



New Plan for Immigration Policy Statement

Home Office

6 May 2021

Re: CILEx Regulation Response to ‘New Immigration Policy’ Consultation

Introduction

1. CILEx Regulation welcomes the opportunity to submit the following in response to the ‘New Immigration Policy’ consultation issued by the Home Office in March 2021.
2. This response represents the views of CILEx Regulation Ltd., the regulatory body for Chartered Legal Executives, CILEx Practitioners and legal entities. CILEX is the professional body representing around 20,000 members and is an Approved Regulator under the Legal Services Act 2007 (LSA), with the regulatory functions of CILEX being delegated to CILEx Regulation. CILEx Practitioners are authorised by CILEx Regulation to provide reserved legal activities.
3. CILEx Regulation is also a regulator of entities through which legal services are provided. It authorises entities based upon the reserved and regulated activities.
4. CILEx Regulation and CILEX provide an alternative route to legal qualification and practice rights allowing members and practitioners, who do not come from the traditional legal route to qualify as lawyers and own their own legal practice. This includes a route to qualification as a CILEx Immigration Practitioner.

Scope of Response

5. CILEx Regulation acknowledges that much of the New Immigration Policy is beyond the remit of its regulation and responsibility, and this response has therefore been narrowed to reflect our views only on the section which we feel may modify our duties in relation to the supervision of CILEx Immigration Practitioners, or otherwise unnecessarily impact the work of CILEx Immigration Practitioners or CILEx Regulated Entities.
6. Of primary concern to CILEx Regulation is the proposal to:

Develop a “good faith” requirement, setting out principles for people and their representatives when dealing with public authorities and the courts, such as not

providing misleading information or bringing evidence late where it was reasonable to do so earlier¹.

7. CILEx Regulation notes that the “good faith” requirement as set out in the New Immigration Policy does not provide any indication as to which bodies would be responsible for its enforcement, nor any comment as to how this should be achieved.
8. We consider this to be problematic in two ways:
 - While there is an absence of information in this area, we may assume that responsibility for enforcement would fall to legal services regulators; and
 - Implementation of this requirement would likely represent a duplicative, and therefore unnecessary, replication of existing rules.

Observations on the “Good Faith” Requirement

9. The “good faith” requirement would directly impact the conduct of ‘people and their representatives²’, it is therefore reasonably foreseeable that those legal services regulators responsible for the supervision of authorised persons conducting immigration work would be expected to enforce any such revised standard.
10. However, the standards imposed by the “good faith” requirement as described in the New Immigration Policy would not represent a significant departure from those standards already enforced by the CILEx Code of Conduct. This is because all authorised persons regulated by CILEx Regulation (including CILEx Immigration Practitioners) are required to adhere to the Code of Conduct, which sets out the standards required of all CILEx authorised persons³.
11. The relevant obligations included in the Code of Conduct include but are not limited to:
 - upholding the rule of law and the impartial administration of justice;
 - maintaining high standards of professional and personal conduct and justifying public trust in the practitioner, the profession and the provision of legal services;
 - behaving with honesty and integrity;
 - treating everyone fairly and without prejudice;
 - ensuring independence is not compromised.
12. Further, we consider that the current format of our rules is ‘outcomes focussed’, thereby providing sufficient flexibility to cover all aspects of good faith as described. In contravening any of the proposed standards set out in the ‘good faith’ requirement, an authorised person would be in breach of several principles within the Code of Conduct.
13. Whilst we continue to review our Code of Conduct, we are also mindful of the risk of narrowing the scope of the Code by adding specific wording to address particular situations. That can have a detrimental effect on both the clarity and intentions of the Code on a member or firm, as well as to the regulator when a matter becomes misconduct.

¹ See [Home Office ‘New Immigration Policy’ 2021](#) – pg. 27-28

² See Home Office ‘New Immigration Policy’ above

³ The Code can be read in full at: <https://cilexregulation.org.uk/wp-content/uploads/2018/11/2.-Code-of-Conduct-2019.pdf>

14. In this way, by imposing a new obligation, either through drafting a revised Code of Conduct or a novel set of immigration rules, we would be creating an unnecessary duplication of existing standards.
15. CILEx Regulation does not believe that the proposed imposition of a “good faith” requirement would contribute meaningfully to achieving a reduction in costs. Any such duplication of existing requirements would represent an unnecessary burden on both regulators and the profession and could foreseeably be reflected in costs passed down to regulated persons, and in effect, the consumer.
16. For the reasons stated above, we consider that the need for any such “good faith requirement” to be unnecessary at this time and recommend that the New Immigration Policy be amended to better reflect the practicalities of regulatory supervision of authorised immigration practitioners.

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I am working from home until further notice. You can contact me via email, Teams, Skype or direct 01234 225395.