

Chapter 2 – Lawyers

Let's start by talking about the people involved in the legal system. There are a lot of different labels which can be used to describe lawyers, some of which I cannot mention here! You have probably heard terms such as solicitor, barrister, attorney and judge. These words do not all have the same meaning, although we could say that they are all "lawyers". A lawyer is really just someone who works with the law. The term could extend to include academics working and researching in the law department of a university. It could also include law students.

The key terms as far as English law is concerned are solicitor, barrister and judge. An attorney is a term which is most commonly used in the US to describe a lawyer. Attorneys generally carry out the tasks which in the UK might be split between solicitors and barristers.

A solicitor in the UK is a trained and qualified lawyer. The vast majority of solicitors will have a law degree and some form of further or vocational training received at "law school", together with a period of on-the-job training. Some solicitors may have studied a subject other than law at university and then completed a conversion course which provides them with the legal training they need before they go on to complete their further or vocational training. (It is worth noting that from 2020, the pathways which a student will take to qualify as a solicitor are likely to change. More information on the new regime can be found on the website of the Solicitors Regulation Authority.)

Barristers take a similar path through their training, again usually starting with a law degree or a non-law degree with an additional conversion course. At this point they split from their would-be solicitor friends and whilst they also complete a stage of vocational training and a period of on-the-job training, this is different to the equivalent training undertaken by solicitors. It is therefore generally after studying a law degree or conversion course that a student of law needs to decide which branch of the legal profession they wish to enter. In practice, they might actually be applying for on-the-job training much sooner than this, whilst they are still studying for their degree.

So what is the difference between these two roles in the English legal system? A popular way to explain it is to compare the legal profession with the medical profession. It is often said that a solicitor is like a GP and a barrister is like a consultant. In other words, a solicitor has a wide general knowledge of the law and a barrister has a deeper knowledge of a particular area of the law. A client might go to see a solicitor with what looks to be a fairly straightforward legal matter, which could turn out to be far more specialist than it first appeared, and therefore require the expertise of a barrister.

Another way that the difference in the two roles is often explained is by reference to their involvement with the court system. If someone takes a legal matter to court then they are said to be involved in litigation. Whilst it is true that a solicitor may have researched, prepared and advised upon a particular matter, generally it is a barrister who stands up before a judge and argues the case to the court. So here we can see another key difference between solicitors and barristers; barristers tend to do more court work than solicitors.

So we have managed to identify two main differences between the two roles. Firstly, solicitors deal with a wide scope of work whereas barristers are more specialised. Secondly, solicitors deal with legal matters right up until the point at which they go before a court, whereas a barrister will actually present the case to the court.

Having said all this, it is worth noting that things have changed quite considerably in recent years. There is far more specialisation amongst solicitors, especially in larger law firms where solicitors may well become expert in very specialist areas of legal practice. Even in smaller practices, firms tend to be split into departments with individual solicitors dealing with certain areas of specialism. In addition, many solicitors present cases to the lower courts (we'll talk more about the court system later in the book). The lower courts are the courts which tend to be the starting point for cases, rather than the higher courts which deal with more complex cases and appeals. Many solicitors have also undertaken additional training to allow them to present cases before the higher courts.

These changes have resulted in a blurring of the line between solicitors and barristers. It is entirely possible that in the future we will see a system more like the US system in which a "lawyer" undertakes both roles.

Finally for this chapter, let's consider what a judge is. This term can cover many roles within the legal system. The most obvious is the judge which you see at the front of a criminal courtroom on television. However, judges also hear a wide variety of other types of cases, which we will come across as we go through the book. Judges are often, but not always, legally trained in that they are usually people who used to be barristers or solicitors. Some judges, such as magistrates (more on these later) are not legally trained at all and almost anyone can apply to take on that role.

For now, the important thing to note about judges is that they are not there to advise the people involved in the court case; their job is to make the final decision about who wins the case and what the outcome of that should be. In more serious criminal cases the decision of whether someone is guilty or not is not made by the judge, but by a jury made up of "ordinary" people. Even in these cases, it is the judge, not the jury, who then goes on to decide what punishment

should be given. Again, we will talk more about juries later in the book.

In this chapter we have looked at the main “lawyers” in the English legal system. Solicitors advise clients on a variety of matters and also present some cases in court. A barrister may well have an expert knowledge in a certain area and will be trained and permitted to present cases to all courts. A judge makes decisions on cases after listening to the legal advisers present the various arguments in the case.