

IMMIGRATION ADVISERS AUTHORITY: PUBLIC CONSULTATION

Earlier this year, the New Zealand Government passed the Immigration Advisers Licensing Act, which will require anyone providing New Zealand immigration advice to be licensed (unless exempt). The Act also establishes the Immigration Advisers Authority, an independent Authority within the Department of Labour, that will administer the licensing process for Advisers both on and off-shore.

To obtain and hold a licence, Advisers will have to meet competency standards and adhere to a code of conduct. The Immigration Advisers Authority has worked closely with Industry and Departmental Working Groups to develop drafts of these documents. This dialogue has provided invaluable input, and now it is time for both documents to undergo public consultation.

To ensure that the licensing process is robust, it is vital that stakeholders from across the sector engage in the Authority's establishment phase. By taking part in this public consultation process, you will help inform final decision-making around this vital step forward for the Immigration Advice profession.

Thank you for taking part in this important process. As Minister of Immigration, I look forward to working with all stakeholders to shape the future of immigration in New Zealand.

Hon Clayton Cosgrove
Minister of Immigration

Immigration
Advisers Authority

Department of Labour
TE TARI MAHI



Draft Competency Standards and Code of Conduct for Licensed Immigration Advisers

Have your say

November 2007

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FOREWORD

Making immigration advisers a recognised profession is an important move forward for New Zealand's entire immigration sector, with benefits for migrants and advisers alike. Migrants can be confident that they will get the correct and best information, whether they receive it directly from Immigration New Zealand or from an adviser. Advisers will be supported to give their clients sound advice and professional service through continuing professional development programmes and recognition of their work as a regulated profession.

The Immigration Advisers Authority is the statutory body that will administer licensing for advisers both on and offshore. As the Registrar of the Authority, I am responsible for developing the robust competency standards and code of conduct that lie at the heart of a quality licensing process. The standards are built around seven specific competencies, or areas of competence. The competencies set out what advisers need to know, and be able to do, to be licensed.

In developing the consultation document I have, with the assistance of existing industry organisations, gratefully received input from practising immigration advisers. This consultation is your chance to comment on them as well.

The Immigration Advisers Licensing Act 2007 requires that I consult with:

- the Minister of Immigration and the Department of Labour;
- persons or representatives of persons who engage in the provision of immigration advice; and
- appropriate bodies or persons representing persons seeking or receiving immigration advice.

I am meeting the above obligations by issuing this consultation document. After I have considered submissions from the consultation process and finalised the standards and the code of conduct I will submit them to the Minister of Immigration for approval.

Thank you for taking the time to participate in this consultation. Your input will be considered as part of the decision-making process.

Yours sincerely

Barry Smedts
Registrar of Immigration Advisers

1. PROCESS FOR PROVIDING FEEDBACK

This consultation document is available online on our website at www.iaa.govt.nz

Hard copies can be requested from the Immigration Advisers Authority using the contact details set out below.

You are invited to read this document and to comment on any issues arising from your consideration of the material in it. Please answer the questions identified in each section of the consultation document. Your input will assist the Authority to develop a set of competency standards and a code of conduct for immigration advisers to present to the Minister of Immigration for approval.

Submissions must be delivered to the Authority no later than 5.00pm **Friday 21 December 2007**.

You may send your feedback to the Authority at:

Email: consult@iaa.govt.nz

Post: The Immigration Advisers Authority
PO Box 6222
Wellesley Street
Auckland

If you have any queries about the consultation process, please contact us on consult@iaa.govt.nz or our freephone in New Zealand - 0508 422 422.

2. WHY THE LICENSING SCHEME IS BEING PUT IN PLACE

2.1 Why is New Zealand licensing immigration advisers?

Over the past few years, the Government has had growing concerns about the number of migrants and refugees seriously disadvantaged through poor immigration advice and fraudulent activities.

Government decided that new legislation was needed to both protect migrant consumers and support advisers to give their clients sound advice and professional service. This, in turn, would also enhance New Zealand's reputation as a migration destination.

2.2 What are the benefits of licensing?

Making immigration advisers a licensed, recognised profession is good for both migrants and advisers:

Consumer confidence:

- licensed immigration advisers have to meet minimum standards of competence and adhere to a code of conduct. Migrants can be confident they are getting full, accurate, competent and ethical advice;
- clear, accessible procedures will be put in place so that people can seek redress if they do receive poor service from their immigration adviser.

Increased professionalism:

- immigration advisers will develop their competence levels through new professional development programmes;
- in time, immigration advisers will be supported by formal qualifications and training;
- immigration advisers will have their work recognised as a regulated profession.

3. HOW LICENSING WILL WORK

3.1 What is the Immigration Advisers Authority?

The Immigration Advisers Licensing Act 2007 ("the Act") establishes the Immigration Advisers Authority ("Authority"), an independent Authority that will administer the licensing process for advisers both on and offshore.

Headed by a Registrar, the Authority's functions include:

- to establish and maintain a register of licensed immigration advisers;
- to administer the licensing regime for immigration advisers;
- to develop and maintain competency standards and a code of conduct for immigration advisers;
- to facilitate the education and professional development of immigration advisers;
- to facilitate public awareness of matters relating to immigration advice;
- to investigate and take enforcement action in relation to offences under the Act;
- to provide procedures for the lodging of complaints, including requiring immigration advisers to set up their own complaints procedures.

3.2 Who will need to get a licence?

Anyone providing immigration advice relating to New Zealand (as defined in paragraph 4.4 below) will need to be licensed, unless they are exempt. The law applies to people living in New Zealand and offshore.

3.3 Who is exempt?

Persons who are exempt from licensing under the Act include:

- persons who provide immigration advice in an informal or family context only, so long as the advice is not provided systematically or for a fee;
- Members of Parliament, and members of their staff who provide immigration advice within the scope of their employment agreements;
- foreign diplomats and consular staff protected by legislation;
- employees of the public service who provide immigration advice within the scope of their employment agreements;
- lawyers;
- community law centre employees and volunteers;
- volunteers or employees working for citizens advice bureaux;
- persons who provide immigration advice offshore in relation to student visas and permits.

3.4 What is "immigration advice"?

Under the Act, "immigration advice" is defined as "using, or purporting to use, knowledge of or experience in immigration to advise, direct, assist or represent another person in regard to an immigration matter relating to New Zealand, whether directly or indirectly and whether or not for gain or reward".

Advice does not include:

- providing information that is publicly available or that is prepared or made available by the Department of Labour;
- directing a person to the Minister or the Department of Labour or an immigration officer, a visa officer, a refugee status officer, or a list of licensed immigration advisers;
- carrying out clerical work, translation or interpreting services or settlement services.

3.5 When can advisers apply for a licence?

The Authority will begin accepting applications from 4 May 2008.

3.6 When do advisers need to be licensed?

Licensing for people giving immigration advice in New Zealand will be mandatory from 4 May 2009.

For immigration advisers residing outside of New Zealand, but providing immigration advice relating to New Zealand, licensing will be mandatory from 4 May 2010.

3.7 How will advisers get a licence?

Advisers will be required to apply in writing using the application form approved by the Registrar. The application form will require applicants to provide information that demonstrates that they meet the competency standards set by the Registrar.

The Registrar must grant a licence if he or she is satisfied that the applicant:

- is not prohibited from registration under the Act;
- is fit to be licensed;
- meets the minimum standard of competence set by the Registrar;
- properly completes the application;
- pays the required fees and levy.

3.8 What will it cost?

Because both immigration advisers and New Zealanders generally will benefit from the new licensing scheme, it is proposed that both the Crown and advisers will contribute towards the costs of operating it.

Fees have not yet been set. Further information on proposed fees and levies will be available early in 2008.

3.9 What is the purpose of the register of licensed immigration advisers?

The Authority is required to establish and maintain a register of licensed immigration advisers. The primary purpose of the register is to enable members of the public to know how to contact licensed immigration advisers.

People seeking immigration advice will be encouraged to refer to the register, prior to engaging the services of an immigration adviser, to check they are licensed.

4. TYPES OF LICENCES

4.1 Types of licences

Immigration advisers can be granted full, provisional or limited licences depending on their level of competence. The Act sets out the criteria for each type of licence.

4.2 Full licences

The Registrar may grant a full licence if satisfied that an applicant has overall competence in all areas of immigration advice. Accordingly, the draft competency standards for a full licence require applicants to be able to provide advice across the full range of immigration matters.

To meet the minimum standard of competence for the granting of a full licence a person must demonstrate (to the Registrar's satisfaction) that they meet each of the competencies set out in the standard for a full licence. The draft competencies are set out in section 5 of this document.

4.3 Provisional licences

A provisional licence allows a person to provide immigration advice, but only under the direct supervision of a fully licensed immigration adviser. A provisional licence may be granted to:

- new entrants to the industry, who have some knowledge of immigration matters but little or no experience;
- persons who do not qualify for a full licence but are otherwise sufficiently competent to provide advice under supervision.

To meet the minimum standard of competence for the granting of a provisional licence a person must demonstrate (to the Registrar's satisfaction) that they meet each of the competencies set out in the standard for a provisional licence. The competencies for a provisional licence are set at a level that recognises that applicants may have less practical experience and knowledge than fully competent immigration advisers. The competencies are set out in section 5 of this document.

The holders of provisional licences may apply to the Registrar at any time to have their licences upgraded to limited or full licences.

4.4 Limited licences

The Act enables the Registrar to grant limited licences authorising applicants to provide immigration advice, without supervision, in relation to specified matters only.

The competencies for a limited licence are the same as those for a full licence. Where a person does not have overall competence in all areas of immigration advice, but the Registrar is satisfied that the person can provide advice, unsupervised, in relation to specified matters, the Registrar may grant a limited licence.

The holders of limited licences may apply to the Registrar at any time to have their licences upgraded to a full licence.

5. THE DRAFT COMPETENCY STANDARDS

5.1 Introduction

The Act requires the Registrar to develop and maintain competency standards to be met by licensed immigration advisers. The Act requires there to be competency standards covering the following matters:

- relevant qualifications;
- communication in English;
- practical experience and knowledge;
- continuing professional development.

The competency standards may differ according to whether an applicant is seeking a full, limited or provisional licence.

5.2 Process to date

The Draft Competency Standards for immigration advisers have been developed with the assistance of industry associations, and input from practising immigration advisers and Immigration New Zealand. Research has also been conducted into the licensing standards set in other jurisdictions such as Australia, Canada and the United Kingdom.

This consultation is your chance to comment on the Draft Competency Standards as well.

5.3 The draft competency standards

The draft competency standards for full, provisional and limited licences are set out below. The standards are built around seven specific competencies, or areas of competence.

A number of performance indicators are set out underneath each competency. Advisers must satisfy the Registrar that they have a particular competency by demonstrating that they meet each performance indicator relating to that competency.¹

5.4 The draft minimum standard of competence for a full licence

To meet the minimum standard of competence for the granting of a full licence a person must demonstrate (to the Registrar's satisfaction) that they meet each of the following competencies:

- relevant qualifications;
- understand the immigration advisers licensing scheme;
- understand and apply knowledge of New Zealand's immigration law;
- prepare, lodge and administer immigration applications;
- apply communication techniques to the immigration process in the English language;
- conduct business professionally, ethically and responsibly;
- maintain skills and knowledge through participation in relevant professional development activities.

These competencies may be demonstrated by meeting each competency performance indicator, described in the table below:

¹ Note that in the following competency standards the meaning of "application" includes "request" and "claim".

Competency 1: Relevant qualifications

Performance indicators:

- 1.1 Is qualified to provide immigration advice relating to New Zealand, including by virtue of:
- *Sufficient experience in the provision of immigration advice that demonstrates that the person applying for a licence meets the competencies for the type of licence to be granted; and/or*
 - *Completion of the Graduate Certificate in Australian Migration Law and Practice, or other substantially similar tertiary degree, diploma, certificate or course of study; and/or*
 - *Licensing or registration or other similar recognition with an overseas organisation that performs functions that correspond wholly or substantially to those performed by the Authority.*

Explanatory note:

Until a suitable formal immigration qualification is available, the Registrar will recognise experience in the provision of immigration advice (as that experience relates to the competencies for the type of licence applied for) as a qualification.

Competency 2: Understand the immigration advisers licensing scheme

Performance indicators:

- 2.1 Outline the key features of the immigration advisers licensing scheme.
- *Includes but not limited to – the purpose of the Immigration Advisers Licensing Act 2007; the functions of the Authority and the Register of Licensed Immigration Advisers.*
- 2.2 Describe who needs to be licensed and what matters are covered within the licensing scheme.
- *Includes but not limited to – who must be licensed in order to give immigration advice; who is exempt; who is prohibited from holding a licence; and what constitutes ‘immigration advice.’*
- 2.3 Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal.
- *Includes but not limited to – functions and powers of the Tribunal; grounds for complaint; disciplinary sanctions; and possible outcomes from complaints procedures.*
- 2.4 Outline the offences under the Immigration Advisers Licensing Act 2007.
- *Includes – providing immigration advice when not licensed or exempt; holding out as an immigration adviser when not licensed or exempt; holding out as a licensed immigration adviser; providing false or misleading information; asking for or receiving a fee or reward for immigration advice when neither licensed or exempt; employing or contracting an unlicensed or a non-exempt person as an immigration adviser; obstructing inspection; failing to notify change in circumstances.*
- 2.5 Outline the responsibilities of licensed immigration advisers.
- *Includes but not limited to – maintaining competence through participation in continuing professional development activities; abiding by the Code of Conduct; renewing licence annually; notifying the Registrar of any relevant change in circumstances.*

Competency 3: Understand and apply knowledge of New Zealand immigration law

Performance indicators:

- 3.1 Describe the key features of the Immigration Act 1987 and regulations made under that Act and their application to the immigration process.
- *Includes but not limited to – the purpose and intent of the Immigration Act 1987; key sections of the Act; discretionary decision-making powers of the Minister of Immigration; the application of principles of law to immigration decisions, including the principles of natural justice and fairness.*
- 3.2 Access, interpret and apply knowledge of immigration policies and procedures.
- *Includes but not limited to – Immigration New Zealand Operational Policy Manual; Immigration New Zealand Circulars; other avenues for seeking assistance including the Immigration New Zealand and Authority websites and the Immigration New Zealand Contact Centre.*
- 3.3 Identify the main criteria for providing advice across the full range of immigration matters.
- Includes but not limited to –*
- *Applications for temporary entry (students, visitors, work), limited purpose entry or transit;*
 - *Applications for residence (skilled migrant, family, business, quotas);*

- *Refugee status claims and appeals;*
- *Immigration sponsorship;*
- *Immigration obligations;*
- *Appeals in relation to immigration matters.*

3.4 Apply knowledge of immigration matters comprehensively in one or more areas.

Includes but not limited to –

- *Applications for temporary entry (students, visitors, work), limited purpose entry or transit;*
- *Applications for residence (skilled migrant, family, business, quotas);*
- *Refugee status claims and appeals;*
- *Immigration sponsorship;*
- *Immigration obligations;*
- *Appeals in relation to immigration matters.*

Competency 4: Prepare, lodge and administer immigration applications

- *Includes but not limited to – dealing with clients in a timely manner; giving correct advice and information to clients; keeping clients informed; taking all reasonable steps to ensure clients are submitting accurate and genuine documentation; ensuring decisions are communicated to the client and any resulting follow up actions are taken.*

Performance indicators:

4.1 Develop and maintain professional relationships with Immigration New Zealand and other relevant organisations.

- *Includes but not limited to – Settlement Support NZ; Work and Income; New Zealand Qualifications Authority; other government agencies; professional registration bodies.*

4.2 Develop and maintain professional relationships with clients.

- *Includes but not limited to – providing advice and information before, during and after the immigration application process.*

4.3 Assess clients' immigration situations.

- *Includes but not limited to – working with clients to establish eligibility criteria; gathering all appropriate information necessary to make an accurate assessment; conducting preliminary assessments; identifying potential barriers to eligibility; evaluating the range of possible options for clients and providing reasons for advising on a course of action.*

4.4 Agree on terms of appointment.

- *Includes but not limited to – agreeing on services to be provided and fees to apply; outlining refund policy and any other key terms of agreement; establishing performance expectations; entering into a formal agreement with clients.*

4.5 Arrange agreed services in a timely, complete and accurate manner.

- *Includes but not limited to – planning the immigration process; issuing understandable and accurate instructions; coordinating the preparation of applications; lodging applications with supporting evidential documents; satisfying all lodgement requirements.*

4.6 Administer the application process.

- *Includes but not limited to – following up applications; liaising and administering the immigration process with Immigration New Zealand or the appropriate organisation; keeping clients informed; understanding and responding appropriately to issues as they arise; completing the process following decision, including the timely return of clients' documents; advising clients of the procedures for handling complaints; advising clients of appeal rights.*

4.7 Apply quality assurance techniques to immigration application procedures.

- *Examples of techniques: checklist; peer reviews; case reviews; supervisor review; team briefings.*

Competency 5: Apply communication techniques to the immigration process in the English language

- *Audiences include but are not limited to – clients; colleagues; managers; Immigration New Zealand and other government organisations; business and other professional organisations; the general public.*

Performance indicators:

5.1 Complete all documentation clearly and concisely in the English language.

- *Business documents include but are not limited to – forms, letters, e-mails, memos, agreements, and reports.*

5.2 Conduct oral communications clearly and audibly in the English language.

- *Includes but not limited to – conducting information-gathering interviews by telephone and face-to-face; applying active listening techniques, dealing with conflict situations, delivering presentations or seminars.*

5.3 Apply English language written and oral communication skills comprehensively to complex immigration matters.

- *Includes but not limited to – understanding, interpreting, formulating and presenting detailed and structured written and oral presentations, submissions and arguments.*

Competency 6: Conduct business professionally, ethically and responsibly

Performance indicators:

6.1 Demonstrate professional, ethical, and socially responsible behaviour and practice.

- *Includes but not limited to – demonstrating understanding of and commitment to the Code of Conduct for Licensed Immigration Advisers; acting in the client's best interest; providing honest advice; preserving client confidentiality; ensuring client complaints are handled in the correct manner; handling conflicts with clients and other parties in a constructive and professional manner; recognising and managing conflicts of interest; disclosing any financial and non-financial interests in goods or services recommended or supplied to clients; disclosing conflicts of interest to other parties as appropriate.*

6.2 Operate within the scope of individual knowledge and experience.

- *Includes but not limited to – making decisions and taking actions consistent with own level of expertise and experience; recognising when other specialist advice is required and referring clients on when appropriate.*

6.3 Apply business management disciplines to all immigration matters in accordance with New Zealand law and best practice.

- *Includes but not limited to – providing client services; managing the financial aspects of immigration business; applying immigration knowledge as appropriate and in a manner that protects clients' immigration status and entitlement.*

6.4 If applicable, provide supervision for staff working on immigration applications in accordance with good employment practice.

- *Includes but not limited to – reviewing documentation prepared by staff; attending client interviews conducted by staff; holding pre- and post-interview briefings with staff; providing constructive oral and written feedback to staff on their performance; delegating cases to staff according to their ability; providing the opportunity for staff to learn and up-skill.*

6.5 Make use of languages other than English to communicate when appropriate.

- *Includes but not limited to – identifying when English as a second language is a critical barrier to communication; communicating orally and in writing using any other language appropriate for the situation; using translators or interpreters when required.*

Competency 7: Maintain skills and knowledge through participation in relevant professional development activities

Performance indicators:

7.1 Participate actively in relevant professional development activities.

- *May include but not limited to – self-directed learning on topics relevant to the provision of immigration advice; reading materials relevant to the provision of immigration advice provided by the Registrar or other organisation; receiving formal instruction, education or training relevant to the provision of immigration advice; attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice; participating in the structured supervision or mentoring of another immigration adviser; active participation in a relevant professional body, organisation or association.*

5.5 The draft minimum standard of competence for a provisional licence

To meet the minimum standard of competence for the granting of a provisional licence a person must demonstrate (to the Registrar's satisfaction) that they meet each of the following competencies:

- relevant qualifications;
- understand the immigration advisers licensing scheme;
- understand New Zealand immigration law;
- demonstrate knowledge of the immigration application process;
- apply communication techniques in the English language;
- conduct business professionally, ethically and responsibly;
- develop skills and knowledge through participation in relevant professional development activities.

These competencies may be demonstrated by meeting each competency performance indicator, described in the table below:

Competency 1: Relevant qualifications

Performance indicators:

1.1 Is qualified to provide immigration advice relating to New Zealand, including by virtue of:

- *Sufficient experience in the provision of immigration advice that demonstrates that the person applying for a licence meets the competencies for the type of licence to be granted; and/or*
- *Completion of the Graduate Certificate in Australian Migration Law and Practice, or other substantially similar tertiary degree, diploma, certificate or course of study; and/or*
- *Licensing or registration or other similar recognition with an overseas organisation that performs functions that correspond wholly or substantially to those performed by the Authority.*

Explanatory note:

Until a suitable formal immigration qualification is available, the Registrar will recognise experience in the provision of immigration advice (as that experience relates to the competencies for the type of licence applied for) as a qualification.

Competency 2: Understand the immigration advisers licensing scheme

Performance indicators:

2.1 Outline the key features of the Immigration Advisers Licensing Scheme.

- *Includes but not limited to – the purpose of the Immigration Advisers Licensing Act 2007; the functions of the Authority; the Register of Licensed Immigration Advisers.*

2.2 Describe who needs to be licensed and what matters are covered within the licensing scheme.

- *Includes but not limited to – who must be licensed in order to give immigration advice; who is exempt; who is prohibited from holding a licence; and what constitutes "immigration advice".*

2.3 Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal.

- *Includes but not limited to – functions and powers of the Tribunal; grounds for complaint; disciplinary sanctions; and possible outcomes from complaints procedures.*

2.4 Outline the offences under the Immigration Advisers Licensing Act 2007.

- *Includes – providing immigration advice when not licensed or exempt; holding out as an immigration adviser when not licensed or exempt; holding out as a licensed immigration adviser; providing false or misleading information; asking for or receiving a fee or reward for immigration advice when neither licensed or exempt; employing or contracting an unlicensed or a non-exempt person as an immigration adviser; obstructing inspection; failing to notify change in circumstances.*

2.5 Outline the responsibilities of licensed immigration advisers.

- *Includes but not limited to – maintaining competence through participation in continuing professional development activities; abiding by the Code of Conduct; renewing licence annually; and notifying the Registrar of any relevant change in circumstances.*

Competency 3: Understand New Zealand immigration law

Performance indicators:

3.1 Describe the key features of the Immigration Act 1987 and regulations made under that Act.

- *Includes but not limited to – the purpose and intent of the Immigration Act 1987; key sections of the Act; discretionary decision-making powers of the Minister of Immigration; the application of principles of law to immigration decisions, including the principles of natural justice and fairness.*

3.2 Explain where to access information on immigration policies and procedures.

- *Includes but not limited to – Immigration New Zealand Operational Policy Manual; Immigration New Zealand Circulars; other avenues for seeking assistance including the Immigration New Zealand and Authority websites and the Immigration New Zealand Contact Centre.*

3.3 Identify the main criteria for providing advice across the full range of immigration matters.

Includes but not limited to –

- *Applications for temporary entry (students, visitors, work), limited purpose entry or transit;*
- *Applications for residence (skilled migrant, family, business, quotas);*
- *Refugee status claims and appeals;*
- *Immigration sponsorship;*
- *Immigration obligations;*
- *Appeals in relation to immigration matters.*

Competency 4: Demonstrate knowledge of the immigration application process

Performance indicators:

4.1 Discuss the importance of maintaining professional relationships with Immigration New Zealand and other organisations involved in the immigration process.

- *Includes but not limited to – Settlement Support NZ; Work and Income; New Zealand Qualifications Authority; other government agencies; professional registration bodies.*

4.2 Discuss the importance of maintaining professional relationships with clients.

- *Includes but not limited to – providing advice and information before, during and after the immigration application process.*

4.3 Outline the immigration application process.

- *Includes but not limited to – assessing clients' immigration situation; agreeing on terms of appointment; arranging agreed services in a timely, complete and accurate manner; administering the application process; applying quality assurance techniques to immigration application procedures.*

Competency 5: Apply communication techniques in the English language	
	<ul style="list-style-type: none"> Audiences include but are not limited to – clients; colleagues; managers; government organisations; business and other professional organisations; the general public.
Performance indicators:	
5.1	Complete all business documentation clearly and concisely in the English language. <ul style="list-style-type: none"> Business documents include but are not limited to – forms, letters, e-mails, memos, agreements, and reports.
5.2	Conduct oral communications clearly and audibly in the English language. <ul style="list-style-type: none"> Includes but not limited to – conducting information-gathering interviews by telephone and face-to-face; applying active listening techniques; dealing with conflict situations; delivering presentations or seminars.
Competency 6: Conduct business professionally, ethically and responsibly	
Performance indicators:	
6.1	Explain the importance of professional, ethical, and socially responsible behaviour and practice. <ul style="list-style-type: none"> Includes but not limited to – demonstrating understanding of and commitment to the Code of Conduct for Licensed Immigration Advisers; acting in the client's best interest; providing honest advice; preserving client confidentiality; ensuring client complaints are handled in the correct manner; handling conflicts with clients and other parties in a constructive and professional manner; recognising and managing conflicts of interest; disclosing any financial and non-financial interests in goods or services recommended or supplied to clients; disclosing conflicts of interest to other parties as appropriate.
6.2	Operate within the scope of individual knowledge and experience. <ul style="list-style-type: none"> Includes but not limited to – making decisions and taking actions consistent with own level of expertise and experience; recognising when other specialist advice is required and referring clients on when appropriate.
6.3	Make use of languages other than English to communicate when appropriate. <ul style="list-style-type: none"> Includes but not limited to – identifying when English as a second language is a critical barrier to communication; communicating orally and in writing using any other language appropriate for the situation; using translators or interpreters when required.
Competency 7: Develop skills and knowledge through participation in relevant professional development activities	
Performance indicators:	
7.1	Participate actively in relevant professional development activities. <ul style="list-style-type: none"> May include but not limited to – self-directed learning on topics relevant to the provision of immigration advice; reading materials relevant to the provision of immigration advice provided by the Registrar or other organisation; receiving formal instruction, education or training relevant to the provision of immigration advice; attending information sessions, seminars, courses or conferences relevant to the provision of immigration advice; participating in the structured supervision or mentoring of another immigration adviser; active participation in a relevant professional body, organisation or association.

5.6 The draft minimum standard of competence for a limited licence

To meet the minimum standard of competence for the granting of a limited licence a person must demonstrate that they meet sufficient of the competencies for a full licence that the Registrar can be satisfied that they are able to provide competent immigration advice in relation to specified matters without the direct supervision of a fully licensed immigration adviser.

The competencies for a limited licence, which are the same as those for a full licence, are:

- relevant qualifications;
- understand the immigration advisers licensing scheme;
- understand and apply knowledge of New Zealand's immigration law;

- prepare, lodge and administer immigration applications;
- apply communication techniques to the immigration process in the English language;
- conduct business professionally, ethically and responsibly;
- maintain skills and knowledge by participation in relevant professional development activities.

The performance indicators for the competencies for a full (and limited licence) are set out in section 5.4 above.

Whether a person is granted a limited (as opposed to a full licence) will depend on the extent to which the person meets the competencies for a full licence. The nature of the limitation on the licence will reflect the Registrar's assessment of the competencies the person does meet.

5.7 Comparison Table

The following table provides a comparison of the competencies (and performance indicators) for full, limited and provisional licences:

Full and limited licence competencies and performance indicators	Provisional licence competencies and performance indicators
Relevant qualifications: <ul style="list-style-type: none"> • <i>Is qualified to provide immigration advice relating to New Zealand.</i> 	Relevant qualifications: <ul style="list-style-type: none"> • <i>Is qualified to provide immigration advice relating to New Zealand.</i>
Understand the immigration advisers licensing scheme: <ul style="list-style-type: none"> • <i>Outline the main features of the Immigration Advisers Licensing Scheme;</i> • <i>Describe who needs to be licensed and what matters are covered within the licensing scheme;</i> • <i>Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal;</i> • <i>Outline the offences under the Immigration Advisers Licensing Act 2007;</i> • <i>Outline the responsibilities of licensed immigration advisers.</i> 	Understand the immigration advisers licensing scheme: <ul style="list-style-type: none"> • <i>Outline the main features of the Immigration Advisers Licensing Scheme;</i> • <i>Describe who needs to be licensed and what matters are covered within the licensing scheme;</i> • <i>Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal;</i> • <i>Outline the offences under the Immigration Advisers Licensing Act 2007;</i> • <i>Outline the responsibilities of licensed immigration advisers.</i>
Understand and apply knowledge of New Zealand's immigration law: <ul style="list-style-type: none"> • <i>Describe the key features of the Immigration Act 1987 and regulations made under that Act and their application to the immigration process;</i> • <i>Access, interpret and apply knowledge of immigration policies and procedures;</i> • <i>Identify the main criteria for providing advice across the range of immigration matters;</i> • <i>Apply specialist knowledge of immigration matters comprehensively in one or more areas.</i> 	Understand New Zealand's immigration law: <ul style="list-style-type: none"> • <i>Describe the key features of the Immigration Act 1987 and regulations made under that Act;</i> • <i>Explain where to access information on immigration policies and procedures;</i> • <i>Outline the main criteria for providing advice across the range of immigration matters.</i>
Prepare, lodge and administer immigration applications: <ul style="list-style-type: none"> • <i>Develop and maintain professional relationships with Immigration New Zealand and other relevant organisations;</i> • <i>Develop and maintain professional relationships with clients;</i> 	Demonstrate knowledge of the immigration application process: <ul style="list-style-type: none"> • <i>Discuss the importance of maintaining professional relationships with Immigration New Zealand and other organisations involved in the immigration process;</i> • <i>Discuss the importance of maintaining</i>

<ul style="list-style-type: none"> • <i>Assess clients' immigration situations;</i> • <i>Agree on terms of appointment;</i> • <i>Arrange agreed services in a timely, complete and accurate manner;</i> • <i>Administer the application process;</i> • <i>Apply quality assurance techniques to immigration application procedures.</i> 	<p><i>professional relationships with clients;</i></p> <ul style="list-style-type: none"> • <i>Outline the immigration application process.</i>
<p>Apply communication techniques to the immigration process in the English language:</p> <ul style="list-style-type: none"> • <i>Complete all documentation clearly and concisely in the English language;</i> • <i>Conduct oral communications clearly and audibly in the English language;</i> • <i>Apply written and oral communication skills comprehensively to complex immigration matters.</i> 	<p>Apply communication techniques in the English language:</p> <ul style="list-style-type: none"> • <i>Complete all documentation clearly and concisely in the English language;</i> • <i>Conduct oral communications clearly and audibly in the English language.</i>
<p>Conduct business professionally, ethically and responsibly:</p> <ul style="list-style-type: none"> • <i>Demonstrate professional, ethical, and socially responsible behaviour and practice;</i> • <i>Operate within the scope of individual knowledge and experience;</i> • <i>Apply business management disciplines to all immigration matters in accordance with New Zealand law and best practice;</i> • <i>If applicable, provide supervision for staff working on immigration applications in accordance with good employment practice;</i> • <i>Make use of languages other than English to communicate when appropriate.</i> 	<p>Conduct business professionally, ethically and responsibly:</p> <ul style="list-style-type: none"> • <i>Explain the importance of professional, ethical, and socially responsible behaviour and practice;</i> • <i>Operate within the scope of individual knowledge and experience;</i> • <i>Make use of languages other than English to communicate when appropriate.</i>
<p>Maintain skills and knowledge through participation in relevant professional development activities:</p> <ul style="list-style-type: none"> • <i>Participate actively in relevant professional development activities.</i> 	<p>Develop skills and knowledge through participation in relevant professional development activities:</p> <ul style="list-style-type: none"> • <i>Participate actively in relevant professional development activities.</i>

5.8 Questions on draft minimum standards for full and limited licences

The left-hand column below contains the draft competencies (and performance indicators) for full and limited licences. Please provide your feedback in the right-hand column, including discussing the extent to which:

- the draft competencies sufficiently cover the knowledge, experience, skills and behaviour expectations that should be required of full and limited licence holders;
- the performance indicators clearly describe how immigration advisers can demonstrate that they meet the competencies.

Full and limited licence competencies (and performance indicators)	Your feedback
<p>Relevant qualifications:</p> <ul style="list-style-type: none"> • <i>Is qualified to provide immigration advice relating to New Zealand.</i> 	
<p>Understand the immigration advisers licensing scheme:</p> <ul style="list-style-type: none"> • <i>Understand the main features of the Immigration Advisers Licensing Scheme;</i> • <i>Describe who needs to be licensed and what matters are covered within the licensing scheme;</i> • <i>Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal;</i> • <i>Outline what offences are under the Immigration Advisers Licensing Act 2007;</i> • <i>Outline the responsibilities of licensed immigration advisers.</i> 	
<p>Understand and apply knowledge of New Zealand's immigration law:</p> <ul style="list-style-type: none"> • <i>Describe the key features of the Immigration Act 1987 and regulations made under that Act and their application to the immigration process;</i> • <i>Access, interpret and apply knowledge of immigration policies and procedures;</i> • <i>Identify the main criteria for providing advice across the range of immigration matters;</i> • <i>Apply specialist knowledge of immigration matters comprehensively in one or more areas.</i> 	
<p>Prepare, lodge and administer immigration applications:</p> <ul style="list-style-type: none"> • <i>Develop and maintain professional relationships with Immigration New Zealand and other relevant organisations;</i> • <i>Develop and maintain professional relationships with clients;</i> • <i>Assess clients' immigration situations;</i> • <i>Agree on terms of appointment;</i> • <i>Arrange agreed services in a timely, complete and accurate manner;</i> • <i>Administer the application process;</i> • <i>Apply quality assurance techniques to immigration application procedures.</i> 	
<p>Apply communication techniques to the immigration process in the English language:</p> <ul style="list-style-type: none"> • <i>Complete all documentation clearly and concisely in the English language;</i> • <i>Conduct oral communications clearly and audibly in the English language;</i> • <i>Apply written and oral communication skills comprehensively to complex immigration matters.</i> 	

<p>Conduct business professionally, ethically and responsibly:</p> <ul style="list-style-type: none"> • <i>Demonstrate professional, ethical, and socially responsible behaviour and practice;</i> • <i>Operate within the scope of individual knowledge and experience;</i> • <i>Apply business management disciplines to all immigration matters in accordance with New Zealand law and best practice;</i> • <i>If applicable, provide supervision for staff working on immigration applications in accordance with good employment practice;</i> • <i>Make use of languages other than English to communicate when appropriate.</i> 	
<p>Maintain skills and knowledge through participation in relevant professional development activities:</p> <ul style="list-style-type: none"> • <i>Participate actively in relevant professional development activities.</i> 	

5.9 Questions on minimum standard of competence for a provisional licence

The left-hand column below contains the draft competencies (and performance indicators) for provisional licences. Please provide your feedback in the right-hand column, including discussing the extent to which:

- the draft competencies sufficiently cover the knowledge, experience, skills and behaviour expectations that should be required of provisional licence holders;
- the performance indicators clearly describe how immigration advisers can demonstrate that they meet the competencies.

Provisional licence competencies and performance indicators	Your feedback
<p>Relevant qualifications:</p> <ul style="list-style-type: none"> • <i>Is qualified to provide immigration advice relating to New Zealand.</i> 	
<p>Understand the Immigration Advisers Licensing Scheme:</p> <ul style="list-style-type: none"> • <i>Outline the main features of the Immigration Advisers Licensing Scheme;</i> • <i>Describe who needs to be licensed and what matters are covered within the licensing scheme;</i> • <i>Outline the role of the Immigration Advisers Complaints and Disciplinary Tribunal;</i> • <i>Outline what offences are under the Immigration Advisers Licensing Act 2007;</i> • <i>Outline the responsibilities of licensed immigration advisers.</i> 	
<p>Understand New Zealand's immigration law:</p> <ul style="list-style-type: none"> • <i>Describe the key features of the Immigration Act 1987 and regulations made under that Act;</i> 	

<ul style="list-style-type: none"> • <i>Explain where to access information on immigration policies and procedures;</i> • <i>Outline the main criteria for providing advice across the range of immigration matters.</i> 	
<p>Demonstrate knowledge of the immigration application process:</p> <ul style="list-style-type: none"> • <i>Discuss the importance of maintaining professional relationships with Immigration New Zealand and other organisations involved in the immigration process;</i> • <i>Discuss the importance of maintaining professional relationships with clients;</i> • <i>Outline the immigration application process.</i> 	
<p>Apply communication techniques in the English language:</p> <ul style="list-style-type: none"> • <i>Complete all documentation clearly and concisely in the English language;</i> • <i>Conduct oral communications clearly and audibly in the English language.</i> 	
<p>Conduct business professionally, ethically and responsibly:</p> <ul style="list-style-type: none"> • <i>Explain the importance of professional, ethical, and socially responsible behaviour and practice;</i> • <i>Operate within the scope of individual knowledge and experience;</i> • <i>Make use of languages other than English to communicate when appropriate.</i> 	
<p>Develop skills and knowledge through participation in relevant professional development activities:</p> <ul style="list-style-type: none"> • <i>Participate actively in relevant professional development activities</i> 	

In responding to the questions below please provide reasons for your responses and any suggestions that you have.

5.10 National Identity – Treaty of Waitangi

Two key aspects of New Zealand's national identity are the existence of the Treaty of Waitangi and the recognition of Māori as the indigenous culture of New Zealand.

New Zealand's national Settlement Strategy acknowledges the importance of assisting migrants to establish supportive social networks and become confident in New Zealand's customs and traditions.

There is evidence to suggest that migrants to New Zealand are interested in these issues.

Internationally, it is also recognised that immigration impacts on the host country's national identity. For example, in 2007, Australia introduced a citizenship test, designed to determine whether people who wanted to become Australian citizens had sufficient understanding of Australia's values, traditions, history and national symbols. Since 2005, the United Kingdom has also required some citizenship applicants to pass the "Life in the UK Test".

The first interaction with New Zealand for many migrants is their interaction with their Immigration Adviser.

Questions

- (a) Should immigration advisers be required to demonstrate some knowledge of New Zealand’s national identity, including the Treaty of Waitangi – or is it the primary role of Government to provide that information to migrants?

- (b) Should immigration advisers be required to demonstrate knowledge of New Zealand’s constitutional arrangements, including the place of the Treaty of Waitangi, or should they, at the very least, be able to demonstrate that they know where that information can be accessed?

- (c) Should there be a requirement in the Code of Conduct for licensed immigration advisers relating to Tikanga Māori (Māori protocols and traditions) as part of New Zealand’s culture and traditions?

(d) If you think there should be such requirements (as per Questions (a) to (c) above), what should they be, and why?

5.11 Questions on minimum standard of competence for both full and provisional licence

(a) Do you think there are any barriers to immigration advisers achieving the draft competencies? Please describe.

(b) Overall, do you think that the draft competencies are achievable for immigration advisers currently providing advice in New Zealand? If not, why not?

(c) Overall, do you think that the competency standard for a full licence is achievable for immigration advisers currently providing advice relating to New Zealand offshore? If not, why not?

(d) Do you have any general comments about full or provisional licences?

6. EVIDENCE AND ASSESSMENT REQUIREMENTS

6.1 Proposed Evidence and Assessment

The Act authorises the Registrar to require applicants to submit a range of information and evidence with applications for licences.

In addition to considering the application material supplied by the applicant, the Registrar may satisfy himself or herself of an applicant's competence by all or any of the following means:

- an examination;
- an interview;
- reviewing work carried out by the applicant relevant to the application;
- considering information provided by an overseas or international person, body or agency;
- carrying out an inspection;
- considering any other matter relevant to the application.

Final decisions about evidence requirements and methods of assessment will be made following further research and discussions with key stakeholders. Options for other suitable qualifications are also being investigated as a matter of priority.

Here is an example of what an evidence requirement might look like:

Competency	Evidence
Understand and apply knowledge of New Zealand immigration law.	One or more of the following: <ul style="list-style-type: none">• <i>Completion of an open-book examination;</i>• <i>Two or three relevant work samples;</i>• <i>A curriculum vitae ("CV") – work history summary;</i>• <i>The results of an interview;</i>• <i>A statutory declaration.</i>

6.2 Questions

In responding to the questions below please provide reasons for your responses and any suggestions that you have.

Evidence in support of licence applications

(a) Some examples of the documentary evidence that could be required in support of licence applications are set out below. What do you think about the possible evidence requirements?

- evidence of a qualification;
- a CV - work history summary;
- the results of an online (open book) examination;
- work samples;

- a review of work carried out by the applicant relevant to the application;
- consideration of information provided by an overseas or international person, body or agency;
- carrying out an inspection;
- consideration of any other matter relevant to the application.

(b) Do you have any general comments about evidence requirements or methods of assessment?

7. THE DRAFT CODE OF CONDUCT

7.1 Introduction

The Act requires the Registrar to develop and maintain a code of conduct to be observed by licensed immigration advisers. The code of conduct must address standards of professional and ethical conduct including rules relating to matters such as:

- obligations to clients;
- obligations to the Minister of Immigration and the Department handling immigration matters;
- conflicts of interest;
- disclosure requirements;
- the reasonableness of fees;
- the provision of consumer complaints procedures.

7.2 Process to date

The Draft Code of Conduct for licensed immigration advisers has been developed from discussions with immigration advisers and Immigration New Zealand, as well as research into codes of conduct in use in other jurisdictions such as Australia, Canada and the United Kingdom.

The following Draft Code of Conduct establishes standards of professional and ethical conduct in nine specific areas.

7.3 Draft Code of Conduct for Licensed Immigration Advisers

1. Obligations to Clients

1.1 Care, Respect, Diligence and Professionalism

Licensed immigration advisers must, with due care, diligence, respect and professionalism:

- perform their services;
- carry out the informed instructions of clients;
- take reasonable steps to ensure clients' interests are represented if the adviser cannot for any reason continue as a representative;
- work in a manner that does not unnecessarily increase costs;
- acknowledge the cultural norms and values of clients;
- provide interpreters and translators where appropriate.

1.2 Confidentiality

Licensed immigration advisers must:

- preserve the confidentiality of clients;
- not disclose confidential information without the prior consent of clients, unless required to by law.

1.3 Document Security

A licensed immigration adviser must:

- ensure any personal documents belonging to or relating to clients are held securely whilst in the adviser's possession;
- return passports and other personal documents to clients, on request, without delay and in a secure manner.

1.4 Code of Conduct

A licensed immigration adviser must:

- explain and provide clients with a copy of the Code of Conduct for Licensed Immigration Advisers at the time of engagement;
- display the Code of Conduct for Licensed Immigration Advisers in a prominent place in the adviser's offices at all times.

1.5 Written Agreements

A licensed immigration adviser must:

- before any agreement is entered into, ensure clients are made aware, in writing and in plain language, of the terms of the agreement and all significant matters relating to it;
- ensure clients confirm in writing that they accept the terms of the agreement;
- ensure changes to the terms of the agreement are recorded and agreed in writing.

1.6 Work Within Limits of Knowledge and Experience

A licensed immigration adviser must work within the scope of their individual knowledge and experience.

2 Obligations to the Minister of Immigration, the Department handling immigration matters and the Immigration Advisers Authority

2.1 Legislation and Operating Requirements

A licensed immigration adviser must, at all times:

- act in accordance with New Zealand laws and the laws of other jurisdictions if working and living offshore;
- act in accordance with immigration legislation, including the Immigration Advisers Licensing Act 2007;
- comply with the operating requirements of Immigration New Zealand;
- comply with the operating requirements set out by the Registrar;
- uphold the intent and integrity of New Zealand's immigration system and the Immigration Advisers Authority;
- maintain respectful and professional relationships with Immigration New Zealand staff;
- hold written authority from clients to act on their behalf.

2.2 Vexatious Applications²

If a proposed application under the Immigration Act 1987 is vexatious or grossly unfounded (for example, an application has no hope of success) a licensed immigration adviser must:

- not encourage the client to lodge an application;
- advise the client in writing that, in the adviser's opinion, the application is vexatious or grossly unfounded;

² Note that in this code of conduct the meaning of "application" includes "request" and "claim".

- if the client still wishes to lodge the application, obtain written acknowledgement from the client that the advice has been given by the adviser.

3 Business Management

A licensed immigration adviser must maintain good business practices relating to finances, records, documents, contracts and staff management, including:

- confirming in writing when applications have been received, with ongoing timely updates;
- confirming in writing when work ceases, by the instruction of the client or by the action of the adviser, part way through the immigration process;
- obtaining agreement in writing to any material increase to costs as soon as the increase is known to the adviser;
- providing any refunds payable upon completing or ceasing a contract for services;
- establishing and maintaining a separate 'Client Account' and keeping all client fees and disbursements in that account until payments fall due;
- maintaining complete client records that track all transactions and making those records available for inspection on request by the Authority.

4 Misrepresentation

4.1 Advisers

A licensed immigration adviser must not, in a false, fraudulent or deceptive manner, misrepresent or promote:

- himself or herself;
- his or her business;
- his or her clients.

4.2 Applications

A licensed immigration adviser must not provide false or misleading documentation with any application.

5 Conflicts of Interest

A licensed immigration adviser, in immigration matters, must not:

- represent parties with potentially conflicting interests;
- represent clients with whom they have a potential conflict of interest;

unless the parties or clients agree in writing to representation subsequent to the adviser disclosing the potential conflict.

6 Disclosure

A licensed immigration adviser must disclose:

- to clients - any financial and non-financial interests in goods or services recommended or supplied to clients;
- to the Immigration Advisers Authority - any information that would have a material effect on the adviser's licence;
- to Immigration New Zealand - any relevant change in circumstances relating to the representation of clients or to clients' immigration applications.

7 Fees

A licensed immigration adviser must:

- set fees that are fair and reasonable in the circumstances;
- set out the fees and disbursements (including Immigration New Zealand fees and charges) to be charged, including the hourly rate and the estimate of the time it will take to perform the services, or the fixed cost for the services;
- set out payment terms and conditions;
- ensure that fees, disbursements and payment terms and conditions are provided to clients in writing prior to the signing of any written agreement;
- each time a fee is payable, provide clients with an invoice containing a full description of the services that the invoice relates to.

8 Provision of complaints procedures

A licensed immigration adviser must:

- develop and maintain internal procedures for the resolution of complaints;
- explain to and provide clients with a copy of the adviser's internal complaints procedure at the time of engagement;
- explain to, and provide clients with, the details of the external complaints and disciplinary procedures that are outlined in the Immigration Advisers Licensing Act 2007;
- where complaints have been received by the Registrar of Immigration Advisers, provide timely responses as required by the Registrar's operating requirements.

9 Display of licence

A licensed immigration adviser must:

- display the adviser's licence in a prominent place in the adviser's offices at all times;
- provide evidence of licensing to clients on request.

7.4 Questions on Code of Conduct

(a) The left-hand column below contains the contents of the Draft Code of Conduct. Please provide your feedback in the right-hand column, including reasons for your responses and suggestions for change.

Draft code of conduct	Your feedback
<p>1 Obligations to Clients</p> <p>1.1 Care, Respect, Diligence and Professionalism</p> <p>A licensed immigration adviser must, with due care, diligence, respect and professionalism:</p> <ul style="list-style-type: none">• <i>Perform his or her services;</i>• <i>Carry out the informed instructions of clients;</i>• <i>Take reasonable steps to ensure clients' interests are represented if the adviser cannot for any reason continue as their representative;</i>• <i>Work in a manner that does not unnecessarily</i>	

<p><i>increase costs;</i></p> <ul style="list-style-type: none"> • <i>Acknowledge the cultural norms and values of clients;</i> • <i>Provide interpreters and translators where appropriate.</i> 	
<p>1.2 Confidentiality</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Preserve the confidentiality of clients;</i> • <i>Not disclose confidential information without the prior consent of clients, unless required to by law.</i> 	
<p>1.3 Document Security</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Ensure any personal documents belonging to or relating to clients are held securely whilst in the adviser's possession;</i> • <i>Return passports and other personal documents to clients, on request, without delay and in a secure manner.</i> 	
<p>1.4 Code of Conduct</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Explain and provide clients with a copy of the Code of Conduct for Licensed Immigration Advisers at the time of engagement;</i> • <i>Display the Code of Conduct in a prominent place in the adviser's offices at all times.</i> 	
<p>1.5 Written Agreements</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Before any agreement is entered into, ensure clients are made aware, in writing and in plain language, of the terms of the agreement and all significant matters relating to it;</i> • <i>Ensure clients confirm in writing that they accept the terms of the agreement;</i> • <i>Ensure changes to the terms of the agreement are recorded and agreed in writing.</i> 	
<p>1.6 Work within Limits of Knowledge and Experience</p> <p>A licensed immigration adviser must work within the scope of his or her individual knowledge and experience.</p>	
<p>2 Obligations to the Minister of Immigration, the Department handling immigration matters and the Immigration Advisers Authority</p> <p>2.1 Legislation and Operating Requirements</p> <p>A licensed immigration adviser must, at all times:</p>	

<ul style="list-style-type: none"> • <i>Act in accordance with New Zealand laws and the laws of other jurisdictions if working and living offshore;</i> • <i>Act in accordance with immigration legislation, including the Immigration Advisers Licensing Act 2007;</i> • <i>Comply with the operating requirements of Immigration New Zealand;</i> • <i>Comply with the operating requirements set out by the Registrar;</i> • <i>Uphold the intent and integrity of New Zealand's immigration system and the Immigration Advisers Authority;</i> • <i>Maintain respectful and professional relationships with Immigration New Zealand staff;</i> • <i>Hold written authority from clients to act on their behalf.</i> 	
<p>2.2 Vexatious Applications³</p> <p>If a proposed application under the Immigration Act 1987 is vexatious or grossly unfounded (for example, an application has no hope of success) a licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Not encourage the client to lodge an application;</i> • <i>Advise the client in writing that, in the adviser's opinion, the application is vexatious or grossly unfounded;</i> • <i>If the client still wishes to lodge the application, obtain written acknowledgement from the client that the advice above has been given by the adviser.</i> 	
<p>3 Business Management</p> <p>A licensed immigration adviser must maintain good business practices relating to finances, records, documents, contracts and staff management, including:</p> <ul style="list-style-type: none"> • <i>Confirming in writing when applications have been received with ongoing timely updates;</i> • <i>Confirming in writing when work ceases by the instruction of the client or by the action of the adviser part way through the immigration process;</i> • <i>Obtaining agreement in writing to any material increase to costs as soon as the increase is known to the adviser;</i> • <i>Providing any refunds payable upon completing or ceasing a contract for services;</i> • <i>Establishing and maintaining a separate 'Client Account' and keeping all client fees and disbursements in that account until payments fall due;</i> • <i>Maintaining complete client records that track all transactions and make those records available for inspection on request by the Authority.</i> 	

³Note that in this Code of Conduct the meaning of "application" includes "request" and "claim".

<p>4 Misrepresentation</p> <p>4.1 Advisers</p> <p>A licensed immigration adviser must not, in a false, fraudulent or deceptive manner, misrepresent or promote:</p> <ul style="list-style-type: none"> • <i>Himself or herself;</i> • <i>His or her business;</i> • <i>His or her clients.</i> <p>4.2 Applications</p> <p>A licensed immigration adviser must not provide false or misleading documentation with any application.</p>	
<p>5 Conflicts of Interest</p> <p>A licensed immigration adviser, in immigration matters, must not:</p> <ul style="list-style-type: none"> • <i>Represent parties with potentially conflicting interests;</i> • <i>Represent clients with whom they have a potential conflict of interest; unless the parties or clients agree in writing to representation subsequent to the adviser disclosing the potential conflict.</i> 	
<p>6 Disclosure</p> <p>A licensed immigration adviser must disclose:</p> <ul style="list-style-type: none"> • <i>To clients – any financial and non-financial interests in goods or services recommended or supplied to clients;</i> • <i>To the Immigration Advisers Authority – any information that would have a material effect on the adviser's licence</i> • <i>To Immigration New Zealand – any relevant change in circumstances relating to the representation of clients or to clients' immigration applications.</i> 	
<p>7 Fees</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Set fees that are fair and reasonable in the circumstances;</i> • <i>Set out the fees and disbursements (including Immigration New Zealand fees and charges) to be charged, including the hourly rate and the estimate of the time it will take to perform the services, or the fixed cost for the services;</i> • <i>Set out Immigration New Zealand fees and charges;</i> • <i>Set out payment terms and conditions;</i> • <i>Ensure that fees, disbursements and payment terms and conditions are provided to clients in</i> 	

<p><i>writing prior to the signing of any written agreement;</i></p> <ul style="list-style-type: none"> • <i>Each time a fee is payable, provide clients with an invoice containing a full description of the services that the invoice relates to.</i> 	
<p>8 Provision of complaints procedures</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Develop and maintain internal procedures for the resolution of complaints;</i> • <i>Explain to and provide clients with a copy of the adviser's internal complaints procedure at the time of engagement;</i> • <i>Explain to, and provide clients with, the details of the external complaints and disciplinary procedures that are outlined in the Immigration Advisers Licensing Act 2007;</i> • <i>Where complaints have been received by the Registrar of Immigration Advisers, provide timely responses as required by the Registrar's operating requirements.</i> 	
<p>9 Display of licence</p> <p>A licensed immigration adviser must:</p> <ul style="list-style-type: none"> • <i>Display the adviser's licence in a prominent place in the adviser's offices at all times;</i> • <i>Provide evidence of licensing to clients on request.</i> 	

(b) Overall, what do you think about the content of the Draft Code of Conduct?

(c) Are there other matters you would like to see addressed in the Draft Code of Conduct?

(d) Do you have any general comments about the Draft Code of Conduct?

Thank you for taking the time to participate in the consultation process.

You may send your feedback to the Authority by email, or post to:

Email: consult@iaa.govt.nz

Post: The Immigration Advisers Authority
PO Box 6222
Wellesley Street
Auckland

Submissions must be delivered to the Authority no later than 5.00pm **Friday 21 December 2007**.

A copy of this document can also be found on our website at www.iaa.govt.nz