

Immigration Advice Authority (IAA) regulation and clinics

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Introduction

This resource outlines the regulatory framework relevant to developing and delivering immigration and asylum services and shares practical tips from some clinics on the LawWorks Clinics Network who are delivering immigration and asylum advice services.

Regulatory framework

Section 84 (2) of the [Immigration and Asylum Act 1999](#) (IAA 1999), allows persons to provide immigration advice and services without being regulated by the Immigration Advice Authority (IAA), formerly the Office of Immigration Commissioner (OISC), provided they are authorised by a Designated Qualifying Regulator (DQR). This includes solicitors regulated by the Solicitors Regulation Authority (SRA), as the SRA derives its regulatory authority from the Law Society, a recognised DQR.

Solicitors working in law firms and alternative business structures, and barristers in chambers are likely to be fully regulated by their respective regulatory bodies (Solicitors Regulatory Authority and the Bar Standards Board). Members of the (now Chartered) Institute of Legal Executives will also be regulated provided they hold a recognised specialism in Immigration Law from (C)ILEX. These recognised specialists are also generally permitted to supervise non-legally qualified staff to provide immigration advice and services acting on behalf of the regulated organisation.

Any person providing immigration advice and services in the UK who is not already regulated by a DQR, must be regulated by the IAA, formerly the OISC. The OISC (now IAA) was established by Part 5 of the 1999 Immigration and Asylum Act and is '...a government body set up to ensure that immigration advice is only provided by suitably qualified organisations and individuals.... To ensure high quality advice is readily available to advice seekers [they] promote good practice to immigration advisers, set standards and make sure those standards are upheld.'

A 'qualified person' under the Immigration and Asylum Act 1999 must be regulated by the IAA in order to provide immigration or asylum advice and services, that is those that relate to an application to the UK authorities for any type of leave to enter or remain (including asylum and immigration bail work), applications for British nationality and citizenship and admission to or residence in the UK under EU law.

People may also wish to go through the Law Society 'IAAS' qualification route, which allows them to give immigration advice and gain funding under a Legal Aid contract.

These routes are explained in more detail below.

Accreditation for Individuals

Persons wishing to become IAA accredited must 'show competence' in the levels detailed below. There are two pathways, one in Asylum and Protection and one in Immigration. Advisors may study and train to travel down either one or both routes.

Level 1

Immigration Advice Pathway - Basic immigration advice (e.g. straightforward visa applications, straightforward EUSS applications)

Asylum and Protection Pathway – Limited and basic correspondence with the Home Office

Level 2

Immigration Advice Pathway - Complex casework and representation up across wide spectrum of immigration related advice up to lodging appeals

Asylum and Protection Pathway - Complex casework and representation across Asylum Protection and Human Rights matters up to lodging appeals

Level 3

Immigration Advice Pathway - Full spectrum of casework including advocacy and tribunal representation

Asylum and Protection Pathway - Full spectrum of casework including advocacy and tribunal representation

[This resource](#) explains the levels in more detail.

Preparing for IAA assessments:

It is advisable to take a course to prepare for IAA exams. There are several providers of IAA exam courses. Refugee Action provides a free course for registered charities. The [Open University](#), [HJT](#) and [Free Movement](#) offer paid for courses also come recommended by our members.

Although casework experience is not expressly required in order to pass Levels 2 and 3, learners must demonstrate 'casework skills', which in practice is easiest to do through supervised experience in the field. Many people find it difficult to 'level up' because of the lack of capacity of supervising lawyers.

Accreditation for organisations

All qualified advisers must work for an organisation regulated by the SRA, BSB, CILEX or the IAA.

IAA (formerly OISC) Accreditation for organisations

All individuals in organisations not otherwise regulated must apply for IAA accreditation in order to provide immigration related advice (including asylum and protection).

This includes private businesses, registered charities, CICs, and other not-for profit structures. The IAA has a very helpful [guide for University law clinics](#).

Registration Process:

In order to register, organisations must:

- Nominate a 'primary contact who will sign off on initial registration and continued registration.
- Show that their advisers have the relevant training, qualifications and experience and have been adequately vetted through DBS process.
- Show their fitness in terms of history of honesty and compliance with the law.
- Show the ability to comply with the IAA's regulatory scheme and value driven [Code of Standards](#).

- Have adequate management and governance structures and procedures including a 'business plan' approved by the IAA, and a clear complaints policy.
- Have sufficient resources to operate effectively.
- Have valid Professional Indemnity Insurance (PII) policy, typically with a minimum coverage of £250,000.
- Have a business bank account (if relevant) and, if taking advance payments, a client bank account.
- For fee-charging organisations, a fee scale approved by the IAA.

Reaccreditation process

Continued registration must be undertaken annually. Organisations must demonstrate that advisers have undertaken CPD in the previous year during the reaccreditation process.

- Organisations should be prompted to start the process 9 weeks before the renewal date, although our members recommend starting the process earlier.
- All relevant information must be submitted via the relevant sections of the IAA'S online 'portal'.
- Advisers must demonstrate that they have undertaken CPD sufficient to maintain their competency.

Raising or reducing levels

If an organisation wishes to change, add to, downscale or upscale the advice it offers it must apply to the IAA to change the registration level before undertaking this work. The process of registering or raising your level can be done [here](#). Reaccreditation is undertaken via the IAA portal.

Fees and finance

IAA charges commercial, fee charging firms and organisations fees for registration and annual continued registration.

IAA **does not currently** charge non-fee charging organisations fees for registration and annual continued registration.

IAA charges legal aid contract holders fees for registration and annual continued registration as they are deemed to be fee charging firms and organisations.

However, please note that the IAA is considering introducing fees for non-fee-charging organisations.

Details on fees can be found [here](#).

The Ministry of Justice (MOJ) has provided funding for advisers employed by Legal Aid firms, whereby application fees are covered. Details of the MOJ funding arrangements fees can be found in the Law Society's Frequently Asked Questions (FAQ) document which can be found [here](#).

Ongoing requirements

Advisers must pay annual reaccreditation fees as above.

They must also meet annual CPD requirements- see [EIN's guidance](#) on this.

There are, however, no requirements to re-sit exams on a regular basis.

Law Society IAAS Accreditation

It is **mandatory** for advisers to have a Law Society qualification in order to give Legally Aided immigration advice.

IAAS accreditation is primarily relevant for advisers working under Legal Aid contracts and does **not replace IAA regulation** for those not authorised by a DQR.

Levels:

The IAAS has several levels, depending on experience and responsibilities:

- **Provisional Level** – Entry-level for those just starting.
- **Level 1 (Accredited Adviser)** – For those who give basic immigration advice under supervision.
- **Level 2 (Senior Caseworker)** – More advanced; allows more independence and more complex casework.
- **Supervising Senior Caseworker** – For those who supervise others.
- **Advanced Caseworker / Solicitor / Barrister** – For those with greater expertise.

To be a **Law Society-accredited adviser in asylum law**, you usually need to be at least **Level 2**.

Maintaining Accreditation

The accreditation period depends on your qualification level but normally only lasts a maximum of 5 years. You cannot reaccredit at the provisional or first levels.

Find out more about reaccreditation [here](#).

Fees and Finance

The cost of the accreditation is made up of an application fee and a membership fee.

As set out above, The MOJ has provided funding for advisers employed by Legal Aid firms, whereby application fees are covered.

Legal Advice Vs Legal Support

It is important to distinguish between providing immigration advice which is regulated and providing more general legal support and information when deciding how to design a project.

This [resource from Right to Remain](#) explains the difference between the two.

You may also consider projects which run parallel to, but distinct from, regulated immigration advice, for example by giving advice on welfare benefits to recently granted refugees.

Level 1 EUSS advice

Although a lot of advice on the EUSS scheme can be given at level 1 and this can be a popular advice model, there are important exceptions. Please read the [IAA's guidance](#) on this subject.

Hints and tips for working with the IAA (from our clinics network)

- Start accreditation/re-accreditation/changing levels in **plenty of time** as this process can be lengthy, despite being a standard process.
- The IAA may ask your trustees to sign documentation several times. It may be that they actually only need **new** trustees to sign- make sure to check this!
- If you run a University Clinic, the IAA should **not** require all the University's trustees to sign the accreditation paperwork.
- The IAA's 'portal' system can experience technical problems. Leave plenty of time for updating sections of the portal to allow for technical issues.