

RIGHTS OF AUDIENCE CERTIFICATION RULES

DEFINITIONS

1. In these Rules, except where otherwise indicated:

"Advocacy Certificate" means one of the Rights of Audience Certificates identified in these Rules;

"the Act" means the Legal Services Act 2007 and, where the context permits, includes any orders or regulations made under that Act;

"authorised CPD provider" means an organisation authorised by JAG to provide assessed CPD courses;

"Advocacy Skills Course" means an Advocacy Skills Course approved for the purposes of these Rules by IPS;

"authorised litigator" means a person who has been granted a right to conduct litigation by an approved regulator, under the terms of the Act;

"Certificate of Eligibility" means a Certificate permitting a Fellow or Graduate member to undertake an Advocacy Skills Course;

"Course provider" means a teaching or training organisation which has been approved under these Rules to provide an Advocacy Skills Course;

"external adviser" means a person appointed by IPS to carry out the roles and functions identified for him in these Rules;

"Fellow or Graduate member of the Chartered Institute in good standing" means a Fellow or Graduate member of the Chartered Institute whose subscriptions to the Chartered Institute are fully paid, in respect of whose conduct there is no complaint outstanding, and against whom there is no disciplinary record which in the view of the Admissions and Licensing Committee affects their suitability to be a Chartered Legal Executive Advocate;

"independent assessor" means a person appointed by JAG to assess the competence of advocates;

"Investigation, Disciplinary and Appeals Rules" means the rules of IPS which are in place from time to time and which govern the complaints handling and disciplinary procedures of IPS;

"IPS" means ILEX Professional Standards Ltd;

"JAG" means the Joint Advocacy Group;

"Joint Advocacy Group" means the group established by the Bar Standards Board, the Solicitors' Regulation Authority and ILEX Professional Standards to

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oversee and administer the quality assurance and accreditation of criminal advocacy;

"Criminal Advocacy Evaluation Form or CAEF" means a form completed by a judge to record an assessment of the competence of an advocate to conduct criminal advocacy against the Statement of Criminal Advocacy Standards published by JAG;

"manager" means a person who falls within the definition of a manager contained in section 207 of the Legal Services Act 2007;

"the Chartered Institute" means The Chartered Institute of Legal Executives;

"Certification Rules" means the Rights of Audience Certification Rules;

"Chartered Legal Executive Advocate" means a Fellow who has been granted a right to exercise rights of audience under these Rules and holds an Advocacy Certificate;

"Statement of Criminal Advocacy Standards" means the standards developed by JAG which identify the skills and behaviours expected of a criminal advocate;

"The Admissions and Licensing Committee" means the Committee established under these Certification Rules to carry out the roles and functions identified for it in these Rules;

"The Officer" means an IPS officer with responsibility for the rights of audience qualification scheme;

"QASA" means the Quality Assurance Scheme for Advocates established and maintained by JAG.

Words importing the male gender include the female gender and vice versa; and words importing the singular include the plural and vice versa.

THE RIGHTS OF AUDIENCE CERTIFICATES

2. A Fellow of the Chartered Institute in good standing may apply to IPS to be granted one or more of the following Advocacy Certificates:
 - (a) A Civil Proceedings Certificate;
 - (b) A Family Proceedings Certificate;
 - (c) A Criminal Proceedings Certificate.
3. The rights of audience exercisable by Fellows holding Rights of Audience Certificates are set out below:

Civil Proceedings Certificate

- (a) To appear in open Court in the County Court in all actions, except family proceedings;
- (b) to appear before Justices or a District Judge (Magistrates' Court) in the Magistrates' Courts in relation to all matters originating by complaint or application, including applications under the licensing, betting and gaming legislation;
- (c) to appear before any tribunal under the supervision of the Administrative Justice and Tribunals Council where the tribunal rules provide for a non-discretionary right of audience being available to barristers and solicitors;
- (d) to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

The holding of a Civil Proceedings Certificate does not confer a right of audience in any proceedings for which a Family or Criminal Proceedings Certificate is required.

Family Proceedings Certificate

- (a) To appear in Court (including in open court) in all County Court family proceedings;
- (b) to appear before Justices or a District Judge (Magistrates' Court) in the Family Proceedings Courts;
- (c) to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

The holding of a Family Proceedings Certificate does not confer a right of audience in any proceedings for which a Civil or Criminal Proceedings Certificate is required.

Criminal Proceedings Certificate

- (a) To appear before Justices or a District Judge (Magistrates' Court) in all adult Magistrates' Courts in relation to all matters within that Court's criminal jurisdiction;
- (b) to appear before Justices or a District Judge (Magistrates' Court) in all Youth Courts in relation to all matters within that Court's criminal jurisdiction;
- (c) to appear in the Crown Court or High Court before a judge in chambers to conduct bail applications;

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(d) to appear in the Crown Court on appeal from the Magistrates' Court, the Youth Court or on committal of an adult for sentence or to be dealt with, if he, or any solicitor by whom he is employed or any other solicitor or Fellow in the same employment as him, appeared on behalf of the defendant in the Magistrates' Court or Youth Court;

(e) to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

The holding of a Criminal Proceedings Certificate does not confer a right of audience in any proceedings for which a Civil or Family Proceedings Certificate is required.

4. A person who is a Chartered Legal Executive Advocate when these Rules come into effect may exercise all the rights of audience appropriate to the Advocacy Certificate or Certificates he holds, as described in Rule 3 above.

CERTIFICATES OF ELIGIBILITY

5. Graduate members and Fellows of the Chartered Institute who wish to undertake an Advocacy Skills Course must make an application to IPS for a Certificate of Eligibility.

6. A Graduate member or Fellow who wishes to apply for a Certificate of Eligibility must:

- be employed by or be a manager in an organisation which is owned or managed by persons authorised to provide litigation services, or which is authorised to provide litigation services under the Legal Services Act 2007; or
- be employed by an organisation in which he works under the supervision of a person who is authorised to provide litigation services under the Legal Services Act 2007.

7. An application for a Certificate of Eligibility must be supported by:

- ◆ Evidence of the applicant's knowledge of the law, the rules of evidence and the legal practice relevant to the Advocacy Skills Course he wishes to take and to the rights of audience he wishes to be granted in accordance with the Competence Criteria set out in the Knowledge and Experience Guidelines in the Rights of Audience qualification scheme;
- ◆ a record of the applicant's advocacy and litigation experience in accordance with the requirements set out in the Knowledge and Experience Guidelines in the Rights of Audience qualification scheme;
- ◆ a portfolio of cases in which the Applicant has been involved during the two years preceding his application, in accordance with the Portfolio Guidelines set out in the Rights of Audience qualification scheme;

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- ◆ details of two referees, who are members of the legal profession, who can attest to the applicant's knowledge of civil, criminal or family law and practice (whichever is relevant) and his advocacy skills, and who are able to offer an informed opinion as to the applicant's suitability to be granted the rights of audience he wishes to be granted in accordance with the Competence Criteria set out in the Knowledge and Experience Guidelines in the Rights of Audience qualification scheme;
 - ◆ a statement from the applicant's current or prospective employer or the organisation in which the applicant is a manager confirming his employment, the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised.
8. An application for a Certificate of Eligibility shall be made on such a form as may be prescribed for the purpose by IPS and shall be accompanied by such fee as may be fixed by IPS from time to time.
 9. The portfolio which forms part of the application for a Certificate of Eligibility will be sent to an external advisor. The external advisor will assess whether the portfolio meets the criteria set out in the Knowledge and Experience Guidelines and the Portfolio Guidelines in the Rights of Audience qualification scheme.
 10. Where the external advisor decides that the portfolio is satisfactory and meets the criteria set out in the Knowledge and Experience Guidelines and the Portfolio Guidelines the Officer will consider the application. The Officer will decide whether the application can be approved. Where it can be approved the Officer will approve the application and indicate which of the Advocacy Skills Courses – civil proceedings, family proceedings or criminal proceedings – the applicant may take. Where the Officer has any doubt as to whether an application can be approved they will refer it to the Admissions and Licensing Committee for further consideration. An application can be approved by the Officer where:
 - The applicant has passed the Level 6 examinations necessary for the certificate sought.
 - The applicant's litigation and advocacy/police station experience meets the knowledge and experience criteria set out in the Rights of Audience qualification scheme.
 - The case portfolios have all been assessed by the external advisors as meeting the knowledge and experience requirements.
 - Satisfactory references have been obtained. References will be satisfactory where the two referees can attest to the applicant's knowledge of civil, criminal or family law and practice (whichever is relevant) and their advocacy skills, and are able to offer an informed opinion as to the applicant's suitability to be granted the rights of audience they wish to be granted in accordance with the competence criteria set out in the Knowledge and Experience Guidelines.

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- the applicant's current or prospective employer or the organisation in which the applicant is a manager has provided a statement confirming his employment, the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised.
11. Where the external advisor decides that the portfolio is not satisfactory and / or does not meet the criteria set out in the Knowledge and Experience Guidelines and/or the Portfolio Guidelines he will give reasons for his decision. The Officer will inform the applicant of the decision. The applicant may withdraw their application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
 12. The Admissions and Licensing Committee will decide whether or not an application that has been referred to it should be approved. In reaching its decision the Committee will consider all the information provided by the applicant, and may call the applicant for interview or call for information from any person or source it considers appropriate. The Committee may:
 - ◆ Approve the application, and indicate which of the Advocacy Skills Courses – civil proceedings, family proceedings or criminal proceedings – the applicant may take;
 - ◆ Refuse the application.
 13. In making any assessment or decision required by these Rules the Officer and the Admissions and Licensing Committee shall have regard to the Knowledge and Experience Guidelines and the Portfolio Guidelines set out in the Rights of Audience qualification scheme.
 14. The Officer will notify an applicant in writing of their decision or of the decision of the Admissions and Licensing Committee. Where the application has been approved the notification shall include the Certificate of Eligibility. Where the application is unsuccessful, the notification shall set out the Committee's reasons and any preconditions to the consideration of any subsequent application for a Certificate of Eligibility. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with Rules 20 and 21. An applicant may appeal against a decision made on reconsideration in accordance with Rule 21.
 15. The Certificate of Eligibility will specify which of the Advocacy Skills Course options the applicant may take.

ADMISSIONS AND LICENSING COMMITTEE

16. IPS shall establish an Admissions and Licensing Committee.
17. The Admissions and Licensing Committee shall:

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- ◆ apply and monitor the Chartered Institute's Rights of Audience Certification Rules and the guidelines and criteria in the Rights of Audience qualification scheme;
 - ◆ consider and determine applications by Graduate members and Fellows for Certificates of Eligibility referred to it;
 - ◆ consider and determine applications for the first renewal of advocacy certificates referred to it;
 - ◆ consider and determine applications by Fellows referred to it by the Officer for Advocacy Certificates and renewal of civil and family Advocacy Certificates and renewal of lapsed certificates;
 - ◆ consider and determine applications by prospective or current course providers for accreditation or renewal of accreditation to provide advocacy skills courses referred to it by the Officer;
 - ◆ consider whether or not a Fellow may continue to hold an Advocacy Certificate;
 - ◆ consider referrals under the QASA relating to the competence of an advocate;
 - ◆ determine whether accreditation of a course provider to provide an advocacy skills course should be withdrawn;
 - ◆ receive reports of inspections of advocacy skills courses from the external advisors and the Officer;
 - ◆ receive reports of the moderation of the advocacy skills course assessments from the external advisors;
 - ◆ receive annual reports from advocacy course providers;
 - ◆ submit an annual report to the IPS Board.
18. The Officers will report all decisions made by them to the Admissions and Licensing Committee.
19. Wherever the Officer is unable to make a decision or takes the view that the matter requires Committee consideration they may refer the matter to the Admissions and Licensing Committee.
20. A person or organisation affected by any decision which the Admissions and Licensing Committee makes pursuant to its powers under these Rules may apply for reconsideration of that decision. Any such person or organisation must lodge an application for reconsideration at the IPS offices at Kempston Manor within 20 working days of receiving written notification of the decision. The application must include written reasons why it should be reconsidered. The applicant shall have a right to be heard by the Committee when it reconsiders his application.

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21. Where an application is reconsidered by the Admissions and Licensing Committee it shall have all the powers available that were available to it at the original consideration of the application. An appeal may be made to the Appeal Panel against the decision of the Admissions and Licensing Committee upon a reconsideration, except a decision to refuse or revoke reaccreditation or certification of a Chartered Legal Executive Advocate who holds or has held a criminal proceedings certificate. The Appeal Panel will comprise a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on IPS' Disciplinary and Appeal bodies. The Appeal Panel will have available to it all the powers available to the Admissions and Licensing Committee at the original consideration of the application.
22. Appeals against decisions to refuse or revoke reaccreditation or certification of a Chartered Legal Executive Advocate who holds or has held a criminal proceedings certificate will be made to the Accreditation Appeals Panel.
23. The Admissions and Licensing Committee shall report annually to the IPS Board on its work during the preceding calendar year, and make such recommendations as it thinks fit concerning the operation of these Rules and the qualification scheme for Chartered Legal Executive Advocates.
24. The Admissions and Licensing Committee will comprise:
 - Chartered Legal Executives who shall not be members of CILEx Council; and
 - Independent members, at least 1 of whom shall have knowledge or experience of consumer issues

Provided that the independent members are in the majority.
25. The external advisors appointed in accordance with these Rules shall be invited to attend all meetings of the Admissions and Licensing Committee. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.
26. A Fellow who is a member of IPS' Professional Conduct Panel or Disciplinary and Appeals Panel shall not be eligible to serve as a member of the Admissions and Licensing Committee.
27. Appointments of independent members and Fellows shall be made by the IPS Board.
28. Each independent member and Fellow will be appointed to the Admissions and Licensing Committee by IPS for a period of five years. Upon the termination of the five year period of his appointment the Board may reappoint him or make a new appointment.
29. No Fellow or independent member may serve more than two consecutive terms as a member of the Admissions and Licensing Committee. Where he fails without good reason to fulfil his duties set out in these Rules IPS may

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terminate his appointment whether or not he has completed his current term of office.

30. At least three members of the Admissions and Licensing Committee must be present at a meeting to constitute a quorum. The external advisors will not form part of the quorum.
31. The Admissions and Licensing Committee will appoint one of its members as Chairman. The Chairman will be appointed for a period of one year. The Chairman will be eligible for reappointment, but may not serve as Chairman for more than three consecutive years.
32. Decisions of the Admissions and Licensing Committee will be reached by a majority vote. In the case of an equality of votes the Chairman shall have a casting vote. External advisors may not vote on any matter at a meeting.
33. The Admissions and Licensing Committee shall meet at least once each year. Subject to this, where the Committee deems it appropriate it may consider applications for Certificates of Eligibility and any other matter by way of a postal agenda or telephone conference.
34. IPS shall have the power to pay fees to members of the Admissions and Licensing Committee and shall from time to time, determine the amount and basis of payments of such fees.

EXTERNAL ADVISORS

35. IPS shall appoint 3 external advisors to advise the Admissions and Licensing Committee and IPS on issues relating to advocacy skills and advocacy training. One advisor shall be appointed in respect of civil proceedings, one shall be appointed in respect of family proceedings, and one shall be appointed in respect of criminal proceedings.
36. When making such appointments IPS shall take into account the following:
 - ◆ That the person appointed is a law graduate or has qualifications in law of a comparable level;
 - ◆ That the person appointed is qualified in legal practice relevant to the area of specialist work in which they are appointed;
 - ◆ That the person appointed has knowledge and experience of the teaching and practice of advocacy;
 - ◆ That the person appointed has experience of teaching and assessment of law and legal practice, including advocacy, at degree or post graduate level.
37. The external advisors will provide advice to the Admissions and Licensing Committee and IPS in respect of the following:

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- ◆ applications by Graduate members and Fellows for Certificates of Eligibility;
- ◆ applications for the first renewal of Advocacy Certificates;
- ◆ applications by Fellows for Advocacy Certificates and renewal of Advocacy Certificates that are referred to the Admissions and Licensing Committee by the Officer;
- ◆ whether a course provider is suitable or fit to provide or continue to provide Advocacy Skills Courses;
- ◆ applications to the Admissions and Licensing Committee for the reconsideration of a decision;
- ◆ the structure of Advocacy Skills Courses or the qualification scheme generally, and may make recommendations for revision of any Course or the qualification scheme;
- ◆ any other matter on which the Admissions and Licensing Committee seeks their advice.

The Admissions and Licensing Committee and the Officer shall consider any advice given by the external advisors, but shall not be bound by such advice.

38. The external advisors shall decide whether a portfolio submitted with an application for a Certificate of Eligibility or first renewal of an Advocacy Certificate meets the criteria set out in the Knowledge and Experience Guidelines and the Portfolio Guidelines in the Rights of Audience qualification scheme and shall advise the Officer accordingly.
39. The external advisors shall carry out inspections of Advocacy Skills Courses. They shall provide reports on inspections to the Admissions and Licensing Committee which shall be made available to the relevant course provider.
40. The external advisors shall moderate assessment materials prepared by a course provider and the standards of assessment applied by course providers. They shall report their findings to the Officer, Admissions and Licensing Committee and the course provider.
41. The external advisers' reports on inspections and moderation of course materials and assessment standards shall be taken into account by the Officer when the Officer considers whether to renew accreditation of a course provider and by the Admissions and Licensing Committee when it considers whether to renew or withdraw accreditation of a course provider.
42. The external advisors shall receive notice of meetings of the Admissions and Licensing Committee and may attend such meetings in their advisory capacity.
43. The external advisors will be appointed by IPS for a period of three years. They may be reappointed for further periods of three years, but shall not

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serve more than three consecutive periods of three years. Where an external advisor fails, without good reason, to fulfil any of his duties set out in these Rules, IPS may terminate his appointment whether or not he has completed his current term of office.

44. IPS shall have the power to pay fees to the external advisors and shall, from time to time, determine the amount and basis of payment of such fees.

ADVOCACY SKILLS COURSE

45. A Fellow or Graduate member who has been granted a Certificate of Eligibility may take an Advocacy Skills Course relating to the Advocacy Certificate for which he has been granted the Certificate of Eligibility. IPS may prescribe a course fee to be paid by Graduate members and Fellows wishing to take an advocacy skills course prescribed by IPS. Where it does so, no Graduate member or Fellow will be permitted to start a course until a prescribed fee has been paid in full.
46. Where a Fellow or Graduate member fails to start an Advocacy Skills Course within 12 months of being granted a Certificate of Eligibility, he must make a fresh application for such a Certificate before he may start an Advocacy Skills Course.
47. Fellows and Graduate members will be required:
 - ◆ to successfully complete the training sessions; and
 - ◆ to demonstrate the necessary levels of competence in the formal assessments during the course so that they satisfy Assessment Criteria set out in the Rights of Audience qualification scheme .
48. Advocacy Skills Courses will be provided by course providers who are accredited by IPS.
49. An Advocacy Skills Course must:
 - ◆ meet the Advocacy Skills Course Delivery criteria;
 - ◆ be capable of delivering the Course outcomes; and
 - ◆ include arrangements for assessment of advocacy skills in accordance with the assessment criteria set out in the Rights of Audience qualification scheme
50. The course delivery criteria, course outcomes and assessment criteria for the criminal proceedings certificates will be consistent with the Statement of Criminal Advocacy Standards for Level 1 of the QASA.

COURSE PROVIDERS

51. Independent teaching or testing organisations will provide Advocacy Skills Courses. Organisations seeking to offer Advocacy Skills Courses will apply to IPS for accreditation.

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52. Applications for accreditation will be considered by the Officer. The Officer may accredit course providers who demonstrate that they are able to provide advocacy skills courses to deliver the course outcomes and assessment criteria set out in the Rights of Audience qualification scheme. The Officer may seek guidance from the external advisors when considering applications. Where the Officer has any doubt as to whether an application can be approved they will refer it to the Committee for further consideration.
53. The Officer will also have regard to the following criteria when considering applications for accreditation:
 - ◆ venue, including teaching and study accommodation and other facilities;
 - ◆ resources to support teaching and study, including library and research facilities;
 - ◆ candidate numbers and proposed tutor/candidate ratios;
 - ◆ teaching and assessment experience of the applicant organisation and of those who are to deliver the course;
 - ◆ course structure proposed, including teaching/study time;
 - ◆ course content proposed;
 - ◆ course duration proposed
 - ◆ suitability of course materials;
 - ◆ candidate support and feed-back arrangements;
 - ◆ arrangements for appeals against course assessments;
 - ◆ arrangements for assessing candidates; and
 - ◆ health and safety and equal opportunities policies adopted by the applicant organisation.
54. IPS will produce an accreditation handbook which will set out the accreditation procedure and criteria.
55. Course providers will be accredited for a period of three years but may apply for re-accreditation at the end of that period.
56. Course providers shall be responsible for producing materials for an Advocacy Skills Course to facilitate teaching and assessment. The content and type of course materials must be described in an application for accreditation. Assessment materials produced by accredited course providers will be subject to moderation by the external advisors.
57. Course providers shall be responsible for carrying out formal assessment of candidates in accordance with the assessment criteria set out in the Rights of Audience qualification scheme. Standards of assessment will be subject to moderation by external advisors who will be provided with recorded candidate performances across a representative range of attainment for this purpose.
58. The course provider shall have in place procedures for considering appeals by candidates against assessments of competence.
59. Course providers will be inspected by IPS. Inspection teams for this purpose will consist of an Officer and any two of the external advisors. The

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Inspection team will report on the management and content of courses generally, and will have regard to all of the matters referred to in Rules 67 and 68. The inspection team will observe formal assessments of candidates.

60. The external advisors and the Officer shall submit reports of their inspection visits to the Admissions and Licensing Committee. Inspection teams will make such recommendations in their reports as they deem appropriate. Course providers shall receive copies of inspection reports. The Officer, when considering whether to renew accreditation, and the Admissions and Licensing Committee, when considering whether to renew or withdraw accreditation of a course provider, shall take inspection reports into account.
61. Course providers shall produce annual reports for consideration by the Admissions and Licensing Committee which provide an overview of the courses they have provided during the year. Reports shall include comment on:
 - ◆ the course generally;
 - ◆ candidate performance in relation to the standards of the course;
 - ◆ results of assessments;
 - ◆ candidate feed-back;
 - ◆ any recommendations for change or improvement in the course structure or materials; and
 - ◆ any developments in the course following any previous report.
62. The Admissions and Licensing Committee may withdraw accreditation from a course provider, subject to it giving not less than six months notice of its intention to do so and providing a statement of its reasons to the course provider.
63. A course provider may apply for reconsideration of a decision by the Admissions and Licensing Committee, either to refuse to accredit it or to withdraw accreditation, in accordance with Rules 20 and 21. A course provider may appeal against a decision made on reconsideration in accordance with Rule 21.

CERTIFICATION

64. Upon successful completion of an Advocacy Skills Course a Fellow may apply for an Advocacy Certificate. A Graduate member who has completed an Advocacy Skills Course may not make an application until he becomes a Fellow.
65. A Fellow may only apply for an Advocacy Certificate relating to the type of proceedings covered by the Advocacy Skills Course he has completed.

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66. An application shall be made on a form prescribed by IPS from time to time for this purpose and shall be accompanied by such fee as may be fixed by IPS from time to time.
67. The Officer will process the application. The applicant shall be granted an Advocacy Certificate which is appropriate to the Advocacy Skills Course he has completed, provided the Officer is satisfied that the applicant:
 - ◆ is a Fellow of good standing;
 - ◆ is employed by or is a manager in an organisation referred to in Rule 6 of these Certification Rules;
 - ◆ is the holder of a Certificate of Eligibility; and
 - ◆ has passed an Advocacy Skills Course.
68. Where the Officer has any doubt as to the suitability of the applicant to be awarded an Advocacy Certificate he may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
69. When considering an application for an Advocacy Certificate to be awarded the Admissions and Licensing Committee will consider all the information before it and may request additional information from any person or source it considers appropriate. It may require or permit the applicant to attend for interview before reaching its decision.
70. If the Admissions and Licensing Committee is satisfied that the applicant is a fit and proper person to be issued with a Certificate it shall grant the Certificate. If it is not satisfied, it must give its reasons and indicate any preconditions to the consideration of any subsequent application by the applicant.
71. The Officer will notify an applicant in writing of a decision whether his application for an Advocacy Certificate is successful. Where the application has been approved the notification shall include the Advocacy Certificate. Where the application is unsuccessful, the notification shall set out the reasons and any preconditions to the consideration of any subsequent application by the applicant for an Advocacy Certificate. The applicant may apply for reconsideration of his application in accordance with Rules 20 and 21. The applicant may appeal against a decision made on reconsideration in accordance with Rule 21 or Rule 22, as appropriate.
72. A Fellow holding an Advocacy Certificate will be described as a Chartered Legal Executive Advocate.
73. A Chartered Legal Executive Advocate who ceases to be employed by or to be a manager in an organisation referred to in Rule 6 of these Certification Rules may not exercise any right of audience granted to him under these Rules.

APPLICATION FOR ADDITIONAL CERTIFICATES

74. A Chartered Legal Executive Advocate may apply to be granted Advocacy Certificates additional to any already granted to him under these Rules.
75. Applications for additional Certificates may be made by Graduate members and Fellows of the Institute. Graduate members and Fellows will submit an application for a Certificate of Eligibility to IPS, in accordance with these Rules.
76. Applications will be considered by the Admissions and Licensing Committee.
77. When considering an application for an Advocacy Certificate to be awarded the Admissions and Licensing Committee will consider all the information before it and may request additional information from any person or source it considers appropriate. It may require or permit the applicant to attend for interview before reaching its decision.
78. When deciding to issue a Certificate of Eligibility to an applicant seeking grant of an additional Advocacy Certificate, the Admissions and Licensing Committee shall provide a statement of further training setting out any further training or assessment in advocacy skills the applicant is required to undertake.
79. Upon the award of a Certificate of Eligibility the applicant will undertake such parts of the Advocacy Skills Course as are required by the statement of further training attached to it.
80. Where it decides not to issue a Certificate of Eligibility to an applicant seeking an additional Advocacy Certificate, the Admissions and Licensing Committee shall give its reasons and may impose preconditions to any subsequent application by the applicant. The applicant may apply for reconsideration of his application in accordance with Rules 20 and 21. The applicant may appeal against a decision made on reconsideration in accordance with Rule 21.
81. Upon successful completion of any further training and assessment in advocacy skills required, Fellows may submit an application for an Advocacy Certificate, in accordance with these Rules. A Graduate member may not make an application until he becomes a Fellow.
82. Fellows may gain Advocacy Certificates in each of the areas where advocacy rights are available provided they meet the criteria set out in these Rules.

RENEWAL OF CERTIFICATES

83. The first Advocacy Certificate issued to a Fellow, and the first Advocacy Certificate issued in respect of any additional proceedings, will be valid until either 1 June or 1 December, whichever is the earlier, after 12 months have elapsed from the date on which that Certificate was issued. Thereafter, any civil or family Advocacy Certificate will be valid for a period of 3 years and

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any criminal Advocacy Certificate will be valid indefinitely subject to meeting the requirements prescribed by the QASA.

84. Applications for renewal of Certificates will be made on a form prescribed by IPS from time to time for the purpose and shall be accompanied by such fee as may be fixed by IPS from time to time.
85. An application for the first renewal of an Advocacy Certificate must be supported by:
 - ◆ Confirmation that the applicant is employed by or is a manager in an organisation referred to in Rule 6 of these Certification Rules;
 - ◆ a record of the applicant's advocacy and litigation experience during the period since his Advocacy Certificate was granted;
 - ◆ a portfolio of cases in which the applicant has been involved during the period since his Advocacy Certificate was granted, in accordance with the Portfolio Guidelines set out in the Rights of Audience qualification scheme;
 - ◆ a statement from his current employer or the organisation in which he is a manager confirming the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised in the future.
86. The portfolio which forms part of the application for the first renewal of the Advocacy Certificate will be sent to an external advisor. The external advisor will assess the portfolio against the criteria set out in the Rights of Audience qualification scheme.
87. Where the external advisor decides that the portfolio is satisfactory and shows that the applicant has applied the advocacy skills in the cases described in accordance with the Portfolio Guidelines and the Course Outcomes set out in the Rights of Audience qualification scheme the Officer will consider the application. The Officer will decide whether to approve the application. Where the Officer has any doubt as to whether an application can be approved they will refer it to the Committee for consideration. An application can be approved where:
 - The applicant's litigation and advocacy/police station experience meets the knowledge and experience criteria set out in the Rights of Audience Certification Rules.
 - The case portfolios have all been marked as meeting the knowledge and experience requirements.
 - his current employer or the organisation in which he is a manager has provided a statement confirming the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised in the future.

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88. Where the external advisor decides that the portfolio is not satisfactory and does not show that the applicant has applied the advocacy skills in the cases described in accordance with the Portfolio Guidelines and the Course Outcomes set out in the Rights of Audience qualification scheme the external advisor shall give reasons for his decision. He shall indicate what action the applicant needs to take to provide a satisfactory portfolio. The Officer will inform the applicant of the decision. The applicant may withdraw his application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
89. The Admissions and Licensing Committee will decide whether or not an application that has been referred to it should be approved. In reaching its decision the Committee will consider all the information provided by the applicant and may call the applicant for interview or call for further information from any person or source it considers appropriate. The Committee may approve the application or refuse it.
90. In making any assessment or decision required by these Rules the Officer and the Admissions and Licensing Committee shall have regard to the portfolio guidelines and the course outcomes set out in the Rights of Audience qualification scheme
91. The Officer will notify an applicant in writing of the decision. Where the application has been approved the notification shall include the Advocacy Certificate. Where the application is unsuccessful the notification shall set out the Committee's reasons and any preconditions to the consideration of any subsequent application for an Advocacy Certificate.
92. Where the application is unsuccessful an applicant may apply for reconsideration in accordance with Rules 20 and 21. The Admissions and Licensing Committee will have the powers set out at Rule 89 upon an application for reconsideration. The applicant may appeal against a decision made on reconsideration in accordance with Rule 21 or Rule 22, as appropriate.
93. A Fellow making an application for renewal of his civil or family Advocacy Certificate, after the first renewal, must:
 - ◆ be a Fellow of good standing;
 - ◆ be an employee or a manager in an organisation referred to in Rule 6 of these Certification Rules;
 - ◆ provide a statement from his employer or the organisation in which he is a manager confirming his employment and indicating whether any rights of audience granted will be exercised; and
 - ◆ have undertaken Continuing Professional Development (CPD) that meets the requirements set out in these Rules.

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94. The Officer will process applications for renewal. Where the Officer is satisfied that the Fellow complies with the requirements set out in Rule 93, he will issue a new Advocacy Certificate.
95. Where he has any doubt whether an Advocacy Certificate should be renewed, the Officer may request further information and/or refer the application to the Admissions and Licensing Committee.
96. Where an application for renewal is referred to it by the Officer, the Admissions and Licensing Committee shall consider all the information before it and may request additional information from any person or source it considers appropriate, and may require the applicant to attend for interview before reaching its decision.
97. If the Admissions and Licensing Committee is satisfied that the Advocacy Certificate should be renewed, it shall direct the Officer to issue a Certificate. If it is not so satisfied, it must give its reasons and indicate any preconditions to the consideration of any subsequent application by the applicant.
98. The Officer will notify an applicant in writing of the decision of the Admissions and Licensing Committee. Where the application has been approved the notification shall include the Advocacy Certificate. Where the application is unsuccessful, the notification shall set out the Committee's reasons and any preconditions to the consideration of any subsequent application by the applicant to renew his Advocacy Certificate. Where the application is unsuccessful an applicant may apply for reconsideration in accordance with Rules 20 and 21. An applicant may appeal against a decision made on reconsideration in accordance with Rule 21.
99. A Chartered Legal Executive may not exercise any rights of audience which may be granted under these Rules, unless he has a current Advocacy Certificate which is appropriate to the Advocacy Skills Course(s) he has completed.
100. A Chartered Legal Executive Advocate who, for any reason, ceases to be a Fellow of the Chartered Institute shall automatically cease to be eligible to exercise any right of audience granted under these Rules and shall return his Certificate(s) to IPS within 28 days of ceasing to be a Fellow.

LAPSED CERTIFICATES

101. A Fellow who has held an Advocacy Certificate which has lapsed may apply for that certificate to be renewed. Renewal of a lapsed certificate will be governed by Rules 84 to 92 which deal with first renewal of an advocacy certificate save that in Rule 85:
 - ◆ the reference to an application for the first renewal of an Advocacy Certificate should be a reference to an application for renewal of a lapsed Advocacy Certificate;
 - ◆ where the certificate which has lapsed is a Criminal Proceedings Certificate the reference to the record of the applicant's advocacy

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- experience shall include police station advice and observed advocacy in accordance with the Portfolio Guidelines to these Certification Rules; and
- ◆ the information required to be provided by the applicant shall include, additionally, reasons why the Advocacy Certificate lapsed and details of CPD undertaken during the 12 months prior to the application.
102. A lapsed Advocacy Certificate is one which has expired and has not been renewed, whether by decision of the holder of the certificate, or as a result of a decision of the Admissions and Licensing Committee or because the holder has ceased to be eligible to hold a certificate for any reason.
103. Where a civil or family Advocacy Certificate, which has lapsed is renewed, it will be valid until either 1 June or 1 December, whichever is the earlier, after 36 months have elapsed from the date on which the certificate was issued. Thereafter it will be renewable in accordance with the provisions of Rules 93 to 98 above. Where a criminal Advocacy Certificate, which has lapsed is renewed, it will be valid indefinitely subject to meeting the requirements as to reaccreditation.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

104. Chartered Legal Executive Advocates holding a Civil or Family Proceedings Certificate are required to undertake at least 5 hours CPD each calendar year as part of the CPD that they are required to undertake as Fellows of the Institute. CPD must be gained by attendance at a training course focusing upon advocacy skills.
105. Chartered Legal Executive Advocates holding the Criminal Proceedings Certificate must apply for reaccreditation every 5 years beginning from the date of the renewal of the first advocacy certificate. To be re-accredited an advocate must provide evidence that they have been assessed against the standards set out in the QASA by means of assessed CPD or other method approved by JAG. Where an advocate is not reaccredited their certificate will lapse
106. Chartered Legal Executive Advocates holding Civil or Family Proceedings Certificates are not required to undertake any CPD in respect of the period between the date an Advocacy Certificate is first granted and December 31st of that year.
107. Chartered Legal Executive Advocates holding Civil or Family Proceedings Certificates must send a record of their advocacy CPD to CILEx by 15 December in each CPD year. The Officer will check the record to ensure that it complies with these Rules.
108. Where a Chartered Legal Executive Advocate holding a Civil or Family Proceedings Certificate has failed to undertake CPD which meets the requirements of these Rules or fails to provide a record of such CPD the Officer will refer the matter to the Admissions and Licensing Committee. The Admissions and Licensing Committee will consider whether the Chartered

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Legal Executive Advocate should retain his Advocacy Certificate. The Chartered Legal Executive Advocate will have the opportunity to make written representations to the Committee and has a right to be heard by the Committee. The Committee may decide to:

- Grant an extension of up to 6 months for the Chartered Legal Executive Advocate to meet his outstanding CPD requirements. The Advocate will still be required to meet his current CPD requirements in the normal way; or
- Withdraw the Advocacy Certificate until the Fellow complies with the CPD requirements as failure to comply with CPD requirements results in the suspension of the practising certificate and as such any rights of audience held will also be suspended until the CPD requirements have been brought up to date.
- ; and, in either case,
- Refer the failure to comply with the CPD requirements to IPS for investigation.

DISCIPLINARY PROCEDURES AND CODE OF CONDUCT

109. Chartered Legal Executive Advocates will be required to abide by the Code of Conduct and Guides to Good Practice of IPS for the time being in force. They will also be bound by the Rights of Audience Conduct Rules. Those holding a criminal proceedings certificate will, additionally be required to comply with the QASA.
110. Where an issue relating to the competence of a Chartered Legal Executive Advocate holding a Criminal Proceedings Certificate is brought to the attention of IPS by means of a completed CAEF or otherwise the Admissions and Licensing Committee will consider whether the Chartered Legal Executive Advocate remains a fit and proper person to hold an Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision. The Committee may ask for further information or evidence, including a report from an independent assessor regarding the competence of the advocate in order to assist it in its decision making.
111. Where a complaint is made or an issue is brought to the attention of IPS regarding the conduct of a Chartered Legal Executive Advocate that matter will be dealt with in accordance with the IPS' Investigation, Disciplinary and Appeals Rules.
112. Where a Finding, Order or Decision is made against a Chartered Legal Executive Advocate by the Disciplinary Tribunal, Appeals Panel, or Professional Conduct Panel, that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Chartered Legal Executive Advocate remains a fit and proper person to hold an Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision.
113. Rule 112 shall not apply where an Order is made by the Disciplinary Tribunal or Appeals Panel excluding a Chartered Legal Executive Advocate from membership of the Chartered Institute. Rule 100 shall apply in such a case.

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114. Where the Admissions and Licensing Committee decides that the Advocate is no longer a fit and proper person to hold an Advocacy Certificate, they must return their Certificate(s) to IPS within 28 days of being notified of the decision. Failure to do so will constitute a disciplinary offence. The Fellow may not exercise any advocacy rights granted to him under his Advocacy Certificate(s) after he has been notified of the decision.
115. Notwithstanding Rule 20 an appeal against a decision of the Admissions and Licensing Committee that an Advocate is no longer a fit and proper person to hold a Civil or Family Proceedings Certificate will be considered by a Fellow and two lay members drawn from the panel of members appointed to serve on the IPS Disciplinary and Appeals panels. An appeal against a decision that an Advocate is no longer a fit and proper person to hold a Criminal Proceedings Certificate will be considered in accordance with Rule 22.

IPS/ROA

ACCREDITATION APPEALS PANEL

116. An appeal may only be brought under Rule 22 on the grounds that :
 - the decision reached was one which no reasonable person would find comprehensible; and/or
 - there was a procedural error in the decision making process of the Committee and the disadvantage caused by that error to the appellant was sufficient to have materially affected the decision, making it unsound.
117. IPS shall constitute an Accreditation Appeals Panel to consider appeals brought under Rule 22. The Accreditation Appeals Panel shall comprise no less than three panellists drawn from a pool appointed by JAG and shall include a Chartered Legal Executive Advocate, an educator and a judge, of which one will be elected Chair.
118. No person shall sit as a panellist if they are a member of the CILEx Council, IPS Board or any of their committees;
119. The Accreditation Appeals Panel may determine its own procedure when considering an appeal, and may give such directions regarding the conduct of the proceedings as it considers just.
120. An appeal shall be considered on the papers at a meeting held in private but where the appellant attends the hearing it will be held in public, unless either party has made an application that the hearing shall not be held in public and the public interest does not require that it shall be held in public.
121. The panel shall, no less than 28 days before the date of the meeting or hearing at which the appeal is to be determined, serve notice on the appellant, specifying the date, time and venue of the meeting or hearing.
122. The panel may admit any evidence which it considers fair and relevant to the appeal, whether or not such evidence would be admissible in a court of law, save that no person is to give oral evidence at a hearing unless the Panel considers such evidence is desirable to enable it to discharge its functions.
123. The appeal shall be by way of a re-hearing.
124. The panel may at any time, whether of its own motion or upon the application of a party, adjourn the proceedings until such time and date as it thinks fit.
125. The appellant may attend and be represented at an appeal hearing, however where they are neither present nor represented, the panel may nevertheless proceed to consider and determine the appeal if it is satisfied that all reasonable efforts have been made to serve them with notice of the hearing in accordance with Rule 41.
126. Decisions of the panel will be reached by simple majority and no panellist may abstain from voting.

127. The panel may:
 - dismiss the appeal;
 - allow the appeal;
 - substitute for the decision appealed against any other decision that it is open to the Admissions and Licensing Committee to make under these Rules; or
 - remit the decision to the Admissions and Licensing Committee for reconsideration on such terms as the panel consider to be appropriate in the circumstances.
128. The panel may order, in the event of a successful appeal, a refund of any appeal fee paid to IPS.
129. The panel shall give notice of its decision in writing, together with reasons for its decision.
130. There is no appeal against a decision of the panel.

RIGHTS OF AUDIENCE QUALIFICATION SCHEME

KNOWLEDGE AND EXPERIENCE GUIDELINES

CRIMINAL PROCEEDINGS

Certificate of Eligibility

1. Graduate Members and Fellows who make an application for extended Rights of Audience must submit details of the criminal litigation and advocacy experience they have gained. These details will form part of their application for a Certificate of Eligibility to undertake the advocacy course.
2. The Applicant must provide the following information about his experience:
 - Total years litigation experience and number of years as a fee earner.
 - Types of litigation undertaken and main areas of specialism currently and previously.
3. In relation to the 2 years preceding the application applicants must give the following information:
 - General description of the litigation work carried out.
 - Typical caseload.
 - Chargeable hours spent on criminal proceedings work in each year.
 - Proportion of time spent on criminal proceedings work.
 - Nature and extent of police station representation work.

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- Whether they are or have been accredited as police station representatives by the Legal Services Commission or under any duty solicitor scheme.
 - Proportion or number of cases which have included preparation for trial.
 - Range and nature of advocacy experience including observed advocacy.
 - Details of any distinctive features of the applicant's work.
 - Details of supervisory arrangements under which the applicant works and/or his supervisory responsibilities.
4. Applicants must also submit a portfolio of cases demonstrating their litigation and advocacy experience in compliance with the competence criteria set out below. The portfolio requirements are set out in the **Portfolio Guidelines**.
5. The Officer or Admissions and Licensing Committee will consider Applications for Certificates of Eligibility. Graduate members and Fellows will need to satisfy the Officer or Committee that they have an appropriate level of knowledge of criminal law, procedure and the rules of evidence and that their experience of criminal practice is sufficient to enable them to undertake the advocacy course and, upon successful completion of that course, to exercise the extended rights of audience that they will be granted.

Competence Criteria

6. In deciding whether an applicant has adequate knowledge and experience the Officer or Admissions and Licensing Committee will have regard to the Competence Criteria listed below.

Knowledge of criminal law

7. Applicants will be expected to have successfully completed a CILEx Level 6 Professional Higher Diploma paper in Criminal Law or equivalent qualification, so that they are able to:
- Understand the nature of criminal liability and defences.
 - Categorise, distinguish and relate the elements of crimes.
 - Analyse and categorise the elements of defences.
 - Apply the rules and principles of criminal liability.

Knowledge of criminal litigation

8. Applicants will be expected to have successfully completed a CILEx Level 6 Professional Higher Diploma paper in Criminal Litigation or equivalent qualification, so that they are able to:
- Demonstrate a detailed understanding of criminal procedure and the law of evidence as it operates in practice covering the following areas – role and jurisdiction of the criminal courts; public funding of criminal cases; bail; police investigative powers; **disclosure obligations of the prosecution**; summary proceedings; **the magistrates' courts case management powers**; how and why cases go to the crown court; trial on indictment; youth courts; sentencing; appeals; and the rules of evidence in criminal proceedings.

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- Identify and assess problems arising in a factual situation and to respond appropriately to them.
- Identify key issues in advising clients in criminal matters.
- Practise as an effective member of a criminal litigation team.
- Demonstrate awareness of the impact of the Human Rights Act 1998 in criminal litigation.
- Demonstrate awareness of and identify and deal appropriately with issues relating to conduct and ethics.

Analysis, critical judgement and evaluation

9. Applicants will be expected to be able to:

- Recognise and rank items and issues in terms of relevance and importance.
- Integrate information and materials from a variety of different sources.
- Undertake the analysis of factual information in a logical and coherent way.
- Make critical judgements of the merits of particular arguments.
- Present and make a reasoned choice between alternative solutions.

Autonomy and an ability to learn

10. Applicants will be expected to be able to:

- Act independently in planning, preparing and undertaking tasks in the above areas of law.
- Undertake independent research in the above areas of law using standard legal information sources.
- Reflect on his or her learning and make constructive use of feedback.

11. The Admissions and Licensing Committee may accept alternative evidence of the applicant's knowledge of criminal law and of criminal litigation other than the successful completion of the relevant head of the Level 6 Professional Higher Diploma in Law. The Applicant would need to provide evidence that the content of an alternative qualification substantially covered the criteria above and that the qualification was assessed at a comparable standard. An applicant who seeks to rely on knowledge gained through experience or means other than qualifications must submit evidence to the Admissions and Licensing Committee to demonstrate that he has knowledge of the law required by the competence criteria and that his level of knowledge is to a comparable standard to the Level 6 Professional Higher Diploma in Law.

Evaluating Experience

Litigation Experience

12. Applicants will be expected to have experience across a wide range of criminal proceedings and to be currently undertaking criminal litigation work. Their experience should include police station representation. Applicants should have handled cases from the beginning to the end of

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the process, which should include preparing cases for trial and undertaking post-trial work.

13. The quality of experience that an applicant has gained will be considered as well as the quantity of experience. In considering the quality of experience that an applicant has gained various factors will be taken into account such as the seriousness and complexity of cases handled and difficult cases handled.

Advocacy Experience

14. The Officer or Committee will have regard to the fact that it is likely members of the Chartered Institute who undertake criminal work will not have gained any advocacy experience in the criminal courts because they do not have rights of audience in those courts. The Officer or Committee may therefore take into account advocacy experience applicants have gained in other forums. They will also recognise that applicants may have gained advocacy experience through representing clients at police stations. Applicants will need to provide information as to the types of representation undertaken.
15. The Officer or Committee will also need to be satisfied that applicants have extensive first-hand experience of the style and standards of practice and advocacy expected in the courts for which they are seeking extended rights of audience.
16. Applicants will be expected to have observed advocacy in those areas where currently no rights of audience exist but where they will be granted rights upon completion of the course. Applicants will be required to state the number of cases that they have observed and indicate the nature of the cases concerned.
17. The Officer or Committee will need to take a balanced view about an applicant's experience in deciding whether his experience is sufficient to grant a Certificate of Eligibility particularly where an applicant relies in part on observed advocacy.

Career breaks/illness

18. The Officer or Committee will recognise that applicants may have had a break in their advocacy experience due to factors such as career breaks, job changes, maternity leave, long term illness or disability. The Officer or Committee will not discriminate either directly or indirectly against an applicant whose experience has been affected in this way but will need to ensure that the applicant does have an acceptable standard of advocacy or level of experience. Applicants who have been affected may provide details of experience gained during a different period when they were more actively engaged as advocates.

Other factors

19. There may be other factors which affect the number of appearances in the preceding two years, so that they would not give a fair picture of an applicant's experience and practice. The Officer or Committee will consider

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details of more active periods of advocacy from applicants whose advocacy record in the preceding two years discloses a pattern that they regard as atypical.

APPENDIX 2

PORTFOLIO GUIDELINES

1. Applicants must provide details of 5 cases in which they have been involved which will demonstrate their experience in litigation relating to the type of proceedings for which they are seeking to qualify as an Advocate. Applicants in respect of Civil or Family proceedings must also provide details of 3 cases in which they have been involved which will demonstrate their advocacy experience relating to those types of proceedings. Applicants for a certificate in respect of Criminal Proceedings will be required to provide details of 3 criminal cases in which they have been involved where they have either provided police station advice or undertaken or observed advocacy. The cases described must have occurred during the 2 years preceding the application.
2. The Portfolio provides an opportunity for applicants to demonstrate that they are able to meet the criteria prescribed in the Knowledge and Experience Guidelines which are set out in Appendix 1 to the Certification Rules.
3. The details of cases which Applicants provide must therefore reflect those Guidelines. Where, in the opinion of the Admissions and Licensing Committee, the case details fail to demonstrate the requisite knowledge and experience, the Application for a Certificate of Eligibility is likely to be refused.

Litigation Experience

4. For each of the 5 cases included in a portfolio of litigation experience, applicants for a Certificate of Eligibility will need to set out the following:
 - A concise description of the case, its progression and outcome.
 - The law arising in the case and its application to the facts.
 - Procedural or process issues, including the Court and, where relevant, the track to which the case was allocated.
 - Evidential issues arising in the case.
 - Ethical or conduct issues arising in the case.
 - Funding issues arising in the case.
 - Research undertaken in the case, relating to law or procedure.
 - Decision making in the case and any advice taken on strategic issues in the case.
 - **Advice given in the case and how it has been recorded.**
 - Any training or development needs identified, arising from the case.

Advocacy Experience – Civil and Family Proceedings

5. For each of the 3 cases included in a portfolio of advocacy experience, applicants for a Certificate of Eligibility in respect of a Civil or Family Proceedings certificate will need to set out the following:
 - A concise description of the case, its progression and outcome.
 - The nature of advocacy undertaken, including negotiation and arbitration, where relevant.
 - The Court in which the advocacy took place, and whether the hearing was contested.
 - Preparation work carried out for the hearing and the client's objectives for the case.
 - Legal, procedural, evidential and ethical issues arising in the course of the hearing or advocacy.

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- Effectiveness of the advocacy.
 - Any training or development needs identified, arising from the advocacy.
6. The Advocacy described may be in relation to the litigation cases described in the Portfolio, but need not be. One of the cases described may be observed advocacy, rather than advocacy carried out by the Applicant.

Police Station Experience – Criminal Proceedings

7. For each of the 3 cases included in a portfolio of police station advice experience, applicants for a Certificate of Eligibility in respect of a Criminal Proceedings Certificate will need to set out the following:
- A concise description of the case, its progression and outcome.
 - The way in which instructions to assist the client were received.
 - The context in which advice, assistance or representation was provided – by telephone, at police station or otherwise.
 - Legal issues arising in the course of advising, assisting or representing the client.
 - Procedural issues arising in the course of advising, assisting or representing the client, including issues arising under the PACE Codes of Practice.
 - Ethical or conduct issues arising in the course of advising, assisting or representing the client.
 - Actions taken after providing advice, assistance or representation.
 - The effectiveness of the advice or assistance to the client, or representations made on the client's behalf.
 - Any training or development needs identified, arising from the case.

Police station work described may be in relation to the litigation cases described in the portfolio, but need not be.

8. Observed Advocacy
- Applicants for a Certificate of Eligibility in respect of Criminal Proceedings may include descriptions of advocacy they have undertaken or observed in place of cases in which they have provided police station advice. No more than 2 of the 3 cases may relate to observed advocacy, the remaining case or cases must relate to police station attendance or advocacy undertaken in criminal proceedings. Where the Applicant describes cases in which they have undertaken or observed advocacy, they must set out the information which applicants for civil and family proceedings certificates must set out in relation to their advocacy experience described at paragraph 6 above.

ADVOCACY SKILLS COURSE DELIVERY AND OUTCOMES

COURSE DELIVERY

An Advocacy Skills Course accredited by the Officer or Admissions and Licensing Committee must be effective to develop the advocacy skills of candidates in accordance with the Outcomes set out below for each of the types of proceedings civil, family and criminal. It must comprise not less than 36 hours tuition, delivered over not less than 6 one day sessions. Teaching shall focus on the development of candidates' advocacy skills and be provided in groups of no more than 10 candidates, to encourage the maximum amount of individual participation. It must be supported by course materials which include guidance on preparation work for each session and case studies to be used for teaching and formative assessments during each session.

Appropriate feedback must be provided on all formative assessments or exercises during the sessions. Facilities must be available to record candidate performance on video for both training and assessment purposes and to enable candidates to be given a copy of their recorded performance for review and reflection.

The rules of evidence must be formally assessed during a skills course by means of a written or multiple choice test devised by the course provider. Candidates shall be required to apply the rules of evidence in the context of case studies in addition to demonstrating knowledge and understanding of them through the written test.

ADVOCACY SKILLS COURSE OUTCOMES FOR THE CRIMINAL PROCEEDINGS CERTIFICATE

Candidates who have attended the Advocacy Skills Course will by the end of the course have attained the outcomes set out below. These outcomes will cover, but are not limited to, the standards established under QASA.

1. Case Analysis and Theory

On conclusion of the course candidates should be able to

- ◆ Identify the relevant factual, legal and evidential issues in a given case.
- ◆ Identify the evidence available to both parties to prove these issues.
- ◆ Identify the strengths and weaknesses of a case.
- ◆ Understand the relevant law.
- ◆ Prepare a case theory that is both succinct and persuasive.

2. Advocacy

On conclusion of the course candidates should be able to, by way of preparation:

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- ◆ Understand the importance of preparation and effective ways to undertake this.
- ◆ Identify the client's goals.
- ◆ Analyse the relevant factual issues.
- ◆ Understand the legal, **procedural** 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.
- ◆ Prepare a coherent **and reasonable** submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting which may include a contested bail application; making a submission of no case to answer; a trial, a voire dire hearing and a plea in mitigation.
- ◆ Understand and appreciate the relevant communication skills and techniques used by an advocate.
- ◆ Understand in particular the purpose, technique and tactics of examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence.

and, at the hearing,

- ◆ Outline the relevant facts in a clear, effective format.
- ◆ Understand and use the English language proficiently in relation to legal issues.
- ◆ Present a sustained argument in a way which is comprehensible to others.
- ◆ Present a coherent submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting which may include a contested bail application; making a submission of no case to answer; a trial, a voire dire hearing and a plea in mitigation.
- ◆ Use and apply the relevant communication skills and techniques used by an advocate.
- ◆ Undertake competently an opening speech, examination-in-chief, cross-examination, re-examination and a closing speech in the context of a trial.
- ◆ **Understand good practice guidance when dealing with vulnerable witnesses and the available procedures relating to vulnerable witnesses.**
- ◆ **Understand how to deal effectively with uncooperative witnesses.**
- ◆ **Understand when it is appropriate to call expert evidence and how to use and challenge expert evidence effectively.**
- ◆ **Deal with the court's questions / concerns promptly.**
- ◆ **Respond to an opponent's points.**
- ◆ Deal appropriately with client care and ethical issues.
- ◆ Demonstrate an understanding of the ethics, etiquette and conventions of advocacy.

3. Evidence

On conclusion of the course candidates should be able to demonstrate knowledge and understanding of the following rules of evidence as they apply in a criminal trial:-

- ◆ The incidence of the burden and standard of proof.

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- ◆ The rules relating to competence and compellability of the accused and all other witnesses.
- ◆ The ways in which evidence may be adduced.
- ◆ The rules relating to memory refreshing.
- ◆ The rules relating to hostile and unfavourable witnesses.
- ◆ The rules relating to admissibility and weight to be attached to prior consistent statements and to impugning the testimony of witnesses by their prior inconsistent statements.
- ◆ The rules relating to finality to collateral issues.
- ◆ The rule against hearsay evidence in criminal trials and the operation of common law and statutory exceptions.
- ◆ The admissibility of confessions in criminal trials and the interplay of the provisions of the Police and Criminal Evidence Act 1984 with the Codes of Practice.
- ◆ The extent to which inferences may be drawn under Sections 34 to 37 of the Youth Justice and Public Order Act 1994.
- ◆ The rules relating to the admissibility of and weight to be attached to disputed visual identification evidence.
- ◆ The rules relating to the admissibility of improperly obtained evidence.
- ◆ The ~~common law~~ and statutory rules relating to the admissibility of character evidence of the accused **and non-defendants**.
- ◆ **The rules relating to the admissibility of opinion evidence including expert opinion evidence.**
- ◆ **The rules relating to the prosecution's disclosure obligations.**
- ◆ **The rules relating to legal professional privilege.**
- ◆ The relevance of human rights issues.

4. Professional Conduct

On conclusion of the course candidates should be able to demonstrate knowledge and understanding of the Rights of Audience Conduct Rules as they apply in criminal proceedings including the following:

- ◆ The fundamental duties, **including the duty to act with independence; to advise the court of adverse authorities and when they arise, procedural irregularities; to assist the court in the proper administration of justice.;**
- ◆ The decision to appear.
- ◆ Ceasing to act as an advocate.
- ◆ Conduct of work.
- ◆ **Understanding equality and diversity issues.**

APPENDIX 4

ASSESSMENT CRITERIA FOR ADVOCACY SKILLS COURSES

GENERAL

Assessment Criteria

The competence of candidates will be assessed in accordance with the criteria set out in this appendix by means of case studies relating to a trial or an application. Assessment in civil or family proceedings may be means of an application for committal.

Assessment Standard

All elements of the Assessment Criteria referred to below will be assessed out of a total mark of 100 for each assessment. The standard of competence for each assessment will be 50% and candidates are required to meet this standard of attainment for each formal assessment to attain an overall level of competence. This requirement only applies to formal assessments and candidates are not required to reach this standard on the formative assessments which will take place at various stages during the Advocacy Skills Course.

Assessors are not required to mark to the bands referred to in the weighting and may mark in between bands.

Assessors will retain a general discretion to determine overall competence even if a candidate reaches the appropriate mark of 50% in each formal assessment. The following are a non-exhaustive list of examples that may affect the assessor's overall assessment of competence:

- errors relating to gross professional misconduct;
- fundamental errors of law / evidence / procedure;
- making a majority of submissions from a prepared script;
- engaging in inappropriate court room behaviour.

Written Test

The standard candidates will be required to achieve in evidence will be comparable to the standard required generally. However, the marks required to achieve a comparable standard may be higher than 50% where a multiple choice question format is adopted. The nature of the written test and the proposed standard of competence will be considered by the Admissions and Licensing Committee.

Resubmissions

A candidate who fails one or more of the formal assessments will be allowed one further opportunity to achieve the required standard of competence. If he or she is successful they may be awarded a bare pass mark. A candidate who is unable to complete one or more of the formal assessments owing to ill health or other such cause, beyond their control, will be allowed a further opportunity to achieve the required standard of competence.

Professional Conduct

Case studies will enable candidates to be assessed on their ability to recognise and deal with issues of professional and ethical conduct in the course of advocacy in accordance with the Rights of Audience Conduct Rules. The conduct issues to be assessed may include:

- ◆ The overriding duty to the court.
- ◆ The duty not to engage in conduct which is dishonest/discreditable, prejudicial to the administration of justice or likely to diminish public confidence in the administration of justice or the legal profession.
- ◆ The duty to the client to promote and protect their interests, to act in good faith towards them and to avoid or deal with any conflict.
- ◆ The interests of the client and the advocate, his employer and any other party to the proceedings.
- ◆ The duty not to discriminate against, nor treat less favourably any person, including the client, on the grounds of their race, colour, ethnic or national origin, sex, sexual orientation, religion or political persuasion of the client.
- ◆ The duty of confidentiality in relation to a client's affairs and misuse of confidential information.
- ◆ The duties owed to other advocates in court.

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ASSESSMENT CRITERIA FOR THE CRIMINAL PROCEEDINGS CERTIFICATE

In order to pass the formal advocacy assessments for the Criminal Proceedings Certificate a candidate must demonstrate competence in the following activities. These criteria will include, but are not limited to, the advocacy standards set out in the QASA

ACTIVITY	CRITERIA	WEIGHTING %
OPPOSED BAIL APPLICATION		
PREPARATION	<ul style="list-style-type: none"> ▪ Undertake case analysis ▪ Identify likely prosecution objections to bail 	10
CONTENT	<p>The application must:</p> <ul style="list-style-type: none"> ▪ Deal with each prosecution objection to bail in turn, arguing why the particular ground is not made out by reference to the relevant facts. ▪ Suggest a package of sensible conditions where appropriate ▪ Be legally and factually accurate ▪ Have appropriate reference to legal sources ▪ Use documents appropriately including the client's list of previous convictions where necessary ▪ Observe the rules of professional conduct 	30
STRUCTURE	<ul style="list-style-type: none"> ▪ Clear and logical ▪ Respond to the district judge's / magistrates' questions appropriately 	20
DELIVERY	<ul style="list-style-type: none"> ▪ Clear and fluent ▪ Appropriate language, pace, volume and mannerisms ▪ Referring to notes when required 	20
EFFECTIVE AND PERSUASIVE	The extent to which the application influences the court in relation to the grant of bail	20

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ACTIVITY	CRITERIA	WEIGHTING %
OPENING SPEECH		
INTRODUCTION	Appropriate “in” line introducing self, opponent and nature of allegation	10
FACTS	Summarise incident, including where relevant what was said by accused on arrest; interview; charge.	15
LAW	<ul style="list-style-type: none"> ▪ Summarises legal principles involved ▪ Indicates areas where a ruling may be necessary [if relevant] 	15
DEFENCE	Indicate nature of defence where this is known	15
EVIDENCE	Introduces evidence by reference to the witnesses intend to call [and matters contained in agreed documents / statements where relevant] and the operation of the burden of proof	15
CONCLUSION	Appropriate “out” line	5
GENERAL	<ul style="list-style-type: none"> ▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Avoids overstating case ▪ Deals appropriately with any conduct issues 	25

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ACTIVITY	CRITERIA	WEIGHTING %
EXAMINATION-IN-CHIEF		
WITNESS DETAILS	Name, address, occupation [leading or non-leading]	5
DIRECTIONS	Where to direct answers, clarity and pace	10
EVIDENCE	<ul style="list-style-type: none"> ▪ Develops in a chronological/logical order ▪ Covers all relevant issues on which the witness is required and able to comment ▪ Anticipates matters likely to be raised in xx ▪ Produces exhibits/documents appropriately 	50
CONCLUDES	Appropriate “out” line including direction to witness to remain for xx	5
GENERAL	<ul style="list-style-type: none"> ▪ Appropriate range of non-leading questions ▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Deals appropriately with any conduct issues 	30
ACTIVITY		
CRITERIA		
WEIGHTING %		
LEGAL SUBMISSIONS		
PREPARATION	<ul style="list-style-type: none"> ▪ Undertake case analysis ▪ Perform appropriate legal research 	10
CONTENT	<p>The application / response must:</p> <ul style="list-style-type: none"> ▪ Be appropriate and relevant ▪ Be legally, procedurally, evidentially and factually accurate ▪ Reference to legal sources ▪ Use documents where necessary ▪ Observe the rules of professional conduct 	30
STRUCTURE	<ul style="list-style-type: none"> ▪ Clear and logical ▪ Respond to the district judge’s / magistrates’ questions ▪ Respond to points raised by the prosecution / defence 	20
DELIVERY	<ul style="list-style-type: none"> ▪ Clear and fluent ▪ Appropriate language, pace, volume and mannerisms ▪ Referring to notes when required 	20
EFFECTIVE AND PERSUASIVE	The extent to which the application / response influences the court to find for the accused / prosecution	20

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ACTIVITY	CRITERIA	WEIGHTING %
CROSS-EXAMINATION		
TECHNIQUES	<ul style="list-style-type: none"> ▪ Leading questions to control witness ▪ Short questions that witness understands ▪ Asks one question at a time ▪ Listens to witnesses answers and makes appropriate notes ▪ Avoids: Making statements; asking too many questions; introducing irrelevant material; inadvertently attacking the witness's character (if this has implications for bad character evidence); misquoting witness; echoing witness' reply inappropriately 	<p>10</p> <p>10</p> <p>10</p> <p>10</p> <p>10</p>
OBJECTIVES	<p>Does the advocate achieve the following objectives where appropriate:</p> <ul style="list-style-type: none"> ▪ Obtains favourable information from the witness ▪ Demonstrates that the witness is wrong (mistaken/lying) ▪ Undermines the witnesses' credibility ▪ Puts the accused's / prosecution's case to the witness 	30
GENERAL	<ul style="list-style-type: none"> ▪ Appropriate range of leading questions ▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Deals appropriately with any conduct issues 	20

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ACTIVITY	CRITERIA	WEIGHTING %
CLOSING SPEECH		
ISSUES	Identifies the outstanding issues	20
EVIDENCE	Summarises the evidence appropriately by highlighting the points which <ul style="list-style-type: none"> ▪ Strengthen accused's case ▪ Weaken prosecution 's case Deals appropriately with unfavourable evidence	30
LAW	Makes appropriate submissions on points of law (with copies of authorities if necessary)	15
CONCLUSION	Appropriate "out" line	5
GENERAL	<ul style="list-style-type: none"> ▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Avoids giving evidence/introducing new matters ▪ Responding appropriately to any questions / concerns of the court ▪ Deals with any conduct issues 	30

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ACTIVITY	CRITERIA	WEIGHTING %
PLEA IN MITIGATION		
PREPARATION	<ul style="list-style-type: none"> ▪ Identifies likely sentence ▪ Appropriate objective(s) 	10
CONTENT	<p>The mitigator must:</p> <ul style="list-style-type: none"> ▪ Highlight relevant mitigation relating to the commission of the offence ▪ Highlight relevant mitigation relating to the offender's personal circumstances ▪ Recommend a realistic sentence (taking into account sentencing guidelines) ▪ Reference to legal authority where appropriate ▪ Use documents where necessary including record of previous convictions and pre-sentence report ▪ Observe the rules of professional conduct 	40
STRUCTURE	<ul style="list-style-type: none"> ▪ Clear and logical ▪ Respond to the district judge's / magistrates' questions 	10
DELIVERY	<ul style="list-style-type: none"> ▪ Clear and fluent ▪ Appropriate language, pace, volume and mannerisms ▪ Maintains suitable court room demeanour 	20
EFFECTIVE AND PERSUASIVE	The extent to which the mitigator influences the court in relation to sentence	20

EVIDENCE

Candidates will be required to sit an examination on the rules and principles of evidence as they operate in criminal proceedings. The examination will be in the format of a written exam or multiple choice questions.

Candidates must achieve a mark 50% or above to be assessed as competent in this examination.

The examination will assess candidates' knowledge and understanding on a number of the following rules and principles of the law of evidence as they apply to criminal proceedings:

- The operation of the burden and standard of proof.
- The operation of the evidential burden.
- Competence and compellability of witnesses.
- **The means of adducing evidence.**
- **Disclosure obligations on the prosecution.**
- **The admissibility of opinion evidence including expert evidence.**
- Examination-in-chief and re-examination of witnesses.
- Previous consistent and inconsistent statements made by witnesses.
- Hostile and unfavourable witnesses.
- Cross-examination of witnesses.
- Finality to collateral issues.
- Evidence of good character of the defendant.
- Evidence of bad character of defendants and non-defendants under Part 11, Chapter 1 of the Criminal Justice Act 2003.
- Hearsay evidence under Part 11, Chapter 2 of the Criminal Justice Act 2003.
- Disputed identification evidence.
- Improperly obtained evidence.
- Confession evidence.
- The drawing of inferences under Sections 34 to 37 of the Criminal Justice & Public Order Act 1994.
- Privilege and public interest immunity.
- The relevance of human rights issues in criminal proceedings.