



Judicial
Studies
Committee

Business Plan

**For Three Years Commencing
1 April 2003**

JUDICIAL STUDIES COMMITTEE

COMMITTEE MEMBERS

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The Hon Lord Philip

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Sheriff G C Warner

Mr Jim Gallagher, Head of Justice Department

Mr John Sturrock, QC

Sheriff N M P Morrison, QC, *ex officio*

OFFICE STAFF

Director of Judicial Studies: Sheriff N M P Morrison, QC

Legal Assistant: Mr Graeme Brown, Solicitor

Personal Assistant: Ms Aileen Shields

Clerk/Typist:

1. Introduction

Judicial independence

In any true democracy, judges must enjoy a high degree of autonomy so that they can exercise their judicial powers independently without others, including organisations of the State such as the Executive and Parliament, being able to control their decision-making. Unless judges have such independence, the public will not be able to have confidence in the administration of justice.

Judicial training itself, in so far as it seeks to influence how judges carry out their duties, might be thought to compromise judicial independence. In order to ensure that it does not, it has to be recognised, in all democratic countries, that the overall control and direction of judicial training and awareness requires to be in the hands of the judges. This also ensures that judicial training has credibility among the judges. The composition of the Judicial Studies Committee recognises the importance of these principals.

Training or awareness of the judiciary

Unlike legal systems in which people begin their careers in the judiciary after university, judges in Scotland have had careers as lawyers for about 20 years before elevation to the Bench. They, therefore, have a wide experience of life and the law before becoming judges. They do not require the same training that people starting their careers need. They do need to be aware of developments and trends in society, to keep up to date with legal developments and to augment their skills in familiar areas of work and to develop new skills in relation to new areas of work.

Benefits of judicial training and awareness

The Judicial Studies Committee (“the JSC”) is confident that judicial training has many benefits which help to provide a more effective and efficient justice system in Scotland. These include: -

- enhancement of judges’ skills and techniques in the courtroom and understanding of how, most effectively, to fulfil their rôle;
- greater awareness of the needs of court users, including witnesses and victims, and how to ensure that respect for each individual is combined with effective administration of justice;
- more efficient use of court and judicial time through better handling of cases and hearings;
- greater awareness of current developments in the law and society as a whole and how these can be applied to the benefit of all using the courts;
- savings in time and other resources and greater consistency of approach.

The remit of the JSC

The remit of the JSC was set out by the Secretary of State for Scotland, Michael Forsyth, on 14 January 1997. It is to promote training for the judiciary to enhance the knowledge base and practical skills of the judiciary.

The JSC’s rôle at present is to serve the judges, including temporary and part-time judges, in the Supreme Courts, (the High Court of Justiciary, and the Court of Session) and in the sheriff court. The full-time judges in the Supreme Courts are the senators of the College of Justice and the full-time judges in the sheriff court are the

sheriffs principal and the sheriffs. The total number of the full-time judiciary is currently 175. The number of additional temporary and part-time judges, and retired senators who sit in the Supreme Courts on a part-time basis, is 73. The JSC has no responsibilities as yet for the justices in the District Court or for tribunals.

Overview of JSC activities

The core activities of the JSC include running courses, producing and maintaining bench books, keeping judges up to date with new law in legislation or case law, and maintaining an intranet site for judges containing material relating to all these matters.

There are four kinds of course run by the JSC. There are induction courses for new judges, refresher and skills courses for existing judges, and special courses on particular topics. These courses are explained in more detail in section 2.

The three year plan 2003 – 2006

The plan for the year beginning 1 April 2002 had two main aims. Firstly, the JSC would develop programmes that have been tried. Secondly, it would begin the rolling programme of refresher courses for the whole judiciary. The work of the JSC has been circumscribed by lack of accommodation. At the end of March 2003 the JSC moved its office from the Edinburgh Sheriff Court House to Bearford House, 39 Hanover Street, Edinburgh. The JSC is now able to expand and to employ additional staff in order to meet the needs of the judiciary within its remit.

With that expansion in mind, the JSC can now plan for more than one year at a time. This business plan, therefore, sets out the programme and intentions for the next three years on the assumption that the JSC has the staff resources to carry these out.

One of the difficulties for the JSC is that the pressure of work on the judiciary is so great that it is not always possible for judges to be released from judicial duties to

attend a JSC course. The non-availability of judges is a factor that has to be considered when trying to increase the opportunities for judges to attend JSC courses.

The plan for the next three years is: -

- To maintain and develop the current activities of the JSC.
- To prioritise the objectives of the business plan.
- To increase the number of skills courses from three to four to enable the remainder of the full-time judiciary to attend such a course by the end of 2006.
- To start follow-up skills courses for those judges who have attended a skills course.
- To increase the number of special courses on different topics by one each year.
- To offer each special course at least twice a year.
- To offer JSC training opportunities to each judge for one day each year.
- To offer management training to those judges who have a responsibility for court programming.
- To train a small number of judges to plan and run special courses.
- To appoint a judge in each sheriffdom to be responsible for local initiatives.
- To improve judicial IT skills.
- To set up a JSC intranet website for the judiciary.
- To produce some of the JSC guidance material for the judiciary on CD-Rom.

- To produce material in relation to children in legal proceedings.
- To update the Starter Pack material for new judges.
- To produce some guidance material derived from the skills course.
- To publish a booklet about the JSC.

2. Courses

The proposals for the courses run by the JSC are dealt with in this section.

(a) Induction courses

In the Business plan for the year commencing 1 April 2002, it was indicated that the JSC would like to see elements of the skills course included in the induction course. Eventually, once most judges have attended a skills course, it should be possible to drop the skills course as a separate course. The induction course for new senators and temporary judges in April 2003 (which lasted five days) included all the elements of the skills course. This was successful. It was not possible to include the skills course elements in the induction course for new sheriffs and part-time sheriffs in June 2003 because of the exceptionally large number of participants. It should be possible to combine the skills course with the next induction course.

Induction courses are difficult to plan in advance because it is not known how many new appointments will be made and courses for one or two participants are not viable. It is anticipated, however, that one induction course will be held each year.

(b) Rolling programme of refresher courses

The rolling programme of refresher courses began in 2002, the first course being in May 2002. All members of the judiciary will undertake a refresher course every three years. Three courses are planned for each calendar year. Each course will consist of about 26 participants. Participants will be a mixture of senators, sheriffs principals, sheriffs, part-time sheriffs, temporary judges and retired senators who undertake judicial duties. There are usually two guests from other jurisdictions.

Each course will include talks on matters of topical and general interest in society and the law as well as sentencing and problem exercises. It will include material to inform judges about recent developments in criminal and civil practice, and treatment of offenders, victims and witnesses.

The courses are residential and currently three days in length.

By the end of 2004, all the judiciary, except those appointed in 2003 (who will have attended an induction course), should have attended a refresher course. In 2005 the three cycle will begin again so that all the current members of the judiciary will attend a refresher course by the end of 2007.

(c) Skills courses

Two senators and six sheriffs are expected to attend each course. Judicial skills courses currently include sessions on the rôle of the judge; effective communication in the courtroom; simulated court hearings with video feedback; judicial writing; charging the jury and sentencing, both also with video feedback. The course is continuously being developed in response to feedback given by participants. Judicial skills courses are residential and are currently three days in length.

It is intended to increase the number of courses from three to four from 2004. When the full-time judiciary have had an opportunity to attend such a course (by the end of 2006), it will be possible to extend the course to part-time judges.

(d) Special courses

In 2002 the JSC began running one-day courses on particular areas of law and practice. The first was a course on summary causes and small claims. A second course on that topic was held in April 2003. Two courses about intervention and guardianship orders under the Adults with Incapacity (Scotland) Act 2000 are being held in 2003. A series of courses on handling sexual offences cases are to begin in the autumn of 2003.

The JSC proposes to increase substantially the number of special courses on different topics. Such courses will usually be one-day seminars. It is not possible to hold such a course for all judges at once. Each course will, therefore, be repeated at least twice a year. It may be possible to increase that frequency. Each course will be repeated for as many years as may be necessary. Some courses or topics may be a regular feature every year.

In 2004 it is proposed to add, to the courses mentioned above, courses on bankruptcy and insolvency, taking the evidence of and interviewing children, the European Arrest Warrant and IT.

(e) Tea-time seminars for senators

One seminar per term is planned, to which all senators will be invited to attend. These seminars, which last about two hours in the early evening, are on subjects of topical interest to senators related to their work.

(f) Follow-up skills course

The JSC would like to develop a follow-up course for those who have attended a skills course or an induction course which included the skills course. Its ability to do so will depend on resources and the priority to be given to the other courses.

3. Bench Books

Equal Treatment Bench Book

As presaged in the last Business plan, the JSC issued the Equal Treatment Bench Book in January 2003. The aim of the Bench Book is to identify areas of difficulty that judges can encounter when endeavouring to accord equal treatment to all those who come into contact with the court, and to provide practical assistance to judges. The Bench Book will be updated from time to time as required. Consultees will be asked for comments annually (?).

Jury Manual

The JSC also maintains the Charging the Jury Manual for the judiciary. This Bench Book provides material for judges on aspects of jury trials. This Bench Book is updated about twice a year or as required. A further update this year will incorporate other material relating to jury trials to create one volume, to be called the Jury Manual.

4. European Judicial Training Network

The European Judicial Training Network (“EJTN”) was founded in October 2000 at Bordeaux. The members consist of the judicial training organisations of the Member States of the European Union and the European Academy of Law at Trier in Germany. At Copenhagen, in December 2002, it was agreed by the members of the EJTN to revise the Bordeaux Charter so that the EJTN could become an association having legal personality under Belgian law. The EJTN is now governed by Articles of Association agreed at Copenhagen. The purpose of acquiring legal personality is to enable the EJTN to receive funding directly from the EU.

The principal aims of the EJTN are: -

- To promote a training programme for judges with a genuine European dimension.
- To co-operate with candidate countries of the EU especially in the field of judicial co-operation.
- To provide expertise and know-how to European, national or international institutions in all questions of judicial co-operation.
- To facilitate the participation in the national training activities for judges from other countries.

There are three working groups. One for the programmes or seminars organised by the members, one for development of, and maintaining, the website (www.ejtn.net) and one for external contacts with EU candidate and other countries. The JSC represents the UK in the programmes working group. The purpose of this group is to co-ordinate or initiate seminars on topics in the areas of judicial co-operation in criminal and criminal matters in the EU.

5. Other activities

(a) Seminars abroad

The JSC informs the judiciary about forthcoming seminars abroad, particularly those arranged by members of the EJTN, which are of relevance to them. Assistance may be given with registration, and travel and accommodation arrangements.

(b) Children in legal proceedings

A children working group has been formed to produce material for the judiciary about children in legal proceedings. It is hoped by the JSC that this will include a training video on children giving evidence. The Group is waiting for the publication of the government's guidance to practitioners and others on Child Witness Support before it can make further progress.

(c) Training for trainers

It would assist the director if there were some members of the judiciary willing to act as course directors or facilitators, particularly for the special courses. To this end it would be useful to have a few judges undertake a course about planning and running seminars or a course on acting as a facilitator at a seminar.

One course, in 2002, was run for facilitators for seven judges. A follow-up course is planned for 2003. A course should be available in 2004 on planning and running seminars. Thereafter courses will be run as new course directors or trainers are required.

(d) Local initiatives

The JSC would like to encourage seminars or meetings at either sheriffdom or individual sheriff courts level on topics of local interest. These would be equivalent to the tea-time seminars for senators (see 2(e) above). They should supplement rather than replace or duplicate any JSC events. A number of such events do take place on an ad hoc basis; for example, when a social work department wishes to inform the local sheriffs about a project or a new scheme for offenders in their jurisdiction.

It is apparent that some co-ordination by those responsible for judicial training would be helpful. The JSC would like to consider the appointment of local representatives in each sheriffdom to sponsor such initiatives. Sheriffs Principal will be consulted about this proposal.

(e) Intranet information service

The JSC will continue to provide and improve information to the judiciary on developments in law and practice and to provide access to bench books, briefing papers and other papers and material via its intranet service.

(f) IT

The JSC intends to improve the way in which it provides information to the judiciary. An IT consultancy will start work in 2003 to develop an intranet website. This will be more user-friendly and material on it more easily searched for than currently.

The JSC will consider producing some of its material in CD-Rom format.

Some judges have considerable IT skills. The JSC would like to start a series of courses for developing practical IT skills, to be run by those with these skills.

(g) Joint seminars

Joint seminars will be considered, when appropriate, by JSC with other jurisdictions. One is being considered with the Netherlands and another with France, but none so far have been planned.

(h) Skills guidance

The JSC proposes to produce some guidance notes derived from the discussions in the skills courses.

(i) JSC booklet

The JSC proposes to publish a booklet about its rôle and activities in several languages.

Other judicial training organisations publish such material. The JSC is frequently asked, at home and abroad, for material about its work.

(j) UK Judicial Studies Committee

The JSC and the Judicial Studies Boards of England and Wales, and Northern Ireland, will continue to meet every year to discuss matters of mutual interest, exchange ideas and co-operate in judicial training.

(k) Internet

The JSC will continue to maintain a website (www.judicialstudies-scotland.org.uk). This provides information about the members of the JSC, its remit and its activities.