

REPORT TO: East Lothian Council

MEETING DATE: 16 December 2014

BY: Chief Executive

SUBJECT: Closure of Haddington Sheriff Court: Impact on East Lothian Council

1 PURPOSE

- 1.1 To report to Council on the impact of the closure of Haddington Sheriff Court on East Lothian Council.

2 RECOMMENDATIONS

- 2.1 That the Council notes the content of this report.

3 BACKGROUND

- 3.1 Haddington Sheriff Court (and Justice of the Peace Court) is due to close at the end of January 2015, with its business transferring to Edinburgh Sheriff Court. This follows consultation by the Scottish Court Service and an Order made by the Scottish Ministers which came into effect on 29 June 2013 giving the closure a legislative basis.
- 3.2 The Council has been very much against the closure and has made representations throughout the process. As well as the activity reflected in the Background Papers cited at the end of this report, Council Members and officers also met with local court users during the Scottish Court Service consultation, and the Council's Chief Executive made representations in person to the Justice Secretary, to the Chief Executive of the Scottish Court Service, and by email correspondence to constituency and list MSPs and to members of the Scottish Parliament Justice Committee.

4 POLICY IMPLICATIONS

Detrimental effects

- 4.1 The implications for local people and for the Council of closing the Court were set out in the Council's response to the Scottish Court Service consultation back in 2012, and in subsequent communications. The following paragraphs summarise those issues.
- 4.2 Justice will arguably no longer be seen to be done within the local community.
- 4.3 Good working relationships will be compromised between the different local agencies involved with local people affected by cases coming to court. The staff of the court and of many relevant agencies – Council, Police, Procurator Fiscal – have been based either under the same roof or within a few metres of each other in Haddington town centre. (This model of working is in evidence in the purpose-built Civic Centre for West Lothian, in Livingston, where it has been praised.) This proximity will now be lost.
- 4.4 East Lothian will no longer have a dedicated sheriff who has appropriate local knowledge.
- 4.5 The changes fail to take into account the growing population of East Lothian.
- 4.6 Council staff - solicitors, social workers, rent officers, housing officers and others - attend the Court in a number of capacities. Travelling to Edinburgh will entail extra time and cost; it will also keep them away from their substantive duties with a consequential impact on the provision of their service. (This will also apply to the Council's partners – principally to police officers required to give evidence in court.)
 - 4.6.1 The Council has at present three litigation solicitors. Haddington Sheriff Court has only one courtroom in operation (other than where a trial or proof is ongoing in the second courtroom). This means that only one ELC solicitor is required in the court at any one time. In addition to appearing in court, these solicitors provide advice and support in respect of legal issues arising from all Council departments but primarily Children's Wellbeing, Adult Wellbeing, Housing and Education. They also advise on employment issues arising across the Council. The proximity of the court to the legal team's office means that these solicitors can work at their desks until shortly before they are required and return to their desks as soon as their court appearance is over.
 - 4.6.2 In contrast, there are 15 courtrooms regularly in operation at Edinburgh Sheriff Court, scheduling different types of case in different courtrooms with overlapping schedules. It is therefore inevitable that two or three solicitors from ELC will regularly need to be in Edinburgh Sheriff Court at the same time, waiting for a variety of cases to call. Given travel time, this will mean that there may be days when all three solicitors are out of the office for extended periods. There will therefore be no litigation

solicitors available to give ad-hoc advice to colleagues on matters that may arise during those periods.

- 4.7 Delays are already in evidence at court in Edinburgh which will have a detrimental effect on the court's ability to deal appropriately quickly with cases involving vulnerable East Lothian children and adults. (There will be no direct impact on the Children's Panel in East Lothian, which will continue to sit in Tranent.) As recently as October, there were media reports of capacity problems within the Sheriffdom.
- 4.8 Council managers have been preparing for the transfer of business by seeking to organise their services to try to mitigate some of the effects listed above. For example, the Criminal Justice team have been in discussion with various partners, with a focus on ensuring that appropriate processes and procedures are in place to enable effective channels of communication, particularly the delivery of Court papers and reports.
- 4.9 If it takes longer to process cases at Edinburgh Sheriff Court, this will slow down the Council's recovery of debts. The Council typically seeks to recover through the courts debts totalling nearly £5 million each year, including council tax arrears, business rates arrears and rent arrears. Any delay will in turn impact on people who owe the Council money, who will be further in debt before a court decision is made.
- 4.10 Additionally, in the short term, I understand that the court at Haddington is as of the end of November unable to process any new small claims and summary cause actions, except in emergencies, basically until the closure of the court. This is apparently to allow their systems to be updated to allow cases lodged in Haddington to be heard in Edinburgh. This will cause a two-month backlog of new cases of this type (possibly 20 to 30 cases for the Council) before the transfer of business to Edinburgh. It will not affect the cases that are already in court. The types of case this might affect include:
- eviction actions for drug/antisocial behaviour,
 - rent arrears/ eviction from homeless accommodation;
 - small claims
 - summary cause debt actions.
 - actions for recovery of possession of land, used typically when problems have been caused by gypsy traveller encampments on land that they have no right to occupy (although these may well be treated as an emergency and processed accordingly).

- 4.11 Additionally, it has been well-documented previously that the Council believes the loss of the court will have a detrimental economic effect on Haddington town centre.

Court Premises

- 4.12 The Council is currently in discussion with the Scottish Court Service about transferring the court premises into Council ownership. There will be a requirement to maintain accommodation for vulnerable witnesses to give evidence to Edinburgh Sheriff Court via videolink.
- 4.13 From the point of view of Council accommodation, the change will present positive potential for the use of the space, as well as possible challenges as to access and security relating to the accommodation of vulnerable witnesses.

Appreciation of work of Sheriff, Justices of the Peace and Court staff at Haddington

- 4.14 A court has existed in Haddington since medieval times. The Council should record its appreciation of the work of the various Sheriffs and Justices of the Peace and their predecessors at Haddington over the years, and should thank especially the current Sheriff Peter Braid, together with the Sheriff Clerk and court staff, for their diligence in the execution of justice in East Lothian.

Potential for Reversal of the Decision to Close Haddington Sheriff Court

- 4.15 The decision to close the court has effectively already been finalised. To reverse it would require a further Order in Parliament, and there is little or no new evidence to bring to bear. However, a letter is in preparation to the new Cabinet Secretary for Justice to ask him to review and reverse the decision to close the court.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – court closure is estimated to directly cost the Council around £44,000 per annum minimum in current officers' time and expenses - without counting the possibility of having to employ further legal staff which would more than double this sum.
- 6.2 Personnel - contained within the body of the report.
- 6.3 Other - contained within the body of the report.

7 BACKGROUND PAPERS

- 7.1 19 December 2012 - East Lothian Council's response to the Scottish Court Service Consultation on Proposals for a Court Structure for the Future:
http://www.eastlothian.gov.uk/download/meetings/id/14209/0313_response_to_consultation_on_proposals_for_a_court_structure_for_the_future
- 7.2 9 May 2013 – East Lothian Council's response to Scottish Court Service Consultation on draft Orders for the closure of the court:
http://www.eastlothian.gov.uk/download/meetings/id/14536/11413_response_to_scottish_courts_service_consultation_on_draft_orders
- 7.3 20 May 2013 – written evidence to Scottish Parliament Justice Committee (one of 34 submissions they received on Haddington Sheriff Court alone):
http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/SCS50_East_Lothian_Council.pdf
- 7.4 29 June 2013 – Order closing the Sheriff Court [there was a similar Order closing the court as a Justice of the Peace Court also]:
http://www.legislation.gov.uk/ssi/2013/152/pdfs/ssi_20130152_en.pdf
- 7.5 4 July 2013 – letter to Justice Secretary to make him aware of a Council motion expressing disappointment at his decision to close the court:
http://www.eastlothian.gov.uk/download/meetings/id/14659/15813_letters_to_justice_secretary
- 7.6 28 Jan 2014 – Haddington Sheriff Court – Letter to Cabinet Secretary asking him to reconsider decision to close Haddington Sheriff Court in the light of information about business pressures in Edinburgh Sheriff Court:
http://www.eastlothian.gov.uk/download/meetings/id/15155/1614_haddington_sheriff_court-letter_to_cabinet_secretary
- 7.7 18 February 2014 – response from Justice Secretary Kenny MacAskill MSP declining to reconsider the decision to close the court:
http://www.eastlothian.gov.uk/download/meetings/id/15329/5614_haddington_sheriff_and_justice_of_the_peace_court
- 7.8 31 October 2014 - *Edinburgh Evening News* report: *Sheriff claims court "bursting at the seams"*:
<http://www.edinburghnews.scotsman.com/news/crime/sheriff-claims-court-bursting-at-the-seams-1-3589941>

AUTHOR'S NAME	Christine Dora
DESIGNATION	Executive Assistant
CONTACT INFO	ext 7104
DATE	04/12/2014