

Tribunal Judge to the High Court Bench

SOME PERSONAL REFLECTIONS

By Gwynneth Knowles and Peter Lane



**“Do not go where the path may lead but
go instead where there is no path and leave a trail”**

Ralph Waldo Emerson

Mrs Justice Gwynneth Knowles

The above quotation sums up my career path - a series of twists and turns. If there is a theme, the impartial observer might say “she likes a challenge and hates to be bored”.

So, I started life as a children and families/mental health social worker before concluding that I could do just as well as the lawyers (mostly men) presenting my cases in the family courts. I hadn't done a law degree and so had to do a conversion course before going to Bar School. I continued to work part-time as a social worker until I started pupillage. Next twist: it was cheaper to get a legal qualification as a barrister than to train as a solicitor so that's what I did - I never thought I might become a barrister myself. But I was taken on - aged 32 - by a common law set at 4 Brick Court where I spent seven happy years before moving to Liverpool for love. Atlantic Chambers in Liverpool became my main

professional home until 2014 when I was appointed to the Upper Tribunal, Administrative Appeals Chamber. I took silk in 2011.

My judicial career began as a fee paid judge of the Mental Health Review Tribunal in 2007. I applied for the role because I thought my social work experience might render me a little more user-friendly for patients. I loved the role and began to think about expanding my judicial portfolio by becoming a recorder. I failed the exam so that was the end of that. In 2013 and searching for a challenge to add to the role of a silk at the family bar, I decided to apply to become an Upper Tribunal Judge, hoping I might get a fee paid role and being astonished to be offered a salaried role instead. I thought long and hard about whether to take it but the lure of the legal challenges arising in many different jurisdictions was just too great. Surprisingly, I had few regrets about leaving the family bar.

Being an Upper Tribunal Judge opened my eyes to the importance of the work tribunals do and to the opportunity for a working life of constant interest and challenge. I volunteered to sit in the Upper Tribunal, Immigration and Asylum Chamber to assist with judicial review applications and was then persuaded to apply to become a Deputy High Court Judge in the 2016 section 9(1) competition. It took a long time before I was able to sit as a deputy in the Family Division because I had no judicial background in the County Court as a fee paid judge. Before I could sit, I was told that I had to attend the relevant Judicial College public and private law training courses for family judges, which meant waiting many months for a place. However, when I finally began to sit, that experience awoke once more the siren call of family law and, with the encouragement of my then Chamber President, Mr Justice Charles, I applied for the full-time role and was successful. So, a series of twists and turns and, despite being a family silk, a somewhat unconventional path to the High Court Bench.

I was asked at my interview what would be the most difficult aspect about being a High Court Judge and I said, candidly, the loss of control over my working life. I was not wrong. As an Upper Tribunal Judge I was responsible for managing my own work and professional diary notwithstanding the constant and increasing numbers of applications assigned to me each week. It's very different in my present role where the Clerk of the Rules holds sway over my diary and where, as I write, every day till 14 November 2019 is accounted for. The pace of the work, with almost every day in court, is relentless and I found the first year a brutal ordeal. Now, I'm used to the workload and am better at managing to keep up with judgment writing and all the other things High Court Judges get asked to do in their spare time.

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I found the skill set I had developed as an Upper Tribunal Judge transferred readily to my new role. The ability to manage litigants in person effectively whilst motoring through a busy applications list was invaluable. In the Family Division I am one of three judges who case-manage (and often determine) the appellate work from the County Court, so that is similar to the role I performed in the Upper Tribunal. However, by far the biggest advantage has been the perspective acquired from dealing with many different jurisdictions, so I question more and am less inclined to accept the way things have always been done in the Family Division. Furthermore, the ability to identify the key issues in a case, whatever the jurisdiction, has been invaluable in my present role.

What those who appear in front of me think is anyone's guess though I suspect they might say that I interrupt counsel's submissions too readily with questions and suggestions. That's a style honed by the inquisitorial function of tribunals which I'm not sure I'm prepared to surrender readily. So, after fifteen months, which is a very truncated perspective on my present role, I can honestly say that I love my job - there is never a day when I go to work wishing that I was somewhere else.

So, if I had words of advice for those aspiring to move up the judicial ladder, it would be these. First, apply for roles which interest you - that way you will give of your best and enjoy them whatever happens to your career aspirations. Second, take on new challenges - push yourself because that will build knowledge and skills. Finally, be brave and bold and apply for new roles. If you don't, how will anyone recognise your talent?

To conclude, I loved and am very proud of my time as a Tribunal Judge. The tribunal judiciary is so talented and has been so overlooked in senior appointments for far too long. Aim high - you never know where you might end up....

Mr Justice Peter Lane

My route has been quite a lot different from Gwynneth's, apart from the last stretch in the Upper Tribunal.

Almost as soon as I had begun to practise at the planning bar, that work dwindled to almost nothing, as a result of the introduction of some fairly stiff taxes on the development of land. I therefore did the sort of miscellaneous work that, in retrospect, one might say has been "good for the soul", such as possession actions and prosecuting a man who had allegedly invented a system of winning at roulette but who, when convicted, asked for time to pay as he was on benefits.

Teaching law at Queen Mary London also helped to pay the bills (and, much more importantly, led to me meeting my wife) before I became a drafter of Government Bills in Whitehall and, later, a Parliamentary Agent and Solicitor, working in the main on infrastructure projects.

My entry into the judiciary came when I was appointed as a fee-paid immigration adjudicator and then a “special” adjudicator, which meant I was authorised to hear asylum appeals which, in the late 1990’s, were starting to grow in number and significance.

In 2001, I decided to make the change from private practice to the ranks of the salaried adjudicators before being promoted to the Immigration Appeal Tribunal, which was then headed by Mr Justice Ouseley.

My base since 2003 has been at Field House, off Chancery Lane. Over the intervening years, I have been a Vice President of the IAT, a senior immigration judge in the Asylum and Immigration Tribunal and a Judge of the Upper Tribunal. I did not apply for any of those last three positions. They resulted from the various changes that Parliament decided to make in the field of immigration in particular and, more generally, in reforming the Tribunal system.

I did, however, apply in 2014 to the Judicial Appointments Commission for the post of President of the General Regulatory Chamber. That required me to run over 60 appellate jurisdictions, from animal welfare to transport, by way of information rights, environment and pensions, to name but a few.

In 2017, I was, like Gwynneth, appointed to the High Court, having also been a Deputy High Court Judge.

Immigration, however, continues to exert its hold. I am currently in my second year as President of the Immigration and Asylum Chamber of the Upper Tribunal and therefore have the enormous pleasure of working with colleagues I have known for many years. There is also a sizeable amount of immigration work in the Administrative Court, where I spend part of my time, along with the more general case load of the Queen’s Bench Division.

The link between UTIAC and the High Court is a strong one. In most weeks, there is (besides me) at least one other High Court judge doing a two week “circuit” at Field House. We also frequently welcome judges of the Court of Session.

One of the highlights of working in the Administrative Court has been to find myself doing planning cases, thereby making the link across time to the very beginning of my legal career. I would like to say that this was part of some grand plan; but of course, it isn’t. Like that of most people, my career owes a lot to fate and to the example, support and encouragement of others.

It is a great privilege to have the opportunity to do what I am currently doing. Like Gwynneth, I am sure that the Upper Tribunal will soon be seen in the same light as the Circuit Bench, as a regular provider of candidates for the High Court.

But, quite apart from that, the status of the Upper Tribunal itself is, I believe, beginning now to be properly recognised, both inside the judicial community and beyond. As my fellow Presidents will tell you, there is important and interesting work being done in each of the Upper Tribunal’s Chambers (and in the Employment Appeal Tribunal). Tribunals generally have, in my view, benefited greatly from the reforms introduced by the *Tribunals, Courts and Enforcement Act 2007*.

So long as I am able, I intend to do what I can to help spread that word.

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