

Advocacy training news

Visit by advocacy trainers from the Faculty of Advocates in Edinburgh

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A small group of the leading advocacy trainers from the Faculty of Advocates in Edinburgh, as the Scottish Bar is known, visited South Africa at the beginning of December last year to hold a series of short training seminars and workshops in Johannesburg, Cape Town and Durban.

THE group consisted of John Sturrock, a member of the Faculty who also holds the position of Director of Training and Education for the Faculty, and Michael Jones QC, Alan Turnbull QC and Leona Dorrian QC, three of the leading silks at the Faculty. All have been extensively involved in the development of the Faculty's practical advocacy skills training programme over the last few years and are all regular trainers in that programme, which is recognised as one of the best in the world and in 1996 received "The Lawyer Award" for the Best Use of Training in the Legal Profession in the United Kingdom.

The group arrived in Johannesburg early in December, having foregone the opportunity of watching their national rugby team taking the field at Murrayfield against the Springboks! The first workshop commenced at AFSA in Sandown the following day and was attended by advocacy trainers from the Johannesburg Bar.

The opening session in Johannesburg was followed by a witness handling training workshop for junior members of the Bar, which was conducted in the common room and in courts in the High Court building. Juniors from the Johannesburg Bar were trained in basic witness handling skills by a training panel consisting of the tour visitors, Judge Ismail Hussain, Peter van Blerk SC, Sharise Weiner SC, Andre Gautschi SC, Craig Watt-Pringle and Margie Vic-

tor. At the end of the workshop, the Johannesburg Bar held a cocktail party in the common room to both welcome and thank the visiting trainers.

The party then flew on to Cape Town where they conducted their programme during the afternoons of 2, 3 and 4 December which gave them some time for sightseeing in the mornings. The introductory session was conducted in the Bar common room and was attended by both by those who are currently training in the practical advocacy workshops for pupils at the Cape Bar, as well as by a judge and a number of senior members of the Cape Bar, who have not previously been involved in pupil training. This was followed by a skills training workshop for a number of junior members of the Bar held in the Cape Town High Court.

The final stop of the visit was in Durban, where the introductory programmes for the trainers and juniors were held on 12 December in the Law Library Boardroom, followed by the skills training workshop in the Durban High Court on 12 December. These were attended by trainers from Durban and Pietermaritzburg, as well as Roger Claassen SC, who flew up from the Eastern Cape to take part. On the final day the Scots were allowed to rest and relax and enjoyed a game of golf at the Durban Country Club and a short visit to a private game reserve, before returning to work in Edinburgh on 15 December.

Format

The basic format of the seminar/workshops in each of the centres was the same, namely an opening session with the trainers, followed by an introductory session with the juniors being trained, and then a practical skills workshop for those juniors, in which the training panel was a combination of Scottish and South African trainers. These workshops followed the format of a Scottish skills training workshop.

The opening session in each case was a Powerpoint presentation in which all the visiting Scots took part, in which they described the skills training programmes which they currently run for pupils and members of the Faculty. Pupils, or "devils" as they are called at the Faculty, commence their year of pupillage with an intensive six week "Foundation Course" in basic advocacy skills, which is presented by John Sturrock and trainers from the Faculty. Later in the year devils go through a supplementary course, which takes the skills training a step further. In addition the Faculty presents each year a basic skills course for all Faculty members who wish to attend. It is voluntary and members must pay to attend. In this course training is done in groups of mixed seniority. The Faculty also runs an advocacy teacher training programme in order to maintain a sufficiently large body of trained advocacy teachers. After giving details of the programmes which they organise, visiting trainers explained and discussed in detail the educational principles and philosophy which underpin the Faculty's advocacy skills training courses, and discussed and demonstrated how oral and video reviews of pupils' performances in workshops are done in their workshops. Built into each session was a time for discussion and questions. Inevitably the discussions in each centre focused on the differences between how pupil training workshops are currently organised at the South African Bars and how reviews are done in these workshops and the approach followed by the Scots.

Differences in approach

The main differences in approach seem to be:

- (1) that the Scots offer a far more intensive and detailed introduction to the >

concept of practical advocacy skills training to their pupils, as well as dealing with a far wider range of practical advocacy skills than we are currently doing. For instance, in addition to witness handling, oral argument, opening and closing arguments, appeal work and motion court work, which are currently covered by the pupil training programmes in South Africa, the Foundation Course's programme includes such aspects as dealing with productions (exhibits), discrediting witnesses, dealing with objections and judicial intervention, written pleadings, bail applications, pleas in mitigation and other;

- (2) that where possible and appropriate all workshops are conducted in court itself in order to provide an authentic setting for the training;
- (3) that in practical skills workshops, each pupil's performance is followed first by an oral review(s) by the trainer(s) in the workshop venue and immediately thereafter by a video review conducted by a different trainer in a separate room, who was present during the performance, and who watches with the pupil the videotape of his entire performance and reviews aspects of it with him; and
- (4) that the review format is somewhat different from and more flexible than that currently used by South African trainers, in that there is often no demonstration by the trainer(s) and there is no replay (where the pupil is asked to redo the performance in order to ascertain whether he has absorbed the lesson of the review).

Reasons

The reasons which the Scots give for these differences in the review sequence are, firstly, in regard to demonstrations, that in their demonstrations trainers not infrequently, through carelessness or nervousness, themselves make errors, which undermine the value of the lesson for the pupil, and that they have found that a demonstration performance of the skill being taught, scripted in advance and conducted by the trainers, playing the roles of counsel and witness, at the pupils' level, is a far

more effective teaching tool. Thus, during the introductory session prior to a workshop on cross-examination, the pupils typically will watch one of the trainers cross-examine a witness, played by another trainer, using the techniques which have been discussed with the pupils previously in the introductory session. The demonstration will have been scripted in advance by the trainers to ensure that it properly demonstrates the various questioning techniques being recommended by the trainers and provides an appropriate model for the pupils and will be followed by a discussion with the pupils in which they are invited to analyse the performance and identify and comment on the effectiveness of the questioning techniques demonstrated.

Regarding the replay, the feeling of the Scottish trainers is that it is unrealistic to expect a pupil to absorb a lesson and be able to apply it immediately, literally within minutes, particularly given the pressures of the workshop situation, and that a period of reflection is required before the next performance for a lesson to be internalised properly. In the Scottish programme pupils will take part in many workshops

and have many opportunities to put into practice the lessons of earlier workshops, and trainers will be able to assess over a period of time whether or not a pupil is making progress.

Those trainers who were able to attend were greatly impressed with the depth of knowledge and the thoughtfulness of the Scottish advocacy trainers. This was evident from the lengthy discussion sessions which punctuated the workshops. There was also a great sense of appreciation for their obvious interest in and willingness to contribute to the development of practical advocacy skills training in this country. They agreed to allow their workshops to be videotaped and copies of the videos and the materials which were prepared for the workshops will be made available to those involved in advocacy skills training at all the Bars. The South African National Advocacy Training Co-ordinating Committee is very grateful to John, Michael, Alan and Leeona for making the trip to South Africa, as well as to the British Development Division of Southern Africa for their most generous contribution to the costs of the venture. 

Some of the participants at the Durban workshop



Front row, left to right: Alan Turnbull QC, Michael Jones QC, Johan Ploos van Amstel SC, Leeona Dorrian QC, Malcolm Wallis SC, John Sturrock.

Middle row, left to right: Shelly Walker, Terence Seery, Sean Geraghty, Mulder van Eck, Michelle Poseman, Ian Dutton, Stuart Humphrey and Judge Rashid Vahed.

Back row, left to right: Spicko Dickson SC, Cheryl Smart, John Pammenter SC, Roshni Punchoo and Vos Voormolen.