

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

Stage 1

In England, the rest of the United Kingdom and many former colonies, there are two different types of lawyers – solicitors and barristers.

A very brief history

The Inns of Court in London was the area that became established for lawyers at the end of the 13th century as it was close to the courts of Westminster.

By the middle of the 16th century solicitors traditionally dealt with land and attorneys advised in lawsuits. Eventually these two roles were combined under the title of solicitor, however the right to practise as an advocate in the Royal Courts was restricted to members of the Inns from the 17th century and the profession of a barrister was established.

Before you read the following text, can you guess or do you know what the differences are between solicitors and barristers by answering the following questions:

	solicitors	barristers
Do they have the right to speak in all courts?		
Do clients have direct contact with them?		
Do they only give advice about specialist areas?		
Do they need a law degree to qualify?		
Do they have to accept all the work that they are offered?		
Which profession is smaller (in numbers)?		
Can they be sued for negligence?		
Do they always work on their own?		

Stage 2

Now read the following statements and see if you were right:

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 practise – 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

Imagine you were explaining the difference between solicitors and barristers to someone from your own country. Can you arrange these paragraphs into a logical order?

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.

A. 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.

B. 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.

C. A barrister is supposed to provide services to anyone 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).

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

E. 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.

F. 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.

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

H. 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.

Your order:

1.	2.	3.	4.	5.	6.	7.	8. D
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Stage 4

Now look at the information you have read in the texts so far and see if you can find words that mean the same as the following:

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

Stage 5

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.