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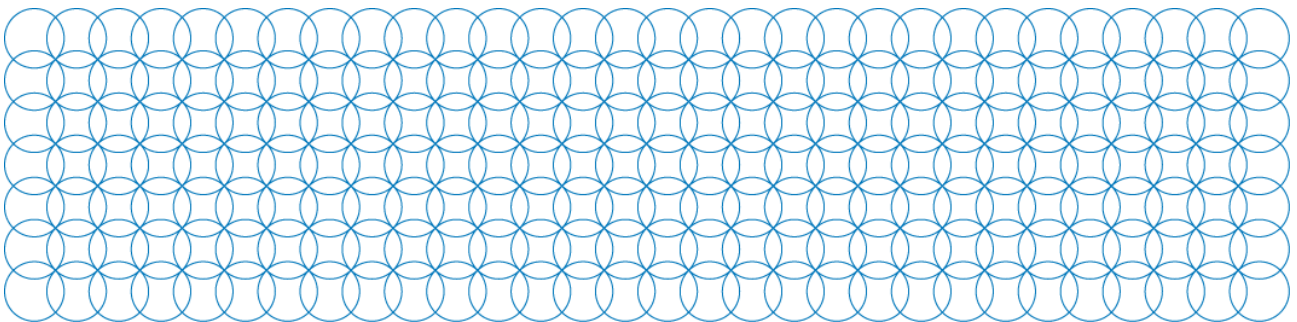


HM Courts &
Tribunals Service

Response to the proposal on mergers of Local Justice Areas in Wales

This response is published on 15 September 2016.

A Welsh language version is available on request.





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Tribunals Service

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**Response to a consultation carried out by HM Courts & Tribunals Service,
part of the Ministry of Justice.**

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Introduction and contact details

This is the post consultation response to the '*Consultation on the merger of Local Justice Areas in Wales*'.

It will cover:

- the background to the consultation
- a summary of the responses to the consultation
- a response to the points raised by respondents
- next steps following the consultation.

Further copies of this report and the consultation document can be obtained by contacting **HMCTS Wales Consultation** at the address below:

HM Courts & Tribunals Service Wales Consultation
Wales Support Unit
2nd Floor, Cardiff and Vale Magistrates' Court
Fitzalan Place
Cardiff
CF24 0RZ
Tel: 029 2046 7759

Email: HMCTSWalesConsultation@hmcts.gsi.gov.uk

Alternative format versions of this publication can be requested from the above contact.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact HM Courts & Tribunals Service at the above address.

Background

The consultation paper '*Consultation on the merger of Local Justice Areas in Wales*' was published on 28 June 2016. It invited comments from anyone with an interest in local justice and set out the three key reasons for considering merger(s) of the 14 Local Justice Areas (LJA) in Wales

- To improve the effectiveness of delivery of justice by improving flexibility in dealing with cases;
- To make better use of resources; and
- In some cases, increasing the opportunities for magistrates to retain experience and thus competence.

The consultation period closed on 5 August 2016. The two Judicial Business Groups covering Dyfed Powys and North Wales, and Gwent and South Wales met during the week commencing 12 August 2016. The Judicial Business groups are responsible for ensuring that, at clerkship level, there are appropriate arrangements in place for the conduct of the judicial business of the area. HM Courts & Tribunals Service Wales allowed each Judicial Business Group to consider the replies received and to make its own reply to the Consultation.

Summary of responses

The consultation provided six options, with a further option for respondents to suggest any other solution:

Option 1 - do nothing.

Option 2 - to merge:

Conwy and Denbighshire LJAs to form North Central Wales LJA;
Newcastle & Ogmores and Cardiff & the Vale LJAs to form Cardiff LJA;
Gwynedd and Ynys Mon LJAs to form North West Wales LJA; and
Brecknock & Radnorshire and the Glamorgan Valleys LJAs to form Mid Wales LJA.

Option 3 - to merge:

Conwy, Denbighshire, Montgomeryshire, Gwynedd, North East Wales and Ynys Mon LJAs to form the North Wales LJA;
Ceredigion & Pembrokeshire, Carmarthenshire and West Glamorgan LJAs to form the Mid and West Wales LJA; and
Cardiff & the Vale, the Glamorgan Valleys, Brecknock & Radnorshire and Gwent LJAs to form the South East Wales LJA.

Option 4 - to merge:

Conwy, Denbighshire, North East Wales and Ynys Mon LJAs to form the North Wales LJA;
Carmarthenshire, Ceredigion & Pembrokeshire, Brecknock & Radnorshire LJAs to form the Dyfed Powys LJA; and
Cardiff & the Vale, the Glamorgan Valleys and Newcastle & Ogmores LJAs to form the South Wales LJA.

Option 5 - to merge:

Conwy, Denbighshire, Montgomeryshire, Gwynedd, North East Wales and Ynys Mon LJAs to form the North Wales LJA; and
Cardiff & the Vale, the Glamorgan Valleys, Gwent, Newcastle & Ogmores, Brecknock & Radnorshire, Carmarthenshire, Ceredigion & Pembrokeshire and West Glamorgan LJAs to form the South Wales LJA.

Option 6 - to merge all existing LJAs to form one LJA for Wales.

A total of 42 responses to the consultation paper were received. Each response was examined for the level of support against each of the six options and to identify any possible alternative options not included but sought in the consultation document.

Of the overall responses, 23 supported Option 2; seven supported Option 4; Options 1, 3 and 5 were each supported by one respondent; five respondents suggested a combination of the options; and four respondents were neutral.

Decision

The majority of respondents favoured Option 2. The Judicial Business Groups each considered that Option 2 is the minimum needed to give effect to the decision already made to close certain court houses, and reflects the changes already agreed in respect of the listing arrangements implemented or to be implemented as courts close. As a result, the decision is Option 2 and work will now begin to make appropriate transitional arrangements. If future consideration were to be given to any other option in respect of local justice areas, HM Courts & Tribunals Service would want more time to engage with Criminal Justice Agency partners about how best working across criminal justice areas may best be achieved. Working across the Dyfed Powys and South Wales criminal justice area boundaries is desirable and is an inevitable consequence of the decision to close the Brecon Magistrates' Court.

Responses to specific questions

Option 1

Some respondents said that *it must be accepted that merging the smaller benches will improve efficiency and make better use of resources, but this has already been decided upon with the current ongoing bench mergers which is why Option 1 should not have been included in the consultation in the first place.*

Option 2

Option 2 was the most favoured option with respondents explaining that *this would allow a fairer distribution of work and would enable magistrates to retain their competencies. Although there may be greater travel for some court users and some magistrates the distances involved would not be as great as in some other options. This option would also make the best use of court staff including listing and rota management.*

Option 3

Option 3 was supported as it *would result in three LJAs being created against a fairly sensible geographical split.*

Option 4

Some respondents favoured Option 4 as it would reflect Dyfed Powys Criminal Justice Area. *This option would have a positive impact for Dyfed Powys Criminal Justice Board: all courts would fall under one area, making meeting arrangements and discussion/escalation of issues much more manageable. This arrangement would mirror Dyfed Powys CIB partnership structure and would support our established operational working arrangements with partners.*

Option 5

I am inclined to the two bench option, there are differences between North and South Wales, transport links, etc., one respondent said in relation to Option 5.

Option 6

No respondent was in favour of Option 6, which would create a single LJA for Wales.

Other Options:

Respondents were invited to suggest any other solutions, along with their supporting reasoning.

Some respondents suggested they *would favour and recommend the three LJA option in North Wales: 1 Gwynedd/Anglesey. 2. Conwy/Denbighshire. 3. North East Wales/Montgomeryshire. Magistrates' local knowledge of the communities and areas they serve, which has already been undermined by the recent court closures, would be even more pronounced if there were yet bigger areas. It is also vital to have proper regard to the distances involved in rural areas such as this. Larger LJAs would involve greater distances to be travelled for Bench and other meetings, for training and no doubt for court sittings and this would impact seriously on attendance participation and quite likely on recruitment.*

Other comments:

Some respondents referred to inaccuracies in the consultation document. *The table outlining the number of magistrates assigned to the various benches shown at pages 7 and 8 is incorrect. The West Glamorgan LJA was created as recently as 1st January 2015 and has never had 172 magistrates.*

The numbers of magistrates quoted in the consultation document were inaccurate. This was queried by the West Glamorgan magistrates during the consultation period which identified the error having occurred as a result of the migration of magistrates' data on to the new judicial HR database.

The proposed mergers appear to make good logistical sense and the option [2], by omission, proposes that Gwent should not be merged with any other LJA.

Not all Benches/LJAs were listed individually in every option as not all LJAs would have been impacted by court closures and so were omitted from the consultation document accordingly.

The consultation should be withdrawn forthwith as the period for consideration and response is far too short. It was supposed to start on 28th June however it was not sent to magistrates until 29th June (The loss of 1 day from it). It also covers the peak holiday period when many magistrates are away for at a 2 week period foreshortening the timescale event further.

It is clear from the wide ranging views expressed and received that respondents have not been prejudiced by the reported delay of just one day and that the time permitted was in fact adequate for the purpose.

Some respondents referred to magistrates resignations. *This bench has already seen colleagues leaving for this sort of reason. The further impact on morale and on whether consultees have any faith in such consultations also needs to be recognised. There is a widespread view that in the one on court closures their views and representations were simply ignored and were not even responded to.*

The views of consultees are always important, and the Response to the future court and tribunal estate consultation addressed the key issues raised. The work of magistrates is respected and valued. The aim is to retain those valuable services. While a few magistrates have decided to resign from the magistracy, the aim is to maintain the engagement of justices. There is of course a focus on the delivery of justice, to ensure that the delivery of a judicial service to victims, witnesses and defendants is the best possible within the retained estate. The part played by justices in the delivery of justice is one that has changed somewhat over the years, but not significantly in terms of the practice and procedure adopted within the court process. With previous mergers, the general experience of magistrates in a closing court transferring to a retained court is very positive, and two benches operating as one becomes the established and accepted norm very quickly.

Magistrates have been flooded with change in 2016:- Ejudiciary; Digital Rota; Bench Solutions. Training has been minimal and morale is low at the present time. Concerns are being raised as to what is coming next.

There has been no recent substantial reduction in justices' training. HM Courts & Tribunals Service is working through a significant Reform Programme, bringing efficiencies to the courts. HM Courts & Tribunals Service will, when possible, inform magistrates of any changes planned for the future.

HMCTS should not be making a decision. This should be a matter for a Government minister. It is not the role of HMCTS to rule over the judiciary. It should be expressing a view rather than making a decision, so this question [4 in the consultation document: Are there other particular impacts of the proposals that HM Courts & Tribunals Service should take into account when making a decision?].

The final decision to change an LJA is taken by the Lord Chancellor following statutory consultation. The question posed is to inform the recommendation being forwarded by HM Courts & Tribunals Service to the Minister. HM Courts & Tribunals Service, who have responsibility for the administration of LJAs and have a duty to consider the effectiveness and efficiency of justice service delivery, has engaged with Judicial Business Groups in Wales and others, in advance of recommending that Option 2 should be implemented.

*Some respondents referred to the Impact Assessment *The perfunctory impact assessment was not fit for purpose as it did not address the main issues. It was concerned with health and safety issues regarding employees rather the proposal's impact on the judiciary and members of the public.**

Although the impact assessment sought to address known facts at the time the consultation was launched, part of the purpose of the consultation was to establish any impacts omitted that would need to be considered and addressed in advance of a decision being recommended and made.

The increase in size of LJAs will have a huge impact on the distances needed to be travelled by both magistrates and Court users and whilst groupings are influenced by population centres, the rural nature of many parts of Mid and West Wales and the deficit in public transport options in these regions is not given due consideration. [Whilst LJAs are an administrative structure, any changes to them must surely also have an impact on police resources, HMCTS staffing, provision for out of hours services and travel distances for users].

The increase in the size of local justice areas will not be a driver for any increased travel by anyone. Justices should generally be able to attend their most local magistrates' court, in order to undertake their valuable judicial role. It is acknowledged that there are currently exceptions to this, but that is not to say that benches and Judicial Business Groups could not work to consider whether the distances travelled by those having a need to attend a court could in some instances be reduced, by attendance at the most local court.

On the positive side we will have a bigger bench and much provision... I am looking forward immensely to work with N Bench. It is an exciting time and I am looking forward to it.

It is important that justices develop their role and ensure that, so far as practicable, they sit on the widest range and different types of cases.

It must be accepted that merging the smaller benches will improve efficiency and make better use of resources... However it will obviously result in the creation of large LJA's that will have a negative effect on the relationship between the chairman and their bench. The pastoral role of a chairman is very important and it is unclear how the pastoral management will be undertaken for a larger LJA. It must further be accepted that numerically smaller benches will be 'Swallowed up' by their larger contemporaries with the result that the new Bench Chairman will inevitably come from one of the larger current benches as those prospective chairmen that put themselves forward for election would obviously be known by more magistrates than their colleagues from smaller benches.

The valuable and significant leadership role of bench chairmen is fully appreciated. Bench Chairmen are enabled to draw on the support of a deputy or deputies to assist them in delivering pastoral support to colleagues; and legal managers will also be able to provide assistance in this respect.

Mergers will affect recruitment of lay magistrates.

It is not anticipated that bench or local justice mergers will have a direct impact on any justices' recruitment programme. Advisory Committees will continue in their role to recruit magistrates as they do now. It is expected that intending justices will focus more on which court they will sit at within the retained estate, if appointed, and will be concerned less with the supporting bench organisational structure, which they may know very little about in advance of submitting their applications for appointment.

These proposals cannot be superimposed on the existing model, a radical new approach is required to serve the diverse areas of Wales, court locations, and sitting frequency will need to be addressed with adequate resources in staff and technology optimised to allow justice to maintain a local character, mobile video links etc should be considered. I am ready to accept a radical solution and if travelling a greater distance is required then so be it.

At this stage, it is considered right to implement Option 2, which provides mergers of local justice areas where a court is closing, bringing together as one bench/LJA two benches that share the same court accommodation.

Further to the issue of transport id the possibility for any of the consultation option I have expressed concern over to affect the provision of bilingual justice across Wales. Bilingual services should be at the heart of the justice system in Wales and to have these compromised is simply not acceptable.

The aim and effect of implementing the merger of local justice areas is to ensure that so far as possible there is the provision of Welsh speaking judiciary and legal advisers, when needed, and that the resource can be identified and is easily accessible.

Section 10 and 30 of the Criminal Justice Act also make provision for work to be listed at courts other than a court in the Local Justice Area where the offences were committed. Work listed at the closing court in N could be transferred to N without the need for benches to be merged expeditiously into a larger Local Justice Area.

This point is agreed. Direction made under Sections 10 and 30 of the Courts Act 2003 provide a high degree of flexibility in terms of the deployment of judiciary assigned to one local justice area in another, and to the transfer of work from one local justice area to be transferred to another. The purpose of the consultation and the consequent decision made is to set out with more definition what the judicial structure will be in respect of any court.

The diverse nature of all Benches seems to be ignored in any consultation.

Benches need to comprise of magistrates to represent the diversity of our communities, which is a matter for Lord Chancellor's Advisory Committees to consider and address on an ongoing basis. Irrespective of any merger of local justice areas, it might be expected in most instances that justices will sit at a court situated closest to their locality. While a bench merger brings changes, the delivery of justice will not change.

When considering any mergers please can the scheduling of cases from the same local authority area be considered to allow the list to be local authority based to free up YOP resources efficiently.

Listing will be considered on an ongoing basis by the respective Judicial Business Groups, and stakeholders will regularly be provided with an opportunity to express views or make representations at court user groups.

Conclusion

HM Courts & Tribunals Service Wales analysed the responses for mergers of Local Justice Areas in Wales, including the replies from the Judicial Business Groups, and acknowledged the support for Option 2 to merge

- Conwy and Denbighshire LJAs to form the North Central Wales LJA;
- Newcastle & Ogmore and Cardiff & the Vale LJAs to form the Cardiff LJA;
- Gwynedd and Ynys Mon LJAs to form the North West Wales LJA; and
- Brecknock & Radnorshire and the Glamorgan Valleys LJAs, to form the Mid Wales LJA.

A formal submission along with the SI will be submitted to the Senior Presiding Judge and with his agreement and the concurrence of the Lord Chancellor, the SI will be laid down by 19 September 2016, with an effective date from 11 October 2016.

It is expected that September to December 2016 will be shadow elections; with the setting up of diaries and panels commencing in December for 2017.

The new LJAs will come into effect from 1 April 2017.

Annex A - List of respondents

Karen Andrew JP, West Glamorgan;

Association of Judges in Wales;

Blaenau Gwent & Caerphilly Youth Offending Service;

Brecon & Radnorshire Bench;

Cardiff & The Vale of Glamorgan Bench;

Carmarthenshire Bench;

Elizabeth Collison JP, Ceredigion;

Hefin David, AM for Caerphilly;

Wayne David, MP for Caerphilly;

Denbighshire Bench;

Dyfed Powys Criminal Justice Board;

Dyfed Powys & North Wales Judicial Business Group;

Dyfed Powys Police;

Sherene Edwards JP, Gwent;

Alwyn Lloyd Ellis, JP and Bench Chair, Gwynedd;

Derek Evans JP, West Glamorgan;

Glamorgan Valleys Bench;

Katrina Guntrip JP, West Glamorgan;

Gwent Branch of Magistrates' Association;

Gwent Police and Crime Commissioner;

Gwent & South Wales Judicial Business Group;

Dr Catrin Fflur Huws, Centre for Welsh Legal Affairs, Aberystwyth University;

Dafydd Llewellyn, Dyfed Powys Police and Crime Commissioner;

Philip Llewellyn, JP and Bench Chair, West Glamorgan; (West Glam response is later?)

Ian Lucas, MP for Wrexham;
Magistrates' Association;
Richard McKee JP, Denbighshire;
Newcastle & Ogmore Bench;
Pembrokeshire & Carmarthenshire Youth Justice Managers;
Howard Parish JP, Newcastle & Ogmore;
Huw Rees JP, West Glamorgan;
Maureen Rees JP, West Glamorgan;
Stephen Rogers JP, West Glamorgan;
South Wales & Gwent Bench Chairmen;
David Subacchi JP, Denbighshire;
George Swan, JP and Chairman of West Glamorgan Magistrates' Association;
Vale of Glamorgan Youth Offending Service;
Jayne Walker JP, West Glamorgan;
Welsh Government;
West Glamorgan Bench;
Alan Williams JP, Denbighshire; and
Mark Williams, MP for Ceredigion.

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