

Employment

From drafting employee handbooks for clients to appearing at tribunal for unfair dismissal claims, no day is the same in this rapidly moving and intellectually challenging field, writes *Louisa Baldwin*.

Employment is often viewed as the area of law with the ‘human face’, where strong communication skills are a must. Whether a firm represents employers, employees or both the ability to build strong relations with clients and adapt to their differing needs is emphasised from the off.

“Employment law effectively regulates and protects both employers and employees, which began with the Victorian concept of master and servant,” says [Baker & McKenzie](#) employment partner Stephen Ratcliffe.

“Modern employment protection includes protection against discrimination, which began with protection against sex and race discrimination first introduced in the 1970s, and protection against unfair dismissal. It is important as a society we have this degree of protection so we don’t end up with the same imbalance of power between employer and employee that existed back in the Victorian era.”

Life in practice

An important distinction in the life of an employment lawyer is that between working for either employees or employers. “For those representing employees, most of the work is litigious-bringing claims on their behalf against employers and it can involve significant amounts of tribunal advocacy,” explains [Eversheds](#) partner Owen Warnock.

“On the other side – acting for employers – there is more variety available. In addition to defending employers who are facing actual or threatened claims in employment tribunal proceedings, lawyers will assist employers in updating contracts, employment policies and handbooks and in a ‘corporate support’ role, assisting corporate and commercial lawyers in acquisitions or disposals or contracting in and out of services.”

However, in smaller and medium-sized firms it is often the case that there will be a mix of both employee and employer work. With this in mind it is important to fully research a prospective firm. As Ratcliffe says: “When you apply for a training contract with a view to become an employment lawyer, you need to think about the type of employment lawyer you want to be, and apply to firms which have that kind of practice”. See below for more detail.

Those aspiring to be employment lawyers must be prepared for a very fast-paced working culture. “Other departments in an international law firm may have a pipeline of what needs doing over the next few weeks and months. In employment, I often don’t know what I’m doing that afternoon,” Nicholas Robertson, the head of employment at [Mayer Brown](#), explains.

“A lot of work that comes in requires a very short turnaround. An employer may ring up and say they want to dismiss someone that day, and they want a response quickly. Employment law is very time critical, short and sharp.”

Firms who primarily represent employers will generally provide both contentious and non-contentious services on a long-term basis, and as a result there is a high importance placed on building strong client rapport. “Generally employment lawyers are collaborative individuals, with long standing relations with clients and a stable client base. Lawyers are often in contact with an employer every week or month supporting them in issues they are facing,” continues Robertson.

What skills are needed?

The intense time-pressure factor in the work of employment lawyers requires individuals able to digest large amounts of information quickly, but equally explain it to a client in a concise and clear way. “The trick is to be selective and get the information you need to answer the question and not get bogged down in too much detail, but equally not give superficial answers,” says Robertson.

For those carrying out litigious work, a strong legal and meticulous mind is required. “To be an effective litigator a lawyer must pursue cases firmly, have an eye for detail and be an adroit negotiator,” asserts Warnock. “To be successful, good interpersonal skills and an understanding of the law are vital. Employment lawyers need to have good judgement in the merits of a case and be able to think on one’s feet”.

With case law and legislation changing at such a rapid rate, a passion for law is of vital importance. “Most employment lawyers actually like law as a subject – they frequently look up statutes, consult textbooks and read law reports,” says Warnock.

Outside the parameters of employment law a good knowledge of other areas will make you stand out from the crowd and be able to adapt to developments in the field. “Every new government makes changes. To be a well-rounded employment lawyer you have to get to grips with areas such as data protection, tax and pensions,” explains Ratcliffe.

The ability to adapt and offer innovative solutions means that an employment lawyer will be able to best respond to the varying whims and personalities along a diverse spectrum of clients. “Whether you are introducing a new incentive scheme or meeting a client you

must bear in mind how people are going to react and their differing desires and motivations,” continues Ratcliffe.

The importance of customer oriented work experience, regardless of whether that is in a top City law firm or behind the tills at a supermarket should by no means be understated. “Any sort of work experience which deals with the public is relevant. It shows you are able to interact with people, which is an essential skills required for employment lawyers” says Robertson.

What’s happening in the field?

The most pressing issue in the employment field at present is the implementation of upfront fees for those wanting to bring employment tribunal cases since July 2013, which has seen a 70 per cent contraction in this kind of contentious work.

This is something that has particularly affected firms which represent employees, who often individually lack the funds to make this payment in contrast to employers in larger companies. “Many firms were reliant on the volume of employment tribunal litigation and it is those firms that have been affected the most,” says Ratcliffe. “However many firms focusing on higher value cases are still experiencing high levels of litigation.”

Employment law is both moulded and mirrors the political climate of the time, both on a national and international level and this is something that employment lawyers should constantly be aware of.

“Whenever there is a change of the politics of the governing party, that tends to lead the changes,” says Warnock. “For example the new Conservative government is currently consulting on measures intended to reduce the impact of industrial action on employers and the community as a whole.”

There have also been recent pleas by David Cameron to opt-out of the EU Working Time Directive in negotiations over the UK’s relationship with the EU, including key provisions such as the 48-hour maximum working week.

Other recent developments include:

- The right of every employee to request flexible working hours from 30 June 2014
- Two weeks paternity leave for new fathers at the statutory rate of pay under the Paternity and Adoption Leave Regulations 2002
- Under the Pensions Act implemented in October 2012, the right for every jobholder earning between £5,035 and £33,540 the right to be automatically to be enrolled in an occupational pension scheme.

The trainee's role

A seat in employment involves dealing with clients and helping to run the cases right from the start. “In a good employment seat, they will give you opportunities to draft contracts and other documentation and to draft emails giving practical advice to employers or employees about the situation which they are facing,” says Warnock.

“Trainees will also be asked to research legal points. They will be involved in reviewing masses of documentation for relevance and organising documentation for presentation in tribunal cases. In some firms they will prepare witness statements.”

The opportunity to engage with clients right from the start is undoubtedly appealing to budding young solicitors, and makes it a popular option among trainees when selecting their seats over the course of their training contract.

A trainee solicitor hoping to practice in employment when they qualify needs to be able to show that they are able to negotiate and work with clients to achieve a positive outcome. As Robertson puts it: “Any employment lawyers job is about persuading people to do things they don't want to do – if they did, they wouldn't need a lawyer.”

What sort of firms do employment law?

Whether you're interested in working in the City or on the high street there are plenty of options when it comes to working in employment law – lots of firms do it. Most of the largest commercial outfits have an employment practice of some sort, but sometimes it won't be the most prominent department, as the likes of corporate, finance or commercial litigation will hog the limelight. In some smaller firms, such as Lewis Silkin, employment is a much more central part of the firm's overall practice. But this is by no means true of every mid-size firm so if you're specifically interested in employment law you'll have to do plenty of research.

There are also specialist employment boutiques out there. Some, like Brahams Dutt Badrick French, concentrate on high-level work for senior executives; others, like the chain Thompsons, handle lots of employment work in their capacity as a firm acting specifically for trade unions.

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