

## SJA E-NEWS

Fifty-Fourth Issue – November 2014

### SJA NEWS

#### AGM

#### LAST CHANCE SALOON!

**DON'T FORGET THAT THE AGM WILL BE HELD IN STIRLING  
ON 22<sup>ND</sup> NOVEMBER**

**SEE YOU THERE**

The **Executive** met on 30<sup>th</sup> September. The principal items discussed were as follows:

- the **Executive elections**, which had been held with the following results:

Glasgow and Strathkelvin – Dennis Barr

Grampian, Highlands and Islands – no nomination  
(leaves 1 vacancy)

Lothian and Borders – Bob Mitchell (leaves 1 vacancy)

North Strathclyde – Tom Finnigan

South Strathclyde, Dumfries and Galloway – David  
Ferguson

Tayside Central & Fife – John Whyte

It was noted that this was the first election held using email, which saved a considerable amount on postage. This method did raise confidentiality issues, but it was concluded that the Statement of Principles of Judicial Ethics meant that the secrecy of the ballot was not compromised.

- the **Commonwealth Magistrates and Judges Association Conference**, which had been attended by the Secretary, who found it a valuable experience, and whose full report would appear in the SJA Annual Report. It was noted that the SJA had regularly sent members to this Conference,

the cost having initially been borne in part directly by the Scottish Government, which had later incorporated a sum for this purpose within its annual grant aid to the SJA. It was noted that, unfortunately, the Minutes of the previous SJA Executive meeting had been leaked to the press before their publication, leading to a press report which could be seen as an attack on the SJA and CJMA. A motion was passed in the following form:

**“The Executive Committee of the Scottish Justices’ Association deploras the conduct of one or more Judicial Office Holders in disseminating confidential information obtained by the virtue of their office to the media, in a cause likely to bring the office of the Justice of the Peace into disrepute, inconsistent with the Statement of Principles of Judicial Ethics for the Scottish Judiciary – namely the principles of Judicial Independence, Integrity and Propriety”.**

- progress on the **Annual Report**, which was reported on by the Secretary, who observed that it was likely to contain 26 pages, many more than in previous years, and should fulfil the milestones used by the Scottish Government to monitor the SJA with regard to expenditure of its annual grant.
- the **Treasurer’s Report**, which was reported on by the Treasurer with reference to a Financial Update which he had already circulated. He drew attention to the further reduction in the grant from the Scottish Government (now paid in two instalments), on top of which a further £1000 unspent last year had been deducted, and to the fact that the balance in the account was now for the first time less than the amount originally transferred from the District Courts Association to the SJA.

In addition, the Executive considered reports from the Membership Secretary, from the Chair of the Communications Committee, and from the Vice-Chairman on the Judicial Council Conduct Committee, from John Lawless on the Judicial Council IT Committee, and from Tom Finnigan on the Scottish Court Service/SJA Liaison Committee. Also a vote of thanks was given to Allan Clasper (Chairman), Johan Findlay (former Chairman) and Robin White (Vice-Chairman) who were all stepping down, having served on the SJA Executive since its inception in 2007.

The **Communications Committee** met on 3<sup>rd</sup> September, and had discussed progress on updating the website, and the future of the *Scottish Justice* and E-News as their respective editors were two of the three retirals noted above.

Full Minutes of the Executive and Communications Committee are available on the SJA website.

## **OTHER NEWS**

### **COURTS REFORM (SCOTLAND) ACT 2014**

The Courts Reform (Scotland) Bill has now passed all its Parliamentary stages.

This is the legislation which introduces Summary Sheriffs, and the new Sheriff Appeal Court, which will take appeals from the JP Court.

When these provisions will take effect is not yet known.

### **EXTENSION OF JP COURT JURISDICTION**

It is an open secret that, barring accidents, not only will the drink-driving limit be reduced to 50mg, but also that the JP Court's jurisdiction will be expanded to cover some such cases.

Training is understood to be on course for the next couple of months, with the first cases appearing in the New Year.

### **BENCHBOOK STATUS**

As reported here recently, the JP Benchbook is undergoing revision and the new edition hoped to be ready in the Spring.

But what will be its status? A recent case on the Jury Manual, a parallel document for the guidance of judges and sheriffs in jury trials, sheds light. That case is *Deeney v HMA* [2014] HCJAC 104. The details are complicated and do not need repeating. The important point is a judge gave directions in his charge to a jury, which used certain phrases. The jury convicted and one of the grounds of appeal was that those phrases, which were "in virtually identical terms to certain parts of the directions suggested in ... the Jury Manual", misled the jury.

The Appeal Court had sympathy with a judge using phrases suggested in the Jury Manual, but perhaps a little unhelpfully said that it was "a useful tool for consultation and consideration", but "not a legal authority", for "its suggestions

are merely suggestions and are not binding”, and “the ultimate responsibility ... remains ... with the trial judge”.

It is unlikely that the Appeal Court judges had the JP Benchbook in mind as well when they came to this conclusion. But it might be hazarded that they would come to the same conclusion in relation to it.

But JPs should always consult their Legal Advisers when in doubt, of course.

For the jury Manual, see <http://www.scotland-judiciary.org.uk/Upload/Documents/JuryManual2014nocartoons.pdf> (and, of course, it's on the Judicial Hub).

## **STOP PRESS**

There is a Scottish Government consultation just launched for an application for Dundee Cake to receive a Protected Geographical Indication under the EU Protected Food Names scheme.

You may wish to make your feelings known.

## **AND FINALLY ...**

This is the last issue of E-News from this Editor.

As noted above in the report on the latest Executive Committee meeting, Allan Clasper, Johan Findlay and I (the last survivors of the original Gang of Eighteen who met in the spring of 2007 for the very first SJA Executive meeting) are retiring from the Executive, not having sought re-election this year.

It follows that, after the four and a half years of editing E-News, I shall cease to put finger to keyboard. However, Stuart Fair, although he has plenty to do as Treasurer, has volunteered to take over.

Good luck, Stuart!

**Robin M White**  
**E-News Editor**  
**November 2014**