

SJA E-NEWS

Fiftieth Issue – July 2014

SJA NEWS

The SJA Executive met on 24th June. At its commencement, the Chairman paid tribute to Andrew Webster, who died in April, and who had been a member of the SJA Executive for many years, and of the District Courts Association before that.

He also expressed thanks to Mike Samphier who had retired from the Executive after a shorter period, but one in which he had made a valuable contribution, especially in relation to the SJA website.

The Chairman further congratulated John Hutchinson on his MBE for work done on the environment in Lochaber.

The chief substantive items for the meeting were: the location of the AGM; the Treasurer's Report; the question of attendance at the Commonwealth Judges and Magistrates Association (CJMA) Conference in Zambia; and the consultation on Arrangements for Training Justices.

AGM: It was agreed that the AGM be held in Stirling, at the Judicial Institute training weekend on 22nd November.

Treasurer's Report: The Treasurer was unfortunately unable to attend the meeting, but his Report was presented by the Secretary, who drew attention to the fact that the Scottish Government was reducing the 2014-5 grant by the amount underspent on the 2013-4 grant, and that it would require more detail as to SJA's outputs. The proposed Base Budget was agreed, but it was also agreed to discuss this further at the next executive Meeting, when the Treasurer would be present.

CJMA: The Chairman explained that the earlier decision on this had been taken without applying the SJA Rules of Debate appended to the Constitution, so a vote would require to be taken again. There was debate on whether a representative should be sent. After the vote, it was decided that one should be sent. In the absence of volunteers, the Secretary agreed to attend.

Arrangements for Training Justices: There was discussion on this consultation, and it was agreed that the Communications Committee would put together a suitable response.

In addition to these items, reports were received from the Chairman on the Judicial Institute Advisory Committee; from the Vice-Chairman on the full Judicial Council meeting, and on the Judicial Council's Conduct, and Welfare and Support, Committees; from John Lawless on the Judicial Council's ICT Committee; from Johan Findlay on the SJA Communications Committee, and on membership numbers; and from Tom Finnigan on the SJA/Scottish Courts Service Liaison Committee.

At the end of the meeting, the Chairman intimated that he would not be standing for re-election to the Executive at the end of this year.

OTHER NEWS

JUDICIAL INSTITUTE FOR SCOTLAND NEWS - CALL FOR COMMENTS AND OBSERVATIONS

(contributed by Gillian Mawdsley, JP Legal Training Adviser. JIS)

Justices may be aware of the recent developments involving the Judicial Hub. Justices and the Sheriffdom Legal Advisers already had access to the Judicial Hub. From June 2014, all Legal Advisers have access as well. This will ensure that they are able to access information that provides support to all justices in undertaking and performing their judicial roles.

In addition, now that the Judicial Hub is in operation, work is being taken forward in relation to the JP e-Bench Book. The Judicial Institute for Scotland (JI) is responsible for the production of resource and reference manuals for the judiciary. The JP e-Bench Book will be produced as an electronic on line resource manual to be available for all justices at all levels of judicial experience. It will support justices in their duties performed both on and off the bench.

The project team is chaired by Sheriff Alistair JM Duff, JI Deputy Director supported by Gillian Mawdsley, JP Legal Training Adviser. Joining the project team to support delivery, the JI is pleased to welcome Robin White JP, TC &F and Johan Findlay OBE JP, SSD & G. Catriona Sagar and James McPherson, LAs in NS and GH &I have kindly agreed to assist the project team as required to provide that vital operational perspective. Administrative support is being provided by Sarah Dickson, Legal Assistant.

The JP e- Bench Book should be available in Spring 2015.

The JI welcomes any comments from justices in connection on the Bench Book project.

The JI is also very keen to hear about what justices are doing in and out of court. The information that is provided on the Judicial Hub needs to be kept up to date and to be of interest and relevance to justices.

So please do respond:-

What was in your court today? Did you need information that was not there? What unusual or interesting cases have you seen? What would you have liked to have known before today?

If you have any comments, observations or otherwise, please can you email the judicialinstitute@scotcourts.gov.uk marked for Gillian Mawdsley's attention.

PRECISION IN COMPLAINTS: *Strawbridge and Others v PF Hamilton* [2014] HCJAC 32

This was an appeal from Hamilton JP Court. Three motorcyclists were charged with speeding on a road in Lanarkshire. The complaint libelled that the offence took place “on the A725 between the junctions for the M74 and the A721”.

The accused raised a preliminary plea in bar of trial. They argued that, because the complaint identified the piece of road in question by road numbers only, and not by place names, the complaint was so lacking in specification that it was a fundamental nullity. It should, they said, be obvious to an accused where an offence was alleged to have been committed. Thus, there was no fair notice to the accused as to where the alleged events occurred, nor indeed whether the alleged events had occurred within the jurisdiction of the Hamilton JP Court.

The procurator fiscal's counter-argument was that each case should be decided on its facts and circumstances, and there was sufficient specification in this case.

The Justice rejected the accused's argument (following advice from the Legal Advisor). The accused would not, s/he concluded, have much difficulty in working out the *locus*, given the information in the complaint.

This decision was appealed. On appeal, the accused's argument was essentially the same as it had been in the preliminary plea.

The High Court, while affirming the need to identify the *locus*, considered that the three road numbers sufficient. They were part of a UK-wide scheme, ultimately with statutory authority, and might provide greater precision than place names could, whether in rural or urban areas (and the *locus* in question was midway between a triangle of towns). Moreover, it was not seriously argued that the *locus* was not within the jurisdiction of the Hamilton Court, and the High Court itself noted that it “lies in an area adjacent to Hamilton”.

The Court considered *Yarrow Shipbuilders v Normand* 1995 SSCR 224, *Caven v Cumming* 1998 SLT 768 and *Herron v Gemmell* 1975 SLT (Notes) 93. In *Yarrow*, the offence was alleged to have taken place on “Unit 5, Ship 1047” which was seemingly insufficient. However, that was quite different from the present case, as the identification was simply a private number used by the shipyard. In *Caven*, the offence involved “Whitehill Secondary School”, without reference to a road or town. However, given the context and wording of the complaint, there could be no doubt as to the *locus*. In *Herron*, the offence was alleged on the “Glasgow Inner Ring Road at a part thereof near Charing Cross Underpass”. Identification of the *locus* by reference to the named underpass was sufficiently precise.

All this indicated that sufficiency of specification must be approached case by case. In the present case, the lack of any reference to a town was not fatal, and the use of road numbers was certainly sufficiently precise. A map might require to be used, but that might be true of all locations. A cursory look at the map made the location “readily apparent”.

The appeal was dismissed.

MORE JPs LEAVE THE BUILDING ...

Two more Sheriff and JP courts have closed, as planned.

One is Cupar, from where the work will go to Dundee, the other is Stonehaven, from where the work will go to Aberdeen.

Robin M White
E-News Editor
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