Dear Sir

I should be grateful if the accompanying papers could be made available to the members of the Justice Committee when they consider the proposals for Shaping Scotland's Court Services.

They comprise:

- my response to the consultation proposals
- my letter of 14 April to the editor of "The East Lothian Courier"
- my letter of 21 April to the Justice Secretary, Mr K MacAskill.

All three specifically support the retention of the Sheriff and JP Courts in Haddington and draw attention to the perceived impact of closure. It is extremely disappointing that to date little cognisance has been taken of the views of respondents or of the evidence produced by them.

Yours faithfully

SCOTTISH COURT SERVICE

CONSULTATION ON PROPOSALS FOR A COURT STRUCTURE FOR THE FUTURE

Response Form

Incorporating the Respondent Information Form
Scottish Courts web site. Please mark the appropriate box in question 5 to indicate whether you are content for your response to be made public.

4. Permissions as an individual

(a)

Do you agree to your response being made available to the public (in paper copy and/or on the Scottish Courts web site)?

YES  ☒

NO  ☐

Please enter an X in the appropriate box

(b)

Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please enter an X in ONE of the following boxes

Yes, make my response, name and address all available  ☐

Yes, make my response available, but not my name and address  ☐

Yes, make my response and name available, but not my address  ☒

5. Permissions as a group/organisation

Are you content for your response to be made available?

YES  ☐

NO  ☐

Please enter an X in the appropriate box

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CONSULTATION ON PROPOSALS FOR A COURT STRUCTURE FOR THE FUTURE

RESPONSE FORM

The proposals and questions are set out on the following pages of this form.

Please enter your response within the box of the question you are responding to. The box will expand to allow for your text.

Please return the completed respondent information form and your response to the consultation

by e-mail to: courtstructures@scotcourts.gov.uk

by post to:
Scottish Court Service
Field Services Directorate
Court Structures Consultation
1A Parliament Square
Edinburgh, EH1 1RF

Your response should reach us by noon on Friday, 21 December 2012.
The High Court Circuit

Pages 23 to 25 of the Consultation Paper.

Proposal 1

The proposal for change to the court structure supporting the High Court Circuit is that:

(a) the High Court should sit as a court of first instance primarily in dedicated High Court centres in Edinburgh, Glasgow and Aberdeen;

(b) additional sitting capacity should be provided only in designated sheriff courts in the east and west of the country;

(c) there should remain the opportunity for a sitting of the High Court to be held at another location when the Lord Justice General or the Lord Advocate considers that to be in the interests of justice;

(d) these changes to the current arrangements should be phased over the period to 31 March 2015, and that during this period, additional capacity, when required, could be provided from a bank of courts, which would be Greenock, Paisley, Dumbarton, Livingston and Dunfermline.

Question 1 Do you agree with the proposed structure of sittings of the High Court at first instance?

Response

I do not wish to comment on the proposed structure of sittings of the High Court at first instance.

Question 2 If you disagree with the proposed structure of sittings of the High Court at first instance, or a specific aspect of the proposal, please say:

(a) why you disagree, and

(b) how you would prefer the sittings structured, being as specific as you can about how your preference would operate in practice.
**Question 3**  What impact would our proposals for High Court sittings at first instance have on you?

Please give reasons for your answer.

**Response**
They would not affect me as the current arrangements in Edinburgh for residents in East Lothian would be unaffected.
Consolidating sheriff and jury business and other shrivial specialisation

Pages 27 to 31 of the Consultation Paper.

Proposal 2

The proposal for changes to the supporting structure for sheriff and jury business and the exclusive civil, administrative and miscellaneous jurisdiction of the sheriff is that:

(a) in the mainland jurisdictions, sheriff and jury business should routinely be held only at the sheriff courts of: Glasgow, Aberdeen, Inverness, Edinburgh, Livingston, Paisley, Dumbarton, Kilmarnock, Airdrie, Hamilton, Ayr, Dumfries, Perth, Dundee, Falkirk and Dunfermline;

(b) in the mainland jurisdictions, as the body of summary sheriffs became established, the sixteen sheriff and jury centres would become centres of shrivial specialism in the civil, administrative and miscellaneous jurisdiction of the sheriff, where business in those jurisdictions would be dealt with;

(c) the sheriff courts at Lerwick, Kirkwall, Stornoway, Lochmaddy and Portree would continue to hear all business within the jurisdiction of the sheriff;

(d) the changes, being dependent on the deployment of sheriffs and summary sheriffs, court capacity becoming available and the development of the use of video and other communications technology in court proceedings, would be progressively introduced over a period of ten years.

Question 4 Do you agree with the proposals for a supporting court structure for sheriff and jury business?

Response
I agree in principle with sheriff and jury trials taking place only in the 16 nominated locations but not if this entails the removal of all court services from a location (eg Haddington). In other words, it is important that a summary sheriff be appointed timeously to ensure continuity locally both in the sheriff and JP courts.

Question 5 If you disagree with the proposals for sheriff and jury business, please say:

(a) why you disagree, and

(b) how you would prefer the provision of court facilities for sheriff and jury business to be structured, being as specific as you can about how your preference would operate in practice.
Response
See above. I would disagree most strongly if the proposals for sheriff and jury trials were accompanied by or contributed to the complete removal of court services in locations such as Haddington.

Question 6 Do you agree with the proposal that the sheriff and jury centres should become centres of specialism in the civil, administrative and miscellaneous jurisdiction exclusive to sheriffs?

Response
I see such a move as an inevitable and necessary consequence of the proposed arrangements for sheriff and jury trials. I would see it as taking place gradually over a period of time. It is important to recognise that, while specialisms are developed in response to the requirements of more serious cases, the generalist approach remains relevant and important locally and is supported by the appointment of summary sheriffs in locations such as Haddington.

Question 7 If you disagree with the proposal that sheriff and jury centres should become centres of shrivel specialism, please say:

(a) why you disagree, and

(b) how you would prefer the exercise of the sheriffs exclusive civil, administrative and miscellaneous jurisdiction to be structured, being as specific as you can about how your preference would operate in practice.

Response
With the caveats already indicated. I do not disagree with the proposals.

Question 8 What impact would the hearing of sheriff and jury business only in these sixteen centres have on you?

Please give reasons for your answer.

Response
Only within recent years have sheriff and jury trials returned to the sheriff court in Haddington after a lengthy period during which they were heard in Edinburgh and jurors from East Lothian (if they were involved at all) had to attend there. The consultation document shows only three trials to have taken place in Haddington, considerably fewer than anticipated and planned for. The removal of sheriff and jury trials from Haddington would not, therefore, have a significant impact, as long as it remained possible for summary (and civil) business to continue in the Haddington court.
Question 9  What impact would shrieval specialisation based in the sheriff and jury centres have on you?

Please give reasons for your answer.

Response
Once again, as long as shrieval specialisation does not contribute to the court in Haddington being deprived of a sheriff (or, in time, a summary sheriff), it will have no impact on me. If the proposed closure goes ahead, the impact will be considerable; these matters will be addressed later in my response.
Justice of the peace courts in towns where there is no sheriff courthouse

Pages 34 to 36 of the Consultation Paper.

Proposal 3

The proposal for the five justice of the peace courts in towns where there is no sheriff courthouse is that:

(a) the justice of the peace courts at Coatbridge, Cumbernauld, Annan, Irvine and Motherwell should close and the business be transferred to a justice of the peace court sitting in the sheriff courthouse for the district;

(b) these changes, which are dependent on there being sufficient capacity in the respective sheriff court houses, should be phased over the financial years 2013/14 and 2014/15.

Question 10 Do you agree with the proposals for the justice of the peace courts at Annan, Coatbridge, Cumbernauld, Irvine and Motherwell?

Response
I accept the arguments put forward for the closure of these courts and note the acceptance of the need to phase the closures taking account of adequate court capacity.

Question 11 If you do not agree with the proposals, please say:

(a) why you disagree, and

(b) what court structure would you prefer to support the business of these justice of the peace courts, being as specific as you can about how your preference would operate in practice.

Response
I do not disagree.

Question 12 What impact would the closure of these justice of the peace courts have on you?

Please give reasons for your answer.

Response
It would have no impact on me. I leave those who will be affected by the proposed changes to make the case for the retention of court services in these locations.

The Justice of the Peace Courts at Portree, Stornoway and Wick

Page 37 of the Consultation Paper.

Proposal 4

The proposal for the justice of the peace courts at Portree, Stornoway and Wick is that these courts should be disestablished and that all summary criminal business be heard in the local sheriff court.

Question 13  Do you agree with the proposal to disestablish the justice of the peace courts at Portree, Stornoway and Wick?

Response
This merely extends the current arrangements in Orkney and Shetland, but it significantly increases the area of the country in which the role (or continued existence) of the JP becomes uncertain.

Question 14  If you disagree with the proposal to disestablish these justice of the peace courts, please say
(a) why you disagree, and
(b) what alternative proposal you would prefer to see in place, being as specific as you can about how your preference would operate in practice.

Response
I do not disagree.

Question 15  What impact would the disestablishment of the justice of the peace courts at Portree, Stornoway and Wick have on you?

Please give reasons for your answer.

Response
It would not impact on me personally.
Sheriff courts with low volumes of business

Pages 33 to 40 of the Consultation Paper.

Proposal 5

The proposal for the five courts falling below our measure for low volume is that:

(a) sheriff courts and justice of the peace courts should cease to be held in Dornoch, Duns, Kirkcudbright and Peebles, a sheriff court should cease to be held at Rothesay, and the court buildings and court accommodation in those places should be closed;

(b) the business from these courts should be transferred to the neighbouring sheriff court districts and be heard at the sheriff courthouse in Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively;

(c) the changes be achieved during the year 2013/14.

Question 16
Do you agree with the proposal to close the sheriff courts and justice of the peace courts at Dornoch, Duns, Kirkcudbright, Peebles and the sheriff court at Rothesay and transfer the business into the neighbouring sheriff court districts of Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively?

Response
Low volume of business is a valid criterion for the closure of courts. As the consultation document acknowledges, there are other equally valid criteria for retaining services. I leave it for others to argue the case for their particular court.

Question 17
If you disagree with the proposals regarding these courts, please say:

(a) why you disagree, and

(b) how you would prefer the sheriff court and justice of the peace court provision for these districts structured, being as specific as you can about how your preference would operate in practice.

If you are commenting on only some of the courts affected, please indicate to which court(s) your answer relates.

Response
I do not disagree with the decision, although this is mainly because I am not directly affected and am not in possession of sufficient information about individual courts, although even from the details provided in the consultation document it would appear the court in Kirkcudbright can mount a strong case for survival.
Question 18  How would the closure of any of these courts affect you?

Please give reasons for your answer and indicate to which court(s) your answer relates.

Response
Closure of the sheriff and JP courts in Duns could impact on the court in Haddington. The plan is to transfer business to Jedburgh, although the document recognises that public transport is not easy and even suggests that residents along the A1 corridor might be better served by the court in Edinburgh. Retention of court services in Haddington would provide a much closer alternative (18 miles closer). Also much road traffic business in Duns derives from the A1 road, which runs through East Lothian from Innerwick to the City of Edinburgh boundary and provides both Haddington courts with a significant amount of business. As it is a trunk road, many accused come from outwith the district but the treatment of offenders is of interest and importance to local people.
Sheriff courts in proximity to each other

Pages 38, 39 and 42 to 44 of the Consultation Paper.

Proposal 6

The proposal for the sheriff courts that are in proximity to another sheriff court where there is capacity to take additional business, or that capacity will become available as a consequence of other changes, is that:

(a) sheriff courts and justice of the peace courts should cease to be held in Alloa, Cupar, Dingwall, Arbroath, Haddington and Stonehaven and the court buildings and court accommodation in those places should be closed;

(b) the business from these courts should be transferred to the neighbouring sheriff court districts and be heard at the sheriff courthouse in Stirling (solemn business in Falkirk), Dundee, Inverness, Forfar, Edinburgh and Aberdeen respectively;

(c) the changes should be phased over the two years 2013/14 and 2014/15, or as the necessary capacity becomes available.

Question 19  Do you agree with the proposals to close the sheriff courts and justice of the peace courts at Alloa, Cupar, Dingwall, Arbroath, Haddington and Stonehaven and transfer the business into the sheriff court districts of Stirling/Falkirk, Dundee, Inverness, Forfar, Edinburgh and Aberdeen respectively?

Response
I cannot agree to the removal of court services from communities of the size and importance represented by the towns indicated. Justice would, thereby, become even more remote and divorced from a large proportion of the population, especially taking into account the hinterland which is served by these local centres of business and trade.

Question 20  If you disagree with the proposals to close these courts, please say:

(a) why you disagree, and

(b) how you would prefer the sheriff court and justice of the peace court provision for these districts structured, being as specific as you can about how your preference would operate in practice.

If you are commenting on only some of the courts affected, please indicate to which court(s) your answer relates.

Response
See attached response with reference to Haddington court.

**Question 21**  How would the closure of any of these courts affect you?

Please give reasons for your answer and indicate to which court(s) your answer relates.

**Response**

Please see attached response with reference to Haddington court.
Questions 20 & 21

Response

While I disagree with the proposed closure of all the courts identified, I shall present my argument only for the retention of court services in Haddington, although a number of the points will be of equal relevance elsewhere.

The courts in Haddington (Sheriff and JP) more than meet the requirement for an adequate level of business, both civil and criminal, for them to remain open. See para 3.76. In total Haddington deals with more business than any other court scheduled for closure. The business argument does not produce sufficient grounds for closure.

The proximity argument for closure which the consultation document presents is both contrived and irrelevant; the choice of 20 miles is arbitrary and the criterion is not applied consistently. The data provided shows that it takes more than twice as long to travel from Tranent and Prestonpans to Edinburgh by bus as it does to Haddington and from Musselburgh there is no saving of time. The time taken from Dumbarton is significantly increased. No cognisance is taken of the fact that in Haddington the court buildings are in the centre of the town a few yards from a bus stop. To reach the Edinburgh sheriff court from the nearest bus stop entails a walk of around 15 minutes. The needs of residents in distant rural communities such as Oldhamstocks, Innerwick, Stenton and Garvald have been ignored. Closure of the Haddington courts on grounds of proximity to the Edinburgh court, even as part of a “package” as argued, is just not supportable.

It is recognised that cost savings is an important driver in the proposals for future court provision. In the current times of austerity and with a severely reduced capital budget it will not be possible to undertake the improvements to buildings and facilities to provide the same access to justice across the country. However, over recent years the court in Haddington has enjoyed a not inconsiderable level of investment designed, inter alia, to improve security and also facilities for justices. Although it is at first floor level, disabled access is possible when required. With no further need for jury rooms, alternative use can be made of existing accommodation to improve facilities for all court users, including solicitors and their clients. It is argued that the facilities available in Haddington for the provision of justice may be considered acceptable for court users for the foreseeable future.

The consultation document indicates the importance of ensuring adequate capacity elsewhere before any court is closed and argues it would be counter-productive to close a court without alternative accommodation being assured. It claims this is the case in Edinburgh to which the business from Haddington would be directed. The document, however, fails to substantiate the claim; anecdotal evidence from informed court users plus the additional roles which are proposed for the Edinburgh Sheriff Court and JP Court building suggest strongly that the building is already over-crowded and will have difficulty in accommodating the extra business. In addition to the civil and criminal business from the sheriff and JP courts in Haddington and Peebles, space will have to be found for summary sheriffs and the sheriff court appeal system. It is noted that the High Court already makes regular use of a courtroom in the building. The development of a team of specialist sheriffs will inevitably increase demands for space in the building. Accommodation is already at a premium for JPs to carry out signing duties and only becomes available on a limited number of occasions later in the day. The quality of service currently on offer to East Lothian residents will be seriously reduced.

The removal of court services from Haddington will have an effect on the economic well-being of the town. The document claims that any effect of court closure will be limited and short-term (7.10). This is not a view shared by the Haddington business community. Court days bring into the town people from around the county (accused, friends, witnesses, jurors and potential jurors), who
bring trade to the shops and cafés. This will disappear, along with the business generated by court staff and also procurator fiscal service staff, who will no longer be employed in Haddington.

The court building is in a prominent position in the town centre, on a site of historic significance and adjacent to (and part of) local authority headquarters. It contributes to the fine appearance of Court Street and appears in many photographs of the town. The downstairs accommodation is used for weddings and so the building becomes an important focal point in the life of the community. It was built as a courthouse and will not adapt easily to serve other appropriate purposes. The prospect of such an important building boarded up, lying empty, or becoming used for some activity not in keeping with the environment is one that cannot be ignored.

The financial analysis of savings to be achieved by the closure of the court building in Haddington shows a figure of £81,000 annually from running costs and depreciation plus a one-off saving of £471,000 estimated back-log maintenance saving. Without further information it is not possible to query these figures but the estimate of savings from the maintenance back-log seems excessive. It is noted that SCS is responsible for the building in Court Street used by the procurator fiscal service, which will not be required if the court closures go ahead and which will therefore allow further savings to be made. It confirms the suspicion that the proposed removal of court services in Haddington is being driven primarily by financial considerations rather than quality access to justice.

There is a strong case for the retention of the Sheriff and the JP court in Haddington, both in terms of the case for closure brought forward by SCS in the consultation document and in the wider cultural, community and commercial context of the effects such closure will have on the lives of residents of East Lothian.
**Sheriff court district boundaries**

Page 46 of the Consultation Paper.

**Question 22** If you consider that the boundary of any sheriff court district should be redrawn, please specify what changes you would like to see made, and give your reasons for the changes you propose.

**Response**
I would like to see the boundary of Haddington Sheriff and JP courts extended to include coastal Berwickshire or at least to remain co-terminous with the local authority (East Lothian) whose social work department will be closely involved with many court clients and disposals.

**General Questions**

**Question 23** If there are any aspects of this consultation paper about which you wish to comment and an opportunity to do so has not arisen in any of the earlier questions, please let us have your comments here.

**Response**

**Question 24** If there are any aspects of the provision of court services in Scotland about which you wish to comment, express a view or offer an idea, and an opportunity to do so has not arisen any of the earlier questions, please let us have your comments, views and ideas here.

**Response**
Removal of court services from Haddington means a wide swathe of South East Scotland from Edinburgh to the English border will be deprived of reasonable access to the justice system. Even in times of austerity, this is a step too far to contemplate and must not be taken.
The Editor  
East Lothian Courier  
Court Street  
Haddington

14 April 2013

Dear Sir

The recent publication of “Shaping Scotland’s Court Services”, the response of Scottish Court Service to the consultation and recommendations for a future court structure in Scotland, has confirmed the closure of both the Sheriff and the Justice of the Peace courts in Haddington. By January 2013 there will be no court presence in Haddington, and the knell will have been sounded on several hundred years of judicial activity in the county town.

The cogent arguments against closure produced by individuals and organisations in East Lothian – and fully supported by our MSP and The Courier – have been dismissed and rejected. It will surely not be long before the Fiscal Service in Court Street shuts up shop too. It is hardly necessary to rehearse again the drastic knock-on effect the closures will have on court users, the local legal practices, the police and the Social Work department of East Lothian Council. They have all been put to SCS and have been deemed to be less important than making savings which the recommendations themselves show to be minimal and are likely to be counteracted by additional costs from another public purse.

More than six months ago I described the consultation process as a sham, and so it has proved. The process has produced only two changes from the original recommendations, and they are mere stays of execution for two courts. The volume of support for retention of court services in Haddington and the strength of the arguments, by far the most powerful response from any of the threatened communities, have counted for nothing.

It is dishonest to claim, as SCS does, that the changes are necessary to provide an improved court service in line with “Principles for Provision of Access to Justice”. The changes are driven principally by the need to maintain the service in the face of savage cuts in the budget. The SCS is not alone in seeking to cope with austerity, and it is right that every effort is made to modernise, update and streamline the service, but the proposed cuts will not achieve these improvements and they will have serious repercussions both to the delivery of justice and to the communities that are affected.

The final decision on adoption of the plans is not for Scottish Court Service but for our politicians. It is questionable whether they will prove to be more sympathetic to the case for retention of courts in Haddington and elsewhere, but it is Holyrood which provides the finance, and our MSPs, especially those in the SNP government, who must be persuaded that adequate funding must be provided to prevent a serious erosion of the provision of justice in parts of the country. There is still a job to be done.

Yours sincerely

Graham W Coe
Mr Kenny MacAskill MSP
Cabinet Secretary for Justice
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Mr MacAskill,

Further to my letter (append) making use of the format provided by “The East Lothian Courier”, I write to express my disbelief at the report in “The Scotsman” of Saturday 20 April that you have already reached a decision on the proposed closure of the Sheriff and Justice of the Peace courts in Haddington.

You are quoted as saying: “Having given full and careful consideration of the Scottish Court Service’s recommendations and examined the analysis of the potential impact of these proposals, I believe that, given the financial constraints we are working under, these changes are justified.” Given the short time that has elapsed since the publication of the SCS’s final recommendations and the volume of material which has been presented in support of the retention of court services in Haddington, the speed with which your decision has been reached must call into question the rigour with which the opponents’ case has been considered.

Even a cursory examination of the case being presented by SCS will reveal criteria applied inconsistently, explanations not provided, opposing views refuted without adequate or appropriate analysis, and in places simply ignored. I would urge you to revisit the recommendations, recognise that there has been little analysis (just unsupported claims) of the potential impact of the proposals, and accept that even under the present financial constraints it is unacceptable to introduce changes which will work against the speedy and effective delivery of justice and remove totally the opportunity to deliver it locally over a huge area of South-East Scotland from Edinburgh to the Border. Lay justice – administered locally and without financial reward by justices of the peace who were part of the community and understood the impact of crime on it – is the main victim of the changes, subjected to a lingering death and no longer of any national importance because of its patchy survival.

I would urge you most seriously to consider the potential long-term damage to which the justice system is being exposed by the present plans and to use your position as Cabinet Secretary for Justice, as guardian and protector of the system, to ensure that the the quality of judicial provision is not adversely affected by the need for financial restraint.

Yours sincerely,

Graham W Coe
Graham Coe
8 May 2013