



Confidence in the Courtroom:

Advocacy Methodology - SQE2 Edition

This guide is provided for educational purposes only, specifically to aid SQE students in preparing for the SQE2 Advocacy assessment. It is not exhaustive and does not cover all material that could be examined in the SQE2. Any examples provided are for practice and do not necessarily reflect actual exam content.

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Introduction

Advocacy is often regarded as the most daunting of all the sixteen SQE2 assessments. Many believe that excelling in advocacy requires innate talent for improvisation and eloquence, perceiving it as an art accessible only to a select few. However, success in advocacy does not hinge on natural gifts. What truly matters is a systematic methodology—a clear, step-by-step approach that can be applied consistently across any SQE2 advocacy case.

This guide is designed to provide you with just that: a detailed roadmap to excel in advocacy, stripping away the mystique and fear associated with it.

Prepare for your advocacy assessment with confidence.

How to Prepare for Advocacy

To confidently approach advocacy, you must complete several essential steps before attempting to advocate a case.

Legal Acumen: A solid understanding of relevant laws, such as contract, tort, or criminal law, is essential. Each case study will test your knowledge of specific legal areas. Additionally, you must have a thorough grasp of procedural laws and *memorise* the legal tests for each court application; the clarity and accuracy of your legal arguments will depend on this.

Structural Command: This guide details the essential structure of court submissions, outlining nine specific steps from the initial greetings to the concluding remarks. Mastery of this format is straightforward yet crucial, as it aligns with assessors' expectations and secures fundamental marks effortlessly.

Assessor Expectations: Advance your advocacy by aligning your delivery with the assessors' specific criteria. Familiarity with the evaluation grid enables you to strategically meet expectations rather than leave performance to chance.

Courtroom Etiquette: Familiarise yourself with formal courtroom language, provided in this guide, suitable for any legal application. While maintaining formality, prioritise clarity and simplicity in your speech. The Solicitors Regulation Authority advocates for language that is accessible to all courtroom and client audiences. Use short, active-voice sentences to engage and persuade effectively.

Guidelines for Effective Advocacy:

1. Memorise the legal tests.
2. Master the Nine Steps Standard Submission Structure.
3. Identify and endeavour to meet examiner-specific expectations.
4. Develop proficiency in courtroom terminology by acquainting yourself with common judicial phrases.

By thoroughly mastering the preparatory steps for advocacy, you can ensure that your attention on the day of the exam is solely concentrated on more critical and nuanced tasks. These tasks include analysing the details of the case and applying relevant legal principles specifically to those details.

Advocacy Methodology

To fully benefit from this guide, we recommend pairing it with an Advocacy Case Study. Enhance your learning journey by downloading our complimentary Advocacy Mock Case Study available at:

<https://fqps.co.uk/assets/sqe2-advocacy-mitigation-mock.pdf>.

The Nine Steps Submission Structure

In every advocacy pleading, regardless of the nature of your court application, you should always include nine key points in the following order:

1. Address the Court appropriately
<https://www.sra.org.uk/solicitors/resources/advocacy/addressing-court/>
2. Introduce yourself clearly
3. Specify who you are acting for
4. Clearly state the type of application and the legal ground for your action
5. Confirm whether the judge has the relevant bundle of documents
6. Provide a brief summary of the facts
7. Clearly state the legal issue raised
8. Kindly remind the Court of the legal test for your specific application and clarify that each aspect of the test will constitute your submissions
 - a. State the legal test—each limb will constitute a separate submission
 - b. Transition to your first submission
“If it pleases the Court, I will now turn to my first submission”
 - c. Detailed first submission
 - i. Limb 1 Legal Rule
“As I am sure the Court is aware, section 76(b) of PACE states that the Court has a *mandatory* Power not to allow a confession to be given in evidence when such confession was obtained
 1. (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render the

statement unreliable.”

ii. Specific Facts - Cross Reference

If I may refer the Court to page [number] of the bundle, I quote “...”

iii. Legal Rule Applied to the Specific Facts- Draw the Relevant Conclusion

d. Transition to the second submission

“If it pleases the Court, I will now turn to my second and final submission”

e. Detailed second submission: repeat the same process as above for your second submission.

9. **Conclusion:** It is crucial to clearly state what you are asking from the Court.

Conclude your pleading by saying, “Unless I can assist the Court further, this concludes my submissions.”

You can remember the steps by memorising the acronym APA AB SILC: Address (the Court) - Present (yourself) - Acting (for which party?) - Application (Nature) - Bundle of Documents - Summary (of the facts) - Issue Identified - Legal (Test and Application to the facts) - Conclusion.

Remember that each application has specific conditions that must be met for the judge to grant your request. If you cannot articulate these conditions clearly, your argument may lack persuasiveness because you will not fully understand what you are advocating for.

In summary, you must commit two key elements to memory: the 9-step structure and the legal tests for each court application.

Advocacy In Detail

What We Expect from You

The assessor, acting as the judge, will be a solicitor of England and Wales. They will evaluate the correct application of the law during your submission.

Each judge is required to adhere to a specific assessment grid including five skills and two criteria for the application of the law.

The guide provides a table as an attachment, which outlines the SQE2 Advocacy Performance Indicators for your reference.

First Criteria: Use of Appropriate Language and Behavior

First impressions are crucial in a courtroom setting. Using the correct terms of address demonstrates professionalism and credibility.

- **Seating Protocol:** In civil proceedings, candidates must remain seated, while in criminal proceedings, candidates must stand when making submissions.
- **Consistency in naming parties:** In civil cases, use terms such as "Claimant/Defendant" or "Applicant/Respondent". In criminal cases, use "the Prosecution/Defendant" or "the Prosecution/Mr [x]". Stick with your chosen terms throughout.
- **Body language:** Minimise unnecessary movements in body language to avoid distractions during speaking.

Use language appropriate for the courtroom:

- **Professionalism:** Strike a balance between formality and accessibility, avoiding overly complicated vocabulary.

- Objectivity: Use definitive statements to assert arguments confidently based on facts and law.
 - Avoid using phrases such as "I think" or "I believe". These expressions can make your argument seem subjective
 - Ground your reasoning in factual evidence and legal principles
- Clarity and Precision: Ensure clarity and precision in legal arguments to facilitate understanding. Use short sentences and active voice.
- Persuasiveness: Frame arguments as reasoned submissions rooted in legal principles and case law to enhance persuasiveness.

Criteria 2: Adopt a Clear and Logical Structure

Effective advocacy relies heavily on presenting arguments clearly and logically.

- A logical argument is well-organised and flows naturally from point to point.
- Submissions should have a clear beginning, middle, and end.
- Assessor comprehension of your reasoning impacts the perceived logic of your arguments. Coherent argumentation is crucial for making a convincing case.

Use your voice:

- Clearly articulate the structure of your argument for better understanding. Starting with an overview and outlining each point guides the judge logically.
- Emphasise sections and transitions using *tone* to enhance clarity and impact. Tone variation can significantly improve advocacy effectiveness.

When making your submission, remember to:

- Use Signposts: Clearly indicate the progression of your argument.
- Cross-Reference Properly: Direct the court to specific document parts supporting your arguments.
- Summarise and Conclude Well: Provide concise conclusions after each legal test limb and at the end of submissions.

Criteria 3: Present a Persuasive Argument

The key to constructing your argument effectively is through the use of syllogism.

Syllogism is a structured form of logical reasoning that will underpin your legal argument. It comprises three key components: a major premise, a minor premise, and a conclusion.

- Major Premise- The Legal Test:

All contracts signed under duress are voidable.

- Minor Premise- The Specific Facts:

The contract between Client A and Business B was signed under duress.

- Conclusion- The Test Applied to the Facts:

Therefore, the contract between Client A and Business B is voidable.

Notice the distinct clarity of each component in the syllogistic reasoning. In your submission, the judge should be able to easily identify these three components when you make your submissions, mirroring the clear structure outlined above. If you omit the minor premise and leap directly from the major premise to the conclusion, your argument will lose persuasiveness. Similarly, starting with specific facts without first establishing the major premise undermines the logical foundation of your argument. To effectively make your point, you must always include the major premise, the minor premise, and the conclusion.

To enhance clarity, you might consider explicitly labelling each part during your presentation:

- For the Major Premise, begin with
"Your Honor, the governing legal principle is..."
- For the Minor Premise, continue with
"Turning now to the specific facts of the case..."

- For the Conclusion, conclude with
"Therefore, applying the legal principle to these facts, it is evident that..."

This method not only organises your argument logically but also guides the judge through your reasoning with precision. Syllogism ensures that the conclusion follows logically from the established premises, providing a robust framework for your argument.

By grounding your argument in syllogism, you ensure its persuasiveness and effectiveness in a courtroom setting. Syllogism provides a structured approach that will boost your confidence. Common Mistakes to Avoid:

- Avoid displaying a lack of confidence, such as being consistently uncertain or hesitant. Instead handle moments of uncertainty gracefully.
 - If you need to locate a specific document in your bundle, politely request a moment:
"Apologies to the Court, I would need a minute to find the relevant Witness Statement."
 - If anxiety causes you to lose your train of thought, simply apologise to the Court:
"Apologies to the Court, I would need a minute to gather my thoughts on this particular point."
- Never assume the judge is fully aware of all case nuances. Approach your argument as if the judge is hearing the details for the first time.
- Thoroughly explain and advocate for every beneficial point for your client.

Your primary goal is to influence the judge's decision-making. The judge may not be aware of critical facts that favour your client. Bring these to the forefront to make a compelling case for your position.

Remember, your purpose in court is to represent your client's interests. If you feel nervous or overwhelmed, focus on this purpose to manage stress and project confidence during your presentation.

Criteria 4: Interacts with/Engages the Court Appropriately

To effectively interact and engage with the court, remember the following guidelines:

- **Speaking Pace:** Practise speaking at a deliberate pace to ensure clarity and give the court time to process your arguments. Speak slowly and clearly, allowing each word to resonate in the courtroom. This ensures that your points are easily understood and gives the judge ample time to absorb your arguments.
- **Strategic Pauses:** Incorporate strategic pauses to emphasise key points. These pauses serve as punctuation marks, emphasising important points and allowing both you and the judge to reflect on the significance of your statements.
- **Question Framing:** Frame some arguments as questions to engage the judge and encourage closer consideration of your perspective. For example, you might ask, "How could the Defendant have acted differently?" This approach actively engages the judge, prompting them to consider your perspective more closely.
- **Handling Questions:** Do not feel threatened by questions from the judge; view them as opportunities to enhance your performance and address any concerns. Take a moment to gather your thoughts, then respond confidently, addressing any concerns and reinforcing your position. If you do not have the answer, you can opt to say "I will need to take further instructions from my client on this matter and will promptly provide the Court with an update."
- **Eye Contact:** Maintain eye contact with the judge to improve engagement and project confidence and authority.
 - Practice reading notes without lowering your head too much to maintain connection and posture. Keep your head up, holding your notes at a comfortable distance to avoid bowing your head. This posture

demonstrates confidence but also fosters a connection with the judge, ensuring they remain engaged with your arguments.

Criteria 5: Include All Key Relevant Facts

Given the time constraints (45 minutes) and a bundle of several-page documents, fully grasping every detail of the case is unlikely. However, you can still make an impact.

- Highlight 4 or 5 crucial facts and as many pertinent details as possible, such as dates, times, deadlines, names, and costs.
- Aim to quote at least one sentence per limb of the legal test for each application, showcasing your analytical skills and understanding of the case.
- Effectively draw the court's attention:
"May I refer the Court to page 9 of Mr. Smith Witness Statement dated April 9, 2023? I quote [...]."

The final two criteria pertain to the accurate application of the law.

Criteria 6: Apply the Law Correctly to the Client's Situation

There are two different limbs in this criterion: first, you need to apply the law correctly, and second, you need to understand the specific situations of the client.

- **Correct Law Application:** Start by identifying the relevant court application. It is imperative to know the legal tests for each application by heart.
- **Client-Specific Situations:** Pay attention to details such as exact names, dates, and locations, as they are crucial in applying the law to your client's case. Utilise the facts of the case to strengthen your arguments..

Criteria 7: Apply the Law Comprehensively to the Client's Situation

Your legal analysis should delve deep into the specifics of the client's case, identifying key issues and risks, and reaching reasonable conclusions backed by relevant evidence.

- **Exercise Judgement with Integrity:** It is essential to exercise judgement honestly and with integrity, identifying any ethical and professional conduct issues that may arise in the case.
- **Reach Reasonable Conclusions:** Effective argumentation requires reaching reasonable conclusions supported by evidence, as unsupported or biased assertions can undermine the credibility of your case.
- **Accuracy in Assessments:** For instance, when dealing with clients with serious criminal records, avoid portraying them as model citizens. Accurately assess the seriousness of the offence, considering factors such as culpability and harm inflicted. Avoid downplaying facts; for instance, if the victim suffered a concussion due to your client, acknowledge the injury's significance. Be practical and honest to ensure fairness and justice in court proceedings. Misleading the court once can damage the credibility of your whole case.

What to Expect on the Assessment Day

You will have 45 minutes to review the case and prepare your court application or pleading.

- The case study includes:

- An email from your supervisor detailing the advocacy task.
- The specific court you will be appearing in.
- A file of relevant documents.
- The 45-minute preparation period is critical for familiarising yourself with the facts and documents and preparing for oral advocacy.
- After the 45 minutes preparation, you will proceed to an assessment room where:
 - An assessor, acting as a judge, awaits.
 - You will be instructed to knock before entering.
 - The assessment begins immediately upon entry, and you must adopt the role of a solicitor.
 - The judge will not answer questions and will maintain the judge role throughout your presentation.
- Presentation time is approximately 15 minutes, including 1-2 minutes allocated for potential questions from the judge.
- In this assessment:
 - The judge will be a qualified solicitor from England and Wales. Your performance will be assessed on advocacy skills and correct application of the law.

In the SQE2 Advocacy assessment, your confidence hinges on a thorough understanding of the required procedures and expectations. Mastering the submission structure and legal tests and knowing precisely what the assessor expects enables you to present your case convincingly and think more clearly.

Ultimately, having this foundational knowledge reduces stress by removing uncertainty and boosts your confidence, making you appear more competent and composed during the assessment.

Advocacy Practice

Common Courtroom Phrases

Finally, becoming acquainted with court etiquettes and language is incredibly beneficial, especially if you are new to this environment. Make an effort to learn a set of common court phrases that you can confidently apply in various court scenarios.

This preparation will not only enhance your professional demeanour but also ensure that your communication is precise and respectful, aligning with the formalities of the court setting.

Step 1	Judge/ Your honour,
Step 2 & 3	My name is [Full Name] and I appear on behalf of the Defendant, [Full Name].
Step 4	<ul style="list-style-type: none">• This is an application for the judgement entered in default dated [...], under CPR, PART [...] to be set aside [...]• Mr/Ms [Defendant's Name] was charged for [causing GBH] contrary to section [section number] of [Legislation]. This is an application under s76 of PACE, 1984 to exclude a confession. I will seek to persuade the Court that such confession should be excluded on the ground that it was improperly obtained by the prosecution.
Step 5	Judge, you should have before you a bundle of documents with copies of [<i>briefly enumerate the bundle's documents</i>] which I will refer to throughout my submissions. Judge: I do, thank you. You: I am most grateful.
Step 6	If it pleases the Court, I will now give a brief summary of the facts before making my detailed submissions. BACKGROUND <ul style="list-style-type: none">• The claim is for the sum of £ [...], being the price of [...] sold and delivered by the Claimant to the Defendant.

	<ul style="list-style-type: none"> • The Claimant claims damages arising out of [an accident] when she allegedly [suffered a fractured...] <p>DISPUTED ISSUES:</p> <ul style="list-style-type: none"> • The Claimant's case is that [...] • It is the Claimant's allegation that [the transfer was a loan] • The Defendant's case is that [...] • The Defendant contends that [...] were defective • The Defendant further argues that <p>UNDISPUTED FACTS:</p> <ul style="list-style-type: none"> • It is common ground that • Both the Claimant and the Defendant agree that [...]
Step 7	<ul style="list-style-type: none"> • The legal question raised in this matter is whether [...] • The question is [what damages can the Claimant prove she has suffered], if any, as a result of [...]? • The Defendant contends that the principal issues are as follow: Did the Claimant in fact suffer [a fractured... or indeed any injury]
Step 8	<ul style="list-style-type: none"> • Judge, as I am sure you are aware and as a general rule <i>[in criminal proceedings, Hearsay Evidence is not admissible. However, confessions are an exception to the hearsay rule. S 76(1) of PACE states that "In any proceedings a confession made by an accused person may be given in evidence against him insofar as it is not excluded by the court.</i> Judge, it is my submission that <i>[the confession made by [Defendant's Name] should in fact be excluded]</i> • As I am sure the Court is aware, the court has a mandatory power <i>[not to allow a confession being given in evidence unless the prosecution proves beyond reasonable doubt that the confession was in fact properly obtained and is not unreliable.]</i> • The court has a discretion to [...] • It is submitted that the following are matters that the court may take into account in the exercise of its discretion and that they amount to a good reason why <i>[the judgement should be set aside or the Defendant should be allowed to defend the claim:]</i> • In considering <i>[whether to set aside or vary judgement entered under CPR, PART 12]</i>, the matters to which the court <i>must</i> have regard include:

	<p>Cross Reference</p> <ul style="list-style-type: none"> • If I may refer the Court to page [number] of the bundle, I quote “...” • May I remind the Court of the circumstances [...] • If I could draw the court’s attention to [...]
Step 9	<ul style="list-style-type: none"> • There is nothing in this case to displace the traditional presumption • For these reasons, therefore, the Claimant cannot show [...] • For the reasons which have been set out above [...] • The Defendant submits that both limbs of the test have been met. It is my submission that the court should therefore [...] • Unless I can assist the Court further, this concludes my submissions.
<p>Questions from the Judge</p> <p>(Only if you cannot answer the judge’s question).</p>	<ul style="list-style-type: none"> • Judge, I will need to take further instructions from my client on this matter and will promptly provide the Court with an update. • Your Honour, I need to consult with my client to provide a precise response. I will revert to the Court shortly. • Your Honour, I must defer answering until I have confirmed the specifics with my client. I assure you we will update the Court promptly.

Advocacy Game: Legal Test Challenge

Objective: To test and reinforce your knowledge of the legal tests associated with various court applications in England and Wales.

Materials Needed:

- Printed labels with names of different court applications
- Scissors
- A box or container

Setup Instructions:

1. Print the Labels: Print out the provided sheet of labels, each listing a different potential court application.
2. Cut the Labels: Carefully cut out each label along the indicated lines.
3. Fold the Labels: Fold each cut label in half to conceal the text.
4. Mix and Place in a Box: Place all the folded labels into a box or a container and shake gently to mix them up.

Playing the Game:

1. Draw a Label: Draw one label from the box without looking inside.
2. Identify the Legal Test: Once a label is drawn, verbally identify and explain the legal test associated with the court application named on the label.
3. Discussion: There can be a brief discussion or feedback session where peers or instructors can offer insights or correct misunderstandings.

Goal:

The goal is to successfully identify and articulate the legal tests for as many court applications as possible. This game can be repeated multiple times, and labels can be returned to the box for additional rounds to ensure thorough practice.



Bail application	Object to CPS's intention to adduce Hearsay Evidence	Application to Exclude confession	Application to Exclude confession when Defendant denies making such Confession
Application to Exclude/Object Bad Character Evidence	CPS's Application to adduce Defendant's Bad Character	Application to Exclude any Evidence	Plea in Mitigation
No Case to Answer	Mode of Trial - Allocation	Application to Exclude Poor Quality Visual Evidence	Interim Application
Freezing Order	Search Order	Interim Payment Application	Application to Strike Out under CPR 3.4
Relief from Court Sanction	Security for Costs	Summary Judgement	Application to Set Aside Default Judgement

Skills	Indicators demonstrating competence	Indicators that do not demonstrate competence
Use appropriate language and behaviour	<ul style="list-style-type: none"> The candidate's submissions are clear and articulate/easily understood by the judge The candidate uses language which is appropriate for the courtroom setting (e.g. avoids using "I think" or "I believe", but uses expressions such as "In my submission it is the prosecution/defendant's case") The candidate uses formalities appropriate to a courtroom setting (e.g. manner is polite and non- patronising) 	<ul style="list-style-type: none"> The candidate uses language which is verbose, complicated, confused or rambling The candidate consistently cannot be easily understood The candidate uses language which is inappropriate for a courtroom setting (e.g. uses language that is too informal or colloquial) The candidate does not use formalities appropriate to a courtroom setting (e.g. manner is rude, dismissive or patronising)
Adopt a clear and logical structure	<ul style="list-style-type: none"> The candidate's submissions are presented in logical way (e.g. the candidate structures their submissions with a beginning, middle and end) The candidate uses appropriate signposts to guide the judge through their submissions The candidate summarises and draws conclusions as appropriate to reinforce desired outcomes The candidate organises facts in a logical order to support their arguments or position 	<ul style="list-style-type: none"> The candidate's submissions are muddled and lack clarity The candidate does not use any appropriate signposts to guide the judge through their submissions The candidate does not organise facts to support their argument or position
Present a persuasive argument	<ul style="list-style-type: none"> The candidate presents their case with confidence and purpose The candidate seeks to influence the judge's decision making (e.g. the presentation of the candidate's submissions is clear and compelling) 	<ul style="list-style-type: none"> The candidate lacks confidence (e.g. is consistently uncertain or hesitant in the delivery of their submissions) The candidate fails to influence the judge's decision making (e.g. the presentation of the candidate's submissions are unconvincing, flat in tone or do not make sense)

Interacts with/engages the court appropriately	<ul style="list-style-type: none"> The candidate makes submissions at an appropriate pace (e.g. the candidate speaks at a steady and consistent pace to ensure that the judge is following their argument) The candidate uses documents (i.e. their own notes or other assessment materials) where appropriate to support their submissions The candidate listens and responds to the judge appropriately e.g. the candidate is composed and is able to respond effectively to questions asked 	<ul style="list-style-type: none"> The presentation of the candidate's submissions is too quick, too slow or the candidate is inarticulate The candidate fails to direct the court to documents where appropriate to support their arguments. The candidate is consistently too reliant on, or distracted, by their notes The candidate fails to listen and respond to the judge appropriately e.g. the candidate lacks composure and is unable to respond effectively, or at all, to questions asked
Include all key relevant facts	<ul style="list-style-type: none"> The candidate selects and refers to facts from the documentation which are relevant to legal submissions 	<ul style="list-style-type: none"> The candidate refers to all facts from the documentation, regardless of whether or not they are relevant to legal submissions The candidate refers only to irrelevant facts The candidate does not refer to sufficient relevant facts to support their submissions
Law	<i>Indicators demonstrating competence</i>	<i>Indicators that do not demonstrate competence</i>
Apply the law correctly to the client's situation	<ul style="list-style-type: none"> The candidate identifies the relevant fundamental legal principles in accordance with the SQE2 assessment specification and applies them correctly to the client's case 	<ul style="list-style-type: none"> The candidate does not identify and apply the correct legal principles to factual issues The candidate does not apply the correct legal principles in a way that addresses the client's needs and concerns

<p>Apply the law comprehensively to the client's situation, identifying any ethical and professional conduct issues and exercising judgment to resolve them honestly and with integrity</p>	<ul style="list-style-type: none"> • The candidate's legal analysis is sufficiently detailed in the context of the client's case e.g. assessing information to identify key issues and risks; reaching reasonable conclusions supported by relevant evidence • Where relevant, the candidate recognises ethical issues and exercises effective judgment in addressing them in accordance with the SRA principles and rules of professional conduct 	<ul style="list-style-type: none"> • The candidate's legal analysis is not sufficiently detailed in the context of the client's case e.g. the candidate demonstrates little or no understanding of the key issues; fails to use the evidence provided to reach reasonable conclusions • The candidate does not recognise ethical issues or exercise effective judgment in addressing them in accordance with the SRA principles and rules of professional conduct
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