

Judiciary
of Scotland



Summary Sheriff Judiciary of Scotland





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A foreword from the Lord President

Lord Carloway



The Courts Reform (Scotland) Act 2014 created a new judicial office in the sheriff court to be known as the summary sheriff.

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 summary sheriff has an extensive jurisdiction in both civil and summary criminal matters. They are expected to conduct simple procedure cases (under £5,000 in value), family cases and summary criminal cases. A summary sheriff may also exercise the powers of a justice of the peace.

A summary sheriff plays a key role in ensuring observance of the Rule of Law. They are expected to manage the business of the court efficiently and to make a contribution to the justice system in our local communities.

I encourage applications from lawyers with the relevant skill set and experience and who are keen to commit to public service, and to the office of summary sheriff.

The Sheriffdoms

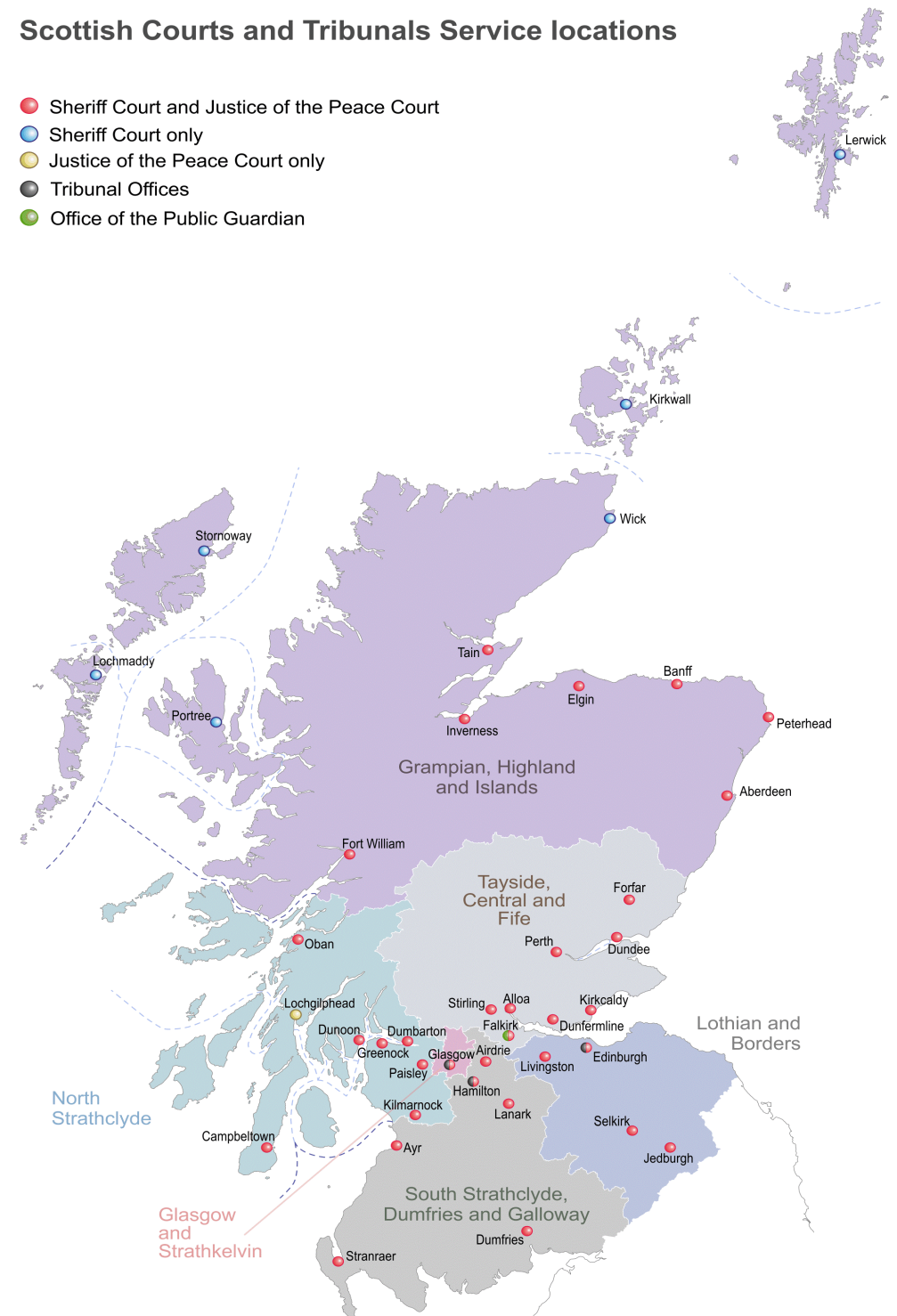
There are six Sheriffdoms in Scotland.

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 summary sheriff is to possess the ability and legal standing to perform the functions of the office.

This requires knowledge and experience of summary criminal procedure and certain areas of civil law, especially simple procedure and family law.

It is essential that those applying for appointment as a summary sheriff who do not have knowledge or experience in each of these disciplines demonstrate the ability to acquire knowledge in unfamiliar areas of the law.

Role of a Summary Sheriff

The function of the summary sheriff is to act as a judge at first instance in summary criminal, family, and simple procedure cases. A summary sheriff will also have administrative duties in connection with the granting of warrants and other investigative procedures. Some summary sheriffs will exercise quasi-judicial functions in conducting Fatal Accident Inquiries.

Each summary 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 summary sheriff. In the more rural areas, particularly those in the islands, a summary sheriff may sit in more than one court building during the course of a week.

A summary sheriff needs to have a sound grasp of summary criminal procedure and the law relating to crimes normally charged at summary level. They should also have a reasonable knowledge of simple procedure and the areas of the civil law most commonly encountered in the simple procedure courts. A knowledge of family law and procedure is an advantage.

A summary sheriff should be versatile and able to deal with cases put before them at short notice.

Summary sheriffs often preside over problem solving courts. In these courts a summary sheriff is required to engage with parties and agents to seek to resolve disputes or to focus the areas for enquiry. They may help to inform and guide individuals in identifying the most appropriate route to resolving the parties' problem, whether by mediation or another form of dispute resolution.

A summary sheriff is expected to manage cases actively in order to ensure the expeditious disposal of business. This will often include managing the expectations of party litigants.

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

Attendance at Court

Summary sheriffs normally commence the formal court sitting at, or before, 10.00 am. A summary sheriff should be at the court well before they are due to sit. Very often procedural hearings will be scheduled at earlier times to ensure that programmed business of the court is not interrupted. The summary sheriff will, when business dictates, continue to sit in court 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 is completed earlier in the day. In order to maximise efficiency, a summary sheriff may occasionally be required to travel to another court building to deal with business there.

Before sitting, a summary 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.

Summary 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;
- 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 summary sheriff may be called on to consider urgent applications for various warrants, interdicts and child protection orders outwith court hours. Most courts have a rota arrangement for out of hours business.

Nature of Work

Criminal Proceedings:

The criminal jurisdiction of the summary sheriff is generally restricted to summary prosecutions. In addition, a summary sheriff has competence in certain procedural matters prior to the first diet in solemn cases. These can include the granting of warrants for arrest and the production of documents, consideration of the petition at the committal stage and bail and bail review hearings.

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 discretionary sentences, including Community Payback, drug treatment and testing, restriction of liberty, supervised attendance and compensation orders, in addition to non-harassment, anti-social behavior, disqualification from driving 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 nature of cases over which a summary sheriff will require to preside is 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 summary sheriff exerts control over his or her court, including where there are disruptive accused or those with an overtly political or other agenda. Accused or witnesses might appear in court under the influence of drink or drugs. Other behaviour can challenge the court's authority. Such situation require a fair but firm approach.

A summary sheriff will require to preside over summary trials and to impose appropriate sentences. Some of these will result in appeals against sentence and/or conviction. In appeals against sentence, a summary sheriff will be 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 summary sheriff is required to draft a stated case for the SAC setting out relevant findings-in-fact, together with an explanatory note.

Civil Proceedings:

A summary sheriff has competence to deal with: family cases; domestic abuse; adoption; children's hearings; warrants and interim orders; diligence; extensions of time to pay; summary cause and simple procedure.

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

Summary sheriffs are expected to issue civil judgments promptly. These will normally require to be drafted outwith the normal court sitting times.

Summary 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 them.

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

Simple Procedure:

Non-family civil cases are divided into simple procedure, summary and ordinary causes. The summary sheriff's jurisdiction extends to simple procedure and summary cause. These often involve party litigants. It can be difficult to deal with party litigants because of a summary sheriff's duty to act impartially in what 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 summary 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 summary 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 summary sheriff's work. These involve residence, contact and related orders. The rules require the summary sheriff to secure the quick resolution of those disputes. Sometimes a summary sheriff may require to speak to a child to ascertain their views.

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. If appointed to a Fatal Accident Inquiry, the summary sheriff is required to make findings and recommendations which might avoid a recurrence of death in similar situations.

Summary Sheriff Activities

Summary 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 Scottish Sentencing Council and/or its committees
- The Board of the Scottish Courts and Tribunals Service
- The Advisory Council Committee of the Judicial Institute
- Working groups and sub-committees for the Judicial Council
- 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 summary sheriff may have to deal with a variety of cases in one day. They may need to work through a busy summary criminal court. A summary sheriff needs to be able to concentrate and to switch from one task to another. There is a need for quick, correct decision-making.

A summary sheriff may hear distressing evidence, and be required to deal with that evidence in an emotionally charged atmosphere. The summary sheriff will require 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 summary sheriff may require 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 summary sheriff must have the self-discipline necessary to keep their work up to date.

While the post of summary sheriff will have its challenges, few days will be the same. The work provides intellectual stimulation and satisfaction. It is an important service to the community.

Eligibility

Summary 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 their recommendations forward.

Eligibility for appointment to the role of a summary 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 immediately prior to appointment; or
- held another judicial office such as 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 summary 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 summary sheriff is paid £118,237 per annum. A new reformed Judicial Pension Scheme was introduced for all summary sheriffs in April 2022. Details of the 2022 scheme can be found at www.gov.uk/government/publications/judicial-pension-scheme-2022-guide

The mandatory retirement age for Judicial Office Holders is 75.

A Message from Summary Sheriff Lesley Johnston



I commenced my legal career as a trainee at large full-service law firm in Edinburgh where I qualified as a solicitor in my chosen specialism of litigation. I later went on to work for a global firm, with a greater focus on professional liability and commercial cases. Over the course of my career, I was fortunate to act on behalf of clients in a very wide range of disputes, such as commercial and property law, professional negligence, product liability, personal injury, contentious executries, professional regulation, appeals on behalf of the children's reporter, judicial reviews, licensing and occasionally, criminal proceedings. On reflection, this variety stood me in excellent stead for applying for a judicial appointment.

As my career developed, I realised that there were opportunities to further my knowledge and experience beyond the conventional progression up the promotion ladder in a law firm. For example, although I had always known I wanted to be a court lawyer, in the early days of my career I missed the academic research of the law and so decided to combine work with a part-time research masters. As well as developing my legal research and writing skills, it gave me confidence to apply for other opportunities requiring an academic interest in the law.

One such opportunity was a two year post as Law Clerk to the Lord President. By assisting the Lord President with civil and criminal appeals, I got to see the justice system from the perspective of the judiciary. By this point in my career, I knew that I would one day like to be part of the judiciary, but thought it some way off and wasn't particularly focussed in directing my career to that end.

After my time as Law Clerk, I returned to private practice. I also became a solicitor advocate, gaining extended rights of audience in civil cases, following which I appeared on behalf of clients in the Court of Session in my own right as well as assisting senior counsel with more complex cases. I gained more advocacy experience by becoming a temporary presenting officer for the Home Office and appearing on their behalf in the First-tier Tribunal (Immigration Chamber).

All of that experience culminated in my first application for judicial appointment as a part-time legal member of the First-tier Tribunal (Housing and Property Chamber). The post was my first experience of a judicial role. It allowed me to develop many of the skills necessary for the post of summary sheriff and gave me confidence in applying for a further judicial appointment through the Judicial Appointments Board.

My first year as a summary sheriff was a steep learning curve but an enjoyable one. Much of the civil work was similar to what I had experienced in private practice. However, many areas were new or less familiar, particular on the criminal side. I spent time improving my knowledge of the law and court procedure in those areas. The Judicial Institute training and 'sitting in days' completed prior to my start date were also invaluable. Lastly, my colleagues were extremely welcoming and generous with their time in providing guidance and support.

The work of a summary sheriff is varied, challenging and rewarding. Every day is different! I feel extremely privileged to serve the public as a member of the judiciary. I would encourage anyone with a keen interest in justice and the law, and a desire to serve the public and contribute to the justice system to consider applying for judicial office.



A Message from Summary Sheriff Jonathan Guy



I began my legal career as a trainee with the Crown Office and Procurator Fiscal Service and thereafter worked as a procurator fiscal depute for two years. In order to broaden my experience of the law I took up the position of a solicitor at a large commercial firm where I undertook a wide range of civil litigation, including regulatory disputes; commercial disputes; defender reparation; education disputes; licensing appeals and social work referral appeals. I was made a partner of this firm in 2013 and was responsible for managing a large team of solicitors. At times this was challenging, as I was required to juggle this responsibility with the demands of regularly appearing as a solicitor advocate, mainly in appeals to the Sheriff Appeal Court, Inner House and also on an occasion in the Supreme Court.

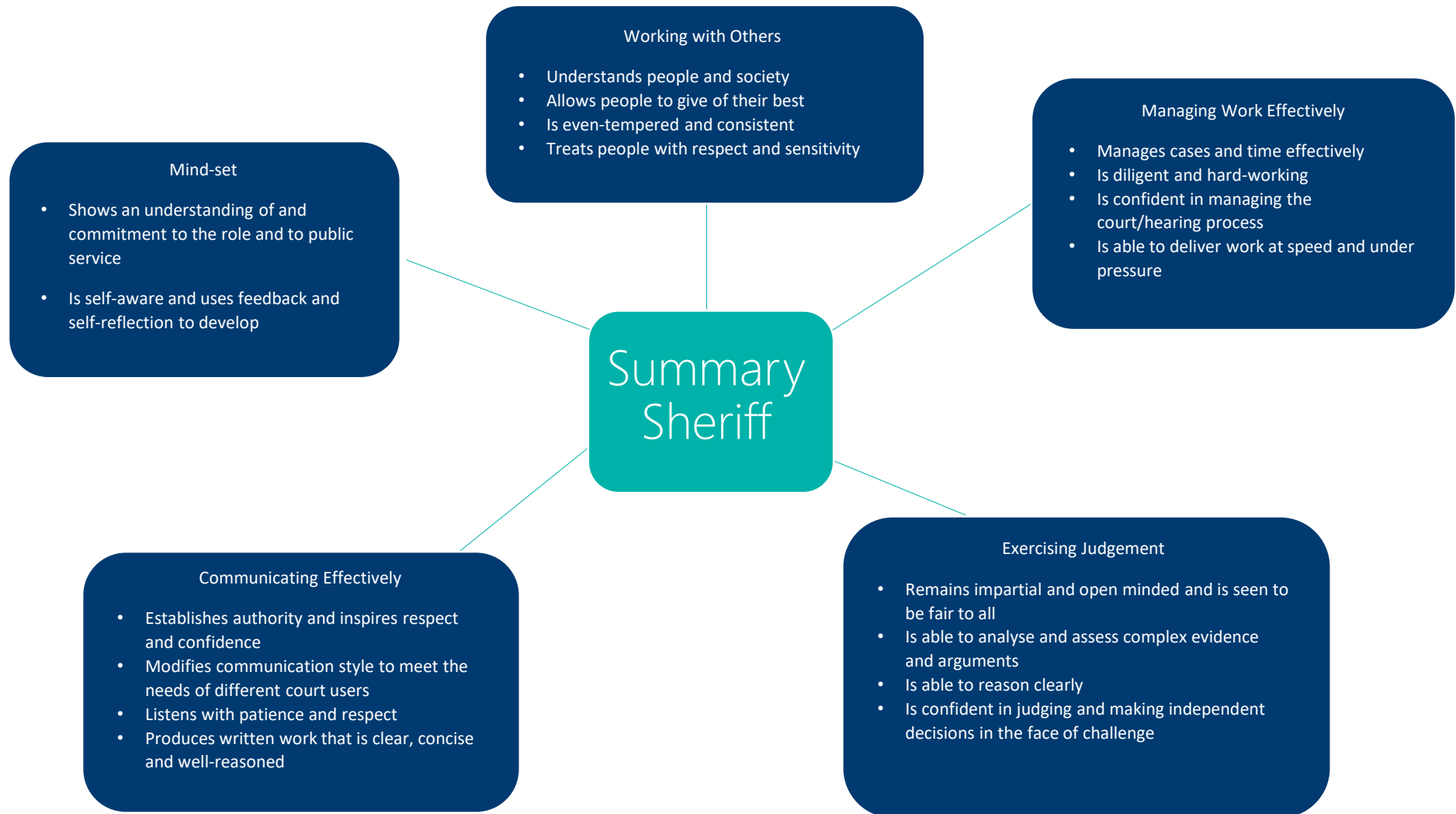
A career in the judiciary was always something that I considered. In 2020, I decided that I should apply and my experience of the process was that it was challenging but fair. One aspect that I consider benefited me during the process was that I collated examples that I believed demonstrated the various competencies in advance of formal notification of the recruitment round. This meant that I was able to quickly draw on these examples when completing the application form and also during the interview.

Since my appointment, I have found the role to be very rewarding and have enjoyed the variety of work as well as the challenge of trying to make fair and correct decisions. I have also benefited from the collegiate approach of my colleagues, who have, from the outset, been friendly and supportive.

I would therefore encourage anyone who has a keen interest in people and society, and a desire to challenge themselves, to consider applying for judicial office.



Personal and Judicial Qualities



The First Few Months of Appointment

Measures are in place during the early stages of a new summary sheriff's appointment. They are intended to provide support and reassurance to any new summary 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, designed to address the needs of the summary sheriff. Modules are designed to provide support in making the transition from practice to the new judicial role.
- New summary sheriffs are required to complete at least three sitting-in days with an experienced summary sheriff or 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 summary sheriff will be offered the assistance and guidance of a mentor, drawn from among the other summary sheriffs or sheriffs, to whom they can turn on a confidential basis for support in the early period of their appointment. The scheme is voluntary. If a new summary 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. Mentors are appointed by the Sheriff Principal.
- A new summary sheriff will have the assistance and support of the other sheriffs and summary sheriffs and have access to the advice and guidance of their Sheriff Principal.
- The Judicial Institute provides an annual programme of courses for serving sheriffs and summary sheriffs on subjects relevant to the work of the sheriff court. The Institute also maintains the Judicial Hub which is the judicial intranet. The Hub hosts a wide range of written guidance and other materials designed to support summary sheriffs in their daily work. It is regularly updated to assist judges to keep track of current developments.

