



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 21 May 2013

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JUSTICE COMMITTEE
16th Meeting 2013, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Jenny Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (Ind)

*Colin Keir (Edinburgh Western) (SNP)

*Alison McInnes (North East Scotland) (LD)

David McLetchie (Lothian) (Con)

*Graeme Pearson (South Scotland) (Lab)

*Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Cliff Binning (Scottish Court Service)

Brian Carroll (Public and Commercial Services Union)

Nigel Don (Angus North and Mearns) (SNP)

Sheriff Kevin Drummond

Stuart Fair (Scottish Justices Association)

Councillor Margaret Kennedy (Fife and Forth Valley Community Justice Authority)

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con) (Committee Substitute)

Lewis Macdonald (North East Scotland) (Lab)

Alan McCloskey (Victim Support Scotland)

Eric McQueen (Scottish Court Service)

Stuart Naismith (Law Society of Scotland)

James Wolffe QC (Faculty of Advocates)

Lauren Wood (Citizens Advice Scotland)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 1

Scottish Parliament

Justice Committee

Tuesday 21 May 2013

[The Convener *opened the meeting at 09:30*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the 16th meeting of the Justice Committee in 2013. I ask everyone to switch off mobile phones and other electronic devices completely, as they interfere with the broadcasting system even when switched to silent.

Apologies have been received from David McLetchie, and John Lamont is attending as his substitute. I welcome Lewis Macdonald and Nigel Don to the committee.

Item 1 is a decision on taking business in private. I ask members to agree to take in private item 3, which is further consideration of our draft report on our inquiry into the effectiveness of the Title Conditions (Scotland) Act 2003. Is that agreed?

Members *indicated agreement.*

Scottish Court Service

09:30

The Convener: Item 2 is an evidence session on the Scottish Court Service's proposals for a future court structure in Scotland. Today, the committee will hear from three panels on the proposals, and I thank all those who have emailed me and other committee members regarding the courts. I know that a lot of people have got active about the issue, and quite rightly.

I welcome Eric McQueen, chief executive, and Cliff Binning, executive director of field services, from the Scottish Court Service. We begin with questions from members, starting with John Finnie.

John Finnie (Highlands and Islands) (Ind): My question is for Mr McQueen. We have received a range of submissions, including one from Victim Support Scotland, which states that it welcomes

"the expansion and enhancement of video and other communication technology"

proposed by the Scottish Court Service. I am going to be very parochial here. Can you tell us what facilities there will be at Dingwall sheriff court after the closures?

The Convener: Before we go any further, let me say that I suspect that many of us will be a bit parochial today. However, I ask members also to look at the broader questions.

John Finnie: I was going to come on to those.

The Convener: I know that other members will do that, too, so I am not scolding you.

Eric McQueen (Scottish Court Service): In respect of Dingwall sheriff court—and other sheriff courts—we want to ensure that videolink facilities are installed in each sheriff court area, primarily to deal with vulnerable witnesses under existing legislation, but also in anticipation of the expansion of the use of videolink evidence that will come about because of forthcoming legislation. We also expect that those facilities will be available to local authorities, for social work and other local authority staff who need to interact with the courts, so we want a wide expansion across all areas, and we are committed to investing in areas where courts may close.

John Finnie: I note that you have said that other courts besides Dingwall are affected. Will you work with local authority partners and with NHS Highland and Police Scotland on this?

Eric McQueen: We already have an extensive range of videolink facilities throughout Scotland, in every court and at 20 different locations, so we are building on quite good foundations. Our next plan

is to expand that provision, particularly into areas where courts are closing, and we will be working with all local partners in the area to put in place the best facilities.

John Finnie: Is that a guarantee, Mr McQueen?

Eric McQueen: Yes, that is a guarantee.

John Finnie: Thank you.

Graeme Pearson (South Scotland) (Lab): My question is about the way in which decisions were taken. Can you give us some insight into how you weighed the evidence of the impact on the delivery of justice at a local level alongside economics, savings and the efficiency of court operations? You will be aware of the huge concerns across the south of Scotland and elsewhere about the implications for local delivery of justice.

Eric McQueen: We have not addressed the issue purely on a cost-cutting basis. We have not looked only at those courts where we feel that we can save money. We have tried to look at the type of court structure that we will need for the future, and that structure must anticipate the justice reforms that are going to take place. It must also allow us to invest in services and delivery in future, and it must be affordable in the long term.

We are proposing a pyramid model, in which High Court cases will be dealt with in a small number of specialised centres in Scotland, with a 10-year plan to move towards more specialised sheriff and jury centres as summary sheriffs are introduced. It will be a smaller network of courts, the basic efficiency principle being that we should not have courts that operate on fewer than three days a week, apart from those in very rural areas, and that where there are courts within 20 miles of another court that has the capacity to take the business, we should move that business. We are trying to design a court service that will be able to deal with the reforms and will still provide access to justice and be affordable in the long term.

A key element of the proposals is the access to justice principles defined by the senior judiciary, which have acted as a test for us. We fully understand that some individuals will have to travel slightly further, but we do not believe that that is disproportionate to what we are trying to achieve. We believe that access to justice in Scotland will be maintained.

Graeme Pearson: How did you deliver on your belief that the impact of the distances that people will have to travel is not disproportionate? How did you weigh that up?

Eric McQueen: We looked quite hard at the access levels, the number of people involved and the travel distances to try to get the right balance between provision and ensuring the best utilisation of our court buildings.

Graeme Pearson: Did you test public opinion? Any other business would go to the customer. In business terminology, your customers are witnesses and those who attend court.

Eric McQueen: We have done that through various representative bodies. The report is part of a process that has been running for more than two years. Two years ago, we started by sharing with a range of organisations a range of ideas about court structures. We held a series of dialogue events across Scotland to test and refine the proposals. The events involved more than 300 people from different areas and we made some changes to the proposals as a result. We decided to retain courts such as Lanark, Tain and Selkirk, and we made changes to the model for the sheriff and jury structure. We decided to keep a single court in Angus rather than move business from one of the courts to Dundee, and we have retained civil annexes in Dundee and Hamilton.

We went out to full public consultation for three months and got back a range of responses and views. Some changes were also made as a result of that consultation. One change was the non-closure of the court in Alloa and another was that Peebles business was moved to Selkirk rather than to Edinburgh.

We have listened throughout the process. Clearly, consulting people on a range of general principles still comes down to the individual court level. We understand that there is a lot of emotion, because a lot of history and tradition are associated with the sheriff courts. The difficulty with the consultation is that although we are trying to approach the issue on the basis of principle, some people's main interest is rightly in their local court.

Graeme Pearson: You will be aware that, after all that consultation, there is still substantial heat around the issue. Committee members have felt that heat through the various emails and other contact that we have received. In the chamber debate on the matter, I raised a concern about alternatives for the many witnesses who will need to use public transport to attend a court that is 15 or 20 miles away. We checked the public transport arrangements and they are pretty meagre. For example, it is possible that witnesses for the prosecution and the defence might travel on the same bus or train, which does not seem to be the best way to bring people into the justice system and support them. Was that all thought through?

Eric McQueen: We have looked into that quite closely and the reality is that it happens now. In many communities across Scotland, people travel to court on the same public transport. In some areas, the changes that we are bringing in might well improve the situation. For example, if people travel by public transport from many areas of East

Lothian to Haddington, which is the court closest to the Parliament that will be closed, they have no choice but to go on the same bus. In future, when those people come to Edinburgh they will be able to choose from a wider range of transport, including different bus and train services, which will reduce the incidence of witnesses travelling on the same service. However, what you describe happens now, and it may happen more in some of our more remote areas.

The Crown Office deals with witnesses in a very sympathetic way and, through its victim information and advice service, it gives them advice and support. When it feels that a real risk is involved, it can put arrangements in place to try to find alternative transport for people.

Clearly, the Victims and Witnesses (Scotland) Bill will extend the classification of vulnerable witnesses, which is why we are trying to extend our existing range of videolink facilities to make the use of those facilities a real option, so that people can avoid some of the travel difficulties that have been mentioned.

The debate is not about just accepting what we have to deal with in the future; it is about establishing whether we can put technical solutions in place that would make a difference.

The Convener: Roderick Campbell has a supplementary question.

Roderick Campbell (North East Fife) (SNP): The report's appendix contains a survey about the distances that witnesses have to travel. Am I correct in thinking that there was no survey of how far witnesses attending civil proceedings travelled?

Eric McQueen: Only on the basis that they travelled the same distance as other witnesses who attend the sheriff court.

Roderick Campbell: Sorry—

Eric McQueen: People travel from the same populations within the sheriff court district.

Roderick Campbell: Are you suggesting that the distances would be the same whether the case is criminal or civil?

Cliff Binning (Scottish Court Service): Allow me to clarify. As well as carrying out analysis based on where witnesses reside and the impact of travelling between courts, we carried out the same analysis for those involved in child welfare hearings and family actions, and we found that the distributions were the same.

Roderick Campbell: Is that as far as it went? Did you consider general contract or delict cases, or only child welfare hearings?

Cliff Binning: Let me make two points. First, the numbers of witnesses are far greater in the context of criminal proceedings—serious crime and summary crime. In civil proceedings, the proportion of cases that go to evidence on the merits of the case is very small indeed as a proportion of all civil cases registered.

Roderick Campbell: I have got the point. Thank you.

The Convener: The next question will be from Lewis Macdonald, followed by Alison McInnes, John Lamont, Sandra White and Jenny Marra. If a member wishes to ask a supplementary question, it must be a supplementary question, not an attempt to jump the queue.

Lewis Macdonald (North East Scotland) (Lab): There are a couple of areas that I would like to explore. First, are you familiar with the report by Mr Alex McLaren, commissioned by the East Lothian faculty of procurators, on the costs and savings associated with closing Haddington sheriff court?

Eric McQueen: I am.

Lewis Macdonald: Do you accept his finding that the additional cost to the public purse will be to the tune of £534,000?

Eric McQueen: Not at all, and I do not think that that is the main thrust of his report. The £500,000 figure seems to have been arrived at by comparing the daily cost of running Haddington sheriff court and the daily cost of running Edinburgh sheriff court, and then simply multiplying those costs by the number of days. That is a false assumption to make, because the fixed costs of Edinburgh sheriff court will stay as they are and we will absorb the Haddington business into Edinburgh, so the Edinburgh costs will not increase significantly and the Haddington costs will be taken out of the equation. It is a rather strange view to take on how the costs transfer over, and we do not see any underlying logic in the assumptions.

Lewis Macdonald: Your logic is that you can add 801 criminal cases and 1,170 civil cases with no additional cost, so your assumptions are all based on being able to absorb into the existing infrastructure every case—

Eric McQueen: To clarify, the capacity exists for Edinburgh sheriff court to take in that business without any significant issues at all. We will move the staff and judiciary from Haddington.

Lewis Macdonald: Is not Edinburgh sheriff court struggling to deliver on its targets already?

Eric McQueen: Not at all.

Lewis Macdonald: Let us take Aberdeen sheriff court—

The Convener: Before we move on, could you explain what you meant by “fixed costs”, Mr McQueen? You said that the fixed costs will remain the same. What are the other costs?

Eric McQueen: The fixed costs, such as building costs and staff costs, will not change. Those are the figures that have been used to establish the average cost of running Edinburgh sheriff court.

The Convener: Will no additional staff be required? Will there be no more payment to sheriffs?

Eric McQueen: No. We will take the staff and sheriffs from Haddington and move them into Edinburgh, but that will not change the cost base in Edinburgh as it currently stands.

The Convener: I am sorry to interrupt Lewis Macdonald, but I wanted to clarify that.

Lewis Macdonald: It is an interesting point, because the proposition is that there is nil cost to the receiving court, which I find fascinating.

How many of our city sheriff courts are meeting the targets set for completion of cases? Let us take Aberdeen, Dundee, Inverness and Edinburgh as examples of four that are receiving cases from courts that are closing. What targets do you currently set for the completion of trials within set timelines?

Eric McQueen: The national average target, which we agree with the Crown, is that cases should reach trial within 16 weeks.

Lewis Macdonald: How many do?

Eric McQueen: The vast majority do. Aberdeen sheriff court is one on which Cliff Binning might want to comment specifically, as we have plans in place to make improvements there.

Lewis Macdonald: What percentage reach that 16-week target at the moment?

09:45

Cliff Binning: The measure that we apply in the context of waiting periods is the number of weeks between first calling and the trial diet. The current waiting periods at Aberdeen are beyond that. We do not measure the percentage of cases that reach the target.

Lewis Macdonald: Mr McQueen has said that there is a target for the number of cases that reach court within 16 weeks of first calling. How many do? Can you at least give us a ball park figure? Is it half, a quarter, a third, two thirds?

Cliff Binning: Allow me to explain the performance framework that applies, because that may help members to understand the context. We

apply two important measures to test the efficacy of the system and of the operation of the court. One measure is the waiting period between first calling and trial, which is set at 16 weeks, as Eric McQueen has said, reflecting the optimal period. In Aberdeen, the waiting period is currently 20 to 23 weeks.

Lewis Macdonald: So the average waiting period is half as long again beyond the target, yet the intention is to increase the case load at that court. Indeed, Mr McQueen has said that you can increase the case load at those courts with no additional cost.

Cliff Binning: I will explain why if you bear with me.

Lewis Macdonald: Please do.

Cliff Binning: The other measure that we apply as a balance is the percentage of cases that require to be adjourned because of a lack of court time. In Aberdeen, the percentage of cases adjourned for lack of time is slightly above the 5 per cent measure, at 7 per cent. In Stonehaven, it is 10 per cent.

The capacity issue is important. The first point is that the question of capacity does not arise in relation to court resources, because the staff and judicial resources will follow the work, so they will transfer from Stonehaven to Aberdeen. There is therefore no resource cut in relation to that redistribution of business. The other point relates to court sitting days for the receiving court to absorb the business, and that is a key test of the capacity available. In that sense, we are aware that an absolute count of sitting days takes us close to what might be called the tolerable limits, because it is more than 90 per cent.

Lewis Macdonald: What is it at now at Aberdeen? If 97 per cent is the limit, where are you at the moment?

Cliff Binning: I do not have a precise figure for Aberdeen to hand, but if you will bear with me I shall explain the overall position.

The overall position must not only be looked at as a count of the sitting days but take into consideration the extent to which the business from one court can be absorbed within the receiving court's programme of business. From that perspective, we know, having looked in detail at the timings, that in many instances the business at Stonehaven sheriff court was accommodated within one or two hours of the court sitting day, if not less, so there is a degree of capacity available there.

The other telling point may be the trend for all business, but for criminal business particularly. In Aberdeen, there was a rise in serious cases in 2011-12, when there were 389 solemn cases.

That number has come down to 309 in 2012-13, so there is an easing in that respect. Summary complaints registered in Aberdeen are down from 4,500 to 3,700.

Lewis Macdonald: With respect, you cannot predict future crime figures. Essentially, you are saying that Aberdeen, on the current level of demand, is woefully missing its targets. It is taking half as long again as it should to complete trials in Aberdeen, and your proposition is that you can add all the cases from Stonehaven with no cost implications and no impact on justice, either for people in Stonehaven or for people in Aberdeen. Is that seriously your proposition?

Cliff Binning: I want to explain the relationship between what you could call overall system performance and the performance of the court.

Lewis Macdonald: Let us cut to the chase.

The Convener: You have had a good bite. Can you just let Mr Binning finish? You can then come in again.

Cliff Binning: In the context of overall system performance, much work is being done on a number of fronts to improve the system. First of all, we want to resolve cases at the earliest opportunity—where possible, at the pleading diet through early disclosure of evidence, or at the intermediate diet through better preparation of cases—so that the demand for evidence-led trials is reduced.

Current system performance manifests itself in what is perceived to be the performance of the court. As I have explained, as far as the performance of the court is concerned, the incidence of adjournments resulting from the pressure of court business on the day is actually around tolerable limits.

Lewis Macdonald: With the greatest respect, improvements to the system that the Scottish Court Service operates now could happen regardless of whether courts are closed. The question is whether you are wise to agree with the Government's proposal to close courts when a court such as Aberdeen is failing completely to reach its targets. I put to you the words of David Hingston, a retired procurator fiscal and lawyer in the Black Isle, who said of the closure of Dingwall sheriff court that currently trials are typically delayed by three months at Inverness sheriff court and that the closure of Dingwall sheriff court is likely to double the length of the delay. Do you recognise and accept those comments? Are they an accurate reflection of the position as it is and of your analysis of what happens next?

Cliff Binning: The waiting periods at Inverness are between 13 and 16 weeks—which is around the prescribed optimum waiting period for the

throughput of business—whereas the waiting period at Dingwall sits at 10 weeks. In system terms, 10 weeks is not the optimal time lag between the first calling and the trial. It is important to consider the wider perspective, because one aim of the changes is that we arrive at the best balanced distribution of business across the courts. We do not accept the proposition that Inverness sheriff court is labouring.

Lewis Macdonald: And—

The Convener: I ask Lewis Macdonald to bear with me. He can come back in, as I do not want to suppress questioning, but I want to let another member in, as there is a queue of members who want to ask questions. Nigel Don has a supplementary and there is still the list of members that I read out previously—I hope that members remember where they are on the list.

Nigel Don (Angus North and Mearns) (SNP): I am grateful to you, convener. My question is on precisely the point that is being discussed and I would like to share my concerns.

Lewis Macdonald might not have the data to which I refer, so I am happy to share it with him. I got the sitting times in both Aberdeen and Stonehaven and looked at a sample period—frankly, I picked it at random—from 19 to 22 March. I found that, according to the Scottish Court Service's own data, in that period there were just over 18 spare hours in the sheriff court in Aberdeen, whereas the Stonehaven court sat for only 13 hours—the figures are all down to the nearest minute.

I therefore find some evidence that the Scottish Court Service would be able to transfer the business and fit it into the spare hours that are required. However, when I look at when business was taken in Stonehaven, I find four periods—I do not know how many cases might have been heard—that were in excess of two hours, whereas when I look at the spare hours in Aberdeen I find only two periods of two hours. That suggests that the Scottish Court Service will need to be very good at planning and at guessing how long business will take.

I think that I am coming from a slightly different place from Lewis Macdonald, in that I believe that it ought to be possible to achieve the Scottish Court Service's aim, but do the witnesses recognise that, at the very least, there is a need for the service to be skilled in planning the use of resources to make this happen?

Cliff Binning: I accept that entirely. We devote a considerable degree of learning, research, development and training to programming the business of the courts, which is one of our core competencies. The examples that you provide are

very helpful in identifying the potential inefficiencies that can accrue on a larger scale when a court operates with a small level of business.

Court business is inherently unpredictable. As far as we practicably can, we try to achieve a balance by managing that unpredictability while deriving the benefit from a court sitting day. It is not in anybody's interests to have a court sitting for one hour or two hours out of a potential six, so we have to find ways of striking the right balance between the loading of court business and the level of certainty that the business will proceed on the day.

Nigel Don: I have two questions specifically on those points. First, am I right in thinking that you might be able to add to the number of courts that can sit in Aberdeen? I see that you are both nodding. Can you tell me how many there are and how many there might be, if push came to shove? If six are currently sitting, am I right in thinking that there could be seven or eight?

Cliff Binning: There is potential to extend the court accommodation in Aberdeen.

Eric McQueen: It is worth noting two slightly separate issues. We have always had a long-term plan to expand the accommodation in Aberdeen, and we have had discussions with the council about acquiring some of its space so that we can create additional capacity for sheriff and jury business. There is no doubt about that at all; it is part of our plans.

It is worth pointing out that the sheriff principal of Grampian, Highland and Islands has been fundamental in driving improvement across the north of Scotland, and particularly in Aberdeen and Inverness. We have been through the plans for Aberdeen and Stonehaven in fine detail in relation to every aspect of the court programme. The sheriff principal is not only encouraging, but is determined that that is the right solution and that it will allow Aberdeen, over time, to deliver a better level of performance. We have not simply come here as officials with a wishful hope that it is all going to be okay. There is a detailed plan that has been signed off and agreed by the sheriff principal, and he is convinced of the decision.

Nigel Don: I want to explore the numbers. I have in front of me a graph—I will cheerfully share it with Lewis Macdonald—showing that the total number of cases for Stonehaven and Aberdeen put together is less than it has been in any previous year, even if you move all the business. I accept that. However, bearing in mind Lewis Macdonald's comments, which have also been made to me by constituents, do you accept that a degree of trust is required by us and our colleagues when we are told about what is

currently happening? We need a degree of trust to believe that it will be all right—just in terms of capacity—if you take that business to Aberdeen in a year's time.

Eric McQueen: I hope that MSPs have trust in our professionalism and integrity. There is no way in the world that we would propose such plans if we thought that the performance of the court was going to spiral. There is a clear improvement plan in place for Aberdeen. That plan has been agreed with the justice organisations and local sheriffs in Aberdeen and it is being driven by the sheriff principal. As I said, we have been through the absolute detail of how that combined court programme will work, and it has the explicit agreement of the sheriff principal in Aberdeen.

The Convener: I know that Roderick Campbell wants to ask a supplementary question, but I hope that he will forgive me if we move on, as a lot of other members have been waiting patiently. If his point is not covered by other members' questions, I will allow him to come in again later. The next question will be from Alison McInnes, who will be followed by John Lamont.

Alison McInnes (North East Scotland) (LD): I want to start with a general question, before turning to the local courts in my region. You have said that Aberdeen is already close to the tolerable limit, before adding in the Stonehaven work. What account have you taken of the civil court reforms that are coming down the line? How have you factored in the intention to move business down from the Court of Session into sheriff courts?

Eric McQueen: That is something that we have taken into the planning assumptions. We are also working against the backdrop of a vast decrease in the number of cases coming before the courts over the past three to five years. Both registered summary criminal cases and civil business have declined by 30,000 cases. Virtually every court that will be affected by the proposals will be dealing with less business in future than they dealt with four or five years ago, so the concerns about capacity that some people have expressed do not concern us in the same way.

Under the current proposals for civil court reform, which are part of the Scottish Government's reform programme, something in the region of 2,700 cases could come out of the Court of Session and into the sheriff courts. There will be a national personal injury court, based in Edinburgh, which I imagine will accommodate a significant volume of those cases, so the proportion of cases coming to the sheriff court will be minuscule compared with the decrease that we have seen in recent years. The vast majority of those will be handled administratively rather than in proof hearings in court, so we do not have any concerns at all about the intended transfer of

cases from the Court of Session or the impact that it will have on the sheriff courts. It is really at the margins, compared with the decrease that we have already seen in business.

Alison McInnes: Will those 2,700 cases be equally spread across Scotland, or will there be bulges?

10:00

Eric McQueen: Generally speaking, the proportion of cases at each court is based on the population settlements across Scotland. The biggest proportion of the cases will go to Glasgow and a correspondingly very small number of cases may go to Forfar. The cases are generally split according to the population split.

Cliff Binning: If I may make a brief comment, it is worth reflecting on the relationship between the number of cases that are registered and the number that go to proof on the merits of the evidence. The proportion of personal injury cases that go to evidence on the merits is small as a percentage of the overall number of cases.

The Convener: Yes, but another question is how many cases are set down for proof and then discharged at the door of the court? That is significant because those cases are still allocated court time.

Cliff Binning: The number of cases that are set down for proof will be higher, but not, I would say, very substantially higher, because the nature of personal injury cases is such that often the issue that requires resolution is what is called solatium—the amount that is sued for.

The Convener: I know that, but I am thinking about how many cases are set down for proof, with court time set aside and the sheriff or whoever ready to hear it, but are settled on the morning because the insurance company has decided to pay up. You have to make that distinction. How do you rearrange court time in those circumstances?

Cliff Binning: We will rearrange court time on the basis of the same informed estimates that we use now. As a matter of necessity, more than one proof is set down for a single court proof day—two or three proofs might be set down. In terms of the relationship between the two, the number of cases that are set down for proof will be low as a proportion of the thousands of cases that are registered.

The Convener: I am sorry to interrupt Alison McInnes, but I wanted the distinction between the two sets of circumstances to be made clear.

Alison McInnes: It is okay—that is helpful.

How does Cliff Binning respond to the view, which is held quite strongly by professionals in the local area, that Stonehaven court acts as a safety valve? How many solemn cases have been transferred from Aberdeen to Stonehaven recently because there was no time to progress them in Aberdeen?

Cliff Binning: It may help if I refer back to the information that I provided about the solemn or serious criminal case load. In Aberdeen in 2011-12 there were 389 such cases, and the figure has now come down to 309. It is true to say that there were programming arrangements whereby Aberdeen business was routed to Stonehaven. However, the Aberdeen court programme has now been redesigned, under the direction of the sheriff principal, to ensure that Aberdeen can properly accommodate its own case load and the case load that will come in from Stonehaven.

Alison McInnes: We were told on Monday evening at a public meeting that 60 solemn cases were transferred only very recently, so the problem has obviously not yet been solved.

Cliff Binning: I am not aware of 60 cases having been transferred recently from Aberdeen to Stonehaven; I am aware of a revised Aberdeen programme that can accommodate the combined level of business.

Alison McInnes: Does the programme take into account the fact that Aberdeen is the designated court for health and safety claims that relate to offshore issues? Such claims can, of course, lead to very long cases.

Cliff Binning: The programme takes full account of that; we factor into the programming the possibility of a long-running trial, proof or inquiry requiring a number of court sitting days.

Alison McInnes: Another issue that concerns me is the lack of a detailed equality impact assessment. I believe that many of the proposals for Stonehaven and Arbroath will impact significantly on children and vulnerable witnesses. Can you explain why the equality impact assessment has not yet been completed?

Cliff Binning: First, I can confirm that, in fact, the equality impact assessment has been completed and will be on the website in early course; it will be published within a number of days.

We have carried out an assessment at national level and at the level of each court that is closing. We have taken into account a range of considerations, one of which, as has rightly been said, is the impact on people who have to travel. Another consideration is the level of service provision in the courts that are closing and in the courts that are receiving that business, and our

assessment is that the courts receiving business, because of their size and various other factors, are better able to provide for children and other vulnerable witnesses.

Alison McInnes: That is quite the opposite of what we have heard at public meetings. We have been told that the facilities for family court cases in Aberdeen are absolutely dire. What are the current arrangements for children in Arbroath as compared with Forfar at the moment?

Cliff Binning: If you will bear with me, I can find that information.

The Convener: While we are waiting, I point out that, although there are members waiting to ask supplementary questions, I intend to go through the list to let everybody in. The next questions will be from John Lamont, Sandra White, Jenny Marra, Nigel Don, Roderick Campbell and Graeme Pearson, in that order.

Mr Binning has found his spot.

Cliff Binning: If we compare the current level of provision in Arbroath and in Forfar, I would say that the position is not substantially better in Forfar. However, there is potential to improve accommodation within the Forfar sheriff court building, and such potential does not currently exist in Arbroath. Those opportunities will be taken and developed to ensure that Forfar can provide a fully fit-for-purpose set of facilities and provision for all witnesses, including vulnerable witnesses.

Alison McInnes: So we are to cross our fingers and hope for the best. At the moment, we have good facilities in Arbroath for vulnerable witnesses—

Eric McQueen: I am sorry to interrupt, but it is not a case of crossing your fingers and hoping for the best. Part of our original idea was to move the business from Forfar into Dundee, but the strong feeling from the Angus community was that people would prefer an option that provided one combined court in Angus. We had to take a view on the facilities at both courts. Arbroath sheriff court is on a very cramped site, there are a lot of rabbit-warren type facilities internally, and there are serious issues to do with custody, custody management and health and safety that are not straightforward to address. Our view was that Forfar offers us much more potential. There is more space available and more room to expand, so we have committed to investing in Forfar to deliver a court that will provide the standard for the people of Angus.

Alison McInnes: What is the timescale for that?

Eric McQueen: There is no question about that at all. It is work that we will take forward as soon as a decision is made by Parliament to go in that direction.

Alison McInnes: When will it—

Eric McQueen: We are currently working up plans and we have money set aside in this year's capital budget to take that work forward. It is certainly not a question of crossing your fingers and hoping.

Alison McInnes: What about the situation in Aberdeen, where I am told that the room for the family court is next to the cells and that there is nowhere for people to have proper meetings?

Eric McQueen: There are two issues there. One that we have been clear about is the need to upgrade the accommodation in Aberdeen sheriff court. As I said, part of our plan is about trying to acquire additional space from the council, and those negotiations are continuing. Now that the police are moving about, we are also looking at opportunities to make additional use of the police building in Aberdeen. It might even be possible to achieve the ideal situation of creating a separate area where civil business can be done in Aberdeen. Plans are being developed to vastly improve the accommodation and facilities in Aberdeen. There are funds that are part of our capital budget this year, and as soon as we get the right property solution, whether it is through the police accommodation or the council accommodation, we will take that work forward and put it in place.

We have heard a lot of comments about meetings taking place in corridors. That is not something that we would support or propose as a solution. There are solicitors who, from time to time, use that as their way of doing business. We do not provide facilities in our courts for solicitors to do business with clients. That is work that should be done in advance, before they come to court, and when they come to court we should have the right facilities for a court hearing to take place for children and family business, and that is what we have in Aberdeen.

We recognise that there are some difficulties with accommodation. Part of this is about the way that accommodation is used, but part of it is about our development plans to improve overall what we have in Aberdeen.

Alison McInnes: You are asking us to accept the closure of efficient courts that are working well and that have some space in them for business to be done properly. By your own admission, the best possible scenario is that we will have a transitional phase where things are really cramped and awkward and we have been promised some jam tomorrow when you—

Eric McQueen: That is not what I am suggesting at all. We are suggesting that we will make investment in those courts where we recognise that there are accommodation

difficulties. Aberdeen and Forfar are two of those courts, and we have been quite clear about that. Those investments will be made, and they will be delivered by the time that the courts are combined.

Alison McInnes: With the reducing capital budget that you have got?

Eric McQueen: Yes. We already have funds set aside.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I have a couple of general questions and a couple of questions about changes that affect my area in the Borders. First, in your analysis, you state that around 95 per cent of consultees disagreed with your proposals for closing sheriff and justice of the peace courts. How many would have to have disagreed for you to have changed your mind?

Eric McQueen: I am not sure whether that is a rhetorical question. There is a difficulty with consultation. This is a difficult issue—a lot of sentiment and emotion is involved, and a lot of people attach high value to their local court service. Their preference, quite clearly, would be to keep a court in their local area, and we can understand that, but we are trying to deal with a world in which there will be significant changes to the justice system as we see it today, and there will be significant pressures on public sector funding that we just cannot get away from.

Every local authority in Scotland is changing service delivery and conducting consultations on closing schools and nurseries; the courts are no different. We do not live in a world in which the courts are somehow protected. With the resources that are available to us, we are trying to put in place the best possible court system that will meet the needs of court users, deliver access to justice and be affordable in the long term.

We are not surprised that there is a lot of concern about the issues affecting individual courts. Of course people would rather see another court in their area, but nobody has come forward with a sensible alternative for dealing with the situation. There has been a lot of talk about using technology more and moving to case management, and we see those things as being crucial parts of the future, not as an either/or. This is about redesigning the court system and about making use of technology to limit the amount of time for which people have to come to court. It is about trying to do as much as we can electronically and about trying to have a widespread videoconferencing network to alleviate travel difficulties as much as possible. Those things are not easy to balance.

John Lamont: Is it therefore fair to say that the consultation was simply a tick-box exercise; you

had already made up your mind, but you went through a process simply to tick the right boxes?

Eric McQueen: That is absolutely not what happened. I have already identified changes that we have made throughout the process, from the initial dialogue events, through the consultation and in the work that we will now do with different organisations, to think about how we can, in a new environment, best design future services that will meet people's needs.

John Lamont: The consultation document contains various tables, including information about the case loads for the courts, but for some reason you did not include figures for the JP courts where they share the same premises as the sheriff courts. Those figures came later. Was that a deliberate omission?

Eric McQueen: What do you mean when you say that they “came later”?

John Lamont: The figures were eventually provided. I requested the figures for JP courts that share the same premises as sheriff courts. I am thinking of Duns in my constituency, where the sheriff court shares the same premises as the JP court. The case load data in your consultation document does not include those figures.

Eric McQueen: Yes—we provided that information later, in our consultation response document.

John Lamont: My point is that it was not in the initial consultation, and I am asking whether that was deliberate.

Eric McQueen: To be honest, I am not sure. Perhaps there was an honest oversight when the consultation was issued. There is nothing that we have tried to hide. We have been absolutely open and transparent and have maintained our integrity. Whenever we have been asked for supplementary information, we have provided it and have tried to ensure that it is reflected as fully as possible in our consultation document.

John Lamont: In the Borders, Duns sheriff court in my constituency heard just over 330 cases last year. It has been identified for closure, with the bulk of that casework going to Jedburgh sheriff court. How could a constituent of mine who does not have access to a car get to an early morning hearing in Jedburgh if he lives in Eyemouth?

10:15

Eric McQueen: We fully understand that Duns is one of the courts where some of the travel issues will be most difficult, and that is partly because of the limitations of public transport in the area. However, we have to balance that against the number of cases that actually proceed at any

given time in Duns sheriff court. On average, there is 0.3 of a summary trial and 0.2 of a JP trial proceeding each week, and no sheriff and jury trials proceed in Duns. The level of business going through those courts is very small.

We accept that, for some people, the travel distance to Jedburgh will be difficult; the time it takes by public transport is approaching two hours. We cannot provide court services to meet every single issue across the whole of Scotland, but we try to be proportionate. Given the very low level of business, we accept that some individuals in certain locations in that sheriff court district will have quite long journey times.

John Lamont: Do you also accept that in some cases people will have to stay overnight to allow them to get to the courts in time for early morning appointments?

Eric McQueen: It may be possible to do something about that. We have committed to working with the Crown through the victim support team to adjust the courts' start and finish times, where we possibly can, to accommodate people's travel needs. If travelling by public transport means that they would arrive at 11 o'clock or 11.30, rather than at 10 o'clock, we will adjust the times of their cases. If a case is carrying on for a few days and there are real travel difficulties, such that people would need to stay overnight, the Crown will come to an arrangement with those individuals.

John Lamont: Who will pick up the cost?

Eric McQueen: The cost will be picked up by the Crown, for those witnesses.

The Convener: What happens in civil cases?

Eric McQueen: In civil cases that get legal aided, the cost would be covered by legal aid.

The Convener: Legal aid would pick up costs.

Eric McQueen: The Scottish Legal Aid Board will pick up the costs for legally aided cases.

The Convener: That is if those people have legal aid.

John Lamont: What if they do not have legal aid?

Eric McQueen: If the person does not have legal aid, those costs would be part of their expenses if they were successful in winning those in their case.

John Lamont: So, it is an extra cost. While the Scottish Court Service is saving money, victims and witnesses could have to pay more.

Eric McQueen: The number of civil cases in Duns will be small and marginal.

John Lamont: For the people who will be affected, it could have a significant impact.

Eric McQueen: On average there is about one civil case registered at Duns per week, and you can work out what will result from that in terms of proofs. So the percentage of people who would be required to bear the additional costs of staying overnight would be down into the very small decimal places.

John Lamont: My last question is also about the Borders. We have heard a bit about justice centres. What exactly does that proposal entail, and what is the timetable for delivering justice centres, in particular in the Borders?

Eric McQueen: Part of what we are trying to do in setting out our ideas for future court structures is to show that it is not all bad news about cuts and reductions. Part of it is an attempt to think more creatively about how the justice system should look in the future, and we have openly and clearly identified in our response document that we see justice centres as being an integral support for the courts in many of our larger cities. We have looked at the Borders, the Highlands, Fife and an area of Strathclyde as candidate locations for justice centres.

By "justice centre" we mean much more than a court building. We see it as the type of service that can be provided alongside the Scottish Court Service, the police with their custody units, the Crown Office, social work services and Victim Support Scotland, thereby making available the support services that are needed where there is a volume of business that makes it worthwhile having such a centre.

We have committed to undertaking feasibility studies in each of those four areas, and we have funds set aside for doing that this year. The first meeting in the Borders will take place the week after next. It will be an initial scoping meeting to get agreement on the principle of a justice centre and the principle of taking forward the feasibility study. There is already a suggestion that Galashiels would be a good central hub for the Borders, and that it would be a good model for keeping all the Borders cases together and maintaining Borders identity, so we are committed to that way of improving the justice system and improving delivery. As I said, we will be sitting down with partners in the council and with justice colleagues the week after next to start scoping out feasibility and practicality.

The Convener: If you will forgive me, because we have moved on to my patch, I will come in with a supplementary. We already have a justice centre in the Borders in Peebles sheriff court. As you know, the court was threatened with closure under the previous Executive and it moved to Rosetta

Road. The police are also in the centre—just through the door—in addition to social work and child welfare. As far as I know, the centre has very small running costs because it is not even owned by the Scottish Court Service. Do we therefore not already have a centre? What are the advantages in somebody in Broughton, in my constituency, having to go to Selkirk—I welcome the fact that they could at least go to Selkirk—instead of Peebles? John Lamont gave a similar example from his constituency.

Eric McQueen: To be fairly blunt, Peebles could be a good model for a justice centre, but it does not have the business. There is not sufficient business in Peebles to justify it operating as a full-time Borders justice centre.

The Convener: If you are talking about having a justice centre in Gala, which will take the business from Peebles, why not just allow the business to stay in Peebles and develop that site? The site has great parking round about it, it is easy to access and it is a pretty good area to travel to. We already have the site in Peebles, so what is wrong with using it and making it the justice centre?

Eric McQueen: If the view of people in the Borders is that it is an easy journey to Peebles and that the site is accessible across the whole of the Borders, that will come out from the feasibility study.

The Convener: I am sorry—you said, “the whole of the Borders”. What is the plan?

Eric McQueen: The plan is to do a feasibility study across—

The Convener: No, what is the plan? You said, “the whole of the Borders”.

Eric McQueen: The plan is to have a feasibility study of whether a justice centre could serve the whole of the Borders, so we will look with partners—

The Convener: So all the other courts will close.

Eric McQueen: That is something that we will consider as part of the feasibility study.

The Convener: I had to ask you that question, because that is where you are taking us.

Eric McQueen: That is exactly why we will have a feasibility study. We have said that we will look at the results of the feasibility study into having a justice centre in the Borders. Although committee members seem surprised, I do not think that anybody would imagine that this is, in a sense, a justice centre plus. We are trying to look at how we can best deliver justice in the Borders by having one central hub, which will be the main place where we deliver that business. We will look

widely across the Borders to establish what is the ideal model.

The Convener: Piles of members want to come in. If Alison McInnes can wait for a minute, I will let Sandra White in before other members. If you can forgive me, I came in very briefly because I felt that I could not let Peebles go by. I will let Sandra in first and get through the members on the list before I let other members come in about justice centres, if the committee is happy with that approach.

Sandra White (Glasgow Kelvin) (SNP): Thank you, convener, and good morning, gentlemen. My understanding is that the restructuring of the court system, which we are obviously taking evidence on, is one of a number of reforms of the justice system, including the measures in the Victims and Witnesses (Scotland) Bill. We must look at the restructuring of the court system from that perspective—I see that Eric McQueen is nodding his head, so he agrees.

I will raise two issues and might touch on another one. Bearing in mind that the restructuring of the court system is a 10-year programme, Eric McQueen said in response to John Finnie’s question that if the restructuring of the court system goes forward, there is a guarantee that videolink facilities will be in place. Is that an absolute guarantee? Is there a timescale for implementation of videolinks?

Eric McQueen: We will come back to you on the timescale. The absolute guarantee is that we will have a complete network of videolink facilities to make such technology accessible for victims and witnesses across Scotland. We already have comprehensive coverage, as every court is kitted out with the equipment and we have 20 remote sites across Scotland. We are committing to expanding that provision further—initially in the areas where we will take forward court closures. We can give that clear commitment. We have funding set aside for that purpose and if the restructuring proposals are accepted, we will work with partners in the areas concerned to deliver the facilities.

When we look further into the Victims and Witnesses (Scotland) Bill, we will look at other ways of trying to expand the service to make it more accessible to others. There is no doubt or question about our commitment to trying to make maximum use of videolinks, in particular for the types of witnesses who are covered in the bill.

Sandra White: Thank you for those comments. The other issue that members have raised—we have all received emails and letters about it—is victims and perpetrators travelling on the same transport. In certain, perhaps exceptional, circumstances, when there was a particularly

vulnerable witness, would the court or a sheriff be able to say that an alternative form of transport would be provided? Would that be allowed? If a lawyer said that a witness was vulnerable, would it be up to the sheriff or the judge to say that a particular form of transport could be provided?

Eric McQueen: Yes. Such a system is actually in place at present. It is managed by the Crown Office. The Crown has facilities to assess the individual needs and requirements of vulnerable witnesses. It can—and does—put in additional or different types of travel and support. At times, that can involve taxis and overnight stays where a risk assessment has been carried out and the Crown thinks that it should support the case. In the Crown Office's submission in response to the committee's call for evidence, it confirmed that that is something that it does at present and will maintain in the future.

Sandra White: People have loyalty to the historical courts in their local communities, but sheriffs' sitting times and underutilisation of certain courts have been mentioned in evidence to the committee, including in your submission. Will you expand on that? Some folk have said to me that, in certain cases, a sheriff will turn up at a court and sit there for two days with no cases. I know that it is not about cost, because you said that in your first submission. It is about access to justice and court restructuring. Do many sheriffs sit there with no cases?

Eric McQueen: I would not like to suggest that sheriffs are sitting around doing nothing, but—

Sandra White: I am sure you are not suggesting that.

The Convener: You have a sheriff sitting behind you, of course.

Eric McQueen: Absolutely—which is why I am not suggesting that.

It is quite clear that a number of courts are not fully occupied. We have looked particularly at courts that we classed as low-volume courts that sit for less than three days a week. Is it effective use of taxpayers' money to have those courts available five days a week when, sometimes, we only use them for a day, two days or three days, and we have in our other courts capacity to which we could move business?

We have talked about some of the accommodation problems and the plans that we have at Aberdeen and Forfar, but in the other courts we have ample capacity and we can simply move business into them. Part of this is about how we can best use taxpayers' money. We can take some of the underutilisation out of the equation and use our courts on the full basis that taxpayers would expect.

Sandra White: I have one last question, convener, if you do not mind.

The Convener: That is fine. We will have to extend this session a bit, so we will have a little break before the next session. I still have Jenny Marra, Nigel Don, Roderick Campbell, Graeme Pearson, Alison McInnes and Lewis Macdonald on my list to ask short questions.

Sandra White: I think that most of my questions have been quite brief.

When we had witnesses in to discuss the Victims and Witnesses (Scotland) Bill, Jenny Marra—I think—asked about court closures and how accessible courts would be for child witnesses. Kate Higgins from Children 1st said that some courts are not fit for purpose in that regard. We are looking at a 10-year programme. I know that you cannot give guarantees over 10 years, but if the programme goes ahead, what will be the timescale for making those courts fit for purpose?

Eric McQueen: It is difficult to give precise timescales for these things because it depends on the availability of future funding. Our aim at present is to ensure that all our courts will meet the basic requirements. We have already, as a result of the plans that we are taking forward, set moneys aside to develop our courts. That will ensure that all our courts meet at least the minimum standard.

As part of the rationale behind the programme, we hope that, in future years, by continuing to target our investment on a smaller number of courts, we will be able to continue the roll-out of improvement plans and to improve facilities, rather than simply trying to keep buildings wind and water tight, which is what we are doing a lot of the time at present because of restrictions on the capital budget.

A good example of how that works is that we closed the JP court in Glasgow last September. People told us that there was no value in the site and that it would be difficult to sell; we concluded a deal on it last month for £1 million, which will come into the court service as capital investment. We are now looking to use that £1 million to make significant improvements to a lot of the facilities. That is where some of the funding for the quick roll-out of the videoconferencing facilities is going to come from. That is a very good example of what we are wanting to achieve through court structures: by reducing the court estate, we achieve an investment that we can immediately deploy to improve facilities while reducing the running costs of the JP court in Glasgow.

Because all of that is happening at the same time, there will not be the same travel difficulties. I am not trying to suggest that that example is

typical, but it is a good example of how we see things working in the future. The capital injection that we get from any sales will be immediately invested and, as the running costs will be reduced, we will be able to make continual improvements.

10:30

Jenny Marra (North East Scotland) (Lab): Are the court closures compliant with the European Union victims and witnesses directive?

Eric McQueen: Are you suggesting that they are not compliant?

Jenny Marra: I am asking whether they are.

Cliff Binning: Our understanding is that they will be.

Jenny Marra: Has that been part of your assessment of the proposals?

Cliff Binning: I will get back to you on that. However, there are a couple of points to make in that respect, the first of which relates to whether a line-by-line assessment of the specific measure has been carried out against that directive. I will have to get back to you on the specification. I make it absolutely clear, however, that we have looked at every protective characteristic in the context of our equality impact assessment and have satisfied ourselves with regard to those criteria.

Jenny Marra: Your equality impact assessment has not yet been published.

Cliff Binning: No, but—

Jenny Marra: You said in response to an earlier question that you assumed that an equality impact assessment would be carried out before proposals were laid. However, given that that assessment has not yet been published, I do not know how you can rely on it.

Cliff Binning: The equality impact assessment has been completed and will be published.

Jenny Marra: It will be published. Can you therefore clarify for me whether the court closure proposals have been assessed against the EU victims and witnesses directive?

Cliff Binning: Let me clarify. The court closures have been assessed against the requirements of equality impact assessments and the extent to which they bear on the interests of vulnerable groups.

Jenny Marra: The problem is that a bill going through Parliament aims to protect victims and witnesses in the courts. It has been brought to Parliament because of an EU directive to protect victims and witnesses but, concurrently, the proposals for court closures could result in victims

and witnesses having to travel together to courts. In other words, legislation is going through Parliament to protect victims and witnesses while they are together in our court buildings but under the proposals that we are discussing they will be put together while they are on the way to those court buildings. As a result, we need to know whether the proposals comply with the directive.

Cliff Binning: The proposals have taken full account of the potential impact on witnesses having to travel, so the answer is yes. As for the Victims and Witnesses (Scotland) Bill, we are aware of its provisions and organisationally we are taking all appropriate steps to ensure that we embrace the needs of the vulnerable groups that are represented in that legislation.

Jenny Marra: I note that victim support organisations believe that the proposals are not compliant, but I will leave the issue with you and you can get back to us on it.

With regard to savings, you said in response to an earlier question about Arbroath and Forfar that there would be future opportunities in Forfar to provide what you called fit-for-purpose facilities for families and vulnerable witnesses. What will be the cost implications of that?

Eric McQueen: At the moment, the initial costs for the plans for Forfar are around £100,000.

Jenny Marra: The projected savings from closing Arbroath court are about £125,000. Surely the £100,000 that you will have to spend on facilities in Forfar cancels out those savings.

Eric McQueen: In the first year, yes it does.

Jenny Marra: Is it just in the first year? We were told that that £125,000 is the projected saving over five to 10 years.

Eric McQueen: That is the actual annual figure for savings that will be made from closing Arbroath sheriff court.

Jenny Marra: But that will be wiped out by this one item of expenditure on Forfar sheriff court.

Eric McQueen: Which sounds like a pretty good long-term investment.

Jenny Marra: However, that does not account for the need for alternative modes of transport. I believe that there is to be an increased use of taxis for witnesses and victims coming to court. Is that right?

Eric McQueen: If you will give me a second, I think that we are in danger of mixing up some different things here. We have done quite a detailed business case on the costs and savings. To me, a £100,000 investment in Forfar is a very good investment if it will save an annually recurring £100,000. Over a six or 10-year period,

we will be significantly better off by having made that move.

The additional costs for witnesses will be borne by the Crown Office. The Crown Office has carried out detailed postcode analysis of where witnesses travel from in order to understand the implications of the changes, and the Crown Office's view is that the additional costs can be contained within its existing budget. The costs of additional witness travel are picked up not by the Scottish Court Service but by the Crown Office, and the Crown Office's view is that the costs are quite minimal in the context of its overall improvement programme for witness attendance and travel. The Crown Office does not see any significant issues, and in fact projects that there might be other savings as some of the improvements start to come through.

Jenny Marra: So, the closures will have an impact on other budgets. There will be a saving for the Scottish Court Service budget, but there will be an increase in expenditure for the Crown Office budget and other budgets.

Eric McQueen: There is a potential increase, but as I said, the Crown Office has done a detailed postcode analysis, and its view is that the additional costs can be contained within its existing budget.

The Convener: What about the civil legal aid budget, which is for civil cases?

Eric McQueen: We have had exactly the same discussion with the Scottish Legal Aid Board, which has carried out its own assessment of the reforms. It thinks that there is the potential to make savings. In independent assessments of the impact, the Crown Office, the Scottish Legal Aid Board and Police Scotland have said that they fully support the recommendations; they see opportunities to make operational improvements for their organisations and any cost increases attached will be negated by those savings. Therefore, the impact on their budgets will be negligible.

Jenny Marra: I have one final point to make on this. In the public meetings that I have attended, there has been a lot of confusion about how the costs stack up—indeed, Lewis Macdonald put to you the assessment that was carried out by forensic accountants. I know that you disagree with that assessment, but it seems to me that there is so much confusion about how the savings add up and the implications for other budgets that it might be a good exercise to do a much more in-depth cost analysis of the effect of the proposed closures across all budgets.

Eric McQueen: In fairness, we have already done that. Our reports have been very clear about the potential costs and savings that circulate around the court services. We have been clear in

our discussions with the police, the Crown Office and the Scottish Legal Aid Board about the potential implications for their budgets, and they have assured us that their financial assessment is that the changes will be largely cost neutral. In some cases, our proposals will provide them with opportunities to promote savings through organisational changes. I am not sure how much clearer we can be on that.

The Convener: If Jenny Marra will allow me, I think that it would be useful for the committee to write to the police, the Crown Office and the Scottish Legal Aid Board to confirm the position. We could test your evidence in that way, as we do not have time, unfortunately, to take oral evidence from them. Once the *Official Report* of today's meeting has been published, it might be useful for us to write to them to confirm the position.

Jenny Marra: Thank you convener. It would also be good if the Scottish Court Service could come back to us on my question about the EU directive.

The Convener: Thank you for that. The next question is from Nigel Don.

Nigel Don: I have two sheriff courts in my constituency. Mercifully, you are not proposing to close both of them—or my life would be quite intolerable—as it appears that the court at Forfar will stay open in preference to the court at Arbroath, so I will be keeping at least one. I want to point out that the transport issues are very real, but they apply not just in the context of the Scottish Court Service. Actually, transport across the north of Angus is a serious problem, and that is a drum that I have been banging for a while.

I make the point to our witnesses that, to some extent, Stonehaven court is a matter of civic pride. Stonehaven folk just do not want to lose their court. The court is part of the town's structure, it has been there for centuries and it is part of what they do. In that context, what assessment have you made of the economic effect on the town?

Eric McQueen: Civic pride is a difficult issue. I cannot just wash away people's views of civic pride with a set of numbers or a set of clever answers. The building has been around for a long time and is part of the heritage of that community. At the same time, we are now in a very different world, where the public sector does not have the same level of funding as it had in past years and where there will be radical changes to the justice system, including radical improvements in the technology for how we deliver the service. Notionally, it might be nice to hang on to that pride and passion and the commitment that people have to these buildings, but we have to realise that the justice system is not about buildings but about people. If there is a different way in which we can

provide that service and meet the technological needs, that may be the direction in which the justice system is going in the future.

Nigel Don: I take your words precisely—it is not about buildings but about people—but I put it to you that the loss of the court will have an effect on the High Street lawyers and, therefore, on the access to justice of folk in Stonehaven and the surrounding area. If the business is all up the road in Aberdeen, it is far less likely that the lawyers will remain on Stonehaven High Street.

Eric McQueen: Equally, I am sure that, if people in Stonehaven require access to legal facilities, legal services will be provided to them as part of the supply and demand of the legal market. I am sure that there will be more than enough solicitors to provide that advice and to take the business of clients who live in that area.

The impact on the towns and communities is an issue that was raised in many of the consultations. We are clear that we will be not losing jobs but moving jobs and there will be no redundancies or loss of posts caused as a result of our proposals. People will move from their current work location to a new location but, in the vast majority of cases, people will continue to live and be employed in whatever area they currently live in. This is not about taking jobs out of the community.

By comparison, many local authority plans for this year propose changes to their services that will result in voluntary redundancies and job cuts. Arguably, those pose much more significant challenges for the viability of communities. It seems a bit odd that such focus is being put on the Scottish Court Service changes, which in some cases will mean that a job will not be lost but simply be moved 20 miles, whereas some authorities will reduce staff numbers by 75 or 130 next year. That perhaps puts in perspective what we are trying to achieve with these proposals.

Nigel Don: I understand that point.

Finally, I want to return to the capacity of the Aberdeen court to take the business from Stonehaven. We have largely explored that issue, but your answers—if I have heard them right—suggested that you will need to spend a certain amount of money and do a certain amount of organising in the Aberdeen court for it to receive that business. According to the draft in front of me, the proposal is that the Stonehaven court will close on 31 May 2014, so you have only 12 months to make the necessary changes and accommodations. Are you confident that you can do that?

Eric McQueen: We are certainly confident that we can make any adaptations necessary to accommodate the Stonehaven business in Aberdeen by that stage. Our longer-term plans—

this will depend on reaching agreement either with the council or with the police—are for further expansion, which might also run through that period. There is no doubt at all that we and the sheriff principal are absolutely sure that we will have the right conditions in place in Aberdeen to deal with the business from Stonehaven court when it transfers, if it transfers, in May next year.

Nigel Don: Will the JP court—the former district court, which we have not spoken about much—be able to cope with the business that is to be transferred from Stonehaven as well?

Eric McQueen: Absolutely. Again, there is no doubt or question about that.

Nigel Don: That is not the view of the policeman on the door.

Eric McQueen: That is the view of the sheriff principal, who has done the detailed analysis of the court programme in Aberdeen.

The Convener: We must move on. We still have questions from Roddy Campbell, Graeme Pearson, Alison McInnes and then Lewis Macdonald. I hope that we can be swift and perhaps finish by 11 o'clock—probably not, judging by the look on Alison McInnes's face.

Roderick Campbell: In the interests of brevity, I will adhere to the points that Nigel Don made about Stonehaven in relation to Cupar and the history of that town, but I will not repeat his question.

In the consultation responses, a number of people referred to the fact that, in some areas where sheriff courts are scheduled for closure, the courts are in close proximity with public agencies such as the police and criminal social work departments. I do not see that that point was really taken over in your response, which was published last month. Do you have any comments on that, and on the fact that that does not seem to have been a particularly relevant consideration going forward?

10:45

Eric McQueen: I am sorry, but I am not quite sure what you—

Roderick Campbell: The point is about proximity. Some of the places where courts are scheduled for closure have public agencies such as the police and criminal social work located right next to the existing courts. That does not seem to have been a factor in your assessment of where we go with your proposals.

Eric McQueen: Sometimes it is helpful to have those services in those locations. If the Cupar business moves to Dundee, it will not change the responsibilities of the social worker in north Fife.

They will still be responsible for the pre-court disposals and social work services in the same way as they are at the moment. The only difference is that the case will proceed in Dundee sheriff court.

We will be seeking to minimise the requirement for social workers to travel to court. The vast majority of social work information that goes to courts comes through written reports, rather than through personal appearance. In many cases, that is what already exists.

There will be people in the north-east of Fife who are currently prosecuted in Dundee—or at any other court in Scotland. There are already arrangements in place to ensure that the arrangements regarding social work operate effectively. We do not see that fundamentally changing but, through technology, there might be beneficial ways of reducing some of the travel that might be involved or some of the attendance that is required at the moment.

Roderick Campbell: Have you had any discussions with people at Fife Council's criminal justice social work services?

Eric McQueen: We have had only limited discussions regarding the consultation responses. We had discussions with them through the dialogue events.

Roderick Campbell: But you have not had recent discussions with them at all.

Eric McQueen: Not recent discussions, no.

Roderick Campbell: One of the problems with the proposals is that, for most people, certainly in my part of the world, it is difficult to sell them as an improvement to justice and to access to justice. There is a thread running through the consultation, suggesting that a relatively small number of people will be disadvantaged on the comparatively rare occasions when they come into dealings with the court. How would you sell the proposals in my part of the world, where people see justice being removed lock, stock and barrel, not only at sheriff and jury level, but at summary level and in the proposals for summary sheriffs in future? How do you sell that?

Eric McQueen: I do not think that it is a matter of removing justice lock, stock and barrel. It is about trying to deliver it in a different way in future. There will be some extra travel involved for some people in north-east Fife. If people from Cupar travel to Dundee, they will have an additional journey of about 25 minutes on the train. For the vast majority of people living in St Andrews and in the further-out areas, the difference in public transport time is a matter of minutes. I think that it takes about seven minutes more to get a bus to Dundee than it does to go to Cupar.

We have to be realistic about what we are trying to achieve. For the vast majority of people, particularly in that area, the additional travel distances are not significant. With continued investment, we will be able to provide very good facilities in Dundee. We will be able to put technology in place, bringing in electronic case management and electronic presentation of evidence, as well as reducing the number of witnesses who will need to attend court in the future.

The proposals are not just about taking today's system, lifting it up and dropping it somewhere else; they are about trying to get the capacity and make the investment to get the benefit out of all the justice reforms that are coming our way.

Roderick Campbell: Forty-four per cent of people will be required to travel more than 10 miles further than they do at present.

In the case of family child welfare hearings, 80 per cent of people will have to travel further. Those hearings involve really local issues. How will the new set-up improve life with regard to child welfare hearings?

Cliff Binning: Again, it is a question of balance, of numbers and of the facilities and services that are available—first, in the receiving courts, and also in the wider context of the court reforms.

The important point to make as a way of—as you put it—selling the argument is that, from a Scotland's justice perspective, there must be a better way. We cannot carry on with a configuration of courts that was set up for a 17th or 19th century timeframe. The visionary perspective for Scotland's justice system is as we have described: it is to combine achieving the best that we can through specialisation when that is appropriate and necessary with operating a network of courts that capitalises on technology. I understand that that is not the easiest sell to the individual who will rightly have concerns about the impact in the local community, but it is important to keep that perspective in mind.

As far as child welfare hearings are concerned, the facilities in Dundee are far better than those in Cupar. Haddington is a useful example because child welfare hearings will be convened in Edinburgh in a specialist family court role.

We must bear in mind that there are a number of checks and balances; it is not all measured singly by localised or isolated circumstances. There is a vision for a better way and this is our platform for enabling that vision to be realised. The corollary of that is that realising that vision will be far more difficult—if it is possible at all—if we are tied to the current configuration of buildings and the expenditure lines that that denotes for us.

Roderick Campbell: I refer you to something in the September consultation that puzzles me. Paragraph 2.12 refers to specialist justice centres, before moving on to the wider network of smaller facilities, which

“could range from a complex of courts served by resident members of the judiciary to small sitting centres for courts to be held by visiting members of the judiciary. Accommodation could be shared with other public services”.

That issue is also referred to in paragraph 2.43, which talks about providing a

“different kind of access and opportunities to share accommodation with other public bodies”.

That matter does not seem to have been followed through in the response to the consultation—there does not seem to be any reference to the circumstances in which visiting members of the judiciary would hear cases. Will you clarify that?

Eric McQueen: Where that will carry on in the future is in our island and remote courts. We have committed to business in the island courts still being carried out by a sheriff, and there will be sheriffs who will visit those courts to carry out the more serious cases over which they have jurisdiction. In the same way, we have said that the move to sheriff and jury business will be a 10-year plan. It is a direction of travel. If, in the intervening time, summary sheriffs come in, then sheriffs will still go out to the small courts to hear sheriff and jury cases and the more complex business, pending a move or direction of travel towards the justice centres or the specialist sheriff centres. As we work through the proposals, there will still be a model in which there will be a need for both. Even as we move to the sheriff and jury centres—if, indeed, that is the way we go—the sheriff principals have always been clear that they will retain the right to hold a sheriff and jury trial in one of the smaller court areas when they think that there is an issue that is important to local access to justice. We are not saying that that will never happen; rather, we are saying that we want a model in which there are specialist sheriff centres but sheriff principals retain the right to decree that a sheriff should go to a particular area when there is a need for local access to justice. None of that is exclusive.

The same is true for the High Court. The High Court should predominantly sit in a smaller number of centres. The Lord President and the Lord Advocate will always have the right to decree that a trial should be held at a local court. The model will be flexible as we go forward.

Roderick Campbell: I appreciate that the consultation on summary sheriffs is still open. Are you considering, or will you take on board, the possibility of summary sheriffs moving out into the

community more widely, particularly in rural parts of Scotland?

Eric McQueen: As you say, the consultation and modelling work is on-going. However, we would see summary sheriffs being based in virtually every court across Scotland. It would be hard to find a model in which there would be a courthouse without a summary sheriff. We will see a greater concentration of sheriffs in the more specialist centres, although sheriff principals will retain the right to decide occasionally to move them out to specific courts. However, it is hard to envisage a model in which summary sheriffs would not exist in every court throughout Scotland.

The Convener: I do not want to close down questions, but I want to finish by 11 o'clock. I therefore suggest that we hear the questions from Graeme Pearson, Alison McInnes and Lewis Macdonald and, if they can be dealt with by 11, so be it, but if not, I will ask the witnesses to write to us with responses. We have had nearly an hour and a half and other witnesses are waiting. I know that that is not the best option, but we have had a good crack of the whip on many issues.

Graeme Pearson: My question follows on from Sandra White's one about witnesses and victims travelling to courts. We heard that special arrangements will be made. I have to say that I smiled at that, because the members of the panel were nodding in agreement that those arrangements could be made, whereas the members of our next panel, who are sitting in the public gallery, were shaking their heads. I anticipate that they will say that that is not their experience.

The key point that I want to ask about is that the experience of the victims and witnesses who gave evidence to the committee earlier was not positive or likely to encourage them to come forward in future. Across the south of Scotland, there is a big change in the arrangement of courts, in particular at Duns, Haddington, Kirkcudbright and Peebles, and so you leave us—

The Convener: This might sound like the Presiding Officer, but can we have your question?

Graeme Pearson: Indeed. I will ask the question now. I had to set the context first.

Mr McQueen, you asked for a leap of faith and a belief that you will get it right. It is actually a leap of faith for the witnesses and victims. You are making a huge change. How will we deal with very vulnerable people who already feel under tremendous pressure in going to court to try to offer their best evidence?

The Convener: To summarise, the question is whether the changes make it worse for vulnerable

witnesses who already find it difficult to go to court.

Alison McInnes: I have two questions. Mr McQueen said that the Court Service is not about buildings but about people. I find that hard to reconcile with Mr Binning's point about Arbroath and Forfar. He acknowledged that the facilities for vulnerable witnesses are better in Arbroath, yet the business is going to move to Forfar. That seems to me to be just about the building. Did you take into account the number of vulnerable witness orders in each of those courts when coming to that decision?

My second question is about the sloughing off of costs on to other agencies and people. We have heard about the Crown, the Scottish Legal Aid Board, victims and witnesses and criminal justice social work having to pick up some of the tabs. Another implication might be that, in Stonehaven, the police will be unduly impacted because, currently, the police station is co-located with the court. What discussion have you had with the Police Service of Scotland about the future of that building?

The Convener: So if we can extend it, the question is about where police co-locate with courts throughout Scotland.

Lewis Macdonald: I have two factual questions, to which I hope Mr McQueen can give a yes or no answer. Earlier, in response to a question from the convener, Mr McQueen said that the feasibility study on the establishment of a justice centre in the Borders might well result in a proposal for the further closure of courts in the Borders. My first factual question is this: are other feasibility studies for the establishment of justice centres being undertaken, or in the planning, that might result in the closure of courts throughout Scotland, such as those in Tain or Banff?

My second factual question is, again, a straightforward yes or no question. Have you or have you not undertaken an economic impact assessment of the impact of closing local courts in towns such as Stonehaven, Dingwall and Haddington?

The Convener: Right. Vulnerable witnesses will be worse off.

Eric McQueen: Sorry?

The Convener: One of the questions was whether vulnerable witnesses will be worse off under your proposals.

Eric McQueen: Our answer to that is no. It is helpful to look at the Crown Office response to the proposals. It is clear about its commitment to vulnerable witnesses and about the provision that it will put in place for transport and liaising in those cases. That is a helpful response. If the committee

needs more on that, we are happy to assist, but that is primarily—

The Convener: There was also a specific question about vulnerable witness orders.

Eric McQueen: We have accepted that there is a compromise in the move to Forfar. We are clear that we will improve the facilities at Forfar to make them the quality facilities that we should have for vulnerable witnesses.

Alison McInnes: I put it on the record that, in 2010, there were 66 vulnerable witness orders in Arbroath and five in Forfar, and that, in 2011, there were 47 in Arbroath and only six in Forfar. You are flipping it round.

Eric McQueen: We will create the facilities in Forfar that will serve those vulnerable witnesses.

Alison McInnes: The facilities are already there in Arbroath.

The Convener: I said that we would finish at 11, and I meant it. We still have other questions. The witnesses will have the *Official Report* of the meeting. Direct questions were asked and I would appreciate it if the witnesses could respond to the committee in time for next week if that is possible.

Lewis Macdonald: Convener—

The Convener: Lewis, I want to move on. One question that the witnesses can probably answer now is whether the proposal for having one justice centre for the Borders is a model for other parts of Scotland.

Eric McQueen: We will carry out three further feasibility studies in Scotland and we will be considering the best configuration of courts to support a justice centre in those areas. So, yes, we will do feasibility studies, but they will look at the level of provision that is required.

The Convener: I am aware of the time and we have other witnesses who have been waiting, so could you please send responses in writing to the questions that have not been answered?

I will suspend the meeting for eight minutes.

11:01

Meeting suspended.

11:08

On resuming—

The Convener: I welcome our second panel of witnesses, who sat through the earlier evidence session. We have with us Stuart Fair, treasurer of the Scottish Justices Association; James Wolffe QC, vice-dean of the Faculty of Advocates; Stuart Naismith, convener of the access to justice

committee of the Law Society of Scotland; and Sheriff Kevin Drummond. I inform the committee that Sheriff Drummond tried to get other sheriffs to come along to the meeting to consider aspects in rural areas in particular but, unfortunately, none were able to attend. I say that to make it plain that no partisanship is involved in my having Sheriff Drummond here from the Borders, as he is here to give a perspective on rural shrieval work.

We will go straight again to questions from members.

John Lamont: Good morning, gentlemen. My first question relates to justice centres and the bombshell—in my opinion—that we heard in the earlier witness session that the Scottish Court Service is going to review more courts for closure with a view to setting up justice centres to cover much wider areas, for example in the Borders. Are you aware of the further reviews? What is your view of them?

Sheriff Kevin Drummond: I was appointed to the Borders in 2000, so for 13 years I have been presiding over the courts at Jedburgh, Selkirk, Duns and Peebles. I have heard about the prospect of another feasibility study for another justice centre. However, as I understand it, there was a feasibility study just before I was appointed in 2000, then there was a study carried out by Sheriff Principal Nicholson that was the subject of a debate in this Parliament in January 2000, and we have now had the recent consultation. It is my understanding from such of the feasibility studies that have been disclosed that establishing a central justice centre in the Borders would give rise to the same travel difficulties that we currently have. It has been conceded that, particularly for people in Eyemouth and the far side of Berwickshire, there are significant travel difficulties. My short and simple answer is that, instead of having people travel to a central court, the sheriff should travel to the people.

I have covered more than 250,000 miles—unpaid, I may say—in the course of my 13 years in the Borders and it seems to me better that I go to centres for the purpose of dealing with the business than that the people should come to me. The question seems to me to be how we best organise those locations in which that can happen. Peebles is the classic example, but we are going to close it.

Stuart Naismith (Law Society of Scotland): If we took justice centres to their logical conclusion for the purpose of running a business, we would have just one—everybody would go to just one centre. Centres of justice certainly have a place, particularly in the central belt and in urban areas, but for rural areas they impact disproportionately. As part of joined-up thinking, there can certainly be a place for centres of justice. By common

consent, Livingston is a very good example of that. However, they are not the be-all and end-all.

James Wolffe QC (Faculty of Advocates):

The proposal for justice centres, as I understood it from the consultation paper, was for the concentration of non-summary business in 16 identified centres. My understanding was that that would leave intact a network of sheriff courts hearing summary business. Indeed, one of the witnesses in the earlier evidence session said that, at least in the interim period, other sheriffs could travel out to hear cases in those summary courts.

A matter that the committee might wish to clarify in relation to justice centres is precisely what the proposal now is. As I listened to the earlier evidence this morning, I had the impression, but it may require clarification, that as far as the Borders was concerned the suggestion was for a single justice centre with no network of summary courts. That seems to me quite a different proposition from the one in the original consultation.

My second point is a general one that applies to court closures generally but particularly to the proposal that I have just described: court closures impose costs and inconvenience on court users. I do not need to dwell on that, given the evidence that the committee has already received from constituents. However, it is important to keep in mind that the question is not simply the budgets of other public sector organisations but the costs and inconvenience for individual users, whether witnesses, the accused or others who have to come into the court system.

11:15

That takes me back to the earlier points about the use of technology. Much has been made of the potential for the use of technology to mitigate some of the adverse consequences. I would be the first to embrace the appropriate use of technology in the courts, and there is considerable potential there, but there are limits. It is difficult to conceive, for example, that one could dispense with the presence of the accused in a criminal trial. There are difficulties around key witnesses giving evidence remotely, particularly if dock identification is required. I imagine that there would be difficulties in managing difficult and recalcitrant witnesses if they are remote from the courtroom. If the witness has to be referred to documents and other productions, there can also be difficulties. One has to put the potential for technology to fill the gap into its proper place.

On the proposition that there should be designated centres for sheriff and jury work, the first point that the committee ought to keep in mind is that the Court Service itself recognises that that will require a capital investment programme and

that it is a project for the long term. It has specified a number of preconditions on court capacity and other issues before the system could safely move to that model.

We made the important point in our written submission that, for parts of rural mainland Scotland that are remote from any sheriff and jury centres, in the long run, not simply in the interim, there should be flexibility in the model that is applied—the same flexibility that is being applied to island communities.

Stuart Fair (Scottish Justices Association): Our understanding was that the justice centres would not be dealing with the level of summary crime that the typical JP court deals with. To echo what Mr Wolffe has been saying, we would have issues about the impact on users of the service. The Scottish Justices Association believes that there is a disproportionate negative impact on the users of courts as a result of the proposals relative to the business case, which we believe is less than robust and has some questionable assumptions.

The cost of travel is a big issue. Typically, our members might have to grant warrants for the apprehension of between 20 to 25 per cent of those who are cited to attend court, because of non-attendance. The reasons for non-attendance of the accused can be varied. If some courts close, such percentages could increase. As a result of the potential increased non-attendance, there is an additionality in cost to the wider public sector in Scotland, for instance to Police Scotland in apprehending people to answer the warrant.

There is a range of issues that are not particularly clear in the proposals, but what seems to be clear is the impact on users relative to the business case itself.

John Lamont: For the benefit of the *Official Report*, was it news to you earlier when you heard that a feasibility study was going to be carried out with a view to having one court in the Borders and that other studies were taking place elsewhere in Scotland? The nodding of heads suggests that it was news.

The Convener: For the benefit of the *Official Report*, that was a whole row of nodding heads from all four witnesses.

Mr Fair, you raised the additional police cost for having to apprehend people and bring them to court. What other issues are there? You said that a whole range of issues was not covered. Can you tell us some more?

Stuart Fair: The cost of travel for some of the court users—

The Convener: We have accepted that one and the police costs around having to apprehend—

Stuart Fair: Do you mean in terms of the business case?

The Convener: Yes, the other costs that you referred to.

Stuart Fair: As we understand it, depreciation was included in the financial aspects of the business case as a saving, but that is an accounting adjustment, not a cashable saving.

The provision for maintenance costs also seems questionable. We feel that if the costs of backlog maintenance were so high, that would have a negative impact on the saleable values of those properties that were put up for sale. I think that the original business case had a figure of £4.3 million for backlog maintenance, which it said would be saved as a result of the proposed closures. We feel that if that is not a contingent liability or a liability that is already on the books, it would have a negative impact—if the figure is correct—on the properties that are put up for sale and on the capital receipt that the Court Service would look for on disposal of them.

With most public sector service change proposals, there is an element of optimism bias, some of which is founded in the principal assumptions that underpin the financials. The annual cash running-cost savings of £1.4 million are based on some assumptions that we do not believe are sustainable. Typically, optimism bias in the public sector for such proposals can be wrong by as much as 25 per cent.

Given the potential additional costs to local authorities in criminal justice social work, the additional costs of moving from one area to another and the Police Scotland costs associated with apprehension warrants, we do not feel that the overall cost to the public purse in Scotland has been reflected in the proposals. If we balance that against impacts on users such as additional travelling costs, inconvenience and travel-related issues with witnesses, we think that there is much more work to be done to justify the proposals.

We get the point about austerity and the need for the service to make savings in its overall budgets, but there appears to be an imbalance when the proportionality of the savings is compared with the overall budget and the negative impact on users is taken into account.

The Convener: We will move on.

Graeme Pearson: I want to return to the users of the courts and the impact that the changes might have on them. You have talked about the economic impact on them and the time that it will take them to travel to court. From your experience, is that likely to have any impact on the willingness of witnesses to be involved with courts in the future? Will it have any effect on the anxieties and

stress that witnesses might face? Has that been properly weighed up in the business case that the first panel presented to us?

Stuart Naismith: First, I do not think that it has been weighed up at all. It is a business case that has been presented. I endorse what Stuart Fair said—I think that the arithmetic is an affront to common sense.

Of course the issues that you raise will have an impact. In my experience of civil, criminal and family law, contrary to public perception, appearing in court is stressful. Witnesses and victims get nervous about it; it is not something that people are comfortable with. I dare say that Sheriff Drummond might say the same thing: part of making people appear in court is to make it uncomfortable. If it were dead easy to lie, it would be an easy experience. Appearing in court is stressful for witnesses. If cases are adjourned, long distances have to be travelled or people are exposed to intimidation in all its subtle and not-so-subtle forms, that will have a negative effect on the willingness of citizens to come forward.

The committee must not underestimate the danger for concepts such as justice and the rule of law, which do not just happen but must be nurtured by being supported by robust institutions in the locality, which have a presence for our citizens. Any court closure will inevitably have an impact in that regard. In answer to your question, I do not think that that has been assessed. I think that an accountant produced the proposals on a matchbox. We are talking about important issues, which I sincerely hope that the committee will take on board.

Sheriff Drummond: Sadly, many of the people who use our criminal courts are at the lower end of the earnings scale or are in receipt of benefits. We already experience people being unable to attend because they have no money—that is said quite openly. I understand anecdotally that if someone does not have the money, they will turn up at the social work department office, where they can be given money to enable them to travel to court. I have direct experience of an occasion when that happened and the money found its way into the nearest licensed premises, instead of the witness finding his way on to the bus to court. That happens, and such instances will undoubtedly increase under the new arrangements—to what extent, I do not know.

Stuart Fair: In the justice of the peace courts, we come across exactly the situation that Sheriff Drummond described. The additional cost to someone who is on jobseekers allowance of £44 a week can be prohibitive, if the individual is required to make an additional journey, for example from the south-east corner of Scotland to Edinburgh. Even the journey from Cupar to

Dundee or from the east neuk to Dundee might constitute a significant additional cost. We are talking about people who are innocent—even the accused is absolutely innocent until it is proved in court beyond reasonable doubt that they are guilty. Those people are impacted by the additional costs. As Sheriff Drummond pointed out, the cost can be a significant proportion of the person's overall income. There are a variety of reasons why people do not turn up to court, but we think that there is the potential for the new arrangements to be a factor in people not turning up.

Graeme Pearson: The previous panel suggested that sheriffs can make arrangements in relation to witnesses' special needs, to enable them to come to court. Is it this panel's experience that courts across Scotland are able to manage issues such as a witness's economic difficulties or stress and anxiety due to some form of intimidation? Are the courts good at dealing with such circumstances?

Sheriff Drummond: Are we talking about defence witnesses or Crown witnesses, or both?

Graeme Pearson: Either, or both.

Sheriff Drummond: The Crown will know if it has a formally identified vulnerable witness, because it will have made a vulnerable witness application to the court beforehand. I expect that the fiscal would make some kind of assessment of whether the witness required special travel arrangements. That does not always happen, and there are degrees of vulnerability. It is simply another additional cost that must be faced up to.

If I may come back to a point that came up earlier, which relates to the same issue, the police are also court users. It is possible to carry out an exercise in which at least the indicative costs of additional police can be identified. In appendix C of my memorandum of October 2012—I have copies with me, if that would save time—members will find a letter to me from Lothian and Borders Police. It had nothing to do with court closures. I was concerned that too many police officers were giving evidence and I wondered whether the local bar was doing its job as well as it should be, so I carried out a private exercise in which I asked the divisional commander to provide me with details of the numbers of police officers who had given evidence. Here we have, not in any context of closures or anything else, a cold, objective assessment, and in two months—September and October 2008—144 police witnesses were cited from that division. It should also be appreciated that the process of citation of witnesses is a time-consuming and cost-relevant factor for the procurator fiscal. Of those 144 police officers who were cited, 32 actually gave evidence. You will find that, on the second page of that document—

11:30

The Convener: If members turn to the—

Sheriff Drummond: I have copies of it here, if that would save time.

The Convener: No, we have it. It is in our papers. It is the penultimate page in members' brown folders. It is page 14, in the appendix.

Sheriff Drummond: If you look at the second page of that, you will find the divisional commander saying to me:

"It should also be noted that there are considerable financial implications in the Division in terms of backfill costs for those officers required to attend court, and this expenditure can vary depending on the notice. In relation to the two-month period under review, the following costs were incurred by the Division".

Now, those are not the backfill costs. The backfill costs could not be quantified. They simply arise from the fact that, for example, a police officer who is on the night shift cannot be required to turn up for court at 10 o'clock in the morning and then be expected to go back on duty again. In such cases, there requires to be a restructuring, and the restructuring arrangements give rise to additional costs.

You will see that the total cost for that division for that part of the financial year, which was about six months, was £16,000 in round terms. That can be extrapolated, taking into account the number of divisions, to determine the cost for that force, and that can be multiplied by the number of forces. That is probably dangerous, because the situation in the city of Edinburgh may be different from the situation in the Borders, but it is possible to do that costing.

I would have hoped that that kind of exercise would have been carried out because, at the first workshop, when the proposals were first mentioned, I asked for the senior civil servant in the police division at St Andrew's house to provide a percentage. Is it 1 per cent, 0.1 per cent or 0.001 per cent? Any of those would produce a substantial figure. The extrapolation that I suggested gives a figure of £1.5 million. The costing can be done, but it appears not to have been done.

The Convener: Thank you. That is another unforeseen cost. It has certainly not been specified to us.

Roderick Campbell: Good morning, panel.

Convener, there is a reference to police witnesses in paragraph 1.20 of the Scottish Court Service response of April 2013, but we did not ask it for evidence on the proposals in that paragraph. It might be helpful if we put Sheriff Drummond's points to the chief executive of the Scottish Court

Service so that the service can expand on that paragraph.

The Convener: Yes. I anticipate that it will respond to many of the points that have been raised in the evidence that we have taken following its evidence session, but it is now on the record that we want it to do that.

Roderick Campbell: I refer to my entry in the register of members' interests as a member of the Faculty of Advocates.

I am interested in what the Faculty of Advocates said in its initial response to the consultation about Sheriff Taylor's review of expenses, which has not yet reported, and the extent to which that might have an impact on civil litigation. Will the panel comment on civil litigation in Scotland in general and where it might be going? Perhaps Mr Wolffe could start.

James Wolffe: As the committee will be aware, the court proposals have been brought forward at a time when the Government is also consulting on a radical restructuring of the civil court system and, although it is perhaps not appropriate for me to start to respond to a consultation that has not yet come before the committee, I point out that it forms part of the context in which these proposals have been brought forward. The fact is that a serious job of work has to be done in relation to civil justice in the sheriff courts, and we would certainly welcome and support proposals to improve the conduct of business in those courts. Anecdotal evidence suggests that civil cases heard in the sheriff court have been distributed over a number of diets, which is simply an inefficient way of doing business.

With regard to Sheriff Taylor's report on expenses, which you mentioned, the particular issue that caught my eye and which is referred to in the faculty's original submission is that, compared with other jurisdictions, the incidence of civil litigation in Scotland is very low, which raises questions about the level of unmet legal need in Scotland and whether the decline in court business that has already been highlighted reflects a long-term or even desirable trend. On that point, one does not know the extent to which the significant decline in court business over the past few years is a function of the economic circumstances, and I simply note that the committee is examining these proposals in a context in which it is extraordinarily difficult to predict future court business because of other things happening in the justice system. For example, there is a question about what impact the proposal to abolish corroboration—and I do not really want to get drawn into discussing that particular issue—will have on the level of criminal business. As the committee is well aware, Scotland's unified criminal and civil court structure

means that changes in criminal business have a knock-on impact on civil business.

I am not sure that I have necessarily answered Mr Campbell's question, but I suggest that the committee will want to keep in mind the point that there are much broader issues with regard to the future of the civil justice system in the context of the justice system as a whole that form the background and provide the context for the particular proposals that we are discussing. I have no doubt that the committee will be concerned about ensuring that things are not done now that prejudice or prejudice what might happen in future.

Sheriff Drummond: Perhaps we should get something clear in response to Mr Campbell's question about the context: I certainly have no intention of preserving the status quo. The status quo has gone, and we must change, adapt and make best use of the resources that we have.

What the Gill review—which should be seen in conjunction with the draft Courts Reform (Scotland) Bill, because it is implementing parts of it—essentially sought was a balance between centralisation, specialisation and access to justice. The last of those three issues provides the context in which most of this discussion is taking place. No one is suggesting that we do not require appropriate specialisation or centralisation, but the question is how we balance both with access to justice, and the Scottish Court Service proposals form part of that process. We should be looking at them—and, indeed, I am approaching them—by asking how we strike this balance in the context of a rural justice policy. As far as I can see, there is no body of principles or policy formula against which we can measure these proposals with regard to the provision of rural justice. This is all proceeding solely on the basis of an accounting exercise involving two standards: proximity to another court and volume of business. Although it is perfectly appropriate to apply such standards in an accounting exercise, they are not—indeed, are nothing like—the whole picture and I think that that has been lost sight of in the approach that has been taken.

I do not blame the Scottish Court Service for taking this approach—like all of us, it is required to work within its budget—but I respectfully suggest that its proposals are capable of being refined and improved. That is not the same as defending the status quo. We are saying, “We can do this better,” and one of the ways that I have already suggested in which we can do this better is that, instead of people in rural areas travelling to courts, the courts—to put it crudely and bluntly—should travel to the people.

I do not know whether that contributes to answering your question, Mr Campbell.

The Convener: I want to press you a little further on those comments. Are you suggesting that the Government can go down the route of having a justice centre but, given the difficulties of travelling, the sheriff should still have the option of going out to local areas when required without there being a sheriff court building as such?

Sheriff Drummond: That would be the ideal. There could be a centre in which a specialist sheriff or specialist sheriffs could sit. The fact is that the volume of business on specialist areas in, for example, the Borders courts does not justify the permanent presence of a specialist sheriff. I run a commercial court, a family court and a drug treatment and testing order court; in the Borders, there is no scope for having a specialist sheriff to cover each of those areas. We could have a centre that a specialist sheriff could, if necessary, attend and we could also have the facility to go out and do our routine business in other locations. However, the problem is that we are closing the other locations.

The council chambers in Peebles, however, is still there; we have a dock on wheels that we trundle out two days every month and the court comes along, does its business and is sufficiently flexible to be able to say, “We'll continue this in Selkirk next Thursday and somewhere else the week after that.” We have that flexibility because we have that location at no cost, and the same could be achieved for Duns and perhaps in other rural areas. I cannot and would not attempt to say what the situation is like in other rural areas, but if that sort of thing can be achieved in the Borders, I think it highly unlikely that it could not be achieved elsewhere.

Accordingly, the question should be, “What model should we be looking at?” but we are simply not approaching the matter from that standpoint. As my first submission to the committee from April 2012 makes clear,

“In a letter of 30th March 2012 addressing ‘Future Court Structures-Next Steps’ Mr McQueen ... says (p.3 para.1) ‘... we would see more judicial travelling as inefficient ...’.”

That is the approach that the Scottish Court Service took early on and, in my respectful submission, it is flawed and has coloured the whole matter. As someone who has spent his entire judicial career travelling round the rural countryside, I can say that without fear of contradiction. I do not care whether the court is conducted in the back of a large furniture van; it should go to rural locations.

I have looked at the situation in other jurisdictions, which I do not think has ever been done. I spend a not insignificant part of my time fishing in Montana, which is two or three times the size of the United Kingdom and has a population of one or two million. It is a huge rural area, but it

provides highly efficient rural justice services. I have discussed with people there how they do that and what the best way to do it is. They have a different structure—there is no point in exploring that here—but we seem to think that there is only way to do it, which is to close the courts. That is not the only way. There are much more imaginative ways to approach rural justice.

It would help everyone if there was a formulation of a policy against which we could measure things, but we do not have one.

11:45

James Wolfe: I endorse what Sheriff Drummond said. The arrangements have to change and I am not here to defend the status quo. Like Mr Naismith, I think that the notion of justice centres and specialism of sheriffs—which is perhaps a key point—has a great deal to commend it. However, it requires rural mainland Scotland to be looked at flexibly and perhaps in a different way.

It is recognised that island communities have special needs regarding these issues. With respect, it seems to me that Sheriff Drummond's suggestion—that, when appropriate in areas of rural mainland Scotland, sheriffs rather than people should travel—is a model that ought to be considered. I was heartened to hear one of the witnesses say that they had that model in mind for the interim period—the 10-year programme that was described to the committee—but I was disappointed not to hear him say that that model would continue to be applied thereafter.

I say this as someone who was born and bred in south-west Scotland: for rural mainland Scotland, issues of access and accessibility ought to lead one to look creatively at a more flexible approach.

The Convener: That would mean that one would not necessarily have to retain the court building. Sheriff Drummond talked about the back of a furniture van. I do not expect everyone to be on the back of a furniture van, but there could be ad hoc arrangements in circumstances such as those in Eyemouth that were described by John Lamont—I do not want to focus on the Borders all the time—that would allow that flexibility. Should we look at that?

Sheriff Drummond: That might require some statutory modification, because one cannot hold a court anywhere that one feels like it. One consideration that should be taken into account in the Courts Reform (Scotland) Bill might be that sheriff principals should have power to designate specific locations as courtrooms for ad hoc purposes.

The Convener: Can they not do that now?

Sheriff Drummond: No; I think that it requires a special order. Roderick Campbell might be better informed on that.

Roderick Campbell: I will pass on that.

The Convener: Mr Campbell is not here to give evidence—I am saving you, Rod.

I seem to remember a court going into the middle of a field to check whether a tup was worth the price that had been paid.

Sheriff Drummond: That was taking evidence, which is not a problem. Evidence can be taken anywhere. However, business is required to be conducted in a designated place.

The Convener: Thank you. I understand now. I am not suggesting that we make fields designated places.

Stuart Naismith: As a practising solicitor, I am at pains to emphasise that opposition to court closures should not be seen as opposition to modernisation, reform or increasing efficiency. In particular, it should not be seen as defence of maintaining the court structure.

Mr Campbell mentioned the impact on civil business. Civil business embraces family law, as well as contract reparation and the other types of civil business that are handled in the courts. On a previous visit to your committee, I mentioned that I see no association between family law, criminal law and the rest of civil law. Family law should be seen as a particular speciality.

In informal discussions between the Law Society and the Scottish courts administration on sheriffs travelling, it seemed to be regarded as inconceivable that the sheriff would leave his court—although I do not know whether that reflects the Scottish courts' official position. I endorse what Sheriff Drummond has just said: that should be part of the flexibility that he spoke about that should be applied to rural courts. Hamilton sheriff court, for example, has a family law court that seems to be a suite of offices. It is entirely appropriate and perfectly suitable for the business that it deals with, but there are completely different requirements for a prisoner in custody or solemn criminal business, so that must be included in the equation.

You mentioned the cost of closing courts and travelling in relation to civil business. I believe that civil business represents approximately 20 per cent of the business that is registered with our sheriff courts. Of that 20 per cent, I believe that approximately 90 per cent is undefended. A lot of civil business could be opened to cost savings through administrative efficiencies. However, a sophisticated society still needs a system for dispute resolution in the remaining 10 per cent of cases, and unfortunately cost is a factor.

Travelling costs—whether for solicitors or witnesses—would impact more on the cost. Mr Wolffe said that there is a need that is perhaps not being met, as the number of civil cases is dropping and expense is a significant factor.

We should bear in mind that, if witnesses are travelling to centres where rural courts have closed, two things could happen. Either the solicitors will be travelling too, which would increase the cost even more, or—this is much more likely—the solicitors will just not be around in the locality to provide the advice, and an access-to-justice resource is lost. There will be an impact, and that should be taken into account.

In short, our overriding view—which has been endorsed in several contributions today—is that, although the Scottish Court Service may make some savings, those costs will simply be passed on to other agencies. I consider the earlier suggestion that there might be a saving to the Scottish Legal Aid Board—into which the committee is going to inquire—to be utterly inconceivable.

Sheriff Drummond: In the context of what was said about family law being part of the issue, I will give a concrete example regarding travel and specialisation arrangements. The procurator fiscal at Selkirk wanted to arrange for a single domestic abuse court for the Borders to be conducted in Selkirk. I said that that was not going to happen, and I did not let it happen. I will tell you why.

A victim of domestic abuse who is living in Eyemouth will find that they are being subjected to more abuse by the system as they will have to travel all the way across the Borders to get to Selkirk in order to have their case dealt with. They may therefore be even more reluctant to speak up than they would previously have been.

I said that that was not going to happen, and there will now be a domestic abuse court in Selkirk and another one in Jedburgh, in order to accommodate people from the eastern part of the Borders. We will not be dragging those people around. I was in a position to exercise sufficient authority and influence to prevent that from happening, but it seems that that is effectively what is being sought to be done. If people who are already in distress or in difficulty have to travel even further distances to have their grievances addressed, there may be some reluctance on their part.

Lest it be thought that I am making a special plea, none of that, in any shape or form, will affect me at all, because I reach my judicial sell-by date at the end of October. Accordingly, there is no special pleading of any kind, and I am simply trying to be as objective and as helpful to the committee as I can be.

The Convener: Like the Governor of the Bank of England, you are released to speak in that way. I am not saying that you would not have done otherwise.

Alison McInnes: It has been worth while to explore the impact on rural communities, because it has been demonstrated that those communities are being asked to settle for second best.

I turn to the issue of court capacity under the proposals, particularly with regard to those courts that are affected by the proximity argument for closure rather than the volume argument. In my area, that concerns Stonehaven and Arbroath. We heard from the witnesses on the previous panel that, if we combine Stonehaven and Aberdeen, that will be close to the tolerable limits. However, the witnesses were confident that efficiencies in the conjoined business would mean that all the business could be accommodated. I would be interested to hear the panel's views on whether that is a realistic assessment.

Stuart Fair: Our members who are justices in Stonehaven and Arbroath have indicated their disquiet about the potential for efficiencies to be engineered. At the moment, it is their view that the service is struggling just to get by. The ability to re-engineer the service and to import further efficiencies seems a bit remote at the coalface.

Alison McInnes: I will pursue the matter of civil court reform a little bit. Mr Wolffe said that he did not wish to stray into another consultation. We heard witnesses on the previous panel say that they were confident that there would be minimal impact from whatever came through. Do you have a response to that confidence?

James Wolffe: I would not be at all confident. One feature of the civil court reform will be the compulsory transfer of a very significant volume of cases from the Court of Session to the sheriff court. One has to ask about the impact on business in the sheriff court and the impact on those litigants who currently choose to litigate in the Court of Session. They have chosen to take their cases there in a context where they could have litigated in the sheriff court. There are no doubt a variety of reasons for their decisions, but the proposition under the civil courts review seems to be that we will transfer a very significant volume of cases into the sheriff court system in a context where the long-term vision for improving civil justice in the sheriff courts involves something that will take place over a period of only 10 years—although that will be dependent on significant capital investment in the sheriff courts. I do not wish to pre-empt what might be said about the civil courts review consultation, but one must at least ask whether it is putting the cart before the horse to move cases in volume from the Court of

Session to the sheriff court system before the sheriff courts have been sorted out.

I will say a brief word about Ms McInnes's previous question. We have not expressed any view on the closure of specific courts. All of us would recognise that the Scottish Court Service has to manage its estate and that the issue of closing particular court buildings will arise from time to time. We felt able to draw attention to a number of impacts on court users, which ought properly to be taken into account when such decisions are made. It is right to consider the question of capacity of the courts that are receiving business in a context where the future level of business is uncertain and where, in the criminal field, there are statutory time bars that require to be met.

It is fair to say that anecdotal evidence does not suggest that busier courts necessarily get through the business more quickly. It is absolutely right to consider questions of capacity and resilience for the long term.

Alison McInnes: I understand entirely that you do not want to take a position on individual courts, so I will not press you on that. However, I am interested in your view of the wisdom of relying on the so-called efficiencies that will suddenly come into the system, which is operating near to capacity at the moment. Are there so many inefficiencies in how the courts are operated at the moment that we can miraculously find many efficiencies in the next year?

12:00

The Convener: I do not think that you will adopt the word "miraculously", for a start.

James Wolffe: I suspect not. The evidence that I can give on the issue inevitably reflects anecdotal reports to me of my members' experiences. However, the anecdotal experience on the civil side is that civil proofs are distributed over a number of hearings rather than heard at one go, which builds serious inefficiency into the running of the case. The impression that one gets is that there is a job of work to be done, which will not happen miraculously but will take hard work and might require procedural reforms. However, it will take a raft of measures to make civil justice in the sheriff courts work better than it currently does.

Alison McInnes: Thank you.

Stuart Naismith: I am a court practitioner lawyer and solicitor, and my local court is Paisley court. It is identified not as a court for possible closure, but as a busy court that is destined to be a centre of excellence and to hold sheriff and jury business. I have appeared in lots of sheriff courts in central Scotland that are geographically not too

far from where I earn my living and I have not been left with the impression that sheriff courts are hugely underutilised—I go to courts and find them busy.

I am sure that any organisation could make efficiencies. However, if the Arbroath court closed and its business moved to Forfar, my rough calculation is that 1,300 cases—civil, solemn and summary—would be affected. I would have thought that that amount of cases transferring to Forfar sheriff court, irrespective of how that is received, would have some impact. The committee heard important statistics about the length of time between a case being called and its proceeding to trial, and about the number of cases that are lost because of the non-attendance of witnesses. There were also discussions about free court time in the recipient court that could be utilised by the transferring court for judicial business. However, there is not an exact match. We must consider what actually happens.

Procedural courts are all cited for 10 o'clock and most people turn up on time, but some do not. There is inherent inefficiency in the system. How do we deal with that? Not requiring personal attendance might be some of the answer. However, the preponderance of attendances at court are in the mornings, which are busy. Cases that are scheduled to proceed do not proceed for various reasons: evidence comes out, witnesses do not turn up and people get ill. The court does not work like a production line and it will not produce 15,000 widgets an hour every hour—that is the nature of the beast. I am quite sure that everyone in this room has a feeling for what I am talking about. It might be suggested that X number of hours can now be utilised, or that Aberdeen should now be operating at 97 per cent, but the reality is that that cannot conceivably be achieved. We are a multipurpose society and—excuse the French—shit happens in everyone's day, to coin a phrase. Sometimes that is nobody's fault.

The Convener: We will accept that phrase in inverted commas—it is a technical expression.

Sheriff Drummond: Not in my courtroom. *[Laughter.]*

The Convener: What? It does not happen? I am sorry—it has been a long day. On you go, Mr Naismith.

Stuart Naismith: I do not think that courts can be filled to capacity.

The Convener: I have been warned that it is just 12 o'clock, but it seems like a long day.

Sandra White: Everyone agrees that the proposals are part and parcel of wider changes and reforms. I had better give Sheriff Drummond a chance to answer the question that I put to the

previous panel about underutilisation of courts. I referred to sheriffs who turn up at a court and are there for a couple of days while there are no cases, and was told that that was wrong, but I want clarification. Sheriff Drummond said that the issue is not about buildings, but about access to justice. I take that on board, but other witnesses seemed to suggest that, although access to justice is important, in some areas we cannot close courts. Some courts are open for five days, but the court sits for only two.

Sheriff Drummond: You are perhaps approaching the issue on the basis that one size fits all, but that is not the case. Peebles is a good example of an extreme situation in the system. Peebles sheriff court is, in fact, the council chamber. The court sits for two days a month—one day doing crime, and one day doing civil cases. There is a dock on wheels that is trundled out and the council chamber becomes a courtroom. There is no question of anybody sitting there for any number of days waiting to see whether some business wanders in the door. That does not happen. The business is scheduled and programmed in advance, and the clerks know what is happening. If the amount of business is reducing, other business is sought.

At present, I should be presiding over a jury in Selkirk but, by reason of being here, I will now go to Duns on Wednesday, and Jedburgh's business for Thursday and Friday—which is civil proofs—will be done. It would be nice to sit and twiddle my thumbs for a couple of days, but the clerk has telephoned Edinburgh to ask, "Could you use Sheriff Drummond?" You bet they could. So, I will come into Edinburgh and sit here for two days. A lot goes on in the system. It is not as though we open at 9 o'clock in the morning and stand out on the steps hoping that somebody comes in to buy some justice. There is scheduling and programming going on.

In the course of these discussions, we have been concentrating on two, three or four specific courts—I cannot tell you the exact number. This has not yet been mentioned but, from conversations with colleagues, I am given to understand that it is generally accepted that, for some courts, the case for closure is irresistible—although that is purely anecdotal. I would not dare to venture into someone else's jurisdiction and say that a court is not suitable to remain open, but I hear anecdotally that one or two courts are irresistibly due for change. By the same token, there are one, two, three, four or more courts in which the situation is still significantly contentious, for the kinds of reasons that have been explored here.

I do not know whether it would be possible, but decisions on the courts for which closure is

contentious should be deferred. This is moving into areas that are beyond my pay grade and my activity, but I suggest that that would enable the background, contingent or hidden costs that we have been talking about to be examined, and consideration to be given to whether all or any alternatives have been explored, or exist. It would also enable the formulation of a measure against which the policy position can be measured—not just for now, but for the future. I have spent most of my time in the Borders dealing with proposals to close Peebles and Duns courts. They are still open and, to be honest, I am getting a bit fed up with them.

The Convener: I, too, have spent time preventing the closure of Peebles and Duns courts. You mentioned seeking a deferral in certain cases. I do not know whether that is technically possible, given what is coming before us. However, we will certainly explore what is technically feasible and whether we have to take it all under the forthcoming Scottish statutory instrument, or whether there is any prospect of doing something else.

Sheriff Drummond: My reason for saying that is that, if the closures are simply announced, there is a risk that some of the work that may need to be done on them will simply not be done, whereas if there is a deferral, at least there is an opportunity for rethinking. I have not addressed Peebles in detail, but I would like to.

The Convener: The SSI will contain various dates for the proposed closures. However, we will have to explore with the Cabinet Secretary for Justice and his officials the technicalities of what one can do with the SSI that I call an omnibus because it has all the courts in it.

Sandra White: I want to throw the question open to the other witnesses. Sheriff Drummond spoke about one specific area and gave a very good example, but he was also objective in saying that there may be other courts that should close because of the lack of business. Do the other witnesses have anything to say on that?

Stuart Fair: The Scottish Justices Association would not put forward a case that all courts should be defended and their status continue in perpetuity. Volumes of business have undoubtedly impacted on the summary criminal side. The increase in application of fiscal fines has seen a significant volume of business disappear from the justice of the peace courts. Within two years, the volume of fiscal fines has increased from about 34,500 to about 46,000—by about a third—which has had a significant impact on the work of the JP courts. The application of fiscal fines decriminalised some things; they are no longer dealt with as crimes.

We understand that the SCS is, quite properly, looking at volumes of work. However, we believe that the right way forward is to expand the business case to a full cost benefit analysis, whereby the non-financial issues are weighted and the non-financial position is compared with the financial benefits of the proposals. If we looked at the overall cost of the service from one year to the next in the resource accounts, aside from inflation and pay award inflation, we would probably not perceive much change. The chief executive of the SCS said this morning that there will be no job losses as a result of the proposals, but there will be additional costs as a result of moving people about and redeployment.

If we look at the figures that have been put in the business case for efficiency savings and we compare one year with another, it is difficult to see where the efficiency savings will come in and be converted into cashable savings. Business might be dealt with more efficiently, and if that means that we have quicker and better justice, that will be a victory, but if the whole proposition is founded on a financial cost-saving exercise in budgets, it is one-dimensional, in effect.

The Convener: I think that we have got the message that there are a lot of hidden costs across the spectrum. We will pick up on that.

I am trying to move on, because it has been a long morning and we have another panel of witnesses. I call Lewis Macdonald, to be followed by Jenny Marra.

Lewis Macdonald: I will refer specifically to Aberdeen and Stonehaven, but there is a general point behind my question. The earlier witnesses confirmed that, in Aberdeen, it is taking an average of 23 weeks for a case to come to trial; the Scottish Court Service's target is 16 weeks. We also heard from the SCS its assertion and some evidence that the unused capacity of the two courtrooms in Stonehaven is greater than the unused capacity at Aberdeen. I think that that is self-evident.

A proposal has come forward from the community that, rather than being closed, Stonehaven sheriff court should become a sub-court of Aberdeen sheriff court, and that the same should apply on the JP side. It is proposed that, rather than close buildings that provide a useful function and are part of the system, we should use them to accommodate unmet need from the main courts. Given what a number of the witnesses have said about taking a more flexible approach, does that proposal strike any of you as offering the type of flexible approach to delivering justice that would benefit both rural and urban court users?

12:15

In particular, I ask the representatives of the three organisations whether the Scottish Court Service discussed with your organisations the possibility of taking a more flexible approach before the initial consultation proposing a closure strategy was published.

Stuart Naismith: On your last point, I cannot tell you whether there was any discussion with the Law Society of Scotland on a flexible approach. I have certainly not heard about such a discussion, so I rather suspect that there was not, but my colleagues in the Law Society will be happy to clarify that for the committee.

As for the proposal that Stonehaven sheriff court could become an outsource of Aberdeen sheriff court, I presume you mean that it might sit for one day a week or one day a month, and that there would not be a full court infrastructure in the building. I think that that is inevitably the way forward for access to justice and the justice system in the future.

I am also of the view that we do not need to be hamstrung by a need to preserve some of our older sheriff court buildings. I am sure that I will be corrected if I am wrong, but I believe that the sheriffdoms were designated at some point in the 1800s, so we have a court plonked in a prominent town in the various sheriffdoms. That is the history, and we must start with the building that is there.

In the modern justice system, however, there is no such requirement, and the buildings can be custom built. Sheriff Drummond mentioned using council chambers, which is exactly the type of versatility that produces cost savings without consequences for access to justice. You have mentioned the possibility of outsourcing a court, and Sandra White asked earlier whether we want to preserve some of the courts.

From the Law Society's perspective, access to justice means that a court should be public, local, efficient and accessible; outsourcing would be a way of dealing with that. On preserving court buildings, we are not saying that a building should be fully staffed by the full-time employees, with all the infrastructure that makes up our smaller courts. We see no reason why a court could not be used as Lewis Macdonald suggests: it could be populated once a week, or whatever.

I appreciate that there are maintenance issues with old buildings that are underutilised, but if we plan ahead, more use could be made of other public buildings. That seems to be an obvious way to make a cost saving, and there is potential—not in this financial year and perhaps not during your current term of Government, but in the future—for promoting the type of savings that are required

without damaging the access-to-justice principles that we are keen to preserve.

The Convener: None of us in the committee is in government. We are all back benchers or Opposition members. I want to make that distinction. Sometimes my own party wonders what party I am in.

Stuart Fair: The Scottish Justices Association has regular liaison meetings with the Scottish Court Service. Those meetings are very positive, and we have a good line of communication with the chief executive and his senior staff. However, we are unaware of any proposals to flex the system in the way that Lewis Macdonald suggests.

What concerns us is that the proposals conflict with two of the access-to-justice principles that were issued in 2010 and promulgated by the Lord President and former Lord Justice Clerk. Justices of the peace are ideally suited to dealing with local matters, and they have a 400-year unbroken history in Scotland. Lay justice is unique, as it is applied in Scotland; the ability to hold a summary criminal court with a single sitting lay judge who has the power of verdict and sentence is, as far as we are aware, unique in Europe. The importance of the ability to be in touch with the local community cannot be overstated.

We believe that local courts provide a focus for local cohesion and play a part in the civic life of communities. We would welcome flexibility, and we have in the past dealt with court forums that are flexible. Cumbernauld justice of the peace court, which features in the proposals, is actually held in North Lanarkshire Council offices under the arrangement that Sheriff Drummond outlined in respect of the Borders. The building used to be the court chambers for Cumbernauld and Kilsyth District Council, and was utilised fairly well.

There could be more flexibility in the use of the court estate at minimum cost, which would deal very effectively with some of the issues that have been raised.

Jenny Marra: The panel may have heard me ask the first panel of witnesses about the EU directive and the impact of the court closure proposals on victims and witnesses. Are there any views from the panel on whether those proposals comply with the directive?

Sheriff Drummond: I have not the faintest idea whether the proposals comply.

Stuart Naismith: I can go only marginally further: I, too, have not the faintest idea, but I am pretty sure that someone in the Law Society will have an idea, so I will happily ask the Law Society to write to the committee on that point.

The Convener: Mr Wolffe, do you have the faintest idea?

James Wolffe: I am afraid that I do not have a view on that, either.

The Convener: That is a better way of saying it. We have had the question, so perhaps we can get clarification from the Law Society, which would be very helpful. Mr Fair, do you have any idea whether the proposals are compliant?

Stuart Fair: I presume that if the proposals were not compliant, and the Scottish Parliament decided to approve them, there would be the potential for judicial review under natural justice provisions. I have no idea whether the proposals are compliant.

Jenny Marra: My reason for asking the question is that the Victims and Witnesses (Scotland) Bill is currently going through Parliament. Thank you.

The Convener: Is there anything that we have not asked about that the panel is itching to tell us? Do not feel that you have to say anything.

I see that there is not, so I thank you very much for your evidence. I advise the committee that we will defer discussion of the Title Conditions (Scotland) Act 2003 under item 3 until another day, because we have a lot to discuss this morning.

12:22

Meeting suspended.

12:30

On resuming—

The Convener: We move on to our third panel. Our witnesses have had a long wait, so I thank them for their patience. On the panel are Brian Carroll from the Public and Commercial Services Union, Scottish Court Service branch; Lauren Wood, who is a social policy officer at Citizens Advice Scotland; Alan McCloskey, who is assistant/deputy chief executive of business delivery at Victim Support Scotland; and Councillor Margaret Kennedy, who is the chair of Fife and Forth valley community justice authority.

We will go straight to questions.

Graeme Pearson: I have a general question for all four witnesses, to get us started. You have listened to the previous two panels. Where do the proposals and the implications leave each of your separate interests? Have your views been shared with the Government? Have they been listened to?

Brian Carroll (Public and Commercial Services Union): We have entered into various agreements with the Scottish Court Service to mitigate the impact on our members who will be affected by the proposed closures. We hope that

our members are happy with the package that is in place. That said, an unintended consequence of what will happen is that the package is time limited. We accept that it was never going to be in place forever, but our members are expressing concern and anxiety about how they might be able to afford to work for the Scottish Court Service once the package ceases.

Lauren Wood (Citizens Advice Scotland): CAS is making statements only on civil justice, which has been the focus of my considerations during the course of the debate.

One of our major concerns about the proposals for court closures—which relates to the proposals for court reform—is the loss of the whole-system approach that the making justice work programme is working towards on civil justice: the vision in which information, advice, and formal and alternative dispute resolution are parts of an integrated justice system.

I met the Scottish Court Service recently and asked whether there has been any consideration in the proposals for closures of having, in the courts in which business will be condensed, rooms for mediation, or arbitration courts. The answer was no. That makes me very worried about whether the reforms and closures are taking into account the whole-system approach.

I know that the discussion here is about courts, but in divorcing the courts from the whole-system approach, that will be a negative thing for consumers of the civil justice system as time goes on.

The Convener: Before the other panellists speak, Lauren Wood has raised an interesting point about ADR and mediation that I want to explore. You heard the discussion about justice centres; some of the old courts do not have rooms where that could take place. Would it tick a box were justice centres to have rooms for mediation or ADR, rather than squeezing those functions into facilities where they do not currently exist?

Lauren Wood: That would definitely be the case. In my vision, a justice centre would undoubtedly include mediation, arbitration and alternative dispute resolution. I would go a step further: there should be a way of gatekeeping cases. Cases should not be resolved at the court doors; they should be resolved long before they ever reach the court's doors. That could happen in places around the country that do not have to be attached to a court building.

The most important thing to get right in court reform and court closures as regards civil justice—for example, small claims cases and housing disputes—is to ensure that people are on the right pathway to the justice that they seek in their dispute. A day in court may be the right path, but

Consumer Focus research that came out in December clearly shows that even when people have legal problems, the resolution that they seek is not necessarily through judicial means. Through early advice, early negotiation and alternative dispute resolution, people can be put on a path to justice that much better suits the resolution that they seek.

Alan McCloskey (Victim Support Scotland): Victim Support Scotland has a number of concerns about the court reform proposals. In particular, the approach seems to be very narrow and does not, in our view, take account of the wider justice strategy for Scotland, which talks about making justice work, priorities for victims and witnesses, and making justice accessible. It seems that the proposals are just looking at the purely financial aspect—which we acknowledge—as regards court closure. It is a very narrow approach that does not consider the wider aspect of justice—how people get to court buildings, the impact on victims and witnesses and the impact on our resources. We have staff and volunteers in a number of the courts that are earmarked for closure who will be directly affected by the proposals and they may not stay with us if those courts close.

As was mentioned earlier, we need to consider a more flexible approach and to be innovative about how justice can be served, rather than just taking a blanket approach of closing courts because they are old, or because not many people go there, or because they sit only once or twice a month. That seems to be a very narrow approach.

Councillor Margaret Kennedy (Fife and Forth Valley Community Justice Authority): There are two main factors from my perspective as a local councillor and convener of the CJA. The SCS was at pains to say that its proposals have not been made in isolation from the wider justice system. I, as the other two witnesses did, challenge that in relation to—as we have heard—the potential knock-on effects on victims, witnesses and, indeed, agencies; mental health and welfare issues could bring in the national health service. It is not just about local authorities. I feel that the SCS has not made its decisions in the context of the wider system, which relates to the point that was touched on previously about co-terminosity. I beg your pardon; I mean co-location of agencies.

I give the—perhaps parochial—example of Cupar, which has been mentioned, where the police, criminal justice, social work, and other agencies including citizens advice are in the same building, so from the point of view of being able to signpost people who have quite complex issues, whether they are part of the formal criminal justice system or wider civil issues, a situation for effective delivery has already been created.

The other factor is the effect on the local economy. The SCS has been at pains to say that the proposals will not necessarily have a direct impact, or that the impact might be only for the short term. Again, I feel that the SCS has not looked at that issue in the broader sense. In my thought process, removing a significant public sector body, organisation or function from an area will have a significant impact. Such bodies bring a footfall; the people who work there and the people who make use of the facility in whatever way go out into the community and contribute to the economy, so the proposals would certainly have a direct effect.

Jenny Marra: Mr Carroll, would some of your members be transferred to other locations as a result of closures?

Brian Carroll: That is correct.

Jenny Marra: Will there be any redundancies for your members?

Brian Carroll: The Scottish Court Service has given a commitment that there will be no compulsory redundancies as a result of the closures. It has also given an assurance that it will not, given the current budgetary climate, run another voluntary redundancy scheme. However, some people who would be affected by court closures might choose not to move to another court and therefore might make decisions that will free them from the Scottish Court Service's employ.

Jenny Marra: Would members of your union, finding that they would have to travel a lot further to get to work, be unwilling to do so and therefore take a voluntary redundancy package?

Brian Carroll: That is possible.

Jenny Marra: Are you concerned about changes in your members' contracts as a result of the restructuring?

Brian Carroll: No. There have been no proposals whatever on changes of contract.

Jenny Marra: Are any of your members involved in providing security in the courts?

Brian Carroll: No. All the security services are contracted out.

Jenny Marra: I know that you can speak for only your own members, but as a trade unionist are you concerned about changes to contracts for any services that are provided privately?

Brian Carroll: Most of, if not all, the courts that have been proposed for closure do not have a permanent security team. There might be an effect on transportation of prisoners or custody cases, but we have not heard anything about those services being affected in the ways that you

describe. As far as I am aware, we do not have any members in those sectors.

Jenny Marra: Do you feel that there has been sufficient liaison between your union and the Scottish Court Service on the impact on your members?

Brian Carroll: We feel that the discussions that we have had have taken place in the spirit of partnership. Right from the start, the Scottish Court Service has kept us informed about how the proposals would proceed and how they might affect our members, and we have had detailed discussions on those matters the whole way through the process.

Of course, that is not to say that we are not concerned about the impact of the proposals on members. Other witnesses have highlighted the impact on court users with regard to caring for children or relatives who might be physically or mentally impaired and, as we have tried to make clear to the Scottish Court Service, people are going to have to make very significant changes to their lifestyles in order to manage the situation.

The travel disruption, difficulties and experiences that our members will have to deal with in moving to another court will also fall on all court users. We have heard stories about PCS members in rural communities that are not on public transport routes. A bus might pass, but they have to phone up to ensure that it stops at a particular place, or they might have to go to a railway station and flag down a train, although they might not be seen until the train has gone through the station, so it has then to reverse to pick them up. Such difficulties are going to affect the people of Scotland as the proposals come into effect.

The Convener: Do your members' contracts contain a standard term that requires them to work at different courts, and not just at a specific court?

Brian Carroll: There is nothing about working at a specific court for a lengthy period. Our members can be asked to work in different locations from time to time. There are specific bits of contracts that apply to different grades. For example, people at administrative and support grades can be asked to work at different locations only if the court is within reasonable travelling distance, which translates as an hour and a quarter's travel time each way. That is our policy. However, people who are on lower management grades—executive officer and above—can be asked to work in any court at any time.

12:45

The Convener: I just wanted clarification that, under their contract, people might have been required to move around regardless of any

restructuring—as is the case with many employment contracts.

Nigel Don: I want to come in on that point, but I will try to keep the question general.

In any of the courts that we are discussing, some members of staff might live on the wrong side, as it were, with regard to the proposed transfer. They might have relevant personal circumstances that involve, for example, looking after an elderly relative—life is sometimes difficult. In such circumstances, we can understand at a human level that it is not sensible for that person to transfer. Will what has been negotiated give a sensible package to the person who really cannot be asked to transfer?

Brian Carroll: Yes, we are still hopeful that that will be the case.

The transfer from Stonehaven to Aberdeen has been mentioned a lot this morning. Members of staff who work in Stonehaven and who live south of Stonehaven will have particular difficulty getting into Aberdeen. They have expressed a wish to work at a court other than Aberdeen. That is not the only case in which that has happened.

There are also cases in which people, instead of moving to the court to which the business is going to be transferred, have asked for relocation or even a move over a greater distance to a different court, which might suit their circumstances. We hope that the Scottish Court Service will grant those members the wishes that they have expressed.

Nigel Don: You are getting the right kind of vibes on that—if I may put it that way.

Brian Carroll: As far as the membership is concerned, yes.

In cases in which we represented members in their one-to-one discussions with human resources, all members expressed their first option as being to stay where they currently work.

Lewis Macdonald: I am interested to hear the perspective of all the witnesses on the issue of social work services, sheriff clerks or those who provide advice to the public. We heard from the first panel of witnesses that Edinburgh could accommodate extra court cases at no cost. We heard that Aberdeen is vastly out of line with the target that has been set for the speed at which trials are called.

What is your view regarding the receiving courts, be they in Fife, Aberdeen, Edinburgh or Inverness? In particular, what is your view about the capacity of the receiving courts to take on expanded business as a consequence of the closures of the nearby courts?

Alan McCloskey: We are concerned that a lot of the court buildings that have been designated as receiving courts are old buildings. Those courts do not have the capacity: they are already full of people, particularly in the mornings, when there is criminal and civil business going ahead. They are cram-packed with people and they are cram-packed with agencies and organisations that need to work in the court setting. Carrying out what we would regard as a small feasibility study into the capacity that is required demonstrates a very narrow view, and we have concerns about there being sufficient capacity in a number of the courts concerned.

The Convener: Which ones?

Alan McCloskey: Forfar is an older court. Arbroath is 15 miles down the road, and there is insufficient capacity in Forfar. Tain is also given as one of the options. Tain is not a court that is suitable for people with physical disabilities, and yet the court at Dornoch is potentially to be closed. That seems to indicate a very narrow view about where the court business is and where the decisions have been made. We acknowledge that some court buildings need renovation and some investment, but just deciding to close them because they happen to be in a rural setting seems to demonstrate a narrow, short-sighted view.

Councillor Kennedy: Although I cannot respond on capacity from the operational side of things, I have spoken to local legal representatives about the proposed move of Cupar business to Dundee. They are conscious that huge challenges already exist in Dundee sheriff court, where there are not enough rooms available for them to have a private conversation with a client.

Looking at the issue slightly more broadly and thinking about the effect on other agencies—Lewis Macdonald mentioned social work—I think that it is undoubtedly the case that there will be an effect on how we get through business and, ultimately, on some of the expectations that are placed on the justice system, such as our Government's expectations on child protection orders and the need for speed and immediacy. There will be an effect on the operational focus.

Lauren Wood: My concern is that, in general, civil business tends to be squeezed when there is a bulk of criminal business.

That pattern would arise in any court and, in a way, it is right: if someone has been stabbed, it is probably better that the person who stabbed them is brought to justice. However, the approach that has been taken so far has been very much about the status quo. We have asked how we can condense the business on the basis of how we do things at the moment.

What is being missed is an opportunity to look at how civil business could be done differently and how it could be split from criminal business—not necessarily by using different court buildings, because that presents difficulties, but by having evening and weekend courts. In relation to the design of summary sheriffs, I am keen to see a different take on how they should hear cases, which could involve hearing cases in locations that are not court buildings. They could be peripatetic specialists.

It is one thing to think about how condensed business will work in the same way as things happen now, but there is a huge opportunity to look at business being moved and to consider ways in which business can be improved. I think that that opportunity is being missed in the proposals.

The Convener: I am advised that—members will be experts on courts processes by the end of the parliamentary session—the issue of evening or weekend courts will come before the committee next year when we consider court reform. We are all looking forward to that. I feel that I am in a perpetual university tutorial in this committee.

Brian Carroll: I want to touch on court reform, because there is no doubt that it will bring more complex cases to the sheriff courts—whether we are talking about the specialist courts, the jury centres or the summary sheriff courts—as a result of business being devolved.

We are concerned about the fact that no figures were given in the consultation about the anticipated devolving of business from the High Court, which Alison McInnes mentioned earlier. That is likely to be significant, and it is likely that highly complex cases will come down from the High Court and the Court of Session. As complex cases take time to administer and adjudicate on, that could have a severe impact on a reduced estate's capacity to cope.

For example, if Aberdeen sheriff court runs at 97 per cent capacity with just the Stonehaven business transferred in—without the devolving of business that I have mentioned—will it be able to cope when Stonehaven sheriff court is not there and there is no resilience or back-up? I think that Alison McInnes mentioned the 60 cases that were moved from Aberdeen to Stonehaven. They were sheriff and jury cases. Throughout 2013, a week-long sitting has been fixed in Stonehaven every month to deal with those 60 cases because they could not be dealt with in Aberdeen. I think that there is a capacity issue there.

As far as the overall strategy of SCS is concerned, closing courts is an easy option—

The Convener: Apparently not.

Brian Carroll: Well, that certainly appears to be the case, given the evidence from previous panellists today.

Alternative ways of making efficiencies have been suggested, both in the consultation responses and in evidence to the Justice Committee today and on previous occasions. One option is videoconferencing, but that is not the be-all and end-all because there are difficulties with videoconferencing, as we heard earlier. Improved court programming might be another option, but, again, that is not the be-all and end-all because not everything fits into slots—the justice system involves a human element, which brings with it a lot of problems that need to be dealt with. Better utilisation of available courts and court time is another option.

All those alternatives appear to have been ignored, so we just wonder whether the strategy is the right one. For example, as has been mentioned this morning, we practically already have justice centres in Haddington and Peebles. On the move from Stonehaven to Aberdeen, the strategy in the consultation was that there would be mergers in towns and cities where justice of the peace courts and sheriff courts are in separate buildings, but I have heard anecdotally that the Scottish Court Service is now looking to keep the justice of the peace court in Aberdeen and buy the police accommodation that exists above the courtroom in order to make capacity to take the business from Stonehaven. That is because, I have heard anecdotally, the local council is not going to—

The Convener: Who does that anecdote come from, Mr Carroll?

Brian Carroll: Let us call them members of the Scottish Court Service.

I have heard from the leader of the Labour group on Aberdeen City Council—I do not know whether he has had communication from council officials on this—that the council is no longer giving the option to the Scottish Court Service to buy up the vacant property next door to Aberdeen sheriff court. The Scottish Court Service is now having to consider buying alternative accommodation, probably from the police. That goes against the overall strategy of merging the courts within the same location.

We also have the situation of Arbroath and Forfar, which we have heard a lot about this morning. When the justice centre in Livingston was built a number of years ago, it was right to move the court in that jurisdiction from Linlithgow to Livingston, which is where the population is. However, Arbroath has a population of nearly 60,000, whereas Forfar has a population of 25,000. In my view, the move to Forfar goes

against the overall strategy. I just wonder where the strategy is and what the priorities are.

The Convener: No doubt we will ask that question of the cabinet secretary and others.

Lauren Wood: In addition to what Brian Carroll has said about capacity, I want to make the point that there has been a lot of talk about reduced levels of business over the past few years. Reduced levels of criminal business may be a good thing, but not many people have questioned why levels of civil business have reduced. Why are fewer people bringing small claims actions? That is an important point to address. Certainly, the people who come through our bureau doors do not have lesser problems or more straightforward issues. In fact, they have more complex problems than ever before.

The Convener: Perhaps those problems could not be dealt with by the small claims court.

Lauren Wood: I am talking about problems with housing or debt, which could be resolved in the civil courts.

On housing, as I am sure everyone is aware, one big change that has happened recently is the introduction of underoccupancy charges. Across Scotland, around 150,000 people are affected by the underoccupancy provisions and 80,000 of them are disabled. If even a quarter of those people came before the civil courts in eviction cases, that would hugely increase the numbers of civil cases brought before the courts across Scotland.

I know that there are discussions just now on the setting up of a housing panel, but they are only discussions. Therefore, it is difficult to make an informed and thoughtful decision on whether the proposals for court closures and condensed business are a good idea or a bad idea based on past levels of court business. Although discussions on housing are happening, there are no promises about what will actually go forward.

13:00

Alison McInnes: I wish to pursue a couple of lines of questioning. First, Councillor Kennedy, do you have any concerns about the proposal to move some of the Fife business to Dundee and therefore into a different community justice authority area? Will the move have any knock-on effects?

Secondly, you touched on child protection orders. I—and I am sure other members—would find it useful to find out how frequently swift access to a sheriff is needed to get such an order and what impact there will be on your criminal justice social workers.

Councillor Kennedy: On your first question, the proposals put Cupar in a unique position by taking relevant business outwith the council and, as you have pointed out, the community justice authority area. They also take business out of the NHS health board area and the police division.

I am not suggesting by any manner of means that professionals cannot function in a different way or find a different means of addressing the matter. However, at a time when we are dealing with—and want to be seen to be dealing with—people's complex problems with speed and immediacy, it is proposed that we move court business wholesale from a situation in which the court has all the support functions into another jurisdiction, and that is being done in such a way that the business will be an add-on rather than the court using all the same services in a different place—it will not take the support services that it has with it. There does not seem to be much logic in that approach, although I respect that the professionals involved will have to deal with the change.

I also note that our CJA has an area plan that all the partners have signed up and contributed to—it is not just us writing it. The move will have a significant impact in that respect.

I cannot give you the response that you seek on child protection orders, but I would certainly link the issue to my comments about the huge need for speed and immediacy. My colleagues might be able to provide a better response, but in child protection cases we need to address matters very quickly to prevent any further harm from taking place. It is therefore critical to get the children in question into the system and appropriately looked after. That ability might be challenged if such matters are taken out of our own jurisdiction. Indeed, it might well bring us back to the issues of capacity and the flexibility to respond to urgent needs that the other panels have discussed.

Alison McInnes: Perhaps your authority can provide us with a written submission on that matter.

Councillor Kennedy: Yes.

Alison McInnes: You will have heard me ask about the equality impact assessment, which we have not been able to look at even though the court service has assured us that one has been carried out. From the evidence that we have received this morning and from much of the written evidence, it seems that there will be an imbalance in the impact on children and vulnerable witnesses. Has there been enough in-depth analysis of that issue?

Alan McCloskey: Last summer, the Scottish Court Service held a series of roadshows to

highlight what the general implications might be. We attended all of the six or eight events.

I know that, in relation to the Victims and Witnesses (Scotland) Bill, the Scottish Court Service carried out an assessment of the additional special measures that will be required to cover increases as a result of the inclusion of all 16 and 17-year-olds and the addition of victims of sexual abuse. About 18,000 additional special measures might be required, which means that an awful lot of people will require remote links, television links or supporters. That will put a burden on the Scottish Court Service, the Crown Office and, indeed, Victim Support Scotland. Obviously we want to help people, but we are talking about a potential 18,000 extra people whom we will be required to help on the day.

Another really important aspect of our work is the pre-court familiarisation visit, which we offer to everyone. We are concerned about the additional travel, expense and inconvenience that some victims and witnesses will have to deal with if the courts are moved, not to mention the burden on our own resources. That issue must be considered in the wider impact assessment.

Roderick Campbell: My question is for Councillor Kennedy—if I am allowed to be a wee bit parochial, convener.

Eric McQueen told us that he had not had any recent engagement with the criminal social work department on the proposals. Have you had any recent interaction with the Scottish Court Service on these matters?

Councillor Kennedy: The only interaction I have had was at a public meeting I secured in Cupar that Eric McQueen and his colleague attended. The meeting was held jointly with criminal justice social work at Fife Council. That is the only contact that I have had and, as far as I am aware, the only direct contact that criminal justice social work in Fife has had.

Roderick Campbell: I understand that, rather late in the day, Fife Council commissioned an assessment of the economic impact on Cupar. What is the current position in that respect?

Councillor Kennedy: It was really a reinforcement of what it had previously submitted. I have no further information to add.

Roderick Campbell: But it has not been published.

Councillor Kennedy: No.

The Convener: I am not going to say, “Members have no other questions”, because when I do someone always puts up their hand. Instead, I simply conclude this evidence session by thanking the witnesses for their evidence and

most of all for their patience and endurance in waiting all this time.

Before I close the meeting, I should say that, with regard to the committee’s draft work programme and for the benefit of the two members present who are not members of the committee, I intend to swap business around to allow us to consider the subordinate legislation on shaping Scotland’s court services on 11 June. We will move to the following week the other business that we had provisionally planned, which is implementation of provisions on police and fire reform, correspondence on the offensive behaviour legislation, criminal justice legislation and appointment of a budget adviser. That will allow us to consider the court services subordinate legislation sooner.

Meeting closed at 13:06.

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