



**APPENDIX 1**

**ASSOCIATE PROSECUTOR PERSON SPECIFICATIONS**

**Level 1 Associate Prosecutor  
Person Specification**

<b>Skills</b>	<b>Criteria</b>	<b>Method of Assessment</b>
<b>Leadership</b>	<p>Takes responsibility for actions and decisions; consults appropriately.</p> <p>Instils confidence and works under own direction; successfully deals with pressures and demands.</p>	Application Form, Assessment and Interview
<b>Achieving Results</b>	<p>Sets, maintains and achieves high quality standards in all circumstances.</p> <p>Supports and contributes to the delivery of the organisation's strategic aims and objectives.</p>	Interview
<b>Planning &amp; Organising</b>	<p>Prioritises a varying and sometimes demanding workload and manages own time effectively.</p> <p>Balances conflicting priorities and interests to deliver results.</p>	Interview
<b>Communication &amp; Negotiation</b>	<p>Presents with skill and confidence.</p> <p>Represents CPS effectively to outside agencies and the public.</p> <p>Sets out arguments clearly and logically, persuades and influences others.</p>	Application Form, Assessment and Interview

<b>Reasoning and Decision Making</b>	<p>Able to make decisions independently where appropriate.</p> <p>Shows sound judgement, reaching balanced and unbiased view.</p> <p>Balances the needs of the public, police, victims, witnesses, defendants etc.</p>	<p>Application Form, Assessment and Interview</p>
<b>Diversity Awareness and Management</b>	<p>Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.</p>	<p>Interview</p>
<b>Continuous Self Development</b>	<p>Develops role knowledge and expertise through continual professional development.</p>	<p>Interview</p>
<b>Specialist Skills, Knowledge &amp; Experience</b>	<p>Experience of casework within the criminal justice system/lay presentation.</p> <p>A demonstrable working knowledge of criminal law and its application, magistrates' court practice and procedure and the criminal justice system.</p> <p>Well developed skills in identifying evidential issues and omissions and in drafting and communicating.</p>	<p>Application form, Assessment and Interview</p>

<b>Qualifications</b>
<p><b>Academic:</b> Nil required</p> <p><b>Professional:</b></p> <p>One of the following:</p> <ul style="list-style-type: none"> <li>• Current members of CPS staff who can demonstrate they meet the skills, knowledge and experience required.</li> <li>• ILEX part 2 Criminal Law and Practice papers*</li> <li>• Legal Practice Course*</li> <li>• Bar Finals*</li> <li>• Law Degree (including criminal law paper)*</li> <li>• CPE*</li> <li>• COTS2*</li> </ul> <p>* If invited to interview you will be asked to provide evidence of your qualification</p>

**Level 2 Associate Prosecutor  
Person Specification**

<b>Role Title:</b>	<b>Associate Prosecutor Level 2</b>	<b>Reports To:</b>	
<b>Department/ Division:</b>		<b>Date Completed:</b>	October 2008

Skills	Criteria	Method of Assessment
<b>Leadership</b>	<p>Takes responsibility for actions and decisions; consults appropriately.</p> <p>Instils confidence and works under own direction; successfully deals with pressures and demands.</p>	Case Study/Interview
<b>Achieving Results</b>	<p>Sets, maintains and achieves high quality standards in all circumstances.</p> <p>Supports and contributes to the delivery of the organisation's strategic aims and objectives.</p>	Interview
<b>Planning &amp; Organising</b>	<p>Prioritises a varying and sometimes demanding workload and manages own time effectively.</p> <p>Balances conflicting priorities and interests to deliver results.</p>	<p>Application Form</p> <p>Interview</p>
<b>Communication &amp; Negotiation</b>	<p>Presents with skill and confidence.</p> <p>Represents CPS effectively to outside agencies and the public.</p> <p>Sets out arguments clearly and logically, persuades and influences others.</p>	<p>Application Form</p> <p>Case Study/Interview</p>

<b>Reasoning and Decision Making</b>	<p>Makes prompt, independent decisions.</p> <p>Shows sound judgement, reaching balanced and unbiased view.</p> <p>Balances the needs of the public, police, victims, witnesses, defendants etc.</p>	<p>Application Form</p> <p>Case Study/Interview</p>
<b>Diversity Awareness and Management</b>	<p>Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.</p>	<p>Interview</p>

<b>Continuous Self Development</b>	<p>Develops role knowledge and expertise through continual professional development.</p> <p>Demonstrates the ability to learn and apply new skills.</p>	<p>Interview</p>
------------------------------------	---	------------------

<b>Specialist Skills, Knowledge &amp; Experience</b>	<p>Experienced Associate Prosecutor.</p> <p>Enhanced advocacy skills.</p> <p>A demonstrable working knowledge of criminal law and its application, magistrates' court practice and procedure and the criminal justice system.</p> <p>Well developed skills in identifying evidential issues and omissions and in drafting and communicating.</p>	<p>Application form</p> <p>Case Study/Interview</p>
--	--	---

<b>Qualifications</b>
-----------------------

<p><b>Academic:</b> Nil required</p> <p><b>Professional:</b></p>
--

## LEVEL 1 OBSERVATION GRIDA

## ASSOCIATE PROSECUTOR TRAINING MATRIX:

## PROCEDURES TO BE OBSERVED IN THE MAGISTRATES' COURT

PROCEDURES	DATE	COMMENT
<b>REMAND COURT / BAIL APPLICATIONS</b>		
remand in custody		
conditional bail		
unconditional bail		
police conditional bail		
remand in custody 8/28 days		
bail after conviction, before sentence		
bail application following arrest on warrant		
remand to police detention		
video remand Breach of Bail, Either admitted or denied		
<b>PLEA BEFORE VENUE</b>		
PBV - guilty indication		
PBV - not guilty indication/No indication		
aggravated TWOC		
criminal damage		
committal for sentence		
<b>MODE OF TRIAL</b>		
prosecution representations for summary jurisdiction		
prosecution representations for Crown Court jurisdiction		
defence elects Multiple Defendant MOT		

<b>GUILTY PLEA</b>		
outline of prosecution facts		
use of victim personal statement		
representations on matters raised in mitigation and derogatory assertions		
representations on matters contained in the PSR		
representations that a Newton hearing should be held		
TICs/ Specimen Offences		
previous convictions		
breach of a previous order		
equivocal plea		
<b>SENTENCING</b>		
forfeiture		
exclusion order (licensed premises)		
exclusion order (football grounds)		
compensation (specified and claimed by victim/witness)		
compensation (not specified - but within court's powers to award eg for injury)		
costs		
bindover		
re-sentencing for breach of a previous order		
Restraining Order Case adjourned for PSR Court Referring to a PSR		
Court Sentencing a Bail Offence DNA (defendant does not appear)		
proceed in absence		

adjourn		
warrant backed for bail		
warrant not backed for bail		
warrant at first instance		
court bail in absence (sick/accident etc)		
laying an information Bail Act		
Withdrawal of Warrant on Satisfactory Excuse		
<b>MCA COURT</b>		
guilty plea in writing		
no plea indicated		
not guilty plea indicated		
adjournment for possible disqualification		
adjournment for DVLA printout		
defendant is a limited company		
defendant appears		
defendant produces all/some documents		
withdrawing substantive charge, proceeding on alternative eg Fail to produce		
Exceptional Hardship/ Restoration of Driving Licence. Totting Disqualification		
<b>MISCELLANEOUS</b>		
laying an information		
amending charge		
substituting charge		
withdrawing charge		
offering no evidence		
adjourning for advance disclosure		
adjourning for legal aid		
multi hander guilty		
setting aside convictions		

I can confirm that ..... has observed the above procedures in Court before attending the course.

Signed ..... Line Manager      Date .....



**ASSOCIATE PROSECUTOR TRAINING MATRIX  
PROCEDURES TO BE OBSERVED IN THE MAGISTRATES' COURT**

<b>PROCEDURES</b>	<b>DATE</b>	<b>COMMENT</b>
<b>BAIL APPLICATIONS</b>		
Remand in custody		
Remand in custody 8/28 days		
Remand to police detention		
Bail application following arrest on warrant		
Contested variation of bail conditions		
Breach of Bail - admitted		
Breach of Bail - denied		
Bail Appeal procedure		
Video remand		
<b>CASE MANAGEMENT HEARINGS</b>		
Preparation for Hearing		
Standard Direction Cases		
Contested Applications (bad character/hearsay etc)		
Disclosure Obligations		

I can confirm that ..... has observed the above procedures in Court before attending the course.

Signed ..... Line Manager    Date .....

**ASSOCIATE PROSECUTOR LEVEL 1**

**COURSE OUTCOMES**

**OVERALL**

**Aim**

The aim of the course is to enable candidates, by the end of the programme, to reach the standard of knowledge and advocacy required by the CPS as assessed by external assessors during the assessments on the courses.

**Objectives**

By the end of the course candidates will be able to: -

- State the extent of their powers and from where they emanate.
- Review files in accordance with the Code for Crown Prosecutors.
- Endorse files appropriately.
- Know the relevant law and procedure in relation to Magistrates' Court Advocacy.
- Be competent advocates capable of representing the Crown in cases in the Magistrates' Court within their powers.
- Demonstrate knowledge and understanding of the rules of professional conduct and ethics.

## **FOUNDATION COURSE**

### **Aim of course**

The aim of this course is to provide candidates with the legal and procedural knowledge in relation to the prosecution of cases within their remit in the Magistrates Court.

### **Course objectives**

On conclusion of the course candidates will have knowledge and understanding of:-

1. Their duties and responsibilities as a court advocate including the relevant rules of professional conduct and ethics.
2. The extent of their powers and responsibilities as an Associate Prosecutor.
3. The different sources of evidence; how to admit exhibits into evidence, prepare admissions of fact; bad character evidence and the principles of competence and compellability.
4. The law in relation to offences that they are likely to prosecute in the Magistrates Court, including Criminal Damage, Dishonesty offences, Harassment, Hate Crimes, Offences Against the Person, Public Order, Road Traffic and Sexual Offences.
5. The procedure for dealing with all non-contested cases within their powers in the Magistrates' Court including Prior to Plea, After Plea, Committals, Sendings, Preventative Civil Orders, Sentencing and Youths..

## **TRIAL PREPARATION COURSE**

### **Aim of course**

The aim of this course is to provide candidates with the practical knowledge and skills to:

- Conduct summary trial preparation in relation to cases within criteria set by the Director.
- Review and assess charges and summonses and to decide upon and draft amendments thereto.
- Review charges and take decisions as to discontinuance within any limits imposed upon that decision making process, and to draft appropriate documents.

### **Course objectives**

On conclusion of the course candidates will have knowledge and understanding of and be able to:-

1. Check the full file / trial pack for completeness, chase outstanding evidence and flag up potential issues for resolution.
2. Deal with relevant evidential issues, such as which witnesses should be called to give oral evidence, which should be served S9 and which should be tendered and which evidence can be adduced by way of a S10 admission, and draft such admissions.
3. Decide upon the correctness of existing charges and whether they should be amended, replaced or discontinued.
4. Decide the appropriateness of pleas and bases of plea.
5. Decide whether Civil Preventative Orders should be applied for or varied if in existence.
6. Determine the requirement for a notice to introduce hearsay evidence, and draft the notice.
7. Determine the requirement for a notice to adduce bad character evidence, and draft the notice.
8. Determine the requirement for an application for special measures, and draft the application.
9. Identify unused material, state the test for disclosure and deal with ongoing disclosure issues.

## **ADVOCACY COURSE**

### **Aim of course**

The aim of this course is to:

- Reinforce candidates' knowledge of magistrates' court practices and procedures; and
- Provide candidates with practical knowledge and experience to review files and undertake advocacy within the context of the Associate Prosecutor criteria.

### **Course objectives**

On conclusion of the course candidates will have knowledge and understanding of and be able to:-

1. use case analysis techniques to carry out the functions of review and make appropriate decisions on files, within the criteria for Associate Prosecutors.
2. make appropriate file endorsements.
3. state and demonstrate the principles of effective magistrates' court advocacy and court etiquette required of a prosecution advocate in the Magistrates' Court, including:
  - outlining the relevant facts clearly and effectively
  - using the English language proficiently in relation to legal issues
  - presenting a sustained argument that others can understand
  - preparing and presenting a coherent submission to the court based upon facts, principles and legal authority in a structured, concise and persuasive manner
  - applying the relevant communication skills and techniques of an advocate
  - understanding ethics, etiquette and conventions of advocacy.
4. present cases in Plea Before Venue and Mode of Trial proceedings.
5. present cases in the absence of a defendant in the magistrates' court, when the defendant does not appear in answer to summons or bail and proof in absence cases.

6. present cases and take appropriate action in the event of an equivocal plea and other circumstances following appearance by the defendant, including alteration of charges, remands and adjournments.
7. deal with their responsibilities in Guilty Pleas, Newton Hearings, commenting on Unfair or Inaccurate Mitigation and on matters raised in the Pre-Sentence Report.
8. deal with applications for exceptional hardship and return of driving licence – including listening and questioning skills.
9. represent the CPS in sentencing proceedings in the magistrates' court.

## **YOUTH COURSE**

### **Aim of course**

The aim of this course is to provide candidates with:

- An overview of the law and policy considerations for dealing with Youth Offenders appearing in the Magistrates Court and to explain the key differences between the youth justice system and the adult criminal justice system.
- An overview of the venue provisions as they apply to Youth Offenders.
- The skills and knowledge required to prosecute cases in the youth court.

### **Course objectives**

By the end of the course candidates will have the knowledge and understanding to be able to:-

- State the major factors to be taken into account when dealing with a Youth Offender appearing in the Magistrates Court.
- Examine a file involving Youth Offenders, taking into account existing legal and policy principles.
- Identify cases in which the statutory diversion scheme and other diversionary options should be considered and apply the appropriate disposal.
- Prepare and present a venue argument, dealing with grave crimes, dangerousness and adult co-defendants.
- Prepare and present cases for sentence.
- Describe the significance of age at every stage of a prosecution.

## **BAIL APPLICATIONS COURSE**

### **Aim of course**

The aim of this course is to provide Associate Prosecutors with knowledge of the legislation and procedures and ability to deal with all types of bail and custody hearings in the Magistrates Court and Crown Court in a fair and effective manner.

### **Course objectives**

By the end of the course Associate Prosecutors will be equipped with knowledge and understanding to enable them to: -

1. Identify the major elements of the Bail Act 1976 and other legislation relevant to bail hearings.
2. Decide upon and present objections to bail in a fair, clear and structured manner in relation to all types of offences.
3. Deal with defence arguments in relation to bail.
4. Deal with breach of bail hearings.
5. Deal with appeals against the grant of bail.
6. Identify the appropriate Custody Time Limits (CTL) in a given case, and know the correct procedure for recording CTLs on the CPS case file.
7. Conduct applications to extend CTLs
8. Conduct Bail hearings in the Crown Court in chambers.



## **YOUTH BAIL APPLICATIONS COURSE**

### **Aim of course**

The aim of this course is to enable Associate Prosecutors to prepare and present applications for bail and in relation to bail involving youth defendants.

### **Course objectives:**

By the end of the course Associate Prosecutors will have developed knowledge and understanding to be able to:

1. Describe the extent of their powers in relation to youth remands and bail.
2. Describe how they will receive instructions in relation to such applications.
3. Describe at least three additional safeguards that apply to those under 17 who are detained by the police.
4. Describe the different remand provisions for youths aged 10/11, 12-16 and 17.
5. Advise the court on the criteria for making a security requirement when remanding a vulnerable boy aged 15.
6. Describe the alternative bail options that a court must consider before making a remand with a security requirement.

**APPENDIX 4**

**LEVEL 1 COURSE ASSESSMENT CRITERIA**

**ASSOCIATE PROSECUTOR LEVEL 1**

**COURSE ASSESSMENT CRITERIA**

Candidates will be assessed on the following courses:

- Trial preparation course
- Advocacy course
- Youth course
- Bail course
- Youth bail course

Candidates will be assessed against the following assessment criteria.

## TRIAL PREPARATION COURSE

### Format of assessment

Candidates will carry out two practical assessment exercises, which will be marked by assessors.

### Assessment criteria

Candidates will be assessed against the following criteria:

<b>Candidate name:</b>	<b>Tutor:</b>	<b>Date:</b>	
<b>Criteria</b>	<b>Good</b>	<b>Competent</b>	<b>Not Competent</b>
1. Requests outstanding material			
2. Settles appropriate charges			
3. Calls, serves or tenders available evidence appropriately			
4. Deals effectively with:  i. Hearsay evidence ii. Bad character evidence iii. Unused material iv. Special measures v. Civil Preventative Orders			
<b>Competent / Not competent</b>			

To be judged Competent overall a candidate must be Competent at least in Criteria 2 and 3 and in at least 3 aspects of Criterion 4, subject to the overall discretion of the assessor in the event of a fundamental error.

## **ADVOCACY COURSE**

Associate Prosecutors are required to meet the standard of a Magistrates Court advocate who is competent to conduct cases within the criteria set for Associate Prosecutors

Individual aspects of advocacy performances will be assessed on the scale

- 1 Not yet competent – important shortcomings
- 2 Competent – good features outweigh shortcomings
- 3 Good – signifies a delegate who has exceeded the required standard

The overall grading will comply with the following:

- Not yet competent – three or more aspects on Scale 1
- Competent – predominantly on Scale 2 with fewer than three aspects on Scale 1 subject to the overall discretion of the tutor in the event of a fundamental error.

### **Assessment day**

Scenarios will test delegates'

- Ability to endorse files quickly and accurately
- Knowledge of procedures
- Presentational skills

Two case studies will be used so that candidates deal with a mini court list; moving from one case to the next, endorsing appropriately. Candidates will be told on the previous day which case studies are to be used in the assessment.

Procedures to be tested may include

- Bail: conditions, alter conditions, unconditional, after conviction before sentence
- Amending and withdrawing charges
- PBV: indicating guilty plea, indicating not guilty plea or making indication, involving a TIC, cases SST and NSST
- Outline of facts
- Ancillary applications including previous convictions, forfeiture, exclusion orders, costs
- Equivocal plea or mitigation
- Unfair mitigation
- Inconsistent PSR
- Restoration of driving licence
- Exceptional hardship
- Questioning Skills

## Assessment criteria

Candidates will be assessed against the following criteria:

<b>Candidate name:</b>	<b>Tutor:</b>	<b>Date:</b>	
<b>Criteria</b>	<b>Good</b>	<b>Competent</b>	<b>Not Competent</b>
<b>Performance criteria</b>			
1. Maintains eye contact			
2. Speaks at an appropriate pace			
3. Good audibility			
4. Uses appropriate language			
5. Limits distracting behaviour			
6. Adheres to court etiquette			
7. Uses notes to aid memory but does not read from notes			
8. Questions in an appropriate manner			
<b>Content criteria</b>			
1. Addresses the Court appropriately			
2. Organises facts logically			
3. Makes clear what application is being made			
4. Makes clear the reasons supporting applications			
5. Deals appropriately with interventions from the bench and the defendant			
6. Asks			

appropriate questions, taking account of answers given.			
<b>Competent / Not competent</b>			

## YOUTH COURSE

### Format of assessment

Candidates will carry out practical assessment exercises.

### Assessment criteria

Candidates will be assessed against the following criteria:

<b>Candidate name:</b>	<b>Tutor:</b>	<b>Date:</b>	
<b>Criteria</b>	<b>Good</b>	<b>Competent</b>	<b>Not Competent</b>
1. Understanding of relevant legal and policy principles			
2. Applies statutory diversion scheme			
3. Suggests appropriate disposal			
4. Presents effective venue arguments:  (i) Grave crime (ii) Dangerous offender (iii) Adult co-defendant			
5. Deals with change of age:  (i) Before conviction (ii) After conviction but before sentence			
<b>Competent / Not competent</b>			

To be judged Competent overall a candidate must be at least Competent in Criteria 1-3, two examples in Criterion 4 and one example in Criterion 5, subject to the overall discretion of the assessor in the event of a fundamental error.

## BAIL COURSE

### Format of assessment

Candidates will carry out practical assessment exercises.

### Assessment criteria

Candidates will be assessed against the following criteria:

<b>Candidate name:</b>	<b>Tutor:</b>	<b>Date:</b>	
<b>Criteria</b>	<b>Good</b>	<b>Competent</b>	<b>Not Competent</b>
1. Shows understanding of Bail Act 1976 and other relevant legislation			
2. Presents clear, structured and balanced objections to bail			
3. Deals with breach of bail hearings effectively			
4. Deals with appeal against grant of bail			
5. Identifies appropriate Custody Time Limit			
6. Presents effective application to extend Custody Time Limit			
7. Conducts effective bail hearing in Crown Court in chambers			
<b>Competent / Not competent</b>			

To be judged Competent overall a candidate must be Competent in all Criteria, subject to the overall discretion of the assessor in the event of a fundamental error.



## YOUTH BAIL COURSE

### Format of assessment

Candidates will be assessed as to whether they display the knowledge and skills required to present youth remand cases. The standard required of an Associate Prosecutor in relation to this is that of a Magistrates Court advocate who is competent to conduct cases within the criteria set for Associate Prosecutors.

The assessment will be carried out in relation to two practical exercises and the assessors will feed back as to whether candidates are deemed competent.

In order for the candidate to be deemed competent they would have to be deemed competent in relation to all 5 areas of assessment, subject to the overall discretion of the assessor in the event of a fundamental error.

In the event of a candidate being deemed not competent then they would have to retake the course.

### Assessment criteria

<b>Candidate name:</b>	<b>Tutor:</b>	<b>Date:</b>	
<b>Criteria</b>	<b>Good</b>	<b>Competent</b>	<b>Not Competent</b>
1. Knowledge of powers			
2. Knowledge of safeguards			
3. Makes appropriate remand applications in relation to:  (i) 10-11 year old  (ii) 12-16 year old  (iii) 17 year old			
4. Guides court on remands with security requirement:  (i) basic criteria (ii) alternative bail options			
<b>Competent / Not competent</b>			

**APPENDIX 5**  
**LEVEL 2 OBSERVATION GRID**

**1. Procedures that must be observed**

<b>ACTIVITY</b>	<b>DATE(S) COMPLETED</b>
Trial preparation by an advocate	
Liaison by an advocate with Witness Care at court. Trial advocate dealing with witnesses at court before trial, including Police Officers	
The opening of a trial	
Examination in chief	
Cross examination	
Defence closing speech	
Delivery of verdict	
Ancillary applications after trial, including costs	
Trial involving represented defendant	
Trial involving an unrepresented defendant	
Trial with a Lay Bench	
Trial with District Judge	
Trial with S9 evidence only e.g. s.172	
Pre trial discussions between Prosecution and Defence	
Dealing with exhibits (e.g. CCTV) in a trial situation	

**As many of the following procedures as possible should be observed**

ACTIVITY	DATE(S) COMPLETED
Trial in the absence of the defendant	
Trial with more than one defendant	
Discussions between prosecution and defence about plea.	
Defence applications to adjourn and Prosecution response	
Prosecution application to adjourn	
Court directions as a result of an adjournment	
Submission of No Case	
Legal Argument	
Reluctant witness	
A witness who becomes difficult in the witness box	
Change of plea on the day of trial and explanation to witnesses	
Rebuttal evidence	
Special reasons hearing	
Newton hearing	
Contested PCO	
Hearsay evidence being used as a result of the service of a Hearsay Notice	
Use of Bad Character Evidence	
Trial with an interpreter	
Use of Special Measures	
The chasing of information required before trial on the day of trial	

Signed AP.....Date.....

Line Manager.....Date.....

### **Learning Outcomes**

The purpose of your completing this matrix is to enable you to record all the court procedures that you have seen whilst conducting your observations at court. This will enable you to recall them and put them into practice, both on the courses and in your work in court thereafter.

**ASSOCIATE PROSECUTOR LEVEL 2**

**COURSE OUTCOMES**

**Aim**

The aim of the training programme is to develop the skills and knowledge of Associate Prosecutors who are existing prosecution advocates in the Magistrates' Court. Upon conclusion of the training programme Associate Prosecutors will meet the standard required to display confidence and competence required by the court, CPS and other court users of a lawyer prosecuting a trial in a magistrates' court.

**Objectives**

By the end of the course candidates will be able to: -

- State the professional standards that they are required to meet as trial advocates (limited to summary, non-imprisonable offences) in the Magistrates Court.
- State the extent of their powers as Level 2 Associate Prosecutors
- Prosecute trials within their remit in the Magistrates' Court.
- Implement both law and practice to the required standard in relation to trials advocacy within their remit in the Magistrates' Court.

## FOUNDATION COURSE

### **Aim of course**

The aim of this course is to provide candidates with the knowledge required to prepare them to prosecute trials in the Magistrates Court.

### **Course objectives**

By the conclusion of the course candidates will have the knowledge and understanding to be able to:-

1. State their professional responsibilities and duties as a trials advocate.
2. Explain the procedural steps required to prosecute a trial in the Magistrates' Court.
3. Use the laws of evidence as they pertain to Magistrates' Court trials, in particular:
  - The burden and standard of proof
  - Rules as to witness competence and compellability
  - The ways in which evidence may be adduced
  - The use of previous inconsistent statements
  - The admissibility of hearsay evidence
  - The relevance of human rights issues
  - Admissibility of confessions
  - Bad character evidence
  - Opinion evidence
  - Disputed identification evidence
4. Plan the prosecution of a case.
5. Deal with a variety of problems that may arise during the course of prosecuting a case in the Magistrates' Court

## **ADVOCACY COURSE**

### **Aim of course**

The aim of this course is to build upon the e-learning, the foundation course and observations in court and to provide candidates the knowledge and skills required to prosecute cases to trial within their remit.

### **Course objectives**

By the end of the course candidates will be able to:-

1. Prepare a case for trial.
2. Plan and present an opening speech.
3. Examine witnesses in examination in chief, cross-examination and re- examination.
4. Conduct a trial confidently and effectively in the Magistrates' Court, including making and responding to legal submissions.
5. Deal with unexpected situations that arise during the conduct of a trial.

**APPENDIX 7**  
**LEVEL 2 COURSE ASSESSMENT CRITERIA**

**ASSOCIATE PROSECUTOR LEVEL 2**  
**ADVOCACY COURSE ASSESSMENT CRITERIA**

**In order to be declared “Ready** to prosecute a trial within their powers” a candidate must be assessed as “*good*” or “*satisfactory*” in each of the 4 core areas (those highlighted and underlined) and in at least 12 of the 15 other areas subject to the overall discretion of the tutor in the event of a fundamental error.

**The standard required** is to display the confidence and competence required by the court, CPS and other court users of a lawyer prosecuting a trial in a magistrates’ court.

**Good:** In this area the delegate significantly exceeds the standard required

**Satisfactory:** In this area the delegate meets the standard required

**Not**

**Satisfactory:** In this area the delegate requires improvement before meeting the standard required



## CONTENT

AREA	CRITERION	GOOD	SATISF.	NOT SATISF.
<b>OPENING SPEECH</b>	Coherently and effectively assists the court by setting the scene and identifying the relevant legal, factual and evidential issues			
	Structures the speech logically and coherently			
<b>EXAM<sup>N</sup> IN CHIEF</b>	<b><u>Elicits an appropriate amount of relevant evidence in chief</u></b>			
	Asks appropriate non-leading questions on all contentious matters and displays an appreciation of the differences between open and closed questions and the appropriate time to use them.			
	Questions are easy to comprehend			
	Structures the evidence-in-chief in a logical and coherent manner			
<b>CROSS-EXAM<sup>N</sup></b>	<b><u>Elicits useful information, challenges the defence version and puts own case, if/as appropriate.</u></b>			
	Asks leading/ assertive questions, (unless “safe” to explore with open, non-leading questions).			
	Questions are easy to comprehend			
	Structures the cross-examination in a logical and coherent manner			

CRITERION		GOOD	SATISF.	NOT SATISF.
OVERALL	<u>Displays an appreciation of all the issues in the case; what has to be proved and the evidence and tactics required.</u>			
	Deals with interjections from the court and defence in an appropriate manner			
	<u>Maintains ethical standards</u>		PASS <input type="checkbox"/>	FAIL <input type="checkbox"/>

### PRESENTATION AND STYLE

CRITERION	GOOD	SATISF.	NOT SATISF.
1) Displays both clarity and audibility in speech			
2) Uses plain, professional English			
3) Varies pace and tone in an appropriate manner			
4) Maintains appropriate eye contact with both court and witnesses			
5) Maintains an appropriate stance in court and avoids distracting mannerisms			
6) Maintains an appropriate courtroom manner throughout			

## FEEDBACK FROM ASSESSOR TO DELEGATE

### CONTENT

	<b>Strengths</b>	<b>Weaknesses</b>
1) Case construction and opening		
2) Evidence in Chief		
3) Cross examination		

## FEEDBACK FROM ASSESSOR TO DELEGATE

### STYLE

	<b>Strengths</b>	<b>Weaknesses</b>
1) Vocal skills		
2) Communication with court, witnesses and defence		
3) General appearance and manner		

**APPENDIX 8**  
**ILEX CODE OF CONDUCT**

The Code of Conduct is available at

[http://www.ilex.org.uk/ips/ips\\_home/for\\_ilex\\_members/code\\_of\\_conduct.aspx](http://www.ilex.org.uk/ips/ips_home/for_ilex_members/code_of_conduct.aspx)

**APPENDIX 9**  
**CPS STATEMENT OF ETHICAL PRINCIPLES**

**STATEMENT OF ETHICAL PRINCIPLES  
FOR THE PUBLIC PROSECUTOR**

**Preface**

The Crown Prosecution Service and the Revenue and Customs Prosecutions Office merge in December 2009 to form the principal public prosecution service for England and Wales. That Service is headed by the Director of Public Prosecutions. The Attorney General is accountable to Parliament for the Service.

The Service is a national organisation consisting of a number of Specialist Casework Divisions based in Headquarters, 42 geographical Areas and CPS Direct. The Specialist Casework Divisions deal with the Service's most complex or sensitive cases. Each geographical Area is headed by a Chief Crown Prosecutor and corresponds to a single police force area, with one for London. CPS Direct is the national out-of-hours service that provides charging advice on behalf of the 42 Areas in England and Wales.

In this Statement, the term "prosecutor" is used to describe members of the Service who are designated as Crown Prosecutors; prosecutors who are members of the Revenue and Customs Prosecutions Office; and Associate Prosecutors who are designated under section 7A of the Prosecution of Offences Act 1985 and who exercise their powers in accordance with the current instructions issued by the Director under that section.



## Foreword

Public prosecutors and those external advocates briefed by them, uphold the rule of law and deliver justice for and on behalf of their communities. That function is central to the maintenance of a just, democratic and fair society.

The way in which we perform this role is of crucial importance. It has long been recognised that the prosecutor has a special and overriding responsibility to act without fear, favour or prejudice, in the interests of justice and to provide the cornerstone of an open and fair criminal justice system. The criminal justice system continues to evolve. It is now important to refresh and restate the fundamental principles and values which we believe to be constant and which lie at the heart of all our decisions.

This Statement sets out the ethical principles that underpin and guide our work as public prosecutors. It confirms our commitment to internationally agreed standards of probity, fairness, openness and accountability in our dealings with others, whether they are victims, defendants or other criminal justice legal professionals. In abiding unswervingly by the principles set out in this Statement, we shall continue to serve the public and uphold justice in a rapidly changing world.

**KEIR STARMER QC**  
**Director of Public Prosecutions**  
**2 November 2009**

## **1 INTRODUCTION**

- 1.1 Public prosecutors play a key role in the criminal justice system. By their actions in advising on investigations, deciding on whether prosecutions are to be brought, prosecuting those who are accused of criminal offences and assisting the courts in sentencing, prosecutors uphold the rule of law and deliver justice for and on behalf of their communities.
- 1.2 The manner in which prosecutors discharge their powers and duties directly affects victims, witnesses and defendants as well as society as a whole. The behaviour of prosecutors also affects the ability of others in the criminal justice system – the police and other investigators, the courts and defence practitioners, among others – to fulfil their own responsibilities.
- 1.3 The central role that prosecutors play in the criminal justice process places obligations on them to act at all times in accordance with the highest ethical standards and in the best interests of justice. Except where the contrary is expressly stated in the text, this document lays down the standards of conduct and practice which are expected of every prosecutor who prosecutes on behalf of the public.

## **2 BASIC OBLIGATIONS**

- 2.1 Prosecutors must act in accordance with the law of England and Wales and in a way which is compatible with the Human Rights Act 1998 and, as required by that Act, the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 – referred to more generally as the European Convention on Human Rights. As participants in the court process, prosecutors are subject to the Criminal Procedure Rules currently in force and have a duty to prepare and conduct cases in accordance with the overriding objective of the Rules, namely to deal with cases justly; and to comply with the Criminal Procedure Rules, practice directions and directions made by the court.
- 2.2 In addition to their duty to comply with the law and the rules of procedure, prosecutors must, at all times, act in accordance with the Code for Crown Prosecutors (“the Code”) and all departmental policies currently in force. They must have due regard to any guidelines issued by the Attorney General.



2.3 As a member of the Bar, the Law Society or as an Associate Prosecutor member of the Institute of Legal Executives, prosecutors must act in accordance with and uphold the Codes of Conduct and professional and ethical standards set by their professional regulators. Prosecutors are in the same position as other professionals providing legal services. Prosecutors are subject to the same duties to the court and to others with whom they have dealings, and they must uphold the same professional standards of conduct and ethics. Prosecutors who are Civil Servants are obliged to act in accordance with the Civil Service Code and, in particular, the statement of core values set out in it.

### **3 PROFESSIONAL CONDUCT IN GENERAL**

3.1 When acting in the course of their employment or in accordance with their instructions, prosecutors must, at all times, adhere to the highest professional standards. This means that prosecutors must:

- a exercise the highest standards of integrity and care;
- b not conduct the prosecution of a case which is beyond their competence, knowledge or experience;
- c take reasonable steps to maintain and enhance their professional knowledge and skills and keep themselves well-informed and aware of relevant legal developments;
- d strive to be, and to be seen to be, consistent, independent, fair and impartial;
- e preserve professional confidentiality at all times, subject to the requirements of the law;
- f serve and protect the public interest; and
- g respect the right of all people to be held equal before the law - prosecutors must never act in a way that unjustifiably favours or discriminates against particular individuals or interests.

3.2 Prosecutors must perform their duties without fear, favour or prejudice. They must:

- a take decisions based upon an impartial and professional assessment of the available evidence, independently and with objectivity within the framework laid down by the law, the Code, all departmental policies currently in force and all guidance issued by or on behalf of the Attorney General; and

b take into account all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the defendant.

- 3.3 Prosecutors must not knowingly participate in, or seek to influence, the making of a prosecution decision in regard to any case where their personal or financial interests or their family, social or other relationships would influence their conduct as a prosecutor. They should not act as a prosecutor or advise in cases in which they, their family or business associates have a personal, private or financial interest or association.
- 3.4 Prosecutors must not act as an advocate in any case in which their action or decision is the subject matter of litigation, or in which, for any other reason, they are likely to be called as a witness.
- 3.5 Prosecutorial discretion in deciding whether to initiate or continue a prosecution, in the selection of charges, in the acceptance of pleas and in any other matter, shall be exercised independently and impartially, in accordance with the law, and having due regard to the Code and all departmental policies currently in force. When making such decisions, prosecutors must not allow themselves to be influenced by individual, sectional or political interests or media pressures.
- 3.6 Public prosecutors who exercise rights of audience in the higher courts are entitled ultimately to consult the Attorney General as guardian of the public interest if they have reason to doubt the propriety of any action or proposed action in a case proceeding in the higher courts for which they have responsibility. If an employed prosecutor considers that they are involved in such a matter, they must first discuss their concerns with their line managers before contacting the Attorney General.
- 3.7 Prosecutors must report to their line manager (or instructing prosecutor, if an external advocate) any improper attempt to influence their decision-making, or where any person does an act with the intention of attempting to pervert the course of justice. Prosecutors should also draw to the attention of their line manager or their instructing prosecutor any potential conflict of interest of which they are aware which could reasonably be perceived as affecting their independent judgment in any case of which they have conduct.

## **4 PROFESSIONAL CONDUCT IN THE CONTEXT OF CRIMINAL PROCEEDINGS**

- 4.1 When exercising a right of audience before any court or conducting litigation in relation to any court proceedings, prosecutors have a duty to the court in question to act with independence in the interests of justice.
- 4.2 Prosecutors must maintain the highest standards of fairness and impartiality at all times. In particular, they must uphold the principle of a defendant's right to a fair trial as enshrined in Article 6 of the European Convention on Human Rights.
- 4.3 In relation to victims and witnesses, prosecutors must fulfil the obligations and responsibilities set out in the Victims' Code of Practice and The Prosecutors' Pledge and any other relevant guidance.
- 4.4 Prosecutors must discharge their duties to the courts, witnesses, defendants and their legal representatives, the police or other investigative agency, whether nationally or internationally, with respect and courtesy.
- 4.5 Prosecutors must perform their duties fairly, consistently, effectively and efficiently. Throughout the proceedings, including when giving pre-charge advice to investigators, prosecutors must:
  - a remain impartial and objective;
  - b when deciding whether to start or continue criminal proceedings, apply the Full Code Test as set out in the Code (except in those circumstances where the Threshold Test may properly be applied). Prosecutors must not start or continue a prosecution unless the requirements of the appropriate Test (whether the Threshold or the Full Code Test) are fully met;
  - c in accordance with the law and the requirements of the Code, give due consideration to alternatives to prosecution;
  - d subject to the requirements of a fair trial, consider the rights, views, legitimate interests, privacy and concerns of victims and witnesses, when their personal interests are, or might be, affected;
  - e seek to ensure that victims and witnesses are informed of their rights, as far as they reasonably can;
  - f having due regard to the rights of the defendant, prosecute firmly and fairly and not beyond what is indicated by the evidence;

- g bearing in mind the Court's discretion to exclude improperly obtained evidence, decline to use evidence reasonably believed to have been obtained through unlawful methods which constitute a grave violation of the suspect's or other person's human rights, against anyone other than those who applied such methods;
- h draw to the attention of the appropriate authority any instance where a public official may have committed a criminal offence or acted improperly in the course of a criminal investigation; and
- i render mutual legal assistance to the prosecution services and investigative agencies of other jurisdictions, in accordance with the law and in a spirit of mutual co-operation.

4.6 To ensure the fairness and effectiveness of prosecutions, prosecutors must:

- a endeavour to ensure that all reasonable enquiries are made and the results disclosed in accordance with law, whether that points towards the guilt or the innocence of the defendant;
- b endeavour to ensure that the facts are presented fairly and that all relevant authorities are drawn to the court's attention, whether they are in the favour of the prosecution or defence;
- c endeavour to ensure that evidence which is favourable to the defendant or which undermines the prosecution case is disclosed as soon as reasonably practicable in accordance with the law, the Attorney General's Guidelines on Disclosure and the requirements of a fair trial;
- d assist the court in the administration of justice and not deliberately, knowingly or recklessly mislead the court;
- e endeavour to ensure that the criminal justice process operates as expeditiously as possible, being consistent with the interests of justice; and
- f bring to the attention of the court any matters of law relevant to sentence in accordance with the Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutor's Role in the Sentencing Exercise.

## **5 PUBLIC PROSECUTORS WHO HOLD JUDICIAL APPOINTMENTS**

5.1 Public prosecutors who hold a judicial appointment will be subject to the terms and conditions of judicial appointment and to the Codes of Conduct applicable to their branch of the profession.

- 5.2 When employed prosecutors are appointed to judicial office, they carry out the duties and responsibilities of that office in their personal capacity and not as an employee of the Service. Prosecutors holding a judicial appointment are not accountable to the Service for their conduct or their decisions whilst acting in that capacity and the Prosecution Service does not have any part to play in their judicial decisions.

## **6 FAILURE BY EXTERNAL ADVOCATES TO OBSERVE THE STATEMENT OF ETHICAL PRINCIPLES**

- 6.1 Failure by any external advocate instructed by a public prosecutor to adhere to the principles set out in this document may result in the public prosecutor withdrawing current instructions from them and not briefing that advocate again. Where the public prosecutor thinks it appropriate, any breach of this Statement of Ethical Principles by an external advocate will be referred to the appropriate professional regulator for its consideration. (This paragraph should be read in conjunction with paragraph 4.10 of The Farquharson Guidelines: The Role and Responsibilities of the Prosecution Advocate).
- 6.2 Any enquiry by an external advocate in relation to this Statement of Ethical Principles, or any request for further guidance in respect of areas of potential conflict, should be addressed to the public prosecutor from whom the advocate has received instructions.

## **7 REVIEW OF THIS STATEMENT**

- 7.1 This Statement will be reviewed regularly to ensure that it continues to reflect the appropriate standards that can be expected of all those who practise as public prosecutors.

### **This Statement of Ethical Principles has been informed by**

- Guidelines for the Role of Prosecutors (1990) – adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;
- Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors (1999) - International Association of Prosecutors as recognised and promulgated by the United Nations Commission on Crime Prevention and Criminal Justice in April 2008;
- Council of Europe Recommendation 19 (2000) on the Role of the Public Prosecution in the Criminal Justice System;
- The “Budapest Guidelines” (2005) – adopted by the Conference of Prosecutors General of Europe;
- The Code of Conduct for the Bar of England and Wales (2004);
- The Solicitors’ Code of Conduct (2007);
- The Code of Conduct and Supporting Guides to Good Practice issued by the Institute of Legal Executives (2008);
- The Farquharson Guidelines: The Role and Responsibilities of the Prosecution Advocate (2002);
- The CPS Code of Conduct; and
- The CPS Disciplinary Policy.

**APPENDIX 10**  
**CPS NATIONAL STANDARDS OF ADVOCACY**

The CPS National Standards of Advocacy are available at

<http://www.cps.gov.uk/publications/prosecution/nsa.html>

**APPENDIX 11**  
**CPS DISCIPLINARY POLICY**

The CPS Disciplinary Policy is enclosed as a separate appendix