



VICTORIAN BAR

# BECOMING A BARRISTER

INFORMATION FOR STUDENTS





A barrister is an independent lawyer with specialist advocacy and related legal skills. A substantial part of a barrister's work involves appearing and arguing cases before courts and tribunals, or appearing in other dispute resolution forums such as arbitration or mediation. Barristers specialise in court procedure and the rules of evidence, and will often be involved in giving legal and strategic advice in matters in which they are briefed. It's a diverse, interesting, challenging and rewarding career.

This brochure has been prepared to help you understand more about what barristers do and how to become a barrister.



VICTORIAN BAR

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 "STUDENTS"





# IS A BARRISTER A LAWYER? WHAT IS AN ATTORNEY? WHAT IS 'COUNSEL'?

In Australia, 'lawyer' refers to a person who has completed a law degree and has been admitted to practise law by a Supreme Court. It is a collective term for those who are authorised to give legal advice – this includes solicitors and barristers but may also include judges and legal academics, depending on their qualifications and experience.

Attorney is a word used in the United States to mean lawyer – it is not commonly used that way in Australia. In Australia an attorney most often refers to someone authorised to make decisions on behalf of another person under a 'power of attorney'.

'Counsel' is the term given to a person appearing in a case on behalf of someone else. Because this is the focus of most barristers' work it is generally used as another term for a barrister.





# WHAT ARE THE KEY DIFFERENCES BETWEEN A BARRISTER AND A SOLICITOR?

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While barristers and solicitors are both lawyers (they are both qualified 'Australian legal practitioners' within the meaning of the Uniform Legal Profession Law (Vic)), the services they provide are different.

A barrister is self-employed and, unlike a solicitor, is not permitted to practice in partnership, or be affiliated with, any other legal practitioner(s) nor to employ such a person(s). Solicitors may advise clients on a range of issues not necessarily associated with dispute resolution or court work – for example, the preparation of a will of the lease of a business premises. The relationship between a solicitor and barrister is similar in many ways to a general medical practitioner and a specialist. A client will often see the generalist first and, if necessary, will then be referred to the specialist for particular issues.

Generally, barristers are engaged or 'briefed' by a solicitor to act for a client but in some cases the client (either an individual or in-house counsel) may brief a barrister directly. A barrister undertakes **appearance** work (such as presenting a case in court) and **advice** work (such as advising a client on an issue). Barristers usually work from an office known as 'chambers' within a building which they share with other barristers.

The professional conduct of barristers is governed by specific rules which require barristers to maintain exemplary ethical standards, to practice competently and to honour their duties to the court and to their clients. One of the most important rules, which underpins the independence of the barrister and differentiates the barrister from a solicitor, is the 'cab-rank' rule, which requires a barrister (when requested) to act for any client provided: (i) the matter is within the barrister's field of expertise; (ii) the fee is within the range of fees normally accepted by the barrister and (iii) the barrister has the capacity to undertake the work.

Judges rely on what a barrister submits in court. It is very important that barristers are honest, thorough and correct in their work. Barristers hold an important place in the legal system and there are strict rules about how a barrister should behave when at work or in public.

Usually a barrister will be a member of one or more of the independent bars of Australia. The Victorian Bar is the professional association representing barristers who practise in Victoria. There are approximately 2,100 barristers currently practising in Victoria. By contrast, there are over 20,000 Victorian solicitors.





## WHAT IS A SILK, SENIOR COUNSEL AND A KING'S COUNSEL?

Senior Counsel is the collective term used to describe a barrister whose expertise, skill and exemplary professional conduct has been recognised through their appointment by the Supreme Court of Victoria to the office of Senior Counsel for the State of Victoria. Upon receiving this appointment, the barrister may choose to be recognised as a member of 'Senior Counsel' (SC) or as a 'King's Counsel' (KC). In either case, the barrister will then be known as a 'silk' and will enjoy the same professional seniority and privileges. The term 'silk' is used because Senior Counsel traditionally wear robes made of silk not wool.

'Junior counsel' is a term that is typically used to describe barristers who have not been appointed as either King's Counsel or Senior Counsel. Junior counsel wear robes made of wool.





## WHY DO BARRISTERS WEAR WIGS AND ROBES?

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One of the most well-known aspects of being a barrister is what they wear. When out of court, barristers wear suits like most other professional people. However, when in some courts, barristers, like judges, wear special court robes. A barrister's court dress consists of a wig, a black gown and two white bands around the neck called a 'jabot'. Lawyers in New Zealand, South Africa, Hong Kong, Canada and other places that have a historical connection to England and English law have all inherited the English tradition of wearing special dress to court.

There are a number of reasons for this. Historically, appearing in court meant just that: appearing in a dispute on behalf of a subject at the King's palace. When the King appointed judges to hear disputes between subjects, the manners, dress and style of speaking was just like appearing before the King himself – very formal. As in the past, court hearings are important and serious occasions, and the clothes that barristers wear in court reflect this.

## GOWNS

Historically, gowns (or 'robes') have been a sign of "learning" – in other words, of having some formal education. Barristers, of course, have to study for a long time and traditionally wore gowns to show that they were learned.

KCs or SCs are often referred to as 'Silks' referring to their silk robes. In Victoria, Silks also wear a Silk Rosette attached to the back of their robe

Junior barristers' robes are more commonly made of wool. They have no rosette attached to the back of their robe.

## WIGS

The tradition of barristers wearing wigs has its origins in the seventeenth century. France's King Louis XIII (1601- 1643) is said to have begun the fashion of wearing wigs, mainly to conceal his premature baldness. Because he was the King (and everyone thought he was fashionable) others began to wear them in the French Court.

England's King Charles II had lived in France as a young man and liked the fashion of wearing wigs so much that he introduced them to England in about 1663.

Many members of the King's Court started wearing wigs to be fashionable. By about 1860, barristers and judges started wearing them too.

While fashions have changed and most people stopped wearing wigs, barristers have continued to do so, although in commercial matters, its use is becoming less frequent. In criminal matters, the wig continues to be worn and provides a degree of anonymity for those who wear it.

## JABOTS OR BANDS

The jabots (or bands) were traditionally worn to conceal the collars of the shirt. They are white, starched rectangular strips of cotton tied around the collar of the shirt and hanging down at an angle.





A man and a woman in business attire are walking past a building. The man is wearing a dark suit, a white shirt, and a red tie, and is holding a folder. The woman is wearing a dark blazer and a white shirt. The building has a sign that reads 'MELBOURNE MAGISTRATES'.

## WHAT SKILLS DO I NEED TO BE A BARRISTER?

- self-motivation;
- attention to detail;
- excellent listening skills;
- ability to work both independently and collaboratively;
- good organisational skills; and
- good communication skills.

Ways of sharpening your skills in these areas include:

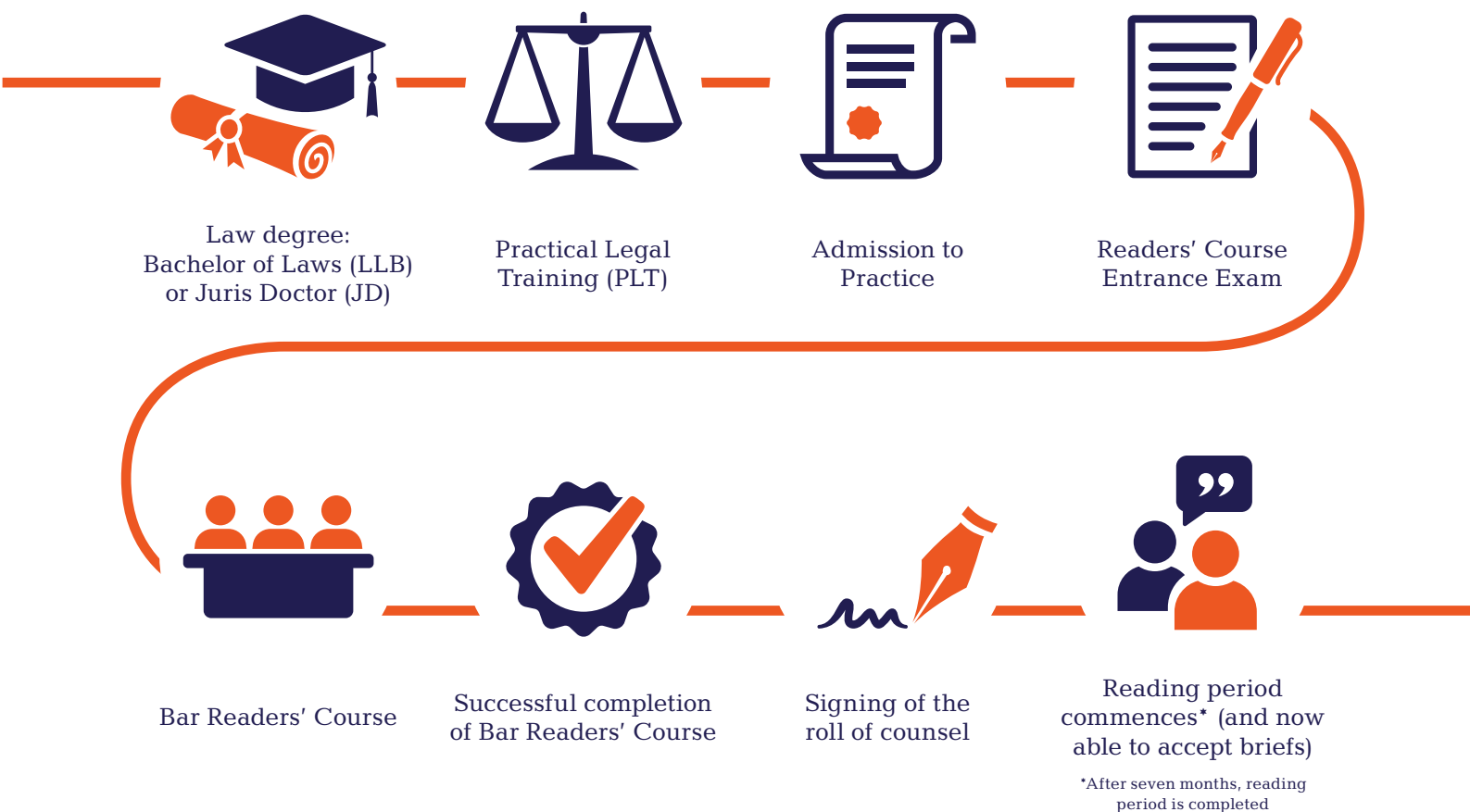
- debating;
- public speaking;
- mooting and client interview competitions;
- trial advocacy competitions; and
- working on your organisational skills.

## HOW DO I BECOME A BARRISTER IN VICTORIA?

To become a barrister in Victoria you must:

- be a practicing lawyer;
- pass the entrance examination set by the Victorian Bar to qualify for a place in the Readers' Course;
- satisfactorily complete the eight-week Readers' Course; and
- work under the guidance of a senior barrister who is an approved mentor, at the Victorian Bar, for a period of seven months following the completion of the Readers' Course.





## PATHWAYS TO THE BAR

Other than the compulsory education and accreditation steps there is no 'one' path to becoming a barrister; some barristers come straight to the Bar after admission to practice, some come to the Bar after many years as a solicitor. Some spend time as an Associate to a Judge, but many do not. You can apply to sit the Readers' Course entrance exam as soon as you are admitted to practice or after practise as a solicitor.

What is probably most helpful is to have an idea of the area of practice you would like to specialise in at the Bar and speak to junior barristers who practice in that area about their path. If you are not yet sure of what area of practice you might like to specialise in it might be good to spend a year or two at a firm where you get exposure to a range of matters, including some oral advocacy in courts or tribunals. It may also be a good way to meet barristers who are briefed by the firm and talk with them about their experiences.

## WHAT DOES A BARRISTER'S CLERK DO?

A barrister's clerk performs a range of administrative and business development functions for a group of barristers (referred to as a 'list'). Whilst it is not mandatory to have a clerk, it is a good idea, and for new barristers, in particular, to assist them administratively, to source relevant work to assist in practice development.

Generally speaking, a clerk will:

- liaise with solicitors about barristers' availability and professional rates;
- refer solicitors' enquiries concerning new work to barristers, including the availability of counsel and diary bookings;
- answer telephone calls and take messages for barristers;
- send barristers' invoices to solicitors; and
- bank payments to barristers and follow up on debtors.



## WHAT IS A TYPICAL WORKING DAY?

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In short – there is no such thing! It varies depending on the area of practice the barrister is working in, the jurisdiction the brief is in, and the seniority and experience of the barrister.

Some barristers spend a great deal of time in court – perhaps a bail hearing, a plea, a trial or an appeal. Other barristers do a significant amount of work in chambers – perhaps conferring with a client, preparing witness statements or affidavits, preparing an advice, preparing cross-examination or drafting submissions. It is this variety that makes the job so appealing to a lot of people.

To the extent there is a 'typical' day for a junior barrister, however, it may include: arriving at chambers about 8.00 am and preparing for court that day. At about 9.30 am the barrister may go to the court building and negotiate with his or her opponent to negotiate aspects of their case. If the case cannot be resolved the barrister may go before the court, take evidence from witnesses and address the judge about the law and the evidence. At approximately 4.00 pm court finishes and the barrister will go back to chambers to prepare for the continuation of their case or to work on another case.

A barrister's work is much like an iceberg: 90 percent of the work that goes into a case is preparation done outside of the court; only the last 10 percent involves the appearance.

## WHAT IS 'PRO BONO' WORK AND DO BARRISTERS DO IT?

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'Pro bono' is a Latin term which comes from the longer phrase 'pro bono publico' meaning "for the public good". It refers to work lawyers do for which they are not paid.

Many barristers are aware that they are very privileged to benefit from education and opportunities not available to everyone in society. For this reason many barristers spend time giving back to the community by working for clients that need legal assistance but who cannot afford to pay the fees. In this way, barristers play an important role in ensuring that everyone can have equal access to justice.

## WORK-LIFE BALANCE

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Barristers are self-employed which means they have some flexibility in the hours that they work. By managing their workloads barristers may choose how much or how little they work. However, being a barrister often involves unpredictable hours; a brief may be received late the night before a hearing requiring barristers to spend the night preparing. Trials regularly involve late nights and early starts. Barristers may choose to focus primarily on appearance work or advice work in order to shape their practice and workload to suit their other commitments.





## HOW CAN I GAIN SOME EXPERIENCE WITH OR INSIGHT INTO BEING A BARRISTER?

There are a number of ways to gain an insight into the work of a barrister. You might be able to watch a particular barrister (shadow the barrister) for a few days, help to do some research for a barrister or participate in a mentoring scheme.



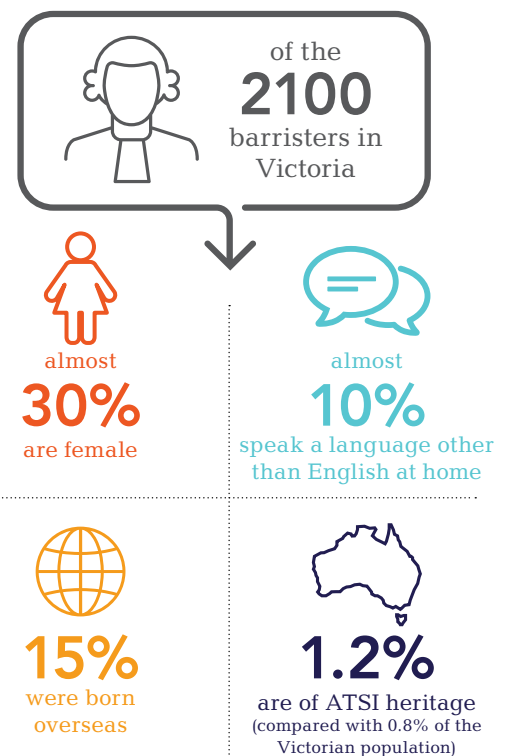
In the first instance try speaking to your university law students' society or careers staff. Many universities have established mentoring schemes or other relationships with the Bar. If your university doesn't have a mentoring scheme, you can reach out to the Student Engagement Committee by searching 'students' at [www.vicbar.com.au](http://www.vicbar.com.au).

There are also a number of programs organised directly by the Bar. For example the Women Barristers' Association, in conjunction with Victorian Women Lawyers, has a mentoring program for female law students. There is also an Indigenous Lawyers program which is available to Aboriginal and Torres Strait Islander lawyers and law students.

## DIVERSITY AT THE BAR

The Victorian Bar champions diversity in all its forms. The Victorian Bar's members broadly reflect the gender, ethnic, cultural and linguistic diversity in Victoria's population. This diversity assists the Bar to provide access to justice, which is a fundamental aspiration for the Bar. Of the 2,100 barristers in Victoria almost 30% are female, almost 10% speak a language other than English at home, 15% were born overseas, and 1.2% are of ATSI heritage (compared to 0.8% of the Victorian population). The consequence is that the Bar is a vibrant mix of people from all walks of life, cultures and interests. It is a wonderful representation of the mix that goes to make up our multi-cultural society.

More information on diversity and other aspects of the Victorian Bar and its members can be found on the VicBar website.



## WHERE CAN I FIND MORE INFORMATION ABOUT BARRISTERS?

For further information, please search 'students' at [www.vicbar.com.au](http://www.vicbar.com.au), which contains links to a range of useful materials and information about coming to the Bar.



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