

Legal Education for Specialisation in England and Wales

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The Legal Profession in England and Wales is divided classically between solicitors (who have direct lay client contact) and barristers, who are a referral profession who provide consultation and advice and also represent lay clients in court. The judiciary is not a separate profession, as it is in Civil Law countries and there is no separate education for judges who are selected largely from barristers, but recently also from solicitors, on the basis of experience rather than qualification. There are also some sub professions who are allied to the legal profession including legal executives (originally law clerks), notaries (who have a much more limited role in the Common Law and until recently had no training qualification) and scriveners public who are broadly similar to notaries but operate in different geographical areas. There are some seventy thousand practicing solicitors and some eight thousand practicing barristers.

Specialisation, in the sense of further specialisation beyond initial qualification as a solicitor or barrister, in formal terms, is still in its infancy. However, in reality more than eighty percent of solicitors say that they are specialised in one or two major areas of work and the bulk of law and detail of regulation and procedure are such that it is difficult to maintain information and competence in a wide spread of areas of work.

Informal specialisation has been assisted by changes in conduct regulations in the late 1980s and early 1990s which allowed advertising by solicitors. There is not much point in specialising if you cannot tell people about your specialism.

Specialisation has taken two forms: the panel and the list. In certain areas such as family work, specialisation groups have been formed (Solicitors Family Law Association) and anybody who claims to specialise in those areas may join such a group. In other areas, such as personal injury, specialist panels have been formed and there are entry level tests for existing lawyers to qualify onto these panels. Such areas include clinical negligence, mental health and education law. In general the panels expect to be shown an amount of experience in an area of work (flying hours) and also some proof of the quality of the work done through

providing file specimens or a portfolio of work. In none of these cases, however, is there any further legal education organised for someone to qualify in this way as a “specialist”.

Recently there has been one area of specialised practice which comes as an addition to the solicitors’ qualification – higher court rights of advocacy. The 1990 Courts and Legal Services Act allowed solicitors to qualify through a course and examination to carry out higher court advocacy in the same way as barristers. A new relaxation of these rules in September of 2000 will make it easier for solicitors to go through a two part course some of which can be taken as part of qualification, or after qualification as a solicitor and this will have the effect of qualifying solicitors who pass through this course to act as advocates in the High Court.