

# Maintaining your competence as an advocate

31 August 2022

## What is involved

Maintaining the knowledge and skills you need to practise effective advocacy is important because:

- Advocacy is a difficult skill to master and a high-risk area of practice. Poor advocacy can result in consumer detriment, miscarriages of justice and threaten the rule of law.
- Legal or procedural developments, which you need to understand in order to practise effectively, can be fast-paced and complex.
- New challenges arise. An example is practising remote advocacy as a result of digital court reform and the Covid-19 pandemic.
- You may need to refresh certain skills or your knowledge of particular issues. For example, in relation to questioning vulnerable witnesses.

## Your obligations

Our [Code of Conduct](https://rules.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/) [https://rules.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/] requires you to maintain your competence to carry out your role and keep your professional knowledge and skills up to date.

In line with this requirement and our approach to [continuing competence](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/continuing-competence/) [https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/continuing-competence/], we expect all advocates to:

- Regularly reflect on the quality of their advocacy practice.
- Address any learning and development needs they identify and keep a record.

Doing this can help meet the following competences from our Competence Statement:

- [A2 Maintain the level of competence and legal knowledge needed to practise effectively, taking into account changes in your role and/or practice context and developments in the law.](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a2) [https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a2]
- [A3 Work within the limits of your competence and the supervision which you need.](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a3) [https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a3]

These requirements apply regardless of how experienced you are. Experienced advocates should not use years of practice as a proxy for competence: even experienced advocates may not have dealt with certain challenges and may not be competent to do so effectively.

For example, an experienced advocate may not have questioned a witness with a particular vulnerability before and may need training to do so



competently.

You can use our [Competence Statement](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/) [https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/] and [continuing competence](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/continuing-competence/) [https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/continuing-competence/] resources to help meet your obligations.

If you practise in the higher courts you can also use our [Statement of standards for solicitor higher court advocates](https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/accreditation/higher-rights-of-audience/statement-of-standards-for-solicitor-higher-court-advocates/).  
[https://rules.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/accreditation/higher-rights-of-audience/statement-of-standards-for-solicitor-higher-court-advocates/]  
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## **Learning and development options**

To maintain your competence as an advocate your learning and development could include:

- Attending seminars, lectures or conferences to update your knowledge.
- Regularly setting time aside to keep up to date with developments in your area of practice. For example, by subscribing to newsletters or using the services and resources provided by CrimeLine.
- Advocacy training, for example, the Law Society and the Solicitors' Association of Higher Court Advocates (SAHCA) deliver advocacy and the vulnerable training. SAHCA also offers a range of other training to advocates.
- Observing other advocates in court if, for example, you practise advocacy infrequently. You could observe advocates in a specific court or type of case if that would improve your knowledge and skills in those areas.
- Shadowing or being mentored by more experienced advocates.
- Obtaining and reflecting on feedback from clients, peers, more experienced advocates and judges.
- Joining networks for advocates, such as SAHCA.
- Pro bono advocacy work if you practise advocacy infrequently or would benefit from practising advocacy in a different environment. For example, the Free Representation Unit assigns volunteers to cases in employment tribunals and social security tribunals. This could help develop your skills in dealing with complex, expert evidence and people who are vulnerable.

## **Professional isolation**

If you are professionally isolated, possibly as a sole practitioner or your firm's only advocate, it may be harder to obtain feedback and access some forms of learning and development.

However, you should still try to complete some of the following forms of learning and development:

- Attending appropriate forms of training.
- Observing other advocates in court.
- Self-study.



- Obtaining and reflecting on feedback from clients, other advocates and judges.
- Joining and making use of professional networks, such as SAHCA.
- Finding a more experienced advocate to mentor you, where appropriate.
- Completing pro bono advocacy work, where possible.

## **The role of firms**

Our [Code of Conduct for Firms](https://rules.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/) [https://rules.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/] requires all firms to make sure their solicitors are competent to practise and keep their professional knowledge and skills up to date. We expect firms which provide advocacy services to have arrangements in place to help their advocates:

- reflect on the quality of their work
- address their learning and development needs
- keep their professional knowledge and skills up to date.

Firms should not use their advocates' years of experience as a proxy for competence. Even experienced advocates may not have dealt with certain challenges and, therefore, may not be competent to deal with them effectively.

Our [Criminal Advocacy thematic review](https://rules.sra.org.uk/globalassets/documents/sra/research/criminal-advocacy-thematic-review.pdf?version=4a1abf) [https://rules.sra.org.uk/globalassets/documents/sra/research/criminal-advocacy-thematic-review.pdf?version=4a1abf] identified a range of approaches used by firms to supervise and train their advocates, which can be used for all forms of advocacy:

- obtaining and reviewing feedback from clients
- completing file and case outcome reviews
- reviewing judgements and trial transcripts
- reviewing complaints
- internal meetings to allocate work, check in on advocates and update them on key issues or developments
- observing advocates in court, on an informal or formal basis
- performance management or appraisal processes
- an open-door policy for advocates to seek feedback or support with a case.

Firms should also make sure their advocates have access to regular and effective training, for example:

- Knowledge-based training about key developments in an area of law.
- Skills-based training about soft skills, questioning vulnerable witnesses or representing young people.
- Mentoring by advocates from the same firm or through an arrangement with another firm or professional network. This could be particularly useful for advocates who are less experienced, preparing to transition to the higher courts or a different area of law, or professionally isolated because they are the only advocate in a firm.
- Observing different types of advocacy in court or shadowing experienced advocates. As with mentoring this could be particularly helpful for less

experienced advocates, professionally isolated advocates and advocates preparing to take on different or more complex cases.

- Time for self-study.
- Integrating training into appraisal processes.

### **Good practice example**

Our review identified that some firms work with charities to develop targeted training materials. For example, a firm worked with an autism charity to develop resources for employees to explain issues about autistic clients and how to question them.