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SRA QASA Appeals Process

1. An individual may appeal against the decision taken by the SRA in relation to three areas
 - a decision to **refuse accreditation** at the advocate's current level (including refusal to convert provisional accreditation to full accreditation).
 - a decision to **remove accreditation** at the advocate's current level (including a decision to grant accreditation at a lower level), and
 - a decision to **refuse progression** to the next level
2. An individual appeal may within 28 days of receiving notification of the SRA's decision appeal against that decision
3. An individual may not appeal to the SRA against a decision by an assessment organisation where an advocate has failed an assessment.
4. An individual may not appeal to the SRA against an evaluation by an external assessor or a Judge.
5. The process and manner by which an advocate submits an appeal will be in line with the overall SRA approach. This is currently under revision and details will be available to advocates prior to the launch of the scheme. This will include a decision on whether a fee will be applicable to the appeal submission. The current appeals process can be found at <http://www.sra.org.uk/solicitors/handbook/practisingregulations/part1/rule8/content.ge>

Statement on Operational Readiness

6. A large proportion of the IT solution required to support the SRA's implementation of the scheme was built prior to Autumn 2012. This period of development resulted in a functional system as described by the SRA section of the Handbook minor amendment and included the following online components:
- registration
 - submission of evidence
 - accreditation
 - progression
 - reaccreditation
 - automatic calculation of a competence in line with the requirements of the scheme
7. Now that the final scheme has been approved and regulatory rules made by each individual Regulator, the SRA can now work on the completion of the IT solution. A Business Change team has been established within the organisation to drive forward this process and will manage the relationship with the third party responsible for delivering the solution.
8. The key focus of this team's work will be to develop and incorporate elements of the scheme that have changed as a result of the 4th QASA consultation, for example, harmonisation of evaluation opportunities at all levels of the scheme. Further work will also be required to ensure that the solution meets all necessary accessibility criteria.
9. This approach will be supported by a programme of work to embed the scheme across the organisation, for example, training of Contact Centre staff. Additional staff will be recruited to support the implementation of the scheme once it is launched.
10. The final proposals on costs of the scheme will be presented to the Board in time for launch but based on work undertaken to date, the current proposals for the costs to solicitors requiring QASA accreditation are as follows:

	Registration	Progression	Reaccreditation
Level 1	£25	£125	£75
Level 2	£75	£125	£100
Level 3	£100	£125	£125
Level 4	£100	£125	£125

11. We do not envisage any issues with our capacity to deliver the scheme as outlined in the scheme Handbook.

SRA Equality Impact Assessment

Section 1: Introduction

12. The Quality Assurance Scheme for Advocates (QASA or the Scheme) has been developed by the three main regulators of advocacy, ILEX Professional Standards (IPS), the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB), working together through the Joint Advocacy Group (JAG).
13. This paper sets out the work undertaken so far on the equality impact assessment (EIA) of the key policies and the proposed operation of QASA on our regulated community.
14. This paper is broken down into the following sections:
 - Section 2 Aims and Objectives of QASA
 - Section 3 Our approach to the EIA process
 - Section 4 Summary of previous QASA Consultations
 - Section 5 The SRA's QASA community
 - Section 6 Equality Impact Assessment of the final scheme
 - Section 7 Conclusions

Section 2: Aims and objectives of QASA

15. Advocacy is a vital part of an effective justice system. Members of the public involved in litigation rely upon advocacy for the proper presentation of their case. Those who are involved in decision making, whether as Judge or jury, rely on advocacy for the proper administration of justice. For defendants reliant on effective advocacy in the criminal courts the stakes are high: loss of liberty is a possible outcome.
16. A key element of professional responsibility is the maintenance of professional standards. The changing legal landscape coupled with competition and commercial imperatives are putting pressure on the provision of good quality advocacy. The economic climate, both generally and in terms of legal aid, has created a concern that advocates may accept instructions outside of their competence. The Judiciary has responded to these factors through judicial pronouncement on advocacy and performance.
17. QASA has been developed to respond to these issues. It will ensure that all advocates undertaking criminal advocacy undergo a process of accreditation so that they deal only with cases within their competence. To demonstrate their competence advocates will be subject to assessment and monitoring of their performance against a common set of agreed standards.

Section 3: Our approach to the EIA process

18. This paper builds on the draft EIA released in conjunction with the 4th QASA consultation. This paper can be found at <http://www.sra.org.uk/sra/equality-diversity/impact-assessments/gasa.page>

19. In developing the scheme, we have taken into account the following information to help us identify any potential equality impacts:
 - Statistical data that the SRA holds on the solicitors' profession and specifically in relation to solicitor advocates
 - Data obtained from the Notification process (see section 4)
 - Analysis of responses to JAG consultations carried out in 2009, 2010,2011 and 2012
 - Analysis of the responses to the QASA survey undertaken by the SRA in October and November 2011
 - Feedback from meetings with stakeholders The SRA's Higher Rights of Audience EIA June 2009.
20. Stakeholder engagement with our regulated community has been central to developing our understanding of the equality impacts of the scheme. We ran a number of stakeholder engagement workshops during the consultation exercise to gather information about the potential impacts and concerns from equality and representative groups. These sessions were invaluable to the development of the scheme as they generated a wide range of views on how individuals and groups of individuals may be impacted by the proposed operation of the scheme.
21. We do not regard this EIA as conclusive: we will continue to monitor and understand the impact of the scheme on those that we regulate. An operational review of the scheme is planned in 2015.

Section 3: Summary of previous QASA consultations

22. Since 2009, the SRA in conjunction with JAG has undertaken a number of consultations on various aspects of the scheme. Each consultation exercise and the responses received have contributed to the development and architecture of the scheme.
23. In producing this EIA, we believe it is important to provide an overview of these previous consultations. In particular, this summary will cover for each consultation:
 - the key proposals for consideration
 - any equality impacts identified
 - the actions taken by the SRA in light of the consultation responses received and identified equality impacts

Summary of First Consultation 2009

24. The first consultation was launched in December 2009 and closed in March 2010 30 responses were received. The consultation invited views on the proposed advocacy standards against which an advocate's competence-y would be assessed.. The 5 areas of advocacy-related activity on which we consulted were:
 - Preliminaries and preparation
 - Case presentation/advocacy
 - Working with others
 - Integrity

- Equality and diversity
25. The following paragraphs outline the key views and equality issues raised through the consultation.
 26. The consultation paper proposed 5 categories (A1,A2,A3,A4,A5) within the overall preliminaries and preparation standard. Responses received to this section broadly supported the proposed content. No equality impacts were raised in relation to this standard, however, based on a number of views, JAG considered it appropriate at this stage to implement the minor amendments suggested to A1, A2, A3 to ensure standards were more in line with actual practice.
 27. The case presentation and advocacy standard proposed 4 categories (B1,B2,B3,B4). Respondents favoured the overall approach to the content within each standard. No equality impacts were raised in relation to this standard. Based on those responses received, revisions were made to criteria within B1 and B2 to ensure they reflected practice, were easily understood and measurable. Further changes were made to the language used to describe the criteria within B3 and B4 in order to remove misinterpretation on how the standard could be applied to practice.
 28. 3 categories (C1,C2,C3) were proposed within the working with others standard. No obvious equality impacts were identified in relation to this section. Changes were made to the headline category and also to standards within the C1 category as the majority of respondents identified that they related to issues of professional conduct rather than criminal advocacy.
 29. The majority of responses on the content within the integrity standards favoured the approach proposed by JAG. The consultation exercise did not raise any equality issues. No changes to this standard were considered necessary at this stage.
 30. The consultation exercise also asked respondents to consider whether there were any negative consequences of a scheme based on common standards and how equality and diversity could be promoted. The following issues were raised:
 - General consensus that a scheme based on common advocacy standards would help improve public confidence in the quality of criminal advocacy.
 - Costs associated with the scheme should be fair and proportionate and should take account of particular group of practitioners, for example, part time workers and those on low incomes
 - There was some concern that assessment of common standards could discriminate against those advocates with a different style of speech or presentation
 - Assessment of advocacy standards should take into account those advocates with disabilities
 31. JAG agreed to consider and further understand the equality issues raised through consultation responses during the development of scheme.

Summary of Second Consultation 2010

32. The second consultation sought responses on the overall need to accredit criminal advocates and on various aspects of the architecture and delivery of the scheme. The consultation exercise was launched in August 2010 and closed in October 2010.

It was supported by a number of stakeholder engagement events. The following paragraphs outline those equality issues identified through the consultation exercise and how the SRA responded.

33. The consultation sought views on a scheme to assess and accredit the competence of criminal advocates. Most respondents to the consultation agreed that there was a need to address advocacy performance. Responses identified the problems of inadequate advocacy, risks of wrong/unfair convictions, unwarranted acquittals wasting court time and the negative impact these factors have on public confidence in the criminal justice system. Market conditions were also seen as an imperfect mechanism for addressing the competency of advocates.
34. Based on these responses, no obvious negative equality impacts were identified with the principles underpinning the need for the scheme. It was therefore considered appropriate to continue development of the scheme in order to improve the performance of criminal advocates and increase public confidence in criminal advocacy.
35. The consultation document also proposed the creation of the Performance of Advocacy Council (PAC) with responsibility for ongoing governance of the scheme. Consultation responses clearly indicated that JAG should retain responsibility for the strategic management and implementation of the scheme. No equality impacts were highlighted as a result of this proposal, however, in light of consultation responses received original proposals were amended to ensure JAG retained ongoing governance of the scheme.
36. These amendments also saw the introduction of an expert advisory group (QASA Advisory Group) to assist JAG in the development of the scheme. This group includes practitioners, representatives of the regulatory bodies and lay representatives reflecting consumer interests and is chaired by a senior judge. No equality impacts were identified as a result of this proposal and therefore the approach was considered appropriate.
37. There was a positive response to proposals outlined in the consultation to ensure the scheme was proportionate, accessible, cost effective and flexible. It was considered cost effective to base accreditation on real time and workplace assessment. Responses also recognised the flexible nature of the scheme in that it offered opportunities for individuals to take extended periods of absence and maintain their accreditation. This approach was considered to have a positive impact in terms of equality.
38. The proposals for the introduction of a common set of standards were considered beneficial by the majority of respondents. Proposals were considered to be in the public interest, provide advocates with flexibility to move between levels and between professions and to be a fair and transparent system for assessing and recognising competency. No disproportionate equality impacts were identified at this stage, however, the SRA committed to undertake further work to assess routes to qualification to ensure they provide sufficient opportunities for advocates to meet entry level requirements.
39. There were mixed views on proposals to restrict advocates to a specified length of time at Level1 before progressing to Level2. Based on the responses received, it was

the SRAs view that the development of competence is not necessarily linked to a prescriptive time period and that advocates will develop competencies at different rates and therefore move between levels accordingly. No negative equality impacts were identified, rather, it was considered that this approach would help promote equality by removing a potential restriction on practice and allowing advocates to progress at their chosen pace depending on their competency.

40. Responses provided no clear consensus on the proposal that an advocate's accreditation should lapse after extended periods of absence. It was the view of the SRA that a scheme based on periodic reaccreditation must recognise the needs of those advocates who do not undertake criminal advocacy for a period of time and allow them opportunities to re-enter the scheme and demonstrate their competence. It was felt that this approach would promote equality by providing flexibility for advocates to take extended periods of absence within their 5 year period of accreditation, for example, for women taking maternity leave.
41. There was no clear view from respondents to proposals that a Judge should have discretion to allow an advocate to act up. The SRA believes that the scheme should have the flexibility to adapt to the changing nature of criminal cases and not unnecessarily obstruct the proper administration of justice. The SRA therefore considered it appropriate at this stage of the development of the scheme to allow for properly managed judicial discretion by trained judges to enable advocates to undertake cases that change in complexity during the currency of their instructions.

Summary of Third Consultation 2011

42. The purpose of the third consultation was to seek views on proposed rules and rule changes required to embed QASA within the SRA's and other JAG regulators' regulatory frameworks. The consultation exercise was launched on the 15th August 2011 and closed on the 7th November 2011. In total 108 responses were received.
43. The consultation set out proposed regulatory changes to the SRA Handbook. This included changes to:
 - the SRA Training Regulations 2011
 - the SRA Higher Rights of Audience Regulations 2011
 - minor and consequential changes to other Regulations
 - changes to some of the educational standards required by the SRA
44. The majority of respondents used the consultation exercise as an opportunity to comment on the proposed structure and implementation of the scheme rather than on the proposed regulatory changes. The following paragraphs outline those equality issues identified through the consultation exercise and how the SRA responded.
45. A key feature of the consultation was the proposal that the levels within the scheme are connected to levels of cases and that the usual expectation will be that advocates will not undertake work at a level higher than that at which they are accredited. No obvious equality issues were identified as a result of this approach.
46. Some respondents recognised the need for cases to be categorised by level but felt it was important that the banding of cases avoided complexity, that levels were clear

and that cases were readily identified. However, others felt that the need for levels was unnecessary and that the decision to undertake representation should be left to the individual in line with rules governing professional conduct

47. The consultation paper outlined proposed rule changes designed to ensure that those solicitor advocates undertaking criminal advocacy complied with the scheme's requirements. This included the requirement to be assessed and accredited by Judicial Evaluation or by approved assessment centre.
48. A large number of consultation responses highlighted potential equality issues with the implications of this requirement. It was noted that some advocates, for a variety of reasons do not undertake full trials. The requirement to be assessed by judicial evaluation to enter the scheme could therefore prevent competent advocates from seeking accreditation within the scheme. If implemented as proposed, an unintended consequence of the scheme would be the prevention of competent advocates from practising. The SRA therefore undertook a piece of research with those solicitors who have higher rights of audience. The purpose of the research was to understand more about the practice patterns of these individuals and how they use their higher rights of audience. The research suggested that of those who responded, around 50% of advocates focussed their higher rights practice on non-trial work. The other 50% used their higher rights of audience for trial as well as non-trial work. As a result of these findings, the assessment requirements for the scheme were amended to enable all advocates who are competent to do so to enter and obtain accreditation within the scheme, regardless of how they structure their practice arrangements. Those advocates who do not do crown court trials will therefore be able to enter the scheme by completing a range of assessments with an accredited assessment organisation.
49. Consultation responses also identified further equality issues. The perceived lack of available trial opportunities, the 12month time period to seek the requisite number of judicial evaluations and the practice patterns of some advocates are a barrier to meeting to the requirements of the scheme. Again, this could result in competent advocates prevented from undertaking criminal advocacy.
50. A large number of respondents asked how JAG would ensure that judicial evaluations were consistent, impartial and avoided bias.
51. Comments were also received in relation to the proposed use of assessment organisations as an alternative form of assessment at Levels 2, 3 and 4. Some respondents recognised the potential positive equality impacts of this approach, for example, accreditation of those advocates that do not undertake or have access to the requisite amount of trials.
52. Many respondents identified a number of potential negative equality impacts as a result of the proposed use of assessment organisations. The costs associated with accreditation by assessment organisation was seen by a number of respondents as prohibitive and therefore could result in competent advocates being prevented from entering the scheme. Responses also suggested that the delivery of assessment organisations (location and frequency) could create barriers to accreditation for some groups of advocates, for example, those in rural areas and those with caring responsibilities.

53. The third consultation exercise highlighted a broad range of potentially complex and connected equality impacts. Given the SRAs commitment to delivering a fair, equitable and accessible scheme, it was considered necessary to undertake further analysis and development work to assess and understand the implication of the issues raised.

This included:

- further development of the scheme to ensure that judicial evaluation is fair, consistent and avoids bias
- clarity on levels and case determination
- further development of the scheme to ensure QASA accreditation requirements do not unintentionally prevent competent advocates from practising

Summary of Fourth Consultation 2012

54. The 4th consultation was launched on 12th July 2012 and closed on 9th October 2012. The consultation sought views on revisions made to the Scheme as a result of the 3rd QASA consultation (August-November 2011) and further policy and operational developments. The latter had not, in some cases, been the subject of previous formal consultation. The consultation covered:

- Revisions to the Scheme
- The revised guidance to setting the level of the case
- The proposals for the offences to be included at each of the four levels
- The competence framework for judicial evaluation (how competence is determined based on the evaluations undertaken)

55. A total of 348 responses were received. JAG's analysis and response to this consultation can be found at <http://www.qasa.org.uk/QASA%20Fourth%20Consultation%20Response%20-%20FINAL.pdf>

56. There was again broad support for the principle of the scheme; that effective criminal advocacy is in the public interest. However, the key equality issue raised by the vast majority of responses to this consultation related to the period of time available for advocates to obtain the required judicial evaluation to enter the scheme. A large majority of respondents agreed with the consultation document that 12 months was not sufficient time in which to expect advocates to obtain the required number of evaluations. The key challenges raised were length and complexity of trials at higher levels, the absence of recorders as trained assessors under the scheme, decreasing numbers of trials and the fact that self employed or part time advocates face difficulties in obtaining trials. Respondents felt that these issues would pose significant barriers to initial accreditation.

57. As a result of the responses received to the 4th consultation, the following key changes to the scheme were made:

- The period of time allowed for collection of the requisite number of judicial evaluations has been increased from 12 to 24 months

- The number of pieces of judicial evaluation required to register, progress and reaccredit has been harmonised.
58. As a result of analysis carried out by JAG on the responses received to the 4th consultation, other aspects of the scheme will not change and will remain as outlined in the consultation. These include:
- the advocacy standards and the competence framework
 - the central role of judicial evaluation in the Scheme
 - the alternative use of assessment centres for entry to the Scheme at Level 2
 - the assessment method for those advocates who don't undertake trials
 - that the Scheme should not change current, lawful, patterns of practice
 - the availability of on-going monitoring, i. e trained judges being able to alert the regulators directly of instances of incompetence that they observe in respect of all advocates in all types of hearing
 - periodic re-accreditation
 - phased geographical roll-out
 - the requirement to gather evidence and fully review the Scheme after two years of operation

Section 5: The SRA's QASA Community

59. During Summer 2012, the SRA asked all solicitors and Registered European lawyers wishing to undertake criminal advocacy to notify us of their intention to signal their intention to seek QASA accreditation once the scheme is launched.
60. This notification exercise provided us with an invaluable opportunity, without significant burden on individuals, to gather accurate data on the QASA community that has helped us to shape the internal design and development of the scheme.
61. Our research team linked this data to information held on individuals to develop an accurate picture of the QASA community by a number of categories; intended entry level, age, gender, intended practice circuit, ethnicity and disability. The data presented in this section is clean; incidences of where we have been unable to match the SRA ID provided at notification and our records have been removed. This process has allowed us to explore and assess in detail the potential impact of the scheme on individual solicitors and groups of solicitors.
62. The following tables provide a brief overview of the QASA community and helps us to understand the impact of the scheme on protected characteristics. Where appropriate, data provided through notification has been compared against the overall SRA population using the latest available diversity monitoring statistics.¹

1 Intended entry level

This table below indicates that the largest number of solicitors intend to enter the scheme at Level 1. There is a decrease in the number of solicitors intending to enter the scheme at Levels 2, 3 and 4.

¹ <http://www.sra.org.uk/sra/equality-diversity/diversity-monitoring/diversity-monitoring-2011.page>

	Total	Percentage of all advocates intending to enter the scheme
Level 1	7341	68.36
Level 2	1739	16.19
Level 3	1151	10.72
Level 4	508	4.73
Total	10739	100.00

2 Age

The 31-40 and 41-50 age bands contain the largest number of solicitors intending to enter the scheme. The numbers of advocates within these age groups are in line with the overall solicitors' population with 61% of individuals within the age 31-40 and 41-50 age bands. The greatest concentration of solicitors within this age range is at Level 1.

This notification data, when compared to the general population of solicitors, indicates that QASA is unlikely to have any disproportionate equality impacts in terms of age.

	> 65	22 - 30	31 - 40	41 - 50	51 - 60	61 - 65	No Age	Total
Level 1	208	1007	2114	2165	1436	400	11	7341
Level 2	34	156	533	580	348	82	6	1739
Level 3	26	54	304	447	261	58	1	1151
Level 4	19	24	108	176	142	39		508
Total	287	1241	3059	3368	2187	579	18	10739

3 Gender

Based on the notification data provided, we anticipate that 40% of the overall number of solicitors entering the scheme will be female. 60% will be male. The unknown individual has not been taken into account in the figures for this breakdown. The majority of males and females intend to enter the scheme at Level 1. Significantly more males intend to practice at Levels 3 and 4 than females.

	Female	Male	Unknown	Total
Level 1	3312	4028	1	7341
Level 2	652	1087		1739
Level 3	276	875		1151
Level 4	99	409		508
Total	4339	6399	1	10739

The table below indicates that the gender breakdown of the QASA community is broadly consistent with the gender breakdown for the overall solicitor population: We therefore do not envisage that QASA will have any disproportionate equality impacts in terms of gender.

	% of QASA community	% of overall solicitor population
Female	40	46
Male	60	54
Total	100	100
Sample Size	10,739	129,780

4 Intended practice circuit

The largest number of solicitors notified us of their intention to practice on the South East circuit. Wales and the Western Circuits contain the lowest number of advocates intending to practice.

	Midlands	North East	Northern	South East	Wales	Western
Level 1	1324	749	1204	2880	568	576
Level 2	279	195	268	728	99	160
Level 3	167	145	185	450	83	116
Level 4	75	52	81	249	25	21
Total	1845	1141	1738	4307	775	873

5 Ethnicity

White solicitors form the largest group (73%) of solicitors intending to enter the scheme. These figures may not represent a fully accurate picture as it was not possible to determine the ethnicity of nearly 11% of those solicitors that notified as a result of their MySRA accounts not being completed.

	Asian	Black	Chinese	Mixed	Other	Unknown	White
Level 1	701	300	30	61	94	704	5451
Level 2	177	64	5	17	22	215	1239

Level 3	102	32	1	8	12	158	838
Level 4	67	23	2	8	9	71	328
Total	1047	419	38	94	137	1148	7856

The table below compares the ethnic breakdown for solicitors within the QASA Community with the overall solicitors population. The number of solicitors with an "unknown" ethnicity have been removed from the comparison table.

The QASA community is broadly reflective of the overall solicitor population. However, notification data has highlighted that solicitors from an Asian and Black ethnicity form marginally higher proportion of the QASA community than the overall solicitor population. This is a marginal difference and we do not therefore envisage that QASA will have any disproportionate equality impacts in terms of ethnicity.

	% of QASA community	% of overall SRA population
Asian	9.75	8
Black	3.90	2
Chinese	0.35	1
Mixed	0.88	1
Other	1.28	2
White	73.15	86

6 Disability

147 advocates notified that they have a disability. This groups represents just over 1% of the total advocates that notified. Solicitors with a visual impairment form the largest group of those with a disability. Meaningful comparison with the overall solicitor's population is difficult given that the disability status of 54% of the solicitors' profession is not known. However, of the total number of solicitors where disability status is known, 1% have indicated a disability. The QASA community is broadly consistent with the overall solicitor population. We do not therefore envisage that QASA will have any disproportionate equality impacts in terms of disability.

	No	Unknown	Yes	Total
Level 1	7222	15	104	7341
Level 2	1712	4	23	1739
Level 3	1136	2	13	1151
Level 4	499	2	7	508

Total	10569	23	147	10739
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63. Analysis of the notification data suggested that there would be a negative economic impact on some groups as a result of the proposal to gain reaccreditation at Level 1 by completing assessed advocacy CPD with an assessment organisation. As a result of this, the scheme requirements have been amended to allow greater flexibility in the way in which the assessed Level 1 CPD is undertaken to minimise the negative economic impact. Advocates will, for example, be able to undertake their CPD with their employer or chambers as long as it is formally assessed. They must keep a record of all their CPD against the QASA standards and this must be countersigned and made available to the advocate's regulator.

Section 6: Equality Impact Assessment of the final scheme

64. This section examines the operational elements of the scheme and how we have addressed any equality impact issues that have been identified through consultation exercises and stakeholder engagement.

65. QASA is based on the following principles:

- Advocacy standards have been developed against which all advocates will be assessed.
- Advocates will be accredited at one of four levels - for example, a Level 1 advocate can undertake work in the Magistrates Court and a Level 4 advocate normally undertakes the most serious cases in the Crown Court.
- Advocates may progress through the four levels by demonstrating through assessment that they meet the required standard for the next level. Advocates who choose to remain at their current level will be required to re-accredit at that level every five years.
- Depending on the level of accreditation sought, there will be three methods of assessment within the Scheme; assessment by CPD, judicial evaluation or assessment primarily by an assessment organisation
 - Judges will be able to complete evaluations and inform the regulator where there are concerns about a quality of an advocate.

Level 1 accreditation requirements

66. Advocates are qualified to become accredited at Level 1 by virtue of completing the education and training qualifications to enter their respective professions. Amendments have been made to the SRA and IPS education and training pathways to ensure that they are consistent with Level 1 standards. All newly qualified advocates are entitled to enter the Scheme at Level 1. Accreditation at Level 1 expires five years from the date of accreditation by the regulator. In order to re-accredit at Level 1, advocates must complete advocacy focused CPD which has been accredited by JAG to satisfy Level 1 requirements, and provide details to their regulator of how they satisfied the requirements.

Level 2 assessment centre

67. Accreditation for advocates who undertake trials at Levels 2, 3, and 4 of the Scheme is a two-stage process. First, advocates must register with their regulator at the level

at which they believe they are practising to receive provisional accreditation at that level. Second, advocates must apply to their regulator for full accreditation within 2 years of the date their regulator granted provisional accreditation.

68. Solicitors wishing to progress to Level 2 must obtain their Higher Rights of Audience and obtain Level 2 accreditation. To do this they must attend at an approved assessment organisation, successful completion of which will enable the solicitor to apply for their Higher Rights and Level 2 full accreditation. Once granted, the solicitor's Higher Rights of Audience will not expire or require renewal; the Level 2 accreditation will be valid for five years.

Assessment by Judicial evaluation

69. Having obtained their Higher Rights of Audience and Level 2 accreditation, solicitors who intend to undertake trials at Level 2 must re-register with the SRA and within the next 24 months must be assessed by judicial evaluation in a minimum of two trials, out of a maximum of three trials, in their next consecutive effective trials.
70. Progression from Level 2 to 3 and Level 3 to 4 is a two-stage process and can only be accomplished by judicial evaluation. Progression stage 1 provides provisional accreditation. Advocates must obtain a minimum of two judicial evaluations and a maximum of three evaluations in consecutive, effective trials at their current level. In order to be successful, the advocate's assessments must demonstrate that the advocate is "Very Competent" as determined by the advocate's regulator. When the advocate submits the judicial evaluations to show that they are "Very Competent" at their current level, the regulator will grant provisional accreditation at the higher level, which will be valid for twelve months from the date granted by the regulator. Progression stage 2 gives full accreditation. The advocate must be assessed by judicial evaluation in a minimum of two and a maximum of three of the next consecutive effective trials at the higher level. Full accreditation is valid for five years from the date granted by the regulator.

General implementation of QASA

71. QASA will systematically assess and assure the quality of all advocates appearing in criminal courts in England and Wales. It is clear that the implementation of QASA will impact on the Solicitors profession; only QASA accredited advocates will be able to undertake criminal advocacy once the scheme is launched.
72. Concerns have been raised through previous consultations and stakeholder engagement events that the introduction of the scheme may unfairly impact on a solicitor's ability to undertake criminal advocacy. We will look at these concerns specifically in the context of the following key elements of the scheme.
73. One issue raised through consultation and stakeholder engagement exercises was that women may be more likely to understate their competence. This may result in advocates self accrediting beneath their competence and not being able take on work they had carried out previously.
74. To address this issue, we will provide detailed and accessible guidance in print and web format which will provide a road map for advocates to determine their

appropriate level. There will be a launch event on each circuit where Solicitors can receive further advice and guidance on ensuring that they pick the appropriate level to reflect their current practice patterns.

75. Once the scheme has been launched, all solicitors who enter the profession will automatically be QASA accredited at Level 1 and will be able to undertake all work at this Level. An individual can choose to progress through the scheme to the next level at any time, Scheme Handbook. This will be the choice of the individual and will be dependent on their current practice patterns, career aspirations and experience.
76. We do not envisage that the framework for entry into and progression through the scheme will act as barrier to solicitors wishing to undertake criminal advocacy. The scheme offers flexibility and is proportionate in that there are 4 levels of competence and no requirement to progress at a particular pace or at all.

The cost of accreditation

77. The costs associated with seeking accreditation are currently being finalised. The SRA is in the process of determining costs for example, costs of accreditation and re accreditation. Advocates wishing to be QASA accredited will be required to meet these costs.
78. We recognise that there will be a financial impact on some advocates of meeting the scheme's requirements, for example, solicitors on low incomes, sole practitioners and small firms specialising in criminal advocacy. As part of our commitment to fully understanding the impact of the scheme, we will undertake further analysis on the potential impact of these costs.

Accreditation of advocates through live judicial assessment

79. Judicial Evaluation will be the only method of assessment for advocates wishing to undertake trials at Levels 2, 3 or 4. Judicial evaluation will be used for entry to the scheme, progression and re -accreditation for all advocates who are undertaking trial work. Depending on their status within the scheme, advocates will be required to obtain a set number of judicial evaluations from a set number of attempts.
80. Concerns have been raised by a large number of solicitors during consultations and through stakeholder engagement events regarding the potential for judicial evaluation to be affected by personal bias. Two concerns were raised; firstly, that judicial evaluation will favour barristers because the majority of the judiciary are drawn from the bar and secondly; there may be bias against individuals from equality groups who are less well represented in the higher levels of the bar or the judiciary.
81. The SRA recognises that any judicial evaluation with personal bias on the part of the assessor is likely to impact on the credibility, validity and reliability of the scheme and may disadvantage or penalise certain groups of solicitors.

82. We considered the option of not relying on judicial evaluation. However, given the objective of the scheme it was felt necessary given that Judges are ultimate consumers of advocacy; they are able to observe and evaluate advocates in real time and in a live setting. We felt that this was a proportionate means of meeting the objectives of the scheme.
83. The proposed scheme includes a number of measures designed to limit the opportunities for personal bias within judicial evaluation and help ensure QASA is fair, objective and does not disproportionately impact on any particular group or protected characteristic.
84. City Law School have been appointed to deliver a comprehensive training programme for Judges evaluating advocates. Training will amount to 10/12 hours and will include equality and diversity training, avoiding unconscious bias and support to make evidence based evaluations. Only those Judges that have completed this training will be able to assess the performance of an advocate within the scheme.
85. In line with a risk based approach to regulation, the SRA will undertake regular sampling of completed CAEFs to identify emerging trends or patterns from particular judges, courts or regions in terms of how their approach to marking advocates. Should the SRA identify an issue with the marking approach of a particular Judge, the Judge in question will be offered further training where deemed appropriate.
86. The SRA will retain a pool of independent assessors. These individuals will be trained assessors (receiving the same evaluation training as Judges) with substantial experience of criminal advocacy who will be appointed to assess advocates under the Scheme. In some cases, the SRA will use these assessors to "double mark" advocates and to test the validity of Judges scoring.
87. The independent assessors can also be called upon by an advocate in those situations where they can not meet the requirement to submit completed CAEFs by two or three different Judges, for example, those advocates in small rural areas.
88. We believe that the approaches outlined above should address the concerns about bias highlighted by advocates and promote a fair and objective method of assessment with adequate safeguards which do not disproportionately impact on any particular group. It is also worth noting that the SRA and JAG have committed to a full review of the Scheme commencing in July 2015, where we will seek to gather data, evidence and views on the operation of the scheme.
89. Advocates have also expressed concern regarding the availability of trial opportunities in which to be assessed. A lack of trial opportunities may prevent an advocate from becoming QASA accredited and therefore restrict an individual's ability to practice. As a result of feedback from the 4th consultation exercise, we have amended time frames to collect required evidence to address this issue.
90. Where there are insufficient trial opportunities to be assessed, advocates can be assessed by an independent assessor. There will also be flexibility in the timescales within the scheme's requirements to accommodate those who need longer to access the required number of trials.

91. JAG will however monitor the number of trial assessment opportunities as part of the two year review.

Accreditation through assessment organisations

92. Responses to the consultation exercises highlighted concerns regarding the use of judicial evaluation in a trial setting as a means of assessment for those advocates who do not conduct trials. As structured, the scheme was likely to have the unintended consequence of preventing competent advocates from entering the scheme solely by reason of their practice pattern or structure. This would have impacted upon consumer choice, competition and access to justice.
93. The SRA decided to explore this further and conducted a survey of Higher Rights of Audience advocates in October and November 2011 to produce an evidence base upon which to assess the impact of the scheme.
94. The research highlighted that 50% of respondents conducted full trials. The remaining 50%, for a variety of reasons, carry out other types of criminal advocacy work: plea and case management hearings, pre-trial hearings / mentions preliminary hearings sentence hearings, guilty pleas and bail applications.
95. The findings indicate that a significant number of advocates would not be able to meet the requirements of a scheme not because of a lack of competence but because they do not conduct trials. These advocates would be prevented from undertaking criminal advocacy work solely because of their chosen pattern of practice.
96. The SRA is committed to a scheme that effectively assesses the competence of all criminal advocates and one that is fair, proportionate and accessible to all. As a result, JAG has made amendments to QASA to enable those advocates who do not undertake trials to enter the scheme through assessment against all of the standards by an approved assessment organisation.
97. Assessment by an approved organisation will be available to those advocates wishing to enter the scheme to undertake all non-trial work at Levels 2 and 3. All solicitors wishing to progress from Level 1 to Level 2 will be required to undergo assessment at an assessment organisation to obtain their Higher Rights of Audience (Crime) and their Level 2 accreditation.
98. Concern has been raised by some solicitors that the process of assessment may be perceived as inferior. This could negatively impact on the credibility of the QASA. We are committed to ensuring that the methods of assessment are equivalent, valid and reliable. The process to select those organisations approved to carry out assessment will be robust. Assessment organisations will be required to have in place procedures to ensure that assessment functions are quality assured.
99. The probity of assessment will be maintained by ensuring that assessments are at an appropriate level, they measure candidate achievement in accordance with QASA standards and that they are conducted rigorously and fairly. In this way the profession, candidates and the public can be certain that assessment is delivered to the appropriate standard.

100. The importance of ensuring that the assessment organisations are accessible, skilled and experienced in assessing a diverse range of candidates has been highlighted. To mitigate this impact, assessment organisations will be required to make sure their assessments and their processes are accessible and they provide appropriate reasonable adjustments for disabled candidates.
101. We recognise that a number of solicitors impacted by QASA will live in rural locations. This may represent a barrier to some solicitors who need to use assessment organisations in terms of distance travelled, potential cost and therefore impact on their ability to undertake criminal advocacy work. Approved assessment organisations will be required to deliver assessments in a number of accessible locations and at a range of times.
102. Research undertaken by the SRA in December 2011 highlighted that that 40% of respondents had caring responsibilities for an elderly or adult dependent. This was evenly split between men and women. This situation may prevent some solicitors accessing assessment organisations and therefore their ability to become accredited within the scheme. Approved assessment organisations will be required provide assessments in the evenings and at weekends.

Phased circuit roll-out

103. Implementation of the scheme will be phased in geographically and by circuit(s). Within each phase there will be a period of time available for registration. Reasonable adjustments will be made for the registration process.
104. Concerns have been raised by some advocates, for example, those with specific specialism's, that advocates will not be able to practice criminal advocacy in areas outside their own registration area. Further guidance for advocates will be issued shortly.

Time extensions

105. The scheme requires advocates to submit evidence or seek assessment within specific timeframes. We recognise that there may be situations where advocates can not meet these deadlines, for example, long term absence from work due to illness or for parental leave. Failure to meet these timescales may result in a lack of QASA accreditation and the inability to undertake criminal advocacy work and there may be potential disadvantage for disabled advocates and women on maternity leave.
106. The Scheme Handbook issued with the 4th consultation contains a clear, fair and proportionate extensions policy. This will involve extensions up to a period of 3 months being granted automatically. For an extension of more than 3 months, the advocate will be required to contact the SRA. Extensions can be granted up to a period of 12 months in total.
107. QASA accreditation lasts for five years. Should a solicitor require a break and the duration of the planned break is within this accreditation period, no extension will be

required. Should an advocate require a longer break, then it may be more appropriate to leave the scheme and re- enter at a later date. Advocates will be required to pay the costs associated with re-entering the scheme.

108. The flexible approach to extensions that has been built into the scheme should help mitigate any potential negative impact on particular groups more likely to seek breaks from the profession.

Ongoing monitoring

109. As part of the scheme, Judges will be able to report serious concerns about the performance of an advocate outside of the formal assessment process by submitting a completed CAEF form to the appropriate regulator. The Judge will be required to clearly state against which standards they have concerns. The regulator will then assess the form and determine next steps.
110. There is a view amongst some solicitor advocates, that the Judiciary may make subjective decisions when completing ongoing monitoring forms. Concerns have been raised that the judiciary are drawn largely from the Bar and there will be an inbuilt bias in favour of advocates from the Bar. These are potential issues which are similar to the concerns discussed above arising from the potential for bias.
111. QASA will strengthen the current process for Judges to raise concerns about the performance of an advocate. The proposed process will require Judges to structure their concern through formally identifying the relevant standard(s) where they believe performance to be unsatisfactory.
112. The SRA will also monitor forms submitted by Judges. This will allow the SRA to identify those Judges that have submitted forms and the regularity with which they do so. This will help us to identify any particular trends emerging from this element of the scheme.
113. We believe the approaches outlined approach will help to alleviate concerns regarding judicial bias in the context of the ongoing monitoring and reporting provisions.

Criminal Advocacy Evaluation Form (CAEF)

114. The CAEF has been developed to support the evaluation of all advocates within the Scheme. The CAEF sets out the QASA standards and performance indicators which illustrate what is expected of the advocate at each level. The form will be the main evaluation document used to assess the performance and competency of an advocate.
115. In conjunction with JAG, we have analysed the CAEF to ensure that the performance indicators are appropriate and robust and that they can be applied to effectively measure the competency of an advocate. The CAEF form has also

been analysed to ensure that the standards and performance indicators do not disadvantage particular groups or characteristics.

116. We have taken into account the need to ensure that the CAEF itself is accessible for completion by the judiciary and independent assessors. The form itself will be available in a variety of formats and although we anticipate that completed forms being submitted electronically in most cases, we will provide reasonable adjustments to ensure that disabled people are not disadvantaged by the process.

Proposed internal SRA processes

117. It is proposed that the scheme will be managed on line. This approach is designed to ensure that processes are as efficient as possible, reduce the administrative burden on advocates and reduce the costs of the overall scheme which will benefit those using the scheme as well as the SRA.
118. We recognise that this approach may present difficulties for certain groups, for example the visually impaired and those with limited internet access. We are working to meet accessibility standards and we are aiming for AA compliance with the W3C's Web Content Accessibility Guidelines 2.0 (WCAG 2.0).
119. These guidelines are designed to make content accessible to a wide range of people with disabilities including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity and combinations of these.
120. Until we reach these standards, we will ensure that where appropriate and necessary reasonable adjustments are made to ensure that particular groups are not disadvantaged, for example, advocates will be able to submit hard copies of CAEF forms to us rather than on line.

Section 7: Conclusions

121. Significant effort has been made to ensure the scheme is open, transparent, objective and fair; that it has sufficient levels of flexibility built into it and offers a proportionate merit based progression route for advocates, whilst still ensuring the ultimate aim of ensuring standards and protecting the public. Controls have been put in place to ensure that all forms of assessment are robust, consistent, accessible and fair to all advocates joining the scheme.
122. The measures and actions outlined in this paper will help eliminate any potential disadvantage to particular groups and ensure full participation from those who are required to enter the scheme. In the light of consultation responses and the potential equality issues, the extension of the period for gaining initial judicial evaluation from one year to two years should address a key equality issue that QASA presented. As outlined in JAG's submission to the Legal Services Board, the scheme meets the Regulatory Objectives of the Legal Service Act 2007 and the Better Regulation Principles.

123. It is, nevertheless, important to bear in mind that QASA is novel and may have impacts which cannot be anticipated before it is fully implemented. Working through the JAG, we will closely monitor the impact of the scheme once it is implemented. We will encourage stakeholders to participate in the planned review 2 years after the launch of QASA. Finally, we commit to taking into account, at the review, any equality issues or impacts which come to light during the first 2 years of operation of the Scheme.

Supervision and Enforcement

124. The SRA recognises that advocate compliance with QASA regulations is essential to delivering a credible and effective scheme that protects the public interest. To achieve this, the role of supervision and enforcement is key. Our focus will be on ensuring that QASA is fully embedded within the wider SRA supervision and enforcement strategy prior to the launch of the scheme.
125. Regulation 19 of the QASA regulations made by the SRA Board on April 24th 2013, identify the range of additional measures we may take in relation to the performance and competence of an advocate. These regulations will be underpinned and reinforced by proactive approaches to ensuring compliance, and further supported by the SRA's range of enforcement measure, for example, placing restrictions on Practising Certificates. These can be found at <http://www.sra.org.uk/solicitors/enforcement/we-are-investigating-you.page>

Ensuring compliance at Registration

126. The notification exercise carried out in 2012 required all advocates currently or intending to practise criminal advocacy to notify us of their intention to enter the scheme at launch. Over 12,000 advocates notified. This provided invaluable data on those criminal advocates we are likely to regulate. To ensure compliance with QASA registration, we will:
- provide clear guidance on registration, selecting a level and reminders about the scheme's rules to all advocates
 - require advocates at Level 2 and above to indicate at the point of registration whether they intend to enter the scheme via the assessment organisation route or via Judicial evaluation
 - Compare the level at which an advocate enters the scheme with the level indicated at notification. Any advocate with a significant variation (2 levels higher) will be contacted to remind them of the scheme rules and ascertain the reason for their registration at a different level
 - contact any advocate who notified us of their intention to enter the scheme who has not subsequently registered. They will be contacted to remind them of their regulatory obligations and asked whether they intend to enter the scheme
 - carry out spot checks on individual advocates
 - use independent assessors to "early test" an advocate where we have any serious concerns in relation to their entry level
 - use our regulatory enforcement powers where necessary
127. We believe this approach will ensure that those advocates required to enter the scheme do so at the appropriate level.

Ensuring on going compliance

128. In line with the SRA's approach to supervision and enforcement, we will work with individual advocates in order to ensure compliance with QASA regulations, for example, by provision of clear guidance and advice where appropriate. Our supervision function provides risk-based oversight of the regulated community. Supervisors work constructively with firms and their employees when events occur or where regulations have been breached.
129. Enforcement action will be taken if there is serious non-compliance with the SRA Principles or a risk to the public exists which cannot be mitigated. To this effect, we will ensure that the scheme's rules and requirements are fully embedded in the SRAs' supervision and enforcement functions prior to launch.
130. In addition to the above, we will also carry out the following to ensure ongoing advocate compliance:
- frequent reminders through various SRA communications on the schemes rules
 - carry out spot checks on individual advocates to ensure they are complying with the requirements of the scheme, for example, submitting evaluations from consecutive trials
 - use data provided from the QASA IT solution to monitor the performance of advocates against each standard and identify any trends or pockets of poor performance. We will also aggregate this to Level and Circuit. This may result in us taking proactive action to support an advocate where necessary
 - map the performance of individuals to the entity level to highlight any systematic issues with competence within firms
 - use wider SRA intelligence to act where advocates may be operating in breach of QASA regulations.
131. We believe that the approaches outlined above will help ensure ongoing compliance with the scheme.