

Quality Assurance Scheme for Advocates

Minor amendments

A response by
The Chartered Institute of Legal Executives

17 December 2015

For further details

Should you require any
further information,
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December 2015

Introduction

1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 qualified Chartered Legal Executive lawyers.
2. We recognise this consultation is as a result of the minor recommendations made by the Supreme Court in its ruling that the Quality Assurance Scheme for Advocates (QASA) was lawful, and that no other aspect of the scheme or its implementation is being consulted upon.

Q1: Do you see any practical difficulties arising from amending the current CAEF¹ to include this proposal? (Proposal to require an advocate to identify when they were first instructed.)

3. We can see no practical difficulties arising from amending the CAEF to include the date an advocate was instructed. We agree with this recommendation to ensure an advocate is not judged on a case they were instructed late, without the judge being aware of that fact.

Q2: Do you see any practical difficulties arising from amending the current CAEF to include this proposal? (Proposal to require an advocate to identify whether advice on evidence was provided.)

4. There may be circumstances where advice on evidence was obtained either from another advocate or a lawyer, which a current advocate may not have seen or been aware of. Therefore this can only be completed by the advocate in good faith and in accordance with their state of knowledge and in line with their instructions.

¹ Criminal Advocacy Evaluation Form

Q3: Do you see any practical difficulties arising from a judge declining to complete an evaluation if they believe, because of the circumstances, it would not be fair to do so?

5. Whilst we would be concerned that this could result in difficulties for some advocates meeting the accreditation, progression and reaccreditation requirements of QASA, we recognise the support which will be offered to advocates who find themselves in this position by the recruitment and retention of a pool of independent assessors. We are pleased the JAG will monitor the use of judicial discretion, which is important to ensure it is successful in its aim to maintain the integrity of the scheme.

Q4: Do you see any practical difficulties arising from a requirement that, in the event of a third judicial evaluation becoming necessary, it should be of the first trial conducted by the advocate in front of a judge other than either of the judges who conducted the first two assessments?

6. Our only concern would be the potential for advocates not to have access to a third judge; however this would be addressed by the use of independent assessors which is allowed for in the redrafted version.

Q5: Are there any practical difficulties that arise from these amendments to the Scheme Handbook?

7. We see no practical difficulties that may arise from the amendments to the Scheme Handbook.

Q6: Do you see any practical difficulties arising from the changes to the BSB or SRA Appeal Rules?

8. We see no practical difficulties that may arise from the changes to the BSB or SRA Appeal Rules, which provide clarity on their application.