Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from the Society of Solicitors and Procurators for the Eastern District of Fife

I represent the Society of Solicitors and Procurators for the Eastern District of Fife based at Cupar Sheriff Court.

I submit to this Committee the submission I made on behalf of the Society to Scottish Court Service as evidence against the court closure of Cupar Sheriff Court.

I note with interest the questions being posed by the Committee and the nature of their restriction.

With respect in my view, as you will see from the terms of our submission, you are asking the wrong questions.

When Lord Gill first announced the proposals for a review, he submitted that 40% of the Scottish Court Services’ budget was spent on maintaining buildings that were old, listed, out of date and not fit for service in the 21st century.

This has been a theme taken through by Scottish Court Service so that the main purpose behind closure of Cupar Sheriff Court (and others) is to effect savings both in relation to ongoing court costs and in respect of what they maintain is a backlog of repairs amounting to £450,000 (for Cupar).

Scottish Court Service have “rubberstamped” the proposal for closure of Cupar Sheriff Court and have not taken into account any of the financial information provided which in our view does not support a closure of the court. In effect, they have been economical with the truth in that they have proposed in terms of their figures an economic argument for closure of the court which is spurious at the very least and does not stand up to robust scrutiny.

Roderick Campbell, a member of your Committee has spoken eloquently in Parliament in relation to his not being satisfied as to the economic argument for the closure of Cupar Sheriff Court. He has recently received figures from Fife Council which confirm that the projected costs versus savings do not stack up economically.

Haddington have recently obtained the opinion of a Forensic Accountant which has confirmed that the costs of moving business to another court jurisdiction from Haddington will cost the public purse rather than save it.

One of the matters that seems to have been lost in this whole argument is that this is not a public service which is free at the point of delivery. The Justice Minister Kenneth MacAskill in a recent article/interview with The Journal of the Scottish Law Society indicated that he anticipated that Scottish Court Services should be in a position to pay for itself in relation to increased fees, etc. In excess of £200,000
worth of fees goes through Cupar Sheriff Court annually for civil cases and in particular for commissary. This figure exceeds SCS’s own figures for the annual running costs of this court.

In the original consultation, Scottish Court Service completely neglected to take into account the significant civil business that was being undertaken throughout the country and made absolutely no provision for commissary business.

It is my view that they have based their submissions for the absorption of Cupar Sheriff Court’s business into Dundee solely based on projections in relation to criminal basis and have not taken into account civil and commissary business.

In a recent discussion between the Sheriff Clerk at Cupar and the Sheriff Clerk at Dundee, the Sheriff Clerk at Dundee indicated that he had not appreciated that there was such a significant amount of civil business being undertaken at Cupar in addition to the substantial amount of commissary business. He pointed out to the Sheriff Clerk at Cupar that he was at a loss to understand how Dundee was in a position to absorb this business in addition to the criminal business and the additional civil business being returned from the Court of Session under Lord Gill’s review.

The reality is that the court at Cupar should remain open as a new style Summary Sheriff Court undertaking all the summary criminal business, the appropriate summary civil business and all the JP criminal business.

The Scottish Court Service, the Justice Minister and Lord Gill have held up the Livingston Sheriff Court model, where the police, Social Work Services, Victim Support and Criminal Justice Services are all under one roof, as an ideal solution to modern court services. It is therefore ironic at a time when the Criminal Justice Services, Social Work Department and the police are all to be relocated in a refurbished County Buildings which is part of Cupar Sheriff Court that SCS propose that the court be closed.

In my submission, the correct scrutiny in respect of this plan to cut Cupar Sheriff Court should focus on the financial arguments to justify SCS’s decision to close their part of the building.

It is accepted by Eric McQueen of SCS that there is no basis in capital terms for the sale of the building at Cupar. It is not possible to sell it on the open market given that it is a shared building with Fife Council and on that basis, there is no opportunity to sell it to a commercial third party at arm’s length. It is therefore accepted that there will be no return obtained from the sale of Cupar Sheriff Court and it will remain a white elephant for which Scottish Court Service will remain responsible for common repairs and others until such time it is disposed of to a third party which in the circumstances, Scottish Court Service consider is unlikely either in the short or mid term. On that basis, there will be a continuing cost base at Cupar Sheriff Court for maintenance for mothballing the court.

Sheriff Davidson at Dundee was quoted in the papers in the last two weeks as indicating he had no understanding of how Dundee Sheriff Court was supposed to cope with additional business from Cupar Sheriff Court when on any one day they
could not undertake all the summary trials set down for Dundee on that particular day. He was referring to a day when a number of trials had to be put off for lack of court time.

Discussion with Dundee agents confirms that there is “no room in the inn” in respect of Dundee Sheriff Court absorbing business from Cupar and from other courts (Arbroath and Forfar) on the basis of areas of speciality proposed under Lord Gill’s reviews for civil business. The only person who is convinced that Dundee can absorb the additional business is Eric McQueen, Chief Executive of Scottish Court Service.

Alloa and Lanark were originally on the review for closure and for being assumed into other court districts. Because there is no room at Stirling and Falkirk for Alloa, they have had to keep Alloa open. A similar situation prevails in respect of Lanark.

With respect this Committee should be scrutinising in detail the financial proposals and benefits being proposed by Scottish Court Service.

It is this Society’s view that they have “cooked the books”. Your Committee will accept the fact that public bodies are adept when it comes to economics and cost savings and are notorious for the wastage of public money e.g. The Scottish Parliament building, the trams in Edinburgh, COPFS computer systems and the like.

The public in Cupar have genuine concerns about the lack of scrutiny of the SCS proposal. There were 60 submissions made in respect of Cupar Sheriff Court against its closure and all were well reasoned and argued. All of them have been completely ignored by SCS as they are not interested in the consultation process which is a complete sham.

Likewise, the referral of this matter to this Committee for scrutiny is also a sham in that the Government have made their mind up and all they are interested in is delivering this closures at minimal cost benefit effect to the public purse so it is a “done deal”. The Justice Minister indicated that he had considered the proposals carefully. With respect, he has simply relied on so called expert evidence to justify his support to these proposals and has not properly scrutinised the proposals. In other words, he has taken cognisance of the recommendations from SCS but they have not been subject to any political scrutiny whatsoever and SCS’s suggestion that there will be nil financial impact on our community has no basis or justification in fact.

Once more, a local community which has its last vestige of civil function i.e. the court (which has been in existence since medieval times in this location) is to be closed at the whim of Central Government on the basis of incorrect facts and financial information thus turning history on its head.

There is a significant geographical and historical difference between the communities of North East Fife and Dundee City. It is not appropriate for this court to be merged with the City Sheriffdom and is against all the principals espoused by this same government of communities of having access to justice locally.
We obtained over 2,000 signatures from members of the public opposed to the closure of Cupar Sheriff Court and I hold those petitions on behalf of my Faculty.

Central Government have taken no cognisance of the views of the local people. Once again we are being dictated to by centralised government to the detriment of our rural community.

There is an economic and social purpose in Government expending subsidies (our taxes) to sheep farmers in places like Glenlyon to ensure the sustainability of the community in that particular area. This government have taken no account of the economic impact that the closure of Cupar Sheriff Court will have on this community.

If closure goes ahead, they will get their comeuppance at the next election on the basis that I do not anticipate that Mr Campbell will be returned as MSP for this constituency over this one issue alone.

It is hoped that this Committee will exercise its political function of scrutiny of the Executive and return this matter to the Parliament to be properly debated and for there to be proper scrutiny of the SCS accounting which in our view is fundamentally flawed and is shown to be so through our own analysis of the projected costs provided by SCS. The SCS Executive should be taken to task over their recommendation.

Finally, the closure of Cupar Sheriff Court is against the original basis of the review of the court structure. Our building is not antiquated and is capable of modernisation with little cost or expense to SCS. Whilst the court may form part of a listed building, it is also part of the County Buildings which were refurbished and extended in the 1950s and have been subject to a £3million refit by Fife Council this year. It flies in the face of joined up thinking for the police and Social Services to be relocated in County Buildings at a time when the court is to be taken away. The geographical difficulties that that poses for police, Social Services, the press, the public, the solicitors and everybody else involved in the court service is set out in the original submission to SCS that is annexed to this submission.

I am disappointed to note that the Committee have not taken any evidence or do not appear to be taking any evidence from the major protagonists involved in representing the interests against closure of each of the Sheriff Courts in each particular district. Is that democratic? With respect, the Law Society have not taken this Society’s views into account in any submission they make supposedly on our behalf.

It appears that democracy is likely to be the loser in all of this.

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