

# Draft Competences for Justices of the Peace

May 3, 2007

There are five Competences. Each Competence has a number of Elements. There are sections on the Knowledge Required for each Element. Arguably, the most important sections for each competence are the Performance Criteria that should be met in each area. Finally, the Range section provides detail of the topics covered.

# 1 Achieve And Apply Understanding Of The Framework Within Which Justices Operate

## Elements

|     |   |
|-----|---|
| 1.1 | Define the Justice's rôle in the judicial system          |
| 1.2 | Identify key players in the criminal justice system       |
| 1.3 | Explore information relevant to the Justice's local bench |
| 1.4 | Prepare self for rôle in judicial process                 |
| 1.5 | Engage in ongoing learning and development                |

## Knowledge Required

|       |  |
|-------|--|
| 1.1 a | The judicial system within Scotland  |
| b     | The rôle of Justice of the Peace Courts in judicial system                   |
| c     | An overview of the European system of justice                                |
| 1.2 a | The rôles of the government departments                                      |
| b     | The rôles of key players in the justice system                               |
| c     | The variety of cases brought before the Justice of the Peace Court           |
| 1.3 a | The impact of locality on rôle of Justice                                    |
| b     | The components of community and impact on local justice                      |
| c     | The rôle and practice of local bench and associated committees               |
| 1.4 a | Which documents provide info and guidance for day's sitting                  |
|       | Range of practical/procedural issues to consider including case management   |
| c     | Factors that could disqualify from case, including potential bias            |
| d     | Extent of rôle of legal ' and other main agencies in system                  |
| 1.5 a | Importance of giving/receiving feedback <i>etc.</i> . How to meet needs      |
| b     | Range of material/events <i>etc.</i> to ensure fully informed and up to date |

## Performance Criteria

|       |  |
|-------|--|
| 1.1 a | Act consistently within the powers of the court  |
| 1.2 a | Obtain relevant information from parties and legal ' to enable appropriate decision to be made |
| 1.3 a | Sentence consistently with regard to local public interest                                     |
| 1.4 a | Obtain and read relevant paperwork prior to briefing <i>etc.</i>                               |
| b     | Agree roles and responsibilities you will undertake  |
| c     | Check to identify potential sources of conflict or interest                                    |
| d     | Discuss with adviser procedural and legal issues <i>etc.</i>                                   |
| 1.5 a | Assess performance with respect to competence framework  |
| b     | Adapt performance to changes in practice, keeping own materials                                |

### Range (subjects will include)

|     |  |
|-----|--|
| 1.1 | High Court of Justiciary (Appeals), Sheriff Court, Children's Hearing system<br>Summary justice & appeals, Statute/common law, Human Rights law, Section 49 hearings<br>European Court of Justice, European Convention on Human Rights.                                    |
| 1.2 | Scottish Executive, Crown Office<br>Legal Adviser, P.F., defence lawyer, police, S.W.D. (C.J.), witnesses, prison service<br>Traffic, vehicle licensing, public order, crimes of dishonesty & against the person   |
| 1.3 | Features, strengths & weaknesses, employment, basic social history, geography<br>population, demography, cultural diversity, family groupings, crime statistics<br>Justices' Committee <i>etc.</i> , sitting patterns, policy, procedures, training, appraisal <i>etc.</i> |
| 1.4 | Justices bench book and competences; daily court sheets  |
| 1.5 | Judicial note book and personal performance record; training record  |

## 2 Achieve And Apply Understanding Of Basic Law And Procedure Within

### Elements

|     |  |
|-----|--|
| 2.1 | Define the prosecution process in the court    |
| 2.2 | Define key stages in effective case management |
| 2.3 | Apply court procedures effectively             |
| 2.4 | Identify procedures for signing duties         |

### Knowledge Required

|       |   |
|-------|---|
| 2.1 a | How criminal prosecutions are initiated                         |
| b     | The procedure in the prosecution process                        |
| c     | The procedure of a trial  |
| 2.2 a | Such matters that impact on scheduling & timetabling of cases   |
| b     | The factors which have an effect on case management             |
| c     | The key players and rôles in the context of case management     |
| 2.3 a | The basic principles of court procedure                         |
| 2.4 a | The duties and the types of information required before signing |
| b     | The purpose of warrants and out-of-court applications           |

### Performance Criteria

|       |  |
|-------|--|
| 2.1 a | Demonstrate a fair balance between the rights of the prosecution, defence and public interest  |
| 2.2 a | Manage the day's business proactively  |
| b     | Apply effective case management. Give reasons as required  |
| c     | Apply efficient procedures. Give reasons as required   |
| 2.3 a | Handle routine procedures effectively  |
| b     | Apply basic principles of criminal law; identify elements of offence   |
| c     | Apply basic principles and ensure rules of evidence adhered to   |
| 2.4 a | Verify identity of applicant; place on oath if necessary; ascertain sufficient information to exercise discretion; note relevant facts |

### Range (subjects will include)

|     |   |
|-----|---|
| 2.1 | Issuing warrant; issuing complaint guilty plea, prosecution case, mitigation, explanation & sentencing, intermediate diet, unrepresented accused<br>Oath, evidence in chief <i>etc.</i> , cross examination, no case to answer, defence case, explanation & verdict |
| 2.2 | Statutory time limits, personal time-keeping, court diary <i>etc.</i><br>Adjournments, continuations, remands, bail, Legal Aid, effectiveness & efficiency<br>JP, Legal Adviser, PF, defence lawyer, police, SWD, court admin, DVLA, DSS                            |
| 2.3 | Guilty/not guilty pleas; unrepresented & multiple accused, fine defaults, contempt <i>etc.</i><br>Evidence in chief, cross & re-examination, sufficiency, corroboration, hearsay, proof burden  |
| 2.4 | Police, utilities <i>etc.</i> , affidavits, affirmations, shotgun/firearm applications, passports<br>Within/outwith court, civil cases.   |

### 3 Think And Act Judicially, Maintaining Independence In All Decision-Making

#### Elements

|     |   |
|-----|---|
| 3.1 | Define, understand and accept rôle of judicial oath in the practice of justice and act judicially by applying the principles of judicial oath |
| 3.2 | Use appropriate processes and structures to facilitate effective decision making  |
| 3.3 | Make impartial and independent judicial decisions   |

#### Knowledge Required

|       |   |
|-------|---|
| 3.1 a | The scope of the judicial oath  |
| b     | The purpose of the judicial oath                                      |
| c     | The importance of judicial independence                               |
| d     | The impact of personal experience in being impartial                  |
| 3.2 a | Legal framework; principles applying to range of decisions etc        |
| b     | Criminal/civil proceedings; burden of proof                           |
| c     | The importance of using a consistent approach to decision making      |
| d     | Structured decision-making; options; interests of justice             |
| e     | The need for properly formulated reasons and pronouncements           |
| f     | The sentencing powers available including statutory penalties         |
| g     | The considerations to be taken into account before sentencing         |
| h     | The factors to be considered in deciding appropriate sentence         |
| 3.3 a | Impact of background/prejudices; labelling, stereotyping, non-verbal  |
| b     | The factors which potentially discriminate against full participation |
| c     | The range of factors that can influence decisions                     |

#### Performance Criteria

|       |  |
|-------|--|
| 3.1 a | Demonstrate respect & understanding of circumstances & background          |
| b     | Display non-discriminatory behaviours in verbal & non-verbal communication |
| c     | Evaluate impact of own behaviour & modify accordingly                      |
| 3.2 a | Identify & agree appropriate approach & apply principles                   |
| b     | Sift relevant info & clarify as appropriate                                |
| c     | Analyse & assess information, evidence, facts, submissions <i>etc.</i>     |
| d     | Identify & evaluate possible outcomes; other relevant factors              |
| e     | Participate in formulation of reasons and pronouncements                   |
| 3.3 a | Identify, acknowledge, set aside prejudices & bias                         |
| b     | Challenge any bias or prejudice you see in decision making                 |
| c     | Identify relevant factors that legitimately influence decision             |
| d     | Sentence consistently within the powers of the court                       |

### **Range (subjects will include)**

|     |   |
|-----|---|
| 3.1 | Fair treatment for all, cultural/ethnic issues, disadvantaged/vulnerable groups, demographics<br>Impact of discrimination, equality legislation, exercising fairness & impartiality<br>Conditioning, prejudices, stereotypes, language & cultural differences, body language.   |
| 3.2 | Absolute Discharge, Admonishment, Deferral, Probation, Fine, Custody, Compensation<br>Order, Endorsement, Disqualification<br>Fiscal info: previous convictions, damage done;<br>Defence info: explanation, mitigation, income, circumstances<br>Seriousness of offence, early guilty plea, aggravating/mitigating circumstances, aim of sentence |
| 3.3 | Equal Treatment Bench Book; Justice's Bench Book; advice from Legal Adviser   |

## 4 Communicate Effectively

### Elements

|     |   |
|-----|---|
| 4.1 | Demonstrate effective and appropriate communication skills to manage court proceedings and in the retiring room |
|-----|---|

### Knowledge Required

|       |  |
|-------|--|
| 4.1 a | Good and effective communication skills in relation to all court users |
|-------|--|

### Performance Criteria

|       |  |
|-------|--|
| 4.1 a | Demonstrate respect for others in communication              |
| b     | Display patience, firmness & fairness in all circumstances   |
| c     | Speak clearly, calmly, concisely, giving reasons as required |
| d     | Actively listen to contributions from others                 |
| e     | Use questions effectively and appropriately                  |

### Range (subjects will include)

|     |   |
|-----|---|
| 4.1 | Simple language - no jargon, eye contact, checking understanding, courtesy <i>etc.</i> making accurate notes, eye contact as appropriate, appropriate non-verbal behaviour<br>Appropriate use of open/closed questions; clear & unambiguous questions |
|-----|---|

## 5 Work Effectively As Chairman Or Team Member

### Elements

|     |  |
|-----|--|
| 5.1 | Participate effectively on the bench as chairman, supporting justice or sole justice by making an effective contribution to judicial decision-making |
| 5.2 | Participate effectively in discussion in the retiring room as chairman, supporting justice or sole justice   |
| 5.3 | Work in partnership with Legal Adviser   |

### Knowledge Required

|       |   |
|-------|---|
| 5.1 a | Good and effective skills as chairman, supporting justice or sole justice           |
| 5.2 a | The role and responsibility of being a chairman, supporting justice or sole justice |
| 5.3 a | The role and responsibility of the Legal Adviser                                    |

### Performance Criteria

|       |   |
|-------|---|
| 5.1 a | Undertake prearranged rôles with guidance from chairman                   |
| b     | Actively listen to proceedings to assist chairman when required           |
| c     | Support chairman: draw attention to points of evidence & procedure        |
| 5.2 a | Display non-discriminatory behaviour in verbal & non-verbal communication |
| b     | Challenge views that appear partial or discriminatory                     |
| c     | Use appropriate listening & reflecting skills to identify issues          |
| d     | Focus only on the evidence presented                                      |
| e     | Assist in the formulation of announcements made in court                  |
| 5.3 a | Build a working relationship through collaborative approach               |
| b     | Work effectively with Legal Adviser to agree rôles & responsibilities     |
| c     | Request legal advice of Adviser appropriately - also off bench            |
| d     | Cooperate with Adviser to prepare appeals                                 |

### Range(subjects will include)

|     |  |
|-----|--|
| 5.1 | Note taking, managing reference material, observation of specific individuals.   |
| 5.2 | <i>E.g.</i> with other justices, chairman, Legal Adviser re fairness, cultural & ethnic issues, disadvantaged/vulnerable groups, demographics  |
| 5.3 | Pre-court discussion, provide, request feedback, keep Adviser informed<br>Agree speaking rôles, respecting boundary, rules of advice available |