



The Inns of
Court College
of Advocacy

Assessment Setting, Marking and Moderation Policy

v2.0 Approved September 2025

Background

The Bar Standards Board's Professional Statement

The ICCA will develop assessments for Part Two modules that are mapped to the Bar Standards Board's (BSB) Professional Statement (PS). The PS describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice. They cover a broad scope of Competences and the BSB has developed a 'threshold standard' to demonstrate the level of competence a barrister needs at the point of qualification. The threshold standard is defined for each Competence contained in the Professional Statement.

The ICCA adopts the PS as a fundamental starting point for all assessment development.

The BSB prescribes in their 'Curriculum and Assessment Strategy' the modules to be taught and assessed, the assessment criteria and, at a high level, the assessment methodology to be used.

The BSB also provides an annual AETO Handbook. In so far as it, or another BSB document prescribes requirements that are not set out in this policy, the handbook requirements prevail and/or should be seen as additional to the requirements of this policy.

Objectives of this Policy

The objectives of this policy are:

- To ensure that the ICCA assessment regime is robust and fair
- To ensure that a consistent approach is taken across the ICCA to assessment setting, marking and moderation

Assessments to which this Policy applies

The ICCA Assessment Setting, Marking and Moderation Policy will apply to marking of the ICCA Bar Course Part Two modules. These modules are:

- Advocacy x3 (Submissions Advocacy, Examination-in-Chief and Cross-Examination)
- Conference Skills
- Opinion Writing
- Drafting
- Professional Ethics

Academic Regulations

In relation to Assessment Setting, Marking and Moderation, students are referred to sections 21 to 32 of the ICCA Academic Regulations.

Head of Assessments

The Head of Assessments is the Bar Course Leader (BCL) or such other member of the ICCA Academic Team who may be appointed by the Dean of the ICCA.

Lead Assessor

In this policy the Lead Assessor is a member (or members) of the ICCA Academic Team who has been appointed by the Head of Assessments as the Lead Assessor for one of the Part Two modules listed above.

Assessment Scrutiny

Assessment scrutiny will be conducted by a member of the academic staff and the Head of Assessments unless further scrutiny is deemed necessary by the Head of Assessments.

1. Assessment Setting

- 1.1 The ICCA Academic Team is responsible for the setting of assessments on Part Two of the ICCA Bar Course.
- 1.2 For each academic year three papers will be prepared for each module – a first sit and resit paper for the summer assessments, and a first sit only for the January assessments. The papers will then be subjected to the scrutiny and quality assurance processes set out in paragraphs 1.3 – 1.7 below.

Assessment Materials

- 1.3 For every assessment, papers must be provided in a finalised version before they can be scrutinised and quality assured. Those papers will comprise:
 - 1.3.1 All documents that will be provided to candidates for the purpose of completing the assessment; and
 - 1.3.2 All documents that will be provided to markers for the purpose of marking the assessment.
- 1.4 For assessments other than Ethics, the marking materials shall provide indicators for the determination of fail, pass, merit, distinction grades as well as indicators to be applied during the marking process beyond those set out in the marking materials.

Internal Scrutiny and Approval of the Assessments

- 1.5 Once assessment bundles have been assembled they should be reviewed (1st review) by a member of Academic Team familiar with the subject matter and the Head of Assessments or other suitably qualified member of the Academic Team as they might appoint.
- 1.6 The reviewer will provide written comments to the assessment author which determine whether the assessment is suitable and reflective of BSB assessment requirements. Where necessary, following the 1st review an amended version of the assessment bundle should be produced by the assessment author.

External Examiner Approval

- 1.7 Once the examination has been by internal reviewer and the Head of Assessments, it shall be made available to the EE appointed for that subject. The Lead Assessor shall liaise with the EE, amending the assessment as necessary to attain approval by the EE.

Approach to Assessment Setting

- 1.8 In setting assessments, designers and academics will consider the specified learning outcomes of the module and programme as set out in the programme specification.
- 1.9 Assessment questions or scenarios should not be fundamentally different in terms of difficulty or format from the formative assessment for a module and assessments should as far as possible be reflective of circumstances found in the early years of practice at the Bar.
- 1.10 The ICCA will comply with any prescription set by the BSB in the Curriculum and Assessments Strategy (CAS) in designing the assessment methodology and marking criteria.
- 1.11 Academic staff are responsible for ensuring the accuracy of the assessment bundle and that appropriate measures are taken to protect the security of the assessment bundle.
- 1.12 No assessment will be used twice in any 3-year period. In any event no ICCA student may sit an assessment a second time using the same or a similar bundle of papers.
- 1.13 Any assessment that is reused shall be updated to ensure that it reflects any changes to the law or procedural rules or any ICCA assessment regulation or policy since it was last used.
- 1.14 Any problems that are identified as a reason not to use an assessment for the first or on subsequent occasion must be brought to the attention of the Head of Assessments immediately.

2. Marking & Moderation

Pre-Marking Procedure for Oral Assessments

- 2.1 For Conference, Submissions Advocacy, Examination-in-Chief and Cross-Examination assessments, once an assessment has been approved by an external examiner the Lead Assessor should arrange for the assessment to be taken by no less than 2 Bar Course

graduates, pupil barristers or junior barristers of under 3 years call. The assessment performances should be recorded.

- 2.2 The performances should be distributed to the marking team for blind marking. Ordinarily all markers will be involved in this process.
- 2.3 Once the independent marking process is complete the Lead Assessor should convene a recorded markers' meeting.
- 2.4 At the meeting, appropriate marks for the sample performances will be agreed to ensure consistency in the marking process. The meeting will also set any additional indicators for the determination of fail, pass, merit, distinction grades as well as indicators to be applied during the marking process beyond those set out in the marking materials. The Lead Assessor shall provide guidance and make final decisions where markers are not in agreement on marks or approach to marking.
- 2.5 If the meeting is not recorded, minutes of the meeting are to be produced and distributed to all markers. The Lead Assessor will also provide any additional guidance for markers that they deem necessary. Any additional guidance should be in writing and available for inspection by the Head of Assessments and EE.

Alternative Procedure

- 2.6 In some circumstances, particularly where there are low candidate numbers, it is not necessary to follow the procedure in paragraphs 2.1-2.4.
- 2.7 For Conference, Submissions Advocacy, Examination-in-Chief and Cross-Examination assessments the lead assessor will arrange for each marker to be sent the performances of the same 2 candidates. Each marker should then independently mark the performances.
- 2.8 The lead assessor should then hold a markers' meeting as soon as is practicable which should be recorded.
- 2.9 At the meeting, the same process as at paragraph 2.4 shall be adopted.
- 2.10 If the meeting is not recorded, minutes of the meeting are to be produced and distributed to all markers. The Lead Assessor will also provide any additional guidance for markers that they deem necessary. Any additional guidance should be in writing and available for inspection by the Head of Assessments and EE.

Pre-Marking Procedure for Written Assessments

- 2.11 For Opinion Writing and Legal Research and Drafting the lead assessor will arrange for each marker to be sent copies of no fewer than 3 candidates' scripts. Each marker should then independently mark the scripts using the criteria and marksheets for the assessment.
- 2.12 The lead assessor should then hold a markers' meeting before any other marking for the assessment is undertaken. The markers meeting should be recorded.

- 2.13 At the meeting, appropriate marks for the scripts will be agreed to ensure consistency in the marking process. The meeting will also set any additional indicators for the determination of fail, pass, merit, distinction grades as well as indicators to be applied during the marking process beyond those set out in the marking materials. The Lead Assessor shall provide guidance and make final decisions where markers are not in agreement on marks or approach to marking.
- 2.14 If the meeting is not recorded, minutes of the meeting are to be produced and distributed to all markers. The Lead Assessor will also provide any additional guidance for markers that they deem necessary. Any additional guidance should be in writing and available for inspection by the Head of Assessments and EE.

Moderation

- 2.15 The Lead Assessor will independently double mark one candidate's performance or script for each marker. The Lead Assessor will then agree marks with the marker. The Lead Assessor's marks shall prevail in the event of any disagreement. This meeting should take place as soon as practicable during the marking process.
- 2.16 Any additional guidance deemed necessary as a result of the moderation process shall be distributed to markers and be made available to the Head of Assessments and the EE.

First marking

- 2.17 All scripts will be anonymised wherever possible.
- 2.18 For every candidate the first marker will complete a marksheets containing the marks awarded for each assessment criteria and sufficient written comments to explain how the marker arrived at the awarded mark.

Blind Second Marking

- 2.19 To ensure that decisions taken by markers are transparent and robust, the ICCA will adopt blind double marking for all modules on Part Two, except where computer-based testing is being used for Professional Ethics.
- 2.20 Blind double marking means that the second markers will mark each script assigned to them without reference to the mark sheets or marks awarded by the first marker.
- 2.21 The following table sets out which scripts which must be blind-double-marked following first marking:

Fail	All fails, (59% and below)
Pass	60%
Merit	68% and 69%
Distinction	78% and 79%

- 2.22 In any assessment it shall be open to the Lead Assessor to require additional blind second marking to be carried out for any pass script or performance.
- 2.23 Second marking can be carried out by the Lead Assessor or other designated member of the marking team.
- 2.24 The second marker will complete a written marksheet which contains the marks awarded for each assessment criteria and sufficient written comments to explain how the marker arrived at the awarded marks.

Agreeing final marks

- 2.25 The first marker and second marker will then discuss their individual marks and attempt to reach a consensus on each assessment criterion and agree a final mark for the assessment.
- 2.26 The agreed marks and reasons for those marks should be recorded on a third mark sheet.

Third marking

- 2.27 In the event that the first and second markers are unable to agree final marks, the Lead Assessor in consultation with the Head of Assessments will appoint a third marker to independently review the relevant assessments and the first marker's and second marker's marks and comments. The third marker will seek to resolve any disagreement. It shall be open to the third marker to blind third mark the assessment(s) in question. If necessary, it shall be for the third marker to determine appropriate outcome for the assessments.

Moderation

- 2.28 In circumstances where the Head of Assessments identifies a systemic issue regarding the first marking process it shall be open to them to require all or a sample of the assessments concerned to be second marked to ensure that all marking outcomes are robust and transparent.
- 2.29 Additional second marking must be conducted to comply with any relevant BSB requirements.

Low numbers of performances or scripts

- 2.30 Where there are fewer than 12 scripts or performances for any subject, then, at the discretion of the Lead Assessor, all first marking for the relevant subject may be completed by a single marker. The Lead Assessor (or nominated person if the Lead Assessor was first marker) will then assign a second marker to blind mark a minimum of two scripts or performances.
- 2.31 The Lead Assessor will then agree marks with the marker. The Lead Assessor's marks shall prevail in the event of any disagreement. This meeting should take place as soon as practicable during the marking process with the marks and reasoning recorded. The first marker may then be required to revisit previously marked scripts to ensure consistency of marking.

3. The fatal flaw rule

- 3.1 For each assessment there shall be a fatal flaw reviewer (FFR). Ordinarily, the FFR shall be the Lead Assessor. It shall be open to the Head of Assessments to appoint a different FFR.
- 3.2 Pursuant to the BSB's Curriculum and Assessment Strategy, a fatal flaw could be, but is not limited to:
 - 3.2.1 A significant or grave error of law or procedure
 - 3.2.2 An error in legal or case analysis that is so clearly incorrect that it would put the interests of the client(s) at risk
 - 3.2.3 An error in legal or case analysis that is so clearly incorrect that it puts the barrister at risk of liability for negligence or a disciplinary finding.
- 3.3 Fatal flaws will be rare and so far as is possible the circumstances that might amount to a FF should be identified and agreed with an EE before an assessment is taken in the marking materials. It may be necessary, for example where unexpectedly large numbers of students are potentially deemed to have fatally flawed, to review and further limit the fatal flaw circumstances following the first marking exercise.
- 3.4 In any case where a 1st marker deems that a candidate has or might have breached the fatal flaw rule, they should discuss the potential fatal flaw with the FFR at the earliest possible opportunity within the marking process.
- 3.5 In the event that the first marker and the FFR agree that a candidate has breached the fatal flaw rule this should be recorded on the candidate's marksheets together with a written explanation of the reasons for the fatal flaw. Conversely, if they determine it is not a FF, that should also be recorded with reasons for the conclusion. If necessary, the Lead Assessor shall inform the other markers of the fatal flaw issue and what might amount to a fatal flaw.
- 3.6 In the event where a fatal flaw issue arises such that discussion occurs in accordance with paragraphs 3.4 and 3.5 above, the Head of Assessments and External Examiner shall be notified as soon as possible.
- 3.7 Where the circumstances of the fatal flaw are not ones envisaged in the marking materials, it will ordinarily be necessary to seek confirmation from the relevant External Examiner that the circumstances of the performance do or do not amount to a fatal flaw at the earliest opportunity.

4. External Moderation

- 4.1 At the conclusion of the internal marking process the External Examiner will have made available to them:
 - The assessment and markers materials
 - All performances, scripts, marksheets and an easily viewable record of first marks, second marks, third marks and the agreed marks

- Such other documents as are required by the External Examiner.

4.2 It shall be open to Lead Assessors to seek guidance from the External Examiner on marking approach, either during the marking process or following it.

4.3 It is for External Examiners to determine that all marking has been carried out in accordance with the BSB's requirements and that ICCA assessment regulations and marking policies have been adhered to.

5. Recording of marks

5.1 At the end of the marking process the Lead Assessor for a module shall be responsible for collating all final marks and mark sheets.

5.2 Final marks shall be communicated to the Registry Service Team for recording.

6. Examinations Board

6.1 The ICCA Examinations Board, on behalf of the Board of Governors, is responsible for ensuring that all examination processes have operated appropriately and fairly. The Board's responsibilities include conferring module marks and overall classification to be awarded.

6.2 In readiness for the meetings of the ICCA Examinations Board, all Board members will be notified of the date of the meeting as early as is practicable. Documentation will be provided in advance and should include any available reports from the ICCA team and the External Examiners and the proposed agenda. The Examinations Board agenda should include:

- the obligations to preserve confidentiality and report any conflicts of interest consideration of minutes of the last meeting.
- oral or written reports of external examiners on standard of the assessment processes and any issues identified.
- consideration of invigilation irregularities or examination conduct issues, as appropriate.
- consideration of recommendations from the Mitigating Circumstances Committee, as appropriate.
- consideration of the Fatal Flaws as appropriate.
- consideration of any policy decision required around borderline marks.
- review and conferment or revocation of module marks and overall classifications.
- consideration of recommendations from the Academic Appeals Committee, as appropriate, and
- the date of the next meeting

6.3 In respect of Board decisions and confirmation of results, the Examinations Board has no delegated discretion to amend the grades of students in the light of circumstances affecting performance. Marks may not be raised as a result of special circumstances or for any other reason. In these instances, the only discretion is for marks to be set aside and a re-sit without penalty awarded.

- 6.4 Prior to any Board Meeting the Head of Assessments shall convene a pre-board meeting at which all Lead Assessors should be present. If a Lead Assessor cannot be present they may nominate another member of the Academic Team to attend on their behalf. The purpose of the pre-board meeting is to verify that all information provided to the Examinations Board is accurate and to make recommendations to the Examinations Board, including the conferring of module marks and overall classification to be awarded in respect of each candidate.
- 6.5 If an individual candidate assessment is mislaid, marks cannot be awarded or interpolated, whether on the basis of the candidate academic profile or otherwise.
- 6.6 At the conclusion of the meeting, the Chair of the Examinations Board will sign off the results as finalised by the Board. The results may then be published as final results.
- 6.7 The minutes of the meeting will record all decisions and actions (including those relating to re-sits and deferrals), as well as the time and date of the meeting, and the names of those in attendance.
- 6.8 Where corrections are required to decisions of the Board, the Chair of the Examination Board (or their delegate) shall have authority to make such corrections by way of Chair's action. Any action taken pursuant to this provision, should be recorded in writing, added as an addendum to the minutes of the Board Meeting and circulated to all members of the Examinations Board prior to its next meeting.
- 6.9 The ICCA will provide the BSB with the list of final results.
- 6.10 Results will be communicated to students, normally within one week of the Examinations Board meeting.

7. Records

- 7.1 The ICCA will maintain accurate records to demonstrate how the marking process operated, including showing the rationale for decisions in relation to individual marks/grades, including any decisions that marks or grades should not be altered.
- 7.2 After the marking process and the review processes by the External Examiners and the ICCA Examinations Board have concluded, results will be entered by the Registry Services team into the student records system. No change shall be made to the results entered into the student records system without the prior approval of the Chair of the Examinations Board.
- 7.3 The ICCA shall securely maintain records of individual student results for a period of no less than 5 years from completion of the ICCA Bar Course or withdrawal from Part One or Part Two, such period being determined by the period of validity of the qualification as specified in the Bar Training Rules in the BSB Handbook in accordance with section 31.6 of the ICCA Academic Regulations.

7.4 In the event that a student's assessment script or video recording of a student's skills assessment performance is lost in transit between markers and moderators or at any stage of the assessment marking and moderation process, the ICCA Bar Course Leader will authorise access to the secure storage area held by the Registry Services team, in order to retrieve a duplicate script or video recording. The ICCA Bar Course Leader will then arrange for a second marking and moderation process to be undertaken in relation to that specific script or video recording.

8. Assessment Security

8.1 All assessment scripts will be scanned immediately after an assessment and held in secure digital storage by the Registry Service Team. All student recordings of assessments will be downloaded onto a secure server and retained digitally by Registry Services staff in isolated libraries on a cloud-based storage system. Scanned scripts and duplicate video recordings will be held for a period of 5 years.

8.2 If it is necessary for hard-copy scripts or physical recordings to be sent by post, they should be sent by recorded delivery or via courier.

9. Assessment Feedback

9.1 Following a summative assessment, students will be provided with feedback. If such feedback is following a fail, it will be aimed at helping the student improve their performance at the next assessment attempt.