

# These feet were made for talking

The first batch of new-style legal executive advocates had to get through a tough course to win their extended rights of audience, but tell **Neil Rose** how pleased they are to have done so



**Finding their feet: qualification puts legal executives on a par with solicitors**

**Y**ou've got a good rapport with your clients, and you like to think you're good at your job, but then at the door of the court you had to introduce them to a colleague,' says Stuart Cartwright of life before becoming one of the first legal executive advocates. Gaining the extended rights of audience 'has made the world of difference'.

'It was always the missing link,' agrees fellow advocate Neil Lewin of Howell Hylton Solicitors in Cambourne – and it means he no longer needs to consider whether to requalify as a solicitor. Louise Eaves of Morton Law Associates in Yeovil says she was getting 'fed up with seeing everyone else doing it and not doing it myself'.

Mr Cartwright, who works at JMW Solicitors in Manchester, says clients expect their lawyer to take them through the process and, after waiting for this moment for many years, he is finally able to do that. 'You're now on a par [with solicitors],' he says.

## Panel game

So far 12 Fellows have been awarded their rights of audience in criminal work (one on the prosecution side at a local authority) and six in family work – there is a civil proceedings certificate available as well. They are the tangible result of a long process that culminated in 2006 with government approval of ILEX's application for extended rights of audience. The previous, more limited, advocates scheme was scrapped in 2003 due to lack of take-up.

Unlike their criminal law counterparts, the family advocates had been able to practise their skills in some settings for many years. But there were still good reasons to gain the qualification.

Kristy Richardson, a family advocate at Portsmouth firm Biscoes, says her

motivation to qualify as an advocate came from finding herself in the strange position of being able to appear before district and circuit judges in chambers, but not magistrates in the lower Family Proceedings Court (FPC). Happily, while the course was being arranged, her local FPC gave her leave to appear.

Another of the family advocates, Jane Elizabeth Smith of Macdonald Oates in Sussex, considers it 'ludicrous that we as legal executives can talk to district and circuit judges but not to magistrates'. In the past, however, she says magistrates would always grant permission for her to appear, but perhaps the new scheme is already a victim of its own success. She has now heard that some courts will now only hear a legal executive if they have their advocacy qualification. With more and more family cases being transferred down to FPCs, she describes the qualification as a 'prerequisite'.

Ms Smith's desire to qualify was actually driven by her wish to join the Law Society's family law panel – the Society has held open her application while she did so. But she adds: 'It's inspired me to do a lot more advocacy.'

### The nuts and bolts

The advocacy course is open to both Fellows and Members of ILEX, although Members will not be able to exercise their rights until they qualify as Fellows. They first need to complete an application form to gain a certificate of eligibility; the form details their existing knowledge and experience in the area in which they seek rights. They also have to produce a portfolio of experience.

All the advocates the Journal spoke to describe this as hard work. 'It was quite demanding,' recalls Mr Cartwright. 'It was a large document in the end that took me about a month to complete.' Ms Eaves says it took her six months to finalise, what with juggling a full-time job and family as well. 'I found the portfolio stage very onerous.'

If the certificate of eligibility is granted, applicants then take the six-day course, currently split into two three-day blocks over two or three weeks, with advocacy and evidence assessments at the end. It is worth observing that the advocacy stage of the solicitors' higher rights training scheme is four days' long (although evidence is dealt with in an earlier course).

The ILEX course – costing £1,595 + VAT – is presently offered only by Altior in London, although Mark Loosemore,

the company's chief executive, says it will run courses in other areas if there is demand. Other providers are also set to come on stream. 'It's a good test and they were good candidates,' he adds.

### On your toes

The feedback from the first batch of advocates is overwhelmingly positive: the course is intensive and hard work – 'I was drafting skeleton arguments at 10.30 at night,' says Ms Richardson – but a very good experience with a great deal of practical advocacy in front of the rest of the class. 'It did prepare you,' says Stuart Cartwright. 'I felt a lot more confident when I did my first hearing because it felt like my tenth.' Neil Lewin adds: 'It was a very practical course from the outset and realistic in terms of role play. In real life that's been a great asset because it's prepared me so well and reduced my nervousness in court.'

Ms Smith says: 'You were on your toes the whole time – one minute you were acting for the applicant, the next for the respondent... Miraculously I found a passion for cross-examination. I loved going for the jugular each time. I don't know what that says about me.' As she is naturally a quiet person, she says this was the last thing she expected.

Sam Morton, the sole principal of Ms Eaves' firm, says the course 'seemed more onerous than what a lot of solicitors have to do... I don't think anyone can have any doubts that the accreditation process is up to scratch'. Peter Grogan, the partner in charge of the business crime team at JMW in which Mr Cartwright works, adds: 'It needs to be a rigorous test or it will dilute the standards and not help the profession... Magistrates don't want people addressing them who can't string two words together.'

### On your feet

It is fair to say that Stuart Cartwright could not wait to get his extended rights. He confesses to having pestered ILEX during the process of gaining government approval, starting work on his application the moment the details were released and then going into court the day after he formally received confirmation of his new status, representing a client charged with driving while disqualified. 'The first couple of sentences were a bit nerve-racking,' he recalls, 'but then the preparation kicked in and it was fine.' He managed to persuade Bury Magistrates' Court not to order a pre-sentence report – which it normally

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On the penultimate day of the course, the participants are filmed, and excruciating though she found the experience, Ms Smith says she learned a lot from it – 'it was quite funny how my body language was so revealing... It was also very revealing how other people perceived me'.

The tough nature of the qualification procedure leads Ms Richardson to say 'I'm very glad I did it but I wouldn't want to do it again' – but it is also reassuring to those looking in from the outside. 'It needed to be hard and the rest of the legal profession needs to know it's hard,' says Ms Eaves, who has suffered the occasional snide comment from solicitors about their respective levels of training – however, the other advocates report a positive reaction from local courts and other practitioners.

would – and sentence his client to a community punishment and a fine, when there was a slight risk of custody. 'I've learned that preparation is key,' Mr Cartwright says.

Mr Lewin's first case – during which he was 'slightly nervous' – involved a guilty plea and mitigation for possession of a bladed article. The client received a suspended sentence, which was 'a good result'. Ms Eaves admits that she has yet to fully enjoy her extended rights, finding the experience of appearing in court daunting. 'Everyone says the first couple of months are very difficult. It's about eating and sleeping advocacy.' But her first case – a shoplifting charge against a, shall we say, regular client – went well, with a fine and conditional discharge.

Legal executive advocates wear the same stuffed gown and bands as

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solicitors in the magistrates' court, and can wear wigs if facing a barrister wearing a wig, usually in the limited circumstances where they can appear in the Crown Court.

## Wider benefit

It is not only the legal executives who gain from the extended rights. Sam Morton, who set up the Yeovil firm with Louise Eaves when their previous firm ditched criminal legal aid work, says it may allow solicitors to concentrate more on Crown Court work – 'I don't think there's anything [for solicitors] to fear'. He says Ms Eaves has 'gone through 16 years of doing the preparation without getting the pleasure' of representing the client in court, and it could be quite

uncomfortable when she had to hand over files. 'How these people hold down full-time jobs and do the studying is beyond me,' he adds.

Both he and Peter Grogan at JMW consider the extended rights long overdue, especially given the increasing role of associate prosecutors (designated caseworkers as were) at the Crown Prosecution Service. 'We're finding it very valuable,' Mr Grogan says. 'It's better that [Stuart] can deal with the case from police station to committal.'

## The right move

Once qualified, advocates have to undertake continuing professional development in advocacy each year to renew their certificates. The first renewal will also require submission of a portfolio showing the advocacy undertaken during the first 12 months.

Ms Richardson expresses a degree of disappointment that this process is required – solicitors do not have to go through it once they have received their higher rights of qualification, and indeed the Solicitors Regulation Authority is moving to a system of voluntary accreditation from 2009.

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## The rights of audience

### ILEX is able to grant the following rights of audience:

#### Civil proceedings certificate

- To appear in open Court in the County Court in all actions, except family proceedings;
- To appear before Justices or a district judge (magistrates' court) in the magistrates' courts in relation to all matters originating by complaint or application, including applications under the licensing, betting and gaming legislation;
- To appear before any tribunal under the supervision of the Council on Tribunals where the tribunal rules provide for a non-discretionary right of audience being available to barristers and solicitors; and
- To appear before coroners' courts in respect of all matters determined by those courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

#### Family proceedings certificate

- To appear in court (including in open court) in all county court family proceedings;
- To appear before Justices or a district judge (magistrates' court) in the Family Proceedings Courts; and
- To appear before coroners' courts in respect of all matters determined by those courts, and to exercise rights of audience similar to those exercised by solicitors and barristers.

#### Criminal proceedings certificate

- To appear before Justices or a district judge (magistrates' court) in all adult magistrates' courts in relation to all matters within that court's criminal jurisdiction;
- To appear before Justices or a district judge (magistrates' court) in all youth courts in relation to all matters within that court's criminal jurisdiction.
- To appear in the Crown Court or High Court before a judge in chambers to conduct bail applications;
- To appear in the Crown Court on appeal from the magistrates' court, the youth court or on committal of an adult for sentence or to be dealt with, if s/he, or any solicitor by whom s/he is employed or any other solicitor or Fellow in the same employment as her/him, appeared on behalf of the defendant in the magistrates' court or youth court; and
- To appear before coroners' courts in respect of all matters determined by those courts, and to exercise rights of audience similar to those exercised by solicitors and barristers.

**Ready to go: preparation kicked in once the advocates were on their feet**



However, it was part of the approval for the extended rights and is perhaps not surprising at the start of a scheme such as this.

Nonetheless, the new advocates to a man and woman are pleased with their new status. 'I've talked to other legal executives I know who are in the same position [as I was],' says Neil Lewin. 'I have been trying to promote the process because it will put them on another level.'

It is good to be on an equal footing with solicitors, reckons Louise Eaves. And, if nothing else, the qualification helps with 'your own self-esteem, ability and confidence to make something of yourself'. 'I would certainly agree it's worth doing,' says Jane Elizabeth Smith. 'It's invaluable.'

'To be at the top of this game, you have to be in court representing clients,' argues Stuart Cartwright. 'If you're a Fellow and you're in this area of law, you would be mad not to jump at the chance to get your advocacy rights.'

- For more information on the qualification process, go to [www.ilex.org.uk](http://www.ilex.org.uk) or [www.altior.co.uk/ilex\\_advocacy](http://www.altior.co.uk/ilex_advocacy)