Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Craig Borland

This submission to the Committee is primarily concerned with the impact of the SCS’s recommendation to close Rothesay Sheriff Court and transfer all Bute civil and criminal court business to Greenock.

However, in my submission to the SCS consultation in December 2012 I also addressed the other proposal which I felt would have an impact on Bute court business, and I deal with this in section 1 below.

1. Concentrating sheriff and jury business in fewer locations

Firstly I seek to address the recommendation that sheriff and jury business be held in fewer locations. While I do not object in principle to this recommendation, I am concerned at the small number of courts in which it is proposed to conduct such business.

Sheriff and jury cases originating in Rothesay are currently heard in Greenock, and the move to another location - presumably Paisley - will increase travel costs and, almost certainly, the time spent by witnesses, accused and victims waiting for their 'slot' in the Paisley calendar.

In the event of this recommendation being approved in its current form I would seek an assurance that Rothesay cases will be heard only in Paisley, as travel to any other sheriff court would involve unacceptable additional inconvenience.

2. Closure of Rothesay Sheriff Court

2.1 Historical context

The SCS stated in its 2012 consultation on shaping Scotland’s court services: “Summary sheriffs will preside over the high volume summary work of the sheriff courts. The volume of this business, its local connection, and its implications for a great number of people, particularly victims and witnesses, convince us that having facilities locally to deal with this business remains the most appropriate way to provide access to summary justice.”

As far as criminal business is concerned, the original SCS proposals of December 2012 noted that the facilities now available to Rothesay Sheriff Court – at Argyll and Bute Council's premises at Eaglesham House – are only capable of dealing with summary matters. That is something of which the SCS must, presumably, have been fully aware when the decision was taken to close and sell the original court premises in Rothesay and to rent space at Eaglesham House on one day per week to conduct court business. Having taken that step in 2005, with the aim of cutting costs at least partly in mind, I fail to see why the SCS should again target the community on Bute –
particularly when the predicted cost saving in 2012 is substantially smaller than the saving made seven years ago.

I agree wholeheartedly with the second sentence of Paragraph 2.4 as quoted above. I would suggest, therefore, that proposing the closure of Rothesay Sheriff Court is entirely inconsistent with “having facilities locally to deal with this business” as “the most appropriate way to provide access to summary justice”.

2.2 Access to justice

Paragraph 2.11 of the consultation stated that “we are not abandoning any area of the country, although we recognise that in a few places the justice system will need to be accessed in different ways”. This seems to me to be at best a euphemism and at worst a blatant distortion of the proposed situation. A system in which “accessed in different ways” means causing serious inconvenience to its users is not one which, in my view, is in the public interest.

2.2.1 Travel costs and distances

Paragraphs 2.37 to 2.41 of the consultation deal with the issue of increased travel distance and cost as a result of the proposed changes. Specifically, paragraph 2.39 states: “We acknowledge that some people will be disadvantaged, while others will have lower travel costs and distances as a consequence of our proposals.” Can the SCS specify the number of people with business at Rothesay Sheriff Court who would have “lower travel costs and distances” as a result of transferring all Bute’s court business to Greenock – other than court staff, COPFS representatives and mainland-based solicitors, that is?

Paragraph 2.39 also deals, briefly, with the concern that increased travel to court may encourage non-attendance. “Similar fears,” the last sentence states, “were expressed in the context of the establishment of justice of the peace courts and the unification of the court administration. Our experience is that these fears were not realised.” I suggest it is likely that those fears were not realised in Rothesay because Bute does not have a JP court, and that when the old district court in Rothesay was abolished its business was simply absorbed into that dealt with by Rothesay Sheriff Court. If that is the justification for closing courts across the country, it is a justification which simply does not apply in Rothesay.

Paragraph 4.38 deals with the impact of the closure of Rothesay Sheriff Court in more detail. The cost of a return journey from Rothesay to Greenock is given as £8.10 if using bus and ferry, and £32.50 if using car and ferry. The paragraph notes that “many residents of Bute already undertake such a journey on a more frequent basis than that required to attend for court business”. That bald statement overlooks the fact that many – indeed, I would suggest, most – of those who require to attend court are on substantially lower incomes than those of the average daily commuter, or indeed those who can afford the cost of occasional trips for leisure purposes. As attendees at every sitting of Rothesay Sheriff Court, we can attest that the number of occasions when a solicitor representing an absent accused person stands up to say their client is “unable to attend in person because they have insufficient funds” has increased markedly in the last year or two. That number will rise steeply in the event
of Rothesay Sheriff Court's closure.

### 2.2.2. Low levels of court business

Rothesay is one of five sheriff courts identified in paragraph 3.57 of the SCS consultation as being ripe for closure due to a “measure of business below which it becomes disproportionate and inefficient to maintain a sheriff court”. The first point I would make in relation to this is the arbitrary way in which that measure of business appears to have been chosen; the consultation makes no mention of how this decision has been arrived at.

Paragraph 3.58 outlines how the courts at Dornoch, Duns, Kirkcudbright, Peebles and Rothesay fall below this measure. However, the accompanying table outlining the number of sitting days and the amount of criminal and civil business at these courts does not appear to support the case for closing Rothesay.

First, it shows the number of sitting days at Rothesay has actually increased, from 41 in 2009-10 to 43 in 2010-11 and 44 in 2011-12. Surely that would not have been necessary if the amount of business at Rothesay were falling?

Second, although the number of criminal and civil cases for each court in 2011-12 is set out, no information is given on how this compares with previous years. This is an omission as basic as it is ridiculous: as a journalist I am perfectly well aware of the danger of quoting a particular number out of context, so why is it that the consultation has failed to provide this information?

### 2.2.3. Suitability of court facilities

The SCS recommendation of April 2013 that the closure of Rothesay Sheriff Court should go ahead appeared to be largely based on the perceived unsuitability of the court's current facilities.

Paragraph 3.60 of the 2012 consultation listed the physical shortcomings of the five courts proposed for closure, with Rothesay as follows: “The court at Rothesay sits in the council's marriage room which is adapted for each sitting using demountable court furniture, including a witness box and dock.” That strikes me not so much as a shortcoming but as a model of modern flexibility which other courts would do well to learn from. Why should demountable furniture and a venue which has another function on the remaining six days of the week be seen as something undesirable?

The same paragraph stated that “There is no cell accommodation” at Rothesay Sheriff Court. This is entirely correct. However, less than five minutes’ drive away there is cell accommodation at Rothesay's police station. Again, in my view this should be seen as something positive: there is cell accommodation close by, so why not make greater use of it?

### 2.2.4. Cost implications

Page 78 of the SCS consultation document forecast that the closure of Rothesay Sheriff Court will save an annual sum of £6,000. This is by far the smallest forecast
saving of any of the 19 proposals for JP and sheriff courts – smaller even than closing Annan JP court, which only sits on one day a month.

It seems to me highly likely that the £6,000 saved from closing Rothesay Sheriff Court will be easily swallowed up by the increased costs involved in transferring business from Rothesay to Greenock. Witnesses’ expenses will go up, as will expenses claims by professionals from Bute required to travel to Greenock, such as solicitors and social workers.

The cost to Police Scotland - which has already begun its life loaded with substantial debt - of having Bute-based officers travelling to and from Greenock, and, occasionally, Paisley, to give evidence is also likely to increase significantly. The SCS may save £6,000 by closing Rothesay Sheriff Court, but other public sector organisations will inevitably see their spending increase as a result. It appears that no attempt has been made by the SCS to take a holistic approach by considering the overall implications to the taxpayer of its recommendations.

2.2.5. Non-financial implications

There are are several consequences of closing Rothesay Sheriff Court against which a forecast saving of £6,000 seems insignificant in comparison.

Increased potential for disorder. The three ferries which, at various times of the year, operate on the Rothesay-Wemyss Bay route all have entirely open-plan internal passenger spaces. It is entirely conceivable that the accused and the complainer in a particular case, along with any supporters, will find themselves travelling from Rothesay, and possibly back again, on board the same ferry sailing. On a day when emotions on both sides will already be running high, the potential for disorder on board the ships – and indeed, on the bus service to and from Greenock – is very real indeed.

Police resources. Police resources on Bute can already be stretched when several officers are required to attend Rothesay Sheriff Court as witnesses (in addition to the requirement to have a police presence in court). At present officers can remain available for other duties until they are required to give evidence – often at only a few minutes’ notice. This will no longer be possible in the event of Rothesay Sheriff Court’s closure.

Travel to and from Greenock, plus waiting time at either end of the journey and in the court building, plus the time spent giving evidence, could easily deprive Bute of a large chunk of its police presence for eight hours or more at a time. How can the police officers remaining be expected to cope if there is a major incident on the island while several of their colleagues are away at court on the mainland? At present this happens only occasionally, in the event of sheriff and jury trials in Greenock or trials at the High Court; it is a scenario which would become much more frequent if Rothesay Sheriff Court is closed.

Public safety. Paragraph 2.20 of the consultation document states: “The Scottish Government has recognised that keeping people safe, ensuring they can exercise their individual and collective rights and helping to resolve disputes fairly and swiftly
are important pillars on which to build a flourishing economy.” No-one should be under any illusion that on Bute, the aim of “keeping people safe” will not be served by the proposal to close Rothesay Sheriff Court.

How so? Well, any police officer will tell you that it’s not always easy to get members of the public who witnessed an incident to come forward and give a statement. Faced with the prospect of having to travel to Greenock, in their own time and (initially at least) at their own expense, to give evidence, witnesses on Bute are even less likely to come forward with information than is the case at present. Securing a conviction will become considerably more difficult as a result.

Closing the local court facility is effectively to publish a ‘criminals’ charter’. Bute is generally a safe place to live – indeed, that is one of the most frequently cited reasons given by people who choose to move to Bute from elsewhere. Closing Rothesay Sheriff Court will make Bute a less safe place to live and a less attractive place to move to, with negative economic consequences as a result.

Public awareness of the justice system. Not only must justice be done, it must also be seen to be done. In the news release on the justice committee’s call for evidence, the convener stated that “we hear from local sheriffs that sometimes the greatest sanction for the guilty party can be the threat of being named and shamed in the local press who cover the courts”. We can confirm that in our own small community that is a pretty accurate summary of the position!

The Buteman attends every sitting of Rothesay Sheriff Court - we are almost always the only presence in the court without a direct connection either to the cases being heard or to the court system - but we do not have the resources to attend in Greenock, particularly if all Bute business is simply absorbed into the totality of Greenock business rather than being heard on a specific day.

It is vital that the general public knows how its money is being spent in our courts, and we are proud to be their eyes and ears. Closing the court in Rothesay will not only have a detrimental impact on local access to justice; it will also severely damage public faith on Bute in the justice system as a whole.

3. Alternative proposals

Given that I do not believe the £6,000 annual saving to the SCS will translate into an overall £6,000 saving to the taxpayer as a whole, my alternative proposal would be simply this: do not close Rothesay Sheriff Court.

However, some thought should be given to the more efficient planning of court business. It is my understanding that one Monday per month at Rothesay is given over to civil business, with criminal business on the other three or four. However, it is my experience that the volume of criminal business is not evenly balanced out over the course of the month: on one ‘criminal’ Monday there may be three or four trials in a list of more than 30 cases, and on another criminal day no more than half a dozen cases due to call overall, none of them trials.

Clearly it is impossible to say in advance how long each court day will last. But
paying the same expenses to cover the cost of a sheriff, fiscal and court officer on a day when they are able to return to the mainland at lunchtime, the day's business being complete, as on a day when business lasts until after 4pm and one or more trials cannot be heard due to lack of court time, does not strike me as the most efficient way to operate.

Perhaps if consideration of this matter results in court business being more evenly spread out over the course of a month, it may be possible to hold a sheriff court in Rothesay on only three Mondays out of four, or four out of five, thereby reducing travel expenses.

Craig Borland
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