

FORMAL MEMORANDUM

APPLICANTS' REPRESENTATIVES – INADEQUATE REPRESENTATION

1. Effective applicant representation, whether legal or otherwise, undoubtedly assists the Commission and the applicant. Whilst non-assisted applications will also be thoroughly and effectively reviewed, it remains Commission policy to encourage constructive and effective representation in order that an applicant may be assisted to put forward his/her best case.
2. From time to time problems have arisen caused by the attitude and/or behaviour of applicants' representatives which has called into question their fitness to represent the best interests of their client. The purpose of this policy is to offer advice and prescribe a course of action when faced with this problem.
3. The Commission reserves the right to refuse to have dealings with an applicant's representative on any one or more of the following grounds:
 - i. Offensive and/or abusive conduct towards any member of the Commission staff.
 - ii. Any deliberate or apparently deliberate dishonesty in connection with any application.
 - iii. Any deliberate or apparently deliberate breach of confidentiality or unauthorised disclosure of such information.
 - iv. Any dishonest claim in relation to professional qualifications made by a representative whether such claim is made to an applicant or to a member of the Commission staff.
 - v. Any other conduct, which in the view of the Commission is intended to impede or obstruct the progress of an application or is likely to act against the interests of the applicant concerned.

4. When dealing with such incidents, the member of staff involved will wish to give consideration as to whether the matter is an isolated example capable of informal resolution or whether it is one of many examples involving the same representative in connection with one or more applicants. Whatever the position, so far as caseworking staff are concerned, **it is recommended** that the problem is discussed with the Assigned Commissioner (ACM) or a Screen Commissioner who will ensure that a record is kept in the caselog of the nature of the incident and the agreed method of disposal. So far as non-caseworking staff are concerned, **it is recommended** that a similar approach is adopted involving the Director of Casework. In every case (casework and non-casework), brief details of the representative concerned and the circumstances will be forwarded to the Director of Casework who will keep a Central Register to provide management information on previous similar occurrences.
5. In the event that the individual incident is so serious, or one of many such instances, the ACM or Director of Casework should bring matters to the attention of the Chairman in order to achieve a degree of consistency in resulting actions.
6. If, in the opinion of the Chairman, action is warranted in respect of the representative involved, both the representative and the applicant will be notified of the proposed course of action and be given the opportunity to make representations before such action is taken.
7. It is not anticipated that there will be many cases where it will be necessary to involve the Chairman. Every attempt should be made to resolve difficulties informally, but it should always be borne in mind that the best interests of the applicant should prevail.