

What to expect from an immigration lawyer

A client care guide from Greater Manchester Immigration Aid Unit (GMIAU)

This handout goes with the talk “*What to expect from an immigration lawyer*”. It explains what a good immigration lawyer should do for you, so you know what you have a right to expect, and what to do if something goes wrong. A companion **Links & Contacts** sheet lists all the websites and phone numbers mentioned here.

Finding an immigration lawyer

You can search for a regulated adviser in three places:

- **Law Society’s Find a Solicitor search**
<https://solicitors.lawsociety.org.uk>
- **Immigration Advice Authority’s Adviser search**
<https://portal.immigrationadviceauthority.gov.uk/s/adviser-finder>
- **Legal Aid Agency’s Find an adviser search**
<https://find-legal-advice.justice.gov.uk>

Why lawyers can be hard to find

If you struggle to find a lawyer, it is not just you. Immigration legal aid has been cut back over many years, creating “legal aid deserts.” The Law Society reports that **63% of people do not have a local immigration and asylum legal aid provider** in their area. People are often housed, through Home Office dispersal, in exactly the areas where there is little or no legal aid help. In short, the shortage is by design, driven by the political climate and years of underfunding.

Source: Law Society, *Immigration and asylum legal aid deserts*:
<https://www.lawsociety.org.uk/campaigns/civil-justice/legal-aid-deserts/immigration-and-asylum>

Solicitor, caseworker or adviser: what’s the difference?

For immigration advice, **a solicitor is not automatically better than a caseworker**. What matters is that your adviser is properly accredited and regulated.

Under the Law Society’s Immigration and Asylum Law Accreditation scheme there are levels of caseworker:

- **Trainee casework assistant**: a nine-month probationary stage.

- **Casework assistant:** for advisers not yet ready for the senior exam.
- **Senior caseworker:** fully accredited, and able to be paid by the Legal Aid Agency for work under the Standard Civil Contract.

A solicitor holds a practising certificate, but for immigration matters an accredited caseworker can help you just as well.

Law Society, Immigration and Asylum Law Accreditation:

<https://www.lawsociety.org.uk/career-advice/individual-accreditations/immigration-and-asylum-law-accreditation>

Your first two documents: Client Care Letter and Opening Advice Letter

Every firm must tell you about their service when you first engage them and as your case goes on, including the likely cost and how to complain if something goes wrong. You should receive:

- **The Client Care Letter (or terms of engagement):** this sets out the *relationship* between you and your lawyer, including who acts for you, costs, how to complain, and how often you'll get updates.
- **The Opening Advice Letter:** a different, equally important document. It sets out the *facts of your case* (your instructions), the advice you've been given, the strength (merits) of your case, and what happens next.

Sometimes the Client Care Letter is included as part of the Opening Advice Letter.

Who will handle your case

- **One named caseworker leads your case.** You may also meet colleagues, such as immigration assistants and caseworkers who help.
- **A supervisor checks the work,** and a colleague covers when your caseworker is away.
- You'll be given a **case reference number**; always quote it when you get in touch.
- If your case has to move permanently to someone else, your lawyer should **tell you in writing**.
- **You should always know who your lawyer is.**

What your lawyer agrees to do

- Tell the Home Office (and others) that they now act for you, where appropriate.
- Help you prepare and make your application or appeal.

- Hold your original documents safely.
- Give you copies of key documents, including all Home Office correspondence and decisions.

Early advice

You should get initial advice on whether you may be able to apply, once your immigration status is recorded. Fuller advice follows after your lawyer has taken complete instructions. At GMIAU, that detailed advice usually comes in the separate Opening Advice Letter.

Being realistic about your case

A good lawyer is honest with you:

- In most cases they **cannot promise an outcome**; it depends on the law, policy and the courts.
- They usually **cannot give you accurate timescales**. Delays are increasingly common and can come from the Home Office, the courts, the lawyer or the client.
- Some asylum decisions and appeals can move quickly.

Who pays for your case (funding)

- Your case may be funded by the **Legal Aid Agency**. If it isn't covered by legal aid, it is most likely **privately funded**. Occasionally it may be free (pro bono) or covered another way.
- Funding is **tested at stages**, so it can't be guaranteed for the whole case.
- **Legal Help** covers applications to the Home Office; **Controlled Legal Representation** covers appeals to the Tribunal.
- With legal aid in place, **interpreters and translations are covered** and you should rarely be asked to contribute.
- If funding is withdrawn, your lawyer can advise you how to challenge that.

Signing the legal aid forms: read this carefully

- Once you sign the legal aid form (the **CW1 / CW2**), it can be **hard to move to a new lawyer**; you need a valid reason.
- An **unjustified complaint** can lead to your lawyer dropping the case because of a conflict, and you may then be **unable to find a lawyer for 6 months** after the legal aid file is closed. Raise genuine concerns, but take this seriously.

- **CW1** = Legal Help, Help at Court and Family Help (Lower). **CW2** = Controlled Legal Representation.

If you pay privately

- Your lawyer's estimated costs should be published on their website (often in small print at the bottom).
- Under the Solicitors Regulation Authority (SRA) rules, price information must be clear and must:
 - give a **total cost** (or an average or range if that's not possible);
 - explain the **basis of charges** (hourly rate or fixed fee);
 - highlight **likely disbursements** and their cost;
 - be clear on **whether VAT is included**.
- They must also explain **what is and isn't included**, the **key stages and typical timescales**, and the **qualifications and experience** of the people doing the work and their supervisors.

Who regulates your lawyer

- Your lawyer is regulated by either the **Immigration Advice Authority (IAA)** or the **Solicitors Regulation Authority (SRA)**.
- The regulator should be shown on their website with a **verified badge**, and confirmed in your Client Care or Opening Advice Letter.
- Look for a reference number: **SRA numbers** look like 367481; **IAA numbers** look like N2000000001.
- Both regulators publish a **Code of Conduct** or **Code of Standards**. These are built on **principles, not rigid rules**.
 - SRA Code of Conduct for Solicitors: <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>
 - IAA (OISC) Code of Standards: <https://www.gov.uk/government/publications/oisc-code-of-standards-commissioners-rules-2012>
- **GMIAU is regulated by the IAA.**

Independent and confidential

- Your lawyer does **not** work for the Home Office, the Tribunal, the Local Authority or the Legal Aid Agency.

- They have a duty not to mislead public authorities, so they **cannot lie for you**, but they are on your side.
- What you tell your lawyer should **stay confidential**. In most situations they cannot share it without your permission.
- The Legal Aid Agency and the IAA/SRA may inspect files as a quality check, and **they must keep everything confidential too**.

Your personal information

- Your lawyer processes your data **only to represent you**, under their privacy policy.
- At GMIAU, files are usually kept for **up to six years** after your case ends.
- GMIAU may use **anonymous** details to help change law and policy for others.
- You have the right to **see and correct your data**, and to complain to the **Information Commissioner's Office (ICO)**: <https://ico.org.uk>

Staying in touch

- Agree a **method of communication** at your first appointment. (The SRA advises against WhatsApp because of data privacy, disappearing messages and supervision concerns.)
- If your lawyer makes an appointment, **keep it**, or tell them promptly if you can't attend. Losing contact can mean the file is closed.
- **Nobody else will tell your lawyer if your address or phone number changes; that is your responsibility.**
- How often you'll be updated should be set out in your Client Care Letter. At GMIAU, we give updates **at least every three months**, and **within three working days** of any big change, event or decision.

Barristers

- For an appeal hearing, your lawyer may instruct a **barrister**.
- Whether they do depends on the nature and complexity of your case.
- You should be **involved in the decision** about which barrister to choose, subject to availability.

If you are not happy: complaints

- Every firm must publish its **complaints policy** online and include it in the Client Care

Letter.

- At GMIAU, please **tell your caseworker first**; we treat every concern as a complaint.
- If you're still unhappy, follow the firm's **internal complaints procedure**.
- If you're unhappy with the firm's final response, you can go to the **Legal Ombudsman** (0300 555 0333) or the **IAA** (complaints@immigrationadviceauthority.gov.uk / 0345 000 0046).
- The **Migrants Organise** (<https://www.migrantsorganise.org>) and **Right to Remain** complaints guidance has more help.

Your instructions and statement

Instructions are what you tell your lawyer about your case.

- Your lawyer should keep **detailed records** of every appointment.
- Your instructions should be **clearly recorded** on your file, and you should get a **copy** once they're finalised, whether in the Opening Advice Letter, a merits update, or a copy of your statement.

If a **statement** is taken:

- It should be in **your own words**; it is evidence, not legal argument.
- It should cover the **What, When, Where, Who and Why**.
- It should make clear what you **know** and what you **believe**.
- Dates and times matter, so be as precise as possible, and say when something is an estimate.
- **Gaps** in the story should be flagged and dealt with. Memory is imperfect, and that's normal.
- It should be **read back to you in your own language**, and only **signed when you are happy** with it.
- If you spot a mistake, tell your lawyer **as soon as possible**.
- A statement may never be sent to the Home Office or Tribunal, but it helps focus your account and helps your lawyer understand what happened.

Advice

- Your lawyer's advice is based on **your instructions**; without them, they can't advise you accurately.

- **The lawyer knows the law; you know your life and what happened to you.** Both matter.
- They should explain the law **as clearly as possible** so you understand as much as you can.
- If your lawyer doesn't know something, they should be able to **find it out**.
- You should be given any substantial advice **in writing** after an advice appointment.
- Your lawyer is busy, but if they've booked an appointment (especially with an interpreter), **that is your time to ask questions**. When a question occurs to you, jot it down or record a voice memo so you remember to ask.
- The **Right to Remain Toolkit** is an excellent free resource: not a substitute for a lawyer, but very helpful. <https://righttoremain.org.uk/toolkit/>

Your paperwork

You should be given a copy of **all key documents** in your case, including:

- Your instructions / statements
- Letters to and from the Home Office
- Interview records and recordings
- Applications, representations and submissions
- Decisions and determinations

The Law Society explains who owns your file:

<https://www.lawsociety.org.uk/topics/client-care/who-owns-the-file>

Decisions, and challenging a refusal (CW4)

- Decisions should be sent to you **as soon as possible**, in line with your Client Care Letter.
- Decisions can be **long and complex**. Your lawyer should identify the important parts, the **reasons and findings**, and explain them so you understand.
- If it's **bad news**, they should advise you on **next steps, appeal rights and funding**.

If a legal aid lawyer says they can't use legal aid to appeal a refusal:

- They must **explain why** they can't grant Controlled Legal Representation to continue.
- If they refuse, they should complete a **CW4** with you, asking the Legal Aid Agency to **review that decision**, giving their reasons and noting your responses.

- They should tell you **how to submit the CW4** to the Legal Aid Agency.
- **Very important:** even so, you should still **lodge your appeal** against the Home Office decision in time. Otherwise you risk falling out of the system and, if you receive asylum support, losing it.

For a plain-English explanation of the CW4 process, see the Right to Remain Toolkit:
<https://righttoremain.org.uk/toolkit/yourlegalcase/#cw4>

Greater Manchester Immigration Aid Unit. What to expect from an immigration lawyer. This guide is general information, not legal advice about your own case. Always speak to your own lawyer about your situation.