

Kevin MacKay: Sheriff Officer

RESPONSE FORM

Do you agree that the procedure under Regulation 8 be amended to replace the newspaper advertising provision with a requirement that a Disclosure Certificate be produced? **YES**

Please give reasons for your answer.

My understanding is that a large part of the reason for advertising in a newspaper is historical and based on allowing the current incumbent commissioned Officers for the Sheriff Court Districts in question to be properly notified. In addition it allows members of the public to be aware of applicants and lodge any objections based on their character.

Given the training requirements and professionalism developed in the last 20 years and the appointment of SMASO as the professional body neither of these appear valid reasons to continue with an expensive practice. In particular the reduction in the volume of Civil Court work has meant Officers requiring the facility to operate in larger areas in order to operate effectively and I am unaware of any objections from current Officers regarding an application for a Commission since at least 2000. Utilising the standard Disclosure Scotland process also ensures the candidate is a fit and proper person based on a straight forward objective set of criteria rather than personal opinion.

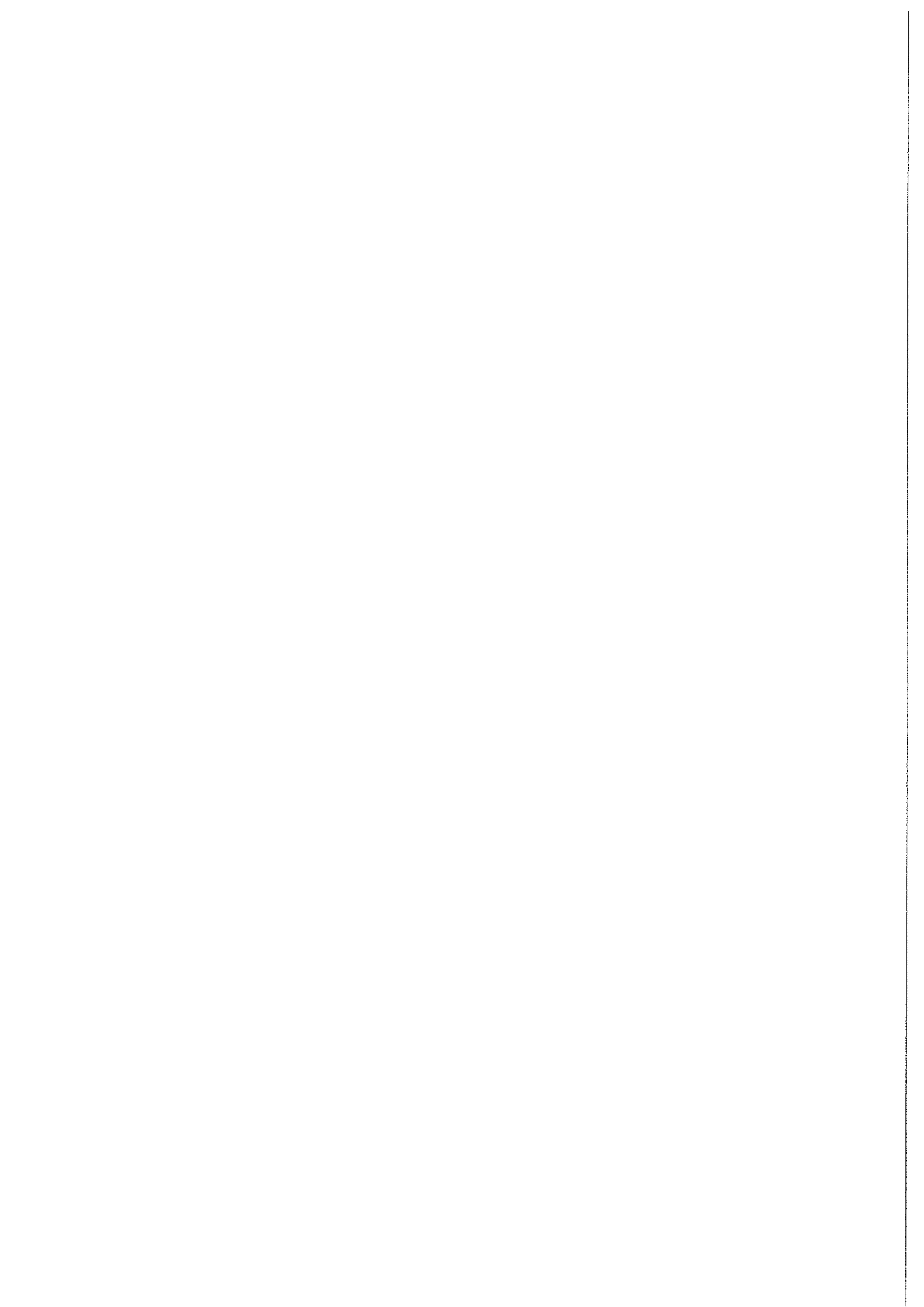
What is your view about whether the type of disclosure certificate should be Basic, Standard or Enhanced? **Standard**

Please give reasons for your answer.

Given the nature of the work the Standard check provides sufficient surety that the candidate has conducted themselves appropriately and is able to interact safely and effectively with the public as required.

Do you have any other comments or observations?

None



WILLIAM CAMERON: Sheriff Officer

RESPONSE FORM

Do you agree that the procedure under Regulation 8 be amended to replace the newspaper advertising provision with a requirement that a Disclosure Certificate be produced? YES/NO.

YES.

Please give reasons for your answer.

The current requirement for newspaper advertisement of applications for commissions as Sheriff Officers is archaic and in need of modernisation. The majority of objections lodged to applications were historically made by other firms of Sheriff Officers seeking to protect their commercial interests and to prevent a surfeit of Officers in a particular Sherifffdom or District. Such objections where very rarely made against the personal character of the individual applicant and have disappeared in more recent years as it is generally accepted that Officers and firms require to provide a wider geographical service in a very competitive market place and accordingly firms tend not to object to applications .

Historical objections raised by members of the public following newspaper advertisement where mainly due to the actions of the firm employing the applicant rather than against the personal character and ability of the applicant as an individual.

Taking the above into consideration it could be held that newspaper advertisement holds no useful purpose particularly as applications for commissions are publicly displayed on the walls of each Sheriff Court where the applicant seeks a commission.

What is your view about whether the type of disclosure certificate should be Basic, Standard or Enhanced?

I would prefer to see Enhanced disclosure.

Please give reasons for your answer.

The reason for Enhanced disclosure is to ensure an Officer can execute his/her duties with the maximum degree of transparency from interaction with members of the public bearing in mind Officers can deal with very personal, vulnerable and difficult situations. Officers hold public office and as such should be beyond reproach and be held fully accountable for their actions. Enhanced disclosure will ensure the highest level of ethical standards and professionalism is maintained by future applicants to the profession.

Do you have any other comments or observations?

This is a most welcome consultation and will further enhance the confidence in members of the public and court users engaging with Officers of Court. I fully support the proposal and believe that Enhanced Disclosure would be more appropriate.



RESPONSE FORM

Do you agree that the procedure under Regulation 8 be amended to replace the newspaper advertising provision with a requirement that a Disclosure Certificate be produced? YES/NO.

Please give reasons for your answer.

AT PRESENT THERE IS NO REQUIREMENT FOR EITHER THE SCOTTISH COURT SERVICE OR AN EMPLOYER OF A SHERIFF OFFICER TO CONDUIT ANY DISCLOSURE POTENTIALLY LEAVING THE SYSTEM OPEN TO ABUSE. SHERIFF OFFICERS ARE AT TIMES ASKED TO COMMUNICATE WITH VULNERABLE GROUPS OF PEOPLE AND PEOPLE OF ALL AGE GROUPS

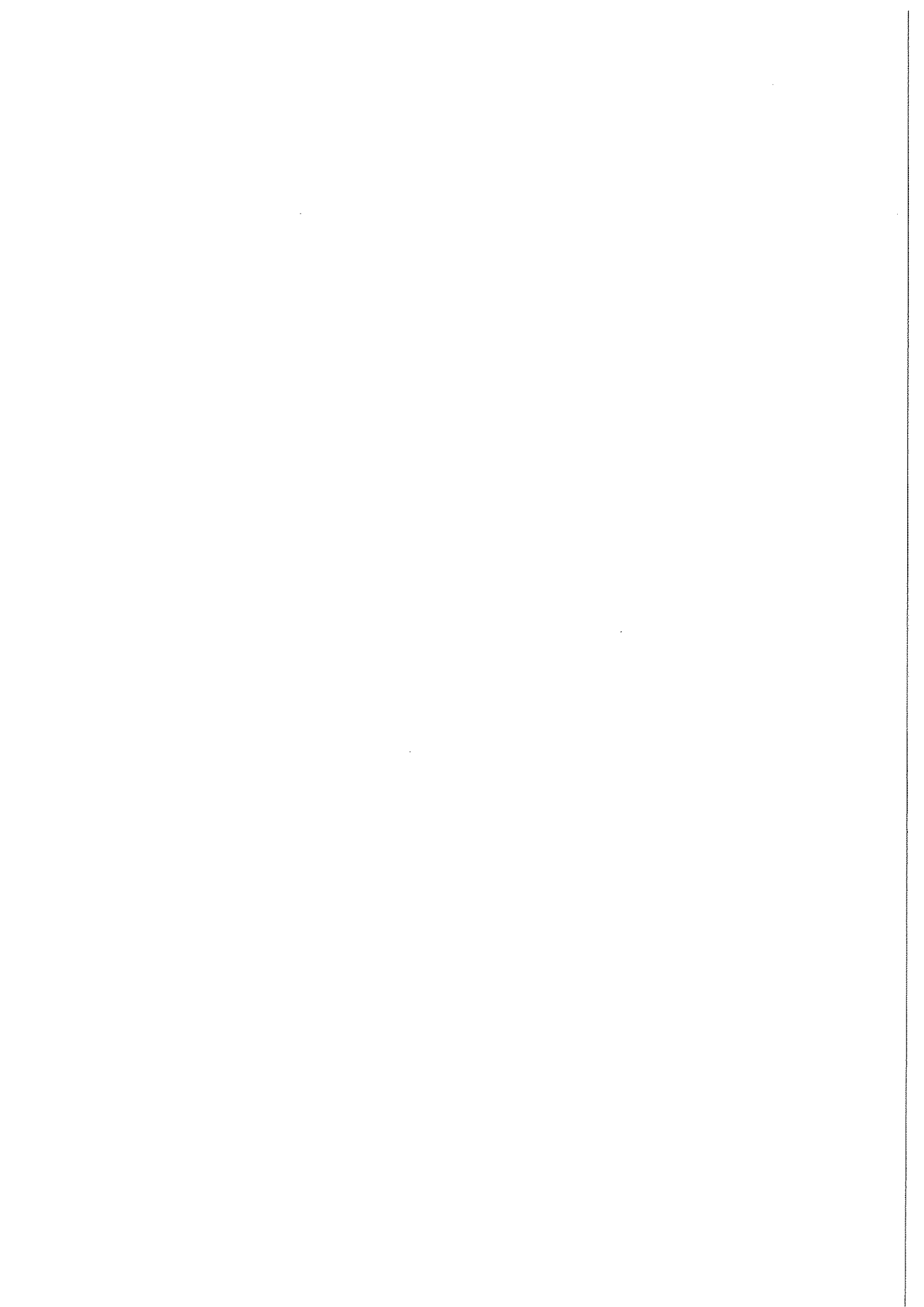
What is your view about whether the type of disclosure certificate should be Basic, Standard or Enhanced?

Please give reasons for your answer.

I FEEL AN ENHANCED CHECK SHOULD BE REQUIRED FOR ALL OFFICERS AS AND WHEN THEY APPLY FOR THEIR FIRST COMMISSION OR ARE MERELY RENEWING THEIR IDENTITY CARD (EVERY 10 YEARS). THIS WOULD MEAN THAT EVERY OFFICER IS KNOWN TO BE SECURITY CHECKED WHEN DEALING WITH VULNERABLE GROUPS

Do you have any other comments or observations?

A OFFICERS WITNESS SHOULD BE REQUIRED TO BE DISCLOSURE CHECKED AS WELL BUT POSSIBLY TO A LESSER LEVEL



CITIZENS ADVICE SCOTLAND

RESPONSE FORM

Do you agree that the procedure under Regulation 8 be amended to replace the newspaper advertising provision with a requirement that a Disclosure Certificate be produced? **YES.**

Please give reasons for your answer. The Society of Messengers at Arms and Sheriff Officers "strives to enhance the profession by setting the highest standards for the membership"

By requiring a Disclosure certificate this would ensure safe recruitment and instil in members of the public that the profession is employing staff who will act with "honesty and integrity"

What is your view about whether the type of disclosure certificate should be Basic, Standard or Enhanced? Enhanced

Please give reasons for your answer. For the reasons above ie public confidence in Officers of the Court and safe recruitment.

Do you have any other comments or observations?

Disclosure would ensure the candidates previous lifestyle was of the high standard required by the profession. Not leave the onus on the candidate to notify if any offence has occurred.

(

(



5

RESPONSE FORM

Response submitted by:

Ronald J Murison, Stirling Park LLP, 24 St Enoch Square, Glasgow, G1 4DB. I am a Sheriff Officer and Messenger-at-Arms and hold the position of Director of Sheriff Officer Services.

This submission is lodged on behalf of Stirling Park LLP and prior to completion we provided every Sheriff Officer with a copy of the documentation and requested their feedback, some of whom did provide their own views. Each Officer was encouraged to send their own response, although the response below demonstrates the consensus of opinion from 26 Sheriff Officers employed by Stirling Park LLP.

Do you agree that the procedure under Regulation 8 be amended to replace the newspaper advertising provision with a requirement that a Disclosure Certificate be produced? **YES**

Please give reasons for your answer.

*The requirement to advertise is an archaic process and should be removed through a change in legislation. Employers have greater access to properly vet prospective employees at the recruitment stage to ensure that they have a fit and proper person to represent the company and the profession in his duties. The trainee sheriff officer goes through a 3 year programme and he will only be put forward with an opportunity to sit the sheriff officer examination if he/she has demonstrated their academic and practical abilities.*

*We are not aware of any instances where a Sheriff Principal has deemed the applicant not to be a fit and proper person, which demonstrates the company has exercised the necessary process.*

*We have no knowledge of any member of the public in objecting to the commission application. However; in the past some sheriff officer firms have raised objections to the application at a time when sheriff officer firms operated within territorial patterns, to protect their own business interests, although many sheriff officer firms now offer Scotland-wide services for their clients, therefore these objections have ceased many years ago. It is widely felt that an objection by another sheriff officer firm would breach anti-competitive legislation, unless there was a viable reason in respect of the applicant's character.*

*The cost to advertise has increased significantly over the years, which burdens sheriff officer firms in an age where competitive tendering and large reductions of court actions is placing a financial strain on sheriff officer firms. Notwithstanding that the process to advertise essentially delays the incoming sheriff officer to obtain his commission(s) and consequently has an effect on his ability to earn the associated salary; in addition it hinders the firm from using the sheriff officer's services at an earlier stage in the process.*

*We also believe that given the sensitive nature of a sheriff officer's role that their identity to the general public is completely unnecessary. During the Community Charge (Poll Tax) times, sheriff officers were threatened by organised protesters, known to have made contact with sheriff officers*

*at their home address. This would be distressing for the applicant and their family. The application is likely to contain the applicant's business address as opposed to the home address; therefore it is unlikely for the member of the public to properly identify the applicant by name only. It is perceived as totally unnecessary to have the applicant's details circulating in the public domain and can be deemed as a risk to the applicant given the nature of the role.*

*We believe that a standard disclosure procedure would be appropriate in place of advertising.*

What is your view about whether the type of disclosure certificate should be Basic, Standard or Enhanced?

**Basic disclosure**

Please give reasons for your answer.

There are fundamental checks that must be conducted to ensure that the person is a suitable and proper person and as part of a large organisation, Capita PLC, we will conduct the following:

- I. Statement of Personal Declaration
- II. Criminal Reference Check
- III. Employment References
- IV. Financial Probity Check
- V. Employment History
- VI. Sanctions List Check

Capita deems this to be adequate disclosure checks, although we would be happy to adopt more stringent checks should new Regulations determine this.

Do you have any other comments or observations

No

**McHugh, Edward**

---

**From:** Smith, David (PLB)  
**Sent:** 11 November 2015 10:15  
**To:** McHugh, Edward  
**Cc:** Anderson, Nicola  
**Subject:** Amendment to the process for appointing sheriff officers -consultation-document  
**Attachments:** consultation-document.doc

Edward

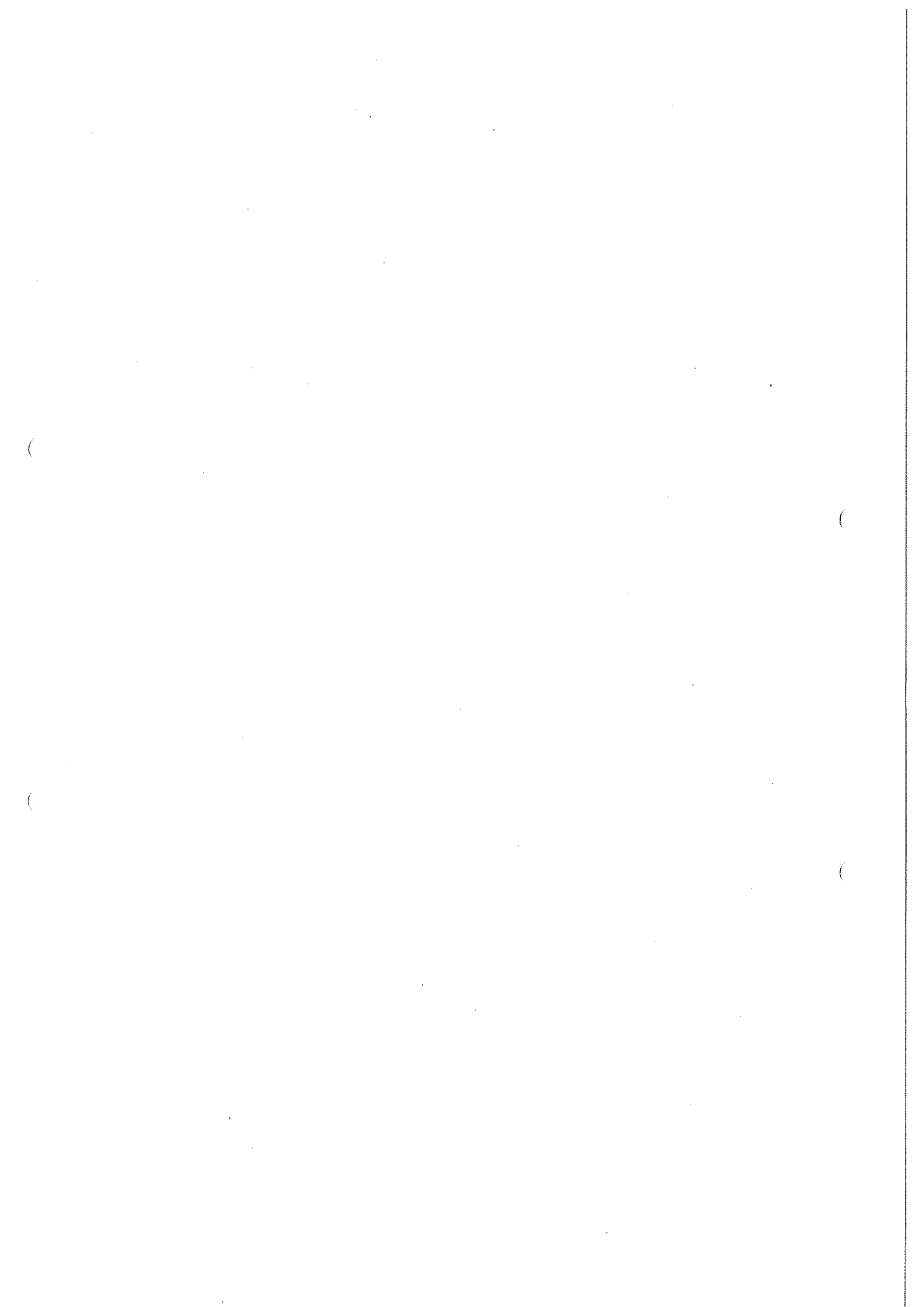
Having considered the consultation document one matter that has occurred to us in PLB is in relation to the proposal for a requirement to lodge a disclosure certificate. As it stands I think SCTS would require to retain the disclosure certificate with the process once the application is disposed of. There may be potential data protection issues for SCTS in storage of the certificate particularly over the longer term..

I wonder if consideration could be given, if this is the route chosen, to providing for the disclosure certificate to be returned by the sheriff clerk to the applicant after conclusion of the matter. Something similar to the provisions in [rule 11.8](#) of the 1993 Ordinary Cause Rules might suffice.

Regards

David

David Smith  
Technical Support Manager  
Policy & Legislation Branch  
Scottish Courts and Tribunals Service  
Saughton House, Broomhouse Drive  
Edinburgh EH11 3XD  
~~DD 0131 444 3460~~



**McHugh, Edward**

---

**From:** SheriffP Scott CAL  
**Sent:** 08 October 2015 17:47  
**To:** McHugh, Edward  
**Cc:** Lady Wolffe  
**Subject:** ACMASO - Application for commission as sheriff officer - Newspaper advertising

Dear Edward,

You will recall that this was discussed at the meeting on Monday. It was subsequently discussed by all the Sheriffs Principal in the course of their meeting yesterday.

There was concern that any departure from the requirement to advertise in newspapers would thereby preclude members of the public from voicing any legitimate criticism regarding the suitability of an applicant. The preliminary view of the Sheriffs Principal was that the substitute requirement to undergo standard Disclosure, as proposed, would not enable the general public to be sighted upon applications as and when they are made. The potential for involvement of the public in the "scrutiny" of applications was still considered to be of value.

Absent some mechanism whereby these applications are still brought to the attention of the public, the Sheriffs Principal, as a whole, would not favour a departure from the use of newspaper advertisements for that purpose.

CALS

*C.A.L. Scott Q.C.*  
*Sheriff Principal of Glasgow and Strathkelvin*

