

THE OFFICE OF SHERIFF PRINCIPAL

Provided by the Judicial Office for Scotland

Introduction

1. The essential requirements for the office of Sheriff Principal are leadership and management skills together with the intellectual and legal standing to perform the appellate and other judicial functions of the office. This paper describes the range of responsibilities which a Sheriff Principal undertakes.

2. A Sheriff Principal has the statutory responsibility for ensuring the efficient disposal of business in the courts in their Sherifffdom. Traditionally, the Sheriff Principal has occupied a unique position as judge, manager and administrator. The Sheriff Principal is the centre of authority for the planning of court business within his or her Sherifffdom. The Sheriff Principal is consulted on matters of practice, policy and legislation. The Sheriff Principal in effect, acts as an interpreter between those with statutory responsibility to support the courts and the judiciary (Scottish Courts and Tribunal Service) and the judiciary itself. Likewise, with the Scottish Government and the Parliament. Sheriff Principal is responsible not only for the Sheriff Courts within their Sherifffdom but also the Justice of the Peace (JP) Courts.

3. The Sheriffs Principal have been heavily involved in the continuing implementation of the reforms introduced by the Courts Reforms (Scotland) Act 2014. Furthermore, all Sheriffs Principal assist the Lord President in considering how best to deploy sheriffs and summary sheriffs. This requires significant leadership skills to balance the need to ensure the efficient disposal of business, with the need to have proper regard to the skills and experience of existing office holders, and their personal aspirations.

4. A Sheriff Principal is paid £151,497 *per annum*. The details of the New Judicial Pension Scheme are contained in a guide issued by the Ministry of Justice (which is responsible for administering all judicial pensions in the UK). A copy of the guide forms part of the application pack. Candidates should consider taking independent financial advice on the tax and other financial implications of joining the scheme, preferably in advance of making an application. A Sheriff Principal must retire on his or her seventieth birthday.

Management Functions

5. The management function of the Sheriff Principal has increased considerably. Every Sheriff Principal has a direct responsibility to the Lord President for the efficient disposal of business in their Sherifffdom. It is the responsibility of each Sheriff Principal to identify, manage and resolve problems that impact on the efficiency of courts within their jurisdiction. They also have responsibility for preparing certain Sherifffdom rules of court and practice notes. Some of the more routine activities of the Sheriff Principal include:

- maintaining an oversight of the administration of the Sherifffdom court programming and the allocation of sheriffs/summary sheriffs to each court to secure achievement of the programme.
- arranging and confirming sitting dates and court holidays.

- regularly confirming that the shrieval complement is adequate and properly deployed.
- allocating sheriffs/summary sheriffs to particular duties, e.g. adoptions, commissary, insolvencies.
- monitoring shrieval leave; and dealing with exceptional requests for leave or problems arising from over-demand for leave at critical times.
- dealing with requests from sheriffs for leave of absence to engage in official activities such as judicial training, meetings with local authorities and other agencies and conferences.
- monitoring cases at avizandum, dealing with requests for writing time and taking action to deal with unacceptable delays.
- addressing the demands of the High Court of Justiciary and Tribunals for shrieval assistance.
- dealing with crises when insufficient shrieval cover is available by re-allocation of sheriffs to deal with the most compelling matters.
- meeting regularly, or at least from time to time, with representatives of the Crown, whether at national, regional or local level to discuss levels of business and anticipated developments.
- chairing the Local Criminal Justice Board.
- managing the use and deployment of part-time sheriffs.

6. As the senior member of the judiciary within the Sheriffdom, the Sheriff Principal is responsible for the pastoral care and development of sheriffs and summary sheriffs within their Sheriffdom. The Sheriff Principal has to deal with issues of health and welfare brought to his or her attention by sheriffs and summary sheriffs¹, along with discussions about career prospects, potential transfers and matters of that nature.

7. The Sheriff Principal has a responsibility for controlling activities within courthouses. This will involve regular meetings and liaison with for example SCTS officials, the Area Procurator Fiscal, Social Work Departments, Police Scotland and GEOAmev staff. The Sheriff Principal will also deal with requests from outside agencies (e.g. schools, Law Faculties) for the use of court facilities.

8. Sheriffs Principal have responsibility for the administration of the Justice of the Peace Courts within the Sheriffdom by virtue of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The responsibilities include selecting those persons who will sit on the Sheriffdom JP Advisory Committee (with responsibility for recruitment), and the Sheriffdom Training and Appraisal Committees. The Sheriff Principal chairs the JPAC which will require to meet regularly to monitor patterns of

¹ The Lord President has overall responsibility for the welfare of the judiciary and is supported by the Judicial Office in fulfilling that function.

business and JP availability. He or she also has a responsibility for the interviewing and recommending the appointment of Justices of the Peace.

9. Other miscellaneous duties include:

- the Sheriff Principal is also likely to be appointed as an Investigating Judge for complaints made under the Complaints Against the Judiciary (Scotland) Rules 2017² in respect of sheriffs, part-time sheriffs, summary sheriffs and part-time summary sheriffs or justices of the peace. This may be in respect of judicial office holders within his or her Sheriffdom or elsewhere.
- conduct inquiries into fitness for office of Sheriff Officers (section 79 of the Debtors (Scotland) Act 1987).
- investigations into the fitness for office of Justices of the Peace (section 71 of the Criminal Proceedings etc. Reform) (Scotland) Act 2007).
- Commissioners of the Northern Lighthouse Board. Sheriffs Principal are required to exercise a supervisory role as statutory Commissioners and will be called upon to sit on various of the Board's administrative committees.
- a Sheriff Principal is a member of the Scottish Civil Justice Council and the Scottish Sentencing Council and Sheriffs Principal sit on committees of the Scottish Civil Justice Council. A Sheriff Principal serves on the Judicial Appointments Board for Scotland. Two Sheriffs Principal are members of the Advisory Council of Messenger at Arms and Sheriff Officers. A Sheriff Principal is a member of the Board of the SCTS. A Sheriff Principal sits on the Advisory Committee of the Judicial Institute and is chair of the Justices of the Peace Training Committee of the Institute.
- Sheriffs Principal are also regularly called upon to consider proposals for legislative change, or to take a leading part in the process of procedural and substantive law reform. A Sheriff Principal is often called upon to be a member of working groups and committees established for these purposes.
- The Sheriffs Principal meet regularly themselves and with SCTS executive officials to discuss national strategic, and management issues.

Appellate Functions

10. Sheriffs Principal have jurisdiction to sit in any civil or criminal case in their Sheriffdom, but they will seldom preside over first instance work. Their primary function is to sit as an appellate judge in the Sheriff Appeal Court. Decisions of the Sheriff Appeal Court are binding on itself (when constituted by an equal or smaller quorum) and all lower courts.

11. The Sheriff Appeal Court commenced hearing criminal appeals in 2015 and civil appeals in 2016. Civil appeals are often heard by three appeal Sheriffs, but a single appeal Sheriff can preside in certain cases. In summary criminal appeals

² For complaints about the conduct of judicial office holders, the Lord President has published the Complaints about the Judiciary (Scotland) Rules 2017.

against sentence, the appeal is heard by a panel of two appeal Sheriffs and appeals against conviction by three appeal Sheriffs. The Sheriff Appeal Court hears appeals against bail decisions.

12. The Sheriffs Principal have embraced the collaborative nature of sitting together hearing appeals in both civil and criminal appeals. The appellate work of the Sheriff Appeal Court has significantly increased the volume of written judgments which the Sheriffs Principal produce.

13. A Sheriff Principal may sometimes sit as a temporary judge in the High Court of Justiciary and very occasionally in the Court of Session exercising a Scotland wide jurisdiction. As temporary judges, Sheriffs Principal may form part of the bench in criminal and civil appeals heard by the High Court of Justiciary and the Inner House.

14. Sheriffs Principal conduct significant Fatal Accident Inquiries. The findings and recommendations made in Fatal Accident Inquiries can be highly influential leading to changes of practice and procedure, affecting many organisations.

15. A Sheriff Principal may conduct a variety of inquiries or preside over tribunals relating to particular statutes. These include inquiries into constituency boundaries and matters such as the registration of residential homes and police disciplinary appeals.

16. Appeals can arise from the full range of the sheriff court civil jurisdiction, including commercial cases, family actions, adoption, personal injury, licensing etc. In addition to a general knowledge of the law, Sheriffs Principal are required to have knowledge of specialist areas including commercial and family law. In summary criminal appeals knowledge of evidence, procedure and the substantive criminal law is required.

17. Criminal appeals are presented initially in written form, then supplemented by succinct oral argument. Some sentence appeals may be straightforward, but a decision must be reached and reasons given quickly. A court can hear up to ten cases a day. Each case requires advance preparation by the judge. In rare criminal cases, and in many civil cases, an appeal may take a whole day or longer.

18. Sheriffs Principal also have the responsibility of hearing appeals from Mental Health Tribunal brought under Section 320 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and under Section 131 of the Licensing (Scotland) Act 2005.

The first few months of appointment

19. The following measures are put in place during the early stages of a new Sheriff Principal's appointment to the office and are intended to provide professional support and reassurance to any new appointees and also accord with best international practice. The Judicial Institute for Scotland is responsible for preparing and organising the delivery of all judicial training and continuing professional development, for all judicial office holders

An Induction Course

The Judicial Institute will provide induction training over a maximum of five days, including presentations, problem exercises and facilitated discussions on a range of topics, tailored as appropriate for the needs of the successful candidate, in particular taking account of whether the new Sheriff Principal has prior judicial and management/leadership experience.

20. Given that the particular core duties and responsibilities of a Sheriff Principal are predominantly in the area of appellate law and procedure coupled with considerable leadership, management and administrative functions, there will be a focus on those areas as required. The Sheriff Principal member of the Advisory Council of the Judicial Institute in conjunction with the Director of the Judicial Institute will create a role specific induction programme for the successful candidate taking account of the nature of the position and the candidate's own strengths and experience. If a newly appointed judicial office holder requests specific coaching in a particular area, the Judicial Institute will provide it.

21. The Judicial institute will seek to organise and deliver a training for the successful candidate which will include modules designed to enhance, individual management and administration skills; HR training; strategic planning in conjunction with SCTS and Judicial Office; judicial leadership; creation and development of legal policy for the management of the shrieval judiciary and other like themes and subjects.

Sitting-in

22. Separately, new appointees must complete at least three sitting-in days with an experienced Sheriff Principal in order to familiarise themselves with the judicial environment on the bench, observe the work undertaken there, and have the opportunity to discuss with a serving Sheriff Principal how best to approach and organise for the challenges ahead.

Mentoring

23. For both those who are appointed directly from the wider profession and those who have previously or currently hold the office of sheriff, a newly appointed Sheriff Principal will be offered the assistance and guidance of a mentor drawn from among the other Sheriffs Principal to whom he or she can turn on a confidential basis for support in the early period of his or her appointment. The scheme is voluntary. If a newly appointed Sheriff Principal opts for a mentor, the scheme envisages a mentoring relationship which lasts for one year. In fact, the relationship can last for a judicial career.

24. In addition to these particular measures a new Sheriff Principal will have the assistance and support of his or her colleagues among the other Sheriffs Principal. A new Sheriff Principal will also be able to seek the advice and guidance of the Lord President and the Lord Justice Clerk. Finally, the successful candidate can expect direct support from the Judicial Office in the exercise of their judicial leadership responsibilities.