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The Training Contract & Pupillage Handbook

2015

The Essential Law Careers Guide

#1

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Property

Property lawyers act for a variety of domestic and international clients – including property investors and developers, farmers, governments, landowners and public sector bodies – on a wide range of transactions and disputes, involving everything from offices and housing to retail developments and industrial units. The common legal issues arising for commercial property lawyers include acquisitions and disposals of land, investments, landlord and tenant matters, developments and contracts, and environmental law and associated liabilities.

One of the most important tools for any lawyer – but perhaps especially those who choose a career at the Bar – is an appreciation of what makes people (and the environments or societies in which they operate) tick; the ability to look beyond the black letter of the law to the social, political and historical influences that have shaped it. Armed with this understanding, it can be easier to craft arguments and identify solutions to the trickier conundrums that legal professionals face all the time.

It should come as no surprise, therefore, that Elizabeth Tremayne – with a degree in social anthropology – should have chosen to specialise in an area of law that allows her to grapple with those deeper legal issues, while still ensuring that she gets a chance to exercise the love of advocacy that brought her to the Bar in the first place.

“I like the fact that a property practice has a good mixture of technical legal issues with engaging facts and a balance between advisory and court work,” she explains. “One of the most enjoyable aspects of the job for me is getting a really knotty problem in a set of papers that lands on my desk. Somebody is asking you something that hasn’t been particularly well traversed in case law, so doing the research, investigating,

applying one’s problem-solving and analytical skills and ultimately finding a sensible and pragmatic answer is pretty satisfying.”

In terms of the type of work that Elizabeth handles on a daily basis, her property practice at Henderson Chambers divides into three main areas. The first she describes as squarely land law problems: boundary disputes, rights of way, restrictive covenants and easements, adverse possession, *bona vacantia* and land registration issues. “A lot of that work is advisory,” she says. “So that’s when I’m sent an interesting bundle of papers and have to form an opinion on the merits – likely quantum and the most sensible next steps. They often involve angry residential or commercial neighbours who have been warring for years!”

The second part of Elizabeth’s practice involves landlord and tenant matters, which can be either residential or commercial: “That part of things is principally court work, where I’m instructed in disputes concerning dilapidations and disrepair, disputed mortgage arrears and anti-social behaviour possessions and injunctions, breach of covenant issues including contractual set-off, succession rights and spouse and family claims. Henderson Chambers receives instructions from private landlords, local authorities and commercial and residential tenants, so I represent a range of parties.”

“The final part, which is increasing for me – and that is broadly fairly typical as you grow a property practice and increase in seniority – is larger commercial cases which involve a land law problem combined with other contractual or tortious claims,” she explains. “So, for example, I’ve had a number of cases recently where a corporate entity which has a large property portfolio is litigating a breach of contract and alleging negligence in a claim also involving restrictive covenants and prescriptive use – it’s my job to work out



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how these multiple problems fit together and where the applicable legal principles conflict, and also find the most effective way to achieve a commercially sound resolution.”

Property work brings with it significant variety from the start. Elizabeth points out that at Henderson Chambers, there are opportunities for client contact in your first six, allowing you to learn how to develop successful professional relationships even before you are on your feet; though the extent of client contact will depend on the chambers at which you do your pupillage and the pupil supervisor with whom you sit. In your second six, you may well be spending most of your time in court, particularly if you are at a set with a mixed civil practice.

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“In my first six I would attend a lot of conferences with clients, both solicitors and lay clients. I also went to quite a number of mediations and negotiations, seeing how deals are brokered in practice. In your second six you can find that you are getting out on your feet quite a lot. Again, that can depend on the set. Here at Henderson Chambers, because we like to expose our juniors to as much advocacy experience as possible, you’re in court a lot. In my second six I was probably in court three days out of five, on all different matters, while still producing paperwork for senior members of chambers at the same time.”

Above all else, young lawyers who see their future in property need an eye for detail in addition to the love of advocacy that draws

many to the Bar. “There are other fields of practice which are more suited to those attracted principally by the interpersonal side of the Bar – meeting clients, developing relationships – or by the theatre,” Elizabeth warns. “With property, you’ve got to enjoy the technical details, being methodical, looking through documents and researching thoroughly. You have to enjoy those things as much as you enjoy the advocacy, because a big part of a property practice will be advisory and will often involve issues that are very obscure and take a significant amount of careful analysis because the questions are unusual. That’s why the papers will have landed on your desk!”

In order to improve your chances of landing a pupillage, it is always important to show that you’ve done your homework by researching the areas in which the particular chambers you are applying to specialises. With property sets, Elizabeth suggests it would be useful – both at interview and in anticipation of practice – to understand how property tribunals function: “It’s also a good idea to show your commitment to property work by making sure that you’re familiar with leading cases in which members of that chambers have appeared.”