

## **'Bill wants to become a Lawyer but is not sure whether to become a Barrister or a Solicitor'**

*A1) what is the difference in the Roles of barristers and solicitors?*

*There is a great variation in the roles of barrister and solicitors traditionally and their stereotype roles are quite varied from one another. However, as I will explain, they are become increasingly similar.*

*Traditionally, the barrister is a member of the senior branch of the legal profession; this was due to the fact that they were historically the only qualified lawyers. A barrister should be skilled in advocacy, which is the presentation and arguing of cases in the courts. As a barrister you are an independent practitioner, and belong to the professional body 'The General Council Of The Bar.' Barristers are supposedly the most 'elite' type of lawyer, as there are only 10,000 practising in the United Kingdom, considerably less than solicitors.*

*As a barrister, you are self-employed and cannot form partnerships as solicitors do. It is common for a barrister to join chambers and share a clerk and administrative management. The vast majority of barristers concentrate simply on advocacy work and use their full rights of audience. This was traditionally a major difference in the roles of barristers and solicitors. Now though, thanks to the 'Courts and Legal Services Act 1990' and the 'Access To Justice Act 1999' solicitors too have full rights of audience once they attain a certificate of advocacy.*

*In general, a barrister has limited contact with clients as a solicitor completes most of the groundwork and refers them to a barrister when necessary. Many barristers say this is good as it stops them getting too involved with the client and can provide a more neutral case. Some barristers would argue that point and say that you are more likely to advocate with more passion if you are familiar with the client and case and you are more dedicated to winning. Certain professionals are exempt from this rule and go straight to a barrister like accountants and surveyors as they are part of the*

Citizens Advice Bureaux and have sought barrister's advice first hand since 1996. A solicitor passes a brief through to the barrister and they may be asked to advocate, give their opinion or draft a document.

'The Bar' is regulated by a strict code of conduct to make sure it follows rules and regulations and once you have practised for 10 years you are eligible to be made a Queen's Council or QC.

A solicitor's traditional role is much different to that of a barrister. The barrister is often described as the 'General Practitioner' of the legal profession. They largely work in private practises in solicitors firms as either a sole practitioner or in an active partnership with another solicitor. Other roles for solicitors are with the Crown Prosecution Service, Local Authorities or in general businesses. They work in typical high street firms and sell legal advice on varying legal issues including everything from consumer problems to family matters. Now with the certificate of advocacy, they may also have contentious work to do, representing clients in court. The basics include interviewing clients, drafting documents, conveyance and drawing up wills.

Recently, there have been various developments that change the role of solicitors. The 1985 Administration of Justice Act, allowed others to become licensed conveyancers, consequently taking a high proportion of the work away from the solicitors. This led to high levels of protest from solicitors, demanding wider rights of audience. After the Courts and Legal Services Act 1990, they got the opportunity to apply for a certificate of advocacy, allowing them full rights of audience. 1000 solicitors hold the certificate of advocacy.

A2) what is the difference between the training involved to become a solicitor and a barrister?

To train to become a lawyer of any variety is a demanding path, which requires high levels of perspiration, intelligence and devotion. To train to become a barrister is viewed by many as a slightly more demanding route, due to the greater reputation involved. A barrister must have a degree of at least 2:2, although many places are demanding a 2:1 degree currently. Graduates

with a degree in another subject other than law must convert it by taking a one-year course known as the 'Common Professional Examination', which covers the foundations of legal knowledge.

As a trainee barrister you must join one of the four Inns of Court. These are Lincolns Inn, Middle Temple, Inner Temple and Gray's Inn and are all in close proximity of the Royal Courts of Justice in London. Trainees must then study the one year Bar Vocational Course where they will learn the essential skills of a barrister; Advocacy, drafting documents and negotiation. A negative point about this is the funding is discretionary from the Local Authorities and only some scholarships are available from the Bar Council, this leads to a bias towards middle class candidates.

After this vocational course there is 'on the job' training in the form of a pupillage. This is often awkward, as it demands the need to study under a qualified barrister. There are very few placements available for these pupilages and they are often horrifically paid. They also can demand moving to a far-flung location. It has been known for you not to be paid for your pupillage and after these struggling 6 months, you may conduct your own cases and appear in court. You may only practise though if you gain a seat in a chamber. This is very tough as the number of applicants vastly outstrips the number of vacancies.

Training to be a solicitor is a very difficult task also. You must first graduate with a degree of 2:1 in any subject. Like a barrister, if the degree is not in law then you must take the common Professional Examination. Then you must take a one year course called the Legal Practise Course which is a hands on training programme based on interviewing, negotiation, drafting documents, legal research and advocacy. There are VERY rarely grants for either course. Once this is complete a solicitor must gain a training contract with a soliciting firm and complete 2 years practical experience working as a paralegal. Again, it is difficult to obtain these contracts. Whilst this training is carried out the Law Society keeps a very close check on what goes on in order to ensure a broad based education. They initiate a 20-day skill course to work on what went on at the LPC. Once training is completed the Law Society add the name to the roll list. The Master of The Rolls does this.

## *B) The advantages and disadvantages for fusion of the legal profession*

*The English legal profession is very different to all other legal professions in the world in that it is divided. Each have different responsibilities within the system and the idea behind it is that ability to specialise. Solicitors were given the job of direct client contact and as a result were especially skilled in interviewing, negotiation and possessed better interpersonal skills. Barristers were concerned with advocacy and representing their counterpart's clients impartially in court. They were consequently trained in advocacy and addressing the court. In the last few years however, there has been steps leading to a merging of the profession. So what are the advantages and disadvantages of this?*

*After an agreement with The Bar in the nineteenth century, it was agreed to divide the legal profession. The bar would consequently lose this independence as a singular organisation. This would lead to advocates joining general legal firms and their specialist advocacy skills would not be accessible to the average client. This surely would undermine the fairness of the legal system.*

*Another argument is over the fact that cost would or would not be reduced. Barristers argue that fusion would dramatically cut their earnings and cause clients to be paying slightly less for services that are not up to 'the standard of a barrister.' Solicitors would also feel prejudiced by the judiciary and wouldn't want this unnecessary degradation. Unsurprisingly, most of this argument against fusion is from The Bar. The overriding implications for barristers would be that they would be financially worse off than today. The ratio of lawyers to clients is currently 2:1, it would fall to more clients than lawyers if fusion occurred and would force most barristers to drop rates. Not many solicitors have rights to higher audiences and so barristers enjoy this monopoly on the market and don't want it to end. They also are adamant about the disadvantages outweighing the advantages as they would lose their long valued 'cab rank' rule, holding together the legal profession for years.*

Smaller firms would also suffer as they would struggle to employ the specialists they need due to the lack of distinction between legal specialists. The Bars final argument is that the idea of specialisation would be lost and retraining would have to be undertaken by both sects. Two professions can do two jobs better than one.

Solicitors of course argue against this and claim that costs would be slashed due to extensive competition in the market. This idea particularly appeals to the government as the soliciting body, The Law Society, insist that fusion would cut legal aid fees by £1million a year. This would also appeal to less wealthy clients as the monopoly held by barristers at the moment would be broken. They also argue that the legal system would be more efficient as everybody would know their jobs better and function as a team. Also the relationship with the client would be better as they are taken with the same lawyer from the interview to the courts, thus getting a better relationship. It would also prevent the last minute barrister changes leading to the defendants not necessarily having good defence.

Another argument is that the scope for judicial selection would be enhanced, leading to an attempt to break the stereotype judge – 60's upper middle class man. Also the choice to specialise would still be there as legal students would still have the choice to specialise in a certain area of the law and learn the trade from paperwork to advocacy still.