

## **INTRODUCTION – CRIMINAL PRACTICE ADVOCACY RIGHTS**

In open court in the Magistrates' Courts (including Youth Courts), bail before judge in chambers in the Crown court, in open court in the Crown Court for appeals against conviction and sentence where the applicant or his firm represented the defendant in the Magistrates'/Youth Court and on committal for sentence where the applicant or his firm represented the defendant in the Magistrates' Court

The entry criteria and evidence of competency stated in this schedule sets out and envisages

- that an application for Criminal Practice Advocacy rights will already have obtained or is making a combined application for Criminal Litigation Practice Rights provided they have met the Stage 1 entry requirement for Criminal Litigation Practice Rights

NOTE: an application may also be combined with one for Family Litigation Practice Rights or Civil Litigation Practice Rights (or a combination of these)

- that the applicant has provided the required evidence to demonstrate the level of competency, knowledge and understanding set out in this document
- that the applicant has the required level of competency in the relevant skills of: advocacy, client care, research and interviewing
- that the applicant has entered onto and passed the CILEx Rights of Audience advocacy skills course

NOTE: that the applicant may make an application for rights or audience to appear in open court in the Magistrates' Courts (including Youth Courts), bail before judge in chambers in the Crown court, in open court in the Crown Court for appeals against conviction and sentence where the applicant or his firm represented the defendant in the Magistrates'/Youth Court and on committal for sentence where the applicant or his firm represented the defendant in the Magistrates' Court

<b>QUALIFICATION Competencies</b>	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
<p><b>Stage 1</b></p> <p><b>ENTRY LEVEL COMPETENCY CRITERIA:</b></p> <p>In order to apply for the rights of audience qualification the applicant must meet the criteria for criminal litigation rights,</p> <p>And will have,</p> <p>relevant experience on the determination of the Admissions and Licensing Committee in the 2 years immediately preceding their application</p>	<p>The criminal practice advocate will be able to demonstrate:</p> <ul style="list-style-type: none"> <li>• 2 years advocacy experience</li> <li>• Either appropriate experience of the style and standards of practice of advocacy expected in the courts for which they are seeking rights of audience, or have observed advocacy in those areas where currently no rights of audience exist but where they will be granted rights upon achieving the qualification</li> <li>• Analysis, critical judgment and evaluation</li> <li>• Autonomy and ability to learn</li> </ul>	<p>In relation to the 2 years preceding the application, applicants must give by way of a statement the following information:</p> <ul style="list-style-type: none"> <li>• A general description of the advocacy, trial preparation and trial involvement carried out</li> <li>• A breakdown of the proportion or number of cases which have included preparation for trial or prepared for trial and the stage when the cases were concluded if before trial</li> <li>• A description of the applicant's typical caseload</li> <li>• A description of the range and nature of advocacy experience including observed advocacy (this may include advocacy experience gained through representing clients at police stations)</li> </ul> <p>The applicant must also submit a portfolio of cases which demonstrates their advocacy experience based on the caseload in which they have been involved (stating their level of involvement) in compliance with the competence criteria set out below. The portfolio requirements are set out in the <b>Portfolio Guidelines</b>.</p>

		<p>The applicant will be expected to be able to demonstrate through their portfolios that they can:</p> <ul style="list-style-type: none"><li>• Recognise and rank items and issues in terms of relevance and importance</li><li>• Integrate information and materials from a variety of different sources</li><li>• Undertake the analysis of factual information in a logical and coherent way</li><li>• Make critical judgments of the merits of particular arguments</li><li>• Present and make a reasoned choice between alternative solutions</li><li>• Act independently in planning, preparing and undertaking tasks in the above areas of law</li><li>• Undertake independent research in the above areas of law using standard legal information sources</li><li>• Reflect on their learning and make constructive use of feedback</li></ul>
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<b>QUALIFICATION CRITERIA</b>		
<b>Stage 2</b>	<b>Stage 2</b>  The applicant must be able to demonstrate:	This can be evidenced by the applicant demonstrating the ability to:
<b>Case Analysis and Theory</b>	<ul style="list-style-type: none"> <li>• An appropriate level of case analysis, critical judgement and evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the relevant factual, legal and evidential issues in a given case</li> <li>• Identify the evidence available to the prosecution to prove these issues and the evidence available to the defence to challenge these issues and where appropriate to prove or support a defence</li> <li>• Identify the strengths and weaknesses of a case</li> <li>• Understand the relevant law in context</li> <li>• Prepare a case theory that is both succinct and persuasive</li> <li>• Prepare a case theory that observes the rules of professional conduct</li> </ul>
<b>Trial Advocacy</b>	<ul style="list-style-type: none"> <li>• An appropriate level of trial advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Understand the importance of preparation and effective ways to undertake this</li> <li>• Identify the client's goals</li> <li>• Analyse the relevant factual issues</li> <li>• Understand the legal and evidential context in which these factual issues arise and how they relate to each other</li> <li>• Summarise the strengths and weaknesses of the prosecution's case and the defence case</li> </ul>

		<ul style="list-style-type: none"> <li>• Develop an effective case presentation strategy</li> <li>• Prepare a coherent submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting which may include a contested bail application or bail appeal; making a submission of no case to answer; a trial, a voire dire hearing and a plea in mitigation</li> <li>• Understand and appreciate the relevant communication skills and techniques used by an advocate</li> <li>• Understand in particular the purpose, technique and tactics of examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence</li> <li>• Deal appropriately with client care and ethical issues</li> <li>• Demonstrate an understanding of the ethics, etiquette and conventions of advocacy</li> </ul>
<p><b>Evidence</b></p>	<ul style="list-style-type: none"> <li>• Knowledge and understanding of the rules of evidence as they apply in criminal proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• The incidence of the burden and standard of proof</li> <li>• The rules relating to competence and compellability of the accused and all other witnesses</li> <li>• The ways in which evidence may be adduced</li> <li>• The rules relating to memory refreshing</li> <li>• The rules relating to hostile and unfavourable witnesses</li> <li>• The rules relating to admissibility and weight to be attached to prior consistent statements and to impugning the testimony of witnesses by</li> </ul>

		<ul style="list-style-type: none"> <li>• their prior inconsistent statements</li> <li>• The rules relating to finality to collateral issues</li> <li>• The rules relating to the admissibility of hearsay evidence</li> <li>• The admissibility of confessions in criminal trials</li> <li>• The rules relating to inferences</li> <li>• The rules relating to the admissibility of and weight to be attached to disputed visual identification evidence</li> <li>• The rules relating to the admissibility of improperly obtained evidence</li> <li>• The statutory rules relating to the admissibility of character evidence of the accused and non-defendants</li> <li>• The relevance of human rights issues</li> <li>• The rules relating to expert evidence</li> </ul>
<p><b>Professional Ethics and Conduct</b></p>	<p>Knowledge and understanding of the conduct rules as they apply in criminal practice</p>	<ul style="list-style-type: none"> <li>• The fundamental duties to the court and the administration of justice</li> <li>• The decision to appear</li> <li>• Ceasing to act as an advocate</li> <li>• Conduct of work</li> </ul>