

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.

This consultation would be of interest to CILEX Advocates, members of our regulated community and other stakeholders including approved regulators, consumers of legal services, consumer organisations and those interested in criminal justice.

1. CILEx Regulation is the independent regulator for Chartered Legal Executives, other grades of CILEx membership, CILEx Practitioners and firms. We take a risk based and outcomes focused approach to regulation, by working constructively with our regulated community to ensure that they deliver the best outcomes for clients. We have set clear principles within our Code of Conduct and inform the public of the standards they can expect. We believe this provides a balanced approach.
2. The purpose of this consultation is to set out 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, particularly focused on Youth Court advocacy.
3. We welcome responses from our criminal advocates and other stakeholders including members of our regulated community, consumers of legal services, consumer organisations and other interested parties.
4. This consultation will run for 4 weeks, from 18 June 2021, closing at 4pm on 16 July 2021.

Background: why are we proposing to amend these rules?

5. The QASA scheme was developed by the three main regulators of advocacy – CILEx Regulation, the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB). It was developed to respond to the changing legal landscape coupled with competition and commercial imperatives which put pressure on the provision of good quality advocacy. The economic climate, both generally and in terms of legal aid, created a concern that advocates may accept instructions outside of their competence.
6. Advocacy is a vital part of an effective justice system. Members of the public involved in litigation rely upon advocacy for the proper presentation of their case. Those who are involved in decision making rely on advocacy for the proper administration of justice. For defendants reliant on effective advocacy in the criminal courts the stakes are high: loss of liberty may be an outcome. QASA was intended to ensure that all advocates in criminal courts would undergo a process of accreditation so that they only deal with cases within their competence and subject to assessment and monitoring of their performance against a common set of agreed standards.
7. Since the Rules were approved to introduce QASA, the SRA and BSB have subsequently introduced alternative provisions to meet the objectives of QASA.

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8. This consultation sets out CILEx Regulation’s proposal to replace the QASA scheme in the Rights of Audience Certification Rules and revert to the original renewal requirements for criminal advocates. At the same time, CILEx Regulation recognises the [research](#) in relation to the quality of advocacy being undertaken in the Youth Court, and as a result has sought to improve knowledge, skills and competencies of its criminal advocates in relation to this specialist area of practice.

Our proposals

9. We are proposing to amend the Rights of Audience Certification Rules as follows:
- Remove all references to the QASA scheme and revert to the pre-existing renewal requirements for criminal advocates (highlighted in tracked changes throughout the document).
 - Introduce additional competencies in relation to the Youth Court. This is supported by the [research](#) undertaken by CILEx Regulation and the BSB (**Annex 1** - Appendix 3, paragraphs 9-13).
 - Introduce mandatory CPD in relation to handling of vulnerable witnesses as part of the first Advocacy Certificate renewal for criminal advocates (**Annex 1**, Paragraphs 64 and 68).
 - To 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 (**Annex 1**, Paragraph 1).
10. We are proposing to introduce mandatory CPD in relation to handling of vulnerable witnesses as part of the first Advocacy Certificate renewal for criminal advocates authorised under the Practitioner Authorisation Rules. This is the only change required to the new Rules for Practitioner authorisation (**Annex 2**, Paragraph 91).
11. We are proposing to amend the Associate Prosecutor Rights of Audience and Litigation Certification Rules as follows:
- Remove all references to the QASA scheme
 - Replace ‘Investigation, Disciplinary and Appeals Rules (IDAR)’ with ‘Enforcement Rules’.
12. We are proposing to amend the Admissions and Licensing Committee Rules as follows:
- Remove all references to the QASA scheme
 - Replace ‘Investigation, Disciplinary and Appeals Rules (IDAR)’ with ‘Enforcement Rules’.

The Rules

13. The proposed revisions to the Rights of Audience Certification Rules are attached to this consultation at **Annex 1**.

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14. The proposed revisions to the Practitioner Authorisation Rules are attached to this consultation at **Annex 2**.
15. The proposed revisions to the Associate Prosecutor Rights of Audience and Litigation Certification Rules are attached to this consultation at **Annex 3**.
16. The proposed revisions to the Admissions and Licensing Committee Rules are attached to this consultation at **Annex 4**.

Consultation Questions

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?

Yes/No? Please provide comments:

Q2. Do you agree that CILEx Regulation should implement the additional competencies in relation to the Youth Court for criminal advocates?

Yes/No? Please provide comments:

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?

Yes/No? Please provide comments:

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?

Yes/No? Please provide comments:

How to respond

Please send your response to CILEx Regulation by email to consultations@cilexregulation.org.uk. Please mark it for the attention of Danielle Rowles.

Our office is closed until further notice because of the government requirements due to the corona virus and we can only receive responses via email. Please check on our website for information to find out if this situation changes before the consultation closes on 16 July 2021.

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Submission deadline

Please respond by **4pm on 16 July 2021**.

Ends

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