

**ASSOCIATE PROSECUTOR  
RIGHTS OF AUDIENCE  
AND LITIGATION  
CERTIFICATION RULES**

**19 JULY 2010**

**Amended 30 Jan 2011**

## CONTENTS

|   |          |
|---|----------|
| <b>CERTIFICATION RULES .....</b>  | <b>3</b> |
| Appendix 1 - Associate Prosecutor person specifications .....                       | 18       |
| Appendix 2 - Associate Prosecutor Level 1 observation grid.....                     | 23       |
| Appendix 3 - Associate Prosecutor Level 1 course outcomes.....                      | 28       |
| Appendix 4 - Associate Prosecutor Level 1 advocacy course assessment criteria ..... | 37       |
| Appendix 5 - Associate Prosecutors Level 2 observation grid .....                   | 50       |
| Appendix 6 - Associate Prosecutor Level 2 course outcomes.....                      | 54       |
| Appendix 7 - Associate Prosecutors Level 2 advocacy course assessment criteria..... | 58       |

## **ASSOCIATE PROSECUTOR RIGHTS OF AUDIENCE AND LITIGATION CERTIFICATION RULES**

### **DEFINITIONS**

1. In these Rules, except where otherwise indicated:

"the Act" means the Legal Services Act 2007 and, where the context permits, includes any orders or regulations made under that Act;

"Course provider" means a teaching or training organisation which has been approved under these Rules to provide Associate Prosecutor qualification courses;

"Associate Prosecutor member of ILEX in good standing" means a member of ILEX registered in the Associate Prosecutor grade whose subscriptions to ILEX are fully paid, in respect of whose conduct there is no complaint outstanding, and against whom there is no disciplinary record which in the view of the Admissions and Licensing Committee affects their suitability to be an Associate Prosecutor;

"Certification Rules" means the Associate Prosecutor Rights of Audience and Litigation Certification Rules;

"Investigation, Disciplinary and Appeals Rules" means the rules of IPS which are in place from time to time and which govern the complaints handling and disciplinary procedures of IPS;

"external adviser" means a person appointed by ILEX to carry out the roles and functions identified for him in these Rules;

"ILEX" means The Institute of Legal Executives;

"IPS" means ILEX Professional Standards Ltd;

"qualification course" means a Foundation Course, Advocacy Skills Course or other course approved for the purposes of these Rules by ILEX;

"The Admissions and Licensing Committee" means the Committee established under these Rules to carry out the roles and functions identified for it in these Rules or any successor body established to carry them out;

“The Officer” means the IPS officer with responsibility for the Associate Prosecutor qualification scheme;

Words importing the male gender include the female gender and vice versa; and words importing the singular include the plural and vice versa.

2. In accordance with its powers under its Memorandum and Articles of Association ILEX will delegate to IPS responsibility for the rights of audience and litigation qualification scheme for Associate Prosecutors.

### **THE RIGHTS OF AUDIENCE AND LITIGATION CERTIFICATES**

3. An Associate Prosecutor member of ILEX in good standing may apply to be granted the following Certificates:
  - (a) A Level 1 Rights of Audience and Litigation Certificate in Criminal Proceedings (Level 1 certificate);
  - (b) A Level 2 Rights of Audience and Litigation Certificate in Criminal Proceedings (Level 2 Certificate).
4. The rights exercisable by Associate Prosecutors holding these Certificates are set out below:

#### ***Level 1 Rights of Audience and Litigation Certificate in Criminal Proceedings***

(a) Rights of audience:

- to appear before Justices or a District Judge in the magistrates’ courts (including the youth court) to prosecute all proceedings against all adult and youth offenders, including bail applications and applications in relation to bail, where the CPS is the prosecuting authority except:
  - Trials;
  - Newton Hearings;
  - Special Reasons Hearings;
  - Contested Preventative Civil Orders; and
  - Contested Binding Over proceedings.
- to appear in the Crown Court before a judge to conduct a bail application where the CPS is the prosecuting authority.

(b) Litigation rights:

to exercise the powers of a Crown Prosecutor to conduct a case outside court, namely:

- review of a prosecution case by applying the Code for Crown Prosecutors; and
- other casework functions necessary to progress prosecution cases that fall within an Associate Prosecutor statutory remit, namely –
  - to decide appropriate bail conditions and objections to bail in magistrates' courts and youth court proceedings;
  - to decide whether to discontinue a case in magistrates' courts and youth courts proceedings;
  - to make disclosure decisions in proceedings in the magistrates' courts and youth courts;
  - to decide witnesses to give live evidence, to serve statements under section 9 of the Criminal Justice Act 1967, to tender to the defence and any evidence which can be adduced by way of a section 10 admission, and drafting such admissions, in magistrates' courts and youth court trials and other contested hearings;
  - to decide the appropriateness of pleas and bases of plea in magistrates' courts and youth court proceedings;
  - to amend a charge or summons, prefer a new charge or drop a charge in magistrates' courts and youth court proceedings; and
  - to decide whether to apply, vary or discharge a civil preventative order in magistrates' courts and youth court proceedings.

***Level 2 Rights of Audience and Litigation Certificate in Criminal Proceedings***

- (a) advocacy rights to appear before Justices or a District Judge in the magistrates' courts (including the youth court) to prosecute all proceedings against all adult and youth offenders, including bail applications and applications in relation to bail, where the CPS is the prosecuting authority except trials in either-way offences or trials for summary offences which are punishable with imprisonment in the case of persons aged 21 or over; and
- (b) litigation rights

to exercise the powers of a Crown Prosecutor to conduct a case outside court, namely:

- review of a prosecution case by applying the Code for Crown Prosecutors; and
- other casework functions necessary to progress prosecution cases that fall within an Associate Prosecutor statutory remit, namely –
  - to decide appropriate bail conditions and objections to bail in magistrates' courts and youth court proceedings;
  - to decide whether to discontinue a case in magistrates' courts and youth courts proceedings;
  - to make disclosure decisions in proceedings in the magistrates' courts and youth courts;
  - to decide witnesses to give live evidence, to serve statements under section 9 of the Criminal Justice Act 1967, to tender to the defence and any evidence which can be adduced by way of a section 10 admission, and drafting such admissions, in magistrates' courts and youth court trials and other contested hearings;
  - to decide the appropriateness of pleas and bases of plea in magistrates' courts and youth court proceedings;
  - to amend a charge or summons, prefer a new charge or drop a charge in magistrates' courts and youth court proceedings; and
  - to decide whether to apply, vary or discharge a civil preventative order in magistrates' courts and youth court proceedings.

5. A person who is registered as an Associate Prosecutor member of ILEX when these Rules come into effect may exercise all the rights of audience and litigation appropriate to the Certificate he holds, as described in Rule 3 above.

## **SELECTION**

6. CPS Areas will advertise vacancies for posts of Level 1 or Level 2 Associate Prosecutor. Any employee who meets the selection criteria may apply. Vacancies may be advertised externally.
7. Applicants will undergo a selection process, at the conclusion of which applicants will be selected by a selection panel to undergo the Associate

Prosecutor qualification programme. The selection panel will comprise a job sponsor and at least one other CPS employee.

8. The selection process will involve:
  - Completion of an application form;
  - Application form shortlist;
  - Case study presentation; and
  - Interview.
9. The process will test the skills required in the person specification for an Associate Prosecutor role. Each aspect of the selection process will assess competencies of applicants. The Level 1 and 2 Associate Prosecutor person specifications, which appear at **appendix 1** outline the competencies tested at each stage of the recruitment process.
10. Applicants will be marked using a scale of 1 to 5 with 1 being not met and 5 being consistently met including providing detailed relevant evidence across the criteria that are measured. Applicants will be expected to achieve at least a score of 3 against each competency which denotes that applicants provided relevant information and that minimum standards are evidenced across most criteria that are measured.
11. All applicants will complete a written application from which they will be short listed. Applicants who are short listed at the application form stage will proceed to the case study presentation and interview stages.
12. At the case study stage, applicants will prepare a case as if they were to prosecute it in court as an Associate Prosecutor. After the presentation applicants will be asked questions on the presentation by an interview panel. The presentation will be assessed by the selection panel using a standardised assessment sheet determining whether the applicant meets the required standard.
13. Applicants will then proceed to an interview stage. During the interview stage applicants will be asked questions designed to test each competency from the person specification.
14. The selection panel will select suitable candidates at the conclusion of the process to undergo the Associate Prosecutor training.

## **LEVEL1 ASSOCIATE PROSECUTOR**

15. Each trainee Associate Prosecutor will be assigned to a mentor who will be either an experienced Associate Prosecutor or a Crown Prosecutor. The trainee Associate Prosecutor will shadow the mentor, and other experienced Crown Prosecutors, for the purposes of observing them at court. Trainee Associate Prosecutors will be provided with a list of hearings that they should observe before commencing the training courses. A copy of the observation grid appears at **appendix 2**.
16. The trainee also is required to download the Associate Prosecutor Manual from the CPS Infonet. They must read the Manual prior to attendance on the Foundation Course.
17. Associate Prosecutor trainees will then attend a five day Foundation Course, designed to develop their knowledge of the law and procedure for the offences they will encounter as a qualified Associate Prosecutor. The Foundation Course will meet the course outcomes which appear at **appendix 3**.
18. After completing the Foundation Course, trainee Associate Prosecutors will return to their CPS Areas and continue undertaking observations and maintaining contact with their mentor.
19. Associate Prosecutor trainees will then undertake the Trial Preparation Course which will conclude with an assessment of trial preparation skills. The course will meet the course outcomes which appear at **appendix 3** and trainees will be assessed against the assessment criteria which appear at **appendix 4**.
20. Associate Prosecutor trainees will next undertake a five day Advocacy Skills Course which will conclude with an assessment of advocacy skills. The Advocacy Skills Course will meet the course outcomes which appear at **appendix 3**. The assessment must meet the assessment criteria which appear at **appendix 4**.
21. Upon successful completion of the Trial Preparation, and Advocacy Skills Courses and assessments the trainee will have qualified as an Associate Prosecutor and will make an application to ILEX to be registered as an Associate Prosecutor member.
22. The application shall be made on such a form as may be prescribed for the purpose by ILEX and shall be accompanied by such fee as may be fixed by ILEX from time to time.

23. ILEX will receive and consider the application. Applications will be processed by ILEX officers. Applicants will be registered as Associate Prosecutor members of ILEX if they are of good standing, are employed by the CPS in the Associate Prosecutor role and have successfully completed the Associate Prosecutor qualification process. An applicant may not be deployed by the CPS as an Associate Prosecutor until they have been successfully enrolled with ILEX and thereby authorised by ILEX to exercise the rights of audience and litigation exercisable under the Level 1 certificate.
24. The Officer will notify an applicant in writing of the decision. Where the application has been approved the notification shall include confirmation that the applicant has been registered as an Associate Prosecutor and may exercise the powers awarded under the Level 1 Certificate. Where the application is unsuccessful, the notification shall set out the reasons and any preconditions to the consideration of any subsequent application. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with Rules **44 and 45**.
25. Approximately 4 to 6 weeks after designation the Associate Prosecutor will undertake a Bail Course. The course will meet the course outcomes which appear at **appendix 3**. Prior to attendance on the course applicants will observe bail hearings. A copy of the observation grid appears at **appendix 2**. The courses will be assessed against assessment criteria which appear at **appendix 4**. Associate Prosecutors may not undertake bail applications until they are assessed as competent to do so.
26. Subsequently the Associate Prosecutor will undertake a Youth Course and a Youth Bail course which will conclude with an assessment of advocacy skills in the context of youth hearings. The Youth Course and Youth Bail Course will meet the course outcomes which appear at **appendix 3**. The assessments must meet the assessment criteria which appear at **appendix 4**. Associate Prosecutors may not appear in the Youth court or deal with youth bail applications until they are assessed as competent to do so.

## **LEVEL 2 ASSOCIATE PROSECUTOR**

27. CPS Areas will determine and advertise vacancies for Level 2 Associate Prosecutor posts. Experienced Level 1 Associate Prosecutors may apply to become Level 2 Associate Prosecutors.

28. All applicants will complete a written application from which they will be short listed. At the shortlist stage applicants will be marked as to whether their application includes examples and evidence of how they meet the competence criteria for the Level 2 Associate Prosecutor post. Applicants who are short listed at the application form stage will proceed to the case study presentation and interview stages.
29. At the case study stage, applicants will prepare a case as if they were to prosecute it in court.
30. After the presentation candidates will be asked questions on the presentation by a selection panel. The selection panel will comprise a job sponsor and at least one other CPS employee. The presentation will be assessed by the selection panel using a standardised assessment sheet determining whether the applicant meets the required standard.
31. Applicants will then proceed to an interview stage. During the interview stage applicants will be asked questions designed to test each competency from the person specification for Level 2 Associate Prosecutors.
32. The panel will select suitable candidates at the conclusion of the process to undergo the Level 2 Associate Prosecutor training.
33. Associate Prosecutors will be assigned to a mentor who will be an experienced Crown Prosecutor. The Associate Prosecutor will shadow their mentor and other experienced Crown Prosecutors for the purposes of observing the cases that appear in their observation grid, a copy of which appears at **appendix 5**. Associate Prosecutors are required to reflect upon the cases that they observe and complete a reflective learning log.
34. Associate Prosecutors will attend an Induction Day during which the Level 2 qualification programme, e-learning modules and assessment format will be explained to them.
35. Associate Prosecutors will study the e-learning modules which cover the course of the trial, questioning skills, hearsay, examination in chief and competence and compellability of witnesses. A copy of the course outcomes for the pre-course work appear at **appendix 6**.
36. Associate Prosecutors will attend the Foundation Course, which is designed to develop their knowledge of the offences they will encounter in their roles. The course will meet the course outcomes which appear at **appendix 6**.

37. After completing the foundation course Associate Prosecutors will return to their CPS Areas and continue undertaking observations and maintaining contact with their mentor.
38. Associate Prosecutors will return to undertake the Level 2 Advocacy Skills Course which will conclude with an independent assessment of advocacy skills. The Advocacy Skills Course will meet the course outcomes which appear at **appendix 6**. The assessment must meet the assessment criteria which appear at **appendix 7**.
39. Upon successful completion of the courses and assessment the Associate Prosecutor will have qualified as a Level 2 Associate Prosecutor.
40. Level 1 and Level 2 Associate Prosecutors will continue to be designated as Associate Prosecutors as long as they continue to be deployed as such and remain registered as Associate Prosecutor members of ILEX. An Associate Prosecutor who ceases to be deployed as such by the CPS or ceases to be registered as an Associate Prosecutor member of ILEX may not exercise any right of audience or litigation granted to them under these Rules.

#### **ADMISSIONS AND LICENSING COMMITTEE**

41. IPS shall appoint a Committee, called the Admissions and Licensing Committee, which will be responsible for the Associate Prosecutor qualification scheme. The Committee shall report to the IPS Board.
42. The Admissions and Licensing Committee shall:
  - ◆ apply and monitor the Associate Prosecutor Rights of Audience and Litigation Certification Rules;
  - ◆ consider whether or not an Associate Prosecutor may continue to hold a Level 1 or Level 2 Advocacy and Litigation Certificate;
  - ◆ approve course and assessment material;
  - ◆ receive reports of inspections of Associate Prosecutor qualification courses from the external advisors and the Officer;
  - ◆ receive reports of the moderation of the Associate Prosecutor qualification course assessments from the external advisors;

- ◆ receive annual reports from the CPS on course provision;
  - ◆ submit an annual report to IPS;
  - ◆ make recommendations as to course development, delivery or assessment.
43. The Committee may delegate to the Officer responsibility for making decisions on approval of course and assessment material. Wherever the Officer is unable to make a decision or takes the view that the matter requires Committee consideration they may refer the matter to the Admissions and Licensing Committee.
44. A person or organisation affected by any decision made by the Admissions and Licensing Committee pursuant to its powers under these Rules may apply for reconsideration of that decision. Such a person must lodge an application for reconsideration at the IPS office within 15 working days of receiving written notification of the Committee's decision. The application must include written reasons why it should be reconsidered. The applicant shall have a right to be heard by the Committee when it reconsiders his application.
45. Where an application is reconsidered by the Admissions and Licensing Committee it shall have all the powers that were available to it at the original consideration of the application. The decision of the Admissions and Licensing Committee upon reconsideration shall be final.
46. The Admissions and Licensing Committee shall report annually to the IPS Board on its work during the preceding calendar year, and make such recommendations as it thinks fit concerning the operation of these Rules and the qualification schemes for Associate Prosecutors.
47. The membership of the Admissions and Licensing Committee will comprise:
- Two Fellows of ILEX who shall not be members of ILEX Council;
  - Three independent members, at least 1 of whom shall have knowledge or experience of consumer issues;
- At least one member will be a member of the IPS Board.
48. Appointments of committee members shall be made by the IPS Board. Each member will be appointed to the Admissions and Licensing Committee for a period of five years. The IPS Board may reappoint a

member for one further term or make a new appointment. No member may serve more than two consecutive terms as a member of the Admissions and Licensing Committee.

49. Where a member fails without good reason to fulfil his duties set out in these Rules the IPS Board may terminate his appointment whether or not he has completed his current term of office.
50. At least three members of the Admissions and Licensing Committee must be present at a meeting to constitute a quorum. The external advisors will not form part of the quorum.
51. The Admissions and Licensing Committee will appoint one of its members as Chair. The Chair will be appointed for a period of one year. The Chair will be eligible for reappointment, but may not serve as Chair for more than three consecutive years.
52. Decisions of the Admissions and Licensing Committee will be reached by a majority vote. In the case of an equality of votes the Chair shall have a casting vote. External advisors may not vote on any matter at a meeting.
53. The Admissions and Licensing Committee shall meet at least once each year. Subject to this, where the Committee deems it appropriate it may consider applications for Certificates of Eligibility and any other matter by way of a postal agenda or telephone conference.
54. The external advisors appointed in accordance with these Rules shall be invited to attend all meetings of the Admissions and Licensing Committee. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.
55. The IPS Board shall have the power to pay fees to members of the Admissions and Licensing Committee and shall from time to time, determine the amount and basis of payments of such fees.

## **EXTERNAL ADVISORS**

56. ILEX shall appoint external advisors to advise the Admissions and Licensing Committee and IPS on issues relating to Associate Prosecutor training and assessment.
57. When making such appointments ILEX shall take into account the following:

- ◆ That the person appointed is qualified in criminal litigation and has experience as a criminal practitioner; and
  - ◆ That the person appointed has experience of teaching and assessment of law and legal practice, including criminal advocacy and litigation, at degree or post graduate level.
58. The external advisors will provide advice to the Admissions and Licensing Committee in respect of the following:
- ◆ the procedures for selecting trainee Associate Prosecutors;
  - ◆ applications to the Admissions and Licensing Committee for the reconsideration of a decision;
  - ◆ the structure of Associate Prosecutor qualification courses or the qualification scheme generally, and may make recommendations for revision of any Course or the qualification scheme;
  - ◆ any other matter on which the Admissions and Licensing Committee seeks their advice.

The Admissions and Licensing Committee shall consider any advice given by the external advisors, but shall not be bound by such advice. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.

59. The external advisors shall carry out inspections of Associate Prosecutor qualification Courses. They shall provide reports on inspections to the Admissions and Licensing Committee which shall be made available to the CPS.
60. The external advisors shall moderate selection and course assessment materials prepared by the CPS and the standards of assessment applied in respect of Associate Prosecutors. They shall report their findings to the Admissions and Licensing Committee and the CPS.
61. The external advisors shall receive notice of meetings of the Admissions and Licensing Committee and may attend such meetings in their advisory capacity.

## QUALIFICATION COURSES

62. The Level 1 and Level 2 Associate Prosecutor qualification courses will be provided by the CPS.
63. The Level 1 and Level 2 Associate Prosecutor qualification courses must:
  - ◆ meet the Course Delivery criteria set out at **Appendices 3 and 6**;
  - ◆ be capable of delivering the Course Outcomes set out at **Appendices 3 and 6**; and
  - ◆ include arrangements for assessment of advocacy skills in accordance with the criteria set out in **Appendices 4 and 7**.
64. The CPS shall be responsible for producing materials for qualification courses to facilitate teaching and assessment. Assessment materials produced by the CPS will be subject to moderation by the external advisors.
65. The CPS shall be responsible for carrying out formal assessment of candidates in accordance with the assessment criteria set out in **Appendices 4 and 7** or alternatively it may delegate responsibility for assessment to an independent organisation provided the arrangements meet the assessment criteria at **Appendices 4 and 7**. Standards of assessment will be subject to moderation by external advisors who will be provided with recorded candidate performances across a representative range of attainment for this purpose.
66. The CPS shall have in place procedures for considering appeals by candidates against assessments of competence.
67. The CPS will be inspected by IPS. Inspection teams for this purpose will consist of an external advisor and or an Officer. The Inspection team will report on the management and content of courses generally. The inspection team will observe formal assessments of candidates.
68. The external advisors and the Officer shall submit reports of their inspection visits to the Admissions and Licensing Committee. Inspection teams will make such recommendations in their reports as they deem appropriate. The CPS shall receive copies of inspection reports.
69. The CPS shall produce annual reports for consideration by the Admissions and Licensing Committee which provide an overview of the courses they have provided during the year. Reports shall include comment on:

- the course generally;
- candidate performance in relation to the standards of the course;
- results of assessments;
- candidate feed-back;
- any recommendations for change or improvement in the course structure or materials; and
- any developments in the course following any previous report.

## **CONTINUING PROFESSIONAL DEVELOPMENT (CPD)**

70. Each year Associate Prosecutors must undertake at least 16 hours CPD. The CPD year runs from January to December. Associate Prosecutors must undertake at least 8 hours of their annual CPD in advocacy skills training, criminal practice, procedure or knowledge. ILEX will monitor compliance with CPD.
71. Advocacy CPD must be gained by attendance at a training course focusing upon advocacy skills, criminal practice, procedure or knowledge.
72. Associate Prosecutors are not required to undertake any CPD in respect of the period between the date a Level 1 Associate Prosecutor Certificate is first granted and December 31<sup>st</sup> of that year.
73. ILEX will monitor compliance with the CPD requirements. An Associate Prosecutor must send a record of their advocacy CPD to ILEX. The Officer will check the record to ensure that it complies with these Rules.
74. Where an Associate Prosecutor has failed to undertake advocacy CPD which meets the requirements of these Rules or fails to provide a record of such CPD the Officer will refer the matter to the Admissions and Licensing Committee. The Admissions and Licensing Committee will consider whether the Associate Prosecutor should retain his Level 1 or Level 2 Certificate. The Associate Prosecutor will have the opportunity to make written representations to the Committee and has a right to be heard by the Committee. The Committee may decide to:
  - Grant an extension of up to 6 months for the Associate Prosecutor to meet his outstanding CPD requirements. The Associate Prosecutor will still be required to meet his current CPD requirements in the normal way; or
  - Withdraw the Certificate until the Associate Prosecutor complies with the CPD requirements; and, in either case,

- Refer the failure to comply with the CPD requirements for investigation by IPS under its misconduct rules.

## **DISCIPLINARY PROCEDURES AND CODE OF CONDUCT**

75. Associate Prosecutors will be required to abide by the Code of Conduct of ILEX for the time being in force. They will also be bound by the Director's Instructions to Associate Prosecutors, Guidance to Chief Crown Prosecutors Concerning Deployment and Supervision and the Statement of Ethical Principles for the Public Prosecutor. They should also have regard to the CPS Code of Conduct and the CPS National Standards of Advocacy.
76. Where a complaint is made or an issue is brought to the attention of ILEX regarding the conduct of a Associate Prosecutor that matter will be dealt with in accordance with the IPS misconduct rules.
77. Where a Finding, Order or Decision is made against an Associate Prosecutor under the misconduct rules, that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Associate Prosecutor remains a fit and proper person to hold a Level 1 or 2 Certificate. The Admissions and Licensing Committee must give reasons for its decision.
78. **Rule 77** shall not apply where an Order is made by the Disciplinary Tribunal or Appeals Panel excluding a Associate Prosecutor from membership of ILEX. **Rule 79** shall apply in such a case.
79. Where an Order has been made excluding an Associate Prosecutor from membership of ILEX the Associate Prosecutor shall cease to be eligible to exercise the rights of audience or litigation awarded under their Level 1 or Level 2 certificate.
80. Where the Admissions and Licensing Committee decides that the Associate Prosecutor is no longer a fit and proper person to hold a Level 1 or 2 Certificate, he must return his Certificate(s) to ILEX within 28 days of him being notified of the decision. Failure to do so will constitute a disciplinary offence. The Associate Prosecutor may not exercise any advocacy and litigation rights granted to him under his Certificate after he has been notified of the decision.
81. Notwithstanding **Rule 44** an appeal against a decision of the Admissions and Licensing Committee that an Associate Prosecutor is no longer a fit

and proper person to hold an Advocacy and Litigation Certificate will be considered by members appointed to the Appeals Panel established under the IPS misconduct rules.

## **APPENDIX 1**

# **ASSOCIATE PROSECUTOR PERSON SPECIFICATIONS**

**Associate Prosecutor Level 1  
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> | Application Form, Assessment and Interview |

|  |   |  |
|--|---|--|
| <b>Diversity Awareness and Management</b>            | Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.   | Interview                                  |
| <b>Continuous Self Development</b>                   | Develops role knowledge and expertise through continual professional development.   | Interview                                  |
| <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> | Application form, Assessment and Interview |

| <b>Qualifications</b>  |
|--|
| <p><b>Academic:</b><br/>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> |

## Person Specification

|                              |                                     |                        |           |
|------------------------------|-------------------------------------|------------------------|-----------|
| <b>Role Title:</b>           | <b>Associate Prosecutor Level 2</b> | <b>Reports To:</b>     |           |
| <b>Department/ Division:</b> |                                     | <b>Date Completed:</b> | July 2010 |

| <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<br>Case Study 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, utilising existing knowledge to persuade and influence others.</p> | Application form<br>Case Study and Interview |
| <b>Diversity Awareness and Management</b> | <p>Deals with others professionally and respectfully taking into consideration individuals' needs, background and experiences.</p>   | Interview                                    |

|  |   |  |
|--|---|--|
| <b>Reasoning and Decision Making</b>                 | <p>Makes prompt, independent decisions.</p> <p>Shows sound judgment, reaching balanced and unbiased view.</p> <p>Balances the needs of the public, police, victims, witnesses, defendants etc.</p>  | <p>Application form<br/>Case Study and 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 who fulfils the full range of the remit.</p> <p>Enhanced Advocacy skills, able to demonstrate a capability to undertake contested hearings</p> <p>Establishes credibility with depth of knowledge regarding criminal law and its application, magistrates' court practice and procedure and the criminal justice system.</p> <p>Well developed skills in identifying and resolving evidential issues and omissions and in drafting and communicating.</p> | <p>Application form<br/>Case Study and Interview</p> |
| <b>Qualifications</b>                                |   |  |

|  |
|--|
| <p><b>Academic:</b><br/>Nil required</p> <p><b>Professional:</b><br/>Associate Prosecutor member of Institute of Legal Executives (ILEX)</p> |
|--|

## **APPENDIX 2**

### **ASSOCIATE PROSECUTOR LEVEL 1 OBSERVATION GRID**

## ASSOCIATE PROSECUTOR TRAINING MATRIX:

### PROCEDURES TO BE OBSERVED IN THE MAGISTRATES' COURT

A trainee Associate Prosecutor must observe the following procedures in the Magistrates Court. Observations should commence upon selection for the AP1 qualification course and continue until final qualification. Trainee Associate Prosecutors should indicate the date that they observed each procedure. They should discuss their observations with their mentor.

| 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<br>Case adjourned for PSR<br>Court Referring to a PSR         |  |  |
|   |  |  |
| <b>Court Sentencing a Bail Offence<br/>DNA (defendant does not appear)</b>      |  |  |
| 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.<br>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 .....

## **APPENDIX 3**

### **ASSOCIATE PROSECUTOR LEVEL 1 COURSE OUTCOMES**

## **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, including case 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 (including case law) 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.
- Understand the principles of sentencing in the Youth Courts.
- 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, other legislation and case law 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**

### **ASSOCIATE PROSECUTOR LEVEL 1 ADVOCACY 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:

Individual aspects 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

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.

Associate Prosecutors are required to meet the standard of a Magistrates Court practitioner who displays the ability to take appropriate decisions in relation to casework in accordance with the powers devolved to them.

| Candidate name:  | Tutor: | Date:     |               |
|--|--------|-----------|---------------|
| Criteria   | Good   | Competent | Not Competent |
| 1. Requests outstanding material   |        |           |               |
| 2. Settles appropriate charges   |        |           |               |
| 3. Calls, serves or tenders available evidence appropriately   |        |           |               |
| 4. Deals effectively with: <ul style="list-style-type: none"> <li>i. Hearsay evidence</li> <li>ii. Bad character evidence</li> </ul> |        |           |               |

|  |  |  |  |
|--|--|--|--|
| iii. Unused material<br>iv. Special measures<br>v. Civil Preventative Orders |  |  |  |
| <b>Competent / Not competent</b>   |  |  |  |

## **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:

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

Associate Prosecutors are required to meet the standard of a Youth Court advocate who displays the competence and confidence required by the court, CPS and other court users and takes appropriate decisions in accordance with the powers devolved to them.

| <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:<br><br>(i) Grave crime<br>(ii) Dangerous offender<br>(iii) Adult co-defendant |               |                  |                      |
| 5. Deals with change of age:   |               |                  |                      |

|  |  |  |  |
|--|--|--|--|
| (i) Before conviction<br>(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:

Individual aspects of 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

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.

Associate Prosecutors are required to meet the standard of a Magistrates Court advocate who displays the competence and confidence required by the court, CPS and other court users to present and deal with bail matters in accordance with the powers devolved to them.

| <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>                               |  |  |  |

## 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.

Individual aspects 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

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:<br><br>(i) 10-11 year old<br><br>(ii) 12-16 year old<br><br>(iii) 17 year old |               |                  |                      |

|  |  |  |  |
|--|--|--|--|
| 4. Guides court on remands with security requirement:<br><br>(i) basic criteria<br>(ii) alternative bail options |  |  |  |
| <b>Competent / Not competent</b>   |  |  |  |

## **APPENDIX 5**

### **ASSOCIATE PROSECUTORS' LEVEL 2 OBSERVATION GRID**

## LEVEL 2 ASSOCIATE PROSECUTOR TRAINING MATRIX:

### PROCEDURES TO BE OBSERVED

A trainee Associate Prosecutor level 2 must observe the following procedures. Observations should commence upon selection for the AP2 qualification course and continue until final qualification. Trainee Associate Prosecutors level 2 should indicate the date that they observed each procedure. They should discuss their observations with their mentor.

| ACTIVITY   | DATE(S) COMPLETED |
|--|-------------------|
| Trial preparation by an advocate   |                   |
| Liaison by an advocate with Witness Care at court.<br>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**

| <b>ACTIVITY</b>  | <b>DATE(S) COMPLETED</b> |
|--|--------------------------|
| 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.

## **APPENDIX 6**

### **ASSOCIATE PROSECUTOR LEVEL 2 COURSE OUTCOMES**

## **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. Apply the law, including case law, as they pertain to Magistrates' Court trials which they handle.
4. 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
5. Plan the prosecution of a case.
6. 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**

# **ASSOCIATE PROSECUTORS' LEVEL 2 ADVOCACY 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                   |                  |                   |