



NCN: [2026] UKFTT 01305 (GRC)

Case Reference: FT/IMS/2025/0015

First-tier Tribunal
(General Regulatory Chamber)
Immigration Services

Heard at Field House, London
Heard on: 29 and 30 June 2026
Decision given on: 14 September 2026

Before

JUDGE SAWARD
JUDGE KIAI
MEMBER HOARE

Between

YV ENTERPRISE LIMITED

Appellant

and

IMMIGRATION SERVICES COMMISSIONER

Respondent

Representation:

For the Appellant: Rupert Bowers KC, counsel

For the Respondent: Henry Skudra, counsel

Decision: The appeal is Allowed.

REASONS

Introduction

1. This is an appeal made by YV Enterprise Limited against the decision of the Immigration Services Commissioner (who we will refer to as “the Commissioner”) dated 27 November 2025 (“the Decision”) to cancel its

registration under the Immigration and Asylum Act 1999 (“the 1999 Act”) as authorised to provide immigration advice and immigration services.

2. The Decision was taken pursuant to paragraph 4A(e) of Schedule 6 to the 1999 Act on the basis that the Commissioner considers that the Appellant is no longer fit to provide immigration advice or services. The cancellation was due to take effect on 25 December 2025.
3. The Notice of Appeal dated 18 December 2025 was accompanied by an application seeking a stay of the Decision. On 23 December 2025 the Tribunal made an interim order to suspend the effect of the Commissioner’s Decision of 27 November 2025 pending an expedited hearing to consider the application for a stay more fully and to allow the views of the Respondent to be heard. Following an expedited hearing on 5 January 2026, at which both parties were legally represented, the Tribunal further ordered that the Decision shall have no effect pending the outcome of this appeal.
4. The Commissioner concluded that the Appellant was no longer fit to provide immigration advice and immigration services and accordingly cancelled its registration. The Appellant disputes both the factual findings underlying that conclusion and the Commissioner's assessment of its present fitness and competence.
5. This appeal falls to be determined in accordance with the approach explained by the Court of Appeal in *Visa Joy Ltd v Office of the Immigration Services Commissioner* [2017] EWCA Civ 1473. The Tribunal must consider all relevant admissible evidence, make its own findings of fact and determine for itself whether, at the date of the hearing, the Appellant is fit and competent to provide immigration advice and immigration services.
6. We have therefore considered all the evidence before us, including evidence that was not before the Commissioner. The relevant findings are made on the balance of probabilities.
7. Before turning to the specific allegations, it is convenient first to set out the parties, certain procedural matters, the legal framework and our assessment of the principal witnesses whose evidence forms the foundation of this appeal.

The Parties

8. The Commissioner is the legal personality who performs functions under the 1999 Act. Those functions are undertaken on the Commissioner’s behalf by the Immigration Advice Authority, or IAA for short. The IAA was formerly the Office of the Immigration Services Commissioner (“OISC”).

9. YV Enterprise Limited (which we refer to as “YV”) is the company registered by the Commissioner at Level 3 in the categories of “Immigration” and “Asylum and Protection”. Vano Dentoshvili founded YV and is the sole director and shareholder.
10. YV employs six people including Mr Dentoshvili, who is a Level 3 approved advisor. There are two Level 1 OISC approved advisors and three administrative staff. The practice has approximately 900+ cases.

Background

11. The Appellant has been authorised to provide immigration advice and immigration services since February 2021. At the time of the events relevant to this appeal, it was registered at Level 3 in the categories of Immigration and Asylum and Protection. Mr Vano Dentoshvili was the Appellant's sole Level 3 adviser and company director. The Appellant also employed a number of other staff, including Ms Xue Wen Lim, who subsequently became registered advisers.
12. The complaints which gave rise to these proceedings concern services provided by the Appellant to Ms Astri Evarini and Mr Ricky Meyggel. The parties agree that the complainants instructed the Appellant on 6 February 2023 in relation to claims for asylum. The claims were subsequently submitted to the Home Office in February 2023.
13. The complainants paid the Appellant a total of £2,600 for the services provided. During the course of 2023 and 2024 the complainants' asylum claims progressed through the Home Office process. Mr Meyggel's claim was subsequently treated as withdrawn by the Home Office and Ms Evarini's claim was refused. Thereafter the complainants instructed other representatives.
14. In December 2024 the complainants sought copies of their files and made allegations concerning the services they had received from the Appellant. Those allegations included complaints about the manner in which their asylum claims had been handled, confidentiality, communication, the provision of documentation, access to their files and the fees charged by the Appellant.
15. On 10 January 2025, the Respondent commenced a formal complaint investigation and issued a Statement of Complaint. During the course of that investigation the Respondent made a number of further enquiries and issued additional statements of possible breaches. The Appellant provided written responses and documentary material in support of its position. The complainants also provided further information and supporting evidence.
16. The investigation was conducted by Mr Mohammed Rakib, a Regional Officer acting on behalf of the Commissioner. Following consideration of the material

obtained during the investigation, the Commissioner concluded that a number of provisions of both the 2016 and 2024 Codes of Standards had been breached. The Commissioner further concluded that those matters demonstrated that the Appellant was no longer fit to provide immigration advice and immigration services.

17. By Complaint Determination dated 27 November 2025, reference 00236088, the Commissioner substantiated the complaint, directed the repayment of the fees paid by the complainants, and cancelled the Appellant's registration pursuant to Schedule 6 to the Immigration and Asylum Act 1999.
18. On 18 December 2025 the Appellant appealed that decision to the Tribunal. The cancellation decision is currently stayed pending determination of this appeal.

Procedural Matters

19. At the start of the hearing, the Tribunal dealt with three outstanding applications for the late submission of evidence. Two applications (dated 19 and 26 June 2026) were made by the Appellant seeking permission to admit a second and third supplemental witness statement, respectively, from Mr Dentoshvili along with exhibits. Those applications were unopposed. The witness statements responded to the disclosure of further evidence produced by the Commissioner following orders made at a Case Management Hearing on 11 June 2026. In the circumstances, the Tribunal found it fair and just to grant the permission sought.
20. The third application dated 23 June 2026 was made by the Commissioner to admit a 'Data Protection Advice Note' dated 20 March 2025 compiled by Herrington Carmichael, Solicitors. The Appellant opposed the application because: (i) the report could and should have been produced earlier; (ii) the report only came to light due to the Appellant's application for disclosure; (iii) the report refers to the fact 'Documents were Reviewed' without revealing what documents were considered; (iv) the report is 'expert evidence' and the Tribunal had not granted permission for expert evidence to be relied upon, and (v) the maker of the report had not provided a witness statement.
21. Having considered the written and oral submissions made, the Tribunal exercised its discretion under Rule 5 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 to grant permission to the Commissioner to admit the Advice Note. In doing so, the Tribunal pointed out that the Tribunal Rules differ from the Civil Procedure Rules and there are not the same provisions for expert evidence. There was no requirement for a witness statement and any lack of clarity in the report go to the issue of weight to be given to the document. Clearly, the report should have been produced earlier. However, there would be prejudice to the Commissioner if not allowed to produce available evidence. Any prejudice to the Appellant could be

addressed by allowing opportunity for submission of its own expert evidence or otherwise. After taking instructions over the extended lunch period on day 1 of the hearing, Mr Bowers confirmed that the Appellant was content not to take the opportunity afforded to it by the Tribunal to provide its own written expert evidence after the hearing. Mr Bowers indicated that he would make submissions instead on the point in his closing statement and also deal with it in cross-examination.

22. The Decision refers to both the 2016 and 2024 Code of Standards. At the start of the hearing the advocates informed the Tribunal that it was their agreed position that the 2024 Code applied as of the hearing date and should be the one referred to. Mr Skudra provided a written note of the paragraphs within the 2024 Code on which reliance is placed by the Commissioner. However, as the Tribunal pointed out during the hearing, whilst we must consider the evidence before us at the time of the hearing, the applicable Code remains that in force at the time of the facts giving rise to each alleged breach. That is plainly the case as an organisation can only be judged against the standards relevant at the time of the alleged conduct and not by different later standards.
23. It was established that the 2024 Code came into force on 1 September 2024. It replaced the 2016 Code. Some paragraphs within the Decision cite a breach against both Codes. Mr Skudra circulated a further note to clarify which Code applied at the time.
24. In reaching our determination, the Tribunal has considered all the written and oral evidence before it. We do not attempt to capture every single point made, it being impractical and unnecessary to do so. Instead, our reasons seek to focus on what we consider to be the mains strand of evidence.

Legal Framework

Provision of immigration advice and immigration services

25. Immigration law is the subject of strict rules as to who may provide advice and services. Section 84 of the 1999 Act sets out a list of those who may provide such advice or services and in what circumstances. It is a criminal offence to provide such services in contravention of section 84 (section 91(1)). Those who are not already regulated lawyers, such as practising solicitors, barristers, legal executives and advocates, must be registered with the Commissioner. Section 83(5) of the 1999 Act provides, so far as material:

(3) It is to be the general duty of the Commissioner to promote good practice by those who provide immigration advice or immigration services.

[..]

(5) The Commissioner must exercise his functions so as to secure, so far as is reasonably practicable, that those who provide immigration advice or immigration services –

- (a) are fit and competent to do so;*
- (b) act in the best interests of their clients;*
- (c) do not knowingly mislead any court, tribunal or adjudicator in the United Kingdom;*
- (d) do not seek to abuse any procedure operating in the United Kingdom in connection with immigration or asylum (including any appellate or other judicial procedure);*
- (e) do not advise any person to do something which would amount to such an abuse.*

26. Schedule 5 contains more detailed provisions on how the Commissioner can exercise his functions, including at paragraph 1 the power to make rules:

(1) The Commissioner may make rules regulating any aspect of the professional practice, conduct or discipline of –

- (a) registered persons, and*
- (b) those acting on behalf of registered persons,*

in connection with the provision of immigration advice or immigration services.

(2) Before making or altering any rules, the Commissioner must consult such persons appearing to him to represent the views of persons engaged in the provision of immigration advice or immigration services as he considers appropriate.

(3) In determining whether a registered person is competent or otherwise fit to provide immigration advice or immigration services, the Commissioner may take into account any breach of the rules by –

- (a) that person; and*
- (b) any person acting on behalf of that person.*

[...]

27. Under paragraph 4A(e) of Schedule 6:

4A. The Commissioner must cancel a person's registration if –

[...]

- (e) the Commissioner considers that the person is no longer competent or is otherwise unfit to provide immigration advice or immigration services.*

28. Cancellation of registration is therefore not a matter of discretion. Once a person is found to be no longer competent or otherwise unfit to provide immigration advice or immigration services, the Commissioner must cancel that person's registration.

Appeals

29. Section 87 gives a right of appeal to the First-tier Tribunal against a number of decisions by the Commissioner, including a decision to cancel registration under paragraph 4A(e) of Schedule 6.

30. The Tribunal's function on appeal was described by the Court of Appeal in *Visa Joy Ltd v Office of the Immigration Services Commissioner* [2017] EWCA Civ 1473:

42. ... an appeal to the FTT under s 87 is to be a full appeal and not simply a review of the exercise by the Commissioner of his/her decision-making power. It is necessary for the FTT to determine for itself whether the Commissioner's decision was right and to determine (as will normally be the case) whether the applicant is, at the date of the tribunal hearing, fit and competent to provide immigration advice and services.

43. In undertaking an appeal under s 87 the tribunal will consider all relevant and admissible evidence, whether or not it was known to, or taken into account by, the Commissioner when making his own decision on the issue of continued registration. In doing so the tribunal will not be bound by decisions made by the Commissioner on past complaints.

44. The 'relevant decision' in an appeal under s 87 relates to registration, rather than a decision on any particular complaint. Schedule 6, paragraph 2 of the Act establishes the yardstick for registration:

'2(1) If the Commissioner considers that an applicant for registration is competent and otherwise fit to provide immigration advice and immigration services, he must register the applicant.'

The question for the FTT on appeal is whether the appellant is considered to be competent and otherwise fit to provide immigration advice and immigration services. The powers of the FTT under s 87(2) [see paragraph 13 above] in the event of a successful appeal are to direct the Commissioner either to register the successful appellant or make other alterations to the register or record in his favour.

31. The Tribunal does not exercise a supervisory or review jurisdiction. Its task is not to determine whether the Commissioner reached a conclusion which was reasonably open to him on the material available at the time. Rather, the Tribunal must consider all relevant admissible evidence, make its own findings of fact, and determine for itself whether the Appellant is fit and competent to provide immigration advice and immigration services at the date of the hearing.

32. Therefore, we make any necessary findings of fact to the standard of the balance of probabilities. Bearing in mind our statutory function as described in *Visa Joy*, we consider the Commissioner to bear the burden of proving the facts upon which he relies in claiming that the Appellant is unfit or otherwise incompetent. The Appellant nonetheless bears the burden of proving any facts upon which it relies to show the contrary. Of course, we shall only resort to the burden of proof where absolutely necessary in order to resolve a controversial issue: *Verlander v Devon Waste Mgt* [2007] EWCA Civ 835 at [18]-[19].

Applicable Regulatory Standards

33. Most of the events relied upon by the Commissioner occurred whilst the Code of Standards 2016 was in force and therefore fall to be assessed principally against that Code. However, some of the conduct relied upon occurred during the Commissioner's subsequent investigation and after the introduction of the Code of Standards 2024. As set out in paragraph 22, we have therefore considered the regulatory standards which were in force at the time of the conduct concerned.

34. The powers of the Tribunal if it upholds the appeal are given by section 88(2):

- (2) *If the First-tier Tribunal considers it appropriate, it may direct the Commissioner –*
- (a) to register the applicant or to continue the applicant's registration;*
 - (b) to make or vary the applicant's registration so as to have limited effect in any of the ways mentioned in paragraph 2(2) of Schedule 6;*
 - (c) [repealed]*
 - (d) to quash a decision recorded under paragraph 9(1)(a) of Schedule 5 and the record of that decision.*

Main Issue

35. Against that legal background, the issue for determination is whether, at the date of the hearing, the Appellant was fit and competent to provide immigration advice and immigration services.

Scope of the Appeal

36. Considerable attention was devoted during the hearing to the history of interactions between the parties, including the execution of the warrant, the subsequent judicial review proceedings, complaints made by the Appellant concerning the conduct of individual officers, and issues relating to responsibility within the Respondent organisation. We have taken that material into account as part of the factual background and insofar as it may bear upon the weight to be attached to particular evidence, the adequacy of the investigation conducted, and submissions concerning procedural fairness. However, this appeal is not concerned with determining the lawfulness of the warrant, the merits of the judicial review proceedings, the validity of decisions

taken during those proceedings, or whether individual officers acted in bad faith. Consistent with *Visa Joy*, the Tribunal's task is to determine, on the evidence before it, whether the allegations relied upon in the Complaint Determination are established and, if so, whether they justify the conclusion that the Appellant is not fit and competent to provide immigration advice and services.

Witnesses and Reliability

The Complainants

37. Before turning to the individual allegations, we consider it necessary to address the reliability of the evidence upon which the Respondent's determination substantially relies.
38. A significant difficulty for the Respondent is that neither complainant attended the hearing to give evidence. No explanation for their ultimate non-attendance was available to the Tribunal. As a consequence, neither complainant was available for cross-examination, and the Appellant was deprived of any opportunity to test the allegations made against it. This is particularly important in a case where many of the most serious findings made by the Respondent depend substantially, and in some instances entirely, upon the complainants' accounts.
39. We further note that the Respondent did not interview either complainant during the course of its investigation. Nor did the Respondent obtain oral evidence from them or otherwise seek to explore or test their accounts. The Respondent's investigation therefore proceeded largely on the basis of written assertions and documentary material supplied by the complainants. Whilst there is nothing inherently improper in that approach, it inevitably limits the extent to which the reliability of those assertions can be assessed.
40. The Tribunal has therefore been placed in a position where the complainants' accounts have never been tested by either the Respondent or this Tribunal. In those circumstances, we consider it necessary to approach parts of the evidence with appropriate caution.
41. The Tribunal also notes that it has limited evidence regarding the circumstances in which parts of the complainants' written evidence were prepared. Whilst many of the documents were produced in English, neither complainant attended to explain how that material was prepared, whether translation or interpretation assistance was used, or the extent to which the wording reflected their own language and expression. We therefore exercise caution before attaching significance to the precise wording of particular passages.

42. The only independent assessment of either complainant's credibility contained within the evidence before us comes from the Home Office decision-making process. We recognise that immigration decision-making serves a different purpose from these proceedings and that adverse credibility findings in an asylum claim cannot simply be transposed into a regulatory context. However, we cannot ignore the fact that one complainant was found by the Home Office not to be a credible witness in relation to material aspects of her protection claim. We acknowledge that an appeal against that decision remains outstanding and that the Home Office's conclusions are not binding upon us. Nevertheless, they form part of the evidential landscape and are matters which we are entitled to take into account when evaluating the evidence as a whole.
43. The position regarding the second complainant is different. No adverse credibility findings were made by the Home Office - he did not attend his substantive asylum interview. Equally, however, no positive credibility assessment was made. The Respondent is therefore unable to rely upon any independent assessment supporting the reliability of his account, which likewise remains untested before both the Home Office and this Tribunal.

Missing Witnesses

44. We also note that a number of other individuals who might potentially have assisted the Tribunal did not give evidence. Mr Brandon Bell, who subsequently acted for the complainants and requested the transfer of their files, did not attend to give evidence. The documentary evidence demonstrates that he was approached regarding giving evidence in these proceedings but declined to do so. The evidence further shows that, by early 2026, both the Respondent and Mr Bell had lost contact with the complainants despite repeated attempts to contact them. Indeed, the documents indicate that the complainants initially expressed a willingness to assist as witnesses and identified interpreter requirements, but thereafter ceased communication with both the Respondent and Mr Bell.
45. Similarly, other individuals potentially capable of providing direct evidence regarding disputed matters did not attend. This includes individuals associated with the WhatsApp allegations, including Budi Siswanto and Muhammad Arif Nurrochman, whose evidence may have assisted in establishing the provenance, authenticity, completeness and context of the WhatsApp material relied upon by the Respondent. Neither was called to give evidence and neither was available for questioning (we note their phone numbers and emails were made available to the IAA – pg 512).
46. We emphasise that we draw no adverse inference from the fact that these individuals did not attend. Nor was the Respondent under any obligation to call every potentially relevant witness. However, where serious findings concerning confidentiality, integrity, misleading conduct and fitness are

sought, the Tribunal must consider the extent to which the underlying evidence has been tested.

47. Viewed cumulatively, the Tribunal has been required to assess allegations supported largely by written material from individuals who did not attend the hearing, whose accounts were never tested by cross-examination, and, in some instances, were not explored through interview during the Respondent's investigation. That does not render the evidence inadmissible or incapable of being relied upon. It does, however, affect the weight that can properly be attached to it.
48. We also take into account the additional evidence produced by the Appellant during these proceedings, some of which was not before the Respondent when the determination was made. Whether that material ultimately assists the Appellant is a matter to which we will return when considering the individual allegations. However, its existence means that we are not engaged merely in a review of the Respondent's reasoning on the material available at the time. Rather, we are required to reach our own assessment on the entirety of the evidence now before us.
49. For all of these reasons, we do not consider it appropriate simply to proceed on the basis that the complainants' evidence should automatically be preferred. The weight to be attached to their accounts must be assessed alongside the documentary evidence, the contemporaneous records, the Home Office material, the evidence of Mr Dentoshvili, the additional evidence produced on appeal and the inherent probabilities of the competing accounts.
50. The central question throughout much of this appeal is therefore not whether the complainants made the allegations attributed to them – they plainly did – but whether those allegations have been established to the requisite standard and whether they are sufficiently reliable, when viewed against the entirety of the evidence, to support the serious findings ultimately made by the Respondent.

Mr Rakib

51. The position regarding Mr Rakib is materially different from that of many of the other individuals whose evidence features in this appeal.
52. Unlike the complainants and several other potentially relevant witnesses, Mr Rakib attended the hearing and gave oral evidence. He was cross-examined at considerable length. A number of serious criticisms were advanced by the Appellant, including allegations that he approached the investigation with a closed mind, failed properly to investigate matters raised by the Appellant, acted unfairly, was influenced by other members of the IAA, and refused or

declined to answer questions put to him during the course of the investigation and these proceedings.

53. We have considered those criticisms carefully. We recognise that the Appellant feels strongly about aspects of the investigation and that legitimate issues arise concerning the scope of certain inquiries undertaken, the evidence obtained and the conclusions ultimately reached. However, those matters must be distinguished from the question of Mr Rakib's personal credibility as a witness.
54. Having observed Mr Rakib give evidence and considered his answers in cross-examination, we found him to be a credible and generally reliable witness. He answered questions openly, accepted matters which were outside his knowledge, and did not seek to embellish his evidence. His evidence was consistent in its broad thrust and was generally supported by the contemporaneous documentary record.
55. We do not accept the Appellant's submission that Mr Rakib refused to answer questions. Having reviewed the hearing evidence as a whole, we are satisfied that he engaged with the cross-examination process and answered the questions put to him. There were occasions where his answers were limited, where he stated that he could not recall a particular matter, or where he was unable to assist because a question fell outside his knowledge or responsibility. There were also occasions where his answers were plainly not the answers sought by the Appellant. However, that is not the same as refusing to answer.
56. We likewise saw no evidence that Mr Rakib deliberately sought to evade questioning. Nor did we find any basis for the suggestion that he acted dishonestly, in bad faith or from any improper motive. We are satisfied that he was attempting to answer the questions put to him as best he could and to explain the reasoning underlying the investigation he conducted.
57. That finding does not, however, mean that every conclusion reached during the investigation was necessarily correct. Nor does it prevent the Tribunal from scrutinising the adequacy of the investigation, the evidential foundation for particular findings, or the weight that ought properly to have been attached to certain pieces of evidence. Those are separate issues. The fact that a witness is honest and genuinely believes the conclusions he reached does not mean that those conclusions are necessarily the correct ones.
58. Accordingly, whilst we accept Mr Rakib as a credible witness and reject the suggestion that he acted dishonestly, unfairly or with a predetermined outcome in mind, we nevertheless assess the Respondent's findings independently on the entirety of the evidence now before the Tribunal. His credibility is not, in our view, the central issue in this appeal. The real question is whether the serious findings ultimately made by the Respondent are

supported by sufficiently reliable evidence and can safely be sustained on the balance of probabilities.

Mr Dentoshvili

59. Mr Dentoshvili attended the hearing and gave evidence on behalf of the Appellant. He was cross-examined at length on a broad range of matters arising in the appeal, including the circumstances of the complainants' instructions, the maintenance of client records, the handling of client money, the allegations concerning confidentiality and aspects of the Respondent's investigation.
60. Having considered both his oral evidence and the documentary material before us, we do not consider that Mr Dentoshvili sought to evade questions put to him during cross-examination. He engaged with the process, answered the questions asked of him and was willing to address matters adverse to the Appellant's case. Where he disagreed with a proposition, he explained his reasons for doing so and, where matters fell outside his recollection, he generally said so.
61. Equally, however, we do not consider that it is possible simply to accept Mr Dentoshvili's evidence in its entirety. There were aspects of his evidence which lacked clarity and which, at times, were difficult to reconcile fully with the documentary record or with other parts of his evidence. In particular, we found certain aspects of his evidence relating to fees, invoicing arrangements and the handling of client money to be less clear than his evidence on other issues. Whilst we are satisfied that he was attempting to answer the questions put to him, the explanations provided in this area were not always easy to follow and did not entirely resolve the concerns which had been raised.
62. We do not regard those matters as demonstrating dishonesty. However, they do mean that caution is required before accepting Mr Dentoshvili's evidence on disputed matters solely because he gave his evidence in a straightforward manner. As with all witnesses, the weight to be attached to his evidence must be assessed against the contemporaneous documents, the inherent probabilities and the evidence as a whole.
63. We have therefore approached Mr Dentoshvili's evidence neither from a position of acceptance nor rejection. Rather, we assess the reliability of his evidence in relation to each allegation by reference to the contemporaneous material and the totality of the evidence before us.

Documentary Evidence

64. The documentary evidence in this appeal is extensive but incomplete. The Tribunal was not provided with the complainants' screening interview records, substantive asylum interview records or the complete Home Office file. Nor was the Tribunal able to examine the device from which the WhatsApp screenshots relied upon by the Respondent were said to have been obtained.

65. The Appellant's records similarly present difficulties. Whilst a substantial quantity of documentation was produced, aspects of the file are poorly organised and several of the records relied upon by the Appellant cannot readily be independently verified.
66. We have therefore approached the documentary evidence with care. We have attached weight to contemporaneous documents where their provenance and context are clear. Equally, we have not assumed that the absence of a document necessarily proves that an event did not occur, nor that the existence of a document necessarily proves that the event occurred in the manner contended for.
67. The Tribunal's findings are therefore based upon an assessment of the totality of the evidence, including the documentary record, witness evidence and the inherent probabilities of the competing accounts. It is against that evidential background that we consider the individual allegations relied upon by the Respondent.

Findings on the Allegations

68. We now turn to the allegations relied upon by the Respondent. Whilst we address each allegation separately for analytical convenience, we bear in mind that a number of the underlying factual issues overlap. In particular, the parties' competing positions concerning the client care documentation, attendance notes and record keeping arise in several different contexts. We therefore seek where possible to avoid unnecessary repetition and cross-refer to our findings where a matter has already been addressed.
69. We further remind ourselves that the existence of a breach of the Code does not in itself determine the outcome of this appeal. The ultimate question remains whether, having regard to all of the evidence and the findings made, the Appellant is fit and competent to provide immigration advice and immigration services.

Client Money and Fees (Decision §§43–47)

70. The Commissioner's findings in relation to client money and fees are set out at paragraphs 43 to 47 of the Complaint Determination. The Commissioner concluded that the Appellant had breached Codes 61, 64, 67 and 68 of the 2016 Code of Standards. The principal concerns identified were that the fees charged exceeded the published fee scale, that the Appellant did not operate a client account, that receipts had not been provided, that adequate financial records had not been maintained and that the Appellant's banking records did not satisfactorily demonstrate receipt and handling of the monies paid by the complainants.

71. The parties approached this issue from markedly different perspectives. The Respondent submitted that the Appellant's published fee scale provided for a fee of £960 per asylum application, whereas the complainants paid approximately £1,300 each. The Respondent contended that there was no satisfactory contemporaneous explanation for that difference and that the Appellant's financial systems failed to comply with the requirements of the Code. The Appellant, by contrast, maintained that a fixed fee had been agreed in advance and that the increase above the published fee scale reflected the additional work involved in providing interpretation and translation services throughout the retainer. The Appellant further submitted that no issue of financial impropriety arose.
72. We accept that the Appellant charged the complainants a total fee of £2,600, being approximately £1,300 per client. We also accept that the sum charged exceeded the figure contained within the published fee scale, which appears to provide for a fee of £960 per asylum application.
73. We do not, however, accept that the mere fact that the fee exceeded the published fee scale establishes misconduct. The evidence before us was that the complainants required interpretation and translation assistance (it was not suggested by either party that this was incorrect). We accept that asylum matters requiring interpretation are likely to involve additional work, additional time and additional expense when compared with cases conducted entirely in English. We therefore consider that a fee greater than that appearing within the published scale is capable, in principle, of being justified. Indeed, we did not understand the Respondent ultimately to contend that a fixed fee above the published scale could never properly be charged.
74. The difficulty for the Appellant lies not in the existence of a potentially legitimate explanation but in the absence of clear contemporaneous documentation recording it. The explanation now advanced by Mr Dentoshvili is that interpretation and translation services justified the uplift above the published fee scale. Whilst that explanation is plausible, neither the client care documentation nor the invoices clearly explain that the complainants were being charged above the published fee scale, why the uplift was being applied, how the uplift was calculated, or what additional services it was intended to cover.
75. We consider that omission to be most unfortunate. The omission is all the more concerning given that the complainants were individuals navigating a complex immigration process and relied upon interpretation and translation services because of language difficulties. If interpretation and translation services formed part of the basis for the additional charge, we would have expected that fact to be clearly recorded in the contemporaneous documentation provided to the complainants. It was not. We do not make any final findings at this stage

regarding the adequacy of the client care letters more generally, as that issue arises separately under the service allegations. However, for present purposes, we find that the documentation did not adequately explain the charging structure or the reason for the uplift above the published fee scale.

76. We have also considered carefully the Respondent's criticism that the Appellant failed to provide receipts to the complainants. We do not consider that issue to be as straightforward as the determination suggests.
77. It is correct that no standalone document expressly entitled "Receipt" appears to have been issued. However, the documentary evidence includes invoices which not only specify the sums charged but record that payment had already been made. (pg 309–310 and 623–624).
78. In our judgment, substance is more important than nomenclature. Although those documents were labelled as invoices rather than receipts, they nevertheless operated as acknowledgements that monies had been received. To that extent they performed at least part of the function ordinarily associated with a receipt. We therefore do not consider it accurate to characterise the position as one in which no documentary acknowledgment of payment existed.
79. That is not to say that the documentation was satisfactory. The invoices provide little explanation of how the total fee was calculated, contain no meaningful breakdown of the charges levied and make no reference to the interpretation and translation services now relied upon to justify the uplift above the published fee scale. However, we regard that as a different criticism from the proposition that no receipts existed at all. As framed, the determination appears to conflate separate issues, namely whether any acknowledgement of payment was provided and whether the documentation provided was sufficiently detailed and transparent. The evidence demonstrates the latter concern more readily than the former.
80. We recognise that the Code imposes separate obligations concerning invoices and receipts. The fact that a document fulfils the function of one does not necessarily mean that it fulfils the function of the other. However, the documents relied upon by the Appellant, whilst described as invoices, expressly acknowledged receipt of payment and therefore operated in substance as receipts. To the extent that the Respondent alleges a failure to provide receipts, we are not satisfied that the allegation is made out in the absolute terms advanced. If the criticism is instead that the Appellant failed to provide documentation that separately and properly complied with the requirements applicable to both invoices and receipts, that is a different allegation. No such allegation was advanced in the Complaint Determination and we therefore do not determine it.

81. We have also considered the Respondent's criticism that the Appellant failed to operate a client account. We are not persuaded that the position is quite so straightforward. The Appellant's case was that these monies were charged and invoiced pursuant to a fixed-fee arrangement and became office monies rather than client monies held on account pending future work. The Respondent did not identify any specific stage at which monies were being retained on behalf of the complainants in circumstances requiring the operation of a client account (we have addressed the fact that money was paid before the case was technically completed, elsewhere in this decision). We are therefore not satisfied that the mere absence of a client account, without more, establishes a breach of the Code.
82. We likewise attach only limited weight only to the Respondent's criticism that payment was taken before the complainants' matters had concluded. We recognise that the complainants' asylum claims had not yet been finally determined by the Home Office at the point payment was received. However, the evidence before us suggests that the substantive work for which the Appellant had been instructed had already been undertaken and that the matters were, in practical terms, awaiting determination by the Home Office. The fact that a final decision had not yet been issued does not necessarily mean that the fees had not been earned or that the monies were still being held on behalf of the complainants pending future work. In those circumstances, we do not regard the timing of payment as a matter to which much weight can properly be attached.
83. The Respondent also relied upon the Appellant's banking records. We have considered separately the criticism that bank statements were not initially provided and the criticism that the monies paid by the complainants were not readily identifiable within those statements.
84. In relation to the first issue, we accept that the Appellant did not initially provide the bank statements requested by the Respondent. That criticism is justified. A regulated adviser should cooperate fully with a regulatory investigation and the failure promptly to provide potentially relevant financial records was unhelpful and capable of impeding the investigation. We do not regard that failure as insignificant. That failure fell below the level of cooperation expected of a regulated adviser and is a matter to which we attach some weight. However, we do not regard it as demonstrating financial impropriety or dishonesty.
85. However, we do not accept the further inference drawn by the Respondent from the contents of those bank statements. The determination places emphasis upon the inability to identify deposits corresponding to the monies paid by the complainants. In our view, that criticism proceeds on an assumption that the receipt of monies would necessarily be demonstrated by reference to the particular bank account under examination. We do not accept that proposition.

One would ordinarily expect receipt of funds to be evidenced through the organisation's wider financial and accounting records. The fact that a particular payment cannot readily be identified within a particular bank statement does not, without more, establish that the money was not received or was improperly dealt with.

86. The Appellant further submitted that cash payments do not necessarily have to be deposited into a bank account in order to be properly accounted for. It was argued that, provided a record is maintained and the monies are properly reflected within the organisation's accounting records, the absence of a corresponding bank deposit would not, of itself, demonstrate that funds had been mishandled. We do not find it necessary to determine the correctness of that proposition in every circumstance. However, it illustrates the difficulty in drawing adverse conclusions solely from the absence of matching entries within the particular bank statements relied upon by the Respondent. The question is not simply whether a payment can be identified within a specific account, but whether the organisation's wider financial records adequately account for the monies received.
87. We therefore attach weight to the Appellant's failure promptly to provide financial records when requested. We attach considerably less weight to the contention that the absence of matching deposits within the bank statements itself demonstrates misconduct or financial impropriety.
88. Drawing these matters together, we reject the suggestion that the fees were inherently unreasonable simply because they exceeded the published fee scale. We conclude that, whilst the uplift above the published fee scale was capable of justification, the contemporaneous documentation failed adequately to explain the basis upon which the uplift had been agreed or calculated. The Appellant's financial documentation lacked the clarity and transparency that would ordinarily be expected of a regulated adviser.
89. We also do not find that the mere absence of a client account or the fact that payment was received before final Home Office decisions were issued establishes a breach of the Code in the circumstances of this case.
90. Drawing these matters together, we do not accept the Respondent's more serious allegations concerning the reasonableness of the fees, the operation of a client account, the absence of receipts, or any suggestion of financial impropriety. We do, however, find that the Appellant's financial documentation lacked transparency and that requested financial records were not provided during the complaint investigation. Those matters demonstrate shortcomings in record keeping and regulatory compliance. The significance of those shortcomings falls to be assessed, together with our findings on the remaining allegations, when determining whether the Appellant is fit and competent to provide immigration advice and immigration services.

91. We have also considered whether the fees charged, the manner in which the retainer was conducted or any of the matters relied upon by the Respondent demonstrate that the Appellant took advantage of the complainants' vulnerability or failed to act in their best interests. The complainants were asylum seekers and therefore potentially vulnerable clients. However, we have not found that the fees charged were inherently unreasonable, nor have we found any evidence that the Appellant misappropriated client funds, charged for work which it did not intend to undertake or sought to exploit the complainants' immigration circumstances for financial gain. Whilst the charging arrangements were poorly documented and lacked transparency, the evidence supports the existence of a genuine retainer under which immigration services were in fact provided. The shortcomings identified in this section are therefore more properly characterised as failures of administration, record keeping and client care than conduct directed towards the exploitation of vulnerable clients. Accordingly, whilst we have identified shortcomings in documentation, communication and record keeping, we are not satisfied that the Respondent has established that the Appellant took advantage of that vulnerability, charged fees in bad faith or acted contrary to the complainants' best interests.

Confidentiality - WhatsApp Group Allegation (Decision §§48-51)

92. The Respondent relies upon screenshots said to originate from a WhatsApp group involving the Appellant, the complainants and a number of other individuals. The Respondent concluded that those screenshots demonstrated a breach of confidentiality and relied upon them as part of the basis for the Complaint Determination. The Commissioner considered the screenshots to be genuine and placed weight upon the appearance of the YV logo, telephone numbers said to be associated with the Appellant, and the general appearance of the screenshots themselves.

93. The Respondent submits that the screenshots demonstrate that the Appellant, through Ms Lim and others acting on its behalf, operated a WhatsApp group containing multiple asylum seekers and that confidential client information was shared within that group. The Respondent relies upon the screenshots themselves, the YV logo, the presence of telephone numbers allegedly associated with the Appellant, and the complainants' accounts. The Respondent contends that the screenshots are genuine and sufficient to establish a breach of confidentiality.

94. The Appellant disputes both the authenticity of the screenshots and the conclusions drawn from them. The Appellant submits that the underlying device was never examined, that neither the Appellant nor the Tribunal was afforded any opportunity to inspect the original data, and that screenshots alone cannot safely establish authenticity, authorship or context. The Appellant further submits that a WhatsApp user may choose their own display name and

profile photograph and that the mere appearance of a logo, name or telephone number does not establish who created, controlled or operated the account. The Appellant also advanced an alternative explanation for the documents appearing within the screenshots, namely that documents may have been obtained from a different WhatsApp group or source and subsequently reproduced elsewhere.

95. We are not satisfied that the Respondent's conclusions can safely be sustained on the evidence before us.
96. The Respondent's case ultimately rests upon screenshots supplied by the complainants. Neither the device from which those screenshots were taken, nor the underlying WhatsApp data was examined by the Respondent. No forensic examination of the device took place. The device was not available to the Tribunal. Nor was it available to the Appellant for inspection or examination. The Tribunal has therefore been asked to make serious findings concerning confidentiality on the basis of screenshots alone.
97. We accept that the Commissioner took steps to satisfy himself that the screenshots appeared genuine. However, those steps were limited to examination of the screenshots themselves. The Commissioner was unable to inspect the underlying device or verify the original data.
98. We further note that the Commissioner placed weight upon the presence of the Appellant's logo, the display name "YV Enterprise" and telephone numbers said to be associated with the Appellant. We are unable to attach similar weight to those matters. The evidence before us establishes only what appears within the screenshots. It does not establish who created the relevant profile, who selected the display name, who uploaded the profile image or who controlled the alleged account at the relevant time. The fact that a profile bears a particular name, logo or image may be consistent with the Respondent's case, but it is not sufficient, without more, to establish authorship, control or responsibility for the communications depicted. That is particularly so where the underlying device and source data were never examined.
99. We also bear in mind the absence of evidence from a number of individuals who might have assisted the Tribunal. The Commissioner recorded that the complainants stated that all evidence of the conversation remained on Budi Siswanto's phone and that he was willing to produce that device. However, the device was never examined by the Commissioner and was not produced before the Tribunal. Neither Budi Siswanto nor Muhammad Arif Nurrochman nor Parman attended to give evidence. The Tribunal was therefore unable to explore issues relating to the provenance, authenticity, completeness and context of the WhatsApp material through individuals said to have direct knowledge of the relevant communications.

100. We emphasise that we do not criticise Mr Rakib for the steps that he took during the investigation. We have already found him to be a credible witness who conducted the investigation in good faith and sought to assess the material available to him. Nor do we suggest that the Commissioner was under any obligation to undertake a forensic examination of a device at the investigation stage or to pursue every possible investigative avenue. The difficulty for the Respondent is not the manner in which the investigation was conducted. Rather, it is that the Tribunal is ultimately required to determine whether the evidence now before it is sufficient to establish the serious findings sought. In circumstances where the Tribunal has only screenshots, without access to the underlying device, underlying data or evidence from key witnesses, we are not satisfied that the evidential foundation is sufficient to support the findings advanced by the Respondent on the balance of probabilities.
101. The Appellant advanced a further explanation for the presence of documents appearing within the screenshots. It was suggested that documents may have been obtained from another WhatsApp group and subsequently reproduced within a separate group, thereby explaining why legal documents relating to individuals appeared within the material relied upon by the Respondent. We are not in a position to determine whether that explanation is correct. However, its existence illustrates the limitations of the evidence available to the Tribunal.
102. We also note that Ms Lim did not give evidence. According to the Respondent's case, she was directly involved in at least some of the communications said to have occurred within the WhatsApp group and her contact details appear within material relied upon by the Respondent. Her evidence may therefore have materially assisted the Tribunal in determining issues concerning the creation, operation and membership of the alleged group, the identity of those participating within it and the context of the communications relied upon by the Respondent. In the absence of evidence from Ms Lim, the Tribunal has been deprived of a potentially important source of direct evidence.
103. We have taken account of Mr Dentoshvili's evidence that he undertook enquiries into the WhatsApp allegations. However, those enquiries appear to have been modest in scope and his evidence regarding them was necessarily secondary in nature. Whilst we have considered his evidence, it cannot substitute for direct evidence from those said to have participated in the communications or from examination of the device itself.
104. Further, neither complainant attended the hearing and the Appellant was therefore unable to test the allegations through cross-examination. This limitation is particularly significant where the Respondent seeks to rely upon screenshots rather than original source material.

105. We have also considered the chronology of the WhatsApp material. Some of the screenshots appear to refer to dates in January 2023, whereas the parties agree that the complainants did not instruct the Appellant until 6 February 2023 (this point was made by Mr Dentoshvilli in his evidence). We do not regard this discrepancy, by itself, as demonstrating that the screenshots are false. The Tribunal is unable to determine from the screenshots alone whose device is being viewed, when particular individuals joined or left the group – for example it may be that the screenshots were taken from Mr Siswanto’s phone and that he joined the group before the complainants. The evidence simply does not permit the Tribunal to determine those matters. However, the chronology does illustrate the limitations of the evidence and reinforces our inability to draw reliable conclusions from screenshots alone.
106. Taken cumulatively, these evidential difficulties significantly reduce the weight we are able to attach to the WhatsApp evidence. Whilst the screenshots may have justified further investigation, we are not satisfied that they provide a sufficiently reliable evidential foundation upon which to make the serious findings of confidentiality breach advanced by the Respondent.
107. Accordingly, we are not satisfied on the balance of probabilities that the WhatsApp allegation has been established. The Tribunal therefore places little weight upon the Respondent’s findings insofar as they depend upon the WhatsApp screenshots as evidence of a breach of confidentiality.
108. Our conclusion on the WhatsApp allegation should not be understood as a finding that no confidentiality concerns existed. Rather, it reflects our conclusion that the evidence relied upon by the Respondent is insufficient to establish this aspect of its case on the balance of probabilities. We therefore turn to the separate confidentiality allegations arising from the disclosure of client information to Kompliance, which raise different factual and legal issues and fall to be assessed on a different evidential basis.

Disclosure of Client Information to Kompliance Ltd (Decision §§38-39)

109. The Respondent alleges that the Appellant breached its obligations of confidentiality by disclosing information relating to the complainants to Kompliance Ltd.
110. It is not disputed that information relating to the complainants was provided to Kompliance Ltd. The disclosure occurred in the context of the complaint investigation and the Appellant’s response to the allegations advanced by the complainants. The Appellant’s evidence was that Kompliance Ltd had been retained to assist with compliance and regulatory matters and to provide assistance in responding to the complaint and investigation.
111. The Respondent’s position is that Kompliance Ltd was a third party and that the complainants had not consented to disclosure of their personal

information. The Respondent therefore concluded that the disclosure constituted both a breach of confidentiality and unlawful processing of personal data.

112. The Appellant accepts that information was disclosed to Kompliance Ltd but disputes that the disclosure was unlawful. The Appellant submits that the Respondent's analysis proceeds on an incorrect legal footing by treating consent as a necessary precondition to disclosure. The Appellant's case is that consent is only one of the lawful bases recognised by Article 6 UK GDPR and that disclosure for the purpose of obtaining assistance in responding to a regulatory investigation was capable of being justified without obtaining the complainants' express consent.

Weight to be Attached to the Herrington Carmichael Report

113. As recorded at paragraphs 24-25 above, the Tribunal admitted into evidence the Data Protection Advice Note prepared by Herrington Carmichael.

114. The parties made a number of submissions concerning the weight that should be attached to that report. The Appellant criticised the report on the basis that its author was not identified, the underlying instructions and material considered were not disclosed, and the analysis was said to be flawed. Conversely the Respondent submitted that little weight should be attached to the evidence of Mr Ahmed and disputed both his expertise and his conclusions. We have taken those submissions into account. However, we do not regard the resolution of this issue as depending upon acceptance of one expert opinion over another. The General Regulatory Chamber routinely determines issues arising under the UK GDPR, the Data Protection Act 2018 and associated data protection principles. We have therefore considered both sources of evidence but have reached our conclusions by applying the relevant legal principles to the facts found rather than by adopting the conclusions of either side's purported expert.

115. We accept that information relating to the complainants was disclosed to Kompliance Ltd. The issue before the Tribunal is whether that disclosure constituted a breach of confidentiality or unlawful processing of personal data.

116. We are not satisfied that it was either.

117. A central feature of the Respondent's analysis was that the complainants had not consented to disclosure of their information. We accept that no evidence of express consent was identified. However, we do not accept that the absence of consent resolves the issue.

118. We also note that the Appellant relied upon a provision contained within the client care documentation which stated that client information would ordinarily remain confidential but that statutory, legal and regulatory

requirements might require disclosure to governmental or regulatory authorities without obtaining the client's consent and without prior notification. The client care documentation further stated that external firms or organisations might conduct audit or quality checks on the practice and that such organisations would be required to maintain confidentiality. We do not determine whether those provisions were sufficient, of themselves, to authorise the disclosure made in this case. Nor do we overlook the fact that the client care letters were unsigned and that we have identified wider deficiencies in those documents elsewhere in this decision. However, the clauses are significant because they demonstrate that the Appellant's own terms did not proceed on the basis that consent was the sole mechanism by which information might lawfully be disclosed. Rather, the documentation expressly contemplated circumstances in which information could be disclosed for regulatory, compliance or oversight purposes, subject to confidentiality obligations.

119. In our judgment, the difficulty with the Respondent's analysis is that it places excessive emphasis upon consent whilst failing adequately to engage with the broader framework established by Article 6 UK GDPR. The relevant question is not simply whether consent existed. The question is whether there was a lawful basis for the processing in the circumstances of this case.

120. The evidence before the Tribunal identified at least two lawful bases capable of applying to the disclosure in question. First, disclosure of information to Kompliance Ltd formed part of the Appellant's response to a live regulatory complaint and investigation and was capable of engaging Article 6(1)(c), namely processing necessary for compliance with a legal obligation. Secondly, the Appellant had a legitimate interest in obtaining assistance from a compliance and regulatory adviser in responding to allegations made against it, thereby potentially engaging Article 6(1)(f). The Respondent did not identify any reason why either basis was unavailable in principle on the facts of this case.

121. We do not find it necessary to determine whether Article 6(1)(c) was engaged. On the evidence before us, we are satisfied that disclosure to Kompliance Ltd for the purpose of obtaining assistance in responding to a live regulatory complaint was capable of constituting processing in pursuit of a legitimate interest within the meaning of Article 6(1)(f) UK GDPR. The Respondent's analysis did not engage substantively with that possibility and instead proceeded largely on the basis that disclosure was unlawful because express consent had not been obtained. In our judgment, that approach is inconsistent with the structure of Article 6(1) UK GDPR, under which consent is only one of several potentially lawful bases for processing personal data.

122. We further note that the Herrington Carmichael report itself did not conclude that consent was the only possible lawful basis. Indeed, as Mr Ahmed observed, the report acknowledged the existence of other potential lawful

bases whilst ultimately focusing its criticism upon deficiencies in transparency and the content of the client care documentation.

123. We accept the distinction identified by Mr Ahmed between transparency obligations and lawful basis. The fact that a client care letter may not expressly refer to a particular organisation does not automatically establish that any subsequent sharing of information is unlawful. This is a different question and one which turns upon the existence of a lawful basis for processing rather than the content of the client care documentation alone.
124. We further note that Mr Rakib accepted in evidence that consent was not the only lawful basis recognised by the GDPR and that the ICO would be the body with jurisdiction to determine whether a data protection breach had occurred.
125. We emphasise that this conclusion should not be understood as criticism of Mr Rakib. Faced with an unfamiliar data protection issue, he sought specialist assistance and was entitled to place weight upon the advice obtained. Indeed, it would have been surprising had he attempted to determine such issues without obtaining appropriate advice. Our disagreement therefore lies not with the fact that he sought guidance but with the legal conclusion ultimately advanced.
126. We are likewise not satisfied that disclosure to a compliance adviser retained for the purpose of responding to a live regulatory complaint is properly characterised as a breach of confidentiality in the circumstances of this case. The evidence before us was that Kompliance Ltd was retained specifically to assist the Appellant in responding to allegations made against it and that the disclosure occurred for that purpose. On the evidence available to the Tribunal, disclosure in those circumstances is materially different from disclosure to an unrelated third party for an unconnected purpose.
127. Standing back and considering the evidence as a whole, we are not satisfied that the Respondent has established, on the balance of probabilities, that disclosure to Kompliance Ltd was unlawful, constituted a breach of confidentiality or demonstrated non-compliance with the regulatory standards relied upon.
128. Accordingly, we do not find this allegation established and place no weight upon it when assessing the Appellant's competence and fitness.
129. The Tribunal now turns to allegations concerning the Appellant's day-to-day management of the complainants' matters. These allegations differ in character from those considered in the preceding sections. Whereas the earlier allegations concerned confidentiality, data protection and the disclosure of client information to third parties, the remaining allegations concern the

standard of client care, file management, communication, documentation and administrative record keeping. Whilst these matters are considered separately for analytical purposes, they ultimately form part of the Tribunal's overall assessment of the Appellant's competence, compliance with regulatory requirements and fitness to provide immigration advice.

Transfer of the Complainants' File (Decision §63)

130. The Commissioner's findings regarding the transfer of the complainants' file are set out at paragraph 63 of the Complaint Determination. The Commissioner found that Ms Evarini emailed the Appellant on 5 December 2024 requesting her file urgently and that Brandon Consultancy subsequently requested the complainants' files on 16 December 2024. The Commissioner noted that signed authorities were supplied on the same date and concluded that, notwithstanding the urgency expressed in the correspondence, no documentation was provided until 25 February 2025. The Commissioner considered that delay to be unreasonable and concluded that the Appellant had failed to transfer the complainants' file as soon as possible and without prejudice to the client, contrary to Principle 5 and Code 5.9 of the 2024 Code.
131. The Respondent submitted that the chronology was straightforward. It was argued that the complainants required their file in order to pursue matters arising from the withdrawal and refusal of their asylum claims. The Respondent relied upon the fact that requests had been made directly by the complainants, subsequently by Brandon Consultancy and later by the IAA during the course of the complaint investigation itself. The Respondent submitted that no satisfactory explanation had been provided for why the file was not released until 25 February 2025 and that the delay demonstrated a disregard for the obligation imposed by Code 5.9.
132. The Appellant did not dispute that the file was not transferred immediately. However, it argued that the Commissioner had materially oversimplified both the nature of the request and the significance of the delay. The Appellant submitted that Ms Evarini's email of 5 December 2024 was prompted by efforts to obtain Home Office correspondence relating to her asylum claim, including the refusal decision itself. The Appellant further relied upon evidence that Brandon Consultancy initially sent correspondence to an incorrect email address and submitted that there was a genuine misunderstanding regarding the role being played by the IAA once the complaint investigation commenced. The Appellant contended that, whilst the file should have been transferred earlier, there was never any intention to conceal documents or frustrate access to them.
133. We accept that the chronology establishes a breach of Code 5.9. By 16 December 2024 the Appellant was aware that Brandon Consultancy sought documents on behalf of the complainants and had supplied signed authority to do so. The file was not ultimately provided until 25 February 2025. Even

allowing for the Christmas and New Year period, that delay exceeded what would reasonably be expected of a regulated adviser. The Code requires files to be transferred *as soon as possible* and it is difficult to reconcile a delay of more than two months with that obligation.

134. We therefore agree with the Commissioner that the Appellant failed to transfer the complainants' file as promptly as required by the Code.
135. However, the existence of a breach does not conclude the Tribunal's analysis. Code 5.9 requires a regulated adviser to transfer a client's file "as soon as possible and without prejudice to the client". The issue is therefore not simply whether delay occurred, but also the nature and consequences of that delay. In assessing the seriousness of the breach, and the weight properly to be attached to it in the wider assessment of competence and fitness, it is necessary to examine the circumstances in which the request arose, the information already available to the complainants and their subsequent representatives, and whether any identifiable prejudice resulted from the delayed transfer.
136. We do not consider that the Complaint Determination undertakes that analysis in sufficient detail. The determination proceeds largely on the basis that an urgent request was made, the file was not transferred for a significant period, and prejudice therefore followed. In our judgment, the evidence requires a more nuanced consideration.
137. We begin with the request itself. The determination records that, on 5 December 2024, Ms Evarini contacted the Appellant explaining that her previous solicitors had not received the results of her asylum claim and requesting her file and Home Office correspondence "as soon as possible". The request was plainly connected with the complainants' attempts to obtain information concerning the progress and outcome of the asylum claims. However, we do not accept the Appellant's submission that the communication can only be interpreted as a request for the Home Office refusal decision rather than a request for the wider file. The email referred both to Home Office correspondence and to the file itself. We are satisfied that concern regarding the Home Office decision and related correspondence formed an important part of the request, but it was not the only matter being sought.
138. The first difficulty with the Commissioner's analysis concerns prejudice. Delay may itself amount to a breach of Code 5.9. However, the seriousness of the breach depends not merely upon the length of the delay but also upon its practical consequences. The determination repeatedly refers to urgency and prejudice but does not identify with any precision what detriment was in fact suffered by the complainants as a consequence of receiving the file on 25 February 2025 rather than at an earlier date.

139. We accept that delay in transferring a client's file has the potential to cause prejudice even where no statutory deadline is missed and no appeal right is lost. Former clients and their new representatives are entitled to receive relevant documentation promptly so that they can understand the history of the matter, assess previous advice and conduct, evaluate available remedies and, where necessary, pursue ongoing applications or appeals. A failure to provide the file may therefore create uncertainty, inconvenience and additional work for both the client and successor representatives.
140. In the present case, the complainant was seeking advice following adverse developments in her asylum claim and it is unsurprising that she wished to obtain documents held by the Appellant. We therefore reject any suggestion that the delay was inconsequential. However, the Commissioner did not undertake any detailed examination of the extent of the prejudice said to have resulted. Whilst it is reasonable to infer that the delay may have caused frustration, inconvenience and some difficulty for the complainant and her adviser, the evidence does not establish that any appeal opportunity was lost, that proceedings could not be commenced, or that the outcome of any immigration matter was materially affected by the timing of the transfer itself.
141. A further difficulty arises from the Home Office records themselves. Elsewhere in the determination the Commissioner relies upon Home Office information showing that the Appellant was not recorded as the complainants' representative. The Commissioner treated that fact as supporting the separate allegation that the Appellant instructed the complainants not to disclose its involvement. Whether that allegation is ultimately established is a separate question. However, the consequences of the Commissioner's own case are relevant here. If the Home Office did not regard the Appellant as the representative of record, it follows that at least some correspondence concerning the asylum claims would ordinarily be expected to have been issued directly to the complainant rather than through the Appellant.
142. Indeed, the evidence demonstrates that direct communication from the Home Office did occur. Ms Evarini received notification of her substantive asylum interview and attended that interview. The Appellant's records also refer to information being communicated directly to the complainants regarding interviews and other developments in their claims. We make no finding regarding every item of Home Office correspondence. However, the Commissioner's analysis appears implicitly to assume that information relevant to the complainant's immigration position was effectively unavailable until the Appellant released its file. The evidence does not establish that proposition.
143. We also consider that the determination contains little analysis of what documents or information were unavailable to the complainant as a result of the delayed transfer. Whilst it is clear that the complainant wished to obtain

material held by the Appellant and was entitled to receive it promptly, the Commissioner did not identify which specific documents were required, when they were required, or how the absence of those documents affected the complainant's ability to pursue her immigration matters during the period of delay. In particular, the Tribunal is unable to identify from the evidence what relevant information or documentation was unavailable to the complainant during the period of delay and why access to that material depended upon release of the Appellant's file. In those circumstances, we are satisfied that the delay was capable of causing inconvenience, frustration and uncertainty, but are unable to assess the extent of any further prejudice said to have resulted from the timing of the transfer itself.

144. We have considered the Appellant's explanations for the delay, including the difficulties said to have arisen in communications with Brandon Consultancy and the Appellant's understanding of the IAA's involvement. We accept that those matters may have contributed to some delay in the transfer of the file. However, we do not consider that they satisfactorily explain the entirety of the delay between the requests made in December 2024 and the eventual provision of the file on 25 February 2025. Even allowing for those factors, the Tribunal remains unable to identify a satisfactory explanation for why the transfer took more than two months.

145. We have also considered the dispute regarding the date upon which Brandon Consultancy first acted for the complainants. The Commissioner accepted Home Office information indicating that Mr Bell first acted on 29 November 2024 rather than several months earlier. We do not consider it necessary to resolve that dispute. Even if the Commissioner is correct on the point, it does not materially affect our findings regarding the delay in transferring the complainants' file or the weight we attach to that issue.

146. The evidence demonstrates that the Appellant was repeatedly aware that documentation was being sought on behalf of the complainants. Nevertheless, no meaningful steps appear to have been taken to ensure that the file was transferred promptly. The absence of any satisfactory explanation for that delay is a matter of concern.

147. We do not consider that the evidence establishes, on the balance of probabilities, that the file was deliberately withheld in order to conceal misconduct or obstruct the complainants. However, the chronology demonstrates a substantial disregard for the Appellant's professional obligations and a failure to prioritise the complainants' legitimate requests for access to their papers. We therefore regard this breach as more than a minor administrative oversight. It reflects a serious failure to comply with a fundamental obligation owed to former clients.

148. Standing back and considering the evidence as a whole, we find that the Appellant breached Code 5.9 by failing to transfer the complainants' file within a reasonable period following the requests made in December 2024. The delay was substantial and fell materially below the standards expected of a regulated adviser. Clients and successor representatives are entitled to expect that a file will be transferred promptly once appropriate authority has been provided, and we accept that the Appellant failed to comply with that obligation.
149. We have considered carefully the practical consequences of that failure. We accept that delay in transferring a client's file is capable of causing real prejudice even where no statutory deadline is missed and no appeal right is lost. Former clients and their new representatives are entitled to receive relevant documentation so that they can understand the history of the matter, assess previous advice and conduct, consider available remedies and pursue ongoing immigration matters effectively. It is therefore unsurprising that the complainants sought access to their file following adverse developments in their asylum claims.
150. However, whilst we are satisfied that the delay was capable of causing inconvenience, frustration and uncertainty, the Commissioner did not undertake a detailed analysis of the nature and extent of the prejudice actually suffered. The determination does not identify any missed deadline, lost opportunity, abandoned application or other specific detriment arising from the timing of the transfer itself. Nor does it examine what information was already available to the complainants through direct communication from the Home Office or otherwise. We are therefore unable to conclude that the delay resulted in substantial or serious prejudice of the kind implicitly suggested in the determination.
151. We also reject the suggestion that this episode demonstrates dishonesty, concealment or a deliberate attempt to obstruct the complainants' access to their papers. The chronology demonstrates delay, poor administration and a significant failure to comply with a fundamental professional obligation. It does not establish, on the balance of probabilities, that the Appellant deliberately withheld the file in order to mislead the complainants, prevent scrutiny of its conduct or frustrate the pursuit of their immigration matters.
152. We therefore regard this as a significant regulatory failing which reflects poorly on the Appellant's administrative systems, organisational competence and compliance with professional obligations. It is a matter to which we attach weight in our overall assessment of competence and fitness. However, we do not regard it as supporting the Commissioner's broader allegations of dishonesty, concealment or deliberate misconduct.

Client Care Documentation, Communication and Record Keeping (Complaint Determination §§64–70)

153. The Respondent submitted that the deficiencies within the file were extensive and significant. Particular reliance was placed upon the fact that the client care letters were unsigned, that key aspects of the retainer were inadequately documented, that the fee arrangements lacked transparency, that interpretation services were not properly recorded and that the documentary record did not adequately demonstrate regular communication with the complainants.
154. The Respondent further submitted that the attendance notes and communications relied upon by the Appellant could not be independently verified. It was argued that there was a notable absence of corroborative evidence in the form of emails, call records, proof of postage and Home Office responses. The Respondent contended that these omissions materially undermined the reliability of the file and justified the Commissioner's conclusion that little weight could properly be attached to the documentation.
155. The Respondent also relied upon what were said to be inconsistencies within the attendance notes themselves, including references to interviews and communications which did not readily correspond with information later obtained from the Home Office. Taken cumulatively, it was submitted that the documentary record was sufficiently unreliable that the Commissioner was entitled to prefer the complainants' account.
156. The Appellant accepted that aspects of its documentation and administrative systems could have been better. However, it rejected the suggestion that the client care documentation, attendance notes or other records had been fabricated or retrospectively created. It submitted that the Commissioner had repeatedly conflated poor record keeping with positive evidence of fabrication.
157. The Appellant further maintained that interpretation services had been provided, principally through Ms Lim, and that the shortcomings identified by the Commissioner reflected deficiencies in record keeping rather than proof that no interpretation services were provided.
158. The Appellant also relied upon the fact that neither complainant attended the hearing. It was submitted that the Tribunal was therefore deprived of the opportunity to test allegations regarding what advice had been given, what documents had been received, what communications had taken place and what services had been provided throughout the retainer.
159. Before turning to the individual criticisms identified by the Commissioner, we consider it important to note again, that neither

complainant attended the hearing. We draw no adverse inference merely from that fact. However, their absence materially limited the Tribunal's ability to explore disputed issues concerning the provision of advice, the receipt of documents, the extent of communication between the parties and the interpretation services said to have been provided. Many of the Commissioner's conclusions in this section ultimately depend upon accepting the complainants' account of events. The absence of oral evidence therefore limits the weight that can properly be attached to some of those allegations.

Client Care Letters (Decision §64)

160. The Commissioner regarded the unsigned client care letters as a significant factor undermining their reliability and authenticity. We accept that the absence of signatures is a legitimate - and significant - concern. One would ordinarily expect such documentation to be signed and retained as evidence that the terms of the retainer had been explained and accepted.

161. However, we do not accept that the absence of signatures, whether viewed individually or cumulatively with the other matters relied upon by the Respondent, establishes that the documents were fabricated or retrospectively created. An unsigned document may attract less evidential weight. It does not, without more, demonstrate that it did not exist at the time it purports to have been created.

162. We have considered particularly carefully the wording of the client care letter concerning the agreed fee arrangements:

"As previously discussed we have agreed a fixed fee of £2,600 to represent you and your husband in relation to your immigration matter. However on this occasion I have chosen to exercise my discretion and overrule my fixed fee policy and will only charge upon completion of your immigration case."

In our judgment, this wording is unusual and difficult to reconcile with aspects of the Appellant's later explanation of the charging structure. The reference to exercising discretion appears, on its face, inconsistent with the fact that the fee ultimately charged exceeded the amount contained within the Appellant's published fee scale. Ordinarily, one would expect discretion to be exercised in a client's favour rather than to justify an increased fee. Equally, the statement that the Appellant would "*only charge upon completion*" provides little meaningful explanation of the charging arrangements said to have been agreed. Indeed, if payment only became due when the relevant work had been completed, the wording appears merely to describe what would ordinarily be expected in any event, this could not accurately be described as the Appellant exercising discretion to "*overrule*" his fixed fee policy.

163. We therefore regard this provision as a significant weakness in the documentation. It is poorly drafted, internally unclear, commercially illogical in places and inadequate as an explanation of the fee arrangements.
164. We have also considered the Respondent's submission regarding the assessment contained within the "Strength of Case" section of the client care letter. The Respondent submitted that it was difficult to reconcile the assessment recorded within that section with the Appellant's subsequent conduct of the matter and acceptance of fees. We accept that the wording gives rise to legitimate questions. The letter records that the sufficient benefits test had not been satisfied, identifies a number of weaknesses in the claim as presented and describes the prospects of success as poor or below average. However, we do not accept that a regulated adviser is necessarily precluded from acting in a matter merely because the prospects are assessed as weak. Indeed, it is entirely proper for an adviser to provide candid advice regarding weaknesses in a claim and its prospects of success. The more significant concern is the manner in which that assessment is recorded. Given the apparent significance of the advice being conveyed, one would ordinarily expect the client care documentation to explain clearly the assessment being made and its implications for the complainants. Instead, the assessment is difficult to follow. The relationship between the identified weaknesses, the reference to the sufficient benefits test and the assessment of prospects is not clearly explained. That concern is compounded by the fact that the document is unsigned. In circumstances where the letter is relied upon as the record of important advice concerning the merits of the claim, the absence of any signed acknowledgement further reduces its value as a clear and reliable client care document. Read together with the other deficiencies identified in the client care documentation, this provides a further example of documentation which falls materially below the standard expected of a regulated adviser.
165. Read in conjunction with the other deficiencies identified in the client care documentation, this further reinforces our conclusion that the document falls materially below the standard expected of a regulated adviser.
166. However, we also consider that this feature points away from the suggestion that the letter was retrospectively manufactured. Had the document been created after the event in order to justify the fees charged, one would reasonably expect a clearer and more coherent document. Instead, the wording is confusing and potentially unhelpful to the Appellant's own case. These characteristics are more consistent with a contemporaneous document that was poorly drafted than with a document deliberately created later for litigation purposes.
167. More generally, a recurring feature of the Appellant's records is not sophistication or careful construction, but ambiguity, imprecision and poor

drafting. Whilst these matters are properly capable of criticism, they do not necessarily support an allegation of fabrication.

168. We are nevertheless satisfied that the client care documentation fell materially below the standard expected of a regulated adviser. In particular, the absence of signatures, the lack of clarity regarding the charging arrangements and the limited evidence demonstrating that the contents of the letters were properly explained and understood are matters of legitimate concern. To that extent, we accept that aspects of the client care requirements set out in the Code were not complied with to the standard expected. However, those deficiencies do not justify the further conclusion that the documents were fabricated or retrospectively created.

Communication with the Complainants (Decision §§65-66)

169. The Commissioner concluded that there was insufficient evidence demonstrating that the complainants were kept adequately informed throughout the retainer.
170. We accept that the documentary record of communication falls below the standard that would ordinarily be expected from a well-run regulated practice. We would have expected clearer records of advice, communications and explanations provided to the complainants throughout the course of the retainer.
171. We also accept that many of the attendance notes cannot now be independently verified. Unlike contemporaneous emails, correspondence, proof of postage or similar records, much of the communication said to have occurred between the parties is recorded solely within the Appellant's own file. The Tribunal therefore approaches those records with caution and does not treat them as conclusive evidence that every communication recorded within them occurred precisely as described.
172. However, we are not persuaded that the evidence establishes an absence of communication between the parties. A number of documents contained within the file, including documents at pages 679–680, 689 and 696, plainly derive from, relate to or concern communications with the complainants. Their existence demonstrates that there was at least some ongoing interaction between the complainants and the Appellant during the course of the retainer. Evidence of some communication therefore exists.
173. The difficulty for the Appellant is that evidence of some communication is not the same as evidence of adequate communication or adequate representation. We accept the Respondent's submission that the documentary record provides only limited evidence of ongoing communication throughout what was a lengthy retainer. One would ordinarily expect a regulated adviser to maintain clear records demonstrating that material developments, advice

and next steps had been communicated and explained to clients, particularly in asylum matters. The documentary record does not provide that level of assurance. The records are sufficient to demonstrate some ongoing interaction between the parties. They are insufficient, however, to demonstrate that material developments, advice, decisions and next steps were consistently communicated to the complainants throughout the retainer or that the standard of communication met that required of a regulated adviser. Whilst the existence of some communication prevents us from accepting the Respondent's more extreme submission that communication was effectively absent, we accept that the records fall well short of demonstrating regular, comprehensive and properly documented client communication throughout the retainer.

174. The Respondent also relied upon a number of perceived discrepancies between the Appellant's attendance notes and later Home Office records, including differences relating to dates, interview arrangements and Home Office locations. We accept that such discrepancies properly give rise to questions regarding the accuracy of aspects of the Appellant's records and reduce the weight that can safely be attached to them. However, we do not accept that they necessarily demonstrate fabrication, retrospective creation or an absence of communication. Administrative arrangements may change over time, interviews may be rescheduled, and different stages of an asylum claim may be administered by different Home Office units. More importantly, the Tribunal was not provided with the complete Home Office file, including the interview records and wider correspondence history. In those circumstances, we are not in a position confidently to determine the explanation for every discrepancy identified by the Respondent. We therefore regard such discrepancies as reducing the weight that can safely be attached to particular records. However, in the absence of the complete Home Office file and associated interview records, we are unable to determine whether they arose from innocent error, later administrative changes, imperfect record keeping or some other cause.

175. We therefore reject the extremes of both parties' positions. We are not satisfied that the evidence demonstrates an absence of communication. Equally, we are not satisfied that the attendance notes and file records establish consistently adequate communication throughout the retainer. The records provide evidence of some ongoing contact between the Appellant and the complainants, but they do not establish that the standard of communication was necessarily satisfactory. Consequently, whilst we do not accept the Commissioner's suggestion that communication was effectively absent, we do accept that the documentary record falls materially below the standard that would ordinarily be expected of a regulated adviser. We are therefore unable to accept that little or no weight can properly be attached to the file as a whole. Rather, the deficiencies identified require the file to be approached with caution and substantially reduce the weight that can safely be attached to aspects of it.

Interpretation Arrangements (Decision §67)

176. The Commissioner criticised the Appellant's arrangements for interpretation and translation and concluded that there was inadequate evidence demonstrating how interpretation services were provided and whether they were provided competently.
177. We accept that the documentary record in this regard is unsatisfactory. Given the complainants' limited command of English, one would ordinarily expect interpretation arrangements to be clearly documented, including who provided interpretation services, when those services were provided and the nature of the assistance given. The file does not contain the level of detail that would ordinarily be expected from a regulated immigration practice.
178. We therefore accept that the Appellant's record keeping concerning interpretation arrangements fell below the standard expected of a regulated adviser. However, the issue before the Tribunal is not simply whether the arrangements were adequately documented. The question is whether the Respondent has established that the interpretation services themselves were inadequate.
179. We are not satisfied that the Respondent has done so. The evidence establishes that Ms Lim spoke Indonesian and was relied upon by the Appellant to assist in communications with the complainants. The Tribunal was not referred to any provision of the applicable Codes requiring interpreters to hold particular formal qualifications. Nor was evidence adduced demonstrating that Ms Lim lacked the linguistic ability necessary to communicate with the complainants. The Respondent relied in part upon the Whatsapp material as indicating that communications involving Ms Lim occurred in English rather than Indonesian. However, for the reasons already set out in our findings on the Whatsapp allegation, we consider that material carries limited evidential weight. The issue is therefore not whether Ms Lim was capable of communicating with the complainants, but whether the Respondent has established that the interpretation arrangements actually put in place were inadequate.
180. On that issue, the evidential position is limited. Neither complainant attended the hearing to give evidence regarding the interpretation services they received, whether they understood the advice allegedly provided or whether they experienced difficulties communicating with the Appellant. Equally, Ms Lim did not attend to explain the nature or extent of the assistance provided. The Tribunal therefore lacks direct evidence from either the recipients or the provider of the alleged interpretation services.
181. We also note that the Commissioner sought information from Mr Parman (on a number provided by the Complainants) during the course of the

investigation. However, no response was received. We draw no adverse inference from that fact. Nonetheless, the absence of evidence from Mr Parman further limits the material available to the Tribunal concerning the interpretation and communication arrangements said to have been in place between the Appellant and the complainants.

182. We also note that the Appellant never disputed that interpretation assistance was required. Indeed, aspects of the Appellant's explanation for the higher fee charged relied upon the additional time and work associated with interpretation and translation services. Whether that explanation ultimately justifies the fee charged is a separate issue. However, it is consistent with the Appellant's broader position that interpretation services were in fact being provided during the retainer.

183. The Tribunal has considered whether the cumulative effect of the evidence is sufficient to establish the allegation. We accept that there are significant weaknesses in the Appellant's records concerning interpretation arrangements. We also accept that there is little contemporaneous documentation identifying who interpreted particular conversations, when interpretation occurred, or how understanding was checked. However, the existence of those deficiencies does not, without more, establish that interpretation was not provided or that any interpretation provided was inadequate. The Tribunal has not been presented with evidence of any specific misunderstanding, mistranslation, communication failure or adverse consequence said to have arisen from the interpretation arrangements. The evidential gap between poor documentation and inadequate interpretation has therefore not been bridged.

184. The strongest criticism available to the Respondent is therefore not that interpretation services were absent or inadequate, but that the Appellant failed properly to record the arrangements said to have been in place. We accept that criticism. We also accept that similar concerns were identified during the audit process and that the absence of recorded interpretation arrangements is a recurring feature of the Appellant's documentation. The audit findings are relevant to our assessment of the Appellant's record keeping and administrative arrangements more generally. However, they do not constitute evidence that the interpretation provided to the complainants in this case was inaccurate, incompetent or otherwise inadequate. Deficiencies in record keeping do not, without more, establish that no interpreter was present or that any interpretation provided was inadequate. The Respondent has demonstrated weaknesses in documentation and record keeping. It has not demonstrated, on the balance of probabilities, that interpretation services were absent, incompetent or otherwise inadequate.

185. Accordingly, whilst we criticise the Appellant's record keeping in this regard, we do not find the substantive interpretation allegation established.

Attendance Notes and Record Keeping (Decision §§69-70)

186. We accept that the Appellant's record keeping fell below the standard expected of a regulated adviser. The file lacks many of the features that would ordinarily permit communications and actions to be independently verified.
187. Those deficiencies are a matter of legitimate concern. They hinder effective regulatory oversight and make subsequent reconstruction of events unnecessarily difficult.
188. However, we are unable to accept the proposition that the deficiencies necessarily demonstrate fabrication. The Commissioner's reasoning frequently proceeds from the proposition that records cannot be independently verified to the conclusion that little or no weight should be attached to them. We do not accept that such a conclusion inevitably follows.
189. The Tribunal accepts that the attendance notes and file records have limitations. However, the Respondent has not identified evidence demonstrating that the notes were retrospectively created, altered or fabricated. The absence of independent corroboration may properly reduce the weight attached to those records. It does not of itself justify a finding that the records are false.
190. We have considered the documentary evidence both individually and collectively. The Respondent's case is not simply that aspects of the file are inadequately documented, but that the cumulative effect of the deficiencies identified is such that little or no weight can safely be attached to the records maintained by the Appellant. We have carefully considered that submission. We accept that many of the documents cannot be independently verified and that a number of features of the file give rise to legitimate concern. However, the inability to verify a document independently is not, without more, proof that it was fabricated, created retrospectively or is otherwise unreliable.
191. In reaching our conclusions, we have considered the evidence in the round. The file contains unsigned client care letters, attendance notes that cannot readily be verified, limited independent corroboration of communications and deficiencies in the recording of interpretation arrangements. These matters collectively reduce the weight that can be attached to aspects of the Appellant's evidence. However, we are not persuaded that their cumulative effect justifies the conclusion that the attendance notes were retrospectively manufactured or that the file as a whole is unreliable. Rather, the evidence is more consistent with poor administration, weak record keeping and inadequate documentation than with deliberate fabrication.

192. We further note that a substantial proportion of the communications recorded within the file are said to have taken place by telephone. To the extent that this is correct, retrospective verification will often be inherently difficult. However, the difficulty in verifying such communications is compounded by the deficiencies identified elsewhere in this decision. In particular, we have identified attendance notes and records which cannot readily be corroborated by independent evidence and which, in some instances, sit uneasily alongside information subsequently obtained from the Home Office. Whilst we do not consider those matters sufficient to establish fabrication, retrospective creation or deliberate deception, they do materially reduce the reliability of the records as evidence of what occurred. Standing back and considering the file as a whole, we are satisfied that the Appellant failed to maintain an adequate record of all interactions with the complainants. We therefore find that Code 53 was breached.

Closure Letter (Decision §68)

193. The Commissioner criticised the Appellant for failing to provide a formal closure letter.

194. We do not accept that criticism. The evidence indicates that the retainer did not conclude in the ordinary sense but came to an end because representation was transferred elsewhere. In those circumstances, the position is materially different from completion of a matter followed by formal closure of the file.

195. We are not persuaded that Code 46 required the provision of a closure letter in the circumstances of this case. To the extent that other provisions of the Code may have been capable of consideration, they were not relied upon by the Respondent. We therefore do not find this allegation established.

Overall Assessment

196. Drawing these matters together, we conclude that the Appellant's client care documentation, communication records and administrative systems were deficient in a number of important respects. The deficiencies identified by the Commissioner were real and are properly capable of criticism. We also accept that the client file produced by the Appellant did not contain all of the material that one would ordinarily expect to see within a properly maintained immigration file. That shortcoming contributes to our conclusions regarding record keeping and regulatory compliance. However, incompleteness is not synonymous with fabrication and does not, without more, establish deliberate deception.

197. We find, in particular, shortcomings in the recording of fee arrangements, interpretation services, communications with clients and file management. The client care letters inadequately explained the fee arrangements. The record of communication with the complainants was

incomplete. Interpretation arrangements were not satisfactorily documented. The file generally fell below the standard expected of a regulated adviser.

198. However, we are not satisfied that the evidence establishes fabrication of client care documentation, retrospective creation of attendance notes or deliberate attempts to mislead either the complainants or the regulator. In several respects the Commissioner's reasoning moves from evidence of poor administration and weak record keeping to conclusions suggestive of dishonesty. On the evidence before us, that further inferential step is not justified.

199. We therefore find that this aspect of the case demonstrates genuine deficiencies in client care, administration and record keeping. Those findings are relevant to our overall assessment of competence and regulatory compliance. They do not, however, establish the more serious allegations of fabrication, dishonesty or deliberate deception advanced by the Respondent.

Misleading the Home Office (Complaint Determination §§52-59)

200. The Respondent submitted that the Appellant deliberately concealed its involvement in the complainants' asylum claims and instructed the complainants not to disclose that representation to the Home Office. Reliance was placed upon Home Office records showing that the Appellant did not appear as the complainants' representative, the absence of acknowledgements from the Home Office to correspondence said to have been sent by the Appellant, and the alleged inconsistency between the Appellant's account and the Home Office records.

201. The Respondent further relied upon the fact that the Home Office records constitute independent evidence and submitted that those records should be preferred to the Appellant's attendance notes and file materials. It was argued that the absence of any Home Office record identifying the Appellant as acting on the complainants' behalf significantly undermined the Appellant's account.

202. The Appellant denied ever instructing the complainants to conceal its involvement. It submitted that the Commissioner's finding was ultimately inferential and unsupported by any direct evidence. The Appellant argued that there was no direct evidence from either complainant establishing that such an instruction had ever been given.

203. The Appellant accepted that the Home Office records did not show it as the representative of record. However, it submitted that Home Office records are not infallible and that administrative errors do occur. The Appellant further pointed out that Maudud Law Chambers also do not appear to have been recorded by the Home Office as representing Ms Evarini despite there being no dispute that they subsequently acted for the complainants. It was submitted

that the absence of a representative from Home Office records does not necessarily establish that no representative was acting.

204. We have considered this allegation with particular care because it is materially more serious than many of the other allegations advanced in the determination. The allegation is not simply that records were poorly maintained or that communications with the Home Office were inadequately documented. Rather, it is alleged that the Appellant deliberately instructed the complainants not to disclose its involvement to the Home Office. Such a finding would involve an element of deliberate misconduct and potentially dishonesty. The evidential basis for such a finding must therefore be examined carefully.

205. We begin with the Home Office records. We accept that they constitute independent evidence and therefore attract significant weight. The records demonstrate that the Appellant was not recorded as the complainants' representative in relation to the asylum claims. We therefore accept that fact.

206. However, we do not regard that fact as determinative of the wider allegation. The evidence before us also indicates that Maudud Law Chambers, despite having acted for the complainants, similarly do not appear to have been recorded by the Home Office as representatives. In our judgment, the absence of both organisations from the Home Office records suggests that those records may not provide a complete account of all representation connected with the claims. We are therefore unable to accept the proposition that the absence of an organisation from the Home Office records necessarily establishes that no representation was taking place. We also note the Appellant's submission that the Respondent sought information only regarding representatives of record and did not obtain the wider Home Office file or seek clarification regarding the correspondence said to have been sent by the Appellant. Whilst we make no finding as to what further enquiries ought to have been undertaken, the absence of that wider material limits the conclusions that can safely be drawn from the Home Office records alone.

207. We also accept that administrative records maintained by public bodies are not infallible and must be evaluated alongside the wider evidence. The Home Office records remain important evidence and we attach significant weight to them. However, we do not regard them as conclusive of every issue arising in this appeal.

208. We have also considered the Respondent's reliance upon the absence of Home Office replies or acknowledgements to correspondence which the Appellant contends was sent on behalf of the complainants. We accept that this is a matter which properly gives rise to concern and which weakens aspects of the Appellant's case. Had correspondence been received and processed in the manner suggested by the Appellant, one might ordinarily expect some documentary trace of that communication within the Home Office records.

209. However, we do not consider that the absence of such responses is determinative. The Tribunal was not provided with the underlying Home Office file. Rather, the Tribunal was provided with selected Home Office records, including records concerning representation. The Tribunal therefore does not know what material may have existed elsewhere within the Home Office file or how any correspondence was handled by the Home Office. The absence of replies is capable of affecting the weight attached to the Appellant's case. It does not, without more, establish that correspondence was never sent or that the substantially more serious allegation of deliberate concealment is made out.
210. The Respondent's case also rests in significant part upon allegations attributed to the complainants. However, neither complainant attended the hearing. The Tribunal was therefore unable to assess their evidence directly, test their accounts through cross-examination or explore the circumstances in which the alleged instructions were said to have been given. That limitation is particularly important given the seriousness of the allegation.
211. We also note that the Tribunal was not provided with either the screening interview record, the substantive asylum interview record or the wider Home Office file. Those materials might reasonably have been expected to shed further light upon the complainants' dealings with the Home Office and the extent of the Appellant's involvement in the asylum claims. Their absence means that the Tribunal is not in possession of all potentially relevant contemporaneous material bearing upon this allegation. We therefore proceed on the basis of the evidence that is available, recognising the limitations that result from the absence of that wider Home Office material.
212. Most significantly, the Tribunal has not been provided with direct evidence establishing that the Appellant instructed the complainants to conceal its involvement. The Home Office records establish that the Appellant was not recorded as representative. They do not establish why that was the case. The absence of Home Office acknowledgements raises legitimate questions regarding the Appellant's dealings with the Home Office. It does not establish that the complainants were instructed to conceal representation.
213. We have considered whether the cumulative effect of the evidence is sufficient to support the Commissioner's conclusion. The Home Office records are important independent evidence. The absence of the Appellant from those records undoubtedly weakens the Appellant's case. The absence of Home Office responses to correspondence relied upon by the Appellant is also a matter that properly gives rise to concern. However, there remains a substantial evidential gap between those matters and the conclusion that the Appellant positively instructed the complainants not to disclose its involvement.

214. Standing back and considering the evidence as a whole, we accept that the Home Office records undermine aspects of the Appellant's account and support legitimate regulatory concerns. We accept that the Appellant was not recorded by the Home Office as the complainants' representative. We also accept that the absence of Home Office acknowledgements to correspondence said to have been sent by the Appellant weakens the Appellant's position.

215. However, we are not satisfied that the Respondent has established, on the balance of probabilities, the substantially more serious allegation that the Appellant instructed the complainants to conceal its involvement from the Home Office. The Home Office records do not demonstrate that such an instruction was given. Neither complainant attended the hearing to allow their allegations to be tested through cross-examination. The wider Home Office file was not before the Tribunal. In those circumstances, whilst the evidence raises concerns regarding the Appellant's communications with the Home Office and aspects of its administrative practice, it falls short of establishing deliberate concealment.

216. Accordingly, we do not find this allegation established. The evidence demonstrates grounds for concern. It does not satisfy us, on the balance of probabilities, that the Appellant deliberately misled the Home Office or instructed the complainants to conceal its involvement.

Misleading the Commissioner (Complaint Determination §§60–62)

217. The Respondent submitted that the Appellant misled the Commissioner during the course of the complaint investigation by providing documents which were not genuine contemporaneous records. In particular, the Respondent relied upon the client care letters, attendance notes and correspondence said to have been generated during the retainer. The Respondent submitted that significant discrepancies existed between those documents and other evidence obtained during the investigation, including information received from the Home Office. The Respondent further relied upon the absence of client signatures, the absence of independent corroboration for many of the documents and the findings of the regulatory audit. Taken together, it was submitted that the documents could not safely be relied upon and that the Commissioner was entitled to conclude that they had been retrospectively created or otherwise did not represent genuine contemporaneous records.

218. The Respondent also relied upon the fact that the client care letters referred to a claim based upon difficulties with loan sharks, whereas the Home Office material referred to a claim based upon sexuality. It was submitted that this discrepancy significantly undermined the authenticity of the client care documentation and supported the conclusion that the documents were unreliable.

219. The Appellant rejected the allegation entirely. It accepted that aspects of its documentation were poor, that the client care letters should have been signed and that the contents of the documents were not always drafted clearly. However, the Appellant denied that any documents had been fabricated or retrospectively created. It submitted that the Commissioner had repeatedly conflated poor administration, poor record keeping and inadequate documentation with positive evidence of fabrication.
220. The Appellant further submitted that the Respondent had failed to identify any direct evidence demonstrating that the documents were created after the event. It argued that the allegation depended substantially upon inference and invited the Tribunal to distinguish between deficiencies in the documents and proof that the documents were not genuine.
221. This allegation lies at the heart of the Respondent's case. The issue before the Tribunal is not whether the Appellant's records were well maintained. We have already found that they were not. The issue is whether the Respondent has established, on the balance of probabilities, that the Appellant knowingly provided the Commissioner with documents that were not genuine contemporaneous records and thereby misled the regulator.
222. The seriousness of that allegation should not be understated. It amounts to an allegation of deliberate deception rather than poor administration. The Tribunal therefore approaches the issue with appropriate caution.
223. The Respondent places considerable reliance upon the unsigned client care letters. We accept that their unsigned status is a legitimate concern. Indeed, given the significance placed upon those documents by the Appellant, the absence of signatures is difficult to understand. Had the documents been signed, much of the dispute which now exists might never have arisen.
224. However, we do not accept that the absence of signatures establishes fabrication. The question is not whether the documents comply with best practice. The question is whether they were genuinely created at the time they purport to have been created. The absence of signatures weakens the evidential weight that can be attached to the documents. It does not, without more, establish that they are false.
225. We have also considered carefully the contents of the client care letters themselves. In particular, we have considered the provision relating to the agreed fee of £2,600 and the unusual wording by which the Appellant purported to "exercise its discretion" and "overrule" its fixed fee policy. We have already found that the wording is confusing, poorly drafted and difficult to reconcile with aspects of the Appellant's later explanation of the fee arrangements.

226. However, that feature of the document appears to us to point away from the allegation of fabrication rather than towards it. If the document had been created retrospectively in order to justify the fees ultimately charged, one would reasonably expect a clearer, more coherent and more persuasive explanation. Instead, the wording is ambiguous, commercially illogical in places and arguably unhelpful to the Appellant's own case. Those features are more consistent with a contemporaneous document which was poorly drafted than with a document deliberately created after the event in order to withstand scrutiny.

227. The Respondent also relies upon the discrepancy between the references within the client care documentation to difficulties arising from loan sharks and the Home Office material referring to a sexuality-based protection claim. We accept that at first blush, this is troubling and one which requires careful consideration.

228. However, we do not consider that the discrepancy leads to the conclusion that the client care letters were fabricated. First, the Tribunal was not provided with the complete Home Office file. Secondly, we were not provided with either the screening interview record or the substantive asylum interview record. Thirdly, neither complainant attended the hearing and the Tribunal was therefore unable to explore how their claims developed over time, what instructions were provided to the Appellant, or whether different matters were raised at different stages of the immigration process.

229. The Respondent submits that this discrepancy supports the conclusion that the client care letters are not genuine contemporaneous records. We have considered that submission with care. However, the Tribunal does not consider that the discrepancy necessarily advances the Respondent's case in the manner suggested. If the client care letters had been created retrospectively after the asylum process and after the relevant Home Office decisions had been issued, one might reasonably expect the contents of those documents to align more closely with the basis of claim ultimately recorded by the Home Office. Instead, the client care letters contain references which are difficult to reconcile with the Home Office material relied upon by the Respondent. The discrepancy therefore raises questions regarding the accuracy and reliability of the documentation, but it does not straightforwardly support the conclusion that the documents were fabricated after the event.

230. We have also considered the Respondent's reliance upon the fact that the Appellant advanced different explanations during the course of the investigation for the discrepancy between the basis of claim recorded in the client care documentation and that appearing in the Home Office material. We accept that one explanation advanced by the Appellant was that the differing basis of claim may have arisen because another representative became involved in the matter. However, the Home Office records relied upon by the

Respondent indicate that no other representative was recorded prior to the refusal decision of 4 April 2024 and we therefore do not regard that explanation as persuasive. That does not, however resolve the underlying issue. The fact that the Appellant advanced different explanations appears to reflect the reality that the reason for the discrepancy is unknown. The Tribunal has not been provided with the screening interview record, substantive asylum interview record or complete Home Office file. Nor did either complainant attend the hearing to explain how the basis of claim recorded in the client care documentation come to differ from that appearing in the Home Office material, whether their account altered over time or what information was provided at different stages of the asylum process. In those circumstances, the Tribunal is unable to determine how the discrepancy arose. The fact that one explanation advanced by the Appellant appears unsustainable does not establish that the client care letters were fabricated or retrospectively created. Rather, it reinforces the Tribunal's conclusion that the evidential picture is incomplete and that the cause of the discrepancy cannot safely be determined upon the evidence before us. Possible explanations include misunderstanding or poor recording of instructions, evolution of the complainants' account over time, deficiencies in record keeping, or inaccuracies within the documentation itself. Whilst the discrepancy properly gives rise to concern, we are not satisfied that it provides a sufficient evidential foundation for the substantially more serious finding of deliberate deception advanced by the Respondent.

231. We have also considered the Respondent's reliance upon the absence of Home Office replies or acknowledgements to correspondence said to have been sent by the Appellant. We accept that this is a matter which properly gives rise to concern and weakens aspects of the Appellant's case. Had the correspondence been received and processed in the manner suggested by the Appellant, one might ordinarily expect some documentary trace of that communication within the Home Office records.

232. We have also considered the Respondent's reliance upon the audit findings indicating that a significant number of other asylum files examined by the Commissioner referred to claims involving fear of loan sharks. We accept that this was a matter upon which the Respondent was entitled to place reliance. However, the Tribunal does not regard the existence of other files containing similar themes as materially advancing the Respondent's case. It is not uncommon for advisers practising within particular communities or client groups to encounter recurring factual patterns across multiple cases. The fact that other clients may also have advanced claims involving fear of loan sharks does not, without more, establish that the basis of claim recorded within the complainants' client care documentation was fabricated, retrospectively created or not genuinely recorded at the time. At its highest, the audit evidence forms part of the broader evidential picture. It does not provide a sufficient basis for the substantially more serious finding of deliberate deception advanced by the Respondent.

233. Most importantly, we have considered the evidence in the round. The Respondent invites the Tribunal to conclude that the client care letters, attendance notes and associated records were created after the event and relied upon to mislead the Commissioner. That is a serious allegation requiring cogent evidential support.
234. We accept that there are deficiencies in the documents. We accept that there are inconsistencies. We accept that many of the records cannot be independently verified. We accept that aspects of the Appellant's account are weakened by the Home Office evidence.
235. However, when viewed cumulatively, those matters demonstrate poor documentation, poor administrative practices and weak record keeping. They do not persuade us that the documents were fabricated.
236. We also bear in mind that the client care letters do not read as documents carefully engineered to withstand regulatory scrutiny. Rather, they contain ambiguities, inconsistencies and drafting deficiencies which tend to undermine, rather than strengthen, aspects of the Appellant's case. That is not what one would ordinarily expect of documents deliberately manufactured for the purpose of a complaint investigation.
237. Standing back and considering the evidence as a whole, we are not satisfied that the Respondent has established that the client care letters or associated records were retrospectively created, fabricated or knowingly relied upon to mislead the Commissioner. The Respondent has established significant deficiencies in the Appellant's documentation and record keeping. It has not established deliberate deception.
238. Accordingly, we do not find the allegation that the Appellant misled the Commissioner established. The evidence demonstrates poor administration and inadequate compliance procedures. It does not satisfy us, on the balance of probabilities, that the Appellant knowingly sought to deceive the regulator.

Fitness to Provide Immigration Advice and Services (Complaint Determination §73)

239. The Respondent submitted that the cumulative effect of the matters established during the complaint investigation demonstrated that the Appellant was no longer fit to provide immigration advice and services. Reliance was placed not only upon the findings made in relation to the complainants' matters but also upon concerns arising from the audit process. The Respondent submitted that the deficiencies identified were sufficiently serious to demonstrate a lack of competence, inadequate systems and an unacceptable risk to clients.

240. The Appellant submitted that the Commissioner's fitness assessment was founded upon allegations of concealment, fabrication and misleading conduct which had not been established. It accepted that aspects of its administration and record keeping required improvement but submitted that the evidence did not justify a conclusion that it was no longer fit to provide immigration advice and services.
241. The Tribunal has upheld findings in relation to file transfer, record keeping and aspects of client care documentation. The Tribunal has not upheld the allegations relating to deliberate concealment, misleading conduct, fabrication of records, the WhatsApp confidentiality allegations or the Kompliance disclosure.
242. The Tribunal accepts that the Appellant's conduct fell below the standards expected of a regulated adviser in a number of respects. We have identified deficiencies in record keeping, file management, client care documentation, fee explanations and compliance with aspects of the applicable Codes. The delay in transferring the complainants' file was a genuine regulatory breach. The client care letters were inadequate in a number of significant respects. The Appellant's records were often poorly organised and insufficiently detailed. These are not trivial matters and are properly capable of criticism. We also take into account that the Appellant did not always respond to regulatory requests as promptly or comprehensively as it should have done, particularly in relation to financial records and file transfer issues.
243. We also accept that the audit findings are relevant to our assessment of fitness. The fact that concerns extended beyond the immediate complaint inevitably carries greater significance than a finding confined solely to the complainants' files. The audit evidence therefore provides some support for the Commissioner's concerns regarding the Appellant's administrative systems and regulatory compliance.
244. However, the audit findings must be considered in context. The Tribunal has not been asked to determine the individual matters arising from the audit itself and the material before us is substantially more limited than the evidence relating to the complainants' files. We therefore approach the audit evidence with appropriate caution. We accept that it provides support for the proposition that concerns existed regarding the Appellant's administration, record keeping and regulatory compliance more generally and were not confined solely to the complainants' files. However, the audit does not constitute independent proof of the more serious allegations of concealment, fabrication or dishonesty advanced elsewhere in the Complaint Determination. Nor does it establish, without more, that any shortcomings identified remained unaddressed at the date of the Decision or the hearing. In our judgment, the significance of the audit lies in its support for concerns regarding

administrative systems and regulatory compliance rather than any finding of present lack of integrity or honesty.

245. More fundamentally, the Commissioner's assessment of fitness was materially influenced by findings which we have not upheld. In particular, we have not found that the Appellant instructed the complainants to conceal its involvement from the Home Office. We have not found that the Appellant fabricated client care letters, attendance notes or other records. We have not found that the Appellant knowingly misled the Commissioner. We have not found that the alleged WhatsApp disclosures were established. We have not found that the disclosure of information to Kompliance Ltd constituted a breach of confidentiality or unlawful processing of personal data. Nor have we found that the Respondent established the interpretation allegation. Accordingly, a number of the more serious allegations relied upon by the Commissioner as demonstrating a lack of honesty, integrity and future regulatory compliance have not been established.

246. Those findings are important. The Commissioner's conclusion that the Appellant was no longer fit to provide immigration advice and services depended substantially upon findings which the Tribunal has not upheld and which were said to demonstrate a lack of honesty, integrity and future regulatory compliance. Had such findings been established, they would plainly have been highly relevant to fitness. However, the conduct established by the evidence is of a materially different character from that relied upon by the Commissioner when reaching the cancellation decision.

247. We recognise that the deficiencies identified were neither isolated nor trivial. They reveal weaknesses in administration, supervision, record keeping and compliance systems. However, fitness under the statutory scheme requires a broader assessment than the mere existence of regulatory breaches. The Tribunal must assess the nature of the breaches, their causes, whether they demonstrate dishonesty, lack of integrity or incompetence, the risk posed to clients and the likelihood of future compliance. In the present case, the established breaches are overwhelmingly administrative in character. They demonstrate weaknesses in systems, record keeping and regulatory compliance. However, the Tribunal is not satisfied that they demonstrate dishonesty, lack of integrity, fundamental incompetence or an ongoing inability to comply with regulatory requirements. We have not found fabrication of documents, deliberate concealment, misleading conduct, dishonesty, exploitation of clients or breaches of confidentiality. Nor are we satisfied that the evidence demonstrates an ongoing inability or unwillingness to comply with regulatory requirements. Those considerations inform our assessment of whether the threshold of present unfitness has been crossed.

248. Standing back and considering the evidence as a whole, we are satisfied that the Appellant's systems and administrative practices fell below the

standards expected of a regulated adviser and required improvement. We are also satisfied that there were genuine regulatory failings. However, the conduct established by the evidence is more appropriately characterised as poor administration, inadequate documentation and weak compliance than dishonesty, lack of integrity or a fundamental inability to provide immigration advice and services.

249. The Respondent has not proved that the shortcomings demonstrate present unfitness. The Tribunal accepts that a practice may be unfit notwithstanding the absence of dishonesty. Equally, administrative failings and poor systems can in some circumstances justify removal from practice where they demonstrate an inability to provide services safely or competently. However, the evidence before us does not establish deficiencies of that order. Whilst the shortcomings identified require improvement and regulatory scrutiny, they do not demonstrate that the Appellant is presently incapable of providing immigration advice and services, that clients are currently exposed to an unacceptable risk of harm, or that the Appellant is unable or unwilling to comply with regulatory requirements going forward. The evidence before us demonstrates failings in administration and record keeping. It does not demonstrate that the Appellant is incapable of operating a compliant practice in the future.

250. Having regard to all the evidence, including the audit material, the Tribunal is not satisfied that the Respondent has established that the Appellant is currently unfit to provide immigration advice and services. We add that no material issue has ultimately fallen for determination solely by reference to the burden of proof. Our conclusions reflect our assessment of the evidence as a whole.

Proportionality

251. In light of that conclusion, it is not strictly necessary to determine the issue of proportionality. However, in case we are wrong regarding fitness, we address the matter briefly.

252. Cancellation of registration represents the most severe regulatory sanction available. Such a sanction must be justified by findings demonstrating that lesser measures would not adequately protect the public or maintain confidence in the regulatory regime.

253. The concerns established in the present case principally relate to administration, documentation, record keeping and compliance systems. The Tribunal accepts that such matters are serious and require attention. However, we have not found dishonesty, deliberate concealment, fabrication of documents or misleading conduct. Nor have we found that the Appellant's administrative shortcomings demonstrate a fundamental inability to provide

immigration advice and services competently or safely. We have also not been presented with a pattern of multiple complaints demonstrating widespread client harm. Rather, the evidence before us arises principally from a single complaint investigation, albeit one which resulted in wider audit activity.

254. We further bear in mind the evidence concerning steps taken following the audit and complaint process to address identified shortcomings. Whilst the evidence regarding those changes was not as comprehensive as it might have been, it does demonstrate recognition by the Appellant that improvements were required.

255. In those circumstances, had we concluded that regulatory intervention remained necessary, we would have regarded cancellation of registration as a disproportionate response to the findings actually made by the Tribunal. The deficiencies identified are capable of being addressed through compliance measures, monitoring and improvement of administrative systems. Whilst administrative failings and poor systems can in some circumstances justify removal from practice, the deficiencies established in this appeal do not, in our judgment, demonstrate such a serious or continuing inability to provide immigration advice and services safely, competently and in accordance with the regulatory scheme as to justify cancellation of registration.

256. Accordingly, even if we had concluded that additional regulatory action was warranted, we would not have regarded cancellation as a proportionate response to the conduct established on the evidence before us.

Conclusion

257. Having considered all of the evidence, both individually and in the round, the Tribunal is satisfied that the Appellant fell below the standards expected of a regulated immigration adviser in a number of respects. We have found significant deficiencies in record keeping, client care documentation, file management, fee explanations and compliance with certain provisions of the Code. We have also found that the complainants' file was not transferred within a reasonable period and that aspects of the Appellant's administrative systems were inadequate. Those matters are properly capable of criticism and are relevant to the Tribunal's assessment of competence and regulatory compliance.

258. We have also taken account of the audit findings relied upon by the Respondent. We accept that they provide support for concerns regarding the Appellant's administration, record keeping and regulatory compliance more generally and demonstrate that some of the issues identified in this appeal were not necessarily confined to a single file. However, for the reasons already given, we do not regard the audit findings as materially advancing the Respondent's case on the more serious allegations considered in this appeal.

259. Importantly, the Respondent's decision was materially influenced by findings which the Tribunal has not upheld. In particular, we have not found that the Appellant instructed the complainants to conceal its involvement from the Home Office. We have not found that the Appellant fabricated client care documentation or attendance notes. We have not found that the Appellant deliberately misled the Commissioner. We have not found that interpretation services were shown to be inadequate. We have rejected a number of the more serious allegations upon which the Respondent relied when assessing fitness.
260. The distinction between those matters and the breaches that we have found is an important one. The conduct established by the evidence demonstrates poor administration, inadequate documentation, weak compliance and shortcomings in professional practice. It does not establish dishonesty, fabrication, deliberate concealment or a lack of integrity.
261. We have borne in mind the guidance in *Visa Joy Ltd v Office of the Immigration Services Commissioner* that the Tribunal's task is not simply to determine whether particular complaints are established, but to determine for itself whether the Appellant is, at the date of the hearing, fit and competent to provide immigration advice and services. We have therefore stood back and assessed the totality of the evidence.
262. In doing so, we have had regard to the nature and seriousness of the breaches proved, the audit evidence, the Appellant's explanations, the absence of findings of dishonesty or deliberate misconduct, and the fact that a substantial part of the Commissioner's reasoning has not been upheld. Whilst we regard the deficiencies identified as serious and requiring improvement, we are not satisfied that they demonstrate that the Appellant is currently unfit to provide immigration advice and services. The Tribunal's concern is therefore directed towards the quality of the Appellant's administration rather than its present fitness to provide immigration advice and services.
263. The Tribunal's concerns in this case relate principally to administration, organisation, documentation and compliance. They do not amount to a finding that the Appellant lacks integrity or is fundamentally incapable of providing immigration advice and services. Nor are we satisfied that the evidence demonstrates a level of present risk to the public sufficient to justify removal from the register.
264. Accordingly, the Tribunal concludes that the Respondent has not established that the Appellant is no longer competent or otherwise unfit to provide immigration advice or immigration services for the purposes of paragraph 4A(e) of Schedule 6 to the Immigration and Asylum Act 1999.
265. The appeal is therefore allowed.

266. Pursuant to section 88(2)(a) of the Immigration and Asylum Act 1999, the Commissioner is directed to continue the Appellant's registration.

2026 Signed: Judge Kiai

Date: 2nd September