



Australian Government

Department of Immigration
and Border Protection

Occupational Competency Standards for Registered Migration Agents

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Introduction

Over the last twenty years all professions in Australia, or at least some parts of them, have adopted competency standards. These seek to provide explicit statements of what people need to be able to do to practice successfully as professionals.

What is a competency standard?

In Australia, competency is commonly defined as the ability to perform activities in an occupational category or function to the standard expected in employment.

A competency standard is a document that specifies, in a structured format, the purpose of a particular job or role and how people should perform that job or role. Competency standards attempt to capture the various dimensions that, when taken together, account for 'competent' performance. In this case, the competency standard specifies the role of a registered migration agent.

Competency standards need to be based on an integrated approach to competence - one that combines agents' actual work tasks with the attributes that enable these tasks to be performed and the levels of performance expected.

Competency standards must be read as a whole. Instances in actual practice often involve two or more standards or elements. Although divided into domains with each domain sub-divided into elements and performance criteria, the individual standards are not discrete or independent. Each element is unweighted. The importance of a particular element or elements will be related to the actual circumstances surrounding the situation an agent finds themselves in from day to day.

For assessment purposes this means that performance on several elements can be assessed simultaneously. In the case of new, irregular or changing contexts, the standards may need to be interpreted or adapted to the situation. Such contextually-sensitive situational understanding requires informed professional judgement in order to comply with the spirit of the competency standards. They are also taken as a whole in the sense that competence is not directly observable. Rather, what is observable is performance on a series of relatively complex and demanding professional tasks. Competence is a global construct that is inferred from observed performance on a sufficiently representative range of tasks and activities.

What a competency standard is not

It is important to note that competency standards are not a curriculum document. They are a valuable guide to course developers, both at initial qualification and continuing professional development levels, but do not determine what must be taught, learnt or assessed. Each standard does not correspond with an academic unit and is not an indication of weighting for curriculum or assessments.

These competency standards have relevant underpinning knowledge that needs to be incorporated throughout the standards and elements. The competency standards endeavour to integrate underpinning knowledge and skills into the performance criteria for each element. As noted earlier these must also be considered as a whole and in the context of each unique situation that they might apply to.

Uses of competency standards

Competency standards can have numerous uses including:

- They are employed by universities and other higher education providers as an important guide for designing initial professional preparation courses and ongoing professional development programs.
- They provide a basis for entry into a profession.
- They provide a basis for determining and developing continuing professional development (CPD) and refresher course content.
- They can provide the public with direct knowledge of what might be expected of a professional in the registered migration agent occupation.
- They are a professional framework against which registered migration agents can measure their own performance and prepare a professional development plan so that competence is maintained and enhanced.
- They can provide guidance in the provision of mentoring to recent entrants to the occupation by more experienced registered migration agents.

Ethical practice and the Code of Conduct

All professions have a set of ethical standards, either written or inferred from custom and tradition. The key purpose statement for registered migration agents mentions the need to act ethically and comply with the Code of Conduct. In these competency standards, the Code is specifically mentioned in some elements but it is relevant to all standards.

About this project

The competency standards for registered migration agents were developed and prepared for the use of the Department of Immigration and Border Protection by Andrew Gonczi Pty Ltd in 2011. They were revised following consultation in 2016 to keep pace with technology and developments in the profession.

About these competency standards

The competency standards that follow begin with a statement of purpose followed by nine standards and a description of the knowledge considered to underpin all the standards.

Each standard consists of a table containing three to seven elements in Column 1. For each element, performance criteria are defined in column 2.

Key purpose of registered migration agents

Provide professional advice and assistance to organisations and individuals on Australian migration matters in an ethical manner and in accordance with the Code of Conduct.

Standard 1

Make preliminary contact with potential client

ELEMENT	PERFORMANCE CRITERIA
<p>1.1</p> <p>Establish rapport with potential clients and engage their interest</p>	<ul style="list-style-type: none"> • Research is conducted prior to any meeting with clients if possible • The potential clients are identified • The expectations of the potential clients are established • Clients that may cause a potential breach of the Code of Conduct are identified and appropriate action taken • Clients are treated in an empathic and patient manner • The manner in which clients are treated takes into account their cultural and gender differences and appropriate action is taken • Cases where interpreters should be used are identified
<p>1.2</p> <p>Collect initial case information</p>	<ul style="list-style-type: none"> • An overview of what clients are looking for is established • The background of clients is obtained/researched • Clients are informed of the range of services that organisations/individuals can offer
<p>1.3</p> <p>Develop preliminary assessment of suitable courses of action</p>	<ul style="list-style-type: none"> • The information gathered from clients forms the basis for an initial plan of action • Clients are advised of the boundaries and limitations of any action and the limits of any initial advice given based on the information provided by the client or otherwise available at the time • The risks of giving inappropriate advice are identified, having regard to the general duty to avoid causing financial loss to the client
<p>1.4</p> <p>Advise potential client of possibilities on how to proceed</p>	<ul style="list-style-type: none"> • Issues are identified up front • Solutions/suggestions as to how to proceed are offered • Assistance is given to clients as to how to make an informed decision • Clients are advised of any possible delays • Clients are advised if there is no available solution to their issues
<p>1.5</p> <p>Manage difficult clients</p>	<ul style="list-style-type: none"> • Clients who may present future difficulties are identified at an early stage of contact • Strategies for dealing with such clients are formulated as required • Strategies are enacted as required including refusal of service
<p>1.6</p> <p>Disclose terms of engagement</p>	<ul style="list-style-type: none"> • If appropriate, introduce client to Code of Conduct, and the terms of the Agreement for Services and Fees and other documents that may be required • The exact scope of the services is set out in the Agreement for Services and Fees

Standard 2

Agree on a course of action based on a detailed knowledge of relevant legislation and government policy and in accordance with the ethical principles and the Code of Conduct

ELEMENT	PERFORMANCE CRITERIA
<p>2.1</p> <p>Assess, research and identify pathways using available information and relevant knowledge of the law</p>	<ul style="list-style-type: none"> • Relevant facts regarding client background identified • Key issues affecting client identified • Information and documents gathered, assessed and checked • Advise client if tests or checks are required (health, character, skills assessment, English) • Additional information required is then requested • Qualifications for skills assessment checked online • Relevant law and policy checked (including inconsistencies) and interpreted • Requirements of sponsor/employer are identified, if required
<p>2.2</p> <p>Explain clearly the options and alternatives to the clients</p>	<ul style="list-style-type: none"> • Pathways, options and alternatives are explained to clients based on information provided by the client • Approximate costs/disbursements are explained for each pathway/course of action • Any identified issues are highlighted and possible solutions identified • Summary of pros and cons for each pathway/course of action is provided • Advice provided is accurate and honest and checked against legislative criteria • Clients are advised of average or general processing timelines including potential delays • Clients are advised of potential legal changes affecting existing applications including visa capping
<p>2.3</p> <p>Obtain client instruction in writing whether to proceed or pursue further information gathering if required</p>	<ul style="list-style-type: none"> • Consensus is obtained on the most appropriate pathway/course of action for clients and given in writing • Implications and risks of the selected pathway/course of action are agreed and fully understood including risk of failure • Elements 2.1 and 2.2 of Standard 2 are revisited as appropriate when circumstances change and success is never guaranteed • Provide client with options regarding sponsor or nominator if required • Provide copy of Consumer Guide and make record of doing so

2.4

Confirm instructions in writing, complete formal agreement, and obtain acceptance by client

- Engagement of services and scope of these services are confirmed
- Agreement for Services and Fees is prepared and signed
- Client account is established if required
- Invoices/receipts are issued for monies collected
- Estimates of fees and breakdown of costs are identified in the Agreement for Services and Fees
- Detailed list of documents required is created and issued to client

Standard 3

Prepare, review and lodge applications or appeals based on a detailed knowledge of relevant legislation and government policy and in accordance with ethical principles and the Code of Conduct

ELEMENT	PERFORMANCE CRITERIA
<p>3.1</p> <p>Gather relevant information and documents from all appropriate parties</p>	<ul style="list-style-type: none"> • Checklist for gathering relevant data is prepared • Relevant information and documents are collected from all appropriate parties (health, character, skills assessment, Freedom of Information, English) • Information and documents are verified and certified and translated into English • Key issues affecting client are identified • Support staff who are not registered migration agents are supervised as required • Knowledge of issues relating to applicants from particular countries is utilised as required • Documents are checked to see if, prima facie, they are genuine
<p>3.2</p> <p>Review initial research on merits assessment/ prospects</p>	<ul style="list-style-type: none"> • Merits assessment undertaken based on law, policy, procedural requirements and rules • Client options further refined as required
<p>3.3</p> <p>Confirm course of action with organisation/ individual</p>	<ul style="list-style-type: none"> • Advice given to clients on prospects of success of each option and confirmed in writing • Final course of action agreed with clients and confirmed in writing • An assessment is made on whether agent has requisite skills to handle the application and refers it to a specialist if required
<p>3.4</p> <p>Prepare and review applications/ submissions</p>	<ul style="list-style-type: none"> • All relevant regulatory requirements reviewed immediately before lodgement • Relevant application form(s) completed and required lodgement fees identified • Relevant documents attached to application form(s) in accordance with application requirements • Submission drafted addressing legal/policy requirements • Application, documents and submission reviewed and checked and appropriate record keeping is undertaken • Correct method and place of lodgement identified

<p>3.5 Lodge applications within prescribed/ agreed timelines.</p>	<ul style="list-style-type: none"> • Timelines identified and checked • Evidence of lodgement obtained and recorded on file
<p>3.6 Notify relevant parties of lodgement</p>	<ul style="list-style-type: none"> • Client advised of lodgement in writing and provided with copy of lodgement receipt
<p>3.7 Provide initial post-lodgement advice</p>	<ul style="list-style-type: none"> • Initial post-lodgement advice, if necessary, is provided to clients (e.g. processing time) • Updates provided on progress of application

Standard 4

Represent clients before DIBP and other bodies based on a detailed knowledge of relevant legislation and government policy and in accordance with ethical principles and the Code of Conduct

ELEMENT	PERFORMANCE CRITERIA
4.1 Identify requirements of DIBP	<ul style="list-style-type: none"> • DIBP roles, procedures and functions are identified • DIBP requirements are ascertained (e.g. forms and fees, processing/time limitations, methods of contact or lodgement) • Requirements are reviewed if applicable • Entitlement to appear before DIBP is advised if relevant
4.2 Write follow-up submissions to DIBP or other bodies	<ul style="list-style-type: none"> • Key issues that the submission is addressing are clarified and delineated • Submission structure is planned (format and layout, use of precedents, attachments) • Pertinent issues, legislative criteria and policy are researched • Submission and attachments are drafted, reviewed and finalised
4.3 Submit forms and required documents	<ul style="list-style-type: none"> • Identify method of submitting • Forms, fees and documents are collated and checked • Certifications and translations are signed • Applications are checked to ensure they meet requirements
4.4 Establish appropriate communication channel with the relevant authorities	<ul style="list-style-type: none"> • Appropriate record keeping is undertaken • Relevant case officers or sections are contacted if appropriate • Negotiating and professional skills are demonstrated • Appropriate point/method of contact established
4.5 Prepare clients for appearance with DIBP or other bodies	<ul style="list-style-type: none"> • Clients advised of deadlines and timeframes • Deadlines are recorded and clients reminded of deadlines • Entitlement to appear before the body is identified • Procedures for appearing at interviews or hearings are understood • Clients are prepared for attending interviews and hearings (e.g. procedures, potential issues, what information to provide, substantial issues of the hearing) • Proof of evidence is prepared • Role of interpreters is understood • Further evidence (if needed) is identified

<p>4.6</p> <p>Assist at client appearances before DIBP or other bodies</p>	<ul style="list-style-type: none">• An assessment is made on whether agent has requisite skills to appear before DIBP or review bodies and refers it to a specialist if required• Attend hearings/interviews with client• Professional standards of conduct are adhered to• Procedures are followed and protocols observed• File notes are made during hearing/interview• If allowed to speak then relevant information is provided• Questions are answered and arguments refuted as required• After hearing/interview follow up is undertaken (including additional work, and consideration of possible outcome and timeframes)
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Standard 5

Monitor progress of cases based on a detailed knowledge of relevant legislation and government policy and in accordance with ethical principles and the Code of Conduct

ELEMENT	PERFORMANCE CRITERIA
5.1 Advise client of acknowledgement communications and timelines	<ul style="list-style-type: none"> • Communication checked and sent to client • Communication is recorded on file • Client advised of content of communication as required • Timelines recorded and alerts set • Appropriate mechanisms are established to confirm receipt/transmission of emails • IT and record keeping systems are secure to ensure privacy
5.2 Review changes in law and policy that may impact on applications and anticipate change	<ul style="list-style-type: none"> • Appropriate and accurate sources on law and policy are identified and are regularly checked • Awareness is maintained of current affairs surrounding migration • Clients are informed of changes and how these may impact them
5.3 Comply with any requests from DIBP or other bodies	<ul style="list-style-type: none"> • Communications are checked, analysed and noted on file • Communications are sent to clients • Requests are complied with and noted • Timelines are created and checked • Requests for information are checked against legislation and policy for consistency • Provide updates and advise of changes in circumstances
5.4 Monitor changes in circumstances on ongoing basis	<ul style="list-style-type: none"> • Changes in circumstances are considered and acted upon throughout the processing • Clients and relevant bodies are updated in an appropriate and timely manner during the processing • Service charters and average processing times are noted and conveyed to clients • File is updated/reviewed/maintained regularly and client notified as required • Clients are advised of delays when they occur
5.5 Manage ongoing client engagement	<ul style="list-style-type: none"> • Ongoing client expectations are managed • Agent is available after lodgement • Agent acts on further instructions

Standard 6

Finalise matters in accordance with ethical principles and the Code of Conduct

ELEMENT	PERFORMANCE CRITERIA
6.1 Review decision and communicate to clients	<ul style="list-style-type: none">• Communications with bodies are checked for positive or negative decisions• The nature of the decision is analysed for subsequent explanation to client• Implications for client are analysed
6.2 Discuss implications of decision with clients	<ul style="list-style-type: none">• Decisions are communicated to client effectively• Implications for client are discussed• Other pathways advised where appropriate• A file note is made acknowledging client receipt of decision• Arrangements are made for any ongoing relationship such as advice on sponsorship compliance
6.3 Review implication of decision for agent	<ul style="list-style-type: none">• Liability for agent is assessed• Advice is sought where required and appropriate• Professional indemnity provider is notified where necessary
6.4 Undertakes file closure in accordance with Code of Conduct	<ul style="list-style-type: none">• Client accounts are reconciled• Final statements of accounts are sent• Documents are returned to client• Files are archived• Clients are advised that file is closed

Standard 7

Identify and undertake an ongoing professional development plan

ELEMENT	PERFORMANCE CRITERIA
7.1 Undertakes self-assessment in areas for improvement (both strengths and weaknesses)	<ul style="list-style-type: none">• Personal weaknesses are identified against the relevant competency standards• A written plan is developed to address gaps in knowledge and skills (e.g. continuing professional development, personal development courses)• Own strengths are reinforced by coaching/mentoring others in the firm or profession
7.2 Undertakes external assessment (peers, clients, staff if applicable)	<ul style="list-style-type: none">• Feedback is sought from others about strengths and weaknesses• Objective feedback is obtained and advice and recommendations from colleagues is sought• A written plan is developed based on feedback given• Plan is consistent with identified weaknesses
7.3 Undertakes formal and informal educational opportunities	<ul style="list-style-type: none">• Educational activities are engaged in, that are relevant to individual needs• Activities are recorded in relevant documents• Reflection on what was learnt is undertaken• Learning needs are analysed on an ongoing basis• Supporting networks are developed

Standard 8

Establish a practice in accordance with ethical principles, the Code of Conduct and compliant with relevant legislation

ELEMENT	PERFORMANCE CRITERIA
8.1 Develop a business plan	<ul style="list-style-type: none"> • Appropriate template is sourced and utilised • Template is modified and adapted for particular circumstances • Plan is adapted and updated as required • Plan is implemented consistently
8.2 Establish a business identity	<ul style="list-style-type: none"> • The specialisation of the business is identified • Branding and image is established having regard to legal and statutory requirements • Positioning of the organisation is identified
8.3 Establish and maintain office procedures	<ul style="list-style-type: none"> • Premises suitable for purpose are located and rented as per requirements • Telephone/mail/computer systems are established and maintained • Forms/questionnaires are designed for identified purposes
8.4 Open business/ business configuration	<ul style="list-style-type: none"> • Legal and accounting advice is sought as required to determine possible business structure • Appropriate business structure is selected based on the present and future needs of the business • Business structure complies with all appropriate legal and statutory requirements.
8.5 Establish and maintain filing systems	<ul style="list-style-type: none"> • Appropriate filing system is established • Appropriate software is identified and purchased • Back-up system and system security is established and maintained
8.6 Establish and manage client accounts	<ul style="list-style-type: none"> • The need for a client account is identified • Records are maintained and audited as required • Books are balanced as required by statutory authorities • All incoming monies are lodged as appropriate
8.7 Market the business	<ul style="list-style-type: none"> • The target/marketplace is identified • A website is established and maintained • A marketing plan is prepared and followed • Testimonials and third party recommendations are collected subject to confidentiality and privacy requirements • Market research is conducted on an ongoing basis

Standard 9

Manage a practice in accordance with ethical principles, the Code of Conduct and compliant with relevant legislation

ELEMENT	PERFORMANCE CRITERIA
9.1 Manage finances	<ul style="list-style-type: none"> • Budget planning and forecasting is undertaken on a regular basis • Operating accounts are established and maintained • Business Activity Statements, tax requirements are complied with at all times • Finances are managed and monitored on an ongoing basis • Foreign exchange/currency issues are managed • Invoices are prepared, issued and followed up as various matters are completed • Journals are kept up to date as required • Independent accounting, financial and legal advice is obtained where necessary
9.2 Manage employees	<ul style="list-style-type: none"> • Staff selection is undertaken to obtain suitable employees • All staff (including those not giving immigration assistance) are trained and educated about Code of Conduct • Ongoing/casual/contract status determined to best suit the needs of the practice • Staff are supervised and performance managed as required • Arrangements are made for clients and client files when staff leave the business
9.3 Manage risk	<ul style="list-style-type: none"> • Client expectations are managed in a transparent fashion • Public liability and other insurances are kept up to date as required • Future risks are identified and a risk management plan established and monitored • Professional membership and library maintained
9.4 Manage opportunities	<ul style="list-style-type: none"> • An awareness of economic policy is maintained • Factors likely to affect business are identified and monitored • Business plans and procedures are adapted in response to identified opportunities • Potential opportunities concerning new business are identified and evaluated

Underpinning knowledge for all standards


Relevant legislation and policy documents include current versions of:

Professional Library

- Administrative Appeals Tribunal Act 1975
- Border Protection (Validation and Enforcement Powers) Act 2001
- Immigration (Guardianship of Children) Act 1946
- Immigration (Guardianship of Children) Regulations 2001
- Legislative Instruments Act 2003
- Migration (Visa Application) Charge Act 1997
- Migration Act 1958
- Migration Agents Registration Application Charge Act 1997
- Migration Agents Registration Application Charge Regulations 1998
- Migration Agents Regulations 1998
- Migration Amendment (Temporary Sponsored) Visas Act 2013
- Migration Amendment (Visa Application Charge and Related Matters) Regulation 2013
- Migration Legislation Amendment (Overseas Students) Act 2000
- Migration Reform (Transitional Provisions) Regulations
- Migration Regulations 1994
- Migration Series Instructions (MSI's)
- Ministerial Directions issued under section 499
- OMARA Policy and Procedures Manual (PPM)
- Procedures Advice Manual 3 (PAM's)
- Relevant Commonwealth Gazette Notices

Other Recommended Materials

- Administration Appeals Tribunal Act
- Administrative Decisions (Judicial Review) Act 1977 and Regulations
- ANZSCO Dictionary
- ASCO Dictionary
- Australian Border Force Act 2015
- Australian Citizenship (Transitionals and Consequentials) Act 2007 and Regulations
- Australian Citizenship Act 2007
- Australian Human Rights Commission Act 1986
- Australian Passports Act 2005 and Regulations
- Convention against torture
- Convention on the Rights of the Child, United Nations 1989
- Convention Relating to the Status of Refugees 1951 as amended by the Protocol
- Education Services for Overseas Students Act 2007
- Education Services for Overseas Students National Code of Practice
- Fair Work Act 2009
- Federal Circuit Court Act 1999 and Rules
- Federal Court of Australia Act 1976 and Rules
- Freedom of Information Act 1982
- Immigration (Education) Act 1971
- Immigration (Education) Charge Act 1992

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- Immigration (Education) Charge Regulations 1993
 - Immigration (Education) Regulations 1992
 - International Covenant on Civil and Political Rights, United Nations 1966
 - Judiciary Act 1901
 - Ombudsman Act 1976
 - Privacy Act 1988
 - Worker Protection Act 2008