

## APIL SCOTLAND

# GUIDANCE ON ASSESSMENTS FOR FELLOW STATUS

### 1. Introduction

Fellow is a personal accreditation status awarded by the Association of Personal Injury Lawyers. A candidate for Fellow status must demonstrate that they meet the Standard of Competence for Fellows. This will involve assessment against the Outcomes of Effective Performance contained within Parts 1 and 2 of the Standard, and a peer reference in respect of Part 3.

Assessment of Parts 1 and 2 should be integrated with the normal supervision and management of the candidate. There is not a separate assessment process, nor is there a requirement to assemble further evidence over and above completion of the Portfolio. Evidence of competent performance will come from the day to day work of the candidate.

### 2. Who can be an assessor?

Candidates for Fellow status will be, typically, heads of personal injury departments, or very senior fee earners within such departments. They will be exercising management responsibility for the PI practice within their firm. As such, the assessor for Parts 1 and 2 of the Standard should usually be the Senior Partner or Managing Partner (or equivalent) of the firm.

Evidence that the candidate meets the requirements of Part 3 of the Standard should take the form of a structured reference from a personal injury lawyer from outside the firm who is a Fellow of at least five years' standing, or is a Senior Fellow. Alternatively, a person accepted by APIL as being of comparable standing and experience in personal injury law may be used as a referee. However, if it is proposed that a member of counsel should be a referee, such counsel should not be a member of chambers instructed regularly by the candidate.

Where an external assessor is appointed, all of the evidence required will still come from the files on which the candidate has worked, and from discussion with the candidate. Candidates should contact APIL to arrange an external assessor if required.

### 3. Evidence of competent performance

#### PART 1

The candidate will already have demonstrated their capability to undertake the drafting and proof/trial management competences of this Part in the course of gaining Senior Litigator status. However, they may not have had the opportunity, at that stage, of gaining personal experience of the tasks listed.

In respect of the drafting of a Summons and pleadings, evidence of competent performance of these tasks may have been provided in the course of assessment for Senior Litigator status. In that event, no further evidence is required. If such drafting is usually put out to counsel, such that the candidate had no direct experience of drafting at the time they obtained Senior Litigator status, then the candidate should produce a number of examples of drafting they have produced personally.

In respect of the elements of competence relating to managing the proof/trial process, if assessment for Senior Litigator status involved direct evidence of managing proofs/trials, then no further evidence is required. If Senior Litigator status was gained with proof/trial elements of the standard being satisfied by attendance on courses and proof/trial observation, then evidence is required that the candidate has taken cases to proof or trial, on both liability and quantum, and has demonstrated that all elements of the Standard have been met.

Evidence of effective performance of these tasks should arise naturally from the work of the candidate. In relation to each function, you need to be satisfied that the candidate has carried it out, has done so properly, and has

done so consistently. This means that you are looking for more than a single example that a function has been properly undertaken, you are looking for consistent performance over a period of time, preferably over a range of types of case, and in a sufficient number of cases to make it likely that most of the problems and challenges which can arise have been encountered and dealt with.

## PART 2

This Part is about the management of the PI practice of a firm.

In relation to each of the elements of the four units, the assessor should ask themselves:

- ***Do I have evidence that the candidate has carried out all of these functions satisfactorily?***

In relation to the Part as a whole, the assessor should ask themselves:

- ***Does the candidate manages his/her department successfully, and in a manner which requires minimal intervention by myself?***
- ***Does the candidate contribute effectively to firm-wide discussions of budget, marketing, strategy and human resource management?***

If the answer to any of these questions is “no”, then the candidate is not yet fully competent. Further experience will be required, together with training, mentoring or guidance on carrying out the functions in questions, before a further assessment is made. The latter two questions reflect the reality that effective management is more than just the sum of the competent discharge of a number of functions. These two questions invite a more holistic view of the effectiveness of the candidate as a manager, and of the contribution made to the running of the firm as a whole.

If the answer to all of these questions is “yes”, then the assessor can certify the candidate as competent in relation to this Part of the Standard.

Evidence to support your judgement may come from such things as departmental procedure manuals, budgets and operational plans prepared by the candidate; your observation of the candidate’s contribution to the firm’s overall strategies, budgets and marketing plans; outcomes of 360 degree appraisal; and your own observation of the way in which the department or team is managed.

The behaviours which underpin effective performance should also be demonstrated in relation to relevant elements of the units of this Part of the Standard. However, assessors are asked additionally, to confirm that, from their observation of the candidate, they have seen evidence that all of the behaviours are displayed. To do this, the assessor should ask themselves:

- ***Can I point to instances where each of these behaviours has been displayed?***

If the answer is “no”, the candidate is not yet fully competent. Further experience will be required, together with guidance and mentoring on developing appropriate behaviours.

If the answer is “yes”, then the assessor can certify that the candidate demonstrates the required behaviours.

## PART 3 - REFERENCE

This Part of the Standard is about the standing of the candidate as a person providing professional and intellectual leadership in the practice of personal injury law. Evidence of this comes from peers who are themselves regarded as leaders in the field, and takes the form of a structured reference which confirms that the candidate meets the expectations of sections i) (sharing expertise) and ii) (leading litigation) of the Part.

The person providing the reference should be from outside the firm from which the candidate comes, and should be a Fellow of at least five years’ standing or a Senior Fellow.

Exceptionally, a person accepted by APIL as being of comparable standing and experience in personal injury law may be used as a referee. However, if it is proposed that counsel should be a referee, such counsel should not be instructed regularly by the candidate.

Professional and intellectual leadership may be demonstrated through the sharing of expertise and leadership of more complex and difficult cases.

Part 3 of the Standard is as follows:

i) *Sharing expertise*

*To meet the Standard you must demonstrate a practical commitment to sharing knowledge, know-how and expertise, within your firm and in the profession more widely, so as to help build the overall competence and professionalism of the practice of personal injury law. Evidence is likely to come from:*

- *Lecturing, conducting seminars or webinars, and other direct teaching;*
- *Publication of articles in legal journals, in general publications explaining aspects of PI law to a lay audience, in text books or other learning materials, of submissions to commissions or other public bodies on PI law;*
- *Development of the precedent systems of a firm.*

ii) *Leading litigation*

*To meet the Standard you must demonstrate that you function as a leader in the field of personal injury law. You should be able to show that:*

- *you deal personally with the more difficult cases which present new or unusual problems;*
- *you are consulted for your depth of specialist expertise by legal practitioners who are themselves of established standing the field;*
- *you undertake work on referral from other firms or less experienced colleagues;*
- *you undertake risk analysis and risk management in relation to complex cases, which may include multi-party cases.*

A reference should show how the candidate meets the expectations of the Standard. A reference is not a box ticking exercise, but an evaluation of the candidate's professional contribution to personal injury law. As such, examples of achievement which go beyond or offer an alternative to the letter of the Standard are welcome.

References, in letter form, should be sent to:

Membership and accreditation services  
Association of Personal Injury Lawyers (APIL)  
3 Alder Court  
Rennie Hogg Road  
Nottingham NG2 1RX  
DX 716208 Nottingham 42 T: 0115 958 0585 E: mail@apil.org.uk

## 4. Using the Portfolio

The assessor and the candidate should each keep a record of the candidate's progress. In relation to Parts 1 and 2 this can be done by completing the relevant sections of the Portfolio.

In relation to Part 3 the candidate may wish to keep a note of activities undertaken which provide evidence that the Standard is met, with a view to discussing these with the person they nominate as their referee.

The Portfolio is the document which must be submitted to APIL in support of an application for Fellow status. For reasons of client confidentiality, in **Part 1** of the Standard **only**, the first column (cases providing evidence) should be anonymised before submitting a copy of the Portfolio to APIL, by deleting the case names or deleting the columns electronically. A copy of the original Portfolio must be retained by the firm.

## **5. Quality assuring assessment decisions**

APIL will review a sample of assessment decisions, to ensure that the personal accreditation scheme remains credible. The review will usually consist of reviewing with the assessor the evidence on which they relied in making their judgements, making use of the Portfolio copy retained in-house. For this purpose, copies of Portfolios should be retained by the firm for a period of five years following the submission of the application for Fellow status. In common with all retrospective reviews of assessment decisions, this is a review of the assessment made, not of the candidate.