

"No brilliance is needed in the law, nothing but common sense and relatively clean fingernails." This quote from England's foremost literary commentator on advocacy, John Mortimer, is indicative of a view long held in certain quarters that advocacy is not a skill one learnt but rather an innate talent that one possessed. One can only imagine what his most famous creation, Horace Rumpole, would have had to say about the introduction of the Quality Assurance Scheme for Advocates ("QASA") which is due to be implemented in 2013. Under QASA all advocates who appear in the criminal courts of England and Wales will be required to prove their competence against an objective set of standards before they are allowed to perform even the simplest of cases in the Magistrates' Court. According to the scheme's website it is being developed because;

"Developments in the delivery of legal services, a widening of potential training routes, and economic pressures are contributing to inconsistencies in the quality of advocacy."

QASA has been ferociously attacked from all sides; The head of the Criminal Bar Association, Michael Turner QC, has stated that "there is no evidence that the independent Bar is other than excellent at advocacy" whilst the Solicitors Association of Higher Court Advocates have stated that "they are not aware of any research to suggest there is a problem with inadequate advocacy performance." What is not in dispute however is the contention that Barristers no longer have a monopoly on the performance of advocacy in court. Given that there are, according to the Bar Standards Board's statistics, approximately 480 pupillages available each year and up to 3000 applicants, embarking on a career as an advocate via this route may seem a daunting prospect (and this is before one has considered the further challenges of securing a tenancy and, if self employed, establishing a secure and steady income). Many of those budding Atticus Finchs who may in the past have felt that their only home was the Bar are starting to choose alternative career paths, knowing that they may still end up representing clients in court.

The robing room in 2013 is no longer an exclusive Barrister's club, it is instead a place where Barristers, Solicitors and Legal Executives must work in harmony. But it is right to say that the nature of the training each profession receives en route is very different. Barristers will have taken the Bar Professional Training Course which places advocacy training at its core. They will then have spent at least six months observing barristers in court during their pupillage during which time they will have had to undergo further advocacy training arranged by the circuits and the Inns. The current training requirements laid down by the Solicitors Regulatory Authority only require trainee solicitors to carry out three hours of advocacy training on the Legal Practice Course followed by a three day advocacy and communication course during the training contract. At the conclusion of their training contract those who wish to practice in the higher courts can, under the current system, go onto to take a further assessment to prove their competence to do so. None of this means that someone is less capable of becoming a good advocate because they haven't been called to the Bar. It simply means that they are likely have had less of an opportunity to hone their skills at an early stage. QASA recognises that advocates should be judged by their ability and not by their choice of profession. At its heart is one stark principle – criminal advocates who cannot demonstrate that they meet the required standards will not be allowed to present cases in court. These standards will be rigorous and exacting. Their aim is to ensure that the "service user" receives the highest standards of service and the legal system of England and Wales can maintain its reputation for having the best advocates in the world. For those who are at an early stage of their legal career this can seem a daunting prospect. To have spent thousands of pounds on academic and professional training to then face the prospect of having a further hurdle to overcome can seem grossly unfair.

A cursory glance at the standards by which the advocacy will be measured does little to quell those fears. The criteria for an advocate at grade 1 (the lowest level) indicates that they must be able to question a witness "effectively" with little by way of guidance as to what "effective" may be. For those who are seeking grading at a higher level they must demonstrate that they are "agile", act "instinctively" and show "wisdom." This is a suite of characteristics perhaps more commonly associated with a superhero than lawyer!

However with an understanding of what "good" advocacy is, it is possible to remove this mystique and show that is a skill which anyone who has the determination to succeed and the willingness to work hard can achieve. In the course of this series we will draw upon our experience as practising Barristers and designing and delivering advocacy training for different jurisdictions to examine some of the key skills required by a successful Advocate.

However advocacy is a practical skill and reading alone will not make you the next George Carmen or Helena Kennedy. No-one would dream of becoming an actor without going to see a play first and similarly no-one should ever hope to become an advocate without taking every opportunity to watch advocates in action. Most large towns and cities have a court centre and all criminal cases and many civil cases are heard in open court with a public gallery. Go along and see what an advocate does. You will see some very good advocates and also some not so good advocates. But it isn't enough just to watch. Think about what each advocate is doing. If an advocate is making a submission persuasively ask yourself what is persuasive about it. If an advocate is being shouted at by a judge ask yourself why that might be and what you would have done differently. The more time you spend doing this the more you will start to appreciate the techniques that successful advocates use. You will also appreciate that although advocates vary in their style and technique there are core principles of good practice which are demonstrated by the most able.

It is also important to appreciate that a good advocate is always thinking of how they can improve their performance. The conclusion of a pupillage or training contract isn't the end of advocacy training, it is the beginning. As you begin to undertake advocacy either in mock trials and moots or with a real client before a real judge, you will make mistakes. An advocate who says they have never made mistake is arguably lacking any sort of analytical skill! The important thing is to recognise your mistake, to think about why you have made it and to concentrate on how you will avoid making it in the future.

As with every skill practise is crucial. It obviously isn't possible to recreate full courtroom dramas in your living room but it is possible to take part in moots, in debates and in public speaking competitions. Take every opportunity you can get and learn from the feedback. It is always astonishing to us how many students who say they wish to become advocates haven't done this. It is rather like saying you wish to be a chef but have never been in a kitchen. Even when we are nervous we need to make sure we are fully in control of our voice; its volume and pace. You may have an argument that could change the course of legal history but if the court can't hear it is wasted.

Once you've taken these steps you can go on to consider the elements of advocacy in more detail. In the course of the next five articles we will look in more detail at five areas which we consider to be of particular importance. In the February issue we will show you how to prepare a case effectively for trial and have a clear strategy to help you win. In March we will show you how you examine a witness in chief to ensure that your case is as watertight as possible. In April we will look at legal arguments and how to ensure you are properly prepared for them. In May we will show how to cross examine your opponent's witness in a way which causes as much damage to their case as possible and in June we will look at what makes an effective and persuasive speech. We hope that this series is helpful. For those of you who do take these points on board and

go on to become advocates there is no more rewarding career. And it never hurts to have clean fingernails!