



**UK Council  
for International  
Student Affairs**

Revised on 13 April 2016

# UKCISA Code of Ethics and its Commentary

**UKCISA**

# Introduction

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## Who is this code for? What is its purpose?

1. This Code of Ethics and its commentary offer a guide to professional behaviour when working with international students and their family members and a helpful resource for difficult situations including ethical dilemmas.
2. This code and commentary are for you if you are giving advice on any topic to international students. It's not exclusively about immigration advice in spite of the high profile that immigration issues often have when working with international students. It doesn't matter whether or not you have the word 'adviser' in your job title – please see below for more on this.

## What is 'immigration advice' and who is an 'immigration adviser'?

3. It is important to be clear on who, across the whole organisation, is giving 'immigration advice'. This might typically include those in admissions and/or registry and those with Tier 4 compliance responsibilities. You will be giving 'immigration advice' if addressing an individual's particular circumstances – please see Appendix 1 for the Office of the Immigration Services Commissioner's (OISC) definition of 'immigration advice'.
4. Everyone involved in giving immigration advice is regulated by the OISC and must comply with the OISC's Code of Standards - see Appendix 1 for an explanation of some of the most relevant OISC Codes.
5. Those parts of this document taken from the OISC Code of Standards, including the contents of Appendix 1, apply to anyone giving immigration advice whether or not exempt from registration with the OISC under any Ministerial Order (sometimes referred to as a 'block exemption'). This is because exemption from registration does *not* mean exemption from regulation by the OISC. However, exemption from registration does mean that you don't need to take any OISC exams or comply with any OISC Continuing Profession Development (CPD) requirements.

6. For more on this, including whether or not you are covered by a Ministerial Order, please see UKCISA's web items on OISC regulation and compliance with their Code of Standards.

## OISC Code of Standards – good practice and not just for immigration advice

7. While some of what follows immediately below, and in Appendix 1, is specific to immigration advice, much of what is contained within the OISC Code of Standards outlines good practice on *all* areas of advice – for example, the Codes that concern confidentiality, conflicts of interest, competence, training, complaints and case recording.

## The key ethical dilemmas

8. In any advice setting, whatever the advice topic, two of the key issues advice providers need to manage are:
  - conflicts of interest and
  - confidentiality, including knowing/indicating when that confidentiality can/will be broken.
9. The OISC Codes in Appendix 1 are referred to as relevant in the commentary below on the UKCISA Code of Ethics. These could well apply to all areas of advice, not just immigration advice. Some key elements to consider from the OISC Codes are:
  - The need for the client's consent in writing with full knowledge of the facts where there is a real or potential conflict of interest (see OISC Code 20). If you provide immigration-related information or advice that addresses an individual's particular circumstances AND you are employed by a Tier 4 sponsor, you almost certainly have a conflict of interest due to your employer's sponsor licence duties and this should be addressed in the context of OISC Code 20. The organisation and each of its relevant departments need to consider at which stages, and in which ways, it should obtain consent from its students. It is also important to consider which are the relevant facts that the student must fully understand – eg any Home Office reporting requirements.

- The need for all relevant staff to be clear on the legal and/or regulatory obligations that qualify their duties regarding confidentiality and acting in the client's best interests. So that this, in turn, can be clearly articulated to clients at each relevant stage of their dialogues and working relationship [see *the Commentary at 3(f)*].
10. Although the term "student" is used throughout, as representing your main client group, this Code of Ethics applies equally to anyone else you advise, such as a student's family member, a former student or an academic visitor.
11. The UKCISA Code of Ethics applies to your behaviour. But it assumes honesty and appropriate behaviour on the part of the student. You are free to refuse advice where a student is behaving inappropriately (for example being drunk, violent or abusive) or clearly withholding information without which meaningful advice cannot be given. Your organisation may have a code or charter which spells out what is expected of the student in various circumstances or you may want to write your own for users of your service.

### **Some history regarding this code and commentary**

12. The UKCISA Code of Ethics was first published in 2000 in partnership with the Association for International Student Advisers (AISA). The commentary that accompanies the code in this document was first developed, jointly by UKCISA and AISA, in 2002.
13. Since the introduction of a Points Based System for immigration in 2008, some of the issues and dilemmas contained within this Code of Ethics and its commentary have been brought into sharper relief.
14. It was within this context that UKCISA and representatives from AISA and the Immigration Compliance Network (ICN) decided to review this Code of Ethics and its commentary in early 2015.

# The Code of Ethics

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## 1. Those advising international students have a general responsibility to:

- a) maintain high standards of professional conduct by actively upholding this code at all times
- b) act in the best interests of the student, while respecting institutional policies, statutory and legal requirements and the legitimate interests of any financial sponsors
- c) recognise the power of influence that comes with their role as adviser and ensure that it is not used inappropriately
- d) be alert to ethical dilemmas and potential conflicts of interest and seek guidance when they arise
- e) share professional knowledge and skills and contribute to the professional development of colleagues

## 2. In discharging their professional functions, those advising international students shall:

- a) accurately represent their areas of competence, education, training and experience
- b) recognise the boundaries of their qualifications and competence, making appropriate referrals when situations fall outside them
- c) actively seek to promote their professional development and keep themselves informed of current developments in their fields
- d) in particular, keep themselves informed, as may be relevant to their areas of advice, of developments in statutory and case law, regulations, immigration rules and procedures, institutional policies and other codes
- e) work to ensure that there are arrangements in place that will secure impartial advice for students from another source where conflicts of interest may arise [see also 4a) below].

## 3. In their dealings with students and colleagues, those advising international students shall:

- a) act in good faith and with fairness, consideration and impartially
- b) recognise their own cultural and value orientations and be aware of how those orientations affect their interactions with people from other cultures
- c) be aware of, and show appropriate sensitivity to and respect for, other cultures and value systems
- d) not discriminate, or tolerate discrimination on the part of others, on the basis of ethnic or national origins, gender, sexual orientation, religion, disability or age

- e) refrain from unjustified or unseemly criticism of other advisers or other organisations and seek to resolve any conflict of advice directly with the other adviser concerned in a professional manner
- f) maintain the confidentiality and integrity of information about students and of communications with students, complying with data protection law, the organisation's responsibilities as a Tier 4 sponsor, and any policy of the adviser's employing organisation on confidentiality and record keeping. Ensure that information about any circumstances in which information may be disclosed to the Home Office or the police without prior authorisation is available to students
- g) do nothing to support or encourage illegal actions.

## 4. In their dealings with students, those advising international students shall:

- a) be clear to all parties about their role and boundaries as an adviser and limit advice to matters consistent with that role and its boundaries
- b) provide students with information they need to make informed choices or decisions and not withhold relevant information
- c) be aware of the difference between information, advice and counselling and be able to recommend qualified counselling assistance to students who may benefit from it
- d) refrain from becoming involved in personal relations with individual students when such relationships might result in undue influence on the adviser, or a likely perception of undue influence
- e) accept only gifts (including hospitality) of nominal value and only where they do not seem intended to influence the manner in which professional responsibilities are exercised, while remaining sensitive to the varying significance of gifts in different cultures. Comply with any institutional policy on the acceptance or recording of gifts. Seek guidance from a more senior manager in any circumstance where it may seem appropriate to accept a gift of more than nominal value.
- f) ensure that students are fully advised of the procedures for them to follow to pursue complaints or to seek redress, or to defend themselves, and secure appropriate referrals where the adviser's role precludes support/representation for the student in any formal procedures.

# Commentary on the Code of Ethics

THE CODE	COMMENTARY
<p><b>1. Those advising international students have a general responsibility to:</b></p>	
<p>a) maintain high standards of professional conduct by actively upholding this code at all times</p>	
<p>b) act in the best interests of the student, while respecting institutional policies, statutory and legal requirements and the legitimate interests of any financial sponsors</p>	<ul style="list-style-type: none"> <li>▪ acting in the best interests of the student may not be the same as doing what the student wants</li> <li>▪ anyone advising international students has a duty to be familiar with the organisation's policies that apply to the student and to the adviser. These may be policies about harassment, appropriate behaviour by students, academic regulations, academic appeals, reporting to the relevant professional body on the student's fitness to practice (eg for nursing placements), payment of fees, the organisation's internal operational PBS guidance</li> <li>▪ statutory and legal requirements include data protection legislation, the statutory provisions governing the provision of immigration advice stemming from the Immigration and Asylum Act 1999 [see <i>OISC Code of Standards – Code 12</i>] and the organisation's sponsor licence duties under Tier 4 of the PBS</li> <li>▪ also see 1d) and 2e) below</li> </ul>
<p>c) recognise the power of influence that comes with their role as adviser and ensure that it is not used inappropriately</p>	<ul style="list-style-type: none"> <li>▪ some students may see you as an authority figure and be easily swayed by advice given. In these circumstances it is doubly important to ensure that advice addresses the best interests of the student (subject to any legal requirements) and not the convenience of the organisation.</li> </ul>
<p>d) be alert to ethical dilemmas and potential conflicts of interest and seek guidance when they arise</p>	<ul style="list-style-type: none"> <li>▪ if an ethical dilemma cannot be resolved in consultation with your line manager, colleagues or mentor, advice can always be sought from the UKCISA Services and Representation Committee</li> <li>▪ take into account any other factors, for example a financial sponsor's requirements</li> <li>▪ on conflicts of interest, see OISC Code 20 in Appendix 1 and also see 2e) below</li> </ul>
<p>e) share professional knowledge and skills and contribute to the professional development of colleagues</p>	

THE CODE	COMMENTARY
<p><b>2. In discharging their professional functions, those advising international students shall:</b></p>	
<p>a) accurately represent their areas of competence, education, training and experience</p>	
<p>b) recognise the boundaries of their qualifications and competence, making appropriate referrals when situations fall outside them</p>	<ul style="list-style-type: none"> <li>▪ make sure you only advise in areas you maintain competence in and you know which colleagues specialise in specific areas, such as fees, housing or immigration. You should also know what your policy is on referring students to other sources of advice, eg students' union or guild, another part of the organisation, local solicitors or law centres or on seeking a second opinion from them (be aware of the need for student consent if seeking a second opinion will involve revealing the student's identity)</li> <li>▪ see also 4c) below</li> </ul>
<p>c) actively seek to promote their professional development and keep themselves informed of current developments in their fields</p>	<ul style="list-style-type: none"> <li>▪ you should be able to demonstrate that you maintain your competence and that you utilise the appropriate resources, for example training, the UKCISA Manual and/or other handbooks, advice lines, the UKCISA Members Newsletter and similar newsletters produced by other relevant agencies, membership of relevant professional groups such as AISA and ICN</li> </ul>
<p>d) in particular, keep themselves informed, as may be relevant to their areas of advice, of developments in statutory and case law, regulations, immigration rules and procedures, institutional policies and other codes</p>	<ul style="list-style-type: none"> <li>▪ given the fast-paced changes to the immigration rules and guidance, it is particularly important to keep up to date, but this would equally apply to any advice area affected by changes to law, policy, and/or practice</li> </ul>
<p>e) work to ensure that there are arrangements in place that will secure impartial advice for students from another source where conflicts of interest may arise [see also 4a) below].</p>	<ul style="list-style-type: none"> <li>▪ you may not be able to act impartially, for example if a student wants to complain about a friend or colleague of yours or if you are asked to advise both parties to a dispute</li> <li>▪ some advisers have arrangements with advisers in other departments or organisations to take referrals in cases like this</li> <li>▪ you may need to consider an appropriate referral where a breach must be reported to the Home Office to meet compliance obligations, for example if student has been in breach of their working conditions</li> <li>▪ see OISC Code 20 in Appendix 1</li> </ul>

THE CODE	COMMENTARY
<p><b>3. In their dealings with students and colleagues, those advising international students shall:</b></p>	
<p>a) act in good faith and with fairness, consideration and impartially</p>	
<p>b) recognise their own cultural and value orientations and be aware of how those orientations affect their interactions with people from other cultures</p>	<ul style="list-style-type: none"> <li>▪ most advisers will benefit from training in cross-cultural awareness. We all bring a variety of unconscious biases to our interactions with others. Training can help one to stand outside one's personal reactions and develop self awareness and an appropriate professional standpoint.</li> </ul>
<p>c) be aware of, and show appropriate sensitivity to and respect for, other cultures and value systems</p>	<ul style="list-style-type: none"> <li>▪ the key word here is "appropriate". This paragraph does not mean that any behaviour can be justified by reference to the culture of those involved. One would not use a reference to British culture as an argument for ignoring football hooliganism, for example. Some client behaviour will simply be unacceptable.</li> </ul>
<p>d) not discriminate, or tolerate discrimination on the part of others, on the basis of ethnic or national origins, gender, sexual orientation, religion, disability or age</p>	
<p>e) refrain from unjustified or unseemly criticism of other advisers or other organisations and seek to resolve any conflict of advice directly with the other adviser concerned in a professional manner</p>	
<p>f) maintain the confidentiality and integrity of information about students and of communications with students, complying with data protection law, the organisation's responsibilities as a Tier 4 sponsor, and any policy of the adviser's employing organisation on confidentiality and record keeping. Ensure that information about any circumstances in which information may be disclosed to the Home Office or the police without prior authorisation is available to students</p>	<ul style="list-style-type: none"> <li>▪ a code of ethics cannot spell out the detail of a confidentiality policy. You or the organisation must have such a policy, which must be available to the student. You must be aware of it and remind the student of it when appropriate</li> <li>▪ every organisation needs its own confidentiality policy</li> <li>▪ note that confidentiality does not normally mean confidentiality between you as an individual and the student. Your policy should make clear that there is a "circle of confidentiality" within the service or relevant office and that information will only be disclosed outside that circle as provided for in the policy</li> <li>▪ students should be clearly informed, at all appropriate stages, of the organisation's policy and procedures for complying with their reporting responsibilities as a Tier 4 sponsor, including the extent to which the service would be involved in those procedures - this should be as early as possible in the recruitment process and additionally thereafter, eg at orientation, in bulletins, on your website and your 'conditions of service' agreement with the student; it would not be fair to simply rely on any agreement signed by the student at the beginning of their relationship with the organisation</li> <li>▪ take every opportunity to remind students what they have previously signed up to</li> </ul>

THE CODE	COMMENTARY
g) do nothing to support or encourage illegal actions	<ul style="list-style-type: none"> <li>▪ care must be taken – if advising a student on their options, the adviser must not actively support or encourage any illegal actions, for example, overstaying, while ensuring that the student knows what their range of options might be, the legality or otherwise of each of them, and the possible consequences of each of them</li> <li>▪ this paragraph does not affect your duty to try to ensure that a student is appropriately treated within the law or to challenge an interpretation of the law on behalf of the student if you think it appropriate to do so</li> <li>▪ if you have a reasonable suspicion that a student is being dishonest, for example about their financial means, you are unlikely to be able to continue to advise</li> </ul>
<b>4. In their dealings with students, those advising international students shall:</b>	
a) be clear to all parties about their role and boundaries as an adviser and limit advice to matters consistent with that role and its boundaries	<ul style="list-style-type: none"> <li>▪ if a student asks you for help in resolving a dispute you may as an adviser be able to accompany a student to a meeting to take notes or to act as a cultural interpreter</li> <li>▪ be clear to students about your duties as an employee of a Tier 4 sponsor licence holder, eg regarding disclosure of a student working in breach of the Immigration Rules or who has not complied with a direction to register with the police – see also OISC Code 20 in Appendix 1</li> <li>▪ if your job description includes operational aspects of PBS, ie the adviser would be the same individual who would use the SMS to make a report to the Home Office, then this must be declared</li> </ul>
b) provide students with information they need to make informed choices or decisions and not withhold relevant information	<ul style="list-style-type: none"> <li>▪ if advising on progression to university, for example, it would be unethical to withhold the fact that some universities under consideration paid your college a commission for students received and others did not</li> <li>▪ if you have a combined role as both an adviser and a staff member with Tier 4 sponsor licence duties, make this clear at the outset including clarification of your reporting duties</li> <li>▪ if advising on immigration applications, be clear with students about any organisational PBS policy, for example process and policy for issuing Confirmations of Acceptance for Studies (CAS)</li> </ul>
c) be aware of the difference between information, advice and counselling and be able to recommend qualified counselling assistance to students who may benefit from it	<ul style="list-style-type: none"> <li>▪ students who present with, for example, a housing or immigration problem on which you are competent to advise may also have personal problems which might benefit from counselling. Even if you are a counsellor, do not turn an advice session into a counselling session, but let the student know that a counselling service is available if they want to use it</li> <li>▪ the above does not mean that if you are competent to do so you should not use counselling techniques if appropriate, for example in the way you interview a student in distress, in order to help you to advise them</li> </ul>

THE CODE	COMMENTARY
<p>d) refrain from becoming involved in personal relations with individual students when such relationships might result in undue influence on the adviser, or a likely perception of undue influence</p>	<ul style="list-style-type: none"> <li>▪ most organisations will have specific rules about sexual relationships between staff and students, of which you should be aware</li> <li>▪ but other close personal relationships with particular students may also put an adviser at risk of accusations of partiality</li> <li>▪ remember that a professional friendliness of manner when mixing with students socially can be mistaken for more by those who do not understand the professional context in which you work</li> </ul>
<p>e) accept only gifts (including hospitality) of nominal value and only where they do not seem intended to influence the manner in which professional responsibilities are exercised, while remaining sensitive to the varying significance of gifts in different cultures. Comply with any institutional policy on the acceptance or recording of gifts. Seek guidance from a more senior manager in any circumstance where it may seem appropriate to accept a gift of more than nominal value.</p>	<ul style="list-style-type: none"> <li>▪ see comment on 2e) above</li> </ul>
<p>f) ensure that students are fully advised of the procedures for them to follow to pursue complaints or to seek redress, or to defend themselves, and secure appropriate referrals where the adviser's role precludes support/representation for the student in any formal procedures.</p>	<ul style="list-style-type: none"> <li>▪ in this context you need to look also at your own internal complaints policy within the advice service. It may be covered by a general institutional policy, but if not you should probably develop your own</li> <li>▪ there might be a conflict of interest, for example, if a student was in dispute with a landlord you had vetted for the organisation's approved list</li> <li>▪ if you give immigration advice, publicise the OISC's complaints policy/process</li> </ul>

# Appendix 1: key extracts from the OISC Code of Standards (2015 edition - which took effect on 1 April 2016)

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The introduction to the OISC Code of Standards says that immigration advice is that which relates to a particular individual and is given in connection with one or more 'relevant matters'. These 'relevant matters' are contained within section 82 of the Immigration and Asylum Act 1999 and these include advice in relation to:

- an application for, or for the variation of, entry clearance or leave to enter or remain in the United Kingdom
- an immigration employment document
- citizenship of the European Union
- admission to Member States under Community Law
- residence in a Member State in accordance with right conferred by or under Community Law.

Therefore, anyone in the organisation (including those working in Tier 4 compliance) is an 'immigration adviser' at any point when providing immigration advice which addresses an individual's particular circumstances – for example giving feedback or guidance to a student on whether their bank statements meet the relevant requirements or on whether they meet the criteria for 'established presence' for the reduced maintenance figure.

As stated in the introduction to this document:

- the OISC Code of Standards applies to anyone whether or not exempt from registration with the OISC under any Ministerial Order (sometimes referred to as a 'block exemption')
- exemption from registration does *not* mean exemption from regulation by the OISC.

For more on this, please see UKCISA's web items on OISC regulation and compliance with their Code of Standards.

The OISC Codes of most relevance to this Code of Ethics are set out below:

## **Code 12 (acting in client's best interests):**

"Organisations and advisers must always act in their clients' best interests subject to regulatory and legal requirements."

## **Codes 27 and 28 (confidentiality):**

"Organisations and advisers must ensure the confidentiality of all of the information they hold relating to each of their clients, subject to legal and regulatory disclosure requirements."  
(Code 27)

"Organisations and advisers must ensure that discussions or the giving of information relating to immigration advice or immigration services are conducted in a confidential manner."  
(Code 28)

## **Code 20 + relevant extract of Guidance Note (conflict of interest):**

"An adviser must explain fully and clearly in writing to a client or prospective client any circumstances in which they or their organisation have, or could gain, any interest or advantage in agreeing to act for them. This can include a real or potential conflict of interest. The client or prospective client, having received this information, must be given sufficient time to consider it. They must give their consent in writing before the organisation or that adviser can begin to act or continue to act for them."

On pages 3 and 4 of the **Commissioner's Guidance Notes** (see below for the link to this), the OISC advice on this includes:

"Registered organisations and advisers are under a duty to make clear to clients where they may have a conflict of interest and ensure that this is fully understood. [...]"

"Where there is a real or potential conflict of interest, be it identified prior to the adviser acting for the client or after the adviser has begun acting for the client, the registered organisation/adviser must only act if the client has consented to this in writing. In such circumstances, the Commissioner would expect to see evidence that the conflict was fully explained to the client (using a suitable interpreter, if necessary) and signed and dated written consent from the client allowing the adviser to continue to act on the client's file."

## **Also see:**

- **the 'Commissioner's Guidance Notes to accompany the Code of Standards April 2016'** at [www.gov.uk/government/publications/the-commissioners-code-of-standards-oisc-guidance-note](http://www.gov.uk/government/publications/the-commissioners-code-of-standards-oisc-guidance-note)
- **the 2015 edition of the OISC's Complaints Scheme** at [www.gov.uk/government/publications/oisc-complaints-scheme-2012](http://www.gov.uk/government/publications/oisc-complaints-scheme-2012)

# Who we are

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**The UK Council for International Student Affairs is the UK's national advisory body serving the interests of international students and those who work with them.**

**It does so through research, print and web-based publications, a national training programme, dedicated advice lines for students and advisers, and liaison and advocacy with institutions, agencies and government.**

**Its aims are to:**

- **increase support for international education and raise awareness of its values and benefits**
- **promote opportunities for, and identify and work to reduce obstacles and barriers to, greater student mobility**
- **encourage best practice, professional development and the highest quality of institutional support for international students throughout the education sector**

**UKCISA's membership includes:**

- **every university in the UK**
- **the majority of publicly funded higher and further education colleges which are active internationally**
- **a number of independent schools and private colleges and**
- **a range of specialist and representative bodies**

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9–17 St Albans Place  
London N1 0NX  
T +44 (0)20 7288 4330  
F +44 (0)20 7288 4360  
[www.ukcisa.org.uk](http://www.ukcisa.org.uk)

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registered office is at  
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