

## Members' Library Service Request Form

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Document Title	Response to Scottish Court Service consultation on draft Orders

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East Lothian Council
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Additional information:

The Scottish Court Service is required by statute to consult on the draft orders which will, if agreed by the Scottish Parliament, put into effect the closure of Haddington Sheriff Court. The attached is the response made on behalf of the Council.

Authorised By	Angela Leitch
Designation	Chief Executive
Date	09/05/13

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

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

September 2012

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

**RESPONDENT INFORMATION FORM**

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

**1. Name/Organisation**

Organisation Name

EAST LOTHIAN COUNCIL

Title

CHIEF EXECUTIVE

Surname

LEITCH

Forename

ANGELA

**2. Postal Address**

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**3. Permissions**

I am responding as:

an individual

a group or organisation

*Please enter an X in the appropriate box*

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

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

**4. Permissions as an individual**

**(a)**

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

**YES**     

**NO**     

*Please enter an X in the appropriate box*

**(b)**

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

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

Yes, make my response, name and address all available     

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

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

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

Are you content for your response to be made available?

**YES**     

**NO**     

*Please enter an X in the appropriate box*

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

### RESPONSE FORM

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

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

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

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

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

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

## The High Court Circuit

Pages 23 to 25 of the Consultation Paper.

### Proposal 1

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

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

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

**Response**

East Lothian Council does not wish to offer a view on this proposal.

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

(a) why you disagree, and

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

**Response**

n/a

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

Please give reasons for your answer.

**Response**

East Lothian Council does not wish to offer a view on this proposal.

## Consolidating sheriff and jury business and other shrieval specialisation

Pages 27 to 31 of the Consultation Paper.

### Proposal 2

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

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

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

**Response**

No: East Lothian Council does not agree.

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

(a) why you disagree, and

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

**Response**

The Council is not persuaded that sheriff and jury trials should be separate from other types of justice delivered locally, especially where facilities exist in current sheriff courts for sheriff and jury trials. Proposals to move these to Edinburgh would reduce business at Haddington Sheriff Court, but would increase pressure and reduce capacity at Edinburgh Sheriff Court.



Haddington runs sheriff and jury trials at present and we understand has capacity to continue. To do so would retain some flexibility.

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

**Response**

No: East Lothian Council does not agree.

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

(a) why you disagree, and

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

**Response**

(a) Since the Council does not agree with the proposal to realign sheriff and jury work, it is difficult to support the proposal that shrieval specialisms should be developed in Edinburgh Sheriff Court.

(b) If the Scottish Court Service is determined to pursue this idea, it should consider how court capacity will be affected and whether specialist sheriffs for Lothian and Borders need to be based in Edinburgh. There is an argument for looking at all the courts in an area as potential bases for different specialisms and sharing the business on a collegiate model rather than the very centralised model proposed. This would still offer the desired efficiency and effectiveness of specialisation. On the minus side, court users would still have to travel (but they would have to travel anyway).

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

Please give reasons for your answer.

**Response**

Inasmuch as it would affect Haddington Sheriff Court, please see paper apart.

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

Please give reasons for your answer.

**Response**

Inasmuch as it would affect Haddington Sheriff Court, please see paper apart.

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

Pages 34 to 36 of the Consultation Paper.

### Proposal 3

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

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

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

**Response**

East Lothian Council does not wish to offer a view on this proposal.

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

(a) why you disagree, and

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

**Response**

n/a

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

Please give reasons for your answer.

**Response**

n/a

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

Page 37 of the Consultation Paper.

### Proposal 4

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

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

**Response**

East Lothian Council does not wish to offer a view on this proposal.

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

(a) why you disagree, and

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

**Response**

n/a

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

Please give reasons for your answer.

**Response**

n/a

## Sheriff courts with low volumes of business

Pages 38 to 40 of the Consultation Paper.

### Proposal 5

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

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

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

#### Response

The proposal to close Peebles Sheriff Court would put additional pressure on Edinburgh Sheriff Court. The Court Service could look more creatively at redrawing court boundaries as this affects Haddington in part. See paper apart.

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

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

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

#### Response

n/a

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

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

**Response**

The transfer of business from Peebles to Edinburgh would presumably add to pressure on Edinburgh Sheriff Court. This would have an adverse effect on its capacity to deal with business from East Lothian if its proposal to close Haddington Sheriff Court were carried through (which proposal the Council opposes and we deal with more fully elsewhere).

## Sheriff courts in proximity to each other

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

### Proposal 6

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

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

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

**Response**

No: East Lothian Council opposes the proposal to close Haddington Sheriff Court.

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

(a) why you disagree, and

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

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

**Response**

Please see paper apart.

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

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

**Response**

Please see paper apart.



## Sheriff court district boundaries

Page 46 of the Consultation Paper.

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

**Response**

Please see paper apart.

## General Questions

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

**Response**

Please see paper apart.

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

**Response**

Please see paper apart.

F

# SHAPING SCOTLAND'S COURT SERVICES – CONSULTATION

## PAPER APART - part of East Lothian Council's response

### Summary

East Lothian Council is opposed to the closure of Haddington Sheriff Court.

The Council shares the Scottish Court Service's enthusiasm for an integrated model of court provision alongside other services. The Council advises that current arrangements in Haddington follow just such a model, and that to dismantle it would be counter-productive and damaging to the delivery of other services.

The Council believes that the Scottish Court Service's proposals for closure take insufficient account of the financial cost to the rest of the public sector (in particular to this Council) and to other stakeholders, nor of the social costs to our communities. Closure would occasion a cost to the Council of a minimum of £40,000 every year.

Being 18 miles away from the court to which its business would transfer, Haddington is at the outer edge of the 20 mile limit chosen (apparently arbitrarily) by the Scottish Court Service for this exercise. Combined with the high level of business currently being carried out by the court, this justifies reconsideration of the closure plans. **Haddington would be the busiest court to be selected for closure, at the furthest distance from the court to which its business is being transferred.** The Council believes this would be a harmful step for our communities.

### Details

Set out below is a detailed narrative of the Council's reasons for opposing closure.

1. **Justice being done and being seen to be done** within the local community and sensitive to local issues.

- 1.1. **Under the Local Government in Scotland Act 2003, the Council has the power to advance community wellbeing. The Council contends there is value in having a local court sensitive to local issues and local history, where a sheriff, prosecutors, defence and other solicitors have some knowledge of local circumstances, local conditions, local families and local concerns.** This is relevant not just to criminal cases but to the civil work undertaken at Haddington around child welfare through Child Protection Orders and Adoption/ Permanence work. The Council takes very seriously its duties as corporate parent.

- 1.2. **Removing the JP court would take cases out of the local area.** Travelling to Edinburgh is likely to be inconvenient for many East

Lothian JPs and the Council would anticipate recruitment/ retention problems.

**1.3. Value for local community seeing reports of cases in their area.**

Since local newspapers would be unable to report cases heard in Edinburgh to the same level as they do in East Lothian, (see also under paragraph 10.8 below), local communities would not have the same opportunity to see justice being done.

**1.4. Value of local disposals** The Council's delivery of a community justice service keeps relevant disposals local to our communities. We need sheriffs who understand the value of local disposals. Local disposals also have an economic effect: people who are doing community service locally use local transport and local shops, and ultimately benefit the local community.

**2. Benefit of good working relationships**

In the consultation paper, SCS says it would like to develop and replicate the model of "Livingston Civic Centre" (also known as West Lothian Civic Centre), where court services are co-located with a number of local service providers such as the Council. This is a model which we have enjoyed and benefitted from in Haddington for many years. We are pleased that SCS promotes it in principle, and equally we would urge SCS not to dismantle it in practice here in East Lothian. We have the Sheriff Court co-located with the Council Headquarters in Haddington, with the premises of both the Procurator Fiscal and the police close by. These are based within historic buildings in Haddington's townscape, and their proximity to each other means that a new-build (such as exists in Livingston) has not been required. With the new single police structure for Scotland, there are opportunities for closer strategic links between key police officers and the Council through further co-location: our Chief Executive has already begun dialogue to that effect with the new Chief Constable.

Good decisions partly stem from good working relationships between officers from all organisations. The Council has grave concerns that this would be lost to a great extent if East Lothian offenders have to appear in an Edinburgh court (presumably with a duty social worker from the city).

Offenders, victims and witnesses at Haddington Sheriff Court are most likely to live in East Lothian therefore staff supporting them are likely to have good local knowledge and networks and can provide quick referrals to local support organisations.

Until recently the Criminal Justice Social Work team which services the court (write reports, does court duty etc) was based in Haddington. Although the team has moved to Musselburgh, it is able to maintain the relationship through contact with the Sheriff Clerk and Sheriff, and maintaining a presence in the court. Information received from colleagues within other

council areas would appear to indicate that the volume of business which is conducted within Edinburgh does mean that there is not the same level of working relationship available that currently exists with Haddington Sheriff Court.

### 3. East Lothian’s growing population.

3.1. The population of Scotland is projected to rise by 10 per cent over the next 25 years. The population of 22 of the 32 Council areas in Scotland is projected to increase while the population in the other 10 are projected to decrease. **Significantly, the Council area with the greatest projected percentage increase in population, and one that is far in excess of the projected Scottish rate, is East Lothian, which is projected to grow by 33 per cent over 25 years.** For comparison, Inverclyde (-17 per cent) and Eilean Siar (-11 per cent) have the largest projected decreases.

*Table: General Registrar for Scotland, 2010-based population projections for Scottish Areas (Feb 2012)*

EAST LOTHIAN						
2010	2012	2015	2020	2025	2030	2035
97500	99858	103315	109263	115933	122949	129729

3.2. The number of children aged 0-15 is projected to increase in half of Scotland’s Council areas, with the biggest percentage increase again projected for East Lothian (+41 per cent). The number of people of pensionable age is also projected to rise significantly (+ 38 per cent).<sup>1</sup>

3.3. A significant part of the projected population increase will be driven by additional planned housing in the central/east parts of East Lothian: in North Berwick (500 houses), Dunbar (500 houses) and Haddington (750 houses) in addition to 1600 houses at Blindwells, 1000 at Wallyford and 450 in Musselburgh. While the Council recognises that travel on public transport from the west of the county to Edinburgh is easier and cheaper than travel to Haddington, much of the planned expansion of the county is in the eastern part, furthest from Edinburgh and nearer to Haddington.

### 4. Policing

4.1. Having to travel to Edinburgh for court cases would take East Lothian police officers away from their other duties for longer. This would mean less police visibility, and indeed less policing, within our communities. Local agencies work well together to keep East Lothian’s crime rate as low as it is; we do not want to compromise that by losing valuable

<sup>1</sup> The table reached via the following link gives more information about population projections: <http://www.gro-scotland.gov.uk/files2/stats/population-projections/scottish-areas-2010-based/j21704304.htm%23tableb>

policing time in travel to and waiting at Edinburgh sheriff court. (At present police officers can wait on standby at the station and do paperwork/answer phones etc.)

4.2. Determining bail conditions requires a degree of local knowledge if they are to be effective.

4.3. Ongoing communication/consultation on statements/productions/further enquiry is easier for police officers when the Procurator Fiscal's office is local.

## 5. Children/ vulnerable adults

We believe that moving the court to Edinburgh would have a detrimental effect on children and vulnerable adults, and worsen the service that they receive.

### 5.1. Children

**Adoption/ Permanence work:** we understand that there are already significant delays with these cases in Edinburgh and that the court there is already not meeting the timescales required. Time is critical in these factors as the window for re-attachment for these children is very narrow. The court process can already be long and slow; these children need decisions made speedily. The Court at Haddington at the moment manages to deal with permanence and adoption cases within the timescales set down by the Sheriff Principal. These time limits were set because there is ample evidence to demonstrate that the longer a child remains within the care system then the poorer the outcomes for that child. We understand there is considerable drift in the timescales at Edinburgh: we anticipate that can only get worse with an increased workload. This would be directly detrimental to the children in the care system.

**Child Protection Orders:** these are usually done in an emergency and having the court locally helps these crucial decisions be made speedily. There is often also a good local knowledge around the children/ young people and their families which helps within these situations when heard within Haddington Sheriff Court. Transferring to Edinburgh would significantly impact on the timescales around these decisions and would result in staff having to travel to court with the added delays associated with that (travel/ parking/ appointments etc). At the moment social workers are assisted by colleagues in our legal services team in court. The worry is that solicitors in that team would not be available to do this at short notice and social workers would have to deal with the potential for procedural problems, meaning possible delays in what is almost always an urgent situation. Having quick access to the court for Child Protection matters is very important.

**Children's Panel:** Children's Reporters were relatively recently transferred into Edinburgh and now all work from there. It may well be that they would find it beneficial to not have to travel to Haddington Sheriff Court. However in proof hearings the proposals would require children/ young people and their families and council staff having to travel into Edinburgh, with associated delays/ concerns/ lack of continuity of Sheriff etc.

**General** Haddington Sheriff Court does significant work with our most concerning children/ young people and their families and is often able to maintain a link throughout a case. Transferring to Edinburgh would likely mean that cases would be allocated on an 'as available' basis which would mean that this local link and knowledge would be lost.

## **5.2. Adult Protection**

ELC's adult protection officer makes application to the court for Protection Orders for Adults at Risk of Harm. There have been ten applications over the past 2 years. All require staff time.

If an Adult at Risk of Harm is required to give evidence then the team invoke the Vulnerable Witnesses Act. This business has already been moved to Edinburgh as it involves giving evidence behind a screen, and as we understand it there are no such screens in Haddington sheriff court. (This may also be appropriate for child witnesses.) As well as the screen the adult may be supported by a member of staff and an appropriate adult – again depending on circumstances. This would involve two staff members - depending on the case this could tie workers up for very short periods of time or days on end.

For Adults at Risk living in East Lothian, the benefit of attending Haddington is that it is local and less daunting than attending Edinburgh Sheriff Court. Attending court can be very intimidating with the added difficulties of not knowing the surrounding areas. Edinburgh Sheriff Court is very large and busy in comparison to Haddington and could add to the distress of the adult attending court if required and therefore affect the quality of evidence. Also public transport can be expensive.

We currently also have the facility to apply for warrants etc locally and some of these may be urgent. How accessible is court time in Edinburgh? We would need travel time there and back should we have an urgent or immediate situation that doesn't necessarily involve the police. This could further compound an already complex situation.

There are also numerous applications for Guardianship each year for Adults with Incapacity that go through the court, with similar issues in terms of staff time and cost travelling to Edinburgh.

According to the Mental Welfare Commission, East Lothian Council had the second highest rate of increase of Applications for Guardianship in Scotland last year. That will only increase further as our elderly population grows as detailed in our economic development strategy. This is a particularly

vulnerable group of court users who would find travelling to Edinburgh particularly difficult if they wanted to oppose an application; this also affects their families and council staff.

## **6. ASBOs and evictions**

Moving this business to Edinburgh would occasion extra travelling time for council officers, police, witnesses and the people affected. Currently we perceive some value in a sheriff being able to see the consistency with which our policies are applied locally. We anticipate that this would be lost in a bigger court.

## **7. Travelling time and expense**

7.1. Times given in the consultation paper for public transport journeys are only to central Edinburgh; around another 15 minutes would be needed to actually reach the sheriff court building. (Buses to Haddington stop directly opposite Haddington Sheriff Court.) Bus transport from east of Tranent is not terribly frequent: one bus being late could be critical. The lack of frequency of buses also means that it is more likely that different factions could find themselves on the same bus for a long journey with little alternative.

7.2. We have recently seen operators choosing to shrink the public bus network in East Lothian, especially in the eastern part of the county, and in our view there remains a risk of further contraction.

7.3. There is no time allowed in the consultation paper's figures to take account of potential travel disruption arising from road works and general traffic conditions. Travel from the east end of the county to Edinburgh, particularly by public transport, can mean around two hours from door to court, and costs are steep. Even travelling by car from Haddington can easily take up to an hour when factoring parking into the equation.

7.4. There are few long term car parks in and around Chambers Street. The consultation document does not mention car parking charges on top of the mileage into Edinburgh: the nearest car park to Edinburgh Sheriff Court charges £4.90 for up to 2 hours; £7.90 for 2 to 4 hours.

7.5. Although the great majority of East Lothian residents can access central Edinburgh there are many smaller communities where the residents can only access central Edinburgh by using two buses. This could create time and financial difficulties for such residents.

7.6. Witnesses have their expenses paid for them. The majority of accused do not appear from custody and must pay their own travelling expenses.

7.7. We understand that it is unlikely that local solicitors' travelling expenses to Edinburgh would be met through Legal Aid; this may lead solicitors not to take local criminal cases. If the accused cannot afford to travel to

Edinburgh to see a solicitor there, then there is a danger that access to justice will have been denied.

7.8. Families and friends of victims, witnesses and accused do not have their expenses reimbursed. Fares east of Tranent are likely to be prohibitive for people on low incomes, particularly from Dunbar (unless eligible for concessionary bus travel scheme). This has the potential for reducing family support at a time when presumably it is very valuable.

7.9. There are occasional problems at present when people from other areas are arrested and brought to Haddington, from where they are released with no means to return home. We can foresee this problem being greatly magnified (and transferred to Edinburgh) if Haddington Sheriff Court closes.

7.10. If these proposals were carried through, there would be no facilities in Haddington for the payment of small fines, and people would presumably not be able to pay in instalments the way they currently do.

## **8. Caseloads.**

8.1. It is difficult on the face of it to understand how Edinburgh can accommodate the Haddington caseloads, and all the other caseloads which would result from implementation of the proposals, without causing substantial delays. On the Council's behalf, officers sought and received information about the factors taken into account by the Scottish Court Service when assessing Edinburgh Sheriff Court's capacity. The figures received do not appear to take into account delays in hearing cases. Our perception is that delays in the progress of cases in Edinburgh are occasioned more often by non-appearance of witnesses/ police/ social work etc, and that delays in Haddington are more often occasioned by a lack of an appropriate number of sheriffs to deal with the business (for which space is available). Presumably this does not show up in the figures which only deal with timetabled cases.

8.2. There is also a perception that the Fiscal in Haddington is more accessible, which arguably helps solicitors and their clients when considering how to plead, and may have contributed to the drop in the number of trials where evidence is led in Haddington (following the summary justice reforms of 2010-11), compared to the rise experienced in Edinburgh.

8.3. The figures also take no account of the "closed court" and chambers work done with a sheriff.

8.4. Elsewhere in this response we talk about delays for Adoption and Permanence orders for children. We also understand that commissary cases take longer at Edinburgh Sheriff Court than they do in Haddington. All executries needing confirmation require to go through the Sheriff Court. This is a significant part of the court business but is



not considered at all in the consultation document. It is important to the community as a whole because there are understood to be considerable delays at Edinburgh; at Haddington they are processed in approximately 6 weeks. This releases cash into the economy for the beneficiaries, and for the Council it means that outstanding debt such as care home fees, council tax etc is rectified quickly and efficiently. That would not be the case if handled in Edinburgh. There might be hardship for families who have to wait for payment from estates.

## **9. Economic effect of closing the Sheriff Court and JP court.**

- 9.1. It is disappointing that the consultation paper characterises the economic impact of these proposals as “localised, minimal and short term”. East Lothian Council is extremely concerned about the potential impact on the economy of East Lothian more widely, and Haddington in particular. For East Lothian the economic losses are not a zero-sum exercise, whatever they may be for Scotland as a whole.
- 9.2. The Court itself employs 11 people and those jobs would be lost to East Lothian. Additional jobs would be lost in local solicitors firms and also perhaps in other areas such as the local newspaper that regularly covers 2 pages with local court reports. Those reports would be lost to the community.
- 9.3. There would of course be a huge impact on the local firms of solicitors who currently undertake court work. We understand that the legal aid rates of pay for travel will be very low and will not be worthwhile economically. Clients who pay privately would have added costs to pay for the time their solicitor has to spend travelling to court. It is generally felt that local solicitors would inevitably close particularly in the current economic climate where court departments have had to support loss making conveyancing colleagues.
- 9.4. We would see the closure of the Procurator Fiscal’s office as inevitable, and again those jobs would be lost to East Lothian.
- 9.5. The Federation of Small Businesses have told the Council that the court in central Haddington is a vital part of the town centre economy: the court’s staff and visitors spend money in central Haddington and thus help sustain the town centre. The FSB’s view as stated to the Council is that at a time when the Government has convened a Town Centre Regeneration study and are offering rates discounts to businesses which open in empty town centre retail space, closing a court responsible for significant town centre footfall is very unhelpful.
- 9.6. There were almost 2,000 cases (civil and criminal) at Haddington in 2011/2012. People coming to court – whether as accused, victims, witnesses, lawyers, family or friends attending in support of those appearing – use Haddington’s shops, restaurants and cafes. Loss of this business would have a proportionately larger effect on Haddington

town centre than gaining such business would have on Edinburgh city centre. If just three people involved with each case spent £5 locally, this would have brought £30,000 in to the local economy.

9.7. Additionally, closure of the Court would result in vacant premises in a prominent location within the town centre, which would have a detrimental effect on the town centre environment within the town and on the visitor/ shopper experience.

9.8. The editor of one newspaper told us that court closure would have a severely detrimental effect on local newspapers, because they would not be able to cover cases routinely if they were moved to Edinburgh. This editor anticipates an impact from a business point of view as research shows that the court page is one of the best-read elements of the paper. This editor feels certain that the loss of court copy would affect sales figures at a time when local newspapers are already facing an uncertain future.

#### 10. **Direct effect on the Council** of closing Haddington Sheriff Court.

As well as detrimental effects on the wellbeing of our local communities, the Council anticipates the following direct effects on its own establishment:

##### **10.1. Staff time**

The Council is a heavy user of court services at Haddington Sheriff Court – we have staff in court every day. Because the court is co-located with Council headquarters, and because of the good working relationships our council solicitors have with court staff, they can minimise the “down” time they spend at court before their case calls. One solicitor can currently cover relevant timetabled cases in Haddington over the course of a sitting day. In Edinburgh, by contrast, the potential for distributing cases across a number of courtrooms means that this would no longer be the case. For example, in Haddington the heritage court (which deals with evictions for non-payment of rent) sits on a Monday and all relevant cases can be covered on this day. In Edinburgh, the heritage court sits every day, which has the potential for requiring a solicitor for the Council for this court on different days of the week.

Some of our other officers who must come to court are not based in the Council’s Haddington HQ, but they are around 10-15 minutes’ drive away; they have the convenience of the Council HQ car park and an office base for their use if required.

The proposals would mean the addition of around 2 hours travelling time for every officer involved in a case, and further “down” time if prior cases take longer than originally timetabled.

**Rent Income Teams** – although officers try to avoid taking tenants to court for rent arrears, we still take a significant number through the process. On

occasion officers are cited to appear as witnesses at proof hearings. In the majority of cases, hearings are postponed or cancelled at the last minute and it would be costly and inconvenient for team members to travel to Edinburgh in these circumstances. Officers are concerned the proposed changes may increase the timescales from making an application for a court hearing date to the case actually being held at court.

**Corporate Debt Team** – work includes bankruptcies (creditor petitions - around 5 per annum), small claims for former tenants (around 10 per annum) and recovery of Council Tax (to facilitate the granting of inhibitions on the dependence – around 5 per annum). Members of the team will also on occasion be required to appear as witnesses in proof hearings. The requirement for solicitors and witnesses representing the Council to travel to Edinburgh would be both costly and inconvenient.

Officers currently apply to Haddington Sheriff Court for Council Tax and Business Rates' summary warrants. We usually have around a dozen a year for Council Tax (values range between £200k and £1.8 million) and around eight or so a year for Business Rates. As we have a local court, and a good working relationship with Haddington Sheriff Clerk's office, we currently have very little delay between applying for the warrant to progressing recovery action and collection of the debt. Some of our Council Tax summary warrants can be worth upwards of £1.5 million. If we had to apply to Edinburgh Sheriff Court, there would be a potential for significant delay and a negative effect on income received by the Council. There are also the logistics of securely submitting our papers to Edinburgh and collecting and delivering back to Haddington once signed. All of this would incur heavy additional costs for the Council and thus for the people of East Lothian.

## **10.2. Direct costs to East Lothian Council**

Officers have calculated that closure of Haddington Sheriff Court would result in **a minimum direct cost to the Council of approximately £40,000 every year**. This is based on the following:

- the number of (calendar) days on which officers at various grades go to court: in summary, 565 officer/ days in a year;
- salary scale and establishment costs at the midpoint of each relevant grade;
- travel time per officer to/from Haddington, allowing an hour each way;
- road journey of 19 miles each way at HMRC relief rate of 45p per mile;
- 4 hours parking (some will be more, some less) - £7.90;
- subscription to a legal post service for the delivery of court documents (around £2,000 every year).

Additional to this sum, the Council anticipates efficiencies being lost due to delays in the progress of court business. At present, it is easy enough for officers to work at their desks until their case is about to call. That would not be possible at Edinburgh Sheriff Court. The sum also does not take into

account the possibility of different cases being timetabled for different courtrooms at the same time in Edinburgh, necessitating the attendance of more representatives.

The eventual sums involved will be a call on the budgets of the relevant front-line services provided by the Council: for example children's services, social work, and the Housing Revenue Account. **The Council asserts that this is not sustainable.**

### **10.3. Effect of SCS vacating the premises**

Haddington Sheriff Court is co-located with the Council in a building on Court Street in Haddington. The Court's main entrance and the part of the building owned and occupied by the Scottish Court Service – essentially an upper portion - front directly onto Court Street. This building constitutes a significant and prominent feature of Haddington's townscape. The Council and the Court Service share some responsibilities and costs as to the fabric and maintenance of common areas. This being the case, the Council is concerned to see that SCS have estimated a backlog of maintenance of the order of £471,000 as part of its projected savings should Haddington Sheriff Court close. The Council finds it difficult to accept this figure and would wish to be made aware of what the backlog involves, especially as we will have responsibility for a proportion of the costs in relation to common areas. It is essential that these estimated savings are revised and properly quantified in dialogue with the Council.

If the Court closes, deterioration of the fabric of the building due to the premises being unused/unheated for an extended period would likely represent an increased maintenance burden to the Council. There could also be security issues with the Court being empty.

The Council has been taking steps to reduce the size of its own estate in recent years, and so it cannot be assumed that the Council would be a willing buyer.

Difficulties in the property market and the relatively large size of the Court premises, together with the shared aspect with the Council, would make this building difficult to sell or lease. The Scottish Court Service must see this as a major concern for the Council and the town, in that the premises could be vacant for some considerable time. This also means that the Scottish Court Service would not realise the capital gains it anticipates.

Should the SCS sell or lease for an alternative use, the Council would be directly affected by sharing space with the new owner/ tenant. The Council would have the right to object to change of use during the planning process.

The Council's "Adam Room", which hosts marriage and citizenship ceremonies, shares the entranceway with the Court. If the Court building were to be closed up or sold, the Council might have to consider relocating these ceremonies, with consequent costs.

**11. Anticipated improvements in technology** – e.g. video links – there is no indication of timescale for introducing that, nor of the practicalities involved. People having to go to court before these facilities are introduced, by definition, cannot benefit from them. How locally-accessible will such facilities be, bearing in mind the need for efficiency and the need to make them secure? Who will run them? We cannot see any assurance that they will compensate local people in any way for the loss of the court.

## **12. Possibility of redrawing boundaries**

12.1. There is a proposal that the business from Duns Sherriff court is to go to Jedburgh; a previous proposal to close Selkirk Sheriff Court was dropped because Jedburgh could not absorb its work. There is the mention within the document that the redrafting of Sheriff Court boundaries may be an option. With the better transport system up the A1 corridor, there is a good argument to be made that the work from Duns should come to Haddington and that Haddington should remain open as a vibrant court with sufficient business. Then Selkirk, as a court that has much less business than Haddington, could close and its work go to Jedburgh.

## **13. Summary**

13.1. In summary, Haddington is a busy court, of an appropriate scale and location for East Lothian. Closing it would significantly disadvantage the East Lothian community. Additionally, any savings for the Scottish Court Service would be translated into considerable costs for other parts of the public sector and for the local economy.

**East Lothian Council**  
19 December 2012

**Response from**

*East Lothian Council – response relates to Haddington Sheriff Court*

**For each of the Courts contained in the order, views are sought on the following matters**

**Question**

The impact the court closure will have on you/your organisation and the services you provide

**Your response**

We have argued that closing Haddington Sheriff Court does not reflect a saving to the public sector but rather a redistribution of cost. Potential savings for the Scottish Court Service through this exercise will be passed to East Lothian Council as costs and these extra costs will inevitably be reflected in the level of service the Council is able to provide to the people of East Lothian<sup>i</sup>.

1. Court closure will result in significant additional costs for East Lothian Council:

- extra travelling time and cost for officers attending court, calculated at around £40,000 per year minimum;
- extra costs in downtime for those same officers, through not being able to work at their desks if their cases are delayed; estimated at another £4,000 per year.

For the purposes of comparison with the figures above, the Scottish Court Service calculates that court closure will save £47,000 in running costs per annum.

There is also mention of a saving of £34,000 in depreciation. Depreciation is an accounting adjustment and does not represent a cash saving.

The Council remains acutely concerned about the figure of £471,000 given in the consultation for backlog maintenance. This figure represents a large proportion of the savings that the SCS must find across Scotland. The Council has some shared responsibility for maintenance in this building. We have asked several times for a breakdown of this figure from SCS but so far none has been forthcoming. The court accommodation

was recently refurbished, and we have evidence that the fabric of the building is in good condition. Therefore we are not confident that the savings quoted will be realised.

2. Impact of likely difficulties in the disposal of Haddington Sheriff Court, which occupies premises owned by SCS, contained within the broader footprint of a listed building which otherwise houses Council offices and has no separate entrance.<sup>ii</sup> Disability access to the court is provided via a lift in the Council's offices elsewhere in the building – we are happy to do this for the court but for a number of practical reasons we cannot undertake to do this for future possible occupants. High risk of failing to sell the building means a high risk that the exercise will not realise a portion of the savings SCS anticipate, but the Council and other local stakeholders will still have to carry the costs of court closure.
3. Court closure will result in a significant worsening of service from the courts, especially a deterioration in time taken to process cases in which the Council is involved. Our staff are particularly concerned about those which involve vulnerable service users, especially children and families and also adults with a range of disabilities and other needs.<sup>iii</sup>
4. Loss of “joined-up” working relationships between sheriff, court staff, Council solicitors, social workers, revenues staff, police, procurator fiscal's office and so on, which are currently facilitated by co-location within Haddington. Worsening of service as a result. The SCS praised the model of co-location in West Lothian, but these Orders will dismantle it in East Lothian.
5. Loss of opportunities for managing unpaid work (“community service”) locally, within the community – cutting both the local presentational and economic benefits of such work.
6. The Council has statutory responsibilities in

	<p>relation to community wellbeing, and therefore is qualified to express concerns that this closure will have a negative impact on the East Lothian community, particularly on vulnerable court users. Through these proposed changes, East Lothian is the only local authority area that stands to lose all of its court provision.</p> <p>7. Significant economic impact on the local area. Using recognised multipliers and taking into account the nature of this proposed closure, East Lothian Council calculates that the closure of Haddington Sheriff Court will result in almost 12 jobs lost to East Lothian, plus another 6+ as closure of the Procurator Fiscal office would seem inevitable. The job losses at the Sheriff Court will mean a loss of income to East Lothian from these employees of over £300,000 and in addition another £60,000 will be lost to Haddington from the spend generated by court visitors.<sup>iv</sup></p>
<p>The extent to which the timing of the closure will have an impact on you/your organisation and the services you provide</p>	<p>As mentioned in the Council's original response to the consultation, East Lothian's population is predicted to be the fastest-growing in Scotland over the next few years. This inevitably puts pressure on all our public services and makes closure of the court doubly unwelcome.</p>
<p>Are there any arrangements in the programming of the court business or court services or facilities you feel needs to be taken account of in the courts to which the closing court's business will transfer?</p>	<p>We would like some recognition to be taken of the efficiencies of court business not just from the perspective of the SCS but also from the perspective of the Council. We have staff in court every day. At present the solicitors on our staff can service all our court requirements in Haddington, given that they take place in two courtrooms at most. We face the prospect of multiple courtrooms in Edinburgh potentially requiring more staff to attend at the same time. We do not currently have the staff numbers to absorb this. We understand from discussions with SCS staff that programming East Lothian business to minimise these effects is not feasible.</p> <p>We are also concerned that we have seen no information on any work programme to institute video links, in respect of which there will be a lot of practical</p>



	<p>issues to resolve. We would be happy to work with SCS on this at any time, but we anticipate that the likely costs have not fully been factored in – which again will tend to have a lowering effect on potential savings.</p>
<p>Are there any areas where you consider additional or transitional arrangements are required?</p>	<p>1. We would welcome the opportunity to work together with SCS, the fiscal’s office, police etc in a planned programme of action that would allow us to manage future work in the court more efficiently, without the devastating impact that closure is going to have on our communities.</p> <p>2. In addition, the Council’s Chief Executive would be willing to negotiate a transfer of resources from the Council to the Scottish Court Service to keep the court open, including consideration of a transfer of ownership and maintenance of the building provided the court still operated from there, on the basis that this would be more cost-effective than closing the court.</p>
<p>Are there any other matters you wish to raise?</p>	<p>1. It is difficult to accept that the points made by the Council in its response to the consultation were given adequate weight by SCS in producing its final recommendations. It is also difficult to accept that proper regard was paid to the opinions of local people and organisations who responded:</p> <ul style="list-style-type: none"> <li>• 156 letters;</li> <li>• 885 postcards;</li> <li>• 341 newspaper coupons;</li> <li>• 1,466 petition signatories.</li> </ul> <p>2. Additional to the costs which will be incurred directly by East Lothian Council as a result of closure, we are concerned that the anticipated savings – which form a large part of the rationale for closure – will not be realised. With their response to the consultation, the East Lothian Faculty of Procurators included a report from a forensic accountant which concluded that the move of business to Edinburgh would also result in increased costs for the Scottish Court Service.</p>

	<p>3. Closure of the court would result in vacant building frontage in a prominent position in the town's main street.</p> <p>4. On behalf of the Council I would call for a reversal of the decision to close Haddington Sheriff Court until such time as the piloting of the relevant justice reforms has been done, to test some of the assumptions that are being made.</p>
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**Please email your response to [consultationstatut@scotcourts.gov.uk](mailto:consultationstatut@scotcourts.gov.uk)**

<sup>i</sup> If more detail is required on any of these points, please refer to the Council's response to the recent consultation, a copy of which is attached for information.

<sup>ii</sup> Photographs attached to demonstrate the integrated nature of the accommodation:

1. Court/ Council building location, at the heart of civic life in Haddington;
2. the court rooms are on the upper floor of the building, across the range of buildings in the photograph, fronting on to the main street; external access doors seen here are shared with Council offices;
3. one of three shared internal stairwells: in this picture, upstairs is the court accommodation and access to further Council offices, downstairs is the Council's Marriage Room;
4. at extreme left of photo, to the left of Sheriff Clerk's office, is door with shared use by Court and Council staff, accessing further offices and the rest of the Council building.

<sup>iii</sup> According to the Sheriff's Association:

"looking only at SCS management statistics for cases which proceed to summary trial, proof or debate, Edinburgh's work load would increase by anything up to 25% (excluding adoption and permanence applications and referral proofs). It is difficult to see this increase doing anything other than worsening the efficiency of Edinburgh against targets, whereas Haddington currently meets or exceeds its targets. It is also worthy of note that in 2011/12, only one summary trial in Haddington was adjourned through lack of court time: in Edinburgh, the corresponding figure was 538. Trials are seldom adjourned due to the failure of an accused person to attend the trial diet. Proofs in adoption and permanence applications, of which several proceed a year, usually last at least five days plus subsequent writing time. They represent a significant part of Haddington's business, and would also have to be fitted in to Edinburgh in some as yet unspecified way. Moreover, such applications are subject not to SCS targets, but to statutory constraints, any proof requiring to be within 12 to 16 weeks of the preliminary hearing. Haddington is currently able to meet this requirement, Edinburgh is not. Haddington cases would no longer comply with the statutory timetable, with possible (and expensive) consequences" *Further Comments by the Sheriffs' Association on Court Structures – June 2012*

(Council officials requested statistics from the Scottish Court Service on the time taken to progress these cases in both courts but were told the information could not be released.)

<sup>iv</sup> Attached.

Sheriff Court Closure - Haddington						
DIRECT & INDIRECT IMPACT		Source	Assumption			PF office closure
<b>1. Employment Effects</b>						
Current Total Employment	9	East Lothian Council				5
Apply Type I Employment Multiplier	1.18	SG Input-Output (2007)	reduced to account for East Lothian Impact			1.18
Direct & Indirect Job Losses	10.62					5.9
Additional job loss at East Lothian Level	1.62					0.9
<b>2. Income Effects</b>						
Staffing Budget (Resident ELC)	£ 239,616		Reside in East Lothian:	100%		not known
Apply Type I Income Multiplier	1.17	SG Input-Output (2007)	reduced to account for East Lothian Impact			
Direct & Indirect Expenditure 'lost'	£ 280,351					
or additional spend 'lost' at East Lothian Level	£ 40,735					
<b>INDUCED IMPACT</b>						
<b>1. Employment Effects</b>						
Current Total Employment	9	East Lothian Council				5
Apply Type II Employment Multiplier	1.31	SG Input-Output (2007)	reduced to account for East Lothian Impact			1.31
Direct, indirect and induced job losses	11.79					6.55
or further 'induced' job losses at East Lothian Level	1.17					0.65
<b>2. Income Effects</b>						
Current Total Staffing Budget	£ 239,616	IS/ Nomis	Assumption based on average weekly earnings (resident-based) for East Lothian	£512		not known
Apply Type II Income Multiplier	1.28	SG Input-Output (2007)	reduced to account for East Lothian Impact			
Direct, Indirect & Induced Expenditure 'lost'	£ 306,708					
or further 'induced' spend lost at East Lothian Level	£ 26,358					
<b>SUMMARY</b>				<b>SUMMARY (PF closure)</b>		
<i>Employment Effects</i>				<i>Employment Effects</i>		
Direct	9				Direct	5
Indirect	1.6				Indirect	0.9
Induced	1.2				Induced	0.7
<b>TOTAL</b>	<b>11.8</b>				<b>TOTAL</b>	<b>6.6</b>
<i>Income Effects</i>						
Direct	£ 239,616					
Indirect	£ 40,735					
Induced	£ 26,358					
<b>TOTAL</b>	<b>£ 306,708</b>					
<b>3. 'Visitor Effects'</b>						
Cases per annum	1,971	East Lothian Council				
People attached to each case	3	East Lothian Council	Average			
Spend per person	£10	IS				
<b>TOTAL SPEND</b>	<b>£59,130</b>					



