

# Practice Area Competencies – Criminal Litigation

The objective of the Status is to recognise the work carried out by accredited paralegals and trainee accredited paralegals and provide a formal accreditation. It will provide an assurance of high quality and standards to employers, other members of the legal profession and clients.

As an accredited paralegal or trainee accredited paralegal you must be aware of the general competencies applicable to all members, which can be found under Schedule D of the Scheme of Operations. These competencies cover the knowledge, skills, values and attitudes you are expected to exhibit as a member of the Accredited Paralegal Status.

Together with these general competencies, each practice area has its own scope of competence, skills, knowledge and understanding as shown below.

## Scope of competence

An Accredited Paralegal should be able to progress a criminal defence case from taking client's initial instructions through to conclusion of the case including attending court, where required.

Specifically, the paralegal should be competent to:

- Meet with and interview a client or defence witness – taking clear and concise instructions
- Advise clients on the procedural aspects of cases at both summary and solemn level
- Advise clients on the financial eligibility tests for the different types of SLAB funding that may be available
- Process all types of relevant applications using the Legal Aid online portal (if applicable)
- Correspond and liaise with the Crown Office and Procurator Fiscal Service, Police Scotland, the Scottish Court and Tribunals Service and the Scottish Legal Aid Board
- Undertake defence precognitions, prepare productions and draft court documents
- Provide assistance in the instruction of counsel
- Attend court to provide assistance to the solicitor

## Scope of skills, knowledge and understanding

An Accredited Paralegal should be able to:

Demonstrate knowledge, understanding and awareness of:

- The structure of the criminal court system
- The duties owed to the court
- The procedures involved in criminal prosecutions, at both summary and solemn level, and the appeal processes

- A suspect's rights in relation to detention/ interview at a police station
- The difference between a common law crime and a statutory offence along with how this can impact on time limits for prosecution
- How to effectively obtain information from the client in order to prepare their defence
- The principles and procedures involved in investigating and preparing a client's defence
- The process of conducting VIPER parades including knowledge of the Lord Advocate's Guidance to Chief Constables: Guidance on the conduct of Visual Identification Procedures
- The importance of deadlines and timescales relevant to criminal cases, in both summary and solemn procedure, particularly in relation to the relevant custody time limits for an accused who has been remanded and the relevant time limits for an appeal against that decision
- Relevant factors the court will consider when deciding whether to grant bail to an accused
- The standard conditions of bail and the power of the court to impose additional, special, conditions of bail
- How to apply to the court to appeal against the refusal of bail or to seek to have a condition of bail varied or removed
- How and when to challenge Crown certificates
- What corroboration is and what standard of proof is applied in a criminal trial
- What a special defence is and how to draft such a defence
- What the terms "mens rea" and "actus reus" mean
- The potential implications of an early (or late) plea, including being able to discuss any potential discount to any sentence imposed
- The maximum sentencing power of each court and the authority provided to remit to a higher court for sentencing
- The Society's Code of Conduct for Criminal Work
- The terms of the Scottish Legal Aid Board's Code of Practice for Criminal Legal Assistance and the Criminal Legal Assistance Handbook

The following is a non-exhaustive list of potential legislation for this practice area:

- Legal Profession and Legal Aid (Scotland) Act 2007
- Criminal Procedure (Scotland) Act 1995
- Act of Adjournment (Criminal Procedure Rules) 1996
- Criminal Justice and Licensing (Scotland) Act 2010
- Criminal Justice (Scotland) Act 2016

The above competencies are based on an accredited paralegal with a minimum of one years' experience. If you are applying as a trainee accredited paralegal, then you would be expected to be meeting these competencies after one year of training as we are aware you may not yet have had exposure to a full transaction.