

Consultation: proposal to alter the Associate Prosecutor Rights of Audience and Litigation Certification Rules

1. CILEx Regulation is the independent regulator of specialist lawyers and was established as a regulatory body by the Chartered Institute of Legal Executives (CILEx), an approved regulator under the Legal Services Act 2007 (the Act). CILEx Regulation is the regulatory body for Chartered Legal Executives, other grades of CILEx membership, CILEx Practitioners, Associate Prosecutors and entities.

2. This consultation makes a number of proposals to make minor changes to the Associate Prosecutor Rights of Audience and Litigation Certification Rules, in order to reflect the changes in the criminal justice system, notably the prosecution of road traffic offences now being almost exclusively conducted by the police.

3. This consultation will run for 3 weeks, closing on 17 July 2017.

Background: Why are we proposing these changes?

4. CILEx Regulation is responsible for the regulation of Associate Prosecutors employed by the Crown Prosecution Service (CPS).
5. Associate Prosecutors are qualified as either Level 1 or Level 2 Associate Prosecutors.
6. Level 1 Associate Prosecutors are able to undertake prosecutions only for cases where the defendant has pleaded guilty, as well as undertaking related work such as bail hearings. Level 2 Associate Prosecutors are able to undertake trials. Full details of the rights of audience held by Level 1 and Level 2 Associate Prosecutors are set out from paragraph 4 of the rules attached to this consultation at Annex 1.
7. The changes proposed affect only Level 1 authorisation.
8. Owing to the changes in the criminal justice system, including the use of the police to prosecute uncontested road traffic offences, the CPS is no longer actively recruiting Associate Prosecutors. It does however use the Level 1 Associate Prosecutor designation and qualification to enable trainee solicitors to gain rights of audience in the Magistrates Courts, prior to their qualification as a solicitor. This enables trainee solicitors to gain valuable advocacy experience prior to admission, at which point they obtain rights of audience as part of the solicitor qualification.
9. These changes to the criminal justice system have led the CPS to review the content of the training, assessment and qualification as a Level 1 Associate Prosecutor. As a result, the CPS has requested minor amendments to the Associate Prosecutor Rights of Audience and Litigation Certification Rules to reflect the changes to the work carried out by Level 1 Associate Prosecutors and to ensure that the training, assessment and qualification remains fit for purpose.

Our proposals

10. The following changes to the Associate Prosecutor Rights of Audience and Litigation Certification Rules are proposed:

To remove unnecessary prescription in the rules, by:

- At paragraph 17, to remove reference to the length of the Foundation course

- At paragraph 20, removing reference to the length of the Advocacy Skills course

To remove reference to the law and practice in relation to the prosecution of road traffic offences for Level 1 Associate Prosecutors, as follows:

- Foundation course objective 4 - removing the reference to 'road traffic'
 - Advocacy course objective 8 – deletion of whole objective dealing with restoration of driving licence and exceptional hardship
 - Advocacy course assessment criteria – deletion of criteria relating to restoration of driving licence, exceptional hardship and questioning skills
 - Advocacy course assessment criterion 8 - deletion of 'questions in an appropriate manner'
11. Level 1 Associate Prosecutors will no longer be assessed in relation to road traffic law and practice if these proposals are approved. However, they will be required to undertake the e-learning in this area as a pre-requisite to attending the Associate Prosecutor course.
12. Questioning will be removed from the Advocacy course if these proposals are approved, owing to the changes to the prosecution of road traffic offences. However, Level 1 Associate Prosecutors will still be required to be assessed on this skill through the Bail course.
13. The assessment of mitigating circumstances through the consideration of exceptional hardship will be removed from the Advocacy course if these proposals are approved. However, this skill will instead be assessed through the issues arising in allocation and sentencing.

Consultation questions

14. **Do you agree that CILEx Regulation should make the amendments to the Associate Prosecutor Rights of Audience and Litigation Certification Rules?**

If you do not agree, please give reasons for your response.

15. **Do you have any other comments on these proposals?**

How to respond

A response form has been provided for completion. Please send the response form to CILEx Regulation through one of the following methods:

- By email to consultations@cilexregulation.org.uk Mark it for the attention of Vicky Purtil
- By post to CILEx Regulation Ltd, Kempston Manor, Kempston, Bedford MK42 7AB

- By DX to CILEx, DX 124780 Kempston 2.

Submission deadline

The deadline for submission of responses is 17 July 2017.