



**National Response to
Consultation on Court Closures**

Executive Summary



THE MAGISTRATES' ASSOCIATION

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The consultation proposals

Magistrates' Association branches have taken the opportunity to respond in detail to the consultation on proposals to close a significant number of magistrates' courts. Overall, the Association has serious reservations about the whole consultation process and the specific proposals.

The Association accepts the need to reduce expenditure in the magistrates' courts service but considers that the proposals run counter to the coalition agreement on decentralisation of services. The Association believes that the principles of a summary justice system at the heart of communities across England and Wales should drive the estates strategy rather than closure proposals based merely on a superficial national estates strategy driving summary justice.

The indicated savings in the court closure proposals are but a tiny fraction of the whole HMCS budget, let alone the whole Ministry of Justice budget. The Association believes that courts should be placed at the heart of communities based upon crime statistics and realistic access to justice for all concerned and in particular victims and witnesses. There should be a coherent holistic strategy to overcome the years of salami slicing of the courts services and build on the need for flexibility in the use of courts in delivering justice and regulation.

The Association therefore proposes the following:

a full review of the structure and purpose of the summary justice system especially incorporating the conclusions from the Family Justice review to provide a blueprint for a cohesive holistic justice system.

The 'lay' magistracy is well established, and provides a professional, cost effective and transparent service to the justice system. A number of proposals for closure are premised on low utilisation figures, which are often questioned, suggesting that there is spare capacity in magistrates' courts. The Association believes that an increase in utilisation figures could be achieved through a number of positive measures to bring financial and other benefits. Delays in running trials at some Crown courts could be reduced by transfer to magistrates' courts. Courthouses could be shared by other jurisdictions such as tribunals, coronial service, county and Crown court.

The figures given in a Commons reply by the Minister on 9 September 2010 clearly indicate that magistrates are more economic than district judges. Given the diversity of magistrates and their increased competence through mentoring, training and appraisal there is more than enough capacity to deal operationally, professionally and economically with the existing court business plus increased work from other areas.

The Association therefore proposes:

a detailed examination of the current judicial role of magistrates to consider wide-ranging developments particularly aimed at reducing the pressure and undue delays on the Crown Court by transferring more cases to the lower courts.

a detailed analysis of the judicial estate to rationalise the use of resources on a shared basis.

an immediate freeze on the appointment and replacement of district judges (magistrates' courts), to contribute a significant amount to the proposed savings to be allegedly achieved through the closure of a third of all magistrates' courts.

Magistrates have a thorough knowledge of the court process and bring a wide ranging experience in business, commerce and financial strategy and practice to an understanding of service delivery. The Association believes that by capitalising on such experience further savings can be achieved and proposes that;

magistrates should have a more formal role in the local management of magistrates' courts to ensure that the needs of communities and the judiciary are properly and adequately met to deliver justice more cost effectively.

The consultation also proposes the merger of a number of benches ranging across various types of communities with the apparent objective of saving un-quantified administrative costs but without any consideration as to the impact on the community or the magistracy of very large benches. The Association notes with concern that there has been no research carried out to identify a range of bench ideal sizes given the function that benches are to perform. It therefore proposes that:

research is undertaken on ideal bench sizes to inform any future bench mergers.

The Association believes that savings could be made by a number of other measures including reduction of administration, greater use of local commissioning and procurement procedures, a re-structure of HMCS management levels and headquarters staff, and a return to a proper judicial oversight of court listing and rotas to ensure the most effective use of JPs. The Association proposes:

a thorough examination of the whole structure of the court support services.

The Association recognises the positive contribution the 'lean' programme has made in working patterns and reducing administrative costs. However, it shares concerns that this work is being undermined by a continuing serious disconnect between the three main agencies in the justice system – the Police, Crown Prosecution Service and HMCS because there is no integrated strategy to deliver financial effectiveness. Magistrates are also engaging with case management, but feel frustrated by the lack of urgency often practised by other agencies. The Association proposes:

a review of the inter-relationship of these three agencies to ensure continuity, timeliness and more cost effectiveness in the preparation and presentation of cases in court.

The collection of fines has largely become an administrative function in recent years and although it is recognised there has been an increase in the collection rate, nevertheless HMCS figures state an approximate 14% increase in the amount outstanding to £568m since 2007. A more proactive approach to the collection of fines alone would realise more than the required savings proposed through court closures.

In addition the collection of compensation has also seen victims not receiving their rightful or timely compensation imposed for suffering and injury. Savings could be achieved through a single payment system by eliminating wasteful multiple transaction costs that serve to repeatedly remind victims of their injury. The Association proposes that:

a more proactive development of HMCS's blueprint for fines collection with greater involvement of the judiciary coupled with local performance driven collection facilities.

a clear purpose is implemented for the victim surcharge by using it to establish a compensation fund to pay victims immediately the compensation is awarded by the courts rather than wait for the defendant to pay part of it when it suits them.

The consultation process

Members have expressed grave disquiet over the whole consultation process by HMCS. The considerable number of anomalies that have arisen during the preparation of responses has given rise to major concerns about the accuracy of the data used to prepare the proposals and must surely undermine the efficacy of the documentation. Such issues include inaccuracies in maintenance figures which in some cases are purely notional and not based on proper business processes; in utilisation figures which ignore significant family work and in travelling times and costs. Many of the supplied figures have been discredited in a number of areas by local magistrates. Although we have been told that the proposals neither form business cases nor final decisions on closures, nevertheless, many magistrates have expressed severe uneasiness that the consultation took place over the summer break when Members of Parliament and senior officials were not always available for discussion and debate. The Associations' branches and individual members have expended a significant amount of their own time to gather relevant accurate information and data with which to respond. The responses submitted with cogent reasons for retention, where appropriate, are very well articulated and present comprehensive submissions. It is felt that full accurate data should have been included in the proposals and that a business case should have been made on which to consult.

The Association also has considerable concerns about the next stage of the process. It proposes:

the establishment of a separate analytical body involving all stakeholders to ensure full consultation on impact assessments and business cases so that the proposals can be owned by all concerned.

Conclusion

The Magistrates' Association believes that the notion of a summary justice system for communities is too important to be decided alone by civil servants who have a limited appreciation of the value of citizen involvement in the administration of justice. The coalition's thinking on 'The Big Society' is well supported by a strong magistracy. This means that adequate facilities must be provided to put magistrates' courts at the heart of the community. To achieve this Government is urged to adopt the recommendations set out in this Executive Summary.

Recommendations

1. a full review of the structure and purpose of the summary justice system especially incorporating the conclusions from the Family Justice Review to provide a blueprint for a cohesive holistic justice system.
2. a detailed examination of the current judicial role of magistrates to consider wide-ranging developments particularly aimed at reducing the pressure and undue delays on the Crown Court by transferring more cases to the lower courts.
3. a detailed analysis of the judicial estate to rationalise the use of resources on a shared basis.
4. an immediate freeze on the appointment and replacement of district judges (magistrates' courts), to contribute a significant amount to the proposed savings to be allegedly achieved through the closure of a third of all magistrates' courts.
5. magistrates should have a more formal role in the local management of magistrates' courts to ensure that the needs of communities and the judiciary are properly and adequately met to deliver justice more cost effectively.
6. research is undertaken on ideal bench sizes to inform any future bench mergers.
7. a thorough examination of the whole structure of the court support services.
8. a review of the inter-relationship of these three agencies to ensure continuity, timeliness and more cost effectiveness in the preparation and presentation of cases in court.
9. a more proactive development of HMCS's blueprint for fines collection with greater involvement of the judiciary coupled with local performance driven collection facilities.
10. a clear purpose is implemented for the victim surcharge by using it to establish a compensation fund to pay victims immediately the compensation is awarded by the courts rather than wait for the defendant to pay part of it when it suits them.
11. the establishment of a separate analytical body involving all stakeholders to ensure full consultation on impact assessments and business cases so that the proposals can be owned by all concerned.