

INTRODUCTION – IMMIGRATION PRACTICE RIGHTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule sets out:

- the level of competency, knowledge and understanding required to practise in the area of immigration work
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – client care, research, drafting, letter writing, interviewing and advising including recognition of vulnerability and sensitivity and (optional) advocacy skills.
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements

Certification of Immigration Practice Rights will ensure that the applicant has:

- met the application requirements
- an appropriate level of experience in the field of immigration work in practice which must include not less than 2 years relevant experience immediately preceding the application
- an appropriate level of knowledge and appreciation of the key legal features of immigration work, including the ability to represent clients in applications for entry and stay from EEA and non EEA countries, applications for asylum and humanitarian protection, when and how to apply the Human Rights Act to applications, applications for nationality and citizenship, the appeals process, application for bail in detention and immigration offence cases, the operation of legal aid, welfare and benefits in immigration cases and an understanding of the impact of discrimination law on immigration cases.
- the ability, and experience, to research aspects of statute and case law, legal practice, procedures and documentation that is current
- the ability, and experience, to interview clients appropriately and identify the client's objectives and different means of achieving those objectives if options are available, together with the ability, and experience, to advise such clients and be aware of any issues (such as the need for an interpreter) which may arise, these should be taken into account together with the costs, benefits and risks involved in any procedure, transaction or course of action

- the ability, and experience, to perform the tasks required to advance applications and matters, to include (but not restricted by), drafting letters of advice to clients, drafting and completing documents, communicating with co-professionals, the UK Border Agency, the Home Office and other bodies and organisations
- the ability, and experience to prepare appropriate applications in the best interests of the client
- demonstrate a level of experience, knowledge and understanding of all aspects of professional conduct and regulation which includes an understanding of the key ethical requirements contained in the relevant conduct rules and other law and regulations and where these may impact and be able to apply them in context

| | Learning Outcome | Supporting Experience |
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| | The entry requirement to obtain immigration practice rights seeks to ensure that the applicant will be able to demonstrate that he: | The applicant will need to provide evidence of: <i>(outcomes in italics are optional)</i> |
| STAGE 1 ENTRY CRITERIA <ul style="list-style-type: none"> • KNOWLEDGE • UNDERSTANDING • SKILLS • EXPERIENCE | <ul style="list-style-type: none"> • Has practical knowledge, understanding, experience and skills | Either <ul style="list-style-type: none"> • successful completion of CILEx Level 6 Professional Higher Diploma in Immigration law Or <ul style="list-style-type: none"> • qualification of an equivalent standard and/or relevant knowledge and understanding And <ul style="list-style-type: none"> • demonstrate their knowledge and understanding of Immigration Law and Practice through the submission of 5 portfolios. A further 3 portfolios are required to demonstrate practical experience of Immigration work, a total of 8 portfolios is required |

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| <p>ENTRY KNOWLEDGE AND UNDERSTANDING</p> | | <ul style="list-style-type: none"> • Examples will be drawn from a range of cases from the applicant's case load. Guidance on this can be found in the Portfolio Guidelines <p>And</p> <ul style="list-style-type: none"> • be a Fellow of CILEx <p>NOTE: Where the applicant holds appropriate qualifications which enable an application for Fellowship to be made, this can be made concurrently with the application for Immigration Practice Rights</p> |
| | <p>Demonstrate knowledge and understanding of entry of non-EEA citizens into and their stay in the UK and be able to</p> <ul style="list-style-type: none"> • identify categories of visitor • identify and apply procedures re Home Office Applications and entry | <p>applications to the Home Office & to entry clearance officers in those areas of work in the following areas:</p> <ul style="list-style-type: none"> • entry into the UK, various categories of short term visitors, • entry to study in the UK and entry to work in the UK on a permanent and temporary basis, including the points based system, • entry to UK for business and investment purposes or self-employment, |

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| | | <ul style="list-style-type: none"> • admission of spouses and civil partners and the admission of fiancés for marriage, and co-habitees for co-habitation. • admission of children and other relatives, • indefinite leave to remain and settlement, • extensions, variations and curtailments of leave, • illegal entry, overstaying, administrative removal and deportation. |
| | <p>Demonstrate knowledge and understanding of entry of EEA and EU citizens into and their stay in the UK and be able to</p> <ul style="list-style-type: none"> • Identify countries covered by EU law • Identify and apply procedures for obtaining permits and settling in UK | <ul style="list-style-type: none"> • the operation of freedom of movement law, • residency and settlement, • reciprocal rights to welfare, healthcare and benefits, • exclusion from the UK as it applies to EU citizens and both EU and non-EU citizen members of their families and dependents, • knowledge of the Turkish association agreement. |
| | <p>Demonstrate knowledge and understanding of asylum and humanitarian protection and be able to</p> <ul style="list-style-type: none"> • Identify and apply procedures for making an asylum application, screening and substantive | <ul style="list-style-type: none"> • EC law on humanitarian protection and the Qualification and Protection Directive, the relevant Immigration Rules, • the Secretary of State's discretionary powers in relation to humanitarian |

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| | <p>interviews</p> <ul style="list-style-type: none"> Identify and apply grounds on which as asylum decision can be challenged | <p>protection,</p> <ul style="list-style-type: none"> the law relating to 'credibility' of asylum seekers and the Home Office/UKBA policies and procedures. |
| | <p>Demonstrate knowledge and understanding of human rights and be able to</p> <ul style="list-style-type: none"> Apply the Human Rights Act to cases Apply the European Convention of Human Rights to cases Identify and apply the procedure for appeal and judicial review based on HRA and ECHR claims | <ul style="list-style-type: none"> relevant human rights legislation on decision making in the immigration sphere and the nature and scope of the articles of the ECHR relevant to UK law. |
| | <p>Demonstrate knowledge and understanding of nationality and citizenship and be able to</p> <ul style="list-style-type: none"> Identify and apply procedures for applying for British Citizenship Identify and apply Home Office Nationality Instructions | <ul style="list-style-type: none"> the impact of legislation and Home Office policy on nationality and citizenship |

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| | <p>Demonstrate knowledge and understanding of appeals and be able to</p> <ul style="list-style-type: none"> • Identify and apply procedures for hearings before First-tier Tribunal • Understand powers of Immigration judges and orders that can be made • Understand rules of evidence and procedures for appeals to Upper Tribunal | <ul style="list-style-type: none"> • appeals, including when a decision of a First-tier Tribunal or a decision of an Upper Tribunal may be appealed, • the role of the courts in the appeal system and • the circumstances in which judicial review may be used and the grounds on which judicial review may be sought |
| | <p>Demonstrate knowledge and understanding of detention, bail and immigration offences and be able to</p> <ul style="list-style-type: none"> • Identify and apply procedures for applying for bail • Identify and apply procedure for prosecution of immigration offences | <ul style="list-style-type: none"> • the circumstances in which an application for bail may be made and of the bodies or individuals empowered to grant bail, • habeas corpus and bail from a chief immigration officer or an authorised person, • Home Office policy on bail and detention for children and young persons, • knowledge of the offences under the Immigration Acts and defences to offences under the Immigration Acts and • the range of sentences available to the courts. |
| | <p><i>Demonstrate knowledge and understanding of legal aid, welfare and benefits and be able to</i></p> | <ul style="list-style-type: none"> • <i>claiming benefits support and housing for refugees or those benefiting from</i> |

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| | <ul style="list-style-type: none"> • <i>Identify and apply procedures for applying for benefits for refugees and those subject to humanitarian protection</i> • <i>Identify main sources of advice and assistance</i> | <p><i>humanitarian protection or who have discretionary leave for that purpose,</i></p> <ul style="list-style-type: none"> • <i>the types of public funding available for immigration, asylum and nationality applicants</i> • <i>the eligibility tests for public funding.</i> |
| | <p><i>Demonstrate knowledge and understanding of race relations and immigration and be able to</i></p> <ul style="list-style-type: none"> • <i>Identify and apply procedures for claiming racial discrimination in First-tier and Upper Tier Tribunals</i> • <i>Identify and apply procedure for making claims of discrimination by immigration officials</i> | <ul style="list-style-type: none"> • <i>the relevant provisions of the equality legislation as it applies to immigration, asylum and nationality practice and the availability of appropriate remedies</i> |
| <p>ENTRY SKILLS</p> | | <ul style="list-style-type: none"> • Where the applicant does not hold the relevant CILEx Level 6 Legal Research or Client Care (or equivalent) qualification, he should provide a portfolio of evidence and logbook which demonstrates that they meet each of the outcomes set out below in accordance with the Portfolio Guidelines. • Examples will be drawn from a range of cases from the applicant's case load. |

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| Client Care | Demonstrate knowledge and understanding of the role of client interviewing and negotiation in legal practice | <ul style="list-style-type: none">• Explain what the applicant understands by successful client interviewing• Demonstrate interviews which the applicant considers to be successful and identify what made them successful• Explain what the applicant understands by negotiation and its importance in legal practice, including identification of a number of types of negotiation and the importance of preparation in successful negotiation. Identify a number of media through which negotiation can take place• Provide examples of the following which have been overcome in a negotiation situation:<ul style="list-style-type: none">• The use of different types of negotiation using different media• A situation in which preparation for negotiation was central to success• A situation in which communication barriers were overcome for a successful outcome• Use of persuasion to achieve a successful outcome |
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| <p>Legal Research</p> | <p>Demonstrate knowledge and understanding the importance of client care in legal practice</p> | <p>situations</p> <ul style="list-style-type: none"> • Identify any professional organisations that exist within the applicant’s area of practice and explain benefits of membership |
| | <p>Demonstrate knowledge and understanding of legal research and be able to analyse the scope and complexity of situations which need legal research</p> | <ul style="list-style-type: none"> • Explain the SRA rules relating to client care and evidence use of the rules in practice • Evidence use of the use of client care letters and complaint management, ‘Your Clients, Your Business’ and the benefits of LEXCEL membership etc. • Demonstrate understanding of the need for good client care to benefit the business |
| | <p>Demonstrate knowledge and understanding of and be able to evaluate legal research sources</p> | <ul style="list-style-type: none"> • Identify situations in which the need for legal research has arisen in the applicants work • Explain the steps the applicant undertook to identify relevant sources of information and how they determined the reliability, accuracy and currency of the information discovered |
| | <p>Demonstrate knowledge and understanding of</p> | <ul style="list-style-type: none"> • Explain understanding of primary and secondary sources and how these sources can be used to ensure the |

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| <p>ENTRY EXPERIENCE: ALL APPLICANTS</p> | <p>and be able to perform appropriate legal research</p> <p>Demonstrate knowledge and understanding of and be able to analyse the law in relation to practical problems</p> <p>Ability to record and evaluate information</p> <p>Ability to synthesise research to present advice</p> <ul style="list-style-type: none"> • immigration practice experience in the 2 years preceding the immigration practice rights course | <p>applicant has sufficiently researched the problem</p> <ul style="list-style-type: none"> • Identify relevant statutes, case law and other sources from r research • Evidence how research was prioritised and analysed and used this to better understand the issues raised in the legal matter • Evidence synthesis of the research materials to provide a structured and accurate report • Evidence how research was evaluated to ensure that it was comprehensive and sensitive to the needs of the recipient. <ul style="list-style-type: none"> • General description of immigration work carried out • Description of typical case load • An indication of chargeable hours spent on immigration proceedings work in each of the last 2 years • The proportion of time spent on immigration proceedings work • The number of cases which have included preparation for tribunal • Details of any supervisory arrangements under which the applicant works and/or |
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| | | their supervisory responsibilities |
| STAGE 2 QUALIFICATION CRITERIA: SKILLS | Learning Outcome | Supporting Experience |
| | | <p>the applicant must demonstrate the outcomes by either</p> <ul style="list-style-type: none"> • attendance on a course, or • through work experience <p>and</p> <ul style="list-style-type: none"> • by satisfying the assessment criteria. |
| Element 1 INTERVIEWING, ADVISING AND COMMUNICATING | INTERVIEWING: <ul style="list-style-type: none"> • An ability to conduct effective interviews with the client and potential witnesses across a range of immigration issues. | <ul style="list-style-type: none"> • Prepare for an initial interview and apply a structured approach to it • Greet the interviewee appropriately • Use appropriate listening questioning and feedback techniques • Maintain rapport with the interviewee • Be sensitive to diversity issues • Keep a full and accurate record of the interview • Close the interview appropriately |

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| | <p>ADVISING AND COMMUNICATING:</p> <ul style="list-style-type: none"> • An ability to give and communicate clear accurate and practical advice both orally and in writing on matters relating to law, procedure, strategy and prospects of success (either orally, in writing or other media). | <ul style="list-style-type: none"> • Obtain all relevant information and identify the clients objectives • Give clear advice on all relevant matters arising • Identify the options available and explain the pros and cons of each of those options • Enable the client to make decisions in the case based on appropriate advice • Give clear, appropriate and accurate advice regarding costs and funding • Seek appropriate instructions and give clear advice regarding the next steps to be taken • Produce an accurate record of the interview |
| <p>Element 2 COSTS AND FUNDING</p> | <p>COSTS</p> <ul style="list-style-type: none"> • An awareness of the requirements of the relevant rules that relate to immigration costs and be able to give clear and accurate advice or information on costs issues arising in the case | <ul style="list-style-type: none"> • Provide realistic costs estimates of all costs at the start of the case or as soon as possible and update these throughout the progress of the action to include the cost implications of case strategies |

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| | <p>FUNDING</p> <ul style="list-style-type: none">• Clear and accurate advice on funding options <p>DOCUMENTATION</p> <ul style="list-style-type: none">• <i>Draft or complete the necessary documents relating to funding</i> | <ul style="list-style-type: none">• Provide appropriate advice regarding the fees that will be charged• Identify the funding options available in a particular case• Communicate the risks and benefits of each method of funding available• Be aware of the funding regulations and restrictions.• Advise the client, or service user, of significant development in the case• <i>Identify the appropriate documents to put in place the agreed funding method</i>• <i>Draft or complete for the client or inform the client of the appropriate documentation to obtain funding and explain the requirements of the agreed funding method</i>• <i>Draft funding agreements</i>• <i>Prepare estimates and schedules of costs</i>• <i>Understand all matters relating to a summary assessment of costs and detailed costs assessment</i> |
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Element 3
PROFESSIONAL CONDUCT
AND ETHICS

PROFESSIONAL OBLIGATIONS

- An awareness of their professional obligations in a diverse range of situations in respect of matters relating to substantive law and the rules of professional conduct
- An awareness of their obligations to: the court, their client, other lawyers, the public and money laundering legislation and regulation

CONFLICTS

- An ability to identify and deal appropriately with conflicts of interest throughout their handling of the matter

WITHDRAWAL FROM THE CASE

- an awareness of when they can and/or must withdraw from a case; the proper steps to be taken when doing so whilst observing the interest of the client

- Draft client care letters
- Identify situations where their obligations to: the court, their client, other lawyers, the public, and money laundering legislation arise

- Identify and deal appropriately with conflicts arising between the applicant and the client or service user, arising between them and their duty to the court, or arising between them and any relevant third party

Show an awareness of

- The need to withdraw;
- the proper action when the client refuses to make proper disclosure;
- when the client's or service user's interests conflict with the applicant's

CONFIDENTIALITY AND PRIVILEGE

- *an understanding of and the ability to apply the law and practice of confidentiality and privilege in a variety of practical contexts.*

COMPLAINTS AND NEGLIGENCE

- an understanding of the professional conduct rules as they are applied in practice and the steps that must be taken in the event that a mistake (or an act of negligence) has occurred.

duties to the court or any other circumstances where withdrawal is required

- *Distinguish between legal advice privilege, litigation privilege*
- *Distinguish between confidential information and privileged information*

- Identify the circumstances when a complaint could be made or negligence action may arise
- Explain what steps would need to be taken in respect of the identified, or potential, mistake or act of negligence
- Identify the appropriate professional conduct rules applying and the indicative behaviours that would need to be shown to deal with allegations of mistake or negligence

Element 5
MANAGING IMMIGRATION
WORK

FILE HANDLING

- An ability to plan and manage immigration cases, deliver a good legal service to clients or service user
- manage the client's or service users expectations,
- progress matters expeditiously
- maintain files and records in accordance with procedures

CASE ANALYSIS AND CASE PREPARATION

An ability to formulate a case strategy which is:

- Compatible with the client's objectives and
- Is legally and procedurally sustainable

- Plan and prioritise a workload and manage files and tasks concurrently, efficiently, making the best use of available resources, exercise good judgment, be realistic (as to the client's or service user's expectations, proportionality, time or available funds) and sought support when necessary
- Deal with matters without causing delay.
- Maintain files and systems (which may include electronic systems) appropriately and correctly
- Ensure that files are up to date and 'in budget'
- Manage financial transactions on the file correctly and appropriately

- Identify 'strengths' and the 'weaknesses' in a case
- Identify gaps in available evidence
- Draw up a realistic case plan

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| | <p>DEALING WITH OTHER PROFESSIONALS</p> <ul style="list-style-type: none"> • An appropriate level of professionalism in establishing an effective working relationship with others involved in a legal matter • Identify and provide appropriate information to others involved in a matter which may include: instructing advocates, interpreters and experts <p>INSTRUCTING ADVOCATES</p> <ul style="list-style-type: none"> • An ability to instruct an advocate when necessary | <ul style="list-style-type: none"> • Relate the case theory to the client's or service user's objectives and expectations • Provide the client with a balanced view of the likely risks, costs and benefits of the case strategies • Adopt a cost effective, analytical and pragmatic approach to the wider issues (which may include the client's or service users commercial objectives) <ul style="list-style-type: none"> • Deal with other professionals involved in a matter appropriately, professionally and ethically • Provide other professionals involved in a matter with appropriate information, instructions and guidance <ul style="list-style-type: none"> • Identify when a specialist legal opinion is required/when it is necessary to instruct an advocate • Identify a suitably qualified/experienced advocate |
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EXPERTS

- An ability to select, appoint and instruct an expert and show an awareness of the range of expertise that may be needed for a case

- Agree an appropriate fee for work to be carried out by the advocate
- Draft a brief to the advocate providing appropriate information and instructions
- Liaise between the client and advocate
- Demonstrate an awareness of the obligations of the advocate to the court and under his professional obligations
- Deal with the advocate in an appropriate and professional manner

- Appreciate the nature and function of different types of experts
- Identify when it is appropriate to instruct an expert
- Agree an appropriate fee for work to be carried out by the expert
- Be familiar with the available registers and databases through which an appropriate expert may be identified and located
- Instruct an expert appropriately applying relevant rules and protocol
- Provide the expert with appropriate information, instructions and guidance
- Deal with the expert in an appropriate and professional manner

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| | <p>INTERPRETERS</p> <ul style="list-style-type: none"> • Ability to identify when there is a need for an interpreter | <ul style="list-style-type: none"> • Identify situations in which the need for an interpreter has been identified and the steps taken to accommodate this |
| <p>Element 5 LEGAL WRITING AND DRAFTING</p> | <ul style="list-style-type: none"> • An ability to understand and apply the principles of good writing and drafting | <ul style="list-style-type: none"> • Understand and apply the principles of good writing • Use accurate, straightforward and modern language • Use correct spelling, grammar, syntax and punctuation • Draft a document that is clear, logical, consistent and with appropriate structure and format • Draft a document that forms a coherent whole and, where appropriate, advance the matter, identify the client's objectives and priorities, provide a clear risk analysis • Address the document appropriately and accurately • Understand the appropriate use of e-mails, letters, memoranda and other forms of written communication • Choose the appropriate medium, form and style of written communication |

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| | | <ul style="list-style-type: none"> • Tailor the written communication to suit the purposes of the communication and the needs of different clients or recipients |
| <p>Element 6</p> <p>DEALING WITH VULNERABLE CLIENTS</p> | <ul style="list-style-type: none"> • Ability to identify and deal with vulnerable clients • Ability to identify and deal with sensitive issues • Avoiding discrimination and promote equality and diversity • Knowledge of appropriate agencies, understanding of their functions and identify need to signpost | <ul style="list-style-type: none"> • Identify situations in which a client has been identified as vulnerable and the appropriate adjustments made to accommodate the vulnerability • Identify situations in which an issue has been identified as sensitive and the appropriate adjustments made to accommodate the sensitivity • Provide evidence of steps taken to avoid discrimination and promote equality • Identify situations in which the client needs to contact other agencies and provide appropriate signposting to those agencies |
| <p>Element 7 (Optional)</p> <p>ADVOCACY</p> | <ul style="list-style-type: none"> • An appropriate level of experience of case analysis, critical judgement and evaluation • Ability to make effective written representations | <ul style="list-style-type: none"> • Identify the relevant factual, legal and evidential issues in a given case logically, clearly and coherently |

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| | <ul style="list-style-type: none"> • Ability to make effective written submissions | <ul style="list-style-type: none"> • Identify the evidence available to both parties to prove these issues • Understand the strengths and weaknesses of a case • Understand the relevant law in context • Prepare a case theory that is both succinct and persuasive • Prepare a case theory that observes the rules of professional conduct • Prepare effective written submissions on the identified issues citing relevant authorities, arguments for the case and use appropriate factual and legal arguments. • Identify the client's goals. • Analyse the relevant factual issues. • Understand the legal and evidential context in which these factual issues arise and how they relate to each other. • Summarise the strengths and weaknesses of each party's case. • Develop an effective case presentation strategy. • Outline the relevant facts in a clear, effective format. • Understand and use the English language |
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| | <ul style="list-style-type: none"> • Ability to respond to arguments presented during a hearing • Ability to identify circumstances in which it is appropriate to apply for adjournment or challenge case law • Ability to re-evaluate evidence • Ability to assess case to identify whether it should be referred to solicitor or counsel for judicial review claim | <p>proficiently in relation to legal issues.</p> <ul style="list-style-type: none"> • Present a sustained argument in a way which is comprehensible to others. • Prepare and present a coherent submission to the tribunal based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting in relation to a hearing • Understand and appreciate the relevant communication skills and techniques used by an advocate. • Make an appropriate decision to appear and represent the client at tribunal • Understand when it would be appropriate to cease to act as an advocate. |
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