

ILPA comments on draft posters for the UK Border Agency Commercial Partners offices.

Comments have already been provided on the 'version 2' poster. We consider that it is helpful to have split the posters on commercial partners from that on legal advisors. We continue to have concerns about the text of the posters. These comments have benefited greatly from discussions with Gulay Mehmet, the Law Society's representative on the User Panel.

Poster – VFS – their Role (v3)

Introduction

'..working in partnership' is not helpful in the context of this poster, which is designed to distinguish VFS from the UK Border Agency. It would be more helpful to set out what the partnership, and hence what the distinction, is. In particular the phrase from the second box 'Decisions are made by Entry Clearance Officers and not the VFS staff' might usefully be put in this introduction. An example wording would be

“VFS Global is private company that has a contract with the UK Border Border Agency to provide facilities for applicants to submit their applications. VFS Global receives the applications, passes them to the Entry Clearance Officer for decision and when it receives the decision from the Entry Clearance Officer notifies you that the decision is ready to collect. Decisions are made by Entry Clearance Officers and not the VFS staff.”

Boxes on information and advice

We continue to think that “How to apply” , “If you are missing any essential documents” and “If you have filled in the form correctly” (all allowed) are difficult to distinguish from and ‘What supporting documents to provide” and “Provide immigration advice” (both prohibited).

As stated in ILPA's previous comments, a poster cannot depend on any deep level of understanding; it must encapsulate and communicate the whole message. We continue to think that the list with red crosses would work much better without the list with the green ticks, in terms of giving the necessary warnings. As previously stated, if the UK Border Agency considers that to please its commercial partners it needs some green ticks somewhere, the only ones that does not seem to be to undermine the red crosses list are “What fee to pay” and "When your application is ready to collect” (we can see that the essential documents item can be distinguished from the red ticks list, but we suspect that it is because we have prior knowledge that we can make the distinction).

It is unclear why 'immigration' gets a capital letter I.

Box at bottom

The phrase 'British diplomatic mission' is not plain English. Would it be possible to leave a blank space on the poster so that the Manager's details and those of the 'nearest British diplomatic mission' can be filled (for example using a marker pen) with the exact details of the person with whom to get in touch for the particular centre? As the poster stands, it is not making it at all easy for people to complain. The suggested approach might make it possible to use more familiar phrases such as British Embassy, or British High Commission.

Poster on Need more help

The phrase in the title 'using immigration advisors' and the phrase in the text 'a qualified immigration advisor' are inaccurate. It would be more accurate to say 'a lawyer (solicitor) or a regulated immigration advisor'.

The phrase 'after using the website' is not accurate. A person can go straight to a solicitor or regulated (or unregulated) immigration advisor. It would be more accurate to say 'If you want help with your application...'. It is not helpful to refer to the website without giving the address. One example of wording to replace the first three paragraphs would be to say

Before you complete your application you may wish to look at the visa services website and/or get advice.

The rules used by Entry Clearance staff to make a decision on your application are available, along with a range of information that may help you in making your application, at the UK Border Agency's Visa Services website www.ukvisas.gov.uk

If you would like advice about the UK's immigration rules or help with your application you may wish to contact a **qualified** practising lawyer (solicitor) or immigration advisor. In the UK, to give immigration advice, a person must be a practising lawyer (solicitor) or an advisor regulated by the Institute of Legal Executives or by the Office of the Immigration Services Commissioner. Some solicitors and advisors regulated in the UK also have offices overseas.'

Explanation: it is incorrect to say that 'qualified immigration advisers' are 'immigration advisers regulated by the Office of the Immigration Services Commissioner or professional bodies because only in certain circumstances can a member of the public go directly to a barrister (the Bar is a professional body in this context). At the moment the general public cannot go directly to the Bar in immigration, although this is set to change. The professional bodies do not regulate 'qualified immigration advisers' – they regulate lawyers who may practise in a whole range of fields, including immigration. A qualified solicitor with a current practising certificate can give advice on immigration without needing a further specific qualification in immigration. Professional bodies is better than 'designated

professional bodies' in the previous draft, although it remains difficult to understand and it might be easier to talk of the organisations that regulate lawyers.

The poster has been so long in preparation that the regulatory regimes have changed. In England and Wales responsibilities are now divided between the Solicitors Regulation Authority and the Law Society, while in Scotland they are divided between the Law Society of Scotland and the Scottish Legal Complaints Commission. As we understand it in Northern Ireland there is currently no similar division. It should also be borne in mind, as stated above, that the Bar is set to allow direct access to barristers in immigration. It is still accurate to list the Law Societies rather than the Solicitors Regulation Authority and the Scottish Legal Complaints Commission, but it is important in the light of these changes to be careful with language.

We realise that 'practising solicitor' is difficult vocabulary, but if you were to introduce the websites with

'To find a practising solicitor or a regulated advisor' see the following websites',

that might help.

We do not understand why the phrase 'Reputable travel agents may also be able to assist' has been included. This has nothing to do with the giving of advice on immigration under a regulatory regime.

It would perhaps be helpful to include a health warning such as

'While there is no requirement that get help with your application, or that you use a practising solicitor or a regulated advisor, please note that the UK government has no scheme to regulate advisors other than those regulated in the UK.'

Websites

See our comments above. It would seem more appropriate to list the websites in alphabetical order.

The Immigration Advisory Service is regulated by the OISC, it is not a separate regulator. Nor is it the only organisation with overseas offices. It seems to us problematic to include it in the list on the same level as the other organisations. Its overseas offices are in a limited number of countries. It might, in those countries, be appropriate to give it an example of a UK organisation (IAS is regulated by the OISC) that has offices overseas. We do understand why the UK Border Agency feels it desirable to include IAS in the countries in which it has offices, but we think that this needs more work.

Please note' box

We continue to consider that saying that solicitors or regulated immigration advisors have 'no influence' over the outcome of an application is inaccurate and

unacceptable. A properly prepared application has a greater chance of success than one that has not been properly prepared. To say, as the poster does, that solicitors and immigration advisors, whether regulated or unregulated, are not connected to the visa section would appear to be sufficient and we suggest omitting the second bullet point.

As to the third bullet point about not guaranteeing that an application will be successful, again the wording needs to be changed from immigration advisor.

Alasdair Mackenzie
Acting Chair, ILPA
23 September 2009