

The Appeal of Assistants

Some professional ‘secrets’ should be shared, particularly when it is for the benefit of all. If not exactly a secret, it is fair to say that the quietly successful judicial assistantship scheme in the Court of Appeal is not yet fully embedded in our collective legal consciousness.

This is in contrast to the position of comparable legal clerkships in the US, on which the English scheme was partly modelled. For once, the American tradition is the older, its place in its legal culture secure. However, with intense competition for places already the norm, the signs are that it is only a matter of time before assistantships here occupy a similar position.

The role of the assistant

Judicial assistantships are advertised by the Court three times a year. Following the Court’s interview procedure, each successful applicant is assigned to one of the Court’s senior judges for a period of between three and twelve months (at least six is preferred). Amongst others, the Lord Chief Justice, the Master of the Rolls and the President of the Family Division each normally has an assistant.

An obvious clue to the essence of an assistant’s role is in the job title. In general, the work will largely track a particular judge’s judicial and other professional commitments. With regard to the latter, assistants may find themselves assisting in drafting speeches for national or international colloquia, note-taking at meetings of select committees, or handed a project relating to constitutional reform. The only (near) certainty is that most tasks will entail acquiring new expertise

under a tight deadline.

Court work, of course, provides the staple diet for all assistants. Nobody escapes drafting his or her fair share of “bench memoranda” - notes for the judges which summarise and analyse the appeal before the Court. It is easy to forget that many appeals are prepared by litigants in person who have not had the benefit of legal advice. In some cases, the papers can be chaotic, the issues confused. It will be up to the assistant to impose order in the memorandum.

Watching the best of the bar reasoning the cases of the day is, in itself, an education. However, many assistants agree that it is attendance at the pre- and post-court judges’ meetings where the real insights come. Here you witness first hand the judges’ reactions to the case as presented on the papers and then later their views on the oral argument. The veil which normally separates the world of the judiciary from that of the practitioner is temporarily lifted. It is a rare opportunity to see how cases are decided and one which I think leaves an indelible impression.

From day one, assistants also become an integral part of life ‘backstage’ at the Court, working closely with the rest of the Civil Appeals team. Whatever path you ultimately take in law, there is no harm in knowing how things *really* work behind the scenes. It helps no end if you have a good working relationship with your judge’s clerk. You soon learn that, as well as playing an unsung but crucial role in our legal system, the clerks also generally have the inside track.

Applying for a post

There are no fixed rules about when to do a judicial assistantship.

Nevertheless, whether you are a barrister or a solicitor, just before or after qualification is probably the best time. For aspiring solicitors, an assistantship may count as a 'seat' as a trainee. If you already have a training contract or a place in chambers, any decision on timing will also probably depend on the preferences of your firm or set. Some firms have already established a practice of putting forward candidates for interview each year. This, taken together with feedback that the Court has received, suggests that the scheme has benefited not just the individual but also the employer.

The secret of the scheme's success is, in part, that it provides a training which cannot be provided anywhere else. The opportunity to work closely with those at the top of the justice system is a rare one which should be seized.

Most judges like to meet with their assistants daily to talk cases through or set new tasks. What you learn from these meetings proves that, whatever current trends may be, development cannot be measured in CPD points alone. I am sure that many assistants do emerge more 'client-focused', 'judge-friendly' and/or 'transferably skilled'. However, they should also have learnt more fundamental ways of working and reasoning that do not fall into any given category of management-speak.

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Before I began my assistantship, an Australian colleague of mine commented that her time as a clerk in Australia influences everything that she now does in practice. Two years on from finishing at the Court, I find myself saying the same thing. Precisely why the experience has such a positive and pervasive effect is, like all great

educations, hard to pin down. But it does. Pass it on.

Greg Fullelove

**Associate, Freshfields Bruckhaus
Deringer and formerly the judicial
assistant to Lord Woolf CJ.**