

# CONSULTATION ON THE ENGLISH LANGUAGE COMPETENCY STANDARD FOR LICENSED IMMIGRATION ADVISERS

## The problem

### A. Do you agree with the problems set out? Yes/No

A clear majority of respondents agreed with the problems set out:

68.55% answered "Yes"

13.65% answered "No"

17.8% answered "Don't know"

### B. Please make comments on what problems, if any, you see with the current English language competency requirements

#### **Encountered Advisers with substandard English competency:**

A number of respondents said that they had personally encountered Licensed Immigration Advisers (LIAs) who possessed substandard English competency. Respondents raised the point that poor English could lead to incorrect interpretation of legislation and poor advice being given, damaging the reputation of the industry as a whole.

#### **English competency of existing Advisers:**

Concerns about the English competency of existing LIAs, particularly those who were Advisers before the licensing system was introduced, were noted by a number of respondents.

#### **Education in English does not guarantee competency:**

Some respondents made the point that being educated in English, in an approved country, does not necessarily mean that an individual possesses the required English competency. A respondent from the Australian Office of the Migration Agents Registration Authority (OMARA) referenced an Australian piece of research (Implications of Low English Standards Among Overseas Students at Australian Universities, *People and Place*, vol.14, no. 4, 2006), which "[showed that] it cannot be assumed that completing tertiary studies in an English speaking country such as Australia demonstrates a particular level of English proficiency and is therefore not reliable evidence of English language proficiency".

#### **Non-alignment:**

The non-alignment with Australian requirements was a concern for a number of respondents.

#### **Issue with the English competency tests:**

Other respondents had an issue with the English competency tests themselves. Some respondents commented that the tests relied on memorisation and technique, rather than actual English ability. Other respondents said that the complexity of written English necessary for LIAs in their everyday work is lower than the testing requirements, and that they had encountered people with high English ability who had nevertheless failed a competency test.

## Mandatory English proficiency test

### ***C. Would a mandatory English language test for all prospective licensed immigration advisers be acceptable? Yes/No***

Nearly two thirds of respondents supported this option:

65.51% answered "Yes"

12.75% answered "No"

4.75% answered "Don't know"

### ***D. Please make any comments you have regarding this option***

#### **Unreasonable to impose costs on people from English-speaking countries:**

Many respondents who opposed this option argued that it was unreasonable to force those who were born in English-speaking countries, and educated in English, to pay to prove their English ability. Some who supported this option also noted this as a concern: "It would be fair and make no discrimination based on country of education [...] However this does become an unnecessary cost for native English speakers, particularly those who are tertiary qualified in an English speaking country or who have numerous years of employment in an English speaking country".

#### **Fairer to test everybody:**

A number of respondents who agreed with this option said that it was fairest to test everybody.

#### **Being raised and educated in English does not guarantee competency:**

Several respondents who supported this option again made the point that being raised and educated in English does not necessarily mean that an individual has the required English competency.

#### **Testing of existing Advisers:**

There were a range of responses regarding existing LIAs taking any mandatory test. Some respondents said this option should apply to all Advisers, prospective and existing. Others argued that existing Advisers should be exempt, or that only those who have been practising for a period of time (e.g. five years) should be exempt.

## More discretion

### ***E. Would discretion to consider applications on a case-by-case basis provide a better approach to assessing English proficiency than a clear and transparent Standard?***

Most respondents opposed this option:

38.64% answered "Yes"

54.22% answered "No"

7.14% answered "Don't know"

### ***F. Please make any comments you have regarding this option as set out in the consultation paper***

#### **Discretion would lead to disputes/inconsistency:**

Multiple respondents raised concerns that considering applicants on a case-by-case basis would lead to inconsistency, and inevitably complaints and disputes.

**Transparency preferred:**

Many respondents who opposed this option raised the importance of clear standards. Respondents said that a transparent standard was fairer, and would avoid real or perceived, perceptions of unfairness.

**Too difficult to administer:**

A number of respondents considered this option unfeasible, that it be too difficult to administer and create unnecessary cost for too little benefit. A respondent from the Bay of Plenty Polytechnic said that "Requiring administration or tutorial staff to use discretion may ask them to do a job they are not trained to do and which is not in their job description".

**Discretion should be applied only as a last resort:**

Some respondents supported a clear and transparent approach with the ability to apply discretion "Very rarely [...] if the education provider has assessed the applicant to be at an acceptable English level but for some reason does not fit the prescribed standard".

## List of acceptable English qualifications

**G. *Would a comprehensive list of English qualifications provide a better approach to assessing English proficiency than a list of countries? Yes/No***

Most respondents supported this option:

51.48% answered "Yes"

32.79% answered "No"

15.74% answered "Don't know"

**H. *Please make any comments you have regarding this option as set out in the consultation paper***

**Tertiary education in English does not guarantee competency:**

A number of respondents raised the point that undertaking education in English did not guarantee English proficiency. Respondents also had concerns that a qualification from an approved list may have been completed decades ago, and that courses often changed year to year.

**Too difficult to administer:**

Concerns about the feasibility of this option were raised by a number of respondents. Respondents said that it would be impossible to maintain an accurate list of qualifications as course content is always changing, and standards may differ between countries and providers. Other respondents viewed the administration of a list too costly with too little benefit.

**List of countries preferable:**

A number of respondents said that a list of countries was preferable. Others said that this option should be considered in conjunction with a list of approved countries: "English speaking countries (or identifiable states within the country) should be exempt. English qualifications can be used as a measure for others but must be tertiary level".

## Proposal 1

- I. Do you support aligning the list of countries from which English schooling is accepted with that of Australia (Australia, Canada (English speaking provinces), Ireland, New Zealand, South Africa, United Kingdom and United States) and explicitly including these countries in the Standard? Yes/No**

Most respondents supported this option:

52.16% answered "Yes"

36.88% answered "No"

10.96% answered "Don't know"

- J. Please make any comments you have regarding Proposal 1**

**Schooling in English does not guarantee competency:**

Respondents made the point that being educated in English, in an English-speaking country, does not guarantee an applicant possesses the required English competency, particularly in writing.

**Evidence should be given of education in English:**

A number of respondents said that evidence of education in English should be given, particularly by applicants from countries where education is delivered in more than one language (e.g. South Africa, Canada)

**Suggested changes to the list of approved countries:**

There were a variety of responses commenting on the proposed list of approved countries. Some respondents suggested a pathway for people who grew up speaking English and were educated in English at International schools. Various respondents suggested that Singapore, Fiji and the Philippines should be added to the approved list, and others suggested that South Africa should be removed.

**The same standard should be applied to all applicants:**

A number of respondents who opposed this option said that all applicants should be required to take an English proficiency test, regardless of whether their education was delivered in English.

## Proposal 2

- K. Do you support introducing a new pathway that recognises tertiary education combined with other time spent in an English speaking country as set out in Proposal 2? Yes/No**

Most respondents supported this option:

55.03% answered "Yes"

38.26% answered "No"

6.71% answered "Don't know"

- L. Please make any comments you have regarding Proposal 2**

**Studying and living in an English speaking country does not guarantee competency:**

Respondents made the point that being educated and living in an English-speaking country does not guarantee an applicant possesses the required English competency. The point was made that not all Tertiary courses require a high level of written English. Some respondents said they

had encountered people who would meet the requirements set out in this proposal, yet failed to achieve the required test scores.

**Too complicated:**

A number of respondents felt that this option was too complicated, and that a consistent standard was more equitable.

**Good alternative pathway:**

A number of respondents considered this option a good alternative pathway, and that it would be a good judge of an applicant's English ability.

**Work experience as an alternative to tertiary education:**

Some respondents proposed employment as an alternative to education in an English speaking country, provided the work required a high standard of English.

## Proposal 3

***M. Do you support increasing the minimum scores for those who must complete an English language test as set out in Proposal 3? Yes/No***

Most respondents supported this option:

59.39% answered "Yes"

30.38% answered "No"

10.24% answered "Don't know"

***N. Please make any comments you have regarding Proposal 3***

**Proposed minimum scores are too high:**

Concerns were raised by a number of respondents that the proposed minimum test scores were too high. Some said the existing standard was sufficient, while others proposed a standard between the existing and proposed levels.

**Agree with the focus on writing ability:**

Respondents agreed with the higher standard for writing, and re-iterated the importance of Advisers being able to communicate well in written communication.

## General comments

***O. Are there any other common scenarios in which English proficiency would clearly meet required standards that are not covered by the proposed amendments?***

Various respondents suggested:

- Employment in a field requiring good English ability
- Discretion for native English speakers who were educated in English in a country not on the approved list (for example those who attended international schools)

Many respondents re-iterated a desire for a consistent and transparent standard.

***P. Please make any comments or observations you have here***

**Applicants may have the required level of English, even if they come from a country not on the approved list:**

A number of respondents made the point that applicants may have the required English competency, even if they come from a country not on the approved list (for example if they were raised speaking English, or attended an International school where teaching was delivered in English. One respondent said that having an approved list favoured applicants from those countries, and could discriminate against others.

**English competency tests:**

Some respondents re-iterated their support for a mandatory English competency test as the fairest and most transparent option.

**Importance of English proficiency:**

Respondents expressed the importance of English proficiency, to provide high-quality advice to clients and to protect the reputation of the industry.

**Competency of existing LIAs:**

A number of respondents voiced concerns about the English competency of existing Advisers, particularly those who were Advisers before the licensing system was introduced.