

Module 2 exam

1.a. Outline how someone currently studying for 'A' Levels can train and qualify either as a Barrister or a Solicitor. *(10 marks)*

1.b. Describe and compare the roles played by Solicitors and Barristers in defending a serious criminal case. *(20 marks)*

1.a. Someone studying 'A' Levels who wished to train and qualify as a Barrister would firstly need to gain the required grades in order to be accepted on to a university course. After gaining entrance to a university that person must at least gain a 2:1 degree, which can take up to three to four years. If this degree is not in Law it must be a degree of the required standard, which the Bar deems satisfactory. If this is the case then a conversion course such as the Common Professional Exam (CPE) or the Post Graduate Diploma in Law (PgDL) must be taken. These courses are offered by many academic institutions such as the University of Brighton, the University of the West of England and Leeds Metropolitan University and span over one or two years depending upon whether the course is full or part time.

After the CPE or PgDL is accomplished or if a Law degree has been obtained, the next step for all students wishing to become a Barrister is to take the Bar Vocational Course (BVC). The purpose of the vocational stage is to ensure that students intending to become a barrister are able to acquire the skills, the knowledge of procedure and evidence, the attitudes and competence to prepare them for the more intense and more specialised training in the twelve months of pupillage that follows. This course, like the CPE and PgDL run for either one-year full time or two years part time. The BVC equips a student of Law with the necessary skills such as casework skills; written skills and interpersonal skills, all of which are imperative attributes in becoming a Barrister.

Before a person is able to take the BVC they must be admitted to an Inn of Court, of which there are four, all situated in London. These Inns (Lincoln Inn, Inner or Middle Temple, or Gray's Inn) provide a non-academic function for a student of Law, they offer a recreational services such as a library, lunching and dining facilities, common rooms and gardens, they also offer educational support for not only trainee but also qualified barristers. A student's choice of Inn does not affect which area of Law they wish to practice in, neither does it affect their pupillage training which is the next step that must be taken.

The pupillage training is the final stage on the route to qualification at the Bar, in which the pupil gains practical training under the supervision of an experienced barrister. The training takes twelve months, which is divided into two six monthly periods. The first six months is spent shadowing a qualified barrister, who is known as the pupil master; in this stage the pupil undertakes no practical/advocacy work. The second six months however is known as the practising period, in which a pupil with their masters permission, can undertake to supply legal services and can exercise his/hers right to audience. The Bar Council requires all pupils attend an Advocacy Training course and an Advice to Counsel course during pupillage.

After completion of pupillage, the now qualified barrister will have to find chambers. Chambers are a group of offices shared by barristers, yet as barristers are self-employed there is no connection between each of the barristers in a set of chambers. When first qualified, barristers must accept briefs on the 'cab-rank' rule until their reputation is established, after this they can almost pick and choose which cases they wish to accept and disregard those they don't.

1.b. All criminal cases whether they are serious or not, begin with the appointment of a solicitor to a client in order for the defendant to have representation in a magistrates court. If the case is of a serious nature it may be outside of the magistrates courts sentencing powers and therefore the case will be referred to a senior court such as the Crown Court for sentencing.

With cases that are tried in more senior courts, it is usually the barristers, which carry out the advocacy work as they have had the necessary training and are equipped with the expertise needed to present a case in court. However, since the passing of the Courts and Legal Service Act 1990 (CLSA) solicitors were granted the right to act as representation for their clients, in senior courts such as the Crown Court, High Court, House of Lords, Court of Appeal and Employment Appeal Tribunals. Yet solicitors could not exercise their rights of audience until they had undertaken the appropriate training and satisfied an exam. Nevertheless, the Lord Chancellor, in his recent consultation paper on extended rights of audience, states very clearly that the Courts and Legal Services Act 1990 'has achieved virtually nothing' to increase the rights of audience for lawyers. Figures show that on 18 September 1998: the total number of higher courts qualifications awarded to solicitor was 689; the number of solicitors qualified for all proceedings was 123; the number of solicitors qualified for criminal proceedings was 428; and the number of solicitors qualified for civil proceedings was 138. In short in 1998 out of a possible 75,000 solicitors, only 600 exercised their rights to audience.

There are however noticeable distinctions between a solicitor advocate and a barrister when representing clients in senior courts, and that is wearing of a wig. A barrister automatically is entitled to wear a wig once qualified yet despite the fact that the solicitor has gained extended rights to audience he/she is never permitted to wear one in court. It is not made clear why this is so yet one must assume that it is special to a barrister, as they have worked to gain it.

Another noticeable distinction is the relationship between the client and the solicitor and barrister. As the solicitor has first contact with the client and may spend many hours discussing the case face to face and building up a relationship of trust which is very important to a client. The barrister is instructed via the solicitor not the client and the only primary contact they may not have any primary contact with each other. The barrister will simply be given the case details and will work from that, he/she has no need for one to one meetings with the client. The first time they will come into contact with one another would probably be the first day of the trial. The solicitor would also be present just for support and a sense of familiarity for the client.