



Why instruct an advocate?

Faculty of Advocates

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Independent and objective

Advocates are trained in the skills of professional advocacy – using the spoken word and the written word to advocate and persuade on behalf of their clients. They also provide independent objective legal advice.



Each advocate is an independent professional. Every advocate is available to represent any person involved in court proceedings in Scotland. Advocates may provide representation before any court in Scotland, including the Court of Session, the High Court of Justiciary, the Land Court, the Sheriff Appeal Court, and the Sheriff Courts and Justice of the Peace Courts throughout the country, as well as the UK Supreme Court, the European Court of Human Rights and the Court of Justice of the European Union. Advocates also represent clients before

other decision-making bodies, such as tribunals, professional disciplinary committees and arbitrations.

Advocates are also experts in the detailed analysis of legal problems and in providing thoroughly researched legal advice. Seeking objective and independent advice at an early stage can have a decisive effect on the resolution of a dispute. Many Advocates have specialist expertise in particular areas of law.

Advocates who have achieved distinction in Advocacy before the Supreme Courts of Scotland may be appointed Queens Counsel or "QC".

Whenever you have a legal problem or dispute you should consider whether instructing an Advocate might be of benefit.

An advocate can be instructed to:

- (a) Provide representation in courts/tribunals/other forums*
- (b) Provide written advice*
- (c) Attend a consultation (meeting) to advise you in person*
- (d) Act on behalf of a client in alternative dispute resolution*
- (e) Be appointed as an arbitrator, mediator, expert determiner, adjudicator*



Who can instruct an advocate?

In proceedings before the Scottish Courts, an Advocate may only be instructed by the following:

- a) A Scottish solicitor;
- b) Other persons authorised to conduct litigation in Scotland;

However, for non-court work including advice – certain professions and individuals can instruct Counsel directly under the Faculty's Direct Access Rules:

<http://www.advocates.org.uk/instructing-advocates/direct-access>

The advocate in court

When an advocate is instructed to appear in Court, he or she will receive instructions and papers from a solicitor. The piece of work will be completed, and the papers will then be returned.



The solicitor and advocate will work together as the legal team and each has their own role.

The solicitor's role is to deal with the day to day administration of the client's file and to communicate with the client and keep them updated.

The advocate's role is only to do what he or she has been instructed to do, and nothing more, until such time as further instructions follow.

So, there is a relationship between the client, the solicitor and the advocate, but it is the solicitor who instructs the advocate, and who remains involved with a specific role in the legal team as matters move forward. The client's first port of call should be the solicitor.

When in court, and in the preparation of a case for court, the advocate may have to exercise his or her own professional judgment in deciding how a case ought best to be conducted. That might include deciding which documents the solicitor should lodge in court, and which witnesses the solicitor should cite to give evidence. The Advocate owes duties not only to his or her client, but also to the Court in conducting the case. It follows that it may be incumbent on an advocate to refer to decided cases which may not support his or her client's position and only to ask questions based on his or her instructions and the evidence which he or she has seen or heard.

