Sheriffs’ Association to Committee (30 October 2013)

Dear Mr Cochrane,

Thank you for your letter from the convenor of the EETC inviting the Sheriffs’ Association views on the proposed transfer of function from sheriffs to the AiB contained in the Bankruptcy and Debt Advice (Scotland) Bill.

We accept that the ultimate decision is one for Parliament and we would not wish to comment on matters of policy. However, we would want Parliament to be aware of unintended consequences. The Association views with concern many of the proposals which should not be regarded as solely administrative in nature but involve issues of the rights and obligations of both debtors and creditors and indeed possibly third parties. The court plays an important role in overseeing the conduct of a number of important decisions and the interpretation of the legislation. We would suggest that particular scrutiny might be applied to those functions which are judicial rather than purely administrative.

Should it be decided that functions are transferred, we do not think that it is clear what the nature of an appeal to the sheriff might be.

Regards,

Gordon Liddle
Secretary, Sheriffs’ Association

Committee Convener to Sheriffs’ Association

Sheriff Lindsay Wood
President
The Sheriffs’ Association 10 October 2013

Dear Sheriff Wood,

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) BILL

The Economy, Energy and Tourism Committee is currently engaged in its Stage 1 scrutiny of the above Bill. There is a particular issue on which the Committee would welcome a response from the Association.

The Policy Memorandum to the Bill sets out details of the proposed transfer of functions from sheriffs to the AiB (see paragraphs 224-289), not all of an administrative nature. This issue has been raised by the Committee with witnesses in evidence and with the AiB Bill team. The Committee would welcome the views of
the Sheriffs’ Association on these proposals (it may be there may be certain functions for example which you are content are transferred to the AiB).

The Committee will hold its final evidence session with the Minister on 6 November. **Accordingly, could I invite a response by 30 October.**

If you have any questions, please do not hesitate to contact our clerks (Fergus Cochrane). I have written in similar terms to the Chief Executive of the Scottish Court Service.

Kind regards,

Murdo Fraser MSP
Convener