

SOUTH EASTERN CIRCUIT RESPONSE TO CONSULTATION PAPERS

ON THE PROVISION OF COURT SERVICES IN THE SOUTH EAST

The principal motive behind the movements of both the Minister for Justice, his Department and those under his control appears to be cost-cutting. The concept of economies of scale and reduction in the number of 'points of use' will inevitably, say the Government Departments, save time, save money and reduce the burden on the taxpayer for the Criminal Justice System as a whole, in particular Her Majesty's Court Service. It is an arguable point. In a climate when cost-cutting and reductions in fees are ever present in debates, Government Departments must be seen to be doing all they can.

We should not as a Circuit argue or indeed push against efficiency. The total number of hours we have all sat at court waiting, taking account of unavoidable delays by dividing the total number by 2, would still amount to a considerable amount of time. Efficiency is the key to the Bar thriving, the key to Solicitors thriving and the key to the Criminal Justice system flourishing.

However, efficiency must not be used in such a way as to effect the system which must safeguard fairness, justice and equality for all. We cannot run a fair, just and accessible justice system simply by looking at figures, nor simply by counting the cost of things in monetary value. We must look wider than that and consider the impact upon the people who use the system, the people who work within it and society at large that depends upon it, whether it likes it or not.

The Consultation papers as produced and signed off by the Parliamentary Under-Secretary of State for Justice Jonathon Djanogly MP, fail to deal with a number of issues which perhaps are as important if not more important than fiscal considerations; the Human impact.

The proposals concentrate heavily on monetary values, fiscal considerations, and net savings. If all the closures are implemented in perfect form as proposed, without any other factor influencing them, the saving will be of some £333.5 million pounds over 25 years, expressed in terms of NPV. For NPV read the following:

'The Net Present Value (NPV) is used to describe the difference between the present value of a stream of costs and a stream of benefits'

On paper, the figures seem irresistible.

Let us take at this juncture, for example, one aspect that has not been considered. It seems a bitter fact of life that those who are routinely before the Local Justices (a term which may become archaic) are those who occupy the lowest tiers of the categorisations of society. In reality, we see few Lords, Barons, Viscounts before the Courts in comparison to those afflicted with Class A drug addictions. We know through bitter experience that along with all the other problems a Class A drug addiction brings, it also brings with it distinct lack of disposable income and a distinct element of tardiness. Tell that person who is required to appear before the Local Justices that he now must take a bus which

leaves his home town at 07.30, travel on it for 55 minutes at a cost of £6.20 and arrive in the town proposed for his appearance at Court, 35 minutes before 09.00. That being the only means of transport available to him and the only service that will get him into the town before 10.00am!¹ (Perhaps it does not need mentioning that with vast numbers of cases being sent to one court the likelihood of significant waiting time for both Lawyers and Defendants will dramatically increase). One need not be a genius to see what we will have if that be the case, we will have, without fail, a warrant not backed for bail!

Let us add into the equation perhaps two other factors, one the increased costs of the Police Service in apprehending said absentee, increased costs of SERCO or Group4 in holding and transporting said absentee and potentially should the absentee be arrested on a Friday evening, Saturday Court sitting!

Let us put aside for a moment the accused. Let us consider the complainant of the matter who is similarly indisposed with abundant finances, they too must catch the bus from Harlow to Chelmsford. They too must catch the same bus in order to arrive at Court in time for Court hours, consider the ramifications if complainant and accused are travelling on the same bus at the same time!

Using this example above of the proposed closure of the Magistrates' Court at Harlow in favour of the new Courthouse at Chelmsford. Considerations which are listed above have by virtue of time and space have been shown hopefully to be worthy in their examination. Considerations which are absent in the propositions and reports produced by the Ministry of Justice do not deal with aspects other than monetary value, NPV, net profit, economies of scale etc etc. The 'Human element' is lost on the mathematicians and politicians.

There are no doubt many other examples which are personal to those Courts earmarked for closure. The exercise of studying the economics whilst ignoring the Human impact shows little regard for what the purpose of Local Courthouses exist for.

It can be seen from the proposals that not every courthouse on the South Eastern Circuit has been valued, evaluated and considered. Certain Courts are excluded from the threat of closure, most notably the courts occupied under Private Finance Initiatives (PFI). What we are not told in the proposals are A. which courts they are, B. How they perform in relation to the courts selected or earmarked for potential closure and C. the Financial implications of running and maintaining these buildings over the next 25 years and what cost, if any, is to the Taxpayer?

One would think it only fair to consider all courts. To achieve a level playing field and just comparison between Courts and their respective performance is it not better to look at ALL Courts. Without them is the mean Court usage time distorted? Is the overall costs/savings accurate if we are not factoring in those Courts? Without further detail from the Ministry of Justice it is difficult to take this point much further. Clarification and a true level playing field for all Courts and their costs would make the process more transparent.

¹ See Harlow-Chelmsford, Consultation Paper CP02/10 and Regal Busways timetable for the only services which run between the two towns which arrives in Chelmsford before Court sits. Harlow is earmarked for closure.

The Magistrates Association in their response to the proposals put forward at an earlier stage than the current round of consultation their views. Within it they make concise, valid and morally sound arguments for the maintaining of Local Justice Centres. One important factor that is raised therein and deserves a second airing herein is the success of CJSSS. The irony of the fact that a scheme designed, engineered and implemented to reduce court work and time spent on cases is the very thing which now seems to be the stick with which the Courts are beaten with. Speedier Justice, Simpler Justice has reduced the number of Court hours dramatically. As such, perhaps certain Courts which are so efficient have, by their own efficiency, signed their own death warrant.

One could continue with other scenarios and hypothetical situations but the point may be best summed up in this manner; to operate a Justice system by analysing its monetary worth and value alone ignores the very principle of Justice itself.

Perhaps not strictly relevant to the consideration of the closure of Courthouses but a matter that ought to be mentioned in the wider sphere of costs is the amounts which are outstanding in terms of confiscation orders, fines, compensation orders and unpaid legal costs. According to the Magistrates' Association as of 6th July 2010 the figure stood at £1.3 billion. When we talk of reductions in costs etc we should perhaps encourage those responsible to collect more quickly and more efficiently that which is owed! Even if the total sum was recovered at a cost of 50 pence in the pound, this would still bring in a staggering £650 million! We all need to be responsible about costs, but this sum of £1.3 billion is roughly 4 times the 25 year savings predicted by closing certain courts with enough left over to restore the 12% shaved off fees for Counsel.

We, as a Circuit, ought not to stand in the way of efficiency schemes and efforts. We should work together with those duly elected to forge a way forward that will best serve everyone. Efficiency need not bring with it, provided it is done properly, a weakening of Justice or access to Justice.