

## **Chartered Institute of Legal Executives**

Standards for CILEX higher court advocates in criminal proceedings

### **Introduction**

Only those candidates authorised as a CILEX Chartered Legal Executive Litigator and Advocate (Criminal Litigation) or a Chartered Legal Executive Advocate will be eligible to apply for higher rights of audience and this will also be dependent on them successfully completing their first year renewal as a CILEX advocate.

Advocacy in the higher courts requires demanding standards of knowledge, understanding, application and skills. To meet these standards CILEX higher courts advocates must be able to demonstrate they have the appropriate levels of competence to undertake all forms of higher court criminal advocacy to an appropriate level that will meet the expectations of the client, the judge, other court users and members of the public.

Candidates will not be assessed on every part of the assessment criteria but will be assessed on a representative selection of the criteria to demonstrate they have attained appropriate standards of competence in relation to their knowledge, understanding, application and skills as a higher courts advocate, whilst also taking into account their having already been assessed as competent in the advocacy skills course as criminal advocates to appear in the lower courts.

A candidate will fail the assessment if they commit a fundamental error that if replicated in practice would result in any one of the following outcomes:

- Where it would result in disciplinary or regulatory proceedings being taken and upheld against the advocate
- A wasted costs order being made against the advocate
- Significantly undermining or harming their client's case

Element	Assessment outcomes: What candidates who obtain higher rights will be able to do.	Assessment criteria: What candidates who obtain higher rights will have demonstrated they can do.	Supporting content:
<b>1. Law of evidence</b> Knowledge, understanding and application will be assessed primarily by written and / or multiple choice assessment of the following topics:			
The burden and the standard of proof	1.1 Apply the operation of the burden and standard of proof at a Crown Court trial	a. Applying the burden of proof and reverse burdens b. Demonstrating how evidential burdens operate on the prosecution and defence c. Understanding how the standard of proof applies to the prosecution and defence	<ul style="list-style-type: none"> <li>• The burden of proof including reverse burdens on the defence</li> <li>• The operation of evidential burdens and submissions of no case to answer</li> <li>• The standard of proof</li> <li>• Admissions of fact</li> </ul>
Disclosure of evidence	1.2 Apply the rules relating to the disclosure of evidence in the Crown Court	a. Applying the rules relating to disclosure of evidence b. Identifying how privilege can be claimed and waived c. Applying the rules relating to disclosure by third parties	<ul style="list-style-type: none"> <li>• The procedure for disclosure</li> <li>• The continuing duty of disclosure</li> <li>• Public Interest Immunity and privilege</li> <li>• Waiver of privilege</li> <li>• Third party disclosure</li> <li>• Electronic disclosure</li> </ul>

Categories of evidence	1.3 Apply the rules of evidence to different categories of evidence as they apply to a Crown Court trial	<ul style="list-style-type: none"> <li>a. Identifying the different types of evidence and the rules relating to admissibility of such evidence</li> <li>b. Explaining how the different types of hearsay evidence may be admitted</li> <li>c. Understanding how the court evaluates hearsay evidence</li> <li>d. Identifying confession evidence and the rules relating to its admissibility</li> <li>e. Recognising and explain how character evidence may be admitted</li> <li>f. Understanding how expert evidence may be admitted as an exception to the rule against opinion evidence</li> <li>g. Explaining the rules relating to the admission of disputed visual and voice identification evidence</li> <li>h. Recognising how improperly obtained evidence may be challenged</li> <li>i. Identifying other types of hazardous evidence requiring a corroboration or other form of warning/direction from the trial judge</li> </ul>	<ul style="list-style-type: none"> <li>• Hearsay evidence, including confession evidence</li> <li>• Character evidence of a defendant and non-defendant</li> <li>• Witnesses of fact and expert witnesses</li> <li>• Visual and voice identification witnesses</li> <li>• Improperly and unfairly obtained evidence</li> <li>• Corroboration warnings</li> <li>• Lucas directions</li> </ul>
Evidence from witnesses of fact	1.4 Adduce and evaluate evidence from a witness of fact	a. Distinguishing between evidence of fact and opinion	<ul style="list-style-type: none"> <li>• Competence and compellability of witnesses</li> </ul>

		<p>b. Analysing and evaluating witness statements from a witness of fact on behalf of the party calling the witness and an opposing party's witness</p>	<ul style="list-style-type: none"> <li>• Special measures provisions for vulnerable witnesses</li> <li>• The use of and service of witness summons</li> <li>• The rules relating to evidence-in-chief, cross-examination and re-examination and the purpose of each stage of oral testimony</li> <li>• When and how to adduce sexual behaviour evidence of a complainant in a sexual offence case</li> </ul>
Expert evidence	1.5 Adduce expert opinion evidence	<p>a. Explaining the purpose of adducing expert evidence and the duty an expert owes to the court</p> <p>b. Describing how expert evidence should be submitted</p> <p>c. Analysing and evaluating expert evidence</p>	<ul style="list-style-type: none"> <li>• The rules relating to the admission of expert opinion evidence</li> <li>• The form and content of an expert report</li> <li>• The expert's role at trial</li> <li>• Meeting of experts and when the use of joint experts is appropriate</li> </ul>
Other categories of evidence	1.6 The admissibility of other categories of evidence	<p>a. Adducing real and documentary evidence</p> <p>b. Adducing other forms of evidence including audio, photographic, video and CCTV evidence</p>	<ul style="list-style-type: none"> <li>• Real and documentary evidence including public records</li> <li>• The relevance of audio, photographic, video and CCTV evidence</li> </ul>

		c. Understanding when it might be appropriate to make a site visit	
<b>2. Advising a client</b> Knowledge, understanding and application will be assessed primarily by written and / or multiple-choice assessment	2.1 Advise on plea	a. Advising a client on pleading guilty to the offence charged or a lesser charge and pleading not guilty b. Identifying and advising on the availability of out of court disposals	<ul style="list-style-type: none"> <li>• Credit for a guilty plea</li> <li>• Newton hearings</li> <li>• Basis of plea</li> <li>• Counts and alternative counts on the indictment</li> <li>• Indication of sentence</li> <li>• Caution and bindovers</li> </ul>
	2.2 Advise on pre-trial and preliminary matters	a. Advising on the plea and trial preparation hearing (PTPH) and complying with directions given at the PTPH b. Demonstrating an understanding of the importance of trial preparation and case management c. Understanding when a preliminary hearing will be required and the range of such hearings	<ul style="list-style-type: none"> <li>• Completing a PTPH form</li> <li>• Compliance with directions from the PTPH</li> <li>• Sanctions for non-compliance of directions from the PTPH including costs consequences</li> <li>• Applications for joinder / severance / dismissal</li> <li>• Abuse of process applications</li> </ul>
<b>3. Crown Court processes</b> Knowledge, understanding and application will be assessed primarily by written and / or multiple-choice assessment	3.1 Conduct preliminary and interim hearings in the Crown Court including the PTPH	a. Demonstrating an appropriate knowledge of the Criminal Procedure Rules and Practice Directions in relation to pre-trial and preliminary hearings including the PTPH b. Drafting a witness statement, a defence statement, hearsay and bad character notices,	<ul style="list-style-type: none"> <li>• Criminal Procedure Rules and Practice Directions in relation to: <ul style="list-style-type: none"> <li>○ Case management</li> <li>○ Service of documents</li> <li>○ Reporting restrictions</li> <li>○ Bail and custody time limits</li> <li>○ Disclosure</li> </ul> </li> </ul>

		<p>applications to exclude hearsay and bad character and applications for special measures</p>	<ul style="list-style-type: none"> <li>○ Witness statements</li> <li>○ Witness summons</li> <li>○ Special measures</li> <li>○ Expert evidence</li> <li>○ Hearsay evidence</li> <li>○ Bad character evidence</li> </ul>
<p><b>4. The law on Sentencing</b> Knowledge, understanding and application will be assessed primarily by written and / or multiple-choice assessment</p>	<p>4.1 Apply the law of sentencing to the higher courts</p>	<p>a. Explaining the principles and practice of sentencing including the range of sentences available and the relevant criteria for their imposition and the range of other financial and ancillary orders</p>	<ul style="list-style-type: none"> <li>● Sentencing Code 2020</li> <li>● Sentencing Council Guidelines</li> <li>● Guideline sentencing cases</li> <li>● Criminal Procedure Rules Parts 28-32 and Practice Directions Part VII;</li> <li>● Offences to be taken into consideration;</li> <li>● Pre-sentence and other reports</li> <li>● Basis of plea and Newton hearings</li> <li>● Compensation</li> <li>● Costs</li> <li>● Ancillary orders, e.g. Criminal Behaviour Orders, Drinking Banning Orders, Financial Reporting Orders, Serious Crime Prevention, Orders, Sexual Offences Prevention Orders, Violent Offender Orders, Domestic Abuse Protection Orders</li> </ul>

<p><b>5. Trial strategy planning and skeleton arguments</b> These written skills will be assessed primarily in a practical assessment</p>	<p>5.1 Devise an appropriate case theory.</p>	<p>a. Identifying relevant facts, including those which are and which are not in dispute b. Identifying favourable and unfavourable facts c. Advising on the application of the relevant law to a given set of facts d. Identifying and advising on the potential admissibility of evidence relevant to the facts in dispute e. Devising relevant argument to adduce or challenge the admissibility of such evidence</p>	<ul style="list-style-type: none"> <li>• Trial preparation and case theory</li> <li>• Drafting a trial strategy plan to include the identification of: <ul style="list-style-type: none"> <li>○ Relevant facts and law</li> <li>○ Gaps and weaknesses in the evidence</li> <li>○ Good fact / bad fact analysis</li> <li>○ A plausible case theory to persuade a jury</li> </ul> </li> </ul>
	<p>5.2 Draft a skeleton argument</p>	<p>a. Drafting an accurate, persuasive and concise skeleton argument b. Undertaking up to date and relevant legal research to support a skeleton argument c. Complying with relevant rules and practice directions when drafting a skeleton argument d. Making appropriate use of the skeleton argument when making legal submissions</p>	<ul style="list-style-type: none"> <li>• The form and content of a skeleton argument including: <ul style="list-style-type: none"> <li>○ Heading</li> <li>○ Introductions</li> <li>○ Chronologies</li> <li>○ Citations</li> <li>○ Relevant argument</li> <li>○ Conclusion</li> </ul> </li> </ul>
<p><b>6 Applications and submissions</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>6.1 Make an effective and persuasive application and / or legal submission in the higher courts</p>	<p>a. Outlining the relevant background of the case b. Identifying the issues the court will be required to make decisions on and the orders sought</p>	<ul style="list-style-type: none"> <li>• Appropriate format and structure when making an application / legal submission</li> <li>• Accurate citation of relevant authority and indication</li> </ul>

		<ul style="list-style-type: none"> <li>c. Applying the relevant facts to the law</li> <li>d. Addressing unfavourable / missing evidence</li> <li>e. Correctly citing relevant and favourable authority whilst also acknowledging unhelpful authority</li> <li>f. Managing time effectively including any time limits imposed by the court</li> <li>g. Responding appropriately to any questions asked by the judge</li> <li>h. Maintaining professional standards throughout the application / submission</li> </ul>	<p>whether binding or of persuasive value only</p> <ul style="list-style-type: none"> <li>• Appropriate and proportionate use of legal authority</li> <li>• The court's overriding objective and relevant powers</li> </ul>
<p><b>7 Speeches</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>7.1 Prepare and make an effective opening and closing speech in the higher courts</p>	<ul style="list-style-type: none"> <li>a. Preparing and delivering an effective opening speech</li> <li>b. Preparing and delivering an effective and persuasive closing speech</li> <li>c. Maintaining professional standards throughout</li> </ul>	<ul style="list-style-type: none"> <li>• The purpose and requirements of an opening speech and the implications of a defence 'opening statement'</li> <li>• The purpose and requirements of a closing speech and an appropriate structure to adopt</li> <li>• The importance of taking an accurate note of the evidence</li> <li>• Accurately reviewing and evaluating the evidence</li> <li>• Using the evidence and the relevant law to effectively persuade the court</li> </ul>



			<ul style="list-style-type: none"> <li>• Using the jury bundle appropriately</li> <li>• Whether and when to pre-empt the trial judge</li> </ul>
<p><b>8 Examination of witnesses</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>8.1 Conduct an effective examination-in-chief in the higher courts 8.2 Conduct an effective re-examination in the higher courts 8.3 Conduct an effective cross-examination of an opposing witness in the higher courts in order to advance a client's case 8.4 Witness handling skills</p>	<p>a. Conducting an effective examination-in-chief in compliance with the rules b. Understanding when and how to conduct an examination of a hostile witness c. Understanding when and how to conduct a re-examination in compliance with the rules d. Conducting an effective cross-examination in compliance with the rules e. Using effective witness handling skills f. Maintaining professional standards throughout</p>	<ul style="list-style-type: none"> <li>• The rules governing the examination-in-chief of your own witness</li> <li>• The rules governing the examination of a hostile witness</li> <li>• The rules governing re-examination of your own witness</li> <li>• The rules governing cross-examination of an opposing witness including: <ul style="list-style-type: none"> <li>○ The requirement to put your client's case</li> <li>○ Previous inconsistent statements</li> <li>○ The rules relating to finality and credit questions</li> <li>○ Expert witnesses and opinion evidence</li> </ul> </li> <li>• Witness handling <ul style="list-style-type: none"> <li>○ Dealing appropriately with a reluctant, unintelligent, difficult or awkward witness</li> </ul> </li> <li>• Young and vulnerable witnesses</li> </ul>

			<ul style="list-style-type: none"> <li>• Complainants in sexual offence cases</li> </ul>
<p><b>9 A plea in mitigation</b> This piece of advocacy will be assessed primarily in a practical assessment</p>	9.1 Conduct an effective and persuasive plea in mitigation	<p>a. Conducting an effective and persuasive plea in mitigation that is concise and realistic</p> <p>b. Advising a client on likely sentence</p> <p>c. Advising a client on appealing against sentence and / or conviction</p>	<ul style="list-style-type: none"> <li>• The purpose and requirements of a plea in mitigation</li> <li>• Sentencing Council Guidelines for the Crown Court</li> <li>• Criminal Appeal Act 1968 and relevant case law</li> </ul>
<p><b>10 Court etiquette and professionalism</b> These will be assessed primarily in a practical assessment</p>	<p>10.1 Use the correct terminology when addressing the court</p> <p>10.2 Adopt a professional and persuasive speaking style when addressing the court</p>	<p>a. Using the correct terminology when addressing the court</p> <p>b. Adopting a professional and persuasive speaking style when addressing the court including:</p> <ul style="list-style-type: none"> <li>○ Speaking clearly, audibly and at an appropriate pace</li> <li>○ Using correct, plain and professional English</li> <li>○ Avoiding distracting mannerisms or behaviour</li> <li>○ Maintaining appropriate posture and body language</li> <li>○ Being accurate and concise</li> <li>○ Dealing appropriately with judicial intervention</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation skills</li> <li>• Oral presentation skills including: <ul style="list-style-type: none"> <li>○ Precision and brevity</li> <li>○ Management of documentation</li> <li>○ Time management</li> <li>○ Engaging and persuading the court</li> <li>○ Court attire and etiquette</li> </ul> </li> </ul>
<p><b>11 Conduct and ethics</b> This is a pervasive topic and can be assessed in</p>	11.1 Comply with the professional duties and responsibilities of a CILEx advocate	a. Comply with the statutory and other rules of professional conduct	<ul style="list-style-type: none"> <li>• The Criminal Procedure Rules and especially:</li> </ul>

<p>any part of the assessment</p>		<p>b. Comply with the Criminal Procedure Rules applicable to professional conduct  c. Comply with the CILEX Regulation Code of Conduct</p>	<ul style="list-style-type: none"> <li>○ Part 1. The overriding objective</li> <li>○ Part 3. The court's case management powers</li> <li>○ Part 22. Statement of trust</li> <li>○ Part 15. Disclosure</li> <li>○ Part 16. Witness statements</li> <li>○ Part 19. Expert evidence</li> <li>● The CILEX Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>● The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> </ul>
	<p>12.1 Comply with the duties of a CILEX advocate towards the court</p>	<p>a. Act in accordance with the advocate's overriding duty to the court  b. Act with honesty and integrity in the presentation of a case before the court  c. Assist the court in the effective case management and application of the overriding objective</p>	<ul style="list-style-type: none"> <li>● CPR Part 3.1 to 3.27</li> <li>● The CILEX Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>● The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> <li>● Dealing with wasted cost orders</li> <li>● Never construct facts to support the client's case</li> <li>● Never knowingly, recklessly, directly or indirectly mislead the court</li> <li>● Correct any errors at the first opportunity (For example, if your <i>client</i> tells you that they have previous <i>convictions</i> of which the prosecution is not aware, you may not disclose this without their consent. However, in a case where mandatory sentences apply, the non-disclosure of the previous <i>convictions</i> will result in the <i>court</i> failing to pass the sentence that is required by law. In that situation, you must advise your <i>client</i> that if consent is refused to your revealing the information you will have to cease to act. In situations where mandatory sentences</li> </ul>
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			<p>do not apply, and your <i>client</i> does not agree to disclose the previous <i>convictions</i>, you can continue to represent your <i>client</i> but in doing so must not say anything that misleads the <i>court</i>. This will constrain you from what you can say in mitigation. For example, you could not advance a positive case of previous good character knowing that there are undisclosed prior <i>convictions</i>. Moreover, if the <i>court</i> asks you a direct question you must not give an untruthful answer and therefore have to withdraw if, on your being asked such a question, your <i>client</i> still refuses to allow you to answer the question truthfully. You should explain this to your <i>client</i>.)</p> <ul style="list-style-type: none"><li>• Inform the court of all relevant legislation and case law of which the advocate is aware, whether or not adverse to the advocate's case</li></ul>
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			<ul style="list-style-type: none"> <li>• Avoid taking any legal point which the advocate does not consider to be properly arguable</li> </ul>
	<p>13. Comply with the duties of a CILEx advocate towards the client</p>	<ul style="list-style-type: none"> <li>a. Assert the advocate's independence in fearlessly advancing the client's case</li> <li>b. Keep the client's information and documents confidential, except when disclosure is permitted or required</li> <li>c. Maintain any legitimate claim to confidentiality or legal professional privilege</li> <li>d. Disclose all material information to the client except, where, in very rare circumstances, disclosure is forbidden</li> <li>e. Assert the advocate's duty as owed expressly to the client and not to any intermediary or third-party funder</li> </ul>	<ul style="list-style-type: none"> <li>• The CILEx Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>• The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> </ul>

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Disclosure of evidence	1.6 Apply the rules relating to the disclosure of evidence in the Crown Court	a. Applying the rules relating to disclosure of evidence b. Identifying how privilege can be claimed and waived c. Applying the rules relating to disclosure by third parties	<ul style="list-style-type: none"> <li>• The procedure for disclosure</li> <li>• The continuing duty of disclosure</li> <li>• Public Interest Immunity and privilege</li> <li>• Waiver of privilege</li> <li>• Third party disclosure</li> <li>• Electronic disclosure</li> </ul>

Categories of evidence	1.7 Apply the rules of evidence to different categories of evidence as they apply to a Crown Court trial	<ul style="list-style-type: none"> <li>j. Identifying the different types of evidence and the rules relating to admissibility of such evidence</li> <li>k. Explaining how the different types of hearsay evidence may be admitted</li> <li>l. Understanding how the court evaluates hearsay evidence</li> <li>m. Identifying confession evidence and the rules relating to its admissibility</li> <li>n. Recognising and explain how character evidence may be admitted</li> <li>o. Understanding how expert evidence may be admitted as an exception to the rule against opinion evidence</li> <li>p. Explaining the rules relating to the admission of disputed visual and voice identification evidence</li> <li>q. Recognising how improperly obtained evidence may be challenged</li> <li>r. Identifying other types of hazardous evidence requiring a corroboration or other form of warning/direction from the trial judge</li> </ul>	<ul style="list-style-type: none"> <li>• Hearsay evidence, including confession evidence</li> <li>• Character evidence of a defendant and non-defendant</li> <li>• Witnesses of fact and expert witnesses</li> <li>• Visual and voice identification witnesses</li> <li>• Improperly and unfairly obtained evidence</li> <li>• Corroboration warnings</li> <li>• Lucas directions</li> </ul>
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<p><b>9. The law on Sentencing</b> Knowledge, understanding and application will be assessed primarily by written and / or multiple-choice assessment</p>	<p>4.1 Apply the law of sentencing to the higher courts</p>	<p>b. Explaining the principles and practice of sentencing including the range of sentences available and the relevant criteria for their imposition and the range of other financial and ancillary orders</p>	<ul style="list-style-type: none"> <li>● Sentencing Code 2020</li> <li>● Sentencing Council Guidelines</li> <li>● Guideline sentencing cases</li> <li>● Criminal Procedure Rules Parts 28-32 and Practice Directions Part VII;</li> <li>● Offences to be taken into consideration;</li> <li>● Pre-sentence and other reports</li> <li>● Basis of plea and Newton hearings</li> <li>● Compensation</li> <li>● Costs</li> <li>● Ancillary orders, e.g. Criminal Behaviour Orders, Drinking Banning Orders, Financial Reporting Orders, Serious Crime Prevention, Orders, Sexual Offences Prevention Orders, Violent Offender Orders, Domestic Abuse Protection Orders</li> </ul>

<p><b>10. Trial strategy planning and skeleton arguments</b> These written skills will be assessed primarily in a practical assessment</p>	<p>11.1 Devise an appropriate case theory.</p>	<p>f. Identifying relevant facts, including those which are and which are not in dispute g. Identifying favourable and unfavourable facts h. Advising on the application of the relevant law to a given set of facts i. Identifying and advising on the potential admissibility of evidence relevant to the facts in dispute j. Devising relevant argument to adduce or challenge the admissibility of such evidence</p>	<ul style="list-style-type: none"> <li>• Trial preparation and case theory</li> <li>• Drafting a trial strategy plan to include the identification of: <ul style="list-style-type: none"> <li>○ Relevant facts and law</li> <li>○ Gaps and weaknesses in the evidence</li> <li>○ Good fact / bad fact analysis</li> <li>○ A plausible case theory to persuade a jury</li> </ul> </li> </ul>
	<p>11.2 Draft a skeleton argument</p>	<p>e. Drafting an accurate, persuasive and concise skeleton argument f. Undertaking up to date and relevant legal research to support a skeleton argument g. Complying with relevant rules and practice directions when drafting a skeleton argument h. Making appropriate use of the skeleton argument when making legal submissions</p>	<ul style="list-style-type: none"> <li>• The form and content of a skeleton argument including: <ul style="list-style-type: none"> <li>○ Heading</li> <li>○ Introductions</li> <li>○ Chronologies</li> <li>○ Citations</li> <li>○ Relevant argument</li> <li>○ Conclusion</li> </ul> </li> </ul>
<p><b>12 Applications and submissions</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>12.1 Make an effective and persuasive application and / or legal submission in the higher courts</p>	<p>i. Outlining the relevant background of the case j. Identifying the issues the court will be required to make decisions on and the orders sought</p>	<ul style="list-style-type: none"> <li>• Appropriate format and structure when making an application / legal submission</li> <li>• Accurate citation of relevant authority and indication</li> </ul>

		<ul style="list-style-type: none"> <li>k. Applying the relevant facts to the law</li> <li>l. Addressing unfavourable / missing evidence</li> <li>m. Correctly citing relevant and favourable authority whilst also acknowledging unhelpful authority</li> <li>n. Managing time effectively including any time limits imposed by the court</li> <li>o. Responding appropriately to any questions asked by the judge</li> <li>p. Maintaining professional standards throughout the application / submission</li> </ul>	<p>whether binding or of persuasive value only</p> <ul style="list-style-type: none"> <li>• Appropriate and proportionate use of legal authority</li> <li>• The court’s overriding objective and relevant powers</li> </ul>
<p><b>13 Speeches</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>7.1 Prepare and make an effective opening and closing speech in the higher courts</p>	<ul style="list-style-type: none"> <li>d. Preparing and delivering an effective opening speech</li> <li>e. Preparing and delivering an effective and persuasive closing speech</li> <li>f. Maintaining professional standards throughout</li> </ul>	<ul style="list-style-type: none"> <li>• The purpose and requirements of an opening speech and the implications of a defence ‘opening statement’</li> <li>• The purpose and requirements of a closing speech and an appropriate structure to adopt</li> <li>• The importance of taking an accurate note of the evidence</li> <li>• Accurately reviewing and evaluating the evidence</li> <li>• Using the evidence and the relevant law to effectively persuade the court</li> </ul>

			<ul style="list-style-type: none"> <li>• Using the jury bundle appropriately</li> <li>• Whether and when to pre-empt the trial judge</li> </ul>
<p><b>14 Examination of witnesses</b> These advocacy skills will be assessed primarily in a practical assessment</p>	<p>8.1 Conduct an effective examination-in-chief in the higher courts 8.2 Conduct an effective re-examination in the higher courts 8.3 Conduct an effective cross-examination of an opposing witness in the higher courts in order to advance a client's case 8.4 Witness handling skills</p>	<p>g. Conducting an effective examination-in-chief in compliance with the rules h. Understanding when and how to conduct an examination of a hostile witness i. Understanding when and how to conduct a re-examination in compliance with the rules j. Conducting an effective cross-examination in compliance with the rules k. Using effective witness handling skills l. Maintaining professional standards throughout</p>	<ul style="list-style-type: none"> <li>• The rules governing the examination-in-chief of your own witness</li> <li>• The rules governing the examination of a hostile witness</li> <li>• The rules governing re-examination of your own witness</li> <li>• The rules governing cross-examination of an opposing witness including: <ul style="list-style-type: none"> <li>○ The requirement to put your client's case</li> <li>○ Previous inconsistent statements</li> <li>○ The rules relating to finality and credit questions</li> <li>○ Expert witnesses and opinion evidence</li> </ul> </li> <li>• Witness handling <ul style="list-style-type: none"> <li>○ Dealing appropriately with a reluctant, unintelligent, difficult or awkward witness</li> </ul> </li> <li>• Young and vulnerable witnesses</li> </ul>

			<ul style="list-style-type: none"> <li>• Complainants in sexual offence cases</li> </ul>
<p><b>15 A plea in mitigation</b> This piece of advocacy will be assessed primarily in a practical assessment</p>	9.1 Conduct an effective and persuasive plea in mitigation	<p>d. Conducting an effective and persuasive plea in mitigation that is concise and realistic</p> <p>e. Advising a client on likely sentence</p> <p>f. Advising a client on appealing against sentence and / or conviction</p>	<ul style="list-style-type: none"> <li>• The purpose and requirements of a plea in mitigation</li> <li>• Sentencing Council Guidelines for the Crown Court</li> <li>• Criminal Appeal Act 1968 and relevant case law</li> </ul>
<p><b>16 Court etiquette and professionalism</b> These will be assessed primarily in a practical assessment</p>	<p>10.1 Use the correct terminology when addressing the court</p> <p>10.2 Adopt a professional and persuasive speaking style when addressing the court</p>	<p>c. Using the correct terminology when addressing the court</p> <p>d. Adopting a professional and persuasive speaking style when addressing the court including:</p> <ul style="list-style-type: none"> <li>○ Speaking clearly, audibly and at an appropriate pace</li> <li>○ Using correct, plain and professional English</li> <li>○ Avoiding distracting mannerisms or behaviour</li> <li>○ Maintaining appropriate posture and body language</li> <li>○ Being accurate and concise</li> <li>○ Dealing appropriately with judicial intervention</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation skills</li> <li>• Oral presentation skills including: <ul style="list-style-type: none"> <li>○ Precision and brevity</li> <li>○ Management of documentation</li> <li>○ Time management</li> <li>○ Engaging and persuading the court</li> <li>○ Court attire and etiquette</li> </ul> </li> </ul>
<p><b>17 Conduct and ethics</b> This is a pervasive topic and can be assessed in</p>	11.1 Comply with the professional duties and responsibilities of a CILEx advocate	d. Comply with the statutory and other rules of professional conduct	<ul style="list-style-type: none"> <li>• The Criminal Procedure Rules and especially:</li> </ul>

<p>any part of the assessment</p>		<p>e. Comply with the Criminal Procedure Rules applicable to professional conduct  f. Comply with the CILEX Regulation Code of Conduct</p>	<ul style="list-style-type: none"> <li>○ Part 1. The overriding objective</li> <li>○ Part 3. The court's case management powers</li> <li>○ Part 22. Statement of trust</li> <li>○ Part 15. Disclosure</li> <li>○ Part 16. Witness statements</li> <li>○ Part 19. Expert evidence</li> <li>● The CILEX Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>● The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> </ul>
	<p>12.1 Comply with the duties of a CILEX advocate towards the court</p>	<p>a. Act in accordance with the advocate's overriding duty to the court  b. Act with honesty and integrity in the presentation of a case before the court  c. Assist the court in the effective case management and application of the overriding objective</p>	<ul style="list-style-type: none"> <li>● CPR Part 3.1 to 3.27</li> <li>● The CILEX Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>● The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> </ul> </li> </ul>



			<ul style="list-style-type: none"> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> <li>● Dealing with wasted cost orders</li> <li>● Never construct facts to support the client's case</li> <li>● Never knowingly, recklessly, directly or indirectly mislead the court</li> <li>● Correct any errors at the first opportunity (For example, if your <i>client</i> tells you that they have previous <i>convictions</i> of which the prosecution is not aware, you may not disclose this without their consent. However, in a case where mandatory sentences apply, the non-disclosure of the previous <i>convictions</i> will result in the <i>court</i> failing to pass the sentence that is required by law. In that situation, you must advise your <i>client</i> that if consent is refused to your revealing the information you will have to cease to act. In situations where mandatory sentences</li> </ul>
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			<p>do not apply, and your <i>client</i> does not agree to disclose the previous <i>convictions</i>, you can continue to represent your <i>client</i> but in doing so must not say anything that misleads the <i>court</i>. This will constrain you from what you can say in mitigation. For example, you could not advance a positive case of previous good character knowing that there are undisclosed prior <i>convictions</i>. Moreover, if the <i>court</i> asks you a direct question you must not give an untruthful answer and therefore have to withdraw if, on your being asked such a question, your <i>client</i> still refuses to allow you to answer the question truthfully. You should explain this to your <i>client</i>.)</p> <ul style="list-style-type: none"> <li>• Inform the court of all relevant legislation and case law of which the advocate is aware, whether or not adverse to the advocate's case</li> </ul>
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			<ul style="list-style-type: none"> <li>• Avoid taking any legal point which the advocate does not consider to be properly arguable</li> </ul>
	<p>13. Comply with the duties of a CILEx advocate towards the client</p>	<p>f. Assert the advocate’s independence in fearlessly advancing the client’s case</p> <p>g. Keep the client’s information and documents confidential, except when disclosure is permitted or required</p> <p>h. Maintain any legitimate claim to confidentiality or legal professional privilege</p> <p>i. Disclose all material information to the client except, where, in very rare circumstances, disclosure is forbidden</p> <p>j. Assert the advocate’s duty as owed expressly to the client and not to any intermediary or third-party funder</p>	<ul style="list-style-type: none"> <li>• The CILEx Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>• The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> </ul>

	<p>14. Act with honesty and integrity in the preparation and presentation of evidence</p>	<p>a. Avoid attempting to influence a witness after taking a statement from them as to the contents of that statement</p> <p>b. Avoid seeking to persuade a witness to change their evidence</p> <p>c. Avoid encouraging a witness to give misleading or untruthful evidence</p> <p>d. Avoid rehearsing or coaching a witness in respect of their evidence</p> <p>e. Avoid attempting to suppress or conceal unhelpful evidence</p>	<ul style="list-style-type: none"> <li>• The CILEx Regulation Code of Conduct and especially:             <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>• The CILEX Rights of Audience Conduct Rules and especially:             <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> <li>• Expert witness</li> <li>• Lay witness</li> </ul>
	<p>15. Exercise professional discipline in advancing the client's case and questioning witnesses</p>	<p>a. Avoid alleging fraud (unless pleaded and instructed to do so and given material which the advocate reasonably believes to show, on the face of it, a case of fraud)</p> <p>b. Avoid making statements or asking questions merely to insult, humiliate or annoy a witness or any other person</p> <p>c. Avoid making any serious allegation against a witness whom the advocate is able to cross examine without putting the allegation to the witness</p>	<ul style="list-style-type: none"> <li>• The CILEx Regulation Code of Conduct and especially:             <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>• The CILEX Rights of Audience Conduct Rules and especially:             <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> </ul>

		<p>d. Avoid alleging any crime, fraud or misconduct (unless the allegation goes to a matter in issue material to the advocate's case and appears to be supported by reasonable grounds)</p> <p>e. Avoid putting questions, making statements or advancing arguments which are misleading or vexatious</p>	
	<p>16. Advise on and where possible reconcile the advocate's concurrent duties to the client, the rule of law and the administration of justice</p>	<p>a. Identify any actual or potential conflict of interest</p> <p>b. Recognise when conflict requires the advocate to withhold information from the client or disclose confidential information</p> <p>c. Recognise when any such conflict requires the advocate to decline instructions or withdraw from the case</p>	<ul style="list-style-type: none"> <li>• The CILEx Regulation Code of Conduct and especially: <ul style="list-style-type: none"> <li>○ Core principles</li> </ul> </li> <li>• The CILEX Rights of Audience Conduct Rules and especially: <ul style="list-style-type: none"> <li>○ Fundamental duties</li> <li>○ The decision to appear</li> <li>○ Ceasing to act as an advocate</li> <li>○ Conduct of work</li> </ul> </li> <li>• Representing at trial a client who confidentially admits guilt and the considerations that arise.</li> </ul>