



## **Legal Services Board – Decision Notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007**

ILEX Professional Services Limited (IPS) has made an application under the Legal Services Act 2007 (the Act) to change its regulatory arrangements to allow its Admissions and Licensing Committee (ALC) to delegate certain decisions to authorised Officers of IPS.

The Legal Services Board (LSB) has approved IPS' amendments to its Rights of Audience Certification Rules. This Notice sets out the basis for the LSB approval and the decision taken, including a brief description of the changes.

### **Introduction**

1. The LSB is required by Part 3 of Schedule 4 of the Act to review and approve or reject alterations to the regulatory arrangements of the Approved Regulators. IPS is the regulatory arm of the Institute of Legal Executives Limited (ILEX) which is an approved regulator.
2. Paragraph 25 of Schedule 4 explains that the LSB must approve a proposed change to the Regulatory Arrangements unless we are "...satisfied that..." the approval would fall within one or more of the criteria specified in sub paragraph 25(3) (and listed in the footnote below<sup>1</sup>). If the LSB is not satisfied that one or more of the criteria are met, then it must approve the application in whole, or at least the parts of it that can be approved when only part of the application meets the criteria.
3. As provided for by paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules about how the application to alter the Regulatory Arrangements must be made including the contents of that application. The rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. The rules also require that the applicant provides information about the nature and effect of each proposed change and of appropriate consultation undertaken. Sub paragraph 25(3)(f) requires that each proposed alteration has been

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<sup>1</sup> The Board may refuse the application only if it is satisfied that—(a) granting the application would be prejudicial to the Regulatory Objectives, (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator, (c) granting the application would be contrary to the public interest, (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator, (e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

made or is likely to be made in accordance with the procedures which apply in relation to making of the alteration. This includes the LSB's rules.

4. The LSB will approve Regulatory Arrangements in so far that they appear to achieve their intended outcome and satisfy the sub paragraph 25(3) criteria. Most notably there must be no adverse impact on the Regulatory Objectives overall and the alterations and the process by which they have been produced must be consistent with Better Regulation Principles.
5. An application to amend the Rights of Audience Certification Rules was received from ILEX on 9 February 2011. This is the Decision Notice in relation to that application. The chronology for handling of this application can be found at the end of this Decision Notice.

### **Decision**

6. IPS established the ALC in January 2011. The Committee was established to comply with LSB's Internal Governance Rules and replaced the Advocacy Rights and Qualifying Employment Committees.
7. The ALC's responsibilities include the scheme by which ILEX members gain rights of audience, set out in the Rights of Audience Certification Rules (the rules). The ALC considers applications to enrol onto the qualification scheme, to renew advocacy certificates and applications made by course providers to deliver advocacy courses.
8. Under the rules, IPS Officers may grant advocacy certificates to ILEX members upon successful completion of the advocacy qualification and renew advocacy certificates (other than the first renewal). The application sought to extend the range of decisions that IPS Officers can make to include
  - Approval of applications to enrol onto the rights of audience qualification scheme
  - Approval applications to renew first advocacy certificates
  - Approval of applications by course providers to deliver the advocacy rights courses.
9. The revised rules will only permit an Officer to approve an application where it meets all of the assessment criteria which are set out in the Rules. Where the criteria are not met, or the Officer has any doubt as to whether the application should be approved, he must refer it to the ALC for determination.
10. Officers will not be permitted to refuse an application. Nor can they grant an additional advocacy certificate to a Member (which would permit the Member to undertake advocacy in another area of law). This is because in assessing whether an additional certificate should be awarded, a determination is needed as to which parts of the qualification need to be taken (depending on the experience of the candidate); IPS have concluded that this should be decided by the ALC rather than an Officer.

11. The proposed rules, as originally submitted to LSB, allowed applicants to request that the ALC reconsider a decision to refuse an application and that that reconsideration decision would be final. LSB's view is that while a procedure that allows for reconsideration of a decision is appropriate, there should be a mechanism which allows an applicant whose application is refused to have that decision reviewed by a person/committee other than that which made the original decision. As a consequence, IPS has amended the rules to allow an appeal to an Appeal Panel. The Appeal Panel will consist of three members (two lay and one ILEX Fellow) drawn from the Panel that serves the Disciplinary Tribunal and Appeal Panel. This is consistent with the process used for appeals against an ALC decision that a member is no longer a fit and proper person to hold and advocacy certificate (revised rule 113).
12. We are satisfied that in making this application IPS have complied with LSB's rules for rule change applications. With the amendment to the rules described in paragraph 11 above, we are satisfied that, having considered the application in the context of Schedule 4 sub paragraph 25(3) criteria, we have no grounds for refusing the application made in whole or in part and are therefore granting the application. The application is therefore approved.
13. The amended Rights of Audience Certification Rules are attached at Annex 1.

#### **Chronology**

- The LSB confirmed receipt of an application from IPS on 9 February 2011
- The 28 day initial decision period for considering the application ends 9 March 2011
- This Decision Notice is being published on our website on 7 March 2011.

**Chris Kenny, Chief Executive**  
**Acting under delegated authority granted by the Board of the Legal Services Board**  
**7 March 2011**

# **RIGHTS OF AUDIENCE**

## **DRAFT CERTIFICATION RULES**

**3 March 2011**

## **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;

"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;

"Fellow or Graduate member of the Institute in good standing" means a Fellow or Graduate member of the Institute whose subscriptions to the 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 Legal Executive Advocate;

"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;

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

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

"the Institute" means The Institute of Legal Executives;

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

"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;

“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;

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 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 IPS on Tribunals 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;
- (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 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 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 at Appendix 1;
  - ◆ a record of the applicant's advocacy and litigation experience in accordance with the requirements set out in the Knowledge and Experience Guidelines at Appendix 1;
  - ◆ 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 Appendix 2;
  - ◆ 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 at Appendix 1;
  - ◆ 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 at Appendix 1 and the Portfolio Guidelines at Appendix 2.
10. Where the external advisor decides that the portfolio is satisfactory and meets the criteria set out in the Knowledge and Experience Guidelines at Appendix 1 and the Portfolio Guidelines at Appendix 2 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 Certification Rules.
  - 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.
  - the applicant's current or prospective employer or the organisation in which the applicant is a manager 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 at Appendix 1 and/or the Portfolio Guidelines at Appendix 2 he will give reasons for his decision. 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.
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 set out at Appendix 1 and the Portfolio Guidelines at Appendix 2 to these Rules.
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:
  - ◆ apply and monitor the Institute's Rights of Audience Certification Rules;
  - ◆ 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 Advocacy 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.
  - ◆ 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.
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 against the decision of the Admissions and Licensing Committee upon a reconsideration. Appeals will be considered by an Appeal Panel comprising 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. 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 Legal Executive Advocates.
23. The Admissions and Licensing Committee will comprise:
  - Fellows of ILEX who shall not be members of ILEX 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. At least one member will be a member of the IPS Board.
24. 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.
25. A Fellow who is a member of IPS' Disciplinary and Appeals Panel shall not be eligible to serve as a member of the Admissions and Licensing Committee.
26. Appointments of independent members and Fellows shall be made by the IPS Board.
27. 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.
28. 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 terminate his appointment whether or not he has completed his current term of office.

29. 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.
30. 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.
31. 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.
32. 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.
33. Any person who is a member of the Advocacy Rights Committee established under the Rights of Audience Certification Rules which came into effect in 2006, and whose term of office has not expired at the date these Rules come into effect, may continue as a member of the Admissions and Licensing Committee until their original term of office expires, provided that they remain, otherwise, eligible to be a member of the Admissions and Licensing Committee under the terms of these Rules.
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:
- ◆ 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 at Appendix 1 and the Portfolio Guidelines at Appendix 2 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 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 Appendix 4 .
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 set out at Appendix 3;
  - ◆ be capable of delivering the Course Outcomes set out at Appendix 3; and
  - ◆ include arrangements for assessment of advocacy skills in accordance with the criteria set out in Appendix 4.

## **COURSE PROVIDERS**

50. Independent teaching or testing organisations will provide Advocacy Skills Courses. Organisations seeking to offer Advocacy Skills Courses will apply to IPS for accreditation.
51. 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 at Appendices 3 and 4. 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.
52. 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.
53. IPS will produce an accreditation handbook which will set out the accreditation procedure and criteria.
54. Course providers will be accredited for a period of three years but may apply for re-accreditation at the end of that period.
55. 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.
56. Course providers shall be responsible for carrying out formal assessment of candidates in accordance with the assessment criteria set out in Appendix 4. 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.

57. The course provider shall have in place procedures for considering appeals by candidates against assessments of competence.
58. 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 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 51 and 52. The inspection team will observe formal assessments of candidates.
59. 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.
60. 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.
61. 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.
62. 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**

63. 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.

64. A Fellow may only apply for an Advocacy Certificate relating to the type of proceedings covered by the Advocacy Skills Course he has completed.
65. 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.
66. 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.
67. 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.
68. 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.
69. 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.
70. 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.
71. A Fellow holding an Advocacy Certificate will be described as a Legal Executive Advocate.
72. A 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**

73. A Legal Executive Advocate may apply to be granted Advocacy Certificates additional to any already granted to him under these Rules.
74. 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.
75. Applications will be considered by the Admissions and Licensing Committee.
76. 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.
77. 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.
78. 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.
79. 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.
80. 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.
81. 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**

82. 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 Advocacy Certificate will be valid for a period of 3 years.

83. Applications for renewal 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.
84. 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 Appendix 2;
  - ◆ 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.
85. 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 Appendices 2 and 3.
86. 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 in Appendix 2 and the Course Outcomes set out in Appendix 3 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 from confirming the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised in the future.
87. 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 set out in Appendix 2 and the Course Outcomes set out in Appendix 3 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.

88. 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.
89. 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 in Appendix 2 and the course outcomes in Appendix 3.
90. 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.
91. 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 88 upon an application for reconsideration. The applicant may appeal against a decision made on reconsideration in accordance with Rule 21.
92. A Fellow making an application for renewal of his 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.
93. The Officer will process applications for renewal. Where the Officer is satisfied that the Fellow complies with the requirements set out in Rule 92, he will issue a new Advocacy Certificate.

94. 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.
95. 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.
96. 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.
97. 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.
98. A Fellow 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.
99. A Legal Executive Advocate who, for any reason, ceases to be a Fellow of the 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**

100. 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 83 to 91 which deal with first renewal of an advocacy certificate save that in Rule 84:
  - ◆ 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; 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.
101. 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.

102. Where an 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 92 to 97 above.

### **CONTINUING PROFESSIONAL DEVELOPMENT (CPD)**

103. Legal Executive Advocates are required to undertake at least 5 hours CPD each calendar year in addition to the CPD that they are required to undertake as Fellows of the Institute.
104. CPD must be gained by attendance at a training course focusing upon advocacy skills which has been accredited by the Institute under its CPD regulations.
105. Legal Executive Advocates are not required to undertake any CPD in respect of the period between the date an Advocacy Certificate is first granted and December 31<sup>st</sup> of that year.
106. Legal Executive Advocates must send a record of their advocacy CPD to ILEX by 15 December in each CPD year. The Officer will check the record to ensure that it complies with these Rules.
107. Where a Legal Executive Advocate 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 Legal Executive Advocate should retain his Advocacy Certificate. The 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 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; and, in either case,
  - ◆ Refer the failure to comply with the CPD requirements to IPS for investigation.

### **DISCIPLINARY PROCEDURES AND CODE OF CONDUCT**

108. 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 set out at Appendix 5 to these Rules.

109. Where a complaint is made or an issue is brought to the attention of IPS regarding the conduct of a Legal Executive Advocate that matter will be dealt with in accordance with the IPS' Investigation, Disciplinary and Appeals Rules.
110. Where a Finding, Order or Decision is made against a 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 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.
111. Rule 110 shall not apply where an Order is made by the Disciplinary Tribunal or Appeals Panel excluding a Legal Executive Advocate from membership of the Institute. Rule 99 shall apply in such a case.
112. Where the Admissions and Licensing Committee decides that the Advocate is no longer a fit and proper person to hold an Advocacy Certificate, he must return his Certificate(s) to IPS within 28 days of him 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.
113. 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 an Advocacy 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.

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