

What is the difference between solicitors and barristers practising in England?

The classification of lawyers into barristers and solicitors is often viewed as a very strange and unnecessary development.

This lesson looks at the differences between the two professions - their roles and their responsibilities – and specific vocabulary relevant to them.

Aim: To practise the skills of

- Prediction – about the differences between barristers and solicitors
- Reading:
 - for specific information – to check predictions and understand the differences between barristers and solicitors
 - to understand the construction of a text and paragraph order
- inferring meaning of words from context
- discussion - based on information and opinion

Level: Upper Intermediate and above

Student profile: It is envisaged that students will be studying law, trainees or qualified lawyers.

The lesson is in 5 stages and should take 60-90 mins.

Stage 1

This is based around students predicting the answers to certain questions about barristers and solicitors and some of the differences between them.

Procedure: Either as a handout or displayed as an OHT or using the IWB, students are encouraged to decide the answers to these questions – *yes* or *no*. This should raise students' interest and start discussion about the subject.

It is suggested that the answers are not given and students are encouraged to read the text to check.

	solicitors	barristers
Do they have the right to speak in all courts?	<i>Solicitors can usually only advocate in the lower courts, such as Magistrates Courts; they can pursue higher rights of audience should they wish to do so when they have taken the appropriate training and qualifications.</i>	Yes
Do clients have direct contact with them?	Yes	<i>The client's contact with their Barrister is through the Solicitor who will usually choose which Barrister to instruct and act as an intermediary.</i>
Do they only give advice about specialist areas?	<i>solicitors can specialise but usually do general work as well</i>	Yes
Do they need a law degree to qualify?	<i>No - If you don't have a law degree then you first of all must take a Graduate Diploma in Law (GDL) then take the Legal Practice Course</i>	Yes
Do they have to accept all the work that they are offered?	No	<i>Yes - Barristers cannot turn down work as their Code of Conduct has a 'cab rank' rule – they must accept any case they are offered subject to availability of time, suitability within their own speciality or giving a good reason.</i>
Which profession is smaller (in numbers)?	<i>90,000 solicitors as of 2003</i>	<i>14,000 barristers as of 2003</i>
Can they be sued for negligence?	<i>Yes – professional negligence also breach of contract</i>	<i>Yes - are liable for their advocacy in court as well as their work out of court</i>
Do they always work on their own?	<i>No – they usually work in partnerships</i>	<i>Yes – they are self-employed but work together in Chambers to share costs</i>

Stage 2

Procedure: Students read the text to check their predictions

Use the text as a reading comprehension to raise interest and understanding in the topic. Correct students' answers and deal with any questions. Hopefully the text will provide the answers for most students at this stage.

You could also direct students to these websites for further information:

Solicitors:

<http://www.lawsociety.org.uk/home.law>

Barristers:

<http://www.barcouncil.org.uk/>

There are over 90,000 solicitors and 14,000 barristers – as of 2003

The failure rate in achieving a lasting career is one in three as a barrister. This is probably due to the difficulty in earning a regular wage and the costs of working 'in chambers'.

Not all solicitors practice – about 25% of them work in-house for companies and other profit or non-profit making organisations and the government.

The specialist area of law will determine the amount of advocacy that barristers are involved in. Some areas of law will usually involve more advocacy (for example, Criminal, family and employment) - Commercial usually less so.

Barristers are self-employed and they are responsible for all their own paperwork such as VAT, tax and expenses which is why they work together in chambers to share the costs. Solicitors are usually employed.

Solicitors can usually only advocate in the lower courts, such as Magistrates Courts; they can pursue higher rights of audience should they wish to do so when they have taken the appropriate training and qualifications. Barristers have the right of audience in all courts.

The client's contact with their Barrister is through the Solicitor who will usually choose which Barrister to instruct and act as an intermediary.

For solicitors there is a contractual relationship with the Client and they can be sued for professional negligence. As a result of a decision of the House of Lords in 2000 it was determined that Solicitors are liable for their advocacy in court as well as their work out of court, this ruling also applies to barristers.

Barristers only specialise in a particular area of law, solicitors can also specialise but usually do general work as well.

Barristers cannot turn down work as their Code of Conduct has a 'cab rank' rule – they must accept any case they are offered subject to availability of time, suitability within their own speciality or giving a good reason.

The normal way to become a solicitor is obtain a law degree then pass the Legal Practice Course (LPC); this is a further course of study, designed to prepare you for work in a solicitor's office which takes a year. After this you then spend two years working in a solicitors' office under a training contract.

If you don't have a law degree then you first of all must take a Graduate Diploma in Law (GDL) then take the LPC. You must have a law degree to train as a barrister.

Stage 3

Procedure: Give students the text. It is suggested that the individual paragraphs are cut up as it will be easier for students to work together and discuss and agree the correct order.

Feed back answers - the linking is suggested - and deal with any questions

Complete text:

In England there are two legal practitioners - solicitors and barristers. If you have a problem and need legal advice you go to a solicitor first of all.

Linking: They refers to solicitors

They will give you advice - general or specific - depending on your problem. If you need more specialist advice or need to go to court, your solicitor will instruct a barrister.

Linking: talking about relationship between client, solicitor and barrister

As a client of a solicitor you cannot hire a barrister, a solicitor will usually choose the barrister they consider suitable for your situation and all contact is through them.

Linking: describing a barrister's duties

A barrister is supposed to provide services if requested, unless there is good reason not to. The fees involved can mean that for most clients a highly experienced barrister is very expensive and their fees can increase substantially if the barrister is a QC (Queens Counsel).

Linking: describing what a QC is

A QC is appointed by the Lord Chancellor (the head of the judiciary and also a cabinet minister and member of the Government) from barristers who have been practising for at least 10 years since they were 'called to the bar' (or qualified as a barrister). A QC is also called 'a silk' as once they are appointed they 'take silk' and wear a silk gown in court.

Linking: describing what a barrister wears

All barristers must be robed properly in court and wear a gown and wig otherwise they will not be 'heard' if they try to speak to the judge.

Linking: describing the right of advocacy

The right to audience for a barrister is in all courts but a solicitor's advocacy is limited to the Magistrates' Courts and County Courts. Solicitors can argue cases in higher courts if the case is uncontested or they obtain a Certificate of Advocacy.

Linking: describing liability

A client has a contractual relationship with their solicitor so they can sue for breach of contract or negligence, including their advocacy in court.

Barristers may also be sued for negligence in respect of their advocacy as well the work they do outside court.

Correct order:

1. H	2. B	3. C	4. F	5. A	6. E	7. G	8. D
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Stage 4

Procedure: Students work out meaning of definitions of words used in the texts.

If necessary, encourage students to use dictionaries.

Answers

a professional who gives legal advice and assistance to clients and represent them in court or in other legal matters	a lawyer
to give orders to	to instruct
to argue in court	advocacy
a charge for a professional service	fees
the opportunity to be heard	audience
a failure to act	negligence
not disputed	uncontested
a suite of rooms	chambers
to try to gain or accomplish	to pursue
not working for somebody	self-employed
to decide	to determine
a court order or decision	a ruling
a person legally appointed by another to act as their agent	an attorney
failure to carry out a legal obligation, or a promise	a breach
an agent between people	an intermediary

Stage 5

Procedure: use as a class discussion/presentation

So, what do you think about the value of a system that has two different types of lawyers? What arguments can you think of – for and against? Compare and contrast with your own system.