



The Inns of
Court College
of Advocacy

Stage 3 Pupil Assessment Procedure Policy

Version 1.0

The Inns of Court College of Advocacy (ICCA) oversees coordination of the Stage 3 Pupil Assessment Procedure (Stage 3 PAPP) on behalf of the Bar Standards Board (BSB).

ICCA's procedures for a Stage 3 PAPP will be invoked upon a request from an Inn or a Circuit for a pupil who has not met the required competency standard following assessment at a second pupil's advocacy training course (Stage 2).

ICCA's Stage 3 PAPP

The following sections provide guidance as to how ICCA will implement the Stage 3 PAPP:

1. Assessors
2. Assessment
3. Criteria
4. Materials and preparation
5. Format of the session
6. Results
7. Appeal
8. Contacts

The Assessment Criteria is also provided as an annexe.

1. Assessors

A panel of 3 accredited advocacy trainers (Assessors) will be formed for the Stage 3 assessment.

The ICCA will recruit 3 Assessors from the Inns and/or Circuits. Assessors will be senior advocacy trainers for their Inn or Circuit. Advocacy trainers from the pupil's own Inn or Circuit will not be involved in the assessment. Equally, pupils will not be assessed by a member of their Chambers or their employer.

The selected Assessors will not have access to any information relating to an assessment or performance or any trainer notes from a pupil's previous attempt(s) at passing a pupil's advocacy training course.

2. Assessment

A pupil will only be assessed on the elements upon which s/he was unsuccessful at a pupil's advocacy course.

The ICCA will identify, by liaising with the relevant Inn or Circuit, which parts are to be assessed during the Stage 3 Assessment.

3. Criteria

A pupil will be assessed according to the "Dutton Criteria" (the criteria) which are annexed to this policy; the same criteria that are followed by the Inns and Circuits.

4. Materials and Preparation

The ICCA will select and circulate a suitable exercise from the Inns or Circuits.

All training materials for the assessment will be circulated to the pupil to allow a minimum of 2 weeks for preparation, including two weekends.

If the pupil has used the exercise in a previous training session, the pupil must inform the ICCA immediately.

5. Format of the Session

The assessors will confirm when the pupil should begin their oral submissions or questioning of a witness. The pupil will be given a set period of time in which to perform the exercise.

It is likely that there will someone playing the role of a judge before whom the pupil will make submissions or question a witness. The judge will respond to any submissions and may ask some questions. The judge will be familiar with and have a full understanding of the assessment process and will be an experienced Inns or Circuit advocacy trainer. The Judge will not contribute to the decision of the Assessors at the culmination of the assessment.

The performance will be filmed.

6. Result

The Assessors will make a recommendation via the ICCA to the BSB. This will then be ratified by the BSB's Director of Regulatory Assurance as follows:

- a) That it has been demonstrated that the standard of competency has been met and that a provisional qualification certificate should consequently be issued or,
- b) That the standard of competency has not been met, and there should be no opportunity for any further reassessment, or
- c) That it has not been demonstrated that the standard of competency has been met, but a further opportunity for reassessment should be given, conditional upon specified actions being taken before reassessment is undertaken.

Pupils will be informed by the BSB of the outcome of the assessment.

7. Stage 4 – Appeal

A candidate may appeal against the decision of the Stage 3 Pupil Assessment to the BSB's Director of Regulatory Assurance by writing directly to him or her. Grounds of appeal may only include procedural irregularity and/or prejudice. Appeals will not be allowed if they seek to question the exercise of professional or academic judgement.

Candidates can rely on the aural or visual recording of their Stage 3 Assessment by way of evidence in support of any appeal.

8. Contacts

In the event of a query relating to this procedural information, please contact The Inns of Court College of Advocacy at info@icca.ac.uk or 020 7822 0764.

Annex 1: Assessment Criteria

Introduction

It is in the interests of the public, the Court and the profession that all barristers present their cases to the highest professional standards. They must prepare thoroughly and present their cases in a manner which is clear, well organised, efficient and persuasive. The criteria which are set out below, which you and your advocacy trainers will be working with, are intended to achieve these objectives.

It is expected that most pupils, with the training that they have already undergone, will achieve more than a minimum level of competence in their advocacy and it is the intention of your Course Provider that you should do so. If during your training your trainers are concerned that you may not be achieving the minimum level of competence in any of the core areas, they will refer you to the Course Director and you will be given the opportunity of further training. If after such further training you still have not achieved a minimum level of competence in any of the core areas, you will be offered an assessment conducted in accordance with the Stage 3 Pupil Advocacy Procedure Policy (PAPP).

Principles

- Criteria need to be few in number, so that both advocate and trainer concentrate on the absolute essentials.
- Substantive teaching objectives (e.g. use of short questions) should be given primacy over style (e.g. courtesy).
- Assessment of performance should take into account the presence or absence of evidence of preparation.
- The assessment of skeleton arguments should be separate and distinct from their use in oral submissions.

Skeleton Arguments

- Clarity of purpose
- Logical structure and organization
- Identification of issues
- Clarity of expression
- Appropriate length
- Appropriate documentary references to external materials
- Appropriate references to authorities

Oral Submissions

1. Organisation

- Clear aim (sets out clearly what the judge is being asked to do and the source of the power to do it)
- Coherence (structured, logical, with clarity of expression)

- Logical structure (beginning, middle and end)
- Appropriate use of materials and appropriate use of authorities

2. Delivery

- Audibility
- Pace
- Clarity of expression
- Use of appropriate language (language adapted to the tribunal)
- Appropriate eye contact

3. Interaction with Tribunal/dealing with opponent's arguments

- Anticipating points
- Dealing with the court's concerns (i.e. answering questions, not avoiding them; not being thrown by questions; having an honest, and coherent, approach)
- Relating submissions to skeleton arguments
- Appropriate use of authorities
- Adapting to opponent's point's

Examination in Chief

1. Organisation

- Clear and logical structure (telling the story through the witness)
- Relevance (avoiding the irrelevant and eliciting substance whilst avoiding the irrelevant).

2. Form of Questions

- Avoiding leading questions (except where appropriate e.g. facts not in dispute).

3. Delivery

- Audibility
- Pace
- Awareness of the tribunal

4. Interaction with the witness

- Audibility
- Appropriate control of the witness (use of appropriate language, apt and focused questions)
- Short, simple questions, one point at a time
- Listening to answers
- Appropriate conduct towards the witness

Cross-Examination

1. Organisation

- Clarity of purpose
- Logical structure and organization
- Identification of issues
- Clarity of expression
- Demonstrates knowledge of the facts
- Relevance

2. Form of Questions

- Closed and concise

3. Delivery

- Audibility
- Pace
- Knowing when to stop

4. Interaction with the witness

- Controlling questions
- Listening to answers
- Flexibility
- Form of questions (fact not argument)
- Courtesy

5. Putting your case/support for closing submission

- Eliciting necessary facts.
- Making challenges necessary to put your case.
- Laying the factual foundation of your case.

Language

These assessment criteria are used for those intending to practise at the Bar of England and Wales, where the official language of the Court, and hence teaching and assessment, will be English.

Where the official language of the Court is not confined to English, such as in Wales under the Welsh Language Act 1993, the pupil is entitled, if he or she wishes, to be taught and assessed in Welsh.

Disability

The criteria, their application and this scheme in general may be modified (where appropriate) in relation to any pupil who has a disability, within the meaning of the Disability Discrimination Act 1995. Anyone who requires such a modification to be made should make this known to the Course

Provider as early as possible, and normally before the start of the course, so that full consideration can be given to any modifications that may be appropriate.