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Submitted to **Law Commission consultation on simplifying the Immigration Rules**

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About you

What is your name?

Name:

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What is the name of your organisation?

Enter the name of your organisation:

York College

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

Other (please state)

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Explain to us why you regard the information as confidential:

Consultation Questions

Consultation Question 1: Do consultees agree that there is a need for an overhaul of the Immigration Rules?

Yes

Consultation Question 2: Do consultees agree with the principles we have identified to underpin the drafting of the Immigration Rules?

Yes

Please expand on your answer::

Consultation Question 3: We provisionally consider that the Immigration Rules should be drafted so as to be accessible to a non-expert user. Do consultees agree?

Yes

Please expand on your answer::

This is absolutely critical. People cannot be expected to follow the law if they are not able to access or comprehend it. The Immigration Rules as they currently stand are evidently beyond the ability of even some perfectly qualified and intelligent judges and lawyers to understand; the general public - to say nothing of the people, most of them not native English speakers, directly affected by the rules - have no hope of making sense of them.

Consultation Question 4: To what extent do consultees think that complexity in the Immigration Rules increases the number of mistakes made by applicants?

Please share your views::

It unquestionably increases the number of mistakes made by applicants - as well as the mistakes made by immigration advisers, lawyers, judges, Home Office staff and the Secretary of State.

Consultation Question 5: This consultation paper is published with a draft impact assessment which sets out projected savings for the Home Office, applicants and the judicial system in the event that the Immigration Rules are simplified. Do consultees think that the projected savings are accurate?

Not Answered

Please expand on your answer::

Consultation Question 6: Do consultees agree that the unique status of the Immigration Rules does not cause difficulties to applicants in practice?

Other

Please expand on your answer::

The chief difficulty with the Immigration Rules for applicants, aside from the incomprehensibility of the drafting, is not their 'unique status' as such but the fact that the administrative policy contained therein sometimes is contradictory to policy contained in other documents, such as applicant guidance. If the Immigration Rules are to contain policy as well as legal rules then there needs to be far more quality control to ensure consistency between documents.

Consultation Question 7: To what extent is guidance helpfully published, presented and updated?

Please share your views::

The guidance is not always significantly easier to understand than the Rules themselves, and the process of keeping the guidance up to date is not enhanced by the rate of policy change.

Consultation Question 8: Are there any instances where the guidance contradicts the Immigration Rules and any aspects of the guidance which cause particular problems in practice?

Please share your views::

Yes, although I do not have the time to point them out now. Immigration experts far more qualified than I have been doing so for some time and will continue to do so.

Consultation Question 9: To what extent are application forms accessible? Could the process of application be improved?

Please share your views::

Consultation Question 10: We seek views on the correctness of the analysis set out in this chapter of recent causes of increased length and complexity in the Immigration Rules.

Please share your views::

The rate at which secondary legislation (the necessity of which is highly questionable) is produced is a significant contributing factor, but to be frank I think there is actually a deliberate intention to make the Rules impenetrably complex. As an (EU) immigrant myself and as the member of staff at an FE college faced with the unhappy task of supporting Tier 4 applicants and students with a very wide range of other immigration statuses, I get the distinct impression that the government does not want me to be able to understand immigration law even as it pertains solely and specifically to my situation. The Immigration Rules have become a barrier which helps further the government's agenda to reduce migration.

Consultation Question 11: We seek views on whether our example of successive changes in the detail of evidentiary requirements in paragraph 10 of Appendix FM-SE is illustrative of the way in which prescription can generate complexity.

Please share your views::

Consultation Question 12: We seek views on whether there are other examples of Immigration Rules where the underlying immigration objective has stayed the same, but evidentiary details have changed often.

Please share your views::

Consultation Question 13: Do consultees consider that the discretionary elements within Appendix EU and Appendix V (Visitors) have worked well in practice?

Not Answered

Please expand on your answer::

Consultation Question 14: We seek views as to whether the length of the Immigration Rules is a worthwhile price to pay for the benefits of transparency and clarity.

Please share your views::

I suppose so - provided they are in fact transparent and clear. Length is no guarantee of either.

Consultation Question 15: We seek consultees' views on the respective advantages and disadvantages of a prescriptive approach to the drafting of the Immigration Rules.

Please share your views::

Consultation Question 16: We seek views on whether the Immigration Rules should be less prescriptive as to evidential requirements (assuming that there is no policy that only specific evidence or a specific document will suffice).

Please share your views::

Yes - aside from the difficulty in finding the evidential requirements in the first place (some of which are specified only in appendices), some of them are frankly esoteric. Again one suspects that the intention is to present obstacles which might put off applicants or provide easy reasons to reject applications.

Consultation Question 17: We seek views on what areas of the Immigration Rules might benefit from being less prescriptive, having regard to the likelihood that less prescription means more uncertainty.

Please share your views::

Consultation Question 18

Not Answered

Please expand on your answer::

Consultation Question 19: We seek views on whether consultees see any difficulties with the form of words used in the New Zealand operation manual that a requirement should be demonstrated “to the satisfaction of the decision-maker”?

Please share your views::

Consultation Question 20: Do consultees agree with the proposed division of subject-matter? If not, what alternative systems of organisation would be preferable?

Not Answered

Please expand on your answer::

Consultation Question 21: Do consultees agree that an audit of overlapping provisions should be undertaken with a view to identifying inconsistencies and deciding whether any difference of effect is desired?

Not Answered

Please expand on your answer::

Consultation Question 22: Do consultees agree with our analysis of the possible approaches to the presentation of the Immigration Rules on paper and online set out at options 1 - 3? Which option do consultees prefer and why?

Not Answered

Please expand on your answer::

Consultation Question 23: Are there any advantages and disadvantages of the booklet approach which we have not identified?

Please share your views::

Consultation Question 24: Are there any advantages and disadvantages of the common provisions approach which we have not identified?

Please share your views::

Consultation Question 25: Do consultees agree with our proposal that any departure from a common provision within any particular application route should be highlighted in guidance and the reason for it explained?

Not Answered

Please expand on your answer::

Consultation Question 26:

Not Answered

Please expand on your answer::

Consultation Question 27:

Yes

Please expand on your answer::

Consultation Question 28: We invite consultees' views as to whether less use should be made of subheadings? Should subheadings be used within Rules?

Please share your views: :

Consultation Question 29: Do consultees consider that tables of contents or overviews at the beginning of Parts of the Immigration Rules would aid accessibility? If so, would it be worthwhile to include a statement that the overview is not an aid to interpretation?

Yes

Please expand on your answer::

Consultation Question 30: Do consultees have a preference between overviews and tables of contents at the beginning of Parts?

Not Answered

Please expand on your answer: :

Consultation Question 31:

Not Answered

Please expand on your answer::

Consultation Question 32: We provisionally propose that Appendices to the Immigration Rules are numbered in a numerical sequence.Do consultees agree?

Not Answered

Please expand on your answer: :

Consultation Question 33:

Not Answered

Please expand on your answer: :

Consultation Question 34: Should the current Immigration Rules be renumbered as an interim measure?

Not Answered

Please expand on your answer: :

Consultation Question 35: In future, should parts of the Immigration Rules be renumbered in a purely numerical sequence where they have come to contain a substantial quantity of inserted numbering?

Not Answered

Please expand on your answer: :

Consultation Question 36: We provisionally propose that definitions should not be used in the Immigration Rules as a vehicle for importing requirements.Do consultees agree?

Not Answered

Please expand on your answer::

Consultation Question 37:

Yes

Please expand on your answer::

Consultation Question 38:

Yes

Please expand on your answer::

Consultation Question 39: We seek consultees' views on whether repetition within portions of the Immigration Rules should be eliminated as far as possible, or whether repetition is beneficial so that applicants do not need to cross-refer.

Please share your views::

Consultation Question 40: Do consultees agree with our proposed drafting guide? If not, what should be changed? Are consultees aware of sources or studies which could inform an optimal drafting style guide?

Not Answered

Please expand on your answer::

Consultation Question 41: Is the general approach to drafting followed in the specimen redrafts at appendices 3 and 4 to this consultation paper successful?

Not Answered

Please expand on your answer::

Consultation Question 42: Which aspects of our redrafts of Part 9 (Grounds for refusal) and of a section of Appendix FM (Family members) to the Immigration Rules work well, and what can be improved?

Please share your views: :

Consultation Question 43: We seek views on whether and where the current Immigration Rules have benefitted from informal consultation and, if so, why.

Please share your views::

Consultation Question 44: We seek views on whether informal consultation or review of the drafting of the Immigration Rules would help reduce complexity.

Please share your views: :

Consultation Question 45: How can the effect of statements of changes to the Immigration Rules be made easier to assimilate and understand? Would a Keeling schedule assist? Should explanatory memoranda contain more detail as to the changes being made than they do currently, even if as a result they become less readable?

Please share your views::

Consultation Question 46: How can the temporal application of statements of changes to the Immigration Rules be made easier to ascertain and understand?

Please share your views::

Consultation Question 47: Is the current method of archiving sufficient? Would it become sufficient if dates of commencement were contained in the Immigration Rules themselves, or is a more sophisticated archiving system required?

Not Answered

Please expand on your answer::

Consultation Question 48: Do consultees agree that Appendix F (Archived Immigration Rules) and paragraphs 276DI to 276AI in Part 7 (Other categories) can be omitted from any redrafted Immigration Rules?

Not Answered

Please expand on your answer::

Consultation Question 49: What issues arise as a result of the frequency of changes to the Immigration Rules, and how might these be addressed?

Please share your views::

Stop changing them so often!

Consultation Question 50: Do consultees agree that there should be, at most, two major changes to the Immigration Rules per year, unless there is an urgent need for additional changes? Should these follow the common commencement dates (April and October), or be issued according to a different cycle?

Yes

Please expand on your answer::

Consultation Question 51: Could a common provisions approach to the presentation of the Immigration Rules function as effectively as the booklet approach through the use of hyperlinks?

Not Answered

Please expand on your answer::

Consultation Question 52: We seek views on whether and how guidance can more clearly be linked to the relevant Immigration Rules.

Please share your views::

Consultation Question 53: In what ways is the online application process and in-person appointment system as developed to date an improvement on a paper application system? Are there any areas where it is problematic?

Please share your views::

Consultation Question 54: Do consultees agree with the areas we have identified as the principal ways in which modern technology could be used to help simplify the Immigration Rules? Are there other possible approaches which we have not considered?

Not Answered

Please expand on your answer::

Additional comments

Additional comments

Please use the space below if you have any additional comments::