



## **RAINBOW MIGRATION LEGAL ADVICE SERVICE COMPLAINTS POLICY**

This policy document specifically relates to any complaints that are made in relation to Rainbow Migration's Legal Advice Service to service users. It compliments the organisation's general complaints policy that is intended to deal with all other complaints.

### **1. Key individuals**

Legal Advice Service (LAS) Complaints Panel: To be made up of two members of the Board of Trustees not previously involved in the complaint or the LAS Complaints Procedure. At least one member of the panel should be a qualified immigration barrister or solicitor.

Legal Advice Service (LAS) Complaints Officer: Leila Zadeh (Executive Director)  
Legal Supervisor: Jackie Peirce (Trustee, Solicitor)

### **2. Encouraging feedback**

Rainbow Migration encourages feed back as it is an ideal way to identify problems service users face with the legal advice service we provide and it provides an opportunity for service improvement.

Rainbow Migration aims to ensure the complaints process should be as open as possible (easy for the service user to understand and to access) so that concerns are raised at the earliest opportunity, rather than letting them become more serious.

### **3. OISC Code of Standards (2016)**

In accordance with Code 79, Rainbow Migration must have, and effectively apply, a written procedure for the handling of complaints approved by the Commissioner which includes a statement informing service users that they have the right to complain to the Commissioner at any time. Consideration must be given to the guidance set out in the OISC Practice Note on the investigation of Client Complaints.

### **4. Definition of a complaint**

Rainbow Migration's definition of a complaint is "any expression of client dissatisfaction, however it is expressed".

This means that a complaint need not include the word "complain" in it, and might be presented in writing, over the telephone or in person.

### **5. Identifying complaints**

All Rainbow Migration staff & volunteers are required to read the Complaints Policy, and should be alert to any complaints that are put in writing (received in the post, by fax or via email) as well as anything arising out of telephone and face-to-face conversations, which relate to the legal advice service.

When a complaint has been identified, it should be brought to the attention of the adviser that it concerns, who should then initiate Stage 1 of the complaints process, as outlined at [8]. Where the complaint is particularly serious, or where the complainant has specified that it not be taken directly to the adviser, the complaint should be notified directly to the Complaints Officer or Legal Supervisor.

## **6. Publicising the Procedure**

### **One-off telephone advice**

Authorised advisers are not expected to provide information about how or to whom a service user should complain in all instances. Instead, advisers should be alert to expressions of dissatisfaction (however they may be made) and offer the relevant information wherever they feel that the caller may not be happy with the service (including the advice given). Wherever one-off advice is given by telephone (including at detentions centers/ prisons), advisers should know how a complaint is defined (by Rainbow Migration) and how to progress this complaint.

Regardless of whether or not any expressions of dissatisfaction are noted by the adviser, it is considered to be good practice to alert beneficiaries of telephone advice at the end of the call that there is a Complaints Procedure ('Appendix 1'), and that they can contact Rainbow Migration to request this at any time.

### **Further advice work**

Where Rainbow Migration is providing any further advice beyond a one-off telephone call, such as a one-to-one consultation, letter of advice, protective casework or active referral, then service users will be informed of the complaints process in writing by provision of the Complaints Procedure sheet contained at 'Appendix 1'. As part of this, service users will also be notified of their right to complain to OISC directly at any time. Where the adviser is a solicitor or barrister there is additionally/alternatively a right to complain about the adviser to the Legal Ombudsman.

## **7. Professional indemnity insurance and admitting liability**

Our insurance is invalidated if we admit liability. If we identify any complaint that might lead to a charge of professional negligence, we must notify the insurers immediately.

## **8. Complaints process**

### **Stage 1**

If a service user becomes dissatisfied with any aspect of the legal advice service offered, they should firstly be asked to discuss this directly with the adviser, without going into the formal complaints procedure, to see if the adviser is able to help and resolve the matter informally. The adviser should always check with both the Legal Supervisor and LAS Complaints Officer, that it is appropriate for the adviser to deal with the issue without going into the

formal complaints procedure. This may be done after resolving the issue if the adviser reasonably judges that the issue is clearly appropriate for this.

## **Stage 2**

In the alternative, where the adviser judges it appropriate including if the complaint is clearly of a serious nature or if the service user is dissatisfied with the adviser's response, they should be advised that they can raise the complaint with the LAS Complaints Officer. This will trigger the formal complaints procedure.

The complainant should be asked if they are willing to put their complaint in writing to the Complaints Officer, marked Private and Confidential, providing as much detail of the complaint as possible.

If the complainant is not able to put their complaint in writing, or it is otherwise appropriate to do so the complainant will be offered an interview with the Complaints Officer or their nominee. The role of the Complaints Officer or their nominee at this meeting will be confined to putting the complaints in writing, obtaining the complainant's approval of the contents of this and asking the complainant to sign to indicate their agreement with the contents.

Where the complaint is clearly about the technical content of legal advice and the Legal Supervisor is available without undue delay to act as the Complaints Officer's nominee for the purpose of this complaint, consideration should be given by the Complaints Officer to making that nomination.

If the Legal Supervisor is not already otherwise involved they should at this stage be informed of the content of the complaint and their advice and comments sought on how the complaint should be responded to.

The adviser should be asked to provide their response to the complaint.

The Complaints Officer and Legal Supervisor will agree on the content and manner of responding to the complaint with the intention of responding fully but expeditiously to the complainant.

## **Stage 3**

If, after the Legal Supervisor and/or LAS Complaints Officer have responded, the service user is still not satisfied, the service user should be referred to the LAS Complaints Panel.

If the complaint is raised by someone "on behalf" of the service user, our duty is to first and foremost to the service user and our relationship is privileged and private. We should ask the service user directly, whether they wish us to treat this as a complaint unless they have clearly indicated by way of a signed authority that they intend for a complaint to be made.

Complaints by the OISC or Legal Ombudsman on behalf of the service user or a solicitor acting for the service user should be dealt with by the Legal Supervisor within the formal procedure.

If the complaint is by the Home Office, see [11].

If the complaint is by a third party who is not acting for the service user, see [11].

## **9. Cause of the complaint and how to respond**

The following steps should be carried out by the LAS Complaints Officer and Legal Supervisor. If the service user has elevated the complaint to the Complaints Panel, they should follow the same steps.

In the case of a formal complaint the LAS Complaints Officer must send a holding letter within 5 working days and a full response within 15 working days of the letter/complaint notes being received.

If a response by letter is inappropriate, the complainant will be offered a meeting with the Complaints Officer so that they can provide the response verbally. This meeting should be held within 15 working days of the letter/complaint notes being received. A written record of this interview will be kept and signed by the complainant.

The complainant should be informed if the above timescales need to be changed for any reason.

### **Steps:**

1. The LAS Complaints Officer *AND* Legal Supervisor must first decide whether or not the complaint qualifies as a complaint and should benefit from recourse to the complaints procedure.
2. After the investigation, the LAS Complaints Officer *AND* Legal Supervisor should decide whether or not the complaint is justified and then categorise it.
3. A justified complaint might be categorised as one or more of administrative, procedural, legal or personal.
4. The LAS Complaints Officer *AND/OR* Legal Supervisor should identify the problem caused to the service user e.g. frustration, financial loss, delay.
5. The LAS Complaints Officer *AND/OR* Legal Supervisor should consider whether there were discriminatory grounds.
6. The LAS Complaints Officer *AND/OR* Legal Supervisor should assess the problem as serious, moderate or minor.
7. If relevant, the LAS Complaints Officer *AND/OR* Legal Supervisor must decide whether or not we can continue to advise the service user and whether a referral is needed.

## **10. Options For The Person Who Needs To Respond**

### **Justified Complaints:**

If the LAS Complaints Officer and/or Legal Supervisor find that the complaint or aspects of the complaint is justified but there is no basis for considering that there is a basis for a negligence claim, the LAS Complaints Officer should inform the service user with reasons, apologise, include suggestions for resolving the matter, and explain to the service user what measures are being taken to prevent a similar problem from arising in the future.

If the LAS Complaints Officer and Legal Supervisor find that the service user has been prejudiced by the adviser's mistake, they must decide whether the mistake might amount to negligence. If there is any chance that there might be negligence, the insurers must be informed at the earliest stage and the advice of the insurer followed (including where advised allowing the insurer or appointed lawyer to take over conduct of the complaint). If steps can be taken to rectify the prejudice immediate instructions to do so should be sought from the insurer.

Negligence cannot be admitted without the instruction of the insurer to do so and in all possible negligence cases the instructions of the insurer must be followed and no other steps taken without the express agreement of the insurer. .

If the LAS Complaints Officer and/or Legal Supervisor find that the relationship between the adviser and the service user has broken down, they can re-allocate the service user to a different adviser if possible, or make a referral to another advice service or law firm if necessary.

If the LAS Complaints Officer and/or Legal Supervisor find that the relationship between the service user and Rainbow Migration has broken down, the service user should be referred elsewhere.

If the investigation of a complaint discloses serious misconduct by the adviser or organisation then the duty on advisers, other staff and trustees to notify OISC may be triggered.

### **Unjustified Complaints:**

If LAS Complaints Officer and/or Legal Supervisor find that the complaint or an aspect of it is not justified, they should inform the service user with reasons.

### **Further Complaint:**

If the service user is not satisfied with the response provided by the LAS Complaints Officer and/or Legal Supervisor, they can notify the LAS Complaints Panel. The Panel will send a holding letter within 5 days of the complainant's indication of wanting to take it further, investigate in accordance with the procedure set out at [9] and respond to the complainant within 15 working days.

The complainant should be notified at each stage of their right to complain to the OISC or Legal Ombudsman at any time.

## **11. Complaints by non-service-users**

It is essential that attention is paid to our duty to service users. There is no duty, under the LAS Complaints Policy, to the Home Office or other 3<sup>rd</sup> parties and we must have regard to such complaints within the context of the service user's case. (Complaints brought against Rainbow Migration by the Home Office or other 3<sup>rd</sup> parties, which relate to our obligations under the OISC standards, will be considered under the General Complaints Policy.)

1. If a complaint is made by the Home Office, the overriding consideration must be the duties to the client to maintain confidentiality and act in their best interests. This is for the adviser to assess and to explain to the LAS Complaints Officer and Legal Supervisor, who will make a decision on whether and how to respond in line with those duties, and how the client should be advised about whether responding is in their best interests and whether they should waive confidentiality if that is required.
2. If a complaint against a Rainbow Migration adviser arises in relation to the advice we have given that person, but is raised by someone other than the service user, and not on the service user's behalf, the LAS Complaints Officer and Legal Supervisor must decide whether it is in the service user's best interest to treat it as a complaint within the procedure. If they decide that it is, the same procedure should be followed
3. If a complaint is made against an adviser, and it is not connected to the provision of legal advice, the procedure set out in the the General Complaints Policy should be followed.

Whether a complaint is found justified or unjustified there may be opportunities to learn from the complaint and to improve services provided by Rainbow Migration and whilst that process must not delay the response to the complainant it should be considered integral to all complaint handling at each level.

## **12. Recording and Monitoring LAS complaints**

All complaints will be recorded and held on the central LAS complaints file including those which were resolved without being put in writing. The LAS Complaints Monitoring Sheet (see 'Appendix 2') will be used to do this. The monitoring sheet should be updated at all stages of the formal complaints process and any relevant correspondence kept with it.

Where a legal file has been opened for the service user, a copy of whatever is held on the central LAS complaints file in relation to their complaint will also be kept in their own file.

All complaints will be treated with regard to Vulnerable Adults Policy and our duty of confidentiality.

## **13. Central record and annual review**

**Action as the result of review**

Rainbow Migration conducts an annual review of complaints every year. This is conducted by The LAS Complaints Officer. This will summarise issues and outcomes and numbers of complaints without breaching confidentiality, set out remedial steps and service changes and make any appropriate further recommendations. The review will also include assessment of the content of and implementation of the complaints procedure itself and whether amendments are needed. She will then present her findings to the Legal Officer and Board of Trustees.

Rainbow Migration acknowledges that effective and positive complaint handling is an important aspect of client care and service quality.

#### **14. Feedback procedure**

Service users should be given the opportunity to complete a feedback questionnaire when we have finished advising them.

Upon review of the feedback questionnaires, if dissatisfaction is identified and this meets with the definition of a complaint set out at [4] this should be brought to the attention of the LAS Complaints Officer and Legal Supervisor.

#### **Annual Review**

The feedback questionnaires will be reviewed annually by the Complaints Officer. Review documentation should include feedback findings (trends identified) and outcomes from the review (of action proposed to resolve concerns or to improve the service). The questionnaires can be destroyed after 3 years.

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**Date Procedure was agreed: 21/09/2017**

**Updated with the new organisation name and re-formatted: 11/06/2021**

#### **Appendix 1**



**7-14 Great Dover Street      London SE1 4YR      Tel: 020 7922 7811**

**hello@rainbowmigration.org.uk      www.rainbowmigration.org.uk**  
**Registered Charity No: 1158228      Regulated by the OISC (No. N201700019)**

## **Rainbow Migration LEGAL ADVICE SERVICE COMPLAINTS PROCEDURE**

This document explains how Rainbow Migration will accept, record, investigate and resolve complaints made about its legal advice service.

Rainbow Migration aims to provide all its legal advice service users with the highest standards of service and client care. If we fail to provide this to you, we need you to inform us so we can try to resolve any problems. We will also learn from them so that we can improve our service.

### **How to make a complaint**

Rainbow Migration will always try to provide you with an opportunity to tell us of your concerns and will work with you to try to resolve them.

- If you are not satisfied with any aspect of our service wherever possible we would encourage you to discuss this with your adviser, to see if the matter can be resolved quickly..
- If you have spoken to your adviser and you are not satisfied with their response or if you do not wish to discuss your concerns with them, you may wish to make a formal complaint. You can make your complaint either verbally or in writing to the Rainbow Migration Legal Advice Service Complaints Officer.
- The Complaints Officer is Leila Zadeh, who is the Executive Director of Rainbow Migration. She can be contacted by writing to The Complaints Officer, Rainbow Migration, 32-36 Loman Street, London SE1 0EH, or by telephoning 020 7922 7811, or by emailing [leila@rainbowmigration.org.uk](mailto:leila@rainbowmigration.org.uk).

### **What Happens Next**

- The Complaints Officer will acknowledge your complaint as soon as possible but at most within (5 days) of receiving it.
- Rainbow Migration will investigate and provide you with a response to your complaint as soon as possible but within 15 working days of our receipt of your complaint. If we have to change the time-scale for any reason, we will let you know and explain why.
- Rainbow Migration will keep details of your complaint in a central register, and also on your legal file if we have opened one for you. We will record details of the complaint, our investigation and Rainbow Migration's response to your complaint.

### **Investigation**

Your complaint will be investigated in the following way:



1. If they have not already spoken to you the Complaints Officer may meet you or speak with you by telephone to clarify any issues about the content of your complaint.
2. The Complaints Officer will ask your adviser to provide their response to your complaint. They will also discuss the matter with your adviser's Legal Supervisor.
3. The Complaints Officer will consider your adviser's response, the information provided in the complaint, any other relevant material (such as the contents of your legal file if we have opened one for you) and the comments of your adviser's Legal Supervisor.
4. The Complaints Officer, or sometimes the Legal Supervisor, will then prepare a written response, which will be sent to you. This response will set out the findings of the complaint investigation as well as any suggestions for resolving the matter.
5. If a response by letter is inappropriate, you will be offered a meeting with the Complaints Officer so that they can provide the response verbally. You will be offered a written summary of our response afterwards.

#### Further Complaint

If you are not satisfied with the response provided by the Complaints Officer or Legal Supervisor, you can request for your complaint to be investigated by our Legal Advice Service Complaints Panel. The Panel will send a holding letter within 5 days of you indicating that you would like to take it further, investigate in accordance with the procedure set out above, and respond to you within 15 working days.

Please note that if you are not satisfied with Rainbow Migration's response to your complaint or if you do not wish to complain directly to Rainbow Migration, you can raise the complaint at any time with:

Legal Services Ombudsman (only if your adviser is a solicitor or barrister) at PO Box 6806, Wolverhampton, WV1 9WJ, or telephone 0300555 0333 (usually a 6 month deadline) or

Office of the Immigration Services Commissioner, 5th Floor, 21 Bloomsbury Street, WC1B3HF, Telephone: 0207 211 1500 (usually a 12 month time limit)

If you consider taking legal action against Rainbow Migration, we confirm that we have Professional Indemnity Insurance to meet any relevant claims.



## **APPENDIX 2: Legal Advice Service Complaints Monitoring Sheet**

**Date:**

**Complainant's Name and Address:**

**Brief Details of Complaint:**

**Resolution Details:**

**Complaint Medium:**  
By Telephone  
In Person  
By Question  
In writing

**Complaints Officer(s):**