

## Appendix 1

### Advocacy training – comparison of advocacy training available in the LPC/BVC/ILEX

#### 1. ACLEC advice 1992

- 1.1 Two principles of advocacy training were set out by ACLEC in 1992 when the original higher courts qualification application was considered. These principles were endorsed when the 1998 and 2000 Regulations were considered:
- i) That the educational and training requirements for rights of audience should enable the potential advocate to reach a satisfactory level of competence in the range of work which might reasonably be expected to be done by someone **beginning** [ACLEC emphasis] practice in the work of the court or proceedings concerned.
  - ii) Regular and frequent practice as an advocate is necessary to develop competence to a level from which the advocate can embark on training for the rights of audience in the higher courts.
- 1.2 Principle one was taken to mean that a solicitor seeking rights of audience in the higher courts should demonstrate the competence standards that would be expected of a newly called barrister who had completed the BVC and pupillage.
- 1.3 Principle two was interpreted to mean that the solicitor must be able to demonstrate that he or she had advocacy experienced in the lower courts before commencing the training and assessments for HRA.

#### 2. Bar Vocational Course (BVC)

“Advocacy skills are defined as the skills necessary to prepare, manage and present a case or legal argument, both orally and in writing, before a court or other tribunal, whether formal or informal.”

“Students must demonstrate advocacy skills in a range of civil and criminal scenarios, in applications and in trial(s), and before a range of tribunals, in settings appropriate to the forum. Each student should undertake at least 12 advocacy exercises in class and under the supervision of a tutor.”<sup>1</sup>

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<sup>1</sup> BVC Specification Requirements and Guidance Revised September 2006

### 3. Legal Practice Course (LPC)

“Students should be able to formulate a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner. The student should understand the crucial importance of preparation and the best way to undertake it. The student should be able to demonstrate an understanding of the basic skills in the presentation of cases before various courts and tribunals and should be able to:

- 1) identify the client’s goals
- 2) deal with appropriate client care and professional conduct issues in preparing and presenting the cases
- 3) identify and analyse the factual material
- 4) identify the legal context in which the factual issues arise
- 5) relate the central legal and factual issues to each other
- 6) state in summary form the strengths and weaknesses of the case from each party’s perspective
- 7) develop a case presentation strategy
- 8) outline the facts in simple narrative form
- 9) prepare in simple form the legal framework for the case
- 10) prepare the submission as a series of propositions based on the evidence
- 11) identify, analyse and assess the specific communication skills and techniques employed by the presenting advocate
- 12) demonstrate an understanding of the ethics, etiquette and conventions of advocacy”<sup>2</sup>

Advocacy and litigation is a compulsory element of the LPC and there must be one civil and one criminal litigation paper. Advocacy skills are assessed once in the context of either civil or criminal litigation<sup>3</sup>

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<sup>2</sup> *LPC written standards v10 – September 2004*

<sup>3</sup> *No5 LPC Assessment Requirements and Guidance 2004.*

#### 4. Comparison between LPC/training contract and BVC/pupillage

<b>Legal practice course</b>	<b>Bar vocational course</b>
<p>The LPC written standards do not prescribe the amount of teaching time to be devoted to advocacy, although providers typically spend between 7 and 12 hours on the teaching of advocacy skills.</p> <p>Delivery is usually split between large group sessions and small group sessions. Some providers also use e-learning (such as web casts).</p> <p>Teaching can be in the context of civil litigation and / or criminal litigation.</p> <p>Focus of LPC advocacy training is primarily on presentations and applications. There may be some discussion of the principles of witness-handling (cross-examination and examination-in-chief) but not practice.</p> <p>Advocacy is assessed only once on a simple competent/non-competent basis in the context of either civil litigation or criminal litigation.</p>	<p>The amount of teaching time needed to complete the advocacy training elements of the BVC will vary between approved establishments.</p> <p>The aim of the BVC is to prepare students for advocacy training that will be undertaken during pupillage.</p> <p>The Bar Standards Board requires that each student will undertake at least 12 advocacy exercises in class under the supervision of a tutor</p> <p>Advocacy assessments must contain:</p> <ul style="list-style-type: none"> <li>• Submission of a written argument</li> <li>• Interventions from the bench</li> <li>• Witness handling, including examination in chief and cross examination</li> <li>• Knowledge and application of legal principle</li> </ul> <p>The course covers both civil and criminal matters in trials before a range of tribunals.</p> <p>Witness handling is dealt with in the latter stages of the course and legal submissions may be dealt with by means of mooting.</p>
<b>Training contract</b>	<b>Pupillage</b>
<p>Experience likely to be highly variable. No rights of audience, so any advocacy will be at tribunal or civil interlocutory levels. No criminal advocacy practice as no right of audience in any criminal court. No requirement for the trainee to undertake any advocacy.</p> <p>Professional skills course: must do a three day advocacy course. Content seems hugely variable – better courses at least try to introduce the very basics of witness-handling, but necessarily at an introductory level.</p> <p>Maximum advocacy content – 3 day training course – no practice requirement</p>	<p>During first six months pupil will have no rights of audience. During second six the pupil will have rights of audience. The expectation is that the pupil will spend the bulk of the first six months watching advocacy, and the pupillage checklist confirms this.</p> <p>CPD: required to undertake a three-day advocacy course during pupillage. This is rigorous, and uses the IATC formal advocacy training methodology. There is also a further requirement for advocacy-based CPD in the first three years of practice.</p> <p>Minimum content: pupillage checklists require a high level of exposure to advocacy, plus attendance on the advocacy course.</p>

## Summary

On the LPC advocacy is one of four legal skills to be taught and assessed. It is not taught at a high level.

On the BVC advocacy is the key skill. It is taught more than any other skill, and assessed six times during the course( three times on a formal formative basis; three times on a summative basis).

There is no requirement for any advocacy training during the training contract, other than the PSC component. (This contrasts sharply with the the focus on advocacy in the two six month pupillages.) However trainee solicitors are required to gain experience of the skills standards for advocacy and dispute resolution.

Apart from the disparity in hours, the other key distinction is that a newly qualified solicitor may have no experience, whether classroom or courtroom, of witness-handling. This contrasts with the BVC, where both witness-handling and paper advocacy are seen as key elements.

## 5. Institute of Legal Executives (ILEX)

ILEX is working up its advocacy training and development course and assessments pending the implementation of the new qualifying process later in 2006. Under the proposals approved by the Lord Chancellor in May 2006 the outline training and assessment process will be:

- The advocacy qualification scheme will be open to both Fellows and members of ILEX
- Members will not be permitted to exercise rights of audience until they achieve Fellowship
- Application for enrollment on to the scheme will be by way of knowledge and experience demonstrated by a portfolio.
- Training and qualification will be in three specialist areas – civil, family and criminal proceedings
- After successful enrollment applicants will attend a six day advocacy skills training – a good knowledge of the law of evidence is assumed before attending the course.
- The final day of the course will be devoted to assessment of advocacy skills and knowledge of the law of evidence
- Successful candidates will be granted a certificate in their specialist area for a period of 12 months after which they will be required to renew the certificate by way of a portfolio of advocacy undertaken in the first 12 months
- The period of certification following the first 12 months is not known at this time