

‘SHAPING SCOTLAND’S COURT SERVICES’: AN ANALYSIS OF CONSULTATION RESPONSES

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**The views expressed in this report are those of the researchers and
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EXECUTIVE SUMMARY

1. In September 2012, the Scottish Court Service (SCS) launched a public consultation to gather views on its proposals to reconfigure Scotland's courts. The consultation document, *Shaping Scotland's Court Services*, was published on 21 September 2012, with the consultation closing on 21 December 2012.
2. The consultation document contained six proposals which together detailed how the current court structure in Scotland might be reconfigured. The six proposals were to: concentrate High Court business in three dedicated centres in Edinburgh, Glasgow and Aberdeen, with a limited number of sheriff courts providing additional capacity as required; consolidate sheriff and jury business in 16 courts; close five Justice of the Peace (JP) court facilities, with transfer of business to sheriff courts in the area; disestablish three JP courts with a low volume of business; close five sheriff courts with a low volume of business; and close six sheriff courts within 20 miles of other sheriff courts. The consultation also sought views on changes to sheriff court boundaries, as well as asking for any comments on other aspects of the provision of court services in Scotland and on the consultation paper generally.
3. For each of the six proposals, respondents were invited to indicate agreement or disagreement with what was proposed, and to provide reasons for this, along with any comments on the anticipated impacts of the proposals.

The consultation process and types of response

4. The consultation received 728 individual written submissions, with 722 responses included in the analysis (6 responses were excluded as duplicates or because they lacked sufficient respondent details). These comprised 595 responses from individuals and 127 responses from groups / organisations.
5. Around a quarter of the group / organisational responses were submitted by community groups (29) and another quarter by groups of solicitors (28). In addition, 16 responses were received from 15 of Scotland's local authorities. (One local authority submitted two responses from different departments.) Almost a quarter of individual respondents (132) provided information about their job or professional role. Of these, just over two-thirds (89) were directly involved in the legal profession and a quarter (33) were elected representatives (either MSPs, MPs or local authority councillors).
6. While a total of 722 responses were received, the number of respondents commenting on each proposal and individual question varied substantially. Proposals relating to the JP courts received fewest comments, whilst those relating to the closure of sheriff courts received the most.
7. The 722 responses included a number of campaign responses (identical or near identical written responses), including 271 in relation to the closure of Rothesay Sheriff Court. In addition, campaigns involving petitions, postcards, etc. were organised in Alloa, Cupar and Haddington.

Approach to the analysis

8. The analysis was primarily qualitative in nature. Its main aim was to identify the key themes, as well as the range and depth of issues raised by respondents in their comments on each question in the consultation document. A qualitative approach to the analysis is appropriate given that this open consultation exercise is not based on a representative sample and therefore can not be taken to represent the views of the wider population.
9. However, the analysis also provides a quantitative assessment of the balance of opinion on each proposal. These figures should be treated with caution, but nevertheless provide some context for the qualitative analysis presented.

The context

10. The aim of the SCS proposals was to achieve a court estate which supported other current reforms being considered within the Scottish justice system, and allowed for the future development of modern court facilities, while also addressing the need to reduce costs in the light of a significant budget reduction. Key to the proposals were the consolidation of High Court business in 3 centres and the consolidation of sheriff and jury business in 16 courts, the closure of 11 sheriff and JP courts, the disestablishment of JP courts in three areas. Thus a number of communities across Scotland would lose at least some of their court business, while 11 towns would lose all judicial business. However, the SCS identified improved efficiencies, support for ongoing justice reforms and the development of modern facilities fit for purpose as the benefits accruing from the proposals.

Overview of the responses

11. A small number of respondents offered some support for the proposals and agreed with the identified benefits of increased efficiencies, scope for improved facilities and in some cases improved quality of service. However, most respondents did not accept that the proposals would deliver the benefits anticipated. Widespread and deep concern was expressed about the impact that the implementation of this set of proposals would have on access to justice, and on the quality of the justice system more generally.
12. Central to the responses was a concern about the impact that proposals would have on access to justice, and on the quality of the justice system more generally; and related concern about the impact on the full range of court users, with vulnerable and disadvantaged groups highlighted as being particularly affected. Another key concern related to the impact of the proposals more generally on local economies and local communities.
13. Respondents thought that any proposals for reconfiguring the courts should be driven by an ambition to improve the quality of legal services, but perceived the current proposals as being driven primarily by financial considerations and the requirement to make cost savings. Respondents were not convinced that the financial benefits to the SCS set out in the consultation paper – even if they were achieved – were sufficient to outweigh the costs. They argued that any savings to the SCS which resulted from implementation would be offset by expenditure in another part of the public sector.

14. Across a range of issues, respondents challenged the evidence and assumptions which informed the consultation paper including: the analyses of times and costs of travel; the assumptions about future volumes of business and the capacity of courts to absorb business transferred from elsewhere; the specific conditions within particular court buildings; the costs of maintenance and the capital receipts anticipated from the sale of buildings.
15. The extent of disagreement with the SCS proposals was strongest for the two proposals which covered closure of sheriff courts (and any co-located JP courts) for reasons of low volume of business or proximity to another sheriff court. These proposals received the largest number of comments and also the highest levels of disagreement (95%). Whilst the balance of opinion for the other proposals was more mixed, the same concerns were raised, with the themes outlined below identified across all proposals.

Impact on access to justice

16. Respondents were very concerned about the impact of the proposals on local access to justice and the reduced opportunities to participate fully in the justice system. The value placed on access to local justice was very high. The visibility of local justice both in its delivery and its reporting in local media was believed to have a positive impact on local communities. A common criticism from respondents was that the proposals were contrary to the Principles for Provision of Access to Justice.
17. There were a number of key ingredients cited by respondents as contributing substantially to the delivery of local justice. The understanding and knowledge of local issues, culture and context both by the legal profession (and sheriffs in particular) and by locally recruited juries was paramount. Moreover, convenience and ease of access for the local population was seen as key in ensuring access to justice.

Impact on court users

18. The responses to the consultation focused in great detail on negative impacts on court users, especially in relation to increased travel times, costs and inconvenience. Many examples were given of the time it would take to make a particular journey by public transport, the timetabling of public transport in conjunction with court sitting times, the likelihood of disruption, and the costs associated with travel. These impacts would apply to witnesses, jurors, victims, accused and their families, parties in civil cases, as well as to legal professionals, the police, and associated justice and other bodies, particularly local authority social work departments. They would also disproportionately affect those living in rural locations, and those who were disadvantaged or vulnerable, especially children, victims of domestic abuse, the poor, the disabled, the infirm, and those with mental health or intellectual disorders.

Impact on the quality of legal services and the administration of justice

19. Respondents believed that the proposals would be likely to result in the loss of posts in legal firms, and the de-skilling of local solicitors in areas where courts are closed. Moreover, the consistency and continuity provided by sheriffs and JPs with knowledge of local communities and situations would be lost.

20. It was thought that non-attendance would increase, as well as late arrival at court, mainly as a consequence of increases in travel times and costs. This would have a knock-on effect for adjournments and the time taken to settle a case ('churn') or, on the civil side, for the awarding of decrees in absence. Non-attendance was anticipated to increase for all parties including accused, witnesses, parties in civil cases and jurors.
21. There was concern that delays would increase due to the concentration of business in a smaller number of busy courts. Respondents contrasted the efficiency with which smaller local courts dealt with their business with the existing delays in courts to which it was proposed to transfer that business, and the likelihood that such delays could only get worse. They did not see the logic of closing well-functioning local courts, currently providing an efficient and high quality service.

Impact on the local economy and heritage

22. The perceived negative impacts on local economies and communities was a key concern for respondents. The specific local economic factors varied from location to location. However, the general thrust of comments was that the court provided an important focus for the local economy not just because of the staff employed there, but because of the ancillary business which was drawn in by and which depended on an active court.
23. Civic pride and heritage issues were also key for many who provided accounts of the founding of courts and the role they had played in Scottish and local history. They were keen to preserve and maintain the historic court buildings in which many courts are located.

Impact on costs and on overall public expenditure

24. There was a strong view that any financial savings which might accrue to the SCS would simply appear as additional costs elsewhere in the system. Respondents highlighted the impact of the proposals on legal aid, on policing costs especially where additional cover had to be arranged in place of officers who were attending courts further away, and on additional travel and subsistence claims by professionals (e.g. social workers and mental health professionals) employed in other parts of the public sector.

Increased use of technology

25. Many respondents commented on the potential for, and consequences of, increased use of technology, especially the use of video-links. On the whole this was thought to offer great benefits in terms of reducing the need to travel to court, and improving the time taken to settle cases. However, increased use of technology was not universally supported. There were caveats related to the limits of using technology, and a strong argument was mounted in relation to the importance of conducting court proceedings face-to-face in many situations.

Specialism and centralisation

26. The proposals around centralisation and specialisation attracted both positive and negative comments. Some respondents were sceptical that such an approach would improve the quality of court services or improve access to justice by

reducing delays. Others saw potential for efficiencies and improved quality of justice. However, a common argument was that specialisation did not have to mean centralisation, and there was significant support for the idea of peripatetic specialist sheriffs as a way of maintaining access to justice at a local level.

Conclusion

27. A large proportion of the respondents to this consultation lived or worked in the communities affected by the proposals. Thus, there was very much a local angle to the views submitted. However, the commonality in respondents' arguments suggests that the issues have a general resonance for communities across Scotland.
28. Most respondents favoured retaining the status quo. However, there were also a wide range of proposals put forward for achieving efficiencies and an improved quality of service within the broad framework of the current court system. The types of measures which were suggested included: improving case management; better coordination and programming of court timetables; increased use of video links; coordination and sharing of accommodation with other relevant organisations; and greater use of mediation services. It was thought that focusing on these types of measures could achieve the cost savings required by the SCS and would continue to ensure the access to local justice, while also supporting ongoing reforms in the justice system.

1 INTRODUCTION AND BACKGROUND

1.1 The *Shaping Scotland's Court Services* consultation paper issued by the Scottish Court Service (SCS) sought views on proposals to reconfigure Scotland's courts, and formed one element of the Making Justice Work programme.¹ This report presents an analysis of the responses received.

Background

1.2 Making Justice Work (MJW) is a system-wide change programme addressing the Scottish Government's National Outcome 15: 'Our public services are high quality, continually improving, efficient and responsive to local people's needs'. The programme covers civil and criminal justice and comprises five themed projects considering: court structure; procedures and case management; access to justice; IT and management information; and the establishment of a Scottish Tribunals Service.

1.3 The current Scottish court system (civil and criminal) comprises three tiers:

- The High Court of Justiciary and Court of Session: first instance courts and courts of appeal for criminal and civil business. On the civil side, the Court of Session sits solely in Edinburgh, and deals with higher value or more specialised or complex cases. On the criminal side, the High Court of Justiciary deals with the most serious criminal cases. The High Court is based in Edinburgh, but also sits permanently in Glasgow and Aberdeen and goes 'on circuit', sitting in other sheriff court locations around the country.
- Sheriff Courts: 49 first instance courts throughout Scotland dealing with civil and criminal business. Sheriff courts deal with civil litigation (including small claims, summary cause and ordinary cause actions), and a range of other civil business including commissary and family actions. On the criminal side sheriffs deal with a range of business (both summary and solemn), and have sentencing powers of up to five years.
- Justice of the Peace (JP) Courts: courts based across Scotland (in all but four sheriff court areas) dealing with less serious summary criminal cases.

1.4 The JP courts and sheriff courts are organised into six sheriffdoms, headed up by a Sheriff Principal. Each court serves a locally defined geographically based jurisdiction, and deals with all business within its jurisdiction appropriate to the tier. In contrast, the High Court and Court of Session have Scotland-wide jurisdictions, albeit a proportion of High Court business is dealt with on circuit.

1.5 While the broad structure of the Scottish court system has been in place for many years, there have, nevertheless, been various initiatives to modernise and improve aspects of the system as a response to changes in wider society and changing demands. A number of reviews carried out in recent years have considered changes to various aspects of the justice system, e.g. Lord Gill's

¹ Scottish Court Service (2012) *Shaping Scotland's court services*. Available at: www.scotcourts.gov.uk/consultations/docs/CourtStructures/ShapingScotlandsCourtServices.pdf.

*Review of civil courts*² and Sheriff Principal Bowen's *Review of sheriff and jury procedures*,³ the Carloway Review⁴ and the Taylor Review,⁵ all following on from earlier work looking at the High Court and summary justice led by, respectively, Lord Bonomy⁶ and Sheriff Principal McInnes.⁷ On a practical level, increased use of IT, video links and on-line forms and facilities for fine payment have been introduced to the Scottish court system. The MJW programme builds on this previous activity, but brings a system-wide, integrated approach to the justice reform agenda.

- 1.6 The current *Shaping Scotland's Court Services* consultation forms a key element of MJW Project 1: Delivering Efficient and Effective Court Structures. It invited comment from interested parties focusing on six proposals which together detail how the current court structure in Scotland might be configured.

The proposals

- 1.7 In brief, the six proposals developed by the Delivering Efficient and Effective Court Structures Project and put forward for consultation were as follows:
- Concentration of High Court business in three dedicated centres in Edinburgh, Glasgow and Aberdeen, with a limited number of sheriff courts providing additional capacity as required
 - Consolidation of sheriff and jury business and other shrieval specialisation in 16 courts
 - Closure of five JP court facilities, with transfer of business to sheriff courts in the area
 - Disestablishment of three JP courts with a low volume of business
 - Closure of five sheriff courts with a low volume of business
 - Closure of six sheriff courts within 20 miles of other sheriff courts.
- 1.8 If implemented, the proposals would result in a reduction in the current court estate, and the consultation paper makes it clear that, within the context of current financial constraints, cost is a key driver, but not the sole driver, of the review. However, the SCS also argue that the proposals, if enacted, would result in a court estate which would allow for the provision of appropriate modern facilities that would meet the needs of the full range of court users, support the procedural and other changes being considered within the other

² *Report of the Scottish Civil Courts Review*, Vols. 1 & 2, 2009. www.scotcourts.gov.uk/about-the-scottish-court-service/the-scottish-civil-courts-review.

³ *Independent Review of Sheriff and Jury Procedure*, 2010. www.scotland.gov.uk/Resource/Doc/314393/0099893.pdf

⁴ *Carloway Review Report and recommendations*, 2011. www.scotland.gov.uk/About/Review/CarlowayReview

⁵ *Taylor Review: Review of expenses and funding of civil litigation in Scotland*. Review in progress as of Feb 2013. Link to review site: www.scotland.gov.uk/About/Review/taylor-review.

⁶ *Improving Practice: The 2002 Review of the Practices and Procedures of the High Court of Justiciary*, 2002.

⁷ *Summary Justice Review Committee: Report to Ministers*, 2004. www.scotland.gov.uk/Publications/2004/03/19042/34176.

MJW projects, achieve desired efficiency savings, while also adhering to the Principles for Provision of Access to Justice.⁸

- 1.9 The proposals take account of the reforms being considered elsewhere in the MJW programme, e.g. the introduction of summary sheriffs dealing with high volume business, leaving sheriffs to concentrate on solemn criminal and specialised civil business; the creation of new sheriff appeal courts and a specialist personal injury court; the increase to £150,000 of the exclusive jurisdiction of the sheriff court in civil cases; and greater use of video links.
- 1.10 The proposals also take account of discussion at a series of six dialogue events held across Scotland at a previous stage in the policy process. These events gave legal professionals and others with an interest in the justice system an opportunity to contribute to discussions on how court services might be reshaped.
- 1.11 The issues raised at the dialogue events were taken into account by the SCS in developing modified final proposals for consultation. The resulting consultation paper also acknowledged the concerns expressed by participants at the dialogue events, and provided further information and analysis in relation to a number of issues as requested.

The consultation

- 1.12 The consultation aimed to gather views from a wide range of interested parties. It ran from 21 September to 21 December 2012, allowing three months for responses. The consultation paper was issued directly to over 250 individuals and organisations, including local authorities, public sector organisations, groups representing different sectors of the legal profession, equality groups and others with an interest in the judicial system. It was also available on the SCS website, with hard copies available on request.
- 1.13 The consultation paper set out the six proposals accompanied by 21 questions seeking views in relation to the individual proposals. A mix of open and closed questions invited respondents to indicate agreement or disagreement with each proposal, and to provide reasons for this, along with information on the anticipated impact of the proposals. Three further questions sought views on: (i) sheriffdom boundaries, (ii) any other aspects of the consultation paper or (iii) any other aspects of court services provision in Scotland. The questions are presented in full in Annex 1.
- 1.14 The consultation paper included a response form, and respondents could submit their responses by email or post.

Approach to the analysis

- 1.15 This consultation received a large number of responses in a range of different formats and submitted through a number of different routes. The analysis was designed to take account of this. All responses were entered into a database structured around the consultation questions. Comments submitted through

⁸ These were attached as Annex A to the consultation document.

non-standard responses (i.e. those that did not use the structured response form) were allocated to appropriate questions.

- 1.16 The consultation questionnaire followed a format which asked respondents: (a) whether they agreed or disagreed with a particular proposal; (b) if they disagreed, what their reasons were; and (c) whether they had suggestions for alternative approaches. Thus, it should be noted that the consultation questionnaire did not directly seek comments from respondents who **agreed** with the proposals, although respondents who agreed did often go on to provide further comment.
- 1.17 The aim of this report is to present an analysis of the content of the responses received. It is important to bear in mind that a consultation is not a vote; neither is it a population survey. It is generally the case that individuals who have a keen interest in a particular subject, and the capacity to respond, are more likely to participate in a consultation than those who do not. Thus the findings of a consultation exercise cannot be taken to represent the views of the wider population.
- 1.18 The non-representative nature of views gathered via an open consultation means that care has to be taken when quantifying or attaching weight to the various views expressed. Nevertheless, some quantification is helpful in providing context, and this report includes details of: i) the numbers of respondents answering specific questions; ii) the balance of opinion amongst respondents in relation to each of the six proposals as indicated by their answers to closed questions; and iii) the number of respondents mentioning particular courts in relation to Proposals 3-6.
- 1.19 The main focus of analysis, however, is on the responses to the open questions which sought views about respondents' reasons for disagreeing with the proposals, and whether they had suggestions for alternative approaches. In relation to this, an effort has been made to indicate how widespread a particular view was, and the strength of the views expressed.
- 1.20 An additional consideration relates to the evidence which was presented – both in the consultation paper itself and in the submitted responses – and the comments made by respondents about the assumptions and analysis which underpin that evidence. It was not the role of the consultation analysis to adjudicate between what were often contrasting views or conflicting evidence as presented by the SCS or by respondents. This would require some form of independent review as a separate exercise. The analysis therefore has focused on the evidence as presented by respondents.

The analysis report

- 1.21 The structure of the remaining sections of the report is as follows:
 - Chapter 2 provides details of the respondents and the responses received.
 - Chapter 3 provides an overview of the key themes from the responses.
 - Chapters 4–9 address each of the six proposals in turn.
 - Chapter 10 focuses on comments regarding possible changes to sheriff court district boundaries and any other comments made by respondents.

2 RESPONSE TO THE CONSULTATION

How responses were received

Submission by email or post

- 2.1 The SCS provided a copy of the consultation document on their website. In addition, as noted in the previous chapter, the consultation document was issued directly to around 250 stakeholders from a wide range of organisations.
- 2.2 A mix of 'standard' and 'non-standard' responses were received. Standard responses were submitted using the consultation questionnaire, although some respondents attached additional information. 'Non-standard' responses were received in the form of letters and / or other types of documents, some of which were at least partly structured around the consultation questions.
- 2.3 In either case, letters and completed forms could be sent by email or by post to the SCS.

Campaign responses⁹

- 2.4 Campaigns were organised in Haddington, Cupar, Alloa and Rothesay in order to protest about the closure of the courts in these towns. In Haddington, there were at least four campaign strands identified. These were:
 - A postcard campaign – postcards with a standard text could be sent to Iain Gray, MSP or the *East Lothian Courier* for onward submission to SCS.
 - A newspaper campaign – a newspaper coupon with a standard text in the *East Lothian Courier* could be signed and sent to the newspaper for onward submission to the SCS.
 - Two separate petitions (one hard copy and one on-line) organised by local legal firm Garden Stirling Burnet, with signatures sent on to the SCS.¹⁰
- 2.5 In Cupar, there were two petitions submitted by Councillor Margaret Kennedy. In Alloa, a petition was submitted by local MSP, Keith Brown. In Rothesay, a local firm of solicitors, Wm Skelton & Co, organised a letter campaign using a standard text. Copies of the signed letters were collected and sent on to the SCS by the firm.
- 2.6 There were also small numbers of campaign responses submitted by local legal firms, solicitors' organisations and, in one case, a local authority – in which between 3 and 5 identical – or near identical – responses were submitted by different individuals.

⁹ A campaign response is defined as an identical response submitted by two or more individuals using a standard template.

¹⁰ In Haddington, there was also a Facebook page set up for local people to express their views on the closure of Haddington Court. A printed copy of the Facebook page with names and comments was submitted as an annex to the response from Garden Stirling Burnet. However, no analysis was carried out of these comments.

Non-campaign responses collated by local solicitors' firms

2.7 In Haddington, legal firm Garden Stirling Burnet also made available on their website a section of the standard SCS response form which related to Proposal 6 (sheriff courts in proximity to each other) and invited residents of East Lothian to submit comments to the consultation through this form. Individuals who wanted to register their comments in relation to proposal 6 (and the closure of Haddington Sheriff Court, in particular) could enter their name, contact details and comments directly into the form provided. These were then collated and sent on to the SCS by Garden Stirling Burnet. These responses are not classed as campaign responses, as each one is different. However, it should be noted that respondents who submitted comments through this route did not have the opportunity of commenting on any of the other proposals in the consultation questionnaire.

2.8 Further details about the Haddington, Alloa, Cupar and Rothesay campaigns, including the standard campaign and petition texts, are included in Annex 2.

Number of responses included in the analysis

2.9 The consultation received 728 written submissions. This figure includes 271 campaign letters received from individuals and organisations relating to the proposed closure of Rothesay Sheriff Court. The number of responses submitted through other campaigns are as follows:

- Haddington postcards: 885
- *East Lothian Courier* newspaper coupons (Haddington): 341
- Haddington petition (hard copy and on-line): 1,466 names / signatures
- Two separate Cupar petitions: 610 signatures
- Alloa petition: 149 signatures.

2.10 The views expressed in the petitions and postcards are reflected in the qualitative analysis.

2.11 Of the 728 responses received, six were not included in the analysis for the following reasons:

- Two were duplicates (for each of these, one had been sent by email and the other, in identical terms, by post) and were discarded to avoid double counting
- Two were anonymous (one had no name and the second had no surname)
- One was a completely blank response
- One did not include the respondent's contact details.

2.12 Thus, 722 responses were included in the analysis. These comprised **595 responses from individuals** and **127 responses from groups / organisations**. A complete list of group / organisational respondents is provided at Annex 3.

Description of respondents and responses

2.13 The consultation response form asked respondents whether they were submitting their response as an individual or an organisation / group, but did not otherwise ask respondents to categorise themselves according to respondent type. However, it was possible to classify all groups / organisations on the basis of information provided by the respondent. Around a quarter of the group / organisational responses were submitted by community groups (29) and another quarter by groups of legal practitioners (28). In addition, 16 responses were received from 15 of Scotland's local authorities. (One local authority submitted two responses from different departments.) See Table 2.1.

Table 2.1: Groups / organisations, by type

Group / organisation type	Number of responses
Community groups (community councils and other community groups)	30
Legal practitioners' groups (legal firms, solicitors' organisations, faculties or societies including Faculty of Advocates)	28
Local authorities	16
Third sector organisations (other than advice / advocacy organisations)	10
Non-governmental organisations	8
Partnership bodies (including community justice authorities)	7
Advice / advocacy organisations (including Citizen's Advice Bureaux)	6
Justices of the Peace and Sheriffs groups	4
Business organisations or small business representative bodies	4
Statutory children's organisations (Children's Reporter and Children's Panels)	2
NHS	1
Police	1
Other groups / organisations	10
Total	127

The 'Other' category comprises: a post office, a focus group, heritage organisations, a newspaper, a printing firm, a local branch of a political party and an electoral organisation.

2.14 Of the 595 individual respondents, 133 (22%) provided information about their job or professional role. Of these, 89 (just over two-thirds) were directly involved in the legal system – either as solicitors / legal professionals, or as justices of the peace, sheriffs or court employees. In addition, nearly a quarter of these respondents identified themselves as elected representatives (either MSPs, MPs or local authority councillors). See Table 2.2.

Table 2.2: Individual respondents, by type

Individual type	Number of responses
Legal professional (solicitors and their staff)	60
Politicians (MSPs, MPs and local councillors)	32
Justices of the Peace	13
Sheriffs	12
Court employees	4
Other justice-related respondents	6
Other professionals	6
Total	133

The 'Other justice-related respondents' category comprises: retired solicitors, retired sheriffs, retired JPs, procurator fiscal office employees and a witness support volunteer. The 'Other professionals' category comprises: an accountant, a mental health nurse, CAB employees, a social worker and a retired politician.

- 2.15 While a total of 722 responses were received, the number of respondents commenting on each proposal and individual question varied. Proposals relating to JP courts received fewest comments; those relating to the closure of sheriff courts received the most comments. Full details are shown in Annex 4, with relevant information also shown in each individual chapter.

3 KEY THEMES ARISING FROM THE CONSULTATION

- 3.1 This chapter sets out the key themes identified in the responses to the consultation. Many of these themes were discussed in the consultation paper, and indeed some of them had provided the focus for the preliminary discussions and workshops which informed the development of the proposals.
- 3.2 The themes described in this chapter are overarching. That is, they were not raised simply in relation to **one** of the proposals in the consultation document, but were at the core of respondents' comments **across all proposals**.
- 3.3 The chapter is organised in four sections. The first section focuses on themes which relate to perceived negative impacts of the proposals, and reasons respondents gave for disagreeing with the suggested approach. These themes predominated. The second section focuses on themes which relate to the perceived positive impacts of the proposals and reasons respondents gave for agreeing with the suggested approach. The third section summarises the themes which were mentioned both in a positive and in a negative context. Finally, the fourth section focuses on the alternative approaches and solutions suggested by respondents.

Negative impacts of proposals and reasons for disagreement

- 3.4 There were a range of key themes raised in relation to the anticipated negative impacts of the proposals and the reasons why respondents disagreed with the approach outlined in the consultation paper.

Impact on access to justice

- 3.5 Respondents were concerned about the impact of the proposals on local access to justice and the reduced opportunities to participate fully in the justice system. The value placed on access to local justice was very high. It was thought that the availability of local justice was a basic requirement for community cohesion and for good civic relations. The visibility of local justice both in its delivery and in its reporting in local media was believed to have a positive impact on local communities.
- 3.6 A common criticism from respondents was that the proposals were contrary to the Principles for Provision of Access to Justice prepared in discussion among the Lord President, the Lord Justice Clerk and the Sheriffs Principal, and attached to the consultation paper as an annex. Other respondents referred to the principles enshrined in the European Convention on Human Rights.
- 3.7 There were a number of key ingredients cited by respondents as contributing substantially to the delivery of local justice. The understanding and knowledge of highly specific local issues, culture and context both by the legal profession (and sheriffs in particular) and by locally recruited juries was paramount. Moreover, convenience and ease of access for the local population reinforced the deeply held belief of the importance of full participation in the justice system for all. Related to this was a belief that it made no sense for relatively minor or local domestic cases to be dealt with at a distant location.

Impact on court users

- 3.8 The responses to the consultation focused in great detail on negative impacts on court users, especially on their increased travel times, costs and inconvenience. Numerous specific examples were given of the amount of time it would take to make a particular journey by public transport, the timetabling of public transport in conjunction with court sitting times, the likelihood of disruption, and the costs associated with travel should the proposals for centralisation and court closures be implemented. These impacts would apply to witnesses, jurors, victims, accused and their families, parties in civil cases, as well as to legal professionals, the police, and associated justice and other bodies, particularly local authority social work departments.
- 3.9 It was noted that those who were disadvantaged or vulnerable – the poor, the disabled, the infirm, those with mental health or intellectual disorders, those who had suffered domestic abuse – would be disproportionately affected by the changes. In particular it was unclear how the financially disadvantaged would be able to fund travel upfront.
- 3.10 The impact on children and young people was also highlighted, particularly in relation to family law cases and to childcare arrangements and costs. It was argued that the additional stress of travelling to a distant court at a time when children were already going through emotionally difficult situations was not justified.
- 3.11 Respondents commented that those living in rural locations would be worst affected by the proposals. They thought that the consultation paper had not adequately examined the travel times or travel disruption which is a routine part of daily life, especially in winter, in rural areas where public transport is poor, or where ferries are involved.
- 3.12 Several respondents criticised the lack of a full equalities impact assessment.

Impact on quality and provision of legal services

- 3.13 It was believed that the proposals would have a negative impact on the quality and provision of legal services. The proposals would be likely to result in the loss of posts in legal firms, and the de-skilling of local solicitors in areas where courts are closed. For court employees the issues of staff development and morale were highlighted, along with the ultimately negative consequences for the quality of the service offered.
- 3.14 Moreover, the consistency and continuity provided by sheriffs and JPs with knowledge of local communities and situations would be lost.

Impact on the administration of justice

- 3.15 There were perceived to be a range of negative effects on the broad administration of justice, beyond the impact on the quality and provision of legal services identified above. Respondents believed that the effect of the proposals would be to increase non-attendance at court, to increase delays in

the administration of justice, and to increase the potential for witness intimidation.

- 3.16 It was thought that non-attendance would increase, as well as late arrival at court, mainly as a consequence of increases in travel times and costs. This would have a knock-on effect for adjournments and the time taken to settle a case ('churn') or, on the civil side, for the awarding of decrees in absence. Non-attendance was anticipated to increase for all parties including accused, witnesses, parties in civil cases and jurors.
- 3.17 Delays would also increase due to the concentration and transfer of business to a smaller number of busy courts. Many examples were given of the efficiency with which smaller local courts dealt with their business. Respondents contrasted this with the existing significant delays in courts to which it was proposed to transfer that business, and the likelihood that such delays could only get worse.
- 3.18 The comments about witness intimidation mostly arose in relation to situations in which different parties to a case would have to travel together on public transport (including ferries), giving rise to the potential for disputes and intimidation.

Impact on local economy and heritage

- 3.19 A range of (potential) negative impacts on the local economy were identified, as well as on the civic pride and heritage of affected communities.
- 3.20 The specific local economic factors varied from location to location. However, the general thrust of comments was that the court provided an important focus for the local economy not just because of the staff employed there, but because of the ancillary business which was drawn in by and which depended on an active court. Respondents viewed the statement in the consultation paper that impacts would be 'localised, minimal, and short term' as completely incorrect.
- 3.21 Civic pride and heritage issues were also key for many who provided detailed historical accounts of the founding of courts and the role they had played in Scottish and local history. They were keen to preserve and maintain the historic buildings in which many courts are located, but recognised that these aspects did not lend themselves easily to quantification.

Impact on costs and on overall public expenditure

- 3.22 There was scepticism about the impact of the proposals on costs and on overall public expenditure. Whilst respondents often accepted that the SCS would reap some financial benefit – although perhaps more limited than set out in the consultation paper – they did not think that focusing only on the financial position of the SCS was appropriate.
- 3.23 There was a strong view that costs were simply being transferred elsewhere in the system. Respondents highlighted the impact of the proposals on legal aid, on policing costs especially where additional cover had to be arranged in

place of officers who were attending courts further away, and on additional travel and subsistence claims by professionals (e.g. social workers and mental health professionals) employed in other parts of the public sector. There was also the issue of potentially increased 'opportunity costs', i.e. the fact that additional travel over and above what was currently necessary would impact on the time for staff, particularly police and social workers, to undertake their work.

- 3.24 The broader point made was that centralisation of services was not necessarily a way to decrease costs. The smaller courts were thought to offer an efficient, local, high quality service which could be adapted and could be operated very flexibly. Centralisation was often associated with a decrease in service quality, poor communication, and avoidable delays.
- 3.25 Respondents perceived the proposals as being financially motivated. Whilst there was general sympathy with the aspiration to improve efficiency, respondents described cost cutting as a poor and inadequate rationale for the changes being sought. They were also concerned that there might be further cuts in the future, particularly in court locations where it had been proposed that solemn business would be removed.

Flawed premise and underpinning analysis for the proposals

- 3.26 Respondents raised a wide variety of issues relating to the consultation paper and its underpinning analysis. They did not accept the premise on which the proposals were based, and they had a wide range of challenges to the specific analyses which were presented. As described in Paragraph 1.20 above, there has been no attempt to verify either the material presented in the consultation paper itself, or the challenges to it in the submitted responses.
- 3.27 As noted earlier, respondents did not think the proposals were congruent with the principles of access to justice as set out in the consultation paper itself. They also rejected the idea that any proposals for change should be driven by considerations of cost rather than service quality. Moreover they did not think the consultation paper had adequately represented the wider context of government's aspirations in relation to regenerating towns and sustaining local communities especially in rural areas. Other reforms to the justice system currently underway but not yet fully implemented, had not been properly accounted for.
- 3.28 There were challenges to many of the specific estimates which informed the consultation paper: the analyses of times and costs of travel; the assumptions about future volumes of business and the capacity of courts to absorb business transferred from elsewhere; the specific conditions pertaining within particular buildings; and the costs of maintenance and the capital receipts anticipated from the sale of buildings. All these were queried.
- 3.29 The analyses of times and costs of travel were thought to present a biased and over-optimistic view of travel times. Respondents thought that insufficient attention had been paid to the realities of public transport in rural areas especially from small settlements outwith main travel hubs. Winter conditions, time and costs associated with car parking, time to get to the court itself from

transport termini, and from home to transport termini (particularly in outlying rural areas), and failed transport connections had not been fully acknowledged or taken into account in the calculations. The impact of additional travel on CO2 emissions was noted as an additional factor which should have been considered.

- 3.30 Respondents frequently commented on specific issues relating to the costs, maintenance, and possible sale of current buildings. It was thought that the proposals were based on a pessimistic view of capital and maintenance costs associated with current facilities and an unrealistic view of the savings to be made.
- 3.31 Respondents also questioned whether the courts to which it is proposed to transfer business had the capacity to absorb that business. Many specific examples were given of delays that had been experienced in accessing services from busier courts. The time taken to deal with cases in the busier courts was often contrasted with the efficient service which was currently available from the local court.
- 3.32 Many issues were raised in relation to the assumptions in respect of the conditions in specific courts or locations and in the financial projections associated with the new arrangements. There were also examples of resources having been recently spent to upgrade facilities which were now targeted for closure. This was thought to be in conflict with the aspiration to make best use of public monies. In some towns where court closures were proposed, the courts were already co-located with other justice agencies (either within the same building, or in separate buildings in close proximity), a model which was commended in the consultation paper.
- 3.33 In specific locations where courts were proposed for closure, respondents highlighted planned new housing developments which would increase the volume of court business beyond current levels. Moreover, respondents commented more generally that no account had been taken of increasing numbers of specific types of cases and hearings (e.g. opposed applications for permanence orders) and the increasing complexity of some cases. Both these factors would increase demand on court resources. The potential loss of capacity and flexibility across the court estate was noted, as was the difficulty of reversing closure decisions in the future.
- 3.34 Finally, there was thought to be an inadequate approach to assessing the impact of the changes on court users, and on the wider system.

Positive impacts of proposals and reasons for agreement

- 3.35 The single theme which ran through the positive comments about the proposals was that they would improve (some aspect of) the quality of service available to court users arising from the concentration of business in a smaller number of courts, and the opportunities this presented for specialisation and improved facilities. Arguments relating to increased efficiency and a decrease in costs were highlighted.

Themes with both positive and negative aspects

Increased use of technology

3.36 Many respondents commented on the potential for, and consequences of, increased use of technology, especially the use of video-links. On the whole this was thought to offer great benefits in terms of reducing the need to travel to court, and improving the time taken to settle cases. However, increased use of technology was not universally supported. There were caveats related to the limits of using technology, and a strong argument was mounted in relation to the importance of conducting court proceedings face-to-face in many situations.

Specialism and centralisation

3.37 The proposals around specialisation attracted both positive and negative comments. Some respondents were sceptical that such an approach would improve the quality of court services or improve access to justice by reducing delays. Others saw potential for efficiencies and improved quality of justice. However, a common argument was that specialisation did not have to mean centralisation, and there was significant support for the idea of peripatetic specialist sheriffs as a way of maintaining access to justice at a local level.

Alternative proposals

3.38 In general, respondents' suggestions for alternative proposals focused on retaining the status quo, or an enhanced status quo, as described below. Suggestions were also often made in relation to redrawing sheriff court district boundaries to increase the volume of business in courts that were proposed for closure. Other suggestions (mentioned less frequently) are described in Chapters 4-9 in relation to each proposal.

Enhanced status quo

3.39 There was widespread support for an alternative solution to the proposals presented by the SCS based on an enhancement of the current status quo. Respondents thought that there was an opportunity to realise cost savings and to enhance the quality of services using a less radical and more incremental approach.

3.40 Respondents suggested that the enhancements to the status quo should focus on issues such as: improved case management; better coordination and programming of court timetables; increased use of video links; coordination and sharing of accommodation with other relevant bodies; greater use of sheriff courts in relation to business currently conducted in the High Court; and greater use of mediation services.

4 PROPOSAL 1: THE HIGH COURT CIRCUIT

- 4.1 This chapter presents views from respondents on proposals for changes to the High Court circuit. The proposals would involve concentrating High Court business in three dedicated centres in Edinburgh, Glasgow and Aberdeen, with additional capacity being provided as required in a small number of courts (Dumbarton, Dunfermline, Greenock, Livingston and Paisley).
- 4.2 The consultation paper provided background to the proposals, and posed three questions inviting respondents to indicate agreement or disagreement with the proposals, reasons for disagreement, and the likely impact of the proposals. Respondents were also invited to outline alternative structures and how they might operate.
- 4.3 A total of 105 respondents provided views on this proposal. This comprised 63 individuals and 42 groups / organisations. Approximately one in three group / organisational respondents commented, compared to one in ten individuals.
- 4.4 Amongst those who provided views, the balance of opinion was opposed to the proposals, with 51% disagreeing and 34% agreeing. The remainder offered mixed views or provided comments without a clear statement of agreement or disagreement, although many amongst this group noted reservations or issues of concern in relation to the proposal. See Table 4.1.

Table 4.1: Proposal 1 / Question 1: Do you agree with the proposed structure of sittings of the High Court at first instance?

	Individuals	Groups / organisations	Total	%
No	33	21	54	51%
Yes	22	14	36	34%
Mixed / unclear / qualified views	8	7	15	14%
Total	63	42	105	100%

Percentages may not add to 100% because of rounding.

- 4.5 Many respondents made specific reference to their local area or court in their comments and these are highlighted as appropriate in the sections below.

Opposition to the proposals

- 4.6 Those opposed to the proposals offered a range of views and comments. Most commonly respondents talked about the negative impact the proposals would have in relation to local justice, stressing the importance of justice being seen to be done within the community or the importance of 'being tried by your peers'. The importance of local knowledge and understanding of local geography and culture to the effective delivery of justice was also noted. High Court sittings also had symbolic importance for the towns involved.
- 4.7 Such arguments were particularly common amongst those from the Highlands and other rural areas who saw a risk that the proposed changes would make High Court justice more remote and that communities outwith the central belt would become 'disconnected' from the justice system. Some in the Highlands

talked in terms of discrimination, suggesting that the proposals would impact disproportionately on residents there, treating them less favourably or leaving the area 'unrepresented' or 'disenfranchised'. One respondent wrote that the proposal 'ignored the entire population of the Highlands'; another said that the proposals left an area the size of Belgium without a High Court venue.

- 4.8 The role of local press reporting was also raised. This was seen as an important element in effective local justice, and there was disagreement that modern-day on-line and 24-hour news made this less relevant as the priorities of national media outlets would not be the same as those of local populations.
- 4.9 On a practical level, a key issue for respondents was the prospect of additional travel, with associated time and cost implications, as a result of the changes to the High Court circuit. The following points were raised:
- The inadequacy of public transport links, the problems of onward connections and the risks to different parties of having to share public transport
 - The impact of winter weather on travel arrangements
 - The need for overnight accommodation
 - The environmental impact of the additional travel required.
- 4.10 In relation to the Highlands, northern areas such as Caithness and Sutherland were highlighted as being particularly affected by travel times and distances. Travel times of up to five hours from Wick to the three proposed venues were suggested. It was also noted that Aberdeen presented no advantages over a central belt High Court location regarding accessibility and travel times.
- 4.11 While such concerns were also raised in relation to other proposals (see Chapters 6-10), the length and complexity of High Court cases, and the significant travel distances involved, were cited as compounding issues.
- 4.12 While these factors would be relevant to all court users, the impact on victims and witnesses was particularly highlighted, with respondents arguing that the additional travel requirements would add to the inconvenience and stress of court attendance. It was also suggested that these factors might prevent people from bringing a friend or relative to court with them as a supporter. Respondents noted a range of particular groups of court users who might be disproportionately affected by the proposals, including frail older people, those with disabilities, and those with childcare responsibilities.
- 4.13 There was also concern that together these factors would impact on the administration of justice deterring people from reporting crime or coming forward as a witness to a crime, or attending court as a witness or in their capacity as an accused person. Non-attendance of witnesses (and accused) at court hearings would lead to increased churn in the system, with adjournments leading to increased costs and inconvenience for all involved.
- 4.14 A small number of respondents questioned how concentrating High Court business in three courts would improve the efficiency of criminal business.

One organisational respondent who saw mismanagement of cases as the cause of much inefficiency suggested that this would be worsened by the reduced capacity available at the three sites. This respondent believed that improved case management, rather than concentration of business in fewer locations, would more effectively address inefficiencies in the system and cut costs.

- 4.15 There were concerns about the impact on the legal profession and legal services in areas remote from the High Court. It was suggested, for example, that the proposals would make it harder to attract criminal practitioners to such areas and that local lawyers and their trainees would have less exposure to serious cases and less opportunity to observe cases on an ad hoc basis. In addition, it was felt that the extra travel involved would deter practitioners from taking on High Court work or, alternatively, reduce their availability to do other locally based work.
- 4.16 Many of the respondents concerned about the proposed changes raised issues relating to costs. A common view was that while the changes may save money for the SCS, they would merely shift costs to other agencies (e.g. the Scottish Legal Aid Board (SLAB) and the police), or onto the public as court users in various capacities. Respondents referred to 'short-sighted' savings and a 'stealth tax'.
- 4.17 Respondents cited concerns about the capacity and capability of the proposed three court structure to deal with all Scotland's High Court business, in terms of court times, facilities, and staff resources. One respondent also noted a likely future increase in High Court cases if proposed changes to the corroboration rules were introduced. On a practical level, court capacity and facilities at Aberdeen – as well as the city's relative inaccessibility – were raised as concerns, particularly given the proposal to transfer other business from Stonehaven Sheriff Court.
- 4.18 The role of the 5 sheriff courts which would provide additional capacity also attracted comment. One respondent noted that it was impractical for the High Court to sit in any of the sheriff and jury centres, given the increased business these courts would be absorbing. Issues of capacity, in terms of both court time and court room accommodation, security, availability of other facilities and the likely impact on other court business were all mentioned. Paisley was noted specifically as having insufficient accommodation; and Greenock and Livingston were noted as having only two jury courts so little flexibility to host High Court sittings alongside other solemn business. The requirement to provide High Court accommodation would, it was argued, impact on other court business.
- 4.19 The impact on jurors was also a common concern amongst respondents. The risks associated with some areas bearing the burden of providing jurors was noted. In addition, one respondent suggested that the Aberdeen area already had a disproportionately high number of exempt people (connected to the oil industry). Although there was scope for jurors to be called from wider areas, it was suggested that this would put unrealistic demands on those selected in

terms of travel and inconvenience. Disabled jurors, those from remote areas, and those on benefits were all mentioned as being particularly disadvantaged, with the need to look at the system for exemptions and reimbursement of costs also highlighted. There was also concern that in other areas, a citizen's right to be on a jury was being undermined and it was suggested that this may be in breach of the Principles on Provision of Access to Justice. The point was also made that the proposals made it difficult for people from rural areas to be tried by their peers.

- 4.20 The comments submitted also included general criticism of the approach to and rationale for the proposals. These included criticisms that the proposals were based on cost alone; or that they were driven by a need to create capacity for sheriff court business as a result of closures proposed elsewhere.
- 4.21 Respondents took issue with the potential for increased use of IT and video links and the benefits it might bring to High Court business, noting the importance of personal presence and face-to-face pre-trial negotiation. They also disagreed with the travel assumptions presented and anticipated a large increase in costs for travel, subsistence and overnight accommodation where repeat trips on successive days were required. Finally, respondents were critical of the lack of information on cost savings; and the lack of clarity regarding the proposed geographical split for the three venues.
- 4.22 Amongst those generally opposed to the proposals, there were some concessions in terms of possible advantages of High Court rationalisation, e.g. the freeing up of time in sheriff courts currently used for High Court business; the possibility of dealing with uncontested or procedural hearings in the three bases via video link; and possible convenience and cost savings for advocates and other regular High Court attendees.

Support for the proposals

- 4.23 Among the 34% of respondents who supported the proposals, many of the same issues were raised as those raised by opponents of the proposals (e.g. costs and facilities). There was a feeling that the proposals offered scope for cost savings and efficiencies in relation to the administration of High Court business. Others mentioned the possibility of providing improved facilities if High Court business was concentrated in fewer dedicated locations (which, it was suggested, might encourage victims and witnesses to participate in the criminal justice system); the increasing use of video links; and the increasing role of new media for disseminating news.
- 4.24 Amongst those agreeing with the proposals were some who indicated that the proposed changes would have little or no impact on them. For legal and other organisations and legal professionals, this was because of their location in relation to one of the three High Court bases or because they specialised in civil law. For others, this was generally because they had had no direct involvement with the High Court.
- 4.25 This lack of regular involvement in the High Court was an argument put forward more generally by those expressing support for the proposals. It was

argued that the changes could be justified because very few people would ever need to attend the High Court, and because people accepted the need to travel in relation to serious, specialist issues.

- 4.26 Those offering qualified or partial support for the changes put forward a range of caveats, the most common being the wish to see cases held as locally as possible in the new structure. Some respondents indicated specific preferred arrangements for their area, or encouraged the use of the Lord Justice General's discretion to hold cases at courts outwith the main circuit. There was some concern that, in reality, the proposed sheriff and jury centres would not have the capacity to accommodate High Court cases without adversely affecting other business (this was mentioned specifically in relation to Dunfermline, Inverness and Paisley).
- 4.27 Other comments were that: the defence should have the right to request that cases be held in courts outside the three main High Court locations; and there should be a continued development of services and facilities for witnesses and victims within the proposed new court structure.

Alternative suggestions

4.28 Respondents' alternative suggestions for High Court sittings, or suggestions of other approaches to achieving efficiencies in High Court business, included the following:

- Making use of Stonehaven Sheriff Court for High Court business to take pressure off Aberdeen
- Holding High Court sittings in the Borders (Jedburgh was specifically mentioned)
- Using Dundee rather than Aberdeen as a permanent High Court base
- Maintaining Dumfries, Dundee / Perth, Dunfermline, Inverness and Paisley as High Court circuit venues
- Having a High Court venue in each sheriffdom, and two in Grampian, Highland and Islands
- Using the three centres for procedural hearings and guilty pleas, while retaining the High Court circuit for full trials (mentioned in the specific context of Inverness), and making use of video links as appropriate.
- Transferring more cases from the High Court and Court of Session to the sheriff court to achieve efficiencies and cost savings
- Holding preliminary and pleading diets in local sheriff courts
- Making more efficient use of the current court estate through improved case management, and rationalisation of High Court procedures
- Encouraging more joint working between prosecution and defence to ensure efficient case disposals, early pleadings, etc.
- Making greater use of video links and IT to allow people to participate in court hearings from a distance (e.g. at intermediate diets).

5 PROPOSAL 2: CONSOLIDATION AND SPECIALISM IN THE SHERIFF COURT

- 5.1 This chapter discusses respondents' views on consolidation of sheriff and jury business in 16 sheriff courts, and the development of these sheriff and jury centres as centres of specialism for civil shrieval business. Gradual implementation of the proposals was envisaged, dependent on deployment of sheriffs and summary sheriffs, available capacity and the roll-out of planned IT and video technology. However, no change would be made to five island courts at Kirkwall, Lerwick, Lochmaddy, Portree and Stornoway.
- 5.2 The consultation paper posed six questions on these issues: two questions seeking agreement or disagreement with each issue; and follow up-questions seeking reasons for disagreement, and information on the impact of the proposals.
- 5.3 A total of 159 respondents (94 individuals and 65 groups / organisations) offered comment on consolidation of sheriff and jury business (Table 5.1), while 140 (82 individuals and 58 groups / organisations) commented on the proposal to develop centres of specialism for shrieval business (Table 5.2). Approximately one in six individual respondents and one-half of all group / organisational respondents commented on one or both parts of this proposal.

Table 5.1: Proposal 2 / Question 4: Do you agree with the proposals for a supporting court structure for sheriff and jury business?

	Individuals	Groups / organisations	Total	%
No	75	49	124	78%
Yes	7	4	11	7%
Mixed / unclear / qualified views	12	12	24	15%
Total	94	65	159	100%

Percentages may not add to 100% because of rounding.

Table 5.2: Proposal 2 / Question 6: Do you agree with the proposal that the sheriff and jury centres should become centres of specialism?

	Individuals	Groups / organisations	Total	%
No	58	35	93	66%
Yes	9	7	16	11%
Mixed / unclear / qualified views	15	16	31	22%
Total	82	58	140	100%

Percentages may not add to 100% because of rounding.

- 5.4 The tables show the balance of opinion amongst respondents to be opposed to both proposals, particularly with respect to consolidation of sheriff and jury business. The remainder of this chapter explores the often inter-linked reasons for people's views. The first part of the chapter presents a summary of the more general concerns relevant to consolidation of business. Concerns relating to specific sheriffdoms are then presented, with the emphasis of comments here tending to be on criminal business. The concerns specifically addressing the development of centres of shrieval specialism are then

presented. A final section presents comments from those expressing support for the consolidation of business and / or the development of specialist centres.

Concerns relating to consolidation of sheriff and jury business

5.5 Much of the comment from those opposed to consolidation of business and development of centres of shrieval specialism related to general issues as reported in Chapter 4 such as:

- Perceived conflict with the Principles of Provision of Access to Justice
- The importance of local justice, local knowledge, local reporting of court proceedings, the use of local jurors for local cases, and the benefits of continuity provided by a single sheriff in a local court
- The impact of potentially splitting business involving the same individuals between different courts (e.g. criminal, child protection and family actions in relation to incidents of domestic abuse)
- Distance and travel times involved for those attending court, and related public transport issues. The potential impact on non-attendance was an issue for respondents, along with an increase in the number of warrants required. The travel data presented by the SCS was seen as being too simplistic and as not taking account of rural areas outwith main travel hubs
- The impact on legal firms and the availability of (specialist) legal services: legal professionals in particular pointed out the impact of the extra travel on their business (i.e. loss of business as a result of clients opting to use local court-based representatives or as a result of being unavailable for other work because of travel commitments); the increased use by legal professionals of local court agents which might then impact on the efficient progress of court business because of the agent's lack of familiarity with the client or the specific case; and the problems of providing a full client service when that might mean having to attend at different courts on the same day depending on the mix of current case load
- The knock-on effect of the loss of specialist legal work on local communities, and their ability to attract and sustain other businesses
- The impact on other agencies, e.g. the practicalities for social work departments of enforcing and following up disposals issued in a court some distance away; and attending potentially frequent case reviews in the sheriff court for a community payback order
- Increased costs and the transfer of costs to other agencies as a result of extra travel and time away from base attending court cases (e.g. police and social work staff)
- The loss of existing benefits where agencies were currently co-located, or located in close proximity to each other (for example, cost and time benefits, but also benefits resulting from established links and familiarity between sheriffs and relevant local agencies)

- Concern about the capacity (court time and facilities) of the designated sheriff and jury centres to accommodate all the relevant business currently dealt with in other courts; respondents were concerned about delays, and the impact on adhering to time bars
- The impact on court staff (and sheriffs) with the possibility of de-skilling, a change of duties and / or transfer to other courts, with commuting and / or relocation implications and related impact on personal lives
- Loss of flexibility and resilience in the court system, and concern about the long term sustainability of services if functions were removed from certain areas; and a questioning of the assumption that busier courts were more efficient
- The perceived failure to appreciate the realities of rural life and the geography of the areas affected or the different local cultures involved. An apparent contradiction with the government's stated commitment to support rural life, rural communities and the rural economy was identified by some.

5.6 The proposals would affect all sheriffdoms (although only with regard to specialism in single-venue Glasgow and Strathkelvin), and had potential implication for all courts losing or gaining business. A significant number of respondents made reference to their local sheriffdom, or particular courts within that, and the more frequently cited concerns are reported for each sheriffdom below. In all areas respondents most commonly called for the retention of the status quo; however, the more specific alternative proposals and suggestions offered in relation to this proposal are also reported.

Lothian and Borders

- 5.7 The SCS proposal was that Edinburgh and Livingston would be the designated sheriff and jury centres for the sheriffdom, with Edinburgh dealing with all relevant business from East Lothian and the Borders. It was suggested cautiously by one respondent that the two courts could cope, in theory, if they did not have to take on additional (High Court) work. However, other concerns were raised, particularly in relation to Edinburgh and its increased geographical jurisdiction.
- 5.8 Respondents noted the large geographical area that would be left without a dedicated sheriff or a court offering full sheriff and jury business. There was particularly strong opposition from respondents in the Borders. It was suggested that Scottish Borders would be the only local authority where residents would have to travel through another authority to reach their sheriff court. Tradition and culture was a clear theme, with respondents emphasising the long judicial history in the Borders and the strong local identity and arguing that the Border areas had no natural association with Edinburgh.
- 5.9 The poor transport links in the area, with no motorway and no dual carriageway and only limited rail links connecting the area to Edinburgh were cited as problems for those attending court. The main A1 route was highlighted as a particularly dangerous road, especially in winter.

- 5.10 Respondents also raised concerns about capacity and facilities at the already busy sheriff court at Edinburgh where delays and adjournments were seen as a more common occurrence than in the local courts. The reported practice (cited in the context of Edinburgh Sheriff Court) of lodging a 'not guilty' plea to avoid a particular sheriff was also noted; this practice did not arise in local single sheriff courts.
- 5.11 In relation to Haddington, it was pointed out that jury business had only recently returned to the court, and it was highlighted that this was supported in Sheriff Principal Bowen's report (2010) on jury trials. The period without jury work at Haddington Sheriff Court was cited by one respondent as evidence of the detrimental impact of such a move on staff morale. There was a perception that removing work of this type could be seen as a reflection on the capabilities of the local staff, and that its removal diminished the importance of their jobs and had a negative effect on work satisfaction.
- 5.12 In general respondents believed current arrangements to be 'fit for purpose', and argued for retention of the status quo, with sheriff and jury business continuing in Jedburgh, Selkirk and Haddington, all of which were seen as having adequate facilities and capacity; the option of alternating Jedburgh and Selkirk was offered. For the Borders, it was suggested that a resident sheriff might also have additional specialisms, with reference made to Lord Gill's Review regarding this option. There was also a call for the SCS to work with the local authority in exploring other options. However, a few respondents were willing to consider the loss of sheriff and jury business at Haddington if the court continued to deal with other business under a summary sheriff (rather than being closed completely as currently proposed, see Chapter 9). A similar point was made in respect of the border courts, whereby it was argued that all four courts could operate with a summary sheriff.

Grampian, Highland and Islands

- 5.13 In Grampian, Highland and Islands the SCS proposals would mean the concentration of sheriff and jury business in Inverness and Aberdeen. Concerns about travel issues were common themes in the responses as were the problems of the limited road network (the A9 with its high accident rate was mentioned), limited public transport and the challenges of winter weather. Court capacity and facilities also featured strongly.
- 5.14 For the northern areas, sheriff and jury business would be based in Inverness, and respondents drew attention to the very large area that the court would serve. Journey times by rail from Wick to Inverness were highlighted as making travelling to and from court within a day extremely challenging, and presenting difficulties regarding childcare, particularly where repeat trips were required. The possible need for overnight accommodation presented logistical issues for those involved and had cost implications for the public purse.
- 5.15 Because of the issues of geography and inaccessibility, there were calls for the courts in the more northern parts of the sheriffdom to be treated like the island courts, and to continue to provide full sheriff and jury services.

- 5.16 Respondents also expressed concerns about the capacity of the already under-pressure court at Inverness to absorb the extra business, and the adequacy of facilities available, even if the High Court no longer sat there. Accommodation for sheriffs was reported to be already inadequate.
- 5.17 There were also comments in relation to the other current sheriff court venues north of Inverness. It was suggested that the downgrading of court services in Wick would hamper efforts to regenerate the local area. The current arrangement of a single sheriff covering Wick, Dornoch and Kirkwall was noted, along with concern about how the reforms (namely the removal of sheriff and jury business from Wick and Dornoch but not Kirkwall) would impact in this area. A common view was that, because of its remoteness, Wick should be treated like the island courts and retain sheriff and jury business. Dingwall was also highlighted as a court with good facilities, capable of continuing to host jury trials.
- 5.18 In relation to the Grampian area, there were concerns about the accommodation and facilities available at Aberdeen and the capacity of the court to take on sheriff and jury work from Stonehaven if it was also retained as a High Court centre; security was also noted as an issue. In contrast, the court and parking facilities at Stonehaven were presented as a positive comparison. Stonehaven's status as a county town was also mentioned, as was the likely impact on the economy of the town if the court were to close. Concerns about Aberdeen's accessibility (limited and expensive public transport, costly parking and the lack of a rail link to outlying areas) were also raised. Respondents were also critical of the costings, maintenance requirements and economic arguments presented in the consultation paper. Projected population increases in the Stonehaven area (including a proposed new town) were also cited as reasons for reconsidering the proposal.
- 5.19 Alternative options put forward by respondents included disposing of Stonehaven and developing an integrated justice facility in Aberdeen; retaining Stonehaven and Dingwall as annexes to Aberdeen Sheriff Court to provide extra capacity and improved accessibility; the splitting of civil and criminal business in the north of the sherriffdom as a solution to the capacity issue at Inverness or, alternatively, establishing a new court facility; and the continued use of Wick for sheriff and jury business, taking in the work of Tain and Dornoch.

Tayside, Central and Fife

- 5.20 The SCS proposed that four courts would be designated sheriff and jury centres in Tayside, Central and Fife: Dundee, Dunfermline, Falkirk and Perth. While there were fewer comments of this type than in other areas, respondents nevertheless highlighted distance and travel times and availability of public transport as issues, particular in northeast Fife and Angus.
- 5.21 In northeast Fife, it was argued that demographic and economic change in the area as a result of local plans would increase demand for court services, making the downgrading of Cupar impractical.

- 5.22 Several respondents argued for a different solution in relation to Dunfermline and Kirkcaldy Sheriff Courts, noting the significantly higher level of business currently dealt with at Kirkcaldy compared to Dunfermline, the superior transport links and the fact that Kirkcaldy was the more significant commercial and local government centre. The relative co-location of other justice-related agencies in Kirkcaldy was also noted as an advantage of this court. It was suggested by one respondent that a significant amount of investment would be required at Dunfermline Sheriff Court if it was to accommodate business from Kirkcaldy. There was also concern about the capacity of Dundee to absorb the additional business. It was also argued that as Kirkcaldy would remain open as a court and have facilities (specifically noted as adequate by some respondents) to host jury trials, it was illogical for such proceedings to be taken away. The suggestion, therefore, was to retain sheriff and jury business at both Kirkcaldy and Dunfermline, or indeed at all three Fife courts. Another suggestion advocated a more significant change involving the establishment of an integrated judicial centre at Dunfermline or Glenrothes.
- 5.23 In relation to Alloa, Stirling and Falkirk, where the latter would become the sheriff and jury centre, the fact that all three courts were currently operating at capacity was noted as an issue. It was questioned whether the addition of one court room at Falkirk would be sufficient for the increased business. The practicality of Stirling's large jurisdiction being served by a sheriff in Falkirk was also queried.

South Strathclyde, Dumfries and Galloway

- 5.24 In the consultation paper it was proposed that South Strathclyde would see the consolidation of business in Airdrie, Ayr, Dumfries and Hamilton. The proposals drew most comment in relation to arrangements for the Dumfries area, and particularly the proposed removal of sheriff and jury business from Stranraer. The geography of the area, predicted journey times (two hours from Stranraer to Dumfries), a poor road network and limited public transport options were all raised as issues. It was commented that there was no public transport that would get people from the Stranraer area to court for 10 o'clock. The fact that the court building at Stranraer would remain open and continue to have facilities for jury work was also mentioned, and the ability of Dumfries Sheriff Court to absorb the extra business was questioned.

North Strathclyde

- 5.25 In North Strathclyde, the SCS proposed that sheriff and jury business would be based in Dumbarton, Kilmarnock and Paisley. Given the extensive jurisdictions proposed for Dumbarton and Paisley in particular and the challenging geography of the area, the distances involved and the difficulty of arriving in court on time were cited as impractical for those in more inaccessible areas (e.g. 120 miles from Campbeltown to Dumbarton). The potential impact on island communities currently served by the court at Oban was also an issue for respondents, both in terms of access to judicial services and sustainability of communities more generally. Ferry travel was highlighted as involving time, expense and public safety concerns given the likelihood of different parties in a court case having to travel together on the same crossing;

the potential effect of seasonal services and weather disruption were also noted.

- 5.26 The potential impact on the administration of justice was highlighted in an example whereby a non-attending complainer had been brought in by the police to allow a case to proceed. This type of local action was seen as unlikely if cases took place in more distant locations.
- 5.27 Respondents felt that it made no sense for the facilities at Oban not to continue to be used for a full range of shrieval business.

Centres of shrieval specialism

- 5.28 The comments of concern received in relation to centres of shrieval specialism tended to be more general in nature, following on as they did from the often locally focused views in relation to the proposed sheriff and jury centres. As such, the range of views offered is not presented geographically.
- 5.29 In relation to access to justice there was concern that people would be deterred from pursuing (or defending) valid claims because of the cost and inconvenience that might be incurred if their local court was some distance away. The practice of civil actions being raised in the defender's home jurisdiction was noted as an important principle of local justice which was at risk of being undermined because of the geographical areas covered by the jurisdictions of the proposed sheriff and jury centres. For family actions, it was seen as critical that parties were not deterred from participating in proceedings.
- 5.30 Respondents identified a range of case types which they argued should be dealt with by sheriffs locally: e.g. family actions; actions relating to vulnerable groups (e.g. adults with incapacity, child protection and domestic abuse cases). Solicitors cited the practical problems of lodging urgent applications (e.g. in relation to child protection issues) when the relevant court was located some hours away.
- 5.31 Some respondents were opposed to the idea of specialism in general. They argued that the current local knowledge of sheriffs was more beneficial to the delivery of local justice than procedural or field specialism, and was seen as a form of specialism in itself (supporting, for example, a problem-solving approach in relation to parties involved in a number of cases). Others felt that specialism would merely create an additional unnecessary layer in the judicial system, leading to the development of an expensive elite and encouraging the use of specialists where none were previously required. It was also suggested that specialism would reduce flexibility in court and case management.
- 5.32 However, a number of respondents indicated support for the principle of shrieval specialism, although they disagreed with the need for such specialism to be centralised, or co-located with the jury centres. Instead they preferred the model (discussed and rejected in the SCS consultation paper) of peripatetic specialist sheriffs travelling to different locations as required. It was

argued that this would preserve local justice, be more cost-effective, and more convenient for court users.

- 5.33 Others highlighted the need for flexibility, arguing that while the volume of business in urban courts may justify the introduction of specialist sheriffs, such an approach was not appropriate for rural areas. It was also suggested that there should be local discretion to reallocate specialist sheriffs if it was in the interests of justice.
- 5.34 As with sheriff and jury centres, many respondents favoured keeping the status quo. However, others suggested some variation on the specialist model proposed: a degree of specialism within a sheriffdom, with business shared on a collegiate basis; and the establishment of a pool of specialist sheriffs for deployment to rural areas.

Support for consolidation of business and centres of shrieval specialism

- 5.35 Amongst those who voiced part agreement with the proposals or offered comments but no clear opinion, there was some level of support for the principle of consolidation and specialism, but concerns about the limited number of centres, and calls for exceptions to be made in relation to specific courts. Cupar, Elgin, Haddington, Lanark, Stonehaven, Stranraer, Tain and Wick, for example, were all mentioned.
- 5.36 Those favouring consolidation and the development of specialism believed it would lead to improved quality of justice as well as achieving efficiencies and increasing confidence in the judicial system. A number of respondents drew attention to existing examples where specialism had been used to positive effect, e.g. in relation to commercial sheriffs, domestic abuse courts, family courts and reparation cases. There was a view that specialism could be developed further in relation to cases involving children and families (e.g. adoption and permanency cases). In addition, some who supported the plans for a specialist personal injury court felt there should be one in Glasgow as well as Edinburgh. Respondents also saw opportunities for the development of improved facilities at the sheriff and jury centres. A number of people specifically referred to the health care analogy, whereby people accept the benefit of travelling for specialist treatment.
- 5.37 Those offering some support for consolidation and specialist centres did, however, raise some notes of caution including: the need for a seamless transition to the new model, the importance of having the required IT and video link technology in place and working before changes were implemented; the need for some flexibility in the arrangements for rural areas; concerns about shifting costs within the system (e.g. in relation to those attending in their professional capacity); and the capacity of buildings and designated courts to cope with additional case load (raised in relation to Inverness in particular). There were also suggestions for mixed models involving specialist centres with sheriffs also travelling as appropriate, or offering litigants a choice between local and specialist options.

Reservations, caveats and alternative approaches

- 5.38 Although the balance of opinion was opposed to shrieval specialism as currently proposed it should be noted that the lack of information as to what business would come under the remit of specialist sheriffs was frequently raised as an issue requiring clarification. Related to this, respondents noted that other elements of the current reform agenda needed to be taken into account before proper comment could be made on the appropriateness of the proposals. The introduction of the proposed summary sheriffs (and the lack of clarity about the boundaries between summary sheriffs and specialist sheriffs) and the Gill reforms in general were mentioned by a number of respondents.
- 5.39 In addition, those for and against the proposals expressed concerns about the extent to which video links could be used to facilitate the introduction of consolidation and specialism. Investment in, and consolidation of, the necessary infrastructure was one issue. However, others felt that there were limits to the type of proceedings and business where video links would be appropriate as an alternative to court attendance. Preliminary and procedural matters were cited as appropriate for dealing with via video links. On the other hand, reference was made to the importance of observing body language and the need to inspect documents and other items at hearings; remote proceedings were also seen as reducing the opportunity for pre-court negotiation which often allowed cases to settle or conclude more quickly.
- 5.40 There was, in addition, a range of other options put forward for consideration as ways of achieving improved service quality and efficiencies in the system:
- Transfer of some business from the High Court and Court of Session to the sheriff court (the latter was argued to be more cost-effective and efficient), with an appropriate increase in shrieval powers
 - Greater use of IT and video links, especially for preliminary and procedural matters (but see reservations above)
 - The introduction of wi-fi in court buildings to assist those attending hearings (e.g. legal professionals) to keep in touch with colleagues and to continue conducting other business
 - Achieving efficiencies through procedural and case management changes, for example: improving case management and court programming; introducing an early case management hearing; treating procedural hearings as administrative, thus removing the need for the accused to attend; looking at ways to avoid unnecessary hearings; exploring the scope for central processing of (largely undefended) civil cases; ensuring more consistent administrative processes across different courts
 - Exploring options for improvement in relation to court and legal personnel and other resources
 - Increased use of mediation in appropriate cases
 - Exploring more creative options for retaining local services, including working with others to find local solutions, making use of non-court buildings and sharing accommodation with other agencies.

6 PROPOSAL 3: JP COURTS IN ANNAN, IRVINE, CUMBERNAULD, COATBRIDGE AND MOTHERWELL

- 6.1 This chapter considers respondents' comments in relation to the proposal to relocate the JP courts in Annan, Irvine, Cumbernauld, Coatbridge and Motherwell to a JP court sitting in the sheriff courthouse for the district.
- 6.2 The proposal was for Annan JP Court business to relocate to Dumfries; Irvine JP Court business to relocate to Kilmarnock; Cumbernauld and Coatbridge JP Courts' business to relocate to Airdrie; and Motherwell JP Court business to relocate to Hamilton.
- 6.3 In total, 51 respondents (35 individuals and 15 organisations) made comments in relation to Proposal 3. Approximately 6% of all individual respondents and 13% of all organisations provided a response.
- 6.4 Of the total 50 respondents, 22 (44%) were opposed to the proposal, and 16 (32%) were in favour. The remaining 12 respondents (24%) either expressed mixed or unclear views, or they qualified their comments in some way. In general those who qualified their comments agreed with the proposal, but only if the proposed changes were accompanied by certain other measures (discussed below) (see Table 6.1).

Table 6.1: Proposal 3 / Question 10: Do you agree with the proposals for the JP courts at Annan, Coatbridge, Cumbernauld, Irvine and Motherwell?

	Individuals	Groups / organisations	Total	%
No	16	6	22	44%
Yes	12	4	16	32%
Mixed / unclear / qualified views	7	5	12	24%
Total	35	15	50	100%

Percentages may not add to 100% because of rounding.

- 6.5 Those who expressed disagreement tended **not** to disagree with the proposal in general, but rather with the specific proposal in relation to one or more courts, whereas those who agreed with the proposals or expressed unclear views made more general comments. Table 6.2 below shows the number of respondents who mentioned specific courts in their responses.

Table 6.2: Number of respondents mentioning specific courts

Court	Number of respondents
Annan	11
Irvine	4
Cumbernauld	4
Coatbridge	3
Motherwell	4
No specific court	24

- 6.6 Among those who agreed with the proposal, one respondent (from the Dumfries area) agreed with the closure of a specific court, Annan. However, half of those who agreed made no further comment, or they made comments suggesting that the changes would have no impact on them personally. None of these respondents were from areas that would be affected by the relocations.
- 6.7 There was a great deal of commonality in the reasons for disagreeing with the relocation of the JP courts in Annan, Irvine, Cumbernauld, Coatbridge and Motherwell. However, there was also some variation in comments related to different courts. Therefore, the arguments against relocation will be considered on a court by court basis, along with any suggestions for alternative arrangements. Arguments in support of the proposals will also be presented on a court by court basis, and more general issues will be discussed at the end of the chapter.

Annan JP Court

(Number of mentions = 11)

- 6.8 Issues raised by respondents in relation to the relocation of Annan JP Court focused on public transport and travel times; adverse impacts on court users; the economic impact on the town of Annan; the minimal benefits which would be achieved; the ability of Dumfries Sheriff Court to absorb the additional work; and the historical and cultural place of the court in the community.
- 6.9 Respondents made the point that there were poor public transport links in the area, and that this would impact on travel times. Furthermore, people from the area would need to travel a considerable distance to be able to attend court in Dumfries. The focus on the 16-mile distance between Annan and Dumfries was perceived to be inappropriate and to display a lack of knowledge of the local geography. People from outlying areas could have as much as a 40-mile (80-mile round trip) journey to Dumfries. This would have a significant detrimental effect on people's ability to attend court.
- 6.10 There would also be a knock-on effect in relation to costs and delays (with more warrants needing to be issued) and the willingness of witnesses to come forward, with the ultimate outcome of reduced access to justice for victims. The impact on local police officers would also be considerable, as they would be at court for longer periods, making them unavailable for front-line duty.
- 6.11 Respondents argued that the small number of cases heard at the JP court is not a compelling argument for relocation, nor is the fact that there is no sheriff court in the town. The JP court was seen to have an important role in ensuring that local justice was delivered. It was suggested that the proposal to relocate the JP court from Annan would result in minimal cost savings, while the impact on local court users would be significant. Respondents also suggested that it was not appropriate for court business from rural Dumfries & Galloway to be heard in an urban court, and indeed some were sceptical about whether the busy Dumfries Sheriff Court could absorb the additional business. There was a feeling that the proposal sent a signal that rural areas must make do with a second class service.

- 6.12 In relation to the historical and cultural place of the Annan JP Court, it was pointed out that there was a court in Annan for 700 years. There was a view that the small cost saving to be made did not justify bringing this history to an end.
- 6.13 In general, those who disagreed with the proposal to relocate Annan JP Court felt that the court should remain in Annan. However, other suggestions were for the SCS to enter into dialogue with Dumfries & Galloway Council regarding improvements to the Town Hall, which would address the need for interview rooms and public toilet facilities. It was pointed out that the local police station is located in very close proximity to the court and that cells are available there.
- 6.14 It was also suggested that some of the work from the very busy Dumfries Sheriff Court could be moved to Annan, rather than transferring all business from Annan to Dumfries.
- 6.15 Those who expressed support for the proposal to relocate Annan gave little explanation of their reasons for agreeing except to say that it seemed sensible and that the relatively small level of business in the court made it unviable.

Irvine JP Court

(Number of mentions = 4)

- 6.16 All four respondents who made comments in relation to Irvine JP Court disagreed with the proposal to relocate the court to Kilmarnock Sheriff Court. Three of these respondents were JPs sitting at Irvine. Comments focused on the high level of deprivation in North Ayrshire and the effect this would have on people's ability to incur additional costs for travelling. Transport links and the impact of the proposals on the delivery of lay justice in the area were also raised as issues.
- 6.17 Respondents pointed out that North Ayrshire is the fifth most deprived local authority in Scotland. Crime is a significant issue in the area, and this is reflected in the substantial amount of business coming through the Irvine JP Court. They argued that any cost savings which might result from the removal of the court to Kilmarnock could be justified once the impact on the local community was taken into account.
- 6.18 It was suggested that the additional travel costs and time required for travelling would cause significant hardship for many. In addition, poor public transport links to the towns beyond Irvine would create difficulties for people attending court. The impact on those who pay fines into the court – particularly those who pay cash (because they do not have a bank card) – or those paying in instalments was thought to be substantial. The point was also made that not all of the JPs in Irvine drive, and therefore there would be additional costs in expenses if the JP court was moved to Kilmarnock.
- 6.19 Respondents felt that the removal of Irvine JP Court would be detrimental to the quality of lay justice in the area. The operational arrangements for the JP court in Irvine are different to those of the existing JP court in Kilmarnock. Thus there would be disruption to existing preferred practices in both jurisdictions. More importantly, JPs from North Ayrshire were said to be

unfamiliar with the local communities in East Ayrshire, and this would affect decisions on the sentencing of people living in East Ayrshire.

- 6.20 There were no alternative suggestions from respondents commenting about Irvine JP Court, except to maintain the status quo.

Cumbernauld, Motherwell and Coatbridge JP Courts

(Number of mentions: Cumbernauld = 4; Coatbridge = 3; Motherwell = 4)

- 6.21 Comments in relation to these three JP courts focused on transport issues, and the principle of access to justice. Given the large population of North Lanarkshire, respondents questioned the rationale for moving the business from these busy JP courts into already very busy sheriff courts.
- 6.22 In relation to Cumbernauld, in particular, respondents pointed out that there are poor transport links between Cumbernauld and Airdrie. Travel between these two towns can take up to an hour, and for people living in outlying areas, the journey would be longer. This would result in people arriving late for court, which would have an adverse affect on the efficient running of the court in Airdrie. In addition, there was a feeling that accused persons may fail to attend court at all if they have to travel long distances to do so. This would result in an increase in the number of warrants needing to be issued.
- 6.23 There was also a view in relation to Cumbernauld JP Court that there would be difficulties in disposing of the court building for any other purpose.
- 6.24 Concerns were voiced that there was insufficient space available in the busy sheriff courts at Airdrie and Hamilton to absorb the additional business of the JP courts. The rationale for closure – low volume of work, poor facilities and the proximity of the existing courts to the sheriff courthouses in Hamilton and Airdrie – was not accepted. In particular, the proposal to relocate Motherwell JP Court to Hamilton appeared not to reflect the upward trend in volume of the business being carried out at that court.
- 6.25 Respondents believed that summary justice would be less available to many people in North Lanarkshire if the proposals were implemented, and they argued that cost savings should not take priority over access to justice.
- 6.26 Respondents felt that the JP courts at Cumbernauld, Coatbridge and Motherwell should remain. However, other suggestions were to conduct sheriff court business for Cumbernauld at Cumbernauld JP Court. Alternatively, Cumbernauld JP Court business should be transferred to either Glasgow or Falkirk (for which there are better transport links), rather than Airdrie. However, this may require a change to the sheriff court district boundaries.

General reasons for disagreement

- 6.27 Those who were opposed to this proposal, but who did not comment in relation to a specific court, gave the following more general reasons for their disagreement:

- There is a need to ensure and protect the right to access to local justice. Summary justice should be dispensed at a local level by local people with knowledge of the local area and local issues. People needed to be able to see justice being done in their communities.
- The transfer of JP court business to other areas would increase costs and cause difficulties for court users.
- The sheriff court system is already overstretched and there are currently significant delays in cases being heard. Moving business from JP courts into sheriff courts will strain the system further.
- The transfer of business from JP courts to sheriff courts elsewhere will have a significant impact on local economies.
- The requirement for increased travel among court users would have an adverse impact on the environment.

6.28 The general view was that the JP courts should all remain where they are.

General reasons for agreement

6.29 As noted in paragraph 6.4 above, 16 respondents agreed with the proposal to relocate Annan, Irvine, Cumbernauld, Coatbridge and Motherwell JP Courts. However, half of these either made no further comment or simply said that the proposal would not affect them. Those who made further comments gave the following reasons for their agreement:

- The relatively small volume of work at these courts suggests that the work could be undertaken more efficiently and economically in the nearby sheriff courts as proposed.
- There was general support for rationalisation of court resources.
- It would have no impact upon rural Scotland.

6.30 However, it was also pointed out that there would likely be a small increase in travelling costs which would have implications for legal aid.

6.31 Those who expressed qualified support for the proposals made the point that if 'new measures' are utilised correctly by the Procurator Fiscal's office, then the level of business in JP courts would fall.¹¹ Thus, in the views of these respondents, there would be little impact on local communities from the proposed changes.

6.32 Less frequently expressed views were that all JP courts should be abolished and replaced by summary sheriffs. It was also suggested that any savings made through implementation of the changes should be used to improve the facilities at the respective sheriff courthouses where the JP court business would be transferred.

¹¹ It is likely that the 'new measures' referred to here are direct measures available to Procurators Fiscal as alternatives to prosecution in less serious criminal cases. Some direct measures have been available since the mid-1980s. However, these were substantially extended in 2007-08. See <http://www.crownoffice.gov.uk/about/alternatives-prosecution> for further information.

7 PROPOSAL 4: JP COURTS IN PORTREE, STORNOWAY AND WICK

- 7.1 This chapter considers respondents' comments in relation to the proposal to disestablish the JP courts in Portree, Stornoway and Wick. All summary criminal business would instead be heard in the local sheriff courts.
- 7.2 In total, 45 respondents (32 individuals and 13 groups / organisations) made comments in relation to Proposal 4. Compared to other proposals in the consultation document, this one received the smallest number of comments – around one in 100 individuals and approximately one in ten groups / organisations provided a response. In addition, this proposal also received a higher level of support than others. Around half of those who commented on this proposal were in support, while just over a fifth were opposed to the proposal. The remaining respondents either expressed mixed or unclear views, or they qualified their comments in some way. Table 7.1 below shows a breakdown of responses among individual and group / organisational respondents.

Table 7.1: Proposal 4 / Question 13: Do you agree with the proposal to disestablish the JP courts at Portree, Stornoway and Wick?

	Individuals	Groups / organisations	Total	%
No	9	1	10	22%
Yes	14	8	22	49%
Mixed / unclear / qualified views	9	4	13	29%
Total	32	13	45	100%

Percentages may not add to 100% because of rounding.

- 7.3 Most of the comments made in relation to this proposal were of a general nature, irrespective of whether respondents agreed or disagreed. Few respondents made comments in relation to a specific court or courts. The court mentioned most frequently was Wick JP Court. (Table 7.2.)

Table 7.2: Number of respondents who made comments about Portree, Stornoway and Wick JP Courts

Court	Number of respondents
Wick JP Court	6
Portree JP Court	4
Stornoway JP Court	1
No specific court	34

- 7.4 Those who disagreed with the proposal tended to make general comments expressing concerns about the loss of local justice, and noting their opposition to the centralisation of court services. However, there was also a specific concern raised about the loss of **lay justice** which the disestablishment of the JP courts was seen to represent.

7.5 Those who expressed mixed or unclear views about the proposal also raised concerns about the loss of lay justice, and the implications for the efficient handling of minor offences in the affected areas.

Wick JP Court

(Number of mentions = 6)

7.6 The arguments against the proposal to disestablish the JP court at Wick were:

- The volume of work at Wick JP Court has been increasing. Although the consultation document suggests the increase is insufficient, it was not made clear what the threshold for 'sufficient' work would be.
- The savings that would be made from disestablishing Wick JP Court are not identified. The court uses the same facilities as the sheriff court. In addition, the JPs give their time for free. There was a feeling that there was insufficient economic justification for disestablishing the JP court.
- The change would lead to increased workloads in the sheriff court for matters which could be dealt with by JPs at lower cost. Extra court days would be needed at greater expense to hear cases at a sheriff court rather than a JP court. This would lead to higher legal costs.
- This closure has not been subjected to a Court Users' Review.
- Wick would lose a tier of local justice for no obvious benefit – concern was expressed that lay justice is disappearing.

7.7 Those in favour of disestablishing Wick JP Court felt that it was logical to remove the JP court from Wick to bring it into line with the island courts, and that the disestablishment of the court would have no impact on the local community.

Portree JP Court

(Number of mentions = 4)

7.8 All of the respondents who made a comment about Portree JP Court expressed agreement with the proposal to disestablish the court. These respondents made the point that the JP court in Portree was hardly ever used, and that the incorporation of its business into Portree Sheriff Court as proposed would have no impact on the local community. Instead it would help to relieve pressure on the sheriff court to be able to absorb the time currently allocated to the JP court in the court building.

Stornoway JP Court

(Number of mentions = 1)

7.9 One respondent made a comment in relation to Stornoway JP Court. This individual argued that Stornoway JP Court was used regularly and there were no real savings to be made in disestablishing it, because the JP court already sat in the local sheriff court. Rather, the result of disestablishing the court would be delays in justice and higher court fees and legal aid costs.

General reasons for disagreement

- Sheriff courts are busy, and the disestablishment of JP courts could result in delays and greater expense in dealing with minor crime.

- It would deny remote rural communities access to certain non-court related services which JPs often routinely provide.
- It was questioned why the JP courts, which were only established four years previously, were now being earmarked for closure.

7.10 In addition, the point was made that the loss of the JP courts could be prejudicial to the accused. For example, if a case is heard in a JP court, the maximum sentence available is lower than if the same case is heard in a sheriff court. Therefore, by removing the option of a JP court hearing, all accused persons would face a higher maximum sentence in every case heard. One unintended consequence might be that an accused person would be less willing to plead guilty in a sheriff court, than he / she might have been in a JP court in the same circumstances, because the maximum disposal is higher in a sheriff court.

7.11 Those who expressed opposition or concerns about the proposals generally wanted to see the status quo remain. However, other suggestions were made – either to expand the role of JPs, or to mitigate the potential adverse impact of the disestablishment of the JP courts:

- JPs should be retained and trained to undertake ad-hoc duties such as signing and court duties such as those carried out by honorary sheriffs in dealing with summary cases at procedural level.
- Legal aid costs could be minimised if cases which were previously prosecuted in the JP courts could be marked as such, although being heard in the sheriff courts.

General reasons for agreement

7.12 Those who were in favour of the proposal generally provided little additional comment except to say that the plan seemed sensible given the small volume of work in the JP courts which did not justify the cost of maintaining the court.

8 PROPOSAL 5: LOW VOLUME COURTS

- 8.1 This chapter considers the views offered by respondents in relation to the proposal to close sheriff courts which were defined in the consultation paper to have 'low volumes of business'.¹²
- 8.2 Proposal 5 asked whether respondents agreed with the closure of sheriff courts and JP courts at Dornoch, Duns, Kirkcudbright, Peebles and the sheriff court at Rothesay and the transfer of business into the neighbouring sheriff court districts of Tain, Jedburgh, Dumfries, Edinburgh and Greenock respectively. Further questions covered reasons for disagreement, alternative suggestions, and any (personal) impacts of the proposal. Respondents were also asked to identify which specific court(s) their response referred to.
- 8.3 This proposal was the one which attracted the largest number of responses overall, with 416 respondents offering a view. Approximately two out of five groups / organisations and three out of five individuals provided a response.
- 8.4 Table 8.1 below shows that opinion on this proposal was overwhelmingly negative, with the majority of both individual and organisational respondents who offered a view disagreeing with the proposals.

Table 8.1: Proposal 5 / Question 16 – Do you agree with the proposals for the sheriff courts and JP courts at Dornoch, Duns, Kirkcudbright, Peebles and the sheriff court at Rothesay?

	Individuals	Groups / organisations	Total	%
No	348	42	390	94%
Yes	9	3	12	3%
Mixed / unclear / qualified	4	10	14	3%
Total	361	55	416	100%

Percentages may not add to 100% because of rounding.

- 8.5 The majority of respondents (346) made a comment in relation to a single location, with comments often referring to both the sheriff court and the JP court in that location. The remaining (70) respondents identified more than one location in their answers.¹³ This latter group contained 28 responses which referred to the courts at Duns and Peebles together. Table 8.2 gives details of the numbers of mentions of specific courts.¹⁴

¹² This was defined as a court which is scheduled to sit on average two days or less each week, and has an annual caseload of less than 200 new criminal cases, and less than 300 new civil cases.

¹³ Two organisational respondents mentioned all five courts by name; a further three respondents mentioned four of the five.

¹⁴ Note that the number of responses in Table 8.2 does not total 416. This is because some respondents mentioned more than one court in their response. Note that the number for Rothesay includes the 271 campaign responses.

Table 8.2: Number of respondents mentioning specific courts

Court	Number of respondents
Dornoch	21
Duns	52
Kirkcudbright	16
Peebles	55
Rothesay	301
No specific court	25

- 8.6 Of the 12 respondents who agreed with the proposal, three expressed agreement with the proposal to close a specific court. The others either made no comment, or they commented in support of the general principle that closure should be considered for courts with a low volume of business.
- 8.7 There was a lot of commonality in the reasons for disagreeing with the closure of these ‘low volume’ courts, and the key themes set out in Chapter 3 are all relevant in this regard. However, the specific emphasis within themes, and the focus on local issues of geography; demographic and socio-economic factors; and history, culture and tradition did vary from location to location. The next sections of this chapter therefore examine the arguments against closure – as well as the suggestions for alternative arrangements – on a court by court basis. Given that many responses referred to both Peebles and Duns together, these locations are considered in the same section.

Dornoch

(Number of mentions = 21)

- 8.8 A strong theme in the comments regarding closure of the Dornoch courts concerned questions about the suitability of transferring this business to Tain. Tain was thought to be an inappropriate location both because of the condition of the premises and because of issues of capacity. If a court in the area were to be closed, respondents favoured retaining the court in Dornoch and closing that in Tain.
- 8.9 The facilities at Tain Sheriff Court were seen by many as highly unsatisfactory. There were problems identified with lack of space, parking, security and exterior noise. The location on the High Street meant it would be difficult for the site to be expanded and improved. Parking problems were highlighted, and the traffic congestion in the centre of town due to court business was also unsatisfactory. The arrangement of witness rooms accessed from public areas was not thought to be secure, and could lead to witness intimidation; the fact that G4S vehicles sit outside was also seen as a security risk.
- 8.10 By contrast the facilities at Dornoch were thought to be adequate in many respects. It was pointed out that the building is owned by the SCS and so no rental is payable (unlike the court at Tain). The Dornoch building is well-maintained. Moreover, the building was described as fit for purpose, secure and with video links available. It was also reported to have better parking and

better public access than Tain. Respondents were aware that disabled access was lacking, but did not see this as a reason to close the court, especially as Tain also has inadequate facilities for disabled access.

- 8.11 As far as the capacity issues were concerned, it was reported that trial delays at Tain are already an issue, and respondents were sceptical about Tain's ability to absorb extra business. In particular, it was pointed out that Dornoch has its own commissary section, whereas Tain does not. The population projections for Dornoch reported in the consultation paper were questioned. The lack of information about the volume of JP court business in the consultation paper meant respondents were unconvinced that enough was known to assume that Tain could take on this work.
- 8.12 There was concern that if the proposal went ahead, Sutherland – covering a large geographical area – would be left without a working court with the consequence of a long and impractical journey and associated costs if court attendance was required elsewhere.
- 8.13 Other main points raised were congruent with the key themes: the importance of the court in relation to the town's heritage, identity, and economic prosperity; scepticism about whether savings would indeed be realised; the lack of good public transport links; and the impact on the poor.
- 8.14 The main thrust of alternative suggestions was to keep Dornoch open, close Tain and reallocate work to Dornoch, and also perhaps to Dingwall. One individual suggested investing in a new complex at Alness.

Duns and Peebles

(Number of mentions: Duns = 52; Peebles = 55)

- 8.15 These two courts were often commented on together as part of a response about the situation in the Borders. Issues which are common to both locations are therefore dealt with first. Specific issues which relate only to one of these locations are then presented.
- 8.16 It was thought that the Borders was being hit particularly hard by the proposals in this consultation with the potential closure of half of its courts. The area was characterised – especially by organisational respondents – as having a low wage economy, with particularly high levels of benefit recipients, low income households and vulnerable groups. The demographic profile of the region meant that a large number of court users would be adversely affected by these closures, and by the consequent difficulties associated with accessing justice. The proposals would have a negative impact on the commitment to reduce inequalities across the region. It was thought that it would be more appropriate to consider the Borders in a similar way to the Highlands and Islands.
- 8.17 The respondents were deeply concerned that the proposals were in conflict with the Principles for the Provision of Access to Justice. Moreover, the savings which were identified were thought to be negligible. It was believed that once the increased costs (associated with travel and subsistence, legal

aid, increased cover, etc.) were taken properly into account no overall savings would in fact be realised. Thus, respondents believed there was no justification for the closures proposed.

- 8.18 The region has no rail network at present and public transport is poor. Many users do not own cars. Respondents thought the analysis of bus services in the consultation document was superficial and failed to acknowledge the scale of the problem in travelling to more distant venues. It was argued that it was hard enough for respondents to travel to existing courts, let alone to attempt to travel to Jedburgh, which was particularly poorly served by public transport.
- 8.19 There was a major concern about the impact of the proposals on the recruitment and retention of legal staff in the area. This would have wide ranging and damaging consequences in terms of the availability of local and specialist knowledge and would put this rural area at a severe disadvantage.
- 8.20 Respondents did not accept the analyses set out in the consultation document across a range of issues. As indicated above, the analysis of time taken to travel by public transport was not supported; neither was the calculation of savings which failed to take into account the increased costs which would be passed to court users or to other parts of the justice system and which seemed not to recognise the fact that the court buildings are leased to SCS by the council so that no capital receipt would result from closure. The estimates of the volume of future business presented in the consultation were not accepted; respondents took the view that housing developments currently in train would increase the population and therefore increase the demand for local court services.
- 8.21 More broadly, respondents were not satisfied that a proper impact assessment had been carried out, and the suggestion that any impacts would be short term was viewed as highly questionable. There was also puzzlement as to why Jedburgh – which was perceived to be the most remote and difficult court to access – had been selected to remain open. The costs of maintaining the court at Jedburgh was thought to be considerable.
- 8.22 As far as specific issues for Duns were concerned, respondents highlighted a number of issues as follows: any argument which had been used to retain the court at Selkirk applied equally to the Duns situation; Duns has already suffered the loss of jobs following the local government reorganisation in which Berwickshire District Council was abolished; the details regarding the facilities at Duns set out in the consultation paper were incorrect and failed to acknowledge that the police station with a protected link was available immediately adjacent to the court building; and the capacity of Jedburgh to absorb the business from Duns was questioned.
- 8.23 As far as specific issues for Peebles were concerned, respondents highlighted the following:

- It would be inappropriate and a waste of resources to close the court as it was in a well-regarded reasonable building, which had recently been extensively modernised.
- The civil court only sits one day per month and has no permanent staff so the savings would be minimal.
- There is insufficient capacity in Edinburgh to absorb the Peebles business.
- Edinburgh already sends commissary work to Selkirk – it takes Edinburgh five weeks to respond to these requests compared to two days for Selkirk; previous efforts to move business from Edinburgh to Selkirk were unsuccessful and had to be reversed so it was questioned why transfer in the other direction would be successful.
- The volume of business was incorrectly reported in the consultation document, as were the custody arrangements which were regarded by respondents as adequate.

8.24 Alternative suggestions made included: redirecting the business from Duns to Haddington, rather than Jedburgh (though this suggestion was generally made by opponents to the closure of Haddington – see chapter 9); a travelling sheriff providing local access to justice in the most efficient way; retention of all four Borders courts with summary sheriffs; a rolling programme of localised courts where the court is brought to the community on a 3- or 6-monthly basis; reduced numbers of sitting days (short of closure); moving the base for Borders area to Galashiels (which will soon be the location of the bus / rail interchange). Other suggestions included the option of sharing facilities with the local authority; and directing some of the Midlothian / Penicuik business to Peebles. If Peebles had to close, it was thought preferable to transfer the business to Selkirk rather than to Edinburgh.

Kirkcudbright

(Number of mentions = 16)

- 8.25 The distinctive arguments put forward against the closure of Kirkcudbright Sheriff and JP courts focused on two main aspects: the fact that Kirkcudbright almost meets the stated criterion for remaining open; and the issues associated with the rurality of this part of Scotland.
- 8.26 According to the consultation paper, Kirkcudbright handled 282 new civil cases in 2011/12, very close to the cut-off identified by SCS (300). Respondents believed this makes the classification of Kirkcudbright as a low volume court questionable.
- 8.27 In terms of the court's location, respondents pointed out that Kirkcudbright is the only sheriff court in the 80 miles between Dumfries and Stranraer. Closing the court would leave a large rural area without direct access to justice and require all court users to travel substantial distances, with implications for time and cost. It was thought that the elderly population would be affected particularly badly as Kirkcudbright deals with high numbers of executry cases.
- 8.28 Other arguments adduced are congruent with the overarching themes. These cover: delays which will be introduced as a consequence of closure; the

economic impact on the town, its inhabitants and the legal profession; and concerns about whether Dumfries has the capacity to absorb this business (including concerns about cell capacity). One respondent highlighted the historic nature of the court and the fact that the town has had a court for 550 years.

- 8.29 Respondents accepted that the building itself is sub-optimal. There were suggestions that alternative accommodation currently owned by the local authority (e.g. council chamber) might be suitable for civil cases. More generally, there was a view that local authority properties were under occupied and this provided an opportunity for further exploration.

Rothesay

(Number of mentions = 301)

- 8.30 Responses relating to Rothesay (including the 271 campaign letters received; text attached at Annex 2) focused on the efficiencies that derive from the court sharing premises with Argyll and Bute Council, the limited financial savings anticipated, and the likelihood that savings would not be achieved when overall expenditure was considered. Travel and other issues associated with rural and island communities also featured strongly.
- 8.31 A key view amongst respondents was that the impacts of closure were disproportionate when considered alongside any potential savings. The savings which had been identified in the consultation paper (£6,000 per annum running cost saving) were the smallest of any of the court closures, and represented a fraction of the overall savings from the closure programme as a whole (£1.2m). It was pointed out that this cost saving is much lower than that achieved in 2005 when Rothesay District Court closed.
- 8.32 Respondents believed Rothesay Sheriff Court to be economical, having recently disposed of its expensive buildings and moved into the Argyll and Bute Council offices where its accommodation is now modern, flexible and adapted. Closure would make no contribution to the backlog of maintenance savings.
- 8.33 Rothesay's situation as an island community, dependent on a ferry, was another theme, with information provided on the frequency of ferry cancellations. Travel costs for court trips would be high, and the difficulties of court users being able to pay up-front for travel and subsistence (possibly involving overnight accommodation) was highlighted.
- 8.34 Respondents believed that closure of this court would run counter to the Principles for Provision of Access to Justice and would represent a further rundown of normal activities in a small Scottish community. Respondents rejected the statement in the consultation paper that the effects of closure would be 'localised, minimal and short term'.
- 8.35 A particular strand within this argument related to the reporting of cases in the local media, particularly the local newspaper, which was thought to be vital. If business is moved to Greenock, this coverage would no longer continue.

Moreover, it was thought to be inappropriate for the many minor (and in some cases specifically local) offences relating to anti-social behaviour, substance abuse, domestic disorder, etc. to be dealt with at a distant location.

- 8.36 Other arguments fit with the themes identified in Chapter 3 including: the history of Bute as the home of the Kings of Scotland; the disproportionate impact on the elderly and infirm; the impact on the financially disadvantaged; the lack of information about trends in the volume of cases; and the likelihood that projected savings will be subsumed into increased costs for travel, subsistence, legal aid, and local cover; the efficiency and effectiveness of the status quo; and the positive impact of access to local justice on the community.
- 8.37 As far as alternative arrangements were concerned, the main suggestion was to reduce the number of occasions on which the court sits. This would allow the court to be retained while also achieving the required cost savings.

9 PROPOSAL 6: PROXIMITY COURTS

- 9.1 This chapter considers the views offered by respondents in relation to Proposal 6 concerning the closure of sheriff courts within twenty miles of another sheriff court location with sufficient capacity (as suggested in the consultation paper) to take on the additional business.
- 9.2 Questions asked whether respondents agreed with the proposal to close the sheriff courts and JP courts at Alloa, Cupar, Dingwall, Arbroath, Haddington and Stonehaven and transfer the business to Stirling / Falkirk, Dundee, Inverness, Forfar, Edinburgh and Aberdeen respectively. Further questions sought reasons for disagreement, alternative suggestions, and any (personal) impacts of the proposal. Respondents were also asked to identify which specific court(s) their response referred to.
- 9.3 This proposal attracted a large number of comments, with 320 respondents offering a view. Approximately three out of five groups / organisations and two out of five individuals responded. Additionally postcard / coupon campaigns and petitions (as described in Chapter 2 above) called for retention of Alloa, Cupar and Haddington Sheriff Courts.
- 9.4 Table 9.1 below shows that opinion on this proposal was overwhelmingly negative, with the vast majority of both individual and organisational respondents disagreeing with the proposals.

Table 9.1: Proposal 6 / Question 19: Do you agree with the proposals to close the ‘proximity’ JP and sheriff courts?

	Individuals	Groups / organisations	Total	%
No	243	62	305	95%
Yes	3	3	6	2%
Mixed / Unclear / Qualified	3	6	9	3%
Total	249	71	320	100%

Percentages may not add to 100% because of rounding.

- 9.5 Most respondents (264) identified a single location to which their comments referred. Of the remaining respondents, 23 identified more than one location in their answers whilst 33 did not identify any specific court by name. Table 9.2 gives details of the numbers of mentions of specific courts.

Table 9.2: Number of respondents who mentioned specific court locations

Court	Number of respondents
Alloa	20
Arbroath	22
Cupar	60
Dingwall	23
Haddington	156
Stonehaven	46
No specific court	33

- 9.6 Of the six respondents who expressed agreement with the proposal, one commented in favour of the proposal to close a specific court. The others either made no comment, or they expressed agreement with the general principle of rationalising court services in close proximity to each other.
- 9.7 There was a lot of commonality in the comments opposing closure of these ‘proximity’ courts, and the key themes set out in Chapter 3 are all relevant. However, the emphasis on specific elements within the themes, and the focus around specific issues of geography; demographic and socio-economic factors; and history, culture and tradition, varied from court to court. The next sections of this chapter therefore examine the arguments against closure – as well as the suggestions for alternative arrangements – on a location by location basis.

Alloa

(Number of mentions = 20)

- 9.8 Comments regarding Alloa focused on the socio-demographic profile of the area; the strengths of the current arrangements both in terms of the facilities and local access to justice; the perceived inadequacy of the financial calculations underpinning the proposal for Alloa and the belief that the predicted savings would not be achieved; and the capacity of neighbouring courts to absorb the business which would be transferred.
- 9.9 The area around Alloa was characterised as deprived, with many serious and pervasive social issues. Many of those attending court are financially disadvantaged, and many lead chaotic lives as a consequence of drug problems, and family and social breakdown. Closure of the court would have serious economic impacts and would leave Clackmannanshire as the only mainland local authority without a sheriff court.
- 9.10 Alloa was described as a ‘natural hub’ for a court, with many relevant facilities and organisations including the police, the Procurator Fiscal, social work and criminal justice services, Citizens Advice Bureaux, children’s hearing centre, and the council offices currently located within a few hundred metres of the court. The court was said to be busy, and to handle its heavy workload in an efficient and integrated way. Additional delays (emergency orders were mentioned in particular in this regard) would flow from closure and transfer. It

was noted that Alloa currently operated as a “community court”, allowing a problem-solving approach to be adopted in dealing with relevant cases. Having a single sheriff in a local court who dealt with a full range of business and was familiar with the community and its issues, other local agencies and, in many cases, the individuals involved in court cases themselves, was considered key to this approach.

- 9.11 Severe criticism was directed at the financial assumptions and analysis which underpinned the proposal. The cost of recent upgrading of the building, including the addition of a second court (costing over £1.5m), was absent from the financial calculations. Respondents regarded closure of the court following such a substantial recent investment as an enormous waste of public money. They were seriously concerned that this investment did not feature in the financial assessment.
- 9.12 The estimated cost of refurbishment at Falkirk and Stirling Sheriff Courts (£460k) was thought to be an underestimate, and the backlog maintenance figures were not thought credible. It was also pointed out that the local authority had been marketing the district court building since 2008 without success.
- 9.13 These financial aspects were discussed in great detail by respondents, and indeed there had been some further discussion with the SCS in relation to specific elements of the calculation. The overall thrust of the comments was that the figures were simply not credible, the savings set out in the paper could not be taken at face value, and there might very well be an increase in costs if the proposals were to be enacted.
- 9.14 As far as capacity was concerned, strong reservations were expressed about the capacity of the other courts to absorb the additional business without a large amount of investment. In particular the assumptions on case numbers and volume of business had ignored all work associated with the Children’s Scotland Act (1995) – including child welfare referrals – and it was not thought that Stirling could cope with these.
- 9.15 Alternatives to closure which were offered included: expansion of Alloa Sheriff Court; the construction of a purpose built justice facility in Alloa; and a review of the uses of technology with a view to developing, extending and improving these. A compromise position of a summary sheriff based in the existing buildings was offered.

Arbroath

(Number of mentions = 22)

- 9.16 Arguments in relation to Arbroath were largely based on comparisons with the relative merits of Forfar Sheriff Court. They related to the volume of business and the capacity of Forfar to absorb the extra work; the better public transport links to Arbroath as compared to Forfar; the strengths and weaknesses of the two court buildings and the perception that Forfar had been chosen because it was a ‘nicer’ venue; and the positive assessment of the current quality and efficiency of the service offered at Arbroath.

- 9.17 Respondents noted that Arbroath is a busier court than Forfar, and were concerned Forfar would not be able to absorb the extra business without substantial and significant additional investment. In addition, it was argued that the vast majority of cases in Angus are Arbroath cases and so it made little sense to locate the court in Forfar.
- 9.18 There was a strong case made for the superiority of Arbroath in relation to public transport as it had both rail and bus links, in contrast to Forfar. The travel information provided in the consultation paper was thought to be of limited value as it did not address the question of the infrequent bus service between Arbroath and Forfar. The specific examples offered indicated that travel times would increase greatly if business was transferred.
- 9.19 Respondents accepted that the court building at Arbroath was not ideal, the lack of parking was problematic, and the potential for development was limited. However, the building had been refitted in the last 10 years or so, and the facilities were judged to be reasonable. There are video-link facilities (unlike in Forfar) and the consulting rooms were considered to be more secure. Moreover, there are facilities close by which cater for women and children involved in domestic abuse cases. The building is not considered suitable for other use or for sale to a developer, and a disused building on the High Street in Arbroath would be highly detrimental to the community. Respondents stated that the investment required to bring the Forfar building up to standard would be significant; respondents also thought, however, that the potential for selling Forfar Sheriff Court was considerable.
- 9.20 The standard of the service currently offered by Arbroath Sheriff Court was viewed positively. The efficient service provided in this busy court was contrasted with the situation in Forfar, where delays were thought to be more common.
- 9.21 The alternative options suggested for this area were either to wait until the new consolidated facility was opened in Dundee and to transfer the business there or to examine the potential for a Private Finance Initiative to upgrade the facilities at Arbroath. However, these alternatives were offered only by a couple of respondents; the vast majority favoured maintaining the status quo.

Cupar

(Number of mentions = 60)

- 9.22 Comments relating to the closure of Cupar Sheriff Court focused on the social and geographic nature of the local area; the advantages of the current arrangements; the impact of closure on court users, both public and professional; concern about the capacity of Dundee to take on extra work; and disagreement with the financial and travel data presented by the SCS.
- 9.23 Cupar was characterised as a busy, well respected and efficient local court serving a largely rural population. The local knowledge of the sheriff and the quality of service provided by the staff were both praised, and presented as arguments for not closing the court. The court's civil and administrative business was highlighted as a valuable local resource; the inconvenience and

possible deterrent effect of having to travel to Dundee or Kirkcaldy for commissary business or to pursue a small claim were noted.

- 9.24 The loss of the court would, it was argued, impact on the area in a range of ways. There was concern about the local economy and the character of the town. The loss of the court would also impact on the local legal profession and the availability of legal services. It was anticipated that firms would contract or relocate. The distances involved would make court appearances expensive and time consuming and would lead to greater use of agency solicitors, with negative impacts on the solicitor-client relationship.
- 9.25 Respondents highlighted the very different geographies and social and cultural environments in Dundee and Fife and the implication of this for local justice. The fact that Cupar business would be dealt with in another local authority area and Procurator Fiscal district was highlighted as a particular issue with implications for effective case management and inter-agency working.
- 9.26 The court was currently located with other relevant public agencies in close proximity and the Police were due to be relocated conveniently in the same building in the near future. Closure of the court would mean the loss of the advantages (time, cost, liaison between different agencies) offered by this arrangement. The court facilities, including video-link equipment, attracted a lot of positive comment. In relation to the building itself, respondents questioned the projected maintenance costs presented, and highlighted the on-going financial commitment to the local authority should the court be closed. Although owned by the SCS, the court was part of a building owned by Fife Council; as such it was suggested that sale of the building would be very difficult.
- 9.27 As well as discussing how closure would impact on the Cupar area, respondents expressed concern about the capacity of Dundee to take on extra work. The lack of detailed data on this issue was criticised (e.g. in relation to staff accommodation, and accommodation and facilities for those participating in cases). Possible future changes to the area (e.g. relating to the local military base and proposals for new housing) were cited as potential sources of increased demand for court services, putting further pressure on Dundee. Questions were also raised about the capacity at Dunfermline, particularly given the perceived advantages of the flexible capacity offered across the three current Fife courts at Cupar, Kirkcaldy and Fife.
- 9.28 The cost and time involved in travelling to Dundee was a common point, with the poor road networks and limited public transport options in northeast Fife and the East Neuk both cited. Particular local issues were the reliance on the Tay Road Bridge, which could be closed in adverse weather, and the distance of the court in Dundee from the train and bus stations. The impact on disadvantaged and vulnerable groups (e.g. children and those involved in domestic abuse cases) was highlighted. One organisation highlighted the challenges this would present in providing staff to support those attending court cases. Others highlighted the likely impact on attendance and consequent increased 'churn' in the system.

- 9.29 While the main thrust of people's arguments was the importance of retaining accessible local justice, respondents also questioned the financial case for closing the court which was presented as offering a cost-effective service with low staffing and running costs. Closure, it was argued, would lead to increased costs elsewhere in the system in terms of travel (time and actual expenditure) for court participants and associated administrative impacts, whether this be borne by the legal aid fund, local authority budgets, police or individuals (both as court users and taxpayers).
- 9.30 Responses generally argued for retention of the current arrangements for all the reasons indicated above. However, a number of respondents suggested that retaining the court with a summary sheriff, and subsuming the business of the JP court, would be preferable to complete closure; one respondent suggested extending the court boundary to also take in summary business from Glenrothes. Highlighting the uncertainty about the proposed arrangements, one respondent suggested that Cupar could provide overspill accommodation for Fife / Dundee, ensuring some future flexibility in the system, or could be used as a video link facility for cases taking place at other courts. Alternatively, some respondents suggested redrawing the boundaries and allocating current Cupar business to Dundee, Kirkcaldy and Perth on geographic lines.

Dingwall

(Number of mentions = 23)

- 9.31 The main grounds for disagreement with the proposal to close Dingwall Sheriff Court related to the perceived lack of capacity in Inverness to absorb that business; the quality of the current facilities in Dingwall and the relatively small amount of money required to address any outstanding issues with the building; and the differential quality of service in relation to ease and speed of access to justice which was judged to be higher in Dingwall as compared to Inverness.
- 9.32 There was unanimity about the inability of Inverness to absorb the business from Dingwall Sheriff Court. Respondents rejected the argument in the consultation paper that there was adequate capacity in Inverness.
- 9.33 Respondents thought that Inverness was not able to cope with its current business load, and the idea that it could take on any more cases was dismissed. Indeed, Dingwall has been used to deal with 'overspill' from Inverness. An argument was made that proposed changes to legal aid will likely put greater pressure on the situation at Inverness, and that no allowance had been made for the proposed removal of some civil business from the Court of Session. Finally, new housing planned for Dingwall (several thousand homes) would potentially increase the volume of business at Dingwall in the medium term.
- 9.34 Data for Inverness were provided to demonstrate that summary criminal trials were currently being fixed six months in advance. The churn rate is 50% and cases are often adjourned due to a lack of adequate court time. This position

was contrasted with that in Dingwall where churn rates were very low and cases were being dealt with quickly and efficiently.

- 9.35 The facilities at Dingwall were described in positive terms, and were contrasted with those at Inverness which was characterised as ‘bursting at the seams’. There had been recent investment in the facilities at Dingwall and the building was now fully accessible for disabled users, with good accommodation for the accused and witnesses as well as secure access. Room for expansion was also noted. Any further building work required would be relatively inexpensive. This was contrasted with the position at Inverness Sheriff Court where disabled clients had experienced difficulty accessing facilities, and where there was no area for confidential client instruction. It was believed that these problems would be expensive to rectify.
- 9.36 The Dingwall Sheriff Court building itself was said to be well situated with good access to bus and train links and adequate parking. Dingwall is the county town for a vast area, and examples were given of the large increases in travel times (for example from Ullapool to Inverness is a 120 mile round trip) which would follow from any relocation. This was widely held to be against the interests of the Highland community.
- 9.37 As far as alternatives were concerned it was suggested that the use of Dingwall should be maintained and could deal with criminal work from Tain, and/or commercial business from Inverness. Modern technology should be used to link the buildings and the focus should be on looking for greater efficiencies. It was suggested that with improved planning and a creative approach, 10 additional jury days at Dingwall could be covered by the existing shrieval complement. There was also a suggestion that Dingwall Court (which had recently been refurbished and which serves a large area) could be retained as an annexe to Inverness. Another suggestion was that Dingwall Sheriff Court could be used as a domestic abuse court serving its existing area and Inverness.

Haddington

(Number of mentions = 156)

- 9.38 The responses for Haddington were extremely wide-ranging, and all the themes discussed in Chapter 3 were raised. However, there was a very strong focus on three areas: the deterioration in the quality of service which would result from a transfer of business from Haddington to Edinburgh; the social and economic impacts on the town; and the non-acceptance of the analysis – especially the financial analysis – which underpinned the proposal.
- 9.39 Haddington was described as a busy court which offered excellent services to the local community both in the town itself and throughout East Lothian. The work was handled very efficiently with quick turnaround times; the network of local relationships and the availability of local knowledge was crucial to good administration of justice; and the location of the courts was very convenient – other related services were also at hand. Thus Haddington conformed in many ways to the ‘Livingston’ model as set out in the consultation paper.

- 9.40 This picture of a well functioning and efficient service was contrasted with the position if this business was to move to Edinburgh. Respondents were forceful in their views that the quality of service would be significantly reduced. This would be the result of a combination of factors: Edinburgh Sheriff Court was already very busy and struggling to cope with its workload so it was not clear that the additional business could be absorbed; there were other changes in train which would put further pressure on Edinburgh Sheriff Court and these had not been factored in to the analysis; there would be a significant increase in travel times and costs for court users and it was likely that consequent non-attendance would cause further delays and increase costs by, for example, requiring more warrants for arrest to be issued; and advice services would not be able to support court users attending in Edinburgh. The impact in situations requiring the lodging of urgent applications was particularly noted.
- 9.41 There was widespread criticism of the way that the costs and benefits of the proposals had been analysed and presented. It was asserted that urgent family business heard in Haddington's second courtroom could not be easily accommodated in Edinburgh at short notice. At best, respondents agreed that there would be some limited financial saving for the SCS in the short term. But these savings were questioned by many and were thought to be outweighed by the costs – both financial and social – which would result. There was a suggestion that an external agency should be asked to examine the costings in the SCS document and to provide an independent assessment.
- 9.42 It was felt that the costings in the paper did not reflect reality. The travel times which had been presented were regarded as overly optimistic. They did not take account of journey times to the hub, walking to courts in Edinburgh, traffic congestion and delays, and parking availability and costs. The backlog maintenance costs were queried, along with the handling of depreciation costs. The figures on the numbers of witnesses called to summary trials was incomplete. The decrease in productivity due to police and other time lost to travel had not featured in the analysis. Environmental impacts had not been considered, and no account had been taken of the set up costs for new bodies or collaborations.
- 9.43 Moreover, respondents pointed out that unlike other areas, large population increases were projected for Haddington and East Lothian. The figures presented suggested a 12% increase within the next 10 years and a 33% increase within the next 25 years.
- 9.44 More broadly, respondents did not accept what they saw as the arbitrary selection of 20 miles as the definition of proximity in relation to closure. Some respondents commented that the figure for Haddington was actually 20.5 (not 18 as in the SCS paper) but in any case the issue was that the court was very busy and had an ample volume of cases to stay open.
- 9.45 The proposal to close the Haddington courts was thought to be short sighted, ignoring the longer term consequences which would be significant and damaging. A picture was painted of Haddington as a once thriving county

town which in recent years had struggled to retain its civic pride. A number of local authority buildings in the centre of town had already been vacated, and many businesses were on the margins of viability. Haddington's local economy was described as relying significantly on its status as the county's legal and administrative capital. The closure of the courts was seen as representing the loss of another local service, with knock-on effects for the availability of legal services locally.

- 9.46 The buildings themselves were noted as playing an important part in the history and culture of the town and its surrounding area. There has been a court of some kind in Haddington for 800 years, and the irrevocability of any decision to close was a theme which many responses touched on. The court falling into disuse would be a very serious issue.
- 9.47 The alternative suggestions for Haddington were to expand the court area to take on work from Duns and / or Peebles; to continue with a summary sheriff in place; to allow it to become a specialist centre for road traffic and motoring cases; and to improve court timetabling between Edinburgh and Haddington.

Stonehaven

(Number of mentions = 46)

- 9.48 Most of the overarching themes mentioned earlier in Chapter 3 were commented on in relation to the closure of Stonehaven Sheriff Court. However, the themes which predominated the discussion in this particular location were the perceived inability of Aberdeen to absorb the business of Stonehaven, the diminution of the quality of service which would be available, the rather dubious nature of the financial savings which were set out in the SCS document, and the likely population growth in this area which undermines the logic of the case for closure.
- 9.49 Almost all respondents commented on the lack of capacity at Aberdeen. Aberdeen Sheriff Court was already working at full capacity with delays seen to be endemic; there was a specific concern about the capacity to adhere to statutory timescales in adoption and permanence orders. Aberdeen Sheriff Court was said to be understaffed, and to lack the accommodation to cope with any additional business. Moreover, the proposed High Court changes would increase the pressure on Aberdeen still further with an associated reduction in the quality of service provided. It was argued that a large amount of investment would be necessary to bring the building at Aberdeen Sheriff Court up to the standard required.
- 9.50 By contrast, the situation at Stonehaven was described in positive terms. The service offered was efficient, delays were minimal with timeous disposal of summary business, the building was fit for purpose and had recently been improved to comply with the Disability Discrimination Act. The building incorporated the police station and cells and has separate waiting and consulting rooms. It has a CCTV link, easier access for clients and witnesses, and free parking. It would be unlikely to be attractive to any developer.

- 9.51 Any possible savings were thought to be modest or negligible. Whilst running costs might reduce, this would have to be set against the large capital outlay in Aberdeen which would be necessary. It is not clear that the overall costs following closure of Stonehaven would be any less once all relevant costs of staff, solicitors, support staff and others are taken into account. The focus on costs to the SCS was regarded as too narrow, and respondents were unconvinced about any financial savings once the costs to the wider justice system were taken into account.
- 9.52 Respondents highlighted various aspects of Stonehaven's location and situation. The court covers a large territorial area where the population projections are for growth over the medium term, and a new town is planned. The town sits at the centre of an extensive transport system. The travel distances are substantial and the paper does not address any issues relating to the travel requirements of those living south of Stonehaven. The proposals are in contradiction with other Scottish Government initiatives to regenerate Scottish towns and town centres.
- 9.53 As far as alternatives are concerned it was suggested that Stonehaven is currently under-utilised and could be used to handle the overspill from Aberdeen and / or as an annexe to Aberdeen Sheriff Court for lengthy proofs. The option of using Stonehaven as a dedicated family business court was also put forward. More should be done by video conference. However, the main suggestion was to focus on efficiencies which could be delivered within the current arrangements. If introduced, it was believed that efficiency savings would dwarf the scale of the savings set out in the document.

10 SHERIFF COURT BOUNDARIES AND OTHER COMMENTS

10.1 The final three questions in the consultation paper did not seek views on particular proposals, but rather were more general questions. This chapter discussed respondents' comments in relation to:

- The need for redrawing sheriff court district boundaries (Question 22)
- Aspects of the consultation paper which were not covered in people's responses to the earlier questions (Question 23)
- Any other aspects of court provision in Scotland (Question 24).

Sheriff court boundaries

10.2 Question 22 in the SCS consultation paper asked for respondents' comments on the need for redrawing the boundaries of sheriff court districts.

10.3 Eighty-eight (88) respondents (54 individuals and 34 groups / organisations) commented on Question 22. This comprised 9% of individual respondents and 27% of group / organisational respondents.

10.4 Respondents' comments on this question generally could be grouped into one of four categories.

10.5 The first included those who felt no boundary changes were needed, or that no boundary changes were needed **in a particular area** – usually the respondent's own area.

10.6 A second group of respondents provided general comments on the current sheriff court district boundaries noting that they were no longer co-terminus with local authority or electoral ward boundaries. There was a feeling that there should be a review of the sheriff court district boundaries for this reason, as the current situation complicated the relationship between courts, elected representatives, and electoral administrators.

10.7 One solution was to redefine sheriff court districts as a collection of current electoral wards. Others simply suggested that sheriff court district boundaries should reflect the boundaries of other partner organisations, such as the police or the Procurator Fiscal Service. It was noted that some of the proposed closures would result in social work services having to cross local authority boundaries to attend and submit reports to sheriff courts in other areas.

10.8 There was an argument for enlarging existing boundaries in some areas (for example, Tayside), which would allow criminal cases to be prosecuted at any court in that area. A less common view was that sheriff court district boundaries should be abolished altogether, and sheriffs should sit at any appropriate court anywhere in Scotland. Finally, the more general point was made that court boundaries should take account of the geography and rurality of different parts of Scotland.

10.9 A third – and the largest – group of respondents proposed some change to a sheriff court district boundary, usually one which would result in an increase of

business for their own local court, which had been identified for closure. There were suggestions that:

- The boundary for Cupar Sheriff and JP Courts should be extended to take in northern and eastern areas within Kirkcaldy Sheriff Court's current jurisdiction. This would have the effect of relieving pressure on the very busy Kirkcaldy Sheriff Court as well as reducing travel times for court users given the closer proximity of Cupar.
- In the event of closure, Cupar's current jurisdiction should be divided between Perth, Kirkcaldy and Dundee. It was also suggested that Dundee's boundaries could be extended to include business from Carnoustie and Invergowrie.
- The boundaries between Alloa and Dunfermline should be redrawn if a new court facility was built in Fife.
- There was also a view that the community of Laurencekirk would **not** be better served by a court in Forfar (as opposed to Stonehaven or Aberdeen) because of the poor public transport links to Forfar.
- If Duns Sheriff and JP Courts were to close, then the boundary for Haddington Sheriff and JP Courts should be extended to include coastal Berwickshire (the eastern part of Duns Sheriff Court district), as Haddington is closer than Edinburgh or Jedburgh for residents in this area.
- The boundary for Peebles Sheriff Court should be extended north to include Penicuik, as it would be far easier for people living in this area to attend court in Peebles (just 10 miles away) than in Edinburgh with all of its traffic and parking problems.
- However, if Peebles was to close, there was a suggestion that business from Peebles should be transferred to Selkirk Sheriff Court, rather than Edinburgh, and the boundary redrawn accordingly.
- The boundary for Portree Sheriff Court should be extended to include the mainland communities of Kyle of Lochalsh and Shiel Bridge to the east / south, and Plockton and Strome Ferry to the north. There was also a suggestion that the communities around Lochcarron, Torridon and Applecross should also be included in the Portree Sheriff Court district, as these communities had more in common with Portree than Inverness.
- There was a general feeling among respondents in the far north of Scotland that there would be some merit in reviewing the current sheriff court district boundaries in Caithness, Sutherland and Ross & Cromarty.
- The boundary for Wick should be extended south, particularly if Dornoch Sheriff Court was to close; however, this extension might be considered even if Dornoch remains open. A separate suggestion was to extend the Wick boundary to the west to Bettyhill. Dornoch Sheriff Court should remain open, and the business of Tain Sheriff Court should be transferred there, with Tain Sheriff Court being closed.
- The boundary for Aberdeen Sheriff Court should be reviewed, particularly if Stonehaven Sheriff Court was to be closed. This review should not only

consider the southern boundary, but also the western boundary, and there was an argument that Elgin Sheriff Court should deal with business in the area around Huntly.

- The boundary for mid-Argyll (including the towns of Ardrishaig, Lochgilphead, Crinan and Inverary) should be redrawn so that people living in this area would use the sheriff courts at Campbeltown or Oban, rather than Dunoon (as is currently the case). This would be more convenient to people living in mid-Argyll. It was also suggested that the police station in Lochgilphead could become an annex of Oban Sheriff Court or Campbeltown Sheriff Court.
- If Cumbernauld JP Court was to close, then its business should be transferred to Glasgow or Falkirk, rather than Airdrie, because of the poor public transport links with Airdrie.

10.10 Finally, there was a group of miscellaneous comments covering a wide range of issues. There was a concern that the question in the consultation document about boundary changes was predicated upon the acceptance or desirability of the proposed closures. Respondents highlighted, again, the difficulties of travelling in rural / remote areas, and between island communities and the mainland, particularly in winter, and pointed out that these difficulties needed to be given proper consideration in relation to redrawing sheriff court district boundaries.

Other comments in response to the consultation

10.11 The final two questions in the consultation questionnaire asked for respondents' comments in relation to any other aspect of the consultation; and in relation to any other aspects of court services in Scotland. Altogether, 130 respondents made comments against one or both of these questions.

10.12 In general, respondents used both these questions to make further comments about the proposals. However, they also offered comments on the consultation paper and the consultation process. There was a relatively small number of comments about other aspects of the provision of court services in Scotland (i.e. responses to Question 24), and these are listed at the end of this section.

10.13 In relation to comments on the proposals, it was common for people to reiterate or summarise points they had made earlier regarding specific courts, although often doing so in a more general way. Thus, individuals raised concerns about the impact of the proposals on access to justice, especially for the most disadvantaged and vulnerable groups in communities. There was a feeling that the proposals, if implemented, would result in discrimination against equalities groups including women; children and young people; older people; and people with disabilities, and it was noted that an Equalities Impact Assessment had so far only been partially completed by the SCS in relation to the proposals. It was argued that victims of domestic abuse, in particular, could be put at risk due to the greater difficulties they would face in attending

court and the delays to court proceedings (or churn) which would inevitably result.

- 10.14 There were also concerns raised about the detrimental effect of the proposals on the administration of justice, the participation of jurors, witness attendance, witness intimidation, the increased cost of legal aid, and the loss of local knowledge which was believed to be important for sentencing decisions. Furthermore, the fact that people living in rural communities would be disproportionately affected was emphasised. There was a strong view that, if the proposals were implemented, they would result in an enormous waste of time and resources due to people simply not attending court.
- 10.15 Respondents believed that the analysis presented in the consultation paper was flawed and that information was inadequate or inaccurate in relation to, among other things, travel times, public transport availability, and the likely savings that would result from court closures. In addition, there was a feeling that the adverse impacts of the proposals had been down-played, or not recognised at all. There were concerns that courts had been identified for closure without sufficient consideration of alternative options. The point was repeatedly made that, in proposing actions that would result in modest and short-term savings, the SCS had taken no account of the significant costs that would be incurred by other public organisations and by court users. The point was also made that the changes proposed would not be easily reversible and, thus, caution was needed to ensure they would stand the test of time.
- 10.16 These issues led some to question the rationale for closure. It was argued that proposals which are driven by the need to cut costs would not result in an appropriate justice system. While respondents sometimes said that they accepted that the SCS needed to identify cost savings, there was also a feeling that the consultation should have focused more on how an improved court structure would **widen** access to justice rather than **reduce** it.
- 10.17 Some respondents also commented that the SCS consultation seemed to be pre-empting the outcomes of reforms that were currently taking place to improve the justice system.¹⁵ Those who made this point felt that proposals about court closures were premature and that the reforms currently underway would be to no purpose if people could not afford the time and cost to travel to court. While some respondents suggested that the consultation appeared to be disregarding recommendations from Lord Gill's Review of Civil Courts, others suggested that the proposals assumed that the recommendations of Lord Gill's review would be fully implemented, which was not certain since they still had to be considered by Parliament. Several respondents argued that the other procedural reforms currently being considered did not inherently require centralisation and court closures, as implied in the SCS consultation paper. The perceived focus on criminal justice was also criticised by some; it was argued that the needs of the civil justice system had not been properly considered.

¹⁵ Those mentioned were Lord Gill's Review of Civil Courts, and Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland (due to be published in June 2013).

10.18 Other respondents argued, more broadly, that the proposals appeared to be inconsistent with a wide range of other government policies, including policies on rural communities, town centre regeneration, de-centralisation of public services, the environment and the Scottish Government's Strategy for Justice.

10.19 Respondents highlighted a range of issues which they felt should have been included in the consultation document, or considered in formulating any proposals for court closures, including:

- The impact of the transfer of commissary business
- *HMIP Standards Used in the Inspection of Prisons in Scotland* (2006) and the HMIP report on courts¹⁶
- The current capacity of courts that would be receiving additional business
- The role of arbitration and greater reference to alternative dispute resolution
- How the impact of the proposals on social work, police and victim support services would be resourced
- The results of a completed Equalities Impact Assessment
- Impact on CO2 emissions
- An assessment of delays or postponements which might result due to increased travel
- An assessment of the costs of maintaining unused court buildings
- Confirmation from the Scottish Government and the SLAB that increased costs related to travel and accommodation would be met
- The results of a formal consultation with victims, witnesses and communities that would be affected by court closures.

Solutions offered

10.20 While respondents' comments were largely critical of the proposals, some also offered potential solutions which would either mitigate the impact of court closures or might reduce costs to the SCS without the need for court closures. The greater use of video technology and web-based or telephone conferencing was welcomed. However, it was also noted that, to date, the experience of using this type of technology within courts had been poor. Moreover, an increased use of this type of technology would require considerable time to allow it to bed-in to court procedures. Respondents felt it was inappropriate to be considering court closures until this had been done.

10.21 There was also support for greater use of mediation and alternative methods of dispute resolution, although it was not necessarily agreed that this should be introduced as compulsory before proceeding to proof – or indeed that this would be a cheaper option. There was also a strong view that mediation and

¹⁶ Her Majesty's Inspectorate of Prisons for Scotland (2012) *Inspection of the conditions in which prisoners are transported and held in sheriff and JP courts while under escort*. Available at: <http://www.scotland.gov.uk/Resource/0039/00393863.pdf>.

dispute resolution methods were not appropriate in all cases, and particularly not in cases of domestic abuse.

10.22 Other suggestions included:

- Allowing court documents to be submitted electronically.
- Learning from the experience of England and Wales, where a number of court closures took place which did not result in the savings expected, and which resulted in the need to maintain buildings no longer in use.
- More sharing of court facilities with other public agencies
- More effective judicial case management to reduce churn
- Ensuring that sheriffs are given sufficient training and support to be able to run a court efficiently
- Engaging in discussion with local authorities to identify alternatives to court closures.

10.23 It was suggested that a number of innovative suggestions had been raised at the dialogue events, and that further work needed to be done to pursue some of these. In general there was a view that this could be an opportunity to look at the court process and the supporting court system in a more holistic way with consideration given to a full range of options and issues.

Clarifications required

10.24 There were also a number of issues on which respondents sought clarification or additional information:

- The structure being proposed for civil business; including the different remits of sheriffs and summary sheriffs and how business would be allocated between the different tiers; preliminary proceedings, summary applications, commercial and family actions were all specifically mentioned, as was the role and location of the proposed specialised personal injury court
- The role of stipendiary magistrates in Glasgow and the role of Honorary Sheriffs
- How summary sheriffs and summary sheriff business would be accommodated at the sheriff and jury centres
- The intentions and available budget for upgrading the courts to which business would be transferred following court closures.

Comments on the consultation document and process

10.25 There were a range of comments on the consultation paper and the consultation process more generally. Respondents called for full consideration of the views submitted, more consultation with the local communities and specific groups affected, and with the relevant local authorities and other public agencies. There was also a feeling that the views expressed at the dialogue events had been disregarded, and a concern that decisions had already been made.

10.26 In relation to the consultation paper itself, some respondents believed that the language used in the consultation paper would have made it very difficult for ordinary people – i.e. those who would be most affected by the proposals – to engage in the process. Other respondents commented unfavourably on the difficulties they had in submitting the response electronically.

Other comments about the provision of court services

10.27 Few respondents made comments on the provision of court services in Scotland more generally. Most of the comments made in relation to Question 24 reiterated earlier comments made by the respondent. Furthermore, where new points were made, the respondent sometimes linked their point back to the proposals in the consultation document. For example:

- It was reported that women affected by domestic abuse feel unsafe when attending court to give evidence against a partner, particularly in courts where there are not separate entrances for the accused and the complainer. There was a concern that the proposed court closures would make this situation worse.
- There was a view that the abolition of corroboration in criminal cases would lead to a substantial increase in criminal business as a greater number of cases would be likely to proceed to trial. There was concern about the implications of court closures against this backdrop.

10.28 A range of other points were raised about the wider provision of court services in Scotland. These included the following:

- Consideration should be given to the special needs of the Children's Hearings system – i.e. ensuring that children's hearings cases are prioritised, and are held in a child and family friendly environment, rather than in a formal court.
- The SCS should make available up-to-date information about disabled access at every court in Scotland.
- Concern was voiced about a perceived politicisation of the SCS and the impact of a 'corporate culture' within the organisation on the administration of justice.
- The SCS should work together with National Records of Scotland to review arrangements for the selection and preservation of records from sheriff and JP courts – particularly in light of the proposals to close certain courts.
- Court proceedings should be made more accessible to the public – for example, through the availability of on-line transcripts and court documents.

10.29 There was a call for clarity about the proposed role of Summary Sheriff, and mixed views expressed about the benefit of what was perceived to be a new tier of justice. While some respondents saw this proposed reform as potentially improving court efficiency, others raised concerns. One concern related to a perceived 'downgrading' of the status of domestic abuse cases, and the proposal that they be dealt with in future by a Summary Sheriff, rather

than a Sheriff. It was pointed out that a key barrier to the effective operation of civil protection orders in England and Wales was that breach cases were heard in a lower court than that which granted the initial order.

ANNEX 1: CONSULTATION QUESTIONS

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

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:

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

Question 3: What impact would our proposals for High Court sittings at first instance have on you? Please give reasons for your answer.

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

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

- why you disagree, and
- 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.

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?

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

- why you disagree, and
- 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.

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.

Question 9: What impact would shrieval specialisation based in the sheriff and jury centres have on you? Please give reasons for your answer.

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

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

- why you disagree, and
- 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.

Question 12: What impact would the closure of these justice of the peace courts have on you? Please give reasons for your answer.

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

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

- why you disagree, and
- what alternative proposal you would prefer to see in place, being as specific as you can about how your preference would operate in practice.

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.

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?

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

- why you disagree, and
- 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.

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.

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?

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

- why you disagree, and
- 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.

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.

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.

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.

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 in any of the earlier questions, please let us have your comments, views and ideas here.

ANNEX 2: PETITIONS / CAMPAIGN TEXTS

Haddington postcard campaign

Organised by Iain Gray, MSP / *East Lothian Courier* (Save Our Court campaign) -- postcards submitted to Iain Gray or *East Lothian Courier* for onward submission to SCS.

Plans to shut Haddington Sheriff and Justice of the Peace Courts and move their services to Edinburgh have been announced by the Scottish Courts Service.

I wish to oppose the closure of Haddington Sheriff and Justice of the Peace Courts on the following grounds:

- It would be detrimental to the local justice system
- Closure of the courts would disadvantage witnesses and victims of crime, particularly in terms of increased travel times and costs.
- Travelling to Edinburgh to give evidence would not be the best use of time for local police officers.

Please consider this response as part of the Scottish Courts Service consultation on court structures.

Newspaper coupon in *East Lothian Courier*

Coupons submitted to *East Lothian Courier* for onward submission to SCS.

I agree that Haddington Sheriff Court provides an essential public service to the people of East Lothian and I strongly object to any proposals to close this vital institution.

Name:

Address:

Save Haddington Sheriff Court petition (hard copy version)

c/o Garden Stirling Burnett

We, the undersigned, object to the planned closure of Haddington Sheriff Court as we believe it will have a serious impact on how justice is administered for people living and working in East Lothian. In particular, we believe the change would lead to:

- Increased travel costs and inconvenience for court users.
- Delays in urgent court applications due to volume of business at Edinburgh, for example, re child issues
- Delays in cases being processed and heard
- Loss of court staff and sheriff with local knowledge
- Loss of a local advice readily available to public.

Signatures:

Save Haddington Sheriff Court petition (on-line version)

Hosted on Garden Stirling Burnett website

We, the undersigned, object to the planned closure of Haddington Sheriff Court as we believe it will have a serious impact on how justice is administered for people living and working in East Lothian. In particular, we believe the change would lead to:

- **Increased travel costs** and inconvenience for court users
- **Delays** in urgent court applications due to volume of business at Edinburgh, for example, re child issues
- **Delays** in cases being processed and heard
- **Loss** of Court staff and sheriff with local knowledge
- **Loss** of a local advice readily available to public
- **Damaging** impact on high street businesses
- Another local service **wrenched out** of East Lothian.

Signatures:

Alloa petition

Submitted by Keith Brown, MSP

We the undersigned Residents of Clackmannanshire object to the closure of the District and Sheriff Courts in Alloa.

Signatures:

Cupar petition (1)

Submitted by Councillor Margaret Kennedy

We, the undersigned disagree with the proposal to close Cupar Sheriff Court and Justice of the Peace Court.

Signatures:

Cupar petition (2)

Submitted by Councillor Margaret Kennedy

Save Cupar Court – In partnership with local lawyers and the community. Help to stop its closure and transfer of work to Dundee!?

Cupar Sheriff Court serves the towns and communities of Cupar, St Andrews, Newburgh, ANstruther, Crail, Pittenweem, Elie, Cellardyke, Auchtermuchty, Strathmiglo, Falkland, Freuchie, Kingskettle, Kettlebridge, Leuchars, Guardbrisse, Tayport, Newport, St Michaels and all inbetween.

Cupar's Court holds a key position in the economy, justice process and fabric of our community – we need to fight to secure its presence for our future. WHY?

Sheriff Court is responsible for dealing with:

- Small claims – will a small business be able to take a whole day out of trading to go to court?
- Criminal cases – witnesses and accused will need to travel to Dundee for all hearings
- Dealing with the estates of those who die – for confirmation of the court it will mean Dundee!
- Child welfare issues and supporting those in psychiatric care where court orders are required.

Justice of the Peace court, which hears certain summary criminal cases, will also no longer sit in Cupar. All of this will mean added expense for those currently living within Cupar court's jurisdiction in accessing justice. It will also have a significant effect on how the Council supports these cases.

CAN WE ALLOW THIS TO HAPPEN? – WE THE UNDERSIGNED DON'T THINK SO

Signatures:

Rothesay standard campaign response

Organised / submitted by Wm Skelton & Co, a local firm of solicitors. Signed letters were collected and sent on by the firm to SCS with copies to the Justice Secretary and a local MSP.

Scottish Court Service
Field Services Directorate
Court Structures Consultation
1A Parliament Square
EDINBURGH
EH1 1RF

Dear Sirs

Scottish Court Service Consultation – Proposals for a Court Structure for the Future Proposal 5 – Proposed Closure of Rothesay Sheriff Court, Isle of Bute

I oppose the proposal to close Rothesay Sheriff Court and transfer its business to Greenock. The island's Sheriff Court is in a special position. It shares accommodation with Argyll & Bute Council in their offices in Rothesay. I understand if this Court closes that the saving to Scottish Court Service is only £6,000 a year but the Police and Scottish Legal Aid Board will have to pay much more travel and accommodation costs for witnesses and for additional Police cover on the island while the local Police are attending Greenock Sheriff Court. Witnesses would have to travel by ferry from Rothesay to Wemyss Bay. Ferry passengers are not allowed to stay in their vehicles and all passengers must be in the lounge areas. Defence and prosecution witnesses who should be kept apart will be forced to travel together which means a risk of intimidation. Trials are often postponed with witnesses having to travel to Court on several days. If there are gales or if a ferry breaks down witnesses may not be able to get home. Where are they to stay and how are they to pay for it while waiting for reimbursement?

Witnesses may decide against assisting the Police because of a fear of intimidation and the difficulty of travelling. If the island's Police officers need to travel to Greenock to give their evidence, where are the extra Police officers to be found and where is the money to pay them?

If Rothesay Sheriff Court closes this will affect the safety of all those who live on or visit the island. If you must save £6,000 a year, the Court could be held less frequently instead.

I consent / do not consent (*delete as inapplicable) to this letter being made public.

Yours faithfully

(Signature)

Cc Kenneth MacAskill, MSP, Cabinet Secretary for Justice, 16A Willowbrae Road, Edinburgh
Cc: Michael Russell, MSP, 81 Argyll Street, Dunoon, PA23 7DH

ANNEX 3: LIST OF ORGANISATIONAL RESPONDENTS

Advice / Advocacy

- Assist
- Borders Independent Advocacy Service
- Bute Advice Centre
- Citizens Advice Scotland
- Haddington Citizen's Advice Bureau
- Ross and Cromarty Citizens Advice Bureau

Business

- Association of Businesses in Cupar and District
- Federation of Small Businesses
- Haddington Business Association
- Inverness Chamber of Commerce

Children's organisations

- East Lothian Children's Panel Advisory Committee
- Scottish Children's Reporter Association (SCRA)

Community organisations or representative bodies

- Bute Community Council
- Chirnside Community Council
- Clovenfords & District Community Council
- Cockburnspath and Cove Community Council
- Dunbar Community Council
- Dunspey Community Council
- East Lammermuir Community Council
- Eyemouth Town Community Council
- Garve & District Community Council
- Gavinton, Polwarth and Fogo Community Council
- Gordon and Westruther Community Council
- Gullane Area Community Council
- Humble, East and West Saltoun and Bolton Community Council
- Jed Valley Community Council
- Kemback, Pitscottie and Blebo Community Council
- Kilmun Community Council
- Kirkcaldy West Community Council
- North Berwick Community Council
- Ormiston Community Council
- Peebles Community Council
- Reston and Auchencrow Community Council
- Royal Burgh of Haddington Community Council
- Royal Burgh of Kirkcudbright Community Council

- Royal Burgh of Selkirk and District Community Council
- Sauchie Community Group
- Scottish Borders Community Council Network
- St Boswells Parish Community Council
- Stonehaven & District Community Council
- Strathkinness Community Council
- Upper Tweed Community Council

Justices of the Peace (group responses)

- East Lothian Justices of the Peace
- Tayside, Central & Fife Justices of the Peace
- Wick Justices of the Peace

Legal organisations / solicitors' firms and representative bodies

- Aberdeen Bar Association
- Association of Personal Injury Lawyers
- Berwickshire Faculty of Procurators
- Burness Paull & Williamson LLP
- The Campbeltown Faculty of Solicitors
- D M MacKinnon Solicitors
- East Lothian Faculty of Procurators
- E Thornton & Co solicitors
- Faculty of Advocates
- Faculty of Procurators of Caithness
- Faculty of Solicitors in Roxburgh
- Graeme Murray & Co
- Ian Smith and Partners
- Kincardine & Deeside Faculty of Solicitors
- Kirkcaldy Law Society
- Law Society of Scotland
- MacArthur & Co
- Macleod and MacCallum
- McKenzies Solicitors
- Nicol, Harvey & Pierce
- Oban Faculty of Solicitors
- Rollo Davidson MacFarlane
- Royal Faculty of Procurators in Glasgow
- Society of Procurators and Solicitors of Angus
- Society of Solicitors of Clackmannanshire
- Society of Solicitors and Procurators for the Eastern and District of Fife
- Society of Solicitors of Banffshire
- Wigtown District Faculty of Solicitors

Local authorities

- Aberdeenshire Council
- Angus Council

- Argyll and Bute Council
- Clackmannanshire Council
- Dumfries & Galloway Council
- Dumfries and Galloway Council (Stewarty Area Committee)
- East Lothian Council
- Falkirk Council Criminal Justice Social Work Services
- Fife Council
- Glasgow City Council
- Highland Council
- Moray Council
- North Lanarkshire Council
- Scottish Borders Council
- Shetland Islands Council -- Governance and Law
- South Lanarkshire Council

Non-governmental organisations

- Equality and Human Rights Commission
- Her Majesty's Chief Inspector of Prisons for Scotland (HMIP)
- Judicial Appointments Board
- National Records of Scotland
- Scottish Arbitration Centre
- Scottish Human Rights Commission
- The Scottish Legal Aid Board
- Secretariat to the Local Government Boundary Commission for Scotland

NHS

- Stratheden Hospital Cupar (NHS) Senior Medical Staff

Partnership bodies

- Angus Violence against Women Partnership
- Fife & Forth Valley Community Justice Council Authority
- Glasgow Community Justice Authority
- Lanarkshire Community Justice Authority
- Northern Community Justice Authority
- St Andrews and District Community Safety Panel
- South West Scotland Community Justice Authority

Police

- Association of Chief Police Officers of Scotland (ACPOS)

Sheriffs (group responses)

- Sheriffs' Association

Third Sector

- Angus Women's Aid

- Capability Scotland
- Consumer Focus Scotland
- Families Outside
- Friends of the Earth Scotland / Environmental Law Centre (joint response)
- Petal
- Scottish Mediation Network
- Scottish Women's Aid
- Sustainable Cupar
- Victim Support Scotland

Other

- The Buteman (newspaper)
- Cupar and North Fife Preservation Society
- Dornoch Focus Group
- East Lothian Conservative & Unionist Association
- The Electoral Commission
- Haddington and District Amenity Society
- KMM Ltd T/A Print Point
- Peebles Guildry Corporation
- Port Bannatyne Post Office
- Public Commercial Services Union, Scotland

ANNEX 4: NUMBER OF COMMENTS RECEIVED AGAINST EACH QUESTION

Question	Number of comments	
1	105	
2	81	
3	68	
4	159	
5	148	
6	140	
7	132	
8	116	
9	99	
10	50	
11	42	
12	40	
13	45	
14	31	
15	35	
16	416	
17	410	Includes Rothesay campaign responses
18	75	
19	320	
20	315	
21	199	
22	88	
23	130 respondents provided comments for at least one of these questions with material interchangeable across both questions.	
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Note: The agree / disagree questions are highlighted in the shaded rows above.