**Sheriff Principal Selection 2014**

**Leadership and Management Exercise**

**Three Scenarios**

**Scenario 1**

Your sheriffdom has many small courts and two large ones. In the largest court, you note on your appointment that the performance statistics are lamentable – close to being the worst in Scotland.

There are five resident sheriffs, with a sixth floating sheriff who sits ten days each month. Your sheriffdom business manager points out that compared to other courts of a similar size the court is over-manned and should be able to function with only the five resident sheriffs. The sheriff clerk appears to have been very good in persuading your predecessor to allow part time sheriff days, with the result that five courts sit more or less every week in the year. You are shown a paper which indicates that the average sitting time of any sheriff in the court is rarely more than three hours per day, although it is accepted that the statistics might be unreliable.

Your sheriffdom business manager tells you that the sheriff in the neighbouring court is overworked and deserves more support. She never complains about her workload.

On your first visit, you meet all the sheriffs. They complain bitterly about the drop in part time sheriff numbers over recent years and how they are simply fed up at being overworked and taken for granted by the civil service. You know that the senior sheriff, who will be around for at least another five years before retirement, does not believe in speaking to sheriff clerks, never mind fiscals or social workers. In his view, to do so would undermine the principle of judicial independence. He does most of the speaking during the discussion.

You understand that the local fiscal, who is a close friend of one of the other senior sheriffs, complains bitterly about how things are run nowadays by the Crown Office and Procurator Fiscal Service. The Crown frequently parachutes time barred cases into the jury sittings at the last minute. In the summary criminal courts, the Crown is represented by young fiscals who regularly display their inexperience; with the result that evidence is badly presented. Some of the sheriffs frequently publicly complain about the inadequacies of the Crown. Such outbursts are enthusiastically reported by the local Press. You are made aware that senior Crown Office officials have complained to your predecessor about these complaints being made in public.

Two days later you receive an unexpected call from the junior resident sheriff who apologises for the frosty reception you received. She tells you that she and at least two of her colleagues do not agree with everything which was said by the senior sheriff. All three of them are keen to improve the performance of the court.

Your sheriffdom business manager tells you that the sheriff clerk and his staff are thoroughly fed up, particularly because they are regularly - and unfairly - criticised from the bench by the senior sheriff.

How do you tackle the problems in the court?

What, if anything, can you do about the poor performance of the Crown?

**Scenario 2**

One of your sheriffs has a reputation for controversy but is regarded as a hard worker. He is a volatile character but you have recently persuaded him to support you in starting a major programme of reform in his court. In your estimation, his support has been vital in persuading the other sheriffs to accept that reform is required.

You know from previous dealings with him that he demands the very highest standards of those who appear before him. You are also aware that about ten years ago there was a report in the Press where a senior representative of the Crown and Procurator Fiscal Service had publicly criticised him for his bullying attitude to young fiscals, particularly female ones, which had resulted in a young female fiscal bursting into tears in his court.

The sheriff has made avisandum after a ten day proof. A week later, you receive a letter from the solicitor for the defenders. She complains that the sheriff did not give her a fair hearing, constantly interrupted her during the course of her cross-examination of the pursuer’s witnesses and stopped her before she had finished her submissions at the end of the proof, telling her that she had had long enough and that the sheriff had everything he needed to decide what to do.

You pass the letter to the Judicial Office which subsequently instructs you – on behalf of the Lord President - to be the investigating judge for the purposes of The Complaints Against The Judiciary (Scotland) Rules.

The sheriff is very unhappy about the complaint. One of his colleagues phones you to say that while it is nothing to do with him he thought you should know that the sheriff is also unhappy that you have been instructed to be the investigating judge and that he is threatening to recuse himself before producing his judgment.

What do you do?

**Scenario 3**

Your sheriffdom budget allocation for part time sheriff days has been reduced again. There are two months still to go to the end of the financial year. You have only five days left in the budget. Within a week you receive the following requests for part time cover:

1. A sheriff’s partner has just given birth to a son. The sheriff wants two weeks paternity leave. You know that a similar request was granted by a sheriff principal in another sheriffdom last year. The Judicial Office is keen for such ad hoc arrangements to cease and indeed that sheriffs should have formal terms and conditions covering their hours of work, leave, sickness and the other usual conditions which apply in a normal contract of employment.
2. A sheriff asks for three writing days after a lengthy permanence order proof. It is very rare for her to do so. She is the sole sheriff in a very busy court and you know that she works very hard.
3. The Crown wants a jury sitting extended by four days in one of your rural courts. The problem has been that because of a clerical error by the local jury citation clerk jurors have been cited for the wrong date, namely the first of the proposed four extra days. Although you suspect that part of the reason is that the Crown had expected guilty pleas for the remaining business and has been caught on the hop. There are two trials left in the sitting: one involving fraud by a local councillor, which has attracted a lot of local media interest, and the second for possession of a knife. The Crown thinks that each trial will last two days.

What do you decide? What factors should you take into account?