

**IMMIGRATION
ADVISERS AUTHORITY**

Immigration Advisers Competency Standards 2016



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

New Zealand Government

LICENSED PROFESSIONAL PROTECTED MIGRANT

The Immigration Advisers Competency Standards 2016 come into effect on 1 October 2016. These competency standards must be met by Licensed Immigration Advisers. They are developed by the Registrar of Immigration Advisers and approved by the Minister of Immigration in accordance with section 36(5) of the Immigration Advisers Licensing Act 2007.

The 2016 Competency Standards are a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012.

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Minimum standards of competence for licences

PROVISIONAL LICENCE

An applicant must demonstrate, to the satisfaction of the Registrar, that he or she meets each of the competencies to the extent necessary to provide immigration advice under the direct supervision of a fully licensed immigration adviser.

LIMITED LICENCE

An applicant must demonstrate, to the satisfaction of the Registrar, that he or she meets each of the competencies to the extent necessary to provide immigration advice on limited specified matters without supervision.

FULL LICENCE

An applicant must demonstrate, to the satisfaction of the Registrar, that he or she meets each of the competencies to the extent necessary to provide immigration advice on all matters without supervision.

Note – Section 20 of the Immigration Advisers Licensing Act 2007 allows the Registrar to be satisfied of an applicant's competence by means of an examination. Where an applicant holds an approved entry course or qualification, the Registrar may be satisfied, in the absence of information suggesting otherwise, that the applicant meets competencies 2 – 6 for the type of licence being applied for.

LICENSING PATHWAY REQUIREMENTS

Approved entry course

The approved entry course/s are notified on the Immigration Advisers Authority website.

Approved qualifications

The approved qualification/s are notified on the Immigration Advisers Authority website.

Refresher course

The approved refresher course/s are notified on the Immigration Advisers Authority website.

COMPETENCY STANDARD 1

Qualifications and experience

■ Performance indicators

An applicant for a provisional licence must:

- 1.1 Have completed an approved qualification or approved entry course within the 12 months prior to the application being lodged; **OR**
- 1.2 Have previously completed an approved qualification or approved entry course, and have completed an approved refresher course within the 12 months prior to the application being lodged; **OR**
- 1.3 Have previously held a licence within the 12 months prior to the application being lodged; **OR**
- 1.4 Have previously held a licence, and have completed an approved refresher course within the 12 months prior to the application being lodged; **OR**
- 1.5 Hold a current licence.

An applicant for a limited licence must:

- 1.6 Hold an approved qualification that was commenced in or before February 2015 and completed within the 12 months prior to the application being lodged; **OR**
- 1.7 Hold an approved qualification, and:
 - a. have held a provisional licence within the 12 months prior to the application being lodged, and
 - b. have held a provisional licence for at least 24 months; **OR**
- 1.8 Have previously held a limited licence within the 12 months prior to the application being lodged; **OR**
- 1.9 Have previously held a limited licence, and have completed an approved refresher course within the 12 months prior to the application being lodged; **OR**
- 1.10 Hold a current limited licence.

An applicant for a full licence must:

- 1.11 Hold an approved qualification that was commenced in or before February 2015 and completed within the 12 months prior to the application being lodged; **OR**
- 1.12 Hold an approved qualification, and
 - a. have held a provisional licence within the 12 months prior to the application being lodged, and
 - b. have held a provisional licence for at least 24 months; **OR**
- 1.13 Hold an approved qualification, and hold a current limited licence; **OR**
- 1.14 Have previously held a full licence within the 12 months prior to the application being lodged; **OR**
- 1.15 Have previously held a full licence, and have completed an approved refresher course within the 12 months prior to the application being lodged; **OR**
- 1.16 Hold a current full licence.

COMPETENCY STANDARD 2

Knowledge of New Zealand's immigration advisers licensing scheme

■ Performance indicators

Advisers must be able to demonstrate knowledge of:

- 2.1 The purpose and key provisions of the Immigration Advisers Licensing Act 2007.
- 2.2. The functions of the Immigration Advisers Authority and the Registrar of Immigration Advisers.
- 2.3. Who must be licensed to provide New Zealand immigration advice.
- 2.4. Who is exempt or prohibited from the requirement to be licensed to provide New Zealand immigration advice.
- 2.5. What constitutes 'immigration advice'.
- 2.6. The role of the Immigration Advisers Complaints and Disciplinary Tribunal: its functions and powers; grounds for complaint; disciplinary sanctions; and possible outcomes from complaints procedures.
- 2.7. All of the offences under the Immigration Advisers Licensing Act 2007.
- 2.8. The responsibilities of licensed immigration advisers including: adhering to the code of conduct; continuing professional development requirements; annual licence renewal and notifying the Registrar of changes in circumstances.

COMPETENCY STANDARD 3

Knowledge of New Zealand immigration law and immigration and operational instructions

■ Performance indicators

Advisers must be able to demonstrate:

- 3.1 Knowledge of and the ability to apply the Immigration Act 2009, its regulations and applicable international obligations, including an understanding of the key principles of natural justice and administrative law as they apply to immigration decision-making.
- 3.2 Knowledge of and the ability to apply immigration and operational instructions made under the Immigration Act 2009.
- 3.3 Knowledge of and the ability to provide tailored advice on avenues for seeking assistance including the Immigration New Zealand, Immigration Advisers Authority, and Immigration and Protection Tribunal websites and the Immigration New Zealand contact centre.
- 3.4 Knowledge of and the ability to provide tailored advice on the full range of immigration matters relating to applications, appeals, requests, claims and other representation including but not limited to: applications for temporary entry; applications for residence; claims for refugee and protection status; dealing with a client's unlawful status; and dealing with appeals and requests under the Immigration Act 2009.
- 3.5 The ability to assist clients to access information about New Zealand culture and traditions, including the Treaty of Waitangi and tikanga.
- 3.6 Knowledge of New Zealand's Privacy Act 1993, Official Information Act 1982 and Ombudsmen Act 1975 and how the rights under those Acts can be accessed and utilised to the advantage of clients in the immigration context.

COMPETENCY STANDARD 4

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Preparing, lodging and administering immigration applications, appeals, requests, claims and other representation

■ Performance indicators

Advisers must be able to demonstrate the ability to:

- 4.1 Assess a client's immigration situation including: establishing eligibility criteria; gathering appropriate information; conducting preliminary assessments; identifying potential barriers to eligibility; evaluating the possible range of options; providing correct advice and information; and providing reasons for the advice given.
- 4.2. Provide services in an ethical, timely, conscientious, complete and accurate manner including: planning the application process; clearly communicating requirements with clients; co-ordinating the preparation of applications; lodging applications with required supporting documents; taking all reasonable steps to inform clients to submit accurate and genuine documentation and the consequences of not doing so; satisfying all lodgement requirements; applying immigration knowledge as appropriate and in a manner that protects clients' immigration status and entitlement; and understanding the requirements relating to medical evidence and advising clients appropriately, with a view to providing full information to Immigration New Zealand.
- 4.3. Represent clients through the immigration application process including: following up on applications; liaising with Immigration New Zealand as required; keeping clients informed in a consistent manner; recognising and working within time limits; understanding and responding appropriately to issues as they arise including responding promptly to correspondence from Immigration New Zealand, the client and third

parties; completing the process following decision-making including the timely return of clients' documents; ensuring decisions are communicated to clients with the details and implications of outcomes explained, particularly appeal and review rights; checking visa labels for accuracy; advising clients in a timely manner of the procedures for complaints and the avenues for redress including appeal rights; and taking any necessary follow-up action.

- 4.4. Represent clients through the refugee or protection claim process or know when and where to refer clients for specialist advice including: recognising when clients have potential refugee or protection claims and advising clients of the ability to lodge a claim; explaining the consequences of making a refugee or protection claim; explaining how a claim is made; where appropriate, advising clients when they may be eligible for legal aid under the Legal Services Act 2011 in relation to a refugee status or protection claim or appeal or immigration detention; completing claim documentation; advising clients of the ability to apply for a visa; representing clients in relation to refugee or protection claims, including cessation or cancellation procedures; understanding the special needs of victims of trauma; or referring clients to appropriate specialists.
- 4.5. Represent clients through appeals or know when and where to refer clients for specialist advice including: recognising when clients have appeal rights; advising clients of the right to appeal and appeal time limits; explaining the consequences of making an appeal, including whether or not they may stay in New Zealand while the appeal is being decided; or referring clients to appropriate specialists.
- 4.6. Make requests for special directions or know when and where to refer clients for specialist advice including: recognising when a request for a special direction is appropriate and advising clients of the option; completing request documentation and delivering it to the appropriate decision-maker; representing the client through the process; or referring clients to appropriate specialists.
- 4.7. Represent clients in relation to compliance and deportation matters or know when and where to refer clients for specialist advice including: where appropriate, advising clients when they may be eligible for legal aid under the Legal Services Act 2011 in relation to a refugee status or protection claim or appeal or immigration detention; recognising when clients may be liable for deportation and advising clients of their liability; and explaining the consequences of deportation.

COMPETENCY STANDARD 5

Communicating in English

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■ Performance indicators

Advisers must:

- 5.1 Have completed, within the two years immediately prior to enrolling for an approved qualification or an approved entry course:
 - a. an International English Language Testing System (IELTS) test with minimum academic scores of Writing 7.0; Reading 6.5; Listening 6.5; and Speaking 6.5 with a minimum overall IELTS academic band score of 7.0. Evidence of IELTS test scores achieved in more than one sitting is acceptable if the applicant has taken the second and any subsequent IELTS tests within 12 months of the first test; **OR**
 - b. Test of English as a Foreign Language (TOEFL) internet-based test (iBT) with minimum scores of Writing 27; Reading 20; Listening 20 and Speaking 20 with a minimum total score of 100. Evidence of TOEFL test scores achieved in more than one sitting is acceptable if the applicant has taken the second and any subsequent TOEFL tests within 12 months of the first test; **OR**
 - c. a Pearson Test of English Academic (PTE Academic) with minimum scores of Writing 65; Reading 58; Listening 58 and Speaking 58 with a minimum overall score of 65. Evidence of PTE Academic test scores achieved in more than one sitting is acceptable if the applicant has taken the second and any subsequent PTE Academic tests within 12 months of the first test; **OR**
- 5.2. Have completed:
 - a. primary schooling (or equivalent) and at least three years' secondary schooling (or equivalent); **OR**
 - b. five years' secondary schooling (or equivalent); **OR**
 - c. a total of six years' education comprising a completed bachelor degree (or equivalent tertiary qualification) of at least three years duration plus any combination of:

- i. secondary schooling equivalent to year 12 prior to commencing the course of study referred to in 5.2(c); **OR**
 - ii. another completed bachelor degree (or equivalent tertiary qualification) undertaken at a different time to the course of study referred to in 5.2(c); **OR**
 - iii. a completed postgraduate qualification.
- 5.3 The schooling or other courses of study referred to in paragraph 5.2 must have been delivered in the English language and completed while living in New Zealand, Australia, Canada (excluding Quebec), the Republic of Ireland, the United Kingdom or the United States of America.
- 5.4 A person is deemed to meet Performance Indicators 5.1 – 5.2 who before 1 October 2016:
 - a. had commenced but not completed a course of study for an approved qualification or an approved entry course; **OR**
 - b. had completed an approved qualification or an approved entry course; **OR**
 - c. held or previously held an immigration advisers licence issued under section 19 of the Immigration Advisers Licensing Act 2007.

Advisers must be able to demonstrate:

- 5.5 The ability to complete written documentation in English to a professional standard including: forms; letters; emails; client file notes; written agreements; and detailed and well- structured written submissions, arguments or presentations.
- 5.6 The ability to communicate orally in English to a professional standard including: conducting telephone and face-to-face interviews; active listening; dealing with conflict; and delivering detailed and well-structured oral presentations, submissions or arguments.

COMPETENCY STANDARD 6

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Conducting business professionally, ethically and responsibly

■ Performance indicators

Advisers must be able to demonstrate:

- 6.1 Understanding of and commitment to professional, ethical, socially responsible and culturally sensitive behaviour and practice; in particular, to all aspects of the licensed immigration advisers code of conduct.
- 6.2. Understanding of the importance of and commitment to working within the limitations of the individual's knowledge and skills, including making decisions and taking action consistent with the adviser's own level of expertise and skills, and recognising when professional development, specialist advice or referral is required.
- 6.3. The ability to manage a business in accordance with local law, the Immigration Advisers Licensing Act 2007, and the licensed immigration advisers code of conduct including the management of client services, business accounts and finances, and where appropriate seek the assistance of other professionals.
- 6.4. The ability to use interpreters and translators when English is a barrier to communication and understanding of the importance of professional and ethical standards.
- 6.5. The ability to develop and maintain ethical and professional relationships with Immigration New Zealand and other relevant organisations.
- 6.6. The ability to develop and maintain ethical and professional relationships with clients.
- 6.7. The ability to develop and apply a clear and understandable written agreement that includes a full description of the services to be provided by the adviser; fees to be charged and payment schedule; how and when the client will be invoiced, and the refund policy.

- 6.8. Understanding of the importance of quality assurance techniques to the provision of immigration advice such as checklists, peer review, case reviews, supervision, team briefings; and the ability to apply these.
- 6.9. The ability to identify when it is appropriate to refer a client to another professional, including referral to the legal profession where there may be a case for an appeal to the High Court or judicial review proceedings, and where appropriate, advise clients when they may be eligible for legal aid under the Legal Services Act 2011 in relation to a refugee status or protection claim or appeal or immigration detention.

COMPETENCY STANDARD 7

Continuing professional development

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■ Performance indicators

- 7.1 Advisers must maintain an acceptable continued professional development (CPD) plan and record for each 12 month licensing period. What must be included in an acceptable CPD plan and record is notified on the Immigration Advisers Authority's website.
- 7.2. Advisers must complete at least 20 hours of acceptable professional development activities, including any mandatory activities, during each 12 month licensing period. Acceptable and mandatory professional development activities are those notified on the Immigration Advisers Authority's website.
- 7.3. Advisers must retain, and produce upon request, their CPD plan and record for each licensing period that commenced after 26 November 2015, up to a maximum of 3 years.

