

Employment Law Plus

- Practical and commercial solutions to HR challenges

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Jill Kelly

- Graduated from Oxford University
- Trained and qualified in London
- Partner at Thomson Snell & Passmore in Kent
- Partner at Clarkslegal, Reading
- 2005 Appointed Employment Judge
- 2006 Set up Employment Law Plus

What Chambers Legal Directory has said about Jill:

- *a vastly experienced practitioner who is "deserving of her status." She advises both business and individuals and also sits as a part-time employment judge*
- *received special praise for her "straightforward" and "excellent" approach*

What Chambers Legal Directory has said about Jill:

- *singled out by interviewees for her skill at “clearly communicating all the important issues”.*
- *Client friendly*
- *Leading figure*

Apprentices

The Conservatives pledged to deliver 3 million apprenticeships by 2020

Apprenticeships

Legal framework

- Traditional apprenticeship
- Modern apprenticeship 1994
- Rebranded as apprenticeships in 2004

Traditional apprenticeship

- Not employment
- Primary purpose: training
- Cannot be ended earlier than its fixed term except for gross misconduct
- No state funding
- Practically unknown

Statutory apprenticeship

- Apprenticeships under Apprenticeships, Skills, Children & Learning Act 2009: treated as contracts of employment not apprenticeship
- Apprenticeship agreement must be in prescribed form, including provision of written statement of particulars of employment
- No statutory requirement for minimum term

Statutory apprenticeship

- Contract of employment recommended
- Can terminate on notice

Statutory apprenticeship

- Effect of statutory requirements for apprenticeship not being met
- Potential for court to find a traditional contract of apprenticeship

Statutory apprenticeship – unfair dismissal

- Expiry of apprentice's contract without renewal is a dismissal
- Need 2 years service for ordinary unfair dismissal claim
- *Neve v Brookway Engineering ET*: Poor performance dismissal unfair where employer not try to contact apprentice's parents prior to dismissal

Statutory apprenticeship – usual other employment protections

- Discrimination
- Working Time
- Redundancy payment (but probably not on expiry of fixed term as dismissal for some other substantial reason). Minimum age 20
- Family friendly leave
- etc

Statutory apprenticeship – different employment protections

- Apprenticeship rate of NMW: £2.73 if within first 12 months of employment or under age of 19. Then entitled to adult NMW (£5.13 and £6.50) (16&17 NMW is £3.79)
- No fixed term employee protection (no less favourable treatment, conversion to permanent contract after 4 years)

Statutory apprenticeship – different employment protections

- Dismissal on expiry of fixed term not count towards numbers for collective consultation obligation

Employment protection for young people

- Special health & safety requirements
- WTR limits for young workers (15, 16 and 17 who over compulsory school age):
 - Max 40 hours per week (48) and 8 hours per day
 - Restrictions on night work
 - 12 hours daily rest (11)
 - 48 hours rest in 7 day period (24)
 - 30 mins break if works more than 4.5 hours (20/6)

10 June Meeting

- Working carers
- Networking skills
- Managing for resilience

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Employment Law Plus Practical workplace Training

- Avoiding discrimination claims for line managers (4-5 hours)
- Introduction to employment law for HR Managers (3-4 hours)
- Introduction to employment law for line managers (3-4 hours)