

**Solicitors (Scotland) Act 1980 section 25A**  
(<http://www.legislation.gov.uk/ukpga/1980/46>)

## **Rights of Audience in the Court of Session, the High Court of Justiciary, the Supreme Court and Judicial Committee of the Privy Council**

### **Statutory requirements:**

- 1) Completion to the satisfaction of the Council of a course of training in evidence and pleading in relation to proceedings in the Courts to which rights of audience are sought
- 2) Has such knowledge as appears to the Council to be appropriate of (1) the practice and procedure of and (2) professional conduct in regard to those Courts
- 3) That the Council is satisfied that the applicant is, having regard among other things to the applicant's experience in appropriate proceedings in the sheriff court, otherwise a fit and proper person to have a right of audience in those Courts

Rules C4:1 Rights of Audience in the Civil Courts (<http://www.lawscot.org.uk/rules-and-guidance/section-c-specialities/rule-c4-solicitor-advocates/rules/c41-rights-of-audience-in-the-civil-courts/>), C4:2 Rights of Audience in the Criminal Courts (<http://www.lawscot.org.uk/rules-and-guidance/section-c-specialities/rule-c4-solicitor-advocates/rules/c42-rights-of-audience-in-the-criminal-courts/>), C4:3 Order of Precedence, Instructions (<http://www.lawscot.org.uk/rules-and-guidance/section-c-specialities/rule-c4-solicitor-advocates/rules/c43-order-of-precedence,-instructions-and-representation/>), and Representation and C4:4 Conduct of Solicitor Advocates (<http://www.lawscot.org.uk/rules-and-guidance/section-c-specialities/rule-c4-solicitor-advocates/rules/c44-conduct-of-solicitor-advocates/>) apply. These set out the requirements for the courses of training in evidence, pleading and procedure, demonstration of knowledge and obligations, duties and conduct of solicitor advocates.

Advice and Information on acquiring rights of audience is provided at <http://www.lawscot.org.uk/rules-and-guidance/section-c-specialities/rule-c4-solicitor-advocates/advice-and-information/c4142-acquiring-rights-of-audience/>

### **Statement of Standards for Solicitor Advocates – Performance Indicators**

The following performance indicators and standards form the basis for assessment under the Law Society of Scotland Rights of Audience Requirements and Rules. A solicitor advocate must be competent in each of these at the level required to practice effectively in the Courts to which rights of audience are sought. Candidates

are required to be able to demonstrate and evidence competence of these over the course of the assessment process.

<b>Performance indicators</b>	<b>Standards</b>
Part 1 – Knowledge of law and practice	Demonstrates effective knowledge of the relevant law and practice as prescribed by Rules C4.1-4 including the effective use of technology
Part 2 – Evidence	<p>Accurately identifies key legal, factual and evidential issues</p> <p>Understands opponent's case and assimilates opponent's evidence</p> <p>Handles evidence appropriately</p> <p>Responds appropriately to new evidence</p> <p>Makes appropriate objections and/or submissions</p> <p>Throughout the case obtains instructions when appropriate</p>
Part 3 – Ethics	<p>Advises client appropriately</p> <p>Observes duties to the court, colleagues, clients and the duty to act with independence</p> <p>Advises the court of adverse authorities and, where they arise, procedural irregularities</p> <p>Assists the court with the proper administration of justice</p> <p>Observes professional etiquette in court</p> <p>Complies with Rules C4.3 and C4.4</p>
Part 4 – Advocacy	<p><b>Procedure</b></p> <p>Complies with the applicable Court procedural rules</p> <p><b>Structure</b></p> <p>Demonstrates effective and full preparation reflecting the complexity of the case</p> <p>Identifies the key factual, legal, evidential and procedural issues</p> <p>Conducts advocacy effectively with a clear structure of substantive submission and well sign-posted argument</p> <p>Has a clear structure for the case supported by relevant questions asked and evidence submitted</p> <p><b>Witnesses</b></p> <p>Observes restrictions and judicial rulings on questioning</p> <p>Demonstrates clear questioning structure and asks questions relevant to issues</p> <p>Avoids introducing irrelevant matters in cross-examination</p>

	<p>Demonstrates appropriate techniques for handling and questioning witnesses</p> <p>Uses and challenges expert evidence effectively</p> <p>Deals appropriately with witnesses (this includes, as appropriate, vulnerable and hostile witnesses)</p> <p>Deals effectively with uncooperative witnesses</p> <p><b>Reference to authority</b></p> <p>Demonstrates competence in referring to case authority, including clear identification with proper citation, indication of purpose, exposition of essential facts of the case or confident assertion that facts are irrelevant, guiding Court to all relevant passages, explanation of the purpose of reference, distinguishing as appropriate and recognising weight of authority.</p> <p>Demonstrates competence in guiding Court through relevant statutory materials</p> <p>Locates materials and evidence quickly</p> <p>Ensures that copies of law argued are prepared for the benefit of the judge and professional colleagues</p> <p><b>Presentation</b></p> <p>Makes appropriate objections and/or submissions</p> <p>Responds appropriately to interventions by the court</p> <p>Is fluent and articulate, uses appropriate pace, emphasis and pause</p> <p>Adopts professional use of the language appropriate to the relevant Courts</p>
<p>Part 5 – Written Pleadings</p>	<p>Drafts and adjusts relevant documents competently</p> <p>Addresses all relevant factual and legal issues, including reference to authority</p> <p>Extracts the necessary material for pleadings from client information</p> <p>Complies with appropriate formalities of process, content and style</p> <p>Uses clear, succinct and accurate language</p> <p>Adopts the correct approach to the framing of appeal paperwork including Grounds of Appeal and Notes of Argument</p>
<p>Part 6 – Equality and Diversity</p>	<p>Is aware of the diverse needs of individuals resulting from differences in race or ethnicity, gender, sexual orientation, religion or belief, age, disability or social disadvantage and responds appropriately and sensitively</p> <p>Is aware of the impact of diversity and cultural issues on witnesses, parties to proceedings and others as well as on own client, and adjusts own behaviour accordingly</p> <p>Understands needs and circumstances of others and acts accordingly</p>