Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Argyll and Bute Council

I refer to the call for written views on the Scottish Court Service recommendations on a future court service, as published on the Scottish Parliament website.

A summary of the council’s response is provided below, addressing the questions presented in the call for evidence:-

1. What will be the local impact of the SCS’s recommendations on access to justice?
2. What will the local impact be on court users of the SCS’s recommendations?

This summary is derived from council reports and responses to the consultations undertaken by the Scottish Courts Service.

An extract of the Council minute for 25th April 2013 is also copied below, expressing the strong views held by our elected members.

‘This Council condemns the final recommendations of the Scottish Court Services consultation on shaping the future of Court Services in Scotland. This consultation failed to take into account the critical views of Argyll and Bute Council respondees in its final recommendations, which mirrored exactly its suggestions in its consultation document that Sheriff & Jury Trials be ended in Argyll and Bute. The varied bodies in Argyll and Bute who responded to the consultation process and who included groups as diverse as the Law Society of Scotland, Local advocates, Strathclyde Police, women’s aid groups and Argyll and Bute Council, correctly argued that the proposals would be detrimental to the delivery of justice in Argyll and Bute. It is evident that the original proposals and now undemocratic recommendations of the Scottish Court Services are driven by cost and expediency and not justice. These recommendations when implemented will reduce access to justice, incur additional expense and inconvenience for the citizens of Argyll and Bute. This Council strongly opposes any such transfer of jurisdiction that in our view was borne out of a flawed consultation process and a poorly researched initial consultation document. This Council calls on the Justice Minister of Scotland Mr Kenny MacAskill to reject the undemocratic and unrepresentative recommendations of the Scottish Courts Services proposals on shaping the future of court services in Scotland in relation to Argyll and Bute and to preserve the existing provision of justice services in the Argyll and Bute area.’

Should the Scottish Government decide to confirm the closure of Rothesay Sheriff Court and the implementation of the new arrangements for sheriff and jury business, we would ask for your support in opposing the draft statutory orders to implement this decision.

Charles Reppke,
Head of Governance and Law
1. **Access to Justice**

1.1 Particular issues of concern for Argyll and Bute relate to:-

   - excessive cost
   - inaccessibility of venue
   - limitations of public transport
   - criminal justice not delivered in the local community

These are detailed below as they relate to the closure of Rothesay Sheriff Court and the new arrangements for sheriff and jury business.

1.2 **Closure of Rothesay Sheriff Court**

1.2.1 Rothesay Sheriff Court serves an island community that does not, due to the vagaries of the weather, enjoy reliable ferry access to the mainland. Ferry cancellations are unpredictable but a reality of island life. In the six month period between September 2011 and March 2012 there were 273 cancelled sailings (affecting 24 days in total) between Rothesay and Wemyss Bay due to adverse weather. This was not a particularly severe winter and higher levels of cancellation are not unusual.

1.2.2 The particular travel difficulties involved in reliance on ferry travel and the limited travel timetable that may require people to be absent from home for a number of days to attend a case. This could have a detrimental impact on family life as well as increased costs for the Court service and the Council.

1.2.3 Weather disruption is likely to create a demand for overnight accommodation expenses and provision for those involved in proceedings. Those travelling on the day of Court business may find themselves unable to attend Court with resultant impact on the administration of justice and those required to participate.

1.2.4 There are serious concerns in relation to the practicalities of travel arrangements which will often involve travel to and from Court on the same ferry. This close proximity will be fraught and potentially risky, not only for witnesses and the preservation of evidence for accused, but also victims, especially in domestic violence cases where the accused may be subject to bail conditions.

1.2.5 In criminal cases, the proceedings will not take place on Bute, which has a significantly different profile to that of Greenock. The effect of this will be that local communities on Bute will not be engaged in the administration of justice. An additional issue is that court business will not be fully reported within the local media (there are currently fourteen local media outlets across Argyll and Bute) and that the public need to see justice being carried out will be compromised and undermined.

1.2.6 A further burden will be placed on professionals supporting those already in crisis; having to cope with excessive travel, prolonged build-up of anxiety and travelling far beyond their “comfort zone”. Although, from a national perspective, the amount of civil business in Argyll and Bute is not high, this Council wishes to highlight the human impact, both in emotional and practical terms, of unnecessarily transferring these matters to a centralised...
Sheriff and Jury Business

1.3.1 The new regime will potentially diminish access to justice for people in Argyll and Bute, particularly in regard to the prospect of jury membership e.g. Dumbarton jurors for Oban and Campbeltown cases, Greenock jurors for Dunoon and Rothesay cases. There must be a question of whether such arrangements are in keeping with the principle of being judged by one’s peers given the different social and community factors that exist between the locations in Argyll and Bute and those proposed to dispense justice.

2. Local Impact on Court Users

2.1 Closure of Rothesay Sheriff Court

2.1.1 As at 1.2.5 above there are personal safety issues linked to the possibility of disorder and violence between the accused travelling by ferry with vulnerable witnesses etc. to Greenock Sheriff Court.

2.1.2 Additional travel time and costs will impact on alleged victims and witnesses e.g. child care expenses and on the local authority in terms of travel and subsistence costs and officer time sending relevant staff to attend Greenock Sheriff Court.

2.1.3 There is a risk that closure of this court will have a detrimental impact on local legal firms which may result in lack of choice and access to local legal advice for the public.

2.1.4 The proposed closure date of 30th November 2013 will have a significant impact on Council budgets as travel and subsistence budgets have already been finalised. The additional costs associated with travel to Greenock will place an extra burden on scarce resources and will result in unplanned cuts to essential services. The additional travel time will not be compensated to the Council but will result in overtime or flexi claims which will place extra pressure on the ability to deliver services to the public.

2.1.5 It is understood that the ‘receiving court’ – Greenock Sheriff Court already has a substantial volume of cases. Transferring the workload of Rothesay Sheriff Court will inevitable require careful planning and scheduling of cases to facilitate potentially difficult travel arrangements.

2.1.6 The time spent by police officers and expert witnesses travelling to Greenock Sheriff Court and being away from their areas of responsibilities is costly, inappropriate and unnecessary.

2.1.7 The Council's alternative proposal is based on the existing precedent in Lochgilphead. This is also a low volume Court and operates as an annex of Dunoon Sheriff Court. Rather than closing Rothesay Sheriff Court, it should instead be made an annex of Greenock Sheriff Court. Lochgilphead annex, a low volume court, may well have been spared closure due to its
remoteness from other Courts. Our contention is that Rothesay Court, a higher volume court than the Lochgilphead annex, by the nature of its limited transport links is equally, if not more, remote and should therefore enjoy at least a similar status to Lochgilphead court.

2.1.8 The closure of Rothesay Sheriff Court would negatively impact upon the ability of our various services involved in court representation to meet Government national standards in terms of "immediacy and speed" delivering community based sentences from the point of sentence. Sentencing will occur within another local authority and whilst orders can be electronically transferred, the actual face to face engagement with an offender placed on a community order at the time of sentence will be compromised. There is no guarantee that Rothesay cases will be dealt with on one day and, if subsumed into normal business of Inverclyde, it would be impossible to have an Argyll and Bute officer in court daily to "catch" Argyll and Bute offenders as they are sentenced. Subsequently induction will be delayed as the offender returns to the island and this will contravene the requirements of national standards. Attendance at Court to speak to breaches and other face to face enquiries will involve increased time and expense for the Local Authority.

2.2 Sheriff and Jury Business

2.2.1 Similar travel concerns to those described at section 1.2 above will impact on members of the public and officials in regard to the withdrawal of Sheriff and Jury Trials from Campbeltown, Dunoon and Oban Sheriff Courts.

The first consultation focussed on the relative travel distances resulting from the proposals but did not adequately address the wider context of limited transport alternatives or the dependence on weather conditions affecting the available routes.

Residents within Mid Argyll and the Kintyre peninsula are subject to a limited and long haul bus service - over 3 hours and 120 miles each way to get to Dumbarton for those who live in Campbeltown. Ferries from Cowal and Bute for residents to attend court in Paisley are subject to the vagaries of the weather or, for Dunoon residents, a 150 mile, 4 hour, round trip. The logistics for residents of Argyll and Bute to attend court are complex and time consuming.

2.2.2 If an incident occurred on one of the Inner Hebrides, the complainer/victim, accused (or the accused’s agent) island witnesses, police officers etc. will have to travel by ferry to one of our ports and then onwards to Dumbarton Sheriff Court. The logistical problems, family care and expense of this will greatly exceed the cost of sending a Sheriff and a Prosecutor to one of our Courts

2.2.3 In the case of Oban, Campbeltown and Dunoon there could be a situation where the victim of serious crime may have been assaulted by their partner; witnessed by their neighbours. Each of these, in addition to agents, witnesses, medical staff, police officers and potentially jurors would then physically travel past their local Sheriff Court to travel to
Greenock/Dumbarton - rather than have the Sheriff and Prosecutor travelling to their local courts.

2.2.4 Again, the time spent by police officers and expert witnesses travelling to other courts and being away from their areas of responsibilities is costly, inappropriate and unnecessary.

2.2.5 There is a risk that the transfer of Court business from each of the affected Courts in Argyll and Bute will have a detrimental impact on local legal firms which may result in lack of choice and access to local legal advice for the public.

2.2.6 As noted at 1.2.4 above, court business will not be fully reported within the local media (currently fourteen local media outlets across Argyll and Bute), the public need to see justice being carried out will be compromised and undermined.

2.2.7 As at 1.2.5 above there are personal safety issues linked to the possibility of disorder and violence between the accused travelling by ferry with vulnerable witnesses etc. travelling to other courts on the same public transport.

Argyll and Bute Council
20 May 2013