

# QUALITY ASSURANCE SCHEME FOR ADVOCATES (CRIME)

## SCHEME HANDBOOK

DRAFT

# PREFACE

[To be completed post-consultation]

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# 1. INTRODUCTION

- 1.1 The Quality Assurance Scheme for Advocates ('QASA' or 'the Scheme') was developed by the Joint Advocacy Group (JAG), which comprises representatives from the Bar Standards Board (BSB), the Solicitors' Regulation Authority (SRA) and ILEX Professional Standards (IPS). It is the first scheme that systematically assures the quality of advocates appearing in criminal courts in England and Wales.
- 1.2 The purpose of this Handbook is to provide criminal advocates with the full details of the Scheme. It includes the Scheme rules and processes (Chapter 5), which apply to all advocates and regulators. It also includes further guidance on the rules and procedures as they are applied by the individual regulators.
- 1.3 The Scheme is enshrined within the rules of the SRA, BSB and IPS. Relevant rule extracts are included, along with advice and guidance to assist advocates through their involvement with the Scheme.
- 1.4 JAG will revise and update this Handbook periodically in order to ensure currency, and to provide additional guidance and clarification as necessary. Updated information will also be maintained on the regulators' and the QASA websites. This is the first edition of this new Handbook and comments should be made by February 2014 for consideration for the second edition.
- 1.5 Comments and queries should be directed to:

SRA: [qasa@sra.org.uk](mailto:qasa@sra.org.uk)

BSB: [QASA@barstandardsboard.org.uk](mailto:QASA@barstandardsboard.org.uk)

IPS: Vicky Purtil ( [vpurtil@ilexstandards.org.uk](mailto:vpurtil@ilexstandards.org.uk) )

JAG: [www.qasa.org.uk](http://www.qasa.org.uk)

## 2. BACKGROUND TO THE SCHEME

### In this section:

- A brief history
- The Joint Advocacy Group
- The regulatory need for quality assurance
- The aims and objectives of QASA
- Implementation of the Scheme

### A brief history

2.1 The origins of the Scheme lay in Lord Carter's 2006 report into legal aid procurement. Lord Carter wrote:

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

2.2 The initial development of a scheme was taken forward by the Legal Services Commission (LSC). From 2009, responsibility for development and delivery of a scheme was taken on by the three main regulators of advocacy – the BSB, the SRA and IPS.

### The Joint Advocacy Group

2.3 The three regulators established the Joint Advocacy Group (JAG) to take forward the development of a quality assurance scheme. JAG comprises representatives from each of the regulators with experience of criminal advocacy, quality assurance, education and training, and professional standards.

### The regulatory need for quality assurance

2.4 Advocacy is a vital part of an effective justice system. Members of the public involved in litigation rely on advocacy for the proper presentation of their case. Judges and juries rely on advocacy for the proper administration of justice.

2.5 At present, advocates in the criminal courts may have qualified through different routes with different methods of education, training and assessment. Whilst this approach worked in the past, lawyers, their clients, the public, the judiciary, and those who are funding criminal litigation need to be satisfied that advocates in the criminal courts are working to consistent standards. It has become apparent that market forces are not the answer to assure the quality of

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all advocates. The public interest and consumer protection require a more proactive, systematic and consistent approach to assuring advocacy competence.

### The aims and objectives of QASA

- 2.6 The Scheme is consistent with the regulatory objectives set out in the Legal Services Act 2007 and is proportionate to regulatory need. JAG has identified eight key principles that must be demonstrated in the Scheme, which are that the Scheme:
- a. is applicable to all criminal advocates
  - b. is accountable to the regulators and independent from the representative bodies
  - c. is proportionate and targeted
  - d. is economic
  - e. is straightforward
  - f. carries the confidence of the public and the professions and is in the public interest
  - g. has consistent and fair assessment, and
  - h. has common advocacy standards.

### Implementation of the Scheme

- 2.7 For barristers and solicitors, the Scheme will be implemented in three phases, with one or more Circuits in each phase. Circuits have been chosen as the geographic area for purely pragmatic reasons.
- 2.8 Advocates' with a practising address within a particular Circuit must register for the Scheme within the phase for that Circuit.
- 2.9 A map of the Circuit areas and phases can be found on the following page. The phases are as follows:

Phase	Dates	Circuits
1	14 January – 12 April 2013	Midlands Western
2	17 June – 13 September 2013	South Eastern
3	16 September – 13 December 2013	Northern North Eastern Wales and Chester

- 2.10 Chartered Legal Executive Advocates and Associate Prosecutors must all register during Phase 1, regardless of their practising address.
- 2.11 In each phase, the start date is the day when advocates can begin registering with their regulator for the Scheme. The end date is the deadline by when all



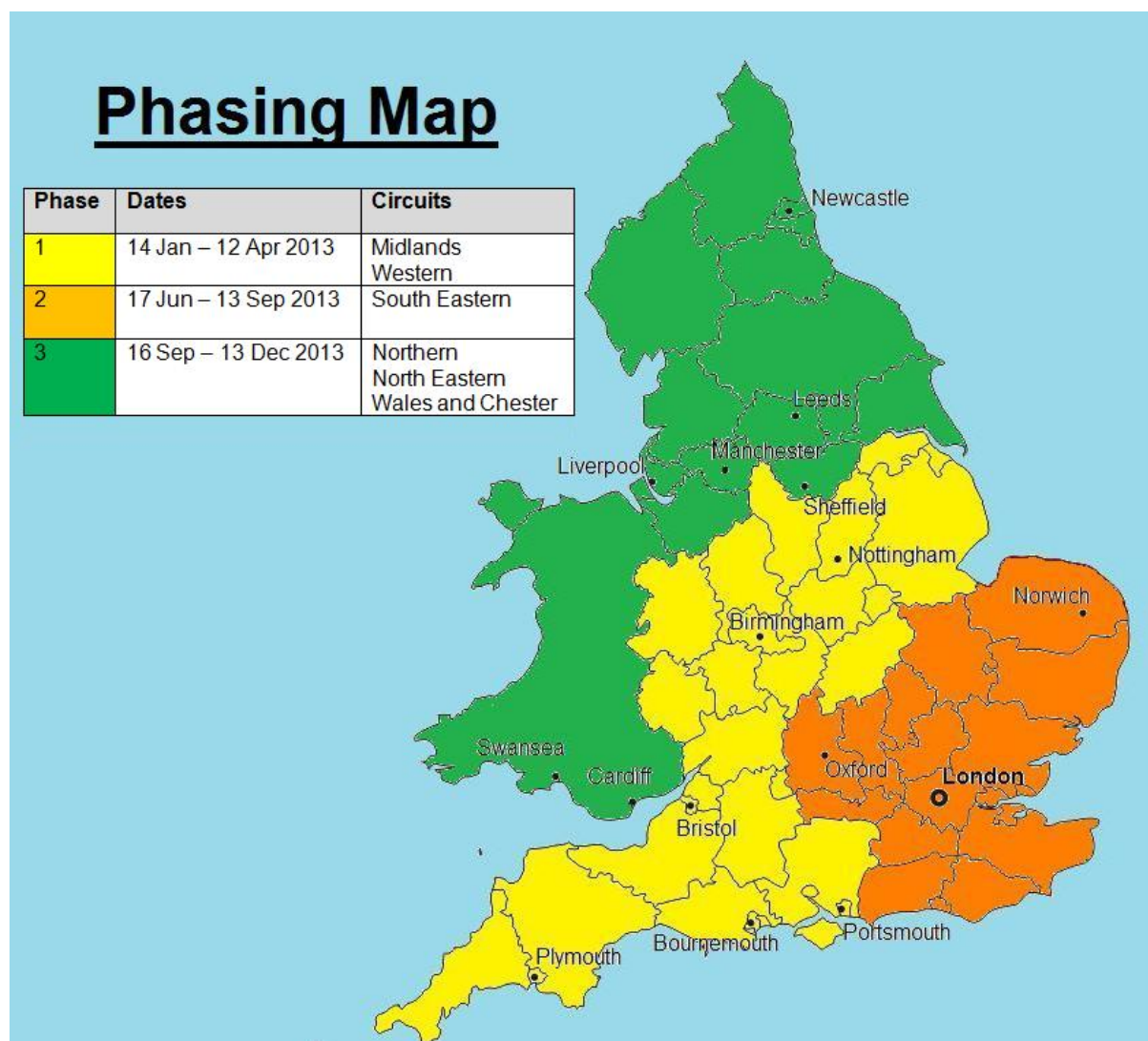
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advocates within the relevant Circuits must have completed the registration process.

2.12 Advocates in circuits where registration has not opened will be able to appear in courts within circuits where registration has opened and where judicial evaluation has commenced without needing to request assessment. Therefore, advocates in Phase 2 and 3 circuits will be able to appear in criminal courts in the Midlands and Western Circuits prior to the start of their own registration phase.

2.13 The registration process has been designed to be quick and easy for advocates to complete – the advocate will need to confirm their current practising level based on the guidance provided, and, depending on their regulator, may be required to pay a fee and/or provide some additional data. Further details on the registration process can be found in Chapter 5, and in the individual guidance sections for each regulator.

Map of Circuit areas:



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### 3. REGULATORY FRAMEWORK

#### In this section:

- The Regulatory Objectives and LSB principles
- The regulatory frameworks of the BSB, SRA and IPS
- Data Protection

#### The Regulatory Objectives and LSB principles

3.1 The Scheme is consistent with and promotes the Regulatory Objectives set out in the Legal Services Act 2007. 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.

3.2 The Scheme also satisfies the seven principles that the LSB set for it. They are:

<b>A. Independence</b>	of the Scheme and assessment process from those being assessed or their professional bodies
<b>B. Consistency</b>	one scheme (with the possibility of multiple providers delivering it or parts of it)
<b>C. Differentiation</b>	multiple levels of assessment, from entry level to the most senior level
<b>D. Tailored assessment</b>	according to area of law and level
<b>E. Compulsory participation</b>	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
<b>F. Limited exceptions</b>	passporting and exemption only where this is demonstrably in the consumer interest and supported by proper evidence
<b>G. Periodic re-accreditation</b>	probably at least five yearly

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- 3.3 JAG remains committed to promoting the Regulatory Objectives as the Scheme moves into operation. JAG will gather evidence of advocacy performance and will monitor and revise the Scheme in accordance with evidence and risk to continue to promote the Objectives.

**The regulatory frameworks of the BSB, SRA and IPS**

- 3.4 The BSB, SRA and IPS each have different regulatory frameworks. The Scheme has been enshrined within each of these frameworks as set out below. The full text of the rules can be found at the relevant Annexes.

**The regulatory framework for solicitors**

- 3.5 [details to be added after the final rules agreed]
- 3.6 See **Annex A** for the full text of the SRA rule amendments.

**The regulatory framework for barristers**

- 3.7 The BSB's rules have been designed to fit within the new BSB Handbook (replacing the previous Code of Conduct). The QASA rules are contained in their own section.
- 3.8 See **Annex B** for the full text of the BSB rule amendments.

**The regulatory framework for Chartered Legal Executive Advocates and Associate Prosecutors**

- 3.9 The Rights of Audience Certification Rules and Associate Prosecutor Certification Rules have been amended to incorporate the Quality Assurance Scheme for Advocates.
- 3.10 See **Annex C** for the full text of the IPS rule amendments.

**Data Protection**

- 3.11 Your personal information will be held and used in accordance with the Data Protection Act 1998. The Solicitors Regulation Authority, the Bar Standards Board, and ILEX Professional Standards will process your personal data in accordance with the data protection principles and will not disclose such information to any authorised person or body but, where appropriate, will use such information in carrying out its various functions and services.

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- 3.12 You can view the Chartered Institute of Legal Executives (CILEx) privacy policy on its website at <http://www.cilex.org.uk> and click on 'privacy policy' at the bottom left of the home page.
- 3.13 You can view the Bar Standards Board's privacy policy on its website: <http://www.barstandardsboard.org.uk/footer-items/privacy-statement/>.
- 3.14 It is foreseeable that disclosure of completed judicial evaluation forms might be requested by courts in the context of civil or criminal proceedings. In these circumstances the regulators will be able to raise an argument of public interest immunity in order to prevent disclosure. It would be for the court to decide whether disclosure would present a serious prejudice to the public interest and therefore whether disclosure would be required. In circumstances where disclosure is thought to be necessary, the court could impose restrictions on further disclosure of any evaluations that are disclosed to the court.

## 4. STRUCTURE OF THE SCHEME

### In this section:

- Governance of the Scheme
- Overview of the Scheme
- Statement of standards
- Harmonisation with the CPS
- Queens' Counsel
- Specialist Practitioners
- On-going monitoring of advocates
- Appeals
- Reviewing and reporting on the Scheme
- Cost of the Scheme

### Governance of the Scheme

4.1 The Scheme will apply to all criminal advocates appearing in courts in England and Wales, whether they are barristers, solicitors, Chartered Legal Executive Advocates or Associate Prosecutors, and whether they are employed or self-employed. The Scheme will be operated and applied by each regulator for the criminal advocates that they regulate. The regulators are responsible for the accreditation and re-accreditation process for their own members.

### JAG

4.2 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 is collected.

### Advisory Group

4.3 JAG has established an Advisory Group, comprising representatives from the stakeholders to the Scheme, including the judiciary, barristers, solicitors and Chartered Legal Executives. The Group gave advice and comments on the Scheme during its development, and will continue to provide advice, guidance, and comments to JAG on how the Scheme is operating.

### Overview of the Scheme

4.4 The fundamental elements of the Scheme are:

- a. Advocacy standards have been developed against which all advocates will be assessed.

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- b. Advocates will be accredited at one of four levels – for example, a Level 1 advocate can undertake work in the Magistrates Court and a Level 4 advocate can undertake the most serious cases in the Crown Court.
- c. Advocates may progress through the four levels (subject to rights of audience) by demonstrating through assessment that they meet the required standard for the next level. Advocates who choose to remain at their current level will be required to re-accredit at that level every five years.
- d. Advocates' level and method of qualification dictates how they must be assessed, whether by way of assessed CPD, assessment organisation, or judicial evaluation.
- e. Trained judges in the Crown Courts may assess advocates of their own initiative if they have concerns about performance, and submit such evaluations directly to the regulators for consideration.

### Statement of standards

- 4.5 The Scheme is founded on a set of standards which will apply to all criminal advocates and which identify the skills and behaviours expected of a criminal advocate.
- 4.6 The same set of standards applies to all advocates regardless of the level at which the advocate is operating. The standards have been expanded to identify performance indicators for each standard at each level. These indicators provide further information as to what is expected of the advocate at each of the four levels.
- 4.7 The standards and accompanying performance indicators are set out in the Statement of Standards, which can be found within **Annex D** (attached to the CAEF – see below). This document is a key reference tool for those involved with the Scheme, whether as advocates, judges, external assessors or assessment organisations.
- 4.8 The Criminal Advocacy Evaluation Form (CAEF) is the form that must be completed by judges when they are assessing advocates. The CAEF can be found at Annex D, and it includes the advocacy standards and performance indicators for reference.

### Harmonisation with the CPS

- 4.9 The Scheme covers defence and prosecuting advocates, and self-employed and in-house advocates. The CPS has a quality assurance framework for its

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in-house prosecutors. It is in the interests of those involved in advocacy that the regulatory scheme is compatible with the CPS approach, does not lead to duplication 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 those of the CPS.

### Queens' Counsel

- 4.10 The Scheme is not intended to replace or undermine the QC system. It is a regulatory scheme designed to ensure minimum standards at different levels, and QCs undertaking criminal advocacy must come within the Scheme. However, in recognition of the rigor of the QCA appointment process, there is modified entry for criminal silks who have been appointed since 2010.
- 4.11 QCs appointed from 2010, and who indicated on their QCA application form crime as their broad area of practice, will receive full accreditation (as opposed to provisional accreditation) when they register for the Scheme, with their 5 year accreditation running from the date when they were appointed QC. Therefore, after entry, re-accreditation will be due as follows:

Date became QC	Re-accreditation due date
2010	2015
2011	2016
2012	2017
2013	2018

- 4.12 Whilst those who became QCs in 2006 and 2008 did so under the new QCA process, calculating their five year accreditation brings them to 2011 (which has already passed) and 2013 (which falls during the implementation period) respectively. Additionally, this arrangement will not be applied to those who were appointed QCs in 2009 because this would mean that those who were entering the Scheme in the later phases of implementation would have less than 12 months to obtain a higher number of judicial evaluations (3 instead of 2) to obtain a five year accreditation.

### Specialist Practitioners

- 4.13 The focus of the Scheme is on criminal practitioners. There are specialist practitioners who undertake advocacy in the criminal courts but not in relation to typical criminal cases, such as advocates who specialise in regulation, planning, and health and safety. JAG has decided that it would be disproportionate to the regulatory risks and public interest risks to attempt to impose a one size fits all scheme on all advocates who appear in criminal courts.

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- 4.14 The regulators' have therefore adopted a definition of criminal advocacy which means that specialist practitioners who undertake criminal advocacy in certain specialist areas fall outside the Scheme.
- 4.15 However, there are some specialist practitioners who might be instructed in a case which does fall within the remit of the definition of criminal advocacy. For example, an advocate who specialises in health and safety law may be instructed in a manslaughter case where the issues are health and safety related. To address these cases, the Scheme allows for practitioners who are not accredited under the Scheme to undertake criminal advocacy if:
- a. The case has a mixture of offences and the primary offences do not fall within the definition of criminal advocacy, or
  - b. The advocate has been instructed specifically as a result of their specialism.
- 4.16 Advocates who **only** undertake cases in these circumstances do not need to register for the Scheme. JAG will keep the position under review and if particular concerns arise, specialist practitioners may in the future be required to register for the Scheme.

### On-going monitoring of advocates

- 4.17 Every advocate in the Crown Courts will be subject to ongoing monitoring. If a judge has concerns about an advocate's performance, the judge will be able to complete a judicial evaluation and send it directly to the advocate's regulator. Judges can also complete an evaluation and send it to the advocate's regulator to highlight a particularly good performance. Judges will be provided with copies of the relevant forms during their training sessions, or can download forms from the JAG website or regulators' websites.
- 4.18 When a regulator receives a judicial evaluation through ongoing monitoring, it will consider the appropriate course of action, which could range from taking no action to asking an independent assessor to attend court and observe and assess the advocate with a view to the regulator taking a decision as to whether the advocate is competent at their level. For more information about ongoing monitoring referrals, see paragraphs 5.60 - 5.66.

### Appeals

- 4.19 There are three circumstances in which an advocate may appeal a decision by their regulator under the Scheme:
- a decision to **refuse accreditation** at the advocate's current level (including refusal to convert provisional accreditation to full accreditation).
  - a decision to **remove accreditation** at the advocate's current level (including a decision to grant accreditation at a lower level), and



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- a decision to **refuse progression** to the next level.

4.20 Further details on the appeal process for each regulator can be found in parts 7, 8 and 9.

### Reviewing and reporting on the Scheme

4.21 JAG will monitor the Scheme and publish an annual report on its operation. The report will include:

- data on the numbers of advocates who have been accredited and who have progressed at the different levels
- a breakdown of data by circuit, profession and equality strands, and
- data on pass and fail rates for progression and re-accreditation arising out of assessment organisations and judicial evaluation.

4.22 The data published will be aggregated and anonymised so that no individual advocate or judge can be identified.

4.23 JAG will monitor the performance of approved assessment organisations by a range of quality assurance mechanisms, including requiring the appointment of external examiners, observing assessments, requiring the submission of annual monitoring reports and reviewing and comparing statistics. It will monitor the quality and consistency of judicial evaluations through regular sampling to identify trends and themes and the use of independent assessors to double-mark judicial evaluations.

4.24 In addition to ongoing monitoring and review, JAG will undertake a comprehensive review of the Scheme after it has been operational for two years.

### Cost of the Scheme

4.25 Whilst the Scheme is unified, it will be operated by individual regulators for the members of their respective arm of the profession. Each regulator is responsible for setting its own fee structure. JAG 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.

4.26 The cost of undergoing an assessment by an assessment organisation will be paid directly by the advocate to the assessment organisation. A list of approved assessment organisations and their fees will be published on the QASA website and the regulators' websites in due course.

4.27 Where a regulator decides to appoint an independent assessor to assess an advocate, for example if the regulator has concerns about an advocate's competence or if an advocate is unable to obtain the requisite number of

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judicial evaluations because they practise solely from a rural court centre, the regulator will bear the cost of the independent assessor.

4.28 Details of each regulator's fees policy can be found on the regulators' websites and the QASA website.

## 5. SCHEME RULES AND PROCESSES

### In this section:

- Introduction
- Application of the Scheme
- Level 1 – Registration and re-accreditation
- Registration at Levels 2, 3, and 4
- Re-accreditation at Levels 2, 3, and 4
- Progression up levels
- Ongoing monitoring
- Independent assessors
- Judicial Evaluations
- Criminal Advocacy Evaluation Form
- Extensions of time
- Summary of requirements per level

### Introduction

5.1 This section includes the rules and processes which must be followed by all regulators and advocates. It signposts advocates to further sections to provide more specific guidance on how the rules will be applied by the individual regulators, and the processes that the regulators will follow.

### Application of the Scheme

5.2 Subject to paragraph 5.4, advocates may only undertake criminal advocacy in courts in England and Wales if they have been accredited by their regulator in accordance with these rules.

5.3 “Criminal advocacy” means advocacy in all hearings arising out of a police or Serious Fraud Office investigation, prosecuted in the criminal courts by the Crown Prosecution Service or the Serious Fraud Office.

5.4 Specialist practitioners may undertake criminal advocacy if:

- a. Appearing in a case with a hybrid indictment where the primary offence(s) are not within the definition of criminal of “criminal advocacy”, or
- b. They are instructed to appear in a case as a result of their specialism.

5.5 Advocates may only accept instructions to conduct advocacy in criminal cases in accordance with the rules and guidance on the Scheme Levels detailed in Chapter 6. For the avoidance of doubt, advocates accredited at Level 2 by Assessment Organisation are permitted to undertake non-trial work at Levels 2 and 3 and trial work at Level 1. Advocates accredited by judicial evaluation in

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trials at Levels 2-4 are permitted to undertake trials at their accredited level and below, and non-trial work at one level above their accredited level.

**Level 1 – Registration and re-accreditation****Registration at Level 1**

- 5.6 Advocates are qualified to become accredited at Level 1 by virtue of completing the education and training qualifications to enter their respective professions. Amendments have been made to the SRA and IPS education and training pathways to ensure that they are consistent with Level 1 standards.
- 5.7 All newly qualified advocates are entitled to enter the Scheme at Level 1.

Barristers must also hold a current Practising Certificate and register with the BSB as a Level 1 advocate. For information about the BSB's process, see paragraph 7.1 onwards.

Solicitors must also hold a current Practising Certificate, and register with the SRA as a Level 1 advocate during the implementation phase. For information about the SRA's process, see paragraph 8.1 onwards. Once the implementation phases are concluded, solicitors will automatically be granted Level 1 accreditation when they are given their first practising certificate.

Chartered Legal Executive Advocates must have completed the first renewal of their Advocacy Certification in Criminal Proceedings and register with ILEX Professional Standards as a Level 1 advocate to obtain full accreditation.

Newly qualified Chartered Legal Executive Advocates in Criminal Proceedings will be provided with provisional accreditation and will gain full accreditation on successful completion of the first renewal of their practising certificate.

Associate Prosecutors must hold a current practising certificate and register as a Level 1 advocate to obtain full accreditation

**Re-accreditation at Level 1**

- 5.8 Accreditation at Level 1 expires five years from the date of accreditation by the regulator. In order to re-accredit at Level 1, advocates must complete advocacy

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focused CPD which has been accredited by JAG (or by any other method approved by JAG from time to time) to satisfy Level 1 requirements, and provide details to their regulator of how they satisfied the requirements.

The regulators will publish on their websites and on the QASA website details of CPD courses which have been approved for this purpose.

5.9 There is no limit to the number of times that advocates can re-accredit at Level 1.

5.10 If an advocate fails to complete the required CPD and re-accredit by the end of their accreditation period, they will automatically drop out of the Scheme and will not be permitted to undertake criminal advocacy.

### Registration at Levels 2, 3, and 4

5.11 The section on registration at Levels 2, 3, and 4 applies to:

- a. All advocates entering the Scheme for the first time during the implementation phases;
- b. Advocates entering the Scheme for the first time outside of the implementation phases, for example because they were on a career break during the implementation phases or they are transferring from one branch of the profession to another; and
- c. Advocates who are re-entering the Scheme because they dropped out voluntarily, for example due to a career break.

### Preparation for registration

5.12 Accreditation for advocates who undertake trials at Levels 2, 3, and 4 of the Scheme is a two-stage process. First, advocates must register with their regulator at the level which they believe they are practising at to receive provisional accreditation at that level. Second, advocates must apply to their regulator for full accreditation within 12 months of the date their regulator granted provisional accreditation.

**Guidance:** You can determine the level you should register at by reviewing the trials that you have appeared in against the QASA levels table, which can be found in Chapter 6. You may have undertaken work at a range of levels so you need to decide the level that you feel most competent performing at. To determine this, you may want to take into account:

- The frequency of each case level that you appeared in recently,
- Your confidence performing at each level.

5.13 Advocates must reach a reasoned decision as to the level which they register for, and be able to justify their decision if asked to do so by their regulator.

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**Provisional accreditation**

- 5.14 Advocates must register with their regulator at the level at which they believe they are practising, and satisfy any other requirements which their regulator has set, such as payment of a fee.
- 5.15 Following registration, the regulator will grant the advocate provisional accreditation which is valid for 12 months from the date granted. The advocate must apply for full accreditation by the end of the 12 month period.

For information about the BSB's processes, including a different process for those who have been appointed QCs since 2010, see paragraphs 7.14 - 7.28

For information about the SRA's processes, see paragraphs 8.1 onwards.

**Registration spot checks**

- 5.16 To check whether advocates are selecting an appropriate level on registration, and to ensure the effectiveness of the guidance on grading, a sample of advocates will be randomly selected and asked to explain, with reference to the guidance, how they determined the level they registered for.
- 5.17 The regulators will report the results of their spot checks to JAG, which will review the results and consider whether any revisions to the guidance should be made.
- 5.18 Advocates who have failed to respond to the spot check may be considered for disciplinary action at the discretion of their regulator.
- 5.19 Advocates who are found to have misled their regulator will be downgraded to the appropriate level, as agreed with their regulator, and may be considered for disciplinary action at the discretion of their regulator
- 5.20

Advocates who are selected for the registration spot check will be sent a short list of questions to answer relating to how they chose their registration level, and will be provided with further details as to how the process will proceed.

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**Full accreditation**

5.21 Advocates who have completed Stage 1 and obtained provisional accreditation at their selected level must obtain full accreditation within 12 months of the date provisional accreditation was granted, unless they have been granted an extension of time.

5.22 To obtain full accreditation, the advocate must be assessed by judicial evaluation in a minimum of two and a maximum of three of their first five effective trials at their selected level.

See paragraph 5.73 for what constitutes an effective trial.

5.23 The advocate's assessments must demonstrate:

- a. Two evaluations with an overall mark of Competent as determined by the regulator.
- b. At Levels 2 and 3, within the two evaluations that are overall "Competent", no more than two marks of "Not Competent" against standards 2, 3, and 4, of which no more than one mark of "Not Competent" against the same standard.
- c. Across all submitted evaluations, no more than a total of four marks of "Not Competent" against the individual standards, whether the advocate submits two or three evaluations.

See paragraphs 5.79 - 5.80 for the definition of "Competent".

See paragraphs 5.76 - 5.81 for information about the CAEF and paragraphs 5.72 - 5.75 for information about judicial evaluations.

**Guidance:** You are able to appear in cases below your selected level, but these cannot be used for judicial evaluation at your selected level.

5.24 Advocates must submit all judicial evaluations obtained.

5.25 Full accreditation is valid for five years from the date it is granted by the regulator.

For information about the BSB's processes, see paragraph 7.19 - 7.21.

For information about the SRA's processes, see paragraphs 8.1 onwards.

**Registration for Level 2 advocates – Route A**

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- 5.26 Level 2 advocates whose work is focussed on Crown Court hearings rather than trials should follow the route A process to obtain full accreditation. First, advocates must register with their regulator and obtain Level 2 provisional accreditation. Advocates registering at Level 2 will be asked to indicate whether they intend to proceed by way of Assessment Organisation or Judicial Evaluation.
- 5.27 Upon registration, advocates will be granted provisional accreditation to undertake all non-trial hearings at Levels 2 and 3, valid for 12 months from the date of accreditation. Advocates who have been granted provisional accreditation must obtain full accreditation at the earliest opportunity within 12 months of being granted provisional accreditation, unless they have been granted an extension of time.
- 5.28 To obtain full accreditation, the advocate must attend an approved Assessment Organisation and be assessed as competent against the Level 2 and Level 3 standards.

JAG will publish on its website details of approved assessment organisations.

- 5.29 Full accreditation at Level 2 through assessment organisation permits advocates to undertake all non-trial hearings at Levels 2 and 3 as well as all Level 1 work.
- 5.30 Having obtained full accreditation, the advocate may at any time during their period of accreditation undertake trials and in which case the advocate will need to be judicially assessed in a minimum of two and a maximum of three cases. Full details of the requirements can be found at paragraphs 5.21 - 5.25.
- 5.31 Full accreditation is valid for five years from the date it is granted by the regulator.

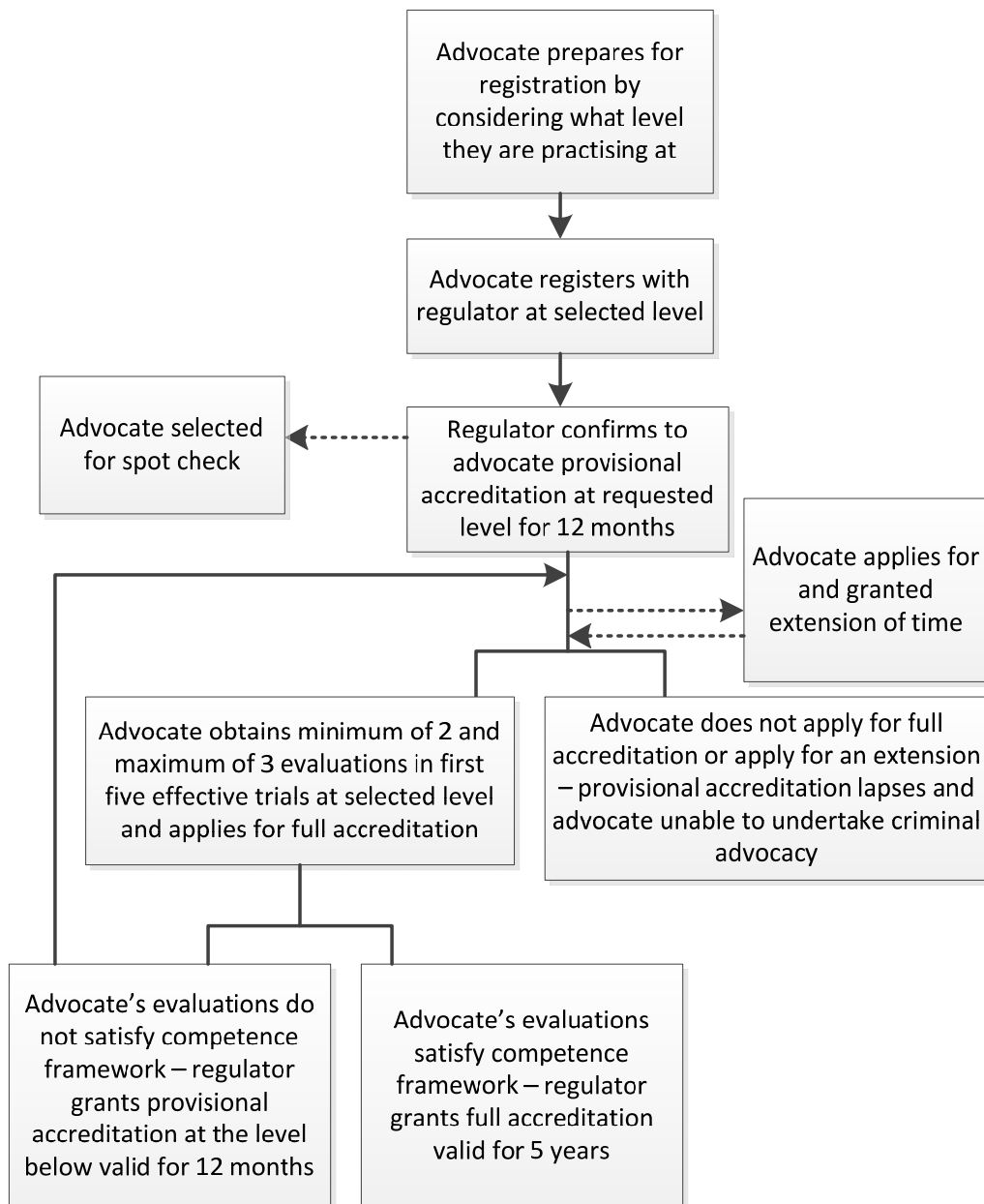
**Registration for QCs**

- 5.32 Transitional arrangements for registration of those who have been appointed QC between 2010 and 2013 and who specialise in crime are described at paragraphs 4.10 - 4.12.



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## Diagram of registration to undertake trials at Levels 2, 3, and 4



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**Re-accreditation at Levels 2, 3, and 4**

5.33 Advocates who remain at the same level must be re-accredited every five years. Advocates' accreditation will lapse if they fail to re-accredit by their deadline and have not been granted an extension. If an advocate's accreditation lapses, they will no longer be permitted to undertake criminal advocacy in England and Wales.

5.34 Full re-accreditation for Level 2 advocates following the route A process must be achieved through attending at and passing the assessments at an approved assessment organisation.

JAG will publish on its website details of approved assessment organisations.

5.35 Full re-accreditation for advocates conducting trials at Levels 2, 3, and 4 must be achieved through judicial evaluation.

5.36 To re-accredit by judicial evaluation, the advocate must be assessed by judicial evaluation in a minimum of three and a maximum of five consecutive effective trials at their level.

See paragraph 5.73 for what constitutes an effective trial.

5.37 The advocate's assessment must demonstrate:

- a. Three evaluations with an overall mark of "Competent" as determined by the regulator.
- b. At Levels 2 and 3, within the three evaluations that are overall Competent, no more than three marks of "Not Competent" against standards 2, 3, and 4, of which no more than one mark of "Not Competent" against the same standard.
- c. Across all submitted evaluations, no more than a total of five marks of "Not Competent" against the individual standards, whether the advocate submits three, four, or five evaluations.

See paragraphs 5.79 - 5.80 for the definition of "Competent".

5.38 Advocates must submit all evaluations obtained to their regulator.

5.39 Advocates must also satisfy any other requirements set by their regulator for re-accreditation, such as payment of a fee.

For information about the BSB's processes, see paragraph 7.29 - 7.35.

For information about the SRA's processes, see paragraphs 8.1 onwards.

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**Progression up levels**

5.40 At Levels 2-4, advocates undertaking trials can apply to their regulator to progress up levels.

**Guidance:** You can apply to progress up a level so as to be able to accept more complex cases when you feel ready to do so. When considering whether to progress, you should take into account:

- Your confidence practising at your current level, and
- Any experience you have had of being led at a higher level.

You should also review the QASA levels framework in Chapter 6 to help you decide whether you are ready to progress to the next level.

**Level 1 to Level 2**

5.41 The regulators have different requirements for progressing from Level 1 to Level 2.

5.42 Barristers must notify the BSB of their intention to progress. The BSB will then grant the advocate provisional accreditation at Level 2, which is valid for twelve months.

5.43 Barristers obtain full accreditation at Level 2 by being assessed by judicial evaluation in a minimum of three trials, out of a maximum of five trials, out of their first five consecutive effective trials at their level. The advocate's assessment must demonstrate:

- a. Three evaluations with an overall mark of "Competent" as determined by the regulator.
- b. Within the three evaluations that are overall Competent, no more than three marks of "Not Competent" against standards 2, 3, and 4, of which no more than one mark of "Not Competent" against the same standard.
- c. Across all submitted evaluations, no more than a total of five marks of "Not Competent" against the individual standards, whether the advocate submits three, four, or five evaluations.

5.44 Barristers who do not obtain full accreditation by the expiry of their provisional accreditation and have not been granted an extension will be automatically returned to Level 1.

5.45 Barristers who do not undertake trials and who wish to progress to Level 2 accreditation must attend at an approved assessment organisation and be assessed as competent against all of the Level 2 competencies. Successful completion will enable the barrister to be fully accredited at Level 2. Should barristers who achieve accreditation through the assessment organisation route wish to undertake trials they must be assessed by judicial evaluation in the manner set out in 5.43 above.

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- 5.46 Solicitors wishing to progress to Level 2 must obtain their Higher Rights of Audience and obtain Level 2 accreditation. To do this they must attend at an approved assessment organisation, successful completion of which will enable the solicitor to apply for their Higher Rights and Level 2 full accreditation (the route A process). Once granted, the solicitor's Higher Rights of Audience will not expire or require renewal; the Level 2 accreditation will be valid for five years.
- 5.47 Having obtained their Higher Rights of Audience and Level 2 accreditation, solicitors who intend to undertake trials at Level 2 must re-register with the SRA and must be assessed by judicial evaluation in a minimum of two trials, out of a maximum of three trials, out of their first five consecutive effective trials at their level (the route B process). The advocate's assessment must demonstrate:
- Two evaluations with an overall mark of "Competent" as determined by the regulator.
  - Within the two evaluations that are overall Competent, no more than three marks of "Not Competent" against standards 2, 3, and 4, of which no more than one mark of "Not Competent" against the same standard.
  - Across all submitted evaluations, no more than a total of four marks of "Not Competent" against the individual standards, whether the advocate submits two or three evaluations.
- 5.48 Solicitors who do not obtain the required number of judicial evaluations within 12 months of re-registering will retain Level 2 full accreditation but will not be able to undertake trials at Level 2.
- 5.49 Full accreditation is valid for five years from the date it is granted by the regulator.

For information about the BSB's processes, see paragraph 7.36 - 7.40.

For information about the SRA's processes, see paragraphs 8.1 onwards.

**Level 2 to Level 3 and Level 3 to Level 4**

- 5.50 Progression from Level 2 to 3 and Level 3 to 4 is a two-stage process and can only be accomplished by judicial evaluation.

*Progression stage 1 – provisional accreditation*

Advocates must obtain a minimum of three judicial evaluations and a maximum of five evaluations in consecutive, effective trials at their current level. In order

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to be successful, the advocate's assessments must include three evaluations with an overall mark of "Very Competent" as determined by the advocate's regulator.

See paragraph 5.81 for the definition of "Very Competent".

5.51 When the advocate submits three judicial evaluations to show that they are "Very Competent" at their current level, the regulator will grant provisional accreditation at the higher level, which will be valid for twelve months from the date granted by the regulator.

*Progression stage 2 – full accreditation*

5.52 To obtain full accreditation, the advocate must be assessed by judicial evaluation in a minimum of two and a maximum of three of their first five effective trials at the higher level. The advocate's assessments must demonstrate:

- a. Two evaluations with an overall mark of "Competent" as determined by the regulator.
- b. At Level 3, within the two evaluations that are overall Competent, no more than two marks of "Not Competent" against standards 2, 3, and 4, of which no more than one mark of "Not Competent" against the same standard.
- c. Across all submitted evaluations, no more than a total of four marks of "Not Competent" against the individual standards, whether the advocate submits two or three evaluations.

5.53 Advocates who do not obtain full accreditation by the expiry of their provisional accreditation will be automatically returned to full accreditation at their previous level.

5.54 Full accreditation is valid for five years from the date granted by the regulator.

For information about the BSB's processes, see paragraph 7.44 - 7.51.

For information about the SRA's processes, see paragraphs 8.1 onwards.

## Appeals

5.55 There are three circumstances in which an advocate may appeal a decision by their regulator under the Scheme:

- a decision to **refuse accreditation** at the advocate's current level (including refusal to convert provisional accreditation to full accreditation).
- a decision to **remove accreditation** at the advocate's current level (including a decision to grant accreditation at a lower level), and

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- a decision to **refuse progression** to the next level.

5.56 Each regulator has in place a process to deal with appeals.

For information about the BSB's appeal process, see paragraphs 7.56 - 7.71.

For information about the SRA's appeal process, see paragraph 8.116.

For information about IPS' appeal process, see paragraphs 9.18 - 9.25.

### Other requirements

#### Submitting all judicial evaluations obtained

5.57 Advocates must submit all judicial evaluations obtained as part of their application for any part of the process. Advocates will be required to make a positive declaration that they have done so as part of their application. The regulators will treat seriously any attempt by an advocate to withhold an unfavourable evaluation.

#### Fees

5.58 Advocates must comply with any fee requirements set by their regulator when making an application under the Scheme. The regulators' fees policies will be published on their websites and on the QASA website.

#### Client notification

5.59 As at the present time, clients need to know what they can expect from their advocate or if the circumstances of the case change. For example, the client needs to be informed if a case escalates and moves outside of the advocate's competence and the advocate will need to explain to the client that they may not be able to continue to act.

### Ongoing monitoring

5.60 Where a judge who is participating in the Scheme (i.e. has been trained to assess advocates) has concerns about an advocate's competence, outside of any formal assessment process requested by the advocate, the judge can complete a judicial evaluation and return it to the advocate's regulator.

5.61 When a regulator receives an ongoing monitoring form, it will consider the following issues:

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- a. The seriousness of the issue identified: This will include whether the advocate was marked “Not Competent” on individual standards, and whether the individual standards receiving negative evaluations are mandatory or non-mandatory for competence at the advocate’s level. It will also take into account comments provided by the judge, in particular, the consequences of the concerns identified, such as whether the advocate’s actions had a detrimental impact on the client.
- b. The history of the advocate (for example, whether other references have been made, including of a similar nature): If any advocate receives two or more referrals, this indicates a higher level of risk and will be treated seriously by the regulator. Regulators may also consider any previous evaluations relating to the advocate, including whether any negative evaluations were received as part of applications under the Scheme.
- c. The source of the reference: If a single judge is consistently providing negative evaluations for a particular advocate or group of advocates, but otherwise the advocate’s history in the Scheme is positive, this may indicate bias by a judge. However, if an advocate receives two or more negative evaluations from different judges, this indicates a higher level of risk and will be treated more seriously by the regulator.

5.62 If the regulator receives a properly completed ongoing monitoring referral, it will seek comments from the advocate.

5.63 When considering an ongoing monitoring referral and the advocate’s comments, a regulator may decide to:

- a. Take no further action.
- b. Mark the advocate’s record as a potential risk – this would involve no immediate action being taken, but would highlight to the regulator to carefully consider the advocate if a further referral is received, or when the advocate makes an application for full accreditation, progression or re-accreditation under the Scheme.
- c. Recommend the advocate undertake further training.
- d. Direct that the advocate be assessed by an independent assessor in a hearing or trial at their level.

5.64 The regulator will consider the independent assessor’s assessment, along with any other relevant information relating to the advocate when making a decision.

5.65 All ongoing monitoring referrals received will be retained on the advocate’s record until the outcome of the initial two year review period has been reported on.

5.66 If a single or a series of evaluations give rise to any conduct issues, the regulator may consider whether to take appropriate action under its conduct rules.

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**Independent assessors**

5.67 JAG may appoint independent assessors to observe and assess advocates. Appointment of independent assessors to evaluate advocates is at the discretion of the individual regulators.

5.68 Regulators may appoint an independent assessor to assess an advocate as a response to receipt of one or more ongoing monitoring referrals, or if an advocate does not have access to sufficient judges to make judicial evaluation viable.

**Appointment of an independent assessor as a result of a regulator's concerns**

5.69 If an advocate has been assessed by an Independent Assessor as a result of concerns raised by the regulator (whether as a result of ongoing monitoring referrals or concern relating to an application by the advocate under the Scheme), the regulator will consider all the relevant information and may decide to:

- a. Take no further action.
- b. Mark the advocate's record as a potential risk – this would involve no immediate action being taken, but would highlight to the regulator to carefully consider the advocate if a further referral is received, or when the advocate makes an application for full accreditation, progression or re-accreditation under the Scheme.
- c. Recommend the advocate undertake further training.
- d. Remove the advocate's full accreditation at their current level and grant provisional accreditation at their current level or at a level below.

5.70 The advocate will be entitled to appeal a decision to remove their accreditation.

For information about the BSB's appeal process, see paragraph 7.56 - 7.71.

For information about the SRA's appeal process, see paragraphs 8.116.

For information about IPS' appeal process, see paragraph 9.18 - 9.25.

**Appointment of an independent assessor at the request of an advocate**

5.71 If an advocate believes that they require assessment by an independent assessor due to a lack of access to a sufficient number of judges, the advocate should contact their regulator to discuss the issue.

JAG will recruit a pool of independent assessors which the regulators will have access to, and the independent assessors will receive the same training as the judiciary to ensure consistency.



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## Judicial Evaluations

5.72 To obtain a judicial evaluation, the advocate must ask the trial judge to complete a Criminal Advocacy Evaluation Form (CAEF).

**Guidance:**

- The CAEF can be found at Annex D of the Handbook.
- You should notify the Judge before the start of the trial that it will be used for judicial evaluation, provide a copy of the CAEF to the judge, and ask the Judge to complete the CAEF and return the completed form to you.
- You must keep your CAEFs so you can provide copies to your regulator in accordance with their regulatory arrangements.

5.73 The requirements for obtaining judicial evaluation refer to “effective trials”. For a trial to be effective for the purposes of judicial evaluation it must allow for assessment against standards 1-5.

5.74 Where the advocate requires two or three judicial evaluations, these must come from no fewer than two different judges. For example, if an advocate is applying for re-reaccreditation, they are required to obtain a minimum of three positive judicial evaluations, which must be obtained from at least two different judges.

5.75 Advocates cannot be evaluated by their husband, wife, civil partner, or any current or former partner. If an advocate has a connection with a judge who evaluates them, this must be disclosed to the regulator when the advocate submits their evaluations. A connection includes:

- a. Someone who has been in the same chambers or firm at the same time as you,
- b. A business/work partner, employee or associate of your firm or any organisation that employs you,
- c. Your former pupil master, pupil supervisor or training principal,
- d. Any member of your family, including similar connections through a divorced spouse, or former civil or other partner.

## Criminal Advocacy Evaluation Form

5.76 All evaluations will involve the completion of a Criminal Advocacy Evaluation Form (CAEF). Annexed to the CAEF are the Competency Standards and performance indicators which show in more detail the expectations of advocates for each standard at each level.

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You can see the CAEF at **Annex D**. The CAEF is best viewed in colour.

**Guidance:** Where an advocate is applying for full accreditation, re-accreditation, or to progress to a higher level, they should complete the top part of the form with their name, regulator ID (where appropriate), court, nature of case, name of case, date of appearance, your current level and the case level.

The “nature of case” should be a brief description of the offence and the Level of the case, for example “Domestic Burglary”.

“Date of appearance” should include the full range of dates for the trial, but does not need to list each individual date separately, for example “17/10/11 – 28/10/11” is sufficient, even if the court did not sit every day in the date range.

“Current level” is your current level of accreditation under the Scheme, whether you have provisional or full accreditation. For example, if you are in the process of progressing from Level 2 to Level 3, and have been granted provisional accreditation at Level 3, your current level is “3”.

- 5.77 For judicial evaluation, the advocate should tell the judge at the start of the trial that it will be used for judicial evaluation as part of QASA. The advocate should then hand up the CAEF (with the information at the top completed) at the beginning of the trial and ask the judge to complete the form and hand it back to the advocate at the end of the trial.
- 5.78 On the first page, the judge will tick whether the advocate was competent, not competent or it was not possible to evaluate against each standard. The second page gives the opportunity for the judge to provide additional comments. The regulators will consider each evaluation and determine whether it provides an overall evaluation of “Competent”.
- 5.79 At Levels 1, 2, and 3, “Competent” means the advocate was:
- a. Marked Competent in standards 1 (“Has demonstrated the appropriate level of knowledge, experience and skill required for the level”) and 5 (“Was professional at all times and sensitive to equality and diversity principles”)

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- b. Marked Competent in at least two of the core standards: 2 (“Was properly prepared”), 3 (“Presented clear and succinct written and oral submission”), and 4 (“Conducted focused questioning”), and
- c. Only assessed as Not Competent in a maximum of two standards.

5.80 At Level 4, “Competent” means that the advocate was:

- a. Marked Competent in standards 1 (“Has demonstrated the appropriate level of knowledge, experience and skill required for the level”) and 5 (“Was professional at all times and sensitive to equality and diversity principles”
- b. Marked Competent in all three of the core standards: 2 (“Was properly prepared”), 3 (“Presented clear and succinct written and oral submission”), and 4 (“Conducted focused questioning”), and
- c. Only assessed as Not Competent in a maximum of one standard.

5.81 Advocates applying to progress to a higher level must receive an overall evaluation of “Very Competent” at their current level. “Very Competent” means the advocate was:

- a. Marked Competent in standards 1 (“Has demonstrated the appropriate level of knowledge, experience and skill required for the level”) and 5 (“Was professional at all times and sensitive to equality and diversity principles”
- b. Marked Competent in all three of the core standards: 2 (“Was properly prepared”), 3 (“Presented clear and succinct written and oral submission”), and 4 (“Conducted focused questioning”), and
- c. Not assessed as Not Competent in any standard.

### Extensions of time

5.82 Each regulator will consider applications to grant extensions of time to advocates for deadlines throughout the Scheme. Advocates will need to apply to their individual regulator for an extension of time.

5.83 Advocates who require an extension should make an application to their regulator before the relevant deadline. Provided the advocate has submitted the application to the regulator before the accreditation deadline, the advocate’s accreditation will be extended until the date on which the regulator makes a decision on the application.

5.84 Advocates who require an extension of time of three months or less should make an application to their regulator, and provide reasons for the request.

5.85 JAG has developed the following list of factors which may be relevant to an application for an extension:

- a. A career break due to maternity or paternity leave;

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- b. Serious illness which prevents the advocate from practising;
- c. Acting as the temporary sole provider of care for a family member;
- d. Lack of availability of trials at the relevant level (for example, due to cracked trials or if an advocate has appeared in a single long trial);
- e. Being unable to attend an assessment centre due to an administrative error on the part of the centre or because the centre is fully subscribed;
- f. Delay or errors made by the regulator when processing applications;
- g. Delay by a Judge in completing a judicial evaluation.

5.86 JAG has also developed the following list of factors which will not be relevant to an application for an extension:

- a. Pressure of work and/or undertaking administrative or management responsibilities in chambers, the firm, or for an employer;
- b. Expense;
- c. Inconvenience;
- d. Forthcoming holiday.

5.87 If an advocate requires an extension of longer than 3 months they should make an application to their regulator which is supported by evidence. Appropriate evidence includes a note from a doctor or a letter from a Head of Chambers or Partner.

5.88 It will rarely be appropriate for a regulator to grant an extension for longer than 12 months. If an advocate requires longer than 12 months, they should contact their regulator to discuss whether it is appropriate to drop out of the Scheme for a temporary period of time and then re-enter the Scheme.

5.89 Advocates who are granted an extension of time, but do not comply with the new deadline, will be treated as though their accreditation has lapsed and they will not be permitted to undertake criminal advocacy.

5.90 Details of any fee requirements for applications can be found in each regulator's fee schedule on their websites or on the QASA website.

5.91 The regulators will keep records of extensions requested and granted and will provide periodic reports to JAG on extensions requested and granted.

For information about the BSB's extension policy, see paragraphs 7.52 - 7.55.

For information about the SRA's extension policy, see paragraphs 8.104 - 8.108.

For information about IPS' extension policy, see paragraphs 9.14 - 9.17.

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**Career breaks**

5.92 If an advocate takes a career break that is likely to extend beyond the end date for their accreditation, they should contact their regulator to discuss the implications for their accreditation.

5.93 If the advocate returns to work more than twelve months from the end of their accreditation period, the advocate will be expected to re-accredit by the deadline. If the advocate returns to work within less than twelve months of the end of their accreditation period, it may be appropriate to apply for an extension of time. If the advocate does not know when they will be returning to work, or anticipates that their career break will span the deadline for re-accreditation, it may be appropriate for the advocate to drop out of the Scheme temporarily, and then re-enter with provisional accreditation when they return to work. Advocates should contact their regulator to discuss the most appropriate option.

**Summary of requirements per level****Level 1**

<b>Registration at the start of the Scheme</b>	<p>Have completed education and training requirements for entry into profession and hold a current practising certificate. Register for Level 1.</p> <p><b>For IPS:</b> For Chartered Legal Executive Advocates who have previously completed their first renewal and who hold a criminal proceedings certificate they should register for full accreditation for 5 years at Level 1. For Chartered Legal Executive Advocates who have yet to complete their first renewal, they should register for provisional accreditation. Full accreditation for 5 years will be granted on successful completion of the first renewal process. Associate Prosecutors should have completed their education and training requirements, hold a current practising certificate and register at Level 1 for 5 years full accreditation</p>
<b>Entry on qualification</b>	<p><b>For barristers:</b> Complete education and training requirements for entry into profession. Register for Level 1.</p> <p><b>For solicitors:</b> Complete education and training requirements for entry into the profession, be admitted and applying for their first practising certificate.</p> <p><b>For IPS:</b> On receipt of their first advocacy certificate in criminal proceedings, Chartered Legal Executive Advocates will receive provisional accreditation, this will be valid until June or December following the elapse of 12 months post qualification. Once they have successfully completed their first renewal, full accreditation at Level 1 will be granted, valid for a period of 5 years. Associate Prosecutors, on completion of their education and training</p>

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	requirements and in receipt of their first practising certificate will receive full accreditation for 5 years.
<b>Re-accreditation</b>	Completion of assessed advocacy CPD as specified by JAG to re-accredit for five years (or by any other method as approved by JAG from time to time).
<b>Progression (to Level 2)</b>	<p><b>For barristers:</b> Notify BSB of intention to progress - BSB grants provisional accreditation valid for 12 months. Obtain full accreditation (valid for five years) by obtaining a minimum of three and a maximum of five CAEFs in first five Level 2 effective trials.</p> <p><b>For solicitors without higher rights:</b> Complete Level 2 assessment centre (which will also satisfy the requirements of the SRA Higher Rights of Audience Regulations) – SRA grants full accreditation for five years. Solicitors who want to conduct trials must re-register with the SRA and must then obtain a minimum of two and a maximum of three CAEFs out of first five Level 2 effective trials to obtain full accreditation valid for five years.</p> <p><b>For solicitors with higher rights:</b> Notify SRA of intention to progress and obtain provisional accreditation for 12 months. If the advocate wishes to undertake trial work then obtain a minimum of three and a maximum of five CAEFs in the first five Level 2 effective trials. Advocate is granted full accreditation valid for five years. If the advocate does not wish to undertake trials then attend at an assessment organisation. On satisfactory completion the advocate is granted full accreditation valid for five years.</p>

## Level 2

<b>Registration at the start of the Scheme</b>	<p><b>For advocates undertaking trials:</b> Register for Level 2 to obtain provisional accreditation, valid for 12 months. Obtain a minimum of two and a maximum of three CAEFs out of first five Level 2 effective trials to obtain full accreditation, valid for five years.</p> <p><b>For advocates not undertaking trials:</b> Register for Level 2 to obtain provisional accreditation, valid for 12 months. Attend an assessment organisation and pass assessments at Levels 2 and 3 to obtain full accreditation, valid for five years (nb if choose to do trials, must get judicial evaluations).</p>
<b>Entry on qualification</b>	<p><b>For barristers:</b> Complete education and training requirements for entry into profession. Register for Level 1.</p>
<b>Re-accreditation</b>	<p><b>Option 1 (judicial evaluation):</b> Advocates undertaking trials must obtain a minimum of three and a maximum of five CAEFs in consecutive effective Level 2 trials to re-accredit for five years.</p> <p><b>Option 2 (assessment organisation):</b> Advocates not undertaking trials must attend an assessment organisation and pass assessments to re-accredit for five years.</p>
<b>Progression (to Level 3)</b>	Obtain a minimum of three and a maximum of five CAEFs at Level 2 in consecutive effective trials to obtain provisional accreditation at Level 3, valid

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	<p>for 12 months.</p> <p>Obtain a minimum of two and a maximum of three CAEFs out of first five Level 3 effective trials to obtain full accreditation at Level 3, valid for five years.</p>
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**Level 3**

<b>Registration at the start of the Scheme</b>	<p>Register for Level 3 to obtain provisional accreditation, valid for 12 months.</p> <p>Obtain a minimum of two and a maximum of three CAEFs out of first five effective Level 3 trials to obtain full accreditation, valid for five years.</p>
<b>Re-accreditation</b>	<p>Obtain a minimum of three and a maximum of five CAEFs in consecutive effective Level 3 trials to re-accredit for five years.</p>
<b>Progression (to Level 4)</b>	<p>Obtain a minimum of three and a maximum of five CAEFs at Level 3 in consecutive effective trials to obtain provisional accreditation, valid for 12 months.</p> <p>Obtain a minimum of two and a maximum of three CAEFs in first five effective Level 4 trials to obtain full accreditation for five years.</p>

**Level 4**

<b>Registration at the start of the Scheme</b>	<p>Register for Level 4 to obtain provisional accreditation, valid for 12 months.</p> <p>Obtain a minimum of two and a maximum of three CAEFs out of first five effective Level 4 trials to obtain full accreditation, valid for five years.</p>
<b>Re-accreditation</b>	<p>Obtain a minimum of three and a maximum of five CAEFs in consecutive effective Level 4 trials to re-accredit for five years.</p>

## **6. LEVELS - FRAMEWORK AND GUIDANCE**

[Please refer to the consultation paper for full details of the levels proposal and guidance.]



## 7. BARRISTERS – THE PROCESS, ADVICE AND GUIDANCE

### In this section:

- Level 1
- Registration at Levels 2, 3, and 4
- Re-accreditation at Levels 2, 3, and 4
- Progression to a higher level
- Guidance on career breaks
- Electronic submission of applications, documents, and payment
- Keeping the BSB informed of any changes

### Level 1

#### Registration at Level 1

- 7.1 There are broadly three categories of barrister who might need to register at Level 1:
- Pupils in their practising six months of pupillage
  - Practitioners in early years of practice who do not feel ready to progress to Level 2, and
  - Practitioners who, for any other reason, only intend to undertake criminal cases in Level 1.
- 7.2 Specific guidance for pupils who are currently in their first non-practising six months of pupillage and need to register for Level 1 *prior* to commencing their second practising six months of pupillage can be found at paragraphs 7.12 - 7.13.
- 7.3 In order to register for Level 1, you must log onto the BSB's online system, "Barrister Connect". All barristers have been provided with details of how to log into Connect. From the main screen, select the tab for "QASA".
- 7.4 You will be prompted to select your current practising level – select Level 1. You may be asked to complete an Equality and Diversity questionnaire. This is not mandatory, but it helps the BSB to collect data and consider trends in the profession.
- 7.5 Unless you are currently a pupil, you will be asked to enter credit/debit card details to make payment for accreditation at Level 1. You will not be able to register unless you pay the fee.

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- 7.6 After you have selected Level 1 and paid the fee, Connect will verify that you hold a current practising certificate. After you have been verified as able to register at Level 1, your records held by the BSB will be updated automatically and you will be sent an email confirming that you have been registered with full accreditation as a Level 1 criminal advocate. We would encourage you to retain this email for your own records. You will be entitled to practise at Level 1 for five years from the date of your accreditation.
- 7.7 If you become ready to progress to Level 2, see paragraph 7.36 for information about that process.
- 7.8 If you no longer act as an advocate in criminal cases and therefore no longer require accreditation, please notify the BSB of the change.
- 7.9 If you wish to stay at Level 1, you must re-accredit at this level every five years. We will send you reminders by email about the need to re-accredit and what you need to do before your accreditation lapses.

**Re-accreditation at Level 1**

- 7.10 To provide us with the details to re-accredit, you must log into Connect and enter details of the CPD completed. You will also need to pay a fee. The fees for re-accreditation will be set by the BSB in about 2015.
- 7.11 After you have paid the fee and provided satisfactory information regarding the advocacy CPD that you have completed, you will be sent an email to confirm your re-accreditation at Level 1 for the following five years.

**Guidance for pupils preparing to start their second six**

- 7.12 If you are a pupil in your first six and preparing to start your practising second six, you can register for QASA Level 1 up to two weeks before the end of your first six. You will not be permitted to undertake criminal advocacy in your second six until you have registered for Level 1.
- 7.13 To move into your practising second six months of pupillage, you will have to provide the BSB with confirmation that your first six has been signed off as satisfactory and a start date for your second six. After you have done this, you will be able to register for Level 1 to be effective from the first day of your second six.

**Registration at Levels 2, 3, and 4****Accreditation – stage 1 (provisional accreditation)**

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7.14 To register under the Scheme, you will need to log into Connect and select 'QASA'. Select the level which you have decided to register at. You will also need to pay a registration fee by credit or debit card.

**Registration spot checks**

7.15 If you are selected for a spot check, you will be contacted by email and asked to answer some questions. You will be asked to respond within 28 days of the date of the email. If you need more time to respond, please contact the BSB to discuss a reasonable amount of time to provide a substantive response.

7.16 After you provide responses to the questions posed, the Assessment Manager will review the information. If the information provided is satisfactory, an email will be sent to you confirming that the spot check has been successful and that you can proceed to apply for full accreditation.

7.17 If the Assessment Manager has any questions about the information you provided, they might be in touch to discuss the matter further.

7.18 If you do not respond at all within 28 days, you may be in breach of the Code and liable to further action.

**Accreditation - Stage 2 (full accreditation)**

7.19 After you have obtained the required number of CAEFs, you will need to log into Connect and apply for full accreditation. You will need to scan in your completed CAEFs, attach them to your online application and complete a short form.

7.20 There is no fee for the second stage of the accreditation process.

7.21 The Assessment Manager will review your application and respond by email within 28 days. If your judicial evaluations satisfy the requirements for your level, you will be granted full accreditation at that level. Full accreditation is valid for five years from the date of issue.

**Accreditation at Level 2 of barristers who don't undertake trials**

7.22 After you have attended an assessment organisation you will need to log into Connect and apply for full accreditation. You will need to scan in the assessment form provided by the assessment organisation, attach it to your online application and complete a short form.

7.23 There is no fee for the second stage of the accreditation process.

7.24 The Assessment Manager will review your application and respond by email within 28 days. If your judicial evaluations satisfy the requirements for your

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level, you will be granted full accreditation at that level. Full accreditation is valid for five years from the date of issue.

### QCs

- 7.25 As explained in paragraphs 4.10 - 4.12, a modified method of entry has been developed for newly appointed QCs.
- 7.26 QCs appointed from 2010, and who indicated on their QCA application form crime as their broad area of practice, will receive full accreditation (as opposed to provisional accreditation) when they register for the Scheme, with their 5 year accreditation running from the date when they were appointed QC. Therefore, after entry, re-accreditation will be due as follows:

Date became QC	Re-accreditation due date
2010	2015
2011	2016
2012	2017
2013	2018

- 7.27 Whilst those who became QCs in 2006 and 2008 did so under the new QCA process, calculating their five year accreditation brings them to 2011 (which has already passed) and 2013 (which falls during the implementation period) respectively. Additionally, this arrangement will not be applied to those who were appointed QCs in 2009 because this would mean that those who were entering the Scheme in the later phases of implementation would have less than 12 months to obtain a higher number of judicial evaluations (3 instead of 2) to obtain a five year accreditation.
- 7.28 When you register for the Scheme, Connect will identify whether the modified approach applies to you. If you have any questions or concerns about this process, please contact the Assessment Manager.

### Re-accreditation at Levels 2, 3, and 4

- 7.29 We will contact you by email 12 months prior to the deadline for re-accreditation to advise you that the re-accreditation window is open. If you need to re-accredit before the 12 month window opens due to your personal circumstances (for example, if you have a planned career break which falls when your re-accreditation is due), please contact the BSB to discuss your circumstances and we will try to reach an agreement with you about a revised timescale.

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- 7.30 We will send you reminders by email as the deadline for re-accreditation deadline approaches. If you do not re-accredit by the deadline, or apply for an extension, your accreditation will lapse and you will no longer be permitted to undertake criminal advocacy in England and Wales. You will be notified by email if your accreditation lapses.
- 7.31 If you wish to re-enter the Scheme after your accreditation lapses, please contact the BSB to discuss your options.
- 7.32 After you have obtained the requisite number of judicial evaluations, you will need to log into Connect and select “re-accreditation”. You will need to pay a fee, which will be determined after the Scheme has been running for long enough to review on the ongoing costs, and it is likely that re-accreditation fees will be set in 2015. You will be informed in advance of the fee that you will need to pay.
- 7.33 If you were accredited at Level 2 via an assessment organisation because you do not undertake trials, re-accreditation will also be via an assessment organisation.
- 7.34 You will need to complete a short form and attach scanned copies of the CAEFs or the assessment organisation’s evaluation form.. After you have submitted the necessary information and documents and paid the fee, you will be sent an automatic acknowledgement to explain the next steps.
- 7.35 Your application will be reviewed by the Assessment Manager. If your application clearly show that you are competent to continue practising at your current level, you will be re-accredited at that level, which will be valid for a further five years.

**Progression to a higher level****Level 1 to Level 2**

- 7.36 Some barristers may be ready to progress from Level 1 to Level 2 very quickly. In order to progress, you will need to log into Connect and select the QASA section. Select “progress”, and Level 2, and enter your card details to pay the progression fee. You will then receive an automatic email confirming your provisional accreditation at Level 2.
- 7.37 Within the next 12 months you will need to obtain your full accreditation, by obtaining the requisite number of CAEFs and submitting them to the BSB.

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- 7.38 If you do not apply for full accreditation within 12 months or apply for an extension, you will be automatically dropped back to Level 1. Your QASA account will be frozen and you will need to contact the BSB to reactivate your account if you later wish to progress. You will not be able to receive a refund for the fee paid in these circumstances.
- 7.39 When you have obtained the requisite number of CAEFs, you need to log into Connect, complete a short form, and attach your scanned CAEFs to your application to apply for full accreditation.
- 7.40 When you have submitted your application you will receive an automatic acknowledgement email which will explain the next steps. Your application will be reviewed by the Assessment Manager. If your CAEFs show that you are competent at Level 2, you will be granted full accreditation at Level 2, which will be valid for five years.
- 7.41 If you wish to progress from Level 1 to 2 but do not undertake trials you should inform the BSB. In order to progress you must attend at an approved assessment organisation and be assessed as competent against all of the Level 2 competencies. You should then submit a copy of the assessment to the BSB for their consideration. If successful, you will be granted full accreditation at Level 2.
- 7.42 You will need to be re-accredited via an assessment organisation within five years of full accreditation.
- 7.43 Should you subsequently wish to undertake trials you must re-register with the BSB. You will be awarded provisional accreditation at Level 2 and must be assessed as competent by judicial evaluation in the manner set out in 5.43 above.

**Level 2 to Level 3 and Level 3 to Level 4**

- 7.44 About six months to one year before you actually start the process of progression, you need to log into Connect to notify the BSB of your intention to apply for progression. You will receive an automatic email notification that explains the next steps to you.
- 7.45 After you have obtained the requisite number of CAEFs, you must log into Connect again, complete a short application form and attach scanned copies of all the CAEFs you obtained, even those which may not be positive. You need to pay a fee to apply to progress.
- 7.46 After you have submitted your application, you will receive an automatic email explaining the next steps.

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- 7.47 Your application will be reviewed by the Assessment Manager. If your CAEFs show that you are very competent at your current level, you will be granted provisional accreditation at the higher level which will be valid for 12 months.
- 7.48 Once you have been granted provisional accreditation at the higher level, you need to confirm that you are competent at the higher level by obtaining the requisite number of CAEFs.
- 7.49 If, after 12 months, you have not applied for full accreditation or applied for an extension, your provisional accreditation will lapse and you will drop down to your previous level. Your QASA account will be frozen and you will need to contact the BSB to reactivate your account. You will not be able to receive a refund in these circumstances.
- 7.50 After you have been assessed in the requisite number of trials at the new level, you need to log back into Connect and apply to for full accreditation at the higher level by completing a short form and attaching scanned copies of your CAEFs. After you have submitted your application, you will receive an automated email confirming the next steps.
- 7.51 If your CAEFs demonstrate competence, you will be granted full accreditation at the higher level that is valid for five years.

**Extensions of time**

- 7.52 If you have an approaching deadline that you are unable to comply with, you can apply to the BSB for an extension of time. Requests for extensions for less than three months are likely to be granted provided there is a good reason. See paragraphs 5.82 - 5.91 for an overview of the extensions process and the factors which are likely to be treated as relevant or irrelevant for the purpose of your application for an extension.
- 7.53 Applications for longer than three months must be supported by evidence. The type of evidence required will differ depending on the reason for the extension. For example, if the request is due to a period off work due to illness, a doctor's note is appropriate. Alternatively, if the request is due to not undertaking the requisite number of effective trials at your level, a note in support from your Senior Clerk or Head of Chambers is appropriate.
- 7.54 Applications for extensions of longer than 12 months will not generally be considered. If you require more than 12 months, you should contact the BSB to discuss your options.
- 7.55 You can make an application for an extension by logging into Connect. You may need to pay a fee; however, the fee may be waived in certain circumstances, for example if your extension is due to illness, caring responsibilities, or maternity or paternity leave.

**Appeal process**

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- 7.56 An advocate may appeal against the following decisions made by the BSB:
- a. decision to **refuse accreditation** at the advocate's current level (including refusal to convert provisional accreditation to full accreditation)
  - b. a decision to **remove accreditation** at the advocate's current level (including a decision to grant accreditation at a lower level), and
  - c. a decision to **refuse progression** to the next level.
- 7.57 The BSB has delegated this review power to the QASA Accreditation Appeals Panel.
- 7.58 An appeal can only be filed on one of the following two grounds:
- a. that the decision reached regarding the advocate's accreditation was one which no reasonable person would find comprehensible and/or
  - b. 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
- 7.59 An appeal cannot be filed against the outcome of a single evaluation or a decision to refer an advocate for training/CPD as these are not decisions to refuse accreditation.
- 7.60 An advocate wishing to appeal against a decision must serve a notice of appeal on the BSB within 21 days of the date of the written accreditation decision. The notice should state which ground(s) are being relied on for the appeal. It should also be accompanied by any supporting documentation which the advocate wishes to rely upon.
- 7.61 The notice of appeal must also be accompanied by a cheque payable to the "Bar Standards Board" for the appeal fee of £200. The BSB will return the fee if the appeal is allowed.
- 7.62 A notice of appeal will be acknowledged within 7 days of receipt.
- 7.63 The Assessment Manager will compile a case file which consists of the notice of appeal, relevant correspondence and file notes relating to contact with the advocate, and any other information that was before the BSB when it made the contested accreditation decision. The case file will be provided to the QASA Accreditation Appeals Panel.
- 7.64 The QASA Accreditation Appeals Panel will aim to deal with appeals within 10 weeks of receipt and to notify the advocate within 10 days of making a decision.
- 7.65 The QASA Accreditation Appeals Panel will consist of three members drawn from a pool held by JAG, and will include: a Judge (sitting or retired), a practitioner or someone with experience of assessing advocacy, and a lay person with experience of applying assessments.



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- 7.66 Each member of the panel will be required to declare any potential conflicts of interest. No person shall sit as a panellist if:
- a. They were involved in assessing the advocate on a previous occasion or were otherwise involved in the original accreditation decision
  - b. They are a member of the Bar Council or any of its committees, or
  - c. They are a member of the BSB or any of its committees.
- 7.67 The appeal will be considered in the light of all the information before the panel. The panel, when reaching a decision, must not consider issues which fall beyond its remit and must restrict its considerations to those matters which are of direct relevance to the appeal, paying due reference to the competency standards and the overall assessment requirements that are applicable.
- 7.68 Should the panel require any additional information, this will be gathered in advance of the panel meeting. The additional information may include additional information or clarification from the advocate or from the Assessment Manager.
- 7.69 The panel may reach one of the following decisions:
- a. Dismiss the appeal
  - b. Allow the appeal in whole or part
  - c. Substitute for the decision appealed against any other decision that it is open to the BSB to make under its rules, or
  - d. Remit the decision to the BSB for reconsiderations on such terms as the panel considers to be appropriate in the circumstances.
- 7.70 The outcome of the panel meeting will include the decision reached and provide reasons. The outcome will be confirmed in writing to the advocate and the Assessment Manager.
- 7.71 There is no appeal against the decision of the QASA Accreditation Appeals Panel. Any further action may be taken through proceedings in the High Court.

**Fees policy**

- 7.72 The fees are set at a level to cover the costs of operating the Scheme. Staffing, and therefore costs, have been kept as low as possible by running the system electronically, including by requiring you to make applications and submit documentation online and by sending correspondence to you by email.
- 7.73 A comprehensive fees policy is published on the BSB's and QASA websites.

**Subsidies towards independent assessors**

- 7.74 If you are unable to obtain the necessary number of judicial evaluations, you may request that the BSB assess you using an independent assessor. The BSB will arrange for an independent assessor to attend court and assess you

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in limited circumstances. The limited circumstances include if you are not able to obtain the requisite number of judicial evaluations due to a career break for maternity leave or caring responsibilities, or because you work in a small court centre and, due to a disability, you are unable to travel to another court centre to obtain a judicial assessment by a different judge.

**Guidance on career breaks**

- 7.75 If, due to a career break (for example, maternity leave or a break due to a caring responsibility), your accreditation is due to expire whilst you are away from work, you have two options.
- 7.76 You can apply for re-accreditation early so that you hold accreditation when you plan to return to work. This is the most convenient option, as it allows you to return to work immediately after your break.
- 7.77 Alternatively, if you take unplanned leave and miss the re-accreditation deadline, or if you leave practice for more than five years, you can apply to re-enter the Scheme under the same process as registration.
- 7.78 If your career break is due to maternity leave, caring responsibilities, sickness, or a disability, you will need to pay the same fee as for registration. If your career break is not due to one of these reasons, you will need to pay a re-entry fee, which will be set at the same level as the re-accreditation fee (and is slightly higher than the fee for registration). Please refer to the fees policy for further information.
- 7.79 If you take a career break, please contact the BSB as soon as you are able to discuss your options and update your records.

**Electronic submission of applications, documents, and payment**

- 7.80 The BSB has designed its processes to implement the Scheme to be as cost effective as possible by keeping staffing costs to a minimum. This has been done by designing applications, supporting documentation and payment to be submitted online through Connect. This allows the BSB's database to be updated immediately, rather than requiring a member of staff to input data manually.
- 7.81 Most advocates will have access to the internet and a scanning device, whether through Chambers, Inns, public libraries, or through applications on smart phones. Provided that the image of the CAEF is clear, legible, and includes the entire form, a photograph of the form may be acceptable.
- 7.82 You are strongly discouraged from sending your original CAEFs, or copies, to the BSB in hard copy by post or DX. You should keep your original documents for at least 12 months. If the BSB finds that a significant number of barristers are only submitting supporting documentation in hard copy rather

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than by attaching scans to their application, the costs of the Scheme may need to be revised.

- 7.83 If you are unable to submit an application, supporting documents or payment electronically due to a disability, please contact the BSB to discuss what reasonable adjustments can be made.

**Keeping the BSB informed of any changes**

- 7.84 The BSB will communicate with you about the progress of your application and to send you reminders about forthcoming deadlines by email. It is therefore very important that you keep the BSB updated with any changes to your email address.
- 7.85 It is also very important that you keep the BSB informed of any changes to your status, for example if you cease to do criminal advocacy, or if you are taking a career break. We will work with you to identify the most appropriate course of action in relation to any forthcoming deadlines or pending applications if there is a change in your circumstances.

## 8. SOLICITORS – THE PROCESS, ADVICE AND GUIDANCE

### In this section:

- Registration (for current practitioners) & accreditation at Levels 1, 2, 3 and 4
- Entry at Levels 1, 2, 3 and 4 (for new entrants/practitioners from 1/9/2014)
- Re-accreditation at Levels 1, 2, 3 and 4
- Progression to a higher level
- Guidance on career breaks and returning to QASA
- Submission of applications, documents and payment
- Guidance on career breaks
- Keeping the SRA informed of any changes

### Registration (for current practitioners) & accreditation

- 8.1 Registration with the SRA for QASA accreditation will be a process that will apply to current practitioners who are already undertaking criminal advocacy at the time of the scheme's launch or anticipate that they may wish to do so in the near future, and all those who are newly admitted to the roll before 1st September 2014.
- 8.2 A separate process will apply to "new entrants" to the profession (from 1 September 2014) and this is set out elsewhere within this section of the handbook.

### QASA Level 1 Registration

- 8.3 All solicitors with a current practising certificate and who do not currently hold Higher Rights of Audience (HRA) (Crime or Crime/Civil) will need to register for Level 1 QASA accreditation.
- 8.4 You will not be permitted to complete the registration form unless you hold a current practising certificate.
- 8.5 In order to register for Level 1, you must complete the registration process as defined by the SRA and pay the required registration fee. You will not be able to register unless you pay the fee.

### QASA Level 1 accreditation

- 8.6 On completion of the registration form and on successful completion of the verification checks by the SRA, you will be issued with electronic confirmation of your QASA Level 1 full accreditation.

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- 8.7 On issue of your QASA Level 1 full accreditation, you will be entitled to practise at Level 1 for five years from the date of your accreditation.
- 8.8 If you wish to retain Level 1 QASA full accreditation, you must re-accredit every five years. See the section “Re-accreditation at Levels 1, 2, 3 & 4” for further information.
- 8.7 If you decide you are ready to progress to QASA Level 2, see the section “Progression to a higher level” for information about the process.

**QASA Level 2 Registration**

- 8.8 All Solicitors who currently hold HRA Crime or Crime/Civil and who want to seek accreditation as a Level 2 advocate will need to complete the registration process to continue to practice criminal advocacy.
- 8.9 You will not be permitted to complete the registration form unless you hold a current practising certificate.
- 8.10 In order to register for Level 2, you must complete the registration process as defined by the SRA and pay the required registration fee. You will not be able to register unless you pay the fee.

**Arrangements for those who have obtained HRA since 2010**

- 8.11 In recognition of your having recently completed a formal assessment of your advocacy skills at the equivalent to Level 2, if you have obtained your HRA (Crime or Crime/Civil) by formal assessment since April 2010 you will be given an extended period of time in which to seek re-accreditation.
- 8.12 You will still be required to register within the scheme in accordance with the circuit by circuit timetable set out previously but will be given an initial accreditation as follows:

Date HRA obtained by assessment	Date advocate must register within QASA	L2 Full Accreditation (Trial Capable) granted until:
2010	2013	2015
2011	2013	2016
2012	2013	2016

- 8.13 This will give you a maximum extension of three years before you have to attend at an assessment organisation again to be assessed against the Level 2 standards. Beyond this, you will be on the standard five-year reaccreditation cycle.

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**QASA Level 2 provisional accreditation**

- 8.14 On completion of the registration form and on successful completion of the verification checks by the SRA, you will be issued with electronic confirmation of your QASA Level 2 provisional accreditation.
- 8.15 QASA Level 2 provisional accreditation gives you 12 months to demonstrate competence at the defined Level either through an Assessment Organisation or through the submission of the requisite number of CAEFs obtained by judicial evaluation (JE) to the SRA showing competence across the standards.
- 8.16 Once you have obtained QASA Level 2 provisional accreditation you then need to make a choice between two routes to obtain Level 2 full accreditation:
- Level 2 full accreditation (route A)
  - Level 2 full accreditation (route B)

**QASA Level 2 full accreditation (route A)**

- 8.17 If you are intending to focus your practice on non-trial hearings at Level 2 then you should follow the prompts for full accreditation (route A). This will allow you to conduct non-trial hearings at Levels 2 and 3, plus the full range of work at Level 1 (full details available at *insert Levels Table Link here*).
- 8.18 To obtain Level 2 full accreditation via route A , you will need to successfully complete the relevant assessment(s) at one of the assessment organisations identified and approved by the SRA.
- 8.19 Upon receipt of your certificate from the assessment organisation, you will be required to upload an image (evidence) of this, and complete your application for Level 2 full accreditation..
- 8.20 On receipt of the application form and on successful completion of the verification checks by the SRA, you will be issued with electronic confirmation of your Level 2 full accreditation..
- 8.21 On issue of your Level 2 full accreditation via the route A process, you will be entitled to undertake all non-trial work at Levels 2 and 3 and all work at Level 1 for five years from the date of your accreditation.
- 8.22 If you wish to retain QASA Level 2 full accreditation, you must re-accredit every five years, and if you have not been judicially evaluated, you must re-accredit using an assessment organisation. See the section “Re-accreditation at Levels 1, 2, 3 & 4” for further information.
- 8.23 If you decide you are ready to undertake trials, you must seek judicial evaluation at Level 2 to move to Level 2 full accreditation via the route B process.

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- 8.24 Level 2 full accreditation via route B will allow you to conduct all Level 2 criminal advocacy including trials, Level 3 non-trial work such as PCMHs and bail hearings in the higher courts, plus the full range of work at Level 1 (full details available at x).
- 8.25 To obtain Level 2 full accreditation via route B, you will need to be judicially evaluated and submit the requisite number of CAEFs to the SRA.
- 8.26 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.27 Once you have submitted the requisite number of CAEFs, you will receive electronic confirmation of this and you will have the opportunity to apply for full accreditation.
- 8.28 You will complete the Application Form and submit this to the SRA in the method described.
- 8.29 On receipt of the application form and on successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your Level 2 full accreditation .
- 8.30 If you wish to retain QASA Level 2 full accreditation via route B, you must re-accredit every five years by obtaining judicial evaluation and submitting your CAEFs. See the section “Re-accreditation at Levels 1, 2, 3 & 4” for further information.
- 8.31 If you decide you are ready to progress to QASA Level 3, see the section “Progression to a higher level” for information about the process.

**QASA Level 3 & Level 4 Registration**

- 8.32 All solicitors who currently hold HRA Crime or Crime/Civil and consider themselves to be capable of accreditation as a Level 3 or Level 4 advocate will need to complete the registration process to continue to practice criminal advocacy in the higher courts.
- 8.33 You will not be permitted to complete the registration form unless you hold a current practising certificate.
- 8.34 In order to register for Level 3 or Level 4, you must complete the registration process as defined by the SRA and pay the required registration fee. You will not be able to register unless you pay the fee.

**CONSULTATION DRAFT - JULY 2012****QASA Level 3 & 4 Provisional Accreditation**

- 8.34 On completion of the registration form and on successful completion of the verification checks by the SRA, you will be issued with electronic confirmation of your QASA Level 3 or Level 4 provisional accreditation.
- 8.35 QASA Level 3 or Level 4 provisional accreditation gives you 12 months to demonstrate competence at your Level by obtaining judicial evaluation and submitting the requisite number of CAEFs to the SRA showing competence across the standards.

**QASA Level 3 & 4 full accreditation**

- 8.36 Level 3 full accreditation will allow you to conduct all criminal advocacy at Level 3, Level 4 non-trial work such as PCMHs and bail hearings in the higher courts, plus all criminal advocacy at Levels 1 and 2.
- 8.37 Level 4 full accreditation will allow you to conduct all criminal advocacy work at Level 4 and at Levels 1, 2 and 3.
- 8.38 To obtain Level 3 or Level 4 full accreditation, you will need to be judicially evaluated and to submit the requisite number of CAEFs to the SRA.
- 8.39 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.40 Once you have submitted the requisite number of CAEFs, you will receive electronic confirmation of this and you will have the opportunity to apply for full accreditation.
- 8.41 You will complete the Application Form and submit this to the SRA.
- 8.42 On receipt of the application form and on successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your QASA Level 3 or Level 4 full accreditation.
- 8.43 On issue of your Level 3 or Level 4 full accreditation, you will be entitled to practise at that level for five years from the date of your accreditation.
- 8.44 If you wish to retain Level 3 or Level 4 full accreditation, you must re-accredit every five years by obtaining judicial evaluation and submitting the requisite number of CAEFs. See the section "Re-accreditation at Levels 1, 2, 3 & 4" for further information.
- 8.45 If you decide you are ready to progress from QASA Level 3 to Level 4, see the section "Progression to a higher level" for information about the process.



**CONSULTATION DRAFT - JULY 2012****Entry at Levels 1, 2, 3 and 4 (for new entrants/practitioners)**

- 8.46 This process is different to the registration process as it is aimed at those who qualify/are admitted to the roll for the first time from 1st September 2014 onwards.
- 8.47 The rules for provisional and full accreditation for each Level are as described in the previous sections.

**QASA Level 1 Entry**

- 8.48 On completion of the AD1 (or AD15) form, subsequent admission to the roll and awarding of your practising certificate you will be given Level 1 full accreditation.
- 8.49 On issue of your Level 1 full accreditation, you will be entitled to practise at Level 1 for five years from the date of your accreditation.
- 8.50 If you wish to retain Level 1 full accreditation, you must re-accredit every five years. See the section "Re-accreditation at Levels 1, 2, 3 & 4" for further information.
- 8.51 If you no longer wish to hold Level 1 full accreditation, you may let your QASA accreditation lapse after 5 years, but you will no longer be able to conduct criminal advocacy. If at a later date you want to return to criminal advocacy work, you will need to follow the Registration process described above at [x] and will need to evidence that you have undertaken criminal advocacy CPD.
- 8.52 If you decide you are ready to progress to QASA Level 2, see the section "Progression to a higher level" for information about the process.

**QASA Level 2 Entry**

- 8.53 On successful completion of the HRA Crime or Crime/Civil assessment and subsequent application to the SRA for the awarding of your HRA, you will be awarded Level 2 full accreditation and provided with electronic confirmation of this.
- 8.54 You cannot be awarded Level 2 full accreditation without first having been admitted to the roll and holding a valid PC.
- 8.55 If you wish to retain Level 2 full accreditation via the route A process, you must re-accredit every five years using an Assessment Organisation. See the section "Re-accreditation at Levels 1, 2, 3 & 4" for further information.

**CONSULTATION DRAFT - JULY 2012****QASA Level 3 & 4 Entry**

8.56 It will not be possible for newly admitted advocates to join QASA at Level 3 and 4.

**Re-accreditation at Levels 1, 2, 3 & 4**

8.57 Re-accreditation is the process that you must undertake every five years to maintain your QASA accreditation.

8.58 We will contact you 12 months before the end of your 5 year accreditation period to advise you that you have a maximum of 12 months to re-accredit for QASA.

8.59 For all Levels, when you are ready to undertake the process you must notify the SRA of your intention to re-accredit and pay the relevant re-accreditation fee.

8.60 We will contact you 6 months, 9 months and 11 months into the re-accreditation period to remind you of the need to re-accredit (unless you have already completed the process).

8.61 If you do not re-accredit by the deadline, or apply for an extension, your QASA accreditation will lapse and you will no longer be authorised to undertake criminal advocacy in England and Wales and you will not receive a refund of your re-accreditation fee. You will be notified if your accreditation lapses.

**Re-accreditation at Level 1**

8.62 To re-accredit at Level 1, you must provide evidence of assessed CPD undertaken over the 5 years of your accreditation period, by completing the CPD form.

8.63 The SRA will review your submission and assuming it is verified, we will re-accredit you at your current level for a further 5 years from the date of verification.

**Re-accreditation at Level 2 via route A**

8.64 To re-accredit at Level 2 and obtain full accreditation via route A you must provide evidence of the successful completion of the relevant assessment(s) at an assessment organisation identified and approved by the SRA. You must complete this during your 12 month re-accreditation period.

8.65 You must scan the evidence and upload this to the SRA, where you will also be required to complete a short form to apply for re-accreditation.

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- 8.66 The SRA will review your submission and assuming it is verified, we will re-accredit you at your current level for a further 5 years from the date of verification.

**Re-accreditation at Level 2 full accreditation via route B, Level 3 and Level 4**

- 8.67 To re-accredit at Level 2 and obtain full accreditation via route B or to re-accredit at Level 3 or Level 4 you must provide evidence of competence at your existing level through the submission of the requisite number of CAEFs.
- 8.68 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.69 Once you have submitted the requisite number of CAEFs, you will receive electronic confirmation of this and you will have the opportunity to apply for re-accreditation.
- 8.70 You will complete the application form and submit this to the SRA.
- 8.71 On receipt of the application form and on successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your QASA re-accreditation.
- 8.72 We will re-accredit you at your current level for a further 5 years from the date of verification.

**Progression to a higher level**

- 8.73 Progression to a higher level within QASA is by one of two methods:
- Assessment Organisation:
  - Judicial Evaluation:
- 8.74 It is important to note, you cannot progress beyond Level 1 without first holding HRA.

**Assessment Organisation: Level 1 to Level 2 full accreditation (route A)**

- 8.75 You must first complete an Intent to Progress request and pay the required fee before you start the progression process.
- 8.76 On completion of the Intent to Progress you will be issued with provisional accreditation at Level 2, and you will receive electronic confirmation of this.
- 8.77 If you are seeking to progress from Level 1 to Level 2 and do not have existing HRA Crime or Crime/Civil you must progress by successfully

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completing the relevant assessment(s) at an assessment organisation identified and approved by the SRA.

- 8.78 You will have 12 months to complete your progression activity.
- 8.79 If you do not apply for QASA Level 2 full accreditation within 12 months, or apply for an extension you will be automatically dropped back to Level 1 and you will not receive a refund of the progression fee in these circumstances.
- 8.80 Upon receipt of your certificate from the assessment organisation, you will be required to upload an image (evidence) of this, along with completing your application for Level 2 full accreditation via route A.
- 8.81 On receipt of the application form and on successful completion of the verification checks by the SRA, you will be issued with electronic confirmation of your Level 2 full accreditation. .
- 8.82 Your accreditation will be for five years from the date of verification.

**Judicial Evaluation: Level 1 to Level 2 full accreditation (route B) and Level 2 full accreditation (route A) to Level 2 full accreditation (route B)**

- 8.83 If you already have your HRA Crime or Crime/Civil you may progress to full accreditation at Level 2 by route B i.e. by judicial evaluation. . You must first complete an Intent to Progress request and pay the required fee before you start the progression process.
- 8.84 On completion of the Intent to Progress you will be issued with provisional accreditation at Level 2 and you will receive electronic confirmation of this.
- 8.85 To obtain Level 2 full accreditation via route B you will need to obtain the requisite number of CAEFs and submit this evidence to the SRA.
- 8.86 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.87 Once you have submitted the requisite number of CAEFs you will receive electronic confirmation of this and you will have the opportunity to apply for accreditation at the new level.
- 8.88 You will complete the Application Form and submit this to the SRA.
- 8. 89 On receipt of the application form and on successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your Level 2 full accreditation .
- 8.90 Your period of accreditation will be for five years from the date of verification.

**Judicial Evaluation: Level 2 full accreditation to Level 3 and Level 3 to Level 4**

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- 8.91 The process for Level 2 full accreditation to Level 3 and Level 3 to Level 4 is a two stage process, spread over a maximum of 24 months. Advocates wishing to move from Level 2 to Level 3 or from Level 3 to Level 4 must be undertaking trials in order to obtain the necessary judicial evaluations.

**Stage 1**

- 8.92 You must first complete an Intent to Progress request and pay the required fee before you start the progression process.
- 8.93 On completion of the Intent to Progress request you will need to submit the requisite number of CAEFs **at your current level** and submit this evidence to the SRA.
- 8.94 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.95 On successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your provisional accreditation at the next Level up.
- 8.96 If you do not successfully complete Stage 1 within 12 months, or apply for an extension you will remain at your existing Level and you will not receive a refund of the progression fee in these circumstances.

**Stage 2**

- 8.97 To obtain full accreditation at your new level, you will need to obtain the requisite number of CAEFs at the new Level and submit this evidence to the SRA.
- 8.98 After each trial in which you have been evaluated, you will be required to upload the CAEF and complete a form.
- 8.99 Once you have submitted the requisite number of CAEFs, you will receive electronic confirmation of this and you will have the opportunity to apply for accreditation at the new level.
- 8.100 You will complete the Application Form and submit this to the SRA.
- 8.101 On receipt of the application form and on successful completion of the verification and competence checks by the SRA, you will be issued with electronic confirmation of your Level 3 or 4 full accreditation.
- 8.102 If you do not successfully complete Stage 2 within 12 months, or apply for an extension you will revert to full accreditation at your previous level and you will not receive a refund of the progression fee in these circumstances.

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8.103 You will be accredited at your new level for a period of five years from the date of verification.

**Extensions of time**

8.104 If you are approaching a deadline (accreditation, progression or re-accreditation), and you believe you will be unable to comply, you can apply to the SRA for an extension of time. It is imperative that any application for an extension of time is made before your deadline expires.

8.105 Requests for extensions for less than three months are likely to be granted provided there is a good reason. Please see paragraphs 5.70 - 5.79 for an overview of the extensions process and the factors which are likely to be treated as relevant or irrelevant for the purpose of your application for an extension.

8.106 Applications for longer than three months must be supported by evidence. The type of evidence required will depend on the reason for your extension request.

8.107 If you require an extension for longer than 12 months you will need to contact the SRA to discuss your options.

8.108 The SRA will not charge a fee for processing an extension of time application.

**Fees Policy**

8.109 The fees are set at a level to cover the costs of operating the scheme, an outline of fees charged are published on the SRA website.

**Guidance on career breaks or unplanned leave**

8.110 If you have a career break (for example, maternity leave or a break owing to a caring responsibility) and your accreditation is due to expire whilst you are away from work, you have two options:

8.111 You can apply for re-accreditation early, so that you hold accreditation when you return to work. This allows you to return to work immediately after your break.

8.112 If you have a career break and miss the re-accreditation deadline, or if you leave practice for more than five years, you can apply to re-enter the Scheme at any time using the registration process. The SRA will charge a fee for re-entering the Scheme in this way.

8.113 If you have a career break and miss the re-accreditation deadline without having applied for an extension, then your QASA accreditation will lapse. This

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will mean that you cannot undertake criminal advocacy work in England and Wales

**Electronic submission of applications, documents, and payment**

8.114 The SRA's processes to support the implementation of the Scheme have been designed to be cost effective, to reduce administrative burden on advocates and to ensure consistency with the SRA's overall approach to engaging with solicitors in general.

8.115 As a result, the majority of your interaction with the Scheme will be carried out on line, for example, the submission of CAEFs, applications, supporting documentation and processing payments. Reasonable adjustments will be made for those individuals with a disability, for example, to submit CAEFs and documentation by post.

**Appeals Process**

8.116 (See draft Regulations)

**Keeping the SRA informed of any changes**

8.117 The SRA will communicate with you about your QASA account. Reminders about deadlines and key information about the scheme will be sent to you, by email, by post or through the SRA's QASA website [www.sra.org.uk/qasa](http://www.sra.org.uk/qasa). It is therefore important that you keep your contact details up to date.

8.118 Please contact the SRA with any changes to your status or situation. We will work with you to identify the most appropriate course of action in relation to any forthcoming deadlines or pending applications if there is a change in your circumstances.

## **9. CHARTERED LEGAL EXECUTIVES AND ASSOCIATE PROSECUTORS – THE PROCESS, ADVICE AND GUIDANCE**

### **In this section:**

- Registration at Level 1
- Entry to the Scheme at Level 1
- Re-accreditation at Level 1
- Extensions of time
- Appeals Process
- Fees policy
- Guidance on career breaks
- Keeping IPS informed of any changes

### **Registration at Level 1**

- 9.1 All Chartered Legal Executive Advocates (Criminal Proceedings) and Associate Prosecutors must register as Level 1 advocates under the Quality Assurance Scheme for Advocates (QASA).
- 9.2 Chartered Legal Executive Advocates (Criminal Proceedings) who have already completed their first renewal of the advocacy qualification and Associate Prosecutors will enter the scheme on 14 January 2013 with full accreditation which will be valid for 5 years. A fee may be payable for registration.
- 9.3 Chartered Legal Executive Advocates (Criminal Proceedings) who have not as at June 2013 completed their first renewal will receive provisional accreditation at Level 1.
- 9.4 Full accreditation at Level 1, valid for 5 years, will be granted to Chartered Legal Executive Advocates who are provisionally accredited once they have successfully completed their first year's renewal.
- 9.5 All Associate Prosecutors will receive 5 years full accreditation on registration

### **Entry to the Scheme at Level 1**

- 9.6 Newly qualified Chartered Legal Executive Advocates (Criminal Proceedings) will receive provisional accreditation to the scheme by virtue of the entry qualification process.



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- 9.7 In June or December, whichever is soonest after the elapse of 12 months from completing the qualification process and being issued with your first advocacy certificate, you will be asked to complete the first renewal process as set out by IPS. On successful completion of first renewal, you will be accredited for a period of 5 years under QASA.
- 9.8 Associate Prosecutors will enter scheme on completion of their qualification.

**Re-accreditation at Level 1**

- 9.9 In order to re-accredit under QASA, you must evidence successful completion of JAG accredited continuing professional development (CPD) which has been assessed against all the QASA standards as set out in Annex D (or by any other method approved by the JAG).
- 9.10 Prior to the expiry of your 5 year accreditation period, IPS will contact you to remind you to apply to IPS for re-accreditation and provide appropriate supporting documentation which evidences your successful completion of CPD, assessed against all of the QASA standards. There will be a fee payable for re-accreditation with QASA.
- 9.11 If you do not either re-accredit with the Scheme or apply for an extension, your accreditation will lapse and you will no longer be permitted to undertake criminal advocacy in England and Wales. IPS will notify you that your accreditation has lapsed.
- 9.12 If you would like to re-enter the scheme after your accreditation has lapsed, you will need to contact IPS to discuss your options.
- 9.13 Your application for re-accreditation will be reviewed by IPS. If the provided documentation demonstrates that you have completed your assessment against all of the QASA standards and thereby demonstrating that you are competent to continue to practise at Level 1, you will be re-accredited for a further 5 years.

**Extensions of time**

- 9.14 If you are approaching the 5 year re-accreditation deadline and you believe that you will be unable to comply, you can apply to IPS for an extension of time. Requests for extensions of less than 3 months are likely to be granted, provided there is a good reason. Please see paragraphs 5.82 to 5.91 for an overview of the extensions process and the factors which are likely to be treated as relevant or irrelevant for the purposes of your application for an extension.

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- 9.15 Applications for longer than three months must be supported by evidence. The type of evidence required will depend on the reason for your extension request.
- 9.16 Applications for an extension of longer than 12 months will not generally be considered. If you need an extension for longer than 12 months you will need to contact IPS to discuss your options.
- 9.17 A fee may be payable for the consideration of your request for an extension.

**Appeals Process**

- 9.18 Where you have not demonstrated successful completion of assessment against all of the QASA standards, your application for renewal of your criminal advocacy certificate will be referred to the Admissions and Licensing Committee (the Committee) for consideration.
- 9.19 If you are unhappy with the decision of the Committee, you may lodge an application for reconsideration. You should include reasons why your case should be reconsidered by the Committee and you have the right to be heard by the Committee when it reconsiders your application.
- 9.20 An appeal from the decision of the Committee can be made to the Accreditation Appeals Panel (the Panel). The Panel will comprise at least 3 panellists drawn from a pool appointed by JAG and shall include a Judge (sitting or retired), a practitioner or someone with experience of assessing advocacy, and a lay person with experience of applying assessments.
- 9.21 An appeal may only be brought on the grounds that:
- a. the decision reached was one which no reasonable person would find comprehensible; and/or
  - b. there was a procedural error in the decision making process of the Committee and the disadvantage caused by that error to the appellant was sufficient to have materially affected the decision, making it unsound.
- 9.22 You may attend and be represented at an appeal hearing, but if you are neither present nor represented, the panel may nevertheless proceed to consider and determine the appeal if it is satisfied that all reasonable efforts have been made to serve you with notice of the hearing.
- 9.23 The panel may:
- a. dismiss the appeal
  - b. allow the appeal
  - c. substitute for the decision appealed against any other decision that it is open to the Admissions and Licensing Committee to make under these Rules, or

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- d. remit the decision to the Admissions and Licensing Committee for reconsideration on such terms as the panel consider to be appropriate in the circumstances.

9.24 The panel will give notice of its decision in writing, together with reasons for its decision.

9.25 There is no appeal against a decision of the panel.

**Fees policy**

9.26 The fees are set at a level to cover the costs of operating the scheme, an outline of fees charged are published on the IPS website.

**Guidance on career breaks**

9.27 If, owing to a career break (for example, maternity leave or a break owing to a caring responsibility) your accreditation is due to expire whilst you are away from work, you have two options.

9.28 You can apply for re-accreditation early, so that you hold accreditation when you return to work. This is the most convenient option as it allows you to return to work immediately after your break.

9.29 If you take unplanned leave and miss the re-accreditation deadline without having applied for an extension, then your advocacy certificate will lapse. This will mean that you do not have rights of audience in the criminal courts in England and Wales.

9.30 You may apply for reinstatement of your rights through producing a portfolio of evidence similar to that required for first renewal of your certificate. Once revalidated, you will receive accreditation for five years.

9.31 If your career break occurs within the 12 month provisional accreditation period, so that you cannot satisfy the requirements for first renewal, the provisional accreditation period may be extended by the period of absence.

**Keeping IPS informed of any changes**

9.32 IPS will communicate with you about the progress of your application and send you reminders about forthcoming deadlines by email. It is therefore very important that you keep IPS updated with any changes to your contact details.

9.33 It is also very important that you keep IPS informed of any changes to your status, for instance if you are taking a career break. We will work with you to

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identify the most appropriate course of action in relation to any forthcoming deadlines or pending applications if there is a change in your circumstances.

# FREQUENTLY ASKED QUESTIONS

## In this section:

- General questions
- For Barristers For Solicitors
- For Chartered Legal Executives and Associate Prosecutors

## General questions

### 1. Where can I get copies of the forms?

All of the information, guidance, and forms for the Scheme can be downloaded from the regulators' websites, and also from the QASA website: [www.qasa.org.uk](http://www.qasa.org.uk)

### 2. Can you have all evaluations by the same judge?

No. When you are obtaining multiple judicial evaluations, they must be by at least two different judges. If you are unable to obtain the required number of judicial evaluations by different judges, for example, because you practise from a small court centre and you are unable to travel to another court centre, you should contact your regulator to discuss whether it might be appropriate to use an independent assessor.

### 3. My trials take a long time, can my provisional accreditation expire?

Provisional accreditations will normally expire after twelve months. However, it is possible to apply for an extension of time to obtain the requisite number of judicial evaluations to be able to apply for a full accreditation. For more information about how to apply for an extension, see paragraph [x].

### 4. Can my clerk/secretary/employee do all this for me?

No. All advocates are personally responsible for ensuring they come into the Scheme and comply with the rules of the Scheme and their regulator. After the Scheme has been introduced, JAG may consider whether it is appropriate for clerks or other employees to be able to submit documents on behalf of an advocate.

### 5. I only do about one criminal case per year; do I have to do this?

Yes. The Scheme is a regulatory requirement in accordance with the rules of the regulators and undertaking a criminal case without being accredited at the relevant level will be a breach of the rules. However, some limited exceptions have been developed for certain specialist practitioners. See paragraphs [x] to [x] for more information. If you are unsure as to whether this applies to you, please contact your regulator.

**CONSULTATION DRAFT - JULY 2012****6. How do I decide at which level I am currently operating?**

To decide the level that you are currently operating, we recommend that you review the trials that you have appeared in recently with reference to the guidance on identifying the level of cases. We recommend that you take into account the frequency of each case level that you have appeared in recently, along with your comfort with acting in cases at the different levels. For more guidance about deciding your current level, see paragraph [x].

**7. Can a Level 1 or 2 advocate prepare a Level 3 case for a Level 3 advocate?**

Yes. There is no prohibition on a lower level advocate helping a higher level advocate to prepare for a higher level case, for example by undertaking research. Ultimately, it will be the responsibility of the advocate presenting the case to do so at the standard of the case level, though this does not prevent lower level advocates from assisting with research or paperwork.

**8. Are there any circumstances in which I can take a case at a higher level?**

Yes. Although the general rule is that you can only accept cases at your level or lower, there are some limited circumstances in which it may be appropriate for an advocate to work at a higher level. Please see Chapter 6 for more detailed guidance on the levels.

**9. Can a level 4 advocate take all levels of cases?**

Yes. The levels represent the minimum competency required to undertake a case at that level. Advocates accredited at a particular level are able to act in cases at that level and all levels below.

**10. What do I do if a case develops into a higher level case half way through the trial?**

If a case becomes more complex and therefore develops into a higher level case part way through the trial, the advocate should consider whether they are still competent to conduct the trial. It may be appropriate for a higher level advocate to be instructed as a leader, or the advocate may still feel competent to continue as the leading advocate. This is a decision that should be taken by the advocate and their instructing solicitor, though they will need to be able to justify their decision to their regulators should they be asked to do so.

**11. I am a specialist practitioner. Does the Scheme apply to me?**

The focus of the Scheme is on criminal practitioners and it is recognised that some advocates work in specialised areas that overlap with crime, such as health and safety, regulation, and planning. Some specialist practitioners have been excluded from the scheme – see paragraph [x] for more information.

**12. Does the Scheme apply to CPS advocates?**

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The Scheme applies to all advocates acting in the criminal courts in England and Wales, whether they are barristers, solicitors or chartered legal executives, associate prosecutors, and whether they are employed or self-employed. It applies equally to advocates employed by the CPS as it does any other advocate.

**13. When do I give the judge my CAEF, before or after the trial?**

You should notify the judge at the start of the trial that you will be seeking judicial evaluation and provide a copy of the CAEF to the judge at the start of the trial.

**14. I forgot to ask the Judge to complete my CAEF form; can I ask him/her after the trial?**

Yes. It will be helpful to ensure that the judge is aware as soon as possible that you will be asking for a judicial evaluation. Provided that the judge feels able to complete the form at the end of the trial without prior notification, this is acceptable.

**15. Who should supply the CAEF, me or the judge?**

If you are applying for full accreditation, re-accreditation, or progression, you should hand the CAEF up to the judge at the start of the trial. Where the judge is completing a CAEF through their own volition as part of ongoing monitoring, the judge will complete the CAEF and submit it directly to your regulator.

**16. I am in a small circuit and cannot find sufficient judges able or willing to do my CAEFs. What should I do?**

If you are unable to obtain the required number of judicial evaluations because there are not enough judges available, you may apply to your regulator to use an independent assessor. The circumstances where this may happen are limited and you should contact your regulator to discuss options.

**17. Are judges allowed to complete a CAEF on me without my knowledge?**

Yes. An important feature of the Scheme is ongoing monitoring, which is done by judges evaluating your performance and completing a CAEF of their own volition and submitting it directly to JAG. The judge does not need to notify you if this happens, but your regulator will contact you if they receive a judicial evaluation as a result of ongoing monitoring. See paragraphs x-y for more information.

**18. Won't some judges be tougher than others, making the Scheme unfair?**

All judges will undertake the same training course on evaluating advocacy. When selecting a training provider, JAG emphasised the need for consistency by judges, and also consistency between judges and assessment organisations. JAG will monitor evaluations as the Scheme is underway to ensure consistency of approach.

**19. What exactly do I have to achieve to be judged competent at the different levels?**

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There are different expectations to meet in order to be evaluated as competent at the different levels. For a full summary, see paragraphs x-y.

**20. What if I disagree with the outcome of an assessment organisation?**

Assessment organisations will have in place an appeal or complaints procedure that can be used if you do not agree with the outcome of your assessment. You should contact the assessment organisation for full details of their policy.

**20. What if an assessment organisation finds me not competent?**

If an assessment organisation finds you not competent, you will not be able to proceed with your application for re-accreditation or progression. The assessment organisation will notify your regulator of your assessment results.

**21. What is provisional accreditation and how is it different from full accreditation?**

Provisional accreditation is identical to full accreditation, except that it is only valid for a shorter period of time, normally 12 months, whilst full accreditation is valid for five years. You can undertake all the same kinds of work at your level if you have provisional or full accreditation. If you have provisional accreditation, you will need to be assessed to move to full accreditation that is valid for five years. For more information, see paragraphs x-y.

**22. I have just returned from a career break and have missed the registration period, how do I enter the scheme?**

You can enter the Scheme at any time under the registration process. See paragraphs x-y for information on registration, and paragraphs x-y for information about career breaks. If you have any questions about your particular circumstances, contact your regulator.

**23. Can you skip levels?**

No. After your registration at a particular level, you can only progress through the levels in sequential order. However, there are no requirements for you to stay at a level for a minimum period so you could progress through the levels relatively quickly if you are able to satisfy the requirements for progression at each level.

**24. If JAG publish data on the Scheme, will my details be included?**

No. Any details, statistics or research published relating to the Scheme will not identify specific individuals without their consent.

**25. What are independent assessors?**

Independent assessors may be deployed to conduct evaluations at the discretion of the regulators in limited circumstances, for example, if an advocate is unable to obtain the necessary number of judicial evaluations through no fault of their own.



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**26. How will we know if the Scheme is making a difference?**

JAG will constantly monitor and evaluate the Scheme, and will publish information, statistics, and research conducted in relation to the Scheme so that all stakeholders will be able to review progress.

**For Barristers****27. Do I have to apply online?**

The general rule is that all applications must be made online through Barrister Connect. This allows the BSB to keep the costs of the Scheme to a minimum, as it significantly reduces the staff time required to process applications. However, if you have a disability and require reasonable adjustments to be made to allow you to submit an application, please contact our Helpline on [x] to discuss your requirements.

**28. When and how do students and pupils enter the scheme?**

Students do not need to enter the Scheme. If you are undertaking a pupillage that involves any criminal advocacy, you will need to join the Scheme before you start your practising second six months of pupillage. For more information about joining the Scheme as a pupil, see paragraph [x].

**29. If I have just qualified, do I need to do anything else to join the Scheme?**

Yes. If you are undertaking a pupillage that involves any criminal advocacy, you will need to join the Scheme before you start your practising second six months of pupillage.

**30. I don't have to pay the full Practising Certificate Fee, am I exempt from this fee?**

No. All barristers have to pay the requisite fee. See the BSB's fee policy for more information.

**31. I only work part time; do I have to pay the full fee?**

Yes. All barristers have to pay the requisite fee. See the BSB's fee policy for more information.

**32. If I cancel my application do I get a refund?**

The general rule is that you will not be able to obtain a refund if you cancel your application part way through the process. However, there are some exceptions to this rule, including sickness. You should contact the BSB to discuss whether you can apply for a refund.

**CONSULTATION DRAFT - JULY 2012****33. I don't have a scanner, how can I submit CAEFs?**

The BSB's costs (and therefore your costs) have been kept as low as possible by running an electronic system, including submission of documents. It is hoped that most barristers will have access to a scanner, whether at home, chambers, an office, or a library or through applications available for smart phones. Provided that the image of the CAEF is clear, legible, and includes the entire form, a photograph of the form may be acceptable.

**For Solicitors**

Further information and guidance on the operation of the scheme for advocates regulated by the Solicitors Regulation Authority are available at [www.sra.org.uk/qasa](http://www.sra.org.uk/qasa)

**For Chartered Legal Executives and Associate Prosecutors****Am I able to undertake any work outside Level 1?**

No, whilst the scheme allows advocates to work at one level above their current accredited level in certain situations, this is only possible where you also have the rights of audience to undertake work at that level. Chartered Legal Executive Advocates (Criminal Proceedings) only have rights of audience to conduct work at Level 1. Associate Prosecutors have more limited rights of audience which are prescribed by the Director of Public Prosecutions and you must operate only within those instructions.

**When do Chartered Legal Executive Advocates (Criminal Proceedings) enter the scheme?**

Once you have completed the requirements for qualification as a Chartered Legal Executive Advocate (Criminal Proceedings), you will enter the scheme with provisional accreditation. Once you have completed your first renewal, you will be provided with five years accreditation in the scheme.

**When do Associate Prosecutors enter the scheme?**

Once qualified as a Level 1 Associate Prosecutor, you will enter the scheme for the 5 year accreditation period. If you do not progress to a Level 2 Associate Prosecutor, you will need to reaccredit by evidencing successful completion of JAG accredited CPD assessed against all the QASA standards. If you have qualified as a Level 2 Associate Prosecutor within the 5 year accreditation period, your 5 year accreditation period will restart from that date.

**If I cancel my application do I get a refund?**

The general rule is that you will not be able to obtain a refund if you cancel your application part way through the process. However, there are some exceptions to

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this rule, including sickness. You need to contact IPS to discuss whether you can apply for a refund.

**Will I still have to renew my Advocacy Certificate every 3 years?**

No, the process for renewing advocacy rights for criminal proceedings has been amended to fit with the renewal process for QASA. In future, your advocacy certificate will be valid indefinitely provided you have renewed your accreditation through the procedure agreed by JAG once every 5 years.

**Do I still have to undertake at least 5 hours advocacy CPD each year?**

The requirement for re-accreditation under QASA is that you should complete JAG approved CPD which has been successfully assessed against all the identified standards (please see Annex D). This will replace the current requirement for criminal advocates to undertake five hours advocacy CPD each year. The Scheme does not specify whether some CPD should be undertaken each year or whether all of the CPD can be undertaken at the same time just before renewal, although it is recommended that you should break down the CPD over the five year period. This means that there is no longer a requirement to undertake five hours advocacy CPD each year. However, it will still be necessary to have the equivalent of 16 hours CPD required of Chartered Legal Executives, which may include any hours spent on assessed CPD.

**What if I am made redundant?**

If you are no longer employed by, or a manager of, an organisation which is authorised to provide litigation services under the Legal Services Act 2007 you must inform IPS, as you will no longer hold rights of audience. Where this happens but you secure new employment in a similar practice within the period of accreditation your rights will be reinstated. If you are outside the five year re-accreditation period, you will need to contact IPS to discuss your options.

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## GLOSSARY

<b>Accreditation</b>	The status required under the Scheme to be permitted to undertake criminal advocacy in the courts in England and Wales. Also see "provisional accreditation" and "full accreditation".
<b>Assessment organisation / centre</b>	An approved organisation or location where advocates can be assessed in simulated courtroom exercises to obtain accreditation at Level 2.
<b>Bar Standards Board (BSB)</b>	The regulatory body for barristers
<b>Criminal advocacy</b>	Advocacy in all hearings arising out of a police or Serious Fraud Office investigation, prosecuted in the criminal courts by the Crown Prosecution Service or the Serious Fraud Office.
<b>Criminal Advocacy Evaluation Form (CAEF)</b>	The form used by judges to complete assessments/evaluations of advocates appearing before them.
<b>Effective trial</b>	A trial that allows for assessment against standards 1-5.
<b>Full accreditation</b>	Accreditation that permits an advocate to undertake criminal advocacy in the courts in England and Wales for a period of up to five years.
<b>ILEX Professional Standards (IPS)</b>	The regulatory body for Chartered Legal Executive Advocates and Associate Prosecutors.
<b>Independent assessor</b>	An individual that is not a current judge and has been appointed by the Joint Advocacy Group to undertake assessments/evaluations of advocates in court.
<b>Joint Advocacy Group (JAG)</b>	The joint body, made up of representatives from the SRA, BSB, and IPS, responsible for the development and oversight of the Scheme.
<b>Judicial evaluation</b>	The process of obtaining an assessment by a judge during a trial, or a completed assessment by a judge during a trial or hearing.
<b>Level (1-4)</b>	On entry to the Scheme, advocates will have a Level which corresponds to their level of experience and competence, ranging from Levels 1 to 4.
<b>On-going monitoring</b>	The process by which a judge can undertake an evaluation/assessment of an advocate of their own volition and submit the completed evaluation to the advocate's regulator.
<b>Performance indicators</b>	A measure of performance which corresponds to each of the nine standards at an advocate's level.
<b>Progression</b>	The process by which an advocate can increase their Level under the Scheme.
<b>Provisional accreditation</b>	Accreditation that permits an advocate to undertake criminal advocacy in the courts in England and Wales for a period of up to 12 months, but which requires further steps to be taken to obtain full accreditation.
<b>Quality Assurance Scheme for Advocates (QASA or</b>	The scheme under which the competence of criminal advocates appearing in the courts in England and Wales is assured by the SRA, BSB, and IPS.

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<b>the Scheme)</b>	
<b>Re-accreditation</b>	The process by which an advocate demonstrates their competence and renews their accreditation for a further five years.
<b>Scheme (the)</b>	The Quality Assurance Scheme for Advocates (QASA or the Scheme)
<b>Solicitors Regulation Authority (SRA)</b>	The regulatory body for solicitors.
<b>Standards</b>	The nine expectations which are assessed by judicial evaluation, assessment organisation, assessed CPD, or an independent assessor.

## **ADDITIONAL DOCUMENTS**

Annex A – SRA rule amendments [please refer to the consultation document]

Annex B – BSB rule amendments [please refer to the consultation document]

Annex C – IPS rule amendments [please refer to the consultation document]

Annex D – Criminal Advocacy Evaluation Form (including the Statement of Standards)

# Criminal Advocacy Evaluation Form

Registration  Progression

Re-accreditation  Ongoing Monitoring

(tick as appropriate)



NAME OF ADVOCATE: ..... BSB/CILEX/SRA ID.....

COURT: ..... NATURE OF CASE: .....

NAME OF CASE: ..... DATE OF APPEARANCE: .....

CURRENT LEVEL: 1  2  3  4

LEVEL OF CASE: 1  2  3  4

Please indicate an assessment for each relevant standard (tick as appropriate)

N.B.: This form should be completed with reference to the Competency Standards, on pages 4-7. Please complete this page and give brief reasons for your evaluation in the Comments box on the following page.

**\*Assessment of Standards 1, 2, 3, 4 and 5 is mandatory for a valid evaluation**

		COMPETENT	NOT COMPETENT	NOT POSS. TO EVALUATE
1	Has demonstrated the appropriate level of knowledge, experience and skill required for the Level*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Was properly prepared*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Presented clear and succinct written and oral submission*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Conducted focussed questioning*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Was professional at all times and sensitive to equality and diversity principles*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Provided a proper contribution to case management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Handled vulnerable, uncooperative and expert witnesses appropriately	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	Understood and assisted court on sentencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Assisted client(s) in decision making (if observed or able to infer from advocacy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments**

Please provide reasons for your evaluation, with reference to the specific Competency Standards particularly if you have selected either; 'NOT POSSIBLE TO EVALUATE' or 'NOT COMPETENT'

**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.

Name of Evaluator:.....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 above comments section

Evaluator ID Number:.....Signature:.....Date:.....



## Levels

Level 1	Level 2	Level 3	Level 4
<p>All Magistrates' Court work, including Youth Court work, along with:</p> <ul style="list-style-type: none"> <li>➤ Appeals from Magistrates' Court to the Crown Court where the advocate's firm has represented the client in the Magistrates' Court or Youth Court</li> <li>➤ Bail applications before a judge at the Crown Court</li> <li>➤ Committal for sentencing where the advocate's firm has acted for the client in the Magistrates' Court or Youth Court</li> <li>➤ Preliminary hearings Initial s51 hearings</li> </ul>	<p>Level 2 is the first level in the Crown Court and includes:</p> <ul style="list-style-type: none"> <li>➤ All either-way offences where the Magistrates accepted jurisdiction but the defendant has elected a Crown Court trial</li> <li>➤ Straightforward Crown Court cases, for example: <ul style="list-style-type: none"> <li>• lesser offences of theft</li> <li>• deception or handling</li> <li>• assault (section 47 and section 20)</li> <li>• burglary</li> <li>• less serious drug offences</li> <li>• lesser offences involving violence or damage</li> <li>• straightforward robberies</li> <li>• non-fatal road traffic offences</li> <li>• minor sexual offences</li> </ul> </li> </ul>	<p>Level 3 is a Crown Court level and includes:</p> <ul style="list-style-type: none"> <li>➤ More complex Crown Court cases, for example: <ul style="list-style-type: none"> <li>• more serious dishonesty and fraud cases</li> <li>• more serious drug offences (such as possession with intent to supply )</li> <li>• blackmail</li> <li>• aggravated burglary</li> <li>• violent disorder</li> <li>• arson</li> <li>• complex robberies</li> <li>• more serious assaults</li> <li>• driving offences involving death</li> <li>• child abuse</li> <li>• more serious sexual offences</li> </ul> </li> </ul>	<p>Level 4 is a Crown Court level and includes:</p> <ul style="list-style-type: none"> <li>➤ The most complex Crown Court cases for example: <ul style="list-style-type: none"> <li>• serious sexual offences, substantial child abuse, murder</li> <li>• cases involving issues of national security, serious organised crime, terrorism complex and/or high value dishonesty</li> </ul> </li> </ul>

<b>Standard</b>	<b>1</b>	<b>Has demonstrated the appropriate level of knowledge, experience and skill required for accepting the case</b>
<b>Level 1</b>	1.1	Familiar with law and practice at this level
	1.2	Knowledge of procedure and law is up-to-date
	1.3	Demonstrated skills and experience necessary for this level of advocacy
<b>Level 2</b>	1.4	Demonstrated a thorough knowledge of law and practice
	1.5	Conducted trial advocacy efficiently and effectively
	1.6	Advocate was confident and articulate
<b>Level 3</b>	1.7	Deep understanding of law and practice
	1.8	Demonstrated judgement and skill in all respects
	1.9	Comprehended and effectively directed complex case
	1.1	Managed extremely sensitive situations
<b>Level 4</b>	1.11	Superior grasp of law and practice
	1.12	Readily offered sound authorities and/or solutions, including novel solutions in unusual situations
	1.13	Demonstrates wisdom in all aspects of advocacy
	1.14	Conducted trial advocacy to a level of excellence.
	1.15	Comprehended and successfully lead case of the utmost gravity, complexity, or sensitivity
<b>Standard</b>	<b>2</b>	<b>Was properly prepared</b>
<b>Level 1</b>	2.1	Had prepared for hearing / trial effectively
	2.2	Had a clear strategy for the case / application
	2.3	Understood client's and opponent's case and identified the issues
	2.4	Identified relevant factual, legal, evidential and / or procedural issues
	2.5	Familiar with facts of the case
	2.6	<b>Understood the relevant law and procedure for the matter in hand</b>
<b>Level 2</b>	2.7	Preparation reflected the increased seriousness and complexity of the case
	2.8	Had anticipated opponent's arguments and court interventions
	2.9	Efficiently identified the key factual, legal, evidential and / or procedural issues

	2.1	Had a robust case strategy	<b>Annex B</b>
<b>Level 3</b>	2.11	Viewed case holistically from the outset	
	2.12	Understood the nuances of a case, situation or evidence,	
<b>Level 4</b>	2.13	Pinpointed the essence of the case or issue without wasteful consideration of alternative issues	
<b>Standard</b>	<b>3</b>	<b>Presented clear and succinct written and oral submission</b>	
	<b>3.1</b>	<b>Drafted clear Skeleton Argument which:</b>	
<b>Level 1</b>	3.1.1	Show clarity of purpose and expression	
	3.1.2	Are the appropriate length	
	3.1.3	Have a logical structure and identify the issues	
	3.1.4	Make appropriate reference to authorities and documentary reference to external materials	
<b>Level 2</b>	3.1.5	Skeleton argument was coherent	
<b>Level 3</b>	3.1.6	Clearly mapped the central issues in the case	
	<b>3.2</b>	<b>Made relevant and succinct submissions by reference to appropriate authority</b>	
		<b>Organisation:</b>	
<b>Level 1</b>	3.2.1	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)	
	3.2.2	Employed a logical structure (beginning, middle and end)	
	3.2.3	Correct application of relevant authority to relevant facts	
	3.2.4	Was concise	
<b>Level 2</b>	3.2.5	Developed reasoned argument	
	3.2.6	Was coherent	
<b>Level 3</b>	3.2.7	Submission/ speech was attractive and contained compelling arguments	
<b>Level 4</b>	3.2.8	Identified the best arguments to pursue	
		<b>Inter-action with tribunal/dealing with opponent's arguments:</b>	
<b>Level 1</b>	3.2.9	Dealt with court's questions/concerns promptly	
	3.2.10	Responded to opponent's points	

Level 2	3.2.11	Adeptly responded to court's questions and concerns and opponent's points
	3.2.12	Anticipated points
Level 3	3.2.13	Tailored submission to meet expectations of tribunal
	<b>3.3</b>	<b>Used materials appropriately</b>
Level 1	3.3.1	Appropriate use of materials and appropriate use of authorities
	3.3.2	Located documents quickly
Level 2	3.3.3	Only cited relevant materials and law
Level 3	3.3.4	Appropriate use of only key materials and authorities
	3.3.5	Assimilated relevance of evidence quickly
Level 4	3.3.6	Demonstrated sound document management skills
	<b>3.4</b>	<b>Communicates clearly and audibly</b>
Level 1	3.4.1	Was audible
	3.4.2	Had clarity of expression
	3.4.3	Used appropriate language (language adapted to a tribunal)
	3.4.4	Used appropriate eye contact
	3.4.5	Was persuasive
Level 2	3.4.6	Fluent and articulate
	3.4.7	Commanded attention and inspired confidence
Level 3	3.4.8	Self assured, unflappable advocate
	3.4.9	Interesting and engaging tone of delivery.
Level 4	3.4.10	Delivered fluid, flexible and highly proficient submissions
	3.4.11	Advocacy was instinctive and appeared effortless
	<b>3.5</b>	<b>Maintains appropriate pace throughout the course of the trial</b>
Level 1	3.5.1	Appropriate pace adopted
Standard	<b>4</b>	<b>Conducts focussed questioning</b>
	<b>4.1</b>	<b>Conducted appropriate Examination-in-chief</b>
Level 1	4.1.1	Observed restrictions and directions on questioning
	4.1.2	Able to question effectively
	4.1.3	Avoided leading questions
Level 2	4.1.4	Was aware of the tribunal

Level 3	4.1.5	Avoided leading questions, on matters that remain open
Level 4	4.1.6	Immediately sees implications of witness's answer and responds appropriately
		<b>Form of Questions</b>
Level 1	4.1.7	Questions to witnesses are clear and understandable
	4.1.8	Used short, simple questions, one point at a time
	4.1.9	Used appropriate language
Level 4	4.1.10	Questions were efficient and effective
		<b>Delivery:</b>
Level 1	4.1.11	Was audible
Level 2	4.1.12	Appropriate pace
Level 3	4.1.13	Established a rapport with witness
	4.1.4	Developed a steady rhythm
		<b>Questioning Strategy:</b>
Level 1	4.1.5	Questioning strategy relevant to the issues
	4.1.6	Avoided introducing irrelevant material
Level 2	4.1.7	Clear and logical structure (telling story through witness)
	4.1.8	Demonstrated a clear case strategy
Level 3	4.1.9	Comprehended the nuances of a case or evidence and responded accordingly.
Level 4	4.1.10	Questioning technique was intuitive and appeared effortless
	4.1.11	Instinctively identified the best issues to pursue and best technique to adopt
	<b>4.2</b>	<b>Conducted appropriate Cross-examination</b>
Level 1	4.2.1	Observed restrictions and directions on questioning
	4.2.2	Able to question effectively
Level 2	4.2.3	Was aware of the tribunal
Level 4	4.24	Immediately sees implications of witness's answer and responds appropriately
		<b>Form of Questions:</b>
Level 1	4.2.5	Questions to witnesses are clear and understandable
	4.2.6	Used closed and concise questions
	4.2.7	Used short, simple questions, one point at a time
	4.2.8	Used appropriate language

<b>Level 2</b>	4.2.9	Controlled direction and pace of evidence
<b>Level 3</b>	4.2.10	Maintained control of witness
	4.2.11	Avoided entering into debate / making comments
<b>Level 4</b>	4.2.12	Questions were efficient and effective
		<b>Delivery:</b>
<b>Level 1</b>	4.2.13	Was audible
<b>Level 3</b>	4.2.14	Appropriate pace (and adjusted pace as necessary)
	4.2.15	Questioning developed a steady rhythm.
	4.2.16	<b>Questioning Strategy</b>
<b>Level 1</b>	4.2.17	Questioning strategy relevant to the issues
	4.2.18	Avoided introducing irrelevant material
	4.2.19	Made challenges necessary to put advocate's case.
<b>Level 2</b>	4.2.20	Avoided inadvertently attacking the witnesses character (if this had implications for bad character evidence)
	4.2.21	Logical structure and organisation
	4.2.22	Elicited necessary facts
<b>Level 3</b>	4.2.23	Knew when to stop
	4.2.34	Deployed different cross-examination techniques, tailored to witness
<b>Level 4</b>	4.2.35	Comprehended the nuances of a case or evidence and responded accordingly.
	4.2.36	Questioning technique was intuitive and appeared effortless
<b>Level 4</b>	4.2.37	Instinctively identified the best issues to pursue and best technique to adopt
	<b>Standard</b>	<b>5</b>
<b>Level 1-4</b>	5.1	Established professional relationships in court
	5.2	Observed professional etiquette and ethics in relation to client / third parties
	5.3	Was professional at all times
		<b>Integrity</b>
<b>Level 1-4</b>	5.4	Observed professional duties
	5.5	Observed duty to act with independence
	5.6	Advised the court of adverse authorities and, where they arise, procedural irregularities

	5.7	Assisted the court with the proper administration <b>Annex B</b>
		<b>Equality and diversity</b>
<b>Level 1-4</b>	5.8	<i>Had a demonstrable understanding of equality and diversity principles</i>
	5.9	<i>Recognised the needs and circumstances of others and acted accordingly</i>
	5.1	<i>Treated clients, colleagues and parties fairly and did not discriminate against them</i>
<b>Standard</b>	<b>6</b>	<b>Provided a proper contribution to case management</b>
<b>Level 1</b>	6.1	Advocate's conduct did not hinder case progression
	6.2	Had considered appropriate directions and was able to assist the court
	6.3	Complied with appropriate procedural rules and judicial direction
	6.4	<i>Was aware of the requirements regarding disclosure in the case and how they affect the client's case</i>
	6.5	<i>Provided appropriate disclosure of evidence</i>
	6.6	<i>Kept or ensured that the court was kept promptly informed of any timings problems/delays</i>
	6.7	Complied with court imposed timetables
<b>Level 2</b>	6.8	Dealt promptly and effectively with issues arising from PCMH.
	6.9	Effective management of file
	6.1	Made positive contributions to case management
	6.11	Proficiently managed timings to adhere to trial timetable
	6.12	Demonstrated an astute and responsible approach to case management
<b>Standard</b>	<b>7</b>	<b>Handled vulnerable, uncooperative and expert witnesses appropriately</b>
<b>Level 1</b>	7.1	<i>Gave clear guidance to own witnesses</i>
	7.2	Dealt appropriately with vulnerable witnesses
	7.3	Dealt effectively with uncooperative witnesses
	7.4	Used and challenged expert evidence effectively
	7.5	Complied with all obligations and good practice in respect of victims and witnesses

<b>Level 2</b>	7.6	Correctly dealt with previous inconsistent statements and/or opinion evidence
<b>Level 3</b>	7.7	Managed extremely sensitive situations reliably
<b>Standard</b>	<b>8</b>	<b>Understood and assisted court on sentencing</b>
<b>Level 1</b>	8.1	Made appropriate factual representations to the court on sentencing
	8.2	Understood court's sentencing power, and power to commit for sentence.
	8.3	Made a coherent and persuasive plea in mitigation
	8.4	Applied relevant law and facts
	8.5	Took appropriate steps to ensure that relevant legal materials necessary for sentencing were before the court
<b>Level 2</b>	8.6	Addressed relevant mitigating and aggravating factors
<b>Level 3</b>	8.7	Explained the crux of the offence and the offender's circumstances succinctly
	8.8	Agile advocacy, responsive to the sentiment of the judge
<b>Standard</b>	<b>9</b>	<b>Working with others</b>
	<b>9.1</b>	<b><i>Assisted client in decision making (if observed or able to infer from advocacy)</i></b>
<b>Level 1</b>	9.1.1	<i>Any advice given to a client was clear and accurate</i>
	9.1.2	<i>Accurately identified the relevant factual, legal, evidential and / or procedural issues.</i>
<b>Level 2</b>	9.1.3	<i>Provided effective, structured and appropriate advice which enabled client to decide the best course of action</i>
	9.1.4	<i>Was able to express themselves clearly and assertively</i>
<b>Level 3</b>	9.1.5	<i>Comprehended and effectively directed complex case and/or complex situation</i>
<b>Level 4</b>	9.1.6	<i>Pinpointed the essence of the case or issue</i>
	9.1.7	<i>Comprehended and successfully lead case of the utmost gravity, complexity, and/or sensitivity</i>
<b>Level 1</b>	9.1.8	Took all reasonable steps to help the lay client understand the process
	9.1.9	Used language that was appropriate to the person being advised
	9.1.10	Ensured the decision making process was adequately recorded
	9.1.11	Kept an appropriate written record of information obtained, steps taken, advice given and decisions taken

