

# English Competency Standard 2016: Impact Assessment

## Summary of change

1. The Immigration Advisers Competency Standards 2016 (the 2016 Standard) came into effect on 1 October 2016.
2. The 2016 Competency Standard 5 - Communicating in English:
  - a. lists countries from which English schooling is accepted (Australia, Canada (except Quebec), Ireland, New Zealand, United Kingdom, United States),
  - b. introduces an English competency pathway recognising tertiary study in a listed country,
  - c. increases the minimum score for the Writing sub-test for those who are required to complete an English language test, and
  - d. adds the Pearson Test of English Academic to the list of accepted English language tests.

<b>Differences between the 2015 and 2016 Standards</b>		
	<b>Previous requirements – 2015 Competency Standards</b>	<b>New requirements – 2016 Competency Standards</b>
English Proficiency	Five years of schooling completed in English OR Primary school plus three years of secondary schooling in English OR Passing an English competency test.	Five years of schooling completed in English. OR Primary school plus three years of secondary schooling in English. OR Total of six years in a listed English-speaking country which includes a tertiary qualification of at least three years. OR Passing an English competency test with scores increasing in Writing sub-tests.
Recognised English tests	International English Language Testing System test Test of English as a Foreign Language paper-based or internet-based test.	International English Language Testing System test Test of English as a Foreign Language internet-based test The Pearson Test of English Academic.
Discretion	Where there was doubt relating to English schooling, the applicant could be required to complete a test.	No discretion.
Accepted countries for the English schooling pathway	Countries were not listed in the Competency Standards. Operationally, 16 countries were accepted as not raising doubt and therefore did not require a test.	Six accepted countries which are: Australia, Canada (except Quebec province), Ireland, New Zealand, United Kingdom and United States.
Location of accepted countries	Accepted countries were listed, in the Memorandum of Understanding (MoU) between the Authority and the Waiariki Bay of Plenty Polytechnic, in relation to how the discretion referred to in the Competency Standards should be administered.	Accepted countries are listed in the Standard.

## Analysis and reasons for change

### **Context and background**

3. The Immigration Advisers Licensing Act 2007 (“the Act”) requires anyone giving advice about New Zealand immigration matters to be licensed. In order to become licensed, advisers must meet the Immigration Adviser Competency Standards relating to qualifications, knowledge, business practice and communication in English.
4. The Standards are based on the need for licensed immigration advisers to understand and interpret complex legislation and guidance on immigration matters, document client files clearly, and to communicate effectively, especially in writing, on difficult immigration matters.
5. The 2015 Licensed Immigration Adviser’s Competency Standard 5: Communicating in English (“the 2015 Standard”) required a person to have completed either a prescribed English language test, or a minimum number of years of schooling in English. The 2015 Standard also allowed an applicant to be required to complete a test where there was doubt regarding schooling.
6. Countries that did not raise doubt were set out in an MoU with the Waiariki Bay of Plenty Polytechnic (now Toi Ohomai Institute of Technology). Toi Ohomai Institute of Technology (the education provider) administers the Graduate Diploma in New Zealand Immigration Advice – the required qualification for new licensed immigration advisers.
7. The Immigration Advisers Authority (“the Authority”) undertook a review of these settings because of concerns about the lack of transparency of the requirements, equivalence with Australia and the standard of some advisers’ written English. In May 2016, a consultation paper was released, outlining options which the Authority was considering.

### **Objectives**

8. The objective of the Act is to promote and protect the interest of consumers receiving immigration advice, and to enhance the reputation of New Zealand as a migration destination, by providing for the regulation of persons who give immigration advice.
9. The English language competency standard contributes to this objective by ensuring that licensed immigration advisers are able to understand and interpret complex legislation and provide guidance on immigration matters.
10. In assessing changes to the English Competency Standards, the Authority utilised the following criteria:
  - a. The Standards will be aligned with Australia’s regime.
  - b. The Standards will be fair and equitable. There will not be any unnecessary cost or time compliance burden on the occupation.
  - c. The Standards will ensure that they are able to accurately indicate a potential adviser’s English proficiency.
  - d. The Standards will be easy to administer for both the Authority and the education provider.
  - e. The Standards will be transparent and clear for all persons involved in the licensing process.

## Options and agreed changes

11. The following options were consulted on:

- a. Allowing more discretion for the education provider to assess English competency;
- b. Prescribing a list of accepted English language qualifications;
- c. A mandatory English language test for all applicants;
- d. English schooling while living in an English-speaking country; and
- e. A tertiary qualification, plus additional time, while living in an English speaking country

12. Options were put aside where they would have negative impacts on the Authority, the education provider and applicants. Options not adopted include:

- a. Discretion for the education provider to consider applications on a case-by-case basis was not considered desirable as it could lead to less transparency for prospective applicants.
- b. Listing acceptable English qualifications was not viewed as desirable as it would entail considerable work and expense to determine and maintain a list of acceptable qualifications.
- c. While there was a high level of support for all advisers to sit a mandatory test, it was considered that this approach would impose an unnecessary cost and time burden on native English speakers, who are a significant proportion of applicants. The English competency of native English speakers has not been an issue. In addition, English language tests were developed specifically to assess the English competency of non-native speakers of English.

13. The options adopted were:

- a. listing countries from which English schooling is accepted (Australia, Canada (except Quebec), Ireland, New Zealand, United Kingdom, United States);
- b. an English competency pathway recognising tertiary study in a listed country;
- c. an increase in the minimum score for the Writing sub-test for those who are required to complete an English language test, and;
- d. adding the Pearson Test of English Academic to the list of accepted English language tests.

## Impacts Analysis

14. The following table analyses the adopted changes against the criteria identified above.

Assessment Against Criteria		
	2015 Competency Standard	2016 Competency Standard
<i>Criteria A: Alignment with Australia</i>	The entry requirements were almost aligned – with some differences that made New Zealand’s requirements easier to meet in some cases <sup>1</sup> .	The entry requirements are now more closely aligned with Australia’s requirements to ensure consistency across the occupation. The exception is that South Africa is an accepted country in Australia but not in New Zealand. South Africa was excluded in New Zealand because it has 11 official languages and English is the first language for only around 10% of South Africans.
<i>Criteria B: Fair and equitable, minimising costs on the occupation</i>	Costs were minimised in that there were two pathways to meeting language requirements – the English competency test or English schooling. There was a question about fairness, however, with regard to the countries accepted for the English schooling pathway. In particular, it was unclear why some countries were included over others that were largely similar linguistically.	The inclusion of accepted countries for the English schooling pathway is now based on robust principles – the accepted countries are strong predictors of English competency. Fairness has also been improved by allowing tertiary education within accepted countries to count towards meeting the requirements.
<i>Criteria C: Accurate indicator of proficiency</i>	Largely accurate with some deficiencies: <ul style="list-style-type: none"> <li>• The list of accepted countries from the English schooling pathway was long and included countries that were not a good predictor of proficiency</li> <li>• The Writing test was insufficient; the quality of written English across the occupation was not up to the expected standard of the education provider, Authority or Immigration New Zealand (INZ). Writing is the main mode of communication in both the Graduate Diploma and immigration adviser interactions with INZ.</li> </ul>	The ability for the pathways to predict proficiency is improved: <ul style="list-style-type: none"> <li>• The accepted countries predominantly have native English-speaking populations and there is considerable evidence that English schooling in those countries is an accurate predictor of proficiency.</li> <li>• The Writing test has increased one step to emphasise the need for better competency in writing. As it is the main mode of communication between advisers and INZ, advisers must show that they are able to complete written documentation in English to a professional standard.</li> </ul>
<i>Criteria D: Easy to administer</i>	Administering the discretion created contestable decisions.	Easier to administer as there are clear criteria with no discretion.
<i>Criteria E: Transparency</i>	Largely transparent with some deficiencies – in particular, the list of accepted countries was not published in the Standard.	Improved transparency as a result of the 2016 Standard clearly listing the acceptable countries.

<sup>1</sup> Under the Trans-Tasman Mutual Recognition Act (“TTMRA”) a person registered in an Australian jurisdiction can be registered in New Zealand and vice versa.

15. The impact of these changes is:
  - a. An improvement in the future quality of immigration advice as a result of improving the extent to which entry requirements identify English proficiency,
  - b. Some minor impacts on entry requirements for the regulated industry (see below), and
  - c. Greater trans-Tasman regulatory alignment.

#### *Impacts on the regulated industry*

16. There is unlikely to be an impact on current advisers.
17. The changes will have a number of impacts on the entry requirements to the Graduate Diploma (and therefore the profession). These impacts are minor and competing:
  - a. The reduction in accepted listed countries will increase the cost for applicants from formerly accepted countries who now need to complete a prescribed language test. The impact as a result of this change will be non-trivial for those individuals but likely minimal overall because:
    - i. There have been very few applicants from these countries to date, and
    - ii. These applicants will still be able to enter the profession through satisfying the English Competency pathway by passing one of the English language tests.
  - b. An additional pathway to proving language competency has been added (via evidence of tertiary education), reducing the cost of entry for those that qualify for this pathway.
  - c. The entry requirements for those utilising the prescribed language test pathway have been increased – as a result of the higher competency requirement for written language.
18. It is expected that combined impact of these effects on the price and availability of immigration advice will be minor.

## **Consultation**

19. Consultation with stakeholders took place in June 2016 and over 500 responses were received. These included current Licensed Immigration Advisers (who were 97% of the respondents), Waiariki Bay of Plenty Polytechnic, the Authority's Licensed Immigration Advisers Reference Group, Immigration New Zealand, and the Australian Office of the Migration Agents Registration Authority.
20. Diverse views were received from respondents; however there was a recurring theme throughout that the profession wanted measurable and equitable indicators of English competency. Taking into account respondents' comments and the criteria for setting standards listed above, the Authority decided to retain the current approach with the amendments discussed above.