

SRA Authorisation of Individuals Regulations – Regulation 9.10: Higher Rights of Audience

The attached Assessment Table is only for EU/EEA and Swiss nationals who have qualified in an EU Jurisdiction (i.e. lawyers who meet the requirements of Directive 2005/36 [[1]](#footnote-1) (Recognition of Professional Qualifications)). By completing the Assessment Table, you will enable the SRA to assess which (if any) assessments you will need to take to be able to gain higher rights of audience as a REL or (once admitted) as a solicitor in England and Wales.

The SRA has set out what is expected of a competent solicitor higher court advocate both before and during trial, in terms of case analysis, organisation, preparation and presentation. You are strongly advised to read through the full standards and performance indicators which are merely summarised in the Assessment Table. The standards can be found at <http://www.sra.org.uk/solicitors/accreditation/higher-rights/competence-standards.page>

The standards identify the generic skills and knowledge for all solicitor higher court advocates. The standards are specific to civil and criminal proceedings and include a framework against which the competence and performance of a solicitor higher court advocate can be assessed.

 **Your evidence**

You should use the Assessment Table to show us how you have met the standards through:

* Studying English and Welsh law and/or practice
* Your experience of practising English/Welsh law

In particular:

* the evidence must show how the standards have been achieved in the context of English/Welsh law and practice; and
* the higher the level of qualification and/or experience, the greater the weight which the assessor will attach to it

If you are submitting evidence to us, you should:

* send two copies of your evidence
* ensure that all documents are numbered and referenced to the standards listed on the assessment table
* provide translations of all your evidence that is not in the English language
* ensure your evidence can be easily separated from your application form as one copy will be sent to our assessor
* please do not submit evidence in hard files or folders or use plastic wallets or slip folders for documents



Regulation 9.10: Higher Rights of audience

(EU/EEA) - Assessment Table

|  |  |
| --- | --- |
| Name of applicant |  |
| Date  |  |
| Sources of evidence claimed and annex | *e.g. Humboldt University* | *e.g.1* |

 Please refer to the full statement of standards and performance indicators for solicitor higher court advocates at

 <http://www.sra.org.uk/solicitors/accreditation/higher-rights/competence-standards.page>

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| --- | --- | --- | --- |
| **Applicants are required to demonstrate that they meet these standards in the context of the law and practice of England and Wales** | **Evidence claimed** | **Assessor comments only** | ***For assessor marking only*** **Outcome met?** |
|  **Part 1** - **Evidence** Advocates must be able to apply the rules of evidence: determine when evidence is relevant and therefore potentially admissible and be able to demonstrate their understanding of:* 1. burden and standards of proof
	2. disclosure
	3. hearsay evidence
	4. documentary hearsay
	5. similar fact and character evidence
	6. opinion and expert evidence
	7. improperly obtained evidence
 |  |  |  |
|  **Part 2 - Ethics** Advocates must be familiar with and understand the Principles and the Code of Conduct for Solicitors, RELs and RFLs. Advocates should also be familiar with the current version of the Bar Standards Board Handbook. Advocates must be able to:1. advise the client on suitable representation at court
2. resolve issues arising from unintentional or inadvertent disclosure
3. resolve potential and actual conflicts arising from the advocate’s duty owed to the client
4. advise on potential conflicts arising between acting as an advocate for a client and becoming a potential witness for that client
5. recognise when an advocate may become professionally embarrassed and have to withdraw from a case
6. advise the client of the advocate’s need to maintain professional independence
7. comply with courtroom etiquette
 |  |   |  |
|  **Part 3 – Advocacy****Standards for evidential and legal submissions/interim applications**1. The advocate must be able to:1. prepare coherent skeleton arguments
2. present legal argument to the court accurately
3. respond to interventions by the court
4. respond to the opponent’s legal arguments

2. When making an application the advocate must be prepared to present the case in detail  **Standards for trial advocacy**1. The advocate must
2. understand the importance of and be able to draft and present clear trial strategies and plans
3. using the trial strategy and plan be able to outline the facts and evidence
4. be able to present an effective and coherent opening speech
5. be able to conduct an examination in chief
6. in cross examination
* know on what matters in dispute a witness can be cross examined
* be able to control the direction and pace of the evidence
* appropriately challenge the witness’ evidence
* ensure that all relevant disputed matters are put to the witness
* identify and appropriately cross examine on any previous inconsistent statements
1. be able to identify situations when re-examination is required to put the client’s case
2. Handling special witnesses

The advocate must be able to* identify and use effectively expert evidence
* challenge expert evidence
* confirm or question expert’s qualification
* identify vulnerable witnesses
* use appropriate techniques when questioning vulnerable witnesses
* comply with judicial directions regarding vulnerable witnesses
1. Closing speeches

During the closing speeches the advocate must* Identify and appropriately present
* the keys issues of the client’s case
* the positive and negative evidence elicited from witnesses
* anticipate and appropriately address argument likely to be advance by the opposing advocate
* effectively deal with interventions by the court and respond appropriately to them
 |   |  |  |
| Part 4 - Civil advocacy**Trial preparation**The advocate must have the ability to* prepare a coherent and effective trial strategy and/or produce a trial plan based on statements of case, witness statements and other disclosed documents put before the court
* exercise sound judgement in the making of appropriate interim applications
* understand the effect of interim orders
* identify any costs implications resulting from interim orders

draft coherent skeleton arguments to assist the court**Trial bundle**Advocates must understand the implications and requirements of the current Practice Directions as to what needs to be included in the trial bundle and should be able to ensure that the bundle complies with court requirements.**Alternative Dispute Resolution**Advocates must understand the importance of alternative dispute resolution and when it is appropriate to advise their client appropriately.  |  |  |  |
| **Part 5 - Criminal advocacy** Advocates must* understand and comply with the Criminal Procedure Rules throughout the trial process
* understand and be able to advise on the differing practices styles and policies of other prosecuting authorities
* ensure that documents which may be put before the judge and jury are in the appropriate format, accurate and material to the case
* ensure that copies of any law to be argued are prepared for the benefit of the judge and the opposing advocate
* demonstrate understanding of the potential admissibility of confessions and previous inconsistent statements including the exercise of the courts’ discretion

**Trial preparation**Applicants must * be able to prepare a coherent and effective trial strategy and produce a trial plan based on an understanding of
* the rules relating to indictments
* the rules relating to disclosure
* the issues that may arise at and/or from a Plea and Directions Hearing (PDH)
* be able to deal promptly and effectively with issues

that may arise at and/or from the PDH**Trial procedure**  Applicants must understand* the procedure for empanelment of the jury
* the order of speeches and witnesses
* when legal submissions should be made to the judge in the absence of the jury
* matters which the judge should cover in summing up
* how they can assist the judge with any specific points to be addressed in the summing up
* actions and attributes that may adversely affect the client’s case in the eyes of a jury

**Sentencing**Applicants must understand* matters relating to advice on a plea of guilty
* sentencing guidelines and case law, the judge’s sentencing powers and range of sentencing tariffs
* The obligation of advocates, whether for the prosecution or the defence, to draw the trial judge’s attention to limitation on his/her sentencing powers
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|  **Part 6 – Equality and diversity pervasive standards**  Advocates must have an understanding and awareness of equality and diversity issues. |  |  |  |

1. <http://ec.europa.eu/internal_market/qualifications/index_en.htm> [↑](#footnote-ref-1)