

# National Curriculum for Justices of the Peace<sup>1</sup>

## Notes:

The words in italics in the notes below are defined in the [Justices of the Peace \(Training and Appraisal\) \(Scotland\) Order 2016](#).

1. Through ongoing training delivered by the *JTAC*, and the reinforcement and enhancement of that learning once every three years through *Judicial Institute Training*, every Justice will continuously work towards the learning objectives contained in the *national curriculum*.
2. These are high level learning objectives intended to reflect the work of a Justice. They are not presented in the same level of detail that is provided by learning objectives developed in support of individual training courses. The *JTAC* will ensure that local training needs and trends are taken into account in its *Sheriffdom Training Programme* and that the programme is tailored to that Sheriffdom's needs. For example, one Sheriffdom may have more court business than another in a certain area and may deliver more training as a result, or one *JTAC* may identify a need to focus its training on specific matters which are described more generally in the *national curriculum*.
3. In court, advice is sought from the Legal Adviser. As a result, this is always taken into consideration when a Justice is working towards the learning objectives in training.

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SUMMARY OF KNOWLEDGE AND UNDERSTANDING, PRACTICAL AND ANALYTICAL SKILLS, AND VALUES AND ATTITUDES		
KNOWLEDGE AND UNDERSTANDING:	<b>1. Criminal justice</b>	1.1 The courts 1.2 Community justice arrangements 1.3 Third party organisations
	<b>2. Law</b>  All crimes and offences which can be tried summarily in the JP court which may include:  Road traffic Assault Breach of the peace Statutory breach of the peace Theft/reset Drugs Dangerous Dogs and Annoying Creatures Civic Government (Scotland) Act Fraud and embezzlement Vandalism Prostitution/solicitation Domestic abuse Benefit fraud S127 Communications Act 2003	2.1 Aggravating and mitigating factors that can impact the sentence imposed in relation to these crimes 2.2 The law regarding these crimes

	<b>3. Evidence and procedure</b>	3.1 Pleading and intermediate diets 3.2 Trials 3.3 Exceptional hardship and special reasons 3.4 Vulnerable witnesses 3.5 Appeals
	<b>4. Judicial</b>	4.1 The judicial system in Scotland 4.2 Lay justice 4.3 Duties in court 4.4 Signing duties in chambers (with Legal Adviser) 4.5 Signing duties out of hours (without Legal Adviser)

<b>PRACTICAL AND ANALYTICAL SKILLS:</b>	<b>5. Judicial</b>	5.1 Confidence, control and communication 5.2 Case management 5.3 Judgement and decision making 5.4 Sentencing
	<b>6. Interpersonal</b>	6.1 Relationship with Legal Adviser and other SCTS staff 6.2 Relationship with prosecution and defence/unrepresented accused 6.3 Personal management
	<b>7. Organisational</b>	7.1 Work management 7.2 Note taking and management
	<b>8. Technical</b>	8.1 Accuracy, literacy and numeracy 8.2 Information technology 8.3 Court equipment, systems and procedures
<b>VALUES AND ATTITUDES:</b>	<b>9. Ethics, independence and impartiality for lay judiciary</b>	9.1 Bangalore principles and complaints
	<b>10. Equality and diversity</b>	10.1 Equal treatment in court

**KNOWLEDGE AND UNDERSTANDING**

*A Justice should seek to ensure that they stay current by developing as appropriate (with regard to the fact that legal advice can always be sought from the Legal Adviser in court, as appropriate to the case):*

1. Awareness or
2. Knowledge and understanding

<b>1. Criminal justice :</b>	<b>1.1 The courts</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <ul style="list-style-type: none"> <li>1.1.1 the context in which the courts operate</li> <li>1.1.2 the role and remit of the Justice of the Peace court in summary justice</li> <li>1.1.3 the role and remit of the Sheriff Appeal Court</li> <li>1.1.4 the role and responsibilities of the Procurator Fiscal, defence/unrepresented accused, police and other witnesses, interpreters, supporters, appropriate adults, bar officer and legal adviser in the Justice of the Peace court</li> </ul> <p><i>A Justice should develop their awareness of:</i></p> <ul style="list-style-type: none"> <li>1.1.5 the role and remit of the Sheriff Court and the High Court</li> </ul>
	<b>1.2 Community justice arrangements</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <ul style="list-style-type: none"> <li>1.2.1 the social context in which they make their decisions and impose sentences</li> <li>1.2.2 alternatives to prosecution, including fixed penalties and fiscal fines</li> <li>1.2.3 fines enforcement</li> <li>1.2.4 the presumption against short sentences</li> <li>1.2.5 the objective to reduce reoffending</li> </ul>
	<b>1.3 Third party organisations</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <ul style="list-style-type: none"> <li>1.3.1 the roles that third parties play in court proceedings including the police, Victim Support Scotland, Scottish Women’s Aid, Criminal Justice Social Work, DVSA, DVLA, SLAB , DDRS and SPS</li> <li>1.3.2 the typologies of domestic abuse</li> <li>1.3.3 the joint protocol between COPFS and Police Scotland on the reporting, investigation and prosecution of domestic abuse in Scotland</li> </ul>

<p><b>2. Law:</b></p> <p>All crimes and offences which can be tried summarily in the JP court which commonly include those stated earlier in this document.</p>		<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>2.1 aggravating and mitigating factors that can impact the sentence imposed in relation to these crimes</p> <p><i>A Justice should develop their awareness of:</i></p> <p>2.2 the law regarding these crimes</p> <p>2.3 The Hate Crime and Public Order (Scotland) Act 2021</p>	
<p><b>3. Evidence and procedure:</b></p>	<p><b>3.1 Pleading and intermediate diets</b></p> <p><b>3.2 Trials</b></p> <p><b>3.3 Exceptional hardship and special reasons</b></p>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>3.1.1 the court processes and language</p> <p>3.1.2 the matters that require to be decided by the Justice at this stage</p> <p><i>A Justice should develop their awareness of:</i></p> <p>3.1.3 comparative justice</p> <p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>3.2.1 the court processes and language</p> <p>3.2.2 the matters that require to be decided by the Justice at this stage</p> <p>3.2.3 the need to ensure the prosecution and defence both have a fair opportunity to present their cases, including through examination and cross examination</p> <p>3.2.4 how the prosecution and defence will use objections during trial</p> <p>3.2.5 the importance of articulating a verdict and reasons</p> <p><i>A Justice should develop their awareness of:</i></p> <p>3.2.6 rules around sufficiency, admissibility, objections, ‘no case to answer’, corroboration, hearsay, burden of proof, contempt of court, comparative justice</p> <p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>3.3.1 the court processes and language</p> <p>3.3.2 the matters that require to be decided by the Justice at this stage</p> <p>3.3.3 how to decide whether exceptional hardship or special reasons have been established</p>	

	<b>3.4 Vulnerable witnesses</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>3.4.1 the special measures which vulnerable witnesses are entitled to in court</p> <p>3.4.2 ways of dealing with applications for the use of special measures and applicable court processes</p> <p>3.4.3 the technology and other structures available to vulnerable witnesses</p>	
	<b>3.5 Appeals</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>3.5.1 the need to take effective notes in court</p> <p>3.5.2 the process by which notes of appeal or stated cases are prepared for lodging with the Sheriff Appeal Court</p> <p><i>A Justice should develop their awareness of:</i></p> <p>3.5.3 appeal court processes and timescales</p>	
<b>4. Judicial:</b>	<b>4.1 The Judicial system in Scotland</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>4.1.1 the judicial system in Scotland</p>	
	<b>4.2 Lay justice</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>4.2.1 summary justice, and the role of the Justice and the Legal Adviser as well as the significance of the Clark v Kelly case</p>	
	<b>4.3 Duties in court</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>4.3.1 their responsibility to decide on matters of fact and law and the outcomes of the case, with the Legal Adviser advising on matters of law and procedure as appropriate</p> <p>4.3.2 the analytical and practical skills they require to perform their judicial role (as outlined below)</p>	
	<b>4.4 Signing duties in chambers (with Legal Adviser)</b>	<p><i>A Justice should develop their knowledge and understanding of:</i></p> <p>4.4.1 the range of signing duties out of court as required by inter alia the police, Mental Health Officers and other local authority officers, and utility companies, and in relation to affidavits, affirmations, passports, statutory declarations, utility warrants, applications for simplified divorce, miscellaneous applications by the public and providing certified copies of documents</p>	

		4.4.2	the need to verify the identity of applicant, place them on oath where necessary, and elicit enough information to exercise any discretion required	
	<b>4.5 Signing duties out of hours (without Legal Adviser)</b>		<i>A Justice should have knowledge and understanding of:</i> 4.5.1 the range of signing duties out of hours including warrants, mental health and other forms of out-of-court applications	

## PRACTICAL AND ANALYTICAL SKILLS

*A Justice should develop the following practical and analytical skills (with regard to the fact that legal advice can always be sought from the Legal Adviser in court, as appropriate to the case):*

<b>5. Judicial:</b>	<b>5.1 Confidence, control and communication</b>	5.1.1	maintain control of the court at all times
		5.1.2	concentrate for lengthy periods of time
		5.1.3	ensure the court allows both the prosecution and defence equal and fair opportunity to present their cases
		5.1.4	ensure the court allows the unrepresented accused an equal and fair opportunity to present their case
		5.1.5	effectively and appropriately communicate with all parties including lawyers, witnesses and the accused
		5.1.6	communicate and explain their reasoning
		5.1.7	understand and be able to articulate different points of view ensuring all who have a right to be heard, are heard
		5.1.8	use appropriate questioning techniques and clarify appropriately
		5.1.9	speak clearly, calmly and concisely
		5.1.10	make eye contact
		5.1.11	observe individuals
		5.1.12	actively listen, sometimes for long periods
		5.1.13	be open to different viewpoints and value contributions which others make
		5.1.14	demonstrate patience
		5.1.15	take judicial notes
		5.1.16	modify communication techniques as may be appropriate with the unrepresented accused, and vulnerable witnesses, including the possibility of reluctant witnesses in domestic abuse cases.
		5.1.17	demonstrate experience and confidence to judge people fairly

	<b>5.2 Case management</b>	<p>5.2.1 make decisions on matters in situations that can impact on scheduling and timetabling, including adjournments and continuations, in line with the key stages of a case</p> <p>5.2.2 make decisions with an awareness of statutory time limits</p> <p>5.2.3 manage cases in the context of the status of Legal Aid applications</p> <p>5.2.4 avoid court ‘churn’</p> <p>5.2.5 manage cases in a business like manner whilst maintaining sound judgment</p>
	<b>5.3 Judgment and decision making</b>	<p>5.3.1 focus on the evidence presented</p> <p>5.3.2 obtain relevant information from parties in court</p> <p>5.3.3 follow arguments without pre-judging the merits of these</p> <p>5.3.4 observe individuals giving evidence and make decisions on whether witnesses are credible and reliable</p> <p>5.3.5 think logically, weigh arguments and reach objective and impartial decisions</p> <p>5.3.6 understand complex documents and identify relevant facts, and distinguish between relevant and irrelevant material</p> <p>5.3.7 make decisions in accordance with rules or procedures while taking account of individual circumstances</p> <p>5.3.8 formulate and articulate a decision fully and give reasons</p> <p>5.3.9 find the facts and list them to justify the decision to the court of first instance and if appropriate to the appeal court</p> <p>5.3.10 make effective decisions whether sitting alone or as a bench of three Justices, and whether acting as the chairman or a supporting justice</p> <p>5.3.11 ensure justice is seen to be done</p> <p>5.3.12 use processes and structures to facilitate fair and consistent approach to judicial decision making</p>



	<b>5.4 Sentencing</b>	<p>5.4.1 ensure an understanding of the sentencing powers and ranges available including:</p> <ul style="list-style-type: none"> <li>- absolute discharge, admonishment, deferred sentence, the community payback options, fines, endorsements, ranges of penalty points, disqualification,</li> <li>- bail aggravations,</li> <li>- discounting and custodial sentence of up to 60 days</li> <li>- Aggravations under Hate Crime Legislation. The domestic abuse aggravation</li> <li>- non-harassment orders in domestic abuse cases ('NHOs')</li> </ul> <p>5.4.2 as appropriate to a case, request a Criminal Justice Social Work Report</p> <p>5.4.3 as appropriate to a case, deal with a Crown application for an NHO</p> <p>5.4.4 as appropriate to a case, ensure all known and relevant factors are considered before sentencing including employment, family responsibilities (including particular considerations in domestic cases), seriousness of the offence, an early guilty plea, relevant discounts, aggravating or mitigating circumstances around the offence, and previous convictions (and the passage of time)</p> <p>5.4.3 formulate and articulate a sentence fully and give reasons</p>	
<b>6. Interpersonal skills:</b>	<b>6.1 Relationship with Legal Adviser and other SCTS staff</b>	<p>6.1.1 develop relationship with the Legal Adviser and other SCTS staff</p> <p>6.1.2 agree court speaking roles with the Legal Adviser</p>	
	<b>6.2 Relationship with prosecution and defence / unrepresented accused</b>	<p>6.2.1 Adopt an appropriate communication style with the prosecution and defence</p> <p>6.2.2 Adopt an appropriate communication style with the unrepresented accused</p>	
	<b>6.3 Personal management</b>	<p>6.3.1 Display sufficient self-awareness to be able to assess the impact of own behaviour on others, and modify that as appropriate</p> <p>6.3.2 Resilience and the ability to handle stress</p>	
<b>7. Organisational</b>	<b>7.1 Work</b>	7.1.1 be aware of dates scheduled to be in court	

<b>skills:</b>	<b>management</b>	7.1.2	arrive in good time for court
		7.1.3	prepare fully for court
	<b>7.2 Note taking and management</b>	7.2.1	take appropriate notes and be able to refer to and rely on them in the event of an appeal
<b>8. Technical skills:</b>	<b>8.1 Accuracy, literacy and numeracy</b>	8.1.1	speak accurately and with clarity in court
		8.1.2	quickly and accurately calculate sentences
	<b>8.2 Information technology</b>	8.2.1	communicate with SCTS through official email accounts and equipment
8.2.2		access the communications and education platform for the judiciary, access The Judicial Hub regularly	
	<b>8.3 Court equipment, systems and processes</b>	8.3.1	confidently and correctly utilise vulnerable witnesses technology
		8.3.2	follow all court systems and processes as required

## VALUES AND ATTITUDES

*A Justice should develop their knowledge and understanding of the following values and attitudes:*

<b>9 Ethics, independence and impartiality for lay judiciary:</b>	<b>9.1 Bangalore principles and complaints</b>	9.1.1	the independence of the judiciary
		9.1.2	the principles of the judicial oath
		9.1.3	judicial ethics in and out of court
		9.1.4	recognising and setting aside personal prejudice and challenge prejudice in others
		9.1.5	identify potential sources of conflict of interest and understand when to recuse from case if required
		9.1.6	the particular responsibilities incumbent on Justices who may also play an active role and/or be known in the communities in which they sit
		9.1.7	understanding of the framework for complaints against the judiciary
<b>10 Equality and Diversity:</b>	<b>10.1 Equal treatment in court</b>	10.1.1	respect for, and understanding of, the needs of the diverse population in Scotland
		10.1.2	the principles enshrined in the Equal Treatment Benchbook
		10.1.3	the fair treatment of those with protected characteristics
		10.1.4	the fair treatment of deemed vulnerable witnesses, other vulnerable persons, and unrepresented parties