

# GUIDANCE NOTES

1. All Advocates on the Attorney General's list of CPS Higher Court Advocates are entitled to apply for re-grading to a higher grade.
2. Any re-grading will generally be to the immediate grade above the Advocate's present one. Exceptionally, the Committee may consider "leapfrogging" a grade but would require the Advocate to present compelling grounds for this course.
3. In considering the applications for re-grading the Committee will have regard generally to the following periods of call when deciding on an Advocate's suitability for re-grading -

*Grade 1 to Grade 2 - not less than 12 months call;*

*Grade 2 to Grade 3 - not less than 5 years call;*

*Grade 3 to Grade 4 - not less than 10 years call.*

4. In applying for re-grading the Advocate should have regard to the competences expected at each of the grades. These competences have been agreed with the Leaders of all Circuits and are annexed to these notes. Examples provided should include the name of the case and the CPS Area which instructed Counsel. In particular, Counsel are invited to:
  - Present examples of work conducted at the higher grade (e.g. on returns);
  - Present examples of work undertaken at current grade, with particular reference to aspects of this work which may have had elements of higher grade work (eg Appearances in Divisional Court or Court of Appeal);
  - Outline any specialism or areas of interest and expertise;
  - Refer the Committee to a member of the CPS who can vouch for the quality of work performed in any particular case or cases.
5. Although the Committee will primarily be looking for examples of prosecution work undertaken, it will take into consideration the type of work being undertaken for the defence.
6. The Advocate should provide a minimum of two referees in support of their application. This is **compulsory** for applicants for re-grading to Grades 3 and 4; **optional but desirable**, for re-grading to Grade 2:
  - References should be sought from those who have experience of the Advocate's work (e.g Judge, higher grade counsel, defence solicitor).
  - For re-grading to Grade 4, the Committee will **require** two judicial references. For advocates applying for re-grading to Grade 3, judicial references will carry more weight.
  - References will not be given by CPS staff, save exceptionally Higher Court Advocates who have personal knowledge of the work of the Advocate.

- Referees should be asked to send their reference *directly* to:

Mrs Margaret Luton  
Secretary to the Joint Advocates Selection Committee  
Crown Prosecution Service  
Froomsgate House  
Rupert Street  
Bristol BS1 2QJ

**DX : 78120 BRISTOL**

and not to the Advocate. It is the responsibility of the Advocate to ensure that all references are supplied to the Secretary of the Joint Advocates Selection Committee.

- The Advocate should inform the referee of the grade applied for and should provide him/her with a copy of the Guidance Notes which contain the competencies relevant to that grade.
7. In taking their decision the Committee will have regard to the Advocate's experience in the current grade.
  8. In making the application the Advocate accepts that their performance may be monitored over the period from the closing dates for the application to the sitting of the Committee.
  9. The Committee will not defer an application unless exceptional circumstances are present.
  10. The refusal of an application will not prevent the Advocate making an application to the next sitting of the Committee.
  11. The Leader of the Circuit [or his nominated deputy] will attend the Committee. Although the Leader attends as an observer the Leader's views will be taken into account when the decision is taken.
  12. The Head of Chambers is free to provide a reference to the Committee.
  13. All Advocates are requested to inform the JASC Secretary if they no longer practice in crime, do not wish to receive prosecution work, or are no longer eligible to be included in the List.

## JOINT ADVOCATE SELECTION COMMITTEE

### RELEVANT COMPETENCIES

#### ***GRADE 1***

This is the entry grade for CPS work.

#### ***Qualifications***

The applicant will, at the time the application is considered be a member of the Bar who has completed not less than 6 months pupillage, has completed an accredited Pupils Advocacy Training Course, has been offered a tenancy in a Chambers on Circuit and has taken his/her first steps in advocacy. Alternatively, the applicant will be a qualified solicitor with a certificate to practice as an advocate in the Higher Courts.

In either case, the applicant will have completed a period of 2 weeks introductory training (the equivalent of a mini-pupillage) at a CPS office in which the applicant proposes to practice. During that period the applicant will have demonstrated an understanding of:

1. the appropriate skills of advocacy and written work;
2. adequate preparation for court;
3. ethical standards and the principles of disclosure;
4. the exercise of sound judgement;
5. an acceptable court manner towards the bench and opponents;
6. the professional relationship between the advocate and the CPS, including the Bar Standards, whether holding an original brief or a return from another; and
7. suitable court dress.

In either case, the applicant shall have attended, whether as part of a Pupil's Advocacy Training Course or otherwise, a criminal advocates' Human Rights course, or otherwise be able to demonstrate an ability to deal with human rights issues as they apply to criminal cases.

#### **Experience**

No experience of prosecuting is required. The applicant will usually have undertaken some criminal defence work.

#### **Competence**

To maintain a Grade 1 classification the applicant may be required to conduct to an acceptable standard a range of Magistrates' Court prosecutions up to and including a whole day's list and to conduct simple mentions, committals for sentence and appeals in the Crown Court.

## ***GRADE 2***

This grade is the natural progression for the advocate who has demonstrated consistently an ability to handle Grade 1 work.

### ***Qualifications***

The applicant will have been a Grade 1 prosecutor working to the standard required with reasonable confidence and the professional skill appropriate to a new practitioner. The applicant will have demonstrated an ability to examine and cross-examine witnesses and effectively to address the Court on matters of law and procedure.

### ***Experience***

Usually the applicant will have conducted Grade 1 prosecutions for not less than one year before applying for Grade 2. The Committee will be looking for the advocate who has demonstrated a professional competence in a variety of prosecution work in the Magistrates' and Crown Courts and who has met, in practice, the level of understanding of the role and duties of the prosecutor required for Grade 1. The applicant will usually have conducted somewhat heavier cases for the defence or by way of return as a prosecutor.

### ***Competence***

As a Grade 2 prosecutor the applicant may be required to perform the work of a Grade 1 prosecutor, straightforward non-jury work in the Crown Court and jury trials including alleged theft, deception, assault, burglary, possession of drugs and road traffic offences.

### ***GRADE 3***

Appointment to Grade 3 represents a significant elevation in the career of a prosecutor.

#### ***Qualifications***

The applicant will have been a Grade 2 prosecutor for a significant period during which he/she will have handled a variety of jury trials with professional judgement, ethical soundness and skill. The advocate will have proved his/her understanding of the public but independent role of the prosecutor, consistently providing advice (including advice on plea or the basis of plea) and advocacy which serves the interests and administration of justice. He/she will have established a reputation for effective advocacy with and without a jury, and have acquired a thorough working knowledge of the rules of evidence.

#### ***Experience***

The applicant will usually be not less than 5 years call, or its equivalent, and frequently more senior. He/she will have obtained the respect of professional colleagues, the CPS and the bench.

#### ***Competence***

The successful applicant may be required to undertake any of the work of a Grade 2 prosecutor and, in addition, conduct jury trials in more serious and onerous prosecutions including fraud (non special casework cases), serious assaults (Sections 18 and 20), child abuse and indecency cases, video link cases and multi-handed prosecutions of up to four defendants. In addition, the Grade 3 prosecutor will be expected to conduct straightforward appeals in the Divisional Court and Court of Appeal.

## ***GRADE 4***

This grade is reserved to advocates of exceptional, long-term experience and ability and should not be regarded as mere career progression.

### ***Qualifications***

The applicant will usually be not less than 10 years call, or its equivalent, having conducted Grade 3 cases for several years. He/she will have established him/herself as a leader in the field of criminal advocacy in all but the most serious junior cases in the Crown Court. The applicant will have demonstrated consistently and over a long period an ability to exercise sound judgement, to prepare thoroughly and to exercise the highest professional standards.

### ***Experience***

The Committee will be looking for the applicant who has an established reputation for high quality work among court users, including the bench. He/she will usually have had experience of conducting sensitive, public interest or other difficult cases with the same objectivity and sound judgement which marked his/her other work. The applicant will have handled prosecutions involving a number of defendants and, where necessary, demonstrated an ability to adapt to the exigencies of a multi-handed trial. The applicant will almost certainly have taken returns at Grade 4 and conducted them to a standard which commands respect. He/she will probably have defended with or without a leader in Grade 4 cases and conducted appeals in the Divisional Court or the Court of Appeal - Criminal Division.

### ***Competence***

Grade 4 advocates will be asked to take all cases in the criminal calendar in the Crown Court and beyond, whatever the issues and whatever the number of defendants. They will be expected to handle serious, novel and difficult points of law and fact, sometimes in opposition to leading counsel for the defence. They will be expected to demonstrate a consistently high quality of work whether working alone, with a second junior, or when led.