



**Annual Report of the Advisory Council on  
Messengers-at-Arms and Sheriff Officers**

**1 April 2025 to 31 March 2026**

**May 2026**

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## **Chair's Foreword**

I am pleased to present the fifteenth Annual Report of the Advisory Council on Messengers-at-Arms and Sheriff Officers.

Officers of court are the executive arm of the courts in Scotland and as such they make a vital contribution to the delivery of justice by ensuring that obligations are met and rights can be enforced.

The public must have confidence in Messengers-at-Arms and Sheriff Officers as a profession. It is right that they are properly regulated both by the courts they serve and by their professional association. Equally, it is appropriate that the system of regulation to which they are subject, and other matters affecting officers of court, are kept under review, so that appropriate recommendations may be made to the Lord President. I thank my colleagues on the Advisory Council for their assistance with this task.

The Hon. Lady Poole  
(Chair)

# 1. Introduction

## *Establishment*

- 1.1 Section 76(1) of the Debtors (Scotland) Act 1987 (“the 1987 Act”) established the Advisory Council on Messengers-at-Arms and Sheriff Officers (“the Advisory Council”) whose functions are to advise the Court of Session on the making of Acts of Sederunt under section 75 of the 1987 Act and generally to keep under review all matters relating to officers of court.

## *History*

- 1.2 The Advisory Council first met on 2 November 1987. The Advisory Council has had five Chairs, Lord Prosser (1987-2001); Lord McEwan (2001-2009); Lord Uist (2009-2015), Lady Wolffe (2015-2019) and Lady Poole (February 2020 to date).

## *Increased role*

- 1.3 Part 3 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 sought to effect a fundamental reform of the regulation of messengers-at-arms and sheriff officers. It sought to unify those two offices and establish a Scottish Civil Enforcement Commission with regulatory functions in respect of them.
- 1.4 These reforms were never brought into force. Instead, by way of the Public Services Reform (Scotland) Act 2010, significant modification of the reforms was effected. The unification of the two offices was reversed. The provisions concerning the Scottish Civil Enforcement Commission were repealed, with the majority of its proposed functions being placed instead on the Advisory Council or on the Lord President and the sheriffs principal or on the professional association for officers of court. The Society of Messengers-at-Arms and Sheriff Officers (“SMASO”) was designated as the professional association for officers of court by the Scottish Ministers on 1 April 2011.

### *Annual report*

- 1.5 Section 51 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (as amended) provides that the Advisory Council must prepare a report on its activities during the whole of each financial year as soon as practicable after the end of the period to which the report relates. This is the Advisory Council's fourteenth annual report and is for the period 1 April 2025 to 31 March 2026.
- 1.6 The Advisory Council must send a copy of the report to the Scottish Ministers and publish the report.

## **2. Membership**

- 2.1 Section 76(2) of the 1987 Act provides that the Advisory Council shall consist of –
- (a) the following persons appointed by the Lord President of the Court of Session –
    - (i) a judge of the Court of Session (who shall act as chair);
    - (ii) two sheriffs principal;
    - (iii) two officers of court;
    - (iv) two solicitors; and
    - (v) such other persons (not falling within sub-paragraphs (i) to (iv) above) as the Lord President considers appropriate;
  - (b) one person appointed by the Lord Advocate; and
  - (c) the Lord Lyon King of Arms.
- 2.2 Section 76(3) provides that the secretary of the Advisory Council shall be appointed by the Scottish Ministers. The current secretary is Katy Kelman, solicitor.

2.3 As at 1 April 2025 the membership of the Advisory Council was as follows:

The Hon. Lady Poole (Chair)

The Right Hon. the Lord Lyon (Dr Joseph Morrow)

Sheriff Principal Murphy KC

Sheriff Principal Ross

Alex Irvine - officer of court

David Walker - officer of court

Angela Lindsay - Scottish Government

Ged Mulvey - Money Advice Scotland

Tom Hempleman – solicitor member

Fergus Thomson– solicitor member

**New appointments made in May 2025**

Jill Newbigging – StepChange

Neil Griffin - Chartered Accountant member

### **3. Meetings and work of the Advisory Council**

3.1 The Advisory Council met on 28 May 2025. The minutes of the meeting are attached as appendix A to this report.

3.2 SMASO submitted its annual memorandum to the Advisory Council. It is attached as appendix B to this report.

3.3 The Council, in its advisory role to the Lord President, continues to keep under review the effect on services from sheriff officers and messengers-at-arms of SCTS's decision to move to a tender process for certain court services. The Council received an update from SMASO to the effect that in the last year a

new framework has been adopted, which will enable more sheriff officers and firms to tender for SCTS work.

3.4 The Advisory Council noted that it may be brought within the remit of the Public Records (Scotland) Act 2011.

3.5 The Advisory Council submitted a response to the Scottish Civil Justice Council's consultation on a simplified table of fees for officers of court.

3.6 The Advisory Council is scheduled to meet in May 2026.

#### **4. Statistical Information**

The Advisory Council previously indicated an intention to include in its report a statistical analysis of the performance by officers of court of their functions as envisaged by section 51 of the 2007 Act. This takes the form of a report from the Accountant in Bankruptcy containing the statistics provided by officers of court under section 84 of the 1987 Act. The report for 2024-2025 (published in September 2025) can be accessed here:

[Accountant in Bankruptcy - Scotland's Insolvency Service - Scottish Diligence Statistics 2024-2025](#)

## APPENDIX A

### ADVISORY COUNCIL ON MESSENGERS-AT-ARMS AND SHERIFF OFFICERS MEETING

28<sup>th</sup> May 2025 at 4.15pm

Parliament House

#### **Present:**

The Hon Lady Poole (Chair)  
The Rt Hon the Lord Lyon (Dr Joseph Morrow)  
Tom Hempleman – Solicitor  
Fergus Thomson - Solicitor  
Alex Irvine – Officer of Court  
David Walker - Officer of Court (by Webex)  
Ged Mulvey - Money Advice Scotland  
Angela Lindsay - Scottish Government

#### **Secretariat:**

Katy Kelman – Deputy Legal Secretary to the Lord President

#### **Item 1: Welcome**

1. The Chair welcomed members to the meeting, in particular Angela Lindsay who attended for the first time as the Scottish Government representative. The Chair also expressed thanks on behalf of the Council to Mr Drummond-Murray for his contribution to ACMASO over his years of membership. The Chair noted apologies from Sheriffs Principal Ross and Murphy.

#### **Item 2: Minutes of meeting on 22 May 2024 and matters arising**

2. There were no matters arising or proposed amendments. The minutes were approved.

### **Item 3: SCTS tender for sheriff officer services: update**

3. The Chair referred to paper 2. The Council, in its advisory role to the Lord President, is keeping under review the effect on services from sheriff officers and messengers-at-arms of SCTS's decision to move to a tender process for certain court services. While that is a business decision for SCTS, part of the Council's role was to provide advice to the Lord President whether there were any unforeseen adverse effects on sheriff officers and messengers-at-arms.
4. The Chair sought input from SMASO members. An update was provided that in the last year, a new framework has been adopted, which will enable more sheriff officers and firms to tender for SCTS work. SMASO was grateful for the improved advance communication from SCTS, meaning that SMASO was in turn able to communicate with members, giving more of them an opportunity to participate. That resulted in more smaller firms now being on the framework, able to tender for contracts. This was a positive development.
5. The nature of contracts to be awarded under the framework by SCTS would also be important. As Mr Mulvey put it, firms can be on the framework, but excluded in practice if the size of contracts offered are too big for them to service. If they were then put out of business, there was a risk of losing local knowledge. But whether this was a problem or not would depend on the nature of contracts. Mr Irvine advised that one of the challenges for some of SMASO's members is that, if SCTS offers only contracts for Scotland-wide services, smaller operations which cannot provide an all-Scotland service are prevented from competing. If contracts are offered in lots, then more operations are able to bid for them. Mr Irvine considers that it is important to maintain a watching brief on this matter because the profession is in decline. In the entire Highlands and Islands region, there are now only 3 sheriff officers operating. The Chair agreed that the matter is important if it results in a drop off in the profession, as the functions of sheriff officers and messengers at arms were important for the justice system as a whole.
6. The Lord Lyon expressed the hope that the tender process would be operated so that specialisms in the profession, and expertise in rural areas, were not lost.

It would be a backwards move for access to justice if there was no longer a national service. It should also be kept under review whether moving to tenders was in practice more efficient and effective than the old system. He also queried whether firms could collaborate in order to compete for SCTS contracts. This prompted a discussion. Mr Walker advised that the matter of information security and firms being registered with the Information Commissioner's Office is important, with local government preferring to work with firms that are ISO certified. It was a challenge for firms to try and form a consortium to tender because there would need to be a minimum standard of information security. Mr Irvine noted that the tender exercise had allowed some firms to tender who were not ISO registered as long as they met certain standards. This again allowed access by smaller firms.

7. Mr Walker's impression was that there was no marked reduction in service levels so far as a result of the move to tendering. The increased transparency in the process more recently was a welcome feature. The bigger picture for the profession remains, which is trying to encourage creditors to use the Courts for enforcement.
8. Members agreed that it would be helpful to highlight potential implications of SCTS moving to a tendering process for services of sheriff officers in a positive way to the new Lord President. The Chair will write to him, copying her letter on the matter to the former Lord President and the response received from the former Chief Executive.

**Item 4: Annual Report 2024-2025**

9. Members considered the terms of the draft Annual Report which contains the SMASO annual memorandum. The Chair asked Mr Walker and Mr Irvine to speak to the SMASO memorandum. Mr Irvine spoke about the profession's work to embed the requirements of the Bankruptcy and Diligence (Scotland) Act 2024. They had consulted with international colleagues on matters related to electronic service. There was a continued difficulty in relation to access to relevant banking and employment information, and finding out where assets

were held. Mr Walker also highlighted the continued interest in digital signatures. He noted that there is still not enough data about challenger banks, so SMASO is encouraging its members to share data about successes and failures in this regard. SMASO and Money Advice had set up a working relationship and were identifying areas where they could work collaboratively. In relation to internal examinations for sheriff officers and messengers-at-arms, Mr Irvine noted that those are still taking place in person. He spoke about the process for examinations, and advised that the SMASO forward strategy group is looking at possible improvements in this regard. The level of work required to provide training, devise and run two sets of examinations per year was noted. The Chair thanked SMASO for their hard work.

10. Members approved the draft Annual Report.

#### **Item 5: Scottish Government Update**

11. The Chair thanked Ms Lindsay for preparing paper 4, which set out legislative and other developments of relevance to ACMASO. The service of judicial documents was an area still actively under consideration.
12. The Chair noted an issue raised by a former member of ACMASO about ownership of sheriff officer firms. The Chair wanted to ensure that Ms Lindsay is aware of that, in addition to the issue raised by SMASO about the information deficit for enforcement. It would be helpful to know that Ms Lindsay can feed those issues back.
13. Mr Thomson had a query about item 6 (work on diligence) and the new deduction rates introduced by the Diligence against Earnings (Variation)(Scotland) Regulations 2024. Mr Irvine was able to confirm that a new tier has been added in by the Regulations and the minimum threshold for deductions from earnings was also increased.

#### **Item 6: Draft Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) (Amendment) 2024**

14. The Chair noted that this instrument was made successfully and came into force on 1<sup>st</sup> July 2024.

**Item 7: ACMASO's inclusion in the schedule of the Public Records (Scotland) Act 2011**

15. The Chair asked members to note the content of paper 6 and Flag A. In essence, ACMASO may be brought within the remit of this Act at some point in the future.

**Item 8: Membership of the Council: vacancies for Consumer Representative member and Chartered Accountant member**

16. The Chair noted that the Council used to have a CA member. It would also be helpful to have another consumer representative member. Members agreed to consider whether they know suitably qualified candidates who might be invited to join the Council. The Lord Lyon highlighted that for the diversity of the Council, it would be helpful to recruit a female member.

**Item 9: Any other business**

17. A consultation had been launched by the Scottish Civil Justice Council that day on a simplified table of fees for officers of court. Documents would be circulated to Members, and consideration given to whether ACMASO would respond.
18. The Chair will suggest a date for next year's meeting when the minutes are circulated.
19. The Chair thanked members for attending and closed the meeting.

## APPENDIX B: SMASO Memorandum



### MEMORANDUM ON THE YEAR 2025 FROM THE SOCIETY OF MESSENGERS-AT-ARMS AND SHERIFF OFFICERS TO THE ADVISORY COUNCIL

The most recent SMASO AGM, was held on 6<sup>th</sup> December 2025, within the Dunblane Hydro Hotel. The meeting was preceded by an excellent CPD session, presented by Estelle Kerr, Money Advice Scotland, who provided a very informative explanation of the role of free money advice in Scotland. Thereafter, Alex Irvine led an interactive workshop with our members to better understand their current concerns with a view to developing SMASO policy going forward. This was the third and final AGM chaired by Andrew Fraser President. In the course of the meeting, William Cameron was elected President for the forthcoming term.

#### **Membership of the Society**

At the time of preparing this report, membership stands at: 136

#### **Examination and Training**

In the course of the AGM, the current professional examination process was extensively discussed, with some concern voiced in respect of the relatively high number of failing candidates. This has prompted the new Executive Council to set up a working group to consider all relevant matters, with a view to engaging with the independent examination board. It should be noted that the current process has been in place for many years, and it is therefore appropriate to conduct a review at this time. For the avoidance of doubt, we do not consider the reduction in period of training to be a significant factor. It seems that our younger generation of candidates are less comfortable with traditional, formal written exams and we are therefore interested in exploring other possible options, such as a modular approach.

#### **Continuing Professional Development**

SMASO has continued to provide regular CPD seminars and has been fortunate to engage relevant, high-quality speakers. We can confirm the majority of members have fully complied with their mandatory CPD requirements, with one officer still to provide satisfactory evidence, which we anticipate will be forthcoming shortly.

## **Accountant in Bankruptcy**

We continue to have positive engagement with the office of The Accountant in Bankruptcy (AiB). SMASO members continue to be well represented on the Ministerial Working Group on Statutory Debt Solutions, which is concerned with the continued implementation of the Bankruptcy and Diligence etc (Scotland) Act 2024.

Following on from the enactment of the Bankruptcy and Diligence etc (Scotland) Act 2024, we had anticipated a further opportunity to share our views on this important new legislation, via a secondary AiB consultation paper, however, this has since been delayed until after the Scottish Parliamentary Election.

We remain concerned that matters have not progressed on the implementation of Information Disclosure Orders, noting that a framework provision was incorporated in the Bankruptcy and Diligence etc (Scotland) Act 2007. Most frustratingly, almost 20-years later, the secondary, technical legislation has never been effectively considered and implemented.

SMASO considers that controlled access to relevant information, such as HMRC employment data, remains an essential priority. Research in other jurisdictions confirms that Scotland is very poorly equipped, in terms of access to relevant intelligence. The maxim of Viscount Stair is most apt in this regard, "Decrees would be of no effect, but as bees without stings, if the law did not fix the kinds and forms of the execution thereof".

## **Statutory Fee Review**

Following the most recent uplift in statutory table of fees, which came into effect on 22nd March 2024, we have continued to engage with SCTS Cost and Funding Committee. It should be noted that our members were required to wait a whole year for the uplift agreed in March 2023, to come into force in March 2024. This uplift was based on the September 2022 CPIH benchmark. As such our members have continued to struggle financially, with perennial uplifts in operating costs, significantly exacerbated by the recent increase in employer NIC. For this reason, SMASO very much welcomed the Scottish Civil Justice Council's discussion paper and subsequent public consultation on a simplified table of fees for officers of court.

Following on from this consultation, we understand that the core recommendations are being taken forward, with the intention of laying the necessary draft legislation, as soon as the Scottish Parliament is re-constituted, post-election. Simply put, this change cannot come soon enough for our members. We will certainly welcome the CPIH rated uplift. Moreover, the rolling programme of defined future uplifts, means that we will have an element of commercial certainty which has been badly missed since circa 2014.

## **Abolition of Post Copies**

Current rules of service (excluding Court of Session), require that where a document is deposited at a dwelling or place of business, then a second copy must be sent by ordinary post. This is also a requirement when serving an arrestment, typically in the hands of a bank.

SMASO has long advocated that any such postal copy is superfluous and now represents a significant, unnecessary cost to members. An approach was made to SCJC on the 17/11/2022, requesting that this provision be removed, however, there has been no substantive progress on this point. Accordingly, any support which the Advisory Council may be able to offer, would be very much appreciated by all concerned.

### **SMASO Digital Strategy**

The sub-committee set up to deliver SMASO's digital transformation strategy, has continued to explore various improvement strategies to help SMASO members embrace all the potential benefits of digitisation.

Following the enactment of the Bankruptcy and Diligence (Scotland) Act 2024, which provides for electronic service of bank and earnings arrestments, we await the forthcoming secondary consultation on the electronic service of bank and earnings arrestments. In the meantime, we have continued to meet with the principal Scottish banks which are keenly interested in the development of an effective operating model for the electronic service of bank arrestments.

Regarding access to the Civil-on-Line platform for SMASO members. We have continued to liaise with our nominated contact at Scottish Courts and Tribunal Service's Civil Lab. We are aware of their ongoing digitisation programme and understand that we will be consulted with, at the appropriate stage in their project plan.

### **International Business**

SMASO continues to be an active supporter of the International Union of Judicial Officers (UIHJ). The next significant event being the spring Permanent Council meeting which will take in Tbilisi, Georgia on the 6th to 8th May 2026. The highlight of the programme will be a one-day conference entitled: *Transforming Role of the Judicial Officer in Contemporary Justice*. Hosted by Mr Paata Salia, Minister of Justice of Georgia, the workshops will consider diverse subjects, such as best practice for evictions and the impact of AI on trust and technology.

### **Hague Service Convention**

Following previous discussions with the Scottish Government Legal Directorate, SMASO members remain the designated authorised agents for both Forwarding and Receiving Authorities in respect of requests under the Convention of 15 November 1965, on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

We have already updated our website to provide relevant information on how to communicate with SMASO members, who have elected to manage such international instructions. In addition, we continue to see a steady flow of instructions via the aforementioned Legal Directorate.

### **Relationship with Money Advice Scotland**

Following upon Lady Poole's suggestion for SMASO and Money Advice Scotland to initiate bilateral discussions, we are pleased to report that we have established excellent lines of

communication. In addition, we have nominated standing delegates who have coordinated several face-to-face meetings. We also very much welcomed their contribution to our last CPD event and look forward to other such knowledge sharing opportunities.

### **SMASO Coat of Arms**

The new colour version of the Society's arms is being used, for the very first time, on this Memorandum. The drawing of the Lyon Court Mace and the Society's Sword, in saltire behind the shield, allows us to show the whole armorial achievement of the Society, following Lyon's granting of these additaments to the Society's arms, in our centenary year of 2022. The artist is Kevin Greig.

This is a summary of the various issues currently impacting Messengers at Arms and Sheriff Officers throughout Scotland. We look forward to reengaging with the AiB and relevant minister after the May election, to help shape the proposed digitisation of enforcement. We will also welcome any opportunity to revisit the proposed introduction of Information Disclosure Orders, as contained in Part 16 of the BAD act 2007, which we consider to be a critical, missing element in our current statutory powers.