

INTRODUCTION – CRIMINAL LITIGATION PRACTICE RIGHTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule sets out:

- the level of competency, knowledge and understanding required to practise in the area of criminal litigation
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – client care, research and interviewing.
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements

Note that applicants seeking rights of audience accreditation in hearings in open court and chambers should refer to the criteria set out in the Advocacy Rights accreditation document.

Certification of Criminal Litigation Practice Rights will ensure that the applicant has:

- met the application requirements
- an appropriate level of experience in the field of criminal litigation in practice which must include not less than two years relevant experience immediately preceding the application

- an appropriate level of knowledge and appreciation of the key legal features of criminal litigation, including the ability to advise, manage and undertake all aspects of case management commonly associated within this field of practice
- the ability and experience to research aspects of case law, legal procedure and documentation that is current
- the ability and experience to interview clients appropriately, identify the client's objectives and different means of achieving those objectives and advise and be aware of the financial and personal priorities and constraints to be taken account of together with the costs, benefits and risks involved in a procedure or course of action
- the ability and experience, to perform the tasks required to advance matters, to include (but not restricted to) drafting letters of advice to clients, communicating with co-professionals, the police, the Crown Prosecution Service and with the court
- the ability and experience to draft all relevant documentation including (but not restricted to) drafting applications and notices to the court, case management forms, witness statements and documentation required to obtain public funding
- the ability and experience to undertake advocacy in the required fields within this practice area
- demonstrate a level of experience, knowledge and understanding of all aspects of professional conduct and regulation which includes an understanding of the key ethical requirements contained in the relevant conduct rules and other law and regulations and where these may impact and be able to apply them in context

	Learning Outcomes	Supporting Experience
	The entry requirement to obtain Criminal litigation practice rights seeks to ensure that an applicant will be able to demonstrate that they:	The applicant will need to provide evidence of:
STAGE 1 ENTRY CRITERIA <ul style="list-style-type: none"> • KNOWLEDGE UNDERSTANDING • SKILLS • EXPERIENCE 		
ENTRY KNOWLEDGE AND UNDERSTANDING	<ul style="list-style-type: none"> • Have practical knowledge, understanding, experience and skills 	<p>Either</p> <ul style="list-style-type: none"> • successful completion of CILEx Level 6 Professional Higher Diplomas in Criminal Law and Criminal litigation • successful completion of CILEx Level 6 Professional Higher Diplomas in the skills of Research and Client Care • is a Fellow of CILEx <p>NOTE: Where the applicant holds appropriate qualifications which enable an application for Fellowship to be made, this can be made concurrently with the application for Criminal Litigation Practice Rights</p> <p>Or</p> <ul style="list-style-type: none"> • has supplied evidence of qualification and/or

		<p>experience of an equivalent standard</p> <ul style="list-style-type: none"> • Where the applicant does not hold the relevant CILEx Level 6 Criminal Law and Criminal Litigation examination (or equivalent), he is required to demonstrate his knowledge and understanding of Criminal Law and Litigation through the submission of 5 portfolios in accordance with the Portfolio Guidelines. Examples will be drawn from a range of cases from the applicant's case load. • Where the applicant does not hold the relevant CILEx Level 6 Legal Research or Client Care (or equivalent) qualification, they should provide a portfolio of evidence and logbook which demonstrates how they meet each of the outcomes set out below in accordance with the Portfolio Guidelines. • Examples will be drawn from a range of cases from the applicant's case load.
KNOWLEDGE AND UNDERSTANDING		Note: elements in italics are optional
ENTRY SKILLS	<p>Demonstrate knowledge and understanding of criminal law as it operates in practice.</p> <p>Demonstrate knowledge and understanding of criminal procedure and the law of evidence as they operate in practice.</p>	<ul style="list-style-type: none"> • the criminal law relating to analysis of actus reus, mens rea, offences of strict liability, negligence giving rise to criminal liability and defences. This may be in the context of non-fatal offences, sexual offences, homicide offences, offences against property, road traffic offences and inchoate offences. • application and critical evaluation of criminal liability in given factual situations. • police investigative powers; public funding of

	<p>Demonstrate knowledge and understanding of professional conduct issues arising in practice</p> <p>Demonstrate knowledge and understanding the importance of client care in legal practice</p>	<p>appropriately explained</p> <ul style="list-style-type: none"> • Judicious use of structure to clearly and logically set out information • the synthesis of a variety of sources to provide advice to the client. • use of appropriate communication, including use of appropriate tone and style, to sensitively manage client expectations • Explain where the applicant will find the rules of professional conduct which affect their practice of the law • Identify situations in which an ethical issue may have arisen in their practice and how the applicant dealt with those situations • Identify any professional organisations that exist within the applicant's area of practice and explain benefits of membership • Explain the conduct rules relating to client care and evidence use of the rules in practice • Evidence use of client care letters and complaint management, 'Your Clients, Your Business' and the benefits of LEXCEL membership etc. • Demonstrate understanding of the need for good client care to benefit the business
<p>Legal Research</p>	<p>Demonstrate knowledge and understanding of legal research and be able to analyse the scope and complexity of situations which need legal research</p> <p>Demonstrate knowledge and understanding of and be able to evaluate legal research sources</p>	<ul style="list-style-type: none"> • Identify situations in which the need for legal research has arisen in their work • Explain the steps the applicant undertook to identify relevant sources of information and how they determined the reliability, accuracy and currency of the information discovered • Explain their understanding of primary and

	<p>Demonstrate knowledge and understanding of and be able to perform appropriate legal research</p> <p>Demonstrate knowledge and understanding of and be able to analyse the law in relation to practical problems</p> <p>Ability to record and evaluate information</p> <p>Ability to synthesise research to present advice</p>	<p>secondary sources and how these sources can be used to ensure the applicant sufficiently researched the problem</p> <ul style="list-style-type: none"> • Identify relevant statutes, case law and other sources from research • how research was prioritised and analysed and used to better understand the issues raised in the legal matter • synthesis of the research materials to provide a structured and accurate report • how the applicant evaluated the research ensuring that it is comprehensive and sensitive to the needs of the recipient
<p>ENTRY EXPERIENCE:</p> <p>ALL APPLICANTS</p>	<p>Criminal proceedings litigation experience in the 2 years preceding the application</p>	<ul style="list-style-type: none"> • General description of criminal work carried out • Description of typical case load • An indication of chargeable hours spent on criminal proceedings work in each of the last 2 years • The proportion of time spent on criminal proceedings work • The number of cases which have included preparation for trial • Details of the supervisory arrangements under which the applicant works and/or their supervisory responsibilities <p>The applicant is required to demonstrate their experience of Criminal Law, Practice and litigation through the submission of 3 portfolios in accordance with the Portfolio Guidelines. Examples will be drawn from a range of cases from the applicant's case load.</p>

<p>STAGE 2</p> <p>QUALIFICATION CRITERIA SKILLS</p> <p>In order to obtain accreditation applicants must demonstrate the following outcomes either through attendance on a course, or through work experience and by satisfying the assessment criteria.</p>		<p>In order to obtain accreditation the applicant needs to demonstrate the outcomes by either:</p> <ul style="list-style-type: none"> • attendance on a course, or • through work experience <p>and</p> <ul style="list-style-type: none"> • by satisfying the assessment criteria. <p>Applicants must show the required level of skills in 4 elements, across a range of Criminal matters which may include representing a client in proceedings before:</p> <ol style="list-style-type: none"> (1) a Magistrates' Court; (2) a Youth Court (3) a Crown Court
<p>Element 1.</p> <p>INTERVIEWING, ADVISING AND COMMUNICATING</p>	<p>INTERVIEWING</p> <ul style="list-style-type: none"> • conduct effective interviews with the client and potential witnesses across a range of criminal matters. <p>ADVISING & COMMUNICATING</p> <ul style="list-style-type: none"> • An ability to give and communicate clear accurate and practical advice both orally and in writing on matters relating to law procedure strategy and prospects of success (either orally, in writing or other media). Where necessary, the applicant will be able to refer the client on to outside agencies or professionals better able to deal with the wider 	<ul style="list-style-type: none"> • prepare for an initial interview and apply a structured approach to it • greet the interviewee appropriately • use appropriate listening questioning and feedback techniques • maintain rapport with the interviewee. • be sensitive to diversity issues • keep a full and accurate record of the interview • close the interview appropriately <ul style="list-style-type: none"> • obtain all relevant information and identify the clients objectives • give clear advice on all relevant matters arising • identify the options available and explain the pros and cons of each of those options • enable the client to make decisions in the case

	<p>aspect of their problem.</p>	<p>based on appropriate advice</p> <ul style="list-style-type: none"> • give clear, appropriate and accurate advice regarding costs and funding • seek appropriate instructions and give clear advice regarding the next steps to be taken • deal appropriately with any diversity issues that arise • handle an emotionally distressed client in a sensitive and professional manner • produce an accurate record of the interview
<p>Element 2. COSTS AND FUNDING</p>	<p>COSTS</p> <ul style="list-style-type: none"> • An ability to provide clear and accurate advice on the power of the court to make orders in relation to costs <p>FUNDING</p> <ul style="list-style-type: none"> • An ability to provide clear accurate and regular advice on funding options to include private funding and public funding. <p>DOCUMENTATION</p> <ul style="list-style-type: none"> • Draft or complete the necessary documents relating to funding. 	<ul style="list-style-type: none"> • provide appropriate advice and information about the court's powers to make an order in relation to a client paying a contribution towards prosecution costs and when defence costs may be paid from central funds or by the prosecution • advise a client about their eligibility for publicly funded legal advice and representation • explain what supporting documentation will be required to obtain publicly funded representation • advising the client on the financial and other implications of obtaining publicly funded representation • provide appropriate information to privately funded clients regarding the fees which will be charged • draft client care letters • complete all relevant Criminal Defence Solicitor Forms required in order to obtain public funding • Complete all relevant Criminal Defence Solicitor

		<p>Forms required in order to obtain authority to instruct experts when this is necessary</p> <ul style="list-style-type: none"> • prepare estimates and schedules of costs for privately funded clients
<p>Element 3. PROFESSIONAL CONDUCT AND ETHICS</p>	<p>CONDUCT AND ETHICS</p> <ul style="list-style-type: none"> • An awareness of their professional obligations in a diverse range of situations in respect of matters relating to substantive law and the rules of professional conduct. • An awareness of their obligations to: the court, their client, other lawyers, the public and the Community Legal Service in respect of money laundering legislation and regulation. <p>CONFLICTS</p> <ul style="list-style-type: none"> • An ability to identify and deal appropriately with conflicts of interest throughout his handling of the matter <p>WITHDRAWAL FROM THE CASE</p> <ul style="list-style-type: none"> • an awareness of when they can and/or must withdraw from a case; the proper steps to be taken when doing so whilst observing the interest of the client <p>CONFIDENTIALITY AND PRIVILEGE</p> <ul style="list-style-type: none"> • An understanding of and the ability to apply the law and practice of confidentiality and privilege in a variety of practical contexts. 	<ul style="list-style-type: none"> • identify situations and their obligations to: the court, their client, other lawyers, the public and money laundering legislation and regulation in practice • identify and deal appropriately with conflicts; arising between the applicant and the client, arising between the applicant and their duty to the court, or arising between the applicant and any relevant third party • show an awareness of the need to withdraw; when the client's interests conflict with their duties to the court or any other circumstances where withdrawal is required • the appropriate steps to take when withdrawing from a case • distinguish between legal advice privilege and litigation privilege • distinguish between confidential information and privileged information • identify when confidential and privileged information may or must be disclosed and to whom

	<p>COMPLAINTS AND NEGLIGENCE</p> <ul style="list-style-type: none"> • An awareness of how complaints and allegations of negligence might arise and appropriate measures/procedures for preventing and dealing with them. 	<ul style="list-style-type: none"> • describe/explain the complaints procedure operated by his professional body • be aware of procedures or processes which can be adopted to reduce the risk of complaints or allegations of negligence being made • describe the consequences of a successful complaint or allegation of negligence being made
<p>Element 4. MANAGING LITIGATION WORK</p>	<p>FILE HANDLING</p> <ul style="list-style-type: none"> • An ability to plan and manage litigation effectively. <p>CASE ANALYSIS AND CASE PREPARATION</p> <ul style="list-style-type: none"> • An ability to effectively analyse a case. • An ability to formulate a case strategy which is: <ul style="list-style-type: none"> - compatible with the client's objectives - legally and procedurally sustainable. <p>ASSEMBLY SKILLS</p> <ul style="list-style-type: none"> • An ability to assemble all materials relevant to the case, in 	<ul style="list-style-type: none"> • allocate time and resources appropriately • adopt and maintain an appropriate case strategy • be aware of procedural requirements including relevant practice directions and procedural rules • actively manage cases • identify the key points the prosecution must prove in order to secure a conviction • identify the available evidence the prosecution has to prove these points • identify what defence, if any, the client is raising and what evidence is available in relation to this defence • identify the strengths and weaknesses in the case • identify gaps in the available evidence; • draw up a realistic case theory • relate the case theory to the client's objectives and expectations • draw up a strategy for the case • identify relevant law and procedural rules

	<p>accordance with the case analysis.</p> <p>INSTRUCTING ADVOCATES</p> <ul style="list-style-type: none"> • An ability to instruct an advocate when necessary. <p>EXPERTS</p> <ul style="list-style-type: none"> • An ability to instruct an expert when necessary. <p>INSTRUCTING OTHER PROFESSIONALS</p>	<ul style="list-style-type: none"> • efficiently collate all relevant evidence • summarise relevant law, procedure and evidence • locate and interview witnesses • locate and instruct expert witnesses in accordance with relevant Criminal procedure rules <ul style="list-style-type: none"> • identify when a specialist legal opinion is required/when it is necessary to instruct an advocate • identify a suitably qualified/experienced advocate • agree an appropriate fee for work to be carried out by the advocate • draft a brief to the advocate where necessary • liaise between the client and the advocate • demonstrate an awareness of the obligations of the advocate to the court and under his professional obligations <ul style="list-style-type: none"> • appreciate the nature and function of different types of experts relevant to criminal practice • identify when it is appropriate to instruct an expert • be familiar with the available registers and databases through which an appropriate expert may be identified and located • understand the relevant procedural rules to ensure that an expert is instructed properly • understand the substantive law relating to expert evidence and the ways in which such evidence can be challenged
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<ul style="list-style-type: none"> • An ability to correspond or otherwise communicate with the court and these other parties when it is necessary to do so. 	<ul style="list-style-type: none"> • relevant prosecuting agency as the case progresses in relation to the variety of legal, procedural and evidential issues which may arise during the case • legal advisers of a co-defendant in relation to any issues arising between the defendants, court as the case progresses in relation to the variety of legal, procedural and evidential issues which may arise during the case
<p>Element 5. LEGAL WRITING AND DRAFTING</p>	<ul style="list-style-type: none"> • An ability to understand and apply the principles of good writing and drafting 	<ul style="list-style-type: none"> • Understand and apply the principles of good writing • use accurate, straightforward and modern language • use correct spelling, grammar, syntax and punctuation • draft a document that is clear, logical, consistent and with appropriate structure and format • draft a document that forms a coherent whole and, where appropriate, advances the matter • understand the appropriate uses of e-mails, letters, memoranda and other forms of written communication • choose the appropriate medium, form and style of written communication • tailor the written communication to suit the purposes of the communication and the needs of different clients or recipients