

The Bar

The Bar: Justice Observed

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Imagine waking up on a Monday morning to start pupillage with one of the finest minds in the legal profession. Imagine arriving at work later that morning to find that you have to work on one of the most complex and high-profile appeal cases in recent years. Imagine then being put on the spot by three Lord or Lady Justices of Appeal who want to know why you have taken the view you have as to the disposal of the appeal.

If you can imagine this, then you have a reasonable idea of what it feels like to be a judicial assistant to the Court of Appeal. While it may sound daunting, being a judicial assistant offers young barristers invaluable experience of working with judges at the highest level and can only serve to enhance their career prospects and CV.

There are approximately 10 judicial assistants (JAs) appointed each term. The positions are advertised in the national press three times a year. JAs are appointed, in the first instance, for one term, although a significant number choose to stay on for two or the maximum three terms. Each JA is appointed to assist the Lord Chief Justice, the Master of the Rolls or a senior Lord or Lady Justice of Appeal, such as Lord Justice Dyson, the deputy head of civil justice, or Lord Justice Thorpe, the deputy head of family justice and head of international family law.

I was initially appointed as Lord Justice Keene's JA before being transferred for my second term to Sir Anthony Clarke MR and then to Lord Justice Thorpe for my third term. The majority of JAs are appointed either during their training contracts, for solicitors, or before or immediately after pupillage for barristers. Solicitors' firms appear to have understood the immense benefit that comes from working as a JA and take full advantage of the opportunity it provides; the Bar, unusually, lags behind.

So what exactly do JAs do? The answer is twofold. JAs work both for their judge and the Civil Appeals Office. Work for the Civil Appeals Office involves each JA preparing one or two bench memoranda per week for application for permission to appeal, generally where one of the parties is a litigant-in-person. Usually this involves working through a large number of documents to identify the legal and factual issues in the dispute and then summarising the application clearly and concisely. It typically requires a considerable amount of legal research.

It should be fairly obvious that this provides the perfect opportunity to hone your legal research and drafting skills.

The opinion on the merits that you write for each bench memorandum focuses your mind and gives you the opportunity to express your own judgement.

The work you carry out for your own judge will be more varied. You will often prepare bench

memoranda for cases they are hearing; these will tend to be full appeals rather than permission to appeal applications. This might mean that you are working on, as I did, high-profile cases, such as *GMC v Meadow R* (on the application of Rose Gentle & others), the Iraq War judicial review case and *Mbasogo & another v Logos & others* – the Equatorial Guinea coup case. The variety of cases your judge hears, as well as the variety within the litigant-in-person cases you deal with, means that you will end up working on areas of law as diverse as heavyweight commercial litigation, defamation actions, immigration law or employment disputes. Whatever area of law you intend to practise in, you are likely to come across it during your time as a JA. Equally, you will benefit from gaining expertise, and the benefits of judicial expertise, in a wide range of other areas of the law. Your work will be read by another two judges in the court and you will usually receive feedback in the form of a written note or phonecall, which can be very encouraging or at least useful for improving your skills.

You will not simply work on bench memoranda for your judge, though. You will also get the opportunity to attend court with your judge, see the best advocates of the day develop their arguments and then discover which arguments the court prefers and, more importantly for you, why. You will find out the “which” and “why” by attending pre- and post-court meetings held by the three judges who heard the appeal: an opportunity that lifts the veil, for a short time at least, between the practitioner and the court. You will gain a fascinating insight into what judges think, how they approach cases and how they arrive at their decisions. They will also put you on the spot and ask you what you think about the case and why. This is an invaluable experience whether you find yourself in the local county court or, one day, acting as an advocate in the Court of Appeal itself or the House of Lords.

You may be called on to contribute to your judge’s extra-judicial work. Lord and Lady Justices of Appeal often have committees to chair, research papers to write, speeches and lectures to give. You will be called on to help prepare these. For example, I carried out research into the Brussels II (revised) regulations. As a result, I was given the opportunity to attend the Special Commission on the Civil Aspects of International Child Abduction in The Hague. I was also asked to deliver a speech on behalf of Lord Justice Thorpe at a conference in Madrid. Now that was daunting – I was the only non-judge there.

Life as a JA is diverse. No two days are the same. It is an experience that allows you to work with and learn from the best and brightest members of the judiciary. It gives you an insight into how they work and how they think. It offers the opportunity, at the outset of your career, to learn new and different ways of approaching cases, of analysing them and applying the law.

Many former JAs comment that what they learned during their time as a JA has benefited them immensely since they returned to practise – a response that is lent weight by the number of City firms that routinely put forward their best candidates for interview each year. I am sure it will be of equal benefit to me when I commence pupillage next year.

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