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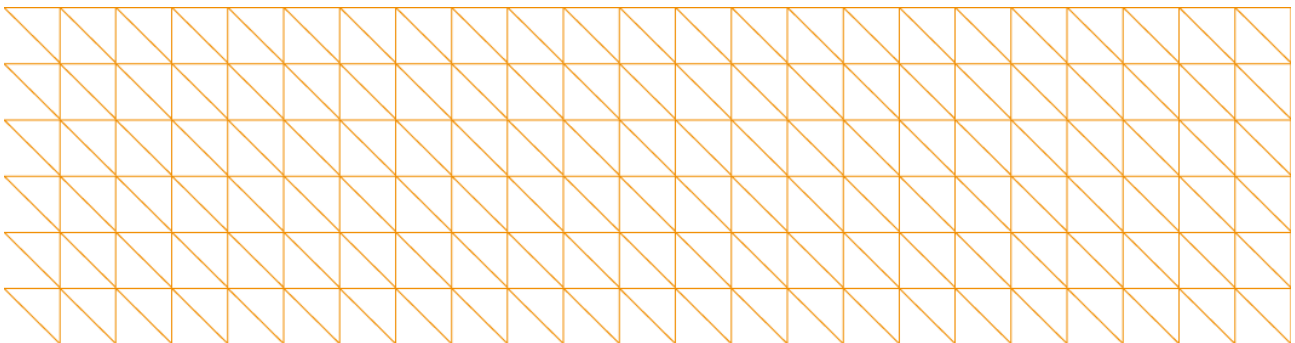


Cambridgeshire and Essex
Judicial Business Group

Consultation on returning Magistrates' Courts cases from Wisbech to Cambridgeshire

Response to Consultation

This response is published on 1st March 2016





HM Courts &
Tribunals Service



Cambridgeshire Judicial
Business Group

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**Response to a consultation carried out by HM Courts & Tribunals Service,
part of the Ministry of Justice, and the Judicial Business Group for Cambridgeshire and
Essex. It is also available on the Ministry of Justice website at
<https://consult.justice.gov.uk/digital-communications/moving-wisbech-work-to-cambridgeshire>**

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Introduction and contact details

This document is the post-consultation report for the consultation paper, A Consultation on returning Magistrates' Courts cases from Wisbech to Cambridgeshire.

It will cover:

- the background to the consultation
- a summary of the responses to the consultation
- a detailed response to the issues raised; and
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting **Siân E. Jones** at the address below:

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This report is also available on the Ministry's website:
https://consult.justice.gov.uk/consultation_finder/***

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

Complaints or comments

If you have any complaints or comments about the consultation process you should contact Her Majesty's Courts and Tribunals Service at the above address.

Background

The current allocation of cases from the Wisbech area

In 2011, following a consultation, the Local Justice Areas of Peterborough and Fenland were merged and the Wisbech courthouse was closed. Several respondents to the consultation pointed out that Kings' Lynn was closer to Wisbech than Peterborough. As a result following closure, it was directed that criminal cases from Wisbech and six surrounding parishes¹ should be heard at Kings' Lynn magistrates' court. (These cases will be called "Wisbech cases" in this response, and the town and parishes, the "Wisbech area".)

Since 1st April 2005 the allocation of cases in magistrates' courts has been governed by Section 30 of the Courts Act 2003, and the Practice Direction made under it by the Lord Chancellor. This states that the guiding principle governing which magistrates' court should hear a case is:

"that it should be heard either at a magistrates' court for the local justice area (LJA) in which (i) the offence is alleged to have been committed or where the subject of the complaint originated or (ii) the person charged with the offence resides"

The Practice Direction authorises departures from this principle in relation to certain classes of cases for specific reasons. The decision has been delegated to the Judicial Business Group (JBG) responsible for the relevant local justice area, in the case of Wisbech, the Cambridgeshire and Essex JBG. JBGs are the bodies, comprising members of the judiciary and HMCTS managers, with responsibility for the judicial business of magistrates' courts.

Issues with the current allocation

The landscape of criminal justice has changed since the original decision. For example, road traffic cases for the Wisbech area are no longer heard in Kings' Lynn, but in Norwich, as are all cases where the defendant is in custody. In addition, we are better informed about the practical effect of the direction than could have been the case in advance.

In time, concerns about the impact of the direction were expressed by magistrates in Kings' Lynn, by the police Cameras, Tickets and Collisions Unit, and by the Cambridgeshire Youth Offending Service (YOS). As a result the JBGs for Cambridgeshire and Essex and for Norfolk and Suffolk decided to review it. Since the current arrangement was the result of a public consultation, it is felt that a further consultation should be carried out. However this is not a normal course of action and HMCTS does not intend to conduct a public consultation in relation to routine decisions of this sort under the Practice Direction in future.

The consultation proposal

The review identified a significant number of disadvantages and only limited advantages with the current arrangements, and therefore proposed revoking the direction that cases from the Wisbech area are commenced in the Norfolk Local Justice Area, with the effect that they would be heard in Cambridgeshire.

¹ Wisbech, Elm, Gorefield, Leverington, Newton, Tydd St Giles, and Wisbech St Mary.

Summary of responses

1. A total of 26 responses were received. Of these:

- nine were from individual magistrates,
- five were from groups representing various groups of magistrates
- four were from police organisations
- three were from defence solicitors
- one was from a County Council,
- one was from a District Council
- one was from a Lord Lieutenant
- one was from a youth offending service
- one was from an individual

Of these, 17 were in favour of the proposal, eight opposed it, and one was ambiguous.

In addition a Member of Parliament contacted the Under-Secretary of State for Justice on behalf of constituents.

2. The Cambridgeshire and Essex JBG has reviewed the responses for any fresh considerations and additional impacts which had not been foreseen.

3. Fresh considerations which would tend to support the proposal include

- Solicitors consider that the court and the size of both cells and consultation rooms in Peterborough are better than in Kings' Lynn. All solicitors responding supported moving the work to Cambridgeshire.
- Victims of domestic violence are not supported by Independent Domestic Violence Advisers in Norfolk.
- Police prosecutors stated that because of the low volume of Cambridgeshire road traffic cases, they do not appear in their own list but are mixed with other cases. This means that sometimes not all cases are completed and have to be adjourned for lack of court time, making the court even less productive for prosecutors.
- Cambridgeshire YOS stated that Norfolk YOS processes and procedures are not always consistent with those in Cambridgeshire YOS. Early engagement at Court is crucial to establishing a good working relationship and this opportunity is lost for many Wisbech youth cases as Cambridgeshire YOS staff are not on site.
- They added that when defendants from Wisbech appear in the adult court in King's Lynn, a duty officer from Cambridgeshire YOS has to cover that court as well as the three in Cambridgeshire. This is extremely difficult and sometimes impossible, impacting on the service provided to young people.

- Norfolk police informed us that on Saturdays prisoners from Wisbech are produced in person at Norwich (not by video link), meaning a much longer journey from the police station to court, and also a longer journey home if granted bail, compared with the journey to Peterborough.
- Norfolk police also stated that “there is sometimes confusion with Wisbech cases in terms of access to the file for Norfolk Police Criminal Justice staff”.
- In connection with this, Cambridgeshire Police stated that because of volumes, variations in waiting times and a different approach to domestic violence cases, listing arrangements are different in the two counties which makes the work of the police more difficult and time-consuming and from time to time leads to errors..

4. Fresh considerations opposing the proposal include:

- Norfolk magistrates pointed out that prisoners from Wisbech are in police custody are produced to court by video link in Norfolk (except on Saturdays) but would have to be physically taken to court if their cases were heard in Cambridgeshire.
- Doubts were expressed by several Norfolk magistrates about the distances set out in the consultation document.

5. Additional impacts include:

- Solicitors representing Cambridgeshire clients stated that they find themselves split between Kings' Lynn and Peterborough, which is economically challenging and threatens their sustainability.
- On Saturdays, defendants from Wisbech in police custody are driven from the police station to Norwich, which is much further than Peterborough. However in the week the balance is in favour of Kings Lynn, as defendants can appear by live link at the court in Norwich, which is not presently the case in Cambridgeshire.
- Several respondents stated that travel to Peterborough magistrates' court from the Wisbech area was more difficult than travel to Kings' Lynn, though a few expressed the opposing view. Respondents expressed particular concern at the journey to the court in Huntingdon.

6. Concerns included the following :

- Norfolk magistrates and Kings Lynn Council expressed serious concerns concerning the increased distance that parties would have to travel to courts in Cambridgeshire.
- Members of the Norfolk Bench were concerned at the potential impact to the courthouse at Kings' Lynn, suggesting that its viability would be put into question.
- Norfolk magistrates and Kings' Lynn Council stated that people in Wisbech are more culturally aligned with Kings' Lynn than with the rest of Cambridgeshire. Former members of the Fenland Bench who now sit in Cambridgeshire expressed the opposing view.

- Several respondents suggested that nothing had changed since the consultation in 2011 on the closure of Wisbech magistrates' court, and that therefore there were no grounds for making any change.
7. No alternative proposal was supported although the Cambridgeshire Bench Leadership team, while supporting the proposal in its entirety, and Kings' Lynn Council, while opposing it, both suggested that as a fall-back, road traffic cases should be heard in Cambridgeshire. A Norfolk magistrate suggested changing the sending path from Norwich to Peterborough so that Crown Court cases were heard closer to Wisbech.

Conclusion

The Cambridgeshire and Essex JBG is now in a better position than it was prior to the consultation to identify the disadvantages and advantages of the present system and to weigh them up.

The JBG was concerned that the decision by the JBGs to consult has offended some of the magistrates in Kings Lynn. Clearly, all magistrates are trained to the same high standard and apply the same laws, and there is nothing to suggest that the quality of justice differs between members of the judiciary in both counties. While not identical, in the main similar services are provided at courts in both Cambridgeshire and Norfolk. The issue relates not to the delivery of justice by magistrates in Kings' Lynn, but to the impact of the current arrangements on court users.

Relevance of the 2011 consultation

The JBG does not consider that it should be bound by the result of the 2011 consultation on the closure of Wisbech magistrates' court for a number of reasons. Firstly the consultation was on a completely different proposal, the closure of a courthouse and the merger of benches, not the distribution of judicial business. The point that that Peterborough was a long distance from Wisbech was one of the arguments in favour of retaining the courthouse at Wisbech. Secondly, the outcome of that consultation has changed the landscape irretrievably. Fundamentally, before the 2011 consultation, there was a courthouse in Wisbech, and now there is not. Parties, witnesses, agencies, legal representatives, and magistrates from Wisbech must perform travel to another courthouse.

Finally, and most crucially, the JBG feels bound to take account of developments in the ensuing four years, for example the centralisation of traffic prosecutions and of custody hearings in Norwich. Two key agencies have now asked for the arrangement to be reviewed as they have found it has a significant detrimental impact. We now know that the current arrangement causes significant problems, problems which were not foreseen in 2011.

Conclusion

Taking into account what has been learned from the responses to the consultation, the JBG is satisfied that there are very few advantages of the current arrangement and those are significantly outweighed by the disadvantages. As a result the JBG has directed that criminal and civil cases arising in the Wisbech area should be commenced in Cambridgeshire, based on the current arrangements.

Disadvantages of the present arrangement

Provision of services

Many of the services dealing with Cambridgeshire court proceedings and Cambridgeshire people are based in Cambridgeshire, even if case is heard in Norfolk.

- Staff of Cambridgeshire Youth Offending Service have to travel to Kings' Lynn to deal with cases involving young people from Wisbech appearing in the youth court, which sits on only one day of the week.

- On other days of the week young people from Wisbech appearing before courts in Norfolk have to be supported by the Norwich YOS, whose systems are different from those in Cambridgeshire in a number of ways. When they are sentenced to supervision by the YOS, the vital first contact is missed.
- At present Cambridgeshire police in the Fenland area have to arrange for the production of defendants in custody to three courts: Peterborough, Huntingdon and Norwich, and deal with two HMCTS offices.
- Cambridgeshire Police initiate most of the criminal cases in Cambridgeshire, including those heard in Norfolk. Because of volumes, variations in waiting times and a different approach to domestic violence cases, listing arrangements are different in the two counties which makes the work of the police more difficult and time-consuming and from time to time leads to errors.
- Road traffic prosecutions in Cambridgeshire are administered by a unit based in Stevenage, which has to send a prosecutor to present Wisbech cases in Kings' Lynn and Norwich to deal with a very low volume of cases (around 19 a week).
- Because of the low volume of Cambridgeshire road traffic cases, they do not appear in their own list but are mixed with other cases. This means that sometimes not all cases are completed and have to be adjourned for lack of court time, making the court even less productive for prosecutors.
- Victims of domestic violence from the rest of Cambridgeshire whose cases come to court are supported by independent domestic violence advisers providing services in Cambridgeshire. There are no domestic violence advisers supporting victims in King's Lynn.
- Fenland Council has to send staff to present cases in both Peterborough magistrates' court and Kings' Lynn. The number of cases in Kings' Lynn is particularly low, making this a very inefficient process.

Longer travel for some defendants and other users

Because of changes in court scheduling in Norfolk, some defendants and staff working for agencies now have a longer journey than they would have if work were heard in Cambridgeshire.

- Road traffic cases in Norfolk are centralised in Norwich and first hearings at least are heard there.
- Most defendants appearing in custody following arrest are produced before Norwich magistrates' court by video link. In the week this is an advantage of the current arrangement as virtual courts are not yet available in Cambridgeshire (though they are in development).

However on Saturdays and bank holidays defendants have to be transported in a cellular van to the court at Norwich, and, if they are granted bail, make their own way home. The journey is much longer to Norwich than to Peterborough.

- Cases from the Wisbech area committed or sent from Kings' Lynn are heard at Cambridge Crown Court, rather than in Peterborough. This however is not a

significant disadvantage as it could be ameliorated without a wholesale change, by changing the Sending path.

In light of the strong concerns expressed by respondents the JBG has reviewed the issue of distance. The conclusion of the JBG remains that travel to courts in Cambridgeshire from the Wisbech area is not arduous. There will be winners and losers, however the longest journey, from Wisbech to Norwich, will be eliminated by returning the work to Cambridgeshire.

The longest journey will be defendants charged with domestic violence and young defendants, who will have to travel to Huntingdon. The number of defendants significantly disadvantaged by this will be few – on current data only about four people a week would be required to attend Huntingdon court. There will be balancing advantages, particularly for young people, who will be able to engage effectively with members of the Cambridgeshire YOS, which should enhance the chances of effective rehabilitation and will provide better bail support. Witnesses will be able to attend by live link from magistrates' courts in Kings' Lynn and Peterborough.

Defendants and witnesses in youth and domestic violence cases will also benefit from the short waiting times for trials in Huntingdon (approximately four weeks). It should also be borne in mind that modern developments in case management have reduced the impact on defendants of travel to court as cases usually have a maximum of two hearings, and most have only one.

Complex arrangements for orders supervised in the community

The normal practice is that proceedings for breach are commenced in the court which made the order, and that is therefore the standard procedure of the National Probation Service. However for legal reasons, orders made in the court at Kings' Lynn against defendants resident in Cambridgeshire have to be enforced at a court in Cambridgeshire. This includes most of the defendants charged with Wisbech cases. Their breaches therefore require a non-standard approach and from time to time errors have been made, meaning defendants have been summoned to a court which lacked jurisdiction to deal with them.

Local justice

Magistrates in Norfolk and Kings' Lynn council argued that Wisbech was aligned culturally more with Kings' Lynn than with Cambridgeshire. Former members of the Fenland Bench now sitting in Cambridgeshire disagreed, while accepting that Wisbech is on the border. The JBG feels this is a issue which does not need to be polarised. Wisbech is in Cambridgeshire, but on the border with Norfolk and Lincolnshire, and the obvious conclusion is that people who live there might feel an affinity with any or all three counties, and in such a subjective and personal matter, different people will have different views.

The JBG is not convinced that cultural affinity should be a determining factor, compared with other more tangible impacts on individuals and organisations, particularly since about a third of the cases from Wisbech are actually heard in Norwich, 55 miles away. However it must be beyond doubt that hearing cases from a Cambridgeshire town in Cambridgeshire courts could not affront the principle of local justice.

HMCTS is actively considering using excess capacity in the magistrates' court at Kings' Lynn to enable cases in the County Court and Tribunals to be heard in the town. To that extent, by

opening more capacity in the magistrates' court, this change may enhance local justice for the people of Kings' Lynn.

Impact on magistrates' courts and their listing

Cambridgeshire

No additional information has been provided to cast doubt on the conclusion in the consultation paper that cases from the Wisbech area amounted to a monthly average of four youths, approximately 30 -40 adults and about 19 road traffic cases.

As a result, it is not likely that the additional business would have any significant impact on the capacity of courts in Cambridgeshire. With the roll out of the single justice procedure courts will be able to handle a greater traffic caseload. Schedules are reviewed every six months so it is possible to respond to any significant increase in workload fairly easily.

Impact on Kings' Lynn Magistrates' Court

The Norfolk Bench expressed concerns that moving Wisbech work may impact on the future viability of Kings' Lynn magistrates' court.

However the data suggest that this is not a realistic fear. Indeed several respondents noted that the number of cases involved is very small, and over half of them are not heard in Kings' Lynn, but in Norwich. While no JBG could safely predict the future of any courthouse, particularly in the current environment, there is nothing to suggest that the removal of about 11 cases a week would be sufficient to render King's Lynn unviable.

The view of the Justices' Clerk for Norfolk is that the likely impact on listing in Kings' Lynn would be the cancellation of the Guilty Anticipated Plea court in which most of the Wisbech work is heard. All other courts in Kings' Lynn would continue to be held, so courts would continue to be held every day of the week.

The cancelled court will probably be replaced with an additional trial court, subject to HMCTS and CPS resources. This will improve waiting times for trials in this part of Norfolk, and will mean that magistrates' sittings are not affected.

Since the consultation, HMCTS has announced its latest programme of courthouse closures, which include the County Court in Kings' Lynn. The cluster manager is now considering using excess capacity in Kings' Lynn magistrates' court to enable County Court and tribunal cases local to Kings' Lynn to be heard in the town. This means that in future Kings' Lynn magistrates' court is likely to be busier than it was before, dealing with cases involving local people.

Next steps

The JBG has instructed prosecutors from the first Monday in April 2016 to commence cases in Peterborough magistrates' court, save for domestic abuse prosecutions and youth cases which are to be heard at Huntingdon magistrates' court.

HMCTS staff in Cambridgeshire and Norfolk will work with the Crown Prosecution Service, police, defence, police Witness Care and the Witness Service to develop protocols to enable witnesses from the Wisbech area to give evidence in Kings' Lynn magistrates' court if they wish.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Annex A – List of respondents

Sophie Archer JP on behalf of the Norfolk Bench

Jean Bonnick JP, Norfolk Bench

David Bredin JP: Cambridgeshire Bench

Sara Cator JP on behalf of the Norfolk Youth Panel

Andy Cave on behalf of the Cambridgeshire Law Society

Benjamyn H Damazer JP DL, Cambridgeshire Bench

Sir Hugh Duberley, Lord Lieutenant for Cambridgeshire

Emma Duncan, Legal Services Manager, Kings' Lynn Borough Council

Sarah Ferguson, Enhanced and Preventative Services, Cambridgeshire County Council

Michael Gamble, Chair Norfolk Magistrates' Association

Dominic Human, on behalf of the Cameras, Tickets and Collisions Unit

William Hush JP, Norfolk Bench

Penny Kingham JP, on behalf of former Fenland magistrates

Mrs L Nicholls JP, Norfolk Bench

Martin Newton, defence solicitor

Justin Pierce, defence solicitor

Hamish Ross JP, Cambridgeshire Bench

Jonathan Mark Sloane, Cambridgeshire Youth Offending Service

Mrs Snow JP, Norfolk Bench

Christine Tindal, JP: Cambridgeshire Bench

Joan Tiplady JP, on behalf of the Cambridgeshire Bench Leadership Team

John Watson JP, Cambridgeshire Bench

Kevin Wilkins, Head of Joint Criminal Justice Norfolk and Suffolk Constabularies

Alec Wood, Chief Constable Cambridgeshire Police

D Young

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