

**SCOTTISH COURT SERVICE**  
**CONSULTATION ON PROPOSALS FOR A COURT STRUCTURE FOR THE FUTURE**

**Response Form**  
**Incorporating the Respondent Information Form**

September 2012

**SCOTTISH COURT SERVICE CONSULTATION  
PROPOSALS FOR A COURT STRUCTURE FOR THE FUTURE**

**RESPONDENT INFORMATION FORM**

Please return this form with your response to ensure that we handle your response appropriately.

**1. Name/Organisation**

Organisation Name

Argyll and Bute Council

Title

Executive Director - Customer Services

Surname

Hendry

Forename

Douglas

**2. Postal Address**

Customer Services

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Kilmory

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Argyll

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**3. Permissions**

I am responding as:

an individual

a group or organisation

*Please enter an X in the appropriate box*

If you are responding as an **individual**, please answer question 4(a) and, if appropriate, question 4(b).

If you are responding as a **group or organisation** the name and address of your group or organisation will be made available to the public and published on the Scottish Courts web site. Please mark the appropriate box in question 5 to indicate whether you are content for your response to be made public.

**4. Permissions as an individual**

**(a)**

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

**YES**     

**NO**       

*Please enter an X in the appropriate box*

**(b)**

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

*Please enter an X in ONE of the following boxes*

Yes, make my response, name and address all available     

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

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

**5. Permissions as a group/organisation**

Are you content for your response to be made available?

**YES**     

**NO**       

*Please enter an X in the appropriate box*

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## CONSULTATION ON PROPOSALS FOR A COURT STRUCTURE FOR THE FUTURE

### RESPONSE FORM

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

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

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

by e-mail to: [courtstructures@scotcourts.gov.uk](mailto:courtstructures@scotcourts.gov.uk)

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

**Your response should reach us by noon on Friday, 21 December 2012.**

## The High Court Circuit

Pages 23 to 25 of the Consultation Paper.

### Proposal 1

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

- (a) the High Court should sit as a court of first instance primarily in dedicated High Court centres in Edinburgh, Glasgow and Aberdeen;
- (b) additional sitting capacity should be provided only in designated sheriff courts in the east and west of the country;
- (c) there should remain the opportunity for a sitting of the High Court to be held at another location when the Lord Justice General or the Lord Advocate considers that to be in the interests of justice;
- (d) these changes to the current arrangements should be phased over the period to 31 March 2015, and that during this period, additional capacity, when required, could be provided from a bank of courts, which would be Greenock, Paisley, Dumbarton, Livingston and Dunfermline.

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

#### Response

Yes, the High Court service is an expensive and specialised process. The provision of High Court within three dedicated centres will bring greater efficiency to what is currently a complex and costly method of delivering justice for the most serious of crimes. This will be to the benefit of those that attend High Court whether accused, witness or the Court faculty and will deliver greater efficiency within the Hearing process. Improvements to cost effectiveness at the higher levels of court will limit the impact of austerity measures felt at the lower, but higher volume, levels of court business.

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

- (a) why you disagree, and
- (b) how you would prefer the sittings structured, being as specific as you can about how your preference would operate in practice.

**Response**  
**Not required**

**Question 3** What impact would our proposals for High Court sittings at first instance have on you?

Please give reasons for your answer.

**Response**

Proposals for the High Court would have limited impact upon our community. The Argyll and Bute Council area does not host a High Court and as such travel to the central belt is expected in these cases. There may well be additional benefits if the new proposals result in a guaranteed regional division of High Court business where Argyll and Bute cases, for instance, could all be heard in the West of Scotland, primarily Glasgow but also Paisley, Dumbarton and Greenock (for Cowal and Bute residents).

## Consolidating sheriff and jury business and other shrieval specialisation

Pages 27 to 31 of the Consultation Paper.

### Proposal 2

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

- (a) in the mainland jurisdictions, sheriff and jury business should routinely be held only at the sheriff courts of: Glasgow, Aberdeen, Inverness, Edinburgh, Livingston, Paisley, Dumbarton, Kilmarnock, Airdrie, Hamilton, Ayr, Dumfries, Perth, Dundee, Falkirk and Dunfermline;
- (b) in the mainland jurisdictions, as the body of summary sheriffs became established, the sixteen sheriff and jury centres would become centres of shrieval specialism in the civil, administrative and miscellaneous jurisdiction of the sheriff, where business in those jurisdictions would be dealt with;
- (c) the sheriff courts at Lerwick, Kirkwall, Stornoway, Lochmaddy and Portree would continue to hear all business within the jurisdiction of the sheriff;
- (d) the changes, being dependent on the deployment of sheriffs and summary sheriffs, court capacity becoming available and the development of the use of video and other communications technology in court proceedings, would be progressively introduced over a period of ten years.

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

**Response**

No

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

(a) why you disagree, and

(b) how you would prefer the provision of court facilities for sheriff and jury business to be structured, being as specific as you can about how your preference would operate in practice.

**Response**

The Council also has serious concerns in relation to the practicalities of travel arrangements in Argyll and Bute which will often involve travel to and from Court on the same ferry or bus. This close proximity will be fraught and potentially risky, not only for witnesses and the

preservation of evidence for accused, but also victims, especially in domestic violence cases where the accused may be subject to bail conditions. There will also be implications for professional witnesses, such as GP's, police or criminal justice social workers required to take extra time to attend court. An additional issue is that court business will not be fully reported within the local media (there are currently fourteen local media outlets across Argyll and Bute) and that the public need to see justice being carried out will be compromised and undermined. It is suggested that the arrangements for sheriff and jury business with Argyll and Bute should continue as they are currently, as this area faces the same, if not more, of the geographical challenges encountered by island councils

The consultation document focusses on the relative travel distances resulting from the proposals but does not adequately address the wider context of limited transport alternatives or the dependence on weather conditions affecting the available routes. Residents within Mid Argyll and the Kintyre peninsula are subject to a limited and long haul bus service - over 3 hours and 120 miles each way to get to Dumbarton for those who live in Campbeltown. Ferries from Cowal and Bute for residents to attend court in Paisley are subject to the vagaries of the weather or, for Dunoon residents, a 150 mile, 4 hour, round trip. The logistics for residents of Argyll and Bute to attend court are complex and time consuming. Such a move would penalise residents of Argyll and Bute, create a bias against rural and island communities in regard of the experience of attending court and be contrary to the principles of accessing local justice. It would seem that the financial efficiencies achieved by the Scottish Courts Service through this mechanism would ultimately be offset by increased travel and subsistence payments to parties attending court, increased costs for the police authority (in providing cover for officers attending court and unavailable for longer periods), as well as increased costs to the Legal Aid system (additional travel and time for local defence agents).

All those attending Sheriff and Jury business, whether accused (if bailed), witnesses, families, local professional agents and Local Authority officers will incur excessive travelling penalties both in terms of cost and time. This will place an added financial burden upon the public purse through the Department of Work and Pensions, the Legal Aid scheme and Court expenses, and will inflict heavy penalties across all of our rural families, but particularly those on low income. There would be a significant impact upon child care arrangements for attendees who are parents, especially single parents with school age children, where after school care may be needed but is not available or cannot be afforded, as a result of extended time attending court.

We are also concerned that a fair trial before one's peers cannot be fully realised if accused from rural areas and the island communities of Argyll and Bute are judged by a jury made up of those from within the catchment area of an urban court with little understanding of the environmental and cultural influences within which the accused may have offended. We believe therefore that jury trials should be retained within local communities.

Taking into account the disproportionate increased in costs and the logistical barriers associated with delivering these proposals within Argyll and Bute, and the presumption (as this is not clear) that a summary sheriff sitting in Campbeltown or Oban is legally competent



to hear solemn cases, we absolutely refute the argument that centralising sheriff and jury business to Dumbarton or Paisley will provide fairer justice to the population of Argyll and Bute or be more cost effective than the existing arrangement. Instead it will shift the cost locally to other agencies including the Local Authority, the public at large and those least able to incur additional costs.

A further concern is that diverting business from local sheriff courts may eventually result in a reduction on the Procurator Fiscal Service available locally; which would again present practical difficulties for police and other enforcement agencies.

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

**Response**

No

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

(a) why you disagree, and

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

**Response**

We recognise the benefit and would welcome the proposal that certain civil court business such as child protection, proof hearings, matrimonial proceedings, guardianship orders etc be subject to shrieval specialism. However it does not follow, even if the skills of a sheriff can be honed within a specialist court, that such a centre is, or should be, the only place from which shrieval specialism can be practised. Likewise it does not follow that sheriffs engaged in criminal business within sheriff and jury centres are any more eligible to become specialist in civil matters than those engaged as summary sheriffs - one does not beget the other. In our view, delivery of shrieval specialism will be a benefit to complex civil cases but for this to only be delivered out of a sheriff and jury centre is an organisational convenience that does not meet the needs of the most vulnerable living in Argyll and Bute. The excessive cost and time burden has already been highlighted under Question 5 but the hearing of civil cases will also increase the stress upon families in crisis and place additional burdens upon the Local Authority and other professional services.

Argyll and Bute Council, whilst supporting the principle of shrieval specialism, does not consider the argument has been made that such a specialism for civil cases can only be offered via a central location within Dumbarton or Paisley, and that further consideration

should be given to more flexible local options such as a peripatetic specialist sheriff, as referred to in section 3.21 of the proposal document, to hear specific civil cases involving children, families and vulnerable adults .

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

Please give reasons for your answer.

**Response**

Due to relatively low numbers, there will be minimal impact in terms of the social work criminal justice services and regulatory enforcement functions, which is our main interface with criminal sheriff and jury business. However, a greater impact will be felt by our criminal justice services in respect of attending breach actions or court mandated reviews on community payback orders, unless the post sentence management of such orders is devolved to the local summary sheriff. As previously highlighted, this impact will be in terms of increased time, cost and logistics. It will be for the Local Authorities of West Dumbartonshire and Renfrewshire to comment on the impact of increased court business this proposal will bring and, whilst a modest transfer compared to other areas, it will nonetheless create an extra burden upon the teams that provide a social work service to the courts in those areas.

**Question 9** What impact would shrieval specialisation based in the sheriff and jury centres have on you?

Please give reasons for your answer.

**Response**

There is no clear guidance available from the Scottish Court Service as to what level of civil business will be considered a shrieval specialism and what will remain local business. We note that the proposal acknowledges this lack of clarity and that it seeks consultation in respect of what civil matters should or should not be dealt with locally. Civil matters associated with Argyll and Bute community services relate to child protection, proof hearings, matrimonial proceedings, guardianship orders etc; cases where the Local Authority social work services manage vulnerable children and adults. SCRA statistics indicate that there were 40 proof hearings heard in Argyll and Bute in 2011. The removal of such business to Dumbarton or Paisley would significantly increase resource time and financial expense to attend court. For instance, this would mean an additional six hours of travel and a full day out of the office for each worker engaged with a case that would ordinarily be heard in Campbeltown Sheriff Court and take approximately an hour.

Attending court is a stressful business and more so for Local Authority service users: vulnerable children, adults and families. A further burden will be placed upon case managers to counsel and reassure those, already in crisis, having to cope with excessive travel, prolonged build up of anxiety and travelling far beyond their local support and

"comfort zone". Although, from a national perspective, the amount of civil business in Argyll and Bute is not high, this Council wishes to highlight the human impact, both in emotional and practical terms, of unnecessarily transferring these matters to a centralised court.

## Justice of the peace courts in towns where there is no sheriff courthouse

Pages 34 to 36 of the Consultation Paper.

### Proposal 3

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

- (a) the justice of the peace courts at Coatbridge, Cumbernauld, Annan, Irvine and Motherwell should close and the business be transferred to a justice of the peace court sitting in the sheriff courthouse for the district;
- (b) these changes, which are dependent on there being sufficient capacity in the respective sheriff courthouses, should be phased over the financial years 2013/14 and 2014/15.

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

**Response**

No comment

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

(a) why you disagree, and

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

**Response**

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

Please give reasons for your answer.

**Response**

None

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

Page 37 of the Consultation Paper.

### Proposal 4

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

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

**Response**

No comment

**Question 14** If you disagree with the proposal to disestablish these justice of the peace courts, please say

(a) why you disagree, and

(b) what alternative proposal you would prefer to see in place, being as specific as you can about how your preference would operate in practice.

**Response**

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

Please give reasons for your answer.

**Response**

None

## Sheriff courts with low volumes of business

Pages 38 to 40 of the Consultation Paper.

### Proposal 5

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

- (a) sheriff courts and justice of the peace courts should cease to be held in Dornoch, Duns, Kirkcudbright and Peebles, a sheriff court should cease to be held at Rothesay, and the court buildings and court accommodation in those places should be closed;
- (b) the business from these courts should be transferred to the neighbouring sheriff court districts and be heard at the sheriff courthouse in Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively;
- (c) the changes be achieved during the year 2013/14.

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

**Response**

No

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

(a) why you disagree, and

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

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

**Response**

This Council strongly disagrees with the closure of Rothesay Sheriff Court and the transfer of summary business to Greenock and disputes the rationale behind this decision. Rothesay Sheriff Court serves an island community that does not, due to the vagaries of the weather, enjoy reliable ferry access to the mainland. Ferry cancellations are unpredictable but a reality of island life. In the six month period between September 2011 and March 2012 there were 273 cancelled sailings (affecting 24 days in total) between Rothesay and Wemyss

Bay due to adverse weather. This was not a particularly severe winter and higher levels of cancellation are not unusual.

The Council also has serious concerns in relation to the practicalities of travel arrangements in Argyll and Bute which will often involve travel to and from Court on the same ferry or bus. This close proximity will be fraught and potentially risky, not only for witnesses and the preservation of evidence for accused, but also victims, especially in domestic violence cases where the accused may be subject to bail conditions. There will also be implications for professional witnesses, such as GP's, police or criminal justice social workers required to take extra time to attend court. An additional issue is that court business will not be fully reported within the local media (there are currently fourteen local media outlets across Argyll and Bute) and that the public need to see justice being carried out will be compromised and undermined.

Figures within the proposal indicate £6000 overheads for Rothesay Sheriff Court, the saving of which would not justify the inevitable increased financial burden that will be incurred through payments by the Court service. This would include; witness expenses, travel costs, additional subsistence costs (e.g. due to cancellation of ferries), extra child care costs and police costs (to provide officers to replace those unavailable due to increased travel and time in court) as well as an increased burden upon Local Authority resources and other hidden costs such as the integrity of local justice.

The Council's alternative proposal is based on the existing precedent in Lochgilphead. This is also a low volume Court and operates as an annex of Dunoon Sheriff Court. We propose therefore that rather than closing Rothesay Sheriff Court, it should instead be made an annex of Greenock Sheriff Court. Lochgilphead annex, a low volume court, may well have been spared closure due to it's remoteness from other Courts. Our contention is that Rothesay Court, a higher volume court than the Lochgilphead annex, by the nature of its limited transport links is equally, if not more, remote and should therefore enjoy at least a similar status to Lochgilphead court.

**Question 18** How would the closure of any of these courts affect you?

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

**Response**

The closure of Rothesay Sheriff Court would negatively impact upon the ability of our various services involved in court representation to meet Government national standards in terms of "immediacy and speed" delivering community based sentences from the point of sentence. Sentencing will occur within another local authority and whilst orders can be electronically transferred, the actual face to face engagement with an offender placed on a community order at the time of sentence will be compromised. There is no guarantee that

Rothsay cases will be dealt with on one day and, if subsumed into normal business of Inverclyde, it would be impossible to have an Argyll and Bute officer in court daily to "catch" Argyll and Bute offenders as they are sentenced. Subsequently induction will be delayed as the offender returns to the island and this will contravene the requirements of national standards. Attendance at Court to speak to breaches and other face to face enquiries or liaison with sentencers will involve increased time and expense for the Local Authority. Closure of the Sheriff Court will also impact upon other Councils staff engaged with the Court through civil business as previously indicated under question 6.



## Sheriff courts in proximity to each other

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

### Proposal 6

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

- (a) sheriff courts and justice of the peace courts should cease to be held in Alloa, Cupar, Dingwall, Arbroath, Haddington and Stonehaven and the court buildings and court accommodation in those places should be closed;
- (b) the business from these courts should be transferred to the neighbouring sheriff court districts and be heard at the sheriff courthouse in Stirling (solemn business in Falkirk), Dundee, Inverness, Forfar, Edinburgh and Aberdeen respectively;
- (c) the changes should be phased over the two years 2013/14 and 2014/15, or as the necessary capacity becomes available.

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

**Response**

No comment

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

(a) why you disagree, and

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

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

**Response**

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

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

**Response**

None

## Sheriff court district boundaries

Page 46 of the Consultation Paper.

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

### Response

Lochgilphead Sheriff Court is an annex to Dunoon Sheriff Court. It is a low volume court but we presume has been saved from closure due to it being administered by a higher volume court and its remoteness. Public transport is such that it is not possible for people in mid Argyll to attend Dunoon Court without the use of private transport, hence the usefulness of the annex. Should in the future there be a plan to close the Lochgilphead annex, then reconsideration of Court boundaries would be desirable. Based on current bus timetables and road links, Oban Sheriff Court is best placed to service the town and villages within the Inveraray area, and the Campbeltown Sheriff Court (though further than Oban, the road link is superior) could service the population of Lochgilphead and surrounding areas.

## General Questions

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

### Response

The design of the consultation questions does not facilitate the presentation of Argyll and Bute Council's perspective and we believe that the proposals will have a disproportionately negative impact in our area. The council area includes 25 inhabited islands, more than any other Scottish Council. The geographical profile of the area presents numerous challenges for its remote communities which are not adequately addressed in the consultation's analysis generally and in specifically in regard to Rothesay Sheriff Court. The focus on additional travel distances resulting from the changes, rather than a holistic assessment of the impact the financial, human and access to justice will severely disadvantage our communities and place additional burdens on over stretched local authority services. The proposals will result in unnecessary disruption in terms of access to courts, segregation of parties involved in court proceedings and potentially add to capacity problems experienced in neighbouring courts. These changes in particular are likely to result in a serious diminution of justice.

Based on the contrast between the relatively small population of Argyll and Bute set against the formidable geographical challenges associated with these proposals, it is suggested instead that the full range of existing range of sheriff court services should be retained within Argyll and Bute, including the operation of Rothesay Sheriff Court.

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

**Response**

Argyll and Bute Council welcomes the use of electronic technologies to develop efficient services especially as a means to "speed up" time consuming tasks that support the hearing process especially within the rural areas. Intermediate diets are an example where the use of video conferencing to confirm agents are ready for trial and the plea remains unchanged, would save a considerable amount of time. Similarly, the electronic transfer of criminal justice social work reports in all areas of Scotland would, as has been found with the electronic mailing of report requests and community payback orders, make communication between social work services and the Court more efficient and would reduce the number of late reports. We have commented in depth about the inconveniences and tensions associated with attending court at a distance. Greater use of technologies in our civil cases could help limit the number of occasions when a service user would be required to attend court and that, for many of our vulnerable clients, would be a benefit.

We note "The Strategy for Justice in Scotland" 2012 published by the Scottish Government, within which the current administration sets out its approach to making the justice system in Scotland fit for the 21<sup>st</sup> century. The document talks of the public right to fair and accessible service, of supporting victims and witnesses, strengthening community engagement and encouraging self representation at tribunals and formal dispute resolutions. Whilst we welcome the principles of shrieval specialism and appreciate the requirement to provide service within a finite budget, the proposals to transfer important civil business in all areas and summary criminal business in Rothesay to courts outside of Argyll and Bute is in direct conflict with the priorities laid down by the Government in its strategy for justice.