

GDPR and Assessment of Candidates for APIL Personal Accreditation

Changes to Arrangements for Completing the version of the Candidate Portfolio that is submitted to APIL

1. This note sets out some minor changes to the way in which the version of Candidate Portfolios on candidates for personal accreditation as meeting the APIL Competence Standards (Litigator, Senior Litigator, etc.) should be completed prior to submission to APIL. The changes are to ensure compliance with the General Data Protection Regulation (GDPR) which takes effect on 25th May 2018.
2. The minor changes described in this note are designed to ensure that applications for APIL accreditation are made in a manner in which only the data of the candidate, and not any personal data of clients is supplied to APIL.
3. Candidate Portfolios are completed as a consequence of a firm's processes for file review. It is important to distinguish between the processing of client data and the processing of data about the competence of the fee earner. Consideration of a client file involves using client data to make a judgment about how the fee earner handled the matter, for example, in applying the law to the facts of the case, in identifying and instructing appropriate experts, and in exercising judgment about how to respond to a Part 36 offer, whether to issue proceedings, etc.
4. The process of considering a number of client files generates a new set of data which is about the fee earner. These concern the competence of the fee earner in relation to the various stages of litigation, the ability to make appropriate judgments as between alternative courses of action, and the identification of training and development needs. These new data sets are personal data of the fee earner, and clients cannot be identified from them.
5. When a candidate applies to APIL for personal accreditation, the version of the Candidate Portfolio that is submitted to APIL should contain only the candidate's data and no client data. At present client names are removed prior to submission to APIL, so the only client data that appears are the reference numbers of files that have been considered. In future individual file reference numbers should also be removed prior to submission. Instead, each file considered in relation to each element of a function should be numbered sequentially (Case 1, Case 2, Case 3 etc.). The Annex to this note illustrates how this column should be completed in future.
6. Versions of the Candidate Portfolio retained within the firm should continue to have case names and file reference numbers entered. If your firm is selected for a monitoring visit to check on the assessment made, this will assist the person conducting the visit in identifying files he or she may wish to inspect. Please note that the person conducting the monitoring

visit will only ask to see files that have on them client consents for such inspections which use the new wording that APIL has recommended to ensure compliance with GDPR.

7. The Candidate Portfolio ends with a certification by the candidate that they wish to apply for the APIL accredited status in question, and that they undertake to comply with APIL CPD requirements. The candidate is thus supplying their own personal data to APIL; it is not an act of processing by the firm. The candidate supplies the data in the knowledge that it will be handled by APIL in accordance with APIL’s privacy policy.

May 2018

Annex

Example of Completion of Candidate Portfolio Submitted to APIL

This is an example of completion of that part of the Portfolio relating to the functions carried out in progressing a personal injury matter. As before, the case names in the first column of the Candidate’s section should be removed. In the second column of the Candidate’s section the file reference numbers should also be removed. In this column the file reference number should be replaced with sequential case numbers. Start a new numbering sequence for each row. The purpose of the numbering is to show the number of cases in which the candidate has demonstrated their ability to carry out the element of the function. For example, in the illustration below, the numbers 1 to 3 in the first row simply show the total number of cases considered. Case number 1 in the first row is not necessarily the same matter as Case number 1 in the second row.

Candidate’s section Assessor’s section

Function	Case names	File reference numbers	Action taken by assessor (e.g. “reviewed file”, “discussed case”, “observed client interview: etc)	Date action taken and assessor’s initials
6. Issuing proceedings, the allocation stage and case management conferences To meet the Standard, candidates must be able to:				
a) decide when, within the appropriate time limit, proceedings should be issued to protect the client’s rights and interests;		1 2 3	Discussed case Discussed case Discussed case	8.5.2018 abc 21.5.2018 abc 11.6.2018 abc
b) Select a court (high court or county court) and a location that is in accordance with court rules and consistent with the tactics of your case plan;		1 2	Reviewed file Discussed case	4.4.2018 abc 21.5.2018 abc