

# The Delivery of Justice Services in the Scottish Borders

Report on the joint feasibility study

June 2014

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# 1. Executive Summary

This report sets out the findings and conclusions of the study set up to assess the most efficient, effective and economically advantageous method for future provision of an integrated justice service for the Scottish Borders. The study comes at a time when the Scottish legal system has embarked on the most significant changes in well over a century. Civil and criminal justice will be reformed in the coming years following the legislation – Court reform and Criminal Justice Bills – emerging from the reviews conducted by Lord Gill, Lord Carlaway and Sheriff Principal Bowen. The study also comes at a time when public sector funding is under real pressure.

As the Scottish Court Service recognised in the response to the Shaping Scotland's Court Services, we need a court structure than does three things:

- Reflects the planned reforms to the justice system
- Improves facilities and services for court users
- Is affordable in the longer term.

There are no easy answers. They are difficult things to balance.

Against that background, it was necessary that the study did not direct itself to one or other fixed model for delivery.

The work of the study was directed towards gaining a clear understanding of the Scottish Borders – its people and services. As well as accessing statistical information the study focused on gaining insight from people in those organisations who deliver services.

All council areas or jurisdictions in Scotland have their own distinctive features. The Scottish Borders has defining characteristics as to size, geography, population, profile and demography and socio economic composition. It has also a real passion for delivery and working together within its justice service organisations. The study comprehensively tested the justice centre model in the context of the Scottish Borders as well as rigorously examining other options. There is no doubting the appropriateness of the justice centre concept in the right setting. That remains the SCS position. It is also clear however that Scotland's communities do not lend themselves to a one size fits all approach – and that the work of the study has allowed a fully informed conclusion to be reached.

## Conclusion

The unique Scottish Borders' profile and services is most feasibly and suitably responded to by an integration of services that combine the location of the Sheriff and Justice of the Peace Courts in Jedburgh and Selkirk with the justice reform programme and the potential application of networked services and technological innovations. This will build on the passion for working together and innovative service solutions which deliver the right services, right places, right time in a connective and cohesive way.

## 2. Background

In August 2013 a study group was set up to assess the most efficient, effective and economic method for the future provision of an integrated justice service in the Scottish Borders. The study group included representatives from:

- the Scottish Court Service (SCS),
- Scottish Borders Council (SBC),
- Police Scotland,
- Crown Office and Procurator Fiscal Service (COPFS)
- Lothian & Borders Community Justice Authority.

The study emerged from discussions SCS had held in 2013 with SBC, COPFS and Police Scotland following completion the SCS consultation on Shaping Scotland's Court Services. At that time SBC had published its Single Outcome Agreement and the recently merged Police Scotland was completing an *Asset Management Review*. All of these key drivers for change provided a unique opportunity to work in collaboration with partners to consider what would be the most effective and affordable integrated service delivery model for justice in the Scottish Borders. It provided a platform for all partner organisations to come together, with knowledge of their own individual strategic objectives to undertake a review of all options designed to serve Scottish Borders in the future by providing a whole systems approach to the delivery of justice.

At the outset, the study group agreed that there were no preconceived models for what might be the best solution. The options to be explored comprised:

- **Justice Centre or Centres**

In '*Shaping Scotland's Court Services*', the SCS long term vision for a future court system included a provision that justice centres should serve the main population centres of Scotland, with highly specialist and comprehensive facilities in support of the more serious criminal and civil business – with a wider network of smaller court facilities providing access to summary justice.

A justice centre, or centres in the Scottish Borders of this type would therefore deal with solemn crime (where trials are heard by a jury) and the more complex types of civil business. It would provide local access to specialist services associated with that type of business; for example, co-located justice organisations – COPFS, police and witness services – and on site access to social work provision.

- **A hub and spoke model**

Under this type of model, a smaller scale centre or centres would be provided, and while not having a full range of specialist facilities and services within the precincts of the centre, would provide ready access to justice organisations and supporting facilities.

The development considered here was the potential for the hub location to be in Galashiels, retaining Jedburgh as a satellite court.

- **Develop and exploit facilities at Jedburgh and Selkirk**

Under this option court business would continue to operate from the locations of Jedburgh and Selkirk from 31 January 2015.

- **Technology solution**

The study group recognised that for any or all of the above models there would be an additional focus on using ICT to make best use of emerging technology solutions to improve customer experience, minimise inconvenience and deliver solutions designed to provide access to justice.

In the Shaping Scotland's Court Services consultation and response, the SCS vision included applying technology to carry out procedural and administrative transactions and, where appropriate, appearance through live video links. SCS will have by January 2015 established video link sites in Peebles and Duns to enable vulnerable witnesses to give evidence via live link. SCS also provide for a range of on-line applications including electronic application for Powers of Attorney and payment of financial penalties.

Key elements of the SCS vision are that:

- Only matters requiring judicial process should be brought within the courts system and so far as is consistent with the interests of justice, procedural stages ought to be dealt with in a way that does not entail personal appearance in a court room
- The first choice for the conduct of administrative business should be through technology – electronic, web based, telephone and video links
- Where appearance before a court is necessary, as many participants as possible should be able to appear through live video link

The Scottish Borders forms part of a Scottish Government project for the roll out next generation superfast broadband. The programme is due for completion in 2016/17 and which will cover 93% of premises in the Scottish Borders. This programme will greatly improve digital connectivity in the area.

## Study Approach

The study included the following key components:

- Analysis which included:
  - considering population level, distribution, transport and geography in the Scottish Borders;
  - examining business levels and demand;
  - examining the present service from the perspective of different user groups and identifying the point or points at which the user might make contact with a service provider;
  - mapping the current locations of courts, justice agencies and other types of service provision.

Further details of the information examined is included in **section 3** of this report.

- Engagement with stakeholders

As part of determining the most effective and feasible model, the study group recognised that it was vital to engage with those who deliver the service at the front line. A stakeholder engagement event was held in March 2014. Those organisations delivering services were invited to give their perspective on how well the existing service model operates and potential ways of improving this. A report on this event and a list of organisations represented, is at **Annex 1**.

- Assessment of options

The options were evaluated against the criteria of access, efficiency, affordability and integration. The detail of this assessment is set out at **section 5** of this report.

- Drawing conclusions and identifying next steps
- Finalisation of report.

## **3. Scottish Borders – an overview**

### **3.1 Geography and population distribution**

The Scottish Borders area is 1,827 square miles, and is located in the South East of Scotland.

It is a rural local authority where 30% of the population lives in settlements of fewer than 500 people or in isolated hamlets. The largest town is Hawick with a 2011 Census population of 14,029, followed by Galashiels with 12,604. The only other towns with a population of over 5,000 people are Peebles, Kelso and Selkirk.

The 2011 Census showed that there were 113,870 people in the Scottish Borders.

Between 2010 and 2035 the National Records of Scotland projects a 10.6% increase in population for the Scottish Borders taking the population to a figure of 124,824. The proportion of children and young adults in the Scottish Borders population is projected to increase modestly. The proportion of pensioners is projected to increase substantially, particularly the proportion of the very elderly, which is expected to double. However, the proportion of over-thirties and older working-age people is projected to decline; after the blip of the “baby boom generation” has passed from the population pyramid, the increase in the proportions of older people is expected to even out. Despite this, numbers of older people will remain high, due to people living longer.

Scottish Borders is one of the most sparsely-populated regions of Scotland. According to the 2011 Census, the population density for Scottish Borders is 0.24 persons per hectare, which is lower than the Scottish average of 0.68 persons per hectare. It makes Scottish Borders the 6th-equal least-populated region in Scotland, alongside neighbouring South of Scotland region Dumfries & Galloway. The only mainland Local Authority areas with sparser populations than the South of Scotland regions are Highland and Argyll & Bute; the remainder are island regions. This has an implication on the model for service delivery. A geographically distributed population, frequently in settlements of low numbers, brings particular challenges - how to find a universally tailored provision and at the same time scale investment to a realistic level.



## 3.2 Transport in the Scottish Borders

Transport and travel patterns within the Scottish Borders are directed by the region's rurality and settlement pattern which is based on a range of small towns and villages.

The Scottish Borders' transportation network is based on its road network and public transportation system. The key north-south routes i.e. A1, A7, and A68 are trunk roads and have been subject to some significant improvements in the past whereas the east-west routes are less direct and in need of further improvements.

The geography of the Scottish Borders means that car transport is often more practical than using public transport. This has led to relatively high levels of car ownership and lower levels of use of public transport by the Borders population as a whole.

The table below shows that the Scottish Borders has a lower proportion of people journeying to work by public or active transport<sup>1</sup>, according to the Scottish Household Survey.

Percentage of journeys to work made by public or active transport		
Year	Scottish Borders	Scotland
2005-2006	25.8%	30.8%
2007-2008	18.6%	30.5%
2009-2010	28.0%	30.4%

Source: Scottish Neighbourhood Statistics

A significant number of people will have limited access to a car for various reasons because they are:

- Young;
- Disabled;
- Unable to drive;
- Unable to get access to or afford to run a car because of low income and/or unemployment.

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<sup>1</sup> Active transport is a type of transport which implies a degree of physical activity.

This means that they are reliant on public transport. With no rail network links until 2015 to the Scottish Borders, there is reliance on bus travel for those who have to use public transport.

The strategic public transport network in the Scottish Borders is based on bus routes. These routes relate to three hubs. Firstly there is the Central Borders with regular (one hourly or two hourly) services linking the main towns of Galashiels, Selkirk, Melrose, Hawick, Jedburgh, and Kelso. Secondly there is an eastern Berwickshire hub focusing on Eyemouth and Duns and thirdly, a western hub based around Peebles and Innerleithen. There are less frequent but regular services linking the main settlements within the eastern and western hubs particularly during the day. There are also regular public transport links between these hubs particularly in day time. The majority of public transportation routes are provided by private bus companies, although most routes operate with subsidies provided by Scottish Borders Council. There are some additional town services in some of the major settlements.

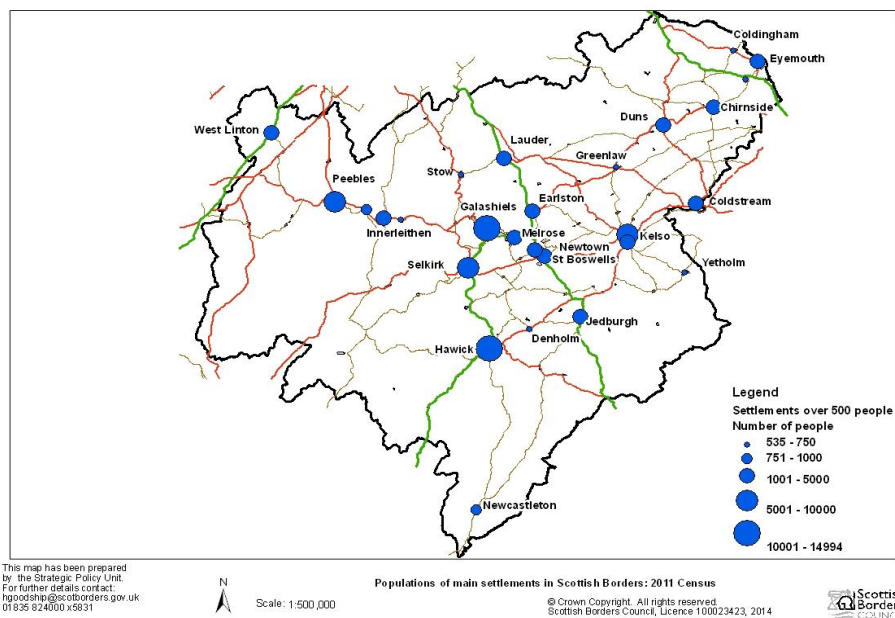
Public transport links from more rural areas into the main settlements within the hubs are limited.

There are a range of public transport services north/south routes based on the A7, A68, and A1 that link with Edinburgh, Carlisle and Berwick which have relatively frequent services (half hourly, one hour or two hourly services).

The Borders Rail Project which will provide a rail link between Edinburgh and central Borders is due to open in September 2015. It will provide frequent half hourly services to and from Tweedbank, Galashiels and Stow to Edinburgh. To take account of this service, Scottish Borders Council is currently reviewing with private operators the bus network in the Central Borders and links with other parts of the Scottish Borders.

### 3.3 Geographical spread of population

The spread of population in the Borders is shown in the map below (also reproduced on a larger scale in **Annex 3**). Actual population numbers by settlement or local area, according to the 2011 Census, are shown in the table below.



**Population By Settlement / Local Area – 2011 Census**

Population By Settlement/ Intermediate Datazone

All people (numbers)

<b>Scotland</b>	<b>5,295,403</b>
<b>Scottish Borders</b>	<b>113,870</b>
Newcastleton & Teviot Area	3895
West Cheviot area	2802
Hawick	14029
Jedburgh	4030
Ettrick, Yarrow and Yair Area	4314
East Cheviot area	4078
Selkirk	5784
St Boswells & Newtown Area	4390
Melrose & Tweedbank Area	4227
Kelso	6320
Galashiels	12604
Innerleithen & Walkerburn Area	5014
West Linton & Broughton area	5230
Peebles	7975
Coldstream and Surrounding Area	2719
Earlston, Lauder and Stow area	8113
West Berwickshire	3544

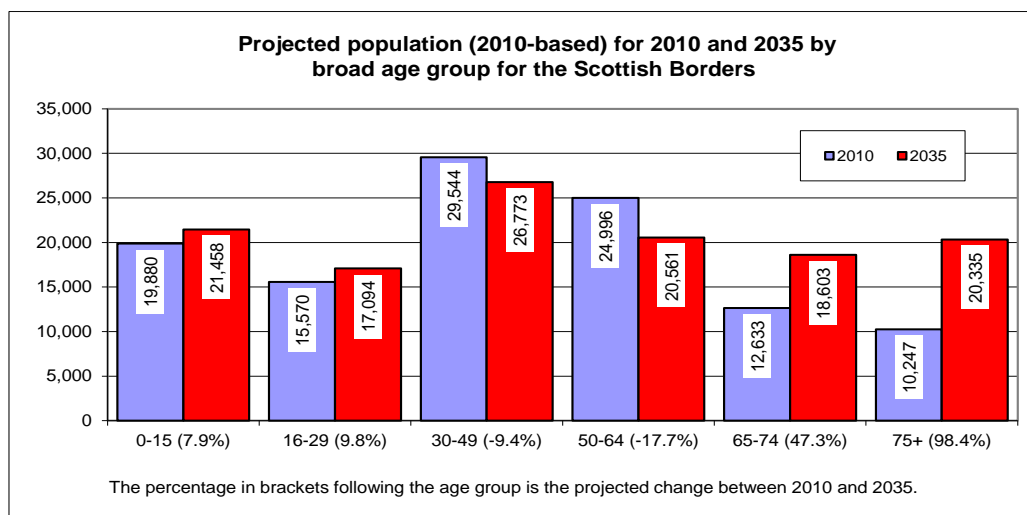
Duns	2512
Central Berwickshire	3507
East Berwickshire	5533
Eyemouth	3250

### 3.4 Socio Economic Composition

Scottish Borders has a healthy and industrious population with a higher than average rate of economic activity and a lower than average unemployment rate, despite the fact that 18.6% of adults aged under 74 are officially retired, which is again higher than the Scottish average. However, low wages, lack of employment opportunities and underemployment are on-going issues in rural areas and the 2011 Census shows that Scottish Borders has a higher rate of part-time employees and a lower rate of full-time employees than average.

The proportion of children aged under 16 is around the Scottish average at 17%. Working-age people aged 16-64 make up 62% of the Scottish Borders population, below the Scottish average of 66% and the proportion of pensioners aged 65 and over is well above average, at 20.9% in Scottish Borders compared with 16.8% in Scotland.

Between 2010 and 2035 the National Records of Scotland projects a 10.6% increase in population for the Scottish Borders; from 112,870 to 124,824. The graph below shows the projected population change by broad age group for the Scottish Borders between 2010 and 2035:



The graph shows that the proportion of children and young adults in the Scottish Borders population is projected to increase modestly. The proportion of pensioners is projected to increase substantially, particularly the proportion of the very elderly, which is expected to double. However, the proportion of over-thirties and older working-age people is projected to decline, and the increase in the proportions of older people is therefore expected to even out. Despite this, numbers of older people will remain high, due to people living longer.

### 3.5 Crime Levels in the Scottish Borders

The level of crime for the five years from 2008-09 to 2012-13 is shown on the table below.

Over these years the average clear up rate for the Scottish Borders was 59.1% compared to 49.5% for Scotland.

The recorded crime area with the least amount of change during that period was sexual offences; and 2011-12 saw the highest level recorded of 127.

#### *Number of crimes recorded by the Police and number cleared up*

Year	Non-sexual crimes of violence	Sexual offences	Crimes of dishonesty	Fire-raising, vandalism, etc.	Other crimes	Total crimes	% of crimes cleared up – Scottish Borders	% of crimes cleared up - Scotland
2008-09	110	102	1849	1579	1065	4705	62.8%	48.9%
2009-10	107	105	1508	1303	1042	4065	64.3%	49.3%
2010-11	133	106	1527	1159	818	3743	56.5%	48.5%
2011-12	125	127	1654	1096	842	3844	55.0%	49.4%
2012-13	79	97	1357	935	711	3179	56.9%	51.3%
5 Year Change	-31	-5	-492	-644	-354	-1526	-5.9%	2.4%
5 Year Change - %	-28.2%	-4.9%	-26.6%	-40.8%	-33.2%	-32.4%		

*Source: Recorded Crime in Scotland*

#### **Crime Rates per 10,000**

The level of crime in the Scottish Borders is only around 55% of the average crime level in Scotland. In 2012-13 there were 281.0 crimes per 10,000 people in the Scottish Borders, compared to 519.6 for Scotland.

The table below shows the number of crimes by type per 10,000 population for the Scottish Borders, contrasted with the Scottish average for the past five years.

## Number of crimes recorded by the police per 10,000 population and crime index

Year	Area	Non-sexual crimes of violence	Sexual offences	Crimes of dishonesty	Fire-raising, vandalism, etc.	Other crimes	Total crimes	Index (Scotland = 100)
2008-09	Scottish Borders	9.8	9.1	164.5	140.4	94.7	418.5	57.3
	Scotland	24.4	12.2	324.7	211.7	157.2	730.3	100.0
2009-10	Scottish Borders	9.5	9.3	133.8	115.6	92.5	360.8	55.4
	Scotland	21.6	12.4	295.1	179.9	141.8	650.8	100.0
2010-11	Scottish Borders	11.8	9.4	135.3	102.7	72.5	331.6	53.6
	Scotland	21.9	12.5	298.5	157.1	128.7	618.6	100.0
2011-12	Scottish Borders	11.0	11.2	146.2	96.9	74.4	339.7	56.8
	Scotland	18.1	14.0	293.7	143.1	128.9	597.9	100.0
2012-13	Scottish Borders	7.0	8.6	119.9	82.6	62.8	281.0	54.1
	Scotland	14.3	14.6	258.6	113.2	118.8	519.6	100.0

Source: Recorded Crime Statistics

## One Year Reconviction Rate

Based on the most recently available information, compared to the Scottish average, the Scottish Borders consistently has a lower reconviction rate within 1 year.

## Reconviction frequency rates of offenders released from custody or given non-custodial sentences within 1 year

Year	Scottish Borders	Scotland
2003-2004	52.1	62.0
2004-2005	58.6	61.1
2005-2006	50.0	60.1
2006-2007	56.6	59.7
2007-2008	48.7	57.1
2008-2009	47.0	57.9
2009-2010	46.6	54.0
<b>2010-2011</b>	<b>44.5</b>	<b>50.2</b>

Source: SNS

Between 2008-09 and 2012-13 the number of annually recorded crimes in the Scottish Borders decreased by 32%; from 4,705 to 3,179. Per 10,000 of population, this is 418.5 steadily decreasing to 281, again as between 2008- 09 to 2012-13.

### 3.6 Scottish Borders - business volume

For the purposes of this report, the principal sources of data relate to business which is currently dealt with in the Scottish Borders courts as a whole over a range of years of criminal and civil cases. The full tables of data available to the study group are attached at **Annex 4**.

That data illustrates the following:

- In solemn criminal business (i.e. the more serious criminal cases, where trials are heard by a sheriff and jury), the level of business is low. The number of cases where evidence was led (that is, the cases which actually went to trial and therefore requiring the attendance of witnesses) over each year of the last 3 years were respectively 19, 14 and 14, the percentage of all such solemn cases being 1% of the national total.
- In sheriff summary cases (the less serious cases which make up the bulk of Sheriff Court criminal business), the trend is downward, and again the number of cases actually going to trial is small – the numbers for all 4 courts over each year of the last 3 years were respectively 96, 85, 81. That, at best, means about 2 trials per week *spread over all 4 courts*. Again, the percentage of all such summary cases in the Scottish Borders is 1% of the national total. The position with JP Court cases is similar, with trials over the 3 years where evidence was led being 39, 32, and 30 respectively; again this is 1% of the national total.
- The level of demand in civil generally mirrors that of criminal, with figures illustrating falling case numbers over the three years, and an average of only 1 case going to proof ( i.e. where the dispute goes to the formal hearing of evidence from witnesses) per week. However, there has been a modest increase in Child Welfare Hearings or continued hearings over the three years (257, 331, and 340 respectively). The information available does not discern between new hearings and continued hearings, so it is not possible to determine the extent to which the numbers either:
  - typify the one off throughput of single cases, or whether
  - individual cases increase the numbers through repeat callings.
- Annex 4 also shows the demand on the Criminal Justice Social Work department. The information is a mix of Community Payback Orders (CPOs) and pre CPO community based disposals. The introduction of CPOs for offences committed after 1 February 2011 means that there are still some older orders being made, so annual like for like comparisons are not so clear cut. However, the total number of CPOs and pre CPO disposals shows an overall annual number of orders of any kind of 343, 328 and 241(to 17 March 2014). This is a modest decrease of orders, and is in line with a similar decrease in demand for CJSW reports (347, 341 and 292).

### 3.7 Scottish Borders Justice Services – Current Provision

The group also studied the existing service model; that is, the current locations of courts, justice agencies and other types of service location such as social work and other support and advice centres. This is illustrated on a map prepared by the SBC which is reproduced at **Annex 5**.

The map shows mostly what would be expected – that services are available generally in the higher population centres, notably Peebles, Galashiels, Selkirk, Hawick, Jedburgh, Kelso, Duns and Eyemouth. The most commonly occurring cluster of services in any single location was Solicitors, Social Work and CAB, being represented in all the 8 higher population centres. The largest single cluster of justice services is focused around Galashiels, with almost all the services represented on the journey maps located there. The one exception is a courthouse, which remains located, as most courthouses are, in the traditional seat of the county of Selkirkshire.

The Study Group considered justice service provision from the perspective of different user groups, and the point or points at which the user might make contact with a service provider. For each of these groups the Study Group mapped the requirements of the user at various stages of interaction with the most frequently accessed services.

User Group	Frequently Accessed Services
Offender	Legal Representation Social Work Translation Services Mental Health Health Police G4S Drug Addiction Employment/Training/Education Housing Scottish Prison Service Fines Enforcement
Vulnerable Witnesses including children	Children Ist Women’s Aid VSS (Witness Service) VIA Social Work / Children’s Services Health / Mental Health Housing Other advocacy services e.g. BIAS



	Translation Services
Civil Litigant – Summary Cause / Small Claim	Mediation e.g. Housing, CAB, BIAS Trading Standards Legal advice SCS (Sheriff Clerk)
Family	CAB Legal Advice Social Work
Children’s Hearings	SCRA Social Work Education / Teacher Health Police Safeguarder / Panel Members Police

The journey maps are reproduced at **Annex 6**.

For each type of person and where information was available, the group examined user characteristics such as numbers, age, geographic distribution and transport provision.

In all respects, users interact with the justice system and services in a way that does not relate solely to attending at court. In all cases, people engage with a number of services.

### **3.8 Borders Justice Services – service distribution**

Justice services are situated in main population areas with a number of outreach contact centres providing a networked type of service provision. This is not surprising given the population distribution in the Scottish Borders and means that services are easily accessible.

Some examples of the outreach services are shown below.

Service Type	Town
Contact Centre	Innerleithen Peebles Galashiels Duns Coldstream Eyemouth Kelso Selkirk Jedburgh Hawick

Citizens Advice including Citizens Advice Outreach	Peebles Galashiels Stow Greenlaw Duns Eyemouth Reston Lauder Kelso Jedburgh Newcastleton Hawick
Social Work	Peebles Galashiels Galashiels Duns Kelso Hawick

### 3.9 Financial Appraisal

In this part of the work of the study group, comparisons were drawn between the costs associated with the locations at Jedburgh and Selkirk and those which may accrue from investment in converting or building in another site – the latter costs would be associated with either the justice centre model or by adopting the hub and spoke option with the hub at Galashiels as opposed to Selkirk.

The combined annual running costs of Jedburgh and Selkirk Sheriff and Justice of the Peace Courts is £224,000.

The facilities at Jedburgh and Selkirk are fit for purpose. It is not intended that there be substantial additional investment there. It is also acknowledged that there will be a level of maintenance costs over and above the annual running costs.

The medium to longer term position will be that Jedburgh and Selkirk will deal mainly with summary crime and relatively less complex types of civil business.

In the context of examining options which include an element of creating or re-siting a court or justice centre in Galashiels, SCS instructed a review of available property and/or land search for a site or suitable building for conversion.

The design would include a provision that this would be a three court complex with provision for COPFS, Police Scotland, Social Work, Witness Services and Victim Support.

The study group recognised a potential on-cost in moving services from the existing networked provision to a different or central area e.g. staff relocation costs.

The potential for a new build implied the following:

Cost for Court Site	£280,000
Cost of Build (3 Courtroom Development) and Fit-out	£7,500,000
Assessed Annual Running Costs	£265,000

The potential lease of an existing site implied the following:

Fit-out Costs Based on Gross Internal Area of 2800 m2	£2,800,000
Assessed Annual Rental Charge	£376,749
Annual Running Costs	£265,000
Total Annual Costs	£641,749

As mentioned above maintaining and running the existing Selkirk and Jedburgh Sheriff and Justice of the Peace Courts costs £224,000 per annum.

As the potential costs (whether build or adapt) show, the price of investment has to be a consideration. As well as questions of affordability, there is also the need to invest whatever money is available in a way that derives maximum value for the Scottish Borders.

## 4. Findings

This part of the study identifies the features emerging from the analysis of geography, population, services etc. and what those features imply for models of service delivery.

All areas have their own particular characteristics. The Scottish Borders is uniquely positioned in the areas of size, population (distribution and age profile) transport and service distribution and the relationships between them.

### Population – distribution and profile

In terms of size of population, the Scottish Borders is relatively low. It comprises around 2% of Scotland's overall population. This in itself will have a bearing on the scale of services provided.

Another defining feature is the distribution of population, not only across a large land mass but in many small settlements only a few of which have a population exceeding 5000. This has a significant bearing on service model design. There are real challenges in reconciling local accessibility, scale according to need and financial viability and affordability.

The composition of the Scottish Borders population in terms of age and socio economic make up is not calculated to generate substantial levels of crime and litigation. The predominate age is 50 or over. The Scottish Borders has a healthy and industrious population with a higher than average rate of economic activity and a lower than average unemployment rate. This is a generalised description and it is acknowledged that there will be localised areas of relative deprivation.

Looking to the future, while population is expected to grow, the growth will be largely attributable to the older age group.

### Transport

In some respects, transport in the Scottish Borders could be seen as analogous to other kinds of service provision. It is evident that there are competing priorities between transport services and their frequency and routing and the distribution of the Scottish Borders population – with considerations as to accessibility, scale, financial viability and affordability.

### Justice Service Demand Levels

The levels of demand are largely a reflection on the size of population – generally the demand of the Scottish Borders is 2% or less of demand across the courts, in line with its population size. The trend in both criminal and civil business is downwards.

## **Justice Services in the Scottish Borders**

There are two main features emerging from the current model of service delivery. One is the distributed nature of existing services. The distribution of services is broadly equated to the distribution of the population. The second key feature relates more to the design of the service.

In this regard, the analysis of demand for justice services and the way demand is responded to is significant. The demand for services and point of need extends beyond the court buildings. There are points of engagement at stages prior to and after court for all types of persons who engage with justice. The type of service location is distributed and, in many cases, comprises small contact centres – providing a genuinely local service within the Borders context. This is the case for Council and Citizen Advice services.

## **Services in the Scottish Borders – characteristics and principles**

There were key elements of justice services in the Scottish Borders which carried weight in considering the design of services. In the Scottish Borders (as evidenced by the engagement event) there is a real passion for working together across the agencies. This combines with the fact that while the population and services are distributed, there is a strong level of what could be called local knowledge. There is a real sense of ownership of problems. The engagement event emphasised that the solution for future provision does not lie with courts alone. Early intervention and prevention is important.

## 5. Options Analysis

The options identified in the remit of the study were:

- Develop and exploit the existing facilities
- Justice Centre or Centres
- Hub and spoke (move Selkirk to Galashiels)
- Technology solution

As the work of the study group progressed it became clear that the option headed 'technology solution' was not an option itself but more of an enabling way of maximising value from proposed models. The following paragraphs outline the assessment of the suitability and feasibility of the three options.

### Criteria for Evaluation

#### Principles of Access to Justice

In this criterion the features provided for would include those set out in the Judicial Principles of Access to Justice. **See Annex 2.** In summary this would mean that a model would require to be guided by principles of accessibility, visibility (fair and public hearings), efficiency, fit for purpose facilities and affordability. As the Access to Justice principles recognise, they have to be read together.

#### Value for Money

In some respects, these criteria are contained with the Access to Justice principles. For the purpose of evaluation of options in this study, these criteria recognised the relationship between finance and the efficiency and effectiveness of the model – value for money.

#### Integration and tailoring to need

These criteria recognise that the model should be as closely aligned as possible to the following –

*“...one which delivers the right services, in the right place and a service provision which is as well connected and joined up as it can be. This means that people who engage with those services find them readily accessible and tailored to their need across the justice system and at different stages of their interaction with it”.*

This criterion recognises that service delivery extends to stages before and after as well as during the court appearance.

## Future Flexibility / Adaptability

This criterion reflects the position that whatever model applies it should provide for future Scottish Borders needs and the development of technology. This introduces the consideration of the extent to which engagement with the courts and justice services will need physical attendance in future.

## Options

### Develop and exploit existing facilities

In this model the Sheriff and Justice of the Peace Court at Jedburgh and Selkirk are retained (along with provision for vulnerable witnesses, with potential for other types of court administrative business in the vicinity of Duns and Peebles).

This option is consistent with the principles of **Access to Justice**. The rationale for this was set out clearly in the Shaping Scotland's Court Services consultation and response (acknowledging that SBC opposed the closure of Peebles and Duns). This option would therefore rank as high in its alignment.

In the context of **value for money** this option is considered to reflect a proportionality between the elements of finance (it would not call for substantial additional capital or revenue expenditure), efficiency and effectiveness in responding to the particular needs of the Scottish Borders. This option is considered to be the best aligned in terms of value for money.

The level of **integration and tailoring to need** is assessed not only in the context of the locations of Jedburgh and Selkirk Sheriff Courts but is also in recognition of the wider integrated model of service that already exists in the Scottish Borders. This option is considered to represent the best model in terms of aligning service location distribution and connection.

The level of **flexibility and adaptability** to future needs and business levels is set against a background where long term future business demand looks to be predictably reducing. While there may be limitations to physical adaptation or alteration of the court buildings themselves, there are potential technology solutions.

### Justice Centre

This study has tested the SCS model of the justice centre in the context of the Scottish Borders. It has demonstrated that there is no 'one size fits all model' for delivery and has raised the relationship between scale and profile of demand and the visibility of a centre in that context.

There is a potential viability and overall value in the model in the right setting. The question is one of fit – taking account of size, geography, profile and demand.

In the context of principles of **Access to Justice**, the proposition of a shift to a single stand-alone centre is considered to be low.

In the context of the Access to Justice principles themselves, the proposition of a shift to a single centre with the cluster of main population centres, for instance, Galashiels, would be broadly neutral. It represents for the population of the Scottish Borders the next distance between Jedburgh / Selkirk and Galashiels.

The design of a justice centre is to provide highly specialist, comprehensive facilities in support of the more serious and complex types of criminal and civil business, incorporating wider justice services. This centre would be accompanied by a network of smaller courts providing access to summary justice. The creation of such a centre would require significant capital and revenue investment. The level of serious and complex business, even of itself is so low as to call into question its viability. The proposition that there be a centre in the Scottish Borders accompanied by a provision of additional summary level courts is not sustainable for two per cent of the overall business of the courts. This option is not considered to be highly aligned for **value for money** criteria.

Would such a model be **integrated and tailored to the needs** of the Scottish Borders? It is unlikely. Key characteristics of need and the current model are the distribution to small localised areas. It is doubtful whether a centralised centre and service locations would provide the levels of contact and service that the present models provide.

As to **flexibility and adaptability** for future provision, population and trends of business imply a reduction. Increasingly, the transactions that currently take place requiring physical attendance are and will be replaced by technology / on line engagement.

### **Hub and spoke model**

The development considered here was the potential for the hub location to be in Galashiels, retaining Jedburgh as a satellite court.

In terms of **Access to Justice**, this option would be broadly as suitable as retaining and exploiting existing facilities and networks. The **value for money** criteria alignment is low when account is taken of cost and levels of business demand. The relationship between the level of investment needed and business volumes handled is disproportionate in terms of costs.

There is a potential for the hub and spoke model to be aligned to the distributed population and service providers in the Scottish Borders. In terms of both **integration and tailoring to need** and **flexibility and adaptability** there is little margin between creating a hub in Galashiels (supported by Jedburgh) and retaining Selkirk and Jedburgh.



## 6. Conclusions and Next Steps

### Conclusions

This study has explored a range of options in the context of the varied and unique characteristics of the Scottish Borders. The study has recognised the need for alignment or fit between those who require services and the model for provision. The polarities are in a sense between a specialist and centralised approach or distributed or localised provision. Having a dedicated justice centre or court located in the multiple (even larger) population settlement is not viable or sustainable. Equally, having a single central site will not be enough to meet the varied needs of the Scottish Borders.

At the end of the day it is a question of balance and fit – between the polarities as opposed to being at either end of them. Accordingly, the study conclusion is that the most feasible and suitable option is retain the existing facilities, exploit the application of technology and build a strong network across the community justice system.

**The conclusion is that the existing courts in Jedburgh and Selkirk will be maintained and exploited to the full. A single justice centre, as defined in the Shaping Scotland's Court Services consultation document, would not be appropriate.**

The following paragraphs report on the potential application of technology and networked services to ensure that those sites deliver the most effective service, informed by the findings of the study.

### Next Steps

#### Technology and Networked Solutions

At the stakeholder engagement event there was a real appetite for joint approaches across all aspects of the justice service journey in the Scottish Borders. As the study developed it became clear that there was potential for this to be aligned with technology solutions.

In the Shaping Scotland's Court Services consultation and response, the SCS vision included applying technology to carry out procedural and administrative transactions and, where appropriate, appearance through live video links. SCS will have by January 2015 established video link sites in Peebles and Duns to enable vulnerable witnesses to give evidence via live link. SCS also provide for a range of on-line applications including electronic application for Powers of Attorney and payment of financial penalties.

Key elements of the SCS vision are that:

- Only matters requiring judicial process should be brought within the courts system and so far as is consistent with the interests of justice, procedural stages ought to be dealt with in a way that does not entail personal appearance in a court room

- The first choice for the conduct of administrative business should be through technology – electronic, web based, telephone and video links
- Where appearance before a court is necessary, as many participants as possible should be able to appear through live video link

We see real potential for two ways in which the existing SBC contact centres could develop. One is the provision of **gateway advice and information centres** – a location for people to have a single point of contact and to be supported in accessing services such as SCS, COPFS, Police, Victim Support, Women's Aid and Citizens Advice Bureau. The second is to provide a technology base where court administrative services such as payment of fines can be transacted. This work will be taken forward by the SCS, SBC and justice partners – ensuring that the preferred option of this study delivers maximum benefit for the people of the Scottish Borders.

## **Annex 1 – Engagement Event**

An event was jointly hosted by Scottish Court Service and Scottish Borders Council to engage with those directly involved in the delivery of justice services on the whole systems approach in the Scottish Borders.

Delegates discussed the strengths, weaknesses, threats and opportunities of the delivery of justice services in the Scottish Borders. The feedback was analysed and assimilated with a number of key themes emerging. These were considered alongside the overarching definition of an integrated justice system. Feedback from the event is summarised below.

### **Current characteristics and principles**

The passion for partnership working within the Scottish Borders emerged as a strong characteristic. People know each other and this has led to good collaborative working with a willingness to join up early in the process.

Although the Scottish Borders covers a large geographic area with the population widely spread, there is a strong local aspect to the delivery of justice services. Clients are known to service providers which leads to good communication and consistency of service. This in turn encourages a culture of trust.

The population distribution across a number of medium sized towns is mirrored by the spread of services. This means that there is a variety of outlets and the services are not centralised. This makes the services easily accessible and the process speedier.

The local knowledge of services, geography and people as well as ownership of problems also results in better, more effective service provision.

The local press report diligently on court activity. This means that justice is seen to be done locally in and by the local community.

### **The future**

The solution for future provision was not considered to lie with the courts alone. Early intervention and prevention is important in breaking the cycle of offending and an opportunity exists to prevent people entering the system. It is also believed that having diversion to unpaid work (Fiscal Work Orders) should serve as an alternative to court appearances.

The existing court buildings require upgrading in the view of local partners. They should be better equipped with sufficient facilities for victims, witnesses and interview rooms with good access for all. The location of the courts should also be considered as the current locations are not based in the largest population centres e.g. Galashiels, Hawick. Having said that, there is a high level of attachment to the two remaining Scottish Borders courts. The concept of peripatetic courts was also suggested.

It was agreed that co-location of services, ideally within a single multi-purpose building, could enhance the quality of provision at that location – to the benefit of both service providers and users.

Opportunities to improve the use of technology across the services should be a priority. The quality of supporting infrastructure, that is, Broadband and mobile coverage, in the Borders is poor and as such there is a disincentive to use technology.

There is a real willingness across the justice services to work together and every opportunity for collaboration and sharing information should be taken.

## **Challenges**

The challenges to potential developments to an integrated justice system in the Scottish Borders identified by the delegates can be grouped into three categories – Finance, Political and Scale.

### *Finance*

It was acknowledged by the delegates that the on-going economic conditions and requirement for public sector savings would be a consideration in any proposal. There was however a suggestion that it can be appropriate to spend in the short term to save longer term.

The threat of funding to 3<sup>rd</sup> sector voluntary organisations and changes to Legal Aid were also highlighted as challenges by the delegates. There are concerns that the level of support available will be restricted and that the reduction of Legal Aid will lead to an unfair or unequal justice system.

### *Political*

Different perspectives around local and national policy had to be recognised.

The discussion groups also considered what was, in many respects, an unknown quantity – the referendum on Scottish Independence, the result and the possible consequences.

### *Scale*

The low (and decreasing) level of business in the Scottish Borders and the lack of critical mass may restrict developments. There are also concerns that centralisation to Edinburgh will lead to the loss of local knowledge, experience and ownership of the process as well as reduced reporting of court activity.

## Organisations Represented

Organisation
Berwickshire Housing
Borders Alcohol and Drugs Partnership
Children Ist
Citizens Advice Scotland
Crown Office and Procurator Fiscal Service
Faculty of Procurators of Berwickshire
Family Law Association in Scotland
G4S
Lothian & Borders Community Justice Authority
Police Scotland
Scottish Borders Council
Scottish Borders Criminal Justice Service
Scottish Borders Housing Association
Scottish Borders Safer Communities Team
Scottish Prison Service
Scottish Court Service
Scottish Women's Aid
Scottish Children's Reporter Administration
Society of Solicitors in the Shires of Selkirk and Peebles
Victim Support Scotland
Waverley Housing Trust

## Annex 2 – Provision of Access to Justice

### Principles for provision of Access to Justice

#### Preamble

- A. The following principles have been prepared in discussion between the Lord President, the Lord Justice Clerk and the Sheriffs Principal. These set out broad principles to which they require SCS to have regard in making provision of support under ss.61 and 62 of Judiciary and Courts (Scotland) Act 2008 (2008 Act) concerning the places in which courts should be located and court services should be provided. In planning for the future of the court estate, account should be taken of anticipated demands including developments in the practice and procedures of both criminal and civil business and the requirement to consult publicly and seek approval from Parliament for any substantial changes to sheriff and justice of the peace court locations.
- B. These principles should be read together. In certain circumstances one or more of the principles may need to take precedence over another. All of them must be construed within the statutory duty of the Lord President for the efficient disposal of business in the Scottish courts[1], and the responsibility of each Sheriff Principal for the efficient disposal of business in the courts within his or her sheriffdom[2]. In providing services in support of the courts of Scotland, and the judiciary in those courts, SCS cannot be asked to provide services at a cost greater than the resources made available by the Scottish Parliament for that purpose.

#### Principles

- C. The provision of services by SCS must be compliant with Article 6 of the ECHR: that is to say that it must support the determination of a citizen's rights and obligations or of any criminal charge against him or her by way of a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The manner in which compliance with this Article is achieved is not tied to the number of locations at which SCS provides its services, but it must not do so in a manner that effectively denies to the citizen access to the determination of a right or obligation in civil cases, for example, by reason of excessive cost or the inaccessibility of the venue, or effectively prevents a citizen accused of a criminal charge having a fair trial by reason of, for example, material difficulties in obtaining the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him.
- D. Subject to the efficient disposal of business, it is desirable that criminal justice be delivered locally. Quite apart from the convenience of witnesses and the interest of victims, this engages the local community in the administration of justice, including providing the opportunity to serve as justices or jurors. What is involved in the delivery of criminal justice 'locally' may vary with the level of the jurisdiction being exercised.

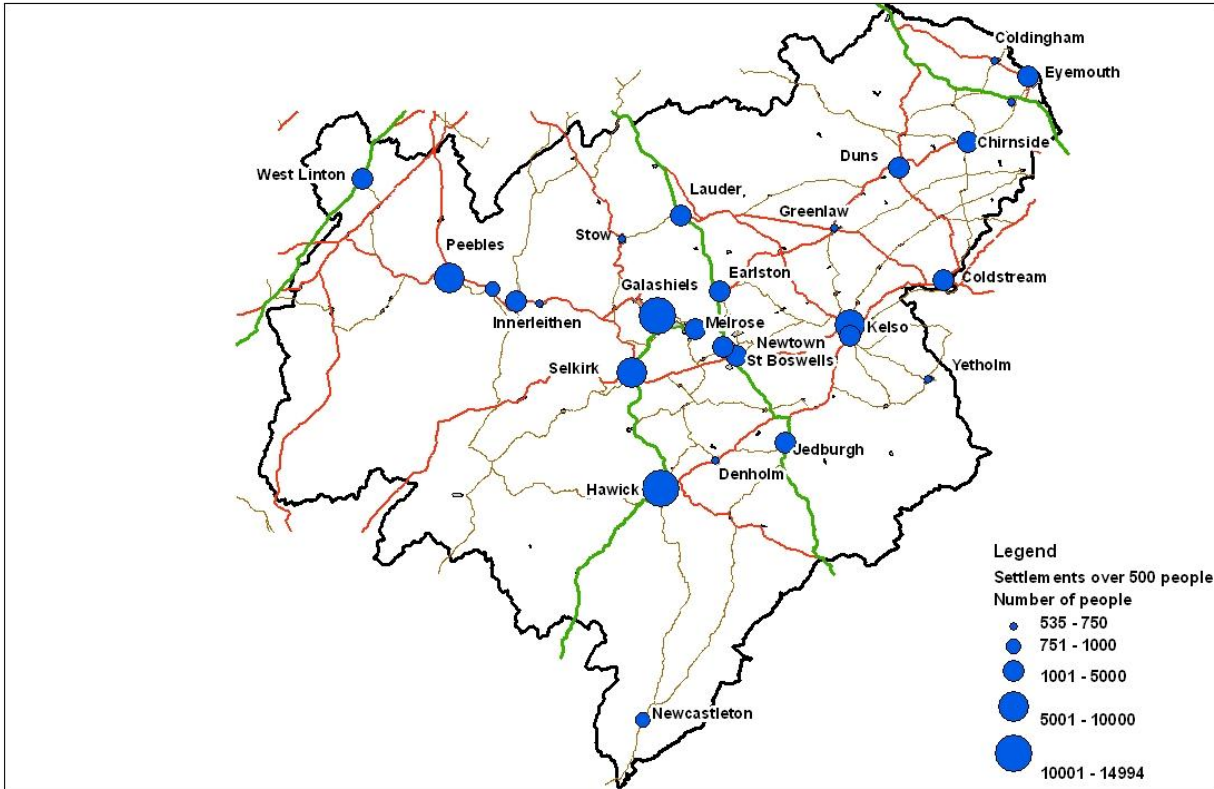
- E. The SCS should ensure that most people will be able to travel to their local court by public transport so as to arrive at the start of the case in which they are concerned, and be able to return home by public transport on the same day. That local court should as a minimum be able to hear and determine summary criminal cases and lower value, or more straightforward, civil matters. Provision of services beyond that minimum will be determined by reference to the statutory duty of the Lord President and the Sheriffs Principal in respect of the efficient disposal of business in a particular area.
- F. Within each courthouse appropriate facilities must be provided for criminal trials, civil proofs or other hearings where the physical presence of parties or witnesses is required. The use of video conferencing (for example in procedural stages of criminal proceedings or interlocutory or preliminary hearings in a civil case) which may avoid the need for parties to be physically present in a courtroom is in appropriate circumstances acceptable. The appropriateness of the use of video conferencing in a particular case must, subject to any rule of law, be a matter for the presiding judge or sheriff to determine.
- G. SCS should seek to provide services that allow the administrative business of the courts (submission of documents in civil cases, payment of fines etc.) to be undertaken without the need for physical attendance at a court or courthouse, particularly in respect of those parts of Scotland which are remote and where public transport provision is scarcer.
- H. Save where the exceptions provided in Article 6(1) of the ECHR apply, judgment should be pronounced publicly. It is important therefore that court buildings and court proceedings are publicly accessible and that the courts provide information about their work to communities or individuals with particular interest in given cases and to the public more generally.
- I. In providing the facilities for civil and criminal proceedings and in providing services to court users generally, the SCS must ensure that the accommodation or service is :
  - i.i. fit for purpose;
  - i.ii. accessible, safe and secure; and
  - i.iii. consistent with future arrangements for expenditure of public funds.

February 2012

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[1] S.2(1) Judiciary and Courts (Scotland) Act 2008 (asp 6) [2] s. 15(1) Sheriff Courts (Scotland) Act 1971 (c.58) and s61 Criminal Proceedings etc. (Reform)(Scotland) Act 2007 (asp6)

## Annex 3 – Population Distribution



This map has been prepared by the Strategic Policy Unit. For further details contact: hgoodship@scotborders.gov.uk 01835 824000 x5831



Scale: 1:500,000

Populations of main settlements in Scottish Borders: 2011 Census

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## Annex 4 – Volume Demand

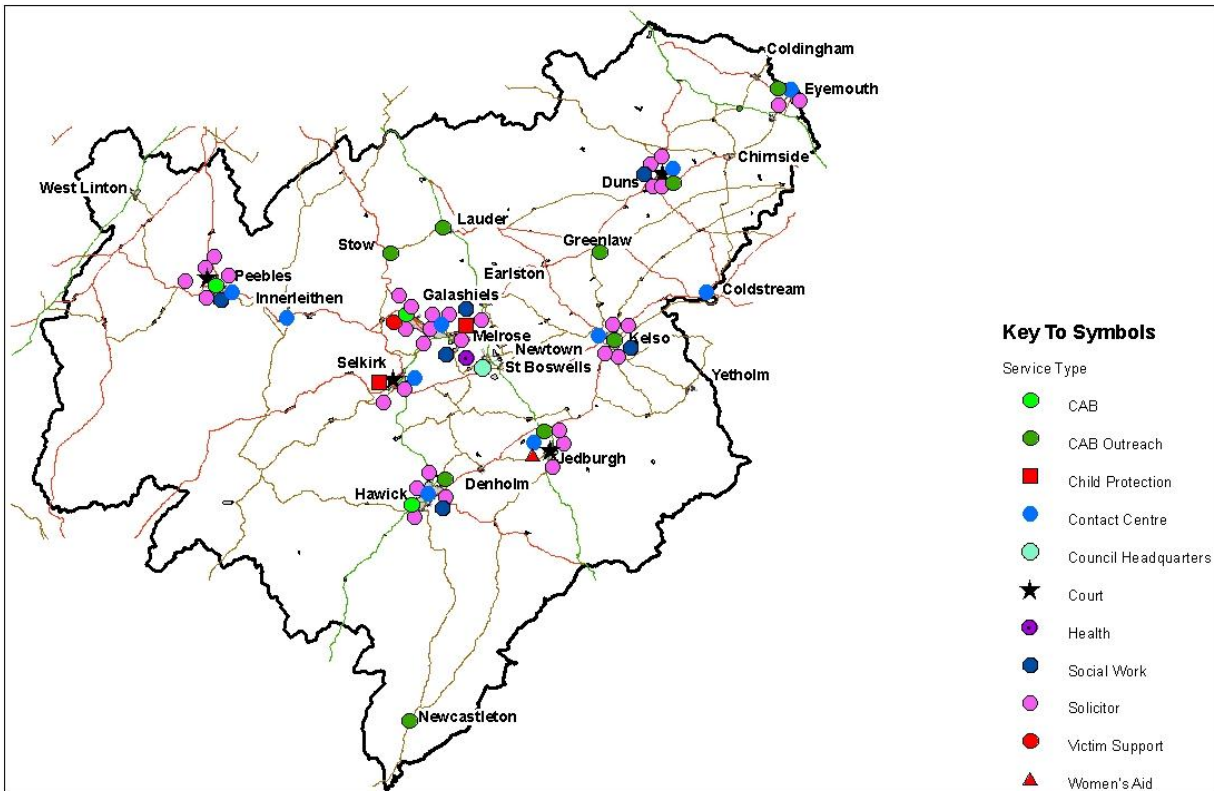
	2010-11		2011-12		2012-13	
	Total Borders	Borders Courts as % of National	Total Borders	Borders Courts as % of National	Total Borders	Borders Courts as % of National
<b>Sheriff Court</b>						
Solemn - Indictments	49	1%	39	1%	80	1%
Solemn - Trials called	38	1%	25	1%	41	1%
Solemn – Evidence led trials	19	2%	14	1%	14	1%
Solemn – Trials called per week	1	1%	0.5	1%	1	1%
Solemn - Drug Treatment and testing orders imposed	0	0%	0	0%	0	0%
Solemn - Referrals to addiction service	0	0%	0	0%	0	0%
Solemn - Community based orders	21	1%	11	1%	37	2%
Solemn - Mental health disposals	1	100%	0	0%	3	3%
Summary - Complaints	1119	1%	970	1%	878	1%
Summary – Trials called	523	1%	471	1%	436	1%
Summary – Trials evidence led	96	1%	85	1%	81	1%
Summary - Trials called per week	10	1%	9	1%	8	1%
Summary - Drug Treatment and testing orders imposed	18	3%	9	2%	14	2%
Summary - Referrals to addiction service	3	5%	51	5%	28	4%
Summary - Community based orders	209	1%	236	1%	191	1%
Summary - Mental health disposals	0	0%	0	0%	5	3%

Civil – Ordinary cases registered	661	2%	549	2%	464	2%
Civil – Ordinary proofs called	59	1%	59	2%	62	2%
Civil - Proofs per week	1	1%	1	2%	1	2%
Civil - Family actions registered	333	2%	310	2%	271	2%
Summary cause – including small claims - cases registered	867	1%	773	1%	663	1%
Commissary Inventories	567	2%	589	2%	523	2%
Social Work Referrals	48	1%	37	1%	21	1%
Child Welfare and Continued Child Welfare Hearings	257	2%	331	2%	340	2%
<b>JP Court</b>						
Complaints	1080	2%	1125	2%	936	2%
Trials called	152	1%	167	1%	181	1%
Trials evidence led	39	1%	32	1%	30	1%
Trials called per week	3	1%	3	1%	3	1%
Drug Treatment and testing orders imposed	0	0%	0	0%	0	0%
Referrals to addiction service	0	0%	0	0%	0	0%
Community based orders	4	0.3%	8	1%	4	0.5%
Mental health disposals	0	0%	0	0%	0	0%

## Criminal Justice Social Work

	2011-12	2012-13	2013-14 (to 17/3/14)
<b>Criminal Justice Social Work Reports</b> <i>Number of reports requested</i>	347	341	292
<b>Community Payback Orders</b> <i>Number of orders</i>	119	186	225
<b>Community Service Orders</b> <i>Number of orders</i>	28	5	6
<b>Probation Orders</b> <i>Number of orders</i>	43	7	0
<b>Probation Orders with a Requirement of Unpaid Work</b> <i>Number of orders</i>	18	4	2
<b>Supervised Attendance Orders</b> <i>Number of orders</i>	29	20	5
<b>Drug Treatment and Testing Orders</b> <i>Number of orders</i>	6	6	3

# Annex 5 – Location of Services in the Scottish Borders



This map has been prepared by the Strategic Policy Unit. For further details contact: [hgoodship@scotborders.gov.uk](mailto:hgoodship@scotborders.gov.uk) 01835 824000 x5831



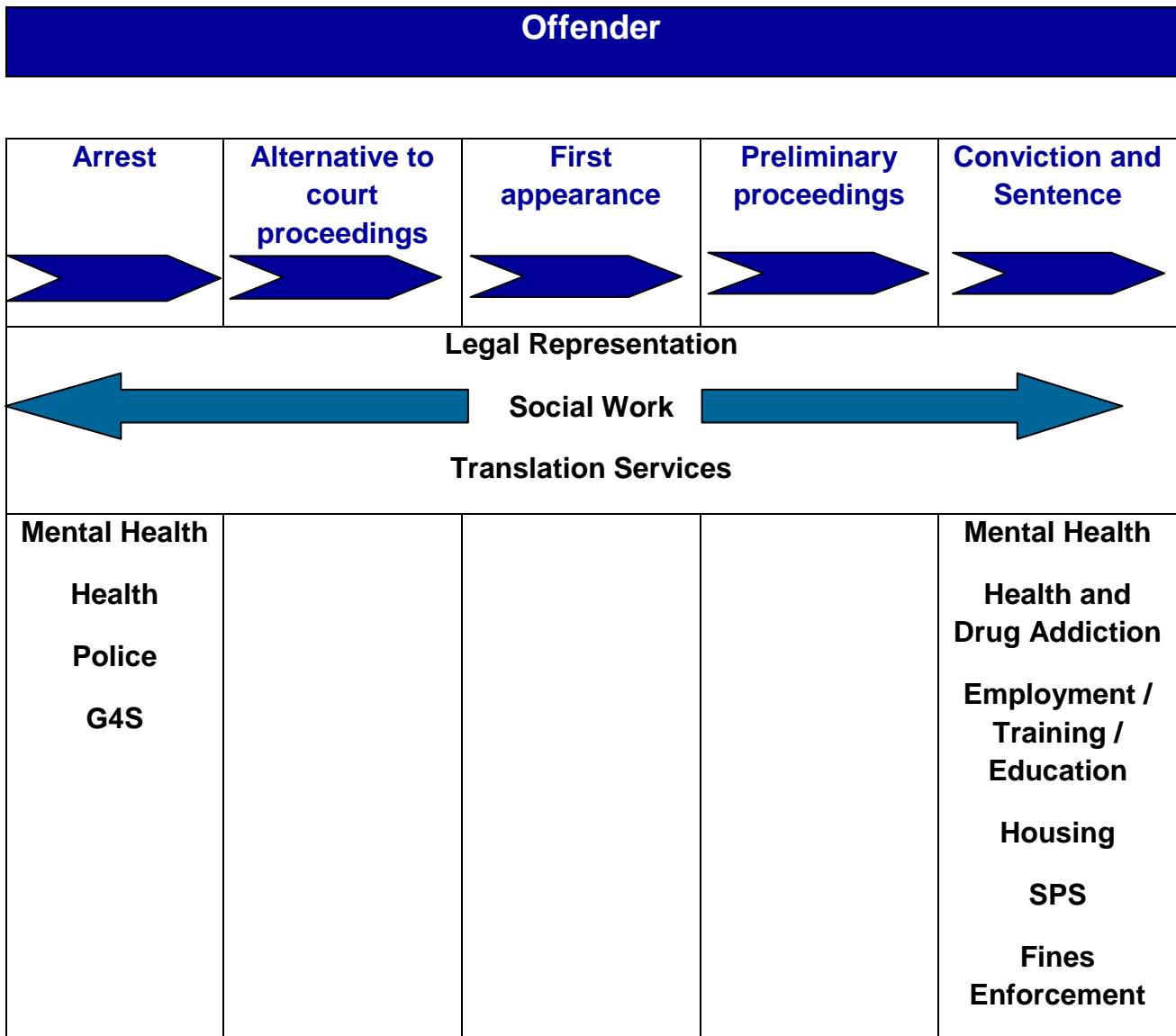
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Locations of Selected Services in Scottish Borders

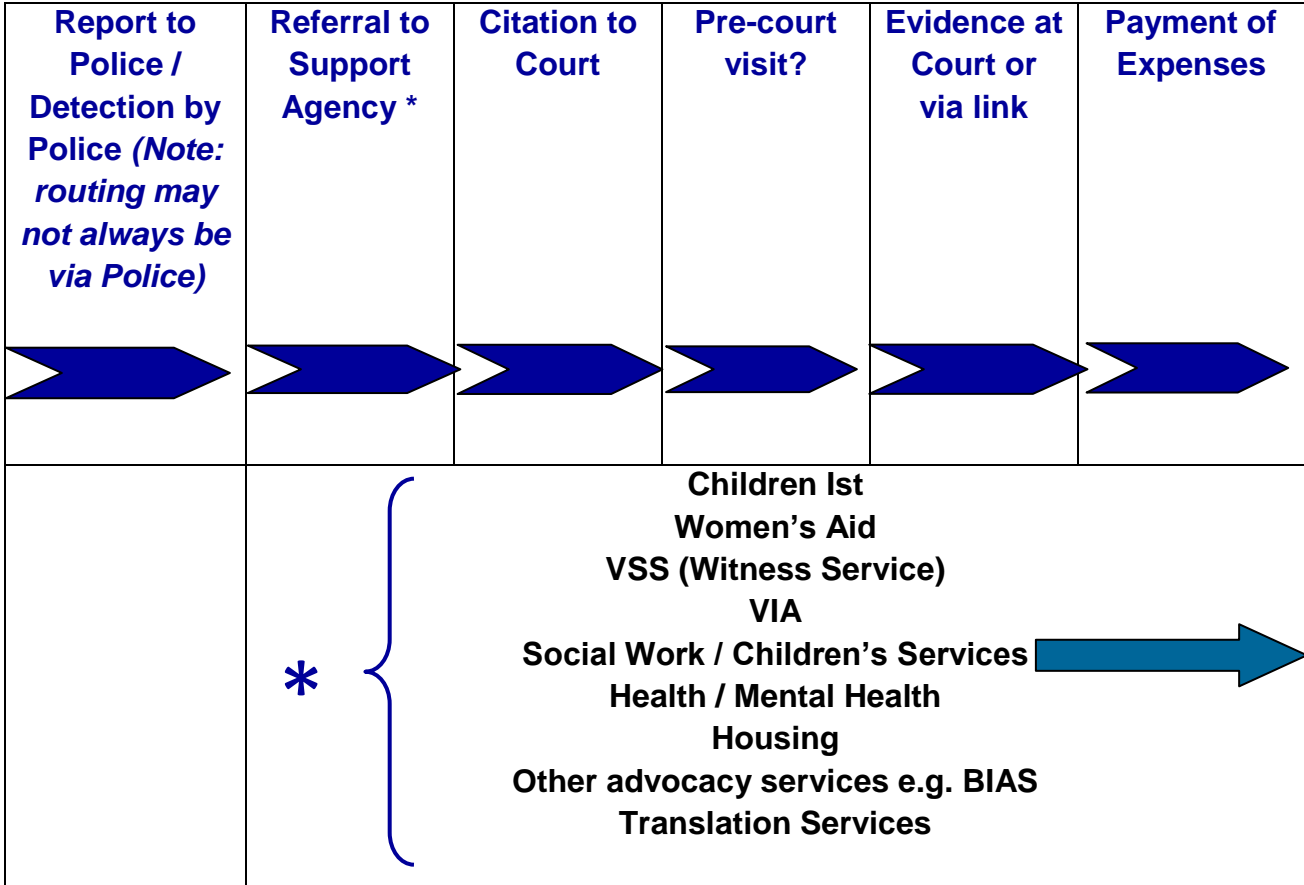
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## Annex 6 - Justice Service Journey Maps








## Criminal: Vulnerable Witness including children



## Civil Litigant: Summary Cause / Small Claim





<b>Civil Dispute Occurs</b>	<b>Advice Sought</b>	<b>Claim Proceeds</b>	<b>Preliminary Proceedings</b>	<b>Proof</b>
				
<b>Mediation e.g. Housing, CAB, BIAS</b>  <b>Trading Standards</b>	<b>CAB</b>  <b>Legal advice</b>	<b>CAB</b>  <b>SCS (Sheriff Clerk)</b>		

## Family (Children)

<b>Dispute occurs</b>	<b>Advice Sought</b>	<b>Case Registered</b>	<b>Child Welfare Hearing</b>	<b>Proof</b>
<b>e.g. divorce, separation, residence &amp; contact</b>  				
	<b>CAB</b>  <b>Legal advice</b>	<b>Social Work Services</b>		

## Children's Hearings

(Commission of offence / Care and protection)

Child or young person referred to SCRA by, for example, police, social work, teacher etc.	Children's Reporter decides if children's hearing required	Children's Hearing	Decision made and implemented
			
<b>SCRA</b>	<b>Social Work</b> <b>Education / Teacher</b> <b>Health</b> <b>Police</b> <b>Safeguarder</b>	<b>Panel Members</b> <b>Safeguarder</b> <b>Social Work</b> <b>Education / Teacher</b> <b>Health</b> <b>Police</b>	<b>Safeguarder</b> <b>Social Work</b>