

# ANNEX 2: CHARTERED LEGAL EXECUTIVE LITIGATOR AND ADVOCATE (CRIMINAL LITIGATION)<sup>1</sup>

A Chartered Legal Executive (Criminal Litigation) must follow the Chartered Legal Executive route to qualification as being a CILEx Fellow is a pre-requisite of practising criminal litigation independently.

The technical knowledge requirements are set out below and must be coupled with the general qualification route to Chartered Legal Executive status. Where knowledge outcomes have been met as part of the route to qualification as a Chartered Legal Executive, this need not be repeated.

Chartered Legal Executive knowledge requirements should be set and assessed at Level 6 as a minimum

In addition to demonstrating this knowledge, individuals must also demonstrate the requirements set out in the competence framework, contextualised for their area of practice.

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<sup>1</sup> This document forms the education standards for Criminal Litigators and Advocates

## KNOWLEDGE REQUIREMENTS:

### GENERAL KNOWLEDGE REQUIREMENTS FOR ALL CHARTERED LEGAL EXECUTIVES

<b>MINIMUM CONTENT:</b>
<b>STAGE 1</b>
Introduction to law and legal practice
Introduction to dispute resolution
Introduction to conveyancing
Introduction to criminal practice
Introduction to wills and probate
Introduction to public law
Introduction to equality and human rights law
Introduction to legal technology
Conduct and professional ethics
<b>STAGE 2</b>
Contextualised legal technology
Conduct and professional ethics
<b>CHARTERED LEGAL EXECUTIVE</b>
Basic accounts
Specialist legal technology
Conduct and professional ethics

### TECHNICAL KNOWLEDGE REQUIREMENTS SPECIFIC TO A CHARTERED LEGAL EXECUTIVE (CRIMINAL LITIGATION)

<b>MINIMUM CONTENT:</b>
<b>Criminal Law</b>
Fundamental legal principles of criminal liability
Requirements for liability for homicide
Requirements for liability for non-fatal offences against the person, including harassment offences
Requirements for liability for criminal damage
Requirements for liability for theft, robbery and burglary
Requirements for liability for inchoate offences and accomplice liability

Requirements for general defences and defences specific to the offences of theft, homicide, sexual offences, criminal damage, inchoate offences and non-fatal offences against the person)

**Criminal Litigation**

Criminal Procedure Rules

Police powers of stop and search, identification procedures, arrest and detention for the purposes of investigating a crime

Public funding for advice, assistance and representation in the criminal justice process

Procedures and processes involved in advising clients at the police station,

Special rules relating to juveniles and vulnerable clients in relation to giving advice at the police station and throughout criminal proceedings, including youth court proceedings

Rules and procedures relating to bail applications

The stages and procedures in the Magistrates' and Crown Courts from the first hearing before the Magistrates to trial and sentencing

Sentencing and ancillary orders in criminal proceedings

Appeals procedures from Magistrates' Court and Crown Court

Principles of professional ethics in criminal matters

**Evidence**

Rules and principles of evidence as they operate in the investigation of a crime and criminal proceedings for example, their relationship with Human Rights contained in Articles 5,6 & 8 of the ECHR

## **COMPETENCE REQUIREMENTS:**

### **1. APPLICATION OF LAW AND PRACTICE**

- ✓ Undertake legal research
  - Use relevant sources and appropriate research tools
  - Apply current law to the research problem
  - Record and present findings accurately and clearly
- ✓ Critically analyse facts and law
- ✓ Synthesise all relevant information to provide advice
- ✓ Find solutions where possible
- ✓ Draft legal documents
  - Apply the principles of good drafting to produce clear, unambiguous and accurate documents with appropriate language structure and formatting and which meet all formal and legal requirements
  - Select forms and precedents and use, adapt and edit appropriate to the criminal proceedings and the Criminal Procedure Rules
  - Draft a document, whether from scratch or by using precedents, that forms a coherent whole and, which reflects the client's wishes and objectives, and advances the matter and manages client risk

### **2. COMMUNICATION**

- ✓ Communicate orally and in writing, clearly and effectively:
  - Choose the most appropriate method of communication, including electronic communication and observing appropriate etiquette
  - Use language tailored to the audience and the purposes of the communication
  - Apply oral communication and listening skills to build trust, ask questions and understand, to provide explanation and advice, as appropriate
  - Produce clear, unambiguous and accurate written communications with appropriate language and structure
  - Demonstrate emotional competence to achieve effective communication
- ✓ Negotiate
  - Identify when negotiation is necessary
  - Demonstrate effective preparation and planning and apply strategies which reflect an understanding of the client's objectives, expectations and risk, and which seeks to manage those appropriately as far as possible
  - Identify and evaluate the interests, strengths, weaknesses and risks of other parties who have an interest in the matter being negotiated

- Choose and explain the most appropriate method of negotiation (e.g. letter, face to face meeting etc.)
- Take the necessary steps to ensure agreement/compromise reached is clear and lawful, and where appropriate, legally binding
- Behave ethically in negotiating agreement or compromise
- ✓ Advocacy/oral presentation
  - Comply with the rights of audience conduct rules as they apply in criminal practice
  - Apply oral presentation techniques clearly, succinctly and persuasively, appropriate to the audience and focussed and relevant to the context
- ✓ Advocate/oral presentation (*open court rights*)
  - Analyse relevant facts and law to achieve effective preparation which anticipates and responds to potential counter arguments and challenges, and which advances the client's case
  - Apply principles of good writing and drafting in the preparation and presentation of written submissions
  - Make oral presentations that are clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience
  - Respond to arguments and questions presented during a hearing
  - Demonstrate courtesy and respect for equality and diversity
  - Examine, cross-examine and re-examine appropriately, using emotional competence
  - Identify when it is appropriate to adduce expert evidence and challenge expert evidence effectively
  - Demonstrate good practice when dealing with vulnerable clients and witnesses
  - Deal effectively with uncooperative witnesses
  - Demonstrate an ability to make a closing speech that is legally and factually accurate, succinct, and persuasive
  - Identify issues of ethical and professional conduct and take appropriate action
  - Act according to the requirements of court etiquette and conventions of advocacy
- ✓ Develop, maintain and manage 3<sup>rd</sup> party relationships
  - Work both independently and as part of a team
  - Conduct effective interviews with potential witnesses
  - Deal with others involved in a matter appropriately, professionally and ethically
  - Provide others involved in a matter with appropriate information, instructions and guidance
  - Identify and where appropriate instruct an advocate or expert

### **3. CLIENT RELATIONSHIP**

- ✓ Take instructions
  - Conduct effective interviews with a client to achieve a full understanding of the facts
  - Identify and obtain all relevant information and where appropriate, investigate all relevant facts

- Recognise when information is missing or held by 3<sup>rd</sup> parties and seek to obtain the necessary consents to acquire it
- Identify what evidence is required to further the client's interest and take steps to admit it
- Identify and apply specific requirements relating to juveniles and/or vulnerable clients
- ✓ Evaluate options and risks to the client
  - Analyse the strengths and weaknesses of the prosecution case or defence
  - Analyse and evaluate evidence and take the appropriate steps to exclude evidence improperly obtained
  - Evaluate pre-trial options, including bail, and formulate a strategy compatible with the client's objectives which is legally, ethically and procedurally sustainable
  - Identify issues, including the client's personal circumstances, which may impact on the achievement of the client's objectives,
- ✓ Give advice
  - Communicate clear, accurate and practical advice, both orally and in writing, on matters relating to law, procedure and strategy and possible outcomes of criminal proceedings
  - Give clear and accurate advice on funding
- ✓ Provide good customer service
  - Identify the steps which need to be taken to achieve the client's wishes or further their objectives and plan and implement their progress
  - Communicate with the client on progress towards achieving their objectives as far as practicable, including risks which have not previously been identified

#### **4. EFFECTIVE WORKING PRACTICES**

- ✓ Progress matters
  - Deal with matters without causing delay
  - Identify and manage risks as far as practicable to the achievement of the client's objectives
- ✓ Plan workload and manage files
  - Plan and prioritise workload and manage files and tasks concurrently and efficiently, making best use of resources and exercising effective judgement
  - Maintain files and records in accordance with office and regulatory procedures
  - Seek support where necessary
  - Manage financial transactions on the file
- ✓ Caseload management
- ✓ Understand and utilise innovation where appropriate

## **5. BUSINESS AWARENESS**

- ✓ Identify and evaluate options and risks to the business in which you work
- ✓ Undertake business development
- ✓ Network
- ✓ Identify marketing opportunities
- ✓ Understand and use financial management tools

## **6. SELF DEVELOPMENT**

- ✓ Reflect and self-evaluate, including understanding your own limitations and the need for adaptability.
- ✓ Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients.
- ✓ Foster personal physical and mental wellbeing and contribute where possible to a positive workplace environment.
- ✓ Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements.
- ✓ Demonstrate leadership and management skills (optional).

## **7. CONDUCT, ETHICS AND PROFESSIONALISM**

- ✓ Understand and put into practice the CILEx Regulation Code of Conduct and the CILEx Rights of Audience Conduct Rules
  - Apply professional obligations in a diverse range of situations relating to substantive law and the rules of professional conduct
  - Apply obligations to the court, clients, other lawyers and the public
- ✓ Understand and put into practice all relevant legal and regulatory requirements (e.g. data protection, anti-money laundering legislation and regulation, conflicts, withdrawal from a case, undertakings, confidentiality and privilege)
- ✓ Understand and put into practice the principles of client care
- ✓ Provide certainty and clarity as to the legal services being provided and the basis of charging and draft compliant client care letters
- ✓ Understand and put into practice complaint handling requirements
  - Apply the conduct rules
  - Take the necessary steps required in the event that a mistake (or an act of negligence) has occurred
- ✓ Understand and put into practice, principles of equality, diversity and inclusion, including the needs of vulnerable consumers
- ✓ Identify situations where ethical, legal or regulatory requirements are engaged and take appropriate action
- ✓ Resist pressure to condone, ignore or act unethically

## **8. USE OF TECHNOLOGY**

- ✓ Use available technology as it is used in criminal law practice and associated matters
- ✓ Identify uses for emerging technology in criminal law practice and recommend its implementation where appropriate
- ✓ Understand the ethical challenges and the limitations of technology and use technology ethically