Foreword

Scottish Women's Aid ("SWA") is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role in campaigning and lobbying for effective responses to domestic abuse.

We provide advice, information, training and publications to members and non-members. Our members are local Women's Aid groups providing specialist services, including safe refuge accommodation, advocacy, information and support, to women, children and young people experiencing domestic abuse.

An important aspect of our work is ensuring that women and children with experience of domestic abuse get both the services they need, and an appropriate response and support from, local Women’s Aid groups, agencies they are likely to contact and from the civil and criminal justice systems.

What will be the local impact of the SCS’s recommendations on access to justice?

The foundation for the effective administration of justice in Scotland is a network of local, accessible courts. The programme of reforms intended to improve the quality of, and widen access to, justice for the citizens of Scotland will be meaningless if the public cannot actually get to a court because of the time, cost and possible safety implications of doing so.

The proposals raise serious issues of court users’ access to justice being restricted. Women, children and young people experiencing domestic abuse will be disproportionately disadvantaged and will experience an adverse impact through:-

- Inconvenient, costly and longer travel times and journeys
- Increased risks to safety
- Restricted access to justice
- Increased financial costs
- Cases taking longer to hear and an increase in “churn”

An important issue that has been overlooked in the formulation of these proposals is that court users’ experience of their engagement with the courts heavily influences their perceptions of and confidence in, the justice system as a whole. This is particularly important for women, children and young people experiencing domestic abuse who will not have taken the decision to participate in proceedings, especially criminal cases, lightly and who have often done so at considerable personal risk.

They look to the civil and criminal courts to give them protection; for their case to be heard by a judiciary aware of the issues, the dynamics of domestic abuse and experienced in hearing civil and criminal cases where domestic abuse is an issue
and to be able to access justice through local courts with the minimum of disturbance and distress. Given that their lives are already disrupted and they have experienced considerable distress through the perpetration of abuse against them, the justice system has a legal and moral duty to ensure that the unwanted and unwelcome experience forced on them of engaging with the courts, through no fault of their own, is as short and trouble-free as possible.

Making access to justice through the courts more arduous, difficult, costly and potentially unsafe will erode this confidence and may prevent them re-engaging, to their detriment.

Inconvenient, costly and longer travel times and journeys

The obligations on the SCS arising from the Principles for Provision of Access to Justice, as reproduced at Appendix A of the consultation paper specifically refer to universal access to the court system. However, according to the Equality Impact Assessment Record (“EQIA document record “) accompanying this consultation, “…individuals will have access to, or be denied access to, a service or function as a result of the proposed exercise, that some people will have longer travel times if using public/private transport as a result of court closures” and specifically that “People under 29 and over 60, and women are likely to be disproportionately affected by more complex or lengthy trips to court by public transport.” This is of concern to us because our adult service users are all women, and are statistically twice as likely as men to use buses.

Transport infrastructures in rural areas are such that services are less frequent, and are at inconvenient times for making onward connections, particularly at weekends, school holidays, early in the morning and in the evening; additionally, geography means that round trips to larger towns and cities can take anything up to nine hours in some areas. For instance, it is possible that women who would have previously attended Arbroath Sheriff Court to give evidence may have to travel to both Dundee Sheriff Court and also the Summary Sheriff Court at Forfar, which will cause considerable inconvenience, since Forfar is not being well-served by public transport, particularly trains.

Travel to the mainland by ferry is dependent upon weather conditions and making onward connections for buses or trains to attend early diets in more distant courts may simply not be possible during inclement weather or in the winter. This is a particular issue in relation to Rothesay.

Accessibility for women in Berwickshire, and the issue of time, cost and availability of transport, becomes an issue in relation to the proposals to close Duns and transfer the business to Jedburgh, a fact acknowledged in the consultation paper, which also noted that travel to and from Jedburgh will involve an early start and possibly travelling the previous day, a far from ideal or acceptable position for court users. A similar position exists were Peebles Sheriff Court to close, with a negative impact on women in Tweedale in terms of cost of travel to Edinburgh and the time needed to travel to court.

Transferring cases from Dingwall to Inverness will result in increased travel times and difficulties for women; public transport configurations mean that those from the Wester Ross area would be unable to get to Inverness for the start of the court day.

If cases are timetabled to last several days, or even weeks, are delayed and then rescheduled, court users face either staying overnight in the court locality, with the cost and inconvenience that entails, or a protracted, tiresome and, if late at night, potentially hazardous journey home which will require to be repeated the next day or in the future. Given that it is generally difficult for court users in rural areas to travel back and forth to the court in the same day, requiring them to travel greater distances to distant courts will make an overnight stay more likely.

Other barriers to access revolve around where court users live in relation to both their local transport provision and onward connecting bus, train, ferry and parking facilities; they will be required to travel from home to the relevant transport hub taking them to the more distant court and when they arrive in the relevant town or city may well then have further travel to actually reach the court building itself. Again, the prospect of an arduous and lengthy journey will render the experience of attending court less attractive.

Organising childcare takes time and planning, and is an additional issue for women in accessing courts. It will be difficult for women to organize extended child care, often at short notice, for a long journey to a distant court, and this will also have an unfortunate knock-on effect for children in crisis.

In terms of access to Sheriff and Jury trials and the proposed new specialised, central courts for each Sheriffdom, the distances across which court users will be obliged to travel in the various Sheriffdoms will be particularly difficult to cope with. For example, women in the Sheriffdom of North Strathclyde would have to travel from as far as Oban and Campbeltown to Paisley. Because of the wide geographical spread of the Sheriffdom of Grampian, Highlands and Islands, to reach Inverness from Aberdeen, women will be obliged to travel across Scotland. Those in Peebles, Duns and Jedburgh would have to travel to Edinburgh.

For those courts targeted with closure, there is a general issue that travel to replacement courts will place numerous additional burdens, as we have discussed above, on women, children and young people experiencing domestic abuse and, in some cases, on the local Women’s Aid groups supporting them. It will also have implications for police and criminal justice workers, such as social workers who are often called upon to report on cases involving domestic abuse or support women and children, and will result in a loss of the local knowledge of the sheriffs.

**Increased risks to safety**

Unless they have access to a car, the timings and nature of transport required to facilitate travel to courts outwith their locale, particularly in rural areas and island communities, mean that there is every likelihood women, children and young people experiencing domestic abuse may have to share the same service with abusers, and their friends and family. Safety is already a major issue for women using the services of local Women’s Aid groups and we would not like to see an already difficult problem being exacerbated in this way, so that women, children and young people were rendered even more reluctant to attend court and give evidence due to a fear
that they would be intimidated or threatened by the abuser before they even arrived in court.

Having women and children’s safety being compromised by the likelihood of the abuser travelling to court on the same ferry, bus and/or train, raises the prospect of having a police escort routinely travelling on public transport.

**Restricted access to justice**

For women, children and young people, the courts are a vital protection and offer the opportunity to have them see justice done. Local courts are an important part of the community landscape across Scotland and given the importance the Scottish Government has placed on “local delivery” and the use of “local knowledge and responses” in the delivery of public services across Scotland, we cannot see why this should be any different for court services and the provision of local justice.

Maintenance of a local connection and local knowledge of offenders and risk factors, through relationships between local courts, judiciary, third sector and statutory services such as the police and social work, is of considerable benefit to the dispensation of justice and the ongoing safety and protection of vulnerable court users such as women, children and young people experiencing domestic abuse. Ensuring that these local relationships are preserved is essential for the proper administration of local justice.

There are very specific issues relating to the proposals to transfer business from Cupar to Dundee. This will be transferring the budgets of support services and Social Work across two local authorities, Fife Council and Dundee City Council, so there is the issue of who bears the cost and responsibility of supporting vulnerable women and children in getting to, and giving evidence safely in court, in addition to the serious question as to how the post-conviction supervision of abusers sentenced in Dundee but living in Fife is managed.

We are also concerned about the potential loss of legal expertise and provision in areas marked for closure, especially in the provision of civil law and legal aid services by solicitors. Taking away local business from local courts, for instance Haddington, will have the result of experienced and specialist practitioners moving to where the bulk of their business is likely to be, namely the local centralized “hubs” and larger towns and cities, or, alternatively, they will stop doing the work. Therefore, court users may be doubly disadvantaged through not only being unable to find an appropriate practitioner locally but also by being unable to travel further afield to where the nearest appropriate practitioner is located.

Women experiencing domestic abuse have an ongoing struggle to find appropriate, understanding and experienced family law practitioners, with an emphasis on those delivering legal aid-funded services, to carry out work around obtaining protective orders, child welfare and contact and residence cases and have built up relationships such that they can access quality and informed services. We would not like to see these compromised, especially in areas where there are no or very few similar firms, resulting in women being unable to access a suitable solicitor locally and having to travel distances to secure protection for themselves and their children.
What will the local impact be on court users of the SCS’s recommendations?

Cases taking longer to hear and an increase in “churn”

We would also query assumptions that the courts to which business will be transferred will have the capacity to deal with the increase in cases, particularly given that they are earmarked as being sheriff and jury and “specialized” centres. It is inevitable that any attempt to concentrate more court business in a fewer number of courts, some of which are already busy, will lead to “churn” in court business. By way of example, In terms of time to trial, and churn rates, since Inverness Sheriff Court takes substantially longer to deal with criminal cases involving domestic abuse cases than any other area, the burden of addition of cases transferred from Dingwall Sheriff Court will only add to the time it takes for criminal cases to be heard.

There will also likely be increased delays arising from parties being unable to attend due to breakdowns in travel infrastructure, adverse weather conditions, financial constraints and accused failing to appear.

Churn and delay is a particular issue in relation to cases involving domestic abuse. The Scottish Governments Toolkit ‘Handling Domestic Abuse Cases’ states that reduced time for cases to get to court improves outcomes as ‘Fast-tracked cases have a lower incidence of victim retraction and therefore lower incidences of case attrition’. ² Shifting the emphasis onto making improvements to the system administration and ensuring better judicial case management would be a more positive consideration that court closures.

Increased financial costs

The “unseen” costs and unintended consequences will be counter-productive, in that they will simply transfer the financial, time and emotional costs to court users themselves, with the statutory and voluntary organisations supporting them through the court process also incurring various additional costs.

Women, children and young people experiencing domestic abuse, and the workers from local Women’s Aid groups supporting them will suffer increased costs through additional travel expenses, higher childcare costs, loss of income, necessity of overnight stays to attend courts, increased workers’ time and expenses, and all these costs will be amplified if repeat court visits due to length of proceedings, delays and churn are necessary.

The specialist and expert advocacy role provided by local Women’s Aid groups in supporting women, children and young people through the civil and criminal court processes is much-needed and extremely valued by both service users and partner organisations. The additional costs placed on our local groups could potentially undermine this essential work to the detriment of women, children and young people experiencing domestic abuse who are obliged to interact with the courts.

We have heard that transport costs are high for women trying to access courts in the Borders, West Coast and Highlands and Islands, as a consequence of having to use a combination of different methods of transport and transport providers; the additional burden on them will be significant and disproportionate. Many of the

² Handling Domestic Abuse Cases: A Toolkit to Aid the Development of Specialist Approaches to Cases of Domestic Abuse; Scottish Government 2008; http://www.scotland.gov.uk/Publications/2008/10/01132550/10
women we support are on low incomes and/or benefits, so these costs will be particularly hard for them to bear and real hardship may occur where they have to pay travel costs up-front when giving evidence in criminal proceedings, since witness expenses are paid by the COPFS in arrears. There is also the prospect of loss of income or wages not being reimbursed by employers for those appearing as witnesses for the Crown. Women conducting civil proceedings will be even more disadvantaged as they have to bear their own travel costs.

The EQIA document record does not address financial and socio-economic disadvantage despite the fact that the burden of additional travel costs to a smaller pool of courts will affect vulnerable people who can ill-afford such a financial burden.

Conclusion

We would submit that these proposals require further scrutiny and that there are other ways, apart from court closures and consolidation of business, to make court services generally better and to maintain local justice. More effective judicial case management should be put in to reduce “churn” and Sheriffs going “on circuit” to local sheriff courts. Better use of video technology could be used in procedural hearings.

While an EQIA document record accompanied the consultation, there does not seem to be evidence of a full Equality Impact Assessment having been done at that stage. Further, there is no evidence of an Equality Impact Assessment having been undertaken by the Scottish Court Service following the consultation and before the production of the recommendations, despite the fact that the EQIA document record specifically states “The Equality Impact Assessment (EQIA) is ongoing and this EQIA document record will be subject to revision following the analysis of responses to the public consultation. The SCS would welcome further specific comments from relevant people and organisations on the equality impact of the court structures proposals to inform this EQIA.” Similarly, there is no evidence of an Equality Impact Assessment having been undertaken by the Scottish Government before accepting the recommendations of Scottish Court Service.

Scottish Women’s Aid
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