

Judiciary  
of Scotland



# Sheriff Judiciary of Scotland





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# A foreword from the Lord President

## Lord Carloway



The office of sheriff is one of great antiquity dating back to the 12th Century, when the sheriff represented the King in the locality in military, financial, administrative and judicial matters. In the modern context, the role is primarily judicial but an administrative jurisdiction also survives.

The sheriff courts are located in 39 cities and towns. They deal with the great majority of civil and criminal cases, and a range of other matters.

A sheriff is expected to deal with substantial civil business, especially in cases with a value of up to £100,000. They will also preside over summary and solemn criminal cases, where the maximum sentences are respectively 12 months and five years imprisonment.

A sheriff has a central part to play in ensuring observance of the Rule of Law in our local communities. They will be expected to make a meaningful contribution to the justice system in those communities

I would encourage all lawyers with the appropriate skill set and experience, who has a commitment to public service, to apply for this responsible, interesting and rewarding role.

# The Sheriffdoms

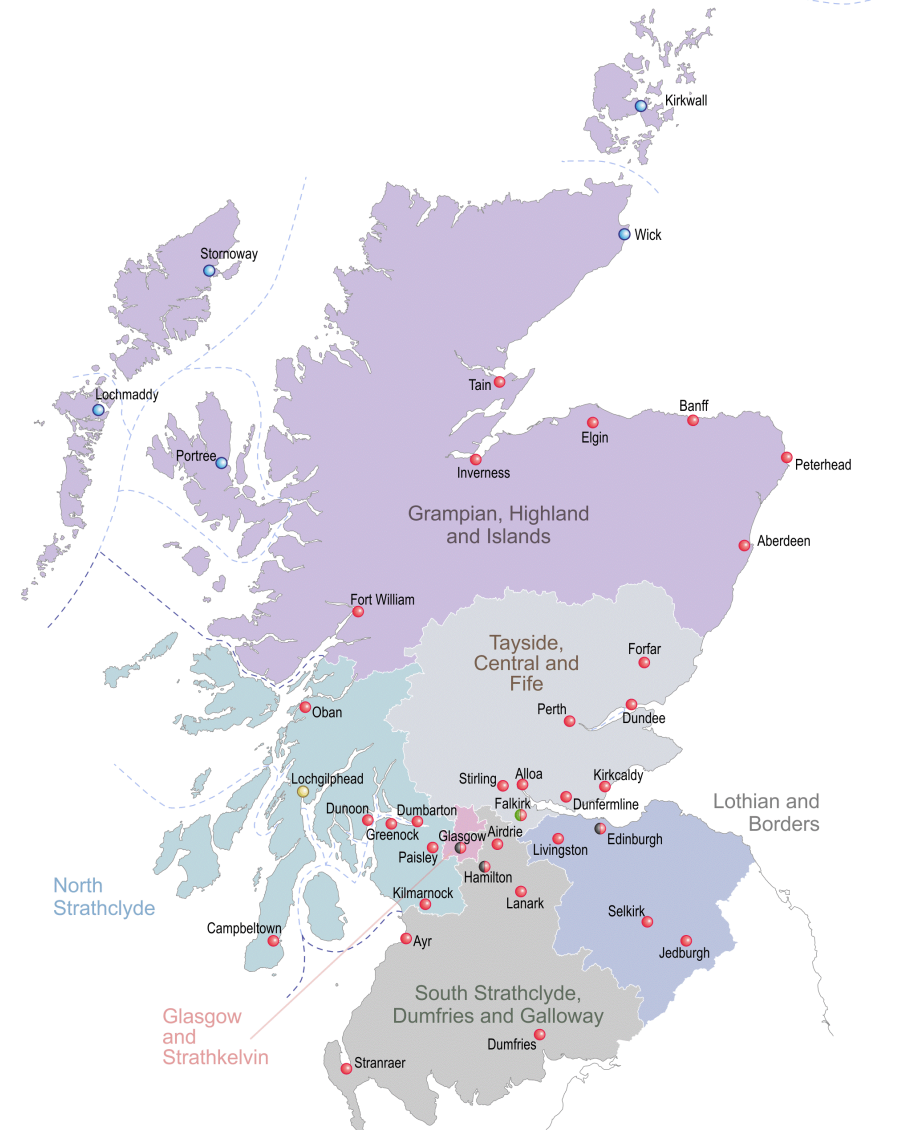
There are six Sheriffdoms in Scotland.

Each Sheriffdom has a Sheriff Principal charged with a number of duties in respect of the courts for which they are responsible, including in particular a statutory duty "to secure the efficient disposal of business in the sheriff courts of that Sheriffdom."

- Glasgow and Strathkelvin
- Grampian, Highland and Islands
- Lothian and Borders
- North Strathclyde
- South Strathclyde, Dumfries and Galloway
- Tayside, Central and Fife

## Scottish Courts and Tribunals Service locations

- Sheriff Court and Justice of the Peace Court
- Sheriff Court only
- Justice of the Peace Court only
- Tribunal Offices
- Office of the Public Guardian



# Essential Requirement

The essential requirement for the role of a sheriff is to possess the ability and legal standing to perform the functions of the office.

This requires knowledge and experience not only of civil law and practice but also that relating to summary and solemn crime.



# Role of a Sheriff

The primary function of the sheriff is to act as judge at first instance. However, sheriffs also exercise some appellate work, and a large number of administrative and quasi-judicial functions, including the conduct of Fatal Accident Inquiries. Some sheriffs, with five or more years' service, are appointed as appeal sheriffs to sit in the Sheriff Appeal Court. Others may sit in the All Scotland Personal Injury Court. They may be asked to act as temporary judges in the High Court.

Sheriffs may be delegated tasks in specialist courts within their sheriffdom, including commercial, family or solemn criminal cases.

Each sheriff has the same powers and responsibilities throughout Scotland. In the cities and larger towns, a number of sheriffs and summary sheriffs may work in the same building. In some courts there may be only one sheriff. In the more rural areas, particularly those in the islands, the sheriff may sit in more than one court building during the course of a week.

A sheriff needs to have a sound grasp of both solemn and summary criminal procedure and the substantive criminal law. They should have a reasonable knowledge of the civil law especially in the main practice areas of contract, delict and family law. They should have a good awareness of civil procedure in the sheriff court ordinary, family and simple procedures. They should also be aware of the areas of the civil law, including the recovery of heritable property, commonly encountered in the simple procedure process.

A sheriff should be versatile and able to deal with cases put before him or her at short notice.

Sheriffs often preside over problem solving courts. In these courts a sheriff is required to engage with parties and agents to seek to resolve disputes by mediation or another form of alternative dispute resolution, prior to raising a court action. They may be asked to consider a triage approach to help inform and guide individuals in identifying the most appropriate route to resolving their problem.

A sheriff is expected to manage cases actively in order to ensure the expeditious disposal of business.

A sheriff is required to work in an atmosphere of collegiality with fellow sheriffs.



# Attendance at Court

Sheriffs normally commence the formal court sitting at, or before, 10.00 am. A sheriff should be at the court well before they are due to sit. Very often business will be scheduled at earlier times to ensure that ongoing business, especially solemn criminal trials or civil proofs, are not interrupted. The sheriff will sit until at least 4.00 pm. Judicial business can extend beyond that time in order to accommodate witnesses or to complete a trial, proof or debate.

There may be occasions when the business at a particular court is completed early in the day. In order to maximise efficiency, a sheriff may occasionally be required to travel to another court building to deal with business there.

Before sitting, a sheriff will generally require to read and consider reports and other papers in connection with that day's business. Many of them, including criminal justice social work and psychiatric reports, need to be given careful consideration, but at short notice, often on the day that the case calls.

Sheriffs undertake a variety of work in chambers, including:

- Writing civil judgments;
- Dealing with interlocutory matters, such as unopposed motions and warrants for arrestment and inhibition;
- Dealing with warrants for arrestment or inhibition;
- Preparing stated cases and reports for criminal or civil appeals or children's referral cases;
- Considering applications for adoptions and permanence orders, and undefended divorces based on affidavit evidence; and
- Considering reports of breaches of community disposals and applications for initiating criminal warrants.

During the COVID pandemic the way in which a variety of hearings are conducted changed. Many are now conducted remotely by video conference.

A sheriff may be called on to consider urgent applications for various warrants, interdicts and child protection orders outwith court hours. There is likely to be a rotation for this.



# Nature of Work

## Criminal Proceedings:

The criminal jurisdiction of the sheriff is both summary and solemn.

In summary procedure, the maximum penalty, except where lower penalties are prescribed by statute, is 12 months' imprisonment and a fine of £10,000. There are other discretionary sentences, including Community Payback, drug treatment and testing, restriction of liberty, supervised attendance and compensation orders, in addition to football banning, non-harassment, anti-social behaviour, mental health and disqualification orders, and forfeiture of vehicles or other property.

In the cities and larger towns, the volume in a custody or intermediate diet court can be high. The situations, with which the sheriff will have to deal, are diverse and, to a degree, unpredictable. Unexpected pleas of guilty from the minor to the serious may be tendered. In the midst of a cited court, there may be a plea in a Health and Safety prosecution of a major company following a high profile incident.

Situations can arise which will demand that a sheriff exerts control over his or her court, including where there are disruptive accused or those with an overtly political agenda. Accused or witnesses might appear in court under the influence of drink or drugs. Other behaviour can challenge the court's authority.

A sheriff has concurrent jurisdiction with the High Court for proceedings on indictment, with the exception of murder, rape and treason. The maximum sentence is 5 years. A sheriff has power to remit a case to the High Court when a longer custodial period is necessary. Discretionary non-custodial sentences are available. There is no limit to the amount of a fine.

Sheriffs are expected to adopt a proactive role in the management of solemn criminal cases, especially at first diets. In solemn cases, sheriffs should assist the Sheriffs Principal in the discharge of their statutory function to secure the efficient disposal of business generally and not just in relation to a case called before him or her.

A sheriff is required to preside over trials and to impose appropriate sentences. Some trials will result in appeals against sentence and/or conviction. In appeals against sentence in summary proceedings the sheriff is required to prepare a report for the Sheriff Appeal Court, providing a record of the relevant circumstances and the reasons for the sentence. In conviction appeals the sheriff has to draft a stated case for the SAC setting out relevant findings-in-fact, together with a note in their support and explanation, and posing appropriate questions. In solemn sentence or conviction appeals the sheriff will prepare a report for the High Court giving his or her opinion on the case generally and on the grounds of appeal.



## Civil Proceedings:

The Sheriff Court has exclusive competence to deal with civil proceedings where the total value of the orders sought does not exceed £100,000. The Sheriff Court has concurrent jurisdiction with the Court of Session in almost all other civil cases, with the exception of judicial review.

The Sheriff Court deals with almost all family actions. This includes divorces, disputes over parental responsibilities and rights, maintenance of children, adoptions, permanence orders and permanence orders with authority to adopt. Family cases can be particularly anxious for the parties.

Sheriffs are expected to issue civil judgments promptly. These will normally require to be drafted outwith court hours.

Sheriffs are expected to adopt a proactive role in the management of cases to secure the efficient disposal of business in the courts both generally and in relation to the case which has called before him or her.

Appeals against a sheriff's decision are heard by the Sheriff Appeal Court.

## Simple Procedure & Ordinary Cause:

A sheriff is expected to be able to deal with both processes. In these, a sheriff is required to engage with parties, where possible, to secure an early resolution. Simple procedure cases often involve party litigants. It can be difficult to deal with party litigants because of a sheriff's duty to act impartially in what nevertheless remains an adversarial system.

## Children's Referrals:

Children alleged to be in need of compulsory measures of supervision are referred by the Reporter to the Children's Panel and dealt with by a Children's Hearing. Where the facts are disputed, it may be for the sheriff to decide at a proof whether what is alleged is established. If the child is detained in a place of safety, strict time limits for hearing and disposing of the case apply. A sheriff has a substantial appellate jurisdiction in relation to decisions reached by Children's Hearings. These proofs and appeals have to be dealt with as a priority.

## Child Welfare Hearings:

Child welfare hearings have become an important part of a sheriff's work. These involve residence, contact and related orders. The rules require the sheriff to secure the quick resolution of those disputes. Sometimes a sheriff may require to speak to a child to ascertain their views.

## Summary Applications:

Summary application procedure is used for a number of different types of action, including adults with incapacity and antisocial behaviour orders. It is also used when appealing against certain decisions made by licensing or other local authorities.

## Fatal Accident Inquiries:

Inquiries into sudden or suspicious deaths are conducted if: (a) the deceased dies in the course of employment or in custody; or (b) the Lord Advocate determines that it is appropriate to hold an inquiry in the public interest. The sheriff is required to make findings and recommendations which might avoid a recurrence of death in similar situations.



# Sheriff Activities

Sheriffs are expected, and are frequently called upon, to serve, and in some instances are required by statute to be represented, on a wide variety of quasi-judicial, administrative and advisory or consultative bodies including:

- The Judicial Appointments Board for Scotland
- The Scottish Civil Justice Council and/or its committees
- The Scottish Sentencing Council and/or its committees
- The Parole Board for Scotland
- The Board of the Scottish Courts and Tribunal Services
- The Advisory Council Committee of the Judicial Institute
- Working groups and sub-committees for the Judicial Council
- The Scottish Legal Aid Board
- The Justices of the Peace Training Committee of the Judicial Institute
- Court user groups
- Criminal justice bodies
- Research groups

# The demands of shrieval life

A sheriff may have to deal with a variety of cases in one day. They may need to work through a busy criminal court. A sheriff needs to be able to concentrate and to switch from one task to another. There will be a requirement for quick, correct decision-making.

A sheriff may hear distressing evidence, and be required to deal with that evidence in an emotionally charged atmosphere. The sheriff will have to retain professional detachment, and deal with victims and witnesses sensitively.

Advice and support is available from the sheriff principal and the Judicial Office for Scotland.

A sheriff may have to produce a written judgment setting out the facts and law behind a decision, to write a note for a children's hearing, or to approve the terms of an interlocutor. A sheriff must have the self-discipline necessary to keep his or her work up to date.

While the post of sheriff will have its challenges, few days will be the same. The work provides intellectual satisfaction. It is an important service to society, ensuring that justice is being done.



# Eligibility

Sheriffs are appointed by His Majesty The King on the recommendation of the First Minister, who receives recommendations from the Judicial Appointments Board for Scotland. The First Minister must consult with the Lord President of the Court of Session, before putting her recommendations forward.

Eligibility for appointment to the role of a sheriff is set out in section 14 of the Courts Reform (Scotland) Act 2014. Candidates must:

- have been an advocate or solicitor for at least ten years; or
- hold judicial office as: a sheriff principal; summary sheriff; part-time sheriff; or part-time summary sheriff.

Those seeking appointment should be judicial office holders or practitioners of standing, whether King's Counsel, advocates or solicitors. They should preferably have considerable court experience.

Candidates for the role of sheriff go through a holistic application process which tests the level of skill, experience and professionalism required to perform the duties of the office

# Remuneration

A sheriff is paid £147,388 per annum. A new reformed Judicial Pension Scheme was introduced for all sheriffs in April 2022. Details of the 2022 scheme can be found at [www.gov.uk/government/publications/judicial-pension-scheme-2022-guide](https://www.gov.uk/government/publications/judicial-pension-scheme-2022-guide)

The mandatory retirement age for Judicial Office Holders is 75.

# A message from Sheriff Sara Matheson



I did a very general traineeship in a large high street legal aid firm. I particularly enjoyed court work and the firm had a large number of agency instructions in civil matters. As time went on I began to specialise in child and family law work. I did a great deal of children's referral work. In 2007 I had my first child and was persuaded to go into a large corporate firm to found their family law department in their Glasgow office. It was a very different environment. Time recording, targets and business development were new concepts for me. High value divorce work and a move away from legal aid to private feeing gave me another perspective. In 2010 I had another child and was kept very busy.

In 2015 an advert appeared for the new office of Summary Sheriff. At first blush I didn't see myself as a likely candidate. I had been to comprehensive school. I was the first lawyer in my family. I had two relatively young children with all the demands that brought, and worked in a small firm. Although the Summary Sheriff was to have jurisdiction for family law work and children's referral and adoption work I imagined the bulk of the work would be summary crime and thus my relatively low exposure to recent criminal work would surely stand against me? However, I thought about things further and realised that I could probably demonstrate competence in getting to know new areas of law. I had been appointed as a Convenor to the Additional Support Needs Tribunal for Scotland in 2007 and much of the substantive law there had been new to me. I knew I would enjoy working in court every day so I decided to apply.

The application process was a difficult one, particularly as I hadn't made a formal job application since my traineeship. It required a different way of thinking, which I found challenging to tune into. The examples now provided on the JABS website would have been very helpful, but they didn't exist then. Similarly I had no idea what to expect from the interview and it was a demanding 90 minutes or so. Again, things like the information evenings now run by JABS would have been a great help. I was surprised to be successful and to be offered a post as a Summary Sheriff in Airdrie.

After taking up the post I realised how much I enjoyed the job. Every day was different and colleagues were helpful and inspiring.

I went through the JABS process again in 2019 when I was appointed as a Sheriff in Inverness. It was less taxing because of my familiarity with the process. I would encourage those who may not think they fit the typical profile, particularly those who come from a small firm, to apply. Your day to day firm management, your time-management, your communication and your broad legal knowledge brings skills that are demonstrable and would translate well to the bench.





# A message from Sheriff Liam Murphy



After my traineeship in local government I worked in private practice principally as a criminal legal assistant for 18 months before being appointed as a Procurator Fiscal Depute at Hamilton. As a young and inexperienced depute I drew support and encouragement from a talented team of prosecutors as I developed my legal and advocacy skills and gained a real love for court work in both summary and solemn crime. At this stage in my career I did not think judicial office was a realistic aspiration for a young Dundee graduate from a Lanarkshire working class background who specialised in the prosecution of crime.

I remained a prosecutor for 20 years and was fortunate that I was appointed to several interesting and challenging roles. These appointments inevitably took me away from appearing in court on a regular basis but did give me the opportunity to continue developing other skills such as managing work efficiently, addressing competing priorities, working with and communicating with internal and external colleagues and becoming an Advocacy trainer. When I started to think seriously about a judicial career I recognised that these were transferable skills essential for a judicial office holder.

I began to think about judicial office several years before I felt ready to apply. I obtained information on the roles and the qualities required from the website of the Judicial Appointments Board (JABS). From this I would periodically undertake critical self assessments of myself to identify what I perceived to be obstacles to me presenting as a credible candidate. I also attended a number of awareness raising events organised by JABS and took on board advice given by board members which I felt was pertinent to me as a career prosecutor particularly in relation to areas of the law in which I had no experience.

I have been involved in the JABS process on three occasions. In 2018 I was appointed as a floating Summary Sheriff in South Strathclyde, Dumfries and Galloway and was appointed Sheriff based at Hamilton in 2021.

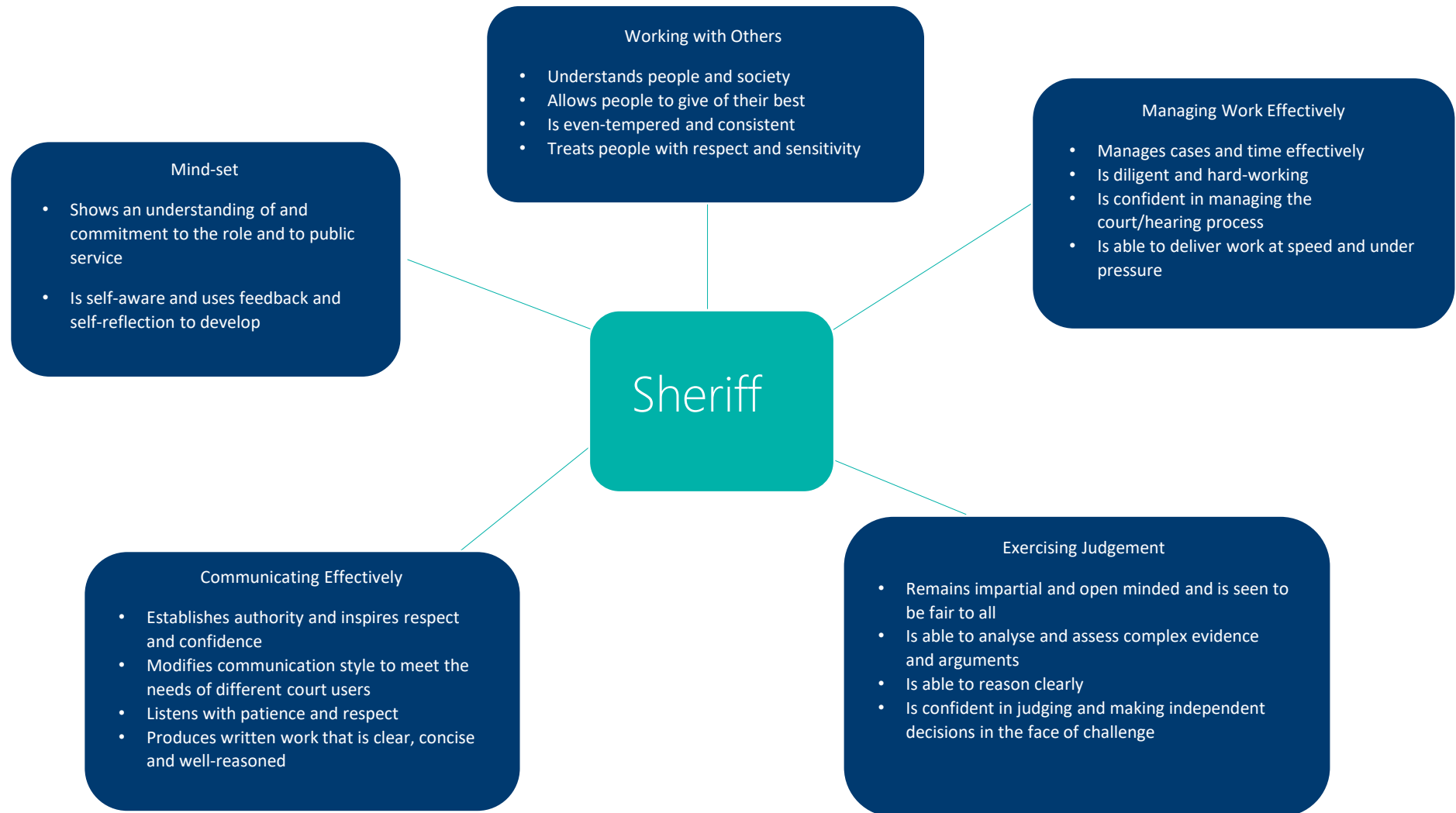
Given the impact decisions of judicial office holders have on society I anticipated that the process would be extremely challenging. I have found that to be the case. On each occasion, however, I have found the process to be fair, transparent and respectful to the candidate. For me the planning and the application process required a significant time commitment. It required time being set aside to plan what steps I had to take to become a judicial office holder and consequently a credible candidate. It also required time to identify relevant experiences to demonstrate my skills and qualities, time to complete application forms and significant time preparing for the thorough interview process.

My first application was unsuccessful and I was not invited for interview. I received feedback which provided a general explanation of the main deficiencies from those who applied and were unsuccessful. On reflection, a critical review of my application through the lens of this feedback provided valuable information on deficiencies in my application which highlighted that I had not provided the requisite evidence to meet the criteria. I used this in my subsequent successful applications.

I feel very fortunate and privileged to be appointed to judicial office. I have found my colleagues to be extremely supportive and life on the bench to be extremely interesting and challenging. It has allowed me to return to court work and to challenge myself in areas of the law which were unfamiliar to me. I have no hesitation in recommending judicial office to legal colleagues from all backgrounds and experience.



# Personal and Judicial Qualities





# The first few months of appointment

Measures are in place during the early stages of a new sheriff's appointment. They are intended to provide support and reassurance to any new sheriff and to accord with best practice.

- The Judicial Institute will provide induction training over five days. This will include presentations, problem exercises and facilitated discussions on a range of topics, tailored to the needs of the new sheriff. Modules are designed to provide support in making the transition from practice to the new judicial role.
- New sheriffs are required to complete at least three sitting-in days with an experienced sheriff in order to familiarise themselves with the judicial environment, to observe the work undertaken, and to have the opportunity to discuss how best to approach, and organise for, the challenges ahead. These are organised through the relevant Sheriff Principal.
- A new sheriff will be offered the assistance and guidance of a mentor, drawn from among the other sheriffs, to whom they can turn on a confidential basis for support in the early period of his or her appointment. The scheme is voluntary. If a new sheriff opts for a mentor, the scheme envisages a mentoring relationship which lasts for a minimum of one year. The relationship may last for a judicial career.
- A new sheriff will have the assistance and support of the other sheriffs and have access to the advice and guidance of his or her Sheriff Principal.
- Once appointed, all sheriffs continue to receive training at the Judicial Institute, which keeps them up to date on the latest changes in practice. They regularly attend courses to build their knowledge and expertise and receive weekly updates on news and topical issues.



*[Wynn J.]* Prima facie one would lean against a construction  
\* [1970] 1 Ex.D. 188, C.A. 248, D.C.  
\* [1967] 2 K.B. 579; 22 T.L.R. 12 [1966] 1 K.B. 444; 22 T.L.R. 12  
447, D.C. 12 [1966] 1 K.B. 444; 22 T.L.R. 12  
447, D.C. 12 [1966] 1 K.B. 444; 22 T.L.R. 12  
447, D.C. 12 [1966] 1 K.B. 444; 22 T.L.R. 12

...at the date of the information. That must  
...conviction. The offence under section  
...1947 is of using land in contravention of an  
...enforcement notice. It would be  
...the question is: What was the appellant charged with  
...and time he was charged? He was charged with  
...of contravening the enforcement notice. It would be  
...only to the overriding principle of common law that no  
...should be put in peril twice. That principle cannot be over-  
...without express words in a statute, and there are no such  
...words here.  
...there is no reason why this court should not take a different  
...view that taken in *Ferney v. Fletcher (Mark) & Sons Ltd.*<sup>12</sup>  
...[1966] 1 K.B. 444.