

# **Assuring advocacy standards: initial impact assessment**

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August 2019

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# Introduction

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1. This initial impact assessment explores the potential impacts, both positive and negative, of the proposals in our advocacy standards consultation. It should be read together with our consultation
2. Our proposals are designed to make sure that solicitors practising criminal and civil advocacy meet the high standards we, and the public, expect. We propose to:
  - revise our arrangements for higher court advocacy by
    - introducing revised Higher Rights of Audience (HRA) standards
    - introducing a single, centralised HRA assessment
    - requiring that the HRA assessment is taken after admission
    - requiring youth courts solicitors to pass our higher court advocacy qualification where they are acting as advocates in a case which would go to the Crown Court if it were brought against an adult.
  - provide resources to help solicitors, consumers and the judiciary to better understand our standards and report concerns
  - publish aggregated and anonymised data on the reports we receive about the standard of solicitors providing criminal and civil advocacy.
3. We have analysed our [firm diversity data](#) collection in 2017 to understand the impact of our proposals. We have also undertaken a survey, spoken to stakeholders and engaged with our Advocacy Reference Group. We have analysed potential impacts on:
  - solicitor advocates and their employers, including solicitors within groups with protected characteristics
  - consumers
  - the legal services market.
4. We have also analysed our proposals against the [regulatory objectives](#) and the [Principles of Better Regulation](#).

5. Where we have identified potential risks, we have set out how we will manage these.
6. Some of the proposals in our consultation are not changes to our current policy. They will involve targeted engagement and the provision of resources to stakeholders. We have not assessed the impact of these proposals. They are simply designed to help solicitor advocates, the judiciary, consumers and other stakeholders understand the standards we expect and how they can raise concerns with us.
7. We will use this consultation and ongoing engagement to further explore the impact of our policy proposals. We will publish a final impact assessment alongside our consultation response document in spring 2020.

## Summary of potential impacts

8. Our initial analysis has highlighted that:
  - overall, our proposals should have the positive effect of encouraging high professional standards in advocacy, and enhancing consumer protections, particularly for vulnerable consumers
  - our proposals will not have any negative impact on existing holders of the higher rights of audience qualification. They will provide additional support and resources for these solicitors
  - we are proposing two new regulatory restrictions which will impact on solicitor advocates without higher rights of audience and aspiring higher court advocates. These are: requiring a HRA qualification for advocacy in the youth courts in cases which are so serious they would be conducted in the Crown Court were they against an adult defendant and requiring that the HRA qualification must be taken post admission. Our assessment of these proposals against the Better Regulation Principles and the regulatory objectives has concluded that there are clear regulatory justifications for these new requirements
  - our proposal to require that HRA is taken post admission is unlikely to significantly limit the numbers of solicitor advocates
  - our proposal to require solicitors to have an HRA qualification in order to undertake cases in the youth courts which would be heard in the Crown Court, were they brought against an adult defendant, may have some impact on the numbers of solicitors able to advocate serious cases. We are unable to assess the exact extent of any impact but believe it to be low. We will explore this further during the

consultation period. We believe any impact is justified by the need to protect young people in the criminal justice system

- there is no evidence at this stage to suggest that our proposal to revise our HRA standards and introduce a single assessment provider will materially affect the numbers who successfully complete the HRA qualification and therefore the supply of solicitor advocates
- male solicitors, older solicitors and BAME solicitors are overrepresented amongst solicitors providing criminal work when compared to the wider profession. It is possible that our new requirements may impact more solicitors in these groups. We have a clear regulatory justification for the introduction of these requirements, as set out in our consultation, and we believe any potential impact is justified by the need to protect young people and other consumers in the criminal justice system. We will continue to explore any potential impact through the consultation period.

### **The criminal and civil advocacy market**

9. Our analysis of the advocacy market is attached at annex 1. In summary:

- Although we hold data on the number of solicitors with the higher rights of audience qualification, we do not have data on the number of solicitors practising advocacy in the lower courts. When we surveyed the profession in 2012, around 5,500 said they worked in the magistrates' courts. We do not have data on the numbers of solicitors undertaking civil advocacy for which they do not need an HRA qualification.
- There are 6,836 solicitors with an HRA qualification. Of these, 2,309 have civil HRA, 3,116 have criminal HRA and 1,411 have both. Many of those providing advocacy in complex cases are likely to be more experienced solicitors.
- Our survey has shown that few solicitors seem to be using their HRA qualification for the advocacy services they provide. 26 percent of those we surveyed have never used their HRA qualification in the higher courts. A quarter of private practice respondents stated that the advocacy they provided did not require HRA. Only 14 percent of respondents required their HRA for over 70 percent of the advocacy services they provide.
- Firms providing advocacy services tended to be relatively small with two to four partners. Sole practices also account for over one third of

all the advocacy across the five areas we surveyed. Based on our survey it is rare for large firms to carry out advocacy.

- Almost two thirds of firms surveyed provide civil advocacy, 32 percent provide criminal advocacy, 47 percent work in the area of family law and 45 percent provide advocacy at tribunals. Firms are likely to provide advocacy to clients on low incomes (47 percent), with low literacy (36 percent), with health problems (28 percent), with English as a second language (28 percent) and with mental health issues (27 percent).
- Criminal advocacy is carried out mainly by small practices or by sole practitioners. Most advocacy is carried out in the magistrates' courts and youth courts. The most frequent types of hearings are sentencing and guilty pleas. A minority of solicitors do full trials on a regular basis and appeals from the magistrates' courts are rarely conducted. For those providing criminal advocacy, more serious offences such as murder accounted for only two percent.
- Most solicitors practising criminal advocacy are within the 35-44 age group. And there are more solicitors practising criminal advocacy in the 45-64 age group and significantly fewer solicitors practising criminal advocacy in the 25-34 age group, when compared to the solicitor's profession overall.
- There is an equal split between men and women practising criminal advocacy. In comparison with the wider profession, women are underrepresented, and men are overrepresented, in this practice area.
- For criminal advocacy, there are more BAME solicitors than in the general body of solicitors. There are also fewer white solicitors in this practice area than in the general body of solicitors. There are more BAME solicitors practising as sole practitioners than in the general body of solicitors. This suggests that more of these practices are undertaking criminal advocacy than in the general population of law firms.

## **Detailed impact of our proposals**

### **Revised Higher Rights of Audience standards**

10. We have updated the standards required in the HRA assessments to make sure they properly assess the competences that are required by modern day higher court advocates. For example, we have included clear obligations in relation to vulnerable clients and clarified what is required of solicitors.

11. The revised standards will help existing higher court advocates understand the standard of competence they are expected to demonstrate on an ongoing basis. The revised standards are not intended to make it harder for aspiring higher court advocates to pass the qualification, simply to provide clarity about the standards we expect. We will make sure that the revised standards are assessed at the appropriate level of difficulty through contractual and quality assurance arrangements with the appointed assessment organisation. We do not expect that the revised standards will have any significant impact on the numbers of solicitors who obtain the qualification. In any event, it is right that standards are up to date and provide proper protection for consumers.
12. We have already obtained views on the draft standards from the current HRA providers and representative groups. We will use this consultation and ongoing stakeholder engagement with solicitor representative groups to seek further views on the appropriateness of the proposed new standards.

### **Appointment of a single assessment provider**

13. We currently delegate responsibility for providing the HRA assessments to seven providers. This means that if pass rates vary between providers, we do not know whether this is because of candidate cohorts of different ability levels, variations in the quality of teaching or the inconsistent application of standards.
14. We propose to appoint a single assessment provider. This should provide a greater measure of public protection because all solicitor advocates will demonstrably have been assessed to the same consistent standard.
15. This proposal will not have any impact on existing higher court advocates. The purpose is to ensure consistency of assessment, not to introduce a more difficult assessment for aspiring higher court advocates. So, the new assessment should not materially limit the numbers of individuals qualifying as solicitor advocates. We will have contractual and quality assurance arrangements in place to make sure that the assessment organisation sets the assessment at the appropriate standard.
16. There is a risk that introducing a single assessment provider could result in a disconnect between assessment and training. If this happened, more solicitors might fail the assessment because training providers do not fully understand how the assessment works.
17. The revised standards will provide greater clarity to providers on what will be assessed. And we will provide guidance on the level of difficulty of the assessment. We will put in place appropriate quality measures to make sure the assessment is set at the correct level. We will also publish sample assessment questions and make sure that training providers can engage with the assessment provider, so that they fully understand the content and level of difficulty. All of

these measures will minimise any risk of disconnect between assessment and training.

18. The current cost of the HRA assessments can be between £495 to £600. Stakeholders have suggested that a single provider model could lead to an increase in the cost of assessment. This could restrict some solicitors from obtaining their HRA qualification and reduce public access to this group of solicitors.
19. There is no evidence at this stage to suggest that a single assessment provider will lead to an increase in the cost. We will use this consultation and ongoing stakeholder engagement to further explore with providers the likely cost impact of developing and implementing the new HRA assessments. If we proceed with this proposal, assessment cost will be a factor in our tender process and appointment decision for the assessment organisation. We will also put in place mechanisms to control costs.
20. There is a risk that a single provider model could reduce the availability of assessments, for example, by frequency or geographical coverage. We know that higher rights assessments are currently delivered relatively frequently. Most assessments are carried out in Manchester or London. Candidates from further afield are therefore already required to travel and incur cost to undertake the assessment.
21. If we proceed to appoint a single assessment provider, we will work with them to make sure that there are enough assessments available and that there is appropriate geographical options. We will also take steps to make sure that the locations used to carry out the assessments do not prevent those with a disability from undertaking the assessment, for example, avoiding assessments carried out in buildings with restricted access.
22. The above measures will mitigate against the risk that a single assessment provider will restrict consumer access to solicitors with an HRA qualification.

### **Requiring that the HRA assessment is taken post admission**

23. We propose to change our regulations to make clear that the HRA assessment may only be attempted by admitted solicitors. Some candidates currently take it prior to admission as part of the Professional Skills Course (PSC).
24. If we go ahead with this proposal, those solicitors wishing to practise higher court advocacy from the point at which they are admitted will not be able to do so. However, all solicitors will be able to exercise their lower court rights before they apply for higher court rights. This should enhance their ability to pass the HRA qualification. It should also give the public and other stakeholders greater confidence in the qualification.



25. We do not consider this proposal will significantly affect the supply of solicitor advocates. Our proposal restricts only the timing for obtaining an HRA qualification. Our data shows that very few individuals obtain HRA before admission. Further, the PSC will be phased out with the advent of the [SQE](#). So, the opportunity it provides for trainees to gain the qualification will fall away.

### **New requirement for solicitors taking more serious cases in the youth courts**

26. Practising in the youth courts requires particular skills and knowledge. We are committed to making sure that vulnerable young people in the criminal justice system receive advocacy to the standard we expect. We have demonstrated this commitment in the SQE by requiring all candidates to show they can meet the service needs of all clients, including those with a vulnerability.

27. Our consultation proposes reviewing solicitors' rights of audience in the youth courts. It also proposes to require an HRA qualification when undertaking advocacy in cases which would be heard in a crown court, if they against an adult defendant.

28. During our pre-consultation engagement, some stakeholders told us they were concerned that, if we proceed with this proposal, we could restrict the supply of solicitors undertaking advocacy in the youth courts. This could impact on young people accessing an advocate of their choice.

29. We do not consider at this stage that our proposal presents a significant risk to the supply of solicitors. Individuals who currently hold criminal HRA would still be able to practise in the youth courts as they do now for all case types. Solicitors without HRA can continue to provide advocacy as they do now except for those indictable only, or serious triable either way offences, which would be heard in the crown court if they were brought against an adult defendant. For these cases, the solicitor can still represent the young person in the litigation, although they may not undertake the advocacy themselves.

30. This proposal will positively benefit clients in the youth courts by making sure that solicitors representing clients in more serious cases have demonstrated higher level advocacy skills. We consider that this benefit outweighs any potential risk to the supply of solicitors.

### **Publication of aggregated and anonymised data on reports we receive to drive up standards**

31. We propose to publish aggregated and anonymised data on the reports we receive about the standard of solicitors providing criminal and civil advocacy. Publishing this information annually means we can highlight potential risks with the provision of advocacy and encourage solicitors to consider whether their skills

and knowledge are up to date in these areas. It will also provide helpful data to help us assess the longer-term impacts of our proposals.

32. The information will be aggregated and anonymised. So, it will not be possible to identify an individual firm, solicitor or client from the information we publish. We do not consider that there will be an adverse impact on solicitors or firms if we proceed with this proposal.

### **Impact of our proposals on solicitors with protected characteristics**

33. Information we hold on solicitors practising criminal advocacy by protected characteristics is attached at annex 2. We have also looked at gender and ethnicity of those solicitors who currently hold criminal and civil HRA.
34. As male solicitors, older solicitors and BAME solicitors are overrepresented amongst criminal advocates, our new regulatory requirements may affect more of these solicitors who are seeking the HRA qualification. However, our proposals to provide resources and support to solicitor advocates will also have a positive impact on more solicitors in these groups.
35. We recognise that if we apply unnecessary regulatory burdens on existing criminal practitioners, there is a risk that we may inadvertently distort supply. For example, an additional cost burden or restrictions could mean that:
- existing practitioners, who tend to be older, may decide not to practise or
  - younger solicitors, who are already underrepresented in this group, may be deterred from practising criminal advocacy.
36. We have assessed our proposals against the Better Regulation Principles and against the regulatory objectives. We believe that there is a clear regulatory justification for the new restrictions. These out in our consultation and we summarised them in our analysis below. The new restrictions will not affect existing higher court advocates, only aspiring higher court advocates and advocates wishing to take serious cases in the youth courts.
37. As we set out in paragraph 29, individuals who currently hold criminal HRA would still be able to practise in the youth courts as they do now for all case types. Solicitors without HRA can continue to provide advocacy as they do now except for those indictable only, or serious triable either way offences, which would be heard in the crown court if they were brought against an adult defendant. For these cases, the solicitor can still represent the young person in the litigation, although they may not undertake the advocacy themselves.
38. As we set out in paragraph 25, the proposal to require the HRA assessment to be taken after admission, does not restrict the ability of an individual to obtain HRA,

only when they can. Our data shows that very few get the HRA before admission. Further, the PSC will be phased out when the SQE is introduced in autumn 2021. So, the opportunity it provides for trainees to gain the qualification will fall away.

39. We believe the new restrictions, together with the engagement and support of solicitor advocates, will provide confidence in the standard of this advocacy, particularly for younger, more vulnerable clients. These benefits will outweigh any potential negative impacts for solicitors from protected groups or risk to the supply of solicitors from these groups.
40. We do not have accurate data on solicitors with a disability practising advocacy. If we proceed with our proposals to appoint a single assessment provider, we will make sure that the assessments and location are accessible. We will use this consultation to engage with disability groups to further explore our impacts with representative groups.
41. We do not have accurate data on solicitors by sexual orientation.
42. Female solicitors with criminal and civil HRA are underrepresented when compared to all female solicitors. As a result, we do not consider that there will be a significant impact on this group. This is also the case for male solicitors with existing civil HRA. Given that males with existing criminal HRA are overrepresented when compared to all male solicitors, there may be more of an impact on this group, for example, more reports about males with existing HRA being made. We do not expect our proposals to have a greater impact on BAME solicitors with existing criminal and civil HRA as these solicitors are underrepresented when compared to all solicitors holding HRA.
43. We will continue to explore potential impacts with stakeholder during this consultation and through our ongoing engagement.

## **Analysis of our proposals against our Regulatory Objectives and Better Regulation Principles**

### **Assessment of our proposals against our Regulatory Objectives**

Regulatory Objective	Impact
Protecting and promoting the public interest	All of our proposals are intended to protect the public by making sure that solicitors practising criminal and civil advocacy meet the standards we and the public expect. They will enable us to take targeted and proportionate action against those solicitors who fall short of the required standards. They will increase public confidence in the justice system, and how we regulate.

	<p>The proposed new restriction on practice in the youth court will make sure that young people in the criminal justice system are properly represented.</p> <p>The proposed new restriction on when the HRA qualification can be taken will enhance confidence in the qualification.</p> <p>The proposed appointment of a single assessment provider for the HRA qualification will ensure that all higher court advocates are assessed to the same, consistent standard and will provide better public protections.</p> <p>The proposed publication of aggregated, anonymised data about the reports we received will enable us to highlight potential risks with the provision of advocacy. It could also encourage solicitors to consider whether their skills and knowledge are up to date in these areas. As well as providing helpful data to help us assess the longer-term impacts of our proposals.</p>
Supporting the constitutional principle of the rule of law	Effective advocacy supports the rule of law.
Improving access to justice	<p>We are proposing two new restrictions on practice:</p> <ul style="list-style-type: none"> <li>• Requiring a higher rights qualification for advocacy in the youth courts in cases which are so serious they would be conducted in the Crown Court were they against an adult defendant.</li> <li>• Requiring admission as a solicitor as a pre-requisite for the HRA assessment.</li> </ul> <p>These proposals are carefully targeted, so they are no wider than needed to make sure minimum advocacy standards. They are</p>

	<p>justified by the need for proper public protections in a high-risk area.</p> <p>We have assessed the potential impact of these new restrictions on the supply of solicitors and believe this risk to be low. See paragraphs 23 to 30.</p>
<p>Protecting and promoting the interests of public</p>	<p>Our proposals are designed to make sure that solicitors we regulate providing criminal and civil advocacy meet the standards we and the public expect. They protect the public from detriment through poor advocacy, for which there may be no financial redress.</p> <p>The new restriction on practice in the youth court will make sure that young people in the criminal justice system are properly represented.</p> <p>The new restriction on when the HRA qualification can be taken will enhance confidence in the qualification.</p> <p>The appointment of a single assessment provider for the HRA qualification will ensure that all higher court advocates are assessed to the same, consistent standard and will provide public protections.</p> <p>The publication of aggregated, anonymised data about the reports we received will enable us to highlight potential risks with the provision of advocacy. It will also encourage solicitors to consider whether their skills and knowledge are up to date in these areas. As well as providing helpful data to help us assess the longer-term impacts of our proposals.</p>
<p>Promoting competition in the provision of services</p>	<p>Our proposals are targeted and proportionate, given the risks in this area of practice. We do not believe our proposals will</p>

	materially affect the supply of solicitors providing criminal or civil advocacy.
Encouraging an independent, strong, diverse and effective legal profession	<p>We do not believe our proposals will negatively impact on this objective. A rigorous HRA assessment will build confidence in solicitor advocates. Our proposals in the round will encourage a strong and effective profession.</p> <p>We have conducted an analysis of the impact of the proposals on solicitors providing criminal work from protected groups such as older solicitors, male solicitors and BAME solicitors. We believe that overall the new restrictions, together with the proposed engagement and support of solicitor advocates, will provide confidence in the standard of this advocacy, particularly for younger, more vulnerable clients. These benefits will outweigh any potential negative impacts for solicitors from protected groups or risk to the supply of solicitors from these groups.</p>
Increasing public understanding of the citizen's legal rights and duties	Our proposal to work with public to explain what good advocacy looks like will help them get the legal help they need. Our work will increase understanding of expected quality of service. Our proposal to improve reporting where standards have not been met will also enable people to more easily raise concerns with us.

### Assessment of our proposals against our Better Regulation Principles

Better Regulation Principle	Impact
Proportionate	<p>We believe our policy proposals are proportionate and targeted to the risks and issues we have identified. The proposals do not have any negative impact on existing holders of the HRA qualification.</p> <p>There is no evidence at this stage to suggest that a single provider model will lead to an increase in the cost of assessment. We will</p>

	<p>however monitor this going forward and ensure they are set at a level that does not place disproportionate regulatory costs on solicitors or groups of solicitors.</p> <p>We believe that our proposals to introduce two new practice restrictions will provide protections for young people in the criminal justice system and for clients in the higher courts.</p>
Accountable	Our proposals to revise our HRA standards and identify what good practice looks like should establish clear standards for solicitors and wider stakeholders.
Consistent	The introduction of a single provider of the HRA qualification will make sure consistency of assessment and that all solicitor advocates meet the minimum standard.
Transparent	Our proposal to publish anonymised and aggregated data on reports we receive will lead to greater transparency about the nature and extent of concerns in this area. It will also help us to evaluate the longer-term impact of our proposals.
Targeted	<p>Our proposals are targeted at an identified risk and only impact on those solicitors we regulate providing criminal or civil advocacy. The new restrictions are targeted at solicitors taking serious cases in the youth courts, where clients are particularly vulnerable, and at aspiring higher court advocates where public confidence is important.</p> <p>Our measures to help stakeholders understand what good advocacy looks like and make it easier to report concerns to us enables us to take a targeted regulatory approach to those solicitors that fall short of the standard we expect.</p>

## Conclusion

44. We believe that our proposals should have the positive effect of encouraging high professional standards in advocacy, and enhancing public protections,

particularly for vulnerable people. They will not have any negative impact on existing holders of the higher rights of audience qualification. They will provide additional support and resources for these solicitors.

45. We have identified some potential risks with our two new regulatory restrictions which will affect solicitor advocates without higher rights of audience and aspiring higher court advocates. Our assessment of these proposals against the Better Regulation Principles and the regulatory objectives has concluded that there is clear regulatory justification for these new requirements.
46. We have concluded that some of our proposals could result in a risk to the supply of solicitor advocates. But again, we think these risks are low. We have measures in place to mitigate these risks. And we believe that the risks are outweighed by the benefits to the public from the new restrictions.
47. Solicitors practising criminal advocacy tend to be older solicitors, male solicitors and BAME solicitors. We have a clear regulatory need for introducing these requirements, and we believe any potential impact is justified by the need to protect young people and others in the criminal justice system.
48. We will continue to explore any potential impacts through the consultation.



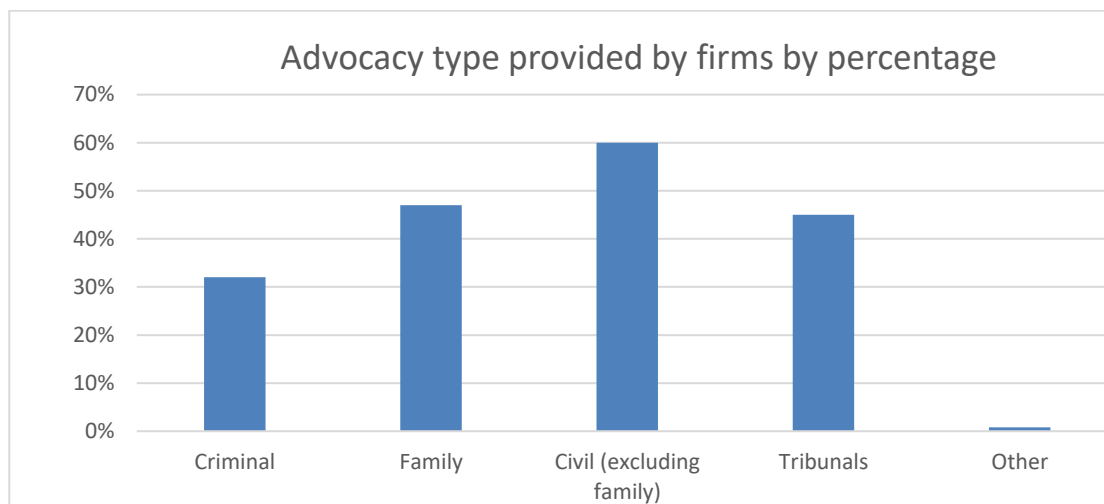
## **Annex 1: The criminal advocacy market**

49. We do not hold accurate data on the number of solicitors practising criminal or civil advocacy in the magistrates' courts. Solicitors can tell us that they practise criminal and civil work through their mySRA account. This is not a mandatory requirement and many do not complete or provide this information. As part of developing the Quality Assurance Scheme for Advocates (QASA) in 2012, we surveyed the profession and around 5,500 solicitors told us they worked in the magistrates' courts.
50. We hold information on the number of solicitors with an HRA qualification, but we do not know who is providing advocacy in the lower courts without an HRA qualification.
51. To help our understanding, inform our proposals and help us understand impacts, we carried out a survey of solicitors providing advocacy in the criminal, family, civil and administrative courts. This explored the types of cases they are working on, the types of advocacy they are providing and the use of their HRA qualification.
52. The study used online questionnaires to survey:
- firms providing advocacy
  - individual solicitors working in private practice
  - individual solicitors working in-house
  - individual solicitors working for the Crown Prosecution Services (CPS).
53. The survey received a total of 2,830 responses from individual solicitors and 851 responses from firms.

### **Survey findings: firms and solicitors**

54. Firms providing advocacy services tended to be relatively small with two to four partners. Sole practices also account for over one third of all the advocacy across the five areas we surveyed. It is less likely that large firms carry out advocacy. 32 percent of firms employ solicitors who have an HRA qualification.
55. The table below shows that almost two thirds of firms (60 percent) provide civil advocacy, 32 percent provide criminal advocacy, 47 percent work in the area of family law and 45 percent provide advocacy at tribunals. Other niche areas of advocacy (eight percent) provided by firms included arbitration, prison law and inquests.

## Advocacy type provided by firms



56. Most individual respondents worked in private practice (81 percent), ten percent worked in central or local government, four percent worked at the CPS, and one percent worked in the third sector.

57. For individual solicitors providing advocacy within private practice, 44 percent focused on civil advocacy excluding family, 34 percent provided advocacy in family law, and 27 percent in criminal advocacy. Other niche areas of advocacy (12 percent) included arbitration, court of protection cases and inquests.

58. Firms are likely to provide advocacy to clients on low incomes (47 percent), with low literacy (36 percent), with health problems (28 percent), with English as a second language (28 percent) and with mental health issues (27 percent). Private practice solicitors are more likely to provide advocacy to clients on low income (48 percent), with low literacy (35 percent) and with mental health issues (32 percent).

### Survey findings: criminal advocacy

59. The findings show that criminal advocacy is carried out mainly by small practices or by sole practitioners. Most advocacy is carried out in the magistrates' courts and youth courts.

60. Most firms provide criminal advocacy in the magistrates' courts (76 percent), followed by the Crown Court (51 percent) and the youth courts (51 percent).

61. The most frequent types of hearings are sentencing and guilty pleas. A minority of solicitors do full trials on a regular basis and appeals from the magistrates'

courts are rarely conducted. Procedural hearings (including bail applications or pleas and case management hearings) are conducted frequently.

62. For those providing criminal advocacy, the top five types of offences are:

- assault (63 percent)
- drug offences (51 percent)
- dishonesty and fraud (48 percent)
- theft (43 percent)
- bail applications (42 percent).

63. More serious offences such as murder accounted for only two percent.

### **Survey findings: civil advocacy**

64. Our survey shows that civil is the largest area of law where the most advocacy is provided.

65. For those firms providing advocacy in family, civil and other types of advocacy, most of the advocacy took place in the county court (58 percent), followed by the family courts (39 percent), the High Court (22 percent) and the magistrates' courts (22 percent).

66. For individual private practice solicitors, the majority (56 percent) provided advocacy in the family courts followed by the County Court (25 percent). For in-house solicitors who provide types of civil advocacy, 41 percent did so in the County Court, followed by the magistrates' court (28 percent).

67. For those providing civil advocacy services, the most common cases are:

- divorce (26 percent)
- children (19 percent)
- personal injury (16 percent)
- immigration (13 percent)
- employment (13 percent).

### **Higher Rights of Audience**

68. Our data (April 2019) shows that 6836 solicitors have an HRA qualification. Of this total 2309 have civil HRA, 3116 have criminal HRA and 1411 have both.

69. Around a third of solicitor advocates who hold the criminal HRA qualification obtained it at least ten years after admission as a solicitor. For those that hold civil HRA, two thirds obtained it at least three years after admission as a solicitor. So, many of those providing advocacy in complex cases are likely to be more experienced solicitors.
70. For those that hold an HRA qualification within private practice, almost half (49 percent) started to provide advocacy in the higher courts within one year of obtaining their HRA.
71. Few solicitors seem to be using their HRA qualification for the advocacy services they provide. 26 percent have never used their HRA qualification in the higher courts. A quarter of private practice respondents stated that the advocacy they provided did not require HRA, 37 percent of respondents stated that between 1-20 percent of their advocacy work required HRA. Only 14 percent of respondents required their HRA for over 70 percent of the advocacy services they provide.

## Annex 2 Data on solicitors in groups with protected characteristics

### Age representation of solicitors providing criminal work

Responses	Profession	Solicitors practising criminal advocacy
16 – 24	1%	1 %
25 - 34	46%	28 %
35 - 44	29%	31 %
45 - 54	14%	22 %
55 - 64	7%	12 %
65+	3%	5 %

### Data on solicitors providing criminal work by gender

Responses	Profession	Solicitors practising criminal advocacy
Female	59 %	50 %
Male	41 %	50 %

### Data on solicitors providing criminal work by ethnicity

Responses	Profession	Solicitors practising criminal advocacy
Asian / Asian British	14 %	20 %
Black / Black British	3 %	7 %
Mixed / multiple ethnic groups	3 %	5 %
White	78 %	67 %
Other ethnic group	1	1 %

### Data on ethnicity of solicitors providing criminal work by firm size

Responses	Profession	0 - 1 partners	2 to 5 partners	6 to 9 partners	10 to 50 partners	50+ partners

Asian / Asian British	14 %	30 %	17 %	8 %	9 %	8 %
Black / Black British	3 %	9 %	4 %	2 %	2 %	1%
Mixed / multiple ethnic groups	3 %	4 %	2 %	2 %	3 %	3 %
White	78 %	56 %	75 %	86 %	85 %	87 %
Other ethnic group	1 %	1 %	1 %	2 %	1 %	1 %

**Solicitors with HRA criminal and civil by gender**

<b>HRA</b>				
<b>Gender</b>	<b>Civil Only</b>	<b>Crim Only</b>	<b>Both</b>	<b>Grand Total</b>
Female	36%	44%	20%	2,546
Male	32%	47%	21%	4,303
Unknown	79%	17%	4%	70
<b>Grand Total</b>	<b>34%</b>	<b>45%</b>	<b>21%</b>	<b>6,919</b>

**Solicitors with HRA criminal and civil by ethnicity as a percentage of all solicitors who hold HRA**

<b>HRA</b>				
<b>Ethnicity</b>	<b>Civil Only</b>	<b>Crim Only</b>	<b>Both</b>	<b>Grand Total</b>
BAME	4%	7%	3%	1,001
Asian	2%	4%	2%	591
Black	1%	1%	1%	195
Chinese	0%	0%	0%	29
Mixed	1%	1%	0%	93
Other	0%	1%	0%	93
White	23%	33%	14%	4816
Unknown	6%	5%	4%	1019
Prefer Not to Say	0%	0%	0%	42
Unknown	6%	5%	3%	977
<b>Total</b>	<b>43%</b>	<b>57%</b>	<b>27%</b>	<b>6836</b>

