I took part in the consultation exercise prior to the decision made to close Duns Sheriff Court. I understand that matters are being looked at by your Committee.

I was heavily involved in opposing a proposal which was made some years ago to close Duns Sheriff Court. The arguments which were made at that time against closure of the Court are the same ones which apply this time round. It is important that I need to point out that the arguments are exactly the same.

The closures of Duns Sheriff Court will have significant implications for local justice both for criminal and civil matters.

As regards the area currently served by Duns Sheriff Court, it is proposed that certain types of criminal cases will be taken to Edinburgh Sheriff Court. It is also my understanding that certain civil matters (particularly family matters) will also be taken to Edinburgh Sheriff Court with only the summary criminal and summary civil business is to be dealt with at Jedburgh Sheriff Court.

I am not sure if those who took the decision to Duns Sheriff Court and to propose that the business usually dealt with there be transferred to Jedburgh and Edinburgh ever looked at a bus timetable for the Borders. I strongly suspect not. Decisions appear to have been taken by officials who have no appreciation of the lack of public transport in the wide geographical area which is the Borders. If I am wrong and there was some input from someone with knowledge of public transport in the Borders then I question if that person has ever used or tried to use the bus service. The fact of the matter is that not everyone has a car or access to a car. It is my experience that the people least likely to have a car or access to a car are the very ones most likely to be required to attend Court.

For any case which is likely to take all of the Court day in Jedburgh it is not possible to make the journey by public transport from, say, Eyemouth or Cockburnspath in the one day.

At no time following the representations which were made to support the retention of Duns Sheriff Court has this been disputed. If it is disputed I would like to know what answer will be given.

I would ask Members of the Justice Committee to try and understand the plight of a young mother who has young children (who may or may not be at school), without access to a car, having to attend Court and trying to get to a distant Court from anywhere in Berwickshire by public transport.

Another point which I am forced to repeat is that the public transport which will have to be used by Court users will be the same vehicle containing pursuers, defenders,
complainers, accused, witnesses and friends of all those groups. That is wholly inappropriate.

Unlike in cities, if someone misses a bus, another will be along in a few minutes. That is not the case in the Borders area. If a bus is missed there may not be another one or, if there is, it will be hours later. What sympathy will a Sheriff, completely alien to the Borders and the difficulties of transport, give to someone turning up late for Court or, indeed, not turning up at all. My experience is that, particularly accused persons, will get no sympathy and may well find themselves being remanded in custody for failing to attend Court in time.

In submissions made by Scottish Borders Council in support of the retention of Duns Sheriff Court, costings were made for the current cost of operating Duns Sheriff Court. My understanding is that the running costs (however they are calculated) are in the region of £6,000 per annum.

It was also pointed out that the number of cases including trials and proofs, was distorted as a good number of Duns cases are dealt with at Jedburgh currently (for the purposes of convenience of the Court itself and not for Court users). Many proof and jury trials involving Berwickshire residents take place at Jedburgh. This fact is not reflected in the figures for the use of Duns Sheriff Court.

The fact of the matter is that the trivial savings being contemplated following the closures of Duns Sheriff Court will be overwhelmingly outweighed by costs to other people, including the Legal Aid Board, the Police, private clients of solicitors, individuals and Duns Court users. The displaced costs will greatly exceed a figure of £6,000.

It also came to my attention that the Scottish Court Service believe that there is money to be made by selling off Duns Sheriff Court. Anyone with any knowledge of Duns Sheriff Court (it forms part of a building partly used by Scottish Borders Council) will know that there is no prospect of the property being sold. Scottish Borders Council are not interested in its purchase. Scottish Court Service will require to meet its share of the maintenance obligations for the building whether it is used or not. There will be no savings there and will further dilute the contemplated savings following closure.

I believe in the submissions made by the Sheriff for the Borders (Sheriff Kevin Drummond) that he made reference to Duns Sheriff Court being a “model” for the operation of outlying Courts (the people who live in “outlying” areas do not consider themselves such but that wording is used as a result of the central belt mentality which seems to be part of the driving force behind the Court closure plan).

There is no reason why there requires to be specific buildings used for Court purposes. Any reasonable building which can be adapted from time to time to allow a court to sit in a local area could be used. With modern technology providing instant access to information, it is possible for “Courts” to move to the people to provide democratic local justice for “outlying” areas of the country. As stated previously, Duns is the model for this. It has been operating satisfactorily with the administration at Jedburgh Sheriff Court but Duns Court sitting locally on a regular basis dealing with criminal and civil matters (including all family matters). It is simpler to take a
Sheriff, Sheriff Clerk Court Officer and computer to a location than to have twenty or thirty people trying to travel to the other side of the Borders or up to Edinburgh plus the associated attendance of Policemen, Social Workers, Witnesses, Witness Support Representatives and others. That point is simple and fundamental but clearly has not been addressed by those taking the original decision as it appears to be a matter to which no consideration has been given. The decision is based on a lack of knowledge of the Borders area and appears to be driven solely by a desire to make savings (which will be minimal, if any, in the case of Duns) and the possibility of obtaining a capital sum (which is so unlikely in the case of Duns Sheriff Court that it can be discounted).

It may be the case that Duns Sheriff Court was included in the list because it “ticked the same boxes” as other Courts marked for closure in other jurisdictions. That is not the proper way of deciding the matter. Duns requires to be looked at on the basis of its individual facts and circumstances. There will be virtually no savings to the Scottish Court Service by closing the Duns Court and there will be no gain from any sale of premises. The Scottish Court Service will continue to meet its share of the expenses of the building which will remain unused and closed. Costs, exceeding any contemplated savings, will be forced on other Court users and Agencies.

While I believe it is for people more familiar with other Courts which are subject to closure to make whatever points they feel important in connection with their own local Court, the fact that Duns Sheriff Court, and the way it has been operating for many years now, could be used as a model for the operation of other Courts does not appear to have been taken up or even considered by those taking the closure decision. There was nothing in any of the documentation which I have seen, prior to the decision being taken, that would suggest that an alternative way of delivering democratic and local justice was considered.

Closure of Duns Sheriff Court will provide no particular benefits for the Scottish Court Service but will greatly inconvenience and add costs to other people. The exercise will simply shift expenditure from Scottish Court Service (in part) to other people and Agencies.

Frankly that is no way to look at or run a justice system.

Did those in the Scottish Court Service even consider looking at countries with a similar size of geography to Scotland to find out how they organise delivery of justice? Did anyone look at Austria, Denmark, Norway? Are we in Scotland not capable of devising a justice system that is capable of delivering local justice to everyone in Scotland? Does everything come round to a question of cost, including the delivery of justice? Does everything require to be centralised? The information revolution does all for information to be available everywhere. Instead of being a centralised factor it should and can be a de-centralising benefit.

That benefit should be for the people of Scotland and not those charged with administering the justice system.

Iain Smith and Partners WS
20 May 2013