

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

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### Introduction

In Britain, the legal profession is a prestigious institution steeped in tradition. As a profession which takes the responsibility of arguing for and upholding justice, it is vital that the legal profession is well maintained. This requires lawyers with a range of skills, including the ability to represent a client well, be cost-effective, organised, efficient, thoroughly legally educated and committed.

For the purposes of this question, a lawyer can be defined as a barrister, solicitor or judge (though this answer focuses mainly on barristers and solicitors). All lawyers go through a long training process, although solicitors and barristers must complete separate legal education. Both sections of the profession are expected to pass through three stages; the first being the academic stage when the law is learnt, the second being the vocational stage when skills necessary for the profession are learnt and the final stage being the professional stage where the student will practise with fully qualified counterparts in the legal system.

### Does legal and vocational training provide lawyers with the skills necessary to be a competent lawyer?

It is widely recognized that there is a need for both legal and professional training in qualifying as a lawyer. Unlike many careers, the legal professional requires passable ability in many areas other than simply understanding of the law. For example, what use is a barrister who does not know how to extract information from a claimant? A lack of this information would hinder their chance of winning the case. It is therefore important that lawyers receive training in areas such as there. It has been argued that vocational training should take more of a role in legal education, with experts such as Professor Michael Zander calling for practical training to begin as early as degree level.

Clearly, legal knowledge is vital for all lawyers. An insufficient legal knowledge would amount to gross incompetence. There has been concern raised over the fact that lawyers may be able to qualify having done just one year of full law.

All potential lawyers must have a degree. However, this does not specifically have to be a law degree. Many solicitors and barristers qualify with a degree in another academic subject such as History, English or Sociology. Those who enter the legal profession through this route must then take the Common Professional Exam which is essentially a one year crash conversion course in key areas of law like Tort and EU law. For many, this is simply unacceptable. The question is often raised: would a doctor be able to qualify with just one years training in medicine? The education in the law is quite possibly the most important stage of training. Should a lawyer with only 12 months be allowed to represent somebody whose liberty is at stake? This is possible in a criminal trial, although it is also probable that a solicitor or barrister

representing a client who faced a possible jail sentence would have practised long enough to have learnt the law in that area.

Indeed, it could be argued that there is simply no need to do a full three year law course when lawyers – and especially barristers who will only experience real advocacy when practising professionally or complete a pupillage – will learn most of their skills through practising in the profession. It may be at this point that they specialise, and why should a solicitor spend years studying topics of law that he or she will never need to know?

A further counter-argument to the point that conversion students may lack legal knowledge is that whilst their degree in a different subject may leave a lack of study in law, it does allow for new skills to be brought into the profession. History students would bring a critical eye and an analytical brain, English students could excel in the wording of arguments and Science students may bring an attention to detail and logical brain necessary for the in depth examination of legal contracts.

In its 1971 report, the Ormrod Committee on legal education stated that the entry route into the legal profession should be primarily through a law degree. However, this is not necessarily the case with an estimated 25% of solicitors today having followed the conversion course route.

For those students who do take a law degree, a standard three year course is often taken. In this course, students will study key areas of law in more depth than the Common Professional Examination allows for. As aforementioned, Michael Zander has asserted that a law degree should begin to teach students the vocational skills required by the legal profession that are usually acquired in a vocational course which follows. The other side to this argument is that many students who take a law degree are in fact not looking to take a career in law and are simply studying through interest or because law is a well accepted degree by employers in most professions.

It is my personal opinion that a law degree should incorporate skills like drafting of letters and contracts, interview technique and keeping of accounts. These skills would be useful to any law student, even if they were not planning to continue into a career in the law. A further advantage of this idea would be that it could potentially allow for the redundancy of the expensive – at £9,000 a year for solicitors – and time consuming Legal Practise Course. This would allow students to pay full graduate fees as opposed to post-graduate degrees. However, this idea would have to exclude barristers who quite clearly need specialist training in advocacy, and it would do nothing to solve the problem of the forced early choice between the two branches of the legal profession.

I would further argue that there is little need for an entire year of vocational training. Accountants do not take a year to learn how to write a letter or how to manage their time; neither do those training to be a doctor take a year to learn how to deal with patients. These skills are acquired over time through learning the subject and practising in professional conditions. This is another reason why the LPC should be incorporated into the degree course. The skills that would otherwise be honed on the vocational course would be picked up through a pupillage, which should last longer than the current two years.

If the year spent learning practical skills were to be spent in a pupillage of some variety, it would allow for solicitors to pick up the necessary skills whilst practising in the law fully, making them far more competent when they come to join the profession. This would greatly benefit the legal system and bring a higher level of experience to the profession when trainees are usually considered to be seriously lacking in experience. This, in turn, would provide the country with a better class of lawyer.

### Does the legal education system provide an efficient system?

The legal system in general is often criticised as being inefficient and as having a lack of cost-effectiveness. The Woolf report of 1995 called for more efficiency in the civil justice system, although it generally recommended minor changes to the system. In my belief, there is one major problem that obstructs the efficiency of the legal system in England and Wales, and this is born directly out of the training of lawyers.

Traditionally, barristers and solicitors have always been separate professions. The arguments in favour of this split revolve around the fact that it allows for greater specialisation, therefore allowing for better service and representation. Unfortunately, the use of two lawyers instead of one creates a barrier in the way of efficiency. It is also much more expensive paying two lawyers, when one could easily suffice.

This split of roles is originally created by the training which lawyers must undergo. As soon as they have finished their degree or conversion course, they are forced to choose between one of the two, as they must decide on the Legal Practise Course (for solicitors) or the Bar Vocational Course (for barristers) if they wish to progress.

There is a strong argument that this choice should be left longer or not made at all. It would save a waste of talent, when solicitors easily capable of advocacy would be denied the advocacy training they wished to take. It would also allow for the slow joining of the two branches, which would bring many benefits to the legal system, as discussed below.

In countries like America, which operates under a different legal system, one lawyer will act as a solicitor and a barrister. This allows for greater continuity in the case, with the lawyer preparing arguments right from the start, meaning a better constructed case. It also makes things easier for the client who, under the British system, would have the hassle of communicating with two different lawyers. In a legal system which is already ridiculously expensive, it is my opinion that it is totally pointless having two lawyers. If legal authorities were really as concerned about “access to justice” as they claim, they should have realised that combining the two roles would massively reduce costs in a case and make more people able to afford legal action when they require!

On the other hand, a merging of the two roles would see a loss of the specific skills of each. This would particularly impact advocacy, which is an art that many believe to be vitally important. Allowing barristers time to specialise means that the standard of advocacy is much higher and therefore improves the legal system in general. Which is more important, justice or the extra money paid for proper advocacy?

This problem appears to be gradually solving itself. There has been a growing trend in recent years for solicitors and barristers to take on each others work. Barristers have always been allowed rights of audience in the Magistrates' and County Courts and are continuously pushing for further rights of advocacy in the higher courts. Solicitors may gain a certificate of advocacy under the Courts and Legal Services Act 1990, and this is given to solicitors with experience of the lower courts who must first take a short course and passed an examination on the rules of the use of evidence in the court. In 2006, four solicitors were appointed Queen's Counsel. The same theory works vice versa through direct access. Facing criticism for the inefficiency and unnecessary cost of having two lawyers involved, the General Council of the Bar allowed any client to access a solicitor directly to deal with a case, rather than using a solicitor to contact the barrister.

Considering the fact that both careers are slowly becoming one, and the great inefficiency caused by the fact that both can simultaneously exist, I would argue that there should be no specialist training for lawyers, and they should all be educated in the same way. Advocacy could become a specialisation of the new lawyer, in the same way that a solicitor specialises now. This would help drastically modernise the legal profession.

### Lawyers as a part of Society

I believe that in order to serve the needs of the country, legal education must play an important role in society. This means primarily that the legal profession should be a model profession: hard working, multicultural, socially diverse and accessible to both those who want to join it and to those who want to use it.

One of the greatest criticisms of the legal profession in general is that it is dominated by the middle class. This is a very serious problem. The legal practise can not be taken seriously until it learns to accept those from a lower class. Put simply, it is far too difficult for those from an underprivileged background to join the profession. Not only does this invariably mean a lack of social diversity, it means that the profession is missing out on some of the best lawyers.

For example, if a young man or woman has managed to afford the already expensive university fees and has received a first from a reputable university, there is a great chance that they will simply not be able to afford the frankly extortionate £9,000 fee for the Legal Practise Course, let alone the utterly ridiculous £25,000 Bar Vocational Course. This way, the law in general has lost out both in increasing the social diversity which it has been seriously lacking, and a first class student. They would have to settle instead for a more affluent student who received a lesser degree, but could afford the charges. Does this sound like a progression for the legal profession?

The clear answer to this is to cut the costs of studying the law dramatically. This may mean the sacrifice of some wages and a possible lack of willingness for experts to teach in vocational areas, but would this not be worth it? It is hardly fair to say that there is no money in the profession that could be spared.

A further problem caused by the middle class domination of solicitors and barristers posts, and the general nature of the profession itself is the elitism that is bred through

the training of a prospective lawyer. A very serious problem for those wishing to make a claim may be a fear of lawyers. The fierce tradition of the legal system can lead to snobbery. This in turn makes them harder to access, thereby reducing access to justice. This is clearly unacceptable. There is a similar problem with the training of women in the profession. It is difficult for many women to fit a potential career around care for a child and it may be hard to finance legal education.

It is my view that until the training system is altered to allow greater diversity, it is not fully meeting the needs of the country and of society. It is providing a group dominated by middle class males, which can be difficult to access, understand and join. This is not benefiting the law as a whole, it is doing the opposite. Potential high quality lawyers are losing out, and will continue to, until the high cost and uncompromising nature legal training is adapted to fit the needs of all.

### A concluding Judgement

It cannot be denied that the current legal training system leaves much to be desired in terms of the training of the lawyers that this country needs. Whilst the education to be undertaken is generally rigorous, thorough and well taught, there are some minor changes that I would make, including ridding the use of the vocational stage of training and working it in at degree level, allowing students to get more practise as part of a pupillage and therefore entering the profession with more experience.

It is clear, however, that the legal system is not as efficient as it should be and this is largely down to the issue of splitting solicitors from barristers. I argue that the training of the two separate professions should be abolished and that all legal students should follow the same course. This would help rid the system of the great waste of money and time which is caused by having separate lawyers for advice and advocacy. This should be a major issue for consideration.

A final point of interest is the need for the legal training system to provide a diverse profession. It clearly fails to do so, and in my view this leads to a number of problems. Firstly, talented but underprivileged students may miss out because of the extremely expensive costs of the training and secondly, this increases the view of lawyers as stuffy, middle class snobs, making them seem aloof and difficult to deal with to the public. If this problem could be removed, I believe that the profession would function much more smoothly and much better than it does at present.