

Consultation paper on the proposed merger of the existing Shropshire local justice areas into two local justice areas

Consultation Paper

Code Number CP 16/05

13/07/05

This consultation will end at noon on Friday, 25th November 2005

**A consultation produced by Her Majesty's Courts Service, part of the
Department for Constitutional Affairs.**

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Executive summary

The proposals in this paper envisage the merging of the Shrewsbury, Oswestry and Drayton local justice areas to form the new local justice area of Shrewsbury and North Shropshire, and the merger of the Telford and Bridgnorth local justice area with the South Shropshire local justice area (formerly The Ludlow local justice area) to form the Telford and South Shropshire local justice area.

The consultation is being conducted in accordance with the statutory framework for the consideration of local justice area mergers provided by Section 8 of the Courts Act 2003. The Area Director of Her Majesty's Courts Service for the West Mercia Area is responsible for such matters and for submitting any proposals to the Lord Chancellor following consultation.

Under the proposals the rural courthouses situated at Ludlow, Oswestry and Market Drayton would be retained, and their future secured within the new local justice area structure.

The creation of the two larger local justice areas will allow greater flexibility in the deployment of Magistrates, give rural Magistrates a much greater range of judicial experience, increase public confidence, and reduce the number of Bench and panel meetings that are expensive in terms of magisterial and senior staff time.

Introduction

This paper sets out for consultation a proposal to merge the existing five local justice areas in Shropshire into two larger local justice areas. This consultation is aimed at HM Lords Lieutenant, Advisory Committees, the West Mercia Courts Board, all Shropshire Magistrates, the Liaison Judges in West Mercia, the West Mercia District Judge, the local branches of the Law Society, HMCS staff within West Mercia and Trade Unions, Civil and Criminal Justice Agencies and groups within West Mercia, Parish and Town Councils in Shropshire, County Councils and Unitary Authorities in West Mercia. A detailed list of all consultee groups is set out later in this section.

This consultation is being conducted in line with the Code of Practice on Consultation issued by the Cabinet Office and falls within the scope of the code. The consultation criteria, which are set out on page 15 have been followed.

An initial Regulatory Impact Assessment does not indicate that any groups are likely to be particularly affected as all existing courthouses in Shropshire, including the rural ones situated at Ludlow, Oswestry and Market Drayton are to be retained. The proposals are unlikely to lead to much additional cost and saving (except saving of magistrate and senior legal staff time in attending bench and panel meetings) for businesses, charities or the voluntary sector, or on the public sector. Consequently, this paper does not contain a Partial Regulatory Impact Assessment. If you disagree with this conclusion you are invited to send your reasons as part of your overall response to this paper.

Copies of the consultation paper are being sent to:

1. All Members of Parliament within the West Mercia area.
2. All County Councils and Unitary Authorities in West Mercia and all District Councils
3. All Parish/Town Councils in Shropshire (including those within the Telford and Wrekin area)
4. The West Mercia Courts Board
5. All Shropshire Magistrates
6. All Shropshire Bench Chairmen
7. The Family Liaison Judges for West Mercia
8. The Liaison Judges at Shrewsbury and Worcester Crown Court
9. The District Judge (Magistrates' Courts) for West Mercia
10. The West Mercia Judicial Issues Group
11. The West Mercia Area Judicial Forum
12. Members of the West Mercia Criminal Justice Board
13. The West Mercia Legal Forum
14. The West Mercia Area Management Forum
15. Local Law Societies in West Mercia
16. Victim Support in West Mercia
17. Witness Services in West Mercia
18. CAF/CASS secretaries in West Mercia
19. Secretaries of West Mercia Magistrates' Association Branches
20. The Trade Union representing staff in Magistrates' Courts
21. The local branch of the Justices' Clerks' Society
22. The Countryside Agency

23. HM Lords Lieutenant for Shropshire, Herefordshire and Worcestershire
24. Local Advisory Committees for Shropshire, Herefordshire and Worcestershire

However, the above list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The Proposals:

In order to fully understand this proposal it is necessary to briefly set out the background to it and the activities of the last couple of years.

1) A brief history of the situation to date

During 2002 the West Mercia Magistrates' Courts Service (as it then was) was the subject of a full field inspection by Her Majesty's Magistrates' Courts Service Inspectorate. The report was generally complimentary but a number of recommendations were made to improve service. In respect of rural local justice areas within Shropshire there was reference by the Inspectorate to "some potential consequences of retaining some relatively small benches. The choice to do so is costly to resource – for example, the servicing of at least 20 bench meetings each year. Small benches can limit the Magistrates' experience of specialist areas, and there is the prospect that repeat offenders appear before the same Magistrate".

During 2003 the West Mercia Magistrates' Courts Committee commissioned a report on the number of local justice areas within West Mercia. A detailed consultation exercise was carried out on the basis that, whilst there would be no changes in Herefordshire and Worcestershire, the local justice areas in Shropshire should be reduced to two.

The consultation was favourably received by local Magistrates, local authorities, and criminal and civil justice agencies, as consultees recognised the creation of the two larger local justice areas would lead to greater magisterial court experience; far greater flexibility in the deployment of magistrates, a reduction in the number of meetings that magistrates and staff had to attend, and the preservation of the rural courthouses. As a result of this consultation, the MCC decided to recommend to the Lord Chancellor that two local justice areas in Shropshire should be created, one called the Shrewsbury and North Shropshire local justice area (merging the existing local justice area of Shrewsbury, Oswestry and Drayton) and the other called the Telford and South Shropshire local justice area (merging the local justice

area of Telford and Bridgnorth with the South Shropshire [formerly Ludlow] local justice area). It was made very clear that the merger of the local justice areas would not affect the continued existence of the rural courthouses situated at Ludlow, Oswestry and Market Drayton.

Unfortunately, although the West Mercia Magistrates' Courts Committee made the recommendation to the Lord Chancellor that the above mergers take place, it was not physically possible to implement those mergers before the change in the law on 1st April 2005. From 1st April it is now necessary to comply with the new requirements for consultation as set out in section 8 of the Courts Act 2003. It is therefore, necessary to consult again under this new statutory framework.

The functions formerly exercised by Magistrates' Courts Committees were transferred to the Lord Chancellor on 1st April 2005 and the functions of the Lord Chancellor in relation to courts will now be exercised through a new body called Her Majesty's Courts Service. As Area Director of Her Majesty's Courts Service West Mercia, I am now the responsible officer for taking forward proposals for the mergers set out in this paper carrying out the consultation on behalf of the Lord Chancellor.

2) My proposals

Although the West Mercia Magistrates' Courts Committee has ceased to exist the issues surrounding the rural Magistrates' local justice areas in Shropshire remain.

Before making the proposals set out below I considered all the issues surrounding the possible merger of the Shropshire local justice areas. After considerable thought I am bringing forward proposals that are the same as those of the old West Mercia Magistrates' Court Committee. This is because I believe that those proposals still present the best options for Shropshire.

A feeling of considerable uncertainty has arisen in all local Magistrates, Court User Agencies and groups and also local authorities, particularly over the continued existence of the rural courthouses situated at Ludlow, Oswestry and Market Drayton. It is vital that firm and clear proposals are made to clarify the local justice areas in Shropshire, and that a new consultation exercise under the new statutory framework as set out in Section 8 Courts Act 2003 is commenced as quickly as possible.

I am therefore, proposing that:

1. there be two local justice areas within Shropshire
2. one to be called Shrewsbury and North Shropshire (merging the local justice areas of Shrewsbury, Oswestry and Drayton)
3. the other to be called Telford and South Shropshire (merging the local justice areas of Telford and Bridgnorth with South Shropshire [formerly Ludlow])

I am not making any proposals that would affect Herefordshire and Worcestershire, or the continuation of the courthouses of Ludlow, Oswestry and Drayton.

I am currently taking every opportunity to ensure the continued existence of these courthouses by, for instance, arranging for other criminal and civil justice agencies to share the use of the premises, thus ensuring that they are in constant use and that the running costs and general maintenance fall on a wider group of bodies. It is my firm intention to continue the process of supporting these courthouses on an ongoing basis.

Reasons for my proposals

The reasons for making my proposals are as follows:

1. In small rural local justice areas repeat or persistent offenders will appear before the same Magistrates much more frequently than in bigger benches. Whilst Magistrates are trained to adjudicate on the actual case before them, putting out of their minds extraneous knowledge, defendants and members of the public are not necessarily aware of this.

All trials of this category of defendant are, in actual practice, scrupulously fair. The perception by the defendant, his relatives and friends, could however be entirely different. Justice must not only be done, it must manifestly be seen to be done. The rural local justice areas in Shropshire are very small. South Shropshire (formerly Ludlow) has 16 Justices, Oswestry 26 and Drayton 21. It is therefore inevitable that repeat offenders will be tried by the same Justices. By merging the Shropshire local justice areas, Ludlow would form part of the new Telford and South Shropshire local justice area with a complement of 123, and Oswestry and Drayton would form part of the Shrewsbury and North Shropshire local justice area with 107 members. Justices in these two new local justice areas will take their turn in sitting at the main court centres and the rural courthouses.

The Merger would greatly increase public confidence because the size and flexibility of the two new local justice areas would mean that there would be a far smaller risk of repeat offenders being tried by the same three magistrates.

2. The caseload in the Shropshire rural local justice areas limits the breadth of experience of the Magistrates of those benches, particularly in the work of the specialist youth and family panels, where Magistrates have difficulty in achieving their minimum sittings required for these panels.

- The Justices in the South Shropshire (formerly Ludlow) local justice area cannot deal with known custody cases because of Human Rights Act considerations. (This is because it is not possible to construct a modern cell block within the courthouse which allows the required segregation of adults and youths of both sexes together with secure and confidential interview rooms, because of the restricted size of the building and substantial cost). They are, therefore, heavily restricted in their experience with regard to custodial cases, which have to be dealt with at Telford.
- All Justices now receive substantial compulsory training. It is a constant complaint from Justices attached to the rural Shropshire local justice areas that, because of a limited caseload, they do not obtain the regular practical experience which allows theory to be transferred to practice. Rural Justices therefore do not have an equal opportunity in relation to their urban colleagues to achieve their full potential which cannot be in the public interest.

By creating the two new bigger Shropshire local justice areas, all rural Justices could sit on a much more varied caseload, whilst the facility of local rural courthouses would still be available to the public in areas of very poor public transport.

3. Statute requires that each local justice area, however small, must have a certain number of bench or panel meetings per year. This requirement in Magistrate and staff time is a very costly resource. The Justices' Clerks and other senior legal staff are required to support such meetings, often with limited business on the agendas, and which are duplicated across a number of other local justice areas. This takes them away from their main duties of advising Justices in court.

By combining the benches in the way described it would reduce the number of meetings to be administered and would increase the range of business to be discussed.

4. Following the old West Mercia Magistrates' Court Committee Consultation of 2004, local Shropshire Justices recognised that the continued existence of the rural local justice areas could not be sustained and were depriving rural Justices of actual court experience. This has led to an evermore co-ordinated approach from local Justices who are now increasingly working together.

The merger into the two bigger local justice areas would therefore recognise a process that has started at local level but cannot be carried to its ultimate conclusion without a Statutory Instrument formerly merging the existing local justice areas. It is worth noting here that the number of magistrates on each of the new benches serving the new local justice areas would be in line with the national average.

4. My proposals contain the advantages of greater flexibility in the deployment of Magistrates and their greater court experience, together with the preservation of the rural courthouses situated at Ludlow, Oswestry and Market Drayton, which in a sparsely populated rural county with limited public transport is vital to local communities.

Judith A Cashmore-James
Area Director
Her Majesty's Courts Service
West Mercia Area

Questionnaire

We welcome a response to the following question:

- **Do you believe the proposals for the mergers and the supporting reasons present the best options for the way forward?**

Please provide reasons for your response when replying to this consultation.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (eg. member of the public etc.)	
Date	
Company name/organisation	
Address	
Postcode	
If you would like us to acknowledge receipt of your, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

How to respond

Please send your response by noon on Friday, 25th November 2005 to:

Mrs Judith Cashmore-James, MSc, DMS, FCIPD.
Area Director
Her Majesty's Courts Service – West Mercia Area
PO Box 2676
Comberton Place
Kidderminster
DY10 1WE
Tel: 01562 514001
Fax: 01562 514009
Email: j.cashmore-james@hmcourts-service.gsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.dca.gov.uk/index.htm>

Publication of response

A paper summarising the responses to this consultation will be published in January 2006. The response paper will be available on-line at <http://www.dca.gov.uk/index.htm>

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

The Consultation Criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact the Department for Constitutional Affairs Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622, or email him at: consultation@dca.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

Laurence Fiddler
Consultation Co-ordinator
Department for Constitutional Affairs
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under **the How to respond** section of this paper at page 13.

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13/07/2005
CP 16/05