



The Scottish Justices Association

The Scottish Justice – eNewsletter

September 2015

News from the SJA

1. **The Scottish Justice – eNewsletter** – In July we published our first electronic Newsletter which was distributed through the SJA website. There was very positive feedback on this revised format for distributing news amongst the Scottish JP community, however the SJA Executive Committee felt it appropriate that we should retain the ‘*Scottish Justice*’ title for our communications. We have therefore adopted this title for all of future regular news updates. We do hope that you do like this new format and the sub-committee established to edit the *Scottish Justice –eNewsletter* would welcome feedback from all of our members. Contact details of the members of the sub-committee are given at the end of this newsletter.
2. **The AGM** – We want to give you as much advance notice as possible about the SJA AGM for 2015. This year the date for your diary is Sunday 22nd November and the venue is the Novotel Hotel at Edinburgh Park. The AGM is scheduled to commence at 12:45pm and will immediately follow the Lothian & Borders Training event held at the Novotel Hotel that weekend. We would encourage as many as possible of you to attend. The SJA Executive Committee plan to send the SJA Annual Report and Accounts as a printed document to all members prior to the AGM, with the objective of promoting attendance and to encourage input from members. It is currently planned to issue the Annual Report and Accounts in early November.
3. **SJA Executive Committee Elections 2015** – Nominations were recently requested for new members of the SJA Executive, to take up their positions after the 2015 AGM. As you are aware each Sheriffdom has three Executive Committee positions, and each position is for three years, which are filled on a rotational basis, therefore one new appointment is made every year for each Sheriffdom, plus any additional appointments that may be necessary due to the resignation or retirement of an Executive Committee member. The results for the call for nominations was as follows:-

Glasgow & Strathkelvin – **Stewart Daniels** was the only nomination and will therefore continue to be on the Committee.

Grampian Highlands & Islands – One invalid nomination received. Therefore the Sheriffdom will not have its full representation on the Committee.

Lothian & Borders – **Iulia Toch and Neil Morrison** were successfully nominated. As there were two vacancies on the Committee, both were appointed to the Committee without the requirement for an election. Following the drawing of lots at the SJA Executive Meeting on Friday 14 August 2015, Iulia Toch is appointed for a three year term, and Neil Morrison for two years.

North Strathclyde – **Fraser Gillies** was the only nomination and will therefore continue to be on the Committee .

South Strathclyde Dumfries & Galloway – No nominations received. Therefore the Sheriffdom will not have its full representation on the Committee.

Tayside Central & Fife – **Stuart Fair** was the only nomination and therefore will continue to be on the Committee.

As a consequence of the nominations received there was no requirement for elections in any of the Sheriffdoms.

4. **Letter from Lord Gill** - Our Chairman, John Lawless wrote to Lord Gill on his retirement as Lord President to wish him the very best for the future. John received a hand-written reply which is in effect addressed to the whole JP community in Scotland, and as such is detailed below. Lord Gill wrote:-

‘Dear Mr Lawless,

Thank you for your letter and your kind words. I was so glad to receive the good wishes of the SJA having been Honorary President of the District Courts Association, which preceded it, and having played a part in involving the SJA in the Judicial Council for Scotland and the Judicial Institute. I was touched by your letter, particularly because I have always been anxious to see that the work of the Justices should be recognised and encouraged.

Please convey my thanks and good wishes to your members.

Yours Sincerely

Brian Gill’

5. **SJA Secretary** – Wing Commander Keith Parkes MBE has tendered his resignation as Secretary of the SJA. The Chairman and the full Committee want to thank Keith for all of his excellent work over several years as Secretary. Keith will remain on the SJA Executive Committee, and in the meantime the SJA is seeking a new Secretary.



The CMJA Conference 2015

The 17th Triennial Conference of the Commonwealth Magistrates' and Judges Association will be held this year in Wellington, New Zealand from 13 -18 September. It was agreed that our Chairperson, John Lawless should attend on our behalf. Also present at the Conference will be representative from Scottish Sheriffs and Senators, thereby ensuring that all levels of the Scottish Judiciary are present.

The conference programme addresses 'Independent Judiciaries, Diverse Societies' which is a theme of direct relevance to all judiciaries in the Commonwealth. There are also specific sessions on the future of lay justice in Commonwealth countries, which are clearly of relevance to our JP community.

In previous years, over 200 delegates from across the Commonwealth have attended such conferences and delegates have included, unpaid Justices of the Peace, paid Magistrates, Tribunal Judges, High Court Judges, Appeal Court Judges, Supreme Court Judges and Chief Justices. This provides the ideal forum for the SJA to promote itself internationally and for us, through our delegate, to benefit from the knowledge and experience gained by our colleagues from around the globe and at all levels of the Judiciary. Such is the perceived benefit of such gatherings that attendance of SJA delegates at international conferences is one of the 'milestones' by which we are judged when it comes to reviewing our annual funding.

We wish John a safe journey and look forward to reading his report on his return.

The New Dedicated JP Section Within the Judicial Hub

After a period of development, to which a number of JP's contributed, there is now a new dedicated section within the Judicial Hub specifically for the benefit of all Scottish Justices of the Peace. The section is entitled 'The Justices' Hub', and can be directly accessed from the login page of the Judicial Hub. 'The Justices Hub' has been constructed to inform all JP's and assist with their judicial activities. It is divided into seven sub categories to make it easier to find the right information, they are:-

1. **A Guide to the Justices' Hub.**

This includes a welcome screencast from Sheriff Cubie, Deputy Director of the Judicial Institute along with guidance on the Justices' Hub.

2. **Training Courses.**

This includes details of all 2015 JP Training Courses, the Judicial Institute Expense Claim form, guidance notes on the Accommodation policy and a link to provide feedback to the JI on Training issues.

3. **eResources**

This section contains the electronic version of the Equal Treatment Bench Book and the new electronic version of the JP Bench Book will be included here in the near future. In addition the Annual Reports and Training Plans for each of the six Sheriffdoms are published in this section.

4. **Support and Guidance**

This section provides links to the guidance and policy documents on the Judicial Role. In addition it provides details of how to access the induction material for using the Judicial Hub plus contact details for the Technical and IT support that is available to all JPs, including remote access to the Hub

5. **Advisory Groups**

In this section are brief details and electronic links to the web sites of the Scottish Justices Association, plus details of the Training Committee of the Judicial Institute, and the Justices Training Committee.

6. **Contacts**

Contact details for the Judicial Institute, the Judicial Hub and the IT Helpdesk are all provided. There is also a useful feedback route for comments and suggestions about the Justices' Hub.

7. **Justices' News**

This very important section provides the relevant Brief Notes on all important issues affecting the work of JP's across Scotland. In addition it also provides details of the meetings of the Justices' Training Committee of the Judicial Institute.

As you will see from the above list this is an extremely valuable guide and information source and we would recommend that you not only visit the site as soon as possible but that you continue to use it as a vital information source to assist you in your JP role.

Other News from the JI

There are two news items from the JI which are of specific interest to JP's across Scotland.

Firstly, the JI has appointed Collette Paterson as the Head of JP Programmes. Collette is a qualified solicitor and was previously the Deputy Director of Education and training policy at the Law Society of Scotland. Collette took up this new post on 27th July this year and will be responsible for running the core curriculum for Justices of the peace and for implementing the new curriculum following the consultation on JP training. This post replaces the fixed-term post of JP Legal Training Advisor, which had been occupied by Gillian Mawdsley. Collette hopes to visit all Sheriffdoms in the near future and will no doubt have a lot of contact with all JP's in due course. We wish Collette every success in this new position.

Secondly, special measures provisions for vulnerable witnesses are proposed for all JP Courts. It is hoped that the measures would be implemented by 16 November 2015, and presently discussions are taking place with the Operations Development Group in the SCTS and Sherifffdom Legal Advisors to ensure that appropriate training is available on the special measures. Where appropriate this will need video-conferencing facilities to be introduced to JP Courts. Further training and any impact on local courts will be available from Sherifffdom Legal Advisors.

A Short introduction to Restorative Justice

WHAT IS IT?

Restorative justice (RJ) is an old idea delivered in a new way. The essential idea is that crime is fundamentally an offense directed against an individual, and in order to repair the social bond, the offender and the victim must *agree* on a form of reparation. The practice aims to restore the damage to the victim, to the community, and also to restore the offender to a law-abiding life within the community.

It draws upon non-western practices of community justice from a wide variety of sources, often from indigenous populations in (for example) Australia, New Zealand or North America).

RJ is seen as a philosophy rather than a fixed process, and its supporters use different language to distinguish it from the traditional 'retributive' system. Thus, 'putting things right' is a product of discussion and negotiation, rather than the adversarial, dictatorial process which is how RJ proponents describe the standard system. It is seen as more 'emotionally intelligent' than the standard system.

Restorative practices (often a preferred term) are seen as more consistent with an approach which prefers mediation and problem-solving as a more effective means to achieve social cohesion. Such practices are used increasingly in wider, non-criminal contexts, such as neighbour mediation, and within the school environment.

WHAT HAPPENS IN A RESTORATIVE MEETING?

There are a number of versions, but typically, both victim and offender have to agree to meet (a feature which itself can require a great deal of social skill on the part of the mediator). During the meeting the victim explains how he or she has been affected by the crime, the offender recounts what led him or her to commit the offence, and both parties work out a form of reparation. Reparation can be financial or take the form of work done for the victim, or for the wider community.

There can be a considerable amount of preparatory work prior to setting up a Restorative meeting, and depending of the staffing required ('Restorative Circles' for example can require a number of staff) the initial cost can be quite expensive.

It is generally agreed that the whole process can require a great deal of courage on the part of both the victim and the offender. It is not, in other words, a 'soft option' for the offender in particular.

WHAT ARE THE CLAIMS?

The most compelling claims in favour of RJ are firstly that VICTIMS benefit in a reduction of post-traumatic stress, a feeling of greater empowerment, and the sense that they have participated fully in the process, rather than being uninvolved after initial report to Police. Secondly, from the OFFENDERS viewpoint, it is claimed that feelings of guilt are reduced and more importantly the chance of recidivism is reduced.

WHAT IS THE EVIDENCE?

A major review of RJ was conducted by Sherman and Strang in 2007. They point out a caveat regarding evaluations of RJ, namely, that the offenders who engage with the process are more likely to comply, and, because of this 'self-selection' less likely to reoffend. Even with this, the evidence is more ambiguous. Contrary to expectations, a reduction in recidivism was more likely when the crime was more serious, and when it was of a violent nature rather than against property. There was also some evidence that certain populations of offenders were more likely to desist. Nevertheless, the overall trend was in favour of less recidivism and there were very few instances of any increase in offending. Needless to say research into why RJ is more effective in some circumstances than in others remains an important issue.

On the other hand there was broad support for the claim that the RJ process had considerable benefits for victims. There was less post-traumatic stress, less desire for revenge, more positive feelings regarding the offender, and more victims were in favour of the RJ process versus the standard criminal justice process.

This may be the standout benefit of RJ.

WILL IT PUT US OUT OF A JOB?

At current levels of understanding it seems unlikely, in part because JPs deal with a high proportion of road traffic cases of a comparatively minor nature, and it is not obvious how RJ might apply in these cases. Even conventional crimes dealt with by JPs tend to be lower tariff and the decision as to when, where, and why RJ is more applicable - and more cost effective - still has to be resolved. It does seem however that RJ has earned its place within the criminal justice system.

David Ferguson

Further Reading:-

There is a great amount of information on RJ available online, and the reader is encouraged to conduct their own search. Some starting points are:-

- "Introduction to Restorative Justice" (Publication of Restorative justice online ((Online publication of Restorative Justice. org) available at <http://bit.ly/112KiQg> This is a comprehensive web-based introduction to the topic.
- Shapland et al (2008) Does restorative justice affect reconviction? Ministry of Justice Research Series 10/08, June 2008 Available at www.justice.gov.uk/publications/research.htm (One of a series of papers evaluating RJ)
- Best Practice Guidance for Restorative Justice Practitioners and their Case Supervisors and Line Managers (Scotland) (2008), available at www.gov.scot/resource/doc/226996/0061358.pdf
- Sherman and Strang 2007 "Restorative Justice: The Evidence." The Smith Institute, London
A more academic approach from Professor Sherman and Dr Strang

Contact with the SJA

The *Scottish Justice* sub-committee would like to hear from all of our members with views about the revised format of the '*Scottish Justice*'. In addition we 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

Should you wish to make contact with the full SJA Executive Committee in connection with the AGM or on any other subject, this can be made through the Secretary's web mail addresses which is secretary@scottishjustices.org. Despite the temporary absence of a Secretary this web mail address is still monitored and actioned by the committee.