

# Inside track

The judicial work shadowing scheme gives ILEX Fellows a valuable insight into whether the bench is for them. **David McGrady** and, on page 28, **Ian Ashley-Smith** recount their experience of it

I have been a civil litigator for over 30 years and hope I already have a good idea of the workings of the court. Before, however, investigating further an application for judicial office, I thought it sensible to seek a different perspective and offer myself up for the judicial work shadowing scheme organised by the Judicial Office.

The initial phase of the application is simple and just requires you to complete a form, which can be submitted by e-mail. You can only work shadow one judge per application, but as I only wanted to have insight into the work of a county court district judge at this stage, that was no problem.

I could not see the point of applying to shadow, at least at this stage, judges who practise outside my field of specialism, or a High Court or circuit judge, given that these posts are not open to ILEX Fellows at the moment.

The application was processed and acknowledged promptly, and I was sent a list of county courts operating the scheme. I selected courts that were convenient for me but not those that I appear in regularly and advised the Judicial Office of my preferences.

At that point the service broke down to a degree, in that some months passed without any communication from the Judicial Office. An e-mail to them did, however, prompt a fairly quick response, with some suggested dates. The delay was apparently down to the court in question not responding to a request for suitable dates, although I have heard from other sources that the Judicial Office has to some extent been a victim of its own success and been overrun by the number of applications.

In any event the problem was resolved and a three-day slot agreed. Understandably I had to produce the letter of introduction and photographic ID when arriving on the first day.

## Against the clock

I was received at the court with courtesy. I was introduced to an

experienced district judge (DJ), who that morning had a very extensive list from about 10am to 1pm, consisting mostly of applications for final charging orders. This is an area of work in which I am very experienced and was aware that each application should only take a few minutes – and certainly the list was such that the DJ could not afford to devote any more time to each case.



The list was conducted with efficiency and courtesy to the parties attending. Such applications are largely straightforward but it was interesting to see an experienced DJ deal with a long list in the limited time available to her to consider the papers and hear the parties.

I had expected to shadow the same DJ throughout but in the afternoon I sat with the DJ who specialised in family and Children Act matters. He had only become a full-time DJ a few

months earlier and it was interesting to compare his experiences with those of the more senior judge I had sat with before. I have no real experience of family matters but it was nonetheless helpful to see this side of a DJ's responsibilities and hear the views of another judge.

I sat with the same DJ all the next day, including a more protracted and complex hearing. It was interesting that, after the long hearing had been completed, the DJ was still expected to take an urgent application on a non-family matter with virtually no notice or time for preparation. Again it was a procedural application but it was heavily contested, with barristers on

both sides, so this was a helpful insight into the need for a DJ in a busy court to be adaptable and take on work outside of his or her speciality.

My final day was spent sitting with a more experienced DJ dealing with a wider variety of miscellaneous applications and it was useful to see the breadth of work undertaken by the court. I then joined the court's senior DJ, who was dealing with lengthier applications. I did not have an opportunity to sit in on small claims or fast-track trials, or any insolvency matters, but this did not diminish the overall experience. Sitting with different DJs rather than the same one the whole time was helpful but obviously only possible in the bigger county courts.

## Variety packed

I found the whole experience very interesting and even if I were not to pursue a judicial post, as a civil litigator it was a worthwhile getting an insight into the workings of the court. My shadowing has, however, left me more enthusiastic about applying for the bench.

Whilst I consider myself a good general civil litigator, I had concerns about limitations in my experience in certain areas and whether I could deal with the wide variety of cases that come through the doors of a busy county court. Although three days of shadowing will only provide a limited picture of the role of a DJ, it was enough to reassure me that I could deal with the bulk of the issues that might come before me as a deputy and my training as a legal executive has prepared me well.

I would hope that any deficiencies in my skills would be overcome by training and experience. The usual learned 'tomes' are, of course, available at court and there is access to the various Judicial Studies Board Bench Books. Some practitioners may have concerns that, because they have specialised in one area of the law for a long time, they are not cut out to deal with a wider range of legal issues. It is sensible to acknowledge such justified reservations, but legal executives are lawyers who are used to study and have plenty of experience of doing so when undertaking other tasks.

I will certainly press for resources to be devoted to providing wider training and back-up for prospective legal executive judges. Further, the Judicial Studies Board does have an extensive training programme for judges.

It is again understandable that some legal executives may feel their academic knowledge insufficient to

make them suitable for appointment. Certainly a good academic grounding in the law is a pre-requisite, but all legal executives have this, even if they have to go back to their distant past and draw on their Level 3 training. The practical slant of ILEX training is advantageous when presented with the pragmatic problem-solving required of a DJ, rather than perhaps more academically based training procedures.

## Management skills

In any event, the judicial appointment process is intended to be as much about skills as academic knowledge – and learning fast on the job is a skill all legal executives have of necessity acquired. Indeed, one of the things I noticed in the course of my shadowing was the degree to which DJs 'managed' a case towards an efficient disposal at trial, rather than deliberate upon it at a final hearing.

Although DJs will deal with many cases at their final instance, a big part of their role is to shape a case so that it can be more efficiently dealt with at trial and, if at all possible, render a full trial unnecessary. This is particularly so in the present climate, where many parties cannot afford legal representation.

It struck me just how many litigants in person came before the court. Although well intentioned, the vast majority had absolutely no idea of the complexities of the procedures upon which they had embarked and it was frequently the role of the judge to try and sort out just what the issues were. Little of the judge's time was spent adjudicating on matters of law, but much of it was spent trying to manage not only the case itself into some sort of order but also the aspirations of the parties as to what could realistically be achieved.

This raises the question of whether there are any real savings in restricting access to legal aid, if those savings are in fact eaten up by greater spending on judges having to deal with matters that lawyers would have sorted out. That, however, is a subject for another day.

One thing that is clear, however, is that management and people skills are an essential requirement for a DJ and certainly as useful as academic knowledge. The day-to-day contact that legal executives invariably have with their clients, and their extensive management of files, make them well placed to deal with this aspect of the job.

The role does, however, remain a difficult one and should only be embarked upon by those with a real

desire to do it, and certainly only after trying shadowing. All the judges I met were generous with their time and their views of the job. I was reassured that none regretted taking up a judicial post and all found it very rewarding.

## Equal standing

Like many practitioners, I had signed up to the view that judges enjoyed a relatively easy life, with a day that lasted from 10am to 3.30pm at worst. This was clearly not the case at the court I attended, as all the DJs seemed to arrive early in the morning and I personally sat in on cases that went past 4.30pm. The DJs also had to devote a significant amount of time to their 'box' work. I would suggest, therefore, that those thinking of taking up judicial office should not regard it as an easy option.

If I had a slight trepidation about taking up the opportunity to shadow, it was that I did not know how a legal executive would be received by the judges. I was not, however, made to feel uncomfortable at any stage and indeed all the DJs I sat with were very encouraging and supportive. I even discovered that one of them was the son of an ILEX Fellow. No prejudice was shown towards legal executives and I believe I was treated like any other lawyer interested in judicial shadowing.

A secondary benefit are the CPD points that accompanies the scheme, which could help legal executives 'sell' it to their employers. I suspect that the prospect of being absent from the office for a large part of three days would be perceived as a nuisance by most employers. If, however, you can secure most of your CPD points at the same time, and for free, employers are more likely to be responsive. It is important that this remains part of the scheme.

I have not entirely made up my mind yet as to whether to apply for a judicial post, but the shadowing has left me confident that my training and experience have better prepared me than I originally thought. The process is, of course, demanding, requiring exams, interviews and references, and many apply but few are chosen, but legal executives should at least try the shadowing scheme to gain a more informed and realistic view as to whether they wish to progress further.

● To learn more about the judicial work shadowing scheme, go to [www.judiciary.gov.uk/workshadowing](http://www.judiciary.gov.uk/workshadowing)

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