

# THE MAGISTRATE'S VIEW

## Chairman of the Bench

The responsibilities of the Chairman are nowhere defined, except in §.17 of the Justices of the Peace Act 1929, which does nothing beyond provide that he [and it is just as likely that it will be she] be elected in October to chair the bench for the next calendar year - and for not more than 4 years after that. It is presumably a compliment to be elected and something of a surprise when you neither wanted nor expected the job. There is no job spec, there are no terms of reference - and there is no specific authority to do anything.

### The Chairman's duties

The duties pursued divide easily into domestic or internal, and extra-mural or external Bench affairs, however many courts there are in the Division; relations with the Crown Court to which the Division commits come in here, and bring the additional tasks of occasional liaison meetings with the Resident Judge and other colleagues.

External affairs generally involve representing the Bench, inside or out with the Divisional area. Service on the Committee of Magistrates for Inner London comes first to mind, though this body is in imminent danger of being replaced by a Magistrates Courts Committee, for no better reason than that's what happens everywhere else. This will mean the end of Divisional representation, which is not increasingly a Good Thing. There are occasional ad hoc meetings with the Chairman of the Lord Chancellor's Advisory Committee for Inner London, which though interesting do not achieve a great deal since the Chairmen have no powers and the Advisory Committee can, it seems, do little except advise the Lord Chancellor on the selection of the next generation of lay Justices. De-selection is more difficult. The now considerable burden of interviewing the aspiring is shared between members of the Committee and individual Chairmen. These forays from one's own patch offer the best opportunities for a close connection with other Chairmen, which facilitates a regular exchange of experiences.

### Bench business

Within the Divisions there is the inevitable and predictable routine of Bench business behind, beneath and beyond the business of actually sitting in Court. The swearing in and subsequent 'minding' of new Justices, the training of all members of the Bench in various areas and at varying stages in their careers - courses on Bail, on Chairmanship, on sitting at the Crown Court come to mind - while monitoring their sittings, encouraging the laggards, restraining those who for an incredible range of reasons fail to turn up when they have been rostered to sit, reassuring those who need leave of absence and give advice when it is sought and sometimes when it is uninvited and unpalatable: in general, doing all that is possible to turn into a team a number of people who are all different and who are all volunteers

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and subject to few rare circumstances.

The importance of training so as to keep up to date in a changing and more turbulent society, and at a time when the law is becoming more complex and also changes faster than ever before, is surely self-evident. 95% of all criminal cases start in our courts, and defendants cannot be expected to believe that they have had a fair trial if they appear before an ill-chaired bench; hence the additional refinements of appraisal and the occasional agonies of the selection - and de-selection - of Presiding Justices.

### Good communications

The Chairman of a large bench is hard put to meet all his colleagues, however he perms his sittings. Social events may help but they are not universally popular and in any case are not meant for talking shop. A good newsletter is a help provided that the Editors are competent and sensitive.

There are several areas of possible

conflict - idiosyncratic behaviour by individual justices and the relationship of justices, especially Presiding Justices, with the Chief Clerks and their hierarchies come to mind. The former are occasionally inevitable; my bench could scarcely be more fortunate over the latter. The greatest apprehension that I have is the danger of inconsistency - not so much in sentencing as in an approach to various offences. Given a bench of almost a hundred, the art of creating groups of three, bearing in mind the need to harmonise so far as possible the mix of gender, age, minorities, and different states of training is a fine one. However carefully the trios are mobilised, there are always last minute changes which can ruin the best of groupings. Hence Benches of three instead of two, hence the despairing consolation of 'the defendant can always appeal'. And greater is the concern when the lay benches are sitting in parallel with stipendiary magistrates, trained in the law, sitting alone, and not obliged to consult one another, let alone their opposite numbers at the other courthouse less than three miles away, let alone the likes of us. It is greatly to the credit of almost all those who sit that they are increasingly aware of the danger of an accidental drift between the various elements, and are prepared to keep comparing notes and experiences so that again the defendants can be as certain as is humanly possible that they had a fair trial, irrespective of who was on the bench.

*Tony Sainsbury is Chairman of an Inner London Magistrates Bench.*

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