



Summary of Decision

The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further details. This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act")

The LSB's decision is to grant in full the application from CILEX Regulation Limited ("CRL") for approval of alterations to its regulatory arrangements relating to the removal of the Quality Assurance Scheme for Advocates ("QASA") and other consequential amendments.

The key changes are to:

- Omit references to QASA
- Insert additional competencies in relation to rights of audience in the Youth Court
- Introduce mandatory Continuing Professional Development in relation to handling of vulnerable witnesses for criminal advocates
- Require Chartered Legal Executives with rights of audience in criminal proceedings to renew certification every 3 years.

Following assessment of the CRL's application, the LSB has concluded that the changes do not meet the conditions for refusal under paragraph 25(3) of Schedule 4 to the Act.

The decision notice explains our assessment of the main issues that we considered in reaching our decision. It also outlines the commitments made by the CRL that were relied upon in our assessment and our expectations for the CRL as it implements, monitors and evaluates the impact of the alterations.

Decision notice

CILEX Regulation Limited's application for approval of alteration to its regulatory arrangements relating to the removal of the Quality Assurance Scheme for Advocates (QASA) and other consequential amendments

1. The Legal Services Board (“**LSB**”) has granted an application from CILEX Regulation Limited (**CRL**) for approval of amendments relating to the removal of QASA and other consequential amendments to the following regulatory arrangements:
 - Rights of Audience Certification Rules
 - Practitioner Authorisation Rules
 - Associate Prosecutor Rights of Audience and Litigation Certification Rules
 - Admissions and Licensing Committee Rules
 - Right to Conduct Litigation and Rights of Audience Certification Rules.
2. The application also includes minor alterations:
 - to omit references in the above regulatory arrangements to ‘Investigation, Disciplinary and Appeals Rules (IDAR)’ and replace with ‘Enforcement Rules’, and
 - in the Rights of Audience Certification Rules to extend the definition of “Fellow or Graduate member of CILEX” to include individuals who have successfully completed the academic stage of the CILEX Professional Qualification
3. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (“the Act”) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Chartered Institute of Legal Executives (CILEX) is an approved regulator and CRL is the regulatory body to which CILEX has delegated its regulatory functions.
4. This decision notice sets out the decision taken, including a description of the changes. The notes at page 6 of this notice explain the statutory basis for the decision

Chronology

- The LSB confirmed receipt of an application from CRL on 24 September 2021.
- The 28-day initial decision period for considering the application ends on 21 October 2021.
- This decision notice is effective from 21 October 2021.
- The decision notice will be published on the LSB's website by 25 October 2021.

Background

5. Alterations to the regulatory arrangements of CRL, Bar Standards Board (BSB) and Solicitors Regulation Authority (SRA) for QASA were approved by the LSB in decision notices issued in 2013.¹ QASA aimed to maintain public confidence in the

¹ The LSB's 26 July 2013 decision notice approving the BSB, SRA and ILEX Professional Standards' (now CLR) joint application for alterations to their regulatory arrangements to implement QASA is available here: https://legalservicesboard.org.uk/what_we_do/regulation/pdf/annex_d2_ips_ro_a_cert_rules_amended.pdf

competence of representation in the criminal courts, by ensuring that authorised persons with rights of audience would be accredited to only deal with cases within their competence, through assessment and monitoring of their performance against agreed standards. It was developed in response to recommendations arising from a review into the procurement of legal aid by Lord Carter in 2006. QASA implementation was paused pending consultation² by the Ministry of Justice (MOJ) on the development of a proposed separate quality assurance scheme for publicly funded advocates, which was not concluded.

6. In August 2018³ and October 2019⁴ the LSB approved applications respectively from the BSB and SRA, to remove QASA from their regulatory arrangements – both have introduced alternative provisions to meet the objectives of QASA. Through this application CRL is now also proposing to put in place alternative arrangements to replace QASA.
7. Paragraphs 5 – 13 of the application sets out that three types of individuals authorised by CRL hold rights of audience. These are Chartered Legal Executives (CILEX advocates), CILEX Practitioners and Associate Prosecutors. The latter are employed by the Crown Prosecution Service (CPS) and their training is delivered by the CPS and monitored by CRL. The application sets out how and why the three routes to obtain rights of audience will be amended by the proposed changes.
8. Under the proposed changes the CRL qualification routes for rights of audience in criminal proceedings will omit dormant QASA requirements and insert new detailed competency and training requirements in relation to advocacy in the Youth Court. Paragraph 32 of the application describes the new mandatory Continuing Professional Development requirements (CPD) in relation to handling of vulnerable witnesses as part of the first Advocacy Certificate renewal for criminal advocates. Paragraph 20 of the application sets out that the proposals also impose a new requirement for Chartered Legal Executives with rights of audience in criminal proceedings, to renew certification every 3 years to ensure they are working under appropriate supervisory arrangements. This safeguard recognises that they do not have rights of litigation and replaces the existing indefinite certification subject to assessment against QASA. Otherwise, the requirements in place that are applied by CRL for rights of audience in criminal proceedings, remain unchanged.

Summary of proposed changes

9. The key changes included in this application are as follows:
 - The removal of references to QASA
 - The addition of detailed competency requirements in relation to advocacy in the Youth Court.
 - The introduction of mandatory CPD in relation to the handling of vulnerable witnesses.

² MOJ consultation – October 2015

³ BSB QASA Decision Notice – August 2018

⁴ SRA QASA Decision Notice - October 2019

- The requirement for Chartered Legal Executives with rights of audience in criminal proceedings, to renew certification every 3 years.
10. The application included the following further minor changes to the regulatory arrangements:
- The extension of the definition of Graduate member of CILEX to include individuals who have completed the academic stage of the CILEX Professional Qualification
 - The replacement of the 'Investigation, Disciplinary and Appeals Rules (IDAR)' with 'Enforcement Rules'.

Key issues considered in the assessment of the application

11. In carrying out our assessment of the current application, the LSB has considered the following issues and taken account of information provided by the CRL.

Competence assessment

12. The flow chart below paragraph 18 of the application sets out how the three routes to qualification will be amended by the proposed changes. We note that there are different processes for demonstrating competency for these routes. We consider that the information included in the application in paragraphs 10,11, 20,21 and 24 provides justification for why CILEX Advocates, qualified under the Chartered Legal Executive route, will need to renew their advocacy certificate every 3 years, while Associate Prosecutors' licences are valid indefinitely and CILEX Practitioners need to complete a competency assessment 1 year after authorisation before obtaining a licence which is valid indefinitely. We note that all advocacy certificates will continue to be subject to ongoing competence assessments requirements.

Advocacy skills course

13. Paragraph 52 of the application sets out the need for compulsory training on the Youth Court as part of the advocacy skill course. Paragraph 79 of the application sets out that the new Youth Court components of the skills course will not lead to an increase to the cost of this course which will remain the same as it has for several years. We are satisfied by the explanation in paragraph 80 of the application for why CRL currently only has one provider of this course and that it has a process in place for obtaining best value for money should more than one provider be available to deliver this course.

Equality Impact Assessment

14. Section K of the application sets out that CRL has carried out an equality impact assessment on these changes. This is included in full in Annex 10 to this application. Paragraph 77 explains that CRL believes that there will be no adverse impact on persons with any of the protected characteristics from the proposed changes.
15. However, the application notes in paragraph 81 to 86 that the responses to the consultation on these changes did highlight some potentially negative impacts from the proposed introduction of mandatory CPD requirements for the first-year certificate

renewal for CILEX Practitioners on the protected characteristics of pregnancy/maternity leave and sex (gender). The application satisfactorily explains that various mechanisms are in place to support individuals who struggle with funding the cost of the required training prior to the first-year renewal of the certificate. Paragraph 83 and 84 of the application sets out that these include hardship funding which can be applied for and that individuals can use one activity to achieve more than one CPD outcome.

16. We expect CRL to monitor the impact of these changes through its wider and ongoing equality and diversity monitoring efforts and update the LSB through ongoing relationship management meetings.

Evaluation and monitoring

17. Paragraphs 91 – 95 of the application sets out that CRL will take several steps to monitor and evaluate the impact of the proposed changes including reviewing the advocacy skills course, monitoring CPD records and monitoring complaints about individuals with rights of audience in criminal proceedings.
18. We expect CRL to share any evidence from evaluation and monitoring of these changes through the ongoing relationship management process.

Decision

19. The LSB has considered the application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application, and accordingly, the application is granted.

Matthew Hill, Chief Executive

**Acting under delegated authority granted by the Board of the Legal Services Board
21 October 2021**

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements 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 this 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 [of the Act] 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.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules⁵ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

⁵ Rules for Rule Change Applications – Version 2 (November 2010)

Annex A - Rules approved by LSB

RIGHTS OF AUDIENCE CERTIFICATION RULES

DEFINITIONS

1. In these Rules, except where otherwise indicated:

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

"The Admissions and Licensing Committee" means the Committee established under the Admissions and Licensing Committee Rules;

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

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

"the Appeal Panel" means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing;

"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;

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

"the Chartered Institute" means The Chartered Institute of Legal Executives (CILEX);

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

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

"Enforcement Rules" means the rules of CILEx Regulation which are in place from time to time and which govern the complaints handling and disciplinary procedures of CILEx Regulation;

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

"Fellow or Graduate member (this includes members of CILEX who have completed the academic stage of the CILEX Professional Qualification) of the Chartered Institute in good standing" means a Fellow or Graduate member of the Chartered Institute whose subscriptions to the Chartered Institute are fully paid, in respect of whose conduct there is no complaint outstanding, whose CPD requirements are up to date

and against whom there is no disciplinary record which in the view of the Admissions and Licensing Committee affects their suitability to be a Chartered Legal Executive Advocate;

“independent assessor” means an individual that has been appointed by the Joint Advocacy Group to undertake assessments/evaluations of advocates in court;

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

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

Civil Proceedings Certificate

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

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

Family Proceedings Certificate

- (a) To appear in Family Court in all family proceedings;

- (b) 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 Chartered Legal Executive Advocate when these Rules come into effect may exercise all the rights of audience appropriate to the Advocacy Certificate or Certificates he holds, as described in Rule 3 above.

CERTIFICATES OF ELIGIBILITY

- 5. Graduate members and Fellows of the Chartered Institute who wish to undertake an Advocacy Skills Course must make an application to CILEx Regulation for a Certificate of Eligibility.
- 6. A Graduate member or Fellow who wishes to apply for a Certificate of Eligibility must:
 - ◆ be employed by or be a manager in an organisation which is owned or managed by persons authorised to provide litigation services, or which is authorised to provide litigation services under the Legal Services Act 2007; or
 - ◆ be employed by an organisation in which he works under the supervision of a person who is authorised to provide litigation services under the Legal Services Act 2007.
- 7. An application for a Certificate of Eligibility must be supported by:
 - ◆ Evidence of the applicant's knowledge of the law, the rules of evidence and the legal practice relevant to the Advocacy Skills Course he wishes to take and to the

rights of audience he wishes to be granted in accordance with the Competence Criteria set out in the Knowledge and Experience Guidelines in the Rights of Audience qualification scheme;

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

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

ADMISSIONS AND LICENSING COMMITTEE

16. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for the rights of audience scheme.

EXTERNAL ADVISORS

17. CILEx Regulation shall appoint 3 external advisors to advise the Admissions and Licensing Committee and CILEx Regulation 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.
18. When making such appointments CILEx Regulation 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.
19. The external advisors will provide advice to the Admissions and Licensing Committee and CILEx Regulation 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.
20. The external advisors shall decide whether a portfolio submitted with an application for a Certificate of Eligibility or first renewal of an Advocacy Certificate meets the criteria set out in the Knowledge and Experience Guidelines and the Portfolio Guidelines in the Rights of Audience qualification scheme and shall advise the Officer accordingly.

21. 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.
22. 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.
23. 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.
24. The external advisors shall receive notice of meetings of the Admissions and Licensing Committee and may attend such meetings in their advisory capacity.
25. The external advisors will be appointed by CILEx Regulation 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, CILEx Regulation may terminate his appointment whether or not he has completed his current term of office.
26. CILEx Regulation 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

27. 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. CILEx Regulation may prescribe a course fee to be paid by Graduate members and Fellows wishing to take an advocacy skills course prescribed by CILEx Regulation. 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.
28. 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.
29. Fellows and Graduate members will be required:
 - ♦ to complete the training sessions successfully; and
 - ♦ to demonstrate the necessary levels of competence in the formal assessments during the course so that they satisfy Assessment Criteria set out in the Rights of Audience qualification scheme .
30. Advocacy Skills Courses will be provided by course providers who are accredited by CILEx Regulation.
31. An Advocacy Skills Course must:

- ◆ meet the Advocacy Skills Course Delivery criteria;
- ◆ be capable of delivering the Course outcomes; and
- ◆ include arrangements for assessment of advocacy skills in accordance with the assessment criteria set out in the Rights of Audience qualification scheme.

COURSE PROVIDERS

32. Independent teaching or testing organisations will provide Advocacy Skills Courses. Organisations seeking to offer Advocacy Skills Courses will apply to CILEx Regulation for accreditation.
33. Applications for accreditation will be considered by the Officer. The Officer may accredit course providers who demonstrate that they are able to provide advocacy skills courses to deliver the course outcomes and assessment criteria set out in the Rights of Audience qualification scheme. The Officer may seek guidance from the external advisors when considering applications. Where the Officer has any doubt as to whether an application can be approved they will refer it to the Admissions and Licensing Committee for further consideration.
34. 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.
35. CILEx Regulation will produce an accreditation handbook which will set out the accreditation procedure and criteria.
36. Course providers will be accredited for a period of three years but may apply for re-accreditation at the end of that period.
37. 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.
38. Course providers shall be responsible for carrying out formal assessment of candidates in accordance with the assessment criteria set out in the Rights of Audience qualification scheme. Standards of assessment will be subject to moderation by external advisors who will be provided with recorded candidate performances across a representative range of attainment for this purpose.

39. The course provider shall have in place procedures for considering appeals by candidates against assessments of competence.
40. Course providers will be inspected by CILEx Regulation. After the inspection a report will be compiled on the management and content of courses generally, and it will have regard to all of the matters referred to in Rules 34 and 35. The inspector will observe formal assessments of candidates.
41. The report of the inspection visit shall be submitted to the Admissions and Licensing Committee. The report will make such recommendations as deemed 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.
42. 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.
43. 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.
44. 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, or appeal a decision, in accordance with the Admissions and Licensing Committee Rules.

CERTIFICATION

45. 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.
46. A Fellow may only apply for an Advocacy Certificate relating to the type of proceedings covered by the Advocacy Skills Course he has completed.
47. An application shall be made on a form prescribed by CILEx Regulation from time to time for this purpose and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.

48. 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.
49. 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.
50. 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.
51. 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.
52. 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 or appeal a decision in accordance with the Admissions and Licensing Committee Rules.
53. A Fellow holding an Advocacy Certificate will be described as a Chartered Legal Executive Advocate.
54. A Chartered Legal Executive Advocate who ceases to be employed by or to be a manager in an organisation referred to in Rule 6 of these Certification Rules may not exercise any right of audience granted to him under these Rules.

APPLICATION FOR ADDITIONAL CERTIFICATES

55. A Chartered Legal Executive Advocate may apply to be granted Advocacy Certificates additional to any already granted to him under these Rules.
56. Applications for additional Certificates may be made by Graduate members and Fellows of the Chartered Institute. Graduate members and Fellows will submit an application for a Certificate of Eligibility to CILEx Regulation, in accordance with these Rules.

57. Applications will be considered by the Admissions and Licensing Committee.
58. 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.
59. 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.
60. 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.
61. 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 or appeal a decision in accordance with the Admissions and Licensing Committee Rules
62. 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.
63. 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

64. 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. Criminal advocates will be required, as part of their CPD requirements, to undertake vulnerable witness training as stipulated by CILEx Regulation as part of their first Advocacy Certificate renewal.
65. Applications for renewal of Certificates will be made on a form prescribed by CILEx Regulation from time to time for the purpose and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.
66. An application for the first renewal of an Advocacy Certificate must be supported by:
 - ◆ Confirmation that the applicant is employed by or is a manager in an organisation referred to in Rule 6 of these Certification Rules;
 - ◆ a record of the applicant's advocacy and litigation experience during the period since his Advocacy Certificate was granted;

- ◆ a portfolio of cases in which the applicant has been involved during the period since his Advocacy Certificate was granted, in accordance with the Portfolio Guidelines set out in the Rights of Audience qualification scheme;
 - ◆ a statement from his current employer or the organisation in which he is a manager confirming the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised in the future.
67. The portfolio which forms part of the application for the first renewal of the Advocacy Certificate will be sent to an external advisor. The external advisor will assess the portfolio against the criteria set out in the Rights of Audience qualification scheme.
68. Where the external advisor decides that the portfolio is satisfactory and shows that the applicant has applied the advocacy skills in the cases described in accordance with the Portfolio Guidelines and the Course Outcomes set out in the Rights of Audience qualification scheme the Officer will consider the application. The Officer will decide whether to approve the application. Where the Officer has any doubt as to whether an application can be approved they will refer it to the Committee for consideration. An application can be approved where:
- ◆ The applicant's litigation and advocacy/police station experience meets the knowledge and experience criteria set out in the Rights of Audience Certification Rules.
 - ◆ The case portfolios have all been marked as meeting the knowledge and experience requirements.
 - ◆ his current employer or the organisation in which he is a manager has provided a statement confirming the details provided of his litigation and advocacy experience and whether any rights of audience granted will be exercised in the future.
 - ◆ For criminal advocates only, evidence of successful completion of vulnerable witness advocacy training.
69. Where the external advisor decides that the portfolio is not satisfactory and does not show that the applicant has applied the advocacy skills in the cases described in accordance with the Portfolio Guidelines and the Course Outcomes set out in the Rights of Audience qualification scheme the external advisor shall give reasons for his decision. He shall indicate what action the applicant needs to take to provide a satisfactory portfolio. The Officer will inform the applicant of the decision. The applicant may withdraw his application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
70. 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.
71. In making any assessment or decision required by these Rules the Officer and the Admissions and Licensing Committee shall have regard to the portfolio guidelines and the course outcomes set out in the Rights of Audience qualification scheme

72. 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.
73. Where the application is unsuccessful an applicant may apply for reconsideration or appeal a decision in accordance with Admissions and Licensing Committee Rules. The Admissions and Licensing Committee will have the powers set out at Rule 70 upon an application for reconsideration.
74. A Fellow making an application for renewal of his civil or family Advocacy Certificate, after the first renewal, must:
- ◆ be a Fellow of good standing;
 - ◆ be an employee or a manager in an organisation referred to in Rule 6 of these Certification Rules;
 - ◆ provide a statement from his employer or the organisation in which he is a manager confirming his employment and indicating whether any rights of audience granted will be exercised; and
 - ◆ have undertaken Continuing Professional Development (CPD) that meets the requirements set out in these Rules.
75. The Officer will process applications for renewal. Where the Officer is satisfied that the Fellow complies with the requirements set out in Rule 74, he will issue a new Advocacy Certificate.
76. 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.
77. 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.
78. 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.
79. 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 or appeal a decision in accordance with the Admissions and Licensing Committee Rules.

80. A Chartered Legal Executive may not exercise any rights of audience which may be granted under these Rules, unless he has a current Advocacy Certificate which is appropriate to the Advocacy Skills Course(s) he has completed.
81. A Chartered Legal Executive Advocate who, for any reason, ceases to be a Fellow of the Chartered Institute shall automatically cease to be eligible to exercise any right of audience granted under these Rules and shall return his Certificate(s) to CILEx Regulation within 28 days of ceasing to be a Fellow.

LAPSED CERTIFICATES

82. 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 64 to 73 which deal with first renewal of an advocacy certificate save that in Rule 66:
- ◆ the reference to an application for the first renewal of an Advocacy Certificate should be a reference to an application for renewal of a lapsed Advocacy Certificate;
 - ◆ where the certificate which has lapsed is a Criminal Proceedings Certificate the reference to the record of the applicant's advocacy experience shall include police station advice and observed advocacy in accordance with the Portfolio Guidelines to these Certification Rules; and
 - ◆ the information required to be provided by the applicant shall include, additionally, reasons why the Advocacy Certificate lapsed and details of CPD undertaken during the 12 months prior to the application.
83. A lapsed Advocacy Certificate is one which has expired and has not been renewed, whether by decision of the holder of the certificate, as a result of a decision of the Admissions and Licensing Committee, because the holder has ceased to be eligible to hold a certificate for any reason..
84. 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 74 to 81 above.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

85. Chartered Legal Executive Advocates must undertake CPD in accordance with the CPD Regulations. Those who hold a criminal proceedings certificate must also comply with the requirement to remain competent in relation to work undertaken in the Youth Court.

DISCIPLINARY PROCEDURES AND CODE OF CONDUCT

86. Chartered Legal Executive Advocates will be required to abide by the Code of Conduct and Guides to Good Practice of CILEx Regulation for the time being in force. They will also be bound by the Rights of Audience Conduct Rules.

87. Where a complaint is made or an issue is brought to the attention of CILEx Regulation regarding the conduct of a Chartered Legal Executive Advocate that matter will be dealt with in accordance with the CILEx Regulation Enforcement Rules.
88. Where a Finding, Order or Decision is made against a Chartered Legal Executive Advocate by the Disciplinary Tribunal, Appeals Panel, or Professional Conduct Panel, that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Chartered Legal Executive Advocate remains a fit and proper person to hold an Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision.
89. Rule 88 shall not apply where an Order is made by the Disciplinary Tribunal or Appeals Panel excluding a Chartered Legal Executive Advocate from membership of the Chartered Institute. Rule 90 shall apply in such a case.
90. Where the Admissions and Licensing Committee decides that the Advocate is no longer a fit and proper person to hold an Advocacy Certificate, they must return their Certificate(s) to CILEx Regulation within 28 days of being notified of the decision. Failure to do so will constitute a disciplinary offence. The Fellow may not exercise any advocacy rights granted to him under his Advocacy Certificate(s) after he has been notified of the decision.
91. 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 CILEx Regulation Disciplinary and Appeals panels.

CILEx Regulation/ROA/June 2021

RIGHTS OF AUDIENCE QUALIFICATION SCHEME

KNOWLEDGE AND EXPERIENCE GUIDELINES

CRIMINAL PROCEEDINGS

Certificate of Eligibility

1. Graduate Members and Fellows who make an application for extended Rights of Audience must submit details of the criminal litigation and advocacy experience they have gained. These details will form part of their application for a Certificate of Eligibility to undertake the advocacy course.
2. The Applicant must provide the following information about his experience:
 - ◆ Total years litigation experience and number of years as a fee earner.
 - ◆ Types of litigation undertaken and main areas of specialism currently and previously.
3. In relation to the 2 years preceding the application applicants must give the following information:
 - ◆ General description of the litigation work carried out.
 - ◆ Typical caseload.
 - ◆ Chargeable hours spent on criminal proceedings work in each year.
 - ◆ Proportion of time spent on criminal proceedings work.
 - ◆ Nature and extent of police station representation work.
 - ◆ Whether they are or have been accredited as police station representatives by the Legal Services Commission or under any duty solicitor scheme.
 - ◆ Proportion or number of cases which have included preparation for trial.
 - ◆ Range and nature of advocacy experience including observed advocacy.
 - ◆ Details of any distinctive features of the applicant's work.
 - ◆ Details of supervisory arrangements under which the applicant works and/or his supervisory responsibilities.
4. Applicants must also submit a portfolio of cases demonstrating their litigation and advocacy experience in compliance with the competence criteria set out below. The portfolio requirements are set out in the **Portfolio Guidelines**.
5. The Officer or Admissions and Licensing Committee will consider Applications for Certificates of Eligibility. Graduate members and Fellows will need to satisfy the Officer or Committee that they have an appropriate level of knowledge of criminal law, procedure and the rules of evidence and that their experience of criminal practice is sufficient to enable them to undertake the advocacy course and, upon successful completion of that course, to exercise the extended rights of audience that they will be granted.

Competence Criteria

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

Knowledge of criminal law

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

Knowledge of criminal litigation

8. Applicants will be expected to have successfully completed a CILEx Level 6 Professional Higher Diploma paper in Criminal Litigation or equivalent qualification, so that they are able to:
- ◆ Demonstrate a detailed understanding of criminal procedure and the law of evidence as it operates in practice covering the following areas – role and jurisdiction of the criminal courts; public funding of criminal cases; bail; police investigative powers; disclosure obligations of the prosecution; summary proceedings; the magistrates' courts case management powers; how and why cases go to the crown court; trial on indictment; youth courts; sentencing; appeals; and the rules of evidence in criminal proceedings.
 - ◆ Identify and assess problems arising in a factual situation and to respond appropriately to them.
 - ◆ Identify key issues in advising clients in criminal matters.
 - ◆ Practise as an effective member of a criminal litigation team.
 - ◆ Demonstrate awareness of the impact of the Human Rights Act 1998 in criminal litigation.
 - ◆ Demonstrate awareness of and identify and deal appropriately with issues relating to conduct and ethics.

Analysis, critical judgement and evaluation

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

Autonomy and an ability to learn

10. Applicants will be expected to be able to:
- ◆ Act independently in planning, preparing and undertaking tasks in the above areas of law.
 - ◆ Undertake independent research in the above areas of law using standard legal information sources.

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

Evaluating Experience

Litigation Experience

12. Applicants will be expected to have experience across a wide range of criminal proceedings and to be currently undertaking criminal litigation work. Their experience should include police station representation. Applicants should have handled cases from the beginning to the end of the process, which should include preparing cases for trial and undertaking post-trial work.
13. The quality of experience that an applicant has gained will be considered as well as the quantity of experience. In considering the quality of experience that an applicant has gained various factors will be taken into account such as the seriousness and complexity of cases handled and difficult cases handled.

Advocacy Experience

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

Career breaks/illness

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

Other factors

19. There may be other factors which affect the number of appearances in the preceding two years, so that they would not give a fair picture of an applicant's experience and practice. The Officer or Committee will consider details of more active periods of advocacy from applicants whose advocacy record in the preceding two years discloses a pattern that they regard as atypical.

APPENDIX 2

PORTFOLIO GUIDELINES

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

Litigation Experience

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

Advocacy Experience – Civil and Family Proceedings

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

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

Police Station Experience – Criminal Proceedings

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

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

8. Observed Advocacy

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

APPENDIX 3

ADVOCACY SKILLS COURSE DELIVERY AND OUTCOMES

COURSE DELIVERY

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

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

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

ADVOCACY SKILLS COURSE OUTCOMES FOR THE CRIMINAL PROCEEDINGS CERTIFICATE

Candidates who have attended the Advocacy Skills Course will by the end of the course have attained the outcomes set out below.

1. Case Analysis and Theory

On conclusion of the course candidates should be able to

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

2. Advocacy

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

- ◆ Understand the importance of preparation and effective ways to undertake this.
- ◆ Identify the client's goals.
- ◆ Analyse the relevant factual issues.
- ◆ Understand the legal, procedural and evidential context in which these factual issues arise and how they relate to each other.
- ◆ Summarise the strengths and weaknesses of each party's case.

- ◆ Develop an effective case presentation strategy.
- ◆ Prepare a coherent and reasonable submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting which may include a contested bail application; making a submission of no case to answer; a trial, a voire dire hearing and a plea in mitigation.
- ◆ Understand and appreciate the relevant communication skills and techniques used by an advocate.
- ◆ Understand in particular the purpose, technique and tactics of examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence.

and, at the hearing,

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

3. Evidence

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

- ◆ The incidence of the burden and standard of proof.
- ◆ The rules relating to competence and compellability of the accused and all other witnesses.
- ◆ The ways in which evidence may be adduced.
- ◆ The rules relating to memory refreshing.
- ◆ The rules relating to hostile and unfavourable witnesses.
- ◆ The rules relating to admissibility and weight to be attached to prior consistent statements and to impugning the testimony of witnesses by their prior inconsistent statements.
- ◆ The rules relating to finality to collateral issues.
- ◆ The rule against hearsay evidence in criminal trials and the operation of common law and statutory exceptions.

- ◆ The admissibility of confessions in criminal trials and the interplay of the provisions of the Police and Criminal Evidence Act 1984 with the Codes of Practice.
- ◆ The extent to which inferences may be drawn under Sections 34 to 37 of the Youth Justice and Public Order Act 1994.
- ◆ The rules relating to the admissibility of and weight to be attached to disputed visual identification evidence.
- ◆ The rules relating to the admissibility of improperly obtained evidence.
- ◆ The statutory rules relating to the admissibility of character evidence of the accused and non-defendants.
- ◆ The rules relating to the admissibility of opinion evidence including expert opinion evidence.
- ◆ The rules relating to the prosecution's disclosure obligations.
- ◆ The rules relating to legal professional privilege.
- ◆ The relevance of human rights issues.

4. Professional Conduct

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

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

Competency standards for Youth Court Proceedings and Handling Vulnerable Witnesses

9. Specialist knowledge of youth justice law and components of the youth justice system.

Advocates should have:

- ◆ knowledge of the role and functions of the youth justice system.
- ◆ an awareness of sentencing guidance and options for children and young persons at court; out of court and diversion provision; bail and remand provisions.
- ◆ an understanding of approaches to questioning children and young persons either as defendants or witnesses.
- ◆ use of The Advocacy Gateway toolkits and guidance on "Achieving Best Evidence".

and be able to apply the above effectively.

10. Communication, engagement and wider social skills.

Advocates should:

- ◆ use straightforward language that their client can understand.
- ◆ be able to explain what a client can expect in and after court.
- ◆ avoid legal jargon.
- ◆ be aware of likely attention and comprehension difficulties amongst children and young persons at court.
- ◆ be able to build a positive relationship to maintain rapport with, and the trust of, their client.

11. Knowledge of children and young persons' needs.

Advocates should:

- ◆ have knowledge and awareness of the needs and backgrounds of clients.
- ◆ be able to identify cultural, educational or social influences/issues.
- ◆ understand the developmental, communication and mental health needs commonly experienced by children and young persons in the youth justice system.
- ◆ be aware of the realities of children and young persons' lives.
- ◆ identify whether additional support is needed, such as an intermediary.

to aid their client's effective participation in court proceedings.

12. Identify and deal with vulnerability

Advocates should:

- ◆ be able to identify when a child or young person might be vulnerable.
- ◆ be able to recognise learning difficulties e.g., speech, language and communication.
- ◆ be aware of potential methods to safeguard and support this type of vulnerable person in court.
- ◆ understand the role of an intermediary and the use of ground rules hearings to plan the questioning of this type of vulnerable witness or defendant.
- ◆ have knowledge of and how to apply for an appropriate range of special measures for defendants under the age of 18.

13. Knowledge and awareness of wider youth justice and children's services

Advocates should:

- ◆ understand the role and value of the Youth Offending Team (YOT) as a source of information about, and support for, young defendants.
- ◆ possess an awareness of diversion options to avoid unnecessary criminalisation.
- ◆ appreciate the scope for engagement with other agencies and key organisations.
- ◆ be aware of available court adaptations and support for children and young persons at court.

14. Professionalism

Advocates should:

- ◆ demonstrate commitment, engagement, thorough case preparation and attention to detail.
- ◆ know where to access practical, evidence-based guidance on the treatment of vulnerable witnesses and defendants such as TAG's toolkits and the pan-profession training for all advocates undertaking cases involving the vulnerable⁶.

⁶ **In the Youth Proceedings Advocacy Review, one of the recommendations referred to:
"The scope for development of a mandatory youth justice module as part of CPD, potentially linked to the vulnerable witness advocacy training currently being developed by HHJ Peter Rook QC."*

APPENDIX 4

ASSESSMENT CRITERIA FOR ADVOCACY SKILLS COURSES

GENERAL

Assessment Criteria

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

Assessment Standard

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

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

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

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

Written Test

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

Resubmissions

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

Professional Conduct

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

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

ASSESSMENT CRITERIA FOR THE CRIMINAL PROCEEDINGS CERTIFICATE

In order to pass the formal advocacy assessments for the Criminal Proceedings Certificate a candidate must demonstrate competence in the following activities.

ACTIVITY	CRITERIA	WEIGHTING %
OPPOSED BAIL APPLICATION		
PREPARATION	- Undertake case analysis - Identify likely prosecution objections to bail	10
CONTENT	The application must: - Deal with each prosecution objection to bail in turn, arguing why the particular ground is not made out by reference to the relevant facts. - Suggest a package of sensible conditions where appropriate - Be legally and factually accurate - Have appropriate reference to legal sources - Use documents appropriately including the client's list of previous convictions where necessary - Observe the rules of professional conduct	30
STRUCTURE	- Clear and logical - Respond to the district judge's / magistrates' questions appropriately	20
DELIVERY	- Clear and fluent - Appropriate language, pace, volume and mannerisms - Referring to notes when required	20
EFFECTIVE PERSUASIVE AND	The extent to which the application influences the court in relation to the grant of bail	20

ACTIVITY	CRITERIA	WEIGHTING %
OPENING SPEECH		
INTRODUCTION	Appropriate “in” line introducing self, opponent and nature of allegation	10
FACTS	Summarise incident, including where relevant what was said by accused on arrest; interview; charge.	15
LAW	▪ Summarises legal principles involved ▪ Indicates areas where a ruling may be necessary [if relevant]	15
DEFENCE	Indicate nature of defence where this is known	15
EVIDENCE	Introduces evidence by reference to the witnesses intend to call [and matters contained in agreed documents / statements where relevant] and the operation of the burden of proof	15
CONCLUSION	Appropriate “out” line	5
GENERAL	▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Avoids overstating case ▪ Deals appropriately with any conduct issues	25

ACTIVITY	CRITERIA	WEIGHTING %
EXAMINATION-IN-CHIEF		
WITNESS DETAILS	Name, address, occupation [leading or non-leading]	5
DIRECTIONS	Where to direct answers, clarity and pace	10
EVIDENCE	- Develops in a chronological/logical order - Covers all relevant issues on which the witness is required and able to comment - Anticipates matters likely to be raised in xx - Produces exhibits/documents appropriately	50
CONCLUDES	Appropriate “out” line including direction to witness to remain for xx	5
GENERAL	- Appropriate range of non-leading questions - Speaks effectively (including not reading from a prepared text) - Maintains suitable court room demeanour - Deals appropriately with any conduct issues	30
LEGAL SUBMISSIONS		
PREPARATION	- Undertake case analysis - Perform appropriate legal research	10
CONTENT	The application / response must: - Be appropriate and relevant - Be legally, procedurally, evidentially and factually accurate - Reference to legal sources - Use documents where necessary - Observe the rules of professional conduct	30
STRUCTURE	- Clear and logical - Respond to the district judge’s / magistrates’ questions - Respond to points raised by the prosecution / defence	20
DELIVERY	- Clear and fluent - Appropriate language, pace, volume and mannerisms - Referring to notes when required	20
EFFECTIVE AND PERSUASIVE	The extent to which the application / response influences the court to find for the accused / prosecution	20

ACTIVITY	CRITERIA	WEIGHTING %
CROSS-EXAMINATION		
TECHNIQUES	▪ Leading questions to control witness ▪ Short questions that witness understands ▪ Asks one question at a time ▪ Listens to witnesses answers and makes appropriate notes ▪ Avoids: - Making statements; asking too many questions; introducing irrelevant material; inadvertently attacking the witness's character (if this has implications for bad character evidence); misquoting witness; echoing witness' reply inappropriately	10 10 10 10 10
OBJECTIVES	Does the advocate achieve the following objectives where appropriate: ▪ Obtains favourable information from the witness ▪ Demonstrates that the witness is wrong (mistaken/lying) ▪ Undermines the witnesses' credibility ▪ Puts the accused's / prosecution's case to the witness	30
GENERAL	▪ Appropriate range of leading questions ▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Deals appropriately with any conduct issues	20

ACTIVITY	CRITERIA	WEIGHTING %
CLOSING SPEECH		
ISSUES	Identifies the outstanding issues	20
EVIDENCE	Summarises the evidence appropriately by highlighting the points which ▪ Strengthen accused's case ▪ Weaken prosecution 's case Deals appropriately with unfavourable evidence	30
LAW	Makes appropriate submissions on points of law (with copies of authorities if necessary)	15
CONCLUSION	Appropriate "out" line	5
GENERAL	▪ Speaks effectively (including not reading from a prepared text) ▪ Maintains suitable court room demeanour ▪ Avoids giving evidence/introducing new matters ▪ Responding appropriately to any questions / concerns of the court ▪ Deals with any conduct issues	30

ACTIVITY	CRITERIA	WEIGHTING %
PLEA IN MITIGATION		
PREPARATION	- Identifies likely sentence - Appropriate objective(s)	10
CONTENT	The mitigator must: - Highlight relevant mitigation relating to the commission of the offence - Highlight relevant mitigation relating to the offender's personal circumstances - Recommend a realistic sentence (taking into account sentencing guidelines) - Reference to legal authority where appropriate - Use documents where necessary including record of previous convictions and pre-sentence report - Observe the rules of professional conduct	40
STRUCTURE	- Clear and logical - Respond to the district judge's / magistrates' questions	10
DELIVERY	- Clear and fluent - Appropriate language, pace, volume and mannerisms - Maintains suitable court room demeanour	20
EFFECTIVE AND PERSUASIVE	The extent to which the mitigator influences the court in relation to sentence	20

EVIDENCE

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

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

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

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

CILEx Regulation Practitioner Authorisation Rules

Definitions

1. In these rules, the following definitions apply:

- “Admissions and Licensing Committee” means the Committee established by CILEx Regulation to deal with matters relating to these Rules;
- “Advocacy Certificate” means a Rights of Audience Certificate identified in these Rules;
- “Advocacy Skills Course” means an advocacy skills course approved in accordance with the Rights of Audience Certification Rules;
- “Appeals Panel” means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing;
- “Applicant in good standing” means a person in respect of whose conduct there is no complaint or misconduct matter outstanding, and against whom there is no disciplinary record which, in the view of CILEx Regulation, affects their suitability to be a Chartered Legal Executive or CILEx Practitioner;
- “Authorised person” means a person so described in the Legal Services Act 2007. An authorised person is defined by the Act as “a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity”;
- “Business Certificate” means a Business Certificate identified in these Rules;
- “Certificate of Eligibility” means a Certificate permitting an applicant to undertake an Advocacy Skills Course;
- “Chartered Legal Executive” means a CILEx member authorised by CILEx Regulation to conduct one or more reserved activities (also known as a Fellow of CILEx)
- “Chartered Legal Executive Litigator and Advocate” means a Fellow who has been granted a Litigation Certificate and a Rights of Audience Certificate by CILEx Regulation;
- “CILEx Institute Board” means the Board of the Chartered Institute;
- “CILEx Practitioner” means a person authorised to conduct Probate practice or Conveyancing practice as defined in these rules, but not authorised as a Chartered Legal Executive/Fellow of CILEx;
- “CILEx Regulation” means CILEx Regulation Ltd;
- “CILEx” means the Chartered Institute of Legal Executives;
- “Conveyancing Certificate” means a Conveyancing Certificate identified in these Rules;
- “CPD Regulations” means the Rules of CILEx Regulation which are in place to govern the continuing professional development of Chartered Legal Executives, CILEx Practitioners and members of CILEx;
- “Employment Certificate” means an Employment Certificate identified in these Rules;
- “Enforcement Rules” means the Rules of CILEx Regulation which are in place from time to time and which govern the complaints handling, misconduct investigation and disciplinary procedures of CILEx Regulation;
- “External advisor” means a person appointed by CILEx Regulation to carry out the roles and functions identified for them by CILEx Regulation;
- “Fellow” means a person who has met the requirements of CILEx Regulation (also known as a Chartered Legal Executive) and has paid all subscriptions and other fees to CILEx or has made arrangement for payment;

- “General Certificate” means a General Certificate identified in these Rules;
- “Immigration Advice” means advice which
 - a) Relates to a particular individual;
 - b) Is given in connection with one or more relevant matters;
 - c) Is given by a person who knows that he is giving it in relation to a particular individual and in connection with one or more relevant matters; and
 - d) Is not given in connection with representing an individual before a Court in criminal proceedings or matters ancillary to criminal proceedings;
- “Immigration Certificate” means a certificate authorising a person to provide immigration advice and services, as identified in these Rules;
- “Immigration Services” means the making of representations on behalf of a particular individual:
 - a) In civil proceedings before a Court, Immigration Services Tribunal or Adjudicator in the United Kingdom, or
 - b) In correspondence with a Minister of the Crown or Government department, in connection with one or more of the following matters:
 - (i) A claim for asylum;
 - (ii) An application for, or the variation of, entry clearance or leave to enter or remain in the United Kingdom;
 - (iii) Unlawful entry into the United Kingdom;
 - (iv) Nationality and Citizenship under the law of the United Kingdom;
 - (v) Citizenship of the European Union;
 - (vi) Admission to a Member State under Community Law;
 - (vii) Residence in a Member State in accordance with rights conferred by or under Community Law;
 - (viii) Removal or deportation from the United Kingdom;
 - (ix) An application for bail under the Immigration Act or under the Special Immigration Appeals Commission Act 1997;
 - (x) An appeal against, or an application for judicial review in relation to, any decision taken in connection with a matter referred to in Paragraph (i) to (x);
- “Litigation and Advocacy Certificate” means a litigation and advocacy certificate identified in these Rules;
- “Litigation Certificate” means a litigation certificate identified in these Rules;
- “Practice Certificate” means a “Practice Rights Certificate” or a “Litigation Certificate” or an “Advocacy Certificate” identified in these Rules;
- “Practice Rights Certificate” means a Conveyancing Certificate, Immigration Certificate, Probate Certificate, Employment Certificate, Business Certificate or General Certificate identified in these Rules;
- “Probate Certificate” means a Probate Certificate identified in these Rules;
- “Regulated legal activity” means
 - a) a reserved legal activity;
 - b) immigration advice or immigration services;
- “Reserved legal activity” has the same meaning as in the Act;
- “The Act” means the Legal Services Act 2007;
- “The Officer” means a person with responsibility for the Authorisation Rules.

NOTES ON THESE RULES

2. Reference to the male gender also includes female gender.
3. Words importing the singular include the plural and vice versa.

DELEGATIONS

4. Responsibility for this authorisation scheme is delegated to CILEx Regulation by CILEx.

Fellowship

ELIGIBILITY

5. Applications for Fellowship can only be made by applicants who:
 - are currently in qualifying employment;
 - have at least three years qualifying employment; and
 - have been in qualifying employment for two consecutive years immediately preceding the date of the application.
6. A period of up to 43 weeks spent in attendance on a Legal Practice Course recognised by the Law Society of England and Wales in connection with qualification as a solicitor or the Bar Professional Training Course recognised by the Bar Council in connection with qualification as a Barrister will be treated as qualifying employment.
7. A break in employment for any reason does not count as qualifying employment. Where the break is less than 12 months, it will not break continuity of employment for the purpose of the requirement to serve 2 consecutive years in qualifying employment immediately preceding the date of the application.

DEFINITION OF QUALIFYING EMPLOYMENT

8. A person is in qualifying employment if he is employed either:
 - by an authorised person in private practice;
 - by an organisation where the employment is subject to supervision by an authorised person employed in duties of a legal nature by that organisation; and in either case
 - the work under the terms of his employment is, for at least 20 hours per week, wholly of a legal nature.
9. An applicant for Fellowship will be regarded as being employed if:
 - he is employed under a contract of service and is engaged on his employer's business for specified hours; or
 - he is a partner in any firm or is an owner of any company; or
 - at the discretion of CILEx Regulation, he is employed under a contract for services, whether he works as an independent contractor or provides services through an intervening agent.
10. Part-time employment may be accepted as qualifying employment, if the work undertaken provides the opportunity for practical expertise to be developed. Part-time employment is

employment for less than 20 hours per week. CILEx Regulation shall have the power to determine that employment for less than 20 hours per week shall be regarded as part-time qualifying employment, where it decides it is appropriate to do so.

11. Unpaid work may be regarded as 'employment' for the purposes of these rules.

ADMISSION

12. An applicant may be admitted as a Fellow if he is in qualifying employment and:

- He has been in qualifying employment for an aggregate of three years or more;
- He has been in qualifying employment for at least two consecutive years immediately preceding the date of the application;
- He has met the Chartered Legal Executive knowledge and competence requirements in accordance with the requirements set by CILEx Regulation;
- He has paid all subscriptions and other fees payable by him to CILEx or has made arrangement for payment;
- He provides an Employer's Endorsement signed by an authorised person within the meaning of the Legal Services Act 2007, or at the discretion of CILEx Regulation, any other person, who supervises his work or by whom he is employed, which confirms the nature of that work and that he is competent to be a Fellow; and
- He accepts any obligations imposed on him by the Charter and Bye Laws and regulations and rules made by the CILEx Institute Board.

APPLICATIONS

13. To qualify as a Fellow, applicants must be able to demonstrate competence against the knowledge and competence requirements set out at Annex A.
14. Applicants for Fellowship should demonstrate meeting the knowledge and competence requirements using the documentation prescribed by CILEx Regulation to produce a portfolio of evidence.
15. Applicants for Fellowship must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.

DECISION MAKING

16. The decision to accept an applicant for Fellowship on the basis of his submitted application and portfolio of evidence may be made by an Officer of CILEx Regulation.
17. The Officer is not able to make a decision the on the following:
 - Where an individual seeks guidance or a decision as to whether or not their employment constitutes qualifying employment and no earlier precedent has been set.
 - Where an individual may be undertaking work which is similar to qualifying employment, but there is no authorised person employed to supervise his work.
 - Applications from individuals who seek to rely on qualifying employment which took place more than three years preceding the date of their application.
 - Where there is doubt about the nature of the work and whether the work constitutes qualifying employment.

- Where there is doubt as to whether the outcomes have been met or have been properly written up.

The Admissions and Licensing Committee will determine applications for Fellowship in accordance with the Membership Requirement Regulations, these rules and the Admissions and Licensing Committee Rules.

Practice Rights

ELIGIBILITY

Immigration Certificate

18. An applicant in good standing who
- is applying for Fellowship, and
 - has three years' general legal experience including immigration practice experience in the two years preceding the application,
- may apply to CILEx Regulation to be granted an Immigration Certificate.
19. The immigration practice rights exercisable by a person holding an Immigration Certificate are to provide immigration advice and immigration services.

Conveyancing Certificate

20. An applicant in good standing who
- has three years' general legal experience including conveyancing practice experience in the two years preceding the application, or
 - is applying for Fellowship and has three years' general legal experience including conveyancing practice experience in the two years preceding the application,
- may apply to CILEx Regulation to be granted a Conveyancing Certificate.
21. The Conveyancing Certificate will authorise a person to exercise reserved instrument rights. The reserved instrument rights exercisable by a person holding a Conveyancing Certificate are to:
- a) Prepare any instrument of transfer or charge for the purposes of the Land Registration Act 2002;
 - b) Make an application or lodge a document for registration under that Act;
 - c) Prepare any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to Court proceedings in England and Wales.
- Instrument includes a contract for the sale or other disposition of land (except a contract to grant a short lease), but does not include
- a) A will or other testamentary instrument,
 - b) An agreement not intended to be executed as a Deed, other than a contract that is included by virtue of the preceding provisions of this sub paragraph,

- c) A letter or Power of Attorney, or
- d) A transfer of stock containing no trust or limitation of the transfer.

“A short lease” means a lease referred to in Section 54(2) of the Law of Property Act 1925.

Probate Certificate

22. An applicant in good standing who
- has three years’ general legal experience including probate practice experience in the two years preceding the application, or
 - is applying for Fellowship and has three years’ general legal experience including probate practice experience in the two years preceding the application,
- may apply to CILEx Regulation to be granted a Probate Certificate.
23. The practice rights exercisable by a person holding a Probate Certificate are to prepare any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales. Probate papers mean any papers on which to found or oppose a grant of probate or a grant of letters of administration.

Employment Certificate

24. An applicant in good standing who
- is applying for Fellowship, and
 - has three years’ general legal experience including employment practice experience in the two years preceding the application
- may apply to CILEx Regulation to be granted an Employment Certificate.
25. The Employment Certificate will authorise a person to exercise rights to administer oaths.

Business Certificate

26. An applicant in good standing who
- is applying for Fellowship, and
 - has with three years’ general legal experience including business practice experience in the two years preceding the application
- may apply to CILEx Regulation to be granted a Business Certificate.
27. The Business Certificate will authorise a person to exercise rights to administer oaths.

General Certificate

28. An applicant in good standing who
- is applying for Fellowship,
 - and has three years’ general legal experience, including experience in a distinct area of practice in the two years’ preceding the application,
- may apply to CILEx Regulation to be granted a General Certificate.
29. The General Certificate will authorise a person to exercise rights to administer oaths.

APPLICATIONS

30. Applicants who seek a Practice Rights Certificate should demonstrate meeting the knowledge and competence requirements by using the documentation prescribed by CILEx Regulation to produce a portfolio of evidence.
31. Applicants who seek a Practice Rights Certificate must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.

Immigration Certificate

32. Applicants who seek an Immigration Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 4 in accordance with the application guidelines set by CILEx Regulation.

Conveyancing Certificate

33. Applicants who seek a Conveyancing Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 5 in accordance with the application guidelines set by CILEx Regulation.

Probate Certificate

34. Applicants who seek a Probate Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 6 in accordance with the application guidelines set by CILEx Regulation.

Employment Certificate

35. Applicants who seek an Employment Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 7 in accordance with the application guidelines set by CILEx Regulation.

Business Certificate

36. Applicants who seek a Business Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 8 in accordance with the application guidelines set by CILEx Regulation.

General Certificate

37. Applicants who seek a General Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 9 in accordance with the application guidelines set by CILEx Regulation.

DECISION MAKING

38. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for matters relating to these Rules.
39. In making any assessment or decision required by these Rules, the Admissions and Licensing Committee shall have regard to the relevant eligibility criteria, application guidelines, and the knowledge and competence requirements.
40. CILEx Regulation shall appoint external advisors to advise CILEx Regulation and the Admissions and Licensing Committee on matters relating to these Rules.
41. CILEx Regulation will consider an application for a Practice Rights Certificate to ensure it meets the relevant eligibility criteria, the application guidelines and the related knowledge and competence requirements.
42. The decision to approve an application for a Practice Rights Certificate may be made by an Officer of CILEx Regulation. In reaching their decision, the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
43. The portfolios which form part of the application may be sent to an external advisor for assessment. The external advisor will assess whether the portfolios meet the application guidelines and the relevant knowledge and competence requirements.
44. Where the external advisor finds that the portfolios are satisfactory, the CILEx Regulation Officer will decide whether the application may be approved. In reaching their decision, the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
45. Where the external advisor decides that the portfolios do not meet the relevant knowledge and competence requirements they will give reasons for their decision. They 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 their application, amend and re-submit their application or make further representation and ask that the full application be referred to the Admissions and Licensing Committee to consider.
46. The Admissions and Licensing Committee will decide whether or not an application 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.
47. The Admissions and Licensing Committee may:
 - Approve the application;
 - Decide that the applicant does not meet the criteria and indicate which of the criteria the applicant does not meet.
48. The Officer will notify an applicant of their decision or the decision of the Admissions and Licensing Committee.

49. Where the application has been approved, the notification shall include the Practice Rights Certificate.
50. Where the application is unsuccessful, the notification shall set out the reasons and any pre-conditions to the consideration of any subsequent application. Where an application is unsuccessful, the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.

Litigation and Advocacy Practice Rights

ELIGIBILITY

51. An applicant in good standing who
 - is applying for Fellowship, and
 - has three years' general legal experience including relevant litigation and advocacy experience in the two years preceding the application,may apply to CILEx Regulation to be granted one or more of the following Certificates:
 - A Rights to Conduct Litigation (Civil Proceedings) Certificate;
 - A Rights to Conduct Litigation (Family Proceedings) Certificate;
 - A Rights to Conduct Litigation (Criminal Proceedings) Certificate.
52. An applicant must, at the same time as their application for a Litigation Certificate, apply to CILEx Regulation to be granted one or more of the following Rights of Audience Certificates which relate to the same proceedings as the Litigation Certificate:
 - A Rights of Audience (Civil Proceedings) Certificate in Judge's Room;
 - A Rights of Audience (Family Proceedings) Certificate in Judge's Room;
 - A Rights of Audience (Civil Proceedings) Certificate;
 - A Rights of Audience (Family Proceedings) Certificate;
 - A Rights of Audience (Criminal Proceedings) Certificate.
53. The Rights to Conduct Litigation exercisable by a person holding a Litigation Certificate are set out below:
 - Rights to Conduct Litigation (Civil Proceedings) Certificate: To conduct litigation in all civil proceedings excluding family proceedings;
 - Rights to Conduct Litigation (Family Proceedings) Certificate: To conduct litigation in all family proceedings;
 - Rights to Conduct Litigation (Criminal Proceedings) Certificate: To conduct litigation in all criminal proceedings.
54. The rights of audience exercisable by a person holding an Advocacy Certificate are set out below:
 - Rights of Audience (Civil Proceedings) Certificate in Judge's Room:
 - to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings.
 - Rights of Audience (Civil Proceedings) Certificate:
 - to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings;

- o to appear in open Court in the County Court in all actions, except family proceedings;
 - o to appear before Magistrates, District Judges (Magistrates' Court) or Justices' Legal Advisers in the Magistrates' Courts in relation to all civil and enforcement matters;
 - o to appear before any tribunal having jurisdiction in England and Wales, which is listed in Schedule 6 of the Tribunals, Courts and Enforcement Act 2007 (as amended or substituted from time to time) where the tribunal rules provide for a non-discretionary right of audience being available to barristers, solicitors and CILEx advocates;
 - o 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. A Civil Proceedings Certificate does not confer a right of audience in any proceedings for which a Family Proceedings Certificate is required.
- Rights of Audience (Family Proceedings) Certificate in Judge's Room:
 - o to exercise rights of audience in Judge's room hearings in the Family Court and High Court, except reserved proceedings, in all family proceedings.
- Rights of Audience (Family Proceedings) Certificate:
 - o to exercise rights of audience in Judge's room hearings in the Family Court and High Court, in all family proceedings;
 - o to appear in the Family Court in all proceedings;
 - o 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.
- Rights of Audience (Criminal Proceedings) Certificate:
 - o to appear before Justices Clerks, Justices or a District Judge (Magistrates' Court) in all adult Magistrates' Courts in relation to all matters within that Court's criminal jurisdiction;
 - o to appear before Justices Clerks, Justices or a District Judge (Magistrates' Court) in all Youth Courts in relation to all matters within that Court's criminal jurisdiction;
 - o to appear in the Crown Court or High Court before a judge in chambers to conduct bail applications;
 - o 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 they, or any approved person in the same employment as them, appeared on behalf of the defendant in the Magistrates' Court or Youth Court;
 - o 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.

APPLICATIONS

Rights to Conduct Litigation Certificates

55. Applicants who seek a Rights to Conduct Litigation (Civil Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 1, in accordance with the application guidelines set by CILEx Regulation.
56. Applicants who seek a Rights to Conduct Litigation (Criminal Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 2, in accordance with the application guidelines set by CILEx Regulation.
57. Applicants who seek a Rights to Conduct Litigation (Family Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 3, in accordance with the application guidelines set by CILEx Regulation.
58. Applicants who seek a Litigation Certificate should demonstrate meeting the knowledge and competence requirements by using the documentation prescribed by CILEx Regulation to produce a portfolio of evidence.

Rights of Audience – Application for Certificate of Eligibility

59. Applicants must make an application for a Certificate of Eligibility to undertake the rights of audience skills course relevant to the Certificate they seek.
60. Applicants who seek a Rights of Audience (Civil Proceedings) Certificate in Judge's room or a Rights of Audience (Civil Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 1, in accordance with the application guidelines set by CILEx Regulation.
61. Applicants who seek a Rights of Audience (Criminal Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 2, in accordance with the application guidelines set by CILEx Regulation.
62. Applicants who seek a Rights of Audience (Family Proceedings) Certificate in Judge's Room or a Rights of Audience (Family Proceedings) Certificate must demonstrate that they meet the knowledge and competence requirements set out at Annex 3, in accordance with the application guidelines set by CILEx Regulation.
63. Applicants who seek a Certificate of Eligibility should demonstrate meeting the knowledge and competence requirements by using the documentation prescribed by CILEx Regulation to produce a portfolio of evidence.
64. Where an applicant who has met the criteria set out in the application guidelines, the relevant knowledge and competence requirements, and has completed an advocacy skills course and qualification which is of a similar standard they may seek an exemption from the requirement to undertake the advocacy skills course and assessment. In making such an application for exemption, the applicant will be required to provide an outline of the advocacy skills course and assessment they completed, along with the results they obtained. CILEx Regulation will assess whether the course and assessment meet the advocacy skills course and assessment criteria set out in the Rights of Audience Qualification Scheme. An exemption will be granted where an applicant is able to demonstrate that the course and assessment covered at least 50% of the course outcomes and assessment criteria set out in the Rights of Audience Qualification Scheme. Where an applicant is unable to demonstrate that they meet the course

outcomes and assessment criteria, they will be required to complete the advocacy skills course and assessment.

65. An application for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience shall be made on such a form as may be prescribed for the purpose by CILEx Regulation and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.

Decision making

66. Decisions about applications for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience will be governed by Rules 41 to 48, save that in Rule 41, reference to Practice Rights Certificate should be a reference to a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience.
67. Where the application has been approved the notification shall include the Certificate(s) of Eligibility for Rights of Audience and an indication that the Rights to Conduct Litigation Application has been approved. The Certificate of Eligibility for Rights of Audience will specify which of the advocacy skills course options the applicant may take. The Litigation Certification may only be granted on the successful completion of the associated Rights of Audience skills course and assessment, and admission as a Fellow.
68. Where the application is unsuccessful, the notification shall set out the reasons and any preconditions to the consideration of any subsequent application. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.

Advocacy Skills Courses

69. Upon receiving a Certificate of Eligibility an applicant will complete a Judge's room or full advocacy skills course in accordance with the Rights of Audience they seek.
70. Courses must meet the qualification criteria which are set out in the Rights of Audience Qualification Scheme. Courses will be assessed in accordance with the assessment criteria which are set out in the Rights of Audience Qualification Scheme. Advocacy skills courses will be provided by course providers who are accredited by CILEx Regulation in accordance with the Rights of Audience Certification Rules.
71. Where an applicant fails to start an advocacy skills course within 12 months of being granted a Certificate of Eligibility, they must make a fresh application for such a Certificate before they may start an advocacy skills course. In exceptional cases the Admissions and Licensing Committee or the CILEx Regulation Officer may exercise discretion to extend the duration of a Certificate of Eligibility.

AWARD OF LITIGATION AND ADVOCACY CERTIFICATE

72. Upon successfully demonstrating that they meet the criteria for a Rights to Conduct Litigation Certificate and successful completion of the Judge's room or full advocacy course an applicant may apply for a Litigation and Advocacy Certificate.

73. Applicants who seek a Litigation and Advocacy Certificate must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.
74. The Officer will process the application for a Litigation and Advocacy Certificate. The applicant shall be granted a Litigation and Advocacy Certificate provided the Officer is satisfied that the applicant:
 - is a Fellow in good standing;
 - has met the relevant knowledge and competence requirements; and
 - has completed and passed an advocacy skills course and assessment.
75. Where the Officer has any doubt as to the suitability of the applicant to be awarded a Litigation and Advocacy Certificate they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
76. Applications referred to the Admissions and Licensing Committee will be governed by Rules 46-47.
77. Notification of application decisions will be governed by Rules 48-50, save that in Rule 49 reference to Practice Rights Certificate should be a reference to the Litigation and Advocacy Certificate.

Authorised Persons at CILEx Regulation

78. An applicant who has been awarded Fellowship and a Litigation and Advocacy (Civil Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Civil Litigation)**.
79. An applicant who has been awarded Fellowship and a Litigation and Advocacy (Criminal Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Criminal Litigation)**.
80. An applicant who has been awarded Fellowship and a Litigation and Advocacy (Family Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Family Litigation)**.
81. An applicant who has been admitted as a Fellow and awarded an Immigration Certificate will be known as a **Chartered Legal Executive (Immigration)**.
82. An applicant who has been admitted as a Fellow and awarded a Conveyancing Certificate will be known as a **Chartered Legal Executive (Conveyancing)**.
83. An applicant who has been admitted as a Fellow and awarded a Probate Certificate will be known as a **Chartered Legal Executive (Probate)**.
84. An applicant who has been awarded a Conveyancing Certificate will be known as a **CILEx Practitioner (Conveyancing)**.
85. An applicant who has been awarded a Probate Certificate will be known as a **CILEx Practitioner (Probate)**.
86. An applicant who has been admitted as a Fellow and awarded an Employment Certificate will be known as a **Chartered Legal Executive (Employment)**.
87. An applicant who has been admitted as a Fellow and awarded a Business Certificate will be known as a **Chartered Legal Executive (Business)**.

88. An applicant who has been admitted as a Fellow and awarded a General Certificate will be known as a **Chartered Legal Executive**.

RENEWAL OF ADVOCACY CERTIFICATES

89. The first Advocacy Certificate issued to a Chartered Legal Executive Litigator and Advocate 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 indefinitely.
90. Applicants who seek first renewal of an Advocacy certificate must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.
91. An applicant for first renewal of an Advocacy certificate must be able to demonstrate he meets the relevant knowledge and competence requirements using documentation prescribed by CILEx Regulation to produce a portfolio of evidence. Criminal advocates will also be required, as part of their CPD requirements, to undertake and evidence completion of vulnerable witness training as stipulated by CILEx Regulation as part of their first Advocacy Certificate renewal.
92. Decisions about applications for the first renewal of an Advocacy Certificate will be governed by Rules 42 to 50, save that in Rule 49, reference to Practice Rights Certificate should be a reference to the Advocacy Certificate.

LAPSED ADVOCACY CERTIFICATES

93. A Chartered Legal Executive Litigator and Advocate who has held a Litigation and Advocacy Certificate which has lapsed may apply for that certificate to be renewed.
94. Applicants who seek renewal of a lapsed Litigation and Advocacy certificate must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.
95. An applicant for renewal of a lapsed Litigation and Advocacy certificate must be able to demonstrate he meets the relevant knowledge and competence experience requirements using documentation prescribed by CILEx Regulation to produce a portfolio of evidence.
96. CILEx Regulation will consider an application to renew a lapsed Litigation and Advocacy Certificate to ensure it meets the relevant eligibility criteria, the application guidelines and the related knowledge and competence requirements.
97. Decisions about applications to renew a lapsed Litigation and Advocacy Certificate will be made by the Admissions and Licensing Committee.
98. The portfolios which form part of the application may be sent by the Officer to an external advisor for assessment. The external advisor will assess whether the portfolios meet the application guidelines and the relevant knowledge and competence requirements.
99. Where the Officer/external advisor finds that the portfolios are satisfactory, the Officer will refer the application to the Admissions and Licensing Committee for decision.
100. Where the Officer/external advisor decides that the portfolios do not meet the relevant knowledge and competence requirements they will give reasons for their decision. They 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 their application, amend and re-submit their application or make further representation and ask that the full application be referred to the Admissions and Licensing Committee to consider.

101. Applications to renew of a lapsed Litigation and Advocacy certificate referred to the Admissions and Licensing Committee will governed by rules 46 to 50 save that in rule 49 reference to a Practice Rights Certificate should be reference to the Litigation and Advocacy Certificate.
102. A lapsed Litigation and 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.
103. Where a Litigation and Advocacy Certificate which has lapsed is renewed by the Admissions and Licensing Committee it will be valid indefinitely.

CONTINUING PROFESSIONAL DEVELOPMENT

104. Chartered Legal Executives and CILEx Practitioners are required to undertake Continuing Professional Development (CPD) in accordance with the CPD regulations issued by CILEx Regulation from time to time.
105. Where a Chartered Legal Executive or CILEx Practitioner's Practice Certificate has been withdrawn for 12 months or more, on the basis that they have not met their CPD requirements, they will be required to make a fresh application for a Practice Certificate in accordance with these Rules.

DISCIPLINARY PROCEDURES AND CODE OF CONDUCT

106. Chartered Legal Executives and CILEx Practitioners will be required to abide by the Code of Conduct of CILEx for the time being in force. They will also be bound by the associated regulatory arrangements in force from time to time.
107. Where a complaint is made, or an issue is brought to the attention of CILEx Regulation, regarding the conduct of a Chartered Legal Executive or CILEx Practitioner, that matter will be dealt with in accordance with the CILEx Regulation Enforcement Rules.
108. Where a finding, order or decision is made against a Chartered Legal Executive or CILEx Practitioner, that finding, order or decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Chartered Legal Executive or CILEx Practitioner remains a suitable person to hold a Practice Certificate. The Admissions and Licensing Committee must give reasons for its decision.
109. Rule 108 shall not apply where an order is made excluding a Chartered Legal Executive or CILEx Practitioner from registration of CILEx Regulation or membership of CILEx. In such a case the Chartered Legal Executive or CILEx Practitioner's Practice Certificate shall be invalid from the date the exclusion from membership or registration takes effect.
110. Where the Admissions and Licensing Committee decides that the Chartered Legal Executive or CILEx Practitioner is no longer a suitable person to hold a Practice Certificate or their Practice Certificate is invalid in accordance with Rule 108, they must return their Practice Certificate to CILEx Regulation within 28 days of them being notified of the decision. Failure to do so will constitute a disciplinary offence. The Chartered Legal Executive or CILEx Practitioner may not

exercise any practice rights granted to them under their Practice Certificate after they have been notified of the decision.

111. Notwithstanding the Admissions and Licensing Committee Rules an appeal against the decision of the Admissions and Licensing Committee that a Chartered Legal Executive or CILEx Practitioner is no longer a suitable to hold a Practice Certificate will be considered by a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on CILEx Regulation's Appeals Panel.

Annexes

Annex A: Chartered Legal Executive knowledge and competence requirements

Annex 1: Chartered Legal Executive Litigator and Advocate (Civil Litigation)

Annex 2: Chartered Legal Executive Litigator and Advocate (Criminal Litigation)

Annex 3: Chartered Legal Executive Litigator and Advocate (Family Litigation)

Annex 4: Chartered Legal Executive (Immigration)

Annex 5: Chartered Legal Executive (Conveyancing)

Annex 6: Chartered Legal Executive (Probate)

Annex 7: Chartered Legal Executive (Employment)

Annex 8: Chartered Legal Executive (Business)

Annex 9: Chartered Legal Executive

ANNEX A - Chartered Legal Executive knowledge and competence requirements

Technical knowledge requirements

General knowledge requirements for all Chartered Legal Executives / Fellows

Minimum content:

Stage 1

- Introduction to law and legal practice
- Introduction to dispute resolution
- Introduction to conveyancing
- Introduction to criminal practice
- Introduction to wills and probate
- Introduction to public law
- Introduction to equality and human rights law
- Introduction to legal technology
- Conduct and professional ethics

Stage 2

- Contextualised legal technology
- Conduct and professional ethics

Chartered Legal Executive

- Basic accounts
- Specialist legal technology
- Conduct and professional ethics

Knowledge requirements specific to a Chartered Legal Executive

Minimum Content:

This will depend on the distinct area of practice in which Chartered Legal Executive status is sought, but the minimum requirements will be:

- Law element: set and assessed at Level 6, comprising not less than 15 credits (approximately 150 hours of guided learning)
- Practice element: set and assessed at Level 6, comprising not less than 15 credits (approximately 150 hours of guided learning)

Competence requirements

Application of law and practice

- Undertake legal research
- Critically analyse facts and law
- Synthesise all relevant information
- Find solutions
- Draft legal documents

Communication

- Communicate orally and in writing clearly and effectively
- Negotiate effectively
- Advocate (formally or informally as appropriate)
- Develop, maintain and manage 3rd party relationships

Client relationship

- Take instructions
- Evaluate options and risks to the client
- Communicate advice
- Manage expectations
- Provide good customer service

Effective working practices

- Progress matters
- Plan workload and manage files
- Caseload management
- Understand and utilise innovation

Business awareness

- Identify and evaluate options and risks
- Undertake business development
- Network
- Identify marketing opportunities
- Understand and use financial management tools

Self development

- Reflect and self-evaluate, including understanding your own limitations and the need for adaptability.
- Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients.
- Foster personal physical and mental wellbeing and contribute where possible to a positive workplace environment.
- Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements.
- Demonstrate leadership and management skills (optional).

Conduct, ethics and professionalism

- Identify, understand and put into practice the CILEx Regulation Code of Conduct
- Identify, understand and put into practice all relevant legal and regulatory requirements (e.g. data protection)
- Understand and put into practice the principles of client care
- Provide certainty and clarity as to the legal services being provided and the basis of charging
- Understand and put into practice complaint handling requirements
- Understand and put into practice, principles of equality and diversity, including the needs of vulnerable consumers
- Identify situations where ethical, legal or regulatory requirements are engaged and take appropriate action

- Resist pressure to condone, ignore or act unethically

Use of technology

- Use available technology
- Identify uses for emerging technology and recommend implementation appropriately
- Understand ethical challenges of technology and use technology ethically



ASSOCIATE PROSECUTOR RIGHTS OF AUDIENCE AND LITIGATION CERTIFICATION RULES

June 2021

ASSOCIATE PROSECUTOR RIGHTS OF AUDIENCE AND LITIGATION CERTIFICATION RULES

DEFINITIONS

1. In these Rules, except where otherwise indicated:

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

"Appeal Panel" means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing.

"The Admissions and Licensing Committee" means the Committee established under the Admissions and Licensing Committee Rules;

"Associate Prosecutor member of CILEX in good standing" means a member of CILEX registered in the Associate Prosecutor grade whose subscriptions to CILEX are fully paid, whose CPD is up to date, 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 an Associate Prosecutor;

"Certification Rules" means the Associate Prosecutor Rights of Audience and Litigation Certification Rules;

"CILEX" means The Chartered Institute of Legal Executives;

"Course provider" means a teaching or training organisation which has been approved under these Rules to provide Associate Prosecutor qualification courses;

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

"Enforcement Rules" means the rules of CILEx Regulation which are in place from time to time and which govern the complaints handling and disciplinary procedures of CILEx Regulation;

"The Officer" means the CILEx Regulation officer with responsibility for the Associate Prosecutor qualification scheme;

"Qualification course" means a Foundation Course, Advocacy Skills Course or other course approved for the purposes of these Rules by CILEX;

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

2. In accordance with its powers under the Charter Bye Laws CILEX will delegate to CILEx Regulation responsibility for the rights of audience and litigation qualification scheme for Associate Prosecutors.

THE RIGHTS OF AUDIENCE AND LITIGATION CERTIFICATES

3. An Associate Prosecutor member of CILEX in good standing may apply to be granted the following Certificates:
 - (a) A Level 1 Rights of Audience and Litigation Certificate in Criminal Proceedings (Level 1 Certificate);
 - (b) A Level 2 Rights of Audience and Litigation Certificate in Criminal Proceedings (Level 2 Certificate).
92. The rights exercisable by Associate Prosecutors holding these Certificates are set out below:

Level 1 Rights of Audience and Litigation Certificate in Criminal Proceedings

(e) Rights of audience:

- to appear before Justices or a District Judge in the magistrates' courts (including the youth court) to prosecute all proceedings against all adult and youth offenders, including bail applications and applications in relation to bail, where the CPS is the prosecuting authority except:
 - o Trials;
 - o Newton Hearings;
 - o Special Reasons Hearings;
 - o Contested Preventative Civil Orders; and
 - o Contested Binding Over proceedings.
- to appear in the Crown Court before a judge to conduct a bail application where the CPS is the prosecuting authority.

(f) Litigation rights:

to exercise the powers of a Crown Prosecutor to conduct a case outside court, namely:

- review of a prosecution case by applying the Code for Crown Prosecutors; and
- other casework functions necessary to progress prosecution cases that fall within an Associate Prosecutor statutory remit, namely –
 - to decide appropriate bail conditions and objections to bail in magistrates' courts and youth court proceedings;
 - to decide whether to discontinue a case in magistrates' courts and youth courts proceedings;
 - to make disclosure decisions in proceedings in the magistrates' courts and youth courts;
 - to decide witnesses to give live evidence, to serve statements under section 9 of the Criminal Justice Act 1967, to tender to the defence and any evidence which can be adduced by way of a section 10

admission, and drafting such admissions, in magistrates' courts and youth court trials and other contested hearings;

- to decide the appropriateness of pleas and bases of plea in magistrates' courts and youth court proceedings;
- to amend a charge or summons, prefer a new charge or drop a charge in magistrates' courts and youth court proceedings; and
- to decide whether to apply, vary or discharge a civil preventative order in magistrates' courts and youth court proceedings.

Level 2 Rights of Audience and Litigation Certificate in Criminal Proceedings

(a) advocacy rights to appear before Justices or a District Judge in the magistrates' courts (including the youth court) to prosecute all proceedings against all adult and youth offenders, including bail applications and applications in relation to bail, where the CPS is the prosecuting authority except trials in either-way offences or trials for summary offences which are punishable with imprisonment in the case of persons aged 21 or over; and

(b) litigation rights

to exercise the powers of a Crown Prosecutor to conduct a case outside court, namely:

- review of a prosecution case by applying the Code for Crown Prosecutors; and
- other casework functions necessary to progress prosecution cases that fall within an Associate Prosecutor statutory remit, namely –
 - to decide appropriate bail conditions and objections to bail in magistrates' courts and youth court proceedings;
 - to decide whether to discontinue a case in magistrates' courts and youth courts proceedings;
 - to make disclosure decisions in proceedings in the magistrates' courts and youth courts;
 - to decide witnesses to give live evidence, to serve statements under section 9 of the Criminal Justice Act 1967, to tender to the defence and any evidence which can be adduced by way of a section 10 admission, and drafting such admissions, in magistrates' courts and youth court trials and other contested hearings;
 - to decide the appropriateness of pleas and bases of plea in magistrates' courts and youth court proceedings;
 - to amend a charge or summons, prefer a new charge or drop a charge in magistrates' courts and youth court proceedings; and
 - to decide whether to apply, vary or discharge a civil preventative order in magistrates' courts and youth court proceedings.

93. A person who is registered as an Associate Prosecutor member of CILEX when these Rules come into effect may exercise all the rights of audience and litigation appropriate to the Certificate he holds, as described in Rule 3 above.

SELECTION

94. CPS Areas will advertise vacancies for posts of Level 1 or Level 2 Associate Prosecutor. Any employee who meets the selection criteria may apply. Vacancies may be advertised externally.
95. Applicants will undergo a selection process, at the conclusion of which applicants will be selected by a selection panel to undergo the Associate Prosecutor qualification programme. The selection panel will comprise a job sponsor and at least one other CPS employee.
96. The selection process will involve:
 - Completion of an application form;
 - Application form shortlist;
 - Case study presentation; and
 - Interview.
97. The process will test the skills required in the person specification for an Associate Prosecutor role. Each aspect of the selection process will assess competencies of applicants. The Level 1 and 2 Associate Prosecutor person specifications, which appear at **appendix 1** outline the competencies tested at each stage of the recruitment process.
98. Applicants will be marked using a scale of 1 to 5 with 1 being not met and 5 being consistently met including providing detailed relevant evidence across the criteria that are measured. Applicants will be expected to achieve at least a score of 3 against each competency which denotes that applicants provided relevant information and that minimum standards are evidenced across most criteria that are measured.
99. All applicants will complete a written application from which they will be short listed. Applicants who are short listed at the application form stage will proceed to the case study presentation and interview stages.
100. At the case study stage, applicants will prepare a case as if they were to prosecute it in court as an Associate Prosecutor. After the presentation applicants will be asked questions on the presentation by an interview panel. The presentation will be assessed by the selection panel using a standardised assessment sheet determining whether the applicant meets the required standard.
101. Applicants will then proceed to an interview stage. During the interview stage applicants will be asked questions designed to test each competency from the person specification.
102. The selection panel will select suitable candidates at the conclusion of the process to undergo the Associate Prosecutor training.

LEVEL 1 ASSOCIATE PROSECUTOR

103. Each trainee Associate Prosecutor will be assigned to a mentor who will be either an experienced Associate Prosecutor or a Crown Prosecutor. The trainee Associate Prosecutor will shadow the mentor, and other experienced Crown Prosecutors, for the purposes of observing them at court. Trainee Associate Prosecutors will be provided with a list of hearings that they should observe before commencing the training courses. A copy of the observation grid appears at **appendix 2**.

104. The trainee also is required to download the Associate Prosecutor Manual from the CPS Infonet. They must read the Manual prior to attendance on the Foundation Course.
105. Associate Prosecutor trainees will then attend a Foundation Course, designed to develop their knowledge of the law and procedure for the offences they will encounter as a qualified Associate Prosecutor. The Foundation Course will meet the course outcomes which appear at **appendix 3**.
106. After completing the Foundation Course, trainee Associate Prosecutors will return to their CPS Areas and continue undertaking observations and maintaining contact with their mentor.
107. Associate Prosecutor trainees will then undertake the Trial Preparation Course which will conclude with an assessment of trial preparation skills. The course will meet the course outcomes which appear at **appendix 3** and trainees will be assessed against the assessment criteria which appear at **appendix 4**.
108. Associate Prosecutor trainees will next undertake an Advocacy Skills Course which will conclude with an assessment of advocacy skills. The Advocacy Skills Course will meet the course outcomes which appear at **appendix 3**. The assessment must meet the assessment criteria which appear at **appendix 4**.
109. Upon successful completion of the Trial Preparation, and Advocacy Skills Courses and assessments the trainee will have qualified as an Associate Prosecutor and will make an application to CILEX to be registered as an Associate Prosecutor member.
110. The application shall be made on such a form as may be prescribed for the purpose by CILEX and shall be accompanied by such fee as may be fixed by CILEX from time to time.
111. CILEX will receive and consider the application. Applications will be processed by CILEX officers. Applicants will be registered as Associate Prosecutor members of CILEX if they are of good standing, are employed by the CPS in the Associate Prosecutor role and have successfully completed the Associate Prosecutor qualification process. An applicant may not be deployed by the CPS as an Associate Prosecutor until they have been successfully enrolled with CILEX and thereby authorised by CILEX to exercise the rights of audience and litigation exercisable under the Level 1 Certificate.
112. The Officer will notify an applicant in writing of the decision. Where the application has been approved the notification shall include confirmation that the applicant has been registered as an Associate Prosecutor and may exercise the powers awarded under the Level 1 Certificate. Where the application is unsuccessful, the notification shall set out the reasons and any preconditions to the consideration of any subsequent application. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.
113. Approximately 4 to 6 weeks after designation the Associate Prosecutor will undertake a Bail Course. The course will meet the course outcomes which appear at **appendix 3**. Prior to attendance on the course applicants will observe bail hearings. A copy of the observation grid appears at **appendix 2**. The courses will be assessed against assessment criteria which appear at **appendix 4**. Associate Prosecutors may not undertake bail applications until they are assessed as competent to do so.

114. Subsequently the Associate Prosecutor will undertake a Youth Course and a Youth Bail course which will conclude with an assessment of advocacy skills in the context of youth hearings. The Youth Course and Youth Bail Course will meet the course outcomes which appear at **appendix 3**. The assessments must meet the assessment criteria which appear at **appendix 4**. Associate Prosecutors may not appear in the Youth court or deal with youth bail applications until they are assessed as competent to do so.

LEVEL 2 ASSOCIATE PROSECUTOR

115. CPS Areas will determine and advertise vacancies for Level 2 Associate Prosecutor posts. Experienced Level 1 Associate Prosecutors may apply to become Level 2 Associate Prosecutors.
116. All applicants will complete a written application from which they will be short listed. At the shortlist stage applicants will be marked as to whether their application includes examples and evidence of how they meet the competence criteria for the Level 2 Associate Prosecutor post. Applicants who are short listed at the application form stage will proceed to the case study presentation and interview stages.
117. At the case study stage, applicants will prepare a case as if they were to prosecute it in court.
118. After the presentation candidates will be asked questions on the presentation by a selection panel. The selection panel will comprise a job sponsor and at least one other CPS employee. The presentation will be assessed by the selection panel using a standardised assessment sheet determining whether the applicant meets the required standard.
119. Applicants will then proceed to an interview stage. During the interview stage applicants will be asked questions designed to test each competency from the person specification for Level 2 Associate Prosecutors.
120. The panel will select suitable candidates at the conclusion of the process to undergo the Level 2 Associate Prosecutor training.
121. Associate Prosecutors will be assigned to a mentor who will be an experienced Crown Prosecutor. The Associate Prosecutor will shadow their mentor and other experienced Crown Prosecutors for the purposes of observing the cases that appear in their observation grid, a copy of which appears at **appendix 5**. Associate Prosecutors are required to reflect upon the cases that they observe and complete a reflective learning log.
122. Associate Prosecutors will attend an Induction Day during which the Level 2 qualification programme, e-learning modules and assessment format will be explained to them.
123. Associate Prosecutors will study the e-learning modules which cover the course of the trial, questioning skills, hearsay, examination in chief and competence and compellability of witnesses. The course outcomes for the pre-course work appear at **appendix 6**.

124. Associate Prosecutors will attend the Foundation Course, which is designed to develop their knowledge of the offences they will encounter in their roles. The course will meet the course outcomes which appear at **appendix 6**.
125. After completing the foundation course Associate Prosecutors will return to their CPS Areas and continue undertaking observations and maintaining contact with their mentor.
126. Associate Prosecutors will return to undertake the Level 2 Advocacy Skills Course which will conclude with an independent assessment of advocacy skills. The Advocacy Skills Course will meet the course outcomes which appear at **appendix 6**. The assessment must meet the assessment criteria which appear at **appendix 7**.
127. Upon successful completion of the courses and assessment the Associate Prosecutor will have qualified as a Level 2 Associate Prosecutor.
128. Level 1 and Level 2 Associate Prosecutors will continue to be designated as Associate Prosecutors as long as they continue to be deployed as such and remain registered as Associate Prosecutor members of CILEX. An Associate Prosecutor who ceases to be deployed as such by the CPS or ceases to be registered as an Associate Prosecutor member of CILEX may not exercise any right of audience or litigation granted to them under these Rules.

ADMISSIONS AND LICENSING COMMITTEE

129. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules will be responsible for the Associate Prosecutor qualification scheme.

EXTERNAL ADVISORS

130. CILEX shall appoint external advisors to advise the Admissions and Licensing Committee and CILEX Regulation on issues relating to Associate Prosecutor training and assessment.
131. When making such appointments CILEX shall take into account the following:
 - ◆ That the person appointed is qualified in criminal litigation and has experience as a criminal practitioner; and
 - ◆ That the person appointed has experience of teaching and assessment of law and legal practice, including criminal advocacy and litigation, at degree or post graduate level.
132. The external advisors will provide advice to the Admissions and Licensing Committee in respect of the following:
 - ◆ the procedures for selecting trainee Associate Prosecutors;
 - ◆ applications to the Admissions and Licensing Committee for the reconsideration of a decision;

- ◆ the structure of Associate Prosecutor qualification 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 shall consider any advice given by the external advisors, but shall not be bound by such advice. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.

133. The external advisors shall carry out inspections of Associate Prosecutor qualification Courses. They shall provide reports on inspections to the Admissions and Licensing Committee which shall be made available to the CPS.
134. The external advisors shall moderate selection and course assessment materials prepared by the CPS and the standards of assessment applied in respect of Associate Prosecutors. They shall report their findings to the Admissions and Licensing Committee and the CPS.
135. The external advisors shall receive notice of meetings of the Admissions and Licensing Committee and may attend such meetings in their advisory capacity.

QUALIFICATION COURSES

136. The Level 1 and Level 2 Associate Prosecutor qualification courses will be provided by the CPS.
137. The Level 1 and Level 2 Associate Prosecutor qualification courses must:
 - ◆ meet the Course Delivery criteria set out at **Appendices 3 and 6**;
 - ◆ be capable of delivering the Course Outcomes set out at **Appendices 3 and 6**; and
 - ◆ include arrangements for assessment of advocacy skills in accordance with the criteria set out in **Appendices 4 and 7**.
138. The CPS shall be responsible for producing materials for qualification courses to facilitate teaching and assessment. Assessment materials produced by the CPS will be subject to moderation by the external advisors.
139. The CPS shall be responsible for carrying out formal assessment of candidates in accordance with the assessment criteria set out in **Appendices 4 and 7** or alternatively it may delegate responsibility for assessment to an independent organisation provided the arrangements meet the assessment criteria at **Appendices 4 and 7**. 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.
140. The CPS shall have in place procedures for considering appeals by candidates against assessments of competence.

141. The CPS will be inspected by CILEx Regulation. The report on the inspection will cover the management and content of courses generally. The inspection may include observation of formal assessments of candidates.
142. The reports of the inspection visits will be made to the Admissions and Licensing Committee. It will make such recommendations as deemed appropriate. The CPS shall receive copies of inspection reports.
143. The CPS 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.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

144. Associate Prosecutors must undertake CPD in accordance with the CPD Regulations.

DISCIPLINARY PROCEDURES AND CODE OF CONDUCT

145. Associate Prosecutors will be required to abide by the Code of Conduct of CILEX for the time being in force. They will also be bound by the Director's Instructions to Associate Prosecutors, Guidance to Chief Crown Prosecutors Concerning Deployment and Supervision and the Statement of Ethical Principles for the Public Prosecutor. They should also have regard to the CPS Code of Conduct and the CPS National Standards of Advocacy.
146. Where a complaint is made or an issue is brought to the attention of CILEX regarding the conduct of an Associate Prosecutor that matter will be dealt with in accordance with the CILEx Regulation misconduct rules.
147. Where a Finding, Order or Decision is made against an Associate Prosecutor under the misconduct rules, that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Associate Prosecutor remains a fit and proper person to hold a Level 1 or 2 Certificate. The Admissions and Licensing Committee must give reasons for its decision.
148. **Rule 59** shall not apply where an Order is made by the Disciplinary Tribunal or Appeals Panel excluding an Associate Prosecutor from membership of CILEX. **Rule 61** shall apply in such a case.
149. Where an Order has been made excluding an Associate Prosecutor from membership of CILEX the Associate Prosecutor shall cease to be eligible to exercise the rights of audience or litigation awarded under their Level 1 or Level 2 Certificate.

150. Where the Admissions and Licensing Committee decides that the Associate Prosecutor is no longer a fit and proper person to hold a Level 1 or 2 Certificate, he must return his Certificate(s) to CILEX within 28 days of him being notified of the decision. Failure to do so will constitute a disciplinary offence. The Associate Prosecutor may not exercise any advocacy and litigation rights granted to him under his Certificate after he has been notified of the decision.

APPENDIX 1

ASSOCIATE PROSECUTOR PERSON SPECIFICATIONS

Associate Prosecutor Level 1

Person Specification

Skills	Criteria	Method of Assessment
Leadership	Takes responsibility for actions and decisions; consults appropriately. Instils confidence and works under own direction; successfully deals with pressures and demands.	Application Form, Assessment and Interview
Achieving Results	Sets, maintains and achieves high quality standards in all circumstances. Supports and contributes to the delivery of the organisation's strategic aims and objectives.	Interview
Planning & Organising	Prioritises a varying and sometimes demanding workload and manages own time effectively. Balances conflicting priorities and interests to deliver results.	Interview
Communication & Negotiation	Presents with skill and confidence. Represents CPS effectively to outside agencies and the public. Sets out arguments clearly and logically, persuades and influences others.	Application Form, Assessment and Interview

Reasoning and Decision Making	Able to make decisions independently where appropriate. Shows sound judgement, reaching balanced and unbiased view. Balances the needs of the public, police, victims, witnesses, defendants etc.	Application Form, Assessment and Interview
Diversity Awareness and Management	Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.	Interview
Continuous Self Development	Develops role knowledge and expertise through continual professional development.	Interview
Specialist Skills, Knowledge & Experience	Experience of casework within the criminal justice system/lay presentation. A demonstrable working knowledge of criminal law and its application, magistrates' court practice and procedure and the criminal justice system. Well developed skills in identifying evidential issues and omissions and in drafting and communicating.	Application form, Assessment and Interview

Qualifications

Academic:

Nil required

Professional:

One of the following:

Current members of CPS staff who can demonstrate they meet the skills, knowledge and experience required.

CILEX part 2 Criminal Law and Practice papers*

Legal Practice Course*

Bar Finals*

Law Degree (including criminal law paper)*

CPE*

COTS2*

* If invited to interview you will be asked to provide evidence of your qualification

Person Specification

Role Title:	Associate Prosecutor Level 2	Reports To:	
Department/ Division:		Date Completed:	July 2010

Skills	Criteria	Method of Assessment
Leadership	Takes responsibility for actions and decisions; consults appropriately. Instils confidence and works under own direction; successfully deals with pressures and demands.	Application form Case Study and Interview
Achieving Results	Sets, maintains and achieves high quality standards in all circumstances. Supports and contributes to the delivery of the organisation's strategic aims and objectives.	Interview
Planning & Organising	Prioritises a varying and sometimes demanding workload and manages own time effectively. Balances conflicting priorities and interests to deliver results.	Interview
Communication & Negotiation	Presents with skill and confidence. Represents CPS effectively to outside agencies and the public. Sets out arguments clearly and logically, utilising existing knowledge to persuade and influence others.	Application form Case Study and Interview

Diversity Awareness and Management	Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.	Interview
Reasoning and Decision Making	Makes prompt, independent decisions. Shows sound judgment, reaching balanced and unbiased view. Balances the needs of the public, police, victims, witnesses, defendants, etc.	Application form Case Study and Interview
Continuous Self Development	Develops role knowledge and expertise through continual professional development. Demonstrates the ability to learn and apply new skills.	Interview

Specialist Skills, Knowledge & Experience	Experienced Associate Prosecutor who fulfils the full range of the remit. Enhanced Advocacy skills, able to demonstrate a capability to undertake contested hearings Establishes credibility with depth of knowledge regarding criminal law and its application, magistrates' court practice and procedure and the criminal justice system. Well developed skills in identifying and resolving evidential issues and omissions and in drafting and communicating.	Application form Case Study and Interview
Qualifications		
Academic: Nil required Professional: Associate Prosecutor member of the Chartered Institute of Legal Executives (CILEX)		

APPENDIX 2

ASSOCIATE PROSECUTOR LEVEL 1 OBSERVATION GRID

ASSOCIATE PROSECUTOR TRAINING MATRIX:***PROCEDURES TO BE OBSERVED IN THE MAGISTRATES' COURT***

A trainee Associate Prosecutor must observe the following procedures in the Magistrates Court. Observations should commence upon selection for the AP1 qualification course and continue until final qualification. Trainee Associate Prosecutors should indicate the date that they observed each procedure. They should discuss their observations with their mentor.

PROCEDURES	DATE	COMMENT
REMAND COURT/BAIL APPLICATIONS		
remand in custody		
conditional bail		
unconditional bail		
police conditional bail		
remand in custody 8/28 days		
bail after conviction, before sentence		
bail application following arrest on warrant		
remand to police detention		
video remand Breach of Bail, Either admitted or denied		
PLEA BEFORE VENUE		
PBV - guilty indication		
PBV - not guilty indication/No indication		
aggravated TWOC		

criminal damage		
committal for sentence		
MODE OF TRIAL		
prosecution representations for summary jurisdiction		
prosecution representations for Crown Court jurisdiction		
defence elects multiple defendant MOT		

GUILTY PLEA		
outline of prosecution facts		
use of victim personal statement		
representations on matters raised in mitigation and derogatory assertions		
representations on matters contained in the PSR		
representations that a Newton hearing should be held		
TICs/ Specimen Offences		
previous convictions		
breach of a previous order		
equivocal plea		
SENTENCING		
forfeiture		
exclusion order (licensed premises)		
exclusion order (football grounds)		
compensation (specified and claimed by victim/witness)		

compensation (not specified - but within court's powers to award eg for injury)		
costs		
bindover		
re-sentencing for breach of a previous order		
restraining Order case adjourned for PSR court Referring to a PSR		
Court Sentencing a Bail Offence DNA (defendant does not appear)		
proceed in absence		
adjourn		
warrant backed for bail		
warrant not backed for bail		
warrant at first instance		
court bail in absence (sick/accident etc)		
laying an information Bail Act		
withdrawal of warrant on satisfactory excuse		
MCA COURT		
guilty plea in writing		
no plea indicated		
not guilty plea indicated		
adjournment for possible disqualification		
adjournment for DVLA printout		
defendant is a limited company		
defendant appears		

defendant produces all/some documents		
Withdrawing substantive charge, proceeding on alternative eg Fail to produce		
MISCELLANEOUS		
laying an information		
amending charge		
substituting charge		
withdrawing charge		
offering no evidence		
adjourning for advance disclosure		
adjourning for legal aid		
multi hander guilty		
setting aside convictions		

I can confirm that has observed the above procedures in Court before attending the course.

Signed Line Manager Date

APPENDIX 3

ASSOCIATE PROSECUTOR LEVEL 1 COURSE OUTCOMES

ASSOCIATE PROSECUTOR LEVEL 1 COURSE OUTCOMES

OVERALL

Aim

The aim of the course is to enable candidates, by the end of the programme, to reach the standard of knowledge and advocacy required by the CPS as assessed by external assessors during the assessments on the courses.

Objectives

By the end of the course candidates will be able to: -

- State the extent of their powers and from where they emanate.
- Review files in accordance with the Code for Crown Prosecutors.
- Endorse files appropriately.
- Know the relevant law and procedure in relation to Magistrates' Court Advocacy.
- Be competent advocates capable of representing the Crown in cases in the Magistrates' Court within their powers.
- Demonstrate knowledge and understanding of the rules of professional conduct and ethics.

FOUNDATION COURSE

Aim of course

The aim of this course is to provide candidates with the legal and procedural knowledge in relation to the prosecution of cases within their remit in the Magistrates Court.

Course objectives

On conclusion of the course candidates will have knowledge and understanding of:-

1. Their duties and responsibilities as a court advocate including the relevant rules of professional conduct and ethics.

2. The extent of their powers and responsibilities as an Associate Prosecutor.
3. The different sources of evidence; how to admit exhibits into evidence, prepare admissions of fact; bad character evidence and the principles of competence and compellability.
4. The law, including case law, in relation to offences that they are likely to prosecute in the Magistrates Court, including Criminal Damage, Dishonesty offences, Harassment, Hate Crimes, Offences Against the Person, Public Order and Sexual Offences.
5. The procedure for dealing with all non-contested cases within their powers in the Magistrates' Court including Prior to Plea, After Plea, Committals, Sendings, Preventative Civil Orders, Sentencing and Youths.

TRIAL PREPARATION COURSE

Aim of course

The aim of this course is to provide candidates with the practical knowledge and skills to:

- Conduct summary trial preparation in relation to cases within criteria set by the Director.
- Review and assess charges and summonses and to decide upon and draft amendments thereto.
- Review charges and take decisions as to discontinuance within any limits imposed upon that decision making process, and to draft appropriate documents.

Course objectives

On conclusion of the course candidates will have knowledge and understanding of and be able to:-

1. Check the full file / trial pack for completeness, chase outstanding evidence and flag up potential issues for resolution.
2. Deal with relevant evidential issues, such as which witnesses should be called to give oral evidence, which should be served S9 and which should be tendered and which evidence can be adduced by way of a S10 admission, and draft such admissions.
3. Decide upon the correctness of existing charges and whether they should be amended, replaced or discontinued.
4. Decide the appropriateness of pleas and bases of plea.

5. Decide whether Civil Preventative Orders should be applied for or varied if in existence.
6. Determine the requirement for a notice to introduce hearsay evidence, and draft the notice.
7. Determine the requirement for a notice to adduce bad character evidence, and draft the notice.
8. Determine the requirement for an application for special measures, and draft the application.
9. Identify unused material, state the test for disclosure and deal with ongoing disclosure issues.

ADVOCACY COURSE

Aim of course

The aim of this course is to:

- Reinforce candidates' knowledge of magistrates' court practices and procedures; and
- Provide candidates with practical knowledge and experience to review files and undertake advocacy within the context of the Associate Prosecutor criteria.

Course objectives

On conclusion of the course candidates will have knowledge and understanding of and be able to:-

1. use case analysis techniques to carry out the functions of review and make appropriate decisions on files, within the criteria for Associate Prosecutors.
2. make appropriate file endorsements.
3. state and demonstrate the principles of effective magistrates' court advocacy and court etiquette required of a prosecution advocate in the Magistrates' Court, including:
 - outlining the relevant facts clearly and effectively
 - using the English language proficiently in relation to legal issues
 - presenting a sustained argument that others can understand
 - preparing and presenting a coherent submission to the court based upon facts, principles and legal authority (including case law) in a structured, concise and persuasive manner
 - applying the relevant communication skills and techniques of an advocate
 - understanding ethics, etiquette and conventions of advocacy.

4. present cases in Plea Before Venue and Mode of Trial proceedings.
5. present cases in the absence of a defendant in the magistrates' court, when the defendant does not appear in answer to summons or bail and proof in absence cases.
6. present cases and take appropriate action in the event of an equivocal plea and other circumstances following appearance by the defendant, including alteration of charges, remands and adjournments.
7. deal with their responsibilities in Guilty Pleas, Newton Hearings, commenting on Unfair or Inaccurate Mitigation and on matters raised in the Pre-Sentence Report.
8. represent the CPS in sentencing proceedings in the Magistrates' Court.

YOUTH COURSE

Aim of course

The aim of this course is to provide candidates with:

- An overview of the law and policy considerations for dealing with Youth Offenders appearing in the Magistrates Court and to explain the key differences between the youth justice system and the adult criminal justice system.
- An overview of the venue provisions as they apply to Youth Offenders.
- The skills and knowledge required to prosecute cases in the youth court.

Course objectives

By the end of the course candidates will have the knowledge and understanding to be able to:-

- State the major factors to be taken into account when dealing with a Youth Offender appearing in the Magistrates Court.
- Examine a file involving Youth Offenders, taking into account existing legal and policy principles.
- Identify cases in which the statutory diversion scheme and other diversionary options should be considered and apply the appropriate disposal.
- Prepare and present a venue argument, dealing with grave crimes, dangerousness and adult co-defendants.
- Understand the principles of sentencing in the Youth Courts.
- Prepare and present cases for sentence.
- Describe the significance of age at every stage of a prosecution.

BAIL APPLICATIONS COURSE

Aim of course

The aim of this course is to provide Associate Prosecutors with knowledge of the legislation and procedures and ability to deal with all types of bail and custody hearings in the Magistrates Court and Crown Court in a fair and effective manner.

Course objectives

By the end of the course Associate Prosecutors will be equipped with knowledge and understanding to enable them to: -

1. Identify the major elements of the Bail Act 1976, other legislation and case law relevant to bail hearings.
2. Decide upon and present objections to bail in a fair, clear and structured manner in relation to all types of offences.
3. Deal with defence arguments in relation to bail.
4. Deal with breach of bail hearings.
5. Deal with appeals against the grant of bail.
6. Identify the appropriate Custody Time Limits (CTL) in a given case, and know the correct procedure for recording CTLs on the CPS case file.
7. Conduct applications to extend CTLs
8. Conduct Bail hearings in the Crown Court in chambers.

YOUTH BAIL APPLICATIONS COURSE

Aim of course

The aim of this course is to enable Associate Prosecutors to prepare and present applications for bail and in relation to bail involving youth defendants.

Course objectives:

By the end of the course Associate Prosecutors will have developed knowledge and understanding to be able to:

1. Describe the extent of their powers in relation to youth remands and bail.
2. Describe how they will receive instructions in relation to such applications.
3. Describe at least three additional safeguards that apply to those under 17 who are detained by the police.

4. Describe the different remand provisions for youths aged 10/11, 12-16 and 17.
5. Advise the court on the criteria for making a security requirement when remanding a vulnerable boy aged 15.
6. Describe the alternative bail options that a court must consider before making a remand with a security requirement.

APPENDIX 4

ASSOCIATE PROSECUTOR LEVEL 1 ADVOCACY COURSE ASSESSMENT CRITERIA

ASSOCIATE PROSECUTOR LEVEL 1

COURSE ASSESSMENT CRITERIA

Candidates will be assessed on the following courses:

- Trial preparation course
- Advocacy course
- Youth course
- Bail course
- Youth bail course

Candidates will be assessed against the following assessment criteria.

TRIAL PREPARATION COURSE

Format of assessment

Candidates will carry out two practical assessment exercises, which will be marked by assessors.

Assessment criteria

Candidates will be assessed against the following criteria:

Individual aspects will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

To be judged competent overall a candidate must be competent in at least in criteria 2 and 3 and in at least 3 aspects of criterion 4, subject to the overall discretion of the assessor in the event of a fundamental error.

Associate Prosecutors are required to meet the standard of a Magistrates' Court practitioner who displays the ability to take appropriate decisions in relation to casework in accordance with the powers devolved to them.

Candidate name:	Tutor:	Date:	
Criteria	Good	Competent	Not Competent
1. Requests outstanding material			
2. Settles appropriate charges			
3. Calls, serves or tenders available evidence appropriately			

4. Deals effectively with:			
i. Hearsay evidence ii. Bad character evidence			
iii. Unused material iv. Special measures v. Civil Preventative Orders			
Competent / Not competent			

ADVOCACY COURSE

Associate Prosecutors are required to meet the standard of a Magistrates Court advocate who is competent to conduct cases within the criteria set for Associate Prosecutors.

Individual aspects of advocacy performances will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

The overall grading will comply with the following:

- Not yet competent – three or more aspects on Scale 1
- Competent – predominantly on Scale 2 with fewer than three aspects on Scale 1 subject to the overall discretion of the tutor in the event of a fundamental error.

Assessment day

Scenarios will test delegates'

- Ability to endorse files quickly and accurately
- Knowledge of procedures
- Presentational skills

Two case studies will be used so that candidates deal with a mini court list; moving from one case to the next, endorsing appropriately. Candidates will be told on the previous day which case studies are to be used in the assessment.

Procedures to be tested may include

- Bail: conditions, alter conditions, unconditional, after conviction before sentence
- Amending and withdrawing charges
- PBV: indicating guilty plea, indicating not guilty plea or making indication, involving a TIC, cases SST and NSST
- Outline of facts
- Ancillary applications including previous convictions, forfeiture, exclusion orders, costs
- Equivocal plea or mitigation
- Unfair mitigation
- Inconsistent PSR

Assessment criteria

Candidates will be assessed against the following criteria:

Candidate name:	Tutor:	Date:	
Criteria	Good	Competent	Not Competent
Performance criteria			
1. Maintains eye contact			
2. Speaks at an appropriate pace			
3. Good audibility			
4. Uses appropriate language			
5. Limits distracting behaviour			
6. Adheres to court etiquette			
7. Uses notes to aid memory but does not read from notes			
Content criteria			
1. Addresses the Court appropriately			
2. Organises facts logically			
3. Makes clear what application is being made			
4. Makes clear the reasons supporting applications			

5. Deals appropriately with interventions from the bench and the defendant			
6. Asks appropriate questions, taking account of answers given.			
Competent / Not competent			

YOUTH COURSE

Format of assessment

Candidates will carry out practical assessment exercises.

Assessment criteria

Candidates will be assessed against the following criteria:

Individual aspects of advocacy performances will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

Associate Prosecutors are required to meet the standard of a Youth Court advocate who displays the competence and confidence required by the court, CPS and other court users and takes appropriate decisions in accordance with the powers devolved to them.

Candidate name:	Tutor:	Date:	
Criteria	Good	Competent	Not Competent
1. Understanding of relevant legal and policy principles			
2. Applies statutory diversion scheme			
3. Suggests appropriate disposal			
4. Presents effective venue arguments: (i) Grave crime (ii) Dangerous offender (iii) Adult codefendant			

5. Deals with change of age:			
(i) Before conviction			
(ii) After conviction but before sentence			
Competent / Not competent			

To be judged competent overall a candidate must be at least competent in criteria 1-3, two examples in criterion 4 and one example in criterion 5, subject to the overall discretion of the assessor in the event of a fundamental error.

BAIL COURSE

Format of assessment

Candidates will carry out practical assessment exercises.

Assessment criteria

Candidates will be assessed against the following criteria:

Individual aspects of performances will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

To be judged competent overall a candidate must be competent in all criteria, subject to the overall discretion of the assessor in the event of a fundamental error.

Associate Prosecutors are required to meet the standard of a Magistrates' Court advocate who displays the competence and confidence required by the court, CPS and other court users to present and deal with bail matters in accordance with the powers devolved to them.

Candidate name:	Tutor:	Date:	
Criteria	Good	Competent	Not Competent
1. Shows understanding of Bail Act 1976 and other relevant legislation			
2. Presents clear, structured and balanced objections to bail			

3. Deals with breach of bail hearings effectively			
4. Deals with appeal against grant of bail			
5. Identifies appropriate Custody Time Limit			
6. Presents effective application to extend Custody Time Limit			
7. Conducts effective bail hearing in Crown Court in chambers			
Competent / Not competent			

YOUTH BAIL COURSE

Format of assessment

Candidates will be assessed as to whether they display the knowledge and skills required to present youth remand cases. The standard required of an Associate Prosecutor in relation to this is that of a Magistrates' Court advocate who is competent to conduct cases within the criteria set for Associate Prosecutors.

The assessment will be carried out in relation to two practical exercises and the assessors will feed back as to whether candidates are deemed competent.

Individual aspects will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

In order for the candidate to be deemed competent they would have to be deemed competent in relation to all 5 areas of assessment, subject to the overall discretion of the assessor in the event of a fundamental error.

In the event of a candidate being deemed not competent then they would have to retake the course.

Assessment criteria

Candidate name:	Tutor:	Date:	
Criteria	Good	Competent	Not Competent
1. Knowledge of powers			
2. Knowledge of safeguards			
3. Makes appropriate remand applications in relation to: (i) 10-11 year old (ii) 12-16 year old (iii) 17 year old			
4. Guides court on remands with security requirement: (i) basic criteria (ii) alternative bail options			

Competent / Not competent

APPENDIX 5

ASSOCIATE PROSECUTORS' LEVEL 2 OBSERVATION GRID

LEVEL 2 ASSOCIATE PROSECUTOR TRAINING MATRIX:

PROCEDURES TO BE OBSERVED

A trainee Associate Prosecutor level 2 must observe the following procedures. Observations should commence upon selection for the AP2 qualification course and continue until final qualification. Trainee Associate Prosecutors level 2 should indicate the date that they observed each procedure. They should discuss their observations with their mentor.

ACTIVITY	DATE(S) COMPLETED
Trial preparation by an advocate	
Liaison by an advocate with Witness Care at court. Trial advocate dealing with witnesses at court before trial, including Police Officers	
The opening of a trial	
Examination in chief	
Cross examination	
Defence closing speech	
Delivery of verdict	
Ancillary applications after trial, including costs	
Trial involving represented defendant	

Trial involving an unrepresented defendant	
Trial with a Lay Bench	
Trial with District Judge	
Trial with S9 evidence only e.g. s.172	
Pre trial discussions between Prosecution and Defence	
Dealing with exhibits (e.g. CCTV) in a trial situation	

As many of the following procedures as possible should be observed

ACTIVITY	DATE(S) COMPLETED
Trial in the absence of the defendant	
Trial with more than one defendant	
Discussions between prosecution and defence about plea.	
Defence applications to adjourn and Prosecution response	
Prosecution application to adjourn	

Court directions as a result of an adjournment	
Submission of No Case	
Legal Argument	
Reluctant witness	
A witness who becomes difficult in the witness box	
Change of plea on the day of trial and explanation to witnesses	
Rebuttal evidence	
Special reasons hearing	
Newton hearing	
Contested PCO	
Hearsay evidence being used as a result of the service of a Hearsay Notice	
Use of Bad Character Evidence	
Trial with an interpreter	
Use of Special Measures	

The chasing of information required before trial on the day of trial	
--	--

Signed AP.....Date.....

Line Manager.....Date.....

Learning Outcomes

The purpose of completing this matrix is to enable you to record all the court procedures that you have seen whilst conducting your observations at court. This will enable you to recall them and put them into practice, both on the courses and in your work in court thereafter.

APPENDIX 6

ASSOCIATE PROSECUTOR LEVEL 2 COURSE OUTCOMES

ASSOCIATE PROSECUTOR LEVEL 2 COURSE OUTCOMES

Aim

The aim of the training programme is to develop the skills and knowledge of Associate Prosecutors who are existing prosecution advocates in the Magistrates' Court. Upon conclusion of the training programme Associate Prosecutors will meet the standard required to display confidence and competence required by the court, CPS and other court users of a lawyer prosecuting a trial in a magistrates' court.

Objectives

By the end of the course candidates will be able to: -

- State the professional standards that they are required to meet as trial advocates (limited to summary, non-imprisonable offences) in the Magistrates Court.
- State the extent of their powers as Level 2 Associate Prosecutors
- Prosecute trials within their remit in the Magistrates' Court.
- Implement both law and practice to the required standard in relation to trials advocacy within their remit in the Magistrates' Court.

FOUNDATION COURSE

Aim of course

The aim of this course is to provide candidates with the knowledge required to prepare them to prosecute trials in the Magistrates' Court.

Course objectives

By the conclusion of the course candidates will have the knowledge and understanding to be able to:-

1. State their professional responsibilities and duties as a trials advocate.
2. Explain the procedural steps required to prosecute a trial in the Magistrates' Court.

3. Apply the law, including case law, as they pertain to Magistrates' Court trials which they handle.
4. Use the laws of evidence as they pertain to Magistrates' Court trials, in particular:
 - o The burden and standard of proof
 - o Rules as to witness competence and compellability
 - o The ways in which evidence may be adduced
 - o The use of previous inconsistent statements
 - o The admissibility of hearsay evidence
 - o The relevance of human rights issues
 - o Admissibility of confessions
 - o Bad character evidence
 - o Opinion evidence
 - o Disputed identification evidence
5. Plan the prosecution of a case.
6. Deal with a variety of problems that may arise during the course of prosecuting a case in the Magistrates' Court

ADVOCACY COURSE

Aim of course

The aim of this course is to build upon the e-learning, the foundation course and observations in court and to provide candidates the knowledge and skills required to prosecute cases to trial within their remit.

Course objectives

By the end of the course candidates will be able to:-

1. Prepare a case for trial.
2. Plan and present an opening speech.
3. Examine witnesses in examination in chief, cross-examination and re-examination.
4. Conduct a trial confidently and effectively in the Magistrates' Court, including making and responding to legal submissions.
5. Deal with unexpected situations that arise during the conduct of a trial.

APPENDIX 7

ASSOCIATE PROSECUTORS' LEVEL 2 ADVOCACY COURSE ASSESSMENT CRITERIA

ASSOCIATE PROSECUTOR LEVEL 2

ADVOCACY COURSE ASSESSMENT CRITERIA

In order to be declared “Ready to prosecute a trial within their powers” a candidate must be assessed as “*good*” or “*satisfactory*” in each of the 4 core areas (those highlighted and underlined) and in at least 12 of the 15 other areas subject to the overall discretion of the tutor in the event of a fundamental error.

The standard required is to display the confidence and competence required by the court, CPS and other court users of a lawyer prosecuting a trial in a magistrates’ court.

Good: In this area the delegate significantly exceeds the standard required

Satisfactory: In this area the delegate meets the standard required

Not

Satisfactory: In this area the delegate requires improvement before meeting the standard required

CONTENT

AREA	CRITERION	GOOD	SATISF.	NOT SATISF.
OPENING SPEECH	Coherently and effectively assists the court by setting the scene and identifying the relevant legal, factual and evidential issues			
	Structures the speech logically and coherently			
EXAM^N IN CHIEF	<u>Elicits an appropriate amount of relevant evidence in chief</u>			

	Asks appropriate nonleading questions on all contentious matters and displays an appreciation of the differences between open and closed questions and the appropriate time to use them.			
	Questions are easy to comprehend			
	Structures the evidence in chief in a logical and coherent manner			
CROSSEXAM^N	<u>Elicits useful information, challenges the defence version and puts own case, if/as appropriate.</u>			
	Asks leading/ assertive questions, (unless "safe" to explore with open, non-leading questions).			
	Questions are easy to comprehend			
	Structures the crossexamination in a logical and coherent manner			

CRITERION	GOOD	SATISF.	NOT SATISF.
Displays an appreciation of all the issues in the case; what has to be proved and the evidence and tactics required.			
Deals with interjections from the court and defence in an appropriate manner			
Maintains ethical standards	N/A	PASS	FAIL

PRESENTATION AND STYLE

CRITERION	GOOD	SATISF.	NOT SATISF.
1) Displays both clarity and audibility in speech			
2) Uses plain, professional English			
3) Varies pace and tone in an appropriate manner			
4) Maintains appropriate eye contact with both court and witnesses			
5) Maintains an appropriate stance in court and avoids distracting mannerisms			
6) Maintains an appropriate courtroom manner throughout			

FEEDBACK FROM ASSESSOR TO DELEGATE

CONTENT

	Strengths	Weaknesses
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1) Case construction and opening		
2) Evidence in Chief		

3) Cross examination		
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FEEDBACK FROM ASSESSOR TO DELEGATE

STYLE

	Strengths	Weaknesses
1) Vocal skills		
2) Communication with court, witnesses and defence		

3) General appearance and manner		

ADMISSIONS AND LICENSING COMMITTEE RULES

1. CILEx Regulation shall establish an Admissions and Licensing Committee.
2. The Admissions and Licensing Committee shall:
 - ◆ apply and monitor the Certification Rules, Fellowship Rules, guidance and criteria for the reserved legal activity and regulated legal activity schemes;
 - ◆ consider and determine applications by applicants for reserved or regulated legal activity rights, applications for Certificates of Eligibility for rights of audience, applications for the assessment of qualifying employment and applications for admission as a Chartered Legal Executive referred to it;
 - ◆ consider and determine applications for the renewal of advocacy certificates, including lapsed certificates, referred to it;
 - ◆ consider and determine applications by prospective or current course providers for accreditation or renewal of accreditation to provide courses referred to it by the Officer;
 - ◆ consider whether or not an authorised person may continue to hold a Certificate which authorises them to undertake a reserved or regulated legal activity;
 - ◆ determine whether accreditation of a course provider to provide a course should be withdrawn;
 - ◆ receive reports of inspections of courses from the external advisors and the Officer;
 - ◆ receive reports of the moderation of course assessments from the external advisors;
 - ◆ receive annual reports from course providers;
 - ◆ submit an annual report to the CILEx Regulation Board.
3. The Officers will report all decisions made by them to the Admissions and Licensing Committee.
4. 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.
5. 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 CILEx Regulation offices 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 their application.

6. Where an application is reconsidered by the Admissions and Licensing Committee it shall have all the powers that were available to it at the original consideration of the application.
7. An appeal may be made against the decision reached by the Admissions and Licensing Committee in accordance with Rule 5. 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 CILEx Regulation's appeal bodies under the Enforcement Rules. 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.
8. Appeals against decisions to refuse or revoke renewal or certification of a Chartered Legal Executive Litigator and Advocate who holds or has held a Criminal Proceedings Certificate will be made to the Appeals Panel.
9. The Admissions and Licensing Committee shall report annually to the CILEx Regulation Board on its work during the preceding calendar year, and make such recommendations as it thinks fit concerning the operation of the scheme Rules falling within its remit.
10. The Admissions and Licensing Committee will comprise:
 - Fellows of CILEx; and
 - Independent members, at least 1 of whom shall have knowledge or experience of consumer issues, who are not members of CILEx Council or the CILEx Regulation Board and provided that the independent members are in the majority.
11. A Fellow who is a member of CILEx Regulation's Professional Conduct, Disciplinary or Appeals Panel shall not be eligible to serve as a member of the Admissions and Licensing Committee.
12. Appointments of independent members and Fellows shall be made by the CILEx Regulation Board.
13. Each independent member and Fellow will be appointed to the Admissions and Licensing Committee by CILEx Regulation for a period of up to five years. Upon the termination of the five year period of their appointment the Board may reappoint them for a further period of up to five years or make a new appointment.
14. No Fellow or independent member may serve more than two consecutive terms as a member of the Admissions and Licensing Committee. Where they fail without good reason to fulfil their duties set out in these Rules CILEx Regulation may terminate their appointment whether or not they have completed their current term of office.
15. The external advisors shall be invited to attend meetings of the Admissions and Licensing Committee. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.
16. 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.
17. The Admissions and Licensing Committee will appoint one of its members as Chair. The Chair will be appointed for a period of one year. The Chair will be eligible for reappointment, but may not serve as Chair for more than three consecutive years.

18. Decisions of the Admissions and Licensing Committee will be reached by a majority vote. In the case of an equality of votes the Chair shall have a casting vote. External advisors may not vote on any matter at a meeting.
19. 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 and any other matter by way of a postal agenda or telephone conference.
20. CILEx Regulation 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.



RIGHTS TO CONDUCT LITIGATION AND RIGHTS OF AUDIENCE CERTIFICATION RULES

RIGHTS TO CONDUCT LITIGATION AND RIGHTS OF AUDIENCE CERTIFICATION RULES

DEFINITIONS

1. In these Rules, except where otherwise indicated:

- Admissions and Licensing Committee means the committee established under the Admissions and Licensing Committee Rules
- “Advocacy Certificate” means a Rights of Audience Certificate identified in these Rules;
- “Advocacy Skills Course” means an advocacy skills course approved in accordance with the Rights of Audience Certification Rules;
- “Appeals Panel” means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing;
- “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 an applicant to undertake an Advocacy Skills Course;
- “Certification Rules” means these Rights to Conduct Litigation and Rights of Audience Certification Rules;
- “Chambers advocacy” means rights of audience exercised in Judge’s room hearings;
- “CILEX” means the Chartered Institute of Legal Executives;
- “External adviser” means a person appointed by CILEx Regulation to carry out the roles and functions identified for them by CILEx Regulation;
- “Fellow of CILEX or applicant in good standing” means a Fellow of CILEx whose subscriptions to CILEX are fully paid or an applicant seeking registration with CILEx Regulation and, in both cases, in respect of whose conduct there is no complaint or misconduct matter outstanding, whose CPD requirements are up to date and against whom there is no disciplinary record which in the view of CILEx Regulation affects their suitability to be a Chartered Legal Executive Litigator and Advocate;
- “CILEX” means the Chartered Institute of Legal Executives;
- “EnforcementRules” means the rules which are in place from time to time which govern the complaints handling and disciplinary procedures of CILEx Regulation;

- “Chartered Legal Executive Advocate” means a Fellow who has been granted a Rights of Audience Certificate by CILEx Regulation;
- “Chartered Legal Executive Litigator” means a Fellow who has been granted a Litigation Certificate by CILEx Regulation;
- “The Act” means the Legal Services Act 2007;
- “Litigation Certificate” means a litigation certificate identified in these Rules;
- “The Officer” means a person with responsibility for the rights to conduct litigation qualification scheme and the rights of audience qualification scheme;

- “a Relevant Advocacy Certificate” means an advocacy certificate in either civil, family or criminal proceedings, which relates to a litigation certificate in civil, family or criminal proceedings, respectively;

Words importing the singular include the plural and vice versa.

2. Responsibility for this qualification scheme is delegated to CILEx Regulation by CILEX.

THE RIGHTS TO CONDUCT LITIGATION AND RIGHTS OF AUDIENCE CERTIFICATES

151. A Fellow of CILEX or an applicant eligible to qualify as a Fellow of CILEX who is in good standing may apply to CILEx Regulation to be granted one or more of the following Certificates:
 - (a) A Right to Conduct Litigation (Civil Proceedings) Certificate;
 - (b) A Right to Conduct Litigation (Family Proceedings) Certificate;
 - (c) A Right to Conduct Litigation (Criminal Proceedings) Certificate.
152. A Fellow of CILEX in good standing who does not already hold a relevant advocacy certificate must, at the same time as their application for a litigation certificate, apply to CILEx Regulation to be granted one or more of the following Rights of Audience Certificates which relate to the same proceedings as the Litigation Certificate:
 - (a) A Rights of Audience (Civil Proceedings) Certificate in Judge’s Room;
 - (b) A Rights of Audience (Family Proceedings) Certificate in Judge’s Room;
 - (c) A Rights of Audience (Civil Proceedings) Certificate;
 - (d) A Rights of Audience (Family Proceedings) Certificate;
 - (e) A Rights of Audience (Criminal Proceedings) Certificate.
153. The Rights to Conduct Litigation exercisable by Chartered Legal Executive Litigators holding Litigation Certificates are set out below:

Rights to Conduct Litigation (Civil Proceedings) Certificate:

To conduct litigation in all civil proceedings excluding family proceedings;

Rights to Conduct Litigation (Family Proceedings) Certificate:

To conduct litigation in all family proceedings;

Rights to Conduct Litigation (Criminal Proceedings) Certificate:

To conduct litigation in all criminal proceedings.

154. The rights of audience exercisable by Litigators holding Rights of Audience Certificates are set out below:

Rights of Audience (Civil Proceedings) Certificate in Judge's Room:

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings.

Rights of Audience (Civil Proceedings) Certificate:

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings;
- to appear in open Court in the County Court in all actions, except family proceedings;
- to appear before Magistrates, District Judges (Magistrates' Court) or Justices' Legal Advisers in the Magistrates' Courts in relation to all civil and enforcement matters;
- to appear before any tribunal having jurisdiction in England and Wales, which is listed in Schedule 6 of the Tribunals, Courts and Enforcement Act 2007 (as amended or substituted from time to time) where the tribunal rules provide for a non-discretionary right of audience being available to barristers, solicitors and CILEx advocates;
- 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.

A Civil Proceedings Certificate does not confer a right of audience in any proceedings for which a Family Proceedings Certificate is required.

Rights of Audience (Family Proceedings) Certificate in Judge's Room:

- to exercise rights of audience in Judge's room hearings in the Family Court and High Court, except reserved proceedings, in all family proceedings.

Rights of Audience (Family Proceedings) Certificate:

- to exercise rights of audience in Judge's room hearings in the Family Court and High Court, in all family proceedings;
- to appear in the Family Court in all proceedings;
- 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.

A Rights of Audience (Criminal Proceedings) Certificate:

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

- approved person in the same employment as them, appeared on behalf of the defendant in the Magistrates' Court or Youth Court;
 - 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.
155. A person who has qualified as a Chartered Legal Executive Advocate before qualification as a Chartered Legal Executive Litigator may continue to exercise all the rights of audience appropriate to the Advocacy Certificate or Certificates they hold, as described in Rule 6 above immediately upon qualification as a Chartered Legal Executive Litigator.

QUALIFICATION ARRANGEMENTS – RIGHTS TO CONDUCT LITIGATION

156. Applicants who seek rights to conduct litigation must demonstrate that they meet the knowledge, skills and experience for the certificate they seek in accordance with the knowledge, skills and experience guidelines and portfolio guidelines which appear at **Annexes 1 and 2** and the competence framework at **Annex 3**.

QUALIFICATION ARRANGEMENTS – RIGHTS OF AUDIENCE

157. Unless they already hold a relevant rights of audience certificate, applicants who seek rights to conduct litigation must also make an application for rights of audience. In the case of rights to conduct litigation in civil proceedings, an applicant must make an application in civil proceedings either for a Rights of Audience (Civil Proceedings) Certificate in Judge's room or Rights of Audience (Civil Proceedings) Certificate. In the case of family proceedings, an applicant must make an application for either a Rights of Audience (Family Proceedings) Certificate in Judge's room or Rights of Audience (Family Proceedings) Certificate. In the case of criminal proceedings, an applicant must make an application for a Rights of Audience (Criminal Proceedings) Certificate.
158. Applicants must make an application for a Certificate of Eligibility to undertake the rights of audience skills course relevant to the Certificate they seek. In their application they must demonstrate that they meet the entry criteria for the certificate they seek in accordance with the knowledge, skills and experience guidelines which appear at **Annex 1**.
159. 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 legal practice relevant to the practice area in which they seek rights of audience in accordance with the competence criteria set out at **Annex 3**;
 - A portfolio of cases in which the Applicant has been involved during the two years preceding their application, in accordance with the portfolio guidelines at **Annex 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 who are able to offer an informed opinion on whether the applicant meets the competence criteria set out in the knowledge, skills and experience guidelines at **Annex 1**;

- A statement from the applicant confirming that the details provided in their application are true to the best of their knowledge and belief.
160. CILEx Regulation will assess an application for a Certificate of Eligibility in accordance with the criteria set out in the knowledge, skills and experience guidelines and the portfolio guidelines at **Annexes 1 and 2** and the criteria at **Annex 3**. An applicant who meets the criteria will be granted a Certificate of Eligibility.
161. Upon receiving a Certificate of Eligibility an applicant will complete a Judge's room or full advocacy skills course in accordance with the Rights of Audience they seek. Courses must meet the qualification criteria which appear at **Annex 3**. Courses will be assessed in accordance with the assessment criteria which appear at **Annex 4**.
162. Where an applicant who has met the criteria set out in the knowledge, skills and experience guidelines and the portfolio guidelines, has completed an advocacy skills course and qualification which is of a similar standard they may seek an exemption from the requirement to undertake the advocacy skills course and assessment. In making such an application for exemption, the applicant will be required to provide an outline of the advocacy skills course and assessment they completed, along with the results they obtained. CILEx Regulation will assess whether the course and assessment meet the advocacy skills course and assessment criteria set out at **Annexes 3 and 4**. An exemption will be granted where an applicant is able to demonstrate that the course and assessment covered at least 50% of the course outcomes and assessment criteria set out at **Annexes 3 and 4**. Where an applicant is unable to demonstrate that they meet the course outcomes and assessment criteria, they will be required to complete the advocacy skills course and assessment.

ALL APPLICATIONS

163. An application for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience shall be made on such a form as may be prescribed for the purpose by CILEx Regulation and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.
164. CILEx Regulation will check the application to ensure it meets the criteria set out in the knowledge, skills and experience guidelines at **Annex 1**. The portfolios which form part of the application will be sent to an external advisor. The external advisor will assess whether the portfolios meet the criteria set out at **Annexes 1 to 3**.
165. Where the external advisor decides that the portfolios are satisfactory and meet the criteria set out at **Annexes 1 to 3**, a CILEx Regulation Officer will consider whether the application for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience may be approved. In reaching their decision the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
166. Where the external advisor decides that the portfolios are not satisfactory and do not meet the criteria set out at **Annexes 1 to 3** they will give reasons for their decision. The Officer will inform the applicant of the decision. The applicant may withdraw their application, amend and resubmit their application or make further representations and

ask that the full application be referred to the Admissions and Licensing Committee to consider.

167. The Admissions and Licensing Committee will decide whether or not an application 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; or
 - decide that the applicant does not meet the criteria and indicate which of the criteria the applicant does not meet.
168. In making any assessment or decision required by these Rules the Admissions and Licensing Committee shall have regard to the criteria at **Annexes 1 to 3** to these Rules.
169. The Officer will notify an applicant in writing of their decision or the decision of the Admissions and Licensing Committee.
170. Where the application has been approved the notification shall include the Certificate(s) of Eligibility for Rights of Audience and an indication that the Rights to Conduct Litigation Application has been approved. The Litigation Certification may only be granted on the successful completion of the associated Rights of Audience skills course and assessment.
171. Where the application for a Certificate of Eligibility in Rights of Audience has been approved but the application for the Rights to Conduct Litigation Certificate identifies gaps in an applicant's knowledge, skills or experience, the notification shall set out details of the gaps and the reasons why the assessment has identified the full knowledge, skills and experience guidelines and portfolio guidelines have not been met. An applicant may defer their application while they develop their knowledge, skills or experience or attend a course. A course must meet the outcomes set out at **Annex 3** in respect of the outcomes the applicant has not met. Upon completion of a course or development of experience, CILEx Regulation will reassess the application to determine whether the applicant meets the knowledge, skills and experience guidelines. Where an application meets the guidelines, they may then undertake the Rights of Audience Skills Course and Assessment.
172. Where the application is unsuccessful, the notification shall set out the Committee's reasons and any preconditions to the consideration of any subsequent application. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.
173. The Certificate of Eligibility for Rights of Audience will specify which of the advocacy skills course options the applicant may take.

ADMISSIONS AND LICENSING COMMITTEE

174. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for the Rights to Conduct Litigation and Rights of Audience schemes.

EXTERNAL ADVISORS

175. CILEx Regulation shall appoint external advisors to advise the Admissions and Licensing Committee and CILEx Regulation on issues relating to litigation and advocacy.

ADVOCACY SKILLS COURSES

176. An applicant who has been granted a Certificate of Eligibility in Rights of Audience may take advocacy skills courses relating to the Certificate for which they have been granted a Certificate of Eligibility.
177. Where an applicant fails to start an advocacy skills course within 12 months of being granted a Certificate of Eligibility, they must make a fresh application for such a Certificate before they may start an advocacy skills course. In exceptional cases the Admissions and Licensing Committee or the CILEx Regulation Officer may exercise discretion to extend the duration of a Certificate of Eligibility.
178. Applicants will be required to:
- successfully complete the training sessions; and
 - pass the formal assessments in accordance with the Assessment Criteria set out in **Annexes 3 and 4**.
179. An approved advocacy skills course must:
- Meet the course delivery criteria set out at **Annex 3**; and
 - Include arrangements for assessment of advocacy skills in accordance with the assessment criteria set out at **Annex 4**.

COURSE PROVIDERS

180. Advocacy skills courses will be provided by course providers who are accredited by CILEx Regulation in accordance with the Rights of Audience Certification Rules.

CERTIFICATION

181. Upon successfully demonstrating that they meet the criteria for a Rights to Conduct Litigation Certificate and successful completion of the Judge's room or full advocacy course an applicant may apply for a Litigation and Advocacy Certificate. An applicant who is not a Fellow and has completed an advocacy course may not make an application for a certificate until they become a Fellow of CILEX.
182. A Fellow may only apply for a Litigation and Advocacy Certificate relating to the type of proceedings covered by the litigation application and advocacy skills course they completed.
183. An application shall be made on a form prescribed by CILEx Regulation from time to time for this purpose and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.
184. The Officer will process the application for a Litigation and Advocacy Certificate. The applicant shall be granted a Litigation and Advocacy Certificate provided the Officer is satisfied that the applicant:
- is a Fellow in good standing;

- has met the litigation skills criteria; and
 - has completed and passed an advocacy skills course and assessment.
185. Where the Officer has any doubt as to the suitability of the applicant to be awarded a Litigation and Advocacy Certificate they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
186. When considering an application to award a Litigation and Advocacy Certificate 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.
187. 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.
188. The Officer will notify an applicant in writing of the decision as to whether their application for a Litigation and/or Advocacy Certificate is successful. Where the application has been approved the notification shall include the Litigation and 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 a Litigation and Advocacy Certificate. The applicant may apply for reconsideration of their application in accordance with the Admissions and Licensing Committee Rules.
189. A Fellow holding a Litigation and Advocacy Certificate will be described as a Chartered Legal Executive Litigator and Advocate.

APPLICATION FOR ADDITIONAL CERTIFICATES

190. A Chartered Legal Executive Litigator and Advocate may apply to be granted Litigation and Advocacy Certificates additional to any Certificates already granted to them under these Rules. Prior to seeking an additional Advocacy Certificate the Litigator must obtain a Litigation Certificate in that practice area or make an application for a Litigation Certificate at the same time.
191. Applications shall be processed in accordance with these Rules.

RENEWAL OF CERTIFICATES

192. The first Advocacy Certificate issued to a Chartered Legal Executive Litigator, 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 indefinitely.

193. Applications for the first renewal of a certificate will be made on a form prescribed by CILEx Regulation from time to time for the purpose and shall be accompanied by such fee as may be fixed by CILEx Regulation from time to time.
194. An application for the first renewal of an Advocacy Certificate must be supported by:
 - Confirmation that the applicant is working as a Chartered Legal Executive Litigator and Advocate;
 - a record of the applicant's litigation and advocacy experience gained during the period since their Certificate was granted;
 - a portfolio of cases in which the applicant has been involved during the period since their Certificate was granted, in accordance with the Portfolio Guidelines set out in **Annex 2**;
 - a statement from the applicant confirming the details provided of their litigation and advocacy experience and whether any rights to conduct litigation and rights of audience granted will be exercised in the future.
195. The portfolio which forms part of the application for the first renewal of the Certificate will be sent to an external advisor. The external advisor will assess the portfolio against the criteria set out in **Annexes 1 and 2**.
196. Where the external advisor decides that the portfolio is satisfactory and shows that the applicant has applied the litigation and advocacy skills in the cases described in accordance with the Portfolio Guidelines in **Annex 2** and the criteria set out in the competence and assessment frameworks at **Annexes 3 and 4** the Officer will consider the application and decide whether it should be approved. In reaching a decision the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate.
197. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
198. Where the external advisor decides that the portfolio is not satisfactory and does not show that the applicant has applied the litigation and/or advocacy skills in the cases described in accordance with the Portfolio Guidelines set out in **Annex 2** and the criteria set out in the competence and assessment frameworks at **Annexes 3 and 4** the external advisor shall give reasons for their decision. They 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 their application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
199. The Admissions and Licensing Committee will decide whether or not an application 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 reject it.
200. 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 **Annex 2** and the criteria set out in the competence and assessment frameworks at **Annexes 3 and 4**.

201. 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 reasons for the decision and any preconditions to the consideration of any subsequent application for an Advocacy Certificate.
202. Where the application is unsuccessful an applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules. The Admissions and Licensing Committee will have the powers set out in Rule 54 available upon an application for reconsideration.

LAPSED CERTIFICATES

203. A Fellow who has held a Litigation and Advocacy Certificate which has lapsed may apply for that certificate to be renewed. Renewal of a lapsed certificate will be governed by Rules 46 to 57 which deal with first renewal of an advocacy certificate save that in Rule 49:
- the reference to an application for the first renewal of a Advocacy Certificate should be a reference to an application for renewal of a lapsed Litigation and Advocacy Certificate;
 - the applicant will not be required to provide confirmation that they are working as a Chartered Legal Executive Litigator and Advocate;
 - the applicant will be required to provide a record of their litigation and advocacy experience since their Litigation and Advocacy Certificate lapsed, except where the Certificate which has lapsed is a Criminal Litigation and Criminal Advocacy Certificate, reference to the record of the applicant's advocacy experience shall include police station advice and observed advocacy in accordance with the Portfolio Guidelines; and
 - the information required to be provided by the applicant shall include, additionally, reasons why the Litigation and Advocacy Certificate lapsed and details of CPD undertaken during the 12 months prior to the application.
204. A lapsed Litigation and 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,
205. In the case of a Criminal Proceedings Litigation and Advocacy Certificate, where the certificate has lapsed because the holder has ceased to be eligible to hold a certificate for any reason.
206. Where a Litigation and Advocacy Certificate which has lapsed is renewed by the Admissions and Licensing Committee it will be valid indefinitely.

PRACTICE MANAGEMENT AND ACCOUNTS

207. A Chartered Legal Executive Litigator and Advocate who seeks to practise in an entity seeking regulation by CILEx Regulation must demonstrate that they meet the knowledge, skills and experience in accounts and practice management in accordance

with the knowledge, skills and experience guidelines and portfolio guidelines and the competency frameworks which appear at **Annexes 5 and 6**. They will not be authorised to be an approved manager in an entity until these requirements are met.

208. Where an applicant relies upon existing experience they must complete a log in accordance with the portfolio guidelines. An applicant who relies upon a qualification as evidence of meeting the competency framework must provide details of that qualification and assessment. CILEx Regulation will consider whether the experience or qualification relied upon demonstrates that the applicant meets the requirements of the competency framework.
209. An applicant who does not meet the knowledge, skills and experience requirements for practice management and/or accounts must complete qualification courses and assessment in those areas which meet the competency frameworks at **Annexes 5 and 6**.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

210. Chartered Legal Executive Litigators and Advocates are required to undertake CPD in accordance with the CPD Regulations issued by CILEx Regulation from time to time. Those who hold a criminal proceedings certificate must also comply the CPD requirements to undertake vulnerable witness handling training prior to the first advocacy certificate renewal.

DISCIPLINARY PROCEDURES AND CODE OF CONDUCT

211. Chartered Legal Executive Litigators and Advocates must abide by the Code of Conduct of CILEX for the time being in force.
212. Where an issue relating to the competence of a Chartered Legal Executive Litigator and Advocate who holds a Criminal Litigation and Criminal Advocacy Certificate is brought to the attention of CILEx Regulation, the Admissions and Licensing Committee will consider whether the Chartered Legal Executive Litigator and Advocate remains a fit and proper person to hold a Litigation and Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision. The Committee may ask for further information or evidence, including a report from an independent assessor regarding the competence of the Litigator and Advocate in order to assist in its decision making.
213. Where a complaint is made or an issue is brought to the attention of CILEx Regulation regarding the conduct of a Chartered Legal Executive Litigator and Advocate that matter will be dealt with in accordance with CILEx Regulation's Investigation, Disciplinary and Appeals Rules.
214. Where a Finding, Order or Decision is made against a Chartered Legal Executive Litigator and Advocate by a Disciplinary Tribunal or Panel that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Chartered Legal Executive Litigator and Advocate remains a fit and proper person to hold a Litigation and Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision.

215. Rule 67 shall not apply where an Order is made excluding a Chartered Legal Executive Litigator and Advocate from membership of CILEX. Rule 69 shall apply in such a case.
216. Where the Admissions and Licensing Committee decides that the Chartered Legal Executive Litigator and Advocate is no longer a fit and proper person to hold a Litigation and Advocacy Certificate, they must return their Certificate(s) to CILEx Regulation within 28 days of them being notified of the decision. Failure to do so will constitute a disciplinary offence. The Fellow may not exercise any litigation or advocacy rights granted to them under their Litigation and Advocacy Certificate(s) after they have been notified of the decision.
217. Notwithstanding the Admissions and Licensing Committee Rules an appeal against a decision of the Admissions and Licensing Committee that a Chartered Legal Executive Litigator and Advocate is no longer a fit and proper person to hold a Litigation or Advocacy Certificate will be considered by a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on the CILEx Regulation Appeals Panel.