INTRODUCTION

Think of a British barrister and you probably think of Rumpole of the Bailey. The Wordsworth-quoting English gentlemen with ash from a small cigar on his waistcoat but an unerring knack of getting to the truth of a case which usually means getting his client off. Or perhaps you think of John Cleese in A Fish Called Wanda: mixing the bewigged tradition of an English barrister with an incongruous affair with Jamie Lee Curtis.

The truth about the British legal profession is more prosaic than these caricatures. But there is truth in the depiction of the high degree of forensic skill and court craft of the modern English legal profession. It combines a high degree of knowledge, experience and ability with the better parts of old tradition; integrity, independence and fearlessness.

First, we should look at the structure of the legal profession in England and Wales. Unusually, but not uniquely in Europe, the profession of lawyer is divided into two branches: solicitors and barristers. Whilst some other countries in the world adopt a similar system the idea of having two sorts of lawyers, particularly to deal with a case in court, is not common in the rest of the world. Those outside of the United Kingdom find the system difficult to understand. When do I go to a solicitor? Why have two lawyers? The purpose of this article is to explain how the system operates and to give some practical guidance to potential clients how they can best use this legal system.
1. BARRISTERS AND SOLICITORS - THE DIFFERENT FUNCTIONS

The essential difference between barristers and solicitors is that barristers operate on a referral basis providing expert services in addition to those provided by the solicitor. Usually this means representation in court or providing an opinion on the law or the prospects of a case. Barristers do not generally receive cases direct from lay clients (although the position for international clients is different, as I explain below).

Solicitors on the other hand are the first port of call for clients with a legal problem. They deal with a wide variety of issues from property transactions to business contracts, matrimonial cases and drawing up of wills and with litigation although in all but the simplest cases they will almost certainly call in a barrister to assist in the litigation.

The traditional distinction is thus something like general medical practitioners and specialist consultants. The "patient" will see the general practitioner who in many cases will be able to deal finally with the problem. Those cases which require more specialist treatment or are more difficult will be referred to a specialist. This way the pool of barristers is available to the clients of solicitors up and down the country. Of course the large firms of solicitors have substantial specialist departments dealing with tax, property for example as well as litigation. In the firms too however, litigation is likely to be carried out with the assistance of a barrister. No serious case indeed is likely to be conducted in court without the advice of a barrister and the use of a barrister at the hearings.

The essence of the relationship, though, especially these days is one of team work. Except in the simplest cases the solicitor is likely to consult the barrister at an early stage in the litigation. They will together discuss the merits of the action, the evidence likely to be required and the overall strategy to be followed. During the run up to the trial itself the solicitor will be involved in assembling the documents for the hearing and finding and interviewing the witnesses. From this raw material the barrister will finalise witness statements, advise which documents should finally be put before the court and prepare for the hearing. This team, therefore, combines the great organisational skills and common sense of the good litigation solicitor with the expert advocacy and advisory knowledge of the barrister.