Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Sheriffs’ Association

The Committee seeks answers to two questions. As an Association of almost all sheriffs, we spent a great deal of time collecting the views of sheriffs and collating the information into a response to the consultation carried out by SCS prior to making its recommendations. General themes included disquiet at the simultaneous impact of the two major reform: introducing a lower tier of judiciary and re-arranging upper business and closure of courts with the movement of business. Both reforms have an impact on use and availability of court estate. Considering one, whilst the impact of the other is unknown leads to uncertainty as to requirement. We consider it would be unfortunate were a court, with perhaps negligible cost, to be closed in the current exercise only to be seen as needed once the parallel reforms are in place. By that time it will be too late.

We are of the view that, given the influence one has on the other, it would be prudent to await the outcome of the business changes before determining which courts, if any, might be closed. As an example, once it is learned whether and when a sheriff rather than a “summary sheriff” is needed in a locality, it might be attractive to have available a cheap staff movable and local court in which a sheriff might sit to hear sheriff business. That solution to availability of a “sheriff” from time to time has been mooted. A model for such a court could be the Peebles Court, scheduled for closure.

Travel time between courts has been considered by SCS when assessing what was reasonable for witnesses, juries and other court users. However, the distance between courts and services available between those locations is unreliable since no one necessarily lives in the immediate vicinity of a court building. The true analysis is more subtle. It requires looking at the communities which court users travel from in order to get to the original court and the substitute court. The reality of accused and offenders being drug users requiring to visit local pharmacies in the morning before travel to court might have been underestimated.

There is not sufficient scope in the present request for all the points made to be adequately covered. Accordingly, we append a copy of the detailed submission made by the Association to the SCS consultation. We hope that the information contained therein is of assistance.

We are also aware of analyses having been done by certain sheriffs in respect of court closures. Sheriff Peter Braid sits in Haddington, which is a court scheduled for closure. That is a busy court requiring the use of between one and two sheriffs daily. Sheriff Braid compiled a comprehensive response to the request for information and passed it to the Association. With his permission, it is appended to this document¹. The Association endorses the views contained in it. The Secretary of the Association, who sits as a sheriff in Edinburgh and is aware of the impact closure of

¹ Submission SCS30H of this call for evidence.
Haddington might have on Edinburgh, is able to personally support what is set out by Sheriff Braid. Edinburgh Sheriff Court might be a good example of the difficulties in the two reforms running together. The court building was constructed on the basis that all sheriff court business would be accommodated within one building. The court already has accommodation problems with some delays in trials and severe congestion in solemn business. That has partly been brought about by the High court using one of the courtrooms almost constantly and the introduction of the district court into the building. At the moment there is an undertaking that the High Court will vacate but the use by the High court was always intended to be temporary before it became permanent. It is impossible to predict the outcome of business moving from Haddington to Edinburgh on the one hand and, for example, the possible creation of a dedicated personal injury court with business moving from Parliament House to the Sheriff Court.

There are occasions when knowledge of local issues is of particular value to a sheriff in providing local justice. On the criminal side, that might be in relation to crimes particular to the locality. An example might be a stretch of road used by some offenders for racing, such as happened in Kirkcaldy some time ago. There is great community interest in such eventualities. A local sheriff with local knowledge would be well aware of the community attitude and, perhaps the need for exemplary penalties to deal with a local situation. A sheriff sitting outwith the community might only see a motorist involved in a speeding offence.

Knowledge of social deprivation in pockets within a community can be of great assistance to a sheriff in constructing appropriate disposal in crime and fully understanding the social implications in domestic and child related matters.

In considering access to justice we think it is important to consider the logistics of court users accessing a court along with witnesses, the police, solicitors etc. We also think it is important to provide justice for the greater community who are not court users but influenced and affected by how the court deals with court users.

It is not possible to further address the question of what will be the local impact on court users by the recommendations in a general response.

Sheriffs’ Association.
21 March 2013
This is the formal response of the Sheriffs' Association to the consultation paper on “shaping Scotland's court services: a public consultation on proposals for a court structure for the future”. It remains the Association’s position, as outlined in our earlier response “Further Comments by the Sheriffs’ Association on Future Court Structures”, of 26th June 2012, that the detailed and fully costed analysis required to determine whether or not any of the proposals are less expensive, more efficient and an improvement on the existing structure has not been produced. For ease of reference, a copy of the earlier response is attached.

The Association notes the contents of paragraphs 2.28 and 2.29 of the consultation paper. The Association is concerned that the necessary analysis to determine whether or not there is sufficient accommodation to accommodate the courts required for the “centralisation” of the civil, administrative and exclusive jurisdiction of the sheriff, as also the summary business to be dealt with by a summary sheriff or sheriffs in the same courthouse, the appropriate level of support within the sheriff clerk’s department and their required accommodation, does not appear to have been undertaken. It is unclear how the so called “one-off” costs identified in paragraph 5.10 of the consultation paper have been calculated. Without such an analysis, we are concerned that the “full” financial impact upon SCS of the proposals must be unknown. The Association is strongly of the view that the future structure of the courts should not be being attempted “in some sort of vacuum”.

The Association’s general views on the proposals are set out in answer to questions 23 and 24 of the consultation paper.

We turn to the specific questions posed.

Questions 1, 2 and 3

We refer to what we have already said in our earlier response “Further Comments by the Sheriffs’ Association on Future Court Structures”. Is it to be assumed that the move to sheriff and jury centres will not occur before 31st March 2015? If not, as the Association indicated in its earlier Response, particularly at paragraph 3.18.8.2 as regards Paisley, it will not prove possible to provide the High Court with additional capacity at the same time as creating a sheriff and jury centre. There are simply insufficient courtrooms. This point will be equally applicable elsewhere. It would, for example, apply if the High Court would still require a courtroom in Edinburgh Sheriff Court.
Is there a contingency plan for after 31st March 2015 should the High Court still require space in a then sheriff and jury centre? If the High Court continues to be given precedence it is likely that “churn” of shrieval business will be the consequence.

**Question 4**

We agree with the proposal that the sheriff courts at Lerwick, Kirkwall, Stornoway, Lochmaddy and Portree continue to hear all business within the jurisdiction of the sheriff. In our view there is no case, in the mainland jurisdictions, for routinely restricting sheriff and jury business to the 16 courts mentioned. The question of these courts also becoming centres of shrieval specialism in the civil, administrative and miscellaneous jurisdictions of the sheriff does not therefore arise, although elsewhere we disagree with the need for such centres.

**Question 5**

Answering head (b) first, we see no need to change the substance of the existing arrangements for the provision of sheriff and jury business. In relation to head (a), the arguments against a limited number of mainland sheriff and jury centres have already been set out fully in our earlier Response, in particular in chapter 3, and we adhere to all that was said there. The principal arguments, as stated in paragraph 3.8 of that Response, are that “(1) they would undermine the administration of justice delivered locally, the participation of the local population as jurors and the important role played by local media; (2) the impact on and cost of alleged victims, other witnesses and accused having to travel long distances, and their being less willing to do so; (3) the de-skilling of SCS staff and of sheriffs in other courts; (4) the de-skilling of the local solicitors and a consequent reduction in access to justice.” In addition, no sound economic argument has been put forward for the proposed changes. Further, the proposal is not feasible. As stated in our earlier Response, a substantial number of the proposed sheriff and jury centres would have difficulty in coping with the increased business from other sheriff courts and, or, would be difficult to reach by public transport from elsewhere in the sheriffdom.

It should be recognised that jurors are required to meet their own travel expenses in answering their citation albeit that they can reclaim monies expended. Assuming jurors from further away are going to be cited, we feel that a new category for request for excusal may be inadvertently created, namely, financial inability to fund payment of travel costs in advance, with all the effects upon “local justice” previously advanced.

Dealing with the Sheriffdom of Tayside Central and Fife in particular, there are reservations about the jury business for south Fife going to Dunfermline. A solution in Fife is to build a new court complex in Glenrothes or on the outskirts of Kirkcaldy, somewhere just off the Fife dual carriageway (A92). The current accommodation at Dunfermline would not cope with all the jury business from south Fife. In reality a practical compromise will have to be achieved with the jury business being kept in both courts. Once the Fife super court is built, then the change can take place no doubt with the present Kirkcaldy courthouse being closed and Dunfermline becoming
a summary sheriff court. At that point the existing boundaries between Alloa and Dunfermline could be altered to transfer some business to the latter from the former.

Turning to Stirling and Falkirk, there are similar thoughts regarding the accommodation. The Stirling jurisdiction geographically is very extensive to the west and north west with no alternative court close at hand. Problems can be foreseen if Stirling simply becomes a summary sheriff’s court.

**Question 6**

As has already been indicated, we do not agree that there should be sheriff and jury centres. If they are introduced, however, and sheriffs are not as a regular occurrence to sit in the outlying courts, the type of civil case which merits a sheriff will generally speaking have to be dealt with at the jury centres.

**Question 7**

As we have already noted, we disagree with the establishment of sheriff and jury centres. However, we understand the force of the argument that if such centres are to be established and summary sheriffs are appointed to the smaller courts, then there may be no other practical solution other than to also make the sheriff and jury centres the centres for the centralisation of the civil, administrative and miscellaneous jurisdiction of the sheriff.

While it may seem superficially attractive for the sheriff and jury centres to become the centres for the centralisation of the civil, administrative and miscellaneous jurisdictions exclusive to the sheriff for the reasons advanced in paragraph 3.21 of the consultation paper, provided the developments anticipated in paragraph 3.22 come to fruition, it appears to us that the question as presently framed is fundamentally flawed.

The consultation paper does not contain a definition of what is to constitute the civil, administrative and miscellaneous jurisdiction exclusive to sheriffs. It is our understanding this is still to be finalised. Without that definition the proposed level of civil, administrative and miscellaneous business to be centralised within the sheriff and jury centres cannot be accurately quantified. We are unaware of any such quantification. We would wish the opportunity of commenting upon same given our members’ unique insight.

In the absence of such quantification, the necessary further analysis to determine whether or not there is sufficient accommodation available within the sheriff and jury centres to accommodate the required number of sheriffs and summary sheriffs in chambers and have courts available to deal with all civil, administrative and miscellaneous jurisdictions exclusive to the sheriff, as well as all solemn business and in the case of sheriff and jury centres also housing summary sheriffs all summary business, cannot be undertaken. Furthermore, the number and grade of support staff required in the sheriff clerks’ departments cannot be identified as no accurate calculations can surely be carried out until the level of business is known.
We are unaware of local sheriff clerks being asked to undertake any such assessment.

While it is conceded that the figures produced in the Table on page 11 of the consultation paper are necessarily historic, being to the end of March 2012, there have been significant recent developments in the programming of existing civil business in the sheriff court of which account must be taken. These are not fully reflected in the figures. In particular, the figure given for summary applications is no longer accurate. The numbers have risen. All heritable re-possessions cases now require to call in court (the figures for 2011/12 do not contain a full year’s record of the change to “calling in court”). The number and complexity of applications under adults with incapacity legislation has increased. In respect of adoption petitions and applications for permanence orders, there are now more contested cases as “natural” parents are entitled to legal aid.

We are using the term “centralisation” of the civil, administrative and miscellaneous business exclusive to sheriffs rather than adopt the term “specialism”. The creation of “specialist” sheriffs, if such occurs, will require to be carefully managed as their creation could conceivably restrict the ability of the sheriff clerk to manage properly available judicial resources. Account will require to be taken of unexpected absences or unanticipated increases in the level of so called “specialist” business.

We are concerned that the level of “part-heard” business is on the increase. If the hearing of evidence in a case is “commenced”, we understand it is excluded from any “churn” statistics. Continuation of part-heard business has, however, to be accommodated somehow and somewhere. It has considerable resource implications, reducing scope for the centralisation of the civil, administrative and miscellaneous jurisdiction exclusive to the sheriff. At present, we understand that clerks are prevented from “covering” for the “part-heard” business by engagement of part-time shrieval assistance.

In relation to how the sheriff exclusive civil, administrative and miscellaneous jurisdiction should be structured, we make the following comments. Our preliminary comment is that we believe, regardless of how work is generally to be split between sheriffs and summary sheriffs, that sheriffs will need to retain residual jurisdiction over all matters calling in the sheriff court, not just family cases. That is because the difficulty, value and importance of any given case cannot be determined by simply assessment of the category of case into which it falls. Most sheriffs remember small claims cases and summary trials which present the most complex of problems. There would require to be a procedure whereby cases may be remitted from sheriff to summary sheriff and vice versa. Examples where this might be particularly apposite are divorce cases involving the division of high value assets, summary trials dealing with crimes towards the upper end of the one year maximum penalty where the consequences for the participants are particularly serious, and children’s referrals involving allegations of sexual abuse or other serious crimes.

There remains the issue as to who is to make the decision as to which judge or level of judge is to hear a case. In our view that must be a judicial decision. We understand that in England, it is a circuit (county court) judge who decides whether a certain matter should not be dealt with by a district judge. We think the same principle should apply here too.
As regards the normal division between the jurisdictions of sheriffs and summary sheriffs, we comment as follows. While no precise definition has yet been advanced and the split between the jurisdictions of the sheriff and summary sheriff remains to be clarified, it may be thought that the summary sheriff would deal with deal with summary criminal work, summary causes and small claims, and will have concurrent jurisdiction with sheriffs in family work. Sheriffs would deal exclusively with solemn criminal business, ordinary civil business, interim interdicts, adults with incapacity applications, fatal accident inquiries, and the miscellany of disputes which a local judge has always had to deal with, such as insolvency applications, summary applications and administrative matters (including, for example, shotgun licence appeals, club licences, school placement appeals, environmental health closure orders). This is in addition to family work, at least of certain types. The question suggests that all this work would have to be dealt with either in the specialist centres or by visiting sheriffs at the local courts.

Looking more closely at these areas of work, we observe as follows.

(1) Ordinary civil business. An Ordinary Court could be run in the Centre. It would be manned almost entirely by agents acting on written instructions. Interim interdicts could be dealt with at the centres, again with representation on an agency basis. Family interdicts would be dealt with locally by the summary sheriff. We suggest that mortgage repossession cases should be dealt with by the summary sheriff along with summary cause actions for repossession given the similarity of subject matter and practical issues that commonly arise in each type of case.

(2) Adoptions and permanence cases. These are now a substantial element of business. They are complex and important and should certainly remain with sheriffs rather than be dealt with by summary sheriffs.

(3) Adults with incapacity applications. These are also a substantial element of business. They can be quite complex albeit that few ever proceed to proof. They ought to remain with sheriffs.

(4) Fatal accident inquiries. These are of substantial importance and would require a sheriff. They would generally therefore have to be dealt with in the centres, with the inevitable inconvenience and expense that would bring. If the matter generated considerable local interest it might be a situation where a sheriff would travel to deal with it in the local court.

(5) Liquidations, sequestrations. These could be dealt with at the centres. Appearances are not always required. If there were, agents could appear. The first callings of simple debtor sequestrations could be dealt with locally by the summary sheriff.

(6) Miscellaneous cases. These could all be dealt with at the centre. Interdicts and other appearances would be likely to be by agency solicitor. Proofs would suffer the same difficulties as any other appearance requiring witnesses.

(7) Family cases. It is proposed that there be concurrent jurisdiction. A very large proportion of these cases are child residence and contact disputes in which the local element is important. It is right therefore that they continue to be dealt with primarily at a local level. Some of these cases, however, raise particularly difficult issues which might not be suitable for a summary sheriff. They might be remitted to a sheriff to deal with at a specialist centre, with all the additional travel, additional expense and loss of local involvement that would require. It would not always be
practicable for a sheriff to travel to a local court to deal with such cases on an ad hoc basis.

One consequence of the centralisation of some civil business will be a likely increase in the amount of agency work, with all the well-known disadvantages (notably increased inefficiency) that they bring. In a local court the sheriff knows the solicitors. It is of great value in assessing submissions to know the solicitor. We endorse the views of Sheriff David Mackie, Sheriff at Alloa, on the value of local courts and the importance of their place in the community and refer to the general comments anent this issue in our response to questions 23 and 24 below.

Question 8

This question has been answered in our response to Question 5.

Question 9

This question has been answered in our response to Questions 6 and 7.

Questions 10, 11 and 12

We have nothing to add to our earlier Response.

Questions 13, 14 and 15

The proposal to disestablish the Justice of the Peace Courts at Portree, Stornoway and Wick seems sensible.

Questions 16, 17 and 18

We deal with the individual courts in turn.

Dornoch

We refer to and adopt our comments in our earlier Response.

Some rationalisation between Dingwall, Dornoch and Tain is, in principle justifiable, not least because of the relatively short distance between Dornoch and Tain via the Dornoch Firth road bridge. The closure of a court does, however, mean the loss of a resource which might be capable of use for “overflow” business, especially from the jury centres. So care will have to be taken regarding likely use and capacity of the buildings to be left before a final decision is made to close and dispose of the court house. Closure will lead to the loss of a local facility, for use in particular in small claims and child welfare hearings.
As an alternative to closure, the courthouse could be staffed from elsewhere and only open on court sitting days. It could be also used as a remote site for any video link use to another court.

Duns & Peebles
We refer again to our earlier Response.

Although the original proposal has been amended and it is now suggested that there be two courts covering the Borders, namely, Selkirk and Jedburgh, our concerns over the effects of closure remain. The amended proposals are still in conflict with the principles of access to justice. We have had sight of the response by Sheriff TAK Drummond QC to this public consultation. We share his views that if both Selkirk and Jedburgh remain open, there is no justification for closing their satellite courts which are not staffed, serving as they do large rural areas. Financial savings from closure would appear to be nil or negligible. If, nevertheless, the decision is taken to close these courts, we would respectfully suggest that Sheriff Drummond's alternative suggestions for the re-allocation of business within the two remaining Borders' courts have much to commend them.

Kirkudbright
There is nothing we wish to add to our earlier Response.

Rothesay
Similarly, we have no further comment save to observe that the projected savings from closure might be thought to be “de minimis” and insufficient to justify the conflict with the principles of access to justice.

Questions 19, 20 and 21

We deal with the individual courts in turn.

Alloa
Our views remain as in our earlier Response.

A considerable amount of money has been spent on the courthouse in the last 10 years. It is a busy court and we doubt whether Falkirk or Stirling Sheriff Court can cope with the additional business from Alloa, bearing in mind that the former is envisaged to be a sheriff and jury centre whilst also operating as a “centralisation” of the civil, administrative and miscellaneous jurisdictions exclusive to sheriffs.

The Association, having had sight of the personal response of the resident sheriff, Sheriff David Mackie, to Questions 19 and 20 as they relate to Alloa Sheriff Court, has nothing further to add.

Cupar
We refer to our earlier Response.

As it is now proposed that the sheriff and jury centres will also deal with the civil, administrative and miscellaneous jurisdiction exclusive to the sheriff, the issue is
whether there is sufficient capacity in the sheriff and jury centre at Dundee to deal with not only the solemn business but also this additional civil business presently conducted in Cupar.

We are very concerned that the existing accommodation in Dundee simply does not have sufficient capacity in terms of appropriate court rooms and sufficient court days to deal timeously with all the sheriff and jury business envisaged, never mind the additional civil business. The consequence will be not merely delay in terms of justice delayed being justice denied: it may be that time bars, in custody or on bail, will simply not be able to be met. We are unaware of detailed analysis or information being available to assess these justifiable concerns. No final and irreversible decision on closure of Cupar Sheriff Court should be taken without such information. Once closed and disposed of, the opportunity to utilise the facility will be lost for ever. Overspill from the proposed jury trial centre in Dundee is entirely foreseeable, and delays could be avoided by the continuing use of the courthouse in Cupar. Such flexibility will be lost in the event of closure. The loss of the local court house for small claims, child welfare hearings, etc., is also a factor militating against closure.

In addition to the closure of the county town court, the proposal is to transfer business to a different local authority district.

If, notwithstanding, our concerns the proposal about Cupar proceeds, then, for the reasons outlined above, not all that court’s business should be transferred to Dundee Sheriff Court. Mention is made in the consultation paper of business from Newburgh going to Perth. That makes sense. Much of Cupar’s north and west jurisdiction could be allocated to Perth Sheriff Court. The business from the south bank of the Tay to St Andrews to Dundee and, depending on transport links, the business in the East Neuk might go either to Kirkcaldy or Dundee. In short, we can see an argument, in the event of closure proceeding, for Cupar’s jurisdiction to be divided amongst three courts. This arrangement could continue even after a Fife super Court were to be created, as there would be more than enough business from south Fife to keep that court busy.

Dingwall
We reiterate the comments made in our earlier Response.
Our above observations in relation to Cupar are equally applicable to Dingwall. We are concerned that the Inverness courthouse has insufficient capacity to deal with the large volume of work to be expected of it.

Haddington
Our views remain as in our earlier Response.

Stonehaven
We adhere to the views already expressed.

Arbroath
The proposal to create an Angus summary sheriff court in Forfar as opposed to Arbroath is understandable for the reasons set out in the consultation paper. Forfar is a better site and there is room for expansion, albeit Arbroath is at present the busier court. The transport links to Forfar and Arbroath are similar with Forfar being
more convenient for the Angus glens. It should be borne in mind, however, that Arbroath Sheriff Court was significantly refurbished between 2000/01.

The pertinent question in proposing closure of Arbroath Sheriff Court is whether Dundee Sheriff Court has sufficient capacity to absorb its workload. Our concerns over the transfer of business from Cupar are replicated.

Some thought could be given to the alteration of boundaries. At present, from Invergowrie to the west, the business goes to Perth, albeit, Invergowrie is in reality a suburb of Dundee. Boundaries could be further altered with business from Carnoustie to the west going to Dundee, which is more convenient.

**Question 22**

We would suggest that, before decisions are made regarding the retention of courts and the business they will accommodate, consideration should be given to the appropriateness of the existing geographical boundaries for each court and a further separate review once future structures are set finally. Proposals made against the existing court boundaries may be unworkable when account is taken of accessibility for accused, litigants, witnesses, and the like. Some of these might be overcome in the event of boundaries being redrawn. For example, in addition to the potential anomalies mentioned at paragraph 3.87 of the consultation paper, we would add the following observations:

(1) In relation to Forfar, the geographical jurisdiction is extensive taking in the Angus Glens as well as a significant part of the Vale of Strathmore. Public transport links from the extremities of the jurisdiction to Dundee would involve significant travelling times and it is by no means guaranteed that persons could reach Dundee by 10am. Further, it may mean accused, defence witnesses, and Crown witnesses being on the same bus. There is no train service operating in the jurisdiction. The problems in travel would inevitable result in an increase in “no shows” in Dundee. The closure would have an effect on police witness “stand-by” arrangements.

(2) In relation to Dingwall, the Sheriff Court District of Dingwall stretches from Evanton in the east to Achiltibuie in the North West and Kyle of Lochalsh in the South West. A return journey from Achiltibuie to Inverness is 161.6 miles. Kyle of Lochalsh is in fact nearer to Inverness than it is to Dingwall. The train stops at Dingwall before Inverness. Kyle might be thought to sit more comfortably in the jurisdiction of Portree Sheriff Court.

At present in Tayside, there are occasions where jury business is transferred between Dundee and Perth. Is there not an argument for a movement away from sheriff court districts to larger jurisdictional areas? Tayside, for example, could cover the area envisaged to be covered by Dundee, Perth, and Forfar. A criminal case could then be prosecuted in any court in that large jurisdiction. The court chosen might depend on the location of witnesses, for example. Similar criteria could apply to civil cases, but allocation would require to be to the sheriff and jury centres in cases falling within the exclusive jurisdiction of the sheriff. Shrieval management
hearings could be conducted with agents by means of conference calls, assuming the required technology was in place.

Questions 23 and 24

The starting point must be the principles of access to justice locally and the importance of the office of sheriff in fulfilling those principles.

In the statement of the principles of access to justice issued in February 2012, promulgated by the Lord President, the Lord Justice Clerk and the sheriffs principal, there are seven principles identified. These are referred to in the consultation paper and need not be reproduced here.

The office of sheriff dates from the early 1100s, the only other existing judicial office of equal antiquity is that of the Lord Justice General. The sheriff has been an essential element in the administration and the availability of justice locally for centuries. The outstanding feature of the office of sheriff is the extent of the jurisdiction both civil and criminal. The importance of the office and its onerous responsibilities have long been recognised. In McMillan v Grant, 1924 JC 13, 22, Lord Sands said “The Sheriff Court is the King’s Court in the Sheriffdom, and the King’s Court has jurisdiction at common law to take cognisance of any offence against the King’s peace within the Sheriffdom unless its jurisdiction to do so is expressly excluded by statute”. Lord Cranworth in Hamilton v Anderson, (1858) 3 Macqueen (HL) 363, 379, said “I have said that this Court (the sheriff’s court) must be considered as one of the Superior Courts … [and, quoting with approval LJC Hope] ‘They … are not only, to use an English phrase, Courts of Record … but courts of very high authority. Their jurisdiction in many branches of the law, and especially in regard to the ordinary transactions between man and man, is co-extensive with that of the Supreme Court. Their proceedings are conducted by regular pleadings in a formal manner, their procedure is regulated by statute, and by rules prescribed by the Supreme Court The Sheriff’s (sic) are Judges presiding in courts of the very highest importance in that part of the United Kingdom’.”

The benefits of local justice are numerous. They are encapsulated in the first, second and third principles of access to justice. The local community sees justice done on its doorstep and is involved in the process either as observers or as participants as witnesses, litigants or jurors. A lack of interest is fostered, however, in those having to attend a distant court in any capacity.

Putting these principles and the value of the office of sheriff together, sheriff courts should only be closed, and sheriff court business should only be transferred to other courts, if there is clear evidence that financial savings will be achieved, and these significantly outweigh the costs involved and the benefits of local justice locally administered. Changes to the current structure have to be justified. While it may be thought that the status quo is not an option, change must be fully thought out and properly costed. Any alteration to the structure of our courts must be capable of standing the test of time. Short term expediency will not suffice.
On 2 December 2011, the Sheriffs’ Association made a submission to the SCS with regard to considerations to be borne in mind for any restructure. We understand that the SCS has accepted that these form part at least of such considerations. They are:

- the capacity of a smaller court estate to accommodate existing pressures and the impracticality of using courtrooms for more hours per day;
- possible future changes in demographics and business growth;
- the practical impact for court users, including additional travel time, with the associated risk of increased non-attendance and churn;
- the loss of local access to and visibility of justice for communities;
- whether the scale of savings justifies the loss of historic courts;
- for the judiciary, the reduced relevance of local knowledge across courts and the potential loss of skills if sheriff and jury cases are centralized;
- the ability of citizens to be selected for jury service; and
- financial appraisal and costs for other justice bodies, such as the police and Crown.

We would add to bullet point three, and stress the importance of, the financial impact as well as the practical impact.

We have concerns about earlier data upon which proposals appeared to be relying. We are not clear if these criticisms are still valid. For example, we understood that due to incorrect "coding" the figures for evidence led and adjourned for sentence in solemn cases is wrong. For reasons we do not understand, if evidence in a solemn trial continues into a second or subsequent day, that case was excluded from the figures for cases in which evidence is heard. Further and inexplicably, it had been discovered that the code (since 2008) apparently only counts cases where the sentencing diet is more than 13 days after the trial diet at which evidence was led. The data kept in respect of civil business is also misleading. Although, apparently, taken into account in actual sitting times, the large volume of summary applications for recovery of heritable property are omitted from the civil business statistics. In addition, the statistics for proofs and debates do not include proofs in adoption and permanence applications (which usually take up many days, often in excess of five). We wish to know what quality assurance checks have been carried out to verify and establish the accuracy of the statistical information upon which the proposals are based.

The closure of courts and the loss of local justice locally administered highlight the importance of increased use of IT, and the use of video links which could be used to maintain a semblance of local justice. An integrated court IT system, such as is available in Malaysia and some states in the USA, enabling lawyers, court staff and judges to communicate with the system online is essential. It may be possible to use other public buildings, such as local authority property, of which there is often a surplus, for video links.

As we said before, one of the most important issues that will have to be addressed is the denial of local access to justice resulting from court closures or transfer of business. Governments have regarded local justice locally administered as important. One has to have regard to the effect on people for whom the justice system is there to serve. Local knowledge is lost if justice is not administered locally.
Sometimes there is a need for particular treatment of local offences which requires local knowledge and justice. There will be a loss of local media coverage.

Closure of courts, and the reduction of courts undertaking jury trials, may produce savings, but these may be negativied or reduced by increased costs such as those of witnesses, police, security staff, accused, jurors and others having to travel further (possibly from an island). Figures must be obtained to identify the increase in such costs. We note that despite having raised this as an issue in our previous response to the earlier consultation, there are still no clear figures produced.

In this consultation paper, there are, for the first time, included figures relating to the financial savings and costs that would be incurred if the proposals were implemented: see part 5. We are far from persuaded, however, that these figures are sound. We note that the figures given are in summary form and that the detail of how such savings can be achieved are absent. Some of the figures (for example those relating to sale proceeds from closed courts) are impossible to assess as they have been collated on a global basis. Furthermore, we note that much of the savings are not cash savings at all, such as those relating to depreciation and maintenance backlog savings. Similarly, while the paper acknowledges that some costs would be incurred as a result of the changes, they too are given in summary form without any detailed explanation. It is, therefore, impossible to assess whether the financial savings outweigh the cost and benefits of local justice which could justify the closure of courts or the transfer of business from local courts. Further explanation and breakdown of the figures provided are necessary in our view. They have to be put into the equation in order to evaluate whether there is in fact any real or worthwhile saving. So also must the difficulties of travel time, inconvenience, and whether it is in fact possible to get to a newly allocated court in time. We consider that the travel times set out in various places in part 4 of the consultation paper are quite unrealistic based as we suspect that they are no based on practical experience and which ignore other practical difficulties associated with such travel such as car parking, accessibility and expense. There will also be problems such as witnesses from opposing camps and accused persons travelling on the same bus to get to the new court. We envisage “churn” increasing not decreasing as the inconvenience and expense of travelling to court increases and the willingness to travel decreases. We do not accept the contention of COPFS noted in the consultation paper, that the centralisation of solemn business in dedicated sheriff and jury centres will create scope for fewer delays. We are of the opinion that delays are, if anything, likely to increase because of the unwillingness of accused and witnesses (both Crown and defence) to travel. The identified “regular arrangements for travel” (paragraph 6.10 of the consultation paper) and the longer distances involved are more likely to be productive of non-appearances resulting in the issuing of warrants for apprehension and “churn”. We are not confident that the hoped for reduction in witness expenses will occur. The centralisation of solemn business is, in our opinion, much more likely to result in an increase in witnesses expenses. The proposal to centralise solemn business will have differing effects upon police resources across the country. In the sheriffdoms with “outlying areas”, e.g., Argyll in North Strathclyde, away from the main centres of population and, or, the dedicated sheriff and jury centres, we can foresee problems occurring if police officers are required to attend, or at least be on call relatively quickly to attend the sheriff and jury centre. This may denude the area of a substantial proportion of its police force to the potential detriment of the local
population. While it may be possible for ACPOS to say that there will be some financial saving for Police forces overall, that ought not to be the sole criterion. The safety of the public is surely paramount.

We share the concerns voiced by the Association of Directors of Social work as set out in paragraphs 6.31 and 6.32 of the consultation paper. We anticipate a considerable call upon social work departments for funding to travel the distances now envisaged. A large number of those attending court, whether as accused or witnesses, are not willing participants in the justice system. If financial issues arise, as they surely will, such persons will not hesitate to use lack of funding as a justification for their non attendance (necessitating further appearances and “churn”).

Inadequate consideration appears to have been given to business other than criminal business. Although the introduction to the consultation paper makes clear that the implementation of the reforms in the civil justice area is one of the drivers for change, there is little consideration of the effect on civil business. Amongst civil litigants are the few people who either wish to be there or to pay to do so. The considerable increase in the volume of applications for adoption and permanence orders, and the increasing complexity and duration of proofs and hearings, is well known. All business of the court has to be undertaken efficiently and dealt with within a reasonable time or within statutory time-limits. Resolution of civil disputes is a core, essential and important part of the business of the sheriff court. Civil business appears to be regarded as the Cinderella of the courts, to be cast aside in favour of criminal business as if irrelevant or unimportant. It is time that civil litigation and litigants are treated with the importance they deserve. We see the current proposals for cramming all business into fewer and ill-suited courts resulting in civil business suffering substantially. One cannot get a quart into a pint pot.

There is no empirical evidence that criminal and civil business will not increase. Our experience is that the work of the courts increases year by year. If corroboration is abolished there is every reason to think that there will be a sharp rise in criminal cases. Although it is said, for example, that the number of summary complaints has been decreasing, in fact the number of summary trials in which evidence is led has increased: an increase from 2007/08 to 2011/12 of 18.62% (it was 24% in the two previous years). There will be pressure on the Crown to prosecute, a pressure we have noted that the Crown has not resisted in recent years: the Crown increasingly leaves it to the court to make decisions rather than exercising its own discretion. This will increase if corroboration is abolished; and we would anticipate a substantial increase in prosecution of sexual offences; domestic violence; and racial and religious prejudice. Accused persons will be more likely to go to trial in cases in which the evidence turns wholly on that of the complainer. Crown policies appear to be to prosecute certain classes of case on indictment irrespective of the individual circumstances or of the likely sentence exceeding the sheriff’s summary powers. There is already an increase in the prosecution of domestic violence and knife crime. We are not conscious of a recent decline in fatal accident inquiries; there is likely to be an increase in such inquiries with military fatal accident inquiries in the near future. Hardly a year goes by without some new offence, new application to the court or new procedure being created by Parliament which invariably leads to an increased workload for the sheriff court. If sentencing guidelines were introduced,
experience elsewhere suggests that sentences will increase and more cases will have to be prosecuted on indictment.

One of the arguments for changes in the current structure is that the volume of business has declined. Any reduction in the volume of business does not, however, mean that less time is spent on the reduced business. Our experience is one of increasing complexity of and time spent on the business we have. The nature of solemn work now put into the sheriff court from the High Court, for example, requires more time because it is more serious. The number of hearings in cases increases. For example, a drug treatment and testing order can generate between 12 and 24 additional hearings. Section 227X of the Criminal Procedure (Scotland) Act 1995 encourages progress reviews of community payback orders. Applications for permanence orders, and adults with incapacity applications, are on the increase. In Dundee, we understand that the increase in the latter is of the order of 30% a year. The number of summary complaints proceeding to trial has increased; in Livingston, for example, the increase is of the order of 30% this year.

Saving money by closing courts, transferring business to other courts and creating sheriff and jury trial centres cannot be looked at in isolation. For example, one cannot transfer all solemn criminal business from the North, close Dornoch and Tain and then expect Inverness also to become a civil court centre. We are concerned more generally that the necessary analysis, to determine whether or not there is sufficient accommodation to accommodate the substantial shift in business from some courts to others, has not been done. As far as the centralised courts are concerned, what is envisaged for each one is the “centralisation” of the civil, administrative and exclusive jurisdiction of the sheriff, solemn criminal work, together with summary business to be dealt with by additional summary sheriffs. That will result in each case in an increase in total business and an increase in the numbers of judges (whether summary sheriffs or sheriffs), an increase in court loading, an increase in the appropriate level of administrative support and accommodation. We are rather concerned that insufficient attention has been given to the capacity of the centralised courts to bear this increase in demand and note that there is no detail at all in the consultation paper on a court-by-court level as to how this may be achieved. This concern is further raised by consideration of a further proposal in the consultation paper, that of the creation of a Sheriff Appeal Court. That will certainly generate a substantial increase in work requiring additional resources, not least for the appellate sheriffs and their courts. While the level of civil appeals may be gauged from existing data from sheriffs principal, we are unaware of any statistics being available to disclose how many summary criminal appeals are currently generated from each sheriffdom or sheriff court jurisdiction. No such information is contained in the consultation paper. Without that, it is impossible to estimate the additional required accommodation and other resources needed in those courts where the Sheriff Appeal Court will sit. It is quite insufficient to expect that the existing courts used by sheriffs principal for civil appeals will suffice. That is not only because of the likely large increase in work but also because as a matter of practice, in most court buildings, that court is regularly, and necessarily, used for other court business already.

The present process is premature. It cannot be considered in isolation. The Scottish Government has intimated that it intends to legislate to introduce aspects of Lord
Gill’s Civil Courts Review. Without precise knowledge of what is actually proposed in
detail, it is extremely difficult to make intelligent and financially prudent predictions as
to what should be considered. The issue of future court structures, it is submitted,
logically goes hand in hand with what is proposed as a result of the Civil Courts
Review. In the past, decisions have been made and implemented as a result of
examinations of particular areas of the justice system as opposed to a far-reaching
overview. This, we suggest, has resulted in money being expended on projects
which are, after a short time, reversed. An obvious example of this arises from the
present process. Alloa Sheriff Court is being considered for closure. In the last 10
years, significant sums have been spent on Alloa Sheriff Court in the creation of a
second courtroom. Decisions to be reached as a result of this process must be
relevant in the long term; piecemeal, kneejerk alterations which require to be
unpicked within a short time must be avoided.

Again, by reference to the Civil Courts Review, the caseload envisaged for district
judges might call into question the need for lay justices and yet their retention was
enacted in the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The
removal of lay justice would have avoided the employment of legally qualified
advisers to the Justice of the Peace Court and the administration costs involved in
the recruitment and training of the justices of the peace.

We would suggest that, before decisions are made regarding the retention of courts
and the business they will accommodate, consideration should be given to the
appropriateness of the existing geographical boundaries for each court. Proposals
made against the existing court boundaries may be unworkable when account is
taken of accessibility for accused, litigants, witnesses, and the like. Some of these
might be overcome in the event of boundaries being redrawn. We note that this
matter is now being consulted on in the present consultation paper.

We note that emphasis is now placed first on the reforms proposed in the Civil
Courts Review and the Independent Review of Sheriff and Jury Trial Procedures as
being motivators for change. The need for financial savings is now given second
place, although in fact the driving force for change. The present proposals have
been conceived in light of the present financial crisis regarding public expenditure
and the need for substantial savings by 2014/15. We would suggest that that is not
conducive to producing an appropriate justice system fit for the demands of the 21st
century.

The Association remains keen to participate in improvements that facilitate the
delivery of justice having regard to its members’ unique insight into the workings of
the sheriff courts throughout the country. It is, however, not presently possible for us
to reach a concluded way forward. Until a much more detailed and fully costed
analysis is produced, it is our considered opinion that no one can be sure whether or
not any of the proposals in the consultation paper are less expensive, more efficient
and an improvement on the existing structure.
FURTHER COMMENTS
BY
THE SHERIFFS’ ASSOCIATION
ON
FUTURE COURT STRUCTURES

June 2012

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FURTHER COMMENTS
BY
THE SHERIFFS’ ASSOCIATION
ON
FUTURE COURT STRUCTURES

1. General

1.1. The starting point must be the principles of access to justice locally and the importance of the office of sheriff in fulfilling those principles.

1.2. In the statement of the principles of access to justice issued in February 2012, promulgated by the Lord President, the Lord Justice Clerk and the sheriffs principal, there are seven principles identified. These are:-

(1) The Scottish Court Service ("SCS") must not provide services in a manner that denies citizens access to the determination of rights or obligations in civil cases by reason of excessive cost or inaccessibility of venue or prevents accused persons having a fair trial by reason of, for example, material difficulty in obtaining attendance and examination of witnesses on his or her behalf under the same conditions as witness against him or her.

(2) It is desirable that criminal justice be delivered locally. Apart from the inconvenience of witnesses or the interests of alleged victims, this engages the local community in the administration of justice.

(3) SCS is to ensure that most people will be able to travel to their local court by public transport so as to arrive at the start of their case and return home by public transport on the same day (and that local court should be able to hear and determine, as a minimum, less serious criminal cases and lower value or straightforward civil cases).
(4) Appropriate facilities must be provided where the physical presence of parties or witnesses is required. The use of video-conferencing, which may avoid the need for parties to be personally present in a courtroom, is in appropriate circumstances acceptable.

(5) SCS should seek to provide services that allow administrative business (lodging of documents, payment of fines etc) to be undertaken without the need for physical attendance at a courthouse or court, particularly in remote areas.

(6) Court buildings and proceedings must be publicly accessible.

(7) SCS must ensure that accommodation or a service is (i) fit for purpose, (ii) accessible, safe and secure and (ii) consistent with future arrangements for expenditure of public funds.

1.3. The office of sheriff dates from the early 1100s, the only other existing judicial office of equal antiquity is that of the Lord Justice General. The sheriff has been an essential element in the administration and the availability of justice locally for centuries. The outstanding feature of the office of sheriff is the extent of the jurisdiction both civil and criminal. The importance of the office and its onerous responsibilities have long been recognised. In McMillan v Grant, 1924 JC 13, 22, Lord Sands said “The Sheriff Court is the King’s Court in the Sheriffdom, and the King’s Court has jurisdiction at common law to take cognisance of any offence against the King’s peace within the Sheriffdom unless its jurisdiction to do so is expressly excluded by statute”. Lord Cranworth in Hamilton v Anderson, (1858) 3 Macqueen (HL) 363, 379, said “I have said that this Court (the sheriff’s court) must be considered as one of the Superior Courts ... [and, quoting with approval LJC Hope] ‘They ... are not only, to use an English phrase, Courts of Record ... but courts of very high authority. Their jurisdiction in many branches of the law, and especially in regard to the ordinary transactions between man and man, is co-extensive with that of the Supreme Court. Their proceedings are conducted by regular pleadings in a formal manner, their procedure is regulated by statute, and by rules prescribed by the Supreme Court ... The Sheriff’s (sic) are Judges presiding in courts of the very highest importance in that part of the United Kingdom’.”

1.4. The benefits of local justice are numerous. They are encapsulated in the first, second and third principles of access to justice mentioned in paragraph 1.2 above. The local community sees justice done on its doorstep and is involved in the process either as observers or as participants as witnesses, litigants or jurors. A lack of interest is fostered, however, in those having to attend a distant court in any capacity.

1.5. Putting these principles and the value of the office of sheriff together, sheriff courts should only be closed, and sheriff court business should only be transferred to other courts, if there is clear evidence that financial savings will be achieved, and these significantly outweigh the costs involved and the benefits of local justice locally administered. Changes to the current structure have to be justified. While it may be thought that the status quo is not an option, change must be fully thought out and properly costed. Any alteration to the structure of our courts must be capable of standing the test of time. Short term expediency will not suffice.
1.6. We see that points mentioned by the Association in its comments dated 2nd December 2011, and made by others, have been noted. These are identified in the SCS undated document headed “Future Court Structures – Next Steps” and circulated on 3rd April 2012. They are:

- The capacity of a smaller court estate to accommodate existing pressures and the impracticality of using courtrooms for more hours per day;
- Possible future changes in demographics and business growth;
- The practical impact for court users, including additional travel time, with the associated risk of increased non-attendance and churn;
- The loss of local access to and visibility of justice for communities;
- Whether the scale of savings justifies the loss of historic courts;
- For judiciary, the reduced relevance of local knowledge across courts and the potential loss of skills if sheriff and jury cases are centralized;
- The ability of citizens to be selected for jury service;
- Financial appraisal and costs for other justice bodies, such as the police and Crown.

We would add to bullet point three, and stress the importance of, the financial impact as well as the practical impact.

1.7. It is also apparent from that document that future analysis and costings have yet to be undertaken in relation to these matters. Concerns have been expressed about the data upon which the proposals appear to be relying. We have been advised that due to incorrect "coding" the figures for evidence led and adjourned for sentence in solemn cases is wrong. For reasons we do not understand, if evidence in a solemn trial continues into a second or subsequent day, that case has been mistakenly excluded from the figures for cases in which evidence is heard. Further and inexplicably, it has now been discovered that the code (since 2008) apparently only counts cases where the sentencing diet is more than 13 days after the trial diet at which evidence was led. The data kept in respect of civil business is also misleading. Although, apparently, taken into account in actual sitting times, the large volume of summary applications for recovery of heritable property are omitted from the civil business statistics. In addition, the statistics for proofs and debates do not include proofs in adoption and permanence applications (which usually take up many days, often in excess of five). We wish to know what quality assurance checks have been carried out to verify and establish the accuracy of the statistical information upon which the proposals are based.

1.8. The closure of courts and the loss of local justice locally administered highlight the importance of increased use of IT, and the use of video links which could be used to maintain a semblance of local justice. An integrated court IT system, such as is available in Malaysia and some states in the USA, enabling lawyers, court staff and judges to communicate with the system online is essential. It may be possible to
use other public buildings, such as local authority property, of which there is often a surplus, for video links.

1.9. As we said before, one of the most important issues that will have to be addressed is the denial of local access to justice resulting from court closures or transfer of business. Governments have regarded local justice locally administered as important. One has to have regard to the effect on people for whom the justice system is there to serve. Local knowledge is lost if justice is not administered locally. Sometimes there is a need for particular treatment of local offences which requires local knowledge and justice. There will be a loss of local media coverage.

1.10. Closure of courts, and the reduction of courts undertaking jury trials, may produce savings, but these may be negatived or reduced by increased costs such as those of witnesses, police, security staff, accused, jurors and others having to travel further (possibly from an island). Figures must be obtained to identify the increase in such costs. They have to be put into the equation in order to evaluate whether there is in fact any real or worthwhile saving. So also must the difficulties of travel time, inconvenience, and whether it is in fact possible to get to a newly allocated court in time. There will also be problems such as witnesses from opposing camps and accused persons travelling on the same bus to get to the new court. We envisage “churn” increasing not decreasing as the inconvenience and expense of travelling to court increases and the willingness to travel decreases.

1.11. No consideration appears to have been given to business other than criminal business. Civil business is not mentioned. The effect on civil business of the ideas about future structures has not been taken account of fully. Amongst civil litigants are the few people who either wish to be there or to pay to do so. The considerable increase in the volume of applications for adoption and permanence orders, and the increasing complexity and duration of proofs and hearings, is well known. All business of the court has to be undertaken efficiently and dealt with within a reasonable time or within statutory time-limits. Resolution of civil disputes is a core, essential and important part of the business of the sheriff court. Civil business appears to be regarded as the Cinderella of the courts, to be cast aside in favour of criminal business as if irrelevant or unimportant. It is time that civil litigation and litigants are treated with the importance they deserve. We see the current proposals for cramming all business into fewer and ill-suited courts resulting in civil business suffering substantially. One cannot get a quart into a pint pot.

1.12. There is no empirical evidence that criminal and civil business will not increase. Our experience is that the work of the courts increases year by year. If corroboration is abolished there is every reason to think that there will be a sharp rise in criminal cases. Although it is said, for example, that the number of summary complaints has been decreasing, in fact the number of summary trials in which evidence is led has increased: see Business Trends in the document, “Shaping Scotland’s Court Services” produced by SCS in May 2012 for the dialogue sessions; an increase from 2007/08 to 2011/12 of 18.62% (it was 24% in the two previous years). There will be pressure on the Crown to prosecute, a pressure we have noted that the Crown has not resisted in recent years: the Crown rarely exercises its function as a prosecutor in the public interest and leaves it to the court to make decisions that the Crown should be making. This will increase if corroboration is abolished; and we would
anticipate a substantial increase in prosecution of sexual offences and domestic violence. Accused persons will be more likely to go to trial in cases in which the evidence turns wholly on that of the complainant. Crown policies appear to be to prosecute certain classes of case on indictment irrespective of the individual circumstances or of the likely sentence exceeding the sheriff’s summary powers. There is already an increase in the prosecution of domestic violence and knife crime. We are not conscious of a recent decline in fatal accident inquiries; there is likely to be an increase in such inquiries with military FAIs in the near future. Hardly a year goes by without some new offence, new application to the court or new procedure being created by Parliament which invariably leads to an increased workload for the sheriff court. If sentencing guidelines were introduced, experience elsewhere suggests that sentences will increase and more cases will have to be prosecuted on indictment.

1.13. One of the arguments for changes in the current structure is that the volume of business has declined. Any reduction in the volume business does not, however, mean that less time is spent on the reduced business. Our experience is one of increasing complexity of and time spent on the business we have. The nature of solemn work now put into the sheriff court from the High Court, for example, requires more time because it is more serious. The number of hearings in cases increases. For example, a drug treatment and testing order can generate between 12 and 24 additional hearings. Section 227X of the Criminal Procedure (Scotland) Act 1995 encourages for progress reviews of community payback orders. Applications for permanence orders, and adults with incapacity applications, are on the increase. In Dundee, we understand that the increase in the latter is of the order of 30% a year.

1.14. Saving money by closing courts, transferring business to other courts and creating sheriff and jury trial centres cannot be looked at in isolation. For example, one cannot transfer all solemn criminal business from the North, close Dornoch and Tain and then expect Inverness also to become a civil court centre.

1.15. The present process is premature. It cannot be considered in isolation. The Scottish Government has intimated that it intends to legislate to introduce aspects of Lord Gill’s Civil Courts Review. Without precise knowledge of what is actually proposed in detail, it is extremely difficult to make intelligent and financially prudent predictions as to what should be considered. The issue of future court structures, it is submitted, logically goes hand in hand with what is proposed as a result of the Civil Courts Review. As an example, it is suggested by SCS that Forfar Sheriff Court be closed and its work transferred to Dundee. If district judges (or summary sheriffs) are to be introduced to preside over summary criminal proceedings and certain civil work (as yet not fully specified, particularly in relation to family causes), it may be that a district judge should sit in Forfar administering justice locally. In the past, decisions have been made and implemented as a result of examinations of particular areas of the justice system as opposed to a far-reaching overview. This, we suggest, has resulted in money being expended on projects which are, after a short time, reversed. An obvious example of this arises from the present process. Alloa Sheriff Court is being considered for closure. In the last 10 years, significant sums have been spent on Alloa Sheriff Court in the creation of a second courtroom. Decisions to be reached as a result of this process must be relevant in the long term;
piecemeal, kneejerk alterations which require to be unpicked within a short time must be avoided.

1.16. Again, by reference to the Civil Courts Review, the caseload envisaged for district judges might call into question the need for lay justices and yet their retention was enacted in the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The removal of lay justice would have avoided the employment of legally qualified advisers to the Justice of the Peace Court and the administration costs involved in the recruitment and training of the justices of the peace.

1.17. We would suggest that, before decisions are made regarding the retention of courts and the business they will accommodate, consideration should be given to the appropriateness of the existing geographical boundaries for each court. Proposals made against the existing court boundaries may be unworkable when account is taken of accessibility for accused, litigants, witnesses, and the like. Some of these might be overcome in the event of boundaries being redrawn.

1.18. We note that in the document “Shaping Scotland’s Court Services” emphasis is now placed first on the reforms proposed in the Civil Courts Review and the Independent Review of Sheriff and Jury Trial Procedures as being the motivators for change. The need for financial savings is now given second place, although in fact the driving force for change. The present proposals have been conceived in light of the present financial crisis regarding public expenditure and the need for substantial savings by 2014/15. We would suggest that that is not conducive to producing an appropriate justice system fit for the demands of the 21st century.

1.19. We have not so far seen figures that confirm that the financial savings outweigh the cost and benefits of local justice which could justify the closure of courts or the transfer of business from local courts. We have not seen a cost/benefit analysis. Further work must be undertaken so that the true impact of the proposals is known. It may be that cost savings to SCS result in simply transferring the cost to other public agencies.

1.20. The Association is keen to participate in improvements that facilitate the delivery of justice having regard to its members’ unique insight into the workings of the sheriff courts throughout the country. It is, however, not presently possible for us to reach a concluded way forward. Until a much more detailed and fully costed analysis is produced, it is our considered opinion that no one can determine whether or not any of the suggestions in the document “Shaping Scotland’s Court Services” are less expensive, more efficient and an improvement on the existing structure.

1.21. In that document, reference is made to four questions posed by the SCS Board. These are:-

(1) Could the High Court circuit be reduced and, if so, where should it sit?
(2) Could sheriff and jury cases be consolidated into fewer centres and, if so, where should they be?
(3) Could we manage with fewer buildings where we have more than one in any town or city?

(4) Could we manage with fewer courts where we have more than one within a reasonable travelling distance?

These questions coincide with the four briefing papers by SCS in 2011 on High Court Consolidation, Regional Jury Centres (i.e. sheriff and jury centres), Split Site Operations, and Sheriff Court Consolidation (i.e. court closures). We deal with these questions in that order in the following chapters. Although we offer no concluded views, we comment on the issues raised by these questions and highlight our members’ concerns for the implementation of the principles of access to justice.

2. Effect of High Court consolidation on the sheriff court

2.1. As we understand it, the current idea of SCS is that the High Court will sit at Aberdeen, Edinburgh and Glasgow. There may be limited circuits at Ayr, Inverness and Perth. In any event there would be possible overflow capacity at Greenock and Livingston.

2.2. Current figures are said to show a reduction in High Court indictments from 1005 in 2007/08 to 730 in 2010/11. In the sheriff court indictments are said to have fallen from 6503 to 5506 over the same period. The SCS assumption is that business volumes will remain flat. We do not consider this to be realistic or advisable. For example, in Edinburgh, in February 2012 the number of petitions has increased by over 43% from the number in February 2011 (being on a steady rise since with a sharp increase since December 2011); and the number of indictments registered has increased by over 11% in January 2012 compared with January 2011. In Dumbarton, the increase from 2009 to 2011 was 82%; in Dumfries, the increase from 2009 to 2011 was 43%; in Greenock, there has been an increase of 40%; and in Hamilton, the increase from 2009 to 2011 was 36%.

2.3. Because Aberdeen, Edinburgh, Inverness and Livingston are being considered for regional sheriff and jury centres, there will be an impact on these courts if they are also to be High Court centres.

2.4. For the reasons explained in paragraph 3.15.2, Aberdeen cannot be a sheriff and jury centre and a High Court centre.

2.5. For the reasons explained in paragraphs 3.15.10.1 to 3.15.10.2, Ayr cannot be a sheriff and jury centre and a High Court circuit court.

2.6. It is understood that the intention is that Edinburgh Sheriff Court will no longer be used for High Court trials. Edinburgh will benefit, therefore, from the return of one courtroom. Edinburgh will not be able to be a sheriff and jury regional centre if one of its courtrooms continues to be used by the High Court.

2.7. In Inverness, if the current level of High Court use (six two-week sittings a year) is maintained, this can be accommodated if the sittings do not spill (which they occasionally do) into a third week. At present there are twelve scheduled sheriff and
jury sittings a year. The High Court disrupts normal business and occupies the only large courtroom. This has a knock on effect for high attendance courts such as the diet and intermediate diet courts. For the reasons explained in paragraphs 3.15.3, 4.2.1, 5.9.1, 5.9.2 and 5.10.1, Inverness could not be a sheriff and jury centre, or undertake the work of closed courts north of Inverness, and be a High Court centre.

2.8. Greenock has not been used for High Court trials since 2010 (and that after a long absence). A High Court trial causes major disruption to sheriff court business. The High Court utilise one of the only two courts which can accommodate a jury trial and which have direct access to the cells. The other two courts are of insufficient capacity to conduct solemn business. One of them presents problems with security. If a sheriff and jury sitting takes place when the High Court is sitting, the capacity of the other courts is insufficient to hold a busy Remand Court, with all accused and their supporters, necessitating an overflow into the central hallway with obvious security concerns.

2.9. In Livingston there are two jury courts. If one is being used for the High Court then the other cannot be satisfactorily used for sheriff and jury trials without a deleterious effect on other business: a civil court has to be used for the JP Court (with no dock) and accused in custody have to pass through public areas.

2.10. There will be no impact on Glasgow. No High Court trials take place in the sheriff court building.

2.11. The Crown pays insufficient attention to the convenience of alleged victims, other witnesses and accused when transferring cases from one court to another. The principal criterion appears to be the availability of a court wherever that court might be. The Association is aware, for example, of an instance where a rape case in Edinburgh was sought to be transferred by the Crown to Aberdeen although the alleged victim and witnesses were in Edinburgh. Regularly, there are similar examples of the transfer of cases in every sheriffdom.

2.12. It should be noted that the local authority in Dundee actively sought the return of the High Court circuit to Dundee as its presence was seen as a matter of civil prestige.

2.13. If there were to be regional sheriff and jury centres, for the reasons we give in Chapter 3 about the difficulties of accommodating additional business, and the disruptive effect the High Court has on sheriff court business, the High Court cannot sit at a sheriff court which is also a regional sheriff and jury centre.

3. Regional sheriff and jury court centres

3.1. SCS is considering restricting sheriff and jury trials to 14 courthouses. The following sheriff courts are being considered as regional sheriff and jury centres:- Aberdeen, Airdrie, Ayr, Dundee, Dumbarton, Dunfermline, Edinburgh, Falkirk, Glasgow, Hamilton, Inverness, Kilmarnock, Livingston and Paisley. Jury trials may currently be dealt with in 47 courthouses in 72 courtrooms. An earlier model being
considered was for 19 sheriff and jury centres by adding Dumfries, Greenock, Kirkcaldy, Perth and Stirling to the above list.

3.2. It is not clear what the proposed catchment area is for each court. We would oppose any notion that cases may be transferred from one court to another without regard to the convenience of alleged victims, other witnesses, and accused as is the current position adopted in the High Court.

3.3. This idea is in conflict with the first, second and third principles of access to justice above.

3.4. The sole economic argument put forward relates to the investment to keep all courts at a consistent level of capability: for example, the provision of evidence presentation equipment, digital recording, video link facilities. It is stated by SCS that video link facilities would cost about £30,000 per courtroom.

3.5. We are not persuaded that this economic argument is sound and it is certainly not justified by the social and financial costs to society. Digital recording is a provision that will have to be made in every courtroom in the country. It would not be necessary to provide video link facilities in every jury courtroom because they are not required in every courtroom for daily use. We note, for instance, that it is proposed that Perth Sheriff Court remain a circuit court for the High Court, yet sheriff and jury trials would be moved to Dunfermline and there would therefore be no video link between Perth and a prison for the High Court. We understand that video links would be to provide a link between prison and courtroom for solemn petitions, bail applications and first diets, and that this would cut the cost of G4S security to SCS. We see little point in so restricting its use. We would support such a video link for summary cases as well, in which case video links would have to be provided for all courthouses. In that event the economic argument for restricting the number of courts that do jury trials falls. We do not know what the cost is of providing video links, but we are aware that the cost of IT equipment is always reducing.

3.6. Two makeweight arguments are added by SCS for sheriff and jury centres. One is that there is a trend for defence lawyers to specialise increasingly in summary or solemn crime. We are unaware of a trend amongst legal firms, which would be the relevant consideration. That certain practitioners in a firm may chose to undertake predominantly one or the other is not the relevant consideration. There are a handful of solicitor advocates who like to undertake only solemn work; otherwise most solicitors do both. Most people remain with the same solicitor or firm and do not change solicitors according to whether the Crown Office or the procurator fiscal decides to prosecute a case summarily or on indictment. There are practical problems for agents that have been overlooked. For example, a solicitor in Stranraer having to conduct a jury trial in Ayr could not attend to local summary criminal clients or alternatively there would be more adjournments of trials; or the choice of solicitor would be substantially restricted. Local inhabitants could be denied access to local solicitors.

3.7. The other argument is that the Report of the Civil Courts Review promotes the idea of district judges (summary sheriffs) and a move towards specialist rôles. Any reforms which would, if implemented, see rural sheriff courts having only a summary
sheriff are 10 years away. Regional sheriff and jury centres would convert sheriffs into summary sheriffs by the back door as they would rarely if ever have the opportunity to preside over a jury trial. The creation of specialised civil court centres, if implemented and if appropriate, does not justify the same approach for criminal work.

3.8. The arguments against regional centres are that (1) they would undermine the administration of justice delivered locally, the participation of the local population as jurors and the important role played by local media; (2) the impact on and cost of alleged victims, other witnesses and accused having to travel long distances, and their being less willing to do so; (3) the de-skilling of SCS staff and of sheriffs in other courts; (4) the de-skilling of the local solicitors and a consequent reduction in access to justice.

3.9. Local jury trials should be conducted locally. Trial by one’s (local) peers is an important principle no less relevant today than it was when it was instituted. We note that it is envisaged that jurors from only the jury pool in the regional centres would be called upon, although the catchment area may be increased. SCS claims that 0.08% of the eligible population would serve in a court other than the one in which they would currently serve, while at the same time envisaging that the pool would be that of the court of the regional sheriff and jury centre and that the catchment area would depend on a model to be agreed. While restricting the pool to that of the regional centre has economic and practical sense, it results in a denial of trial by one’s peers. Local people will in fact be disenfranchised because they will not be able to serve on juries in cases from their locality, whether or not only 4% nationally are said to be cited annually. Centralisation in this way will lead to jurors with no local knowledge and an overreliance on a limited pool of potential jurors. Local jurors are better placed to judge a local case. We do not know what the statement in the Dialogue paper “86% of all jurors would be unaffected” is intended to mean.

3.10. As recognised in the SCS document, Regional Jury Centres – Briefing 4 dated 29/7/11 at paragraph 6.1, imposing greater travel distances on civilian witnesses, victims and accused is likely to have a detrimental effect on the criminal justice system. We have been told that COPFS does not have a concern about increased costs of witnesses and others travelling further distances. It has apparently calculated that any increase in witness costs that it pays for would be smaller that the savings COPFS would achieve through organisational and estate restructuring. We have not seen the figures. The relevant consideration is, however, the increased cost of jury trials (and adjournments) by being moved from a local court to a distant centre. SCS has not yet costed the financial implications for the courts of this element. Who is to pay for an accused and his family on benefits to travel to a distant court with a possible overnight stay (to ensure being in court everyday or to go back for sentence)? Who is to pay for an accused, remanded in custody, taken to a regional sheriff and jury court and then released on bail, to get home? We consider that all these costs to the public purse have to be set against any savings in reducing the places where jury trials are held.

3.11. A sheriff from a court that does not do jury trials could go to a court that does for a jury sitting. There are practical difficulties caused by continued business and the effect on the business of the court from which the sheriff has come or of his or
her place being taken for the duration of the sitting by a sheriff from the jury centre. There would be a loss of continuity of the sheriff’s business in the court in which he or she is normally resident. A sheriff in a singleton court would find it almost impossible to follow a trial to another court without programming down other business. These will result in this being abandoned very quickly. In fact we note from paragraph 6 of Annex C to the SCS Future Structures paper SCS/Feb12/03 that SCS sees more judicial travelling time as inefficient, and is thus unlikely to support or encourage it. We agree that it would be inefficient. Presiding over jury trials is an important skill for any sheriff in being able to fulfil the totality of his or her judicial functions properly and well. By depriving some of that opportunity will de-skill them and will result in significant dissatisfaction for many with the office of sheriff. This will also have an effect on recruitment to the office of sheriff and retention of sheriffs.

3.12. There is already a growing problem in our courts of witnesses and accused persons failing to turn up to their local court. This problem will only be made worse if people have to travel further than their local court, at greater inconvenience and at greater cost to themselves and an increased unwillingness to do so. A very recent example was reported in The Courier on 23rd May 2012 of a Perth case in Dundee Sheriff Court in which eight witnesses from Perth (of whom five had not turned up and three were late) were remanded in custody, two being released and ordained to appear; the jury was kept waiting. There is the further burden of an accused, particularly if on bail, having to travel many miles (in some cases over 100 miles) for a first diet simply to discover if he or she will have to make the same journey again for the trial diet. An additional problem is police officers on standby. They cannot be on standby and travel from far-flung corners of a sheriffdom to be in court without great inconvenience to the court and others. In paragraphs 9 to 11 of Appendix 3 a practical example is given of the consequences of transferring a jury trial (from Oban to Dumbarton) that may arise. The effect of creating sheriff and jury centres would be to create more delay and expense. The belief that centralised sheriff and jury centres will create a better environment in which to tackle churn is misconceived.

3.13. In the document “Scotland’s Court Services”, produced by SCS, a new reason has been advanced. This is the reforms recommended in the Independent Review of Sheriff and Jury Procedures. Far from recommending a centralised system for sheriff and jury trials, the Independent Review envisages full use of all courts within a sheriffdom: see paragraph 6.33 of the Review and recommendation 24. Under the reforms proposed in that Review, it is recommended that a first diet should be scheduled for a minimum of 15 minutes: see paragraph 6.27 and recommendation 12. For a three-week sheriff and jury sitting at Greenock in May 2012, there were 43 first diets: that would take 10 and three quarter hours. If one added all the first diets, should Paisley be a regional sheriff and jury centre, for Paisley, Dunoon, Greenock and Rothesay, at that time, it would add a further 37 at least, on known figures, to the 43, making a total of 80 first diets. That would take 20 hours, or four court days, to complete the business.

3.14. The proposal to concentrate all sheriff and jury trials in only 14 regional sheriff and jury court centres is not feasible.

3.15. We now turn to analyse the individual proposals by sheriffdom.
3.15.1 **Glasgow.** No change is proposed to the current arrangement. We have no comments to make.

3.15.2 **Aberdeen** (GHI). Solemn business is proposed to be transferred from Banff, Peterhead and Stonehaven. SCS estimates 477 sitting days requiring two courtrooms fulltime. Aberdeen is also to be a High Court centre. Aberdeen has eight courtrooms. Aberdeen JP Court is housed in a separate building.

3.15.2.1. On current figures for its own business, Aberdeen ought already to be operating two jury courts continuously. If it became a High Court centre, it will have only one other courtroom capable of holding jury trials (court 2). If Aberdeen took on solemn business from Banff, Peterhead and Stonehaven, there would be an increase of 30% in its solemn business. Since Aberdeen struggles to cope with its existing solemn business, it could not cope with an additional 30%. There will be substantial delays.

3.15.2.2. Court 6, which has substantial security problems, if used would reduce the number of summary criminal courts.

3.15.2.3. There is no rail service westwards or northwards, so there is no rail link for Banchory, Ballater, Banff, Fraserburgh, Peterhead and other outlying areas. Transport by bus is poor. The only two rail lines are Inverness to Aberdeen and Dundee to Aberdeen. The first bus from Fraserburgh (in the Peterhead catchment area) to get to Aberdeen leaves at 06.15, there is a change at Ellon with a two-hour wait and the bus arrives in Aberdeen at **10.25** (the traveller arriving at the courthouse at about 10.45).

3.15.2.4. SCS has already recognised that Aberdeen Sheriff Court could not accommodate the JP Court without a new building being required. It cannot, therefore, cope with being a sheriff and jury centre and take all work from Stonehaven.

3.15.2.5. Aberdeen already struggles to cope with its existing summary criminal business. There will be substantial delays caused by the transfer of additional business.

3.15.2.6. Civil litigants are badly served. Proofs take several months because consecutive days can rarely be obtained. There will be substantial delays caused by the transfer of additional business.

3.15.2.7. There is no room for the ninth sheriff required to undertake the additional work.

3.15.2.8. The solution for Aberdeen as a court centre would be to purchase the old Town House (now vacated by the Council), dispose of the Stonehaven court building (which adjoins the Police HQ and is sought after by the police), and transfer Court 2 in the Mercatgate to the High Court. It would be possible to provide facilities for social workers, create a family court suite, include a wing for the Industrial tribunals (whose premises could be sold), provide space for chambers, staff and a cells’ extension.
3.15.3 **Inverness** (GHI). Solemn business is proposed to be transferred from Dingwall, Dornoch, Elgin, Fort William, Kirkwall, Lerwick, Portree, Stornoway, Tain and Wick. SCS estimates 152 sitting days requiring one courtroom fulltime. Inverness has three courtrooms and a small hearing room.

3.15.3.1. The main building houses a traditional large courtroom (Court 1) ideal for jury trials. There is a courtroom (Court 2) which is small and cramped, well-suited for civil proofs and debates but is poorly laid out for criminal business and has no jury box. There is a “pinch point” at the door where there is an easy opportunity for members of the public to pass drugs to persons in the dock. If the accused is well-behaved, summary criminal trials can be conducted in that courtroom. It is not suitable for custodies or large procedural courts such as pleading diets or intermediate diets. Sheriffs have to pass through public areas to reach Court 2. The main building houses sheriff principal’s and sheriffs’ chambers, the library and sheriff clerk’s offices. The North Tower is in a separate building entered from outside the main building. It has a jury courtroom which is the court of choice for the JP Court which sits three times a week. It also houses the criminal justice social work team.

3.15.3.2. There are six scheduled sittings a year of the High Court each of two weeks. It takes the only large courtroom in the main building. As the other large courtroom (in the North Tower) is used three times week by the JP Court, Court 2 has to be used, unsuitably, for courts for which the large courtroom is essential and civil business has to be conducted in a room the size of a jury room in the North Tower which is wholly unsuited for civil business. It has no raised bench, and solicitors are able to read the sheriff’s notes. It has no chambers. The High Court could not sit at Inverness if it became a regional sheriff and jury centre.

3.15.3.3. These problems would be magnified if Inverness became a sheriff and jury centre for all the courts in the North and Orkney and Shetland. There would be a serious effect on the summary criminal and civil business of the court for which there would be insufficient room.

3.15.3.4. Travel difficulties between Dornoch, Tain and Inverness are noted in paragraphs 5.9.1 and 5.9.2. There would also be serious effect on persons travelling from Caithness to Inverness if solemn business from Wick Sheriff Court were transferred to Inverness. The first train from Wick, leaving at 06.20, arrives in Inverness at 10.35. The first bus from Wick, leaving at 06.53, arrives in Inverness at 10.44; from Thurso, at 10.44; from Reay, at 11.54; and from John O’Groats, at 11.54. The difficulties of the weather in winter in the Highlands make travel worse. The full picture of the travel difficulties between Caithness and Inverness can be found in Appendix 2.

3.15.3.5. There is no specialisation of the local Inverness Bar or those who practice outside Inverness into solemn and summary criminal practitioners. Criminals remain with the solicitors throughout their criminal careers; they do not pick and choose solicitors according to the gravity of their offending as judged by COPFS.

3.15.3.6. Inverness will also receive all business from Dingwall and Tain if those courts were closed. It could not cope with all that business and all the solemn
business. There is no room for chambers for additional sheriffs. There is one lavatory shared by however many sheriffs and senator are there. If the Library were converted into chambers the Library would be lost. There is no physical space to deal with transferred business.

3.15.3.7. The cells in the courthouse are cramped and inadequate for present numbers. Prisoners have to be shuttled to court from the police office at Burnett Road. There is only one interview room for solicitors to interview clients in custody.

3.15.3.8. Inverness could not be a regional sheriff and jury centre if the annex were to be closed. SCS has already accepted that if the annex at Inverness Sheriff Court were to close a new courthouse would be required. If that is so, then it must also be accepted that Inverness could not cope with additional work from Wick, Dornoch, Tain and Dingwall.

3.15.4 Edinburgh (L&B). Solemn business is proposed to be transferred from Duns, Haddington, Jedburgh, Peebles and Selkirk. SCS estimates 465 sitting days requiring two courtrooms fulltime. Edinburgh already has two jury courts sitting fulltime (except at Christmas) doing its existing work.

3.15.4.1. This proposal would require three jury courts (which Edinburgh has); the High Court could not also sit in this court building. If the High Court did not sit in Edinburgh Sheriff Court, in theory Edinburgh could accommodate the business from the other courts.

3.15.4.2. In terms of geography, travel and time, Edinburgh is unsuitable for solemn business from the whole of the sheriffdom other than business that goes to Livingston. A recent transfer of business from Edinburgh to Jedburgh was not a success because of travel difficulties for witnesses. In a recent trial transferred from Hawick details of a locus had to be explained to the jury that would not have had to be explained to a local jury.

3.15.4.3. Centralisation will have a detrimental effect on the other business of the court.

3.15.5 Livingston (L&B). Solemn business will not be transferred from any other sheriff court. SCS estimates 84 sitting days requiring one courtroom fulltime. Livingston has six courtrooms, two are jury courts, two are summary courts and two are civil courts. The JP Court sits every week day. Sometimes a witness room has to be used as an additional court for adoption or permanency order business.

3.15.5.1. Livingston is being considered as an overflow High Court centre. If one jury courtroom is being used for the High Court, then the other jury courtroom cannot be satisfactorily used for sheriff and jury trials without a deleterious effect on other business: a civil court has to be used for the JP Court (with no dock) and accused in custody have to pass through public areas.

3.15.5.2. So long as the High Court does not sit, Livingston Sheriff Court can cope. This is on the basis that no sheriff and jury business is transferred to Livingston from any other court; and we understand that that is not currently proposed.
3.15.6 Dumbarton (NS). Solemn business is proposed to be transferred from Campbeltown and Oban. SCS estimates 119 sitting days requiring one courtroom part-time. Dumbarton has five courtrooms.

3.15.6.1. The number of solemn trials in 2011 was 51, an increase from 39 in 2010 and from 28 in 2009, an overall increase of over 82%. In Oban the number of trials was seven, eight and three respectively; and in Campbeltown, four, four and zero. If the figures for Campbeltown and Oban remain as they are, there would be an increase of 20% to the business at Dumbarton. Without regard to other factors such would be manageable.

3.15.6.2. There are, however, serious transport difficulties. The earliest a bus gets to Dumbarton (but not the courthouse) from Oban is 09.56; by train one arrives at 10.59. It would, therefore, be necessary to travel to Dumbarton the night before and stay overnight. This would apply to accused on bail, their families, witnesses, and solicitors. The earliest bus from Campbeltown arrives at 09.50; but those in rural communities would find it impossible to get to the bus which leaves Campbeltown at 06.30. Both these courts serve island communities which rely on ferry services to get to the mainland first. A person on Islay could not reach Dumbarton before 12 noon and, if leaving Dumbarton at 4pm, could not arrive home the same day even if using his or her own car. In winter the pass at Rest and Be Thankful on the A83 may be closed necessitating a long detour. Recent newspaper reports mentioned the frequent closure of the pass. Further details of travel difficulties can be seen in Appendix 3. In paragraphs 9 to 11 of Appendix 3 an example is given of the consequences that could arise of transferring a jury trial from Oban to Dumbarton.

3.15.6.3. It can, therefore, be said with some confidence that transferring jury trials from Oban and Campbeltown to Dumbarton, far from achieving financial savings, will in fact lead to a quite unnecessary increase in the burden on the public purse.

3.15.7 Kilmarnock (NS). Solemn business will not be transferred from any other court within North Strathclyde (except in terms of section 83 of the Criminal Procedure (Scotland) Act 1995, which may be a more frequent outcome if the recommendation of the Independent Review of Sheriff and Jury Trial Procedures is implemented). SCS estimates 215 sitting days requiring one jury courtroom fulltime. Kilmarnock has six courtrooms.

3.15.7.1. The only other issue in relation to Kilmarnock would be if it were sought to close Irvine JP Court and transfer the business to Kilmarnock: see paragraph 4.3.2. The latter court is not able to accommodate that business.

3.15.8 Paisley (NS). Solemn business is proposed to be transferred from Dunoon (+ Lochgilphead), Greenock and Rothesay. SCS estimates 296 sitting days requiring one courtroom fulltime and one courtroom part-time. Paisley has nine courtrooms, one of which is used exclusively by the Justice of the Peace Court. Of the remaining eight, only three are large enough to accommodate sheriff and jury trials and one of these large courtrooms is required each day for the large volume intermediate diet courts, large remand courts, and even larger first diet courts (which would be the consequence of the increase in solemn business) and for custodies.
3.15.8.1. The figure of 296 sitting days is not accepted as accurate and is an underestimate. The monthly protocol reports are not in line with the monthly sheriff court reports: e.g., the protocol report for December 2011 discloses no solemn trials with evidence proceeding in Paisley, whereas the sheriff court report states that there were two trials with a mean length of five hours. Consideration of the figures for first diets (sitting days) clearly points up a further potential inaccuracy. It cannot be the case that, in respect of, for example, 86 sitting days in which trials with evidence were heard in Greenock Sheriff Court, there were no first diets. Whilst they may have been slotted in during the week with other business, and so not shown in the Table we have seen, their volume is such that they would merit separate allocation in any “consolidated” programme and cannot therefore be overlooked in any calculation. Solemn business in Greenock Sheriff Court has increased by 40%. For a three-week sheriff and jury sitting in Greenock in May 2012, there were 43 first diets which had to be dealt with resulting in 23 indictments proceeding to trial (including a number of custody diets). The number of courtrooms required in Paisley Sheriff Court is likely to be nearer two (or at least 60% of a second courtroom).

3.15.8.2. Provided the High Court does not sit in Paisley, provided the compliment of sheriffs is increased by one, provided the sheriff clerk’s staff is increased (including a court officer), provided G4S increases its complement, it may be that Paisley could cope with the additional solemn business solely on the basis of accommodation. There would, however, be other difficulties.

3.15.8.3. Pressure upon the other smaller courtrooms will necessarily increase if, as expected, the two large courtrooms are utilised for solemn trial business throughout most of the year.

3.15.8.4. Some 50 to 60 days a year are used, at present, in Paisley Sheriff Court for contested adoptions and permanence orders. There is an FAI scheduled to run for about 132 days. One of the three large courtrooms will be required for the FAI for nearly a year. As previously mentioned, one large courtroom must be retained for large intermediate diet and remand courts, and for custodies.

3.15.8.5. Since 2005 all Rothesay indictments have called at Greenock. Although over the period from 2006 to date there have only been nine indictments emanating from Rothesay, it should be noted that one of these indictments recently went to trial in Greenock Sheriff Court and lasted eight court days. If solemn business were transferred from Greenock to Paisley, the difficulties highlighted in paragraph 5.9.5 anent transferring business to Greenock will be magnified by reason of the increasing distance and travel times.

3.15.8.6. There are additional concerns in relation to Greenock. Of major concern is the antipathy of Greenock and Port Glasgow residents to go to Paisley. We are firmly of the view that if Greenock juries were to call in Paisley almost inevitably there will be difficulties with the attendance of accused and witnesses. This will only result in “churn”.

3.15.8.7. While the difficulties in travel from Inverclyde to Paisley are minimal in comparison with other rural areas (such as Lochgilphead, Dunoon and Rothesay),
the additional expense involved could deter many. Experience in Greenock reveals the difficulty of having witnesses and accused travel from Port Glasgow to Greenock far less travel from Port Glasgow or Greenock to Paisley.

3.15.8.8. No jury business is undertaken at Lochgilphead presently. To get to Paisley (instead of Dunoon as at present) would mean a two hour bus journey to Dunoon, a ferry and then train from Gourock to Paisley. If one left Paisley at 4.30pm, one could reach Lochgilphead at about 7.30pm depending upon connections. The proposal to centralise sheriff and juries in Paisley would inconvenience not only accused and witnesses from Argyll, but also members of the local police who could not simply be “on call” as the distances from court and times involved would be too great.

3.15.8.9. On average Dunoon has 13 jury trials a year. While costs are impossible to quantify, since potential witnesses can come from all over Argyll, to suggest that such cases be centralised in Paisley is impractical. It would certainly mean accused and witnesses having to be put up for the night as it would not be possible otherwise for them all to travel to Paisley for a 10am start.

3.15.8.10. The proposal to centralise sheriff and jury business in Paisley will have a detrimental impact upon jurors, witnesses (whether expert or otherwise), victims and accused by reason of travelling to a centralised court, which by reason of geography is anything but central. The additional time and expense is likely to be considerable. Far from saving money, the proposal is more likely to result in increased cost to the whole criminal justice system including “partner agencies” such as the police, G4S, and NHS (for attendance of medical witnesses). There is likely to be a higher proportion of accused failing to appear resulting in “churn” whilst warrants are executed at not inconsiderable cost. Given the distances which will be involved, it will not be practicable simply to adjourn for a short time on the day and to request the police to execute the warrant there and then.

3.15.8.11. The proposal is in conflict with the first and second principles of access to justice.

3.15.9 Airdrie (SSDG). The local sheriffs have been assured by SCS officials that there will be no transfer of solemn business from elsewhere to Airdrie. Accordingly we are responding on that basis. The High Court will not sit there. SCS calculates that Airdrie requires one courtroom fulltime for 255 sitting days. Airdrie has five courtrooms. The JP Courts of Coatbridge and Cumbernauld are supposed to be accommodated in the Airdrie courthouse and will require one courtroom three days a week, but has no other additional facilities for these courts. Airdrie could not accommodate the JP Courts as well as its other business. It is understood that this is now accepted.

3.15.10 Ayr (SSDG). Solemn business is proposed to be transferred from Dumfries, Kirkcudbright and Stranraer. SCS estimates 254 sitting days requiring one courtroom fulltime.

3.15.10.1. Ayr has four criminal courtrooms and one civil courtroom; only Courts 1 and 2 can accommodate jury trials but there are facilities for only one jury. There is
no suitable muster area for jurors and the courtroom has insufficient seating (50) for potential jurors. If the courtroom is being used for business which potential jurors are not to hear, they have to stand outside the building whatever the weather. There are four small witness rooms in the courthouse, one of which is for police officers. The two principal witness rooms, one for the prosecution and one for the defence, face each other. Witnesses in civil cases share the same rooms as witnesses for criminal cases. A corridor leads from reception to all witness rooms, lavatories, Court 5 and the first floor. The jury room is at the top of a flight of stairs to the first floor. All members of the public have unrestricted access to these places.

3.15.10.2. There are already serious security issues with the lack of segregation of court users. Prisoners have to be loaded and unloaded in the street because the security vans cannot get access to the courtyards outside the cells.

3.15.10.3. SCS proposes that Ayr be a circuit court for the High Court. Ayr courthouse could not accommodate High Court business and sheriff and jury business at the same time.

3.15.10.4. The number of jury trials called and relied on by SCS for Dumfries in 2009/10 is 62. The number has increased from 50 in 2010/11 to 89 in 2011/12, being an increase overall of over 43%. The amount of work in Ayr Sheriff Court is therefore already seriously underestimated. Typically, in Stranraer there are three to five solemn trials set down in an assize. Currently, in Ayr a two-week assize may have 15 cases set down for trial. Overspills of jury sittings in Ayr are now common, but they could not be accommodated if Ayr had to include all solemn business from Dumfries and Galloway (not to mention the High Court).

3.15.10.5. For those reliant on public transport, if solemn business were to be transferred from Kirkcudbright and Stranraer Sheriff Courts, only those close to Stranraer have any prospect of arriving at Ayr Sheriff Court for 10am. For those connecting to rail from Newton Stewart, arrival in Ayr is at 11.36; from Dumfries arrival is at 11.30. The first bus from Newton Stewart arrives in Ayr at 10.13; but from Drummore or Creetown, arrival in Ayr is at 11.43. To return to Kirkcudbright from Ayr Sheriff Court on the same day by bus one has to leave the court by 13.10, and by 15.50 to return the same day by rail; to return to Drummore one must leave Ayr Sheriff Court by 15.00. The last bus from Ayr to Castle Douglas is 13.25; the last train to Dumfries is 18.17 but one would arrive in Kirkcudbright at 00.27. Further details of the travel difficulties are to be found in Appendix 4. Overnight stays would be required realistically for all persons travelling to court from areas currently served by Stranraer and Kirkcudbright Sheriff Courts.

3.15.10.6. At present a police witness on standby in Stranraer or Kirkcudbright can be at court in about 10 minutes. A standby arrangement for police or other witnesses would be impossible if trials were in Ayr.

3.15.10.7. At the consultation meeting in Ayr on 27th October 2011 the representatives of SCS acknowledged that no financial savings had been identified for the proposal.

3.15.11 Hamilton (SSDG). Solemn business is proposed to be transferred from Lanark. SCS estimates 421 sitting day requiring two courtrooms fulltime. Hamilton
has nine courtrooms of which seven are in the main buildings and two are in the civil annex in Birnie House.

3.15.11.1. It has been assessed by SCS that it is not possible for Hamilton JP Court and Motherwell JP Court to be housed in Hamilton Sheriff Court without the courthouse being extended. It does not seem possible therefore for Hamilton Sheriff Court to be able to be a regional jury centre and to take all work (civil and criminal) from Lanark Sheriff Court if that court were to be closed. If Lanark Sheriff Court were to close, the increased workload of Hamilton Sheriff Court would be beyond that it experienced in 2005/06 when it was necessary to open the Birnie House annex to cope with the workload of the Hamilton Sheriff Court House.

3.15.11.2. The number of jury trials called that are relied on by SCS is 216 in 2009/10; the figure for Lanark was 18. In fact the number has increased to 285 in 2010/11 and to 295 in 2011/12, an increase overall of over 36%. The amount of work in Hamilton Sheriff Court is already seriously underestimated.

3.15.11.3. Hamilton already has one jury court every week and frequently a second jury court one week in three or four weeks for its own existing business. In theory two courtrooms could be used fulltime for jury trials, but the rest of the business will suffer. Although there is a third courtroom which could accommodate juries, that court is needed for large courts such as custodies, first and intermediate diets.

3.15.11.4. Transport from Lanark is neither fast nor convenient. There are no direct bus routes between Lanark and Hamilton or from most outlying areas, and many services are not available in the evenings.

3.15.11.5. No analysis has been seen to show the financial savings to be achieved by removing solemn business from Lanark to Hamilton.

3.15.12 Dundee (TCF). Solemn business is proposed to be transferred from Arbroath, Cupar and Forfar. SCS estimates 265 sitting days requiring one courtroom fulltime.

3.15.12.1. Dundee has seven courtrooms of which three are capable of accommodating jury trials (Courts 1, 2 and 4) although it could not run three jury trials at the same time: there are not enough facilities for three juries. There is already a lack of accommodation for counsel, agents and consultations. If Cupar and Forfar courts are closed, all business, not just solemn business, from those courts would be transferred to Dundee.

3.15.12.2. Dundee already has one court sitting continuously doing jury trials and already struggles to get through the workload in each sitting with cases being adjourned to another sitting. Two courts would be required. It would require a sheriff being “lent” from another court or an additional sheriff, and additional staff.

3.15.12.3. Dundee Sheriff Court has an annex across the road leased to provide accommodation for civil work and includes the vulnerable witness remote site. This demonstrates that Dundee could not absorb other business without the additional accommodation.
3.15.12.4. Other work, particularly civil, would suffer. We doubt that there will be any real or substantial savings from this proposal.

3.15.13 Dunfermline (TCF). Solemn business is proposed to be transferred from Kirkcaldy and Perth. SCS estimates 190 sitting days requiring one courtroom fulltime.

3.15.13.1. Perth had 66 indictments registered in 2009/10 with 22 trials called and evidence led in 11. In 2010/11, there were 66 indictments registered, 22 trials called and evidence led in nine. In 2011/12 there have been 61 indictments registered to date with 40 trials called and evidence led in 15. Kirkcaldy had 164 indictments in 2010 with 30 cases going to trial. The figure of 178 indictments in 2011/12 was an increase of 45% on the previous year. Dunfermline has currently 85 indictments with 11 cases going to trial.

3.15.13.2. Dunfermline has four courtrooms although one (Court 4) is suitable only for civil business (it has no dock, is insecure for moving prisoners and the sheriff has to walk through a public area). Court 3 cannot be used where screens are required. One courtroom is used two days a week for the JP Court.

3.15.13.3. The use of one courtroom full time for jury trials will result in targets not being met for civil and criminal business: some criminal courts would have to be taken out of the programme and civil litigants will suffer.

3.15.13.4. From some areas it would be necessary for witnesses and accused to stay overnight in order to be in court at 10am. It is difficult to travel to Dunfermline by rail without at least one change. Some details about travel between Perth and Dunfermline are to be found in Appendix 5. A substantial number of accused persons at Kirkcaldy Sheriff Court come from the Levenmouth area. Although there is one fast bus from Leven to Dunfermline arriving at 09.52, it does not pick up people from Methil and Buckhaven; they would have to take two buses to get to Dunfermline at a cost of £4 each way.

3.15.13.5. Additional staff would be required, but there is a shortage of accommodation and little scope to expand.

3.15.13.6. A permanent security presence would be required as there is only one entrance for all persons entering the building.

3.15.13.7. The jurisdiction of Perth Sheriff Court is very large, from Drumochter on the A9, half way along Loch Earn in the west, just north of Dunblane in the south, around Kelty on the M90, taking in Invergowrie and the Carse in the east and much of the Vale of Strathmore. The logistics of public transport are considerable. Trials would be removed to another administrative area in Dunfermline. The population of Perth is predicted to increase by 30% in the coming years.

3.15.14 Falkirk (TCF). Solemn business is proposed to be transferred from Alloa and Stirling. SCS estimates 198 sitting days requiring one courtroom fulltime. Falkirk has four courtrooms.
3.15.14.1. Three of Falkirk's four courtrooms are used every day for sheriff court business; and the fourth is used two days a week for the JP Court and three days for sheriff court business (one of which is for civil business). There is a solemn sitting every two weeks out of four at present; Stirling and Alloa each has a sitting one week in four. There is currently no spare capacity to accommodate a fulltime jury courtroom in Falkirk.

3.15.14.2. At least 12 days in each four-week cycle would have to be moved elsewhere, cancelled or rescheduled (and targets not met). There are insufficient members of staff at present to cope. Transferring summary business elsewhere to endeavour to accommodate centralisation of solemn business will create its own difficulties in addition to those identified in chapter 1.

4. Split sites

4.1. There are split sheriff court sites or annexes, at Hamilton, Inverness and Lochgilphead. It is suggested by SCS that these might be closed and the business re-accommodated in the main buildings. The closure is also being considered of JP Courts in Aberdeen, Annan, Coatbridge and Cumbernauld, Dundee, Hamilton, Irvine, Kirkcaldy and Motherwell and to move those courts into the sheriff courthouses at Aberdeen Dumfries, Airdrie, Dundee, Kilmarnock, Kirkcaldy and Hamilton respectively. The JP Courts at Annan, Coatbridge, Cumbernauld, Kirkcaldy and Irvine are said to have an insufficient volume of business.

4.2. We deal first with the annexes at Hamilton, Inverness and Lochgilphead.

4.2.1. Inverness (GHI). The leased annex (North Tower) is part of the court precincts at Inverness Castle. It also houses the JP Court. The court could not conduct its business without the annex. A new building is said to be required for Inverness Sheriff Court if the annex were closed. This is not a current financial option.

4.2.1.1. If Inverness were to be a regional sheriff and jury centre, one courtroom would have to be used fulltime for jury trials to accommodate an estimated 152 sitting days. This would have a serious impact on other courtrooms and other business. If Dornoch, Dingwall and Tain Sheriff Courts were to close, the business of those courts would be transferred to Inverness. If Inverness were to become a regional civil court centre, the situation would be even worse. If Inverness would require a new building were the annex to be closed, it is difficult to see how it could be a sheriff and jury regional centre and undertake all the other work of Tain and Dingwall.

4.2.1.2. We refer also to the points we have made in paragraph 3.15.3 as to the impossibility of the closure of the North Tower annex.

4.2.1.3. We do not think that the closure of the annex at Inverness Sheriff Court is feasible.
4.2.2 Lochgilphead (NS). This court annex of Dunoon Sheriff Court sits once a month in a 10 month cycle (to avoid bad weather). There is said to be insufficient business. The suggestion is to transfer the business back to Dunoon.

4.2.2.1. Separate statistics are not kept for Lochgilphead, and it is not clear how it has been assessed as having insufficient business. The cases in Lochgilphead are all summary criminal cases from Lochgilphead. In 2011 there were 32 summary trials set down for trial; in February to April 2012, 14 were set down.

4.2.2.2. Lochgilphead cases are local to Lochgilphead and often involve local police who are relatively few in number. There would be manpower difficulties for the local force if they required to attend Dunoon Sheriff Court.

4.2.2.3. Lochgilphead is 69.1 miles from Dunoon. The first bus from Lochgilphead to Dunoon arrives at 11.30. This is too late. Business cannot be arranged daily for people from Lochgilphead always to be dealt with after 11.30am.

4.2.2.4. Most importantly, the court was opened because of travel distances in Argyll and Bute. This has not changed.

4.2.2.5. The court sits in the Lochgilphead Police Office at minimal cost.

4.2.2.6. Whilst we have reservations about the propriety of a court sitting in a police office, the closure of Lochgilphead is impractical and would not achieve significant cost savings. The proposal is in conflict with the first, second and third principles of access to justice.

4.2.3 Hamilton (SSDG). The annex for civil business, Birnie House, was opened in 2006 because of the inability of the existing building to accommodate all the business of the court. It has two courtrooms, two hearing rooms and accommodation for staff, witnesses, agents, in-court advisers, sheriffs and the sheriff principal. At least three sheriffs are assigned there each day. It is difficult to see how that business could be re-accommodated in Hamilton, particularly if Hamilton were to become a regional sheriff and jury centre and if the JP Courts were to move into the main building. The former civil courtrooms in the main building no longer exist. Civil business is “ring-fenced” in Birnie House.

4.2.3.1. If Hamilton were to be a regional sheriff and jury centre it would need to accommodate two jury courts sitting full-time to cater for an estimated total of 421 sitting days. It has been assessed that it is not possible for Hamilton JP Court and Motherwell JP Court to be housed in Hamilton Sheriff Court without the latter courthouse being extended. That is not a current financial option. If these courts cannot be accommodated without an extension, it is not possible to understand how Birnie House could close and the civil business be accommodated in the main building.

4.2.3.2. The Business Case prepared in 2005 setting out the need for an annex at Hamilton noted that “The ‘do nothing’ option cannot be sustained in the short term at a location which is the third busiest in our estate and suffers from chronic overcrowding.” While initially the opening of Birnie House helped to reduce
overcrowding, since its opening the growth of business has resulted in it being unable to accommodate all its current business. Birnie House increasingly has to rely on Court 8 in the main building. The importance of Court 8 to the efficient running of Hamilton Sheriff Court is shown in recent statistics. In May 2012, Court 8 was programmed on 10 days to accommodate Birnie House business; in April 2012, Court 8 was required on eight days; and in March for 11 days. Each of those days was necessary to accommodate Adoption and Ordinary cause proofs. The present pressure on Birnie House, and need for it, can only increase if the proposal in the Civil Courts Review to devolve more civil business from the Court of Session to the sheriff court is implemented.

4.2.3.3. At a meeting with SCS managers, the sheriffs at Hamilton were informed that the closure of Birnie House would be expected to save £130,000. In Table 2 in paragraph 3.3 of the document “Future Court Structures – Next Steps – An opportunity to contribute to the future shape of court structures” issued on 26th September 2011 by SCS, it is stated that savings from the closure of all split sites would achieve an estimated £200,000. It is difficult to reconcile the two.

4.2.3.4. We do not consider it to be feasible to close the Hamilton Sheriff Court annex.

4.3. We turn now to the issue of JP courts considered for being brought into sheriff courthouses.

4.3.1 Aberdeen JP Court (GHI). Aberdeen Sheriff Court would require a new building if the Aberdeen JP Court were to be moved into the sheriff courthouse. This is not a current option.

4.3.2 Irvine JP Court (NS). It is accepted by SCS that Irvine JP Court cannot be absorbed in the Kilmarnock Sheriff Court unless the High Court does not sit in Kilmarnock. It is not currently proposed that the High Court will continue to sit in Kilmarnock. Whilst the work of the Irvine JP Court might be able to be absorbed into the Kilmarnock courthouse, it is understood that SCS and North Ayrshire Council are still examining options which would retain a JP Court in Irvine. This would support the principle of local access to justice and should be clarified before any decision is made about the transfer of business.

4.3.3 Annan JP Court (SSDG). The court is leased. The suggestion of SCS is that the court would be accommodated in Dumfries sheriff courthouse. There was strong political opposition to the possible closure of Annan JP Court in 2009 which, as a result did not take place.

4.3.4 Coatbridge JP Court and Cumbernauld JP Court (SSDG). The Coatbridge courthouse is leased. An extension to Airdrie Sheriff Court would be required to accommodate these two courts. This is not a current financial option.

4.3.5 Hamilton JP Court and Motherwell JP Court (SSDG). Motherwell JP Court is leased. An extension would be required at Hamilton Sheriff Court to accommodate these courts. This is not a current financial option. There has been an indication that Court 8 in Hamilton Sheriff Court had been earmarked for the JP
Court. This court is crucial to the business of Hamilton Sheriff Court. Motherwell JP Court sits everyday and has two courtrooms, only one of which is used. Hamilton JP Court sits three days a week. Hamilton JP Court could move to the unused courtroom in Motherwell JP Court.

4.3.6 Dundee JP Court (TCF). The JP Court is next door to the sheriff court. It is not possible to accommodate the JP Court in the sheriff courthouse unless the volume of business of Dundee was reduced. This could not occur if Dundee were to become a regional sheriff and jury centre or if solemn business were to be transferred from Arbroath, and all business were to be transferred from Cupar and Forfar on those courts being closed. As we have pointed out in paragraph 3.15.12.3, Dundee Sheriff Court has an annex to provide accommodation for civil work and includes the vulnerable witness remote site. This demonstrates that Dundee could not absorb other business without the additional accommodation.

4.3.7 Kirkcaldy JP Court (TCF). Kirkcaldy Sheriff Court would require a new building to house the JP Court. This is not a current financial option.

5. Sheriff court closures

5.1. The current thinking in SCS is for closure of the following courthouses:-

(1) Dornoch, Duns, Kirkcudbright, Lochgilphead (dealt with under Split Sites above), Peebles, Rothesay and Tain on the ground of insufficient business.

(2) Alloa, Cupar, Dingwall, Forfar, Haddington, Lanark, Selkirk and Stonehaven on the ground of insufficient distance from another court.

5.2. This idea is in conflict with the first, second and third principles of access to justice above.

5.3. SCS calculates that at least 90% of court users are within an hour’s travelling distance from the receiving court. Even if true, we are not convinced that this is sufficient justification for closing courts.

5.4. A sheriff in a local court is more able and likely to have an impact on the local community and monitor offending than a sheriff sitting in a court distant from the locality. There would be little or no reporting of local cases in the local newspaper if cases are moved to another locality. This is likely to have a negative impact on those residing in the area with no local court because they will see little evidence of wrongdoers being brought to justice. One has to have regard to the effect that closures will have on the people for whom the justice system is there to serve. What about the loss of local access to a court for those pursuing small claims? Closure of a court will also have an adverse effect on the local solicitors and the availability of local solicitors for people in the locality.

5.5. There is already a growing problem in our courts of witnesses and accused persons failing to turn up to their local court. This problem will only be made worse if
people have to travel further than their local court, at greater inconvenience and at
greater cost to themselves. They will be even less inclined to do so.

5.6. Any savings have to be set against the cost of accused, witnesses and others
getting to and from the more distant receiving court. That cost includes the increase
in persons not coming to court, churn, extra callings of cases, loss of meeting targets
in the receiving courts with increased volumes of work and the incalculable loss of
local justice.

5.7. In 2011 a figure of £3.9 million had been given to SCS for the open market value
of the 14 owned sites which were then candidates for closure. Of the five additional
sites which are leased and were candidates (Lochgilphead was not included), only
three now are candidates and two (Annan and Irvine) are JP Courts treated as split
sites (see section 4 above). The maximum cash savings from all 19 candidate
courts was said to be £845,000 per annum. We have not seen any figures to say
what the market value is of the 13 owned sites now being considered or of the total
16 courthouses now being considered for closure. The figure of £3.9m represents
£278,571 for each of the 14 courthouses then being considered: that is not very
much, and would be a one-off saving. It is fanciful, however, to think, in this current
economic climate, that there is a market for the 13 courthouses at the prices
anticipated or for use for other public or commercial purposes. Realistically most of
these properties will remain unsold but will have at least to be kept wind and
watertight. There will be little savings in staff who will either have to squeezed into
other courthouses or be given redundancy packages.

5.8. In the dialogue document, “Scotland’s Court Services”, it is suggested that,
where there is insufficient capacity to deal with anticipated volume of business due to
transfer of business following court closures, courtrooms should be used from
9.30am to 5pm. Five courts are identified, namely, Airdrie, Dundee, Hamilton,
Inverness and Jedburgh. Firstly, we do not accept that there are only five courts that
would have insufficient capacity. Secondly, if all courts in a particular courthouse sit
between those times to deal with all its own and all transferred business, when is the
chambers’ work to be done? That is the judgment writing; applications for warrants,
interim interdicts, adults with incapacity adoptions and permanence orders; checking,
revising and signing interlocutors; undefended divorces; reading and preparing
cases for the next day’s first diets, adjourned diets and deferred sentences, ordinary
court, and proofs. Thirdly, others will be affected such as solicitors (who have other
business to attend to), those having to attend court and to get home the same day or
deal with domestic obligations and additional cost of police, prison escort services
and prisons. Fourthly, one has to have regard to the difficulty of people being able to
concentrate for long hours. Fifthly, the hours that staff and sheriffs have to work are
already longer than the court sitting hours, and these will require to be further
extended to cope, resulting in extra staff costs. In the First Report of the Steering
and Working Groups on Court Programming published in May 1993, sitting times
had been examined and it was considered and recommended that five hours was
the optimum duration of the court sitting day (see paras. 5.23 to 5.25 of that report).
That is still true today.

5.9. We now analyse by sheriffdom individual courts affected by alleged insufficient
business.
5.9.1 Dornoch (GHI). SCS estimates that this court has 66 sitting days a year (54 Sh.Ct.). Business would transfer to Inverness; SCS distance 43 miles; by car 1hr 33m; by bus 1hr 24m. There is an anomaly in that since the opening in 1991 of the road bridge across the Dornoch Firth, Tain and Dornoch are now only 9.1 miles apart. Until then the distance between the towns by road was 29 miles.

5.9.1.1. Closure of Dornoch, Dingwall and Tain cannot be considered in isolation from each other. The difficulty in closing Dornoch is the burden of travelling which it would impose on court users. Dornoch Sheriff Court’s district extends from the Dornoch Firth in the south-east to just north of Helmsdale and the boundary with Caithness and the entire land mass of the county of Sutherland to the west, including the north coast of Scotland from Durness in the west to the boundary of Caithness, a few miles west of Thurso. The distances already travelled to Dornoch from centres of population within its district are staggering: a return journey from Kinlochbervie to Dornoch is 138.6 miles and to Inverness is 217.4 miles. Some examples are given in Table 1 in Appendix 6 with the consequences of transfer of Dornoch business to Inverness or Wick. Given the layout of the roads, transfer of business from Dornoch to Tain would add about another 20 miles to most of the above round trip distances.

5.9.1.2. It is recognised that some rationalisation of the estate between Tain and Dornoch will be required. The difficulty, however, is the misunderstanding at present of the workload, in particular in Tain.

5.9.2 Tain (GHI). SCS estimates that this court has 128 sitting days a year (116 Sh.Ct). Business would be transferred to Inverness; distance 34.3 miles, by car 52 mins. Tain is 9.1 miles from Dornoch and 69 miles from Wick.

5.9.2.1. There is another anomaly in Ross-shire in that it is an ancient county but contains two sheriff courts, Dingwall and Tain, 23 miles apart. Tain is a busy court, including in its district towns and villages with a high level of social deprivation in addition to more traditional highland communities with similar difficulties to those encountered in other rural areas of Scotland. Its criminal list is one and a half times that of any other court in the Highlands outwith Inverness.

5.9.2.2. The geographical extent of Tain Sheriff Court district is relatively compact. If, however, Tain were closed, then those travelling to Inverness would be faced with increases in distances: see Table 2 in Appendix 6.

5.9.2.3. Inverness is already fully occupied both in terms of work, courtrooms and accommodation for both staff and sheriffs. It could not cope with the extra work: see paras. 3.15.3 and 4.2.1.

5.9.2.4. Closure of Dingwall, Tain and Dornoch cannot be considered in isolation from each other. There may be room for some consolidation of the work from all three of these courts into two of them or even into one. The difficulty is which one to select; none of them, as matters presently stand, would be able to cope with the workload. Tain might seem the superficial best choice. However, Tain in particular, needs a lot of money spent on it to bring it up to an acceptable standard; the
distances from Wester Ross would be unacceptable and no direct buses or trains run from the west coast to Tain.

5.9.2.5. The ideal solution, of course, is to close all three and open a new purpose-built court somewhere in Easter Ross, but one assumes that no money is available to pay for such an enterprise.

5.9.3 **Duns** (L&B). SCS estimates that this court has 12 sitting days a year. It is not clear if the business would be transferred to Edinburgh or Jedburgh. Distance 45 miles (Edinburgh)/27.4-32 miles (Jedburgh), by car 1hr11mins (Edinburgh)/49mins (Jedburgh), by bus 2hrs17mins (Edinburgh; change at Earlston)/1hr10mins (Jedburgh).

5.9.3.1. If Duns were to close, business might be transferred to Haddington. If Haddington were to close also, it would present travel difficulties between Duns and Edinburgh or Jedburgh. If Haddington were also to close there would be no court serving the eastern Borders.

5.9.3.2. Transport in the Borders from East to West is very difficult. To get from Eyemouth to Jedburgh for 10am it is necessary to stay overnight in Berwick on Tweed because it is not possible to get there by bus in one day.

5.9.3.3. The existence, frequency and cost of local bus transport must be considered. Such journeys will be by small rural buses with potentially accused persons, Crown and defence witnesses and, at present, jurors all on the same bus. Instances have occurred of witnesses disembarking from such journeys and failing to appear by reason of the presence of “the opposition” on the same bus resulting in trials not proceeding, other witnesses being inconvenienced and cases requiring to be reprocessed. This is a very relevant factor reflective of local conditions which is likely to be magnified in the event of closure.

5.9.3.4. The proposal to close Duns, Peebles and Selkirk, leaving Jedburgh as the only court in the Borders region, will not work by reason of geography, distribution of population, transport (cost and timing) and the unsuitability of Jedburgh Sheriff Court for the resulting increase in business.

5.9.3.5. The historic principle of small rural courts and a travelling sheriff in the provision of court services in the Borders should not be lightly discarded.

5.9.3.6. Sheriff T A K Drummond QC has prepared a separate detailed analysis of the proposal to close courts in the Borders dated April 2012. As he states, the present structure of courts within the Borders is the result of a process of refinement over the years which, we understand, is under constant consideration and adjustment to give effect to efficient court programming across the four courts to achieve maximum efficient use of manpower.

5.9.3.7. The proposal is in conflict with the first, second and third principles of access to justice.
5.9.4 Peebles (L&B). SCS estimates that this court has 59 sitting days a year (47 Sh.Ct). We assume that business would be transferred to Edinburgh; SCS distance 23 miles, 38mins.

5.9.4.1. The court is housed at low cost in a local authority building on a lease (£10,000 pa) and the courtroom is the Council Chamber.

5.9.4.2. The proposal is in conflict with the first, second and third principles of access to justice.

5.9.5 Rothesay (NS). SCS estimates that this court has 43 sitting days a year. Business would be transferred to Greenock; SCS distance 15 miles, 1hr19mins (ferry crossing).

5.9.5.1. This court is housed in the Marriage Room of Eaglesham House, the regional offices of Argyll and Bute Council and sits only on a Monday. Civil and summary criminal business is conducted there. Solemn business (nine indictments since 2006) goes to Greenock. It has no staff, the sheriff, clerk and court officer travel there for the day. Custodies are brought from the mainland and have to sit in the G4S van in the carpark because there is no suitable accommodation in the courthouse (there are negotiations to hire police cells in Rothesay Police Office). Continued civil business has to be continued to another available Monday, causing inevitable delays. The number of civil and summary criminal cases registered has been gradually decreasing since 2009/10.

5.9.5.2. A previous attempt to close the court in 2004, when its previous location was sold, met opposition from the sheriff, the sheriff principal and the local MSP.

5.9.5.3. If closure proceeds, and business is transferred to Greenock, obvious travel difficulties will ensue with accused and witnesses having to travel by ferry and then take two trains to reach Greenock (there is no direct rail connection between the Ferry terminal at Wemyss Bay and Greenock). The latest ferry departure would have to be at 08.00 to ensure arrival timeously at Greenock for a 10am start. Assuming a full day in court, the islanders are unlikely to arrive back on Bute until 18.00, some 10 hours after departure.

5.9.5.4. The “savings” which would occur as a result of closing the court and transferring all business to Greenock (apart from solemn business which it is proposed to be transferred to Paisley) are unlikely to be significant when set against the principles of access to justice.

5.9.5.5. While it may be thought that there is insufficient business, the court now only sits one day per week in “shared” premises. It fulfils an appropriate rôle for the local community and satisfies the first, second and third principles of access to justice.

5.9.6 Kirkcudbright (SSDG). SCS estimates that this court has 88 sitting days a year (76 Sh.Ct). The proposal is to transfer solemn business to Ayr and other business to Dumfries. Distance to Ayr is 59 miles; by car 1hr40m. The court sits every Thursday and two Fridays a month. There is a need for additional sheriffs on other days of the week to hear both jury trials and civil proofs.
5.9.6.1. In relation to travel to Ayr, for those connecting to trains from Newton Stewart, arrival in Ayr is at 11.36; from Dumfries arrival is at 11.30. The first bus from Newton Stewart arrives in Ayr at 10.13; but from Drummore or Creetown, arrival in Ayr is at 11.43. To return to Kirkcudbright from Ayr Sheriff Court on the same day by bus one has to leave the court by 13.10, and by 15.50 to return the same day by rail; to return to Drummore one must leave Ayr Sheriff Court by 15.00. The last bus from Ayr to Castle Douglas is 13.25; the last train to Dumfries is 18.17 but the traveller would arrive in Kirkcudbright at 00.27. Further details of the travel difficulties are to be found in Appendix 4. Overnight stays would be required realistically for all persons travelling to court from areas currently served by Kirkcudbright Sheriff Court.

5.9.6.2. If Kirkcudbright Sheriff Court were to close, its business would have to be split between Dumfries and Stranraer depending on which part of the district the business came from, though most of it would go to Dumfries.

5.9.6.3. The proposal to transfer the solemn business of Kirkcudbright to Ayr is in conflict with the first, second and third principles of access to justice. It is thought in Dumfries that the business of Kirkcudbright could be accommodated in Dumfries and Stranraer Sheriff Courts. There are reasonably good transport links between the main population centres of Kirkcudbright, Castle Douglas and Dalbeattie. Solicitors in Dumfries and Stranraer undertake criminal work in Kirkcudbright. Custodies and warrants are dealt with in Dumfries unless the court is sitting in Kirkcudbright.

5.10. We now turn to analyse by sheriffdom courts affected by alleged insufficient distance from another court.

5.10.1. Dingwall (GHI). SCS estimates that this court has 171 sitting days a year (159 Sh.Ct). Business would be transferred to Inverness; distance 14.4 miles court to court; by car 22mins. However, nobody lives in Dingwall Sheriff Court.

5.10.1.1. The Sheriff Court District of Dingwall stretches from Evanton in the east to Achiltibuie in the North West and Kyle of Lochalsh in the South West. A return journey from Achiltibuie to Inverness is 161.6 miles. Some examples illustrating the additional distances, which court users might have to travel, are set out in Table 3 in Appendix 6. Kyle of Lochalsh is in fact nearer to Inverness than it is to Dingwall. The train stops at Dingwall before Inverness. Kyle might be thought to sit more comfortably in the jurisdiction of Portree Sheriff Court. Certainly the JP Court, and before it the District Court, in Portree includes Kyle of Lochalsh within its district (due to the old local authority area of Skye and Lochalsh).

5.10.1.2. Transport links between Dingwall itself and Inverness are reasonable. There is no train service north of Kyle of Lochalsh. Most, if not all, of the bus services from the west call in at both Dingwall and Inverness, calling at Dingwall first on the way in and leaving from Inverness. Again the service from Kyle of Lochalsh runs from there to Inverness.

5.10.1.3. The sheriff court sits in Dingwall on 12 days out of the 20-day monthly cycle (i.e. 156 days per year). The courtroom is then used on a further two days by the JP Court. Accordingly the courtroom is used on a regular basis for 14 out of 20 days.
From time to time more days are needed by the sheriff court for long-running sheriff and jury trials or civil proofs, including social work referrals. The sheriff at Dingwall spends the remaining days of the cycle in Inverness (six days) and Portree (two days).

5.10.1.4. There would be a reduction in access to justice both for those who live a long way from Dingwall already and for those to whom the journey to court is a matter of a few minutes’ walk.

5.10.1.5. Closure of Dingwall would beg the question as to where its current workload would go. Inverness is already fully occupied both in terms of work, courtrooms and accommodation for both staff and sheriffs. It could not cope with the extra work: see paras. 3.15.3 and 4.2.1. Closure of Dingwall, Tain and Dornoch cannot be considered in isolation from each other.

5.10.2 Stonehaven (GHI). SCS estimates that this court has 241 sitting days a year (229 Sh.Ct). Business would be transferred to Aberdeen; SCS distance 15 miles; by car 22mins. The sheriff court sits three days a week with occasional extra sittings for long proofs, fatal accident inquiries, trials or other business. The JP Court also sits there.

5.10.2.1. The sheriff court has two courtrooms, one of which is fully designed and equipped for jury trials.

5.10.2.2. Stonehaven has good public transport links with Aberdeen, though less so with inland areas of Deeside.

5.10.2.3. SCS has already recognised that Aberdeen Sheriff Court could not accommodate the JP Court without a new building being required. It cannot, therefore, cope with being a sheriff and jury centre and take all work from Stonehaven.

5.10.2.4. It would make sense to retain Stonehaven as a satellite court to assist Aberdeen in dealing with cases from across Grampian.

5.10.3 Haddington (L&B). SCS estimates that this court has 386 sitting days a year (334 Sh.Ct). Business would be transferred to Edinburgh; SCS distance 18 miles away; by car 28mins. Haddington has two courtrooms.

5.10.3.1. In relation to the SCS estimate of sitting days, it should be noted that Haddington is the busiest sheriff court of all those being considered for closure. As this statistic shows, Haddington often has two courts running simultaneously. Despite the level of business, it deals with its case load efficiently and speedily. It is unlikely that Edinburgh could cope with all of this additional business (or house the additional shrieval resource required) particularly if the courtroom currently used for the High Court in Edinburgh is instead to be used for sheriff and jury work. Even if theoretically the workload could be accommodated, the work could not be done as efficiently (and therefore as cost-effectively) as at present. Looking only at SCS management statistics for cases which proceed to summary trial, proof or debate, Edinburgh’s work load would increase by anything up to 25% (excluding adoption
and permanence applications and referral proofs). It is difficult to see this increase doing anything other than worsening the efficiency of Edinburgh against targets, whereas Haddington currently meets or exceeds its targets. It is also worthy of note that in 2011/12, only one summary trial in Haddington was adjourned through lack of court time: in Edinburgh, the corresponding figure was 538. Trials are seldom adjourned due to the failure of an accused person to attend the trial diet. Proofs in adoption and permanence applications, of which several proceed a year, usually last at least five days plus subsequent writing time. They represent a significant part of Haddington’s business, and would also have to be fitted in to Edinburgh in some as yet unspecified way. Moreover, such applications are subject not to SCS targets, but to statutory constraints, any proof requiring to be within 12 to 16 weeks of the preliminary hearing. Haddington is currently able to meet this requirement, Edinburgh is not. Haddington cases would no longer comply with the statutory timetable, with possible (and expensive) consequences.

5.10.3.2. The time of 28 minutes may be achievable at a time of little traffic but takes no account of rush hour traffic, bus lanes, congestion or the difficulty in finding a parking place. The true time for those travelling by car is likely to be in excess of one hour (more, for those who require to be at court for proposed 9.30 starts). Most persons appearing in court do not travel to court by car. It would be considerably more difficult for the majority of the population to get to Edinburgh than to Haddington. While it is true that the larger towns in East Lothian have reasonable public transport links with Edinburgh, it would take the majority of the population more than an hour to reach the court by bus (likely to be the mode of transport used). It is also undesirable to have accused, victim, crown and defence witnesses all travelling to and from court by the same bus. Were all Haddington cases to be heard in Edinburgh, there would inevitably be a greater rate of non-appearance by both accused persons and witnesses, resulting in an increase in churn. Haddington currently meets the SCS target of 85% of cases being completed within 20 weeks, whereas Edinburgh does not. Transferring cases into Edinburgh is likely to worsen the churn problem, rather than improve it, and lead to East Lothian cases being dealt with less efficiently than at present.

5.10.3.3. The current ideas proceed on the basis that any court within 20 miles of another and serving a settlement with a population of fewer than 20,000 should be considered for possible closure (emphasis added). The relevant and logical consideration, however, in counting the population served by a court, should be the population of the area served rather than the population of the town in which the court sits. The population Haddington serves, the entire local district area of East Lothian, is currently 95,000 (which, according to Government statistics, is expected to grow by over 30% over the next 25 years). Of those, 30% live in rural areas with poor public transport. Haddington, lying geometrically in the middle of the county, is logically the best place to situate a court serving the population of East Lothian (no less today than when it was built).

5.10.3.4. There are many other advantages in retaining Haddington, and disadvantages in closing it: We refer to the letter sent by Sheriff Peter Braid to the Chief Executive dated 4th October 2011. The principal point made in addition to those made above, is that there is a considerable advantage to the community in local cases being dealt with locally by a sheriff who has local knowledge both of the community and of court users. As in other courts, there is a considerable cross-over
between criminal and civil (usually) family courts, resulting in decisions being taken which are better informed and more likely to achieve some measure of justice. The advantages of a single sheriff being able to monitor offenders (and for the offenders to know that they are being monitored) are difficult to quantify but again impossible to over-estimate.

5.10.3.5. A further relevant consideration is that many Haddington witnesses and other court users including agents and social workers are locally-based and often (in the case of witnesses) are on stand-by. In particular, police officers can usually be at the court within 15-20 minutes. They are unlikely to achieve such a timescale in travelling to Edinburgh. In civil cases, East Lothian Council is one of the court’s principal users. They share the same building as the court, and as such witnesses, social workers and solicitors can be in court within minutes of leaving their desk. The waste of time (and consequent costs) if such persons had instead to attend Edinburgh sheriff court is likely to be significant. In considering the impact of increased travelling time, account should also be taken of chambers and urgent work: adults with incapacity cases, search warrants, child protection orders, interdicts, etc. – all requiring locally-based persons to attend court, often on a matter of some urgency. For example, child protection order applications frequently see two local social workers attend, along with a solicitor, often with a view to securing the safety of a locally-based child. The increased cost and time of such hearings being based in Edinburgh is likely to be considerable.

5.10.3.6. If Duns, Peebles and Selkirk were to close, the sole court in the Borders would be Jedburgh (to which there is inadequate public transport from all parts of the Borders) and there would be no court serving the eastern Borders at all.

5.10.4 Selkirk (L&B). SCS estimates that this court has 190 sitting days a year (164 Sh.Ct). Business would be transferred to Jedburgh; SCS distance 18 miles, by car 28min.

5.10.4.1. The existence, frequency and cost of local bus transport must be considered. Such journeys will be by small rural buses with potentially accused persons, Crown and defence witnesses and, at present, jurors all on the same bus. Instances have occurred of witnesses disembarking from such journeys and failing to appear by reason of the presence of “the opposition” on the same bus resulting in trials not proceeding, other witnesses being inconvenienced and cases requiring to be reprocessed. This is a very relevant factor reflective of local conditions which is likely to be magnified in the event of closure.

5.10.4.2. The proposal to close Selkirk, Duns and Peebles, leaving Jedburgh as the only court in the Borders region, will not work by reason of geography, distribution of population, transport (cost and timing) and the unsuitability of Jedburgh Sheriff Court for the resulting increase in business.

5.10.4.3. The historic principle of small rural courts and a travelling sheriff in the provision of court services in the Borders should not be lightly discarded.

5.10.4.4. As we have mentioned in paragraph 5.9.3.6, Sheriff Drummond QC states that the present structure of courts within the Borders is the result of a process of
refinement over the years which, we understand, is under constant consideration and adjustment to give effect to efficient court programming across the four courts to achieve maximum efficient use of manpower.

5.10.4.5. The proposal is in conflict with the first, second and third principles of access to justice.

5.10.5 Lanark (SSDG). SCS estimates that this court has 371 sitting days a year (319 Sh.Ct). Business would be transferred to Hamilton; SCS distance 14 miles, by car 20mins.

5.10.5.1. Lanark is 15.12 to 24 miles from Hamilton depending on the route that has to be taken. SCS suggests that Lanark Sheriff Court serves a population of 9,330; in fact it serves a population of 61,364, covering 511 square miles from Larkhall in the north to Dumfries and Galloway in the south, Ayrshire in the west and Dolphington in the east. Within a five mile radius of Lanark is a population of 30,000. A new town, Owenstown, is to be built with planning permission sought this Autumn for 3,000 houses and an expected population of over 10,000 mainly new to the area. Lanark is a hub for the Clydesdale communities and has the police headquarters for the area.

5.10.5.2. There are no direct bus routes between Hamilton and most of the population centres outwith Lanark, and many services are not available in the evenings. While much of the criminal work in Lanark Sheriff Court, and a fair proportion of the civil work, comes from Carluke, which is five miles from Lanark, many of those appearing in criminal cases and some in civil cases live in former mining villages geographically and logistically isolated from Hamilton.

5.10.5.3. The number of civil writs registered for 2010 was 1309 and in 2011 was 1233, albeit that these figures do not include adoptions, permanence orders and adults with incapacity applications which are increasing. The number of indictments in 2010 was 33, and was 32 in 2011, but figures for the first four months of 2012 to date show an increase. The number of summary complaints registered in 2010 was 844 in the JP Court and 699 in the sheriff court, and was 911 and 629 respectively in 2011. The number of complaints registered for the JP Court continues to rise, being 31% more than the previous year, and the nature of the business has resulted in the allocation of additional courts to cope. This will increase the number of sitting days at Lanark. Waiting time for summary trials from pleading diet to trial is 10 weeks, whereas in Hamilton it is currently 22 weeks; the proposal would, therefore, double the waiting time for summary trials in Hamilton. In the JP Court trials are currently being fixed for November whereas in the sheriff court summary trials are currently being fixed for August. Civil work accounts for almost half the workload at Lanark.

5.10.5.4. An average of 58.5% of registered indictments are resolved before trial. In Hamilton the figure is 25%. Hamilton, therefore, could be faced with 27 trials a year from Lanark and not the SCS figure of 13 trials.

5.10.5.5. It is suggested by SCS that Lanark courtrooms have an occupancy rate of 74%; this is based on an hypothetical model of future court business allocated. This excludes proofs of more than one day, summary applications and chambers
hearings. An actual calculation for nine months to September in 2011 disclosed in fact an occupancy rate of 83.6% (excluding chambers business). It is busier than Alloa and Forfar Sheriff Courts, and the average daily sitting hours is 4.7 compared with Hamilton’s 3.5, excluding the time spent dealing with hearings in chambers.

5.10.5.6. If Lanark Sheriff Court were to close, the increase workload of Hamilton Sheriff Court would be beyond that which Hamilton experienced in 2005/06 when it was necessary to open the Birnie House annex at Hamilton to cope.

5.10.6 Alloa (TCF). SCS estimates that this court has 369 sitting days a year (317 Sh.Ct). Solemn business is proposed to be transferred to Falkirk (12.9-15.7 miles, 29 mins court to court); other business would be transferred to Stirling (SCS distance 8 miles; 21 mins).

5.10.6.1. The present court building is in close proximity to all the relevant services, procurator fiscal, police, and social work. As a local court, there is considerable cross-over between the criminal and civil business, and thus the resident sheriff has considerable background knowledge and control. The transfer of business to Stirling or Falkirk will cause difficulties in witnesses and accused attending. This is a problem even at present. This inevitably results in delay. The closure of the court would have an adverse effect locally.

5.10.6.2. In order for Stirling to accommodate summary criminal work from Alloa (nothing is said about the civil and other work), SCS indicates that Stirling’s solemn work would have to be transferred to Falkirk. This hardly seems to be a sensible argument for closing Alloa Sheriff Court.

5.10.6.3. Alloa has just had a substantial sum spent in providing a second courtroom.

5.10.7 Cupar (TCF). SCS estimates that this court has 294 sitting days a year (268 Sh.Ct). Business would be transferred to Dundee; SCS distance 13 miles, by car 19mins.

5.10.7.1. If Cupar were to close, the ideal solution would be for a purpose-built court facility for all of Fife probably in Glenrothes. That town is very close to Kirkcaldy, which is the busiest court in Fife and it is likely that the transport links for most of the clientele for Kirkcaldy are similar to those for Glenrothes. The local authority and police headquarters are also in Glenrothes.

5.10.7.2. Witnesses from the East Neuk would find it more difficult to travel to Dundee if dependent on public transport. A significant percentage of the representation in the court is from local solicitors; closure of the court would have an adverse impact on the local Bar.

5.10.7.3. If the Civil Courts Review recommendations were to be implemented, Cupar could be manned by a district judge or summary sheriff providing local justice. Accordingly, closure would be illogical.

5.10.7.4. A redrawing of court boundaries could result in some business presently in Kirkcaldy Sheriff Court going to Cupar.
5.10.8 Forfar ((TCF). SCS estimates that this court has 290 sitting days a year (266 Sh.Ct). Business would be transferred to Dundee; distance 15.3 miles, by car 30 mins.

5.10.8.1. The geographical jurisdiction is extensive taking in the Angus Glens as well as a significant part of the Vale of Strathmore. Public transport links from the extremities of the jurisdiction to Dundee would involve significant travelling times and it is by no means guaranteed that persons could reach Dundee by 10am. Further, it may mean accused, defence witnesses, and Crown witnesses being on the same bus. There is no train service operating in the jurisdiction. The problems in travel would inevitable result in an increase in ‘no shows’ in Dundee. The closure would have an effect on police witness ‘stand by’ arrangements.

5.10.8.2. The closure would likewise have implications for civil litigants as a result of losing their ‘local’ court.

5.11. The closure of Duns, Peebles and Selkirk, with or without the closure of Haddington will have a serious effect on Jedburgh Sheriff Court, which will be the sole court serving the Borders. It is further proposed to remove solemn business from Jedburgh to Edinburgh. It is not entirely clear what work from Duns and Peebles will go to Edinburgh or Jedburgh. Public transport links East/West are poor and cause considerable difficulty. People travelling from Eyemouth (40 mins from Duns) to Jedburgh for court at 10am have to stay overnight in Berwick upon Tweed, a journey of 10 hours because it is not possible to get there by bus in one day. Crown and defence witnesses will have to travel on the same bus to court. There is already bad experience of solemn cases being transferred between Edinburgh and Jedburgh. Currently the Border courts are served by two sheriffs: a floating sheriff covers Duns and Jedburgh and the resident sheriff covers Selkirk and Peebles. While Jedburgh can be said to have two courtrooms, the second can only be used for family cases or civil proofs. There is insufficient accommodation for two sheriffs. The two custody cells are in the adjacent police office. The G4S custody vans cannot through the vennel to the cells and prisoners have to be removed from the vans in the street and taken through the vennel and across the carpark.

26th June 2012

Appendix 1

Existing court locations
Appendix 2

Travel between Caithness and Inverness
By car:-
From Wick..................106 miles- minimum 2.5 hours to be allowed.
From Thurso..................112 miles-  “  “
From Reay..................117 miles-  “  “  3 hours to be allowed.
From John O’Groats........123 miles-  “  “  3 hours to be allowed.
These journeys involve using, *inter alia*, the A9 and the A99 which are two of the most dangerous roads in the UK. Residents of Caithness do not readily use these roads in winter unless absolutely necessary. Winter in Caithness is not short. Time to travel to/from car park must be added.

By rail:-
First train leaves Wick 06.20, arrives Inverness at 10.35 i.e. 4+ hours.
Last return leaves Inverness 17.54, arrives Wick at 22.14.
(Time to travel to/from railway station to be added).
NB. A person could not get to Wick from, say, John O’Groats, by public transport, for the first train south and get home the same night. Further, trains in winter regularly do not run due to weather conditions and often are without heating.

By bus:-
From Wick, first bus.... 6:53am - 10:44am  i.e. almost 4 hours
From Thurso................. 7:26am - 10:44am
From Reay.................... 7:34am - 11:54am
From John O’Groats..... 7:19am - 11:54am  almost 4.5 hours
To Wick.................... 5:28pm - 8:36pm  i.e. more than 3 hours
To Thurso.................. 5:28pm - 8:40pm
To Reay........................ 5:28pm - 8:40pm
To John O’Groats.......... no connection  i.e. not possible.

Appendix 3

Travel between Campbeltown, Oban and Dumbarton

1. *Oban transport.* The bus journey time is two hours and ten minutes. The buses leave Oban at 07.45, 12.10 and 18.15. They arrive in Dumbarton at 09.56, 14.21 and 20.26. On the return journey from Dumbarton they leave Dumbarton at 09.04, 13.10 and 18.40. They arrive in Oban at 11.12, 15.18 and 20.48. The earliest bus leaves Oban at 07.45, arriving in Dumbarton at 09.56, but at a point about one mile from the court. To get to the door of the court one either walks or hopes that a local bus will come along. Either way, therefore, it would be impossible for any participant in a case to be in the court for 10am.

2. Assuming the court day ends at about 4pm anyone travelling back to Oban would require to wait until 18.40 to get a bus, getting into Oban at 20.50. A single bus fare is £17.50 and a return is £22.80. The buses from Oban do not stop at the bus station in Dumbarton but on the Boulevard. This involves a one and a half mile walk to the court. The train service from Oban to Dumbarton leaves at 0811 and arrives at 10.59.

3. By train the situation is even worse. The earliest train leaves Oban at 8.11am, arriving in Dumbarton at 10.59am. Again assuming a court day ending at 4pm the only train back to Oban leaves at 18.47, arriving in Oban just before 21.30.
The court at Oban, of course, covers not just the town, but a large hinterland. For those living any distance from the town, and who are reliant on public transport, meaningful participation in a jury trial in Dumbarton becomes virtually impossible, as will hopefully become clear.

4. Clearly on these times witnesses, accused and solicitors would require to travel to Dumbarton the night before any trial was to take place and would require to be provided with accommodation. Police officers giving evidence would require to spend the day in Dumbarton and would be unlikely to be able to return to their duties on the same day. A jury trial could have a number of police officers giving evidence. Solicitors’ fees would be increased because of the difficulties in conducting a trial in Dumbarton. What would the legal aid position be? Are solicitors in Oban to be paid for travelling and conducting Solemn Business in Dumbarton?

5. Although it is very rare that there are witnesses travelling from Mull to give evidence if that were to happen there would be problems with getting a connecting ferry. The departure times from Craignure can vary throughout the year and of course sailings are dependant on the weather. During the summer months the ferries leave Craignure at 08.45 and arrive in Oban at 09.31 which is too late to get the 07.45 bus or the 08.11 train to Dumbarton.

6. **Campbeltown transport.** The bus journey is three hours and twenty minutes; there is no rail service. The earliest bus to Dumbarton leaves at 6.30am, arriving in Dumbarton at 9.50am, so that theoretically a 10am start should be possible, although the bus arrives in Dumbarton at the same place as the Oban bus, some distance from the court house. The only bus home after 4pm leaves at 6.40pm, arriving in Campbeltown at 9.55pm. Again, however, it must be borne in mind that the court at Campbeltown serves a large rural area with limited public transport, so that anyone living at any distance from the town who depends on public transport would find it virtually impossible actually to be in Campbeltown in time to catch the 6.30am bus to Dumbarton.

7. While the travel problems for any individual coming from either Campbeltown or Oban are obvious, more serious difficulties are bound to arise, in that it will be inevitable that witnesses and accused persons will find themselves using the same public transport, with the attendant potential for conflict, not to mention the risk of any case in which identification is an issue becoming tainted as a result.

8. It must also be borne in mind that the courts in both Oban and Campbeltown serve significant island communities, which rely on ferry services to get to what are currently their local courts. Anyone living in Mull can currently get to the court at Oban in good time for a 10am start. The same person trying to get to Dumbarton would find it impossible to arrive before approximately 2.30pm, and would find it impossible to get home the same day. For someone living in Islay, whose local court is currently Campbeltown, the earliest at which they could hope to arrive at Dumbarton would be 12 noon. Taking the end of the court day to be 4pm, getting home on the same day would be impossible, even for someone with their own transport.

9. A recent example may best illustrate further problems which will arise should jury trials be transferred from Oban/Campbeltown to Dumbarton. Late last year a Dumbarton sheriff was sent to Oban to hear a jury trial, the Oban sheriff being unavailable. The trial lasted three days, which meant that the sheriff required to use local hotel accommodation, at public expense. The case was one of fire-raising, which had taken place in a small village about 20 miles from Oban. All of the witnesses were local, being a mixture of civilians, police officers and members of the
local fire service. The case was prosecuted by the local procurator fiscal. It attracted a good deal of local interest, with relatively large numbers of the public (including the local minister) attending court to watch the trial. A reporter from the local paper covered the entire trial, and subsequent sentencing some weeks later. During the afternoon of the first day’s evidence the procurator fiscal sought permission to release two members of the local fire service from attendance at court as it was evident that their evidence would not be reached that day. Other members of the fire service, and all the police witnesses, were on standby, and therefore available to come to court at half an hour’s notice. The court sat at 10am each day, rising at 4pm or thereby.

10. Had this case been heard at Dumbarton then, firstly, beginning the day’s business at 10am would have been impossible. Travelling by bus the witnesses, and accused, would have arrived in Dumbarton at 09.56, had they been able to get to Oban in time for the bus which leaves at 07.45. Therein, however, lay another difficulty. The village in which the accused, and most of the civilian witnesses, lived, was a bus journey of one hour and 13 minutes away from Oban, with the first bus arriving in Oban at 08.48. While, therefore, all concerned were able to be at Oban sheriff court in good time for a 10am start, the earliest time at which they could have arrived at Dumbarton would have been 14.21, on the second bus of the day. The first train of the day arrives in Dumbarton at 11.00, but since it leaves Oban at 08.11 the accused and witnesses in the example case would not have been in time to catch it. The next train does not arrive in Dumbarton until 14.51. Secondly, releasing witnesses, as happened on the first day of the trial, would not have achieved the object of allowing them to carry on with their usual duties, given the time it would have taken for them to make the journey back to Oban. Thirdly, having witnesses on standby would have been impossible. All witnesses would have required to come to court, and, inevitably for some, to have gone home again to return the following day. Thus, in the example given, a significant number of fire service personnel and police officers would have been removed from their duties merely to sit waiting in witness rooms. Fourthly, interested members of the public wishing to see the trial would, for all practical purposes, have been unable to do so, given the travel times and distances involved. Fifthly, press coverage would have been unlikely, for the same reasons. Sixthly, the local procurator fiscal would have required to base himself in Dumbarton for the duration of the trial, requiring a replacement be found to cover his absence from his office. Alternatively the local procurator fiscal, having prepared the case, would then have had to hand it over to a colleague in Dumbarton to conduct the actual trial. Neither alternative is satisfactory.

11. In the example given travel costs for witnesses would also be far higher than if the trial were held locally. Of equal, if not greater concern, is the cost of taking police and other public servants away from their duties for prolonged periods, when current local arrangements mean these periods can be kept to a minimum. That is not an efficient use of resources, and unlikely to commend itself to, for example, the local Chief Constable, or the local Fire Master.

Appendix 4

Travel between Stranraer, Kirkcudbright and Ayr

Stranraer Sheriff Court District travel arrangements
1. There are important considerations concerning geography and travel times to Ayr Sheriff Court from other parts of the Sheriffdom. Stranraer and Newton Stewart are the two major population centres within the Sheriff Court District of Stranraer. Whithorn is the next in size but supplies a significant share of court business at all levels. Drummore is at the south end of the Rhinns of Galloway. Creetown is the easternmost village within the District.

2. By car: From Stranraer and Newton Stewart, the distance is 52 miles - minimum 1 hour 30 minutes; from Whithorn, the distance is 70 miles - minimum 2 hours; from Drummore, the distance is 70 miles - minimum 2 hours; from Creetown, the distance is 57 miles - minimum 1 hour 40 minutes. It should be noted that these journeys are on two way non-separated carriageways. There are few opportunities for safe overtaking. Slow HGV and agricultural traffic impacts materially on journey times. Furthermore, for each route further time is required for car parking and walking to and from the court.

3. By rail: The first train leaves Stranraer 07.09, arrives Ayr 08.35. The second train leaves Stranraer 10.05, arrives Ayr 11.35. The first train stops at Barrhill at 07.43 but the first bus from Newton Stewart does not arrive at Barrhill until 08.06. Thus connection to rail from Newton Stewart can only be to the second train from Stranraer to Ayr arriving Ayr 11.36. Returning, the route is no easier. The first train after noon leaves Ayr 17.31, arrives Barrhill, 18.16 and Stranraer 18.52. Of course, in addition, time to travel to/from railway station at both ends of journeys must be added.

4. By bus: From Stranraer, the first bus is at 07.37, arrive Ayr 09.43. From Newton Stewart, the first bus is at 07.25, arrive Ayr 10:13. From Whithorn, the first bus is at 06.40 if arrives on time at Newton Stewart connect with 07.25, otherwise connect to 08.00 and arrive Ayr 11.43. From Drummore, the first bus is at 7.00, arriving Stranraer 07.49, connect to next bus at 09.37, arrive Ayr 11.43. (It should be noted that these buses are the first buses for all communities between Whithorn and Newton Stewart and Drummore and Stranraer so journeys from places between although starting later will reach Ayr at the same time.) From Creetown, the first bus is at 7.50, arriving Newton Stewart 08.05, connect to next bus at 09.05, arriving Ayr 11.43.

5. The return journey is no easier. To Stranraer, the buses leave at 15.20, arriving at 17.24; the 17.20 bus arrives at 19.28, the 19.20 arrives at 21.28. To Newton Stewart, the last bus is at 16.20 arriving at 18.40. To Whithorn, the last bus is the 16.20 to Newton Stewart to enable onward connection. To Drummore, the last bus is the 15.20 to Stranraer to enable onward connection on last bus from Stranraer to Drummore at 17.40. To Creetown, the last bus is the 16.20 to Newton Stewart to enable onward connection. However the next bus after arriving 18.40 is at 20.05 arriving Creetown 20.20. It should again be noted that time to travel to/from bus stations/stops at both ends of journeys must be added.

Kirkcudbright Sheriff Court District travel arrangements

1. The two major communities are Kirkcudbright and Castle Douglas. In the smaller communities and in the completely rural locations the challenge can only be greater.

2. By car: From Kirkcudbright, the distance is 59 miles - minimum 1 hour 40 minutes; from Castle Douglas, the distance is 50 miles - minimum 1 hour 25 minutes.
Note that these journeys are also on two way non-separated carriageways. There are few opportunities for safe overtaking. Slow HGV and agricultural traffic impacts materially on journey times. Further, for each route further time is required for car parking and walking to and from the court.

3. **By rail:** Prospective passengers require to travel to one of Stranraer, Barrhill or Dumfries Stations. Stranraer is 52 miles from Kirkcudbright and 60 from Castle Douglas, Barrhill is 40 from Kirkcudbright and 48 from Castle Douglas, Dumfries is 29 from Kirkcudbright and 18 from Castle Douglas. Leaving aside the time needed and public transport difficulties in reaching Stranraer and Barrhill for necessary connections the times for journeys to Ayr from these stations is already set out above. For the journey from Dumfries; the first train leaves Dumfries 06.46, arriving at Ayr 09.33. The earliest bus from Kirkcudbright (06.25) and Castle Douglas (07.05) arrives at Dumfries at 07.18. Accordingly using public transport there is no connection with the first train. The second train leaves Dumfries 08.53, arriving at Ayr at 11.30.

4. Returning, the route is no easier. Leaving Ayr, the 16.06 arrives at Dumfries at 17.56 (with a bus connection at 18.06 to Castle Douglas (18.57) and Kirkcudbright (19.27). The next train leaves Ayr at 18.17 arriving at Dumfries at 20.56 (with a bus connection at 22.00 to Castle Douglas (22.39) and Kirkcudbright (00.27). Of course, time to travel to/from bus/railway stations at both ends of and within journeys must be added.

5. **By bus:** From Kirkcudbright, the leaves at 08.15, arrive Castle Douglas 08.45, to connect with first bus from Castle Douglas at 08.50, arrive Ayr 11.09. The return route is no better: to Castle Douglas, last bus 13.25 arrive 15.33. There are numerous connections thereafter from Castle Douglas to Kirkcudbright. Of course, time to travel to/from bus stations/stops at both ends of journeys must be added.

6. These travel times illustrate that for people reliant on public transport only those residing close to Stranraer have any prospect of arriving at Ayr Sheriff Court near time for a 10.00 start. Those people travelling by bus from Newton Stewart would be late and more so after allowing for travel from Ayr Bus Station to the Sheriff Court. The same applies for those from Whithorn always assuming the connection with the first bus from Newton Stewart is made. Otherwise for them as for those travelling from all other parts in Stranraer Sheriff Court District in practical terms they could not expect to reach Ayr Sheriff Court before 12.00. From Kirkcudbright Sheriff Court District the earliest to arrive is around 11.20 or 11.40 depending upon mode of public transport. In all cases this is after journeys of several hours.

7. In returning those who used bus travel to Ayr from Kirkcudbright Sheriff Court District must be away from court by about 13.10 to be able to reach home that same day. By rail they can be at court until about 15.50 to let them reach home at a reasonable hour. For those from Stranraer Sheriff Court District, again all travellers apart from those residing close to Stranraer require to have left Ayr Sheriff Court at about 15.00 to reach Drummore that same evening and at about 16.00 to reach Newton Stewart, Whithorn and Creetown that evening.

**Appendix 5**

**Transport times between Perth and Dunfermline**

**By Bus - City Link**
Perth to Dunfermline
Dep Arrive
8am  8.54am
9.10am  10.04am

Invergowrie (Dundee) to Perth, then Dunfermline
Dep Arrive
8am  8.35am to catch the 9.10am above

By Bus – Stagecoach

Blairgowrie to Perth, then Dunfermline
Dep
6.05am
6.55am
7am
7.45am
7.47am
7.50 am
7.52am
The times differ depending upon whether school or college is open. Only the first three buses arrive in sufficient time to catch to 8am Citylink service to Dunfermline.

Invergowrie to Perth then Dunfermline
Dep Arrive
6.25am  7.10am
7.46am  8.32am
Then the Citylink to Dunfermline

Blackford to Perth
Dep Arrive
7.10am  7.52am
7.50am  8.34am
Then Citylink to Dunfermline

Abernethy to Perth
Dep Arrive
6.45am  7.10am
7.45am  8.10am
7.58am  8.40am
Then Citylink to Dunfermline

Aberfeldy to Perth
Dep Arrive
7.15am  8.49am
Then Citylink to Dunfermline

Crieff to Perth
Dep Arrive
7.00am  7.45am
7.35am  8.28am  
7.55am  8.30am  
Then Citylink to Dunfermline

Rail services

Pitlochry to Perth
Dep  Arrive
7.25am  8.00am
8.16am  8.48am

Perth to Dunfermline
Dep
6.55am
8.00am
There would require to be a change at Inverkeithing.

Appendix 6

Distances for Dornoch, Tain, Wick and Inverness Courts

Table 1
Distances to Dornoch, Inverness and Wick

<table>
<thead>
<tr>
<th>Location</th>
<th>Return journey to Dornoch - miles</th>
<th>Return journey to Inverness - miles</th>
<th>Return journey to Wick - miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dornoch</td>
<td>Zero</td>
<td>86.8</td>
<td>127.8</td>
</tr>
<tr>
<td>Brora</td>
<td>35.2</td>
<td>114</td>
<td>92.8</td>
</tr>
<tr>
<td>Helmsdale</td>
<td>57.8</td>
<td>136.6</td>
<td>70.4</td>
</tr>
<tr>
<td>Lochinver</td>
<td>124.4</td>
<td>186.2</td>
<td>232</td>
</tr>
<tr>
<td>Kinlochbervie</td>
<td>138.6</td>
<td>217.4</td>
<td>233.6</td>
</tr>
</tbody>
</table>

Table 2
Distances to Tain and Inverness

<table>
<thead>
<tr>
<th>Location</th>
<th>Return journey to Tain - miles</th>
<th>Return journey to Inverness - miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tain</td>
<td>Zero</td>
<td>68.6</td>
</tr>
<tr>
<td>Invergordon</td>
<td>25</td>
<td>48.4</td>
</tr>
<tr>
<td>Alness</td>
<td>29</td>
<td>40.6</td>
</tr>
<tr>
<td>Edderton</td>
<td>10.6</td>
<td>79.2</td>
</tr>
</tbody>
</table>

Table 3
Distances to Dingwall and Inverness

<table>
<thead>
<tr>
<th>Location</th>
<th>Return journey Distance to Dingwall - miles</th>
<th>Return journey: Distance to Inverness - miles</th>
</tr>
</thead>
</table>

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<table>
<thead>
<tr>
<th>Location</th>
<th>Value 1</th>
<th>Value 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ullapool</td>
<td>90.76</td>
<td>113.78</td>
</tr>
<tr>
<td>Achiltibuie</td>
<td>139.20</td>
<td>161.6</td>
</tr>
<tr>
<td>Evanton</td>
<td>12.2</td>
<td>34</td>
</tr>
</tbody>
</table>