

Annex B – Bar Standards Board Rules

QUALITY ASSURANCE SCHEME FOR ADVOCATES RULES

Interpretation

1. In these Rules:

“Accreditation” means the status required under the Scheme to be permitted to undertake criminal advocacy in the courts of England and Wales;

“Approved assessment organisation” means an organisation approved by the Joint Advocacy Group to assess the competence of advocates to conduct criminal advocacy against the Statement of Standards;

“Criminal advocacy” means advocacy in all hearings arising out of a police-led or Serious Fraud Office-led investigation and prosecuted in the criminal courts by the Crown Prosecution Service or the Serious Fraud Office but does not include hearings arising out of Parts 2, 5 or 8 of the Proceeds of Crime Act 2002;

“Criminal advocacy evaluation form” means a form completed by a judge to record the competence of a barrister to conduct criminal advocacy against the Statement of Standards;

“Effective trial” means a trial that allows for the assessment of a barrister against standards 1-4 as set out in the Statement of Standards;

“Full accreditation” means accreditation that permits a barrister to undertake criminal advocacy in the courts in England and Wales for a period of up to five years;

“Independent assessor” means a person appointed by the Joint Advocacy Group to attend court to assess the competence of a barrister to conduct criminal advocacy against the Statement of Standards;

“Joint Advocacy Group” means the group established by the Bar Standards Board, the Solicitors’ Regulation Authority and ILEX Professional Standards, in order to oversee the quality assurance and accreditation of criminal advocacy;

Annex B – Bar Standards Board Rules

“Level” means one of the four QASA levels. Advocates will be accredited at one of these levels and this will correspond to the level of hearings that they can undertake.

“Prescribed” means as set out in the QASA Handbook and the QASA Rules;

“Progression” means the process by which a barrister can increase their level under the Scheme;

“Provisional accreditation” means accreditation that permits a barrister to undertake criminal advocacy in the courts in England and Wales for a period of up to 12 or 24 months, but which requires further steps to be taken to obtain full accreditation;

“Re-accreditation” means the process by which a barrister demonstrates their competence and renews their accreditation at their existing level for a further five years;

“Registration” means the process by which barristers enter QASA;

“Statement of Standards” means the standards against which the competence of advocates will be assessed for the purposes of registration, progression and re-accreditation.

Scope of the scheme

2. Subject to Rule 3, you must not undertake criminal advocacy unless you have provisional accreditation or full accreditation in accordance with these Rules and with the QASA Handbook.
3. Barristers who do not have provisional or full accreditation under the Scheme are permitted to undertake criminal advocacy:
 - a) in hearings which primarily involve advocacy which is outside of the definition of criminal advocacy in rule 1 above; or
 - b) if they have been instructed specifically as a result of their specialism in work outside of the definition of criminal advocacy.
4. You shall only undertake criminal advocacy in hearings which you are satisfied fall within the level at which you are accredited, or any level below the same, unless you

Annex B – Bar Standards Board Rules

are satisfied that you are competent to accept instructions for a case at a higher level strictly in accordance with the criteria prescribed in the QASA Handbook.

Provisional accreditation

5. If you are granted provisional accreditation, you must apply to convert this to full accreditation within 12 or 24 months of the date on which your provisional accreditation was granted.

Full accreditation

6. If you are granted full accreditation, it will be valid for 5 years from the date on which it was granted.

General provisions relating to applications for registration, progression or re-accreditation

7. You may apply for registration, progression or re-accreditation under these Rules. In support of an application you shall submit such information as may be prescribed. This will include:
 - 7.1 completing the relevant application form supplied by the Bar Standards Board and submitting it to the Bar Standards Board;
 - 7.2 submitting such information in support of the application as may be prescribed. This will include all of the criminal advocacy evaluation forms that you have obtained; and
 - 7.3 paying the appropriate fee in the amount determined in accordance with the Bar Standards Board's published fees policy.
8. An application will only have been made once the Bar Standards Board has received the application form completed in full, together with all information required in support of the application and confirmation from you in the form of a declaration that the information contained within, or submitted in support of, the application is full and accurate.
9. You are personally responsible for the contents of your application and any information submitted to the Bar Standards Board by you or on your behalf, and you

Annex B – Bar Standards Board Rules

must not submit (or cause or permit to be submitted on your behalf) information to the Bar Standards Board which you do not believe is full and accurate.

10. On receipt of an application, the Bar Standards Board shall decide whether to grant or refuse the application, and shall notify you accordingly, giving reasons for any decision to refuse the application. This decision will take effect when it has been communicated to the barrister concerned.
11. Before reaching a decision on the application, the Bar Standards Board may appoint an independent assessor to conduct an assessment of your competence to conduct criminal advocacy at the relevant level.

Registration for QASA

12. In order to be accredited under QASA barristers must first apply for registration. In support of an application you shall submit such information as may be prescribed.

Level 1

- 12.1 If you apply for registration at level 1 and your application is successful, you will be awarded full accreditation at level 1.

Levels 2 to 4

- 12.2 If you apply for registration at levels 2, 3 or 4 and your application is successful, you will be awarded provisional accreditation which will be valid for 24 months.
- 12.3 You must apply to convert your provisional accreditation to full accreditation within 24 months.
- 12.4 You must be assessed in your first effective criminal trials at your level and submit the prescribed number of completed criminal advocacy evaluation forms confirming that you are competent in accordance with the competence framework detailed in the QASA Handbook.
- 12.5 Your application must include all completed criminal advocacy evaluation forms obtained by you in effective trials.
- 12.6 If your application is successful you will be awarded full accreditation.

Annex B – Bar Standards Board Rules

- 12.7 Subject to rule 12.8, if your application for full accreditation is unsuccessful, you shall be granted provisional accreditation at the level below and shall be required to apply to convert this to full accreditation at that lower level in accordance with Rules 12.3 to 12.5.
- 12.8 If your application for full accreditation at level 2 is unsuccessful, you shall be granted accreditation at level 1.

Barristers not undertaking trials

- 12.9 If you do not intend to undertake criminal trials you may apply for registration at Level 2. If your application is successful, you will be awarded provisional accreditation. You must be assessed via an approved assessment organisation within 24 months.
- 12.10 If your application for full accreditation is successful you shall be awarded full accreditation and will be permitted to undertake non-trial hearings up to level 3 and trials at level 1.
- 12.11 Once you have full accreditation, if you wish to undertake trials at level 2 you must inform the BSB of your intention and comply with rules 13.1 to 13.4.

Barristers who took silk between 2010 and 2013

- 12.12 If you took silk between 2010 and 2013 inclusive you can register through the modified entry arrangements set out in paragraph 2.38 of the QASA Handbook.

Progression

13. If you have full accreditation, you may apply for accreditation at the next higher level to your current level.

Progression to level 2

- 13.1 If you wish to progress to Level 2 you must first obtain provisional accreditation at Level 2 by notifying the BSB of your intention to progress.
- 13.2 Your provisional accreditation will be valid for 24 months. In order to convert this to full accreditation you must be assessed in your first effective criminal

Annex B – Bar Standards Board Rules

trials at level 2 and submit the prescribed number of completed criminal advocacy evaluation forms confirming that you are competent in Level 2 trials in accordance with the competence framework detailed in the QASA Handbook.

- 13.3 Your application must include all completed criminal advocacy evaluation forms obtained by you in effective trials.
- 13.4 Where your application is successful, you shall be granted full accreditation at Level 2, which is valid for 5 years from the date of issue.

Progression to Level 3 and 4

Stage 1

- 13.5 You must first apply for provisional accreditation at the next higher level to your current level. In order to apply for provisional accreditation, you must submit the prescribed number of criminal advocacy evaluation forms confirming that you are very competent at your current level in accordance with the competence framework detailed in the QASA Handbook.
- 13.6 Your application must include all completed criminal advocacy evaluation forms obtained by you in effective trials. These should be obtained within a 12 month period.
- 13.7 If your application is successful you will be awarded provisional accreditation.

Stage 2

- 13.8 Your provisional accreditation will be valid for 12 months. You must apply to convert your provisional accreditation to full accreditation before your provisional accreditation expires.
- 13.9 You must be assessed in your first effective criminal trials at your new level and submit the prescribed number of completed criminal advocacy evaluation forms confirming that you are competent in accordance with the competence framework detailed in the QASA Handbook.
- 13.10 Your application must include all completed criminal advocacy evaluation forms obtained by you in effective trials.

Annex B – Bar Standards Board Rules

13.11 If your application is successful you will be awarded full accreditation.

13.12 If your application for full accreditation is unsuccessful, you may continue to conduct criminal advocacy at your current level until the expiry of your current accreditation.

Re-accreditation

14. You must apply for re-accreditation at the level at which you are accredited within five years from the date on which your full accreditation was granted.

15. You shall submit, in support of an application for re-accreditation, evidence to demonstrate your competence to conduct criminal advocacy at the level at which you are accredited, comprising:

15.1 if you are accredited at Level 1, evidence of the assessed continuing professional development undertaken by you in the field of advocacy in the period since you were accredited at Level 1 or, if you have previously been re-accredited at that level, since your most recent re-accreditation;

15.2 if you are accredited at Level 2, 3 or 4, the prescribed number of criminal advocacy evaluation forms. Your application must include all completed criminal advocacy evaluation forms obtained by you in consecutive effective trials in the 24 months preceding the application.

16. If your application is successful you will be awarded full accreditation for a period of 5 years.

17. Subject to rule 18, if your application for re-accreditation is unsuccessful, you shall be granted provisional accreditation at the level below and shall be required to apply to convert this to full accreditation at that lower level in accordance with Rules 12.3 to 12.5.

18. If your application for re-accreditation at level 2 is unsuccessful, you shall be granted accreditation at level 1.

Lapse of accreditation

19. Subject to rule 21, your provisional accreditation will lapse if you do not apply for full accreditation before it expires.

Annex B – Bar Standards Board Rules

20. Subject to rule 21, your full accreditation will lapse if you do not apply for re-accreditation within 5 years of the date on which you were awarded full accreditation.
21. If the BSB has received an application within the period of accreditation, the accreditation will not lapse whilst a decision is pending.
22. If your accreditation lapses, you may not undertake criminal advocacy in accordance with Rule 2.

Applications for variation

23. Where your individual circumstances result in you encountering difficulties in obtaining completed criminal advocacy evaluation forms within the specified period, then you may apply to the Bar Standards Board for an extension of time to comply with the requirements; or
24. Where your individual circumstances result in you encountering difficulties in obtaining completed criminal advocacy evaluation forms, then you may apply to the Bar Standards Board for your competence to conduct criminal advocacy to be assessed by an independent assessor, and you may submit the results of the assessment in support of your application for registration, re-accreditation or progression in the place of one criminal advocacy evaluation form.

Managing underperformance

25. The Bar Standards Board may receive criminal advocacy evaluation forms raising concerns regarding your competence to conduct criminal advocacy at any time.
26. Where concerns regarding your competence to conduct criminal advocacy are brought to the attention of the Bar Standards Board, either during the course of its consideration of an application brought by you under these Rules, or as a result of concerns raised under Rule 25, it may decide to do one or more of the following:
 - 26.1 appoint an independent assessor to conduct an assessment of your criminal advocacy;
 - 26.2 recommend that you undertake, at your own cost, such training for such period as it may specify;
 - 26.3 revoke your accreditation at your current level; and/or

Annex B – Bar Standards Board Rules

- 26.4 refer you for consideration of your health or conduct under the Fitness to Practise Rules or the Complaints Rules, as it considers appropriate, and shall notify you accordingly, giving reasons for its decision.
27. Where your accreditation has been revoked, you shall be granted provisional accreditation at the level below and shall be required to apply to convert this to full accreditation in accordance with Rules 12.3 to 12.5.
28. Where you have applied for registration or re-accreditation at Level 1, and your application has been refused, you will not be entitled to accept any instructions to conduct criminal advocacy, and the Bar Standards Board may recommend that you undertake training in accordance with Rule 26.2 before you re-apply for registration or re-accreditation as appropriate.
29. Where you have undertaken training under Rule 26.2, the Bar Standards Board shall, at the end of the specified period, assess whether you have satisfactorily completed the training before reaching a decision in relation to any further steps that it may consider appropriate to take in accordance with Rule 26.

Appeals

30. You may appeal to the Bar Standards Board against any decision reached by it under these rules. Appeals must be made in accordance with the published BSB QASA Appeals policy.

Commencement and transitional arrangements

31. Subject to rule 34, these rules commence on 30 September 2013.

Registration of barristers currently undertaking criminal advocacy

32. Barristers currently undertaking criminal advocacy are required to apply for registration under the Scheme in accordance with the phased implementation programme as set out at paragraphs 2.11 to 2.13 of the QASA Handbook.
33. The dates for registration will depend upon the primary circuit in which you practise. This will be the circuit in which you undertake criminal advocacy more frequently than in any other circuit.

Annex B – Bar Standards Board Rules

- 33.1 If you primarily practise in the Midland or Western Circuit, you must register for QASA from 30 September 2013 and before the first occasion on which you undertake criminal advocacy after 7 March 2014.
- 33.2 If you primarily practise in the South Eastern Circuit, you must register for QASA from 10 March 2014 and before the first occasion on which you undertake criminal advocacy after 13 June 2014.
- 33.3 If you primarily practise in the Northern, North Eastern or Wales and Chester Circuit, you must register for QASA from 30 June 2014 and before the first occasion on which you undertake criminal advocacy after 3 October 2014.
34. Subject to rules 34.1 and 34.2, rule 2 commences for all advocates from 4 October 2014.
- 34.1 Rule 2 will commence for those advocates who primarily practise in the Midland or Western Circuit from 10 March 2014. Any advocate who undertakes criminal advocacy in these circuits without accreditation must be able to prove to the BSB that they practise primarily in another circuit.
- 34.2 Rule 2 will commence for those advocates who primarily practise in the South Eastern Circuit from 14 June 2014. Any advocate who undertakes criminal advocacy in this circuit without accreditation must be able to prove to the BSB that they practise primarily in the Northern, North Eastern or Wales and Chester Circuit.