on behalf of his constituents who were concerned that a disbarred barrister was providing unlawful immigration advice and services. In particular that he had been paid £1,000 to apply for a joint application for Leave to Remain to the Home Office – an application which he failed to submit.

It transpired that the individual had been disbarred by the Bar Standards Board with the offences committed over a three-year period, commencing when the defendant was practising as a barrister. However, his entitlement to practise did not include accepting instructions from clients. Following his disbarment, the defendant formed a legal services company, which he used to commit further offences of providing unlawful immigration advice and services. The defendant targeted particularly vulnerable persons, many of whom were held in Immigration Removal Centres and facing removal from the UK. He failed to make the necessary applications to the Home Office or the Immigration Tribunals.

On 28 June 2017, at Southwark Crown Court, His Honour Judge Hehir sentenced the defendant to a total of 22 months' imprisonment. He was also ordered to pay compensation to the victims totalling £2,858. When sentencing HHJ Hehir said:

"Your conduct represents a flagrant disregard for not only the standards of the profession you used to be a part of, but also the Bar Standards Board and also the criminal courts and their orders too. The facts of the eight offences have been fully opened up to me. They reveal that you persistently and in a sophisticated fashion, held yourself out to vulnerable and often desperate people.

"The prohibition is there for a good reason. Whether or not those that seek help for immigration advice or services have a good case, or are entitled to be in the UK, is neither here nor there. They and their families are highly vulnerable and often desperate people.

"Charlatans like you take advantage of their difficulty and desperation and by doing so you can only harm their interests. You were deliberately taking advantage of these people."

## Case study 2:

In May 2017 the OISC received a complaint concerning an accountancy company which was providing immigration advice and services, particularly tailored to the Polish community looking for assistance to remain in the UK. The company boasted a 100% success rate. The defendant admitted to assisting with such applications. The defendant declined to attend an interview, stating she had not found any reference to the need for OISC regulation in guidance notes for the completion of permanent residency cards and therefore believed she has not committed any offences. It was only at the point of the commencement of court proceedings that the defendant realised the error of her ways, admitted the offence and agreed not to repeat her actions. As the harm caused to her clients was at the lower end of the scale a simple caution was offered, which she duly accepted.

# Performance Analysis

## Key Performance Indicators

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### Introduction

The OISC measures its performance against Key Performance Indicators (KPIs). The data produced helps the organisation to examine and assess delivery of its key day to day functions. The OISC's current KPIs measure three main areas of performance in relation to:

- Regulatory activities. These KPIs monitor application processing, delivery of the OISC's audit programme, complaint resolutions and determination and challenges to the Commissioner's decisions
  - Controlling illegal immigration advice and services activities
  - Internal operations, particularly the time taken to issue a written Identified Issues Report following a premises audit, and payment of undisputed invoices.
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### KPIs that measure regulatory activity

The OISC receives a variety of applications including: from organisations to join the regulatory scheme; for continued regulation; to change their authorised Advice Level; to change their advisers; or to make some other substantive alteration. We aim to deal with such applications promptly while ensuring that the organisations and advisers we approve are fit and competent to provide immigration advice or services.

## KPIs that measure regulatory activity

### a) KPIs – New applications

	Target	Outcome 2017/18	Outcome 2016/17
KPI 1a			
Percentage of completed Level 1 applications decided within four months of receipt	75%	86% <b>ACHIEVED</b>	87%
KPI 1b			
Percentage of all completed applications decided within six months of receipt	85%	94% <b>ACHIEVED</b>	91%

All persons applying to join the regulatory scheme or to raise their Advice Level must have their fitness and competence assessed. During 2017/18, 173 organisations applied to be registered with the OISC (2016/17: 154). Most applicants must take the OISC competence examination which is held monthly at an OISC test centre. Candidates are allowed one re-take of the examination when applying for registration at Level 1. Our performance in respect of deciding applications at all OISC Levels again met the KPI.

At the end of 2017/18, 46 applications from organisations applying to be registered remained open. Of those, three had been open for at least six months (2016/17: 33 applications remained open of which two had been open for at least six months).

### b) KPIs – Continued registration

	Target	Outcome 2017/18	Outcome 2016/17
KPI 2a			
Percentage of completed 'straightforward' applications decided within 15 working days of receipt	95%	100% <b>ACHIEVED</b>	99%
KPI 2b			
Percentage of completed applications decided within three months of receipt	90%	97% <b>ACHIEVED</b>	95%
KPI 2c			
Percentage of completed applications decided within five months of receipt	95%	98% <b>ACHIEVED</b>	98%

Organisations must apply annually for continued registration and the OISC must make an assessment of the applicant's continued fitness and competence.

At the end of 2017/18 there were 51 applications for continued registration open of which 11 had been open for at least five months (2016/17: 42 applications were open of which two had been open for at least five months).

### c) KPI – Premises audits

	Target	Outcome 2017/18	Outcome 2016/17
KPI 3			
Number of premises audits undertaken in the Business Year	350	362 <b>ACHIEVED</b>	358

The OISC uses audits at an organisation's premises as an important regulatory tool to help it assess the fitness and competence of those wishing to be accepted into the scheme (pre-registration audit and after entry). While most audits are pre-arranged, the Immigration Act 2014 gives the Commissioner the power to apply for a warrant to conduct an unannounced audit even at a private residence (where the residence is used to operate an immigration advice business). The decision about which organisations to audit is determined according to our risk assessment process which takes into account intelligence, complaints received and relevant information about an organisation and its activities.

### d) KPIs – Complaints

	Target	Outcome 2017/18	Outcome 2016/17
KPI 4a			
Percentage of written complaints about OISC advisers to be resolved within five months of receipt	85%	91% <b>ACHIEVED</b>	90%
KPI 4b			
Percentage of written complaints about OISC advisers to be resolved within ten months of receipt	95%	99% <b>ACHIEVED</b>	98%

The Commissioner is a statutory complaint handler. While resolving a complaint may often assist the complainant, the Commissioner is not an ombudsman. Rather, the primary function of complaints for the OISC is to support the regulation of immigration advice and services as they can indicate issues with an organisation or adviser, or illegal activity.

We recognise that it is important both for complainants and advisers for complaints to be investigated quickly, thoroughly and accurately. In 2016/17 we increased the percentage target of complaints resolved within five months from 75% to 85%. We achieved the target set both in 2016/17 and in 2017/18.

Thirty-five complaints were brought forward from 2016/17. During 2017/18 the OISC received 142 complaints against OISC registered organisations (2016/17: 166) and decided 140 complaints (2016/17: 191). Forty-five complaints (25%) met a set criterion and were re-directed to the respective organisations against which they were made, and 30 complaints were successfully resolved through this re-direction process.

Thirty-six complaints have been carried forward from 2017/18 into 2018/19.

### e) KPI – Appeals

	Target	Outcome 2017/18	Outcome 2016/17
KPI 5			
Percentage of Commissioner’s decisions to stand following an appeal lodged with the First-tier Tribunal	75%	100% <b>ACHIEVED</b>	100%

Various decisions made by the Commissioner, such as refusal of continued registration, are appealable to the First-tier Tribunal. During 2017/18, 80 appealable decisions were made (2016/17: 94).

During 2017/18, 11 appeals challenging the Commissioner’s decision were lodged with the Tribunal. Four appeals were dismissed, three of these appeals were struck out by the Tribunal as they lacked merit and had little prospect of success. One appeal was withdrawn by the appellant and another was settled by way of consent order, the Appellant agreeing to abide by the terms of the Order.

At year end, 10 cases were ongoing.

## KPI that measures the OISC’s control of illegal immigration advice and services activities

### f) KPI – Convictions

	Target	Outcome 2017/18	Outcome 2016/17
KPI 6			
Number of successful prosecutions by the OISC of section 91 or section 92B offences under the Immigration and Asylum Act 1999	20	4 <b>NOT ACHIEVED</b>	16

While the lower number of completed successful prosecutions for 2017/18 is disappointing, it does not accurately reflect the prosecution activity initiated by the OISC. The OISC counts successful prosecutions at the point of sentencing, the very end of the court process. At 31 March 2018 there were 20 prosecutions (2017/18: 15) either awaiting trial or sentencing. Of those 20 cases, nine had started their court process prior to 31 March 2017. Further, in four cases during 2017/18 the defendant failed to appear at court to answer the charges. While an arrest warrant was subsequently issued, the OISC is unable to count this towards its target of successful prosecutions.

## KPIs that measure the time it takes for the OISC to process internal activities

### g) KPIs – Internal response targets – Identified Issues Reports

	Target	Outcome 2017/18	Outcome 2016/17
KPI 7a			
Percentage of Identified Issues Reports despatched within ten working days of the premises audit being completed	80%	87% <b>ACHIEVED</b>	N/A
KPI 7b			
Percentage of Identified Issues Reports despatched within twenty working days of the premises audit being completed	90%	95% <b>ACHIEVED</b>	N/A

The OISC issues Identified Issue Reports following each of the premises audits that it carries out. These reports detail to the organisation what the Commissioner found at the audit and where improvements are required, and constitutes the formal record of the audit. This is the first year that the OISC has measured this activity and both targets were achieved.

### h) KPIs – Internal response targets – finance

	Target	Outcome 2017/18	Outcome 2016/17
KPI 8a			
Percentage of undisputed invoices paid within five working days	80%	49% <b>NOT ACHIEVED</b>	57%
KPI 8b			
Percentage of undisputed invoices paid within 30 working days	100%	100% <b>ACHIEVED</b>	100%

The OISC is required to report against the above two targets. While we are committed to pay invoices quickly, we do not have the resources to be able to achieve the Treasury five-day target consistently without disproportionately affecting other areas of our business. We did, however, meet the second target of paying 100% of undisputed invoices within 30 days of receipt.

## Outcome Objectives

The OISC has continued to develop the use of outcome objectives to enable it to concentrate on improving the delivery of its statutory and organisational aims and objectives. The Triennial Review of the OISC was launched on 16 October 2014 and published on 11 January 2017. The review contained a number of recommendations and during 2017/18 we have continued working to meet them.

One of the recommendations was for the OISC, together with the Home Office, to review its outcome based objectives and ensure they are appropriate for the organisation. Further, that the data the OISC collects to assess its performance is adequate to support those objectives.

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## Benchmarking

The review also recommended that the OISC should compare or benchmark itself with other comparable organisations to assess its own efficiency. To meet this recommendation, during 2017/18 the OISC undertook a major benchmarking exercise across all of the OISC's significant work streams to either provide assurance that the OISC carries out its activities efficiently and effectively or identify where improvements might be made. The exercise provided considerable assurance, but it also highlighted areas where the OISC can improve its performance. These have been taken forward as part of the OISC's Business Plan for 2018/19.

This was not a one-off exercise and it is envisaged that the OISC will undertake further benchmarking activity. However, it is intended that future benchmarking will be on specific areas of the OISC's work rather than the organisation-wide approach which we employed on this occasion.

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## Strategic Performance Framework

In parallel with the benchmarking exercise, we have met with the Home Office to review the OISC's outcome objectives, in particular taking into account the Competition and Market Authority's (CMA) 'Legal Services market study' published on 15 December 2016 (although the OISC regulatory scheme was not part of the CMA study) and the Home Office's aim to reduce abuse of the immigration and asylum system. As a result of these discussions we decided that it was appropriate for the OISC to re-focus its activities and that these should be articulated in a new Strategic Performance Framework based on the National Audit Office's good practice guides: *Performance Measurement by Regulators* and *Performance Frameworks and Board Reporting II*.

The culmination of this work is reflected in the OISC's Business Plan for 2018/19. The fundamental work of the OISC will remain unchanged, but there will be a difference in how we carry out some of our activities, which will reflect our new aims and objectives.

For the first time, the OISC is introducing a mission statement. That mission statement in turn is supported by four primary aims. Three of them reflect the Commissioner's legislative responsibilities: maintain the regulatory scheme, improve immigration advice and prosecute those that seek to evade their legal responsibilities. The fourth aim explicitly sets out how the OISC's support teams, the enablers, will provide those vital services that make it possible for the Operations Team to deliver the various outcomes. The aims and objectives are ambitious and, depending on resources, some may take longer than the next business year to achieve. However, we believe that it is essential for the OISC to begin work on the goals at the earliest opportunity and we will report our performance against this new framework in the 2018/19 Annual Report and Accounts.

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## Objectives 2017/18

### Objective 1: Only those applicants who demonstrate they are fit and competent will be authorised to practise under the OISC regulatory scheme

Within this objective, the Commissioner seeks to evaluate applications that are made to the OISC for regulation. Also, how the OISC's processes carried out at this initial entry stage translate into decisions as to whether organisations and individual advisers are fit and competent to provide immigration advice and services. This includes the scope and extent of registration the applicant seeks. The purpose of this objective is to provide reassurance that robust decisions are being made on applications for authorisation to practise.

The OISC continues to make effective decisions on those organisations that apply for registration. During 2017/18 the OISC authorised 114 new organisations to become registered and refused 37 organisations. Nine organisations chose to withdraw during the application process. We approved 435 individual advisers and refused 109. Forty completely new applicant advisers withdrew during the application process.

There have been 16 applications from organisations to raise their Level of registration that were approved and two refused. Forty-seven authorised advisers applied to increase their Level of authorisation and were approved, while the OISC refused 25 such applications.

### Competence assessment

In June 2016, we introduced a change in the format of the Level 1 competence assessment. As highlighted in last year's Report, from that date candidates would no longer be required to pass both sections of the test at the same sitting and they also benefited from having only to re-sit the failed section if they passed either section 1 or 2 at their first attempt. Furthermore, the OISC introduced a 30-minute break that allows candidates to refresh themselves between sections.

In 2015/16, the pass rate for candidates taking the assessment at Level 1 was 25% (it had been 20% in 2013/14 and 27% in 2014/15). After the introduction of the changes in the assessment structure in June 2016 the pass rate increased to 36% for 2016/17 and in 2017/18 this has further increased to 38%.

The OISC believes the changes made have maintained existing standards yet have improved the candidate experience of the competence assessment programme. This has contributed to a greater proportion of candidates being able to demonstrate their competence successfully.

### Objective 2: OISC regulated organisations and advisers comply with the Code of Standards for the benefit of clients and other stakeholders

Within this objective the Commissioner seeks to consider the extent to which regulated organisations maintain compliance with the *Code of Standards* and how compliance is enforced. The Commissioner believes that organisations acting in compliance with the Code will meet clients' and other stakeholders' needs in the provision of immigration advice and services.

In 2017/18, the OISC carried out a thematic review of OISC organisations that supervise staff. Supervision arrangements exist primarily to assist individuals to gain experience at a specific Level before applying to the OISC to become authorised. Applications for an organisation to supervise must be authorised by the OISC before any supervision can take place. The review involved 56 supervisors working at 26 organisations across both the fee charging and the non-fee charging sector. The findings were extremely positive, with 94% of organisations providing supervision log books. 81% of supervision plans were entirely compliant with the agreed arrangements and where adjustments were needed, OISC caseworkers worked with organisations to address the minor issues.

We used the OISC newsletter to report our findings to all stakeholders, as we did with our findings on the thematic review of registered organisations' websites.

The number of complaints received about registered organisations continued to fall in this business year. In 2017/18 we received 142 complaints about registered organisations, compared with 166 in 2016/17 and 225 in 2015/16. Further, the number of less serious complaints that we were able to redirect to the organisation to resolve directly with the client increased to 45 and 30 of these were successfully resolved by the organisation.

### **Objective 3: The OISC takes action to counter the provision of illegal immigration advice**

This objective seeks to identify the extent of illegal activity and the actions taken by the OISC to counter it. The actions taken include investigation of complaints about immigration advice provided illegally and any subsequent prosecutions, as well as stopping the provision of such advice through disruption such as arranging for the removal of websites advertising immigration advice illegally.

During 2017/18, the OISC arranged for the delivery of its first 'simple caution' through the Metropolitan Police Service, whereby the person admitted the offence and the impact on the victim was minimal. This resulted in the person's biometrics being taken and stored on the national crime databases, which can be taken into account should the person reoffend.

In 2017/18, where there has been a clear link with unlawful immigration advice and services, the OISC continued to consider charging offenders with other offences, such as section 2 of the Fraud Act 2006. This policy has resulted in nine offenders being charged with 23 offences of fraud in addition to providing immigration advice and/or services unlawfully.

Prevention is another way of countering the provision of illegal immigration advice. During 2017/18, the OISC met with a number of organisations across a variety of sectors throughout the United Kingdom to publicise the message that advice seekers should ensure they engage only authorised immigration advisers.

### **Objective 4: The OISC is a fit for purpose public service regulator**

Within this objective, the Commissioner seeks to consider how the OISC carries out its regulatory functions, considering whether it meets its statutory obligations and conducts its business in an appropriate, effective and efficient manner.

The OISC continuously monitors the means by which it carries out its functions, looking to where improvements can be made. In 2016/17 a move towards more principle based regulation was introduced through the new *Code of Standards* and a revision of the OISC's CPD scheme. In 2017/18, the new Codes and CPD scheme have been fully operational. While we believe many advisers are still adjusting to the latter, the new *Code of Standards* appears to be well understood by advisers and has stood up to scrutiny before the First-tier Tribunal. New initiatives such as desk based Thematic Reviews, begun in 2016/17, have continued into this business year and have sought to monitor compliance with particular areas of the Code with a minimum impact on regulated organisations. In 2017/18, the new *Guidance on Competence* came into effect and there is every indication that advisers understand the changes the new guidance has brought.

The number of complaints about the OISC remains low and no complaints about the OISC were referred to the Parliamentary and Health Service Ombudsman in 2017/18. There continue to be challenges to the OISC's interpretation of the legislation which the OISC addresses on a case by case basis, taking specialist advice where necessary.

The OISC continues to engage with major stakeholders in the Legal Services sector including the Legal Services Board, the Competition and Markets Authority and other regulators, to inform debate about the regulation and delivery of immigration advice and services. As 2017/18 progressed, we increasingly engaged with the Home Office regarding the impact of the UK's exit from the EU on the provision of immigration advice and services.

The OISC has continued to facilitate efficient remote working for its staff, not least by issuing updated laptops and mobile phones. Additionally, a new staff appraisal system was introduced during the year and a staff survey was undertaken, for which there was a 96% response rate from OISC staff. The results of the survey have informed a number of projects that are being taken forward in 2018/19. Several internal policies were reviewed and amended to ensure they reflect changes in legislation, including employment law. The OISC's Equality and Diversity scheme was also reviewed in preparation for publication in May 2018. Updated software was also provided in support of the HR function and the OISC monitored the new information security processes that were implemented in January 2017.

## Business Impact Target

At the end of March 2017 the Immigration Services Commissioner became a 'relevant regulator' for the purposes of section 22 of the Small Business, Enterprise and Employment Act 2015. In practice, this brings the OISC formally within the scope of the Regulators' Code and also requires us to publish certain documents. It should be noted, however, that the Commissioner is not named in regulations made on the same day under section 109 of the Deregulation Act 2015 which impose a duty on regulators to have regard to the desirability of promoting economic growth. The reporting rules have been amended for 2017/18 and only those changes that have an impact on business of £5 million are regarded as Qualifying Regulatory Provisions and fall to be submitted to the Regulatory Policy Committee (RPC). The OISC made two changes to its processes during the qualifying period of 8 June 2017 – 30 April 2018 and neither had an impact that met the qualifying financial criterion and required submission to the RPC.

These were:

OISC process	BIT score
Introduction of the new <i>Guidance on Competence</i>	£0m
Amendment to the application process for new advisers or advisers seeking registration in new Levels or Categories: Removal of the passporting through the OISC competence assessment of applicants holding certification by the Immigration and Asylum Accreditation Scheme.	£0m

The reduction in regulatory burden is identified in the 'Estimated Annual Net Direct Cost to Business' and this is recorded as a BIT Score which is rounded to the nearest £100,000.

**Dr Ian Leigh**  
*Deputy Immigration Services Commissioner and Accounting Officer*

13 July 2018

## Part 2: Accountability Report

# Corporate Governance Report

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### Directors' Report

These financial statements report the results of the Office of the Immigration Services Commissioner (OISC) for the year 1 April 2017 to 31 March 2018 and incorporate the content required with a Directors' Report, which is required by the *Government Financial Reporting Manual* (FReM) and in our case would be a Commissioner's Report. It has been prepared in accordance with the Accounts Direction given by the Secretary of State for the Home Department with the consent of HM Treasury, in accordance with Schedule 5 paragraph 20 (1 and 2) of the Immigration and Asylum Act 1999 (the Act).

#### 1. History

The OISC was established on 22 May 2000 by authority of the Act.

The Act established the OISC as an independent body with a remit to promote good practice by those who provide immigration advice or immigration services and to ensure that those who do so are fit and competent. The OISC was also to operate a *complaints scheme* regarding all who provide immigration advice or services.

The OISC has the status of an executive non-departmental public body established by statute. It is financed by Grant-in-Aid from the Home Office. The Home Secretary is answerable to Parliament for the OISC and is responsible for making financial provision to meet its needs. The Commissioner is a Corporation Sole.

The Act provides that the OISC shall have a Commissioner and Deputy Commissioner appointed by the Secretary of State.

The OISC occupies offices at 21 Bloomsbury Street, London WC1B 3HF.

#### 2. Principal activities

The OISC carries out the statutory functions set out in the Act, namely to:

- promote good practice by those who provide immigration advice or immigration services
- decide if it needs to make or alter rules regulating any aspect of the professional practice, conduct or discipline of:
  - a) registered persons
  - b) those employed by, or working under, the supervision of registered persons in connection with the provision of immigration advice or immigration services
- register qualified persons under section 84 (2) of the Act
- prepare and maintain a register of qualified persons registered under the Act, which must be available for inspection during reasonable hours and copies of the register must be provided on payment of a reasonable fee
- prepare and issue a code setting standards of conduct, which those to whom the code applies are expected to meet

- establish a scheme for the investigation of relevant complaints made to the OISC in accordance with the provisions of the scheme
- determine complaints under the *complaints scheme* and give a decision in writing
- investigate all allegations of criminal behaviour involving the unlawful provision of immigration advice or services, or the advertising of such, and where necessary prosecute offenders through the criminal courts.

In carrying out these functions, the OISC seeks to ensure that customers are dealt with effectively and expeditiously and that its services are delivered in ways appropriate to its stakeholders' needs. The OISC also seeks to promote public understanding of its role and to bring its existence and purpose to the attention of those seeking or providing immigration advice or services.

### 3. Commissioner and Deputy Commissioner

The Home Secretary under the Act appointed Suzanne McCarthy as the Immigration Services Commissioner for a period of five years from 5 September 2005. Mrs McCarthy was subsequently reappointed to serve for a second term until 4 September 2015. The Home Secretary also under the Act appointed Dr Ian Leigh as Deputy Immigration Services Commissioner for a period of five years from 7 February 2011. Dr Leigh was subsequently reappointed to serve for a second term until 6 February 2021.

The Home Secretary has not yet appointed a successor to Mrs McCarthy, so the post of Immigration Services Commissioner has remained vacant since 5 September 2015.

During the year 2017/18, the Deputy Commissioner held no company directorships or other significant interests which could have posed a conflict with his management responsibilities at the OISC.

Information on salary and pension entitlements for the Deputy Commissioner is contained in the Remuneration and Staff Report.

### 4. Results for the period

The accounts for the year 1 April 2017 to 31 March 2018 are set out on pages 62 to 65. The notes on pages 66 to 80 form part of the accounts.

In accordance with Schedule 5 paragraph 20 of the Act, the OISC's financial statements cover the period 1 April 2017 to 31 March 2018, and are prepared on an accruals basis in accordance with the Accounts Direction issued to the Commissioner by the Secretary of State for the Home Department with the consent of HM Treasury.

Grant-in-Aid from the Home Office funds the activities of the OISC. In 2017/18 the resource allocated to the OISC by the Home Office was £3,620,004 (2016/17: £3,620,004). This resource has been used efficiently to meet the year's business plan targets.

The expenditure for the year was £3,751,239 (2016/17: £3,643,236) of which £2,570,155 (2016/17: £2,516,456) were employment costs.

### 5. Changes in non-current assets

The OISC purchased additional non-current assets worth £21,137 (2016/17: £136,684).

## 6. Compliance with public sector payment policy

The Crown Commercial Service (CCS) is responsible for prompt payment policy for government and the public sector. Statutory guidance for public sector buyers and suppliers on paying undisputed, valid invoices within 30 days down the supply chain came into force on 26 February 2015. The government restated its long-standing policy commitment to pay 80% of undisputed and valid invoices within five days with the remainder paid in 30 days.

The OISC policy, in line with government policy, is to pay all invoices within 30 days of receipt, unless the amount billed is in dispute. In the year ended 31 March 2018: 100% of invoices were paid within 30 days of receipt (2016/17: 100%).

Suppliers can claim statutory interest where a buyer has not paid an undisputed and valid invoice within 30 days (or any earlier payment date agreed in the contract). No such claims were received during the year.

## 7. Environmental policy

The OISC is not required to provide a sustainability report but seeks to minimise the impact of its activities on the environment. It has adopted the Home Office Environmental Policy in so far as it applies to the OISC. The OISC benefits from energy saving lighting in its office premises, and seeks to use recycled materials where such alternatives are available and provide value for money. It seeks to reduce the use of paper by maximising its use of intranet and website for the dissemination of information. The OISC also sorts its waste paper and other waste for recycling purposes.

The introduction of electronic application forms has reduced paper usage. Giving advisers the opportunity to take part in online seminars rather than travel to attend workshops at our office will also have an environmental benefit.

## 8. Employment policies

The employment policies adopted by the OISC seek to create an environment in which all employees can give their best, and can contribute to the OISC's and their own success. The OISC has reviewed six of its employment policies during the year, implementing revised versions. The policies reviewed were:

- Recruitment
- Equality and Diversity
- Further Education Assistance
- Probation Policy and Procedures
- Occasional Working Away from the Office
- Flexible Working

## 9. Social matters, respect for human rights, anti-corruption and anti-bribery matters

The OISC operate a Dignity at Work policy, which fully supports the right of all its members of staff and external stakeholders it engages with to be treated with dignity and respect. All staff were required to undertake mandatory training in counter fraud, bribery and corruption over the last year.

The OISC is not required to produce a statement under the Modern Slavery Act but takes a robust approach to human rights, anti-corruption and anti-bribery.

## 10. Future developments

The OISC will continue to concentrate on delivery of its principal activities to ensure that those who provide immigration advice or services are fit and competent to do so and to counter unregulated activity. The OISC intends to maintain and build on the respect and recognition it has achieved both with regard to the contribution it makes to the sector and the experience it has gained since it began operating. The OISC will work to remain an effective regulator both by ensuring that advisers give a good quality service to their clients and by providing a good service to authorised advisers and to others in the sector.

## 11. Going concern

The OISC's Grant-in-Aid for 2018/19: £3,820k was approved with a 5.52% increase (2017/18: £3,620k).

There is a reasonable expectation that the OISC will continue in operational existence in 2018/19 and for the foreseeable future. Accordingly, we continue to adopt the going concern basis in preparing the annual report and accounts.

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## Statement of Accounting Officer's Responsibilities

Under the Immigration and Asylum Act 1999, the Secretary of State has directed the Immigration Services Commissioner to prepare for each financial year a Statement of Accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the OISC and of its income and expenditure, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual (FReM)* and in particular to:

- observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgments and estimates on a reasonable basis
- state whether applicable accounting standards as set out in the FReM have been followed, and disclose and explain any material departures in the financial statements
- prepare the financial statements on a going concern basis.

The Accounting Officer of the Home Office has designated the Immigration Services Commissioner as the Accounting Officer of the OISC. Following the Commissioner's departure in September 2015, the Home Office Accounting Officer appointed Dr Ian Leigh as temporary acting Accounting Officer. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OISC's assets, are set out in the Accounting Officers' Memorandum issued by HM Treasury.

As Accounting Officer I confirm that:

- as far as I am aware, there is no relevant audit information of which the auditors to the OISC are unaware
- I have taken all the steps I ought to have taken to make myself aware of any relevant audit information
- I have taken all the steps I ought to establish that the said auditors are aware of such information
- I confirm that the annual report and accounts as a whole is fair, balanced and understandable and I take personal responsibility for the annual report and accounts and the judgments required for determining that it is fair, balanced and understandable.

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## The Governance Statement

### Overview

In the continuing absence of an Immigration Services Commissioner I am accountable for all actions of the OISC. I am currently the organisation's Accounting Officer and Consolidation Officer, and I am responsible for safeguarding the public funds for which I have charge, for ensuring propriety and regularity in the handling of those funds and for the OISC's day-to-day operations and management. I am answerable to the Home Secretary for the OISC's activities and performance, and accountable to Parliament through him.

The arrangement under which I have been acting in place of the Commissioner since 4 September 2015 had no adverse effect on the corporate governance of the OISC during 2017/18. Although provided-for by legislation, the situation is clearly not one that was envisaged or intended by Parliament for the long term and it continues to place enormous strain on those who have to cover the Commissioners' duties.

As an arms-length body of the Home Office, the OISC technically operates under the terms of a Framework Document agreed with the parent Department and dated 14 February 2017.

I am advised by an Audit and Risk Assurance Committee (ARAC), consisting entirely of non-executive members, one acting as chairman. This Committee's main aims are to support me in ensuring the proper stewardship of the OISC's resources and assets; to oversee financial reporting; and to monitor the effectiveness of the OISC's audit arrangements, governance, and the management of risk. The Committee meets at least four times a year. Its meetings are attended by the Commissioner (although not since June 2015), the Deputy Commissioner and the Head of Finance, together with representatives of the OISC's internal and external auditors: Home Office Internal Audit (IA) and the National Audit Office (NAO) respectively. The Home Office Senior Sponsor is invited to attend at least one meeting of the ARAC each year.

A Triennial Review of the OISC was undertaken between October 2014 and April 2015. Publication of the report in January 2017 provided Ministerial confirmation of the OISC's continuing existence as an executive, non-departmental public body and allowed a new Corporate Plan to be developed for the period 2017-20. This was approved by Home Office Ministers in May 2017 and has been updated in 2018. Although the implementation of certain aspects of the Corporate Plan will depend upon the outcome of negotiations over the UK's exit from the European Union, this document is supported by a detailed, innovative and robust annual Business Plan for 2018/19 (submitted as a draft to the Home Office in December 2017 but yet to receive Ministerial approval).

Numerous important corporate initiatives were undertaken in 2017/18, but of particular note are:

- the development of a new strategic performance framework with a renewed focus on measures which may be used to demonstrate achievement of defined outcomes;
- an organisation-wide exercise to benchmark OISC activities with comparable organisations as a spur to enhance future efficiency and effectiveness;
- liaison with government departments and other legal service regulators to address the issue of spurious appeals against Home Office decisions and applications for Judicial Review which are deemed to be 'totally without merit';
- enhanced interaction with stakeholders focusing on addressing relevant recommendations contained in the Competition & Markets Authority review of this sector; and
- significant strengthening of information security procedures and processes, coupled with rigorous preparation to ensure compliance with GDPR from May 2018.

The OISC complies with the Cabinet Office code of corporate governance to the extent that it is applicable to this Office. However, owing to the statutory framework under which the OISC was established (the organisation being led by the Commissioner as a Corporation Sole), it does not have a management board with non-executive members. The OISC's executive Senior Management Team (SMT) acts in that capacity, meeting monthly to monitor, report and advise upon financial, operational and strategic issues for which I maintain personal responsibility.

The SMT reviews the financial accounts at each meeting. Defined expenditure authorisation limits are in place, and the team compares actual costs with approved budgets on a monthly basis. The agenda for every meeting provides for any member to declare a conflict of interest and includes consideration of Key Performance Indicators and reports from section managers. All corporate policies are reviewed on a rolling three-year cycle (or earlier if changes are required), and these are available to all staff electronically. The corporate risk register is owned by this group and is reviewed by them quarterly. Copies of the SMT's Board papers, including minutes, are circulated each month to ARAC members and are made available to staff.

I receive external assurance on the robustness of the OISC's corporate governance arrangements principally through a formal audit undertaken annually by the internal auditors

### **Audit and Risk Assurance Committee (ARAC)**

An Audit Committee was established in November 2001 and was chaired by the, then, Commissioner until the appointment of a non-executive Chair in March 2003. The Committee's terms of reference and its effectiveness are reviewed annually and members are subject to annual performance appraisal.

Throughout 2017/18 the ARAC consisted of three members:

- Terry Price (Chair) – reappointed until 31 December 2018
- Alan Rummins – reappointed until 12 March 2018
- Peter Wrench – reappointed until 12 March 2018

Mr Price and Mr Wrench had a 100% record of attendance in 2017/18; Mr Rummins attended three of the four formal meetings held (75%). The Home Office Senior Sponsor attended no ARAC meetings in 2017/18.

Since May 2017, ARAC Members have also become more directly involved in OISC business with one being invited to attend each monthly Strategic Management Meeting to provide advice and challenge. In 2017/18 Mr Wrench attended four such meetings; Mr Price and Mr Rummins each attended three.

Membership of the ARAC changed significantly at the end of 2017/18 when Mr Rummins and Mr Wrench stood down, having completed their second three-year terms of appointment. In anticipation of the departure of Mr Price in December 2018 (at the end of his second term as Chair), four new members were appointed with effect from 1 April 2018 – all initially for a three-year period:

- Daniel Bunting
- Sue Gallone
- Jon Hayes
- Simon Smith

## Risk management

The OISC maintains a Corporate Risk Register which clearly identifies risks, mitigation measures and responsibilities. This register is formally considered and updated at least every three months by the SMT, and it is reviewed by the ARAC at each of its meetings. Every OISC team maintains a more detailed local risk register which informs, and is informed by, the corporate document. Risk registers are held electronically and are accessible to all staff. In 2017/18 key areas covered by the OISC's Corporate Risk Register included: financial management, relationship with government, reputation, information security, and staffing.

The OISC is highly conscious that the UK's exit from the European Union will have consequences for the OISC and the sector it regulates. However, in consultation with the ARAC, to date it has not been considered appropriate to record these uncertainties under one overarching 'exiting the EU' risk, but rather to capture each element within more specific risks (such as those related to staffing, policy processes and relationship with government).

The principal risks faced by the OISC in 2017/18 for which further commentary is provided below are:

- Challenges to the legitimacy of the organisation's regulatory regime;
- Continued pressure on staff resources by not being able to recruit the right calibre of staff sufficiently quickly;
- Initiatives on the part of its parent department which have been launched without taking full account of the OISC's relevant duties and powers;
- The cost and time involved in enforcement activity; and
- The defence of an Employment Tribunal claim brought against the OISC.

Throughout the year the OISC has taken steps to maintain the robustness of the regulatory regime for which it is responsible and to sustain its core activities in the absence of any increase in funding. This has been particularly challenging in the area of enforcement, where the complexity of prosecutions has led to substantially increased legal costs, and where delays in trial dates (combined with evasion by defendants) has resulted in significantly fewer cases coming to fruition.

The OISC has also had to address a number of complex staffing issues – one of which was the subject of a five-day Employment Tribunal hearing in February 2018. Although the outcome was successful, defending this case was demanding of resources in terms of both the financial cost of engaging professional legal representation and the OISC staff time involved in preparation and presentation of evidence. Furthermore, an appeal against the decision has been lodged with the Employment Appeals Tribunal.

My Office continues to be challenged over the scope of its regulatory responsibilities. We are hampered by the fact that despite numerous helpful amendments over the years it has proved impossible to ensure that the

primary legislation under which the OISC operates (the Immigration and Asylum Act 1999) keeps pace with rapidly evolving immigration policy and rules – and that it takes due account of technological developments such as the ability of organisations to provide immigration advice remotely using web-based applications. It has also become a particularly high priority to ensure that officials within the Home Office are fully aware of the OISC’s role, duties and powers when they are developing immigration policy and processes in a fast-moving environment.

My colleagues and I work closely and cooperatively with officials at all levels in our Sponsor Unit, and we maintain a strong sense of mutual trust and respect. I am pleased to report that the OISC’s relationship with its parent department improved significantly during 2017/18. Nevertheless, it is regrettable that the OISC’s Annual Report and Accounts were again not laid before Parliament until January 2018 – six months after their completion and approval by Ministers (see ‘Other matters’ overleaf).

However, all the risks outlined above have been mitigated and managed effectively, and none is considered to pose any significant threat to the organisation.

### Future welfare of the organisation

It is disappointing that the post of Immigration Services Commissioner remains vacant nearly three years after the departure of the previous Commissioner. As noted above, this has had no adverse effect on the corporate governance of the organisation, which remains sound despite the legality of the interim arrangements being questioned by certain individuals. Indeed, a series of initiatives has been taken since 2015 which have ensured that the OISC remains an efficient, effective and fit-for-purpose legal services regulator. However, the eventual appointment of a new Commissioner (only the third in its history) will provide a real opportunity to refresh the OISC’s approach, further raise its profile and secure the continuing welfare of the organisation and its staff – whose morale is inevitably being adversely affected by continuing uncertainty over future management arrangements.

Although the full effects upon the OISC of the UK’s exit from the European Union are yet to emerge, developments are being closely monitored in partnership with the Home Office and this issue is addressed by both the Business Plan and the Corporate Plan.

### Internal audit

The OISC has appointed the Government Internal Audit Agency to provide internal audit services. The fee for internal audit work undertaken by Internal Audit (IA) for the full Home Office Group (core Home Office and arm’s-length bodies) has, since 2015/16, been presented to Home Office centrally rather than charging individual arm’s-length bodies separately.

A wide-ranging programme of internal audit is undertaken each year. This addresses activities identified by management, the internal auditors and the ARAC, and is informed by an analysis of the risks to which the OISC is exposed and by the Home Office’s Assurance Framework. In 2017/18 the following audit studies were undertaken:

- Homeworking arrangements
- Themis (the OISC’s bespoke database for recording regulatory activity)
- Information management
- Application processes
- Corporate governance.

The OISC has also provided evidence (through interviews and written material) in support of an internal audit commissioned by the Home Office concerning the arrangements under which it sponsors its arm's length bodies. Due to issues of client confidentiality, this report and its recommendations have not been made available to the OISC.

Internal audits continue to be useful in identifying areas where systems which work effectively on a day-to-day basis could be made more robust by reviewing and updating the formal procedures which underpin them. Recommendations for improvement identified from each of these reports have been or are being addressed and progress is reviewed each quarter by ARAC.

All five internal audit reports relating to studies undertaken during 2017/18 resulted in a 'moderate' assurance rating, confirming that the systems reviewed generally operate effectively with no critical actions being identified in any of the exercises.

IA's Annual Opinion based on the audit coverage during 2017/18 therefore concluded that: "In my opinion, the Office of the Immigration Services Commissioner (OISC) currently operates with a sound system of governance and internal control in support of meeting its strategic objectives. However, I have concerns about the continued absence of a Commissioner, appointed by the Home Office, and the delays in implementing internal audit actions. These factors reduce the resilience of the organisation's system of control and governance, and create additional risks to the delivery of the business objectives." This resulted in an overall audit rating of moderate ("Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control.").

## External audit

Arrangements for external audit are provided under Schedule 5 paragraph 20 of the Act which requires the Comptroller and Auditor General to examine, certify and report on the Statement of Accounts and to lay copies of it before each House of Parliament. The fee for this service during 2017/18 was £19,000 (2016/17: £19,000).

## Other matters

Managing the risk of financial loss, handling information risk, health and safety plans, security incidents and whistleblowing are subject to well-defined processes which are reviewed at appropriate intervals.

No incidents have occurred during the year to date which required reporting to the Home Office. One potential breach of information security (which allegedly occurred in November 2017 but which was not notified to the OISC until March 2018) was immediately reported to the Information Commissioner's Office before launching a thorough internal investigation.

As noted above, the OISC successfully defended an employment tribunal claim lodged by a former member of staff. However, an appeal against the decision has been lodged with the Employment Appeals Tribunal.

The OISC's Annual Report and Accounts 2016/17 was submitted to the Home Secretary in accordance with paragraph 21(1) of Schedule 5 to the Immigration and Asylum Act 1999; and the Statement of Accounts was similarly submitted to the Comptroller and Auditor General in compliance with paragraph 20(1)(c) of Schedule 5 to the Act.

In summary, I am therefore satisfied that the resources for which I am responsible continue to be subject to appropriate control.

# Remuneration and Staff Report

## Remuneration Report

Part V of the Immigration and Asylum Act 1999, as amended, created the role of the Immigration Services Commissioner and the Office of the Immigration Services Commissioner, an independent, UK-wide, non-departmental public body. The Commissioner (or in her absence, the Deputy Commissioner) heads the OISC, and she and the Deputy Commissioner are Ministerial appointees. Suzanne McCarthy took up her appointment on 5 September 2005, and was re-appointed for a second five-year term, finishing on 4 September 2015. Dr Ian Leigh took up his appointment as Deputy Commissioner on 7 February 2011 for five years in accordance with schedule 5 of the Immigration and Asylum Act 1999. Dr Leigh was subsequently reappointed to serve for a second term until 6 February 2021.

## Remuneration policy

The Commissioners' salaries are determined by the Secretary of State. Salary increases are awarded in accordance with the Senior Salaries Review Body's annual recommendations.

## Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior members of the OISC.

'Salary' includes gross salary; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other allowance to the extent that it is subject to UK taxation.

## Senior staff remuneration and fair pay disclosure (audited)

	2017/18		2016/17				
Dr. Ian Leigh Deputy Commissioner	Salary (excluding Non-Consolidated Performance Pay)	£'000	60-65* 75-80**	£'000	60-65* 70-75**	£'000	85-90* 95-100**
	Non-consolidated performance pay	£'000	0	£'000	0	£'000	0
	Benefits in kind	Nearest £00	0	Nearest £00	0	£'000	24
	Pension related benefits accrued in year	£'000	29	£'000	24	£'000	24
	Total	£'000	90-95* 100-105**	£'000	85-90* 95-100**	£'000	85-90* 95-100**
Band of highest paid Commissioner's total remuneration (annualised) – (£'000)			75-80				70-75
Range of staff remuneration (annualised) – (£'000)			24-60				22-60***
Median total remuneration – (£'000)			35,384				34,956
Ratio			2.2				2.1

There were no bonuses paid in the year.

\* The Deputy Commissioner works 0.83fte

\*\* Full time equivalent for the Deputy Commissioner

\*\*\* Based on annualised salary, restated from prior year which was based on actual salary

## Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the OISC and treated by HM Revenue and Customs as a taxable emolument. The Deputy Commissioner received no benefits in kind for 2017/18 or 2016/17.

## Pension benefits (audited)

	Accrued pension at pension age as at 31/3/18 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31/03/18	CETV at 31/03/17	Real increase in CETV as funded by employer
	£'000	£'000	£'000	£'000	£'000
Dr Ian Leigh Deputy Commissioner	10-15	0-2.5	185	139	22

## Audit and Risk Assurance Committee (ARAC)

The non-executive members of the Audit and Risk Assurance Committee were paid £350 a day (£400 Chair of Committee) plus travel costs for attendance at OISC meetings in 2017/18. All received more than £2,000 during the year in this capacity.

## Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. Although OISC staff are not civil servants, they are eligible for membership of the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the higher of 65 or the State Pension Age. From that date, all newly appointed civil servants and most those already in service joined alpha. Before that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: three providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded, with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with pensions increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 will switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes. Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% of pensionable earnings for members of classic (and members of alpha who were members of classic immediately before joining alpha) and between 4.6% and 8.05% for members of premium, classic plus, nuvos and all other members of alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with pensions increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases, members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of providers. The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation or contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement). CETV uses common market valuation factors for the start and end of the period.

## Staff Report

### Staff costs (audited)

	Total	2017/18 Permanently employed	Others	2016/17
	£'000	£'000	£'000	£'000
Wages and salaries	1,950	1,945	5	1,911
Social security costs	205	205	0	204
Other pension costs	398	398	0	391
	<b>2,553</b>	<b>2,548</b>	<b>5</b>	<b>2,506</b>
Voluntary exit costs	17	17	0	10
	<b>2,570</b>	<b>2,565</b>	<b>5</b>	<b>2,516</b>

### Average number of persons employed (audited)

The average number of full-time equivalent persons employed during the year was as follows:

	2017/18	2016/17
	Total	Total
Directly employed	53.45	54.70
Others	0.25	0
Staff engaged on capital projects	0	0
<b>Total</b>	<b>53.70</b>	<b>54.70</b>

The Deputy Commissioner is a Ministerial appointment. The post of Commissioner was vacant throughout the year and not included in the above table.

## Pensions contributions (not audited)

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the OISC is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2012. Details of the resource accounts of the Cabinet Office: Civil Superannuation can be found at [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

For 2017/18, employer contributions of £389,980 were payable to the PCSPS (2016/17: £382,676) at one of four rates in the range 20% to 24.5% of pensionable pay, based on salary bands. The scheme's actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates are set to meet the costs of benefits accruing during 2017/18 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account – a stakeholder pension with an employer contribution. Employer contributions of £8,357 (2016/17: £8,202) were paid to one or more of the panel of appointed stakeholder pension providers. Employer contributions are age-related and for the period 1 April 2017 to 31 March 2018 ranged from 8% to 14.75% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay.

There were no contributions due to the partnership pension providers at the reporting date nor were there any contributions prepaid at that date.

## Reporting of Civil Service and other compensation schemes – exit packages (audited)

Comparative data shown (in brackets) for previous year

Exit package cost band	Number of compulsory redundancies	Number of other departures agreed	2017/18 Total number of exit packages by cost band
£10,000-£25,000		1 (1)	1 (1)
<b>Total number of exit packages</b>		1 (1)	1 (1)
<b>Total cost/£*</b>		<b>£17,347 (£10,429)</b>	<b>£17,347 (£10,429)</b>

\* Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure. Where the OISC has agreed early retirements, the additional costs are met by the OISC and not by the Civil Service pension scheme. Ill-health retirement costs are met by the pension scheme and are not included in the table.

## Number of persons of each sex employed (not audited)

The number of persons of each sex employed during the year was as follows:

	2017/18	2016/17
Commissioner*	0	0
Deputy Commissioner*	1	1
Female (F) staff	34	30
Male (M) staff	27	30
<b>Total</b>	<b>62</b>	<b>61</b>

\*The Commissioner and Deputy Commissioner (M) are Ministerial appointments.

## Sickness data (not audited)

There were 354 sick days taken by OISC staff, 279 being of short-term duration (2.32%) and 75 of long-term duration (0.63%). This equates to 6.53 days average per person overall compared to the latest comparison figures available from the public sector of 8.3 days average per person. Long-term sick absence has a disproportionate impact on the organisation, given our small number of staff. The OISC's short-term absence figure equates to an average sickness rate of 5.15 days per person.

## Equality and diversity (not audited)

The OISC recognises the business benefits of having a diverse workforce and is committed to maintaining a culture in which diversity and equality are actively promoted and where discrimination is not tolerated.

## Staff involvement and development (not audited)

The OISC is committed to keeping its staff informed of performance, development and progress. The OISC encourages staff involvement in its development. The OISC recognises the Public and Commercial Services Union for collective bargaining purposes.

## Consultancy (not audited)

There were no consultancy assignments in the year or in previous year.

## Off payroll engagement (not audited)

No employee was paid through their own limited company except for agencies staff.

# Parliamentary Accountability and Audit Report

These notes and disclosures are audited.

## Losses and special payments

There were no losses and special payments as at 31 March 2018 (none as at 31 March 2017).

## Material remote contingent liabilities

There was no contingent liability at 31 March 2018 (31 March 2017: one).

The OISC successfully defended an employment tribunal claim in 2017, but this decision is being appealed in the current year.

## Gifts

There were no gifts as at 31 March 2018 (2016/17: none).

## Fees and charges

OISC costs and fee income are as follows:

	2017/18			2016/17		
	Costs	Income	Surplus/ (deficit)	Costs	Income	Surplus/ (deficit)
	£'000	£'000	£'000	£'000	£'000	£'000
Adviser fees*	3,751	(961)	(2,790)	3,643	(1,002)	(2,641)
	<b>3,751</b>	<b>(961)</b>	<b>(2,790)</b>	<b>3,643</b>	<b>(1,002)</b>	<b>(2,641)</b>

\* Application fees are paid by advisers at a level set by the Home Office (S.I. 2011/1366). This generates income which is less than the total cost of OISC operations.

## Regularity of expenditure

The Office of the Immigration Services Commissioner operates within a framework document dated 14 February 2017. It sets out the financial transaction limits to which the OISC may operate without further referral to the Home Office. During the course of 2017/18, there were no additional expenditure controls. The Commissioner also operates to the standards set out in HM Treasury's 'Managing Public Money', and can confirm no irregularity with any of the provisions contained therein.

**Dr Ian Leigh**

*Deputy Immigration Services Commissioner and Accounting Officer*

13 July 2018

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# The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

## Opinion on financial statements

I certify that I have audited the financial statements of The Office of the Immigration Services Commissioner for the year ended 31 March 2018 under the Immigration and Asylum Act 1999. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration and Staff Report and the Parliamentary Accountability disclosures that are described in that report as having been audited.

In my opinion:

- The financial statements give a true and fair view of the state of The Office of the Immigration Services Commissioner's affairs as at 31 March 2018 and of net expenditure for the year then ended; and
- The financial statements have been properly prepared in accordance with the Immigration and Asylum Act 1999 and Secretary of State directions issued thereunder.

## Opinion on regularity

In my opinion, in all material respects the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

## Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Office of the Immigration Services Commissioner in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

## Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Immigration and Asylum Act 1999.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Immigration Services Commissioner's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management
- conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office of the Immigration Services Commissioner's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Other information

The Accounting Officer is responsible for the other information. The other information comprises information included in the Annual Report, other than the parts of the Remuneration and Staff Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

## Opinion on other matters

In my opinion:

- The parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited have been properly prepared in accordance with Secretary of State directions made under the Immigration and Asylum Act 1999
- In the light of the knowledge and understanding of the Office of the Immigration Services Commissioner and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Remuneration and Staff Report
- The information given in Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Remuneration and Staff Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

**Sir Amyas C E Morse**  
*Comptroller and Auditor General*

*National Audit Office*  
157-197 Buckingham Palace Road, Victoria  
London, SW1W 9SP

20 July 2018

## Part 3: Financial Statements

# Statement of Comprehensive Net Expenditure

For the year ended 31 March 2018

	Note	2017/18		2016/17	
		£'000	£'000	£'000	£'000
<i>Expenditure</i>					
Staff costs	4		2,570		2,516
Other expenditure	5		1,181		1,127
			<b>3,751</b>		<b>3,643</b>
<i>Other income – payable to the Home Office</i>					
Fee income	3	(961)		(1,002)	
Other income	3	(7)		(24)	
		<b>(968)</b>		<b>(1,026)</b>	
Appropriation due to the Home Office		964		1,007	
			<b>(4)</b>		<b>(19)</b>
<b>Net expenditure *</b>			<b>3,747</b>		<b>3,624</b>

\* Excludes court costs not yet received.

All income and expenditure is derived from continuing activities. There is no other Comprehensive Net Expenditure.

The notes on pages 66 to 80 form part of these accounts.

# Statement of Financial Position

As at 31 March 2018

	Note	31 March 2018		31 March 2017	
		£'000	£'000	£'000	£'000
<b>Non-current assets</b>					
Property, plant and equipment	6		123		200
Intangible assets	7		66		62
<b>Total non-current assets</b>			<b>189</b>		<b>262</b>
<b>Current assets</b>					
Trade and other receivables	8	150		277	
Cash and cash equivalents	11	336		260	
<b>Total current assets</b>			<b>486</b>		<b>537</b>
<b>Total assets</b>			<b>675</b>		<b>799</b>
<b>Current liabilities</b>					
Trade and other payables	9	(345)		(308)	
<b>Total current liabilities</b>			<b>(345)</b>		<b>(308)</b>
<b>Non-current assets plus net current assets</b>			<b>330</b>		<b>491</b>
<b>Non-current liabilities</b>					
Trade and other payables	9	(141)		(175)	
Provisions for liabilities and charges	10	(84)		(84)	
			(225)		(259)
<b>Assets less liabilities</b>			<b>105</b>		<b>232</b>
<b>Taxpayers' equity</b>					
General fund			105		232
<b>Total taxpayers' equity</b>			<b>105</b>		<b>232</b>

**Dr Ian Leigh**

*Deputy Immigration Services Commissioner and Accounting Officer*

13 July 2018

The notes on pages 66 to 80 form part of these accounts.

# Statement of Cash Flows

For the year ended 31 March 2018

		2017/18	2016/17
	Note	£'000	£'000
<b>Cash flows from operating activities</b>			
Net expenditure	SoCNE	(3,747)	(3,624)
<i>Adjustments for non-cash costs</i>			
Adjustment – depreciation and amortisation	5	94	111
Loss on disposals	5	0	10
Decrease/(Increase) in trade and other receivables		127	(25)
Increase in trade and other payables		3	3
<b>Net cash outflow from operating activities</b>		<b>(3,523)</b>	<b>(3,525)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	6	0	(137)
Purchase of intangible assets	7	(21)	(0)
<b>Net cash outflow from investing activities</b>		<b>(21)</b>	<b>(137)</b>
<b>Cash flows from financing activities</b>			
Grant-in-Aid		3,620	3,620
<b>Net cash flow from financing activities</b>	<b>SoCTE</b>	<b>3,620</b>	<b>3,620</b>
Net increase/(decrease) in cash and cash equivalents in the period		76	(42)
Cash and cash equivalents at the beginning of the period		260	302
<b>Cash and cash equivalents at the end of the period</b>	<b>SoFP</b>	<b>336</b>	<b>260</b>

The notes on pages 66 to 80 form part of these accounts.

# Statement of Changes in Taxpayers' Equity

For the year ended 31 March 2018

	Note	General Reserve
		£'000
<b>Balance at 1 April 2016</b>		<b>236</b>
<b>Changes in taxpayers' equity for 2016/17</b>		
Net expenditure for year ended 31 March 2017	SoCNE	(3,624)
Grant-in-Aid		3,620
<b>Balance at 31 March 2017</b>	<b>SoFP</b>	<b>232</b>
<b>Changes in taxpayers' equity for 2017/18</b>		
Net expenditure for year ended 31 March 2018		(3,747)
Grant-in-Aid		3,620
<b>Balance at 31 March 2018</b>	<b>SoFP</b>	<b>105</b>

The notes on pages 66 to 80 form part of these accounts.

# Notes to the Accounts

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## 1. Statement of Accounting Policies

### Basis of accounts

These financial statements have been prepared in accordance with the 2017/18 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy that is judged to be most appropriate to the particular circumstances of the OISC for the purpose of giving a true and fair view has been selected. The particular policies adopted by the OISC are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

### Accounting conventions

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment and intangible assets.

### Accounting Standards not yet adopted

The standards will become effective for future financial reporting periods and have not been adopted in these financial statements;

- IFRS 9: Financial Instruments (application from 1 January 2018)
- IFRS 15: Revenue from Contract with Customers (application from 1 January 2018)
- IFRS 16: Leases (expected application from 1 January 2019)

The application of IFRS 9 and IFRS 15 as revised would not have a material impact on the accounts for 2017-18, were they applied in that year. We do not yet know how IFRS 16 will impact on the OISC once it is applied, as we have not yet assessed the impact.

### Grant-in-Aid

Grant-in-Aid and grant received used to finance activities and expenditure which supports the statutory and other objectives of the OISC are treated as financing and are credited to the General Reserve because they are regarded as contributions from a controlling party.

### Going concern

The OISC's Grant-in-Aid for 2018/19: £3,820k was approved with a 5.52% increase (2017/18:£3,620k).

There is a reasonable expectation that the OISC will continue in operational existence in 2018/19 and for the foreseeable future. Accordingly, we continue to adopt the going concern basis in preparing the Annual Report and Accounts.

## Non-current assets

Assets are capitalised as non-current assets if they are intended for use on a continuous basis and their original purchase cost, on an individual or grouped basis, is £1,000 or more. The OISC has elected to adopt a depreciated historical cost basis as a proxy for current value in existing use for assets that have short useful lives or low values.

## Depreciation and amortisation

Depreciation is provided on all non-current assets on a straight-line basis over the asset's anticipated life as follows:

Office refurbishments	over the life of the tenancy agreement (March 2014 – November 2022)
Computer equipment*	on a straight-line basis over 4 years
Furniture and office equipment*	on a straight line basis over 4 years
Database software	on a 20% reducing balance basis
Office software	on a 20% reducing balance basis
CPD platform*	on a straight-line basis over 4 years

*\* Following our move to 21 Bloomsbury Street, London WC1B 3HF in May 2014, the OISC's policy on depreciation and amortisation charges was changed from 3.5 years to 4 years on an effective straight line basis.*

*Depreciation/amortisation is provided for a full year in year of acquisition and none in year of disposal, and this does not result in a material misstatement.*

## The dilapidation provision

The OISC recognises a dilapidation provision for the leased premises it occupies where it has an obligation to bring the property into a good state of repair at the end of the lease. We have obtained an estimate of the dilapidation provision from the Estates Directorate for the Ministry of Justice, Home Office and Crown Prosecution, who have advised that it is currently £84,150. This is calculated at a cost of 150 per m2, with the OISC's occupancy of its property being 561 m2'.

## Fee income

Fees that accompany applications to the Commissioner for registration or continued registration are recognised in the Statement of Comprehensive Net Expenditure as and when they are received. All fees are held by the Commissioner in a separate bank account from that used for the running expenses of his Office and are remitted in full to the Home Office on a quarterly basis.

Under paragraph 5(2) of Schedule 6 of the Immigration and Asylum Act 1999 the Commissioner cannot entertain an application for either registration or continued registration unless the application is accompanied by the specified fee.

Except where a fee was received in error or a mistake was made in accepting that fee by the OISC, fees are non-refundable either in full or in part.

The Commissioner is required to prepare an annual report for the Secretary of State on the extent to which each Designated Professional Body over which he retains regulatory oversight has provided effective regulation of its members in their provision of immigration advice or immigration services. The Commissioner is authorised to charge the Designated Professional Bodies for these services. The charge is set by statute in a Fee Order. The Fee Order is made after the end of the financial year in which the work was undertaken. Hence fee income from the Designated Professional Bodies is receivable in the accounting year after the work has taken place. No Fee Order was produced in respect of 2017/18.

### **Operating leases**

The OISC has commitments under two operating leases in respect of the premises it occupies. The OISC's commitments are disclosed in Note 13. There are no finance leases.

Payments made under operating leases are charged to expenditure on a straight-line basis.

### **Pension costs**

Past and present employees are covered by the provisions of the Civil Servants and Others Pension Scheme for those in the alpha pension scheme and the Principal Civil Service Pension Scheme (PCSPS) for those in one of the other civil service occupational pension schemes, which are defined benefit schemes and are unfunded and non-contributory. As it is a multi-employer scheme, OISC is unable to identify its share of underlying assets and liabilities. The OISC recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the appropriate scheme of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the Civil Servants and Other Pension Scheme and the PCSPS. The rate of the employer's contribution is determined from time to time by the Government Actuary and advised by HM Treasury. Contributions are charged to the Statement of Comprehensive Net Expenditure.

### **Holiday accrual**

An accrual is made of outstanding holiday due to OISC staff as at the end of the financial year. The calculation is based on 229 working days excluding annual and privilege leave. Total holiday accrual 2017/18: £93,062 (2016/17: £78,550).

### **Value Added Tax**

The OISC is not registered for VAT and all costs are shown inclusive of VAT.

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## 2. Operating segments

The statutory duty of the OISC, as enacted in the Immigration and Asylum Act 1999, is to promote good practice by those who provide immigration advice or immigration services and to ensure that those who do so are fit and competent. It is also to operate a *complaints scheme* regarding all who provide immigration advice or services.

All the financial resources of the OISC are used towards the furtherance of this statutory duty. The OISC does not, therefore, have separate reporting or operating segments as envisaged by IFRS 8.

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## 3. Income

### Fee income

	2017/18	2016/17
	£'000	£'000
Adviser fees	961	1,002
	<b>961</b>	<b>1,002</b>

### Other income

	2017/18	2016/17
	£'000	£'000
Court costs	5	10
Other income*	2	14*
	<b>7</b>	<b>24</b>

\*£8k relates to Disclosure Barring Service (DBS) income and is appropriated to them on a monthly basis.

The monies received from fees and other income are passed to the Home Office each quarter. These are shown in the Statement of Comprehensive Net Expenditure as appropriation due to the Home Office.

## 4. Staff costs

Staff costs comprise:

	Total	2017/18 Permanently employed	Others	2016/17
	£'000	£'000	£'000	£'000
Wages and salaries	1,950	1,945	5	1,911
Social security costs	205	205	0	204
Other pension costs	398	398	0	391
	<b>2,553</b>	<b>2,548</b>	<b>5</b>	<b>2,506</b>
Voluntary exit costs	17	17	0	10
	<b>2,570</b>	<b>2,565</b>	<b>5</b>	<b>2,516</b>

## 5. Other expenditure

	2017/18	2016/17
	£'000	£'000
Running costs		
Accommodation	262	228
Information technology	60	52
Legal costs*	280	191
Advertising and publicity	7	16
Office supplies and services	50	57
Website	3	2
Training	28	16
External audit fee**	19	19
Continuing Professional Development	0	28
Other running costs***	122	140
Rentals under operating leases	256	257
Non-cash items		
Loss on disposals	0	10
Depreciation and amortisation	94	111
	<b>1,181</b>	<b>1,127</b>

\* Increased solicitor and counsel costs due to complexity of cases and where there are multiple defendants.

\*\* External audit fees do not include any non-audit work undertaken by the National Audit Office (NAO). Total fees paid to NAO for non-audit work £0 (2016-17: nil).

\*\*\* Running costs include prior year e-application expenditure write off (£42k).

## 6. Property, plant and equipment

	2017/18			
	Office refurbish	Furn & off equip	Comp equip	Total
	£'000	£'000	£'000	£'000
<b>Cost at 1 April 2017</b>	<b>94</b>	<b>54</b>	<b>273</b>	<b>421</b>
Additions	0	0	0	0
<b>Cost at 31 March 2018</b>	<b>94</b>	<b>54</b>	<b>273</b>	<b>421</b>
<b>Depreciation at 1 April 2017</b>	<b>(33)</b>	<b>(23)</b>	<b>(165)</b>	<b>(221)</b>
Charged during the year	(11)	(13)	(53)	(77)
<b>Depreciation at 31 March 2018</b>	<b>(44)</b>	<b>(36)</b>	<b>(218)</b>	<b>(298)</b>
<b>Net book value at 31 March 2018</b>	<b>50</b>	<b>18</b>	<b>55</b>	<b>123</b>
<i>Net book value at 31 March 2017</i>	61	31	108	200

	2016/17			
	Office refurbish	Furn & off equip	Comp equip	Total
	£'000	£'000	£'000	£'000
<b>Cost at 1 April 2016</b>	<b>94</b>	<b>18</b>	<b>185</b>	<b>297</b>
Additions	0	36	101	137
Disposals	0	0	(13)	(13)
<b>Cost at 31 March 2017</b>	<b>94</b>	<b>54</b>	<b>273</b>	<b>421</b>
<b>Depreciation at 1 April 2016</b>	<b>(22)</b>	<b>(9)</b>	<b>(101)</b>	<b>(132)</b>
Charged during the year	(11)	(14)	(67)	(92)
On disposals	0	0	3	3
<b>Depreciation at 31 March 2017</b>	<b>(33)</b>	<b>(23)</b>	<b>(165)</b>	<b>(221)</b>
<b>Net book value at 31 March 2017</b>	<b>61</b>	<b>31</b>	<b>108</b>	<b>200</b>
<i>Net book value at 31 March 2016</i>	72	9	84	165

## 7. Intangible assets

	2017/18			
	Themis software	CPD platform	Office software	Total
	£'000	£'000	£'000	£'000
<b>Cost at 1 April 2017</b>	<b>293</b>	<b>454</b>	<b>0</b>	<b>747</b>
Additions	0	0	21	21
Disposals – derecognition	0	(454)	0	(454)
<b>Cost at 31 March 2018</b>	<b>293</b>	<b>0</b>	<b>21</b>	<b>314</b>
<b>Amortisation at 1 April 2017</b>	<b>(231)</b>	<b>(454)</b>	<b>0</b>	<b>(685)</b>
Provided during the year	(13)	0	(4)	(17)
Disposals – derecognition	0	454	0	454
<b>Amortisation at 31 March 2018</b>	<b>(244)</b>	<b>(0)</b>	<b>(4)</b>	<b>(248)</b>
<b>Net book value at 31 March 2018</b>	<b>49</b>	<b>0</b>	<b>17</b>	<b>66</b>
<i>Net book value at 31 March 2017</i>	62	0	0	62

	2016/17			
	Themis software	CPD platform	Office software	Total
	£'000	£'000	£'000	£'000
<b>Cost at 1 April 2016</b>	<b>293</b>	<b>454</b>	<b>0</b>	<b>747</b>
Additions	0	0	0	0
<b>Cost at 31 March 2017</b>	<b>293</b>	<b>454</b>	<b>0</b>	<b>747</b>
<b>Amortisation at 1 April 2016</b>	<b>(215)</b>	<b>(451)</b>	<b>0</b>	<b>(666)</b>
Provided during the year	(16)	(3)	0	(19)
<b>Amortisation at 31 March 2017</b>	<b>(231)</b>	<b>(454)</b>	<b>0</b>	<b>(685)</b>
<b>Net book value at 31 March 2017</b>	<b>62</b>	<b>0</b>	<b>0</b>	<b>62</b>
<i>Net book value at 31 March 2016</i>	<i>78</i>	<i>3</i>	<i>0</i>	<i>81</i>

## 8. Trade and other receivables

	31 March 2018	31 March 2017
	£'000	£'000
<b>Amounts falling due within one year:</b>		
Trade receivables	21	33
Impairment allowance for bad and doubtful debts	(13)	(13)
Other receivables:		
Season ticket loans to staff	17	15
Prepayments and accrued income	125	242
<b>Total</b>	<b>150</b>	<b>277</b>

## 9. Trade and other payables

	31 March 2018	31 March 2017
	£'000	£'000
<b>Amounts falling due within one year</b>		
Trade payables	16	163
Accruals and deferred income	295	143
Accommodation rent free period	34	2
<b>Total</b>	<b>345</b>	<b>308</b>
<b>Amounts falling due after more than one year</b>		
Accommodation rent-free period*	141	175
<b>Total</b>	<b>141</b>	<b>175</b>

\* *Accrued rent: During 2013-14, a new lease was signed on Floor 5, 21 Bloomsbury Street, London WC1B 3HF. A nine month, rent-free period from March 2014 to 30 November 2014 was granted. In accordance with IAS17, the OISC has spread the cost of the lease on an effective straight-line basis from the start of the rent free period to the end of the extended lease on 7 November 2022. As a result, notional rent charges for the rent-free period have been charged to the Statement of Comprehensive Net Expenditure. The lease payable on the rent-free period is with a Central Government Body, Department for Digital, Culture, Media & Sport (DCMS).*

## 10. Provisions for liabilities and charge

	Dilapidations provisions	Total provisions
	£'000	£'000
<b>Balance at 1 April 2016</b>	<b>84</b>	<b>84</b>
Movement in the year	0	0
<b>Balance at 31 March 2017</b>	<b>84</b>	<b>84</b>
<b>Balance at 1 April 2016</b>	<b>84</b>	<b>84</b>
Movement in the year	0	0
<b>Balance at 31 March 2018</b>	<b>84</b>	<b>84</b>

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## 11. Analysis of changes in cash and cash equivalents

	£'000
<b>Balance at 1 April 2016</b>	<b>302</b>
Net change in cash and cash equivalents balances	(42)
<b>Balance at 31 March 2017</b>	<b>260</b>
<b>Balance at 1 April 2017</b>	<b>260</b>
Net change in cash and cash equivalents balances	76
<b>Balance at 31 March 2018</b>	<b>336</b>

The OISC has no borrowings and relies on departmental grants for its cash requirements, and is therefore not exposed to liquidity risks. It also has no material deposits and all material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk.

The OISC holds all its cash balances with the Government Banking Service (GBS).

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## 12. Capital commitments

At 31 March 2018 there were no capital commitments (31 March 2017: nil).

### 13. Commitments under operating leases

	31 March 2018		31 March 2017	
	Land and building	Equipment	Land and building	Equipment
	£'000	£'000	£'000	£'000
<b>Operating leases that expire:</b>				
Not later than 1 year	289	11	257	14
Later than 1 year and not later than 5 years	1,060	1	1,163	12
Later than 5 years	0	0	187	0

### 14. Post reporting period events

The OISC has been made aware of an Employment Tribunal case in July 2018. The outcome of this is unclear, as it is still in its initial stages. These Financial Statements were authorised for issue by the Deputy Commissioner on the date they were certified by the Comptroller and Auditor General.

### 15. Related party transactions

The Home Office, as sponsor body for the OISC throughout 2017/18, is a related party to the OISC. During the year ended 31 March 2018, the Home Office provided the OISC with Grant-in-Aid of £3,620,004 (2015/16: £3,620,004).

A number of transactions were made with other government departments and other central government bodies namely – HM Revenue and Customs (HMRC) £204,660 (2016/17: £204,392) and The Principal Civil Service Pension Scheme (PCSPS) £389,980 (2016/17: £382,676).

During the year ended 31 March 2018 neither the Deputy Commissioner, key managerial staff nor other related parties undertook any material transactions with the OISC.

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## 16. Employment status of Audit and Risk Assurance Committee members

We are working with HMRC to determine the employment status of our Audit and Risk Assurance Committee (ARAC) members. We hope to reach an agreement by September 2018 and as an interim measure are treating our committee members as office holders with deductions of tax and National Insurance from their fees and expenses being taken through PAYE. In 2017/18 as with previous years, ARAC members were treated as office holders responsible for their own tax affairs and not employees of the OISC.

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## 17. Results for the period

The financial resource allocated to the OISC has been used to meet the year's business plan targets. Any additional expenditure that has been met out of cash brought forward from previous accounting periods has had the approval of the Home Office Sponsor Unit.

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## 18. Financial instruments

As the cash requirements of the OISC are met through Grant-in-Aid provided by the Home Office, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body. The majority of financial instruments relate to contracts to buy non-financial items in line with the OISC's expected purchase and usage requirements and the OISC is therefore exposed to little credit, liquidity or market risk.

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