



The Law Society
of England and Wales

**Joint Advocacy Group consultation on regulatory
changes to support the Quality Assurance Scheme for
Advocates (Crime)**

November 2011

supporting
solicitors

Joint Advocacy Group consultation on regulatory changes to support the Quality Assurance Scheme for Advocates (Crime)

The Law Society welcomes the fact that the Joint Advocacy Group (JAG) has extended the consultation period for its consultation on QASA and the efforts that are being made to research the scheme properly. In the Law Society's view there are significant problems with the current scheme that need to be addressed.

The Law Society supports, in principle, the view that there needs to be a proportionate and appropriate scheme for assuring quality in advocacy. We believe that it can assist advocates to have a better idea of what competence looks like at particular levels and, from the public's point of view, identify those who should not be advocates. We believe that it will provide solicitor advocates with an opportunity to demonstrate that they are competent to act at the highest level and to counter, once and for all, the campaigns of some sections of the Bar and their supporters.

However, any such scheme needs to be consistent, fair and proportionate and work in a way that is going to ensure an appropriate supply of advocates for the work and proper competition. We consider that there are significant flaws in the scheme as it stands. We doubt that judicial evaluation will lead to consistent or reliable results, while the levels that must be attained before work in a particular field can be undertaken are set unnecessarily high. A number of very competent advocates who limit themselves to particular areas of work may find it impossible to qualify for those areas and so the supply of competent advocates will be reduced. These amount to fundamental flaws in the scheme. The result is that the scheme is disproportionate and will have deeply damaging results for the criminal justice system.

The Law Society welcomes the dialogue that the SRA has begun in recent months together with the research amongst solicitor advocates to gauge the impact of the scheme. We trust that the results of that research will inform the remodelling of the scheme in due course to ensure that it provides a proportionate scheme that will ensure that competent advocates are able to provide their services without having to meet unnecessary hurdles.

We believe that the follow areas need to be addressed.

Judicial evaluation

There are fundamental objections to judicial evaluation. The disjunction between a judge passing judgment on the performance of an advocate and the need for the advocate to be fearless in pursuit of the client's best interests is self-evident. The results of the pilot in Birmingham clearly undermine the argument that it is feasible to involve the judiciary in QASA. If similar results emerge from the forthcoming London pilot, it will simply not be credible to proceed with judicial evaluation.

The Society urges that initially QASA should proceed without judicial evaluation. Judicial evaluation should in any event never be more than an alternative to accreditation through assessment, whereas under the scheme as currently proposed the checking of advocates' self assessment as to their entry level and graduation to a higher level have to be checked by means of judicial evaluation at levels 3 and 4.

It is also essential that, if there are to be two options, then they should be treated as of equal standing and that the cost of one should not be a disincentive to its use.

Rights of audience in the Magistrates' Courts

- *Major change to statutory rights of audience*

QASA will remove solicitors' rights of audience in the Magistrates' Courts automatically five years after the date of qualification unless the individual solicitor attains accreditation under QASA. This overthrows the position enshrined in statute for many years that all solicitors have rights of audience in the Magistrates' Courts, requiring additional qualification only to appear in the higher courts.

- *Occasional representation*

The solicitor who very occasionally represents a client in the Magistrates' Court will no longer be able to do so. Those solicitors who specialise in pleas or youth work tend not to undertake trials in the adult courts. To require them to undertake assessed CPD training in advocacy in order to continue to work in the Magistrates' Courts is neither relevant to their practice nor justifiable. Some solicitors practice in very specialist areas such as health and safety which involve trials only exceptionally. QASA is likely to exclude them from the Magistrates' Court. Similarly a solicitor will no longer be able to undertake an exceptional pro bono case.

- *Standards in the Magistrates' Court*

Judicial concerns over advocacy standards have focussed on the higher courts. There is no evidence of poor or declining standards of performance in the Magistrates' Court or the youth court to justify proposals which will reverse the position of solicitors in relation to rights of audience to worse than the situation before the Courts and Legal Services Act 1990. To introduce restrictions in the Magistrates' Court without evidence of a problem is quite unjustified, and the very antithesis of the targeted approach which the Better Regulation principles require. If advocacy standards post qualification are inadequate, that is an issue which should be addressed through reviewing the advocacy components of the training and legal education of solicitors so as to deliver the desired outcomes for solicitors who go on to practise advocacy.

- *Alternative standards*

There are already accreditation schemes relevant to Magistrates' Court work - the Criminal Litigation Accreditation Scheme and the Police Station Representatives Accreditation Scheme. Membership of either of those schemes should certainly obviate the need for further accreditation under QASA. An exception must also be provided for those solicitors who do pleas and youth work in the Magistrates' Courts.

- *Solicitors generally unaware of implications*

Criminal practitioners aside, few solicitors have realised that the consequence of the introduction of QASA will result in the loss of their rights of audience in the Magistrates' Courts. At the very least the SRA should be conducting a full consultation on this issue alone making clear the consequences of QASA for rights of audience.

- *Transitional arrangements*

If this proposal were to be implemented, the scheme would also need to be clearer as to transitional arrangements. A solicitor on qualification has rights of audience in the Magistrates' Court for five years after which reaccreditation must be undergone or those rights are lost. What will be the effect of the introduction of the scheme on a solicitor who has been qualified for four years? Will that solicitor hold rights of audience in the Magistrates' Court for only one more year after which reaccreditation must be undertaken? Or will the five year period with rights of audience start from the point in time when the scheme is introduced?

Youth court trials: rights of audience

Under current proposals, those with higher rights will be expected to do such work, with "straightforward" trials being at level 2. Whilst no regulatory imperative or justification for such change appears to exist, it remains the case that most current youth court specialist solicitors dedicated to working with young people will not be permitted to carry on with their current work. As an aside, the cost escalation for LSC could be catastrophic as there is an implication such trials would entail a certificate for counsel.

If this proposed change goes ahead then vulnerable young people will find their solicitors obliged to call in barristers/higher court advocates to conduct most of the trials in the youth courts. Such professionals will inevitably come from remote locations and there will be a resultant disconnect from the youths/clients who previously had good relations with local providers. The necessity to bring in level 2 lawyers, most of whom will be barristers, will add to the cost of the overall service in a time when the Government is looking to savings. There is simply no justification for putting youth court work into level 2 when 99% of it is now done properly by level 1 lawyers. It is arguable that solicitors working in the youth court are the true specialists and not the more senior advocates with jury experience with whom it is proposed to replace them.

The effects of the scheme on solicitors

- *Impact on firms different to impact on chambers*

The structure of QASA may be appropriate for barristers working out of chambers but it sits ill with the practices of most solicitor advocates. We fear that QASA will impact on the future sustainability of many small and medium size firms whose members will no longer be able to practice advocacy at the current levels. The existence of solicitors advocates provides a welcome diversity of choice for clients and this should be taken into account.

- *Focus on jury trials inappropriate for solicitor advocates*

A number of solicitors with higher court rights undertake sentencing hearings or guilty pleas and do not undertake jury trials. Level 2 advocates should be entitled to undertake sentencing hearings and guilty pleas at the higher levels. Consideration should be given to whether the scheme should be based on trial advocacy alone. An advocate who can mitigate possesses a separate and distinct skill which is not recognised by this scheme. The reliance on trials favours barristers and discriminates against the solicitor advocate who, having prepared the case, is arguably the best placed to mitigate on sentence. Advocates responsible for cases in the Magistrates' Court should be able to continue to represent clients in relation to guilty pleas referred to the Crown Court for sentencing and precommittal bail applications.

- *Number of cases required*

Solicitor advocates are likely to find it far more difficult to clock up the requisite number of trial cases than barristers. Solicitors provide a complete service including advice and litigation support as well as advocacy. Higher court advocates practise mostly through firms where the size of most firms means that they do not have a significant throughput of level 3 and 4 cases as barristers in chambers do. Moreover a number of these cases may collapse before coming to trial and, unlike barristers in chambers which all specialize in bulk advocacy, there is no 'returns circuit' within a firm structure. As a result solicitor advocates are unlikely to be able to show the required number of cases either for passporting to a particular level at the outset or for re-accreditation when the proposed timeframe is only 18 months. The relevant period must be extended to five years for both. The Society sees no cogent reason for reaccreditation to be set at five year period intervals but passporting only permitting an advocate to look back over an 18 month period. Such a difference specifically discriminates against solicitor advocates as it penalises the structural way this branch of the profession works.

- *Include other types of advocates' work*

Furthermore, it is not all clear that cracked trials and guilty pleas undertaken can aid a passporting application. In our view they should do.

- *Solicitors with higher rights of audience*

In the same way as it is proposed that QCs who have reached that accreditation in the last 5 years are automatically passported, so should solicitor advocates who have been accredited with higher rights of audience in the last five years be passported at level 2. The argument for this is that their competence has been recently evaluated and it is unreasonable for them to have to seek accreditation again.

Juniors and leaders

On the grounds of public expense the Law Society opposes the requirement that juniors should be at only one level below leading advocates and will be raising this issue with the LSB, the LSC and the MOJ. It is the longstanding practice of the Crown to use a level 4 as lead and a level 2 junior wherever possible. The argument that the junior must be able to step forward in the event of the leader being unable to appear as advocate is of diminishing validity. It happens so rarely that the cost to the public purse in terms of a very occasional re-trial would be more than outweighed by having to meet the costs of advocates with greater experience than is strictly necessary for the purposes of acting as junior. Again this seems to be a facet of the scheme that favours barristers over solicitor advocates and is irrational.

Classification of cases

We are convinced that too many types of cases have been placed at a higher than necessary level within QASA. In particular far too many types of case have been allocated to level 4. There appears to have been a significant drift upwards in the categorisation of cases since the allocation of types of cases by the Levels Work Stream Group for the Legal Services Commission. This will have implications for public funding. Our commentary on the current QASA Default Levels is appended at the end of our response.

- *Youth court work*

Youth court trials, for example, should be level 1 and not 2. Even the “straightforward” youth court trials are proposed by QASA as requiring level 2 advocates as the starting point. Yet hitherto such trials have always been conducted by solicitors without higher rights of audience, with a few exceptions in the London area where pupil barristers have been instructed as agents. The way the proposal is tabulated makes it clear that only those with higher rights (in effect those fit to undertake jury trials] ought to undertake even such straightforward trial work. The proposal appears to the Society as a way of shifting such work to the more senior self employed barristers and, in the absence of any analysis or regulatory justification for the proposed change, wholly objectionable.

We recommend that QASA tabulation stipulate all such work as fit for level 1. The appropriate way of dealing with the few complex matters that may be tried in the youth court is for the litigators to seek a certificate for counsel under the criminal law contract. The present proposal is not only unfair to youth court specialists who do not have higher rights but also likely to lead to a very significant rise in funding requirements from the public purse.

This applies not just to defence work but also to prosecution work. To give but one example that we believe is typical. In Gwent South Wales there are 11 CPS employed advocates who undertake youth court trials. Only one of them has higher rights of audience. QASA is intended to dovetail with CPS work. Under such a proposal the CPS will have to outsource most of its youth court trials for no good reason. Youth court trial specialists just do not need higher rights as these concern juries which do not exist in the youth court.

- *Cases categorised at too high a level*

There is a very significant issue of a large amount of casework being deemed as appropriate for levels 3 and 4 when it is currently and without complaint undertaken by level 2 advocates. For example, no sexual offence case is deemed worthy of being conducted by a level 2 advocate. All cases of whatever nature where the Magistrates have accepted jurisdiction but the defendant elects to be tried in the Crown Court are prima facie suitable to be conducted by level 2 advocates and the ‘default level’ table should specifically confirm this.

Equality impact assessment

- *Omission of equality impact assessment*

The Society is concerned that no detailed equality impact assessment of the scheme has been published for comment and calls on the JAG to do so before proceeding further with the scheme. The JAG's August 2010 consultation promised: "As part of the consultation process, a full equality impact assessment will be undertaken to ensure that the proposed scheme does not unduly and adversely impact on any group of advocates."

- *Inadequacy of assessments provided*

The paper which was before the SRA Board on 1 June when it endorsed QASA contained a brief equality impact assessment which did little more than present statistics on diversity factors within the three professions. This was not the robust and rigorous EIA which should have been undertaken before the adoption of a scheme which will have far reaching consequences for the

profession and on groups within it with protected characteristics, principally women and BME practitioners. There was no attempt to assess the likelihood of disproportionate implications for groups of practitioners with particular diversity characteristics. It did "acknowledge that the introduction of reaccréditation will mean that some lawyers who currently have particular practice rights will lose these rights if they fail to meet the standard or because they choose not to put themselves forward for reaccréditation." However it concluded blandly "that the QAA is novel and will have impacts on barristers, solicitors and IPS advocates which cannot be anticipated at this point in time."

Stating that a new system in which everyone will know what is expected of them will promote equality and enable all to progress through the scheme equally is not valid. That is not sufficient to constitute a fully detailed assessment of the impact of the introduction of QASA on practitioners generally and on those with particular diversity characteristics. An effective EIA would enable the JAG to assess whether there might be a more proportionate response to the perceived problems with criminal advocacy standards which would be less discriminatory in its impact, for example, raising the standards of training. This omission could well expose the SRA to the risk of legal challenge.

- *Need for thorough and detailed impact assessment*

The Law Society fears that QASA will have a disproportionate impact on women lawyers, particularly those who take career breaks or with caring responsibilities, and on ethnic minority lawyers. We believe that BME solicitors are heavily represented amongst those undertaking advocacy work, particularly in the Magistrates' Court, and that they will be disproportionately affected by the introduction of QASA. These fears can only be properly addressed through a detailed equality impact assessment. The Society is also concerned that QASA will have far greater implications for solicitor advocates, as opposed to barristers, leading to many of them ceasing to practise criminal advocacy. That differential impact of QASA as between different parts of the profession needs to be fully researched and should be addressed in any adequate equality impact assessment. No attempt appears yet to have been made to assess the practical impact of QASA on higher court advocates.

- *Impact on clients*

It is also time that the Joint Advocacy Group undertook a proper examination of the impact of QASA on clients. For example, the proposal that youth work should be the preserve of level two, which for solicitor advocates means gaining higher rights of audience, will have the effect of substantially reducing the number of advocates in a position to undertake youth work.

The consultation

- *Restricted consultation*

Before addressing the specific questions, the Law Society would wish to reiterate its criticism of the limited nature of this consultation. The proposals of the SRA are completely different to the approach being adopted by the Bar Standards Board and will be detrimental to solicitors. The proposed rule changes are detailed and prescriptive. They lay down specific standards which solicitor advocates must have attained on day one of practising at the relevant QASA level. The Law Society fears that QASA will drive a significant number of solicitors out of criminal advocacy.

These rules create even further hurdles for solicitors to surmount in order to continue criminal advocacy.

- *Approach of the Bar Standards Board*

The proposed new annex to the BSB's Code of Conduct requires barristers when applying for accreditation to "confirm the level at which you are competent to conduct criminal advocacy, together with evidence to demonstrate your competency". At level 1 evidence of competence is defined simply as holding a practising certificate and complying with qualification or training requirements. At level 2, 3 or 4 the barrister merely has to submit details of cases and hearings undertaken in the 12 months preceding the application for accreditation. For re-accreditation the barrister has to submit in support of an application "evidence to demonstrate your competence to conduct criminal advocacy at the level at which you are accredited". At level 1 competence is evidenced simply by assessed CPD. At level 2, 3 or 4 judicial evaluation forms from the past 12 months or completion of an assessment. For progression to the next level the barrister has to submit "evidence to demonstrate your competence to conduct criminal advocacy at the higher level". Evidence is provided by judicial evaluation forms from the past 12 months or completion of an assessment.

The Bar Standards Board is creating a light touch approach to the regulation of criminal barristers for the purposes of QASA. This contrasts sharply with the prescriptive approach adopted by the SRA for solicitor advocates. This is not a level playing field. It will allow barristers to be accredited, re-accredited and to progress relatively easily. Solicitors will find it far harder to comply with the SRA's requirements and as a result the number of solicitors practising criminal advocacy will be reduced significantly.

- *Greater flexibility for barristers*

Here are specific examples of the Bar Standards Board building flexibility into its proposed Annex to the Code of Conduct which will undoubtedly assist barristers. Rule 4 allows a barrister to undertake advocacy at a higher level than that for which he is accredited provided the barrister is "satisfied that you are competent to accept instructions for a case at a higher level in the light of the particular circumstances of the case". The requirement to have a junior no more than one level below the lead may be waived under Rule 5 if "a larger gap is justified in the circumstances of the case". Rule 27.2 allows barristers to substitute an independent assessment of on or more judicial evaluation forms. Rule 27.2 allows barristers to apply to the Bar Standards Board to allow a longer period to obtain completed judicial evaluation forms. Rules 21 – 23 in respect of progression are also more accommodating for barristers.

We expect the SRA, at the very least, to ensure that there is the same flexibility in their regime as the Bar Standards Board intends to provide for barristers.

- *Disproportionate regulation for solicitors*

It is unacceptable for a regulatory body to penalise those whom it regulates in this fashion and to drive them out of practice and to advantage their competitors. The Law Society could not continue to have any confidence in an SRA Board which acted in that way. The Law Society urges the SRA to reconsider its whole approach to QASA so as to ensure that the scheme does not unfairly impact on solicitors. It is not in the public interest for the market for criminal advocacy to be skewed in favour of barristers in this fashion, reducing competition and the choice of advocates available to clients.

In the Society's view, the SRA's current proposals would effectively create a situation in some respects worse than the position before the Courts and Legal Services Act 1990, when barristers' monopoly of higher courts' advocacy was first challenged. The SRA needs to consult the Office of Fair Trading on the effect of the scheme on competition in the market for the provision of advocacy services.

Q 1.01 Please comment on these amendments in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

As with all of these proposed changes to regulations and rules when taken together, the Law Society considers that these amendments will reduce the number of solicitors undertaking criminal advocacy. As a result the range of advocates will be reduced undermining competition. They will as a result adversely affect the administration of justice and the rule of law - there is likely to be an absolute shortage of advocates, particularly in the Magistrates' Courts where roughly 90% of advocacy work is undertaken by solicitors. These proposals are therefore contrary to the public interest.

Q 1.02 Please add any other comments you may have on these amendments.

The proposed changes to the Higher Rights of Audience Regulations are quite specific - "Solicitors.....are granted rights of audience in all courts upon qualification.....but must, in criminal proceedings, exercise those rights of audience only where certified under the QASA" and "You must be certified by us under the QASA in order to undertake advocacy in criminal proceedings". As a result solicitors will be losing the right to appear as advocate which hitherto has been provided for in statute. We are of the view that preventing professionals from practising in this manner may be contrary to Article 1 Protocol 1 of the European Convention on Human Rights.

Q 1.03 Please comment on these amendments in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Training Regulations and the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.04 Please add any other comments you may have on these amendments.

The approach adopted by the SRA is inequitable towards solicitors as compared to barristers. The BSB proposes merely to require barristers to pass an assessment. These regulations will require solicitors to be assessed against an assessment framework and a statement of standards approved by the SRA.

The amendment to the Training Regulations is unacceptable in that it takes away rights to practise advocacy which solicitors have held under statute. It states quite simply "if you qualify as a solicitor, you will have achieved and demonstrated a standard of competence appropriate to the work you are carrying out. In respect of criminal advocacy, this standard of competence is specified under the QASA by the statement of standards".

Q 1.05 Please comment on this amendment in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.06 Please add any other comments you may have on this amendment.

The additional guidance note to the Regulations states that "the usual expectation is that advocates will not undertake work at a level higher than that at which they are certified". Again the effect will be to remove a solicitor's right to undertake advocacy. We question the need for the guidance note. Surely the point is adequately covered by the basic professional requirements for solicitors to act in the client's best interests and not to undertake work which they are not competent to perform effectively.

Q 1.07 Please comment on this amendment in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.08 Please add any other comments you may have on this amendment.

We consider the proposed regulation - "you must not undertake advocacy in criminal proceedings unless you are re-certified by us under the QASA" - to be potentially in restraint of trade, as there is no objective justification for the restriction.

Q 1.09 Please comment on these amendments in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Day One Outcomes and the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.10 Please add any other comments you may have on these amendments.

The changes to the Day One Outcomes are, in our view, at the heart of the problem for the profession. They are too prescriptive by comparison with the approach adopted by the Bar Standards Board in respect of barristers.

Once again the Guidance Note on the Regulations removes the traditional right of solicitors to undertake advocacy in the lower courts. Solicitors will only be able to appear in the lower courts from the up to five years after they have qualified. After that they cannot continue to appear unless accredited under QASA. Many solicitors appear only very seldom in the Magistrates'

Court. They are unlikely to want to undergo accreditation after five years unless they are intending to undertake criminal advocacy on a fairly regular basis. This is a wholly retrograde step for the profession and the public.

Q 1.11 Please comment on these amendments in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Training Regulations and the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.12 Please add any other comments you may have on these amendments.

We do not oppose the imposition of a requirement that a proportion of a criminal advocates CPD quota should be devoted to advocacy - we would hope that solicitor advocates adopt that approach to their CPD training as a matter of course already.

Q 1.13 Please comment on these amendments in respect of any impacts you foresee on the interests of the proper administration of justice and the rule of law, or on the public interest.

The proposed changes to the Higher Rights of Audience Regulations are likely to reduce significantly the number of solicitors practising criminal advocacy. This will be detrimental to the administration of justice and the rule of law. It is directly contrary to the public interest.

Q 1.14 Please add any other comments you may have on these amendments.

We have no particular comments on the additions to the SRA Handbook Glossary.

QASA “Default“ table proposal	LWSG proposals
<p><u>Level 4</u></p> <p>Cases that present serious, novel and difficult points of law and fact, including Offence Classes A, J, K, but also B and G.</p> <p>The Society notes how this category has been expanded at the expense of Level 3 work. The Society is not aware of any justification or evidence for the changes.</p>	<p><u>Level 4:</u></p> <p>Offence Classes A, J, K.</p> <p>Very serious, complex and sensitive cases, including serious sexual offences, substantial child abuse, very serious and multi handed murder trials, cases involving issues of national security, serious organized crime, terrorism and complex and high value frauds.</p>
<p><u>Level 3</u></p> <p>Offence Classes D, I, G</p> <p>Either- way offences in which the Magistrates have declined jurisdiction</p> <p>Trials in more serious and evidentially complex cases</p> <p>The Society notes how this category has been denuded for the benefit of Level 4 work. The Society is not aware of any justification or evidence for the changes.</p> <p>The way Level 2 [see below] is written also means that even non straightforward Youth Court trials habitually done by specialist solicitors without Higher Rights must now be done at Level 3. This is a very novel idea without any research to back it up and basically means that most defence and CPS lawyers currently undertaking such work will be disqualified from doing so.</p>	<p><u>Level 3</u></p> <p>Offence Classes B, D, I, G, J, K</p> <p>More serious cases of dishonesty and fraud, drugs offences such as possession with intent to supply, blackmail, aggravated burglary, violent disorder, arson, complex robberies, serious assaults, driving offences resulting in death, child abuse and offences under the Sexual Offences Act 2003.</p>

<p><u>Level 2 [NB this is now the lowest level for Higher Court Advocates]</u></p> <p>Either- way offences in which the Magistrates have declined jurisdiction but the defendant has elected jury trial.</p> <p>Indictable offences that are not within Level 3 or Level 4.</p> <p>Straightforward Crown Court and Youth Court trials including Offence Classes C, E, F, H.</p> <p>The Society notes that the QASA proposal leave no sexual offences whatsoever at this level – not even an assault that the Magistrates could deal with but where the defendant elects a Crown Court trial. No justification for such a default classification has been supplied.</p> <p>The Society notes that Level 2 is now deemed to be the entry point for all Youth Court trial work. This is a very novel idea without any research to back it up and basically means that most defence and CPS lawyers currently undertaking such work will be disqualified from doing so.</p>	<p><u>Level 2 [NB this was the penultimate level - from the bottom - for Higher Court Advocates]</u></p> <p>Jury trials, including lesser offences of theft, dishonesty, deception and handling, assault [ABH and section 20], non aggravated burglary, lesser more straightforward drugs offences, violence or damage, straightforward robberies, non fatal road traffic cases, less serious sexual offences and less serious offences against children.</p>
<p><u>Level 1 [NB this is now the level for those without higher rights]</u></p> <p>Summary trials in the adult courts.</p> <p>Either-way offences that are tried within the Magistrates' Court.</p> <p>Either-way offences which the Magistrates determined were suitable for summary trial but the accused elected to be tried on indictment. [A]</p> <p>Appeals from the Magistrates to the Crown Court, Committal for Sentence.</p> <p>The Society notes the absence of Youth Court [a summary jurisdiction] from this Level.</p> <p>[A] The Society must point out that this is not possible as Level 1 advocates do not have higher rights under QASA. This should be in Level 2 which under QASA is the entry point. By definition, any case deemed suitable by the Magistrates should fall in at the entry point in the Crown Court of any system.</p>	<p><u>Level 1 [NB under QAA as it then stood this was the entry point for those lawyers with Higher Rights]</u></p> <p>All Magistrates' Court work, appeals from Magistrates to the Crown Court, Committal for Sentence.</p> <p>Either-way offences which the Magistrates determined was suitable for summary trial but the accused elected to be tried on indictment.</p> <p>Cases listed for guilty pleas.</p>