

Summary of Amendments to the Work Restrictions of the Immigration and Asylum Accreditation Scheme following Consultation with Stakeholders.

1. Background

1. This paper updates the Work Restrictions of the Immigration and Asylum Accreditation Scheme (1 April 2004) following consultation with Stakeholders and should be read alongside the Work Restrictions.
2. All amendments were implemented on 30 April 2006.
3. The work restrictions detail the work that the LSC will fund caseworkers and trainee caseworkers at different stages of accreditation to perform under an Immigration Contract.
4. The full updated list of tasks that Probationers and Accredited Caseworkers may perform is provided below.
5. Further, a probationary period for Accredited Caseworkers (Level1) progressing to Senior Caseworker (Level 2) will be introduced and details of this are also provided in this paper.
6. Fully updated work restrictions and operational guidance documents will be made available on the Commission's web-site in due course.
7. A full post-consultation response will also be posted on the Commission's web-site in due course.

2. Permitted work for Probationers prior to completion of the Multiple Choice Test (under close supervision)

- Advice on applications for entry clearance and variations of leave within the immigration rules (including the appropriate application forms, fees and supporting documentation)
- Advice on rights of entry and stay under the EEA provisions (including application forms and supporting documentation)
- Making applications for entry clearance and variations of leave within the immigration rules (including the appropriate application forms, fees and supporting documentation)
- Making applications on rights of entry and stay under the EEA provisions (including application forms and supporting documentation)
- Advice on naturalisation and registrations for British Nationality Act, 1981, and any amendments thereafter and applications for British citizenship within the terms of the British Nationality Act, 1981, and any amendments thereafter
- Taking initial instructions from an asylum seeking client limited to the completion of the legal help form
- Taking instructions relating to identity

- Taking instructions relating to an asylum applicant's personal details (currently Part A of SEF)
- Taking instructions relating to an asylum applicant's family details (currently Part B of SEF)
- Researching case law and background evidence in support of an asylum claim
- Advice on support provisions for asylum seekers
- Preparing clients for interviews with the immigration authorities
- Advice on the provisions relating to refugee status if this has been granted
- Advice on time-limits and rights of appeals
- Advice on any liability for detention
- Advice on bail/temporary admission applications (this does not include taking instructions)
- Basic correspondence with the Home Office, the AIT and other parties
- Bundling and drafting chronologies.

Additional permitted work for Probationers after successful completion of the Multiple Choice Test (under close supervision) and for Accredited Caseworkers.

- Interviewing clients in relation to asylum claims and taking detailed instructions
- Completing the SEF forms, where applicable, and drafting statements or representations relating to asylum claims and appeals
- Making applications for asylum, Humanitarian Protection or Discretionary Leave
- Making all nationality applications for citizenship involving specific discretionary provisions
- Preparing an appeal before the AIT, obtaining objective evidence and other research
- Lodging appeals as the Statute requires (*this does not include drafting skeleton arguments*)
- Taking instructions and making applications for temporary admission and bail (*this does not include representation at the AIT*)
- Making applications for entry clearance and variations of leave outside of the immigration rules (including the appropriate application forms, fees and supporting documentation)
- Advice on applications where there are ECHR considerations or advice where human rights considerations are to be included with other matters
- Making applications based on human rights grounds or highlighting human rights issues in other applications
- Representing clients in any further correspondence with the immigration authorities or other parties)
- Representing clients at interviews with the immigration authorities
- Instructing a barrister or advocate for advice and to draft grounds of appeal, and attending conferences (*this does not include instructing a barrister or advocate to appear at the AIT or other court*). For the

avoidance of doubt this does not include attendance at any AIT or other court hearing including the Case Management Review Hearing

- Attendance with Counsel at a hearing related to a certificated matter.

Excluded work

All other work is excluded.

In particular, all Probationers are prohibited from dealing with detained 'fast track' cases.

Probationers are prohibited from dealing with cases involving especially vulnerable people, including minors and those who are mentally incapacitated.

3. Senior Caseworker (Level 2) probationary period

1. A Level 2 probationary period will be introduced for caseworkers that are already accredited at Level 1 and are progressing to Level 2. The framework will be as follows:
 - A caseworker accredited at Level 1 should take the Level 2 written examination.
 - After passing the written examination the caseworker would be able to carry out the majority of work at Level 2 under close supervision for a period of 12 months, subject to the exceptions highlighted below.
 - The caseworker would be required to obtain full accreditation at Level 2 within 12 months of passing the Level 2 written examination.
 - If the caseworker is not fully accredited at Level 2 within 12 months they will be required to adhere to the Level 1 work restrictions until such time that they achieve accreditation at Level 2.

When will the probationary period begin?

2. A Level 1 Accredited Caseworker can sit the Level 2 written examination at any time (in current form or as may be amended by the Law Society) and, once the assessment organisation's Test Board confirms that the assessment has been passed the Level 2 probationary period will begin.
3. On occasion a caseworker will attempt one or all Level 2 assessments before re-assessing his / her position and deciding to attempt the Level 1 assessments. If such a candidate passes the Level 2 written examination before gaining accreditation at Level 1, the Level 2 probationary period will begin as soon as the candidate becomes accredited at Level 1.
4. If the candidate does not wish to immediately progress towards Level 2, he / she may inform the Commission of this in writing and the start of

the probationary period will be delayed until such time that a written request is received asking for the probationary period to be activated.

Exceptions

5. In the main a Level 2 Probationer will be allowed to perform the full range of work at Level 2 for 12 months, but it is felt that there must be certain exceptions to this in order to safeguard the client. Stakeholders suggested many of the exceptions.
6. These exceptions refer only to further work that is not allowed by virtue of being an Accredited Caseworker (Level 1)
 - Work at onward appeal (Review and Reconsideration applications).
 - Work relating to an appeal listed in front of a panel of three immigration judges (legal panel).
 - Representation at the substantive AIT hearing (a Probationer may perform this work provided that the Supervisor attends the hearing, and is sitting in close proximity to the Probationer and is able to intervene should this be required. However, only one fee may be claimed for the hearing and NOT one fee for the Probationer AND a further fee for the Supervisor)
 - Cases where nationality is in dispute
 - Detained fast-Track cases
 - Cases involving especially vulnerable clients, including minors, and those who are mentally incapacitated

Supervision

7. Overall responsibility for all cases progressing to the appeal stage must remain with a Senior Caseworker and only specific tasks appropriate to the Probationer's skills and experience should be delegated. The Supervisor should consider when direct supervision might be appropriate in this training role. In any event, all work performed by a Level 2 Probationer which is beyond that allowed at Level 1 must be performed under close supervision.

**Immigration Policy Team
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