Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Blackwood & Smith WS

Scottish Court Service

Consultation on proposals for the closure of Duns and Peebles Sheriff Courts

Proposal 5

The proposal for the five Courts falling below our measure for low volume is that:

(a) Sheriff Courts and Justice of the Peace Courts should cease to be held in Dornoch, Duns, Kirkcudbright and Peebles, a Sheriff Court should cease to be held at Rothesay, and the Court buildings and Court accommodation in those places should be closed;

(b) the business from these Courts should be transferred to the neighbouring Sheriff Court districts and be heard at the Sheriff Courthouse in Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively;

(c) the changes be achieved during the year 2013/2014.

Question 16 Do you agree with the proposal to close the Sheriff Courts and Justice of the Peace Courts at Dornoch, Duns, Kirkcudbright, Peebles and the Sheriff Court at Rothesay and transfer the business into the neighbouring Sheriff Court Districts of Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively?

NO.

Question 17 If you disagree with the proposals regarding these Courts, please say.

(a) why you disagree, and

(b) how you would prefer the Sheriff Court and Justice of the Peace Court provision for these districts structured, being as specific as you can about how your preference would operate in practice.

If you are commenting on only some of the Courts affected, please indicate to which Court(s) your answer relates.

My answer relates to the closure of Peebles Sheriff Court. See attached.

Question 18 How would the closure of any of these Courts affect you?

Please give reasons for your answer and indicate to which Court(s) your answer relates.

My answer relates to the closure of Peebles Sheriff Court. See attached.
Response to the Consultation “Shaping Scotland’s Future Court Services

This is a response to the Consultation and in particular the proposals as they affect the Scottish Borders, more particularly the proposals for closure of Peebles and Duns Sheriff Courts. The response will predominantly relate to Peebles Sheriff Court although some comments are equally applicable to the closure of Duns Sheriff Court.

The respondent is a local practitioner from a general practice, dealing with a variety of areas of law but to a larger extent the area of Family Law. The respondent has been in private practice for the last sixteen years.

The respondent is against the closure of Peebles Sheriff Court and the transfer of business to Edinburgh.

In this response four areas will be covered:

1. Introduction
2. Background
3. Concerns Over Closure
4. Conclusion

1. Introduction

1.1 The Borders already have an extremely cost effective, efficient system in place for the provision of court services to its inhabitants. The provision of these services has evolved over time as a direct result of experience and the use made of the courts in the Borders by all court users, be they victims, accused, witnesses, local business people, police, party litigants, social services and criminal justice workers, solicitors and the Judiciary. The current system works, it does so because it has evolved as a response to local needs when compared with the facilities and financial constraints which are routinely encountered by people living in rural communities. It works because it provides services which do not add additional cost to the court users; it provides local access to justice by local people, solicitors and a Sheriff who has local knowledge and experience of the needs and requirements of the population of the Borders. More importantly, and in line with the vision and future aims of the SCS, it is a service which is provided at minimal cost to the service provider, in facilities that are modern, easily accessible and convenient for those who wish to use the service.
1.2 Instead of closure of facilities which were described seven years ago as "state of the art" and a "blueprint for the future provision of court services", the SCS should continue with the vision they started. The present arrangements for the Borders should be used as a model of good financial practice to be rolled out throughout the remainder of rural Scotland.

1.3 This response challenges the SCS vision of simply operating specialist centres in urban areas at the expense of services to rural communities. The idea of a travelling Sheriff whilst alien to those in urban areas, is commonplace in life in rural communities. It operates successfully in the Borders, it operates successfully in other organisations such as the Health service which sees Consultants travelling to local health centres to deliver services. Why, therefore is such a model incapable of being put into place by the SCS.

1.4 The closure of courts is neither new nor imaginative, the cost savings SCS wish to achieve could be achieved through a rationalisation of services in each area. Each area in Scotland could do the same as the Borders has done, they could retain generalist Sheriffs and summary Sheriffs dealing with the communities in which they sit; in one stop justice centres albeit on a smaller scale to that operated in Livingstone, but akin to the arrangements to be found at Peebles. The generalist Sheriff and Summary Sheriff would travel to locations to sit and deal with court business in that area. There would be an overarching of specialist courts in the three urban areas which would mean that if rural communities wished to avail themselves of a specialist Sheriff they could do so. The system could and should be flexible enough to allow the public to have their cases dealt with locally if they chose to do so but have recourse to a specialist should they choose. The reader may think that this proposal is the same as the proposal presently under consideration. That is not the case, the proposals detailed in the Consultation would mean that the Borders suffered a reduction in Judicial posts. The proposals contained within this response would ensure that locals had a Sheriff able to deal with the more difficult and complex cases locally rather than them being forced to go to one of the specialist Sheriffs in Edinburgh. Even if they simply wished a hearing before a Sheriff rather than a Summary Sheriff they would be forced to go outside the jurisdiction with all of the stress, inconvenience and expense that would entail. This response envisages the various areas in Scotland retaining generalist Sheriffs and Summary Sheriffs but reducing the number in each area, thereby allowing the SCS to make significant savings by reducing the number of Sheriffs in an area and sharing accommodation.
1.5 In that way services could be provided to rural Scotland but very much in the most cost efficient, effective and convenient way possible by allowing rural communities to retain the use of local court services.

1.6 The Consultation document makes mention on more than one occasion of a recognition that "one size does not fit all". It seems however that the proposals make scant regard to it. Life does operate differently in rural areas, it does so for many and varied reasons. One size most definitely does not fit all but with a bit of imagination and the willingness of SCS to listen to those in rural communities, in particular to identify and take on board the different challenges which each area has, savings can be achieved. Work with the local communities, they know what works and what does not in their particular area.

2. Background

2.1 The introduction would benefit by a description of how court services are provided in the Borders and how the present arrangements in respect of Peebles Sheriff court came into being.

2.2 Like many rural areas, the Borders covers a large area, 1827 square miles. It is the 6th largest region in Scotland. It is served by two main courts Selkirk and Jedburgh. The Sheriffs who sit in those courts travel each week to sit at Peebles and Duns Sheriff courts respectively. It has no rail links and is served by a variety of bus operators throughout the region.

2.3 Initially Peebles Sheriff Court was operated from the court building in the High Street. The court had its own dedicated Sheriff and Sheriff Clerk. The town lost their dedicated Sheriff on the retirement of Sheriff Thomson. The Clerk remained and the Court was presided over by Sheriffs travelling from Edinburgh each Wednesday to deal with the court business. The court only sits on a Wednesday. Subsequently the Town lost its resident Sheriff Clerk and the court was serviced by a Clerk who also travelled to Peebles on Wednesday. The Court was closed for four years when an outbreak of rot was discovered. That building was certainly not fit for purpose, the facilities
were poor and it, like a lot of the other old court buildings in Scotland was extremely expensive to maintain.

2.4 From that point all of the Court users travelled to Selkirk and the Sheriffs travelled from Edinburgh to hear cases at Selkirk. The Clerk from that point was based at Selkirk. Agreement was reached with Scottish Borders Council which saw the return of the Court to Peebles to sit in the Council Chamber at the County Buildings in Rosetta Road, Peebles.

2.5 The return of the Court involved a two stage process. SCS expended £150,000 in the addition of facilities required for the court building including a video link facility to Edinburgh. It was envisaged that members of the public would use the video link for assistance. The second phase saw a new police station built on the Category “A” listed County Buildings at a cost of £952,000. It was seen as a pioneering move which would see a variety of organisations moving into the building and sharing facilities. The new Court was opened in a hail of publicity in 2005. See Appendix 2 (pages 17 -24). Jim Wallace the Deputy First Minister opened the Court suggesting it was a “blueprint for the future provision of court services in Scotland”. It was variously described as a “one stop justice centre”. Something akin to the centre in Livingston to which the SCS suggest we should all “aspire”.

2.6 The Court continues to use the County Buildings together with the police and criminal justice team. The building itself has been vacated over the years by Scottish Borders Council staff ready for other justice centre organisations to move in as had been intended. See Appendix 1 (pages 13 to 16)

2.7 The Sheriff now travels from Selkirk to sit at Peebles on a Wednesday. This ensures that local cases are dealt with locally by a Sheriff who has gained experience of the local area, something which the Consultation document accepts is “critical” for sentencing.

3 Concerns over Closure

3.1 Disproportionate financial burden on court users

3.1.1 The consultation document suggests the costs incurred by SCS in running the court at Peebles is around £17,000. However a Freedom of Information Request (See appendix 3, pages 25 to 27) divulges an even higher figure. It states staff costs are £13,080 which includes travel costs; annual rent is £10,175 and additional IT costs are £6,351
totalling £29,606. These figures are factually incorrect, they do not represent additional costs which will result in savings if Peebles were to close. The figures should in fact be much smaller, £4,990.80. This figure is made up of one SG £2.2 days per month (it may be that this post has already been dispensed with); one EO 2 days per month, but these costs are already included in the costs of running Selkirk Sheriff Court, they are therefore not additional costs, they will remain even after any closure, they are not a saving.

3.1.2 If we look at the costs which the court users will incur, if the move to Edinburgh goes ahead, it is suggested that the savings being gained by SCS will be dwarfed by the added expense, inconvenience and stress caused to the court users as a whole.

3.1.3 From a police point of view, prisoners in custody, particularly over a weekend are held in Hawick. There will be a huge added burden both financially and in terms of manpower in transporting prisoners from Hawick to Edinburgh for an appearance. In terms of police officers attending court hearings in Edinburgh, again there will be a significant increase in the burden placed on the police service.

3.1.4 Turning now to the costs incurred by court users, those members of the public who are party litigants or party to an action, accused, witnesses. Those people who generally wish to use the services provided by SCS. To understand how important this particular point is, some background again might be helpful.

3.1.5 The Borders economy must be looked at in context with the burgeoning Edinburgh economy as links in the two are increasingly important.

3.1.6 Rural resources are completely diverse to those of urban areas, agriculture makes up the greatest use of land within the Borders. 10% of people are employed in Agriculture, fishing, mining and water; 33% are employed in manufacturing; 6% in construction; 19% in the restaurant, hotel and catering industries; 25% in transport; 6% in banking; 19% in public administration, education and health and 2% in other capacities.

3.1.7 The Borders generally encounters traditionally low paid sectors such as agriculture, textile industries and service industries. This means the economy of the Borders is lower than that of urban areas. Average weekly income in the Borders has consistently been lowest of
all Scottish regions. Earnings in the Borders remain well below average Scottish earnings and certainly well below the earnings expected in Edinburgh.

3.1.8 Benefits, usually Income Support is paid weekly at the rate of £56.25 for a single person 16-24; £71 over 25; £111.45 for a couple over 18. See Appendix 4 (pages 28 to 29)

3.1.9 Travel costs would be incurred by bus or car. The return bus fare is £10.70 and as a one off payment perhaps seen as affordable. However such a payment when a person is in receipt Income Support would place a considerable financial burden on that person. Also consider a family action in which Parties are required to attend Child Welfare Hearings (CWH). This is not unusual, and it is not unusual to have many many CWH's before an agreement can be reached. The resultant costs would be prohibitive if hearings were moved to Edinburgh. Consider also an accused who would require at least two trips to Edinburgh for Intermediate and Trial diets, and only if those trial dates went ahead on the scheduled days (unlikely) and lasted for only one day. It is perhaps understandable that a certain reluctance to use the court services will result. In reality once a court action is started or a person is accused there is very rarely just one visit to the court. Usually there are many visits which will have a severe financial impact on those wishing or having to use the service. It will therefore place those people in the Borders at a significant disadvantage of access to the courts.

3.1.10 The bus journey times given in the Consultation document are from the main centres of population but do not consider anyone who might live in Broughton, West Linton, Blyth Bridge or further afield. Those court users would be unable to participate without even greater inconvenience and financial burden placed upon them. In addition it is argued that the times shown for these journeys again is unrealistic when the journeys involved are taken at the times which are necessary to ensure attendance at a 10am court hearing.

3.1.11 The journey by car is no better. Whilst the information provided suggests a journey time of 41 minutes to Edinburgh; that is impossible given the time the journey would be required to be undertaken to ensure attendance at a 10am court hearing. It also does not take into account the costs of parking or the time in finding a car parking space. See Appendix 5 (pages 30 to 52)
3.1.12 What seems clear is that local people will be denied the right to access and participate in local justice without a great deal of added difficulty and financial burden. It is easy to see that someone faced with such a burden in order to pursue a small claim or see the Sheriff Clerk about obtaining Confirmation to a Small estate is unlikely to pursue matters.

3.1.13 The Consultation documents suggests more use of technology and use of video links, the video link installed at Peebles was removed through lack of use. Whilst technology is to be welcomed care has to be taken that it does not disenfranchise people and prevent them from using those services.

3.1.14 The suggestion contained in the Consultation document that the costs involved to local communities will be small and short lived is condescending and totally incorrect. There is ample evidence contained within the Consultation from various agencies that they expect increases in their budgets, and in some cases a reduction in service, as a result of the proposals.

3.1.15 There will be added costs to the Legal Aid Board and the Procurator Fiscal Service in paying expenses for solicitors to travel to Edinburgh or for witnesses to travel to Edinburgh to give evidence.

3.1.16 Both Social Work and Criminal Justice Workers have stated clearly that there will be increases to their budgets if the proposal goes ahead. They further suggest that there may be a reduction in service to that which they provide at present.

3.2 Loss of career opportunities

3.2.1 If business is moved to Edinburgh, local solicitors will be unable to deal with cases personally as the additional costs in time and travelling to Edinburgh would ensure that an Edinburgh agent was undoubtedly cheaper. That would have a knock on effect to the ability of rural solicitors to recruit and retain staff without the involvement of court work. That point in itself may not seem particularly important but would have a long term effect on the possible viability of the businesses in the Borders. In addition the public will not be able to look in to see a local solicitor with regard to Court matters.
3.2.2 There is, quite rightly, apprehension about the closure and its effect on career paths of employees of the various organisations, agencies including solicitors who use the court. It has always been difficult to recruit solicitors in the Borders, the limitation on future court training will do nothing to alleviate that.

3.3 Loss of community service

3.3.1 The loss of yet another community service. It is difficult to describe “community” to those who do not live in a rural community. It comes from knowing and caring a great deal about the surroundings and the people you interact with on a daily basis. It comes from the pride you take in living in the place you do, working with the people in the community, the contributions you make to the community by volunteering, the willingness to get involved in the community, to put something back.

3.3.2 It can be taken very lightly by those who have no understanding of it or a willingness to take it seriously. It is made up of such a variety of factors that it is difficult to be sure what it actually is. Nevertheless it is there, it may not be visible to those outside the community, those outside may not even care that it exists but it is at the heart of every rural community and should under no circumstances be underestimated or ignored. Every part of the community, and the courts are part of that, is as important to the future and sustainability of that community. The Sheriff Clerk makes appointments on the day the court sits to meet with members of the public to help them complete applications for Small claims, or applications for Confirmation to a Small estate. All of those services to the community would be lost if the court was closed and business transferred to Edinburgh.

3.4 Loss of local reporting of crime and subsequent accountability

3.4.1 There would be no reporting of local crime, as no local reporter would be present in court at Edinburgh, no chance of an offender being identified in the local press and held to account. The identification of an accused to their peers in the community is an important part of the community and can act as a deterrent. That aspect of justice would be lost. See Appendix 6 (pages 33 to 35)
3.5 Loss of local knowledge

3.5.1 The report acknowledges that local people dealing with local matters with a Sheriff who has gained local knowledge is critically important in sentencing. That too would be lost with the move to Edinburgh.

3.6 Difficulties with capacity at Edinburgh

3.6.1 The document refers to capacity, it agrees there would be little point and no sense in overloading courts to an unmanageable level. Can Edinburgh cope with the work of Peebles and Haddington? Edinburgh already send Commissary work to the staff at Selkirk. The present service from Edinburgh Sheriff Court in respect of Commissary business is far inferior to the service given by the staff at Selkirk. It presently takes around five weeks for a response from Edinburgh whereas paperwork is returned from Selkirk within two working days. The respondent simply does not have the confidence that Edinburgh has the capacity to undertake the work of Peebles and Haddington Sheriff Courts.

3.6.2 In addition Peebles Sheriff Court being covered by Edinburgh has already been experienced. Local practitioners had to fight to ensure that local cases were heard locally, that fight was assisted greatly by the Sheriff who sat at Peebles at that time. On the rare occasions practitioners were forced to attend Edinburgh the whole experience left one with the belief that Edinburgh did not wish to deal with Peebles business and that Peebles was simply an inconvenience. Likewise there is no confidence that that will change under the new proposals.

3.6.3 The Consultation document states there was only one summary proof and one small claims proof at Peebles in the last year. Such an argument for closure is flawed. To use such a limited view of the use of the court business fails to take into account the numbers of local people who presently access the court and its services and how many times they avail themselves of those services.
3.7 Previous Wasted Expenditure

3.7.1 The police station was built at an estimated cost of £852,000, in addition the SCS spent a further £150,000 putting facilities into the Court. This included a video link which was never used and has now been removed.

3.7.2 The Consultation document refers to the custody and witness facilities being poor (para 3.60 pg40). This is simply untrue, the police station is built on to the County Buildings in which the court sits. There are therefore custody facilities, two witness rooms, toilet facilities and an agents room all were built only seven years ago. The writer had the experience of attending Peebles Sheriff Court a few months ago as a witness, the only facility which is missing and would prove useful, is the provision of tea and coffee facilities. That is not an impossible problem to overcome.

3.7.3 The County Buildings, the building on which the police station was built is a Category A listed building. It is highly unlikely that Planning Permission approval would have been given if it were not for the plans which were in consideration at that time. It is a complete betrayal of that permission to now close the Court building without realising those plans.

4. Conclusion

4.1 Services are always more difficult to provide in a rural community, that is a fact of life and one which those who live in those communities understand and accept on a daily basis. However imagine if all other service providers simply took the position which SCS seeks to adopt and moved the provision of services into the main centres of population. Would we be policed from Edinburgh, have all of our medical services in Edinburgh, have our firemen at Edinburgh or have to make our way to Edinburgh before we could avail ourselves of public transport? Is that the vision for the future?

4.2 All other service providers find ways of providing services to rural communities which do not necessitate disproportionate increases in inconvenience or cost to those who wish to use the services. So the Consultant or expert comes from the Borders General Hospital to carry out clinics locally at various health centres; there are regional police headquarters with smaller community police stations, there are retained firemen who volunteer to provide essential fire fighting services and small ambulance stations which provide cover in rural communities.
The provision of Court services in the Borders has, likewise, found its own method of working and provided a similar answer by the local Sheriffs travelling to two satellite courts and providing local justice locally.

4.3 Peebles Sheriff Court in particular has facilities which, only seven years ago when opened, were described as “state of the art” and “a blueprint for the future provision of court services”. There is therefore agreement with SCS that there has been a complete failure to realise the potential of earlier reforms.

4.4 With a little willingness and imagination Duns Sheriff Court could provide the same services.

4.5 It is submitted that there are other alternatives than closure:

- keep Peebles open and continue to “aspire” to the vision which was envisaged in 2005. Continue to work with the agencies which already occupy the building to create the “one stop justice centre” which was promised seven years ago.
- consider a change to the boundary of Peebles Sheriff court, remove some of the burden from Edinburgh Sheriff court and transfer business from Penicuik to Peebles.
- transfer Duns Sheriff court to the local authority and work with other agencies to ensure best use of the building.
- consider alternative uses for the court chambers within the community, communities can come up with an amazing number of additional uses for courts out with the normal sitting times.
- the Government in the past has shown a willingness to outsource various Government departments. The Pensions agency at Tweedbank is a good example. Why could the SCS not do the same thing. The staff at Selkirk Sheriff court already undertake the additional workload of Edinburgh Commissary business, why could that not be extended. In this day of technology there is no reason why smaller local courts cannot undertake some of the administrative functions presently undertaken at the larger courts. Again the government is, through their initiative “big society” trying to give more power to local communities to be involved in decision making. If all other services simply wish to do as SCS proposes how does that fit in with the “big society”.
- If Selkirk sheriff court is costly to maintain, consider moving it to the centre at Peebles. See Appendix 1 (pages 13 to 16)

4.6 The absurdity of what is now proposed after all of the expense, hype and promises of seven years ago will not be lost on the people of Peebles and the Borders in general. It is simply ludicrous to waste over a million pounds of investment by closing the facilities at Peebles and represents a cruel blow to that community.

4.7 If, having said all of that, the SCS is minded simply to ignore the possibilities and prospects which the facilities at Peebles and Duns have to offer then the court business at Peebles should be transferred to Selkirk rather than Edinburgh. With
all of the difficulties in travelling to Selkirk considered, it is still a better option for the people of Peebles.

4.8 A transfer to Selkirk would ensure that local justice is dealt with locally, there are reporters from the local press at Selkirk, the staff are local and the Sheriff has built up considerable local knowledge and experience which is a pre-requisite of sentencing policy.

Sally Swinney
Blackwood & Smith WS

Appendix 1

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Two photographs of County Buildings in which the Court sits with Police Station at rear.</td>
</tr>
<tr>
<td>2.</td>
<td>Photograph of Lothian &amp; Borders Community Justice Authority.</td>
</tr>
</tbody>
</table>