



# The **Scottish Justices** Association

## *The Scottish Justice – eNewsletter*

*December 2016*

### **News from the SJA**

#### **1. The 2016 Annual General Meeting**

The 2016 AGM was successfully held on Sunday 20<sup>th</sup> November at the Golden Jubilee Hotel and Conference Centre in Clydebank. A total of 28 members of the Association attended making the meeting fully quorate as detailed in the constitution of the SJA. The Executive Committee would like to express their thanks to so many members of North Strathclyde Sheriffdom who attended the AGM following their weekend training session and thereby bolstered numbers to achieve the quorum.

At the AGM there was only one motion to consider and it concerned minor changes to the stated Aims of the SJA as contained in the SJA Constitution. The motion was designed to clarify that JP training was the primary responsibility of each Sheriffdoms JP Training and Appraisal Committee (JPTAC); but that the SJA had a role to represent the best interests of JP's in all issues that directly affected them in performing their role as a JP. This motion which had been proposed by the Executive Committee was carried unanimously.

Our Chairman, John Lawless also thanked the 87 members who had responded to the survey earlier in the year, and advised the meeting that the new Executive Committee would prepare and issue an action plan as to how the Committee will respond to the issues raised from the responses to the survey.

The Chairman gave his thanks to the retiring members of the Executive Committee John Hutchison (GH&I), Fraser Gilles (NS), Bob Mitchell (L&B) and Stewart Daniels (G&S). In

turn the Vice-Chairman, Tom Finnigan gave a vote of thanks to John Lawless who was standing down as Chairman of the SJA as he completed a two-year term in the role.

## **2. SJA Office Bearers and Representatives**

Immediately following the AGM the Executive Committee met to appoint the Office Bearers of the Association, and the SJA representatives on appropriate judicial and other committees for the forthcoming year. The Office Bearers were all unanimously voted into their respective positions, which are as follows:-

**Chairman – Tom Finnigan (North Strathclyde)**

**Vice-Chairman – Gordon Hunter (South Strathclyde, Dumfries & Galloway)**

**Treasurer – John Whyte (Tayside, Central & Fife)**

**Secretary – Dennis Barr (Glasgow & Strathkelvin)**

**Membership Secretary – John Lawless (Glasgow & Strathkelvin)**

The following representatives to external committees were also nominated:-

SJA/SCTS Liaison Committee – the Chairman and Vice-Chairman

Information & Communication Technology Committee – John Lawless

Welfare and Support Committee – Marella O’Neill (North Strathclyde)

Conduct Committee – John Burns (Lothian & Borders)

‘*Scottish Justice*’ Sub-Committee – Marella O’Neill, David Ferguson (South Strathclyde, Dumfries & Galloway), Brian Wood (Grampian, Highlands & Islands) and Grace MacLeod (North Strathclyde).

In addition John Lawless was re-appointed as Web-Master for the SJA web site.

The first full meeting of the new Executive Committee will be held at the end of January 2017.

## **Update on the Sentencing Council**

You may recall that in 2015 an independent Sentencing Council was established to review all aspects of sentencing across all judicial levels in Scotland. A JP Representative was required for this Council and following a call for nominations, Gillian Thomson a JP from Tayside, Central & Fife Sheriffdom was appointed. The ‘*Scottish Justice*’ did request an update on the work of the Sentencing Council and Gillian has very kindly provided the following report.

## **Sentencing Council publishes Business Plan**

Justice Gillian Thomson, who sits in Stirling, is a member of the Scottish Sentencing Council which was launched last year to improve consistency in sentencing across Scotland and increase public understanding of the sentencing process. To do this, the Council will prepare evidence based sentencing guidelines, and earlier this month, it launched its first priorities in the three year Business Plan presented to Scottish government ministers. Gillian explains more about the Council's work:

“Our first guideline topics will focus on the general principles and purposes of sentencing; sentencing young people; causing death by driving; and environmental & wildlife offences. We will also begin research into the sentencing of sexual offences.

Our initial piece of work will be an overarching guideline on the general principles and purposes of sentencing which will address all offences. This will discuss the different factors taken into account when a sentence is decided such as the seriousness of a case and the harm caused to a victim. Alongside this, we will focus on the specific topic of young people. Because age does not always reflect maturity, this can be a complex area and we believe that a guideline would help improve public understanding of how young offenders are sentenced. This initial work will also help the Council develop a template for future guidelines in a format best suited to the justice system in Scotland.

One of the first decisions taken by the Council was to consult widely on all guidelines and allow sufficient time to gather evidence in a systematic way. We are developing a research framework to take this forward, while also establishing a consultation processes for the judiciary, the public and interested groups.

Guidelines must be approved by the High Court and our first overarching pieces of work will be submitted by autumn 2018. In the meantime, we will also begin work on two offence-specific topics. We have chosen two significant, complex offences: causing death by driving, and environmental & wildlife offences. These are serious matters, sometimes involving complex and emotive circumstances, which can lead to extremely difficult sentencing decisions. For example, this can involve the death of members of the driver's family due to careless driving which, under other circumstances, might not have had precisely the same dreadful consequences.

Fatalities have a huge impact on local communities and sentencing in such cases can provoke strong emotional responses. Development of guidelines which reflect the offence and its consequences appropriately will be complex and challenging, not least to convey to the public the reasons underlying the decisions.

Meanwhile, environmental and wildlife offences have particular resonance in Scotland considering that tourism and rural industries are of significant importance to our economy. Guidelines on environmental offences will be particularly helpful in outlining how corporations should be sentenced. It is anticipated that these guidelines will be submitted to the High Court in 2019.

We also plan to begin research into the sentencing of sexual offences, with a focus on those involving children. This has become an area of increasing public concern in recent years.

More generally, we know that a wide range of offences impact people and we are committed to dealing with them as soon as we can. We are already looking ahead to the next Business Plan for 2018 – 21 when we will consider focusing on theft and property offences which form a large proportion of prison sentences. However, any proposals to extend the presumption against short-term sentences will need to be taken into account before guidelines on high volume offences such as these could be produced. Road traffic offences form much of the volume of work in our own JP courts but the work of the Sheriff Appeal Court in this area may influence whether there is a need for an early development of guidelines.

We further anticipate looking at domestic abuse - once the Scottish Parliament has considered the proposed new offence - and sentence discounting. The latter is well understood by the judiciary but not by people in general so provides an example of our role in raising public awareness of sentencing. The next Business Plan, however, is still under discussion and we welcome your views on what it should contain.

Anyone may suggest a topic for guidelines to the Council but when selecting topics for guidelines, we are required to consider in particular the following:

- Statutory requests made by the High Court and the Sheriff Appeal Court (which we are required to address) or the Scottish Ministers (which we can decide not to pursue). As yet we have not received any.

- public value, particularly where a guideline is expected to improve understanding of sentences
- impact, particularly in relation to the volume of offenders, offences or disposals, and/or the extent to which a guideline might be expected to promote consistency
- areas of particular difficulty or complexity
- new legislation or developments
- resources required and available for the preparation of a guideline
- other relevant factors, for example interaction with other guidelines.

The question often asked is: do I have to follow the guidelines? Judges must take guidelines into account when sentencing, and if they do not follow them, must give their reasons. It will be important for the Council to work with judges across the justice system in preparing guidelines and developing formats that are useful and clear. We are currently researching different styles used around the world to determine the best for Scotland, and are also road testing formats with judges directly.

If you would like to take part in this, please [contact the Council](#). Please also [contact the Council](#) if you have suggestions as to what topics should be considered in the future.

We value any contribution you wish to make to our continued development and I would be happy to talk about the Council's work to any groups of JPs, or go along to a Sheriffdom event.

[Sentencing Council website](#)

@scotsentencing

## **SJA Responses to Other Initiatives**

### **1. End Of Life Care Choices**

At the beginning of October 2016 the SJA received an invitation to attend an event in the Scottish Parliament organised by 'Friends-at-the-End' (FATE) on the 'End of Life Care Choices'. On the basis of the potential involvement of JPs in previous initiatives on this matter it was agreed that it would be appropriate for the SJA to be represented to obtain a clearer understanding of the current attitudes to end of life options. The Association's Treasurer, John Whyte represented the SJA at this event. John reported back to the Executive Committee that at present there are no further plans or thoughts for the direct involvement of JPs in any aspect of end of life care options. Whilst the SJA will keep a watching brief on this and related issues, members should be made aware that there are no plans that are of specific concern to the JP community.

### **2. Justice Committee's Review of the Effectiveness of COPFS**

The Secretary would like to thank all SJA members who responded to the request for input on the issue of the effectiveness of COPFS from a JP perspective, as requested in the September issue of the '*Scottish Justice*'. The review had been requested by the Justice Committee of the Scottish Government and they sought the views of a wide range of bodies across Scotland. The Secretary, Dennis Barr provided a written response based on all the comments received and submitted it to the Justice Committee on 18 October 2016 in accordance with their timetable. A copy of this response is available on the SJA website.

### **3. Utility Warrant Signing**

The Secretary would also like to thank those JPS who responded with their views on the signing of Utility Company warrants, in particular to Susan Kirkwood (GH&I) who provided a very detailed and comprehensive response. It is evident that with the rise of the number of Utility suppliers in the U.K combined with a growing use of debt recovery agencies by some of the Utility companies, that there are growing discrepancies as to the process of when to invoke a warrant application. There are clear guidelines laid out by the SCTS as to the administrative processes for the handling of these warrants, however, it is evident that there are no rules or principles which set out the criteria as to when a warrant should be sought, and what factors should be considered in the application. As a consequence the Executive Committee propose to raise this issue with OFGEM, the Government regulatory body for energy suppliers. We shall keep members advised of progress with this issue.

## **News from the Sheriffdoms**

- (a) **Glasgow and Strathkelvin** – It is with great sadness that Glasgow and Strathkelvin have to report the untimely death of Mr Alex Kirk, one of our sitting JPs. Alex passed away in October after taking unwell whilst returning from holiday. Whilst Alex did have health problems his passing was unexpected and sudden. Alex was

aged 61 and had been a JP in Glasgow since April 2010. All JPs in Glasgow have passed on their condolences to Alex's family.

Unfortunately this is the second death of a sitting JP in the Sheriffdom this year, and it follows the death of John L. Robertson in June this year. These untimely deaths, coupled with the retirement of other JPs, has left the total complement of JPs in Glasgow at 15 at present. A Sheriffdom JPAC has, however, been established and it is planned to recruit more JPs early in 2017. In addition, in mid -December we shall welcome David Meek into our ranks. David was a JP in Tayside Central & Fife, but has recently moved to Glasgow. We understand that no transfer fee was involved!

**(b) Tayside Central & Fife** - As reported in the AGM report, TC&F Sheriffdom will be swearing in twenty new JP's at the beginning of 2017. The Training Programme for 2017 has been issued to all JP's from the Sheriffdom and outlines the training sessions and requirements from 1<sup>st</sup> January to 31<sup>st</sup> December 2017. Due to the changes in the training programme, the Justices Annual Sheriffdom Training event will be at the end of the training year this will be on Saturday 18<sup>th</sup> November 2017.

**(c) Grampian, Highlands & Islands** - Over the last year GH&I has lost the services of eight Justices through retirement and a considerable amount of experience. Collectively they accumulated almost 150 years of service on the bench. We are very grateful to them for all they have contributed to the District and JP courts across the Sheriffdom and we wish them well in the future.

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|------------------|---------------------------------|
| Pamela Pack      | 32 years at Inverurie and Banff |
| George Wilson    | 27 years at Banff               |
| David Nelson     | 22 years at Stonehaven          |
| Margaret Mackay  | 21 years at Elgin               |
| Raye Marcus      | 20 years at Aberdeen            |
| Andrew McIlraith | 12 years at Stonehaven          |
| John Logie       | 6 years at Inverness            |
| Maureen Melvin   | 6 years at Aberdeen             |

## **The 'Scottish Justice'**

There have been some enforced changes to the Sub-Committee which acts as the Editorial Board of the 'Scottish Justice'. Bob Mitchell will soon reach the tender age of seventy and has retired from the SJA Executive Committee, and Dennis Barr wishes to concentrate on the duties of Secretary to the Association. As you may have noticed earlier Marella O'Neill and David Ferguson have remained on the Sub-Committee and they are delighted to welcome two newcomers, Grace MacLeod and Brian Wood.

As ever the Sub-Committee do welcome and indeed rely on input from our members on topics and issues that are of interest to the whole JP Community. Therefore in order to contact any member of the 'Scottish Justice' Sub-Committee with your articles, or any ideas for an article, then their e-mail addresses are given below:-

Marella O'Neill – [marella52@outlook.com](mailto:marella52@outlook.com)

David Ferguson – [david\\_ferguson@inbox.com](mailto:david_ferguson@inbox.com)

Grace MacLeod – [grace.macleod@btinternet.com](mailto:grace.macleod@btinternet.com)

Brian Wood – [brian.j.wood@btinternet.com](mailto:brian.j.wood@btinternet.com)

Finally the entire SJA Executive Committee would like to wish all members a very Merry Christmas and a Happy and Prosperous New Year.



And a Happy and Prosperous

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