Justice Committee

Scottish Court Service recommendations for a future court structure in Scotland

Written submission from Stewart Alexander

Executive Summary

The Scottish Court Services proposals to shut many important burgh Sheriff & Justice of the Peace Courts are flawed and will only increase the burden on the taxpayer. The plans amount to a large 'off-balance-sheet' transfer of costs to other agencies and the public. Large cuts to the capital budget are a result of the diminishing outlay on Parliament House in Edinburgh after 14 years of excessive spending, a fact not explained in the consultation. Operational budgets are reducing much less, and do not justify the wholesale loss of a distributed local justice system serving communities across Scotland. Identified waste currently in the system should be targeted and the savings used to update and enhance the current infrastructure guaranteeing access to local justice for all communities in Scotland. The following points summarise these areas outlined later in my report.

1. Audit Scotland in its 2011 report[13] identified £40M pounds of annual waste in the system. They should now be asked to investigate what, if any improvements have been made since, target obvious areas of inefficiency (e.g. ‘churn’) and recommend concrete proposals to improve performance.

2. Improving the performance of the SCS fine collection department by around 10% would increase annual revenues by almost £2M given that the current outstanding backlog total is £18.5M [15].

3. The recent Haddington case study identifies real costs that are clearly applicable to the Stonehaven situation [16]. Rather than savings, the taxpayer will face a greatly increased burden!

4. Any further spending on Parliament House in Edinburgh should be discouraged in the light of its total cost approaching £200M (see section 2 of this report).

5. The experience of the English rationalisation [17] should send out a clear warning about the difficulties of shifting the estate, the costs of maintaining unsold buildings and general cost increases.

6. The proposed greatly increased use of IT (videoconferencing etc.) is not budgeted for in the plans. This leaves the projected savings open to even more doubt.

7. Stonehaven court is in fact very busy and often handles overspill cases from Aberdeen. Aberdeen court can't handle the business it has at the moment, it couldn't cope with Stonehaven's work and the needs of the new town of Elsick have not been taken into account.
Background and Budget

The Scottish Court Service is a civil service for the Scottish court system, charged with providing administrative support to the judiciary and amongst other things operation and maintenance of the estate. The SCS is not responsible for funding the salaries of the judiciary itself. The primary reason for the recent consultation and resulting proposals to restructure and close 19 courts across Scotland is of course budgetary, with the money provided to the SCS from the Scottish Government being decreased in both absolute and real terms over the next few years. The consultation document can be found by following the link to the website and clicking on the 'closed consultations' section – [1]

The table on page 2 of this document shows the SCS annual budgets from 2009 to 2015. The budget allows for the funding of core operating costs and covers the running, maintenance and development of court buildings, the employment of around 1,500 support staff and court operational costs such as jurors' expenses. The figures below amalgamate the 2009/10 budget from [2](page 8) & the more recent years from [1] (page 12).

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<tbody>
<tr>
<td>Operating Exp.</td>
<td>82.0</td>
<td>73.6</td>
<td>69.5</td>
<td>68.5</td>
<td>67.4</td>
<td>65.5</td>
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<tr>
<td>Capital Exp.</td>
<td>19.4</td>
<td>20.3</td>
<td>10.4</td>
<td>8.5</td>
<td>6.0</td>
<td>4.0</td>
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<tr>
<td>Total</td>
<td>101.5</td>
<td>93.9</td>
<td>79.9</td>
<td>77.0</td>
<td>73.4</td>
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The capital budget bears the main reduction - £20.3M in 2010 down to £4M in 2015 and is the headline figure being used by the SCS to justify the rationalisation of the court estate. It was surprising that this large decline was not accompanied by any real explanation in the consultation document, the assumption being that this money is used widely across the estate to maintain the buildings necessary for local justice delivery. However, some investigation has established that the main reason for the decline is that huge sums have been spent on the Court of Session building, “Parliament House” in Edinburgh over the past few years – and the reduction in capital allocation is reflecting the fact that expenditure on this project is diminishing as the project nears its final phases.

The total redevelopment cost is identified in the 2011-12 annual accounts as £60M on page 6 of the SCS annual report [3]. The true figure was actually estimated as £63M [4] in 2008. The final sum will likely be somewhat more – Phase 3 of the project is due to finish by March 2013 with the scope for Phase 4 currently being decided! See Section 6, page 2 of [5].

While the exact total proportion of capital spending on this building is difficult to come by, it is likely to have been very significant. In [2], it is stated that ‘The overwhelming majority of SCS capital expenditure in 2009/10 was on the redevelopment of Parliament House’. The capital budget allocation to this one building in 2012-13 is £7.5M, 88% of the total £8.5M - see page 26 of the Scottish government budget for Justice 2012-2013 [6]. With budgets under such pressure, the unquestioning
assumption of the local communities affected by this proposal has been that the cuts are due to a lack of money in general, not the highly targeted spending of millions in the Capital to the detriment on the rest of Scotland!

In recent press reports this week (April 2013), Chief Executive Eric McQueen said: "By 2015 the court service running cost budget will reduce by 20% in real terms and the capital budget will reduce from £20 million to £4 million." It has to be concluded that the SCS is purposely not disclosing essential detail when these figures are quoted in such a simplistic manner.

Some spending on these historic buildings was no doubt necessary but there does not seem to have been much restraint on the scheme to reflect the current financial climate. The project itself is clearly a grandiose example of the pre-crash era, started as it was in 2005[7], and before the current SNP government got into power so it would have been rubber-stamped by the previous Labour administration. Crucially though, it has sucked away funds from an infrastructure that has provided local justice to Scotland's population for hundreds of years! On the 31st October 2012, the then interim SCS Chief Executive Eric McQueen confirmed that the maintenance backlog figure as £57.1M in a written response [8]. This figure seems large given that most court buildings are in a reasonable state of repair but it is ironically similar to the budget of the latest phase of the Parliament House redevelopment.

But it gets worse. We should not ignore the previous 'Holyrood' style debacle also under the auspices of the SCS (and same previous Chief Exec until her recent departure) involving the very same buildings! In 2004, the last major effort to upgrade the buildings was halted by the Scottish Government after major budget overruns[10]. With the project having started in 1999 and initially projected to take 14 or 15 years and a cost of £105 Million, it was halted having spent £134 Million and nowhere near completion [11]. So, with the total spent on this building approaching £200 Million it is no surprise that the SCS is struggling to fund a sustainable and accessible court infrastructure in the rest of Scotland!

Meagre savings for SCS, increased costs to the taxpayer

The SCS's savings projections for the restructuring are surprisingly meagre even including the seemingly arbitrary 'depreciation' figures ascribed to most of the courts in question. Page 78 of the consultation document itemises each court's contribution to the savings, examples such as Rothesay - £6000 p/a, Peebles at £17000 p/a and even Kirkcaldy at £22000 p/a. These figures are not impressive, considering the impact the measures will have and we can assume the SCS is doing all it can to be optimistic on the savings to help its own case.

P77 of the consultation document even includes savings from previous closures, wholly unrelated to this consultation into the headline savings figures. This artificially boosts the projected total annual savings by 25% - from ~£1.5M to ~£2M. This does not seem to have been picked up by the Scottish press either. Also, there is uncertainty even from the Chief Executive as to the timescales over which the projected savings will materialise [9] (P1883 onwards).
An excellent analysis of the proposals can be found on the Law Society of Scotland website – [12]. One fact identified by Audit Scotland and picked up on by the Law society is that there is currently an ‘avoidable’ annual £30M waste due to delays and late decisions [13]. (section 3) This ‘churn’ will only worsen with the loss of local services with travel and co-ordination of court attendees becoming more challenging in a centralised system coordinated by an unbudgeted state-of-the-art videoconferencing network!

There are numerous arguments against the restructuring and many local communities and justice stakeholders have put forward compelling reasons to reject the SCS master plan. Many of these arguments can be made for most if not all of the courts. Things such as 4.5hr round trips using public transport, criminals walking free and huge costs transferred to local councils are just some.

In the financial year 2010-11, there were 96 staff members making use of SCS voluntary redundancy packages costing a total of £3M. In 2012 only one member of the SCS staff left under voluntary exit terms which happened on 30 September 2012. The staff member received departure compensation payments totalling £117,020 [3] (P38). The inference must be that this was the outgoing Chief Executive [14], leaving a post which was immediately back-filled and who walked into a no-doubt similarly lucrative post with a new department ‘Revenue Scotland’. It is curious that the redundancy scheme seems to have halted for most staff and yet the chief exec got a generous payout. This ‘voluntary exit’ did not help the taxpayer because the headcount did not reduce therefore the exit package should not have applied. It would be called a ‘resignation’ in the private sector and been uncompensated. The money paid would be enough to keep Kirkcaldy and Peebles running for another 3 years or Rothesay for almost 20!

**Fine Recovery**

The SCS is responsible for the recovery of Sheriff Court, JoP Court, Fiscal Direct Penalties and Anti-Social Behaviour Police fines. While Sheriff and JoP recovery rates seem acceptable, Fiscal Direct and Police ASB recovery rates are low e.g. for FY2011/12, 40% of Fiscal Direct penalties remain outstanding for a total of £1.9M. For the same year, over 30% of Police ASP penalties are in arrears for a total of £1M. The table below provides a breakdown of the figures provided by the SCS in [15]. The overall backlog stands at £18.5M on a total of £92.2M. A small reduction in the backlog of 10% would result in an annual saving of ~£1.8M, a similar figure to the speculated restructuring savings. This has to be a preferred option to raise increased revenues for the SCS.
Conclusion

The whole restructuring scheme is a desperate attempt by the SCS to balance the books after having spent almost £200 million over the last 14 years on its grand central headquarters. It is scandalous that it will result in the decimation of a distributed and functional local justice system. While investment is needed in the estate, the current proposals will increase and redistribute operational costs while reducing service to the most vulnerable groups of society and further marginalising burgh towns’ civic function and economies. These flawed SCS proposals should be rejected out-of-hand and the suggested alternatives used to enhance justice provision across the whole of Scotland.

References

1. Scottish Court Service – shaping Scotland’s court services, a public consultation on proposals for a court structure for the future.
3. Scottish Court Service Annual Report and Accounts 2011-2012 (18Mb)
4. Government press release for court refurbishment
5. SCS Board minutes - August 2012
7. Aedas
8. SCS Chief Executive written response to Justice Committee
12. Law Society of Scotland – Consultation Response
13. Audit Scotland – An overview of Scotland’s Justice System
14. SCS Chief exec change and re-appointment to another government role
15. 28/02/2013 Fines Report 15 - Quarter 2
16. Haddington Closure Case Study
17. The costly experience of rationalising the English Court Estate

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