Justice Committee
Letter from Law Society of Scotland to the Justice Committee

Scottish Court Service’s (SCS) recommendations on a future court structure in Scotland

I am writing to you in advance of the Justice Committee’s further deliberations on the Administrative Orders to close numerous Sheriff and Justice of the Peace Courts.

The purpose of this letter is to reaffirm the Law Society of Scotland’s clear belief that these closures will, if these Orders are passed, impair access to justice in each of the affected communities across Scotland.

This is our firm view, as an organisation representing both solicitors and the public interest and it is also the overwhelming view of individuals and organisations that responded to the Scottish Court Service (SCS) consultation. In this letter I do not seek to reiterate all the arguments but simply refer to them in brief.

Access to justice

The Judicial Office for Scotland established Principles for the Provision of Access to Justice, including the presumption that criminal justice be delivered locally and that court users travelling by public transport will be able to arrive in time for the start of the case in which they are involved and return home the same day. We do not believe that the SCS recommendations meet the requirements of these Principles.

In ordinary cause or sheriff and jury cases, it is now envisaged that court users will, for example, travel from Wick to Inverness, or Oban to Dumbarton. In neither example would a court user be able to arrive in time for the start of court business.

Transport options in the instances noted above (and many others) are limited: there are only three trains each day between Oban and Dumbarton, for instance. The time and cost of travel will be significant: the round trip between Wick and Inverness by train is almost nine hours. The cost of return fare is £32.50 between Wick and Inverness and £32.90 between Oban and Dumbarton. Overnight accommodation would also be required if attendance were necessary for the start of the court day. In addition, the likelihood of victims of crime travelling to court on the same transport service as accused persons who are not appearing from custody, is likely to be high – an issue that would be replicated across the country.

Cost and efficiency

The number of cases heard by courts recommended for closure is around 5% of the overall total, as SCS states. The disruption caused through this additional travel will, however, be significant. Failures to attend will increase – in both civil and criminal matters - and this will reduce the efficiency and increase the cost of providing justice in the centres that remain.
In addition, it does not seem at all likely that the full additional costs that will require to be borne across the public sector have been fully factored in, especially to Police Scotland and local authorities. Discussions with some local authorities such as East Lothian Council around possible cost sharing are a clear indicator of this.

**Video conferencing**

In oral evidence to the Justice Committee last week, an absolute commitment was provided by the CEO of the SCS that video conferencing facilities would be provided and be operational in each location in which a court is recommended for closure, before that court closes.

The Equality Impact Assessment for the recommendations for a future court structure notes that the use of video conferencing will “mitigate some of the negative aspects of greater travelling time”. We are supportive of broadening the use of video conferencing in the justice system.

In the SCS response to the consultation in April, it was noted that video conferencing had been deployed for criminal appeals and that other pilots were underway. It seems premature to propose that video conferencing be made available in locations across Scotland without first evaluating fully the success of the pilot programmes and considering the detail and cost of how and in what circumstances an expanded programme would operate. For example, we know from other jurisdictions that such evaluations can have surprising outcomes: for instance, the virtual court pilot in England and Wales found that the traditional court process was significantly cheaper than proceedings conducted online.

**Justice centres**

We also understand that SCS is examining the possibility of establishing new justice centres in the Highlands, Fife, the Borders and Lanarkshire. We are interested and supportive of the consideration of such centres and the feedback on facilities in Livingston has been positive. However, we understand from evidence to the Justice Committee last autumn that the SCS capital budget “will not allow any additional funding for investment, improving facilities or any major disasters in the court estates”.

The court estate already has a substantial maintenance backlog in excess of £57m and a significantly reduced capital budget. We do not therefore see how the construction of new courts can be a realistic proposition in the current climate; and we would be concerned if deployment of justice centres necessitated further cuts to court estate locations.

**Economic impact**

We fully appreciate the financial constraints faced by the SCS. However, we anticipate that it will be at best difficult to achieve the projected savings. We know again from England and Wales the challenges and associated costs in disposing of court buildings and from the information available it does not appear that the assessment of deliverable savings is sufficiently robust.
We also know that the economic effect on local communities would be substantial, in terms of lost visitor spend and lost economic contribution from those who will no longer be employed in that location. The issue of lost civic pride or presence and reduced visibility of justice can also impact upon a community’s confidence and vitality, especially in more rural areas.

The availability of justice to all is a fundamental requirement for a fair, democratic society. These recommendations will affect a number of people significantly, reducing their ability to participate in the justice system and diminishing their access to justice.

We greatly appreciate the detailed scrutiny of these recommendations by the Justice Committee. This letter is motivated by the depth of concern shown by citizens and organisations across Scotland; I hope that it is helpful.

Bruce Beveridge, President
10 June 2013

[This letter was received on 13 June 2013, after the Committee had concluded its consideration of the two Orders noted in the letter. The Convener agreed to publish this letter in the interests of transparency, but noting the late receipt.]