

**Responses to Consultation: to remove reference to the Quality Assurance Scheme for Advocates (QASA) from the Rights of Audience Certification Rules and to replace the QASA elements with additional competency requirements, particularly focused on Youth Court advocacy.**

**Introduction**

1. We consulted on our proposal to amend the Rights of Audience Certification Rules to remove reference to the Quality Assurance Scheme for Advocates (QASA) and to replace the QASA elements with additional competency requirements.
2. We canvassed our criminal advocates in February 2021 to determine the number undertaking advocacy in the Youth Court. The responses to this survey have been presented alongside the responses to this consultation.
3. As a result of that survey, in addition to the removal of reference to QASA from our Rules, we focused on enhancing our Rules in relation to competency to undertake Youth Court advocacy.
4. Our consultation asked whether any issues were foreseen with the proposed changes to the rules and implementation of additional competency requirements for CILEX Advocates.
5. Our consultation ran for 4 weeks between 18<sup>th</sup> June and 16<sup>th</sup> July 2021.
6. In relation to the proposed changes in the consultation we:
  - engaged directly with CILEX Advocates for criminal proceedings and the Crown Prosecution Service (CPS) for their views, as well as being published on our [website](#);
  - engaged with the accredited course provider for the criminal advocacy skills course; and
  - asked the external advisor for criminal advocacy applications to review the changes.
7. This report summarises the key points emerging from the responses together with our response.

**Consultation and CILEx Regulation’s response**

8. We received 33 responses from CILEX Advocates for criminal proceedings in relation to the Youth Court survey. Of those surveyed, 79% indicated that they undertook advocacy in the Youth Court and gave details as to how they ensured their competency for this work.

<i>Do you undertake advocacy in the Youth Court?</i>	
<b>Yes</b>	<b>No</b>
26	7

9. The respondents to the survey that indicated they were undertaking advocacy in the Youth Court stated that this was relatively infrequently with most commenting that they were in the Youth Court once a month or a few times a year. When responding to the question, ‘*How do you ensure you remain competent to advocate in Youth Court proceedings?*’, most respondents said they used CPD courses and updates.

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10. We received 7 responses in total, of which 6 responses were from individuals (mainly those who are authorised as CILEX Advocates for criminal proceedings. 1 respondent was a Chartered Legal Executive working in criminal practice). The seventh response was from the CPS.

<i>Q1. Do you foresee any issues with the proposed removal of references to the QASA scheme and reversion to the previous renewal requirements for criminal advocates?</i>		
<b>Yes</b>	<b>No</b>	<b>Did not answer</b>
0	2	5

<i>Q2. Do you agree that CILEx Regulation should implement the additional competencies in relation to the Youth Court for criminal advocates?</i>		
<b>Yes</b>	<b>No</b>	<b>Did not answer</b>
1	0	6

<i>Q3. Do you agree that CILEx Regulation should implement the mandatory CPD in relation to handling of vulnerable witnesses as part of the first Advocacy Certificate renewal for criminal advocates?</i>		
<b>Yes</b>	<b>No</b>	<b>Did not answer</b>
1	0	6

<i>Q4. Do you agree that CILEx Regulation should extend the definition of Graduate member of CILEX for the purposes of these Rules to include individuals who have successfully completed the academic stage of the CILEX Professional Qualification?</i>		
<b>Yes</b>	<b>No</b>	<b>Did not answer</b>
0	0	7

11. Comments from those who expressed support for the proposal include:

- 'I think the proposed changes are sensible. Youth court advocacy and being able to deal with vulnerable witnesses are two highly important skills and its right to update the competency framework I think'.
- 'Regarding the removal of references to QASA, then clearly there is no objection to that and that is entirely sensible'.

12. While the respondents did not raise any concerns with the proposed changes, some of the responses queried how the changes may affect those who are already authorised as CILEX Advocates for criminal proceedings. CILEx Regulation has contacted each respondent individually to confirm:

- The renewal process for CILEX Advocates holding a criminal proceedings certificate will align with the approach used for CILEX Advocates holding civil and family certificates. As a result, criminal proceedings certificates will be subject to renewal every 3 years.
- The requirement for CILEX Advocates for criminal proceedings to complete vulnerable witness training will be at the first renewal stage, which takes places 12 months after initial authorisation. CILEX Advocates who have already completed the first renewal will be

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encouraged to undertake vulnerable witness training if they are working in the Youth Court however this will not be mandatory for future certificate renewal.

13. In addition to responses from individuals, CILEx Regulation received a response from the CPS in relation to the proposed changes to the Associate Prosecutor Rights of Audience and Litigation Rules.
14. While supportive of the removal of QASA from the Rules, the CPS queried whether the vulnerable witness training would be mandatory for Associate Prosecutors. Associate Prosecutors have two levels of authorisation: AP1 and AP2. In the response, the CPS outlined the difference between AP1 and AP2 authorisation and the type of work undertaken by the different grades.
15. The CPS confirmed that AP1 Associate Prosecutors do not have rights of audience to conduct trials and therefore felt training relating to the handling of vulnerable witnesses in a trial setting would not be appropriate. The AP2 Associate Prosecutors, however, are designated to deal with trials of summary, non-imprisonable matters and, while the likelihood of dealing with vulnerable witnesses in these matters is low, the CPS agreed there may be value in the AP2 Associate Prosecutors undertaking training that highlights general issues around vulnerability.
16. In the response, the CPS also confirmed that an Associate Prosecutor Youth Court Refresher course is being developed and that the details of this would be shared with CILEx Regulation at the appropriate time. This complements the training that AP2s receive on authorisation in relation to Youth Court work.
17. In the consultation, the proposed changes to the Associate Prosecutor Rights of Audience and Litigation Rules related to the removal of QASA and did not suggest implementing additional training requirements. Based on the response from the CPS, CILEx Regulation noted the commitment to ongoing training and development and support the CPS encouraging AP2 Associate Prosecutors to undertake training focusing on vulnerability or vulnerable witnesses as part of their annual CPD requirements.
18. We consider that based on the responses received, and subject to agreement of the CILEx Regulation Board, the changes proposed in the consultation can be submitted to the Legal Services Board for approval.

**For further information, please contact:**

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