

Scottish judges back in training

By John Sturrock QC

Last week, 11 Scottish judges participated in the seventeenth Judicial conducted in Scotland. Since 2000, over 140 of Scotland's senior High Court judges and sheriffs from throughout the country have spent three days in these ground-breaking courses, undertaking the kind of professional development that might have been unthinkable even ten years ago.

The courses are held under the auspices of the Judicial Studies Committee in Scotland, established in 1997 and chaired by a senior judge. The Committee and its three enterprising Directors of Judicial Studies (all serving Sheriffs) have led the way in finding innovative ways to enhance the skills and knowledge of the judiciary in an ever-changing legal environment. These have included bringing in outside experts to assist in a variety of specialist areas.

Much is written and said about the ability of judges to engage with the modern world. Having assisted in the delivery of these courses from the outset, I believe that the thoughtful and careful way in which participants engage in discussion and reflection about what they do and how they do it would surprise and impress many sceptics. The concerns expressed to achieve the right outcome - and to try to treat fairly all those who, willingly or unwillingly, find themselves in a court room - deserve wider recognition and acknowledgement.

In these training courses, the judges address the communication skills which lie at the heart of much of what they do in maintaining an effectively run courtroom. Particular emphasis is placed on the relationship with lay people, especially with members of the jury in serious criminal cases. It is vital that juries understand the important nature of their role and their relationship with the judge, especially the judge's instructions to them at the end of a trial. With that in mind, issues such as language, structure, pace, tone and eye contact are all addressed.

The training goes further. The judges practice aspects of their charges to the jury in front of their colleagues, who sit as a simulated jury and thus experience for a short period what it is like to be a juror. Each performance is recorded on video for private review under the guidance of a senior and experienced colleague. Prepared video clips provide further material for discussion.

Later in the course, the participants practice the process of pronouncing sentence. Colleagues play the role of the convicted individual upon whom the sentence is being passed. Some commentators may belittle such an exercise. But the judges take this seriously, often commenting that sentencing can be the most difficult part of the job.

Simulated exercises also focus on other situations which need special consideration: the presence of child witnesses, cases brought by those who are not legally represented, the cultural dimension where witnesses or others come from minority backgrounds and even how to handle difficult lawyers! For these exercises, actors are brought in to play carefully scripted parts and to add a real life edge to them.

Each simulation is followed by discussion and frank observations from colleagues, led by judges who are trained as coaches. This sharing of practical experience is often the most valuable part of the course, especially for sheriffs who sit in more isolated courts for whom the collegiality thus created is very valuable. Tips and techniques used by others help to build best practice. This kind of peer appraisal, allied to self assessment, provides a strong foundation for continuing judicial development.

Such is the reputation of these courses that judges from other countries regularly attend them. Maintaining and enhancing standards is an ongoing task in Scotland and elsewhere. Skills training course