

## Aon and NZAMI | Claims Examples

The majority of our claims have arisen out of complaints to the IAA, some of which have gone on to the IACDT. Given the nature of the work, it is hard to prevent complaints being made as for an unsuccessful visa applicant, it may be their only way to remain in the country. Not all complaints will go through to the IACDT but for those that do, given the backlog at the Tribunal, it can be a long road to the end of the claim. It is important to provide as much relevant information as possible when making a claim, so that we can fully assess policy response at an early stage. If a lawyer is required and appointed, they will then collate all relevant information, and report to us with their recommendations.

### Complaint to the IAA | Dismissed



**Background:** The claimant approached the insured adviser for assistance with an application for residence under the Skilled Migrant Category. The adviser confirmed the claimant was eligible to apply, and advised the claimant of their fees. About 12 months later, while the parties were part way through the SMC application process, the claimant terminated the adviser's services. They then complained to the IAA on the grounds of incompetence, incapacity and dishonest or misleading behaviour, mainly alleging that the costs of all applicable visas were not fully disclosed, the full cost of the Skilled Migrant Category application was misrepresented, and the claimant had to complete all paperwork themselves in their own time.



**Outcome:** Lawyers were engaged to assist the insured with a response to the complaint. The documentation was relatively brief, due to the nature of the complaint. The IAA confirmed there was no evidence of incompetence, incapacity or dishonest or misleading behaviour. They noted a potential breach of clauses 19(a) and 18(c) of the Code as it was not clear that there was a written agreement signed by all parties containing the name and licence number of any adviser who would provide immigration advice. However, this had no adverse effect on the visa application or immigration outcome, and the complaint was not referred to the IACDT.



**Key takeaway:** It is not always possible to prevent a disgruntled client from making a complaint, but the IAA won't progress a trivial complaint against an adviser if there has been no adverse impact on the claimant's application. Time and cost is still involved, though, and we still need to be notified even if a complaint seems baseless or to have no merit.

### Complaint to the IAA | Awaiting Tribunal's decision



**Background:** The claimant made a complaint to the IAA alleging breaches of the Code of Conduct 2014 in respect of the insured's preparation of a business plan for an Entrepreneur Work Visa application for the claimant and his family members. Key allegations were that the insured failed to take personal responsibility for initiating and maintaining a professional relationship of trust with the complainant in performing his services and instead allowed unlicensed individuals to do so on his behalf.



**Outcome:** AIG appointed panel counsel to assist the insured with a response to the complainant and the response has been submitted to the Immigration Advisers Complaints and Disciplinary Tribunal which includes defences that the insured's employee essentially did preparatory work and the insured always intended to carefully review the business plan to ensure that it met policy requirements, but that the contract was terminated by the complainant before this review could be completed. The Tribunal's decision is currently pending.



**Key takeaways:** It was helpful that the insured notified the claim at an early precautionary investigation stage so that the Insurer had all necessary information and could appoint panel counsel promptly when the claimant made the formal complaint. Panel counsel advised that the insured's position would have been stronger if he had communicated expectations with the complainant and the employee. The insured's failure to give advice about the process to be undertaken to his client may be adversely commented on by the Tribunal.