
Final Decision

20 December 2024

My role as an ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

When determining what is 'fair and reasonable', I am expected to take into account (but I am not bound by) what decision a court might make, relevant regulatory rules and what I consider to be good practice.

I confirm that I have taken such factors into account, and the decision that I set out below, is what, in my opinion, I consider to be fair and reasonable in all the circumstances of this case.

Under Rule 5.20 of our Scheme Rules, we can treat the complaint as resolved on the basis of the Case Decision if:

- Neither party responds to the Case Decision, or
- in response to the Case Decision neither party has provided any new facts or evidence or makes a material challenge to the facts or evidence on which the Case Decision relies.

Before making my decision, I have considered whether the case could be dismissed under Scheme Rule 5.20, however I have decided that it is fair and reasonable in the circumstances to issue a Final Decision. This is because the acting solicitor complained about has not engaged with our process and a final decision will be required for any claim against Mr Chandi's insurance.

Introduction

Mrs A instructed Mr Chandi on XXXX to support with an application to extend her visa. She met with Mr Chandi on XXXX to provide the required information and payment. On admission to hospital in XXXX, Mrs A discovered that the Home Office had rejected her application when she was presented with a bill for treatment. She raised her complaint on May XXXX. Receiving no response, Mrs A then brought her complaint to the Legal Ombudsman.

Mr B, Mrs A's husband and representative in this complaint, said Mr Chandi never told them that her application had been rejected which affected her immigration

status. He said the couple had been led to believe that all was well, and his wife's confirmation documents were on their way. Mr B explained that when they learned the application had failed, they had to instruct a new firm to submit a new application and appeal which was successful.

Mr Chandi said at the time that he was working for Law Firm A, however the firm said that he had not worked there for some time. Our complaint file is set up against Mr Chandi as an independent service provider on that basis. He is not currently working in law and has not responded to any of the attempts made to contact him by this office.

Mrs A is seeking the costs charged by the NHS for £8,743.00, the charges paid to another solicitor to put things right, a total of £5,000 and compensation for her distress and inconvenience.

The complaints our office investigated are:

- 1. Mr Chandi failed to inform Mrs A that her application to extend her visa had been declined.**
- 2. Mr Chandi failed to update Mrs A about the visa application between XXXX and XXXX; and**
- 3. Mr Chandi failed to submit Mrs A's visa application within a timely manner.**

Mr B has accepted the outcome on his wife's behalf but as explained above, our office has had no contact at all from Mr Chandi so it is necessary that we issue a Final Decision.

I have read the Case Decision and the evidence. I am satisfied that the findings are fair and accurately reflect the circumstances, based on the evidence and any inferences drawn. Ordinarily at this stage I would have comments to consider from one or both parties. Here, there is nothing new, nor any challenges to the views already reached. Our Scheme Rules would usually allow us to close the file in such cases as concluded, with the expectation that the remedy is paid, but given the lack of engagement and Mr Chandi not having a practising certificate at the current time, this decision must proceed.

I will address the points of complaint above again briefly and add any of my own additional views where appropriate. However, it is not my role at this stage to reinvestigate matters.

1. Mr Chandi failed to inform Mrs A that her application to extend her visa had been declined.

1.1 The service was found unreasonable on this point as the evidence supports the fact the first Mrs A knew of her application being declined was during a hospital stay. Given she was deemed an overstayer, she received a bill for her care which was obviously very upsetting for her.

1.2 The evidence in this matter is compelling. The Home Office printout called CID Search Summary Report gives us the visa history for Mrs A and it clearly shows she was granted Leave to Remain in XXXX. The date of receipt of her new application was logged as XXXX, over six months after the payment was made and details handed over.

1.3 I note Mr Chandi was acting under the cover of Law Firm A by way of using their email address for service (a generic 'mail' inbox address not specific to him as far as the evidence shows). I have seen no email correspondence in his name using the firm's footer nor any formal letters in the same manner. Most of his communication appears to be via text message.

1.4 It is clear that further steps were needed before the application could be fully submitted and these were not relayed properly, so it follows that Mr Chandi did not notify Mrs A of the failed application either, meaning she had the shock and embarrassment of finding out by way of a bill from the NHS.

1.5 I do not consider there is any value in me further repeating facts against the evidence as it is already persuasive and supports the decision by our office that Mr Chandi did not notify Mrs A that her application was declined. I endorse the view this is unreasonable.

2. Mr Chandi failed to update Mrs A about the visa application between XXXX and XXXX

2.1 This point is much the same as complaint 1, in that the evidence clearly shows nothing of significance in the way of updates about the status of the application. The exchanges of text messages show a keenness by Mrs A to get an update which her husband tried to do repeatedly, even attending places to meet in person after being told Mr Chandi was on his way or would be there later, and evidently being let down when he failed to show up. This was a pattern of behaviour over a number of months and the increasing frustration is very clear.

2.2 It is especially concerning that Mr Chandi advised in XXXX he would be contacting the Home Office to chase them up, indicating Mr B could join him in doing so at one of the various offices he appeared to be working from.

2.3 My colleague has concluded she would expect a reasonable service to extend to keeping a client informed. The importance of this application is very clear from the level of effort Mr B went to in his string of messages over weeks and months, all of which were fruitless. I would not consider the messages in XXXX to even count as reasonable updates on the basis they were misleading in any event (given we later conclude the application was probably fully filed a month later).

2.4 To conclude, the evidence is clear that Mr Chandi gave no clear updates on the matter so the service is unreasonable on point 2.

3. Mr Chandi failed to submit Mrs A's visa application within a timely manner

3.1 As noted above, the application was rejected as being out of time. The evidence clearly shows that the documents and fee was provided ahead of the visa status expiring and therefore it can be argued the application should have succeeded, if submitted on time.

3.2 Interestingly, my colleague observed that reference numbers varied on the document checklist and then the application update; this may suggest other actions took place in between but none the less, nothing was advised to Mrs A so our office relies on the decision itself, which is again compelling.

3.3 The Home Office said:

- You were Granted LTR as the partner of [REDACTED] valid from [REDACTED] until [REDACTED]
- You last entered the UK on [REDACTED] with LTR as the partner of [REDACTED] valid from [REDACTED]
- The date of your current LTR partner application is [REDACTED]
- As you have had no valid leave in the UK since [REDACTED] your current LTR partner application is 6 months and 7 days Out of Time

3.4 The document checklist predates this so tells us that some elements of the work were started but clearly not completed. As noted earlier, the generic email address of the firm Mr Chandi was said to be working for is seen on the printout, but this in my view would not go to a specific person and any later replies may have been difficult to allocate back to Mr Chandi depending on when he stopped working for this firm, depending on how the file was set up.

3.5 The Home Office clearly state above the application date was over six months out of time. Mrs A would not have received the requests for additional information as the email address noted above was where the acting representative would normally take receipt of any emails and relay to the client or take action. This has quite obviously not happened here, resulting in the issues with the application failing.

3.6 I agree with the conclusions reached; there appears to have been information or key actions missed which have resulted in the application not being filed until some six months after Mr Chandi was supposed to. In turn this led to the upset of being declined and the unexpected penalty from the NHS during a hospital stay. I find complaint 3 was unreasonable service.

Summary

I conclude that this decision endorses the Case Decision so now becomes final. All points of complaint were found to be unreasonable service and it cannot be underestimated what impact this has had.

There was a period of around seven months where Mrs A was left in the dark; efforts to make contact and then arrange meetings or conversations were met with no shows and excuses which were entirely unfair, especially in the knowledge the application was at best partly submitted and stood no chance of being approved given the strict rules applied at the Home Office.

It must have been hugely confusing to receive a bill for NHS treatment that most of us take for granted as not chargeable; it is entirely fair that Mrs A assumed all was well as she had placed trust in Mr Chandi and given the impression it was in hand. Equally there was the worry of no longer complying with UK visa requirements, and the burden of the cost in putting that right.

Whilst we cannot specifically say how successful any application would have been first time round, there is no opportunity for us to know that now, and cost was incurred in another firm doing the job correctly which has now ensured Mrs A is able to remain here.

It is entirely fair in which case that our office recommends Mr Chandi covers the cost incurred putting this right with new solicitors, which is evidenced as costing £5000.

It is fair to argue that the NHS costs would not have been incurred if Mrs A was better informed, and the application properly managed, as the health services she received were all onwards of XXXX so almost 12 months after her application should

have been properly filed. Those costs included a penalty fee which I agree warrant covering by Mr Chandi in the circumstances, so these amount to £7533 plus the penalty of £1210.

Finally, I have already touched upon the shock and upset of this issue which should not be understated. The recommended remedy for this was £400 in my colleague's report which I feel is fair on the basis we are putting Mrs A back to her correct position financially in having to only pay one set of fees for her application and covering the NHS fees. I hope in doing so, she is able to move on from her experience as this will no doubt have impacted her trust in the legal profession. I hope her positive experience with the new firm went some way to repairing this.

Therefore, my final decision is that there has been unreasonable service that requires a remedy and direct that Mr Chandi pays £14,143 which comprises the sums shown above.