

# the Scottish Justice



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## A View from the Justices of the Peace Bench

Unification of the Sheriffdoms in Scotland is complete and the administration of all Justices of the Peace courts in Scotland is now managed by the Scottish Court Service along with Sheriff and High Courts.

The Judiciary and Courts (Scotland) Act 2008 will take effect officially on 1st April 2010, when The Rt Honourable Lord Hamilton, Lord President of the Court of Session becomes chair of the newly created Board of the Scottish Courts Service. This change means that SCS will no longer be an executive agency of Scottish Government, but will become a statutory body corporate with a judicial majority of Board members.

For us, as Justices, this will mean that the judiciary in Scotland will have an influential say in the running of all the essential support services for our courts.

Importantly the Act guarantees judicial independence and establishes the Lord President as Head of the Judiciary with responsibility for the efficient disposal of business throughout the courts and for the welfare, guidance and training of the judiciary and for ensuring appropriate arrangements are in place for the investigation and determination of complaints about judicial conduct. This new regime will strengthen judicial independence ensuring a clear gap between Government and sentencing and creating for the first time a unified judiciary to which we will belong.

Unlike Summary Justice Reform, and the move from District Courts to Justice of the

## Editorial Comment by Johan Findlay



Welcome to this special edition of the Scottish Justice which is being produced in conjunction with the Scottish Court Service (SCS) to introduce the changes which are to come about under the Judiciary and Courts (Scotland) Act 2008.

Justices have faced many changes over the last four centuries but each one has improved the system and strengthened the position of justices as unpaid judicial officers.

The last few years have seen particular changes with the McInnes Review resulting in Summary Justice Reform and, as part of that, unification of the administration of the Summary Courts. The latter, phased in over two years, is finally complete with the last Sheriffdom, South Strathclyde, Dumfries and Galloway, unifying on 22 February. Having a dedicated organisation, SCS, running all the Justice of the Peace courts in Scotland, can only be an improvement on the disparate system we had previously.

Simultaneously to Unification, a vast amount of work has been done in preparing for the Judiciary and Courts (Scotland) Act 2008 when on 1 April 2010, **Vesting Day**, the Lord President assumes the role as Chair of the Scottish Court Service Board.

To help clarify the changes and explain what these mean to us, the Scottish Justice presents articles from the major players in the new system and I hope you find this helpful.

I should like to thank SCS for producing this special edition, with thanks particularly due to the Lord President, Eleanor Emberson, Steve Humphreys and to Susan Whiteford for her help and support.

*Editor*  
**Johan Findlay**

Peace Courts, the changes under the '2008 Act' will be less obvious. On the day of Unification we saw immediate changes in the court administration. We also experienced some courts closing and many Justices moving to premises in the Sheriff Court. It brought about the appointment of Sheriffdom Legal Advisors with new legal advisors in many areas and the headquarters changed from the local authority to one of the Sheriff Courts in the Sheriffdom.

Changes under the new Act are likely to be more gradual but these are exciting times and things are moving quickly. Much has been achieved over the last few years and

the new Scottish Court Service should be well placed to build on the benefits from unification and other reforms.

I wish the Board of the Scottish Court Service good fortune with its deliberations and look forward to seeing the changes it effects take place.

*Ian Smyth JP*  
**Chair of Communication Committee**  
**SJA**





# The Scottish Court Service Board



Back Row: (left to right) Sheriff Principal Alastair Dunlop QC, Robert Milligan QC, Elizabeth Carmichael CBE, The Rt Hon Lord Reed, Johan Findlay JP, Sheriff Derek Pyle, Mark Higgins, Sheriff Iona McDonald  
Front Row: (left to right), Deborah Crosbie, The Rt Hon Lord Gill - Lord Justice Clerk, The Rt Hon Lord Hamilton - Lord President, Eleanor Emberson, Anthony McGrath

More detailed information on the Scottish Court Service Board is available from [www.scotcourts.gov.uk/judiciarycourtsact.asp](http://www.scotcourts.gov.uk/judiciarycourtsact.asp)

## The Judicial Office for Scotland for Scotland By Steve Humphreys, Director



The Judicial Office for Scotland comes fully into being today. It has been created as a separate part of the Scottish Court Service to provide support to the Lord President on those parts of his responsibility as Head of the Judiciary which do not relate to the oversight of court administration and on court and justice system administration issues where they relate to the deployment of the judiciary. The Judicial Office takes direction exclusively from the Lord President, the Sheriffs Principal and any judicial office holder to whom the Lord President has delegated any of the responsibilities described here. It includes the staff who have supported the Lord President in his private office, staff who have handled media interest in judgments and the staff of the Judicial Studies Committee. In addition new staff have joined who will be responsible

for some of the responsibilities that were formally undertaken by the Scottish Government in relation to the judiciary and to operate the process for considering complaints about judicial conduct.

The Judicial Office for Scotland will provide the sole or lead support to the Lord President on the following areas of his responsibility under section 2(2) of the 2008 Act:

- 2(2)(b) – representing the views of the Scottish judiciary to the Scottish Parliament and the Scottish Ministers;
- 2(2)(c)(i) – laying before the Scottish Parliament written representations on matters that appear to the Head of the Scottish judiciary to be matters of importance relating to the Scottish judiciary;

# From the Lord President, Chair of the Scottish Court Service Board

The changes taking place today - the creation of a Scottish Court Service under the direction of an independent Board and the creation of a unified judiciary - are important constitutional changes. The effect will be to place the Scottish Court Service decision-making process closer to those who are directly involved in the delivery of justice.

*I believe the new arrangements will provide an opportunity for the creation of a better and closer relationship between judicial office holders and staff, working together to deliver to the public the sound and prompt judgments to which it is entitled.*

The Board has already met several times in preparation for this day - 1 April known as vesting Day - when the remainder of the powers described in the Judiciary and Courts (Scotland) Act 2008 are brought into force. We have already had to consider and decide on the allocation of the budget available to SCS for the financial year 2010-11 and one of our other important early decisions has been to appoint Eleanor Emberson as Chief Executive to the new organisation. This, I believe, is a clear signal of the Board's desire for continuity and of an intention to build on the success of the current SCS.



The members of the Board have among them a wide range of knowledge, skills and experience of working within the courts, in government and in the commercial sector. This breadth of understanding will help us develop the direction of the SCS and the delivery of services to all those who have need to use them. It will allow us, over the next few months, to consider and develop the strategic direction for the Service. We face, along with the public sector generally, difficult financial conditions. We must not underestimate the challenges this presents.

The Chief Executive and SCS staff will continue to be responsible for the day-

to-day management of the organisation and the delivery of its key functions within the courts and the Office of the Public Guardian. The Board recognises the achievements of SCS and the critical role its staff play in this success. It has a reputation for sound delivery and a capacity to adapt successfully to change, most recently demonstrated by the conclusion of the unification of the administration of summary justice courts. The new SCS starts on firm foundations.

From 1st April I am responsible for the efficient disposal of business throughout the Courts in Scotland and for the welfare, guidance and training of the judiciary as well as arrangements for the investigation and determination of complaints about judicial conduct. To assist me in these responsibilities The Judicial Office for Scotland has been created and a separate article by the Director, Steve Humphreys explains in a little more detail the functions of the Judicial Office.

I would like to finish, perhaps surprisingly, with a welcome. Welcome to our new unified judiciary. I am very conscious of the dedication and commitment each one of you shows to the administration of justice in Scotland. The contribution you make to your community may not often be acknowledged sufficiently but its importance to the maintenance of the rule of law cannot be underestimated. I look forward to meeting some of you in the year ahead.

- 2(2)(d) – making and maintaining appropriate arrangements for the welfare, training and guidance of judicial office holders; and
- 2(2)(e) – making and maintaining, in accordance with section 28, appropriate arrangements for – the investigation and determination of any matter concerning the conduct of judicial office holders, and the review of such determinations.

The other directorates of the Scottish Court Service have responsibility for providing the staff, infrastructure, systems and services necessary for the operation of the Scottish Courts. The Lord President's remaining areas of responsibility under section 2(2) are as follows:

- 2(2)(a) – making and maintaining

arrangements for securing the efficient disposal of business in the Scottish courts; and

- 2(2)(c)(ii) – laying before the Scottish Parliament written representations on matters that appear to the Head of the Scottish Judiciary to be matters of importance relating to the administration of justice.

On these areas, the Lord President will draw support from both the Judicial Office and the other directorates of the SCS as follows:

- on issues relating to the deployment (including redeployment) and arrangements for securing the appointment of new members of the judiciary, the Lord President will be supported by the Judicial Office;

- on all other issues, the Lord President will be supported by the other directorates of the SCS.

The Judicial Office will need to work closely and often collaboratively with other directorates of the Scottish Court Service on some issues in order fully to support the Lord President. As Director, I and the Chief Executive of the Scottish Court Service, Eleanor Emberson have personal responsibilities to the Lord President to ensure that judicial independence is properly respected and that there is complete confidentiality on issues that are properly only matters for the Judicial Office. I am hopeful that staff to the Judicial Office will be able to get out to courts, training events, and conferences so that we are visible to you.



Scottish Court Service



# Welcome to the new Scottish Court Service

On 1 April 2010, the new Scottish Court Service comes into being. Run by an independent Board and Chaired by the Lord President who now becomes Head of the Judiciary, a new journey for us all begins.



**E**leanor Emberson, Chief Executive, Scottish Court Service "The new Board will have full responsibility for the Scottish Court Service's business and will make the strategic decisions

about the work to be done and how the money available will be allocated. The Board has already met three times and it is obvious that the range of different experiences and talents around the table - including our three members from outside the justice system, who bring very senior experience in the private and public sectors with them - is going to be a very valuable part of the SCS from now on. The executive team is already thinking through what the plans for the SCS should be for the next three years after, what we expect will be, a very tight Spending Review settlement and the challenge from the Board will help make those plans better. Having the Board with a narrow judicial majority and the Lord President in the chair will help make sure the SCS will have a strong voice in shaping plans for the justice system as a whole and will help ensure that the focus of the Board is on the long term development of the service."

## Questions Answered

### How often will the SCS Board meet?

The Board expects to meet around six times a year and is also considering the establishment of sub-Committees to help oversee or progress specific issues.

### Will the SCS still have a role in influencing policy making?

Yes. The new Framework Document makes clear that where policy proposals have a potential impact on the operation of the courts the Scottish Government will consult the SCS in good time to allow any comments to be made and considered before final decisions are taken. Similarly, if the SCS Board is taking a decision that will impact on the wider justice system, they will consult Ministers and other relevant contacts.

### Will the SCS continue to engage with other justice organisations?

Yes. SCS staff will continue to engage with other organisations within the justice system at local and national levels, within the strategic priorities and direction set by the SCS Board.

### How will the Scottish Parliament hold the SCS to account?

The Scottish Parliament will hold the Board to account for the delivery of its statutory functions. As Accountable Officer, the Chief Executive will be accountable to Parliament for the efficient and appropriate use of public funds by the SCS.

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### Will the new arrangements change how SCS staff in courts work with members of the judiciary?

No. The changes will not impact on the relationship between staff and individual members of the judiciary. Staff will continue, as now, to support the work of Judicial Office Holders to help ensure the efficient administration of justice within each court.

The changes do not place any specific new responsibilities on Judicial Office Holders within courts in how they engage with SCS staff.

[www.scotcourts.gov.uk](http://www.scotcourts.gov.uk)