



## Policy on Appointment of Water Bailiffs

### 1. Introduction

This statement sets out the national policy in relation to the appointment of water bailiffs in Scotland, outlines the roles and responsibilities of the various organisations involved and provides protocols governing best operational practice. The powers of Water Bailiffs are vested in the [Salmon & Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003](#) (2003 Act). There are only two legal **appointing authorities** who can appoint water bailiffs – **District Salmon Fishery Boards** (DSFBs) and **Scottish Ministers**.

### 2. Training

The [bailiff training module](#) was introduced in 2001 and was developed in partnership between the Institute of Fishery Management (IFM) and ASFB. Its aim is to ensure that all bailiffs operating in Scotland can demonstrate a minimum standard of knowledge of law enforcement and operational activity. This is essential in the context of the powers of search, entry, seizure and arrest which bailiffs can exercise. The course has also provided added security for those warranting and/or employing individuals, should any liability issues arise during the course of a bailiff's duties. The course is recognised by the Scottish Government insofar as they have required all the bailiffs appointed by Ministers (for areas where there are no DSFBs) to undertake the course.

The fundamental principles underling the requirement for training are:

- Water Bailiffs have powers of search, detention, entry and seizure. It is therefore essential that Water Bailiffs are knowledgeable in terms of the extent of their powers and the appropriate circumstances under which they can exercised. All Water Bailiffs should have sufficient and demonstrable skills and knowledge to allow them to carry out these duties to the best of their ability – there is a duty of care and responsibility on the employer or appointing authority to take all reasonable steps in ensuring this happens.
- The credibility of witness statements or evidence provided in court may be undermined if a Water Bailiff presenting evidence or witness testimony has not successfully completed the relevant training, or is not familiar with legislation, prosecution process, evidential and judicial protocols and other matters.
- Providing comfort to appointing authorities insofar as they have taken reasonable steps in preventing exposure to legal challenge or other liabilities, potentially arising from the actions of an individual during the course of their duties.

It is recognised that this is the first step in bailiff training and that further specific training will be required across a number of key areas. This additional training will be developed by the Training and CPD Working Group and will be available to individuals depending on their training needs identified by the bailiff and their employer. A training prospectus is available which sets out current availability of fisheries training for the current year.

### 3. Appointment

DSFBs and Scottish Ministers have powers to appoint individuals with the powers of Water Bailiffs specified in the 2003 Act. Prior to the warrant of appointment being granted, the authorities should:

1. Ensure that the individual has successfully completed the training course. Examination results will normally be copied to the appointing authority who will have sponsored the candidates, however, if in doubt, verification of successful completion should be checked via IFM Scottish Branch or FMS.

2. Ensure that a basic disclosure is undertaken via [Disclosure Scotland](#), and that the individual has presented this to the appointing authority.
3. Appointment should only be undertaken following satisfactory completion of steps 1 and 2 above. Whilst DSFBs and Scottish Ministers remain the appointing authorities, FMS manages a warrant card provision service, and in the interests of national consistency, appointing authorities should apply for cards to FMS. The provision of cards is without prejudice and does not confer any liabilities on FMS.
4. Appointing authorities should maintain a simple database of active appointed persons, and this information (comprising name, email address and expiry date of warrant) should be made available to FMS.
5. Appointing authorities should revoke/withdraw any warrant card from an appointed person should that person cease to be employed or acting as a Water Bailiff.

#### **Key summary points**

- Appointing authorities must ensure all prospective bailiffs have successfully undertaken the bailiff training course before making any appointments.
- Before appointment, appointing authorities must ensure that candidates have undergone a basic disclosure, and be satisfied that there are no unspent convictions which might compromise any appointment.
- FMS provide warrant cards and appointing authorities should use this service to ensure warrant cards are standard and fit for purpose.
- Appointing authorities and FMS should maintain records of active bailiffs and expiry dates of warrant cards.
- FMS will maintain a record of the individuals who have passed the bailiff examination, and those individuals issued with a standardised warrant card.

#### **4. General operating procedures**

All appointing authorities should adopt this policy, regardless of whether bailiffs are employed full-time, part-time, or on a seasonal or volunteer basis.

If you have any queries about this policy, or the training course, please contact FMS or Scottish Government without delay.

#### **For further information please contact:**

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