



The Isle of Man Law Society **Continuing Professional Development Policy**

Policy Statement

Following resolution by the Isle of Man Law Society to institute a mandatory system of Continuing Professional Development ("**CPD**"), this policy sets out the background and application of the policy, for Advocates in the Isle of Man.

This policy aims to:

- Underpin the standards and governance for the legal profession in the Isle of Man, ensuring that practising Advocates maintain up to date standards;
- Set out the rationale for, and minimum standards expected from practising Advocates in the completion of CPD;
- Provide for a reporting mechanism to the Isle of Man Law Society in respect of CPD undertaken; and
- Setting out the consequences of non-compliance with this policy.

Guidance in relation to compliance with this policy is set out in Appendix 1, which includes the prescribed form of declaration ("**the Guidance**").

Why is CPD required?

The Isle of Man Law Society has resolved to institute a mandatory system of CPD, which includes consideration of standards and governance in the provision of high quality legal advice by Advocates.

Who does the policy apply to?

This policy applies to an Advocate commissioned in accordance with Section 16 of the [Advocates Act 1995](#), who is practising and is therefore a member of the Isle of Man Law Society. Such Advocates are referred to in this policy as "Practising Advocates".

What does undertaking CPD entail?

CPD must be completed by all Practising Advocates within each of the membership years during which the Practising Advocate is practising (1 October to the following 30 September in each year). CPD is mandatory from 1 October 2023. This requires:-

1. **Review** - Review and undertake CPD activities which are aligned to the practice undertaken by the Practising Advocate;
2. **Record** - Keeping an accurate record of CPD activities undertaken;
3. **Reflect** – Reflect on requirements for CPD and whether these have been met;
4. **Report** - by self-certification to the Isle of Man Law Society that CPD requirements have been met in the prescribed form.

What is CPD?

Details of activities that could be undertaken to satisfy the CPD requirements are set out in the Guidance. There is no minimum amount of CPD which is required, save for a minimum three (3) hours of CPD focused on advocacy for Practising Advocates who undertake work in Court (see Appendix 1 of the Guidance).



Exemptions from CPD and extensions to the CPD requirements

Practising Advocates may suspend their practice due to a lengthy or repeated requirement to be absent from working as a Practising Advocate (for example parental leave, sick leave, or sabbatical arrangements). Whilst maintenance and updating of skills is encouraged, in this case, CPD is not required whilst an advocate does not maintain, or has suspended, their practice.

The minimum three (3) hours of CPD for litigation Advocates is required, regardless of the Practising Advocate's leave status, unless the Practising Advocate applies for and is granted a waiver by the Isle of Man Law Society (see Guidance at Appendix 2).

What are the consequences of non-compliance?

There is no requirement for Practising Advocates to submit records of their CPD to the Isle of Man Law Society as part of the annual self-certification report which a Practising Advocate is required to make. However, such records may be required:-

- In response to a request to a spot check to ensure compliance, as part of the Isle of Man Law Society's regulatory function (see Appendix 3 to this Policy) which requires submission of CPD Records within 7 days of request;
- To demonstrate the compliance with standards and evidencing the currency of knowledge and skills by the Practising Advocate, in the event of a complaint, claim, proceeding against the Practising Advocate, or referral to the Advocates Disciplinary Tribunal.

The enforcement guidance in Appendix 3 sets out the consequences for non-compliance, which may include corrective action, feedback or further action being taken.



Appendix 1 – Guidance on the Continuing Professional Development Policy

In this guidance note the Isle of Man Law Society provides information and guidance for Advocates to assist in compliance with the Continuing Professional Development ("CPD") requirements set out in the CPD Policy ("**the Policy**").

Introduction

Prior to implementation of the Policy, there was no mandatory requirement for an Advocate qualified in the Isle of Man to undertake any CPD as a part of their role as an Advocate.

The Isle of Man Law Society has resolved by a membership vote at its Annual General Meeting on 28 May 2021, to institute a mandatory system of CPD with a model similar to that of the Bar Standards Board of England and Wales.

As a result, it is mandatory to undertake CPD if they are a practising Advocate at the commencement of the Isle of Man Law Society's membership year (currently 1 October of each calendar year). An Advocate will also have to self-certify, at the end of the Isle of Man Law Society's membership year (currently 30 September of each calendar year) that they have met these mandatory CPD requirements. Separate guidance is published on the self-certification process, but failure to self-certify will likely prohibit a renewal to an Advocate's membership of the Isle of Man Law Society. If an Advocate is not a member of the Isle of Man Law Society they may not practice as an Advocate (section 7(a) of the Advocates Act 1976).

What is the CPD Requirement?

In order for an Advocate to keep up to date and maintain high standards, they need to continually update and develop their knowledge and skills. An Advocate will also need to adapt to the changing needs of clients.

All Advocates must complete CPD through the course of a ("**membership year**") (currently 1 October to 30 September), even those Advocates who practise overseas or part-time. However, if an Advocate practises part-time, the amount of CPD they do should be proportionate and appropriate to the amount of work they are doing or intend to do.

Any practising Advocate must submit details of the CPD they have done to the Isle of Man Law Society in the form prescribed, if called upon to do so.

Save for Advocates who practice in any field of litigation, even if they themselves are not speaking in Court, there is no prescribed minimum amount of CPD, nor any amount of accredited CPD in any particular area. Advocates will be expected to focus their CPD on areas relevant to their practice.

Litigation Advocates will be expected to complete a minimum of three hours of CPD activities which focus on advocacy (this can be focused on either or both oral or written advocacy) per membership year. To meet this minimum requirement Advocates are reminded that the Isle of Man Law Society provides annual training for litigation Advocates.

What is CPD

Definition of CPD

CPD is defined as work and/or training undertaken over and above the normal commitments of Manx Advocates with a view to such work and/or training developing their skills, knowledge and professional standards in areas relevant to their present or proposed area of practice, in order to keep themselves up to date and maintain the highest standards of professional practice.



Whilst Advocates are qualified to assist and opine on any and all areas of Manx law, subject to the provisions of the Advocates Practice Rules, the Isle of Man Law Society will only require continued CPD in the area(s) in which any Advocate primarily practices.

What Counts as CPD

Each CPD activity should cover at least one of the following areas:

- legal knowledge and skills;
- advocacy;
- practice management;
- working with clients and others; and
- ethics, professionalism and judgement

A non-exhaustive list of CPD activities includes:

- taking part in formal face-to-face training courses;
- online courses;
- listening to podcasts;
- attending conferences;
- taking part in seminars or webinars;
- reading or research;
- authorship and editing of published works of a professional nature. This could include exam papers; substantial consultation responses; law reform proposals; professional articles;
- presenting seminars, lectures and workshops; and
- assisting in the preparation and/or presentation of any lecture or seminar relating to the Isle of Man Bar Examinations,

Activities undertaken overseas may count towards CPD, assuming they relate to their knowledge and experience as an Advocate.

What Does NOT Count as CPD

Examples of what would not be considered to count as CPD would include work, research or activities that form a part of their routine practice as a Manx advocate (including any pro bono or volunteer work), updating or following social media accounts and/or preparing articles unrelated to their current or proposed practice. This list is not exhaustive and Manx advocates are expected to honestly undertake any CPD requirements. The Isle of Man Law Society reserves a discretion to reject any CPD entries that are not considered to meet the required standard.

How this CPD Requirement Works in Practice

The Isle of Man Law Society CPD Stages

There are four key stages to the preparation and recording of their CPD as an Advocate:

1. **REVIEW:** An Advocate should prepare a written plan setting out their learning objectives and the CPD activities they propose to undertake during the year. It is a requirement that they do this by setting learning objectives which should provide specific aims and outcomes of the CPD they plan to undertake. It is a requirement that they also provide examples of the types of CPD activities that they are proposing to undertake.
2. **RECORD:** An Advocate should keep a written record of the CPD activities they have undertaken over the past six years including their reflection on the CPD they have



3. undertaken during that time, any variation in their plans and an assessment of their future learning objectives. This is referred to as the ("**CPD Record**"). In the first six years following the implementation of the CPD requirement, Advocates must keep written records of the CPD activities they have taken in each of those years but are not required to produce a historical record of CPD activities undertaken prior to October 2023.
4. **REFLECT:** An Advocate should reflect on their planned and completed CPD activities to assess whether they have met their objectives. The Isle of Man Law Society does not specify a process for the reflection stage, but good practice reflection involves considering how an Advocate has implemented the learning from the CPD activities they have done, reviewing their development in the light of this and then considering what further CPD they need.
5. **REPORT AND SELF-CERTIFY:** As part of the self-certification, an Advocate must declare to the Isle of Man Law Society annually that they have completed their CPD and a litigation Advocate must also indicate they have completed a minimum of three hours of CPD activities in advocacy. The Isle of Man Law Society self-certification form will be issued annually for completion and submission. The Isle of Man Law Society will also seek to undertake spot-check reviews of the compliance with any Advocate's CPD requirements at various points.

More detailed guidance as to each of the CPD stages is set out below.

Stage 1 – REVIEW

An Advocate will be required to keep a written record of their intended learning objectives for the next year. This information will be included in the same form as their report in relation to their CPD undertaken the previous year. This form is not mandatory but it is recommended that they adopt this or something similar in content.

A learning objective is a statement of what an Advocate intends to achieve through their CPD activities for the year, with reference to a specific aim and one or more outcomes (i.e. an explanation of what an Advocate hopes to achieve and why they want to achieve it).

It is good practice for a learning objective to be specific and measurable. An example may be:

"To enhance my understanding of directors duties and responsibilities in order to be able to better advise Isle of Man directors and to better understand the commercial factors of Isle of Man directorships"

In this example:

"To enhance my understanding of directors duties and responsibilities..." is a specific aim

"...better advise Isle of Man directors..." is an outcome

"...better understand the commercial factors of Isle of Man directorships..." is a second outcome

An Advocate's learning objective should be applicable to their intended or current field of legal work and should describe what they want to know or understand and why and considering the areas set out above to which each CPD activity should apply, which are:

- legal knowledge and skills;
- advocacy;
- practice management;



- working with clients and others; and
- ethics, professionalism and judgement.

An Advocate is not required to set out the exact CPD they will undertake to achieve their learning objectives but they should provide a rough indication of the types of CPD that they may undertake to achieve that learning objective. An Advocate should consider the amount of CPD that may be necessary based upon their experience and knowledge.

Stage 2 – RECORD

An Advocate should maintain a contemporaneous record of any and all CPD they undertake throughout the year. This information may be requested by the Isle of Man Law Society under a spot check and is an Advocate's evidence that they have met their learning objectives; this should form part of the Advocate's consideration when completing the self-certification (see below for more on the self-certification process).

Examples of types of CPD are set out above. The Isle of Man Law Society understands that certain Advocates will focus on different types of CPD dependent upon their areas of practice. An Advocate is encouraged to undertake a wide range of CPD activities.

The form in which an Advocate records CPD is a matter for them, but in the event that they are spot-checked by the Isle of Man Law Society to ascertain whether and how they are reaching their Learning Objectives, they must consider how they will evidence this, other than through the standard form report.

Stage 3 – REFLECT

An Advocate is required to reflect on their CPD activities and achievements throughout the year.

There is no specific manner in which an Advocate should reflect, however it is considered good practice for any reflection to consider:

- why any learning objectives varied and what remains outstanding;
- how they intend to complete any remaining learning objectives;
- whether the type and nature of the CPD activities undertaken helped in completing their learning objectives.

Any such reflection will likely feed in to their consideration when completing the self-certification (see below for more on the self-certification process).

Stage 4 – REPORT AND SELF-CERTIFY

An Advocate must make a declaration of completion of CPD each year. The CPD year runs with the membership year, which is currently from 1 October to 30 September. So an Advocate will be able to declare whether they have completed the requirements for the prior CPD year as they complete the Self-Certification to renew their membership (September).

Upon making this Self-Certification, which certification document will be issued to all Members in September for completion, the Law Society is at liberty to make a request for a Spot Check. CPD records should be kept for a minimum of 6 years from the date of Self-Certification for which they relate.



Appendix 2 – Exemption and Suspension from CPD Requirements Guidance

Long Term or Repeated Absence on leave

This guidance applies if an Advocate is going on (or is returning) following a period of long term or repeated absence on leave (such as parental leave, or sick leave) ("**leave**"). It is encouraged that, if possible, an Advocate complete their required CPD activities during a period of leave. This is to help an Advocate to maintain their practice, keep up to date and place them in a stronger position when they return to work.

Dependant on whether an Advocate is a litigation Advocate or not, this will either automatically reduce or suspend the Advocate's CPD requirements until they return to practice.

If an Advocate retains their Practising Advocate status while on leave, they will need to create and retain a record which says that they are unable to complete CPD as they are on leave.

If an Advocate does suspend their Practising Advocate status, they will be suspended from CPD requirements until they return to practice. Those who suspend their Practising Advocate status must not hold themselves out as a Practising Advocate in connection with the supply of legal services.

Litigation Advocates

In addition to the general rules on leave above, if a litigation Advocate is on leave and continues to hold their Practising Advocate status whilst on leave, then they are open to apply for a waiver (at the Isle of Man Law Society Council's discretion) or extension of the CPD requirement to complete the three hours of CPD activities which focus on advocacy during that affected membership year.

If a litigation Advocate unregisters as a Practising Advocate during their leave, then they will have to complete this minimum (subject to an application for a waiver to be applied at the Isle of Man Law Society Council's discretion) before next applying for their membership as a Practising Advocate.



Appendix 3 - Spot Checks Guidance

An Advocate may be asked to submit any records held in relation to the CPD they have undertaken the CPD Record for up to the preceding six years, to the Isle of Man Law Society as part of a spot check. If an Advocate is chosen to participate in the spot check, they will receive an email from the Isle of Man Law Society requesting that they submit their CPD Record only.

The Isle of Man Law Society will not ask for evidence of the Advocate's CPD activities recorded in their CPD Record in the first instance. However, an Advocate should still keep any evidence as the Isle of Man Law Society may request it later.

An Advocate must provide a copy of their CPD Record to the Isle of Man Law Society within seven days of the date of the email.

How the Isle of Man Law Society Assesses CPD following a Spot Check

The Isle of Man Law Society Council ("**Council**") will monitor CPD by spot checking. The focus will be on Advocates who are at higher risk of non-compliance with their CPD requirements, supplemented with a random sample of the profession. High risk will be established, amongst other things, with reference to an Advocate's history of compliance or following a complaint by either another member of the profession or a member of the public.

If an Advocate is chosen by Council, then a Subcommittee of Council, being the Litigation and Breaches Sub-Committee ("**the Sub-Committee**") will assess an Advocate's CPD Record based on all four stages of the CPD requirements and in accordance with assessment criteria set out in this Appendix.

Planning Stage Assessment

The Sub-Committee will assess that the Advocate has planned their CPD in a structured way that reflects the CPD Policy and Guidance, and will check:

- That the Advocate has considered their requirements with regard to the definition of CPD and particularly skills, knowledge and professional standards. The four recommended CPD knowledge areas in which CPD activities could be undertaken cover these requirements (but the Advocate may take their own approach):
 - Legal knowledge and skills;
 - Advocacy (if applicable);
 - Practice management;
 - Working with clients and others; and
 - Ethics and professionalism.
- That the Advocate has set themselves relevant learning objectives with specific aims and outcomes;
- That the Advocate has considered how their learning objectives and proposed CPD activities are relevant to their practice;
- That the Advocate has evaluated their own strengths and weaknesses in order to keep themselves up to date and maintain high standards of professional practice.



CPD Activities Assessment

The Sub-Committee will:

- Review the relevance of the CPD activities the Advocate has carried out against the area of practice they undertake and the learning objectives the Advocate recorded at the planning stage;
- Consider the Advocate's experience (compared to the activities carried out and the type of CPD activities they completed in previous years).

An Advocate will not necessarily be non-compliant if there is a variation between the learning objectives at their planning stage and the CPD activities they have completed. However, any differences that have arisen should be noted and addressed in the reflection stage. Equally, carrying out a large number of CPD hours by itself, without the planning and reflection elements, does not guarantee compliance.

Reflection Stage Assessment

The Sub-Committee will assess whether the Advocate has followed a structured process in complying with their requirements.

The Sub-Committee will check:

- That the Advocate has reflected on how their activities have met their original learning objectives;
- Whether any variations between learning objectives and activities occurred; and
- The Advocate's assessment of their future learning objectives.

Declaration Stage Assessment

The Sub-Committee will check that the Advocate has made a declaration of the Advocate's completion of the CPD requirements.

The Assessment Criteria

The Sub-Committee will assess and examine each of these areas, taking into consideration the risk-based and outcomes-focused criteria as identified and justified by the Advocate (in particular in a review of the nature of their own practice) and recorded in their CPD Record.

This means that the Advocate's CPD Records are evaluated as a whole for compliance. Failure to complete individual elements of the process will not automatically lead to an assessment of non-compliance.

For example, the following upon Assessment may lead to an assessment of non-compliance

- CPD activities that are obviously not relevant to the Advocate's practice or proposed area of practice;
- Completing a minimal amount of CPD over a number of years, with no justification of this in the Advocate's learning objectives;
- Completing exactly the same CPD activities over a number of years with no adequate justification (e.g. attending the same 'Introduction to Advocacy' course over a ten year period, or completing a CPD activity that is clearly below the Advocate's level of expertise);
- Disregarding the CPD process.



How the Isle of Man Law Society Supervises and Enforces these Requirements

The Council's Supervision and Enforcement approach

An Advocate will have a wide discretion as to the amount and type of CPD they complete. By following the structure in this guidance the Advocate is likely to be compliant with their CPD requirements. However, in some instances the activities, reflection, or the CPD Records an Advocate has completed may not be assessed as compliant.

When an Advocate is assessed by the Sub-Committee as non-compliant, the Sub-Committee will try to use supervision to ensure compliance. It is anticipated that enforcement action will occur only in cases where an Advocate does not engage with supervision, or is repeatedly non-compliant.

Below is a summary of the approach that the Sub-Committee will take to supervision and enforcement:

1. Advocate is selected for a spot check - this could be at any time in the membership year and the Sub-Committee may seek up to the previous six years' CPD Records.
2. Advocate submits CPD Records as requested within 7 days of the request.
3. The Sub-Committee assesses the CPD Record(s).
4. The Sub-Committee may assess CPD as:
 - (i) Compliant;
 - (ii) Compliant but feedback needs to be given;
 - (iii) Non-compliant.
5. If the Sub-Committee identifies a CPD Record as non-compliant, then in most cases a Corrective Action Plan will be set for the Advocate.
6. If the Advocate disagrees with the Sub-Committee's assessment that they are non-compliant, or with the terms of the Corrective Action Plan, then the Advocate may apply to Council, within 21 days of the Advocate receiving the outcome of the assessment, for a review of the Sub-Committee's assessment. Council will either affirm or quash the decision of the Sub-Committee.
7. If an Advocate satisfactorily completes any Corrective Action outlined in a Corrective Action Plan, CPD requirements will be noted as completed and no further action will be taken. However, an Advocate is likely to be checked again in future to ensure ongoing CPD compliance.
8. If an Advocate does not complete the Corrective Action, or has repeatedly been assessed as non-compliant, then the Advocate will be referred to Council for consideration of enforcement action.

Detail of Supervision and Enforcement Process

Where an assessment of non-compliance is made – for example, if the Sub-Committee are not satisfied that the completed CPD activities are relevant to the Advocate's stated learning objectives – the Sub-Committee will in, the first instance, deal with this through feedback and Corrective Action.



Any assessment of non-compliance and any feedback or Corrective Plan will be communicated to the Advocate by email.

If an Advocate disagrees with the Sub-Committee's assessment and/or Corrective Action plan, then the Advocate may apply to Council within 21 days of the receipt of the email confirming non-compliance.

Application to Council to Review Sub-Committee's Decision of Non-compliance

Any such application by an Advocate should be in writing and provide all supporting information and documents which the Advocate wishes the Council to consider as part of that application for review.

Included with the application for a review should be, if any, a copy of the CPD Record in question, a copy of the Sub-Committee's assessment and Corrective Action Plan (if any), copy of all relevant correspondence and written submissions as to why the Advocate maintains that the Sub-Committee's assessment or Corrective Action is incorrect.

Upon receipt of this application, the Council may seek further information from the Advocate or ask that the Advocate attend in person to provide further information on the application.

Following consideration of the application, supporting documents and any further information provided upon request of Council, Council will by majority (the President of the Isle of Man Law Society having a casting vote, or alternatively the Vice-President if the President is conflicted or absent) either quash or affirm the assessment of the Sub-Committee.

The decision of Council will be communicated to the Advocate with reasons provided to the Advocate.

If the matter is quashed, the Council will return the assessment to the Sub-Committee with written reasons and the Sub-Committee will make the assessment afresh.

There is no review from the Sub-Committee's assessment that a CPD Record is "Compliant but feedback needs to be given".

Corrective Action

Corrective Action is used by the Sub-Committee to address identified non-compliance with the CPD requirements. It is a remedial approach that aims to avoid the need to take enforcement action.

The range of Corrective Actions could include, but is not limited to:

- A requirement to carry out a particular type of CPD activity, in a specified manner and within a certain timeframe;
- The Advocate expanding on planning or reflection stage (either in the current CPD year or for future CPD years);
- The Advocate confirming their area of practice or proposed areas of practice;
- The Advocate confirming that they have understood and acknowledged any feedback provided as part of the Corrective Action.

When an Advocate has been set Corrective Action they will be informed of this along with any associated deadlines.



Feedback

In some cases the Sub-Committee will assess CPD Records as compliant but note some areas of recommended action to improve the CPD Record. These recommended actions will be provided as feedback.

The Enforcement Process

Referral to enforcement action may occur if, for example an Advocate:

- refuses to complete Corrective Action that has been set;
- fails to complete the full extent of the Corrective Action;
- repeatedly refuses to complete the CPD process in full or repeatedly fails to comply with all the requirements;
- fails to supply a CPD Record when called upon to do so;
- is dishonest (e.g. falsely declares completion of the CPD process).

Council will not normally make a referral to enforcement action for a single isolated breach of the CPD Policy, although the seriousness of the breach will be taken into consideration. If dishonesty is involved, however, this is likely to result in a referral.

If an Advocate is referred by the Sub-Committee to Council for consideration of enforcement action, the Council will deal with the referral in accordance with its Byelaws and the Isle of Man Advocates Practice Rules which is likely to take the form of a referral to the Advocates Disciplinary Tribunal.