



The **Scottish Justices** Association

The Scottish Justice – eNewsletter

March 2016

News from the SJA

1. **SJA Structure Review** - At the AGM held in November 2015 it was agreed that in the interest of current good governance practice and the future needs of the membership, the Executive of the Scottish Justice Association would objectively evaluate its activities and its work, and that of its committees and sub-committees, against the objects of the Association as set out in the SJA Constitution. Accordingly, at the last SJA Executive meeting held in January it established a sub-committee to undertake this review and to report back initially to the full Executive Committee. This sub-committee consists of our two newest Executive Committee members, Mrs. Iulia Toch and Mr. Neil Morrison, Mr. John Hutchison (who proposed the motion at the AGM) and our Chairman, Mr. John Lawless. The results of the review will be submitted to the full membership of the SJA by 31st July 2016, this date having also been agreed at the AGM.

2. **SJA Representatives to Judicial Committees**

Each year the SJA is invited to send a representative to the various Judicial Committees that cover all levels of the Scottish Judiciary. The nominations are made at the first full meeting of the SJA Executive following the AGM. Therefore at the January SJA Executive meeting the following representatives were nominated:-

The Conduct Committee – Fraser Gilles

SJA/SCTS Liaison Group – John Lawless and Tom Finnigan

The Welfare and Support Committee of the Judicial Council – Marella O’Neill

The Information and Communication Technology Committee – John Lawless

In addition Mr. Tom Finnigan our Vice-Chairman has been appointed to the Advisory Council of the Judicial Institute in his own right.

3. Resignations from the SJA Executive Committee

Just as the '*Scottish Justice*' March edition was being finalised for publication we were advised that Keith Parkes, Stuart Fair and Iulia Toch had tendered their resignations from the SJA Executive Committee. Following the resignation of Keith Parkes the Executive Committee will require to appoint a new Secretary for the Association. This will be done at the next Committee meeting which is scheduled for 18th April 2016.

4. Future of the Not Proven Verdict

You may have seen in the media that the Scottish Government at the end of February voted not to abolish the Not Proven verdict in Scottish Courts. This was in response to a Members Bill introduced by the Labour MSP Michael McMahon. Mr McMahon had proposed not only the abolition of the Not Proven Verdict but also that a Scottish jury must have two-thirds majority for any verdict rather than the existing simple majority from the 15 members. Whilst the Scottish Government voted against the motion it was the jury majority that caused the greatest concern, and the Holyrood Justice Committee was reported as viewing the Not Proven verdict as being on 'borrowed time'.

The SJA, along with other levels of the Judiciary and other interested parties was invited to respond to the proposal prior to the vote being taken. To expedite a response, in what was a tight timescale, all members of the SJA Executive Committee were invited to make their comments and a collated response was submitted. Overall the Executive members gave cogent and considered arguments both for and against the motion, which were reflected in the debate in Holyrood. Of the fourteen members who expressed an opinion nine were in favour of retention and five for abolition, and interestingly a majority favoured 'Proven' and 'Not Proven' verdicts rather than 'Guilty' or 'Not Guilty'.

5. **CMJA Conference** – At the January meeting of the SJA Executive considered the continued attendance by a representative of the Association at the annual conference of the Commonwealth Magistrates and Justices Association. Following the very positive feedback that had been received from the report on the 2015 CMJA Conference in New Zealand, provided by our Chairman, John Lawless, and circulated to all members at the start of this year, it was agreed that the SJA would continue to be represented. This conference has proved to be a valuable and interesting forum for the exchange of knowledge and understanding of lay justice across the Commonwealth. The 2016 CMJA Conference will be held in Georgetown, Guyana between September 18th to 22nd, and it is anticipated that again all levels of the Scottish Judiciary will be represented at the conference. The SJA Executive will nominate a representative at a future date.

Judicial Institute Training 2016

The JI training courses for 2016 got underway on 5th February with 'Road Traffic – Recurring Themes', chaired by Sheriffs Alistair Duff and Andrew Cubie. I was one of the sixteen JP's from across all six Sheriffdoms who managed to secure a place on the course, which was held in the excellent training suite within Parliament House in Edinburgh. The course consisted of four presentations and an interactive session which responded to specific issues that were nominated by the JP's attending the course.

Of the four presentations the first was given by Inspector Brian Poole of Police Scotland and he focused on the approach taken by the Police with managing road policing activities. The second presentation was by a team from VMCL Limited, who are one of the providers of Drink Driver Rehabilitation Scheme (DDRS), and they provided details of the course content for those drivers who after conviction for drunk driving attend a course to have their period of disqualification reduced from twelve to nine months following successful completion of the course. Following these two presentations there was an open forum on frequently raised issues in the JP Court relating to traffic matters, and primarily considered mobile phone and drink driving offences and issues surrounding unrepresented accused in court. The two presentations after lunch consisted of presentations and exercises on Exceptional Hardship and Special Reasons given by Sheriff Duff and Cubie, and a final presentation by Sandy Davidson of the Driving and Vehicle Standards Agency (DVSA).

I do not wish to reveal too much of the content of the course as it is scheduled to be run again later this year in October, but there were some issues which did arise which are worth highlighting. The first of these relates to the DDRS facility and it was noted that any party in court, **including the JP**, can raise the matter and as appropriate suggest the scheme to a convicted drink driver. It should also be mentioned that VMCL Ltd., did provide the course content materials that they use in their three separate courses given to drivers referred to them. This material did provide extremely interesting and useful information on how alcohol impairs the ability to drive; details on how alcohol is processed by the body and how long it stays in the system, therefore impacting on drivers in the morning after a night of heavy drinking. It also came as a surprise to many JP's, including me, that the DVSA had the power to enforce on the spot fines for the overloading of vans and lorries and for drivers exceeding their allowed number of hours driving. There is a sliding scale of fines which they impose for both offences rising up to £300 for a van or lorry that is up to 30% above the maximum permitted weight for that vehicle, and similarly up to £300 where the driver exceeds his number of approved hours by 3 hours. If the loading is greater than 30%, or the driver has been at the wheel for more than 3 hours then it is referred to the Procurator-Fiscal to take to court (most usually the JP Court). It is certainly worth remembering this level of fine for any cases of vehicle over-loading or exceeding permitted driving hours that may come to your court.

I would certainly recommend this course to all JP's in Scotland as Road Traffic offences account for approximately 60% of all cases in JP Courts. This percentage can of course vary

considerably dependent on the location of the court, but they remain a staple element in our court business.

As mentioned in the December edition of the ‘*Scottish Justice*’ the JI has a number of courses running throughout the year. Full details of these courses and the application process for these courses are available through the Judicial Hub. All courses are held in the Training Suite within Parliament House in Edinburgh, which is a first-class training facility. The courses to be held later this year are:-

- | | |
|---|--|
| 1. Courtroom Communication – Coaching for JPs | 14 th March and 14 th November |
| 2. Vulnerable Witnesses and the use of Courtroom Technology | 22 nd April |
| 3. Unrepresented Accused in the JP Court | 24 th June and 8 th December |
| 4. Road Traffic – Recurring Themes | 14 th October |

Dennis Barr

News from the Judicial Institute

The Judicial Hub www.judicialhub.com – *what’s in it for you?*

Two years since its creation and launch, the Judicial Hub has become a much valued and critical resource. There is an expectation that judicial office holders in Scotland will access the Hub regularly to ensure they keep up to date with legal and other developments, read judicial news, and can book JI training courses that meet their learning needs.

Towards the end of 2015 the Judicial Hub was named as the winner of the prestigious 2015 ‘[Crystal Scales of Justice Prize](#)’ and is now firmly established as the platform for the provision of information and communications from the Judicial Office, Judicial Institute and Lord President’s Office.



The ‘Justices’ Hub’ section, which is accessible from the home page of the Hub, is dedicated to Justices and provides easy access to the resources and materials that you require regular access to on and off the bench.

Justices' Hub

A new section of the Judicial Hub designed for and dedicated to justices of the peace from across Scotland.

View >



The Justices' Hub includes:

- Details of tailored JP training: you can only book JI courses through the Hub
- 'Brief Notes' on case law of direct relevance to Justices
- Justices' News
- **NEW: JP e-Resources**
- Judicial Institute's 2016 prospectus

NEW JP e-resources

JP e-resources focus on matters of direct relevance to justices. Using interactive menu headings, justices can easily navigate to the particular point on which guidance is sought. Alternatively, entire resources can be printed.

A number of e-resources are now live. This includes **the release this week of extensive e-resources on vulnerable witnesses and special measures in the JP court**, the release of which has been timed with the first cases involving vulnerable witnesses. A number of other resources are 'coming soon'!

Introduction to Judicial Training and the Local Court Coming Soon	The Scottish Legal System Coming Soon	Judicial Independence, Impartiality and Ethics Available now! Print Resource
Social Context, Equality and Diversity Equal Treatment Bench Book	Justice and Legal Adviser Available now! Print Resource	Harnessing Technology Coming Soon
Out of Court Duties Coming Soon	Road Traffic Act Coming Soon	Sentencing Options, Procedure and Selection Coming Soon
Trials, Practice and Procedure Coming Soon	Appeals Available now! Print Resource	Evidence Coming Soon
Guide to Criminal Law Coming Soon	Vulnerable Witnesses Available now! Print Resource	Annoying Creatures Available now! Print Resource

Accessing the Hub

The Justices' Hub is accessible via any PC or computer device as the Judicial Hub is not part of the SCTS infrastructure, does not sit on the SCTS corporate IT network and is not managed by corporate IT. It is managed in such a way that that you can easily access it from any computer or mobile device with an internet connection. It does not require SCTS or

CJSM email address to login as Justices are provided with a dedicated Hub username and password by the Judicial Institute Hub Support team.

If you have forgotten your login details for the Hub, or have never accessed the site, contact us at judicialhub@scotcourts.gov.uk

UK Road Traffic Fatal Accidents – A Brief History

It may seem incredible but the first road traffic fatality in the United Kingdom happened 120 years ago. The tragic victim was Mrs Bridget Driscoll a 44 year old housewife. She was attending a fete with her daughter in Crystal Palace in south London on 17th August 1896, when she was hit by a car driven by a Mr Arthur Edsall, who claimed to be driving at 4 mph at the time of the incident. Mr Edsall had only been driving for three weeks prior to the accident and did not have a licence as one was not required; indeed there were less than twenty cars in the UK at this time. At the inquest the jury returned a verdict of accidental death and the coroner stated that he hoped her death would be the last in this sort of accident.

How wrong could he be? In the past 120 years over 550,000 deaths have occurred in the UK as a result of traffic accidents. That quite appalling number does not however reflect a quite remarkable pattern in the numbers of annual total fatalities, to the extent that the UK now has some of the safest roads in the World.

The first year that annual road death statistics were collated for the UK was 1926, and in that year there were 4,886 fatalities. By comparison the total number of fatalities in 2013 was 1,713, despite the massive increase in vehicles on our roads. I do recall a conversation where a relative claimed that the death of a leading character in the TV series ‘Downton Abbey’ in a car accident was a rather contrived demise, and they were somewhat surprised to learn that there was more than twice the likelihood of being killed in a car accident in 1922 than in 2012!

The Nineteen twenties and thirties showed a steady and disconcerting rise in the number of road fatalities in the UK and the government of the time did feel obliged to act. As a consequence the then Transport Minister Hore-Belisha not only introduced the eponymous beacon to identify pedestrian crossings (pedestrians accounted for around half of all road fatalities), but also introduced driving tests in 1934 and a standardised speed limit of 30mph in built-up areas. Despite these measures fatalities continued to increase right up to the outbreak of the Second World War. In fact the year with the highest recorded number of road fatalities in the UK is 1941, when there were a staggering 9,169 deaths, some of which were no doubt due to the blackout.

In the Nineteen forties and fifties the number of fatalities initially reduced from the war-time peak, but in 1950 was still a worrying 5,012. Thereafter the casualty rate showed the same pattern as the pre-war era with continuous growth, right up to 1966 when the number reached 7,985; the highest peacetime fatality rate. Again there was a response from the government

and thereafter followed the mandatory installation of seat-belts for front seat occupants and the introduction of the breathalyser.

From this appalling number of almost 8,000 fatalities in a year the death-rate has shown a steady decline. In the early Nineties the number fell below the 1926 level for the first time and the reduction continued. In 2007 the number fell below 3,000 for the first time, and in 2010 the number fell below 2,000, where it has remained.

In the ninety years since 1926 there has clearly been an enormous increase in the number of cars on the roads of the UK and the total amount of kilometres travelled on our roads has increased even further. It does beg the question of what has changed. Police Scotland refer to the key 'E's as the solution – these being Education, Enforcement, Engineering and Encouragement. I also think that there is a fifth element and that is the improvements in Emergency Responsiveness. There have been massive strides in the development of better safety devices in modern vehicles from air-bags through to the alphabet soup of three-letter abbreviations denoting advanced safety features. There have also been changes to road engineering with the increased use of motorways and the improved segregation of pedestrians from vehicular traffic. We should also recognise the improved response by all of the emergency services to road traffic incidents, including Air Ambulances, plus medical improvements which have increased survivability.

The dramatic reduction in road traffic fatalities has led to the UK being one of the safest places in the World to drive. When researching statistics for comparative analysis it is apparent that there are varying measures used to calculate which countries have the safest roads. What is evident however, is that irrespective of the measures used the UK, Sweden and Iceland all are at the top of the statistics for the safest roads, and when the total number of 100,000 Kilometres of driver/passengers distance covered are taken into account then the UK is at the top.

Whilst this is a very positive record for the United Kingdom it is essential that we do not become complacent. We must remember that each death is a very real tragedy for every family affected.

As Justices of the Peace we clearly have a role to play in the enforcement role which has contributed so much to improved road safety. To give an example of our enforcement role and its importance I did discover that according to the U.S. Federal Communications Commission in 2010 a total of 18% of all fatal crashes were due to driver distraction by use of a mobile communications device. This led to more than 3,000 deaths and over 400,000 injuries. The U.S. does not have a Federal law prohibiting the use of mobile devices whilst driving, but relies on state law which does vary according to the state. We do have a vital contribution to make and consistently provide in terms of enforcing road safety. We do have safe roads and we should all strive to keep it that way!

Dennis Barr

Contact with the SJA

The *Scottish Justice* sub-committee would very much welcome articles and local news from each of the Sheriffdoms for inclusion in future editions. The sub-committee members are pictured below along with their respective e-mail addresses.



The communications sub-committee is shown above, from left to right:- David Ferguson, Bob Mitchell, Dennis Barr and Marella O'Neill. The contact details are as follows:-

Dennis Barr - Glasgow and Strathkelvin Sheriffdom - dennis.barr2@ntlworld.com

David Ferguson – South Strathclyde, Dumfries and Galloway Sheriffdom

david_ferguson@inbox.com

Bob Mitchell – Lothian & Borders Sheriffdom – bobmitchell6@tiscali.co.uk

Marella O'Neill – North Strathclyde Sheriffdom – marella.oneill@btinternet.com

The sub-committee also wish to make it clear that all articles published in the '*Scottish Justice*' are the responsibility of the respective author and they are responsible for the accuracy contained therein. Also all articles do not necessarily represent the views or opinions of the SJA, but are included as articles which may be considered of interest to SJA members.