



QUALITY ASSURANCE SCHEME FOR ADVOCATES (CRIME)

APPLICATION BY THE JOINT ADVOCACY GROUP

JULY 2011

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Quality Assurance Scheme for Advocates (Crime)

Executive Summary

Introduction

1. The development of a quality assurance scheme for advocates (the Scheme) has been mooted for a number of years. The expectations for such a scheme were crystallised in the report in to the procurement of legal aid by Lord Carter in 2006.
2. The Scheme set out in these papers is the culmination of two years of work by the Joint Advocacy Group (JAG). To reach this point a number of challenges and obstacles had to be overcome both within the Group itself and in the wider regulatory and political arena.
3. JAG brought together three organisations, the BSB, IPS and SRA, with regulatory responsibility for three very different professions. The regulation of each profession brings with it its own demands, its own sensitivities and its own idiosyncrasies. Against this backdrop, the development of a single common scheme, that carries the support of each regulator, represents a major and unique achievement.
4. In addition to the internal challenges that have been faced and overcome by JAG are the varied expectations from a wide range of stakeholder groups. Each of these brought their own requirements for a quality assurance scheme and their own demands and challenges. JAG, through open and transparent consultation, a willingness to listen and to take advice and a flexible approach has developed a Scheme which, as far as was ever possible, meets all of the expectations and requirements placed upon it.
5. The Regulatory objectives of the Legal Services Act 2007 have also been central to the development of the Scheme. This paper will demonstrate how each objective is promoted and how none are prejudiced.

The Scheme

6. The Scheme is set out in comprehensive detail within the papers. Briefly, the fundamental elements of the Scheme are:
 - Advocacy standards have been developed against which all advocates will be assessed;
 - Advocates will be accredited at one of four levels – a level one advocate undertakes work in the Magistrates Court and a level four advocate is able to appear in the most serious and complex hearings in the Crown Court;
 - Advocates may progress through the four levels by demonstrating through assessment that they meet the required standard for the next level. Advocates who choose to remain at their current level will be required to re-accredit at that level once every five years;
 - There will be two methods of assessment within the Scheme; assessment via judicial evaluation and assessment via an assessment organisation, where the advocate will be assessed in a range of simulated exercises.

The Approach

7. JAG has consulted widely during the development of the Scheme. The final proposals reflect the views of those who have commented. JAG is grateful to everyone who took the time to respond to consultations and to engage with them during the process. Expert advice and invaluable assistance has been provided by the Advisory Group, established by JAG, on each element of the Scheme. This Group, which comprised senior representatives from each of the stakeholders, has been a crucial resource to ensuring that wide support for the Scheme was achieved.

Financial modelling for the Scheme

8. Each regulator will be responsible for establishing its own fee structure for the Scheme. Brief details are provided in the paper and further workings can be provided if necessary.

Timeline for implementation

9. The Scheme will be introduced in phases starting with initial accreditation at levels 3 and 4 in December 2011. A full timeline for implementation is provided.

Next steps

10. Once the Scheme has been approved by the LSB, the rules and regulations that will underpin the Scheme will be finalised and the business processes and the financial models agreed. Each of the three regulators will then submit their own application to the LSB for approval of these regulatory arrangements.

Part 1: Introduction

1. This is the application from the Joint Advocacy Group (JAG) to the Legal Services Board (LSB) for consideration of the Quality Assurance Scheme for Advocates (crime) – QASA.
2. This application represents two years of work by JAG to develop a quality assurance scheme for criminal advocates which meets the regulatory objectives of the Legal Services Act 2007 (the Act) and the additional principles suggested by the LSB. The proposed Scheme is as a result of comprehensive and wide formal consultation as well as extensive targeted consultation with those groups particularly impacted by the Scheme.
3. In this application, JAG will set out:
 - The background and history to the development of the Scheme;
 - The regulatory need for the Scheme;
 - The methodology and governance and accountability arrangements for the project;
 - How the Scheme meets the regulatory objectives of the Act as well as the additional LSB Scheme principles;
 - The Scheme and the Scheme documentation;
 - The assessment methods;
 - Consultation and evaluation arrangements;
 - Support framework for advocates;
 - Costs and financial modelling;
 - Timetable for the implementation of the Scheme;
4. The Scheme has been approved by each of the Boards of BSB, SRA and IPS. Each element of the Scheme has also been considered by the QASA Advisory Group and reflects the advice received.
5. Once the Scheme has been approved by the LSB, each regulator will prepare revisions to their respective Rules and Regulations and finalise the business processes to operate the Scheme. These will be submitted to the LSB for approval in September 2011. The first phase of initial accreditation will commence in December 2011.
6. Should the LSB wish to have sight of the draft business processes or any other material they should contact Oliver Hanmer at the BSB at ohanmer@barstandardsboard.org.uk or Mandy Gill at the SRA mandygill@sra.org.uk

Part 2: History and background

A brief history

1. The origins of the Quality Assurance Scheme for Advocates (QASA) lay in Lord Carter's Report of 2006 into legal aid procurement. In that report, Lord Carter said:

"There is a client-driven need for the quality assurance of advocacy to be more than a reactive mechanism addressing specific complaints or concerns...."

2. The initial development of a scheme was taken forward by the Legal Services Commission (LSC) until 2009 when under the project sponsorship of the Legal Services Board (LSB), responsibility for development and delivery of a scheme was taken on by the three main regulators of advocacy – the Bar Standards Board (BSB), the Solicitors' Regulation Authority (SRA) and ILEX Professional Standards (IPS).

The Joint Advocacy Group

3. The three regulators established the Joint Advocacy Group (JAG) to take forward the development of a quality assurance scheme, starting with criminal advocacy.
4. JAG comprises representatives from each of the regulators with experience of criminal advocacy, quality assurance and competency assessment, education and training and professional standards.
5. The Group has the following terms of reference, which shall be exercised and performed subject to such directions as may from time to time be given by the regulatory bodies jointly:
 - (a) *To build on existing quality assurance arrangements and advocacy expertise to develop and harmonise a proportionate and consistent quality assurance scheme to ensure that advocates meet and maintain advocacy standards in the public interest. To include*
 - *The setting of advocacy standards*
 - *The maintenance of those standards*
 - *Assessment and validation of advocacy against those standards*
 - *Accreditation of training providers*
 - (b) *To consider and advise the regulatory bodies on developments in the quality assurance of advocates*
 - (c) *To keep under review the effectiveness of the mechanisms adopted to ensure the maintenance of standards.*
 - (d) *To work collaboratively with other external bodies and stakeholders and to co-operate and enter into arrangements with any organisation as necessary.*
 - (e) *To establish and implement procedures for assessing advocacy*
 - (f) *To consider the Equality and Diversity implications of all the above and, where necessary, ensure that Equality Impact Assessments are conducted.*
6. The current members of JAG are:

Ian Watson – IPS
Di Lawson* – SRA

Quality Assurance Scheme for Advocates

Mandy Gill – SRA
Oliver Hanmer – BSB
Sam Stein QC – BSB

Part 3: The regulatory need for QASA

1. Advocacy is a vital part of an effective justice system. Those members of the public who are involved in litigation rely upon advocacy for the proper presentation of their case. Those who are involved in crucial decision-making whether as Judge or jury also rely on advocacy for the proper administration of justice. For defendants reliant on effective advocacy in the criminal courts the stakes are high: loss of liberty is a possible outcome of the decision-making process.
2. At present, those who undertake advocacy in the criminal courts may have qualified via different routes which use different methods of education, training and assessment to ensure that the advocates demonstrate that they meet the required standard. This approach has worked in the past but we are now at a stage where lawyers, their clients, the public, judiciary and those who are funding criminal litigation need to be satisfied that advocates who are appearing in the criminal courts are operating to consistent standards.
3. A key element of professional responsibility is the maintenance of appropriate standards. The changing face of the legal landscape coupled with competition and commercial imperatives are putting pressure on the sustained provision of good quality advocacy. The economic climate, both generally and in terms of legal aid funds, has created a concern that advocates may accept instructions outside their competence. The judiciary has responded to these matters through judicial pronouncement on advocacy competence and performance.
4. Regulatory intervention into the advocacy market has long been argued as unnecessary as market forces should eliminate the under-performing advocate. However, whilst market forces can generally be relied upon to identify the competent advocate, it is not necessarily the case that the less competent will not be instructed. In addition, it is increasingly uncommon for an advocate to be observed by the selecting professional. It has become apparent therefore that natural selection through market forces is not the answer to assure the quality of all advocates. The public interest and consumer protection requires a more proactive approach to assuring advocacy competence.
5. The comments of the judiciary and others, the fallibility of relying on market forces and the need for consumer confidence all lead to the need for systematic and consistent quality assurance of advocates.
6. Under the Act, the regulators are responsible for setting and maintaining standards within their respective professions. This includes a requirement upon them to have in place effective quality assurance arrangements.
7. Evidence gathered through the Scheme will be used to monitor the quality of advocacy performance and to ensure that the Scheme remains proportionate and targeted to where risk dictates that there is the greatest regulatory need.

Part 4: The aims and objectives of the QASA

1. JAG has delivered a Scheme which is consistent with the regulatory objectives set out in the Act and which is proportionate to the perceived regulatory need. This need for proportionality has driven the development of the Scheme; the Scheme must not only be proportionate to the perceived need but must also be proportionate in terms of its cost and administration. This need has encouraged the development of a scheme which makes pragmatic and practicable use of the resources which are currently available whilst producing a structure which can be adapted in the future. As part of the development of the Scheme, JAG has identified 8 key principles that must be demonstrated. These are:
 - i. Applicable to all criminal advocates
 - ii. Accountable to the regulators and independent from the representative bodies
 - iii. Proportionate and targeted
 - iv. Economic
 - v. Straightforward
 - vi. Carry the confidence of the public and the professions and be in the public interest
 - vii. Consistent and fair assessment
 - viii. Common advocacy standards
2. These principles, as well as the regulatory objectives in the Act have been central to the development of the Scheme.
3. JAG has also reviewed existing quality assurance arrangements for advocates and in particular the approach adopted by the Crown Prosecution Service (CPS). The CPS has a comprehensive quality assurance framework for its in-house prosecutors and it is in the interests of those involved in the provision of advocacy services that any regulatory scheme is compatible with the CPS approach, does not lead to duplication or avoidable or unnecessary burdens upon advocates, and facilitates harmonisation.

Part 5: Regulatory objectives and the LSB principles

1. In this part of the paper, JAG highlights in the table below how the Scheme promotes each of the regulatory objectives in the Act and in turn demonstrates that the LSB principles have been satisfied. The description of the Scheme which appears at Part X of the paper illustrates in more detail how the objectives and in principles are met
2. The regulatory objectives are:

RO1	protecting and promoting the public interest;
RO2	supporting the constitutional principle of the rule of law;
RO3	improving access to justice;
RO4	protecting and promoting the interests of consumers;
RO5	promoting competition in the provision of services within subsection (2);
RO6	encouraging an independent, strong, diverse and effective legal profession;
RO7	increasing public understanding of the citizen's legal rights and duties;
RO8	promoting and maintaining adherence to the professional principles.
3. The LSB principles are:
 - A. **Independence** - of the scheme and assessment process from those being assessed or their professional bodies;
 - B. **Consistency** - one scheme (with the possibility of multiple providers delivering it or parts of it);
 - C. **Differentiation** - multiple levels of assessment, from entry level to the most senior level;
 - D. **Tailored assessment** – according to area of law and level;
 - E. **Compulsory participation** - any advocate wishing to practice in an area of work covered by the scheme would need at least the minimum level of accreditation for that area of work, but with clients choosing above that level the relevant level of advocate that suits their case, budget and personal preference subject only to limited restrictions in place to protect the interests of justice;
 - F. **Limited exceptions** - passporting and exemption only where this is demonstrably in the consumer interest and supported by proper evidence;
 - G. **Periodic reaccreditation** – probably at least five yearly.

Regulatory objective	Related LSB principle(s)	How met by the Scheme
Protecting and promoting the public interest	All	<ul style="list-style-type: none"> • Compulsory participation for all criminal advocates; • Assessment based entry into the Scheme; • All advocates assessed through reliable, fair and rigorous means against common advocacy standards; • Remedial training and re-assessment for under-performing advocates; • Assessment based progression and re-accreditation processes; • Public assured that all criminal advocates assessed as competent at the level at which they practice; • Advocate able to choose assessment method depending on the nature of their practice and within the parameters of the Scheme’s assessment framework; • All judges involved in the assessment of advocacy will be trained in the Scheme; • Assessment centres must be accredited in order to undertake advocacy assessments. Thereby ensuring that assessments are robust and reliable; • Periodic re-accreditation ensures that advocates remain demonstrably competent at that level of practice; • On-going monitoring of advocates outside of accreditation/re-accreditation
Rule of law	A, B	<ul style="list-style-type: none"> • Proper administration of justice not prejudiced by incompetent advocates and, if it is, mechanisms are in place to raise and address concerns; • Independent decision making free from influence from the representative bodies and other interested parties
Improve access to justice	B, C, E	<ul style="list-style-type: none"> • The introduction of the Scheme will for the first time determine systematically the competence of all criminal advocates. This means that only those who are competent to undertake criminal work at a particular level can do so. This as a result should drive up quality and in turn ensure that those in need of legal representation are confident that a) it is available and b) it will be competent

Regulatory objective	Related LSB principle(s)	How met by the Scheme
Protecting and promoting the interests of consumers	All	<ul style="list-style-type: none"> • Largely the same as for the public interest objective; • The ascribed level of the advocate under the Scheme will be publicly recorded. Consumers will therefore be better able to make a choice on their representative as a result and have confidence that they are competent to act at that level; • Common advocacy standards across all advocates mean that all arms of the criminal legal profession will be, for the first time, assessed within the same framework. This will promote competition not only with respective professions but also across the legal market. This will have a positive effect on both quality and price
Promoting competition	B, C and E	<ul style="list-style-type: none"> • A levels based Scheme creates a structure for career progression which enables an advocate to monitor how their career progresses. This will encourage competition and as a result promote quality as an indicator of success as an advocate; • Common advocacy standards across all advocates mean that all arms of the criminal legal profession will be assessed within the same framework. This will promote competition not only with respective professions but also across the legal market.
Promoting independent, strong, diverse and effective legal profession	B, C and E	<ul style="list-style-type: none"> • In addition to the above illustration of how the Scheme meets the objectives already covered, the Scheme will also have a positive equality and diversity impact. It will enable those returning to practice from maternity leave or sickness to do so within a structured assessment framework. Advocates will be able to demonstrate that they are competent to practise at their chosen level and therefore make returning to work easier; • Detailed Equality Impact Assessments have been carried out and are attached to this application. Statistical data is incomplete and will be added to as the Scheme becomes operational and more precise figures in respect of numbers and

Quality Assurance Scheme for Advocates

Regulatory objective	Related LSB principle(s)	How met by the Scheme
		breakdown of criminal advocates becomes known. EIA's will be updated as statistics become available and the impact of the Scheme carefully monitored
Increase understanding of a citizen's legal rights and duties	E	<ul style="list-style-type: none"> • The Scheme will ensure that only those who are competent to advise on criminal matters can do so; • Publicly recorded information about an advocate's level and the Scheme will enable the public to understand what competence means in terms of criminal advocacy
Promoting and maintaining adherence to the professional principles	A, B and E	<ul style="list-style-type: none"> • The Scheme is underpinned by professional rules and regulations that must be adhered to. Failure to do so will be a disciplinary matter; • The Scheme enhances the underlying professional obligation not to act outside of your competence and monitors compliance with this requirement

4. The above table amply demonstrates how the Scheme promotes the regulatory objectives and meets the LSB principles. The detail of the Scheme also provided in this paper amplifies the points made in the table above.
5. JAG remains committed to promoting the objectives as the Scheme moves into operation. The operation of the Scheme will enable evidence of advocacy performance to be gathered and the Scheme can be revised as the evidence and subsequent risk dictates in order to ensure the on-going promotion of the objectives.

Part 6: The project approach

1. In this section of the paper, JAG sets out the methodology behind the development of the Scheme and the governance and accountability arrangements for the project.

Methodology and governance

2. The establishment of JAG in November 2009 was the first step in promoting a collaborative approach to the development of the Scheme. This approach is critical in ensuring that the Scheme addresses the regulatory needs of each arm of the legal profession and so that the Scheme neither favoured nor prejudiced any one profession. Moreover, a joint project gives greater credibility to the Scheme and ensures consistency.
3. JAG has adopted Prince 2 methodology for the project itself and in effect acts as the Project Board.
4. JAG is also aware that there is a wealth of material on quality assurance schemes in respect of advocacy and more widely in other professions. Detailed research has therefore been undertaken so that JAG can be satisfied that the Scheme developed is supported by good practice and applied learning.
5. JAG has paid particular regard to the current advocacy assessment frameworks adopted by the CPS and the Queens Counsel Appointment Panel and the research undertaken by Human Assets, as commissioned by the LSB, and Cardiff University, as commissioned by the LSC.
6. JAG was also keen to ensure that the development of the Scheme was inclusive of those who would be impacted by it. Two consultations were undertaken; one on the advocacy standards and the other on the broad principles of the Scheme. Detailed responses were received from a wide range of sources and all were invaluable in shaping the Scheme. Further information on the consultations can be found in Part 9 of this application.
7. JAG has developed the QASA as a central Scheme that will apply to all criminal advocates. This Scheme will be operated and applied by each regulator for the criminal advocates that they regulate. Within the defined framework of the Scheme, each regulator will be responsible for the accreditation and re-accreditation process for its own members. JAG will develop criteria for decisions taken at each stage of the Scheme to ensure consistency of approach across regulators.
8. JAG will remain in existence and will retain an oversight role for the Scheme. It will be responsible for ensuring that the Scheme is operated and applied consistently across the regulators and will take steps to adapt and modify the Scheme as it develops and as further evidence about advocates and advocacy is collated.
9. In addition, JAG established an Advisory Group, chaired by Lord Justice Thomas and comprising representatives from all of the main interested parties. A full list of members is attached at Appendix 5. The Group provided advice and comments on all of the elements of the Scheme and has been an invaluable resource. Group meetings also provided a forum for interested parties to raise concerns about the Scheme for debate, and where possible, resolution. This has enabled JAG to develop a Scheme, which meets the majority of the expectations of all of the stakeholder groups.

10. It is proposed that the Advisory Group will continue once the Scheme becomes operational and will provide advice and guidance to JAG on the ongoing operation of the scheme. The Group will also be invited to provide its own comments on how, from the perspective of each stakeholder represented, the Scheme is operating.
11. The result of the outlined methodology is that the Scheme has been developed inclusively, with wide formal consultation and targeted consultation on the detail of the Scheme.

Accountability

12. Each of the BSB, SRA and IPS were delegated by their Boards responsibility for developing the Scheme. JAG remained accountable to those Boards and reported as required at particular milestones in the Scheme's development.
13. JAG has therefore acted with the authority and full support of the respective regulatory Boards and the Scheme has now been approved by each of these Boards.

Equality and Diversity

14. Each regulator has carried out its own Equality Impact Assessments (EIA). These Assessments will continue to be modified as the Scheme becomes operational and evidence of impact becomes available. This will also enable the few gaps in available statistics that are present in the EIAs to be filled.
15. The EIAs are attached at Appendix 6.

Part 7: The Scheme

The Statement of Standards

1. The Scheme is founded on a single set of standards which will apply to all advocates and which identify the skills and behaviours expected of a criminal advocate. There will be no exemptions or exceptions within the Scheme. The same set of standards applies to all advocates regardless of the level at which the advocate is operating. JAG has therefore unpacked the standards to identify the performance indicators which provide further clarity regarding what is expected of the advocate at each of the four levels.
2. The standards and accompanying performance indicators for each standard at each level are set out in the **Statement of Standards (appendix 1)**. JAG anticipates that this will be a key reference tool for those involved (as advocates, judges, external assessors) in the Scheme but is not likely to be a document which is in everyday use.

The Criminal Advocacy Evaluation Form

3. To assist with the evaluation of all advocates within the Scheme, JAG has developed the **Criminal Advocacy Evaluation Form (CAEF) (appendix 2)** which will be used by judges undertaking judicial evaluation and by assessment organisations assessing simulated advocacy performance.
4. The **CAEF** is intended to be used as the main desk-top document which will enable the consistent assessment of advocates by a large number of assessors. All judges involved in the evaluation of advocacy performance will be trained on the standards and on using the **CAEF**. The **CAEF** sets out the advocacy standards but also the performance indicators which are intended to illuminate what is expected of the advocate at each level.

Allocating cases to levels

5. The four levels of the Scheme are mapped to complexity of work ranging from cases dealt with in the magistrates courts at level one through to level four cases of the most complex nature dealt with in the crown court. Once operational, those involved in a case will need to identify at an early stage the level of a case in order to determine what level of advocate is required.
6. JAG has developed guidance on grading cases (**appendix 3**), to assist those involved in identifying the level of the case and therefore the level of advocate needed for the case. It will be for the advocates involved in the case to discuss and agree the level of case. The categories of offence identified within the guidance document are taken from the LSC's own categories. This should ensure consistency and a degree of familiarity with the description of the offences within each level when the Scheme becomes operational.
7. As can be seen from the guidance document, criteria have been developed to be used when the nature of a case changes or when for some other reason a different level of advocate is required to the level of case. The same criteria will also be used to decide upon the level of junior required in a case involving both a leader and junior. The usual rule will be that the junior should be no more than one level below the leader but the criteria set out in the guidance document on allocating cases to levels can be used to establish whether a level two

junior could be instructed in a level four case. Further information on how the Scheme will address cases with leaders and juniors is set out in the technical issues section of the application at Part 10.

The assessment framework

8. Advocates within the Scheme may choose to progress through the levels or to remain at a level in which case they will be the subject to reaccreditation requirements.
9. JAG has developed an assessment framework which sets out the assessment requirements from the point where the advocate enters the Scheme at level 1 to the point where the advocate becomes a level 4 advocate. This assessment framework is summarised in the **Assessment Framework Summary Tables (appendix 4)**.
10. As can be seen from the summary tables, the proposal for level one is that the entry point into the Scheme, the individual regulators' current education and training pathways should prepare advocates to meet the level one standard at the point of qualification. For progression to level two there are several options. It is anticipated that as solicitors wishing to practise at level two will also need to acquire their higher rights of audience, most will choose to progress from level one to two via the Higher Rights of Audience assessment which will be mapped against the Scheme's standards to ensure that advocates completing the Higher Rights assessments have also met the level two standards. There should therefore be minimal costs implications for solicitors who wish to progress from level one to level two as they will, as at present, be required to undertake assessments to demonstrate fitness to exercise their higher rights of audience which will simultaneously satisfy the assessment route to level 2 QASA practice. It is also proposed that advocates should have the option of progressing from level 1 to level 2 by undertaking five cases under provisional license. This reflects the reality that some advocates may be ready to move quickly from level 1 to level 2 and so rather than being judicially assessed on three occasions at level 1 against the level 1 standards and then moving to provisional license for two cases at level 2, the advocate would move to level 2 on a provisional license and be judicially assessed on five occasions at level 2. This option also recognises that barristers upon Call automatically acquire rights of audience in all courts.

Progression

11. Otherwise the framework provides the advocate seeking to progress from level two to three or three to four with two options for assessment. These are judicial evaluation in a live, work-place context or assessment by an assessment organisation via a series of simulated exercises. The advocate is able to choose which method best fits with the advocate's circumstances and will also determine when s/he would like to initiate the process of progression.
12. For the advocate seeking to progress via judicial evaluation, s/he will be required to obtain a maximum of five pieces of judicial evaluation over a 12 month period, three of which must confirm that the advocate is competent at their current level and appears ready to progress to the next level. This aspect of the proposal recognises that there may be occasions when the advocate does not meet all of the required standards but may overall be competent and ready to progress to the next level. Having initiated the process of gathering their evaluations, the advocate must obtain the evaluations in consecutive cases. The advocate will be required to confirm to their regulator on their application that they have obtained no more than five CAEFs over the previous 12 months and that all of their judicial evaluations are listed on the application. It will be a matter of professional conduct if the advocate misleads their regulator.

The advocate will invite the judge at the end of the trial to complete an evaluation form which the advocate will retain. As soon as the advocate has three competent evaluations, the advocate will submit their bundle of evaluations to JAG and apply to be accredited at the higher level.

13. On receipt of the advocate's application, JAG will grant the advocate provisional license or "green-plate" the advocate at the higher level. This reflects the fact the advocate has necessarily been assessed against the standards at the lower level and is not yet tried in a case at the higher level. Once green-plated, the advocate must be judicially evaluated and obtain a CAEF from two of their first five cases at the new level, having been assessed against the standards for the higher level. The advocate will then submit the green-plate evaluations to JAG at which point the advocate will become fully accredited at the new level. Advocates who are evaluated as not competent under the green plate Scheme will revert to their previous level.
14. The advocate may also progress via an assessment organisation. This will involve the advocate attending at an assessment organisation for a series of exercises which are likely to involve a combination of simulated court-room advocacy and other practical exercises. Advocates attending an assessment organisation will be assessed against the standards for the level to which they aspire. All advocates seeking to progress to level three or four must also obtain one piece of judicial evaluation as above. On passing the assessments, the advocate will apply to JAG for recognition at the new level.
15. On receipt of the advocate's application, JAG will grant the advocate provisional accreditation or "green-plate" the advocate at the higher level. This reflects the fact the advocate is not yet tried in a case at the higher level. Once green-plated, the advocate must be judicially evaluated and obtain CAEFs from two of their first five cases at the new level, having been assessed against the standards for the higher level. The advocate will then submit the green-plate evaluations to JAG at which point the advocate will become fully accredited at the new level. Advocates who are evaluated as not competent under the green plate Scheme will revert to their previous level.
16. As a competency based Scheme, it is proposed that there is no limit on the number of attempts which an advocate may have to progress. The advocate who chooses to try and progress via judicial evaluation will, as above, be capped at the number of evaluations s/he may seek in a single 12 month period.
17. It is proposed that advocates who are not initially successful in their attempts to progress are advised to wait for at least six months before making a further attempt.
18. JAG will recruit and train a small team of external assessors who can be used in situations where an advocate has access to a limited number of judges for the purposes of evaluation or to review an advocate's performance in a borderline case or under ongoing monitoring (see below).

Reaccreditation

19. Advocates may choose to remain at the same level for a prolonged period in which case they will be subject to a requirement for reaccreditation every five years. At level one this will be demonstrated by requiring advocates to show that they continue to meet the level one standard by successfully completing assessed advocacy CPD as specified by their regulator.

Advocates at levels two, three and four who apply for reaccreditation will, as with progression, be subject to assessment either by judicial evaluation or by an assessment organisation. It will be for the individual advocate to determine which assessment method best suits their individual circumstances.

20. As with the assessment requirements for progression, advocates will need to obtain a maximum of five pieces of judicial evaluation over the 12 months immediately prior to their reaccreditation date, three of which must confirm their competence at their current level. Having commenced the process of reaccreditation by obtaining their first CAEF, the advocate will then be required to obtain their further CAEFs in consecutive cases. They will be assessed against the standards for their current level undertaking cases at that level and there will be no requirement for green-plating. Advocates using the assessment organisation route will be assessed in simulated exercises against the standards for their current level. Advocates who seek re-accreditation at levels 3 and 4 via assessment centre will also need to submit one piece of judicial evaluation. There will be no green-plating as they will have previously undertaken cases at the same level.

Ongoing monitoring

21. During the advocate's period of accreditation, every advocate will be subject to ongoing monitoring. In situations where there are serious concerns regarding an advocate's performance, a judge will be able to complete a **CAEF** and send it to JAG. JAG will then decide on the appropriate course of action which will encompass a range of options from no further action at that stage to contacting the advocate's regulator. JAG may also decide to ask an external assessor to attend court and observe the advocate.

Initial accreditation at levels 2, 3 and 4

22. JAG proposes a two-stage approach to initial accreditation at levels 2, 3 and 4:

- (i) Identification of advocates currently practising at each level

Advocates would be given a three month window in which to submit an application to JAG setting out the level at which they are currently practising. This would involve setting out evidence of the number of cases/hearings undertaken at this level that they have been involved in over the last 12-18 months. The window will open for level 3 and 4 advocates on Thursday 1 December 2011 and close on Tuesday 28 February 2012. It will open for level 2 advocates on [date] and close on [date].

Advocates would have regard to the categorisation of levels of cases when self assessing their level and would be provided with guidance on the other issues to take into account.

Advocates who self-assess as currently practising at level 3 or 4 would be given a green plate licence to practise at that level.

- (ii) Validation of "green plate" licence

Initial green plate licences would be granted on the same terms as those obtained through applications to move up a level (once the Scheme is fully operational). Therefore advocates on a green plate would be required to submit themselves for

judicial evaluation in their first two cases or appearances at their new level. Two positive evaluations would result in substantive accreditation for the usual five year term. If the evaluations revealed any concerns JAG would either seek further evidence or revoke the green plate. In the event that a green plate is revoked, the advocate would be automatically given a green plate at the level below and would need to submit themselves for evaluation in their first two cases at this level. Where evaluations reveal significant concerns, JAG might also involve the regulators in order to set remedial training in place.

Initial accreditation at level one

23. The process of initial accreditation for level 1 advocates will begin after the initial three month window for self-certification of level 2, 3 and 4 advocates.
24. JAG has agreed that the education and training pathways will equip advocates for level 1 QASA advocacy. This means that all advocates will qualify with level 1 certification. We are reviewing the current education and training pathways to ensure that they are entirely consistent and compliant with level one requirements. Any necessary amendments to the education and training pathways will be implemented with effect from the academic year commencing September 2012.
25. The proposals for reaccreditation at level one are that the advocate will achieve this by satisfactory completion of assessed CPD against the level one standards over the five year period of accreditation.
26. Having concluded the initial self-accreditation at levels 2, 3 and 4, we will deal with initial self-assessment at level 1 as follows:
 - From 1 September 2012 we will invite initial self-accreditation from advocates who consider themselves to be level 1 advocates. This process will be completed by 31 December 2012.
 - Level 1 advocates who are initially registered at level 1 and who are more than 5 years PQE will be required to undertake assessed advocacy CPD within the first 24 months of level 1 accreditation. Assuming the advocate demonstrates competence against the standards at that point, the advocate will then be given their first five-year period of accreditation.
 - JAG will undertake at least 2 audits of level 1 advocacy within the first 18 months of operation of the Scheme to identify performance issues or particular practice risks and trends associated with level 1 advocacy.
27. The proposals above are proportionate and consistent with the proposed approach to assessment and reaccreditation at level 1. Those advocates who do not initially self-accredit at level 1 will fall outside of the Scheme and will not be able to undertake criminal advocacy in any court without re-establishing their competence to do so.

Once the Scheme is fully operational we will deal with level 1 as follows:

- The education and training pathways will equip solicitors, barristers and ILEX professionals as level 1 advocates. At the point of qualification all new barristers, ILEX professionals and solicitors will therefore be accredited QASA level 1 advocates for a period of 5 years.

- At the end of the five year period of accreditation, barristers and solicitors will have either progressed to a higher level within the Scheme, be continuing to practise advocacy at level 1 or have undertaken no or little criminal advocacy. ILEX professionals will, based on current rights of audience, be continuing to practise advocacy at level 1 or will have undertaken no or little criminal advocacy.
- Those who continue to practise advocacy at level 1 will need to be reaccredited
- Those who are no longer practising criminal advocacy will fall outside of the QASA Scheme. The expectation will be that they no longer practise criminal advocacy without demonstrating their competence to do so and breach of this requirement will be managed through the regulators codes of conduct
- Advocates who, for whatever reason, fall outside of the Scheme (i.e. who do not renew their accreditation) will be able to come back within the Scheme by undertaking assessed CPD and demonstrating that they are competent against the level 1 QASA standards.

28. At level 1, the link and overlap between the requirements of qualification and acquiring QASA level 1 accreditation mean that we will need to have transitional arrangements.

These will reflect the fact that since the proposals above mean that all qualified solicitors, barristers and ILEX professionals will have an immediate post-qualification initial 5-year accreditation, we need to deal with those advocates who have qualified in the previous four years. The table below sets out how JAG will deal with this:

Date of advocate's admission	Date QASA goes live for level 1	Date on which advocate becomes 5 years PQE	Date on which advocate could be required to reaccredit under QASA	Proposed transitional adjustment	Date by which advocate will be required to reaccredit
2008	2012	2013	2013	+ 1 year	2014
2009	2012	2014	2014	None	2014
2010	2012	2015	2015	None	2015
2011	2012	2016	2016	None	2016
2012	2012	2017	2017	None	2017

29. The proposals set out in the table above show how, in line with the proposals for those advocates who are more than 5 years PQE when the Scheme goes live, all advocates will have a period of at least 24 months in which to undertake some assessed advocacy CPD to demonstrate their continuing competence at level 1.

How underperformance will be managed

30. One of the aims of the scheme is to address poor performance identified and to help those advocates who are not performing to develop their advocacy skills in order to meet the advocacy standards at their level. It is therefore proposed that JAG will invite tenders from training providers to deliver remedial advocacy training which will be available to those advocates who are found to be under-performing as well as any other advocate who wishes to refresh their advocacy skills.

31. An Assessment Panel will be established to make decisions on whether an advocate is under-performing in relation to the standards at their level. The Panel will provide independence to the decision making process and will comprise those with experience of advocacy assessment and training and those with judicial experience. There will also be lay member involvement.
32. Therefore, any advocate who is deemed to be under-performing will be required to be reassessed within an agreed period of time and encouraged to undertake the accredited training on offer. There is no obligation upon the advocate to be trained but regulators will strongly recommend that they do. Any cost of this training will be borne by the advocate. If re-assessed as competent, the advocate will be re-accredited at their level. If re-assessed as not competent, the advocate will not be permitted to accept work at that level and will only be able to undertake work at the levels below.

Appeals

33. JAG has identified the circumstances in which an advocate may appeal one of its decisions. They are:
 - An advocate may appeal a decision to refuse progression to the next level
 - An advocate may appeal a decision to remove licensure (accreditation) at the advocate's current level
 - An advocate may appeal a decision to refuse licensure (accreditation) at the advocate's current level
34. In all of the above situations, these would be appeals made by advocates who had followed the judicial evaluation route. Appeals by advocates who have been assessed via the assessment organisation route would be to the assessment organisation rather than to JAG. JAG will ensure that in considering an application for approval as an assessment organisation, it considers the organisation's appeals process and procedures. For those candidates being assessed by an assessment organisation, any appeal would be against maladministration and/or procedural irregularity rather than the academic judgement of an assessor.
35. There will be no mechanism for appeal against the outcome of a single evaluation. These need not be capable of appeal as they are not capable of being judicially reviewed. There will also be no mechanism for appeal against a decision to refer an advocate to their individual regulator for remedial action – again, as these do not represent a decision to refuse licensure or progress, they need not be covered by an appeals process.
36. JAG will provide a clear statement to the advocate about why the advocate has been refused progression/licensure/re-licensure. The advocate will be notified that s/he has a period of time in which to appeal against the decision provided the advocate has grounds to do so. The grounds will be as follows:
 - That the decision reached regarding the advocate's progress/licensure was one which no reasonable person would find comprehensible and/or
 - That there was a procedural error in the assessment process and the disadvantage caused by that error to the advocate was sufficient to have materially affected the decision, making it unsound
37. The advocate will also be notified that any appeal will be dealt with on a paper basis unless the advocate indicates that s/he wishes to have a hearing.

38. The appeal will be to the advocate's own regulator which will constitute a panel to consider the appeal. The panel will be composed of individuals with no prior involvement in consideration of the advocate's application. The panel will be drawn from an expert pool of individuals which JAG will recruit and train. These individuals will be barristers, solicitor advocates, ILEX professional advocates, educators and judges and the panel will always comprise a mix of these. Three people will be appointed to the appeal panel, one of whom will act as chair.
39. Once the panel has considered the appeal (either in writing or via a hearing), the advocate will be notified in writing of the outcome with a full explanation given of the panel's decision. The advocate will also be notified that any further action would have to be via proceedings in the high court.

Further development and enforcement

40. There is a range of situations within the Scheme when it is likely that an advocate may be advised or required to undertake further development to demonstrate competence. These will include:
 - The advocate who is initially unsuccessful on an application for progression and who is advised to undertake further development prior to a further application
 - The advocate who is unsuccessful on an application for reaccreditation and who is required to undertake further development. This advocate would also immediately drop down to the level below their current level and would be green-plated at the lower level and required to obtain two CAEFs confirming the advocate's competence at the lower level. This approach works down to level 1. In the event of a level 1 advocate failing to demonstrate competence, the advocate would cease to be a QASA-registered advocate and would be required to stop publically funded criminal advocacy work. The advocate would need to undertake further training and development as directed by JAG and then be green-plated to re-establish their competence at level 1.
 - The advocate who is referred to JAG via ongoing monitoring
41. Advocates who are advised or required to undertake further training and development will be referred to specific organisations to do so. Many of these are also likely to be the approved assessment organisations for the Scheme and so will have a comprehensive understanding of the standard of performance required at each level.
42. Upon receipt of a CAEF via ongoing monitoring, JAG will consider whether or not it warrants referral to the advocate's regulator. There will be clear criteria for deciding whether or not a referral to the regulator is appropriate and to ensure consistency of approach. These will include:
 - Seriousness of the issue identified;
 - Level of the advocate;
 - History of the advocate e.g. whether other references have been made of a similar nature;
 - The source of the reference – for example has the same judge made a number of references about the same advocate

43. Where JAG decides that a referral to the regulator is not necessary, it will contact the advocate in question to inform them that a reference has been received and provide the detail and nature of the reference. The advocate will be advised that JAG does not propose to take any action in respect of that referral but the advocate may wish to consider what steps they could take to address the particular aspect(s) of performance that the reference identifies. JAG would provide guidance on how this could be achieved e.g. via on the approved training/assessment organisations. JAG would also invite representations from the advocate on the case giving rise to the reference and would hold these representations on file so that they could be taken into account should JAG receive another CAEF via ongoing monitoring in the future.
44. CAEFs received via ongoing monitoring will become spent after 12 months of their submission to JAG. JAG believes that it would be unfair to use dated references to inform its view on whether a referral to the regulator is necessary. The proposal is therefore not to have a certain number of judicial references that are required before referral is made to the advocate's regulator but instead to leave the referral to the discretion of JAG based on the nature of the issue. JAG believes that this creates a more flexible approach and enables issues with advocacy performance to be captured and addressed more effectively.
45. Where the advocate is referred to the regulator they will be notified accordingly and advised that the regulator will be in contact to advise on the process for dealing with the referral and to invite representations on the specifics of the issue. Each regulator has in place various measures to deal with the differing nature of the referrals. Action will range from informal advice to formal re-training and assessment.
46. For example, an advocate who generally needs to improve their advocacy could be asked to complete a specified number of CPD hours whereas a senior advocate with a more specific competency issue might be required to meet with an advocacy trainer for advice and guidance before submitting themselves for a simulated live assessment before an approved assessment organisation. If re-training proves unsuccessful it would be open to JAG, upon the recommendation of the relevant regulator, to demote the advocate if they cannot demonstrate that they meet the required standard for their current accredited level.
47. JAG will provide an oversight role to ensure that there is consistency of approach by the regulators to ongoing monitoring and to ensure that action is both proportionate and rigorous. JAG will also keep records of CAEFs received via ongoing monitoring to ensure the consistency of judicial approach.
48. JAG has considered whether or not an advocate referred to the regulator should be permitted to continue to practise at their current level, because, on the face of it, there are concerns about their competence to practise. JAG will permit the advocate to continue to practise. If referral is made because of incompetence then the advocate will be aware of the nature of the reference and will receive training on how to improve their advocacy. There are therefore sufficient safeguards in place to protect the public. Where gross incompetence or potential professional misconduct has been identified then this is likely to be a disciplinary/fitness to practise issue rather than a matter of quality assurance and each regulator has in place arrangements to deal with these cases.

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49. The definition of QASA competence will be embedded within the individual regulators codes of conduct (to be submitted in September 2011) to ensure that regulators are able to enforce against those advocates who not able to demonstrate their advocacy competence.

Part 8: The assessment methods

1. As stated elsewhere within this document, there will be two methods of assessment available to advocates who are covered by the Scheme. One assessment method will be judicial evaluation which will involve the assessment of advocates in real-time, live court room trials by judges and the other will be by an approved assessment organisation which will assess candidates against the advocacy standards via a range of simulated clinical and written assessments.
2. JAG considers these to be the two best available methods of assessing advocates within this Scheme. JAG's role is to ensure that it can be confident that both methods are valid and reliable and that they produce consistent outcomes for advocates. JAG will need to use different approaches to ensuring the validity and reliability of each method and to quality assuring them. JAG's proposed approach is set out below.

Assessment organisations

3. JAG will use an approach which is well-established by the three regulators to select, approve and quality assure the assessment organisations which will offer the QASA assessments. This will involve the following:
 - a rigorous approval procedure to identify those organisations which JAG is willing to validate to offer QASA assessments
 - the establishment of clear assessment requirements and a required approach to standard setting to assure consistency, validity and reliability of assessment
 - the use of quality assurance mechanisms including the appointment of external examiners, external assessors, visits and annual reporting by the approved assessment organisation
4. The objectives of the assessment organisation selection and quality assurance Scheme are:
 - to ensure compliance with the relevant requirements issued by the JAG;
 - to assure quality and standards so that the profession, candidates and the public can be certain that the assessment and Scheme are delivered to the appropriate standard;
 - to develop and disseminate good assessment practice and to provide support to the assessment organisations; and
 - to permit information retrieval by the JAG.
5. The first part of this process will be for JAG to select and approve the assessment organisations which will deliver the QASA assessments and to ensure that the assessment organisations are effective in managing their assessment processes in practice. JAG is likely to require this to be demonstrated in the following ways:
 - the assessment organisations must demonstrate that they are financially viable, will uphold the reputation of the JAG and three regulators, and are able to consistently and regularly undertake assessments on behalf of the JAG;
 - the assessment organisations must have in place effective policies, procedures and processes to ensure that they operate in a fair and transparent manner;
 - the assessment organisations' processes must meet the needs of candidates;

- the assessment organisations must ensure that assessment processes are valid, reliable and robustly operated so that they ensure consistent assessment outcomes for candidates;
 - the assessment organisations must have in place quality procedures to ensure that assessment functions are quality assured and enhanced;
 - the JAG must be able to ensure the probity of the assessment systems, identify areas for improvement and view the assessment regimes
 - staff.
6. Applications for appointment as an assessment organisation will be considered by a panel appointed by the JAG. Applicants must demonstrate to the JAG that they are committed to, and can support, the QASA assessment scheme and that they will meet the required standards. JAG will appoint a small number of assessment organisations to deliver the QASA assessments; the assessments will be highly interactive and to ensure validity and reliability of those assessments, there will need to be sufficient candidates undertaking the assessment with each organisation. As part of the application process JAG will explore with the applicant organisations the number of candidates which it can assess in each year and will approve the assessment organisation to assess a specified number of candidates. There will of necessity need to be some flexibility on the part of both JAG and the assessment organisations regarding numbers as it is at this stage difficult to predict the number of advocates who will use assessment organisations and the number who will use judicial evaluation. JAG will therefore explore with the assessment organisations their ability to respond to peaks and troughs in the market and their ability to quickly scale up their operation in the event that their assessments are subject to high demand. JAG will require each approved assessment organisation to commit to a minimum number of cycles of assessment in each year so that when coupled with the numbers approved for each assessment organisation, JAG can be confident that the assessment organisations are able to assess significant numbers of advocates seeking to progress and reaccredit in any one year.
7. JAG will require assessment organisations to demonstrate in their applications that they understand the principles of quality assurance and enhancement and that they are committed to assuring the quality and standards of their assessments. This commitment will be monitored by the JAG throughout the period of appointment. The JAG will seek assurances about the quality and standards of assessments through external examiners appointed by the JAG and through an assessment panel which will be established to determine the standard of each assessment which is set. The assessment panel will comprise at least eight individuals who will be drawn from amongst current practitioners and the legal education community.
8. Ongoing monitoring of the assessment organisation will be undertaken by the JAG. JAG will ask the assessment organisations to provide annual evaluative and reflective reports and will triangulate these with the outcomes of visits by and reports from external examiners and external assessors' visits to and reports on the assessment organisation to obtain a clear view of the quality and standards of provision. The JAG will reserve the right to visit the assessment organisations and review provision if there is evidence that the quality or standard of an assessment is at risk. The JAG will also arrange visits to the assessment organisations from time to time to ensure that they have an understanding of, and an insight into, the quality of assessments on offer.
9. The assessment organisations must implement strategies for assessments which are compatible with the requirements which JAG will set out in a handbook for assessment

organisations. The assessment organisations must ensure that assessment processes are robustly operated so that they ensure consistent outcomes for all candidates.

10. The assessment organisations must have in place appropriate administrative arrangements to support the assessment process which, as a minimum, must include the following:
 - Robust candidate identification and verification systems
 - dedicated registration and tracking systems;
 - systems to monitor equality and diversity and compliance with the organisation's non-discrimination policy;
 - a secure database;
 - documented filing and archiving arrangements;
 - records of those applying to sit assessments, those who actually sit the assessments, and success and failure rates;
 - appropriate administrative support to ensure the smooth running of the assessments.

11. The assessment organisations must have a written assessment strategy which will demonstrate overall coverage of the QASA standards and compliance with any assessment requirements established by JAG. This must be submitted to the JAG on application for selection and be available at all other times upon request. As a minimum, the assessment strategy must include information on the following:
 - how the proposed assessments map against the QASA standards;
 - the proposed style and format of the assessments;
 - how assessments will be set and be assessed and by whom;
 - information about specific provision for reading/preparation time and permitted materials;
 - the duration of the assessments and what candidates will be expected to undertake and achieve; and
 - how the assessment organisations will proactively anticipate the needs of disabled candidates and how individual needs will be identified and addressed.

12. The assessment organisations must have draft written assessment regulations which must be submitted to the JAG on application for approval and be available at all other times on request. As a minimum, the regulations must include the following:
 - a policy to deal with mitigating and extenuating circumstances and re-sits;
 - a policy to deal with assessment offences, to include automatic notification to the JAG within 28 days of the relevant assessment board;
 - marking and moderation procedure with policies relating to the role of markers, moderators and the external examiners;
 - details of the role and responsibilities of the assessment board; and
 - grounds for appeal and the appeals process

13. The assessment organisations must have written invigilator guidelines. These must be submitted to the JAG on application for approval and be available at all other times upon request. As a minimum, these guidelines must include the following:
 - provisions to ensure the security and safekeeping of the assessment papers;
 - information about permitted materials;
 - the number of invigilators for each assessment;

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- candidate registration and use of ID;
 - candidate briefing literature;
 - distribution of assessment papers;
 - recording of assessments, where appropriate;
 - time limits;
 - dealing with assessment offences;
 - illnesses or circumstances which necessitate candidate leaving the assessment centre;
 - emergencies; and
 - return of scripts.
14. The assessment organisations must set their own assessments and provide model answers for use by markers and approval by external examiners. A sample level 3 or level 4 assessment must be submitted to the JAG on application for appointment.
15. The assessment organisations assessment strategy must be sufficiently rigorous to ensure the credibility of their assessments. Assessments must address depth and realism as well as coverage of the standards. Assessments must be in the English or Welsh language only. Assessment criteria and guidelines given to those setting and marking assessments must recognise the importance of the outcomes to the assessment strategy and the professional nature and significance of the assessments being taken.
16. JAG will require assessment organisations to gain confirmation from candidates at the start of each assessment that there are no reasons why they should not sit the assessment at that time or why they might subsequently submit a request for a concession. The candidate may also be required to confirm that any requests for reasonable adjustments have already been submitted to, and considered by, the assessment organisations.
17. The QASA standards are competence standards. These are the standards that all lawyers must achieve to demonstrate their ability to practise criminal advocacy in England and Wales. All candidates must be assessed against the QASA standards, but the assessment organisations must make reasonable adjustments to the way the standards are assessed to ensure that candidates are not disadvantaged as a result of a disability.
19. The assessment organisations should anticipate the types of requests for adjustments that might be made by disabled candidates and consider in advance how such requests might be dealt with or how any potential disadvantages might be designed out of the assessment process.

Quality Assurance

20. The assessment organisations must have in place procedures to ensure that assessment functions are quality assured and enhanced. JAG must be able to ensure the probity of the assessment systems, identify areas for improvement and review assessment regimes by using comparative criteria.
21. JAG must be confident that:
- the standard of assessment is at an appropriate level;
 - assessments measure candidate achievement appropriately in accordance with the QASA standards;
 - assessments are conducted rigorously and fairly.

22. JAGs arrangements for assuring the quality and standard of assessments incorporate the following features:
- initial selection and appointment of assessment organisations to ensure that the organisations have their own systems to verify and review the quality and standards of provision;
 - appointment of an assessment panel which will determine the standard of assessment prior to candidates attempting that assessment
 - external examining arrangements whereby JAG recruits and trains external examiners,
 - a requirement for the external examiners to submit an annual, factual and evaluative report
 - a requirement for the assessment organisations to submit an annual, factual and evaluative report;
 - a facility to undertake a visit to review provision where there is evidence that the quality and/or standards of the assessment are at risk
23. The Assessment Board Minutes must be sent to JAG within 10 working days of a board meeting and must be made available to JAG on request. As a minimum, the minutes must include the following:
- the names of those attending the board and those who sent apologies;
 - ratification of assessment results;
 - an analysis of the standard of the paper;
 - an analysis of candidates' results with information about the pass and fail rates;
 - analysis of pass and fail rates by each equality strand
 - information about reasonable adjustments requested and the assessment organisations' responses;
 - the views of the external examiners;
 - a report on any incidents which may have affected the conduct of the assessments and
 - identification of any areas for improvement and any follow-up actions.
24. The assessment organisations must be able to provide facilities for the conduct of assessments including suitable and accessible rooms and appropriate audio-visual and recording equipment.
25. The assessment organisations must have a written candidate feedback procedure which must be submitted to JAG when applying for selection and during the period of appointment upon request. It must be included in the annual report which is submitted to JAG. The purpose of the candidate feedback procedure is to ascertain candidate satisfaction. As a minimum, this should include the following information:
- details of how and when feedback is obtained;
 - how feedback is analysed; and
 - how feedback is reviewed and fed into the assessment organisation's improvement and quality assurance and enhancement activities.

Judicial evaluation

26. Judges are used to observing advocacy and have a vital role to play in confirming the competence of advocates to practise at a particular level. To ensure the validity and reliability of assessment by judicial evaluation JAG needs to ensure that judges:
 - have a clear understanding of QASA standards and of the performance indicators which give further guidance on what is expected of the advocate at each level
 - understand how to use the CAEF to evaluate an advocate and to determine whether or not an advocate is competent against the QASA standards
 - are able to give appropriate feedback to advocates via the comments box
27. The number of judges likely to be involved in judicial evaluation means that clear and accurate training is required to ensure a consistent and shared understanding of what is required in relation to each of the above.
28. JAG will train all judges who will be evaluating advocates. The training will commence in October 2011 and is likely to continue until March 2012 to ensure sufficient numbers are ready to assess advocates at the point when live assessment becomes available.
29. JAG has held discussions with the Judicial College about the format of the training. JAG will use an appointed organisation to train the judges in understanding and applying the QASA standards and using the CAEF to evaluate performance. The Judicial College has a number of judge-trainers and in due course the appointed organisation could work with the judge-trainers to deliver shared training. It is expected that the training will amount to 10/12 hours which will involve a combination of preparation (reading and watching online presentations on aspects of the Scheme), attendance at live sessions and further online activity to consolidate the outcomes of the live session. The focus of the live session will be on developing the shared understanding of the standards and their application to live performance across the QASA levels.
30. JAG will offer ongoing refresher training for judges via their CPD structure.
31. Once judicial evaluation becomes operational, JAG will quality assure this assessment method in the following ways:
 - JAG will use its external assessors to attend at selected court-centres for a period of time to double mark advocacy performance observed over that period. The outcomes of these evaluations will be provided to JAG to compare and contrast with evaluations on the same advocates by judges in the same or other court centres.
 - JAG will undertake regular sampling of the judicial evaluations it receives to try and identify emerging trends, themes or any patterns which may be emerging in particular courts or regions
32. The outputs of these exercises will be evaluated and where necessary, action plans agreed to deal with issues regarding marking, consistency, application of the standards and performance indicators. In the event such evaluation suggested concern about the evaluations conducted by a particular judge or group of judges, attempts would be made to resolve these (for example via further training) and if these proved unsuccessful then the judge would no longer be able to evaluate within the Scheme.

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33. JAG will produce an annual report on the outcomes of judicial evaluation, together with an action plan. This will be shared with the QAG.

Part 9: Consultation and evaluation

1. Over the course of the last 18 months, JAG has conducted two full consultations on the QASA proposals and held a series of meetings and events with stakeholders and interested parties. JAG has also conducted an evaluation of the use of the CAEF by judges in two court centres and intends to conduct a further evaluation at the end of July and then again in October.

Consultations

2. The first JAG consultation was on the proposed advocacy standards. The consultation was issued in October 2009 and closed in January 2010. Information on the consultation can be found at www.sra.org.uk. The second consultation on the proposals for the design of the Scheme was issued in July 2010 and closed at the end of October 2010. Information on that consultation can be found at www.sra.org.uk. As a result of the responses received to the second consultation, JAG amended its proposals for a number of aspects of the Scheme and for the governance of the Scheme. Those changes are reflected throughout this submission. JAG has also held meetings with:

- The Young Bar Committee
- The Bar Council
- The Criminal Bar Association
- The CPS
- The Legal Services Commission
- The Ministry of Justice
- The Law Society
- The Criminal Law Committee of the Law Society
- The Solicitors Association of Higher Courts Advocates (SAHCA)
- All Criminal Presiding judges and a majority of Criminal Resident judges
- The Lord Chief Justice
- Providers of advocacy training and assessment

There will be a forum on the QASA proposals at The Law Society on 25 July 2011 and JAG is planning to meet with the Council of Circuit Judges at the earliest opportunity.

Evaluation

3. JAG conducted a small scale evaluation of judicial evaluation, and in particular the use of the CAEF, in Canterbury and Durham Crown Courts during June 2011.
4. During the course of the road-test, 22 advocates were evaluated in total. 21 were assessed as competent with one being assessed as not possible to evaluate. In 15/18 of the Canterbury evaluations and 4/4 of the Durham evaluations the judge indicated that it had not been possible to assess Standard C1, assists client with decision making.
5. The judges appear to have completed the CAEFs in a thorough and comprehensive way and in many instances recorded comments in the comments box. The comments were constructive and appropriate. On some of the Durham CAEFs it was evident that careful attention had been paid to the performance indicators for the relevant level.

6. Some judges evaluated an advocate as Very Competent when the advocate did not appear to have the requirements for such an evaluation. This is an issue which would be thoroughly covered through training.

Canterbury evaluations:

	Total number assessed at each level	Competent	Partially competent	Not yet competent	Not possible to evaluate
Level 2	4	4	0*	0	0
Level 3	5	4	0	0	1**
Level 4	9	9	0	0	0
Totals	18	17	0	0	1

*In one case one level two advocate was evaluated as partially competent against Standard B2, conducted focussed questioning. The advocate was assessed as competent against A1 and C2 and two of the other core standards and so was correctly assessed as competent overall.

** In one case one level three advocate was given late instructions. The judge was only able to assess the advocate against three of the standards and assessed the advocate as competent/partially competent and not yet competent. The judge’s overall view was that it was not possible to evaluate the advocate in the circumstances.

*** in 15 out of the 18 evaluations, the judge indicated that it was not possible to evaluate Standard C1, assisted client in decision making.

**** Two advocates, one level three and one level four, were assessed by the same judge as “Very Competent” when they did not meet the standards for a Very Competent evaluation.

Durham evaluations:

	Total number assessed at each level	Competent	Partially competent	Not yet competent	Not possible to evaluate
Level 2	3	3	0*	0	0
Level 3	1	1**	0	0	0
Level 4	0	0	0	0	0
Total	4	4	0	0	0

*One advocate (prosecution) was assessed as partially competent against one of the standards (A2, properly prepared). The advocate was assessed as competent against A1 and C2 and two of the other core standards and so was correctly assessed as competent overall.

** The Durham judges highlighted an interesting issue in connection with the assessment of the level three advocate. The advocate was assessed by one judge as competent. In discussions, the judge identified that the advocate had made a comment which potentially indicated that the advocate was not competent against Standard C2-E, professional at all times, and which would have meant that the advocate was not competent overall. The judge who evaluated the advocate’s performance took the view that the comment was a blunder whereas the other judge thought the same comment would have caused him to assess the advocate as partially or not competent against C2-E .

Of the four Durham evaluations, two were of defence counsel and two of prosecution counsel. It was not possible to ascertain this about the Canterbury evaluations.

Judicial feedback on the road-test

7. The comments below reflect the feedback from three of the five judges who were involved in the evaluation. The feedback from one of the judges did not follow the format set out in the evaluation questionnaire which, when combined with the low number involved in giving feedback, means it is not possible to draw firm conclusions.
8. An extract from the judges' comments is set out below:
 - The only standard which raises difficulties is C1 – otherwise the standards are effective.
 - All of the advocates involved in the road test were aware of it and it did not appear to affect their performance. None expressed concerns about being assessed.
 - Did not experience any problems with completing the CAEF and aside from C1 there are no particular issues that need to be addressed.
 - Assessed 5 advocates in a complex drug smuggling case and did not experience problems in assessing 5 different advocates on the same case.
 - We should allow for 30 minutes to complete the form for each advocate.
 - Being asked to assess at the end of a hearing will allow for objective assessments free from preconceptions, although it would be easier to provide more detailed analysis if asked at the start.
 - The quality of advocacy varies widely, from the very good to the very bad. [The judge] can't say whether the standard of advocacy overall is better or worse than it has been in the past. The biggest problem is that there is, at the moment, no quality control assessment of advocacy services and therefore neither the public interest, nor defendants' or victims' interests are being protected by an appropriate quality control Scheme.
 - It is one of the strengths of the CAEF – if you "car crash" a case it will be reflected on the CAEF and will interfere with your career – means advocates will be more careful to check police tapes etc.

Further evaluation

9. Having conducted the road-test in two small court centres, JAG now proposes to extend it to a much larger court-centre. Birmingham Crown Court will therefore participate in a road-test at the end of July. This provides the opportunity to test the judges' use of the CAEF in a centre with fourteen courts, many more advocates and the possibility that different judges will be able to assess the same advocate on more than one occasion. Birmingham could therefore provide some useful data on issues of consistency in the use of the CAEF and marking advocates' performance. It is also intended that for the Birmingham road-test, JAG will try and collect data across the equality strands on the advocates who are participating. This would also be fed into the analysis of the road-test.
10. As indicated elsewhere in these proposals, the full judicial training programme for judicial evaluation will commence in October 2011. It is therefore intended to conduct a final road-test in October/November (venue to be confirmed) which will look at both the judges' use of the CAEF and the effectiveness of the training in preparing the judges to assess and evaluate advocacy performance.

Standard C1 “assists client with decision making”

11. JAG has previously acknowledged that there may be a challenge in having judicial evaluation of Standard C1, “assists client in decision making”. JAG is aware that there is a strong perception that this standard is not capable of being assessed by judicial evaluation but is equally aware that many consider that it will be capable of assessment by judges in the context of a live trial. The road-test revealed some interesting data on this; in most of the evaluations the judge had indicated on the CAEF that it had not been possible to evaluate Standard C1 in assessing the advocate’s performance. JAG’s view is that the assessment of Standard C1 via assessment organisations should not present a particular challenge as this is likely to be done via a simulated advocate/client interview using actors to play the part of the client.
12. This will be further tested in the road-test in Birmingham and the final road-test later this year. As set out below, JAG will be conducting a full evaluation of the Scheme in its first three years of delivery and a key part of this will be to test how best to capture evidence that advocates who are being assessed by judicial evaluation are meeting this standard. JAG has previously stated that one way to do this may be to involve client or consumer views or feedback on advocates’ performance, particularly in relation to Standard C1 and with this in mind, we are intending to hold a round-table event for consumer representative bodies such as Unlock (see www.unlock.org.uk – Unlock is a charity which represents reformed offenders) later this year to explore with its members, how client and consumer views on advocates can be captured. We also propose to hold discussions with the LSB Consumer Panel to seek their expert advice on gathering client feedback and its use within the Scheme. We will use these events and interviews to obtain a clear understanding of the consumer perspective of advocacy and a baseline against which we can measure impact and progress following introduction of the scheme. As part of the evaluation of the assessment of the wider standards, we will hold further consumer focussed events after 18/20 months to obtain consumer views on the state of advocacy following introduction of the scheme.

Research and evaluation

13. Once the Scheme is operational, JAG will conduct a thorough research and evaluation into a number of areas as follows:
 - Level one advocacy – there will be a full audit and evaluation of level one advocacy within two years of the Scheme becoming operational at that level
 - Approach to confirming competence against Standard C1 – this will be done within the first two years of the Scheme becoming operational
 - Judicial evaluation – there will be a full piece of research and analysis of the use and outcomes of judicial evaluation within the Scheme within the first three years of the commencement of live judicial evaluation
 - Assessment organisations – there will be a full piece of research and analysis of the use and outcomes of assessment organisations within the first three years of the commencement of assessment by approved organisations
 - JAG will undertake regular monitoring of data on pass and fail rates for progression and reaccreditation arising out of assessment by assessment organisation and by judicial evaluation. The data will be analysed so that JAG has information about the comparative pass and fail rates of the two assessment methods, across the approved assessment organisations, across the courts where judicial evaluation is conducted and across the equality strands. This data will help to inform and shape the scheme as it develops.

Part 10: Technical issues

1. There are certain peripheral but important technical issues that arise from the establishment of the Scheme. These are covered in this Part in addition to an explanation of how they will be dealt with.

Leader – junior

2. This issue relates to cases where there is leading and junior counsel and in particular the required level of the junior. A Junior is there to provide real and practical help and assistance to ensure that the case is run properly and kept within the time constraints of the court day and the court diary. If the Junior is ineffective the burden falls on the Leader to fulfil both functions. If the Leader is in effect their own Junior then their ability to effectively present the case will be compromised. If cases are not dealt with in a timely fashion and properly prepared overall then this in turn will have an impact on the witnesses, jurors, Judge, defendant and court staff. Further any delays caused by an ineffective Junior add to the cost of the trial. For all of these reasons it is important that the Scheme sets out how Juniors should be dealt with under the Scheme.
3. The theoretical implication of the Scheme is that a grade 4 can only lead a grade 4 because the Junior might be compelled to take the case over and therefore they must be of the appropriate grade. However, there comes a time when an advocate needs to have the experience of being led in order to progress their career and learn and develop. Leaving it until that advocate is at level 4 in order to be led in a level 4 case would inhibit that development. That said, there has been judicial criticism of inexperienced and ineffective juniors being used. A balance therefore must be struck between introducing an approach that is unduly restrictive and one that is so flexible that it doesn't protect the public interest or ensure that the proper administration of justice is achieved.
4. JAG has discussed this issue with the Advisory Group as well as with a number of senior criminal judges. Following these discussions, JAG proposes a simple 'one grade below' approach which allows the Junior to be one grade below their leader but never two grades below. The 'one grade below' approach will be coupled with a prohibition on leading for grades 1 and 2. There will need to be flexibility with the approach to allow for the varying nature of criminal cases. For example, a level 4 case may require someone to review a large amount of detailed but not complex material and to require a level 3 advocate to be retained to do a task that would at present be done by a level 1 or 2 would be unnecessary and disproportionate. It is proposed therefore that Leaders should be able to use their discretion when seeking to appoint a Junior and in certain circumstances be able to deviate from the 'one below' approach. The burden will fall on the Leader to ensure that the case is managed effectively and that the appointment of the Junior is justifiable. Abuse of this process could lead to disciplinary action against either or both advocates.
5. Guidance will be published by JAG to assist advocates with this issue.

Harmonisation with the CPS

6. The Scheme will cover both defence and prosecuting advocates. The CPS has a comprehensive quality assurance framework for its in-house prosecutors and it is in the interests of those involved in the provision of advocacy services that any regulatory Scheme is compatible with the CPS approach, does not lead to duplication or avoidable or unnecessary burdens upon advocates, and facilitates harmonisation. To that end, the advocacy standards and the

categories of cases used in the Scheme are aligned to the CPS'. Further discussion will be held with the CPS shortly to cover how CPS advocates should be initially accredited and, in the future, to what extent only one quality assurance Scheme will be necessary. Understandably, the CPS will want to be confident that the Scheme is effective before committing to one Scheme. The forthcoming appointments to the CPS Prosecuting Panels will be for three-year terms. It is proposed that further discussions on the amalgamation of the two Schemes be discussed during the course of the next three years with a substantive decision taken thereafter.

Specialist Practitioners

7. The Scheme is designed to cover all criminal advocates. JAG defines criminal advocates as those who undertake work that come within the categories of cases which are used to determine the particular level of a case. Any advocate who carries out a case within the categories must come within the Scheme.
8. However, JAG recognises that there are groups of practitioners who undertake work in the Criminal Courts but not in cases that come within the categories. For example, Regulatory lawyers, Planning and Health Safety practitioners all appear in the Criminal Courts but not in relation to typical criminal cases.
9. JAG has invited a group of these specialist practitioners to give some thought to the application of the Scheme on their practice. It is a potentially wide and complex issue that requires further thought and evidence of the size of the pool of these practitioners. JAG proposes therefore to continue to consider this issue and to form a view once the Scheme is operational.

Part 11: Financial modelling and Scheme fee structure

1. The Scheme must not only be proportionate to the perceived need but must also be proportionate in terms of its cost and administration. This need has encouraged the development of a Scheme which makes pragmatic and practicable use of the resources which are currently available whilst producing a structure which can be adapted in the future.
2. Whilst JAG has developed a common Scheme, in reality, it will be operated by each individual regulator for their respective arm of the profession. JAG has therefore decided that each regulator should be responsible for setting its own fees structure. Each regulator has agreed to work on a cost recovery basis so that only those advocates within the Scheme will be responsible for covering the cost of its set up and operation.
3. There are however certain shared costs that arise both in setting up the Scheme and once it is operational. These include the training of judiciary, appointment of Independent Assessors and publicity material for the Scheme. JAG has agreed that the shared costs will be apportioned as follows:
 - BSB – 45%
 - SRA – 45%
 - IPS – 10%
4. Each regulator will factor in their commitment to the shared costs when determining their individual fee structure.

BSB Costs

5. The BSB proposes the following fees:

Initial accreditation

- £90 for applications for initial accreditation at levels 2, 3 and 4 (with reductions of up to £20 for prompt submission for self-certification).
- £10 for applications for initial accreditation at level 1.

Progression via judicial evaluation

- £125 for applications to progress from level 1 to level 2.
- £325 for applications to progress from level 2 to level 3.
- £375 for applications to progress from level 3 to level 4.

Progression via assessment organisation

- Applicants would be required to pay the market rate charged by accredited assessment organisations (likely to range from £500 to £1,500 across the levels).
- There would be no application fee charged by the BSB.

Re-accreditation

- Re-accreditation will not begin until the Scheme has been in operation for 4 years. Fees for re-accreditation will therefore be set closer to this time and following a review of costs.
 - Re-accreditation will be cheaper than progression as it will be a one stage application process. It is estimated that fees will be between £100 and £200.
6. On the basis of these proposals, the average yearly cost to a competent barrister over the span of their career would be between £34-53, dependent upon the point at which they enter the Scheme through initial accreditation.
7. The BSB is currently inviting comments on the fee structure from the Bar Council, Criminal Bar Association and the Young Bar Committee. The structure will be reviewed in the light of comments received and finalised for submission to the LSB as part of its application in September.

SRA costs

8. The SRA’s current estimate of fees are as set out below. The challenge for the SRA in developing the fee structure has been in estimating the number of solicitors who are likely to be covered by the Scheme. The SRA knows that there are currently c 4500 solicitors who have satisfied the higher rights requirements (for criminal advocacy) and who could therefore enter the Scheme as level two advocates and above. There are also c130, 000 solicitors who have rights of audience in the magistrates courts and who could, theoretically, seek to enter the Scheme as level one advocates. In reality, many of these solicitors will not be undertaking any kind of criminal (or other) advocacy and so the figures set out below are modelled on there being 30,000 level one solicitor advocates within the Scheme and 4500 level two and above solicitor advocates within the Scheme. The fees below are those which the advocates will pay to the SRA and do not include the cost of undertaking assessments via an assessment organisation which will be paid by the advocate direct to the assessment organisation. There is some difference between the fees developed by the BSB and those developed by the SRA. This reflects the likely difference in the initial balance of numbers of advocates at each level as the SRA anticipates that there will be many solicitors who will wish to maintain level one accreditation.

Activity	Fee
Initial self-assessment online	£40
Initial self-assessment off-line	£70
Application for progression by assessment organisation	£45
Application for progression by judicial evaluation	£200
Application for reaccreditation by assessment organisation	£45
Application for reaccreditation by judicial evaluation	£200

Activity	Fee
Fee for (paper) appeal (nb: oral hearing would be more)	£220

Note on Assessment Organisations

9. The costs information included within this proposal does not include detailed and specific cost to the advocate of proceeding or being reaccredited within the Scheme by an assessment organisation. JAG's approach will be to permit the advocate to decide on which assessment route best fits the advocate's circumstances and for those using assessment organisations, there will be a cost to be paid direct to the assessment organisation. JAG will expect all those organisations which apply for approval as a QASA assessment organisation to provide proposed costings for level two, three and four assessments. However, JAG also recognises that this will be challenging for the assessment organisations, particularly in the early stages of the Scheme, as it will not be possible to accurately predict the number of advocates who will use assessment organisations rather than judicial evaluation and whether that will vary from level to level. Assessment organisations will therefore be asked to provide a range of costs based on a range of possible candidate numbers and whilst low cost will not guarantee approval of an organisation to deliver the QASA assessments, the cost will be a factor to be taken into account in making such a decision.

10. Based on this proposal for the overall Scheme, JAG can be certain that at level one, the cost will be absorbed within the cost of the education and training pathway to qualification and that at level two, the cost of the assessment is likely to be very close to the current cost of completing the higher rights of audience assessments (£450 - £550 depending on assessment organisation). JAG expects that the cost of a level three assessment will be more than a level two and the cost of a level four assessment will be more than a level three. Cardiff University when it undertook its research into proposals for a quality assurance Scheme estimated that the cost of a level three assessment would be around £600 and a level four assessment would be in the region of £650. JAG's view is that level three and four assessments are likely to cost more than this.

Part 12: Timetable for implementation

1. The tables below set out the broad timetable for implementation of the Scheme, following approval of the Scheme and the related rules and regulations.

Timetable of Scheme Delivery

Activity	Date
Road shows and educational shows on circuit	From November 2011
Initial accreditation window opens for levels 3 and 4	From December 2011
Initial accreditation window opens for levels 1 and 2	From April 2012
Scheme becomes operational for levels 3 and 4	From April 2012
Scheme becomes operational for levels 1 and 2	From August 2012

Timetable of Accreditation

	Levels 3 and 4	Levels 1 and 2
December 2011	<ul style="list-style-type: none"> • Window for self-certification 	
January 2012		
February 2012		
March 2012	<ul style="list-style-type: none"> • Processing of self-certification applications 	<ul style="list-style-type: none"> • Window for self-certification
April 2012	<ul style="list-style-type: none"> • Processing green plate applications 	
May 2012		
June 2012	<ul style="list-style-type: none"> • Processing green plate applications 	<ul style="list-style-type: none"> • Processing of self-certification applications
July 2012		<ul style="list-style-type: none"> • Processing green plate applications
August 2012		
September 2012		
October 2012		
November 2012		
December 2012		

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1& 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....

Preliminaries and preparation				
A1 Has the appropriate level of knowledge, experience and skill required for accepting a case	1 FAMILIAR WITH LAW AND PRACTICE AT THIS LEVEL	4 DEMONSTRATES A THOROUGH KNOWLEDGE OF LAW AND PRACTICE	7 DEEP UNDERSTANDING OF LAW AND PRACTICE	11 SUPERIOR GRASP OF LAW AND PRACTICE
	1.1 Has the appropriate level of knowledge required for conducting the advocacy at a hearing or trial <i>in the magistrates' court.</i>	4.1 Has the appropriate level of knowledge required for conducting the advocacy at a hearing or trial <i>in the magistrates' court or in Crown Court.</i>	7.1 Has the appropriate level of knowledge required for conducting the advocacy at hearings and trials <i>in more serious or complex Crown Court cases.</i>	11.1 Has the appropriate level of knowledge required for conducting the advocacy at hearings and trials <i>in cases of the utmost gravity, complexity, and sensitivity, including novel areas of law.</i>
	1.2 Understands the law and practice relevant to hearings and trials in: 1.2.1 magistrates' court; and 1.2.2 youth court.	4.2 Advocate understands the law and practice relevant to hearings and trials in: 4.2.1 Crown Court; 4.2.2 magistrates' court; and 4.2.3 youth court.	7.2 Has a <i>sound grasp</i> of the law and practice relevant to hearings [and trial] in: 7.2.1 Crown Court; 7.2.2 magistrates' court; 7.2.3 youth court; 7.2.4 Divisional Court; and 7.2.5 Court of Appeal	11.2 Has a <i>superior grasp</i> of the law and practice relevant to hearings [and trial] in: 11.2.1 Crown Court; 11.2.2 magistrates' court; 11.2.3 youth court; 11.2.4 Divisional Court; and 11.2.5 Court of Appeal.
	1.3 Is familiar with the definitions of crimes and defences commonly dealt with <i>in the magistrates' court.</i>	4.3 Advocate is familiar with the definitions of crimes and defences commonly dealt with <i>in the Crown Court and the</i>	7.3 <i>Demonstrates in depth knowledge</i> of criminal offences and defences,	11.3 <i>Demonstrates expert</i>
1.4 Understands the main evidential rules regarding criminal trials.				

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1& 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....

	<p>1.5 Demonstrates an understanding of the Criminal Procedure Rules, their overriding objective, and their application <i>in magistrates' court proceedings.</i></p> <p>1.6 Where relevant, advocate understands:</p> <p>1.6.1 burden and standard of proof;</p> <p>1.6.2 competence and compellability of witnesses;</p> <p>1.6.3 means of adducing evidence;</p> <p>1.6.4 prosecution disclosure obligations</p> <p>1.6.5 rules relating to hostile and unfavourable witnesses;</p> <p>1.6.6 hearsay evidence;</p> <p>1.6.7 admissibility of</p>	<p><i>magistrates' court.</i></p> <p>4.4 Has a thorough knowledge of evidential rules regarding criminal trials.</p> <p>4.5 Demonstrates a sound understanding of the Criminal Procedure Rules, their overriding objective, and their application <i>in magistrates' court and Crown Court proceedings.</i></p> <p>4.6 Advocate understands:</p> <p>4.6.1 burden and standard of proof;</p> <p>4.6.2 competence and compellability of witnesses;</p> <p>4.6.3 means of adducing evidence;</p> <p>4.6.4 prosecution and defence disclosure</p>	<p><i>including more serious and complex offences.</i></p> <p>7.4 Has a deep understanding of evidential rules.</p> <p>7.5 Knowledge of procedure and law is up-to-date and used accurately.</p> <p>8 DEMONSTRATES JUDGEMENT AND SKILL IN ALL RESPECTS</p> <p>8.1 Has the appropriate level of experience and skill required for conducting the advocacy at hearings and trials <i>in more serious or complex Crown Court cases.</i></p> <p>8.2 Conducts trial advocacy and/or submissions proficiently.</p> <p>8.3 Delivers submissions with</p>	<p>knowledge of criminal offences and defences, <i>including the most grave, complex and sensitive offences.</i></p> <p>11.4 Has a superior grasp of evidential rules.</p> <p>11.5 Knowledge of procedure and law is up-to-date and used accurately.</p> <p>12 READILY OFFERS SOUND AUTHORITIES AND/OR SOLUTIONS, INCLUDING NOVEL SOLUTIONS IN UNUSUAL SITUATIONS</p> <p>13 DEMONSTRATES WISDOM IN ALL ASPECTS OF ADVOCACY</p> <p>13.1 Has the appropriate level of experience and skill required for conducting the advocacy at hearings and trials <i>in cases of the</i></p>
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STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1 & 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....

	<p>confessions;</p> <p>1.6.8 the extent to which inferences may be drawn;</p> <p>1.6.9 admissibility of and weight to be attached to disputed visual identification evidence;</p> <p>1.6.10 legal professional privilege;</p> <p>1.6.11 admissibility of improperly obtained evidence;</p> <p>1.6.12 admissibility of character evidence of the accused and non-defendant; and</p> <p>1.6.13 admissibility of opinion evidence including expert evidence.</p> <p>2 KNOWLEDGE OF PROCEDURE AND LAW IS UP-TO-DATE</p>	<p>obligations;</p> <p>4.6.5 rules relating to hostile and unfavourable witnesses;</p> <p>4.6.6 hearsay evidence;</p> <p>4.6.7 admissibility of confessions;</p> <p>4.6.8 the extent to which inferences may be drawn;</p> <p>4.6.9 admissibility of and weight to be attached to disputed visual identification evidence;</p> <p>4.6.10 legal professional privilege;</p> <p>4.6.11 admissibility of improperly obtained evidence;</p> <p>4.6.12 admissibility of character evidence of the accused and non-defendant;</p>	<p>poise.</p> <p>8.4 Advocacy is tailored to the expectations of the tribunal.</p> <p>8.5 Views the case holistically, from the outset.</p> <p>8.6 Demonstrates a common sense approach in their advocacy, pursuing only important issues.</p> <p>8.7 Able to draw on past experience to predict responses of others.</p> <p>8.8 Provides solid interpretations of the law and procedure.</p> <p>9 COMPREHENDS AND EFFECTIVELY DIRECTS COMPLEX CASES</p> <p>9.1 Comprehends and is able to effectively direct complex cases and/or complex</p>	<p><i>utmost gravity, complexity, and sensitivity, including novel areas of law.</i></p> <p>13.2 Demonstrates an astute and responsible approach throughout their advocacy.</p> <p>13.3 Accepts ultimate responsibility for case and makes decisions with authority.</p> <p>13.4 Able to maintain poise notwithstanding the most extreme circumstances and pressures.</p> <p>13.5 Acts as a role model for others.</p> <p>14 CONDUCTS TRIAL ADVOCACY TO A LEVEL OF EXCELLENCE</p> <p>14.1 Conducts trial advocacy and/or submissions to a</p>
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STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
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		<p>and</p> <p>4.6.13 admissibility of opinion evidence including expert evidence.</p> <p>4.7 Advocate <i>understands Crown Court procedure including:</i></p> <p><i>4.7.1 rules relating to indictments;</i></p> <p><i>4.7.2 differing roles of judge and jury;</i></p> <p><i>4.7.3 empanelment of jury;</i></p> <p><i>4.7.4 order of trial;</i></p> <p><i>4.7.5 submissions in absence of jury;</i></p> <p><i>4.7.6 judicial summing up; and</i></p> <p><i>4.7.7 obtaining leave to</i></p>	<p>situations.</p> <p>9.2 Comprehends the nuances of a case or evidence and responds accordingly.</p> <p>9.3 Demonstrates sound document management skills.</p> <p>9.4 Able to assimilate relevance of evidence quickly.</p> <p>9.5 Can readily offer sound authorities and/or solutions to situations as they arise.</p> <p>9.6 Able to locate authorities for more unusual procedural issues or law.</p> <p>10 MANAGES EXTREMELY SENSITIVE SITUATIONS</p> <p>10.1 Able to manage extremely sensitive situations reliably.</p>	<p>level of excellence.</p> <p>14.2 Views the case holistically, from the outset.</p> <p>14.3 Pinpoints the essence of the case or issue without wasteful consideration of alternative issues.</p> <p>14.4 Draws on past experience to predict responses of others.</p> <p>14.5 Advocacy is tailored to the expectations of the tribunal.</p> <p>14.6 Demonstrates sound document management skills.</p> <p>14.7 Instinctively identifies the best arguments to pursue.</p> <p>14.8 Delivers fluid, flexible and highly proficient submissions.</p> <p>14.9 Provides solid interpretations of the law</p>
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STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1 & 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....

	<p>3 DEMONSTRATES SKILLS AND EXPERIENCE NECESSARY FOR THIS LEVEL OF ADVOCACY</p> <p>3.1 Has the appropriate level of experience and skill required for conducting the advocacy at a hearing or trial <i>in the magistrates' court.</i></p> <p>3.2 <i>Where relevant</i>, advocate is able to:</p> <p>3.2.1 effectively apply for a representation order,</p> <p>3.2.2 effectively make or contest a bail application</p> <p>3.2.3 effectively undertake</p>	<p><i>appeal.</i></p> <p>4.8 Knowledge of procedure and law is up-to-date <i>and used accurately.</i></p> <p>5 CONDUCTS TRIAL ADVOCACY EFFICIENTLY AND EFFECTIVELY</p> <p>5.1 Has the appropriate level of experience and skill required for conducting the advocacy at a hearing or trial <i>in the magistrates' court or in Crown Court.</i></p> <p>6 ADVOCATE WAS CONFIDENT AND ARTICULATE</p>		<p>and procedure.</p> <p>15 COMPREHENDS AND SUCCESSFULLY LEADS CASES OF THE UTMOST GRAVITY, COMPLEXITY, OR SENSITIVITY</p> <p>15.1 Able to manage extremely sensitive situations reliably</p> <p>15.2 Comprehends the nuances of the case or evidence and responds accordingly.</p> <p>15.3 Demonstrates sound document management skills</p> <p>15.4 Assimilates the relevance of evidence quickly, even when working with</p>
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STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1 & 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....

	<p>advocacy at a mode of trial hearing</p> <p>3.2.4 competently undertake advocacy in a summary trial</p> <p>3.2.5 effectively make a plea in mitigation.</p>			<p>voluminous or complex evidence.</p>
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<p>A2 Is properly prepared</p>	<p>16 HAS PREPARED FOR HEARING / TRIAL EFFECTIVELY</p>	<p>22 PREPARATION REFLECTS THE INCREASED SERIOUSNESS AND COMPLEXITY OF THE CASE</p> <p>22.1 Is <i>thoroughly prepared</i> for the hearing and / or the trial.</p> <p>22.2 Preparation reflects the increased seriousness and complexity of cases dealt with by a Level 2 advocate.</p>	<p>22 PREPARATION REFLECTS THE INCREASED SERIOUSNESS AND COMPLEXITY OF THE CASE</p> <p>22.3 Preparation reflects the increased seriousness and complexity of cases dealt with <i>by a Level 3 advocate</i>.</p> <p>22.4 Comprehends the particulars of the case, including more complex cases, evidence or circumstances.</p> <p>22.5 Able to explain relevant</p>	<p>22 PREPARATION REFLECTS THE INCREASED SERIOUSNESS AND COMPLEXITY OF THE CASE</p> <p>22.6 Preparation reflects the increased seriousness and complexity of cases dealt with <i>by a Level 4 advocate</i>.</p> <p>22.7 <i>Comprehends the crux</i> of the case or application even:</p> <p>22.7.1 in cases of the utmost gravity, complexity or</p>
		<p>23 ANTICIPATES OPPONENT'S ARGUMENTS AND COURT INTERVENTIONS</p>		

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1 & 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....
		23.1 Is able to react to unexpected events in court.	criminal litigation procedure and law, including more difficult or complex authorities.	sensitivity; and 22.7.2 including the most complex or sensitive evidential issues or circumstances
A2.1 Has a clear strategy for the case.	17 HAS A CLEAR STRATEGY FOR THE CASE / APPLICATION 17.1 Has a clear strategy or plan for the hearing and / or the case. 17.2 Demonstrates a clear strategy for the application and / or case.	17 HAS A CLEAR STRATEGY FOR THE CASE / APPLICATION 17.3 Has an <i>effective strategy</i> or plan for the hearing and / or the case. 17.4 Demonstrates an <i>effective strategy</i> for the application and / or case. 17.5 Is able to produce a trial plan.	25 HAS A ROBUST STRATEGY FOR CASE 25.1 Is able to produce a trial plan in more complex cases. 26 VIEWS THE CASE	25 HAS A ROBUST STRATEGY FOR CASE 25.2 Is able to produce a trial plan: 25.2.1 in cases of the utmost gravity, complexity or sensitivity; and 25.2.2 including the most complex or sensitive evidential issues or circumstances. 26 VIEWS THE CASE

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Generic Standard	Level 1	Level 2	Level 3	Level 4
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			<p>HOLISTICALLY, FROM THE OUTSET</p> <p>26.1 Demonstrates judgment in deciding which issues to pursue.</p>	<p>HOLISTICALLY, FROM THE OUTSET</p> <p>26.2 <i>Demonstrates sagacity</i> in deciding which issues to pursue.</p>
<p>² Understands client's and opponent's case and identifies the issues</p>	<p>18 UNDERSTANDS CLIENT'S AND OPPONENT'S CASE AND IDENTIFIES THE ISSUES</p> <p>18.1 Is aware of the strengths and weaknesses of each party's case and / or submissions.</p> <p>19 IDENTIFIES RELEVANT FACTUAL, LEGAL, EVIDENTIAL AND / OR</p>	<p>24 EFFICIENTLY IDENTIFIES THE KEY FACTUAL, LEGAL, EVIDENTIAL AND / OR PROCEDURAL ISSUES</p> <p>24.1 Has a <i>sound understanding</i> of client's and opponent's case and identifies the issues relevant to the hearing and / or the case.</p> <p>24.2 Accurately <i>identifies the key</i> factual, legal,</p>	<p>27 UNDERSTANDS THE NUANCES OF A CASE, SITUATION OR EVIDENCE.</p> <p>27.1 Is able to draw on past experience to predict issues that might arise in the future.</p>	<p>28 PINPOINTS THE ESSENCE OF THE CASE OR ISSUE WITHOUT WASTEFUL CONSIDERATION OF ALTERNATIVE ISSUES</p> <p>28.1 Demonstrates an astute understanding of client's and opponent's case.</p> <p>28.2 Has a <i>superior grasp</i> of the key factual, legal, evidential and / or</p>

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	<p>PROCEDURAL ISSUES</p> <p>19.1 Accurately identifies the relevant factual, legal, evidential and / or procedural issues.</p> <p>20 FAMILIAR WITH FACTS OF THE CASE</p> <p>20.1 Appears to be familiar with the facts of the case.</p>	<p>evidential and / or procedural issues.</p> <p>24.3 Assimilates own and opponent’s evidence.</p> <p>24.4 Is able to react to unexpected events in court.</p>		<p>procedural issues.</p> <p>28.3 Swiftly assimilates the strengths and weaknesses of each party’s case and / or submissions.</p> <p>28.4 Assimilates the relevance of evidence quickly, even when working with voluminous or complex evidence.</p>
<p>³ Understands the relevant law and procedure for the matter in hand</p>	<p>21 UNDERSTANDS THE RELEVANT LAW AND PROCEDURE FOR THE MATTER IN HAND</p> <p>21.1 Use of relevant authorities.</p> <p>21.2 Appropriate submissions.</p> <p>21.3 Appears to be familiar with relevant criminal litigation</p>	<p>21 UNDERSTANDS THE RELEVANT LAW AND PROCEDURE FOR THE MATTER IN HAND</p> <p>21.4 Has a <i>sound understanding</i> of the relevant law and procedure for the matter in hand.</p> <p>21.5 Use of key authorities.</p>	<p>21 UNDERSTANDS THE RELEVANT LAW AND PROCEDURE FOR THE MATTER IN HAND</p> <p>21.7 Has a sound understanding of the relevant law and procedure for the matter in hand, <i>including more complex law and</i></p>	<p>21 UNDERSTANDS THE RELEVANT LAW AND PROCEDURE FOR THE MATTER IN HAND</p> <p>21.10 Has a <i>superior grasp</i> of the relevant law and procedure for the matter in hand, including <i>the most complex</i> law and</p>

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	procedure.	21.6 Relevant submissions.	<p>procedures.</p> <p>21.8 Uses only key authorities.</p> <p>21.9 Submissions are entirely relevant.</p>	<p>procedures.</p> <p>21.11 Can readily offer sound authorities and/or solutions to situations as they arise, including novel solutions in unusual situations.</p> <p>21.12 Able to locate authorities for more unusual procedural issues or law.</p>
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STATEMENT OF STANDARDS				
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<p>A3 Provides a proper contribution to case management</p>	<p>29 ADVOCATE’S CONDUCT DOES NOT HINDER CASE PROGRESSION</p> <p>29.1 Advocate is familiar with the case.</p> <p>30 ADVOCATE HAS CONSIDERED APPROPRIATE DIRECTIONS AND IS ABLE TO ASSIST THE COURT</p>	<p>36 DEALS PROMPTLY AND EFFECTIVELY WITH ISSUES ARISING FROM PLEA AND CASE MANAGEMENT HEARING.</p>	<p>38 IS ABLE TO MAKE A POSITIVE CONTRIBUTION TO CASE MANAGEMENT</p> <p>38.1 Demonstrates a thorough knowledge of the case.</p> <p>38.2 Deals promptly and effectively with issues arising from judicial direction.</p> <p>38.3 Is able to suggest and adhere to a reasonable trial timetable.</p>	<p>40 DEMONSTRATES AN ASTUTE AND RESPONSIBLE APPROACH TO CASE MANAGEMENT</p> <p>40.1 Readily offers sound authorities and/or solutions to situations as they arise, including novel solutions in unusual situations.</p>
<p>¹ Complies with appropriate Procedural Rules and judicial direction</p>	<p>31 COMPLIES WITH APPROPRIATE PROCEDURAL RULES AND JUDICIAL DIRECTION</p> <p>31.1 Demonstrates an understanding of appropriate Procedural Rules and court’s direction.</p> <p>31.2 Where within advocate’s control, advocate complies</p>	<p>31 COMPLIES WITH APPROPRIATE PROCEDURAL RULES AND JUDICIAL DIRECTION</p> <p>31.3 Demonstrates a <i>thorough understanding</i> of appropriate Procedural Rules and court’s direction.</p>		

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	with Procedure Rules and court directions			
² Is aware of the requirements regarding disclosure in the case and how they affect the client's case	32 IS AWARE OF THE REQUIREMENTS REGARDING DISCLOSURE IN THE CASE AND HOW THEY AFFECT THE CLIENT'S CASE	32 IS AWARE OF THE REQUIREMENTS REGARDING DISCLOSURE IN THE CASE AND HOW THEY AFFECT THE CLIENT'S CASE	32 IS AWARE OF THE REQUIREMENTS REGARDING DISCLOSURE IN THE CASE AND HOW THEY AFFECT THE CLIENT'S CASE	32 IS AWARE OF THE REQUIREMENTS REGARDING DISCLOSURE IN THE CASE AND HOW THEY AFFECT THE CLIENT'S CASE
	32.1 Demonstrates an understanding of the requirements regarding disclosure in the case and how they affect the client's case 32.2 Accurately identifies evidence that should be disclosed in magistrates' court proceedings.	32.3 Accurately identifies evidence that should be disclosed in magistrates' court and Crown Court proceedings. 32.4 Where within advocate's control, defence advocate provides timely disclosure of defence statement.	32.5 Demonstrates a sound understanding of the requirements regarding disclosure in the case and how they affect the client's case 32.6 Understands disclosure obligations, even in the context of more complex situations and evidential issues.	32.7 Has a superior grasp of disclosure obligations, even in the context of: 32.7.1 the most grave, complex or sensitive situations, or 32.7.2 particularly novel situations.
³ Provides appropriate disclosure of evidence	33 PROVIDES APPROPRIATE DISCLOSURE OF EVIDENCE			
	33.1 Where within advocate's control, prosecution advocate provides			

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	<p>appropriate disclosure</p> <p>33.2 Where within advocate's control, prosecution advocate provides timely disclosure</p>			
<p>⁴ Keeps or ensures that the court is kept promptly informed of any timings problems/delays</p>	<p>34 KEEPS OR ENSURES THAT THE COURT IS KEPT PROMPTLY INFORMED OF ANY TIMINGS PROBLEMS/DELAYS</p> <p>34.1 Advocate appears to be managing files</p> <p>34.2 Wherever possible, progresses case and / or hearing in timely manner.</p> <p>34.3 Wherever possible, keeps court promptly informed of timing problems / delays</p>	<p>37 EFFECTIVE MANAGEMENT OF FILE</p> <p>37.1 Advocate appears to be effectively managing files and deal responsibly with case management.</p>	<p>34 KEEPS OR ENSURES THAT THE COURT IS KEPT PROMPTLY INFORMED OF ANY TIMINGS PROBLEMS/DELAYS</p> <p>34.4 Is proficient at managing timings</p> <p>34.5 Deals responsibly with case management.</p> <p>34.6 Is able to perceive impact of developments during trial on trial timetable.</p>	<p>34 KEEPS OR ENSURES THAT THE COURT IS KEPT PROMPTLY INFORMED OF ANY TIMINGS PROBLEMS/DELAYS</p> <p>34.7 Demonstrates an astute and responsible approach to case management.</p>
<p>⁵ Complies with court imposed timetables</p>	<p>35 COMPLIES WITH COURT IMPOSED TIMETABLES.</p> <p>35.1 Wherever possible, makes</p>		<p>40 PROFICIENTLY MANAGES TIMINGS TO ADHERE TO TRIAL TIMETABLE</p>	

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	applications and serves notices in a timely manner.		40.1 Adheres to trial timetable	
Case presentation /advocacy				
B1 Presents clear and succinct written and oral submission				
1 Drafts clear skeleton arguments which:	<i>[Drafts clear skeleton arguments which:...] Only very rarely used in Magistrates' Court</i>	45 SKELETON ARGUMENT IS COHERENT 45.1 Presents clear and succinct written submissions, demonstrating a higher standard of presentation skills.	45 SKELETON ARGUMENT IS COHERENT 45.2 Presents clear and succinct written submissions, demonstrating expertise 45.3 Able to prepare a coherent skeleton argument, even in complex cases or addressing complex law, evidence, procedure or situations.	45 SKELETON ARGUMENT IS COHERENT 45.4 Presents highly proficient written submissions, to a standard of excellence. 45.5 Able to prepare a coherent skeleton argument: 45.5.1 in cases of the utmost gravity, complexity or sensitivity; and 45.5.2 addressing the most complex or sensitive evidential issues or

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				<i>circumstances.</i>
1.1 <i>Show clarity of purpose and expression</i>	41 SHOW CLARITY OF PURPOSE AND EXPRESSION 42 ARE THE APPROPRIATE LENGTH		41 SHOW CLARITY OF PURPOSE AND EXPRESSION 41.1 Document is expressed clearly and concisely.	
1.2 <i>Have a logical structure and identify the issues</i>	43 HAVE A LOGICAL STRUCTURE AND IDENTIFY THE ISSUES		46 CLEARLY MAPS THE CENTRAL ISSUES IN THE CASE	
1.3 <i>Make appropriate reference to authorities and documentary reference to external materials</i>	44 MAKE APPROPRIATE REFERENCE TO AUTHORITIES AND DOCUMENTARY REFERENCE TO EXTERNAL MATERIALS		44 MAKE APPROPRIATE REFERENCE TO AUTHORITIES AND DOCUMENTARY REFERENCE TO EXTERNAL MATERIALS 45.1 Make <i>only appropriate</i> reference to authorities and documentary reference to external materials 45.2 Authorities and documents are precisely referenced	

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			45.3 Demonstrates solid application of law, procedure and evidence.	
<p>2 Makes relevant and succinct submissions by reference to appropriate authority</p>	<p>ORGANISATION</p> <p>47 DEMONSTRATES A CLEAR AIM (I.E. SETS OUT WHAT THE COURT IS BEING ASKED TO DO AND THE SOURCE OF THE POWER TO DO IT)</p> <p>47.1 Prepares and presents a reasonable submission based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner.</p> <p>48 EMPLOYS A LOGICAL STRUCTURE (BEGINNING,</p>	<p>ORGANISATION</p> <p>51 DEVELOPS REASONED ARGUMENT</p> <p>51.1 Presents clear and succinct oral submissions, demonstrating a higher standard of presentation skills.</p> <p>52 IS COHERENT</p> <p>52.1 Should be able to prepare and present eloquent submissions based upon key relevant facts, principles and legal authority in a structured, concise and</p>	<p>ORGANISATION</p> <p>53 SUBMISSION/ SPEECH IS ATTRACTIVE AND CONTAINS COMPELLING ARGUMENTS</p> <p>53.1 Presents clear and succinct oral submissions, demonstrating expertise</p> <p>53.2 Should be able to prepare and present compelling submissions based upon key relevant facts, principles and legal authority in a structured, concise and persuasive manner</p>	<p>ORGANISATION</p> <p>54 IDENTIFIES THE BEST ARGUMENTS TO PURSUE</p> <p>54.1 Presents fluid flexible and highly proficient submissions, to a standard of excellence.</p> <p>54.2 Advocate’s presentation skills reflects the increased seriousness and complexity of cases dealt with by a Level 4 advocate</p> <p>54.3 Fluent, articulate and intuitive advocate</p>

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	<p>MIDDLE AND END)</p> <p>49 CORRECT APPLICATION OF RELEVANT AUTHORITY TO RELEVANT FACTS</p> <p>50 IS CONCISE</p> <p><i>INTER-ACTION WITH TRIBUNAL/DEALING WITH OPPONENT'S ARGUMENTS</i></p> <p>55 DEALS WITH COURT'S</p>	<p>persuasive manner</p> <p>52.2 Fluent and articulate advocate</p> <p><i>INTER-ACTION WITH TRIBUNAL/DEALING WITH OPPONENT'S ARGUMENTS</i></p> <p>57 ADEPTLY RESPONDS TO</p>	<p>53.3 Advocate's presentation skills reflects the increased seriousness and complexity of cases dealt with by a Level 3 advocate.</p> <p>53.4 Highlights decisive facts and issues.</p> <p>53.5 Develops reasoned argument appropriately</p> <p>53.6 Is able to respond to questions decisively</p> <p>53.7 Demonstrates a holistic understanding of the case</p> <p>53.8 Demonstrates a common sense approach</p> <p>53.9 Submission is attractive and reasonable</p> <p><i>INTER-ACTION WITH TRIBUNAL/DEALING WITH OPPONENT'S ARGUMENTS</i></p> <p>59 TAILORS SUBMISSION TO</p>	<p>54.4 Pinpoints the essence of the case or issue without wasteful consideration of alternative issues</p> <p>54.5 Submissions unfailingly delivered with poise.</p> <p>54.6 Demonstrates an astute and responsible approach throughout their advocacy.</p> <p>54.7 Powerful submissions expressed very succinctly.</p>
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	<p>QUESTIONS/CONCERNS PROMPTLY</p> <p>56 RESPONDS TO OPPONENT'S POINTS</p>	<p>COURT'S QUESTIONS AND CONCERNS AND OPPONENT'S POINTS</p> <p>58 ANTICIPATES POINTS</p> <p>58.1 Advocate anticipates and responds to opponent's arguments</p>	<p>MEET EXPECTATIONS OF TRIBUNAL</p> <p>59.1 Is able to tailor submissions to meet the expectations of different tribunals and/ or juries.</p>	
<p>3 Uses materials appropriately</p>	<p>60 APPROPRIATE USE OF MATERIALS AND APPROPRIATE USE OF AUTHORITIES.</p> <p>61 LOCATES DOCUMENTS QUICKLY</p>	<p>62 ONLY CITES RELEVANT MATERIALS AND LAW</p>	<p>63 APPROPRIATE USE OF ONLY KEY MATERIALS AND AUTHORITIES</p> <p>64 ASSIMILATES RELEVANCE OF EVIDENCE QUICKLY</p> <p>64.1 Advocate can readily offer sound authorities.</p> <p>64.2 Advocate is able to locate authorities for more unusual procedural issues</p>	<p>65 DEMONSTRATES SOUND DOCUMENT MANAGEMENT SKILLS.</p> <p>65.1 Pinpoints the essence of the case or issue.</p> <p>65.2 Able to assimilate relevance of evidence or authorities quickly, even when working with voluminous or complex evidence.</p>

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			or law	
4 Communicates clearly and audibly	66 IS AUDIBLE 67 HAS CLARITY OF EXPRESSION 68 USES APPROPRIATE LANGUAGE (LANGUAGE ADAPTED TO A TRIBUNAL) 69 USES APPROPRIATE EYE CONTACT 70 IS PERSUASIVE	71 FLUENT AND ARTICULATE ADVOCATE 71.1 Uses language adeptly 72 COMMANDS ATTENTION AND INSPIRES CONFIDENCE	73 ADVOCACY DELIVERED WITH POISE 74 INTERESTING AND ENGAGING TONE OF DELIVERY.	75 DELIVERS FLUID, FLEXIBLE AND HIGHLY PROFICIENT SUBMISSIONS 75.1 Delivers submissions with poise notwithstanding the most extreme circumstances and pressures. 76 ADVOCACY IS INSTINCTIVE AND APPEARS EFFORTLESS
5 Maintains appropriate pace throughout the course of the trial	77 APPROPRIATE PACE ADOPTED 77.1 Deals with court's questions/concerns promptly 77.2 Locates documents quickly	77 APPROPRIATE PACE ADOPTED 77.3 Fluent and articulate advocate 77.4 Delivery is at a good pace		
B2 Conducts focussed questioning				
1 Conducts examination-in-chief	79 OBSERVES RESTRICTIONS	80 ABLE TO QUESTION	83 AVOIDS LEADING	84 IMMEDIATELY SEES

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appropriately	<p>AND DIRECTIONS ON QUESTIONING</p> <p>80 ABLE TO QUESTION EFFECTIVELY</p> <p>80.1 Where applicable, conducts examination-in-chief appropriately.</p> <p>80.2 Conducts focused questioning appropriate to a trial in the magistrates' court.</p> <p>81 AVOIDS LEADING QUESTIONS</p> <p>85 QUESTIONS TO WITNESSES ARE CLEAR AND UNDERSTANDABLE</p> <p>86 USES SHORT, SIMPLE QUESTIONS, ONE POINT AT A TIME</p> <p>87 USES APPROPRIATE</p>	<p>EFFECTIVELY</p> <p>80.3 Conducts focused questioning appropriate for trials in the magistrates' court or the Crown Court</p> <p>82 IS AWARE OF THE TRIBUNAL</p> <p>90 APPROPRIATE PACE</p> <p>95 CLEAR AND LOGICAL STRUCTURE (TELLING STORY THROUGH WITNESS)</p> <p>96 DEMONSTRATES CLEAR CASE STRATEGY</p>	<p>QUESTIONS, ON MATTERS THAT REMAIN IN DISPUTE.</p> <p>91 ESTABLISHES A RAPPORT WITH THE WITNESS</p> <p>92 DEVELOPS A STEADY RHYTHM</p> <p>92.1 Examination-in-chief develops a steady rhythm</p> <p>97 COMPREHENDS THE NUANCES OF A CASE OR EVIDENCE AND RESPONDED ACCORDINGLY</p>	<p>IMPLICATIONS OF WITNESS'S ANSWER AND RESPONDS APPROPRIATELY</p> <p>88 QUESTIONS ARE EFFICIENT AND EFFECTIVE.</p> <p>98 QUESTIONING TECHNIQUE IS INTUITIVE AND APPEARS EFFORTLESS</p> <p>99 INSTINCTIVELY IDENTIFIES THE BEST ISSUES TO PURSUE AND BEST TECHNIQUE TO ADOPT</p> <p>99.1 Pinpoints the essence of the case or issue without wasteful consideration of alternative issues</p>
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	<p>LANGUAGE</p> <p>89 IS AUDIBLE</p> <p>93 QUESTIONING STRATEGY RELEVANT TO THE ISSUES</p> <p>94 AVOIDS INTRODUCING IRRELEVANT MATERIAL</p> <p>94.1 Elicits substance whilst avoiding the irrelevant</p>			
<p>2 Conducts cross examination appropriately</p>	<p>100 OBSERVES RESTRICTIONS AND DIRECTIONS ON QUESTIONING</p> <p>101 ABLE TO QUESTION EFFECTIVELY</p> <p>101.1 Where applicable, conducts cross-examination appropriately.</p>	<p>101 ABLE TO QUESTION EFFECTIVELY</p> <p>101.3 Conducts focused questioning appropriate for trials in the magistrates' court or the Crown Court</p> <p>102 IS AWARE OF THE TRIBUNAL</p>	<p>109 MAINTAINS CONTROL OF WITNESS</p> <p>110 AVOIDS ENTERING INTO DEBATE OR MAKING COMMENTS</p> <p>113 APPROPRIATE PACE (AND ADJUSTS PACE AS NECESSARY)</p>	<p>103 IMMEDIATELY SEES IMPLICATIONS OF WITNESS'S ANSWER AND RESPONDS APPROPRIATELY</p> <p>103.1 Incisive handling of witness</p> <p>111 QUESTIONS ARE EFFICIENT AND EFFECTIVE</p>

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	101.2	Conducts focused questioning appropriate to a trial in the magistrates' court.	108	CONTROLS DIRECTION AND PACE OF EVIDENCE	114	QUESTIONING DEVELOPS A STEADY RHYTHM	124	QUESTIONING TECHNIQUE IS INTUITIVE AND APPEARS EFFORTLESS
	104	QUESTIONS TO WITNESSES ARE CLEAR AND UNDERSTANDABLE	119	LOGICAL STRUCTURE AND ORGANISATION	122	DEPLOYS DIFFERENT CROSS-EXAMINATION TECHNIQUES, TAILORED TO WITNESS	125	INSTINCTIVELY IDENTIFIES THE BEST ISSUES TO PURSUE
	105	USES CLOSED AND CONCISE QUESTIONS	120	ELICITS NECESSARY FACTS			125.1	Pinpoints the essence of the case or issue without wasteful consideration of alternative issues
	106	USES SHORT, SIMPLE QUESTIONS, ONE POINT AT A TIME	121	KNOWS WHEN TO STOP	123	COMPREHENDS THE NUANCES OF A CASE OR EVIDENCE AND RESPONDED ACCORDINGLY		
	107	USES APPROPRIATE LANGUAGE						
	112	IS AUDIBLE						
	115	QUESTIONING STRATEGY RELEVANT TO THE ISSUES						
	116	AVOIDS INTRODUCING						

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	<p>IRRELEVANT MATERIAL</p> <p>116.1 Elicits substance whilst avoiding the irrelevant</p> <p>117 MAKES CHALLENGES NECESSARY TO PUT ADVOCATE’S CASE</p> <p>118 AVOIDS INADVERTENTLY ATTACKING THE WITNESS’S CHARACTER (IF THIS HAS IMPLICATIONS FOR BAD CHARACTER EVIDENCE)</p>			
3 Observes restrictions and judicial rulings on questioning	79 OBSERVES RESTRICTIONS & 100 AND DIRECTIONS ON QUESTIONING			
4 Questions to witnesses are clear and understandable	85 QUESTIONS TO WITNESSES & 104 ARE CLEAR AND UNDERSTANDABLE	108 CONTROLS DIRECTION AND PACE OF EVIDENCE	113 APPROPRIATE PACE (AND ADJUSTS PACE AS NECESSARY)	88 QUESTIONS ARE EFFICIENT & 111 AND EFFECTIVE

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	<p>86 USES SHORT, SIMPLE & 106 QUESTIONS, ONE POINT AT A TIME</p> <p>87 USES APPROPRIATE & 107 LANGUAGE</p> <p>89 IS AUDIBLE & 112</p>		<p>92 & 114 QUESTIONING DEVELOPS A STEADY RHYTHM</p>	
<p>5 Questioning strategy relevant to issues</p>	<p>115 QUESTIONING STRATEGY & 93 RELEVANT TO THE ISSUES</p> <p>117 MAKES CHALLENGES NECESSARY TO PUT ADVOCATE'S CASE.</p>	<p>96 DEMONSTRATES CLEAR CASE STRATEGY</p> <p>96.1 Has a clear strategy for the case which is reflected in the questions asked</p> <p>120 ELICITS NECESSARY FACTS</p>	<p>97 COMPREHENDS THE NUANCES OF A CASE OR EVIDENCE AND RESPONDS ACCORDINGLY</p>	<p>125 INSTINCTIVELY & 99 IDENTIFIED THE BEST ISSUES TO PURSUE AND BEST TECHNIQUE TO ADOPT</p> <p>125.1 Pinpoints the essence of the case or issue without wasteful consideration of alternative issues</p>
<p>6 Avoids introducing irrelevant material</p>	<p>94 AVOIDS INTRODUCING & 116 IRRELEVANT MATERIAL</p>			<p>94 AVOIDS INTRODUCING & 116 IRRELEVANT MATERIAL</p> <p>116.2 Pinpoints the essence of the</p>

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
		IN ADDITION TO LEVEL 1 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1& 2 PERFORMANCE INDICATORS....	IN ADDITION TO LEVELS 1, 2 & 3 PERFORMANCE INDICATORS....
	116.1 Elicits substance whilst avoiding the irrelevant			case or issue without wasteful consideration of alternative issues 116.3 Demonstrates sound document management skills

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
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B3 Handles vulnerable, uncooperative and expert witnesses appropriately				
1 Gives clear guidance to own witnesses	<p>126 GAVE CLEAR GUIDANCE TO OWN WITNESSES</p> <p>127 COMPLIED WITH ALL OBLIGATIONS AND GOOD PRACTICE IN RESPECT OF VICTIMS AND WITNESSES</p> <p>127.1 Complies with good practice guidance in respect of vulnerable witnesses</p>		<p>132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY</p> <p>132.1 Demonstrates an astute and responsible approach throughout their advocacy</p> <p>132.2 Draws on past experience to predict responses of others</p>	<p>132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY</p> <p>132.3 Able to maintain poise notwithstanding the most extreme circumstances and pressures</p>
2 Deals appropriately with vulnerable witnesses	<p>127 DEALT APPROPRIATELY WITH VULNERABLE WITNESSES</p> <p>130 COMPLIED WITH ALL OBLIGATIONS AND GOOD PRACTICE IN RESPECT OF VICTIMS AND WITNESSES</p>	<p>130 COMPLIED WITH ALL OBLIGATIONS AND GOOD PRACTICE IN RESPECT OF VICTIMS AND WITNESSES</p> <p>130.4 Is able to identify</p>	<p>130 COMPLIED WITH ALL OBLIGATIONS AND GOOD PRACTICE IN RESPECT OF VICTIMS AND WITNESSES</p> <p>130.6 Quickly identifies</p>	<p>132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY</p> <p>132.3 Able to maintain poise notwithstanding the most extreme circumstances</p>

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
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	<p>PRACTICE IN RESPECT OF VICTIMS AND WITNESSES</p> <p>130.1 Complies with directions</p> <p>130.2 Demonstrates understanding of the needs of vulnerable witnesses</p> <p>130.3 Demonstrates knowledge of procedures relating to vulnerable witnesses</p>	<p>vulnerable witnesses</p> <p>130.5 Uses appropriate techniques when questioning vulnerable witnesses</p>	<p>vulnerable witnesses</p> <p>130.7 Understands the needs of vulnerable witnesses</p> <p>130.8 Adheres to procedures relating to vulnerable witnesses</p> <p>132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY</p> <p>132.1 Demonstrates an astute and responsible approach throughout their advocacy</p> <p>132.2 Draws on past experience to predict responses of others</p>	<p>and pressures</p> <p>132.4 Questioning technique is intuitive and appears effortless</p>
<p>3 Deals effectively with uncooperative witnesses</p>	<p>128 DEALT EFFECTIVELY WITH UNCOOPERATIVE WITNESSES</p> <p>128.1 Adopts correct procedure when questioning an uncooperative witnesses</p>	<p>128 DEALT EFFECTIVELY WITH UNCOOPERATIVE WITNESSES</p> <p>128.2 Understands potential admissibility of previous inconsistent statements including the exercise of</p>	<p>128 DEALT EFFECTIVELY WITH UNCOOPERATIVE WITNESSES</p> <p>128.3 Able to effectively utilise previous inconsistent statements and comply with procedure.</p>	<p>128 DEALT EFFECTIVELY WITH UNCOOPERATIVE WITNESSES</p> <p>128.4 Able to effectively exploit previous inconsistent statements and comply with procedure.</p>

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
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	130 COMPLIED WITH ALL OBLIGATIONS AND GOOD PRACTICE IN RESPECT OF VICTIMS AND WITNESSES	the courts discretion 131 CORRECTLY DEALT WITH PREVIOUS INCONSISTENT STATEMENTS AND/OR OPINION EVIDENCE	132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY 132.1 Demonstrates an astute and responsible approach throughout their advocacy 132.2 Draws on past experience to predict responses of others	128.5 Questioning technique is intuitive and appears effortless 128.6 Instinctively identifies the best arguments / questions to pursue
4 Uses and challenges expert evidence effectively	129 USED AND CHALLENGED EXPERT EVIDENCE EFFECTIVELY 129.1 If applicable, uses and challenges expert evidence effectively 129.2 Correctly identifies the need for expert evidence. 129.3 Identifies opinion evidence and its admissibility 129.4 Adopts correct procedure	129 USED AND CHALLENGED EXPERT EVIDENCE EFFECTIVELY 129.4 Challenges expert evidence appropriately 129.5 Readily identifies opinion evidence and its admissibility 131 CORRECTLY DEALT WITH PREVIOUS INCONSISTENT STATEMENTS AND/OR	132 MANAGES EXTREMELY SENSITIVE SITUATIONS RELIABLY 132.1 Demonstrates an astute and responsible approach throughout their advocacy 132.2 Draws on past experience to predict responses of others	129 USED AND CHALLENGED EXPERT EVIDENCE EFFECTIVELY 129.6 Questioning technique is intuitive and appears effortless 129.7 Instinctively identifies the best arguments / questions to pursue

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators
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	when questioning expert witnesses	OPINION EVIDENCE		
B4 Understood and assisted court on sentencing		Understands and applies sentencing guidelines in the magistrates' court and in the Crown Court	Understands and applies sentencing guidelines in the magistrates' court and in the Crown Court	Understands and applies sentencing guidelines in the magistrates' court and in the Crown Court
¹ Makes appropriate factual representations to the court on sentencing	<p>133 MADE APPROPRIATE FACTUAL REPRESENTATIONS TO THE COURT ON SENTENCING</p> <p>134 UNDERSTANDS COURT'S SENTENCING POWERS, AND POWER TO COMMIT FOR SENTENCE.</p> <p>134.1 Understands and applies sentencing guidelines in the magistrates' court</p> <p>135 MADE A COHERENT AND PERSUASIVE PLEA IN</p>	<p>134 UNDERSTANDS COURT'S SENTENCING POWERS....</p> <p>134.2 In Crown Court, understands sentencing guidelines, case law, the judge's sentencing powers and the range of sentencing tariffs</p> <p>135 MADE A COHERENT AND PERSUASIVE PLEA IN MITIGATION</p> <p>135.3 The structure of the plea in mitigation is effective</p>	<p>135 MADE A COHERENT AND PERSUASIVE PLEA IN MITIGATION</p> <p>135.4 Makes a coherent, effective and attractive plea in mitigation</p> <p>135.5 Soundly structured submission</p> <p>135.6 Makes each point effectively and moves on</p> <p>135.7 Demonstrates in depth knowledge of criminal offences, defences, and sentencing options including more serious</p>	<p>135 MADE A COHERENT AND PERSUASIVE PLEA IN MITIGATION</p> <p>135.9 Powerful plea in mitigation presented very succinctly</p> <p>135.10 Demonstrates expert knowledge of criminal offences and defences, including the most grave, complex and sensitive offences.</p> <p>139 EXPLAINS THE CRUX OF THE OFFENCE AND THE</p>

STATEMENT OF STANDARDS				
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	<p>MITIGATION</p> <p>135.1 Makes a coherent and persuasive plea in mitigation having regard to the relevant law and facts, and if appropriate, having regard to the client’s instructions.</p> <p>135.2 Where possible, is familiar with offender’s circumstances, including previous convictions, compliance with previous sentences, attitude to the offence and likely consequences of possible sentences.</p> <p>136 APPLIED RELEVANT LAW AND FACTS</p>	<p>138 ADDRESSES RELEVANT MITIGATING AND AGGRAVATING FACTORS</p>	<p>and complex offences</p> <p>135.8 Readily offers sensible sentencing solutions.</p> <p>139 EXPLAINS THE CRUX OF THE OFFENCE AND THE OFFENDER’S CIRCUMSTANCES SUCCINCTLY</p> <p>139.1 Explains the crux of the offence and the offender’s circumstances succinctly, <i>even in complex cases.</i></p> <p>140 AGILE ADVOCACY, RESPONSIVE TO THE SENTIMENT OF THE JUDGE</p>	<p>OFFENDER’S CIRCUMSTANCES SUCCINCTLY</p> <p>139.2 Explains the crux of the offence and the offender’s circumstances succinctly, <i>even in the most complex cases.</i></p>
<p>2 Takes appropriate steps to ensure that relevant legal</p>	<p>137 TOOK APPROPRIATE STEPS TO ENSURE THAT</p>		<p>137 TOOK APPROPRIATE STEPS TO ENSURE THAT</p>	<p>137 TOOK APPROPRIATE STEPS TO ENSURE THAT</p>

STATEMENT OF STANDARDS				
Generic Standard	Level 1	Level 2	Level 3	Level 4
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materials necessary for sentencing are before the court 45.5.3	RELEVANT LEGAL MATERIALS NECESSARY FOR SENTENCING WERE BEFORE THE COURT		RELEVANT LEGAL MATERIALS NECESSARY FOR SENTENCING WERE BEFORE THE COURT	RELEVANT LEGAL MATERIALS NECESSARY FOR SENTENCING WERE BEFORE THE COURT
			137.1 Advocate can readily offer sound authorities, even for more complicated offences	137.1 Advocate can readily offer sound authorities, even for <i>the most grave, complex and sensitive offences.</i>
Working with others (where applicable)				
C1 Assists clients in decision making				
1 Any advice given to a client is clear and accurate	<p>141 ANY ADVICE GIVEN TO A CLIENT IS CLEAR AND ACCURATE</p> <p>141.1 In the case of defence advocates, any advice given to a client is clear and accurate</p> <p>141.2 In the case of prosecution</p>	<p>143 PROVIDES EFFECTIVE, STRUCTURED AND APPROPRIATE ADVICE WHICH ENABLES CLIENT TO DECIDE THE BEST COURSE OF ACTION</p> <p>144 IS ABLE TO EXPRESS THEMSELVES CLEARLY</p>	<p>142 ACCURATELY IDENTIFIES THE RELEVANT FACTUAL, LEGAL, EVIDENTIAL AND / OR PROCEDURAL ISSUES.</p> <p>142.2 Accurately identifies the <i>significant</i> factual, legal, evidential and / or</p>	<p>146 PINPOINTS THE ESSENCE OF THE CASE OR ISSUE WITHOUT WASTEFUL CONSIDERATION OF ALTERNATIVE ISSUES</p> <p>146.1 Instinctively identifies the best arguments to pursue</p> <p>146.2 Provides solid</p>

STATEMENT OF STANDARDS				
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	<p>advocates, any advice given to police and / or victims is clear and accurate</p> <p>141.3 Is able to express themselves clearly and assertively</p> <p>142 ACCURATELY IDENTIFIES THE RELEVANT FACTUAL, LEGAL, EVIDENTIAL AND / OR PROCEDURAL ISSUES.</p> <p>142.1 Provides appropriate advice</p>	<p>AND ASSERTIVELY</p>	<p>procedural issues.</p> <p>142.3 Provides clear, sagacious advice</p> <p>145 COMPREHENDS AND IS ABLE TO EFFECTIVELY DIRECT COMPLEX CASES AND/OR COMPLEX SITUATIONS</p>	<p>interpretations of the law and procedure</p> <p>147 COMPREHENDS AND SUCCESSFULLY LEADS CASES OF THE UTMOST GRAVITY, COMPLEXITY, AND SENSITIVITY</p> <p>147.1 Readily offers sound solutions to situations as they arise, including novel solutions in unusual situations.</p>
<p>2 Takes all reasonable steps to help the lay client understand the process</p>	<p>148 TAKES ALL REASONABLE STEPS TO HELP THE LAY CLIENT UNDERSTAND THE PROCESS</p> <p>148.1 If applicable, takes all appropriate steps to assist</p>			

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	<p>a vulnerable defendant, or a defendant that may need an interpreter</p> <p>149 USES LANGUAGE THAT IS APPROPRIATE TO THE PERSON BEING ADDRESSED</p>			
<p>3 Ensures that the decision making process is adequately recorded</p>	<p>150 ENSURES THAT THE DECISION MAKING PROCESS IS ADEQUATELY RECORDED</p> <p>151 KEEPS AN APPROPRIATE WRITTEN RECORD OF INFORMATION OBTAINED, STEPS TAKEN, ADVICE GIVEN AND DECISIONS TAKEN</p>			
<p>C2 Establishes professional relationships in court</p>	<p>152 ESTABLISHES PROFESSIONAL</p>			

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	RELATIONSHIPS IN COURT				
<p>1 Observes professional etiquette and ethics in relation to the client and to third parties</p>	<p>153 OBSERVES PROFESSIONAL ETIQUETTE AND ETHICS IN RELATION TO THE CLIENT AND TO THIRD PARTIES</p> <p>153.1 Complies with own profession's Code of Conduct</p> <p>153.2 Adopts proper conduct towards the client, solicitors, counsel, witnesses, co-defendants and the court personnel.</p> <p>153.3 Uses proper modes of address in court</p>	<p>153 OBSERVES PROFESSIONAL ETIQUETTE AND ETHICS IN RELATION TO THE CLIENT AND TO THIRD PARTIES</p> <p>153.4 Unfailingly complies with own profession's Code of Conduct and courtroom etiquette</p>			
<p>2 Is professional at all times</p>	<p>154 IS PROFESSIONAL AT ALL TIMES</p>	<p>154 IS PROFESSIONAL AT ALL TIMES</p> <p>154.1 Does not act in a manner which may adversely</p>	<p>154 IS PROFESSIONAL AT ALL TIMES</p> <p>154.2 Commands respect in the</p>	<p>154 IS PROFESSIONAL AT ALL TIMES</p> <p>154.3 Able to maintain poise notwithstanding the most</p>	

STATEMENT OF STANDARDS				
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		affect the client's case in the eyes of the jury.	eyes of the judge and jury.	extreme circumstances and pressures 154.4 Acts as a role model for others.

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Integrity				
D1 Observes professional duties	155	OBSERVES PROFESSIONAL DUTIES		
1 Observes duty to act with independence	156	OBSERVES DUTY TO ACT WITH INDEPENDENCE 156.1 Complies with own profession's Code of Conduct 156.2 If relevant, deals appropriately with any ethical issues that may arise from client's instructions.		
2 Advises the court of adverse authorities and, where they arise, procedural irregularities	157	ADVISES THE COURT OF ADVERSE AUTHORITIES AND, WHERE THEY ARISE, PROCEDURAL IRREGULARITIES 157.1 Complies with own		

STATEMENT OF STANDARDS					
Generic Standard	Level 1	Level 2	Level 3	Level 4	
	Performance Indicators	Performance Indicators	Performance Indicators	Performance Indicators	
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	profession's Code of Conduct 157.2 Upholds the advocate's duty to the court				
3 Assists the court with the proper administration of justice	158 ASSISTS THE COURT WITH THE PROPER ADMINISTRATION OF JUSTICE 158.1 Deals appropriately with court's questions/concerns 158.2 Adopts an honest approach and establishes a suitable rapport with the court.	158 ASSISTS THE COURT WITH THE PROPER ADMINISTRATION OF JUSTICE 158.3 Acts appropriately to assist the judge with any specific points to be addressed during the summing up	158 ASSISTS THE COURT WITH THE PROPER ADMINISTRATION OF JUSTICE 158.4 Comprehends the nuances of a case and readily offers sound solutions to situations as they arise	158 ASSISTS THE COURT WITH THE PROPER ADMINISTRATION OF JUSTICE 158.5 Demonstrates an astute and responsible approach throughout their advocacy	
Equality and diversity					
E1 Has a demonstrable understanding of equality and diversity principles	159 HAS A DEMONSTRABLE UNDERSTANDING OF EQUALITY AND DIVERSITY				

STATEMENT OF STANDARDS				
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	PRINCIPLES			
1 Recognises the needs and circumstances of others and acts accordingly	<p>160 RECOGNISES THE NEEDS AND CIRCUMSTANCES OF OTHERS AND ACTS ACCORDINGLY</p> <p>160.1 Is aware of the diverse needs of individuals resulting from differences in race or ethnicity, gender, sexual orientation, religion or belief, age, disability or social disadvantage and responds appropriately and sensitively</p>	<p>160 RECOGNISES THE NEEDS AND CIRCUMSTANCES OF OTHERS AND ACTS ACCORDINGLY</p> <p>160.2 Acts as a role model for others in handling issues of diversity and difference, and</p> <p>160.3 Confronts discrimination and prejudice when observed in others</p>		
2 Treats clients, colleagues and parties fairly and does not discriminate against them	<p>161 TREATS CLIENTS, COLLEAGUES AND PARTIES FAIRLY AND DOES NOT DISCRIMINATE AGAINST THEM</p> <p>161.1 At all times conduct</p>			

STATEMENT OF STANDARDS				
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	towards all individuals is fair and appropriate			

Criminal Advocacy Evaluation Form

Appendix 2

[Re-accreditation (same grade sought) **[Re-grading** (seeking to move up a grade) **[Ongoing Monitoring]** delete as appropriate

NAME OF ADVOCATE: DATE OF ADMISSION/CALL:

COURT: NATURE OF CASE.....

NAME OF CASE: DATE OF APPEARANCE:

CURRENT LEVEL: GP1 1 GP2 2 GP3 3 GP4 4 SEEKING RE-GRADING? Yes / No

Please indicate an assessment for each relevant element.

N.B.: This Form should be completed with reference to the Competency Standards (overleaf). Please complete this page and give brief reasons for your evaluation in the Comments box on the final page.

		COMPETENT	PARTIALLY COMPETENT	NOT COMPETENT	NOT POSS. TO EVALUATE
A1	Has demonstrated the appropriate level of knowledge, experience and skill required for the Level		NYC	NYC	
A2	Was properly prepared	Core			
A3	Provided a proper contribution to case management				
B1	Presented clear and succinct written and oral submission	Core			
B2	Conducted focussed questioning	Core			
B3	Handled vulnerable, uncooperative and expert witnesses appropriately				
B4	Understood and assisted court on sentencing				
C1	Assisted client(s) in decision making (if observed or able to infer from advocacy)				
C2-E	Was professional at all times and sensitive to equality and diversity principles		NYC	NYC	

OVERALL EVALUATION AGAINST COMPETENCY STANDARDS: Please select ONE option below. "Competent" and "Very Competent" are defined on the final page.

<input type="checkbox"/> NOT YET COMPETENT AT THIS LEVEL	<input type="checkbox"/> COMPETENT	<input type="checkbox"/> VERY COMPETENT - READY TO PROGRESS UP A LEVEL	<input type="checkbox"/> NOT POSSIBLE TO EVALUATE
--	------------------------------------	--	---

Name of Evaluator:.....Signature:.....Date:.....

Position of Evaluator:.....Were you aware of the client's instructions? YES / NO

If the client's instructions had an impact on the advocate's performance, or your assessment of the advocate's performance, please explain in Comments box on final page.

Competency Standards

Level 1 (and all advocates above this level)		Level 2 (and all advocates above this level)		Level 3 (and all advocates above this level)		Level 4	
A1	Has demonstrated the appropriate level of knowledge, experience and skill required for accepting the case	A3	Provided a proper contribution to case management				
1	Familiar with law and practice at this level	29	Advocate's conduct did not hinder case progression				
2	Knowledge of procedure and law is up-to-date	30	Had considered appropriate directions and was able to assist the court				
3	Demonstrated skills and experience necessary for this level of advocacy	31 (A3.1)	Complied with appropriate procedural rules and judicial direction				
4	Demonstrated a thorough knowledge of law and practice	32 (A3.2)	Was aware of the requirements regarding disclosure in the case and how they affect the client's case				
5	Conducted trial advocacy efficiently and effectively	33 (A3.3)	Provided appropriate disclosure of evidence				
6	Advocate was confident and articulate	34 (A3.4)	Kept or ensured that the court was kept promptly informed of any timings problems/delays				
7	Deep understanding of law and practice	35 (A3.5)	Complied with court imposed timetables				
8	Demonstrated judgement and skill in all respects	36	Dealt promptly and effectively with issues arising from PCMH.				
9	Comprehended and effectively directed complex case	37	Effective management of file				
10	Managed extremely sensitive situations	38	Made positive contributions to case management				
11	Superior grasp of law and practice	39	Proficiently managed timings to adhere to trial timetable				
12	Readily offered sound authorities and/or solutions, including novel solutions in unusual situations	40	Demonstrated an astute and responsible approach to case management				
13	Demonstrates wisdom in all aspects of advocacy	B1	Presented clear and succinct written and oral submission				
14	Conducted trial advocacy to a level of excellence.	B1.1	Drafted clear Skeleton Argument which:				
15	Comprehended and successfully lead case of the utmost gravity, complexity, or sensitivity	41 (B1.1.1)	Show clarity of purpose and expression				
A2	Was properly prepared	42	Are the appropriate length				
16	Had prepared for hearing / trial effectively	43 (B1.1.2)	Have a logical structure and identify the issues				
17 (A2.1)	Had a clear strategy for the case / application	44 (B1.1.3)	Make appropriate reference to authorities and documentary reference to external materials				
18 (A2.2)	Understood client's and opponent's case and identified the issues	45	Skeleton argument was coherent				
19	Identified relevant factual, legal, evidential and / or procedural issues	46	Clearly mapped the central issues in the case				
20	Familiar with facts of the case						
21 (A2.3)	Understood the relevant law and procedure for the matter in hand						
22	Preparation reflected the increased seriousness and complexity of the case						
23	Had anticipated opponent's arguments and court interventions						
24	Efficiently identified the key factual, legal, evidential and / or procedural issues						
25	Had a robust case strategy						
26	Viewed case holistically from the outset						
27	Understood the nuances of a case, situation or evidence,						
28	Pinpointed the essence of the case or issue without wasteful consideration of alternative issues						

Competency Standards

Level 1 (and all advocates above this level)		Level 2 (and all advocates above this level)		Level 3 (and all advocates above this level)		Level 4	
B1	Presented clear and succinct written and oral submission (continued)	B2	Conducts focussed questioning				
B1.2	Made relevant and succinct submissions by reference to appropriate authority	B2.1	Conducted appropriate Examination-in-chief				
	Organisation:	79(B2.3)	Observed restrictions and directions on questioning				
47	Demonstrated a clear aim (i.e. sets out what the court is being asked to do and the source of the power to do it)	80	Able to question effectively				
48	Employed a logical structure (beginning, middle and end)	81	Avoided leading questions				
49	Correct application of relevant authority to relevant facts	82	Was aware of the tribunal				
50	Was concise	83	Avoided leading questions, on matters that remain in dispute				
51	Developed reasoned argument	84	Immediately sees implications of witness's answer and responds appropriately				
52	Was coherent		Form of Questions				
53	Submission/ speech was attractive and contained compelling arguments	85(B2.4)	Questions to witnesses are clear and understandable				
54	Identified the best arguments to pursue	86	Used short, simple questions, one point at a time				
	Inter-action with tribunal/dealing with opponent's arguments:	87	Used appropriate language				
55	Dealt with court's questions/concerns promptly	88	Questions were efficient and effective				
56	Responded to opponent's points		Delivery:				
57	Adeptly responded to court's questions and concerns and opponent's points	89	Was audible				
58	Anticipated points	90	Appropriate pace				
59	Tailored submission to meet expectations of tribunal	91	Established a rapport with witness				
B1.3	Used materials appropriately	92	Developed a steady rhythm				
60	Appropriate use of materials and appropriate use of authorities		Questioning Strategy:				
61	Located documents quickly	93(B2.5)	Questioning strategy relevant to the issues				
62	Only cited relevant materials and law	94(B2.6)	Avoided introducing irrelevant material				
63	Appropriate use of only key materials and authorities	95	Clear and logical structure (telling story through witness)				
64	Assimilated relevance of evidence quickly	96	Demonstrated a clear case strategy				
65	Demonstrated sound document management skills	97	Comprehended the nuances of a case or evidence and responded accordingly.				
B1.4	Communicates clearly and audibly	98	Questioning technique was intuitive and appeared effortless				
66	Was audible	99	Instinctively identified the best issues to pursue and best technique to adopt				
67	Had clarity of expression						
68	Used appropriate language (language adapted to a tribunal)						
69	Used appropriate eye contact						
70	Was persuasive						
71	Fluent and articulate						
72	Commanded attention and inspired confidence						
73	Self assured, unflappable advocate						
74	Interesting and engaging tone of delivery.						
75	Delivered fluid, flexible and highly proficient submissions						
76	Advocacy was instinctive and appeared effortless						
B1.5	Maintains appropriate pace throughout the course of the trial						
77	Appropriate pace adopted						
78	Ideal tempo						

Competency Standards

Level 1 (and all advocates above this level)		Level 2 (and all advocates above this level)		Level 3 (and all advocates above this level)		Level 4	
B2.2	Conducted appropriate Cross-examination			B3	Handled vulnerable, uncooperative and expert witnesses appropriately		
100(B2.3)	Observed restrictions and directions on questioning			126(B3.1)	Gave clear guidance to own witnesses		
101	Able to question effectively			127(B3.2)	Dealt appropriately with vulnerable witnesses		
102	Was aware of the tribunal			128(B3.3)	Dealt effectively with uncooperative witnesses		
103	Immediately sees implications of witness's answer and responds appropriately			129(B3.4)	Used and challenged expert evidence effectively		
	Form of Questions:			130	Complied with all obligations and good practice in respect of victims and witnesses		
104(B2.4)	Questions to witnesses are clear and understandable			131	Correctly dealt with previous inconsistent statements and/or opinion evidence		
105	Used closed and concise questions			132	Managed extremely sensitive situations reliably		
106	Used short, simple questions, one point at a time			B4	Understood and assisted court on sentencing		
107	Used appropriate language			133(B4.1)	Made appropriate factual representations to the court on sentencing		
108	Controlled direction and pace of evidence			134	Understood court's sentencing power, and power to commit for sentence.		
109	Maintained control of witness			135	Made a coherent and persuasive plea in mitigation		
110	Avoided entering into debate / making comments			136	Applied relevant law and facts		
111	Questions were efficient and effective			137(B4.2)	Took appropriate steps to ensure that relevant legal materials necessary for sentencing were before the court		
	Delivery:			138	Addressed relevant mitigating and aggravating factors		
112	Was audible			139	Explained the crux of the offence and the offender's circumstances succinctly		
113	Appropriate pace (and adjusted pace as necessary)			140	Agile advocacy, responsive to the sentiment of the judge		
114	Questioning developed a steady rhythm.			C	Working with others		
	Questioning Strategy			C1	Assisted client in decision making (if observed or able to infer from advocacy)		
115(B2.5)	Questioning strategy relevant to the issues			141(C1.1)	Any advice given to a client was clear and accurate		
116(B2.6)	Avoided introducing irrelevant material			142	Accurately identified the relevant factual, legal, evidential and / or procedural issues.		
117	Made challenges necessary to put advocate's case.			143	Provided effective, structured and appropriate advice which enabled client to decide the best course of action		
118	Avoided inadvertently attacking the witnesses character (if this had implications for bad character evidence)			144	Was able to express themselves clearly and assertively		
119	Logical structure and organisation			145	Comprehended and effectively directed complex case and/or complex situation		
120	Elicited necessary facts			146	Pinpointed the essence of the case or issue		
121	Knew when to stop			147	Comprehended and successfully lead case of the utmost gravity, complexity, and/or sensitivity		
122	Deployed different cross-examination techniques, tailored to witness			148(C1.2)	Took all reasonable steps to help the lay client understand the process		
123	Comprehended the nuances of a case or evidence and responded accordingly.			149	Used language that was appropriate to the person being advised		
124	Questioning technique was intuitive and appeared effortless			150(C1.3)	Ensured the decision making process was adequately recorded		
125	Instinctively identified the best issues to pursue and best technique to adopt			151	Kept an appropriate written record of information obtained, steps taken, advice given and decisions taken		

Competency Standards

Level 1 (and all advocates above this level)	Level 2 (and all advocates above this level)	Level 3 (and all advocates above this level)	Level 4
C2-E	Was professional at all times and sensitive to equality and diversity principles		
152 (C2)	Established professional relationships in court		
153 (C2.1)	Observed professional etiquette and ethics in relation to client / third parties		
154 (C2.2)	Was professional at all times		
	Integrity		
155 (D1)	Observed professional duties		
156 (D1.1)	Observed duty to act with independence		
157 (D1.2)	Advised the court of adverse authorities and, where they arise, procedural irregularities		
158 (D1.3)	Assisted the court with the proper administration of justice		
	Equality and diversity		
159 (E1)	<i>Had a demonstrable understanding of equality and diversity principles</i>		
160 (E1.1)	<i>Recognised the needs and circumstances of others and acted accordingly</i>		
161 (E1.2)	<i>Treated clients, colleagues and parties fairly and did not discriminate against them</i>		

Levels

Level 1	Level 2	Level 3	Level 4
<p>A capable advocate competent to conduct lead advocacy in:</p> <ul style="list-style-type: none"> • Hearings in the Magistrates' Court • Summary trials • Either-way offences tried within the magistrates' court • Appeals from Magistrates to Crown Court • Committal for Sentence 	<p>A more experienced advocate competent to conduct lead advocacy in straightforward Crown Court trials including:</p> <ul style="list-style-type: none"> • Class C offences (Lesser offences involving violence or damage or drugs) • Class E offences (Burglary) • Class F** offences where the value involved is less than £30,000 and Class F offences (Low value theft and dishonesty offences) • Class H offences (miscellaneous lesser offences) <p>as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.</p>	<p>A proficient advocate competent to conduct trial advocacy in more serious and evidentially complex cases, including:</p> <ul style="list-style-type: none"> • Class D offences (Sexual offences and offences against children) • Class I offences (Offences against public justice) • Class F** offences if the value involved exceeds £30,000 but is less than £100,000 (Medium value dishonesty) <p>as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.</p> <ul style="list-style-type: none"> • Straightforward appeals in the Divisional Court and Court of Appeal 	<p>An expert advocate competent to conduct trial advocacy in cases that present serious, novel and difficult points of law and fact, including,</p> <ul style="list-style-type: none"> • Class A offences (Homicide and related grave offences), • Class J offences (Serious sexual offences) • Class G offences (counterfeiting offences) • Class F** offences if the value involved exceeds £100,000. (High value dishonesty) • Class B offences (Serious violence or damage and serious drugs offences) <p>as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.</p>

Guidance on completing this Form

Definitions for determining Overall Evaluation

	On Re-Accreditation (same grade sought), to be Competent	On Re-grading* to be Very Competent
At Level 1, 2, 3	<ul style="list-style-type: none"> Must be Competent in A1 and C2-E; Must be Competent in at least 2 of the CORE standards (A2, B1 & B2); and Can only be assessed as Partially Competent or Not Competent in a maximum of 2 Standards 	<ul style="list-style-type: none"> Must be Competent in A1 and C2-E and the 3 CORE standards (A2, B1 & B2); and Can only be assessed as Partially Competent in a maximum of 1 Standard <p>If the advocate is assessed as Not Competent in any Standard, they <u>cannot</u> be graded Very Competent (as they are not ready to progress to the next level).</p>
At Level 4	<ul style="list-style-type: none"> Must be Competent in A1 and C2-E and the 3 CORE standards (A2, B1 & B2); and Can only be assessed as Partially Competent or Not Competent in a maximum of 1 Standard 	<p>*An advocate is applying for Re-grading, if they are seeking to move up a level, i.e. from Level 1 to 2, 2 to 3 or 3 to 4. If a Level 1 advocate is applying for re-grading via judicial evaluation, they should be assessed against Level 1 standards and must achieve "Very Competent" as an overall evaluation for this evaluation to support their re-grading application.</p> <p>*A GP advocate is not "seeking Re-grading"; they have recently been re-graded and are now provisionally practising at the higher Level. A Level GP2 advocate should be assessed against Level 2 standards and must achieve a "Competent" as an overall evaluation - this evaluation can then be used to support their application for unconditional licence at Level 2.</p>

Please provide reasons for your Overall Evaluation, particularly if you have selected 'NOT POSSIBLE TO EVALUATE' OR 'NOT COMPETENT' as your Overall Evaluation.

Note to Judiciary: It is acknowledged that particular Competence Standards might be difficult to assess via Judicial Evaluation. These Standards are italicised. Please indicate whether you have been able to infer competency in these standards from the advocacy you have witnessed.

Comments

QASA guidance on identifying the appropriate level of advocate for a particular case

1. A key objective of the QASA scheme is to ensure every case is defended and prosecuted by suitably experienced advocates. This paper provides guidance on the approach to be adopted in determining the appropriate level of advocate for a particular case.
2. As has always been the case, the decision to accept instructions, is a matter of professional conduct, for each advocate to decide having regard to their own competence.
3. In addition to this duty, QASA expects advocates to have regard to the entry point for each case (Table 1) and the criteria (Table 2), both listed below, when deciding to accept instructions.
4. Ordinarily, the level of advocates required for each case is the level identified in Table 1. However, the circumstances of a particular case, may justify a departure from this default position. In a particular case it may become apparent that a more experienced or less experienced advocate is appropriate. For instance, a summary trial may require a Level 2 or above advocate; in a relatively straightforward Level 4 case (e.g. high value dishonesty with simple facts) a Level 3 advocate might be more appropriate. Parties must have regard to the criteria in Table 2, to justify any departure from the level identified in Table 1.
5. Legal representatives are expected to use this guidance to agree the appropriate level of trial advocate for each side, in each case. It is acknowledged that it might be appropriate for the level of advocate assigned to a defendant to be different from the level of advocate assigned to the prosecution or a co-defendant in the same case.
6. In a case that requires the use of juniors, parties are also expected to agree the appropriate level of juniors. The usual expectation is that a junior should be no more than one level below the lead advocate. However the

overriding objective and criteria listed in this paper could justify a departure from this.

7. In making this decision, parties are reminded of the overriding objective:

Duty of participants in a criminal case

8. **Rule 1.2 Criminal Procedure Rules 2010**, requires anyone involved in any way with a criminal case, to “*prepare and conduct the case in accordance with the overriding objective.*”

9. **Part 1 Criminal Procedure Rules 2010** provides:

“ **1.1 (1)** *The overriding objective of this new code is that criminal cases be dealt with justly*

(2) Dealing with a criminal case justly includes—

...(b) dealing with the prosecution and the defence fairly;

(c) recognising the rights of a defendant, particularly those under Article 6 of the European Convention on Human Rights; and

...(g) dealing with the case in ways that take into account—

(i) the gravity of the offence alleged,

(ii) the complexity of what is in issue,

(iii) the severity of the consequences for the defendant and others affected....”

10. Existing case management powers enable both the magistrates’ court and the Crown Court to consider the level(s) of advocate agreed by the parties and make directions, as each particular case demands.

Table 1: QASA Entry Points for each case (the Default Level)

Level 1	Level 2	Level 3	Level 4
<ul style="list-style-type: none"> ➤ Summary trials in the adult courts ➤ Either-way offences that are tried within the magistrates' court ➤ Either-way offences which the magistrates determined was suitable for summary trial but accused elected to be tried on indictment ➤ Appeals from Magistrates to Crown Court ➤ Committal for Sentence 	<ul style="list-style-type: none"> ➤ Either-way offences in which the Magistrates have declined jurisdiction ➤ Indictable offences that are not within Level 3 or Level 4 <p><u>Indication of type of work:</u> Straightforward Crown Court and Youth Court trials including</p> <ul style="list-style-type: none"> • Class C offences (Lesser offences involving violence or damage or drugs) • Class E offences (Burglary) • Class F** offences where the value involved is less than £30,000 and Class F offences (Low value theft and dishonesty offences) • Class H offences (miscellaneous lesser offences) as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.¹ 	<ul style="list-style-type: none"> ➤ Either-way offences in which the Magistrates have declined jurisdiction ➤ Indictable offences <p><u>Indication of type of work:</u> Trials in more serious and evidentially complex cases, including,</p> <ul style="list-style-type: none"> • Class D offences (Sexual offences and offences against children) • Class I offences (Offences against public justice) • Class F** offences if the value involved exceeds £30,000 but is less than £100,000 (Medium value dishonesty) as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.¹ <ul style="list-style-type: none"> ➤ Straightforward appeals in the Divisional Court and Court of Appeal 	<ul style="list-style-type: none"> ➤ Indictable offences <p><u>Indication of type of work:</u> Cases that present serious, novel and difficult points of law and fact, including,</p> <ul style="list-style-type: none"> • Class A offences (Homicide and related grave offences), • Class J offences (Serious sexual offences) • Class G offences (counterfeiting offences) • Class F** offences if the value involved exceeds £100,000. (High value dishonesty) • Class B offences (Serious violence or damage and serious drugs offences) as defined in Schedule 1, Part 6 of the Criminal Defence Service (Funding) Order 2007 as amended.¹

¹ Please see the detailed table of offences attached to this document which suggests a level of advocate appropriate for each particular offence.
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Table 2: Factors to be taken into account that might suggest a different level of advocate is appropriate

- a. Circumstances which make the proceedings unusually grave, important or sensitive**
- b. Circumstances which make the proceedings unusually difficult, such as complex issues of fact or law, or multi-handed prosecutions.**
- c. Circumstances which make the proceedings substantially easier than other cases at this level.**
- d. The needs of witnesses, including vulnerable witnesses and witnesses that give evidence under special measures arrangements**
- e. The needs of vulnerable defendants**
- f. The extent to which expert evidence is necessary**
- g. The expressed preference of the client**
- h. Admissions which make the proceedings substantially easier**
- i. Number of witnesses and pages of documentary evidence**

TABLE OF OFFENCES WITHIN EACH LEVEL
(adopting classifications from Schedule 1, Part 6 of
Criminal Defence Service (Funding) Order 2007 as amended)

Level 4 Cases

Class A Offences

Offences listed in alphabetical order:

<i>Offence</i>	<i>Contrary to</i>	<i>Class</i>
Attempt to cause explosion, making or keeping explosive etc.	Explosive Substances Act 1883 s.3	A
Causing explosion likely to endanger life or property	Explosive Substances Act 1883 s.2	A
Child destruction	Infant Life (Preservation) Act 1929 s.1(1)	A
Infanticide	Infanticide Act 1938 s.1(1)	A
Manslaughter	Common law	A
Murder	Common law	A
Soliciting to commit murder	Offences against the Person Act 1861 s.4	A

Class J Offences

Abduction of unmarried girl under 16 from parent	Sexual Offences Act 1956 s.20	J
Abduction of woman by force	Sexual Offences Act 1956 s.17	J
Allowing or procuring child under 16 to go abroad to perform	Children and Young Persons Act 1933 ss.25, 26	J
Arranging child sex offence	Sexual Offences Act 2003 s. 14	J
Assault by penetration	Sexual Offences Act 2003 s. 2	J
Assault of child under 13 by penetration	Sexual Offences Act 2003 s. 6	J
Assault with intent to commit buggery	Sexual Offences Act 1956 s.16	J
Buggery of person under 16	Sexual Offences Act 1956 s.12	J
Care workers: inciting person with mental disorder to engage in sexual act	Sexual Offences Act 2003 s. 39	J
Care workers: sexual activity with a person with a mental disorder	Sexual Offences Act 2003 s. 38	J
Causing a child to engage in sexual activity	Sexual Offences Act 2003 s. 10	J
Causing a child under 13 to engage in sexual activity	Sexual Offences Act 2003 s. 8	J
Causing or encouraging prostitution of girl under 16	Sexual Offences Act 1956 s.28	J
Causing or inciting a person with a mental disorder to engage in sexual activity	Sexual Offences Act 2003 s. 31	J
Causing or inciting child prostitution or pornography	Sexual Offences Act 2003 s. 48	J
Causing sexual activity with penetration	Sexual Offences Act 2003 s. 4	J
Controlling a child prostitute	Sexual Offences Act 2003 s. 49	J
Facilitating child prostitution	Sexual Offences Act 2003 s. 50	J

Level 4 Cases

Incest by man with a girl under 13	Sexual Offences Act 1956 s. 10	J
Inciting a child family member to engage in sexual activity	Sexual Offences Act 2003 s. 26	J
Indecency with children under 14	Indecency with Children Act 1960 s.1(1)	J
Inducing person with mental disorder to engage in sexual activity	Sexual Offences Act 2003 s. 35	J
Offering inducement to procure sexual activity with a person with a mental disorder	Sexual Offences Act 2003 s. 34	J
Paying for sexual services of a child	Sexual Offences Act 2003 s. 47	J
Permitting girl under 13 to use premises for sexual intercourse	Sexual Offences Act 1956 s.25	J
Permitting girl under 16 to use premises for intercourse	Sexual Offences Act 1956 s.26	J
Rape	Sexual Offences Act 1956 s.1(1)	J
Rape	Sexual Offences Act 2003 s. 1	J
Rape of child under 13	Sexual Offences Act 2003 s. 5	J
Sexual activity with a child	Sexual Offences Act 2003 s. 9	J
Sexual activity with a child family member, with penetration	Sexual Offences Act 2003 s. 25	J
Sexual activity with a person with a mental disorder	Sexual Offences Act 2003 s. 30	J
Sexual assault of child under 13	Sexual Offences Act 2003 s. 7	J
Sexual intercourse with defective	Sexual Offences Act 1956 s.7	J
Sexual intercourse with girl under 13	Sexual Offences Act 1956 s.5	J
Sexual intercourse with girl under 16	Sexual Offences Act 1956 s.6	J
Sexual intercourse with patients	Mental Health Act 1959 s.128	J
Taking, having etc. indecent photographs of children	Protection of Children Act 1978 s.1	J
Trafficking into UK for sexual exploitation	Sexual Offences Act 2003 s. 57	J
Trafficking out of UK for sexual exploitation	Sexual Offences Act 2003 s. 59	J
Trafficking within UK for sexual exploitation	Sexual Offences Act 2003 s. 58	J

Class G Offences

Counterfeiting notes and coins	Forgery and Counterfeiting Act 1981 s.14	G
Fraudulent evasion: counterfeit notes or coins	Customs and Excise Management Act 1979 s.170(2)(b), (c)	G
Illegal importation: counterfeit notes or coins	Customs and Excise Management Act 1979 s.50	G
Making, custody or control of counterfeiting materials etc.	Forgery and Counterfeiting Act 1981 s.175	G
Offences involving custody or control of counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s.16	G

Level 4 Cases

Passing counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s.15	G
Removal of articles from places open to the public	Theft Act 1968 s.11	G
Undischarged bankrupt being concerned in a company	Insolvency Act 1986 s. 360	G

Class F** Offences (only if the value involved exceeds £100,000)

Copying false instrument with intent	Forgery and Counterfeiting Act 1981 s.2	F **
Counterfeiting Customs documents	Customs and Excise Management Act 1979 s.168	F **
Counterfeiting of dies or marks	Hallmarking Act 1973 s.6	F **
Custody or control of false instruments etc.	Forgery and Counterfeiting Act 1981 s.5	F **
Evasion of liability by deception	Theft Act 1978 s.2	F **
False accounting	Theft Act 1968 s.17	F **
Forgery	Forgery and Counterfeiting Act 1981 s.1	F **
Fraud by abuse of position	Fraud Act 2006 s.4	F **
Fraud by failing to disclose information	Fraud Act 2006 s.3	F **
Fraud by false representation	Fraud Act 2006 s.2	F **
Fraudulent evasion of duty	Customs and Excise Management Act 1979 s. 170(1)(b)	F **
Fraudulent evasion: not elsewhere specified	Customs and Excise Management Act 1979 s.170(2)(b), (c)	F **
Illegal importation: not elsewhere specified	Customs and Excise Management Act 1979 s.50	F **
Making or supplying articles for use in frauds	Fraud Act 2006 s.7	F **
Obtaining property by deception	Theft Act 1968 s.15	F **
Obtaining services by deception	Theft Act 1978 s.1	F **
Obtaining services dishonestly	Fraud Act 2006 s.11	F **
Offences in relation to dies or stamps	Stamp Duties Management Act 1891 s.13	F **
Participating in fraudulent business carried on by sole trader etc.	Fraud Act 2006 s.9	F **
Possession etc of articles for use in frauds	Fraud Act 2006 s.6	F **
Using a copy of a false instrument	Forgery and Counterfeiting Act 1981 s.4	F **
VAT offences	Value Added Tax Act 1994 s. 72(1-8)	F **
Abstraction of electricity	Theft Act 1968 s.13	F**
Handling stolen goods	Theft Act 1968 s.22	F**
Obtaining pecuniary advantage by deception	Theft Act 1968 s.16	F**
Theft	Theft Act 1968 s.1	F**
Using a false instrument	Forgery and Counterfeiting Act 1981 s.3	F**

Level 4 Cases

Class B Offences

Acquisition, use or possession of criminal property	Proceeds of Crime Act 2002 s.329	B
Activities relating to opium	Misuse of Drugs Act 1971 s.9	B
Administering chloroform, laudanum etc.	Offences against the Person Act 1861 s.22	B
Administering poison etc. so as to endanger life	Offences against the Person Act 1861 s.23	B
Aggravated arson	Criminal Damage Act 1971 s.1(2), (3)	B
Aggravated burglary	Theft Act 1968 s.10	B
Aggravated criminal damage	Criminal Damage Act 1971 s.1(2)	B
Aggravated vehicle taking resulting in death	Theft Act 1968 s.12A	B
Aiding and abetting suicide	Suicide Act 1961 s.2	B
Allowing the death of a child	Under Section 5 of the Domestic Violence Act 2004	B
Armed robbery	Theft Act 1968 s.8(1)	B
Arson (where value exceeds £30,000)	Criminal Damage Act 1971 s.1(3)	B
Assault with weapon with intent to rob	Theft Act 1968 s.8(2)	B
Assaulting prison officer whilst possessing firearm etc.	Criminal Justice Act 1991 s.90	B
Attempting to choke, suffocate, strangle etc.	Offences against the Person Act 1861 s.21	B
Blackmail	Theft Act 1968 s.21	B
Causing bodily injury by explosives	Offences against the Person Act 1861 s.28	B
Causing danger to road users	Road Traffic Act 1988 s.22A	B
Causing death by careless driving while under the influence of drink or drugs	Road Traffic Act 1988 s.3A	B
Causing death by dangerous driving	Road Traffic Act 1988 s.1	B
Causing miscarriage by poison, instrument	Offences against the Person Act 1861 s.58	B
Causing or allowing the death of a child	Domestic Violence, Crime and Victims Act 2004 s.5	B
Concealing criminal property	Proceeds of Crime Act 2002 s.327	B
Contamination of goods with intent	Public Order Act 1986 s.38	B
Cruelty to persons under 16	Children and Young Persons Act 1933 s.1	B
Cultivation of cannabis plant	Misuse of Drugs Act 1971 s.6	B
Directing terrorist organisation	Terrorism Act 2000 s.56	B
Disclosure prejudicing, or interference of material relevant to, investigation of terrorism	Terrorism Act 2000 s.39	B
Disclosure under sections 330, 331, 332 or 333 of the Proceeds of Crime Act 2002 otherwise than in the form and manner prescribed	Proceeds of Crime Act 2002 s.339(1A)	B
Drug trafficking offences at sea	Criminal Justice (International Co-operation) Act 1990 s.18	B

Level 4 Cases

Endangering the safety of an aircraft	Aviation Security Act 1982 s. 2(1)(b)	B
Endangering the safety of railway passengers	Offences against the Person Act 1861 ss.32, 33, 34	B
Failure to disclose knowledge or suspicion of money laundering: nominated officers in the regulated sector	Proceeds of Crime Act 2002 s.331	B
Failure to disclose knowledge or suspicion of money laundering: other nominated officers	Proceeds of Crime Act 2002 s.332	B
Failure to disclose knowledge or suspicion of money laundering: regulated sector	Proceeds of Crime Act 2002 s.330	B
False imprisonment	Common law	B
Firing on Revenue vessel	Customs and Excise Management Act 1979 s.85	B
Fraudulent evasion of controls on Class A and B drugs	Customs and Excise Management Act 1979 s.170(2)(b), (c)	B
Fund-raising for terrorism	Terrorism Act 2000 s.15	B
Hostage taking	Taking of Hostages Act 1982 s.1	B
Illegal importation of Class A and B drugs	Customs and Excise Management Act 1979 s.50	B
Impeding persons endeavouring to escape wrecks	Offences against the Person Act 1861 s.17	B
Incitement of terrorism overseas	Terrorism Act 2000 s.59	B
Involvement in arrangements facilitating the acquisition, retention, use or control of criminal property	Proceeds of Crime Act 2002 s.328	B
Kidnapping	Common law	B
Making or possession of explosive in suspicious circumstances	Explosive Substances Act 1883 s.4(1)	B
Making threats to kill	Offences against the Person Act 1861 s.16	B
Manufacture and supply of scheduled substances	Criminal Justice (International Co-operation) Act 1990 s.12	B
Membership of proscribed organisations	Terrorism Act 2000 s.11	B
Occupier knowingly permitting drugs offences etc.	Misuse of Drugs Act 1971 s.8	B
Offences against international protection of nuclear material	Nuclear Material (Offences) Act 1983 s.2	B
Offences in relation to money laundering investigations	Drug Trafficking Act 1994 ss.52 and 53	B
Offences in relation to proceeds of drug trafficking	Drug Trafficking Act 1994 ss.49, 50 and 51	B
Other offences involving money or property to be used for terrorism	Terrorism Act 2000 ss.16-18	B
Placing explosives with intent to cause bodily injury	Offences against the Person Act 1861 s.30	B

Level 4 Cases

Possession of a Class A or B drug with intent to supply	Misuse of Drugs Act 1971 s.5(3)	B
Possession of articles for terrorist purposes	Terrorism Act 2000 s.57	B
Possession of firearm with criminal intent	Firearms Act 1968 s.18	B
Possession of firearm with intent to endanger life	Firearms Act 1968 s.16	B
Possession or acquisition of certain prohibited weapons etc.	Firearms Act 1968 s.5	B
Practitioner contravening drug supply regulations	Misuse of Drugs Act 1971 ss.12 and 13	B
Prison mutiny	Prison Security Act 1992 s.1	B
Producing or supplying a Class A or B drug	Misuse of Drugs Act 1971 s.4	B
Racially-aggravated arson (not endangering life)	Crime and Disorder Act 1998 s. 30(1)	B
Riot	Public Order Act 1986 s.1	B
Support or meeting of proscribed organisations	Terrorism Act 2000 s.12	B
Tipping off	Proceeds of Crime Act 2002 s.333	B
Uniform of proscribed organisations	Terrorism Act 2000 s.13	B
Unlawful collection of information for terrorist purposes	Terrorism Act 2000 s.58	B
Use of firearm to resist arrest	Firearms Act 1968 s.17	B
Using explosive or corrosives with intent to cause grievous bodily harm	Offences against the Person Act 1861 s.29	B
Violent disorder	Public Order Act 1986 s.2	B
Weapons training	Terrorism Act 2000 s.54	B
Wounding or grievous bodily harm with intent to cause grievous bodily harm etc.	Offences against the Person Act 1861 s.18	B

Level 3 Cases

Class D Offences

Abduction of defective from parent	Sexual Offences Act 1956 s.21	D
Abduction of unmarried girl under 18 from parent	Sexual Offences Act 1956 s.19	D
Abuse of position of trust	Sexual Offences (Amendment) Act 2000 s.3	D
Abuse of position of trust: causing a child to engage in sexual activity	Sexual Offences Act 2003 s. 17	D
Abuse of position of trust: causing a child to watch sexual activity	Sexual Offences Act 2003 s. 19	D
Abuse of trust: sexual activity in the presence of a child	Sexual Offences Act 2003 s. 18	D
Abuse of trust: sexual activity with a child	Sexual Offences Act 2003 s. 16	D
Administering a substance with intent	Sexual Offences Act 2003 s. 61	D
Administering drugs to obtain intercourse	Sexual Offences Act 1956 s.4	D
Care workers: causing a person with a mental disorder to watch a sexual act	Sexual Offences Act 2003 s. 41	D
Care workers: sexual activity in presence of a person with a mental disorder	Sexual Offences Act 2003 s. 40	D
Causing a child to watch a sexual act	Sexual Offences Act 2003 s. 12	D
Causing a person with a mental disorder to watch a sexual act	Sexual Offences Act 2003 s. 33	D
Causing a person with a mental disorder to watch a sexual act	Sexual Offences Act 2003 s. 37	D
Causing or encouraging prostitution of defective	Sexual Offences Act 1956 s.29	D
Causing or inciting prostitution for gain	Sexual Offences Act 2003 s. 52	D
Causing sexual activity without penetration	Sexual Offences Act 2003 s. 4	D
Child sex offence committed by person under 18	Sexual Offences Act 2003 s. 13	D
Committing offence with intent to commit sexual offence	Sexual Offences Act 2003 s. 62	D
Controlling prostitution for gain	Sexual Offences Act 2003 s. 53	D
Engaging in sexual activity in the presence of a child	Sexual Offences Act 2003 s. 11	D
Engaging in sexual activity in the presence of a person with a mental disorder	Sexual Offences Act 2003 s. 32	D
Engaging in sexual activity in the presence of a person with a mental disorder	Sexual Offences Act 2003 s. 36	D
Exposure	Sexual Offences Act 2003 s. 66	D
Gross indecency between male of 21 or over and male under 16	Sexual Offences Act 1956 s.13	D
Ill-treatment of persons of unsound mind	Mental Health Act 1983 s.127	D

Level 3 Cases

Incest other than by man with a girl under 13	Sexual Offences Act 1956 ss.10 and 11	D
Incitement to commit incest	Criminal Law Act 1977 s.54	D
Indecent assault on a man	Sexual Offences Act 1956 s.15	D
Indecent assault on a woman	Sexual Offences Act 1956 s.14	D
Intercourse with an animal	Sexual Offences Act 2003 s. 69	D
Living on earnings of male prostitution	Sexual Offences Act 1967 s.5	D
Man living on earnings of prostitution	Sexual Offences Act 1956 s.30	D
Meeting child following sexual grooming	Sexual Offences Act 2003 s. 15	D
Permitting defective to use premises for intercourse	Sexual Offences Act 1956 s.27	D
Procurator of girl under 21	Sexual Offences Act 1956 s.23	D
Procurement of a defective	Sexual Offences Act 1956 s.9	D
Sex with adult relative	Sexual Offences Act 2003 s. 64, 65	D
Sexual assault	Sexual Offences Act 2003 s.3	D
Sexual penetration of a corpse	Sexual Offences Act 2003 s. 70	D
Trespass with intent to commit sexual offence	Sexual Offences Act 2003 s. 63	D
Voyeurism	Sexual Offences Act 2003 s. 67	D
Woman exercising control over prostitute	Sexual Offences Act 1956 s.31	D

Class I Offences

Assisting offenders	Criminal Law Act 1967 s.4(1)	I
Concealing an arrestable offence	Criminal Law Act 1967 s.5	I
Conspiring to commit offences outside the United Kingdom	Criminal Justice (Terrorism and Conspiracy) Act 1998 s. 5	I
Corrupt transactions with agents	Prevention of Corruption Act 1906 s.1	I
Corruption in public office	Public Bodies Corrupt Practices Act 1889 s.1	I
Embracery	Common law	I
Fabrication of evidence with intent to mislead a tribunal	Common law	I
False evidence before European Court	European Communities Act 1972 s.11	I
False statement tendered under section 5B of the Magistrates' Courts Act 1980	Magistrates' Courts Act 1980 s.106	I
False statement tendered under section 9 of the Criminal Justice Act 1967	Criminal Justice Act 1967 s.89	I
Giving false statements to procure cremation	Cremation Act 1902 s.8(2)	I
Harming, threatening to harm a witness, juror etc.	Criminal Justice and Public Order Act 1994 s.51(2)	I
Intimidating a witness, juror etc.	Criminal Justice and Public Order Act 1994 s.51(1)	I
Making a false statement to obtain interim possession order	Criminal Justice and Public Order Act 1994 s.75(1)	I

Level 3 Cases

Making false statement to authorised officer	Trade Descriptions Act 1968 s.29(2)	I
Making false statement to resist making of interim possession order	Criminal Justice and Public Order Act 1994 s.75(2)	I
Perjuries (7 offences)	Perjury Act 1911 ss.1-7(2)	I
Personating for purposes of bail etc.	Forgery Act 1861 s.34	I
Personation of jurors	Common law	I
Perverting the course of public justice	Common law	I
Prejudicing a drug trafficking investigation	Drug Trafficking Act 1994 s.58(1)	I

Class F** Offences

(only if the value involved exceeds £30,000 but is less than £100,000)

Copying false instrument with intent	Forgery and Counterfeiting Act 1981 s.2	F **
Counterfeiting Customs documents	Customs and Excise Management Act 1979 s.168	F **
Counterfeiting of dies or marks	Hallmarking Act 1973 s.6	F **
Custody or control of false instruments etc.	Forgery and Counterfeiting Act 1981 s.5	F **
Evasion of liability by deception	Theft Act 1978 s.2	F **
False accounting	Theft Act 1968 s.17	F **
Forgery	Forgery and Counterfeiting Act 1981 s.1	F **
Fraud by abuse of position	Fraud Act 2006 s.4	F **
Fraud by failing to disclose information	Fraud Act 2006 s.3	F **
Fraud by false representation	Fraud Act 2006 s.2	F **
Fraudulent evasion of duty	Customs and Excise Management Act 1979 s. 170(1)(b)	F **
Fraudulent evasion: not elsewhere specified	Customs and Excise Management Act 1979 s.170(2)(b), (c)	F **
Illegal importation: not elsewhere specified	Customs and Excise Management Act 1979 s.50	F **
Making or supplying articles for use in frauds	Fraud Act 2006 s.7	F **
Obtaining property by deception	Theft Act 1968 s.15	F **
Obtaining services by deception	Theft Act 1978 s.1	F **
Obtaining services dishonestly	Fraud Act 2006 s.11	F **
Offences in relation to dies or stamps	Stamp Duties Management Act 1891 s.13	F **
Participating in fraudulent business carried on by sole trader etc.	Fraud Act 2006 s.9	F **
Possession etc of articles for use in frauds	Fraud Act 2006 s.6	F **
Using a copy of a false instrument	Forgery and Counterfeiting Act 1981 s.4	F **
VAT offences	Value Added Tax Act 1994 s. 72(1-8)	F **
Abstraction of electricity	Theft Act 1968 s.13	F**
Handling stolen goods	Theft Act 1968 s.22	F**

Level 3 Cases

Obtaining pecuniary advantage by deception	Theft Act 1968 s.16	F**
Theft	Theft Act 1968 s.1	F**
Using a false instrument	Forgery and Counterfeiting Act 1981 s.3	F**

Level 2 Cases

Class C Offences

Abandonment of children under two	Offences against the Person Act 1861 s.27	C
Acquisition by or supply of firearms to person denied them	Firearms Act 1968 s.21(5)	C
Administering poison with intent to injure etc.	Offences against the Person Act 1861 s.24	C
Arson (other than aggravated arson) where value does not exceed £30,000	Criminal Damage Act 1971 s.1(3)	C
Assault occasioning actual bodily harm	Offences against the Person Act 1861 s.47	C
Assaults on officers saving wrecks	Offences against the Person Act 1861 s.37	C
Assisting illegal entry or harbouring persons	Immigration Act 1971 s.25	C
Assisting prisoners to escape	Prison Act 1952 s.39	C
Attempting to injure or alarm the Sovereign	Treason Act 1842 s.2	C
Bomb hoax	Criminal Law Act 1977 s.51	C
Breach of prison	Common law	C
Breaking or injuring submarine telegraph cables	Submarine Telegraph Act 1885 s.3	C
Carrying loaded firearm in public place	Firearms Act 1968 s.19	C
Child abduction by connected person	Child Abduction Act 1984 s.1	C
Child abduction by other person	Child Abduction Act 1984 s.2	C
Circumcision of females	Prohibition of Female Circumcision Act 1985 s.1	C
Concealment of birth	Offences against the Person Act 1861 s.60	C
Criminal damage (other than aggravated criminal damage)	Criminal Damage Act 1971 s.1(1)	C
Dealing in firearms	Firearms Act 1968 s.3	C
Escaping from lawful custody without force	Common law	C
Failing to keep dogs under proper control resulting in injury	Dangerous Dogs Act 1991 s.3	C
Failure to comply with certificate when transferring firearm	Firearms Act 1968 s.42	C
Failure to disclose information about terrorism	Terrorism Act 2000 s.19	C
Failure to disclose knowledge or suspicion of money laundering	Drug Trafficking Offences Act 1986 s.26B	C
Fraudulent evasion of agricultural levy	Customs and Excise Management Act 1979 s.68A(1) and (2)	C
Fraudulent evasion of controls on Class C drugs	Customs and Excise Management Act 1979 s.170(2)(b), (c)	C
Harbouring escaped prisoners	Criminal Justice Act 1961 s.22	C
Illegal importation of Class C drugs	Customs and Excise Management Act 1979 s.50	C

Level 2 Cases

Making gunpowder etc. to commit offences	Offences against the Person Act 1861 s.64	C
Making threats to destroy or damage property	Criminal Damage Act 1971 s.2	C
Neglecting to provide food for or assaulting servants etc.	Offences against the Person Act 1861 s.26	C
Offender armed or disguised	Customs and Excise Management Act 1979 s.86	C
Permitting an escape	Common law	C
Possessing anything with intent to destroy or damage property	Criminal Damage Act 1971 s.3	C
Possession of a Class C drug with intent to supply	Misuse of Drugs Act 1971 s.5(3)	C
Possession of Class A drug	Misuse of Drugs Act 1971 s.5(2)	C
Possession of firearm without certificate	Firearms Act 1968 s.1	C
Possession of firearms by person convicted of crime	Firearms Act 1968 s.21(4)	C
Possession or acquisition of shotgun without certificate	Firearms Act 1968 s.2	C
Producing or supplying Class C drug	Misuse of Drugs Act 1971 s.4	C
Racially-aggravated assault	Crime and Disorder Act 1998 s. 29(1)	C
Racially-aggravated criminal damage	Crime and Disorder Act 1998 s. 30(1)	C
Rescue	Common law	C
Robbery (other than armed robbery)	Theft Act 1968 s.8(1)	C
Setting spring guns with intent to inflict grievous bodily harm	Offences against the Person Act 1861 s.31	C
Shortening of shotgun or possession of shortened shotgun	Firearms Act 1968 s.4	C
Shortening of smooth bore gun	Firearms Amendment Act 1988 s.6(1)	C
Stirring up racial hatred	Public Order Act 1986 ss.18-23	C
Supplying instrument etc. to cause miscarriage	Offences against the Person Act 1861 s.59	C
Tipping-off in relation to money laundering investigations	Drug Trafficking Offences Act 1986 s.26C	C
Trespassing with a firearm	Firearms Act 1968 s.20	C
Unlawful wounding	Offences against the Person Act 1861 s.20	C

Class E Offences

Burglary (domestic)	Theft Act 1968 s.9(3)(a)	E
Burglary (non-domestic)	Theft Act 1968 s.9(3)(b)	E
Going equipped to steal	Theft Act 1968 s.25	E

Level 2 Cases

Class F** Offences (only if the value involved is less than £30,000)

Copying false instrument with intent	Forgery and Counterfeiting Act 1981 s.2	F **
Counterfeiting Customs documents	Customs and Excise Management Act 1979 s.168	F **
Counterfeiting of dies or marks	Hallmarking Act 1973 s.6	F **
Custody or control of false instruments etc.	Forgery and Counterfeiting Act 1981 s.5	F **
Evasion of liability by deception	Theft Act 1978 s.2	F **
False accounting	Theft Act 1968 s.17	F **
Forgery	Forgery and Counterfeiting Act 1981 s.1	F **
Fraud by abuse of position	Fraud Act 2006 s.4	F **
Fraud by failing to disclose information	Fraud Act 2006 s.3	F **
Fraud by false representation	Fraud Act 2006 s.2	F **
Fraudulent evasion of duty	Customs and Excise Management Act 1979 s. 170(1)(b)	F **
Fraudulent evasion: not elsewhere specified	Customs and Excise Management Act 1979 s.170(2)(b), (c)	F **
Illegal importation: not elsewhere specified	Customs and Excise Management Act 1979 s.50	F **
Making or supplying articles for use in frauds	Fraud Act 2006 s.7	F **
Obtaining property by deception	Theft Act 1968 s.15	F **
Obtaining services by deception	Theft Act 1978 s.1	F **
Obtaining services dishonestly	Fraud Act 2006 s.11	F **
Offences in relation to dies or stamps	Stamp Duties Management Act 1891 s.13	F **
Participating in fraudulent business carried on by sole trader etc.	Fraud Act 2006 s.9	F **
Possession etc of articles for use in frauds	Fraud Act 2006 s.6	F **
Using a copy of a false instrument	Forgery and Counterfeiting Act 1981 s.4	F **
VAT offences	Value Added Tax Act 1994 s. 72(1-8)	F **
Abstraction of electricity	Theft Act 1968 s.13	F**
Handling stolen goods	Theft Act 1968 s.22	F**
Obtaining pecuniary advantage by deception	Theft Act 1968 s.16	F**
Theft	Theft Act 1968 s.1	F**
Using a false instrument	Forgery and Counterfeiting Act 1981 s.3	F**

Level 2 Cases

Class F Offences

Destruction of registers of births etc.	Forgery Act 1861 s.36	F
Making false entries in copies of registers sent to register	Forgery Act 1861 s.37	F
Possession (with intention) of apparatus or material for making false identity documents	Identity Cards Act 2006 s.25(3)	F
Possession (with intention) of false identity documents	Identity Cards Act 2006 s.25(1)	F
Possession (without reasonable excuse) of false identity documents or apparatus or material for making false identity documents	Identity Cards Act 2006 s.25(5)	F
Possession of false identify documents	Section 25(1) and (3) of the Identify Cards Act	F

Class H Offences

Acts outraging public decency	Common law	H
Affray	Public Order Act 1986 s.3	H
Aggravated vehicle taking	Theft Act 1968 s.12A	H
Agreeing to indemnify sureties	Bail Act 1976 s.9(1)	H
Assault with intent to resist arrest	Offences against the Person Act 1861 s.38	H
Being drunk on an aircraft	Air Navigation Order 2005, article 75	H
Breach of anti-social behaviour order	Crime and Disorder Act 1998 s. 1(10)	H
Breach of harassment injunction	Protection from Harassment Act 1997 s. 3(6)	H
Breach of restraining order	Protection from Harassment Act 1997 s. 5(5)	H
Breach of sex offender order	Crime and Disorder Act 1998 s. 2(8)	H
Buggery of males of 16 or over otherwise than in private	Sexual Offences Act 1956 s.12	H
Causing prostitution of women	Sexual Offences Act 1956 s.22	H
Dangerous driving	Road Traffic Act 1988 s.2	H
Detention of woman in brothel or other premises	Sexual Offences Act 1956 s.24	H
Forgery and misuse of driving documents	Public Passenger Vehicles Act 1981 s.65	H
Forgery etc. of licences and other documents	Road Traffic Act 1988 s.173	H
Forgery of driving documents	Road Traffic Act 1960 s.233	H
Forgery, alteration, fraud of licences etc.	Vehicle Excise and Registration Act 1994 s.44	H
Gross indecency between males (other than where one is 21 or over and the other is under 16)	Sexual Offences Act 1956 s.13	H
Having an article with a blade or point in a public place	Criminal Justice Act 1988 s. 139	H

Level 2 Cases

Impersonating Customs officer	Customs and Excise Management Act 1979 s.13	H
Indecent display	Indecent Displays (Control) Act 1981 s.1	H
Keeping a disorderly house	Common law; Disorderly Houses Act 1751 s.8	H
Making off without payment	Theft Act 1978 s.3	H
Misconduct endangering ship or persons on board ship	Merchant Shipping Act 1970 s.27	H
Mishandling or falsifying parking documents etc.	Road Traffic Regulation Act 1984 s.115	H
Obscene articles intended for publication for gain	Obscene Publications Act 1964 s.1	H
Obstructing Customs officer	Customs and Excise Management Act 1979 s.16	H
Obstructing engine or carriage on railway	Malicious Damage Act 1861 s.36	H
Offences of publication of obscene matter	Obscene Publications Act 1959 s.2	H
Offences relating to the safe custody of controlled drugs	Misuse of Drugs Act 1971 s.11	H
Possession of Class B or C drug	Misuse of Drugs Act 1971 s.5(2)	H
Possession of offensive weapon	Prevention of Crime Act 1953 s.1	H
Presentation of obscene performance	Theatres Act 1968 s.2	H
Procurement of a woman by false pretences	Sexual Offences Act 1956 s.3	H
Procurement of intercourse by threats etc.	Sexual Offences Act 1956 s.2	H
Procuring others to commit homosexual acts	Sexual Offences Act 1967 s.4	H
Putting people in fear of violence	Protection from Harassment Act 1997 s. 4(1)	H
Racially aggravated harassment/putting another in fear of violence	Crime and Disorder Act 1998 s. 32(1)	H
Racially-aggravated public order offence	Crime and Disorder Act 1998 s. 31(1)	H
Sending prohibited articles by post	Post Office Act 1953 s.11	H
Solicitation for immoral purposes	Sexual Offences Act 1956 s.32	H
Trade description offences (9 offences)	Trade Descriptions Act 1968 ss.1, 8, 9, 12, 13, 14	H
Unlawful eviction and harassment of occupier	Protection from Eviction Act 1977 s.1	H
Wanton or furious driving	Offences against the Person Act 1861 s.35	H

Quality Assurance Scheme for Advocates (QASA) (Crime) – summary of the assessment framework .

The four tables below set out the assessment requirements for entry into, progression within and reaccreditation under the QASA scheme.

Key:

CAEF = Criminal Advocacy Evaluation Form

AO = assessment organisation

JE = judicial evaluation

Level One

Entry	Continuing practice
The advocate will enter the scheme via the current education and training qualification routes	Advocates who choose to base their practice at this level will be able to continue to do so provided they demonstrate on application for reaccreditation that they have undertaken assessed advocacy CPD which confirms their continuing competence against the Advocacy Standards

Level Two

At levels 2, 3 and 4 JAG has defined its requirements for competence to remain at the advocate’s existing level and competence for the purposes of progression. These requirements are included within the tables below.

Entry/Progression	Reaccreditation
<p>The advocate will progress to level 2 via one of the following methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs confirming the advocate’s competence against all of the level 1 standards in a level 1 trial and that the advocate appears ready to progress to level 2. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context. The advocate may obtain a maximum of five CAEFs over a single 12 month period, three of which must confirm the advocate’s competence. All five CAEFs (if five are obtained) must be identified on and included within the advocate’s application for progression. Having initiated the process of application for progression, the advocate will have to obtain their CAEFs in consecutive trials. 2. Submission of 5 x CAEFs obtained under a green plate so the advocate would be assessed against the level 2 advocates in a level 2 trial. This may be an attractive option for advocates who may struggle to obtain 3 x CAEFs at level 1 because of the availability and accessibility of judicial evaluation at this level and who feel ready to take on level 2 work. 3. Attendance at an assessment organisation where the advocate would be assessed via a range of assessment methods against all 	<p>The advocate will be required to submit for reaccreditation once every five years.</p> <p>Reaccreditation methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs (the advocate may obtain a maximum of five) obtained in the previous 12 months confirming the advocate’s competence against the level 2 standards in a level 2 trial. These CAEFs must be obtained in consecutive trials so whilst the advocate will initiate the process, thereafter the advocate must obtain his/her CAEFs from the judge conducting their next 2/4 trials. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context 2. Attendance at an assessment organisation where the advocate would be assessed against all of the level 2 standards via a range of assessment methods <p>In order to be deemed competent for reaccreditation the advocate will need to be assessed as competent against Advocacy Standards A1/D1/E1, and at least two of A2, B1 and B2 and be assessed as competent against at least seven standards overall</p>

of the level 2 standards. In the case of solicitor advocates, this could be the same assessment as they would take to demonstrate that they have met the requisite Higher Rights standards.

To progress to level 2 either by JE or AO, the advocate must be assessed as Very Competent. For level 2 this means demonstrating competence against Advocacy Standards A1/A2/B1/B2/D1/E1 and the advocate may be assessed as partially competent against no more than one other assessed standard

Regardless of assessment method, the advocate would be “green-plated” to appear as a level 2 advocate and would need to obtain 2 x CAEFs via JE from their first five trials at their new level and within the following 12 months, confirming the advocate as competent (see definition as per reaccreditation) as a level 2 advocate in a level 2 trial.

Level Three

Progression	Reaccreditation
<p>The advocate will progress to level 3 via one of the following methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs confirming the advocate’s competence against all of the level 2 standards in a level 2 trial and that the advocate appears ready to progress to level 3. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context. The advocate may obtain a maximum of five CAEFs over a single 12 month period, three of which must confirm the advocate’s competence. All five CAEFs (if five are obtained) must be identified on and included within the advocate’s application for progression. Having initiated the process of application for progression, the advocate will have to obtain their CAEFs in consecutive trials. 2. Attendance at an assessment organisation where the advocate would be assessed via a range of assessment methods against all of the level 3 standards PLUS 1 x CAEF obtained via JE (assessing the candidate against the level 2 standards in a level 2 trial). Candidates using this assessment method would be required to indicate on their application for progression the number of trials in which they had appeared in the previous 12 months and the number of opportunities which they had to obtain a CAEF via JE. If more than 3, the advocate would be required to explain their reasons for using the assessment organisation route. <p>In order to progress to level 3 either by JE or AO, the advocate must be assessed as Very Competent. For level 3 this means demonstrating competence against Advocacy Standards A1/A2/B1/B2/D1/E1 and the</p>	<p>The advocate will be required to submit for reaccreditation once every five years.</p> <p>Reaccreditation methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs (the advocate may obtain a maximum of five) obtained in the previous 12 months confirming the advocate’s competence against the level 3 standards in a level 3 trial. These CAEFs must be obtained in consecutive trials so whilst the advocate will initiate the process, thereafter the advocate must obtain his/her CAEFs from the judge conducting their next 2/4 trials. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context 2. Attendance at an assessment organisation where the advocate would be assessed against all of the level 3 standards via a range of assessment methods <p>In order to be deemed competent for reaccreditation, the advocate must demonstrate competence against Advocacy Standards A1/D1/E1 and at least two of A2, B1 and B2 and be assessed as competent against at least seven standards overall</p>

advocate may be assessed as partially competent against no more than one other assessed standard

Regardless of assessment method, the advocate would be “green-plated” to appear as a level 3 advocate and would need to obtain 2 x CAEFs via JE from their first five trials at their new level and within the following 12 months, confirming the advocate as a competent (see definition for reaccreditation aside) level 3 advocate in a level 3 trial.

Level Four

Progression	Reaccreditation
<p>The advocate will progress to level 4 via one of the following methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs via JE confirming the advocate’s competence against all of the level 3 standards in a level 3 trial and that the advocate appears ready to progress to level 4. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context. The advocate may obtain a maximum of five CAEFs over a single 12 month period, three of which must confirm the advocate’s competence. All five CAEFs (if five are obtained) must be identified on and included within the advocate’s application for progression. Having initiated the process of application for progression, the advocate will have to obtain their CAEFs in consecutive trials. 2. Attendance at an assessment organisation where the advocate would be assessed via a range of assessment methods against all of the level 4 standards PLUS 1 x CAEF obtained via JE (assessing the advocate against the level 3 standards in a level 3 trial). Candidates using this assessment method would be required to indicate on their application for progression the number of trials in which they had appeared in the previous 12 months and the number of opportunities which they had to obtain a CAEF via JE. If more than 3, the advocate would be required to explain their reasons for using the assessment organisation route. <p>To progress to level 4, either by JE or AO, the advocate must be assessed as Very Competent. For level 4 this means demonstrating competence against Advocacy Standards A1/A2/B1/B2/D1/E1 and the</p>	<p>The advocate will be required to submit for reaccreditation once every five years.</p> <p>Reaccreditation methods:</p> <ol style="list-style-type: none"> 1. Submission of 3 x CAEFs (the advocate may obtain a maximum of five) obtained in the previous 12 months confirming the advocate’s competence against the level 4 standards in a level 4 trial. These CAEFs must be obtained in consecutive trials so whilst the advocate will initiate the process, thereafter the advocate must obtain his/her CAEFs from the judge conducting their next 2/4 trials. In situations where the advocate will struggle to access JE from 3 x different judges, the advocate may also approach JAG for an external assessor who would be instructed to attend at court and assess the advocate in a workplace context 2. Attendance at an assessment organisation where the advocate would be assessed against all of the level 4 standards via a range of assessment methods <p>In order to be deemed competent for reaccreditation, the advocate must demonstrate competence against Advocacy Standards A1/A2/B1/B2/D1/E1 and be assessed as competent against at least eight standards overall</p>

advocate may be assessed as partially competent against no more than one other assessed standard

Regardless of assessment method, the advocate would be “green-plated” to appear as a level 4 advocate and would need to obtain 2 x CAEFs via JE from their first five cases at their new level and within the following 12 months, confirming the advocate as a competent advocate (see definition for reaccreditation aside) level 4 advocate in a level 4 trial.

List of members, Quality Assurance Scheme for Advocates, Advisory Group

LJ Thomas	Chair
Michael Caplan QC	The Law Society
Mark Stobbs	The Law Society
Andrea O’Cain	SRA
Max Hill QC/Philip Mott QC	The Bar Council
Michael Pooles QC	BSB
Elizabeth Hall	BSB
David Gilbertson	IPS
Thelma Brown	IPS
Richard Essex	ILEX Council
Hugh Barrett/Sinead Reynolds	LSC
Kate Brown/Adrian Foster	CPS
HH J Williams	Circuit Judge

Appendix 6(1)

Quality Assurance Scheme for Advocates Equality Impact Assessment



Publication date: [July 2011]

Introduction

1. The Joint Advocacy Group (JAG) was established in October 2009 by the Bar Standards Board (BSB), the Solicitors Regulation Authority (SRA) and ILEX Professional Standards (IPS) to develop a scheme to quality assure criminal advocacy across the three professions.
2. Details of the proposed Quality Assurance Scheme for Advocates were published for consultation in August 2010. On the basis of the feedback received, the new scheme has now been finalised and approved by the BSB, SRA Board and ILEX IPS. The proposals will now be submitted to the LSB for initial approval in July 2011. If the proposals are approved, the first stage of the scheme which will be initial accreditation of advocates at levels 3 and 4 will become operational in January 2012 with live assessments taking place from March 2012.
3. This is a joint equality impact assessment prepared on behalf of the JAG.

Background

4. Advocacy is a vital part of an effective justice system. Those members of the public who are involved in litigation rely upon advocacy for the proper presentation of their case. Those who are involved in crucial decision making whether as Judge or jury also rely on advocacy for the proper administration of justice. For defendants reliant on effective advocacy in the criminal courts the stakes are high: loss of liberty is a possible outcome of the decision-making process.
5. At present, those who undertake advocacy in the criminal courts may have qualified via different routes which use different methods of education, training and assessment to ensure that the advocates demonstrate that they meet the required standard. This approach has worked in the past but we are now at a stage where lawyers, their clients, the public, judiciary and those who are funding criminal litigation need to be satisfied that advocates who are appearing in the criminal courts are operating to consistent standards.
6. A key element of regulatory responsibility for the members of JAG is the maintenance of appropriate standards. This is set out in the Legal Services Act 2007.
7. The changing face of the legal landscape coupled with competition and commercial imperatives are putting pressure on the sustained provision of good quality advocacy. The economic climate, both generally and in terms of legal aid funds, has created a concern that advocates may accept instructions outside their competence. The judiciary has responded to the perceived state of the standards of advocacy through judicial pronouncement on advocacy competence and performance.
8. Regulatory intervention into the advocacy market has long been argued as unnecessary as market forces should eliminate the under-performing advocate.

However, whilst market forces can generally be relied upon to identify the competent advocate, it is not necessarily the case that the less competent will not be instructed. In addition, it is increasingly uncommon for an advocate to be observed by the selecting professional.

It has become apparent therefore that natural selection through market forces is not the answer to assure the quality of all advocates. The public interest and consumer protection requires a more proactive approach to assuring advocacy competence.

9. The comments of the judiciary and others, the fallibility of relying on market forces and the need for consumer confidence therefore all indicate the need for a scheme for the systematic and consistent quality assurance of advocates (QASA).
10. JAG is mindful of the importance of testing the effectiveness of the operation of QASA for criminal advocates. To this end it will conduct a review of the scheme within three years of its inception. Further, and in accordance with their statutory obligations, JAG will ensure that evidence gathered through the scheme will be used to monitor the quality of advocacy performance and to ensure that the scheme remains proportionate and targeted to where risk dictates that there is the greatest regulatory need.

Aims and objectives of the Quality Assurance Scheme for Advocates proposals

11. The Quality Assurance Scheme for Advocates should:
 - be in the public interest;
 - have the confidence of the public and the professions;
 - be applicable to all criminal advocates;
 - be accountable to the regulators;
 - be proportionate and targeted;
 - be economic and cost-effective;
 - be clear;
 - create a valid and reliable assessment framework; and
 - have common advocacy standards.

Current proposals for the scheme

12. It is proposed that the key components of the scheme will be as follows:
 - 4 levels of advocates;
 - assessments by judicial evaluation, simulated assessments by an approved assessment organisation and assessments by a JAG-appointed external assessor;
 - methods for progression through the levels;
 - “green-plating” or provisional licensure to practise at the next level
 - ongoing monitoring system to highlight poor practice;
 - Quality Assurance for Advocates Advisory Group (QAG);
 - scheme for initial accreditation; and
 - flexible methods for reaccreditation

Stakeholders

13. The key stakeholders are:

- Consumers
- Legal Services Board
- Barristers
- ILEX professionals
- Solicitors
- Judiciary
- Legal Services Commission
- Crown Prosecution Service
- Those involved in the education and training of lawyers

Considering the available evidence

14. In developing QASA we have drawn on the following sources of evidence:

- Analysis of responses to the most recent JAG consultation (August-November 2010);
- Statistical data on barristers, ILEX criminal advocates, solicitors; and solicitors with Higher Rights of Audience;
- Feedback from meetings with stakeholders;
- Research conducted by the LSB and LSC; and
- SRA's Higher Rights of Audience EIA (June 2009).

Analysis of responses to the consultation

15. The full JAG analysis of responses to the consultation has been published¹. Responses were received from a wide range of individuals and organisations, such as Inns, law firms and the Equality and Human Rights Commission.
16. We consulted on the advocacy standards² in 2009. This subsequent consultation³ on the QASA sought views on the scheme's proposed³ framework and component parts, aiming for introduction of the final scheme in July 2011.
17. The consultation put forward proposals for a framework for a scheme which is cost effective, proportionate and straightforward. We asked questions on the overall need for such a scheme, on the proposed high-level framework, and on detailed aspects.
18. One of the issues we raised in the consultation was the ongoing governance of QASA. At the time of the consultation, we proposed that QASA would become the responsibility of the Performance of Advocacy Council (PAC). Although we did not ask stakeholders to respond directly to a question on this, we received helpful feedback during the consultation and the governance arrangements have been altered in response. In particular, the governance arrangements we are now finalising place ongoing responsibility (including for operational matters) with JAG. JAG will be assisted

¹ www.sra.org.uk/documents/SRA/consultations/jag-consultation-response-quality-assurance.pdf

² December 2009 consultation - <http://www.barstandardsboard.org.uk/consultations/closedconsultations/>

³ August 2010 consultation - <http://www.sra.org.uk/sra/consultations/joint-advocacy-group-quality-assurance-scheme.page#skip>

in its work by an expert advisory group, the QASA Advisory Group (QAG), which includes practitioners, representatives of the regulatory bodies and lay representatives reflecting consumer interests and will be chaired by a senior judge. Thomas LJ is the first chair of the group. We believe this will provide a more robust and cost-effective governance model for the scheme and do not consider that it raises any equality issues.

19. Overall, most respondents agreed that we should address advocacy performance, and identified the problems of inadequate advocacy, risks of wrong/unfair convictions, unwarranted acquittals, wasting court time, and reducing confidence in the criminal justice system. The market for criminal advocates was also seen as "imperfect" and incapable of forcing out bad advocates.

"It is essential...It is the only way in which all advocates can compete on an equal footing."

"...objective quality assurance should be an absolute requirement to safeguard professional good reputation and protect the public."

20. It is therefore considered that the new scheme will help increase fairness.
21. Although some respondents felt that the proposed scheme was too inflexible, expensive and complex, most respondents were positive. In designing the scheme JAG has given substantial consideration to the issue of proportionality in producing a scheme which is not only fit for purpose but which will be cost-effective for all those involved. An assessment framework which is based on real-time and workplace assessment will support this. A key advantage of introducing a scheme such as this is the opportunity it provides to introduce greater flexibility for a number of advocates, including those who have had lengthy career breaks (e.g. to have children or due to illness or disability), to refresh their skills and demonstrate to themselves and others their fitness to return to practice. There will also be flexibility for many in the assessment routes available to them. We consider that this will have a positive impact in terms of equality.
22. Most respondents agreed that a unified approach to the training of all advocates should be introduced and that the proposals should go further and look into the various pre-qualification requirements. Uniformity was seen as being in the public interest and would allow candidates to move through the levels and between professions. JAG believes that the introduction of a common set of standards will be beneficial for all advocates in creating a fair and transparent system for the recognition of competence. Whilst we do not intend initially to address issues of rights of audience in developing this scheme, we agree that the current routes to qualification need to be revisited to ensure that they provide sufficient opportunities for candidates to meet entry level standards.
23. There were mixed views as to whether advocates should have to spend a specified length of time at Level 1 before moving onto Level 2. JAG's view is that the development of competence is not necessarily linked to a period of time and that advocates will develop at different rates and move between the levels accordingly. Rather than prescribing a minimum amount of time to be spent at each level, JAG will issue guidance to advocates on a typical period of time which it might take to meet the criteria used to determine competence at the next level. We have also developed the descriptions of competence at each level to include performance indicators. These will provide advocates with a clearer understanding of the standard required at each level and help them to identify when they are ready to move between them.

24. Again there was some disagreement as to whether judicial evaluation should be the sole form of assessment for Levels 3 and 4. JAG considered where and how we can use an external assessor and simulated assessment to test the standards. At levels 3 and 4, judicial assessment will be an important but not the sole means of assessment. Alternatives to judicial assessment will be particularly important for those returning from prolonged periods of absence for whom it may be impossible to gain any court experience before they can evidence that they are competent to practise. The use of simulated assessment was something that was specifically recommended in the LSB's response. Again, it is considered that this will have a positive impact in terms of equality and is another example of the flexibility that the scheme allows.
25. Some respondents thought that the proposal that levels should "lapse" after extended periods of absence was reasonable, others that it could not be justified objectively and could discriminate against women in particular. Some suggested that skills would be unaffected by breaks in practice, whereas knowledge of law, rules of evidence and procedure would require updating training. JAG believes that a scheme which involves periodic re-accreditation must anticipate the needs of those who will not practise at the level for a period of time and provide opportunities for them to satisfy themselves that they have retained the requisite competencies.
26. JAG is therefore proposing a flexible approach to reaccreditation and as with progression, advocates will have two assessment methods available to them and will select the method which fits best with their individual circumstances.
27. Many thought that judges should not have a discretion to allow advocates to act up, except in exceptional circumstances – selection of advocates should be solely down to the client and not be open to influence by the judiciary. Others thought that the discretion should be there, but exercisable by the instructing solicitor and the client – not the judge – to ensure the independence of advocates. JAG believes that QASA must have flexibility to be able to adapt to the changing nature of criminal cases. Properly managed judicial discretion by trained judges will enable advocates to continue to undertake cases that change in complexity during the currency of their instructions. JAG will ensure that judicial training will include guidance on when and how judicial discretion should be exercised and this will be monitored as part of the ongoing review of the scheme.

Guidance on identifying and allocating the appropriate level of advocate for a case has now been drafted. This guidance links the QASA with the Criminal Procedure Rules and will be published in due course.

28. It was broadly felt that junior counsel should be able to take over a case where leaders were absent at short notice. Other respondents felt that the scheme should play no role in junior advocate selection at all, or that juniors have to be capable of taking over if the leader is absent – the role of junior is not simply to take a note or gain experience. Level 4 was suggested frequently as the minimum level for lead advocates although level 3 was also suggested, in less serious cases, to allow experience to be gained.

“The lay and professional client should decide in every case.”

“Determination as to the level of advocate or advocates required for particular cases should be by trial judge on written application for amendment to the certificate of representation.”

Further work has now taken place on the issue of juniors, leaders and acting up. It is now proposed that leaders should usually be one level higher than juniors but that in certain circumstances, a level 2 junior could be involved in a level 4 trial with a level 4 leader. The parties would be expected to have regard to the guidance on identifying and allocating the appropriate level of advocate to a particular case (to be published) in deciding whether or not it was appropriate to have a 2-level gap between leader and junior.

Statistical data

ILEX

29. There are only 42 ILEX criminal advocates. It is therefore difficult to draw meaningful conclusions from the data provided. However, the data does indicate the following;
- ILEX criminal advocates are more likely to be female (60%) than male (40%). This correlates with ILEX practitioners as a whole who are 75% female and 25% male.
 - There are proportionately fewer BME ILEX criminal advocates (4%) than is representative of ILEX practitioners as a whole (13%).
 - There is a higher number of ILEX criminal advocates in the 40-54 year age group (45%), than in the 25-39 year age group (38%) or in the 55-65 year age group (17%).

Solicitors

30. Most solicitors who have Higher Rights of Audience in criminal law or both criminal and civil law, are in the 31-50 year age group (67%), this correlates with the figures for all practising solicitors (61%).
31. There are significantly more practising certificate holders in the 22-30 year age group (17%) than solicitors with Higher Rights of Audience in criminal or both criminal and civil within that age group (5%). This is logical as most solicitors will have a number of year post qualification experience before they attempt to gain Higher Rights of Audience.
32. The data for the ethnicity, sexuality, religion and disability status of solicitors with Higher Rights of Audience correlates very strongly with the figures for all practising solicitors.
33. Men are more likely to gain Higher Rights of Audience than women. 67% of solicitors with Higher Rights of Audience in criminal or criminal and civil law are men, whereas men make up 55% of all practising solicitors.

Barristers

34. The Bar Standards Board data is provided at the start of the first 6 months of pupillage and for all practising barristers. Their data reveals the following;
- There are relatively high numbers of pupils from ethnic minorities and this is also the case for the self-employed bar. Almost 90% of QCs describe themselves as being from non-White backgrounds.
 - In terms of practice areas, there are proportionately more BME than white barristers practising in crime (37.8% of all BME barristers practise in crime, as opposed to 32.9% of white barristers).

- Again in terms of practice areas, there are proportionately more male barristers (34.1%), than female barristers (31.8%).

Feedback from stakeholder meetings

35. During the consultation period (August – November 2010), we have held meetings with a wide range of stakeholders to discuss the proposals with them and obtain their views. This includes legal executives, solicitor advocates, barristers, judges, the SRA's External Implementation Group and the Judicial Studies Board. In many instances the feedback we received from those informal meetings has informed our ongoing development of the scheme. We have also retained additional assessment expertise and conducted workshops to unpack the advocacy standards and map them across the four levels of the scheme.
36. The feedback gained at these meetings has informed the ongoing development of the scheme.

Promoting equality

37. We consider that the introduction of a fair and transparent system with common and consistent standards for the quality assurance of advocacy will have clear benefits in terms of promoting equality. Lawyers will be clear about what is expected of them when practising at a particular level and the progression through the levels will be open and available to all with the requisite ability.
38. We have taken on board feedback that the introduction of a system of reaccreditation could be seen to have a negative impact, as it may impact particularly on those who have had a length of time away from court practice. However, the public interest arguments in terms of ensuring that an advocate is competent to practice and in ensuring the effective working of the courts and legal system are compelling and necessary. We therefore consider that the system is a proportionate means of achieving a legitimate aim. In any event, JAG has developed a flexible approach to reaccreditation which should facilitate the return to practice of those who have had a period of time away from the courts. We therefore consider that this will help mitigate any adverse impact that may potentially arise in this area. This will mean that those who have had a break will have opportunities to demonstrate that their advocacy ability is still of the required standard and so be able to resume practise confidently.

Human rights impact

39. We acknowledge that the introduction of reaccreditation will mean that some lawyers who currently have particular practice rights will lose these rights if they fail to meet the standard or because they choose not to put themselves forward for reaccreditation.
40. For the reasons set out above, however, we consider that there are clear public interest arguments in developing a scheme which necessarily means that a right to practise is removed if standards are not attained. JAG has, however, built an appeal system into its assessment framework for each of the levels which will apply to initial assessment (progression) and reaccreditation.

41. Some concerns were raised about the effect of the scheme on narrowing consumer choice of advocate.
“... without that flexibility, the scheme would risk offending Article 6(3)(c) of the European Convention on Human Rights which stipulates as a „minimum right“ the right of the accused to defend himself „through legal assistance of his own choosing“ ...”

In order to increase the flexibility in the selection of advocates and to allow for career progression of advocates, JAG has developed further Guidance on the selection of advocates. In particular, this Guidance deals with the issue of acting up whereby advocates at one (or sometimes two) levels below that of the case are able to be assigned to the case. This will permit greater choice and career progression in particular circumstances.

Conclusions

42. QASA is a significant step forward in terms of setting the standard for criminal advocacy and improving career progression for criminal advocates.
43. We are of the view that QASA will be an open and transparent scheme which will help assure the consumer and the courts of the competence of the advocates. Efforts have been made to ensure the scheme has sufficient levels of flexibility built into it, whilst still ensuring the ultimate aim of ensuring standards and protecting the public. We therefore consider that the scheme has the potential to have a positive impact in terms of equality.
44. It is, nevertheless, important to bear in mind that QASA is novel and will have impacts on barristers, solicitors and IPS advocates which cannot be anticipated at this point in time. JAG will therefore closely monitor the scheme once it is implemented, and report to stakeholders.

Equality & Diversity monitoring statistics

1. ILEX Professional Standards - data for ILEX advocates holding a criminal proceedings certificate - January 2011

Gender: Female - 25 (60%)

Male - 17 (40%)

Total - 42

Ethnic Origin	F	M	Total
W1 White British	15 (54%)	13 (46%)	28 (68%)
W9 White - other background	1	-	1 (2%)
B1 Black/Black British Caribbean	-	1	1 (2%)
B2 Black/Black British African	-	1	1 (2%)
Unknown	9 (82%)	2 (18%)	11 (26%)

Age	F	M	Total
25 - 39	10 (63%)	6 (37%)	16 (68%)
40 - 54	14 (74%)	5 (26%)	19 (45%)
55 - 65	1 (14%)	6 (86%)	7 (17%)

2. Solicitors Regulation Authority – data for all solicitors and solicitors with Higher Rights of Audience qualification

All PC holders, RFLs, RELs and EELs

age band	Count	% of known
22 – 30	20518	17%
31 – 40	41821	35%
41 – 50	31396	26%
51 – 60	19666	16%
61 – 65	4928	4%
65+	2464	2%
Not provided	375	0%
Total known	121168	
Unknown	1	0%
Sum:	121169	

Ethnicity	Count	% of known
Asian	7674	7%
Black	2236	2%
Chinese	1013	1%
Mixed	1103	1%
Other	1763	2%
White	93806	87%
Total known	107595	
Unknown	13574	11%
Sum:	121169	

gender	Count	% of known
F	54776	45%
M	66393	55%
Sum:	121169	

**Higher Rights (Criminal / Both)
PC holders, RFLs, RELs and EELs**

age band	Count	% of known
22 – 30	241	5%
31 – 40	1506	34%
41 – 50	1460	33%
51 – 60	918	21%
61 – 65	186	4%
65+	76	2%
Not provided	3	0%
Total known	4390	
Unknown		0%
Sum:	4390	

Ethnicity	Count	% of known
Asian	309	8%
Black	115	3%
Chinese	6	0%
Mixed	33	1%
Other	50	1%
White	3208	86%
Total known	3721	
Unknown	669	15%
Sum:	4390	

gender	Count	% of known
F	1462	33%
M	2928	67%
Sum:	4390	

All PC holders, RFLs, RELs and EELs

disability status	Count	% of known
N	53143	98%
Y	831	2%
Total known	53974	
Unknown	67195	55%
Sum:	121169	

sexuality	Count	% of known
Bisexual	124	0%
Gay	728	2%
Hetrosexual/Straight	30808	94%
Lesbian/Gay woman	235	1%
Prefer not to say	913	3%
Total known	32808	
Unknown	88361	73%
Sum:	121169	

religion	Count	% of known
Buddhist	167	1%
Christian	19717	60%
Hindu	690	2%
Jewish	890	3%
Muslim	1081	3%
No Religion	8735	27%
Other	232	1%
Sikh	446	1%
Prefer not to say	889	3%
Total known	32847	
Unknown	88322	73%
Sum:	121169	

Higher Rights (Criminal / Both) PC holders, RFLs, RELs and EELs

disability status	Count	% of known
N	1647	97%
Y	47	3%
Total known	1694	
Unknown	2696	61%
Sum:	4390	

sexuality	Count	% of known
Bisexual	3	0%
Gay	20	3%
Hetrosexual/Straight	735	92%
Lesbian/Gay woman	8	1%
Prefer not to say	29	4%
Total known	795	
Unknown	3595	82%
Sum:	4390	

religion	Count	% of known
Buddhist	7	1%
Christian	453	57%
Hindu	11	1%
Jewish	21	3%
Muslim	36	5%
No Religion	213	27%
Other	7	1%
Sikh	13	2%
Prefer not to say	37	5%
Total known	798	
Unknown	3592	82%
Sum:	4390	

3. Bar Standards Board – data for all pupils commencing 1st 6 months of pupillage 2008/09

Age	Frequency	Percentage
N = 490		
Under 25	218	44.5
25 - 34	215	43.9
35 - 44	36	7.3
45 - 54	14	2.9
55 - 64	5	1.0
65+	2	0.4
Missing	0	0
TOTAL	490	100

Disability	Frequency	Percentage
N = 490		
Yes	9	1.8
No	465	94.9
Missing	16	3.3
TOTAL	490	100

Ethnic Origin	Frequency	Percentage
N = 490		
White British	38	78.3
White & Black	3	1.8
Caribbean	9	1.0
White & Asian	5	1.8
Mixed Other	9	1.0
Pakistani	5	1.2
Asian Other	6	1.2
Black African	6	0.8
Chinese	4	4.1
White Irish	20	0.2
White & Black African	1	3.5
White Other	17	1.6

4. Bar Standards Board - data for fully qualified barristers

Self Employed Bar by Ethnicity and Gender

	Female	Male	Total
White British	2,674	6,601	9,275
White Irish	73	105	178
Any Other White Background	108	163	271
White & Black Caribbean	14	7	21
White & Black African	4	11	15
White & Asian	28	31	59
Any Other Mixed Background	25	24	49
Caribbean	65	64	129
African	47	82	129
Any Other Black Background	25	11	36
Indian	114	170	284
Pakistani	46	100	146
Bangladeshi	14	31	45
Any Other Asian Background	35	55	90
Chinese	17	12	29
Other	42	101	143
No Data Held	529	813	1,342
TOTALS	3,860	8,381	12,241

[Produced by the Records Office 11/12/2009]

Self Employed Bar QC's by Ethnicity and Gender

	Female	Male	Total
White British	120	1,060	1,180
White Irish	3	9	12
Any Other White Background	3	12	15
White & Black Caribbean	0	1	1
White & Black African	0	0	0
White & Asian	2	3	5
Any Other Mixed Background	0	5	5
Caribbean	1	6	7
African	0	3	3
Any Other Black Background	0	0	0
Indian	2	10	12
Pakistani	0	4	4
Bangladeshi	0	1	1
Any Other Asian Background	0	2	2
Chinese	0	2	2
Other	1	14	15
No Data Held	7	47	54
TOTALS	139	1,179	1,318

[Produced by the Records Office 11/12/2009]

Employed Bar by Ethnicity and Gender

	Female	Male	Total
White British	828	1,033	1,861
White Irish	27	36	63
Any Other White Background	32	41	73
White & Black Caribbean	3	5	8
White & Black African	6	4	10
White & Asian	9	10	19
Any Other Mixed Background	9	8	17
Caribbean	31	9	40
African	31	24	55
Any Other Black Background	8	2	10
Indian	48	41	89
Pakistani	16	16	32
Bangladeshi	8	6	14
Any Other Asian Background	17	13	30
Chinese	12	10	22
Other	15	9	24
No Data Held	299	363	662
TOTALS	1,399	1,630	3,029

[Produced by the Records Office 11/12/2009]

5. Bar Standards Board – data on fully qualified barristers’ Primary Practice Area

Distribution of BME and White Barristers across Practice Areas (QAA Survey 2007)

Primary Practice Area	Percentage of All White Barristers	Percentage of all BME Barristers
Crime	32.9%	37.8%

Distribution of Male and Female Barristers across Practice Areas (QAA Survey 2007)

Primary Practice Area	Percentage of All Male Barristers	Percentage of all Female Barristers
Crime	34.1%	31.8%

Action Plan

Primary Practice Area	Percentage of All Male Barristers	Percentage of all Female Barristers
Evaluation (including data collection)	JAG	Ongoing
Review current entry points	ILEX Professional Standards, BSB and SRA	[In line with Education Review]
Judicial training on judicial evaluation and use of Advocacy Evaluation form	JAG	Spring 2011
Evaluation of SRA's Higher Rights of Audience Regulations (implemented in 2010)	SRA	Summer 2011
Stakeholder engagement	JAG	Ongoing
Meet with SRA's External Implementation Group	SRA	April 2011

Quality Assurance Scheme for Advocates

BSB Equality Impact Assessment

Date of Screening	21 June 2011
Assessor Name & Job Title	Jennifer Hart Administrative Officer – Quality Assurance
Policy/Function to be Assessed	Quality Assurance Scheme for Advocates (QASA)

Introduction

In 2006 the Carter Report identified concerns about the quality of publicly funded advocacy and included a recommendation that a system of quality monitoring should be established, initially for publicly funded criminal advocates. Criminal advocacy is the practice area which presents the greatest risk; both in terms of perceived incidence of underperformance and the consequences of this for defendants, the criminal justice system and public confidence.

The Joint Advocacy Group (JAG) has worked since it was formed in late 2009 to develop a credible and durable scheme which will fulfil this need and which is consistent with the regulatory objectives set out in the Legal Services Act 2007. This has included two consultations with the profession along with extensive informal consultation with all interested parties.

The main principles of the scheme are:

1. Advocacy standards have been developed against which all advocates will be assessed;
2. Advocates will be accredited at one of four levels – a level one advocate undertakes work in the Magistrates Court and a level four advocate is able to appear in the most serious and complex hearings in the Crown Court;
3. Advocates may progress through the four levels by demonstrating through assessment that they meet the required standard for the next level. Advocates who choose to remain at their current level will be required to re-accredit at that level once every five years;
4. There will be two methods of assessment within the scheme; assessment via judicial evaluation (JE) and assessment via an assessment organisation, where the advocate will be assessed in a range of simulated exercises.

It is important to note that this project is jointly run by the BSB, SRA and IPS (who make up JAG) and is sponsored by the LSB. The BSB, therefore, does not have direct control of the

project. As such, this EIA concentrates on identifying ways to deliver the most beneficial or least negatively impacting scheme for barristers within the constraints imposed by the LSB.

This EIA is split into two sections; the first analyses the effect of the policy on protected groups who fall under the scheme and the second assesses issues which arise from the delivery of the scheme. This assessment therefore concentrates on mitigating the existing issues identified in the policy and delivery of the scheme.

The main questions that this paper intends to answer are does the aim or outcome of the scheme impact on the BSB's ability to promote race, gender or disability equality? Does it eliminate race, gender or disability discrimination or harassment? Does it promote positive attitudes towards disabled people or encourage the participation of disabled people in public life?

Background

The Quality Assurance Scheme for Advocates will apply to all self-employed barristers, solicitors and assistant prosecutors who practice criminal advocacy. Although there is no definitive evidence, there are currently believed to be around 5,500 practicing criminal barristers.

Currently only data on gender and BME groups has been collected for the profession and as yet no research has been conducted on any protected groups within criminal practice.

Creating an equality impact assessment based on little-to-no relevant data has been a challenge and a lot of the potential issues identified in this analysis have come from anecdotal or out of date information. However all issues raised will be treated as evidenced issues until proved otherwise; in this way there is no negative impact if the issue proves to be unfounded but if the issue is substantiated, mitigating actions will already be in place.

The BSB will maintain this Equality Impact Assessment as a living document. On-going equality and diversity monitoring will be used to not only evidence existing issues with live data but to also identify and mitigate new issues and risks.

We are therefore waiting to fill in the evidence gaps with live data collected from the initial accreditation stage and data collected through the Biannual Survey of the Bar, which will be made available in October.

By the end of the initial accreditation window we will have data on the numbers of protected groups currently practising in crime. We will also collect details on how many barristers practise outside of London or major city centres and may have limited access to the judiciary, how many sole practitioners are practising in crime and how many sole practitioners are from protected groups. We will also have evidence for several issues based on anecdotal evidence.

Systematic on-going monitoring will pick up any issues that arise and have not been identified here and will help identify trends and anomalies within the scheme.

POLICY

“As bias and discrimination would undermine the validity and reliability of QASA, the scheme needs to be fair and accessible and therefore equality-proofed. The scheme must not disadvantage any social or cultural group, type of advocate or candidates from any geographical location. It should be designed to be able to accommodate any reasonable adjustments that may be required by disabled candidates. It must be fair and accessible to all and promote diversity within the profession.” *Human Assets Report on Quality Assurance for Advocates*

Below is a brief analysis of how the introduction of QASA will affect different groups. This is an exploration of the affect of the policy (does the introduction of a quality assurance scheme affect any group?) and not an analysis of the operational delivery of the scheme (do the processes involved in the scheme either directly or indirectly discriminate against any group?) which is detailed in the next section. Also, this section focuses on potential issues in the policy and not expected benefits; the multiple benefits of the scheme will be explored in a later section.

Judicial or assessor prejudice is a potential issue for all of the below groups. This issue is explored further in the section on Methods of Evaluation.

Race

There are proportionately more BME advocates in criminal practice than in any other area of practice. This means the policy will have a larger impact on the BME group as a whole than it will on advocates as a whole.

Evidence	Effect of Policy	Action Type	Action
BME advocates are more likely to have English as a second or third language and therefore not be as fluent	This may make the policy and scheme more difficult to understand. Standards on communication may also be more difficult to meet	Tolerate	Advocacy in England and Wales requires a certain level of fluency in English. Therefore there will be no special consideration for those with a deficiency in this area.
BME advocates are more likely to be sole practitioners	(See sole practitioners section)		

Gender

There are proportionately more advocates in criminal practice than in any other area of practice. This means the policy will have a larger impact on women as a group than it will on advocates as a whole.

Evidence	Effect of Policy	Action Type	Action
Women are less likely to volunteer themselves for progression or promotion.	May discourage women's progression in criminal practice as natural progress due to experience may be supplanted by QASA	Mitigate Monitor	Specific engagement with the WBA during the QASA road shows to ensure women are properly educated on the scheme Very clear guidance and standards to help advocates self assess their level Continuing engagement with women advocates through WBA Monitor women's progression through the levels using collected E&D monitoring data
Women advocates on average earn less than men	Financial burden of scheme may be disproportionate for women	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies
Women advocates are more likely to work part time.	Financial burden of scheme may be disproportionate for part time workers	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies
Women advocates are more likely to be sole practitioners	(See sole practitioners section)		
Women advocates are more likely to take career breaks due to caring responsibilities	(See pregnancy and maternity section)		

Pregnancy and Maternity

There are proportionately more women advocates in criminal practice than in any other area of practice.

Evidence	Effect of Policy	Action Type	Action
Data gathered from on-going BSB research will enable us to determine the percentage of women barristers who take a career break due to maternity or pregnancy	Returning to work after a career break may be prevented until advocate has (re)entered QASA scheme	Tolerate	If leave lasts less than five years or is planned, the advocate may be covered for their entire period of leave or apply for early reaccreditation If leave lasts longer than five years or is unplanned, advocate can re-enter the scheme under terms of initial

			<p>accreditation and the green plate will allow the advocate to start practicing immediately</p> <p>No extra financial burden is attached to re-entering the scheme after a career break</p>
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Disability

On-going BSB research and data gathered through the operation of the Scheme will enable the BSB to determine whether there are proportionately more or less disabled advocates in criminal practice than in any other area of practice. Once the data is available, the BSB will be able say whether the Scheme will have a larger or smaller impact on disabled advocates as a group than it will on advocates as a whole and will be able to respond accordingly.

Evidence	Effect of Policy	Action Type	Action
Advocates with mobility impairments or special provisions at their regular court centre may be unable to attend another court centre.	Disabled advocates with limited access to the judiciary are more likely to have to attend an assessment centre for evaluation. As assessment centres cost more money, disabled advocates may incur a heavier QASA fee due to their protected characteristic.	Monitor	There is currently no evidence to suggest how many (if any) advocates this situation will apply to. Subsidies for attending assessment centres are currently in place for all qualifying advocates and this may extend further for advocates having to attend assessment centres due to a disability.
Disabled advocates are more likely to take career breaks due to their disability	Returning to work after a career break may be prevented until advocate has (re)entered QASA scheme	Tolerate	<p>If leave lasts less than five years or is planned, the advocate may be covered for their entire period of leave or apply for early reaccreditation</p> <p>If leave lasts longer than five years or is unplanned, advocate can re-enter the scheme under terms of initial accreditation and the green plate will allow the advocate to start practicing immediately</p> <p>No extra financial burden is attached to re-entering the scheme after a career break</p>
Advocates may have a disorder which makes assessments stressful	Advocates with certain mental disorders may find their performance	Tolerate	Advocacy is a performance based skill and assessment is not considered significantly more

	is affected by stress of evaluation		stressful than business as usual
Advocates with learning difficulties may struggle to engage with the concepts, process or material of the scheme	Advocates with learning difficulties may not engage with the scheme due to difficulty understanding the policy, processes and scheme material.	Mitigate	Reasonable adjustments will be made on request of advocates.
Disabled advocates are more likely to work part time.	Financial burden of scheme may be disproportionate for part time workers	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies
Disabled advocates are more likely to be sole practitioners	(See sole practitioners section)		

Age

As there is currently no E&D data charting the age against complexity of case taken the best proxy we have is age data for QCs.

Evidence	Effect of Policy	Action Type	Action
On-going BSB research will provide information on the average age of criminal barristers and the percentage of criminal advocates who are less than 6 years from the recommended retirement age of 65.	Advocates close to retirement have a significantly higher cost per year to enter the scheme than those who are at the beginning or middle of their career.	Tolerate	Costs of the scheme are not considered significant enough to necessitate subsidies for those close to retirement

Religion

On-going BSB research will provide data on the breakdown of criminal advocates by religion.

Evidence	Effect of Policy	Action Type	Action
The majority of religions have festivals and holidays, lasting differing in duration, which may affect an advocate's appearance or performance in court	Advocates may not be able to attend assessment centres due to religious holidays or performance may be affected due to	Tolerate Mitigate	Advocates can choose when they want to be assessed so can avoid religious holidays if these would affect an advocate's behaviour or performance If attendance at an assessment centre is necessary a range of dates

	religious obligations.		will be offered
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Sole Practitioners

On-going BSB research and data gathered through the operation of the Scheme will provide data on the percentage of advocates practising in criminal law who are sole practitioners.

Evidence	Effect of Policy	Action Type	Action
Sole practitioners often have less resources, both financially and in staff power	Sole practitioners with less resources may be impacted disproportionately due to the cost of the scheme and the time taken to engage with the processes	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies and the time taken to engage with the scheme processes are not considered significant
Sole practitioners are more likely to have a generalised practice or be non-traditional criminal barristers	The cost of the scheme will be disproportionately high for those who do not incur their full income from criminal practice	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies

Rurally Located Advocates

Evidence	Effect of Policy	Action Type	Action
On-going BSB research will provide the percentage of advocates working in rural locations/access to court types in criminal advocacy	Advocates who primarily have access to small court centres and therefore only one qualifying judge are more likely to have to attend assessment centres which cost more than judicial evaluation.	Mitigate	Subsidies for attending assessment centres are currently in place for all qualifying advocates.
Rurally located advocates are more likely to have a generalised practice	The cost of the scheme will be disproportionately high for those who do not incur their full income from criminal practice	Tolerate	Cost of the scheme is not considered significant enough to necessitate means tested subsidies

Type of Advocate

Barristers, solicitor advocates and legal executives will all come under the QASA scheme

Evidence	Effect of Policy	Action Type	Action
On-going BSB research will provide the percentage of advocate types working in criminal advocacy. Comments have been received suggesting that judges may act preferentially towards barristers as they share a professional background	Preferential treatment of any group directly contravenes the aims and objectives of the scheme.	Mitigate	Judicial training will involve equality and diversity training that will include the assessment of different types of advocates.

There is no evidence to suggest that sexual orientation, marriage/civil partnership status or gender reassignment will suffer any negative impact due to the introduction of a quality assurance scheme for advocates.

DELIVERY OF SCHEME

Although the policy does not directly discriminate against any of the major protected characteristics, the delivery of the scheme may indirectly disadvantage some groups. Below is an in depth exploration of the operational delivery of the scheme; each section briefly explains the process of the stage and raises potential issues supported by evidence. Any issues identified are then assessed in terms of how best to minimize the impact on the protected groups.

Processes

Initial Accreditation

Initial accreditation is the process by which those advocates who are currently criminal practitioners must apply to bring themselves within the QASA. Under this process, advocates will be required to self-assess their advocacy and determine at what level they believe they are competent to practise. Advocates will have regard to the range of cases that they have undertaken over the last 12 months and use this information against the case categorization in order to establish their indicative level. Guidance will be prepared to assist the advocate in the self-assessment process. Upon receipt of the completed self-assessment form, the regulator will issue a provisional licence (also known as “green plate”) to the advocate at the self-assessed level.

The advocate must then be validated at that level through judicial evaluation in the advocate’s next two cases. Advocates will be evaluated against the advocacy standards at their self-

assessed level. Judges will complete Criminal Advocacy Evaluation Forms (CAEFs) when assessing advocates. Once two CAEFs have been received, the advocate should submit them to their regulator. If competency is demonstrated advocates will be substantively accredited at that level.

A sample of advocates will be randomly selected by each regulator and asked to explain, with reference to the initial accreditation guidance, how they self-assessed their level. Advocates who are found to have deliberately misled the regulator through the sampling exercise or subsequently could face disciplinary action.

Evidence	Effect of Scheme	Action Type	Action
Women advocates are more likely to understate their own competence	Women advocates are more likely to self-certify at a level beneath their competence	Mitigate	QASA to provide detailed guidance on how to self-assess current practising levels. Standards and guidance will be based on objective rather than subjective evidence QASA to engage with specialist bar associations, including WBA, to ensure members are fully educated on self-assessment process
Women (especially those on maternity and pregnancy leave) and disabled advocates are more likely to take a career break	Women and disabled advocates are more likely to miss the window of initial accreditation	Mitigate	There are processes in place to ensure returning to work, at whatever stage, is structured, supported and not disproportionately expensive.
A random sample of advocates may inadvertently over or under represent a particular group.	The random sample will not be representative and any indirect discrimination will affect the validity and credibility of the scheme	Mitigate	Method of random selection will be agreed with the Equality and Diversity team to ensure it is valid, non-discriminatory and representative

Progression

There will be two available routes for progression; one based on assessment by judicial evaluation and one-based primarily on assessment by a JAG accredited assessment centre. Both routes will involve a two-stage application process – the first stage will be an application to obtain a provisional “green plate” licence at the higher level and the second stage will be an application to have a provisional “green plate” licence validated and to therefore receive substantive accreditation at the higher level. The second stage will be the same for both methods of progression.

First stage application

Judicial evaluation

The first stage would be to submit 3-5 CAEFs that have been completed by judges. The BSB would consider the application and if the CAEFs confirmed that the barrister was ready to progress, they would be granted a provisional “green plate” licence at the higher level.

Assessment centre

The first stage would be to submit CAEFs obtained from assessment at a JAG accredited assessment centre alongside one CAEF completed by a judge. The BSB would consider the application and if the CAEFs confirmed that the barrister was ready to progress, they would be granted a provisional “green plate” licence at the higher level.

Second stage application

Once the advocate has received their green plate, they need to be assessed by judges in their first two cases at the higher level. Once these assessments have been completed they will need to submit the CAEFs as part of an application for substantive accreditation at the new level.

Evidence	Effect of Scheme	Action Type	Action
Anecdotal evidence suggests that sole practitioners have less resources in both time and money.	The fee for accreditation and time taken to apply may dissuade sole practitioners for applying to move up a level	Tolerate	The cost of the scheme is not considered significant enough to necessitate means tested subsidies and progressing through the levels involves a financial return as it means more work can be taken on. On the job assessment also decreases the time taken to engage with the scheme.
Women are less likely to volunteer themselves for progression or promotion.	May discourage women’s progression in criminal practice as natural progress due to experience may be supplanted by formal scheme processes	Mitigate Monitor	Specific engagement with the WBA during the QASA road shows to ensure women are properly educated on the scheme Very clear guidance and standards to help advocates self assess their level Continuing engagement with women advocates through WBA Monitor women’s progression through the levels using collected E&D monitoring data

Reaccreditations

The process for periodic re-accreditation would be similar to the first stage of the process for applying for accreditation at a higher level, albeit that the advocate would be assessed against the competences required of advocates at their existing level. Advocates would either submit 3-5 CAEFs or would submit one CAEF completed by a judge alongside CAEFs obtained from an accredited assessment centre. Where there were concerns about the advocate's performance, the BSB could either request further information, commission independent assessors to evaluate the advocate in a real case or ultimately refuse an application for reaccreditation and seek to agree a package of remedial training with the barrister concerned.

Evidence	Effect of Scheme	Action Type	Action
Certain groups are more likely to take career breaks, i.e. women and disabled advocates.	Those taking career breaks may choose to reaccredit early to avoid their accreditation lapsing. This would mean they are likely to need more reaccreditations throughout their career and therefore need to pay more	Tolerate	There will be other routes to return to practise and advocates will not be forced to reaccredit early. The cost of the scheme is not considered significant enough to necessitate subsidies for those taking career breaks.
Sole practitioners have less resources in both time and money	The fee for reaccreditation may be considered too much for the sole practitioner to pay and therefore they may fail to reaccredit within the designated timeframe	Tolerate	The cost of reaccreditation is not considered significant enough to necessitate means tested subsidies.

Monitoring Referrals

In addition to the formal accreditation and re-accreditation process, it is proposed that a system of ad-hoc referrals be developed to enable Judges to report seriously underperforming advocates outside of the formal accreditation process. Discussions that JAG has had with Resident and Presiding Judges have suggested that they would welcome the opportunity to be able to refer advocates who are not performing at their level.

It is unlikely that one reference would result in any particular action by the advocate's regulator, unless a reference raised grave concerns about their competence. References will therefore be held on file and reviewed should other referrals be made. Any final decision taken will be as a result of this review and external assessment of the advocate's competence. A range of options will be open to the respective regulator including requiring the advocate to undertake remedial training to ultimately preventing the advocate from undertaking work at a particular level.

Evidence	Effect of Scheme	Action Type	Action
Subconscious bias may result in prejudice against a particular group	Certain groups of advocates may be inadvertently discriminated against by Judges' subconscious bias playing out.	Mitigate	CAEFs will not be anonymised Regular reviews of referrals will be carried out, including analysis of referring judges If JAG believe a monitoring referral has been submitted for illegitimate reasons it will be discounted
A referral may be made as a result of a protected characteristic	Discrimination would undermine the validity and reliability of QASA	Mitigate	Judicial training will involve an equality and diversity aspect If JAG believe a monitoring referral has been submitted for illegitimate reasons it will be discounted

Remedial training and re-assessment

Barristers who fail re-accreditation or who have been found to be seriously underperforming through monitoring will usually be given a period of time (up to 6 months) in which to address concerns and prove competence through applying for re-accreditation and their level.

There will be a number of remedial training courses available and the BSB will seek to agree a suitable package of retraining with the barrister concerned. The barrister would be required to pay for this training.

If an advocate fails in their subsequent application for re-accreditation they will have their accreditation removed and they will be given a green plate licence at the level below.

Evidence	Effect of Scheme	Action Type	Action
Sole practitioners have less resources in both time and money	The fee for remedial training may be considered too much for the sole practitioner to pay and therefore they may fail their subsequent application and have to work at the level below	Tolerate	If the advocate is deemed incompetent for the level they are currently practicing at it is in the interest of the public and the profession to remove them to a level at which they can competently practice.
Certain groups may be found to be failing reaccreditation more often	If this is the case, QASA is likely to need reviewing to ensure that the pattern is not due to any discrimination in the policy or scheme	Monitor Mitigate	There is no evidence that this will happen but equality and diversity monitoring will pick up on any anomalies. If there is an over-representation of any group in this process further engagement will be carried out and the scheme will be checked for any discriminatory factors.

Appeals

An advocate will have a right to appeal a decision to prevent them from moving up a level or to remove accreditation at their existing level. The advocate's regulator (within JAG agreed criteria) will be responsible for the appeal process. Appeal rules are currently being prepared and will be available for consideration by the Board when it considers the amendments to the Code to bring the Scheme into effect. The EIA will be updated accordingly.

Evidence	Effect of Scheme	Action Type	Action
An advocate may argue that a negative decision was made due to a protected characteristic	Bias and discrimination would undermine the validity and credibility of QASA	Tolerate Mitigate	All decisions will be made on a range of evidence All assessors will receive equality and diversity training If JAG believe a CAEF has been classed negative due to reasons stemming from a protected characteristic it may be discounted and more/new information requested
Certain groups are less likely to appeal negative decisions	Certain protected groups not using their right of appeal undermines the reliability of the appeals process	Mitigate	Engagement with protected groups through specialist bar associations will ensure that all advocates are aware of their right to appeal and the processes involved
Sole practitioners have less resources in both time and money	The fee for appeals and time it takes to appeal may discourage sole practitioners from appealing negative decisions	Tolerate	Evidence gathered from Chambers Monitoring 2010 shows that sole practitioners are more likely to comply with regulations than any other size chamber. The appeal fee is refundable and the time taken to appeal is not considered significant.

Methods of assessment

The majority of advocates in the scheme will be assessed through judicial evaluation. If for whatever reason judicial evaluation is not appropriate the advocate may have the option of an assessment centre. The BSB may also order assessment by an independent assessor where it requires additional information.

For both methods of applying for accreditation at a higher level and for reaccreditation, advocates would be assessed against the competency framework set out in the Statement of Standards. All assessors (judicial, assessment centre or independent assessors) would complete the same Criminal Advocacy Evaluation Form (CAEF) in order to assess the advocates against these standards.

Assessment Documentation

Statement of standards

The scheme is founded on a single set of standards which will apply to all advocates and which identify the competences expected of a criminal advocate at each level. There will be no exemptions or exceptions within the scheme. These standards have been developed with reference to a range of existing advocacy competency frameworks, including, the Dutton Criteria, the QC competencies and the CPS advocacy standards.

The same set of standards applies to all advocates but they have been unpacked to identify performance indicators for each standard at each level. These indicators provide further clarity on what is expected of the advocate at each of the four levels and will be used by the evaluators when assessing advocacy.

Criminal Advocacy Evaluation Forms

To assist with the evaluation of all advocates within the scheme, JAG has developed the Criminal Advocacy Evaluation Form (CAEF) which will be used by judges undertaking judicial evaluation and by assessment organisations assessing simulated advocacy performance.

The CAEF is intended to be used as the main evaluation document and will enable the consistent assessment of advocates by a large number of assessors. All judges involved in the evaluation of advocacy performance will be trained on the standards and on using the CAEF. The CAEF sets out the advocacy standards but also the performance indicators, which illuminate what is expected of the advocate at each level.

JAG is aware of some disquiet about the advocacy standards and the performance indicators that have been developed. Some argue that they are over complicated and difficult to apply. The CAEF will therefore be road-tested in Durham and Canterbury in June to obtain views from Judges on whether in practice the CAEF provides an effective and reliable means of assessing live performance. Results from the road tests will be used to modify the CAEF and the standards accordingly.

It is also important to note that the CAEF is not a narrative based document. Assessment involves checking competencies against a list and the only room for narrative comments is reserved for monitoring referrals. Making the CAEF non-narrative reduces the chance of bias or discrimination factoring into the assessment.

Evidence	Effect of Scheme	Action Type	Action
Standards may affect groups differently e.g. A dyslexic advocate may have trouble with clear written submissions	The standards may be indirectly discriminatory as some groups may find meeting a particular standard more difficult than others	Monitor Mitigate	As standards have already been drafted, E&D monitoring will analyse different success rates of different standards and highlight if any group disproportionately struggles with one. Negative CAEFs resulting from not meeting a standard due to a protected characteristic may be discounted and more/new

			information requested.
An advocate with a protected characteristic may need special consideration	Without special consideration by the assessor a protected characteristic could result in a negative CAEF	Mitigate	All assessors will receive equality and diversity training. Negative evaluations due to a protected characteristic may be discounted and more/new information requested.

Judicial Evaluation

Judicial evaluation will be central to QASA and will initially be undertaken by Circuit Judges and above. Each type of assessment process will need at least two qualifying judges. In order to ensure consistency of evaluation all judges involved in the Scheme will be required to undertake training. Discussions have been held with the Judicial College (formerly the Judicial Studies Board) on the best form for that training. It is proposed that the delivery of that training be outsourced and a tender exercise to find suitable trainers will commence shortly.

Evidence	Effect of Scheme	Action Type	Action
Anecdotal evidence suggests that judges may treat some groups preferentially	Preferential treatment would undermine the validity and reliability of QASA	Mitigate	Judicial training will involve an equality and diversity aspect and will assist judges to form objective, evidence-based evaluations
Judges may have bias against certain groups	Bias and discrimination would undermine the validity and reliability of QASA	Mitigate	Judicial training will involve an equality and diversity aspect
Negative impressions may result from a protected characteristic	Advocate unfairly penalised due to a protected characteristic. Discrimination would undermine the validity and reliability of QASA	Mitigate	Judicial training will involve an equality and diversity aspect If JAG believe a CAEF has been classed negative due to reasons resulting from a protected characteristic it may be discounted and more/new information requested

Independent assessor

Independent assessors will be used by JAG in exceptional circumstances only and are therefore not central to the operation of QASA (unlike Judges). Whereas advocates can apply for assessment in an assessment centre if they cannot fulfil the criteria for judicial evaluation, they cannot request evaluation by an independent assessor.

The most likely situation where an independent assessor will be arranged is in order to observe an advocate with several monitoring referrals. An independent assessor may also be arranged if this option is cheaper than sending the advocate to an assessment centre in circumstances

where they do not have access to sufficient judges to make judicial evaluation viable (see below).

In order to ensure consistent assessments, care will be taken to ensure that independent assessors will have the same training as the judiciary. Independent assessors will be recruited by JAG so that all regulators will have access to the same pool of assessors.

Evidence	Effect of Scheme	Action Type	Action
Independent assessors may treat some groups preferentially	Preferential treatment would undermine the validity and reliability of QASA	Mitigate	Independent assessors will have the same training as the Judicial training programme and will involve an equality and diversity aspect
Independent assessors may have bias against certain groups	Bias and discrimination would undermine the validity and reliability of QASA	Mitigate	Independent assessors will have the same training as the Judicial training programme and will involve an equality and diversity aspect
Negative impressions may result from a protected characteristic	Advocate unfairly penalised due to a protected characteristic. Discrimination would undermine the validity and reliability of QASA	Mitigate	Independent assessors will have the same training as the Judicial training programme and will involve an equality and diversity aspect If JAG believe a CAEF has been classed negative due to reasons stemming from a protected characteristic it may be discounted and more/new information requested

Assessment Centre

The assessment centre will provide a simulated scenario and the advocate will be asked to participate in the role of defence or prosecution. Trained assessors will then mark the advocate against the same criteria as those being assessed through judicial evaluation (using the CAEF). Every effort will be made to make the two methods of evaluation as consistent as possible.

JAG will issue a tender for applications from training and assessment providers who wish to be accredited to deliver simulated assessment exercises. Only accredited organisations will be able to offer advocacy assessment under QASA. JAG will develop clear criteria that applicants must be able to demonstrate. This will include a requirement to have advocates of the level at which the assessment is being carried out involved in assessing the advocates.

Evidence	Effect of Scheme	Action Type	Action
Assessors in centres may treat some groups preferentially	Preferential treatment would undermine the validity and reliability of QASA	Mitigate	Assessment centres will be required to ensure all their assessors have up to date Equality and Diversity training.
Assessors in centres may have bias against	Bias and discrimination would undermine the	Mitigate	Assessment centres will be required to ensure all their assessors have up

certain groups	validity and reliability of QASA		to date Equality and Diversity training.
Negative impressions may result from a protected characteristic	Advocate unfairly penalised due to a protected characteristic. Discrimination would undermine the validity and reliability of QASA	Mitigate	Assessment centres will be required to ensure all their assessors have up to date Equality and Diversity training. If JAG believe a CAEF has been classed negative due to reasons resulting from a protected characteristic it may be discounted and more/new information requested

Communications

Website

Web accessibility is about removing the barriers within a website's design to enable all those who are affected by QASA to access the website. An accessible website not only ensures that all advocates can have access but it also increases usability for those with older web browsers and those with new technology, like mobile phone devices.

The World Wide Web Consortium (W3G) has laid down accessibility guidelines to which a website should comply. Some of the key elements of web accessibility are:

- **Separate style from content.**
Where possible CSS should be used for layout and style. If CSS is switched off by the end-user, they should still be able to navigate and understand the site.
- **Semantic Structure and Page Organisation.**
Pages should be organised in a logical and consistent manner. A breadcrumb trail (e.g. *Home > About*) can help an end-user to understand where they are within the site. The HTML code should be semantically correct e.g. headings should be marked up with heading tags and lists should be marked up with list tags.
- **Imagery.**
All content images should include descriptive ALT attributes. Purely decorative graphics should include null ALT attributes. Complex images should include LONGDESC attributes or inline descriptions to explain the significance of each image to non-visual readers.
- **Multimedia.**
All multimedia features such as audio or video should have captions or text transcripts available.

- **Hypertext links.**
Avoid the use of 'click here' links. All links should use text that makes sense when read out of context. Some assistive devices will summarize the links available on a page and display these to the end-user.
- **Scripts, applets, & plug-ins.**
Access to content should not depend on the availability or support of scripts, applets or plug-ins.
- **Browser Compatibility.**
Unfortunately all browsers (and versions of browsers) do not render website code in the same way. Compatibility testing is important for any site to ensure that it is usable in all of the major browsers.

[Taken from the Equality Matters website]

The QASA website will conform as far as reasonably possible to the guidelines laid out by W3G to ensure that all advocates, especially those with a visual impairment, are not disadvantaged by the predominantly online system of applications.

Road shows

The road shows will be held at the end of 2011. Their aim is to publicise the scheme and to educate the profession in its policy and delivery. Some stakeholders may experience barriers to participation and to address this, JAG will proactively reach out to a diverse range of advocates who may be seldom heard. Support from the specialist bar associations may be needed to overcome these barriers to participation.

Inclusion

The specialist bar associations will be useful in ensuring the road shows are inclusive, and can give advice and assist in identifying ways of ensuring advocates within these protected groups are as educated on the scheme as the profession in general. The specialist bar associations will also be able to advise on key issues such as catering (i.e. what specific dietary requirements might mean), and timing, (i.e. Faith days, holidays and prayer times). Dialogue with these groups will be handled by the BSB members of JAG.

The road shows are aimed at being inclusive and representative and therefore this may require proactive engagement with different specialist bar associations.

Accessibility

Adhering to accessibility principles will attract broader audiences and encourage involvement. Reasonable adjustments will be taken to ensure that disabled stakeholders will not be prevented from attending the road shows through badly chosen or designed venues and events.

- Only accessible venues will be used for road shows.
- Staff and presenters will be briefed on the needs of disabled participants to prevent exclusion during presentations.
- Other reasonable adjustments will be made if staff are made aware of needs in advance.

As QASA only affects criminal advocates in England and Wales, a certain standard of fluency in the language is expected; therefore translations of presentations etc. will not be made available.

Costs

Fees

A flat fee for accreditation (or any of the processes) will have a disproportionate impact on advocates practising part-time or returning to practise after a career break. These advocates are most likely to have a protected characteristic such as gender, pregnancy and maternity or disability. Therefore the level of costs could be indirectly discriminatory. The issue of costs then becomes a question with implications for diversity and equality.

A criterion for accreditation or reaccreditation by judicial evaluation is assessment by at least two different judges, neither of which can be personally related to the advocate. If it is not possible to be assessed by two qualifying judges and the advocate cannot attend a different court centre the BSB will cover the extra cost of sending the advocate to an assessment centre.

Subsidies: Returning to work

Currently the scheme involves no subsidy for those returning to work as the financial cost of re-entering the scheme will not be significantly different to those who are currently in scheme. There is a risk that there will be no up-front access to judiciary to allow judicial evaluation so the advocate may have to attend the more expensive assessment centre route. This will be avoided by the measures set out below.

In the first instance, as a reaccreditation lasts for five years there is a chance that the period away from work will fall within this timeframe. In this case there is no extra financial burden.

If the period of absence is planned and lasts less than five years, the advocate can apply for early reaccreditation. This process will not cost anymore than reaccreditation would cost normally.

If the advocate has to take unexpected leave and misses their reaccreditation deadline, or leaves practise for more than five years, they will apply to re-enter the scheme under the same terms as initial accreditation. This will involve applying for a green plate at the level the advocate

was previously practising at and receiving two positive assessments through judicial evaluation or assessment centre in order to be reaccredited at that level. Costs would be equivalent to the costs of reaccreditation.

It is therefore inferred that there is no extra financial impact on returners to work. However, QASA creates the opportunity to develop wider schemes to assist those who have been absent from practice to achieve a structured return e.g. advocacy refresher courses/return to work courses.

Subsidies: Those without access to the Judiciary

A criterion for accreditation or reaccreditation by judicial evaluation is assessment by at least two different judges. A further criterion forbids personal familiarity with an assessing judge – for example the judge cannot be the spouse or partner of the assessed advocate. These criteria will adversely affect those working in small court centres, typically those in more rural locations. If judicial evaluation is not available, the advocate would still be able to apply for an assessment centre although this is likely to be more expensive.

In these circumstances, the initial expectation would be for advocates to amend their practice to make judicial evaluation viable, i.e. arrange to attend different court centres during assessment periods, however due to disability or other reasons this may not be possible for some.

In order to prevent discrimination against protected groups, such as those with disabilities who cannot attend alternative courts, and other groups such as rurally located advocates, the BSB will cover the extra cost of either assessment by independent assessor or in an assessment centre. The advocate will only have to pay the normal cost of an accreditation or reaccreditation application however they would have to apply for the subsidy.

Discounts

The scheme currently offers a discount to those who apply for reaccreditation (or any of the other processes) entirely online. In order to apply online an advocate will need access to the internet and a scanning device.

As evidence shows (see Background section), sole practitioners have less resources than Chambers and may therefore have more difficulty in accessing the internet or scanning devices. As sole practitioners have a larger concentration of BME and women barristers the issue of discounts becomes an issue with implications for diversity and equality.

It is assumed, however, that most advocates have access to the internet, whether through their Chambers, Inns, homes or public libraries. It is further assumed that most advocates, with reasonable effort, can obtain access to a scanning device, again, whether through Chambers, Inns, homes, public libraries or 'apps' on smart phones.

However, as online applications incur significantly less processing work, therefore keeping administrative costs down, they have a significant impact on the overall cost of the scheme; it is

therefore justified to have a discount, even if it cannot be benefited from by everyone as it keeps fees at a minimum.

On-going Equality and Diversity Monitoring

Comprehensive equality and diversity data will need to be collected for every advocate in the scheme in order to periodically evaluate QASA with particular attention to its impact in terms of diversity. The monitoring process is vital to establishing the credibility of the system.

Monitoring will take place at different levels ranging from the overall success rates of different groups (gender, race, SRA/BSB/IPS, regions etc.) to the pass rates of the different assessment methods.

Results from monitoring this type of data will help recognise areas for improvement in the delivery of the scheme and will help identify anomalous results in regards to certain groups underperforming in the scheme. This may lead to further engagement with certain groups or a re-assessment of the policy to ensure there is no indirect discrimination.

After several years this data will also be very valuable in assessing the spread of certain groups throughout the different levels and the relative speed of a group's progress up the levels.

When advocates first apply for initial accreditation they will be asked to fill out an equality and diversity monitoring form. Once all criminal advocates are in the scheme, this information will be collected on an advocate's application to level 1.

Although the forms will not be anonymised, it will be made clear the information gathered is for monitoring purposes only and will not be made available to any assessors and will not factor into any decision regarding the advocate's participation within the scheme.

Benefits

Introducing a quality assurance scheme for criminal advocates will provide the BSB with an opportunity to promote race, gender and disability equality within the profession by helping to eliminate discrimination of advocates based on characteristics irrelevant to their competency. The ongoing equality and diversity monitoring will also ensure that due regard is paid to the progression through the levels by different groups. The potential for the collected evidence to help the BSB promote equality in the profession beyond this scheme is considerable. The scheme will provide data on the spread of particular groups throughout the different levels (which can be used as a proxy to seniority) and the relative speed of a group's advancement in their career. In addition data will be collected on theories which are currently based on anecdotal evidence, for example that women are more likely to undervalue their competency level.

As an indicator of quality assurance, the practising level of an advocate will become a marketable feature. Providing a verifiable indicator of their competence not only gives confidence to consumers but will also provide some self-assurance for the advocate.

A further benefit of a levels based scheme is that it will provide a structured more transparent method of career progression. Anecdotal evidence suggests that a major reason advocates become employed is a lack of structured progression in the self-employed bar. The scheme also gives advocates, who have been held back in their career, the chance to demonstrate their competence to perform at a higher level.

QASA will also provide a method of identifying advocates who are struggling to perform at their current level. The scheme will offer support and recommend paths of remedial training. This proactive relationship of support would be an extension of the BSB's current activities.

Returners to work will also benefit from a scheme which provides a structured path back to the level they were previously practising at. This will not only assure them of their own competence at a certain level but will also eliminate any discrimination they may be subject to due to the time away from practice.

Summary of actions needed

- On-going monitoring and constant review of the scheme to ensure that no group is being disadvantaged
- Maintain the Equality Impact Assessment as a living document. Use the on-going equality and diversity monitoring to not only evidence existing assumed issues but to also identify and mitigate new issues and risks with live data.
- Specific engagement with specialist groups, especially when advertising and educating the profession on the scheme.
- Ensure all assessors and judges have equality and diversity education as part of their training
- Keep all guidance and scheme literature as clear and unambiguous as possible. There should be as little room for subjective interpretation as is reasonably possible.
- Ensure there is a 'structured return to work' guidance
- QASA officers to remain vigilant to any suspected discriminatory factors affecting the delivery and the results of the scheme.

Overarching Recommendation

The Quality Assurance Scheme for Advocates provides the BSB with an opportunity to promote equality across all protected groups by helping to eliminate the discrimination of advocates based on characteristics irrelevant to their competency. Furthermore, if the actions identified in the analysis are implemented there is no reason to believe that QASA will disadvantage any group. The benefits provided by such a scheme are tangible, innovative and valuable to the profession, consumers and the public.

In conclusion, to answer the questions asked at the beginning of this paper; the outcome of the scheme positively impacts the BSB's ability to promote equality; it helps to eliminate discrimination by providing a verifiable indicator of competency and it promotes a positive attitude towards all groups and encourages full participation in the scheme by ensuring that it is equal and accessible to all. There is, therefore, no equality and diversity based concerns to prevent the scheme from proceeding.