

## **MAKING A COMPLAINT**

# About an Immigration Adviser

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## LICENSED PROFESSIONAL PROTECTED MIGRANT

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## About Us

### The Immigration Advisers Authority

We are responsible for:

- › receiving complaints about immigration advisers and referring these to the Immigration Advisers Complaints and Disciplinary Tribunal.
- › investigating and taking action against those breaching the **Immigration Advisers Licensing Act 2007**.

### Contact us

Freephone (New Zealand only): 0508 IAA IAA (0508 422 422)

Phone (outside New Zealand): +64 9 925 3838

Email [info@iaa.govt.nz](mailto:info@iaa.govt.nz)

Web [www.iaa.govt.nz](http://www.iaa.govt.nz)

Postal Registrar of Immigration Advisers  
Immigration Advisers Authority  
PO Box 6222  
Victoria Street West  
Auckland 1142  
NEW ZEALAND

### Licensed or unlicensed?

Find out whether the immigration adviser you are complaining about is licensed or not by checking our **online register** or contacting us.

If the adviser is licensed or has been licensed in the last two years, read and complete Section A (page 2).

If the adviser is not licensed, read and complete Section B (page 9).

# Making a Complaint about a Licensed Immigration Adviser

## The Immigration Advisers Complaints and Disciplinary Tribunal

On receiving a complaint, the Registrar of Immigration Advisers (the Registrar) who heads the Immigration Advisers Authority (the Authority) may refer the complaint to the Immigration Advisers Complaints and Disciplinary Tribunal (the Tribunal). The Tribunal makes decisions about complaints against licensed immigration advisers.

## Making a complaint

Any person may make a complaint about a licensed immigration adviser or someone who has been a licensed immigration adviser in the last two years. They do not need to have received immigration advice directly from the adviser themselves. Any person can make a complaint on another person's behalf.

## Grounds for complaint

We can only deal with complaints about:

**Negligence** – A person who behaves negligently is a person who is not doing what a reasonable person would do in a situation where that person owes a duty of care.

**Incompetence** – When a licence is granted, the adviser is assessed against the **Immigration Advisers Competency Standards** and must maintain them. An adviser who is incompetent is not meeting those standards.

**Incapacity** – A person who is incapable is a person who is not able to deal with something properly. In this context, incapacity relates to the licensed immigration adviser's conduct in providing immigration advice.

**Dishonest and misleading behaviour** – A person who is dishonest is a person who does not tell the truth or does not tell the complete truth. A person who behaves in a misleading way is a person that leads another person to have an incorrect impression or belief.

**A breach of the Code of Conduct** – **The Licensed Immigration Advisers Code of Conduct** (code of conduct) sets out professional and ethical standards of behaviour. You can complain if you think your adviser has not adhered to the code of conduct.

We assess each complaint and those that meet the criteria are referred to the Tribunal.

If you are not sure whether you can complain, contact us. If the complaint is complex, we may suggest that you get independent legal advice to help with making the complaint.

We do not deal with complaints about Immigration New Zealand, immigration lawyers, citizens advice bureau staff and other exempt persons\*.

\*Exempt persons include:

- › lawyers
- › persons who provide immigration advice in an informal or family context only, so long as the advice is not provided systematically or for a fee
- › members of Parliament, and members of their staff who provide immigration advice within the scope of their employment agreement
- › foreign diplomats and consular staff accorded protection as such under the **Diplomatic Privileges and Immunities Act 1968** or the **Consular Privileges and Immunities Act 1971**
- › employees of the public service who provide immigration advice within the scope of their employment agreement
- › persons employed by or working as volunteers for Community Law Centres (as defined in section 6 of the Lawyers and Conveyancers Act 2006), where at least 1 lawyer
  - (i) is on the employing body of the community law centre; or
  - (ii) is employed by or working as a volunteer for the community law centre in a supervisory capacity
- › persons employed by or working as volunteers for Citizens Advice Bureaux
- › persons who provide immigration advice offshore in relation to applications or potential applications for student visas only
- › persons exempted by regulations made under section 12.

**Complaints must:**

- › be made in writing
- › specify the ground or grounds that form the basis of the complaint
- › state whether or not you have attempted to resolve the complaint using the immigration adviser's own complaints procedure, and the outcome (if any) of that process
- › be accompanied by copies of any supporting documentation
- › not be made anonymously

**First steps**

1. Talk to the adviser. There may have been a misunderstanding that can be worked out.
2. Complain to the adviser. Licensed immigration advisers are required to have an internal process for dealing with complaints.
3. Write to us. If talking to the adviser and going through their internal complaints process does not resolve the issue, consider making a written complaint to us.

The complaint must be written in English. You can use this form or you can type a letter or email explaining the details.

The complaint cannot be anonymous.

It is very important that you provide as much evidence as possible to support your complaint. This is because we need to investigate your complaint before referring it to the Tribunal to make a decision.

Remember:

- › Act quickly. The sooner you write it all down, the clearer the facts will be.
- › Stick to the facts. Avoid making emotional or irrelevant comments. Tell us exactly what the adviser promised to do and what they did.
- › There is no charge for complaining.

**The Immigration Advisers Authority complaints process**

1. We will formally acknowledge your complaint.
2. We may seek additional information about your complaint if required.
3. The complaint is assessed to see if it meets the grounds for complaint and is a matter we can deal with. We can reject your complaint if it is not made in the correct way, is trivial or inconsequential. The Registrar may also request you to use the adviser's own complaints process.
4. We provide a copy of the complaint to the adviser and give him or her the opportunity to comment.
5. We refer the complaint to the Tribunal.

**Tribunal decisions**

The Tribunal will formally acknowledge receipt of your complaint and keep you updated until a decision is made.

After hearing your complaint, the Tribunal may either:

- › dismiss your complaint
- › uphold your complaint but take no further action against the adviser; or
- › uphold your complaint and take further action against the adviser.

If the complaint is upheld, the Tribunal could do one or more of the following:

- › take no action
- › caution or censure the adviser
- › require the adviser to undertake specified training or otherwise remedy any deficiency
- › cancel or suspend the adviser's licence
- › make an order preventing the adviser from reapplying for a licence for up to two years or until the person meets specific conditions
- › make an order that the adviser refund your fees, pay costs, a penalty and/or compensation.

How long the complaints process takes depends on how complicated the complaint is, how many questions we or the Tribunal has and how long these take to be answered. If the adviser appeals the Tribunal's decision to impose a sanction, the process can take longer as the appeal will go to the District Court.

# A Making a Complaint about a Licensed Immigration Adviser

A copy of this Complaint Form will be sent to the adviser. The information below is collected by the Authority.

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## Privacy Act 2020

- The information provided by you on this form will be used for the purposes of investigating a complaint under the **Immigration Advisers Licensing Act 2007**.
- Upon receipt of this completed form the Immigration Advisers Authority may make any necessary enquiries about the contents of this form, so that decisions can be made regarding this complaint.
- This may include the necessary disclosure of this information to third parties.

Under the Privacy Act 2020 you may access and request a correction of any personal information.

Please complete this form in English.

### SECTION 1 PERSONAL DETAILS

Name

Date of birth

<input type="text"/>	<input type="text"/>	<input type="text"/>
DAY	MONTH	YEAR

Address

Street name and number

Suburb

Town/City

Area/State

Postcode

Country

Daytime phone number

+

(+COUNTRY CODE – AREA CODE – LOCAL NUMBER)

Email

# A Making a Complaint about a Licensed Immigration Adviser

Have you used the adviser's own complaints procedures?

Yes  No

If yes, provide details. If no, explain why not.

Have you complained about this adviser to any other agency?

Yes  No

If yes, provide details.

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## SECTION 2 THE LICENSED IMMIGRATION ADVISER'S DETAILS

Name

Company (if relevant):

Adviser Number (available online at [www.iaa.govt.nz](http://www.iaa.govt.nz)):

Is this person still your adviser?

Yes  No

If not, on what date did this person cease to represent you?

DAY

MONTH

YEAR

# A Making a Complaint about a Licensed Immigration Adviser

## SECTION 3 THE COMPLAINT

What is the complaint about?

YOU MAY SELECT MORE THAN ONE

- 1. Negligence
- 2. Incompetence
- 3. Incapacity
- 4. Dishonest or misleading behaviour
- 5. Breach of Code of Conduct (view online at [www.iaa.govt.nz](http://www.iaa.govt.nz))

Below provide full details of the complaint. Set out what happened, **in date order**, attaching relevant documents.

Date	What happened



# A Making a Complaint about a Licensed Immigration Adviser

## Resolution

What do you want to see happen as a result of the complaint?

## Supporting documents

It is very useful to have copies of any documents that support your allegation. For example, written agreements, invoices, receipts or other correspondence from the adviser.

## Witnesses

Please tell us if there are any witnesses who can provide direct, independent evidence that will help us deal with the complaint.

Names of witnesses

Contact details of witnesses

## Declaration

I understand that a copy of my complaint and supporting evidence will be sent to the adviser concerned, and may be used by the Tribunal in evidence.

I consent to the above named licensed immigration adviser (or former licensed immigration adviser) providing information to the Authority or the Tribunal by way of response to this complaint.

Signed

DAY

MONTH

YEAR

Printed Name

## Returning the form

Once you have completed the Complaints Form, you can send it to us by:

Email: [info@iaa.govt.nz](mailto:info@iaa.govt.nz)

Postal: Registrar of Immigration Advisers  
Immigration Advisers Authority  
Attention: Complaints  
PO Box 6222  
Victoria Street West  
Auckland 1142  
NEW ZEALAND

We will acknowledge receipt of your complaint.

## B Making a Complaint about an Unlicensed Immigration Adviser

Under the Immigration Advisers Licensing Act, it is an offence to give immigration advice about a New Zealand immigration matter when not licensed or exempt. The Authority encourages you to bring these situations to our attention to enable us to take action. The actions that we take may include an investigation which may lead to a criminal prosecution. As part of the investigation you may be contacted by an Investigator from the Authority.

For more information please see our website [www.iaa.govt.nz/enforcement](http://www.iaa.govt.nz/enforcement)

Tell us below about someone who has given immigration advice about New Zealand when not licensed or exempt.

The information below is collected by the Authority.

### Privacy Act 2020

- The information provided by you on this form will be used for the purposes of investigating a complaint under the **Immigration Advisers Licensing Act 2007**.
- Upon receipt of this completed form the Immigration Advisers Authority may make any necessary enquiries about the contents of this form, so that decisions can be made regarding this complaint.
- This may include the necessary disclosure of this information to third parties.

Under the Privacy Act 2020 you may access and request a correction of any personal information.

Please complete this form in English.

### SECTION 1 PERSONAL DETAILS

Name

Date of birth

DAY

MONTH

YEAR

### Address

Street name and number

Suburb

Town/City

Area/State

Postcode

Country

Daytime phone number

+

(+COUNTRY CODE – AREA CODE – LOCAL NUMBER)

Email

# B Making a Complaint about an Unlicensed Immigration Adviser

## Is your complaint about a licensed immigration adviser?

Find out with our online register at [www.iaa.govt.nz](http://www.iaa.govt.nz).

If your immigration adviser is licensed, read and complete section A starting on page 2. Do not complete the form below.

If your immigration adviser is not licensed or exempt continue below.

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## SECTION 2 THE UNLICENSED IMMIGRATION ADVISER'S DETAILS

Name

Company (if relevant):

Is this person still your adviser?

Yes  No

If not, on what date did this person cease to represent you?

<input type="text"/>	<input type="text"/>	<input type="text"/>
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DAY

MONTH

YEAR

# B Making a Complaint about an Unlicensed Immigration Adviser

## SECTION 3 THE COMPLAINT

### What happened

Please give full details of your case, adding additional pages if necessary. Set out what happened, in date order, attaching relevant documents.

Describe exactly what you are unhappy about and why, using a separate page if necessary. If you are unsure how to complete this form, please contact us.

Date	What happened

## B Making a Complaint about an Unlicensed Immigration Adviser

### Witnesses

Please tell us if there are any witnesses who can provide direct, independent evidence that will help us deal with the complaint.

Names of witnesses

Contact details of witnesses

### Supporting documents

It is very useful to have copies of any documents that support your allegation. For example, written agreements, invoices, receipts or other correspondence from the adviser.

### Providing evidence

Would you be willing to provide evidence in court if this complaint resulted in a prosecution?

Yes  No

### Declaration

I understand:

- (a) the information provided on this form will be used for the purposes of investigating a complaint under the Immigration Advisers Licensing Act 2007.
- b) upon receipt of this completed form the Immigration Advisers Authority may make any necessary enquiries about the contents of this form, so that decisions can be made regarding this complaint.
- c) this may include the necessary disclosure of this information to third parties.

Signed

DAY

MONTH

YEAR

Printed Name

If you wish to make your complaint anonymously, you can do so. However, this may restrict the Authority's ability to progress the matter further.

### Returning the form

Once you have completed the Complaints Form, you can send it to us by:

Email: [info@iaa.govt.nz](mailto:info@iaa.govt.nz)

Postal: Registrar of Immigration Advisers  
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