Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Anthony Anderson

Cupar Sheriff Court - proposed closure

As a local solicitor principally involved in civil litigation, I wish to intimate my opposition and response to the proposed closure of Cupar.

Throughout the consultation process I believe that perhaps more emphasis has been placed on the impact of Criminal justice on Cupar and surrounding area and very little, if anything has been discussed about impact on those who would be also denied access to its very robust and effective Civil Court.

Undoubtedly people will be denied effective and swift access to justice in the following disciplines:

- Divorce and time taken from warranting writ until decree.
- Residence of children and time taken from initial Child Welfare Hearing until actual Proof determining issue.
- Contact disputes and time taken between initial warrant and shorter timescale in assigning Child Welfare Hearings.
- Contractual disputes and efficiency of one resident Sheriff who pro-actively cuts through protracted matters restricts unnecessary continued litigation and therefore delay /expediting justice.
- Adults with Incapacity (Guardianship) Hearings and effective turnover of same.
- Curators’ reports and quicker turnaround in producing same and focussing issues at Child Welfare Hearings and/or Proof.

As a Family Law solicitor and in the event all family caseload is remitted to Dundee I am not convinced that Court can readily and easily absorb more than the abundance of Child Welfare Hearings and opposed family motions it has presently. Invariably, when I have represented a parent in Dundee I have been expected to wait a minimum of two hours before my case is taken. There is no semblance of order in these cases whereas in Cupar each Child Welfare Hearing is allocated its own fifteen minute slot. This significantly cuts down waiting time and overall cost, thereby positively impacting on the client’s purse if the litigation is funded personally or the public purse if legally aided.

The time taken in the alternative Court to process a contact or residence dispute is considerably longer and coupled with the travelling and inevitable waiting time, this
could potentially discourage a parent based in Cupar who would raise proceedings from actively pursuing their fundamental right to resume a relationship with their child or children.

One resident Sheriff in one Court guarantees expeditious progress and continuity of approach for Pursuer or Defender as opposed to conflicting shrieval attitudes and opinions already prevalent if their case was progressed/ determined by the “lottery” of Dundee Sheriffs varying from diet to diet.

My firm alone paid over to the Cupar Sheriff Court in excess of £80,000 last year in fees to Scottish Court Service such is the level of caseload and local people wishing to litigate in their local Court.

An example supporting the ethos of keeping justice local was one family I recently represented in the Cupar Court being able to accommodate a three week Fatal Accident Inquiry following the cot death of their baby boy. Having represented them and conducted the FAI, their access to justice was considerably easier and less painful giving and hearing evidence in their town’s Court as opposed to travelling to a foreign one. I am certain that the excellent support staff in the Sheriff Clerks office and their attempts to shield my clients from the intrusive press interest each day would not have been available elsewhere. Although this of course is only one family- the entire community followed the case and because it took place in Cupar- my clients were able to tangibly feel that support not only from the public but the Court itself. That is important and that should not be lost amongst the exercise of fiscal control and costs savings.

In summary, a closure of the Cupar Court will significantly impact on those members of the public who more often than not, wish to pursue or defend issues which are personal and highly emotive. Such issues are presently being robustly and swiftly determined and resolved in Cupar. The turnover of duration in civil cases from warrant until dismissal will be significantly higher than if remitted to Dundee, thereby inevitably increasing public outlay.

I would therefore impress upon you to seriously consider the impact on justice a proposed closure would have on many wishing to pursue or defend a family -related issue or civil litigation.

Such access to fundamental principles and rights would be seriously curtailed.

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