

## Law

### **1. Describe work carried out by a barrister and a solicitor. How much overlap is there between the two branches of the profession?**

The legal profession in England and Wales is divided between solicitors and barristers. Both are trained in law but serve different functions in the practice of law. Barristers act primarily as advocates with rights of audience in all courts within the jurisdiction. Some solicitors now have extensive rights as advocates, but the Bar is uniquely linked with court work and the presentation of the lay client's case before it. However, many barristers hardly ever appear in court; they undertake specialist advice, given to clients in 'cons' or conferences, and they prefer to avoid the uncertainties of litigation.

They may also give extensive written advice or draft legal documents. They do not deal with the public (or lay clients) directly, but through the intermediary of a solicitor. Solicitors are approached first by the clients in need of legal advice and then if specialist advice or representation in the higher court is needed, the client is referred to a barrister. Barristers also prepare written advice, called an opinion, if asked by a solicitor in a particular case.

Solicitor is a type of lawyer in many common law jurisdictions. In these systems the legal profession is divided into two kinds of lawyer: solicitors who contact and advise clients and have limited rights of audience in court, and barristers or advocates who argue cases in every court. In cases where a trial is necessary a client has to hire a solicitor, who will advise him or her and then may retain a barrister on his or her behalf.

Before the unification of the Supreme Court in 1873, solicitors practised in the court of Chancery, while attorneys and proctors practised in the common law and ecclesiastical courts respectively. In the English legal system solicitors have traditionally dealt with any legal matter apart from the conducting proceedings in court (advocacy). The other branch of the English legal profession, a barrister, has traditionally carried out that function and advised on complex areas of law. Barristers would not deal with the public direct.

There are over 60,000 solicitors practising in England and Wales and their work varies enormously. A solicitor's job is to provide clients (members of the public, businesses, voluntary bodies, charities etc.) with skilled legal advice and representation, including representing them in court. Most solicitors work in private practice, which is a partnership of solicitors who offer services to clients. Others work as employed solicitors for Central and Local Government, the Crown Prosecution Service, the Magistrate's Courts Service, a commercial or industrial organisation or other bodies

Until recently, the most obvious difference between the two professions was that only barristers had a general right of audience in all courts in England and Wales. Barristers were therefore specialists either in appearing in court, or in the process of using the courts, which would include giving oral or written advice on the strength of a case and the best way to conduct it. In fact, many barristers have largely "paper practices" where they rarely or never make court appearances.

This difference between the two professions has been eroded recently. Solicitors have always been able to appear before many inferior courts and tribunals. Now many solicitors have what are called "higher rights", enabling them to appear in superior courts, although in practice many do not. The key difference between the two professions is that a solicitor is an attorney, meaning that they stand in the place of their client, whereas a barrister merely speaks on behalf of their client. For example, a solicitor may hold funds on behalf of their client (for example in conveyance) whereas a barrister is forbidden from doing so. Solicitors are also officers of the court, barristers are not.

A further difference is that a barrister may either be "employed" or in "independent practice". An employed barrister may represent only their employer -- and thus may not give general legal services to the public. Most representation is given by barristers in independent practice, who may not be members of partnerships (as solicitors usually are), but must act as sole traders with unlimited liability. In order to function in the legal services market, most barristers in independent practice form themselves into groups, called "chambers" or "sets". Many common costs are shared between members of the set, including the finding of work.

Barristers in independent practice could not, in the past, accept work directly from members of the public, but could only be instructed through the intermediary of a solicitor. This is still the normal way in which such barristers are instructed, but many now offer various kinds of direct access. While solicitors are regulated by the Law Society, The Law Society of England and Wales is the professional association that regulates and represents the solicitors profession in England and Wales. One of their main duties is to issue 'Practicing Certificates' to solicitors who are qualified to practice law. They deal with all aspects of qualification, professional conduct and the procedure required to 'strike off' a solicitor.

Barristers are governed by the General Council of the Bar and the individual Inns of Court. There are four Inns, all situated in the area of London close to the Law Courts in the Strand. Gray's Inn is off High Holborn, Lincoln's Inn off Chancery Lane, the Middle and Inner Temples, situated between Fleet Street and the Embankment.