

“Do you consider that the current system of legal education and training can provide the lawyers that this country needs?”

Written by Georgia Beatty

The Legal Profession is comprised of solicitors and barristers. Currently, there are approximately 110,000 solicitors and 12,000 barristers practicing in England and Wales. Thousands of law students enter the legal profession every year, but in order to be able to practice prospective lawyers must go through a long and expensive training process. As lawyers spend so much time in training, it is important that the training system is providing them with the appropriate skills and knowledge they need to practice their profession in the most efficient manner possible. However, criticisms have been made about the current training systems for solicitors and barristers, which could suggest that the system is not as effective as it needs to be. If this is the case, then is the current system of legal education really providing this country with the lawyers it needs?

In order to answer this question, we must first consider the key qualities that a lawyer needs in order to do their job to the high standard that is required of them. Lawyers need to be cost effective and efficient, have the appropriate legal knowledge and practical skills necessary for their profession and to be accessible to all members of the public. Throughout this essay, I will be exploring each of the key qualities listed above and how far the current legal training system supports lawyers in acquiring these qualities.

The Training System:

Both barristers and solicitors have to complete the same basic qualifications. Usually a law degree is required in order to become a lawyer, but students with a degree in a different subject may take the Common Professional Examination (CPE) which provides them with an extra year of training in core subjects. However, this is where the similarities between the training processes for the two professions end.

Solicitors:

After gaining their law degree or passing the CPE, a law student who wishes to become a solicitor will move on to the Legal Practice Course. This develops practical skills such as interviewing clients, negotiation and advocacy. After completing this course, the student will then enter a 2 year training contract in a solicitors' firm or other legal organisation such as the Crown Prosecution Service. During this time, the student will do their own work while supervised by a solicitor, and will also complete a 20 day Professional Skills Course which will build on the skills they learnt during the Legal Practice Course. After this 2 year training period, the student will qualify as a solicitor.

Barristers:

Law students who have obtained their law degree or passed the CPE and who wish to become barristers will undertake the Bar Vocational Course. On this course, students will study practical skills such as opinion writing, interviewing skills and advocacy. They will also study specific areas of law related to the profession they wish to enter, for example civil litigation, criminal litigation and the law of evidence. They must also join one of the four Inns of Court. After completing the Bar Vocational Course, the student will be “called to the Bar” and will be officially qualified, but will still have to complete a practical stage of their training called pupillage. This involves becoming a pupil to a qualified barrister and shadowing them in their work. After the first 6 months of pupillage, the

student may conduct their own cases in court.

Efficiency and Cost-effectiveness:

Unlike in most countries, the legal profession in England and Wales is divided into two separate professions – barristers and solicitors. As shown by the training procedure, the two professions are kept separate even at a very early stage. This is often seen as a disadvantage of our legal system, and critics argue that this division in the legal profession reduces the efficiency and cost-effectiveness of the service. Some argue that the two professions should be fused together.

Firstly, the fact that two lawyers are working on one case leads to unnecessary duplication of work and discontinuity, as the case is not handled by the same person from start to finish. However, some argue that the inclusion of a separate barrister in the case provides a valuable second opinion.

Furthermore, as the legal profession is split, a client is effectively hiring two lawyers instead of one. Fusing the two professions would mean that only one lawyer is necessary, thereby reducing the cost to the client.

However, the argument for fusing the two professions has become less important since the Access to Justice Act 1990 granted wider rights of advocacy to solicitors and gave barristers the right to do preliminary work before a case, meaning that it is possible for a case to be handled by the same person from start to finish. In addition, the Legal Services Act 2007 should introduce Alternative Business Structures by the end of this year, which will allow barristers and solicitors to work together in the same legal business for the first time. This should improve continuity when handling cases.

I think that it is a good thing that there is now more of an overlap between the two professions; however this overlap is not currently reflected in the training process. If barristers and solicitors are going to be working together and performing similar functions, it makes no sense that they are separated in their training so early on. There have been a number of suggestions for improving the system to make sure that legal talent is not wasted by this division in the training process. In 1994 Lord Steyn, the chairman of the Lord Chancellor's advisory committee on legal education, suggested that there should be "joint training. All those qualifying would then work for six months or a year at a solicitors', with those who wished to become barristers going on to do extra training at the Bar". I think this would be a good way to improve the system, as barristers and solicitors are more likely to understand the work done by each other if they have been through the same training, and barristers will gain experience in other areas of law before going on to train at the Bar, which will undoubtedly be useful to them throughout their careers. This should lead to a wider understanding of how cases are dealt with by both parties throughout the legal profession.

Legal Knowledge and Practical Skill:

Another major concern with the current training system is that students who do not have a law degree and enter the profession via the CPE only study one year of formal law. This raises questions as to whether students that qualify through this route have the sufficient legal knowledge to fulfil the duties required of them. One critic argued that the public would not be satisfied if doctors only studied medicine for one year, so why should this be acceptable in the legal profession?

The problem affects a significant portion of the legal profession; 25% of solicitors alone gained their legal qualification through the CPE, so it is imperative that a solution is found. Personally, I think that non-law graduates should have to spend more time in training to make sure that the legal knowledge they have is equal to that of their law-graduate counterparts. Perhaps the CPE should last for 2 or 3 years and cover a wider range of topics in more detail. This would mean that it would

take longer for non-law graduates to qualify, but it would ensure that all students entering the profession have the same standard of knowledge.

Moreover, there are worries that the amount of time law students spend doing practical work may be insufficient, as a law degree offers very little in the way of practical training. The training processes for both solicitors and barristers are beginning to take a more practical approach with the Legal Practice Course and the Bar Vocational Course, however this is only one year's worth of practical experience compared with the many years spent doing theory work. Training contracts and pupillage are ways in which solicitors and barristers can gain more practical experience, however the author and legal scholar Michael Zander argues that experiences of these practical training periods can vary greatly from student to student, ranging "from excellent to deplorable depending on where they are undertaken". This means that the level of practical knowledge acquired during these periods is not consistent for every student. Furthermore, there is an oversupply of law students who will often find it difficult to obtain a placement in a training contract or pupillage in the first place. In order to ensure consistently good practical experience for students across the board, universities should include practical elements as part of their courses, for example interviewing skills, drafting legal documents or mooting. This would give students the practical experience they need along with the theoretical knowledge.

Accessibility to the Public:

Studying law can be very expensive; fees for the Legal Practice Course or the Bar Vocational Course can be upwards of £8,000, on top of the cost of taking a law degree or the CPE. This means that students from a poorer background are often unable to become a solicitor or a barrister, which prevents the legal profession from being as diverse as it could be. As a result of this, the legal profession has a very middle-class image attached to it, which can put people off using lawyers. This undermines the fundamental purpose of lawyers and the legal profession – to provide an open system of justice to all members of the public.

A more diverse legal profession would make people less intimidated to hire a lawyer, meaning that lawyers will be able to perform their duties more efficiently. In order to achieve this, women and ethnic minorities need to be better represented. Although the numbers of women and members of ethnic minorities entering the legal profession have increased in recent years, they still have trouble reaching the higher positions. A wider cross section of people in the legal profession would also eventually lead to a better representation of society in the judiciary, as many members of the judiciary are selected from members of the legal profession.

A few attempts have been made to improve the diversity of the legal profession. For example, some universities are now offering 4 year law degrees with a practical qualification included. This should cut down costs to students as they no longer have to pay for the Bar Vocational Course or the Legal Practice Course, which should encourage students to apply to study law who would not have been able to afford it otherwise. Also, mature non-graduates can now become a solicitor by becoming a legal executive first. This is a longer route than by taking a law degree or the CPE, but should bring a wider range of people into the profession as no degree is necessary. Legal executives work as assistants in solicitors' firms and must have passed the Professional Higher Diploma in Law, which is set at a degree-level standard. After passing this exam and working in a solicitors' firm or other legal organisation for at least 5 years, a legal executive may become a Fellow of the Institute of Legal Executives. This means that they can now go on to become a solicitor.

Despite these efforts, I think that more needs to be done if the legal profession is ever going to

become a true cross section of society. As the current system of training is too expensive, combining the theoretical and practical elements of law into one course might be a more cost effective way of providing legal education. This is also an argument for the fusion of barristers and solicitors into one profession; if all lawyers went through the same common training process and could practice all basic areas of law, there would be no need for them to go on to specialise immediately if they could not afford to do so.

Alternatives to Lawyers:

Some argue that lawyers are not even necessary in today's legal system and that voluntary organisations such as the Citizens Advice Bureaux can do the job just as efficiently. The Citizens Advice Bureaux aim to provide free advice on all sorts of issues, including legal matters, to anyone who needs it, and are often seen as more approachable than lawyers. However, the organisation lacks funding and is heavily reliant on volunteers, who are trained in legal matters but are not legally qualified. Although the Citizens Advice Bureaux provide an extremely useful service, I do not think that they are an adequate replacement for lawyers. Despite the flaws in the current training procedure, I believe that it would be very difficult to find an alternative to lawyers that is as effective as the current system as the law is a complex subject which requires years of in-depth study to fully understand.

Conclusion:

The training process that law students have to go through in order to qualify as a lawyer is lengthy and expensive, but does it produce the lawyers that this country needs?

In my opinion the answer to this question is no. After thorough analysis of the current legal training procedure, it is clear to see that lawyers are not always provided with the key qualities that they need in order to practice law competently. Under this system, there are unnecessary separations between barristers and solicitors, creating a legal service that is inefficient and not cost-effective. There are also inconsistencies between the level of practical experience and legal knowledge obtained by each individual student, due to the fact that students without a law degree spend less time learning legal theory than students with a law degree, and each student undertakes the practical element of their training in a different place. Lastly, the cost of training puts many people off studying law, leading to a legal profession which is not as diverse as it should be.

If lawyers in the legal profession do not have these essential qualities, it hinders the efficiency of the legal service. As I have previously mentioned, Law is an incredibly complex subject which is a prominent feature of society and which has a strong influence on our daily lives. Therefore, it is vital that the lawyers who make up the legal system of this country go through a training process which prepares them to do their jobs at the highest standard possible. For the training process to be truly effective in creating the lawyers that this country needs, it may be necessary to reform the current legal education system.

Bibliography:

“The English Legal System” – Jacqueline Martin

“OCR Law for AS” – Jacqueline Martin (e-book)

The Legal Services Act 2007:

<http://www.sra.org.uk/sra/legal-services-act/lisa-questions-faqs.page>

<http://www.legislation.gov.uk/ukpga/2007/29/contents>

Strode’s College Laws lesson materials – The Legal Profession

Bar Vocational Course and Legal Practice Course:

<http://business.timesonline.co.uk/tol/business/law/student/article3856425.ece>

By Georgia Beatty, Block G