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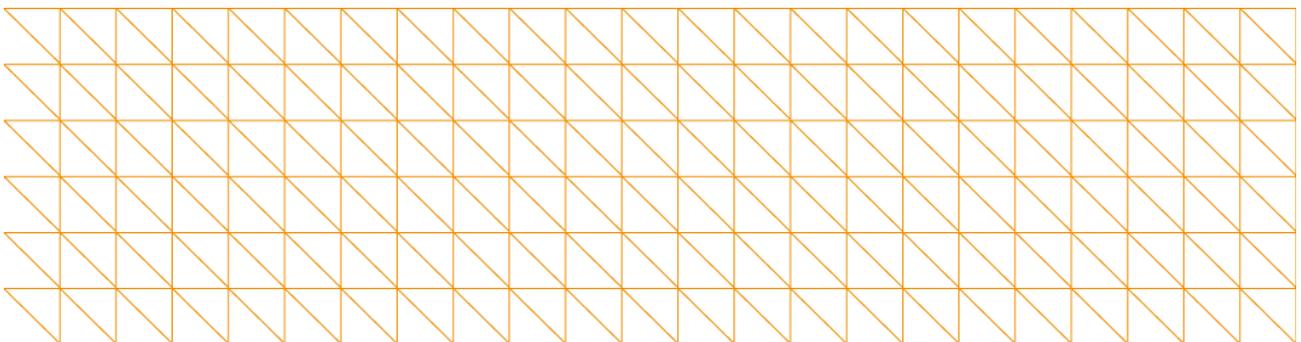


HM Courts &
Tribunals Service

A Consultation on the merger of the South East Surrey, South West Surrey and North Surrey Local Justice Areas

Response to Consultation

This response is published on 29 July 2016





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Introduction and contact details

This document is the post-consultation report for the consultation paper, A Consultation on the merger of the South East Surrey, South West Surrey and North Surrey Local Justice Areas

It will cover:

- the background to the report
- a summary of the responses to the report
- a detailed response to the specific questions raised in the report
- The next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting

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Surrey Magistrates' Courts Business Centre,

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This report is also available on the Ministry of Justice's website:
www.justice.gov.uk/about/hmcts/index.htm.

Alternative format versions of this publication can be requested from jane.wignall1@hmcts.gsi.gov.uk

Background

The consultation paper, **A Consultation on the merger of the South East Surrey, South West Surrey and North Surrey Local Justice Areas**, was published on 18 May 2016. It invited comments on a proposal to merge the three Local Justice Areas (LJAs) into one and proposed that the single LJA should be known as the Surrey LJA.

In 2015 The Ministry of Justice consulted on proposals to close a number of courthouses in England and Wales as part of their reform programme. In February 2016 following that consultation it was determined that the court house at Redhill would be one of those scheduled to close and that this would be with effect from 31st March 2017. The practical effect of this decision is that the current South East Surrey LJA will be left without a courthouse within its geographic boundaries. Consequently the members of the Surrey Judicial Leadership Group (JLG) (which is made up of the three Bench Chairmen, the Chairman of the Family Panel, District Judge (Magistrates Court), Deputy Justices' Clerk and Operations Manager) had detailed discussions about the most appropriate configuration of Benches in Surrey going forward. It was understood that with the closure of Redhill no change was not an option and following their considerations they concluded that the structure that would best meet the needs of magistrates going forward would be a single Bench for Surrey. The Surrey & Sussex Judicial Business Group ('JBG') is responsible for the efficient management of magistrates' court business in the Cluster and agreed with the recommendations of the Surrey JLG to issue a formal consultation to interested parties on this proposal.

The proposed merger aimed to ensure the effectiveness of the delivery of justice following the closure of Redhill, enabling magistrates to be deployed flexibly thereby maximising opportunities to sit on a full range of cases, and enabling them to develop and maintain competence and confidence. It also enables best use of public resources by more effective listing and streamlining out of court activities such as meetings, training and the work of Bench Chairmen and other Bench officers.

The consultation paper sought views of a wide-range of people or organisations that may be affected by the proposed change including Magistrates, other judicial office holders, court users, stakeholders and public authorities within Surrey.

The paper asked for additional impacts other than those detailed in the paper and sought viable alternative options.

The consultation period closed on 29 June and this report summarises the responses, including how the consultation process influenced the final development of the policy/proposal consulted upon.

A list of the respondents is at Annex A.

Summary of responses

1. A total of 20 responses to the consultation paper were received. Of these 16 respondents were from or on behalf of serving Surrey magistrates. The respondents can be categorised as follows:
 - 13 responses were from individual magistrates.
 - Of the 13 individual magistrates' responses, 8 were from magistrates assigned to the existing South West Surrey LJA, 4 were assigned to the existing South East Surrey LJA and 2 were assigned to the existing North Surrey LJA..
 - Each of the 3 Surrey Bench Chairmen responded on behalf of their benches as a collective response.
 - The Chairman of the West Sussex Bench responded.
 - The Crown Prosecution Service responded.
 - Waverley Borough Council responded.
 - Surrey Administrators and Solicitors responded.
2. Of these 20 responses: 13 responses were fully in favour of the proposed merger. No alternative options were put forward by any of the respondents. 1 respondent suggested that the matter should be discussed at the Bench AGM in October. Three respondents could be described as neutral, these were Waverley Borough Council and Surrey Administration and Solicitors, who made no observations about the merger itself but welcomed plans to consult on future listing proposals following the closure of the Redhill Courthouse. One magistrate commented that it was difficult to see an alternative opinion but did not express actual support for the proposal. They raised concerns about the financial implications and future capacity to respond to fluctuations in workload.
3. 4 responses received opposed the proposal of a single Surrey Bench & LJA, they were all individual magistrates, 3 of whom are currently assigned to South West Surrey and 1 to North Surrey.

Responses to specific questions

Question 1:

What comments would you like to make on the proposal to merge South East Surrey, South West Surrey and North Surrey benches into one Local Justice Area to be known as the 'Surrey' Bench?

The majority of responses received noted that with the closure of the courthouse at Redhill the proposal offered the best solution for the configuration of Benches in Surrey going forward. 3 responses did highlight to need to have regard for increased travel times both for magistrates and court users and 2 expressed regret about the loss of 'local justice' but could see no viable alternative. A number commented that this proposal would make more efficient use of court time and resources and it was also noted by some that there was a significant tranche of work including Family, Youth, Domestic Abuse and Single Justice Procedure work which was already being delivered centrally and that this had worked well. Some acknowledged the need to work within financial constraints. It was noted that the flexibility to sit at either courthouse would be advantageous, supporting the more effective deployment of magistrates, providing opportunity to expand competence and experience across a full range of work. The Chairman of the South West Surrey Bench summed this up stating *'As Surrey Magistrates are increasingly working collaboratively for the efficient delivery of justice it seems logical to form one Bench of magistrates operating out of 2 courthouses.'*

A number of those who supported the proposal did nevertheless raise concerns about the impact of travel and the importance of enabling magistrates to sit at their closest court and having regard to the additional travel times. It was also noted that national consultation on a number of deregulation proposals was taking place which carried the potential to impact upon the deployment of magistrates and arrangements for allocation of court business and so particular care would be required to manage the considerable change and high workload which may fall on individual magistrates.

The Crown Prosecution Service supported the proposals and went further to suggest that there may be further benefits of merging on an even larger scale across the Surrey and Sussex cluster.

Both Waverley Borough Council and Surrey Administrators and Solicitors were neutral in their position on whether there should be a Bench merger. Their comments concentrated solely on future listing plans and the challenge of managing work with reducing resource. They emphasised the fact that they welcomed the opportunity to be consulted in relation to listing proposals following the closure of Redhill.

For those opposing the merger there is some consensus that that it would be detrimental as a result of increased travel time for magistrates and court users imposing an increased burden of time and cost. 3 respondents cited personal examples of the difficulties that they would face with travel. This was felt by those respondents to be unfair and inconvenient to magistrates. It was considered by those respondents that there would be a similar impact for court users. It was argued that although more recently appointed magistrates had been told that they would be expected to sit at all court houses, this was not the case for longer-serving magistrates and that this latter group should be allowed the choice to remain at their closest court. It was not accepted that 'magistrates were often willing to travel greater distances to fulfil the duties of their judicial office.' Neither was it accepted that magistrates felt marginalised where a

particular category of work was not undertaken in their area. It was argued that this had been normal practice in Surrey over the last few years with work localised in different courts and this had been managed without adverse consequences.

There were concerns in these responses about the impact that the proposal might have on enabling magistrates to be allocated sufficient sittings, based on previous experiences following the closure of the Woking Court house in 2011.

One respondent opposed the proposals on the basis that the proposition of a single Bench had been previously considered 3 years ago and at that time there was overwhelming opposition from magistrates. It was suggested that the views of Benches would not have changed in this time and that there would be many disadvantages for magistrates. However no details of disadvantages were cited.

The JBG in analysing these responses noted that they almost exclusively related to concerns about increased travel time, inconvenience to magistrates and concerns that sittings would not always be allocated in a magistrate's closest courthouse.

Whilst these responses were understandable, the respondents had misunderstood the purpose of this consultation on the merger of LJAs as relating specifically to the structure and management of benches. The closure of Redhill (which had been predetermined by the earlier national consultation on court closures) was outside the scope of this consultation on LJA mergers. The earlier decision to close Redhill magistrates' court inevitably meant that there would be changes to scheduling and would lead to some increased requirement for magistrates and court users to travel, irrespective of how Benches in Surrey were structured. The closure of the only courthouse in the South East Surrey LJA meant that maintaining the status quo was not an option.

There were no negative issues raised in the responses about how the future leadership and management of the Bench might be arranged, nor was there any negative comment about the support to be provided to the Bench if it was to be restructured as a single entity.

Question 2:

Please describe any impacts the document has not already considered that should be taken into account and why.

Ten respondents addressed this question with suggestions – the other respondents had nothing to add and the majority of those chose not to address the question.

Two responses noted the impact on court users from the East of the county in particular the increased costs of travel and the challenges of getting to court for 9.30. It was felt that those on low incomes would be impacted the most, and that there would generally be a negative impact on 'local justice'. Four responses cite specific concerns about travel times and three of those go on to explain the particular impact for them personally. Another acknowledged that the use of video link could reduce the impact of increased travel but was concerned that it was not widely available for all cases and in any event was not always the best medium for giving evidence.

Whilst relevant to the closure of Redhill magistrates' court, the responses were unclear about how these issues would be impacted by a Bench merger.

There were four responses which commented variously on the impact for individual magistrates:

- The loss of a home base and local ownership for Redhill magistrates
- The lack of flexibility for magistrates to be assigned to the courthouse most local to them thus devaluing the work and skills of those affected.
- Acknowledgement of the impact that change would have; the necessity to make reasonable adjustments for individuals and the ongoing requirement to deliver a diverse Bench.

One response comments that Training and Development Committees work well currently because of local knowledge and this will be diluted if the proposal for a single bench is adopted.

Two responses consider the issue of managing work in future with regard to court room optimisation, court room capacity, and flexibility to respond to future fluctuations in workload. They also highlight the need for training for magistrates where specialist work such as domestic abuse is moved to a different location. The respondent does acknowledge that refresher training in domestic abuse has been made available in the last 12 months.

Whilst the JBG understands the basis for raising these issues and the future impact on magistrates, as above, the JBG considers that the response has more relevance to other consultations which have already taken place on court closure and/or future stakeholder consultations on listing change. This consultation document is entirely separate from those other consultation processes. This consultation noted that any future listing change as a result of Bench and LJA merger would necessitate a further consultation with stakeholders following existing practice.

One respondent stated that the question of detrimental effects has not been addressed but was not specific about any particular effects. The impact particularly in relation to travel has been addressed but this arises primarily because of the closure of Redhill. It is unclear how the proposed merger would impact on or add to the inevitable changes which arise as a result of the court house closure.

The JBG regards these responses as outside the scope of this consultation and matters for future consideration by the bench.

Question 3:

Do you have any additional evidence or information you believe should be taken into account in the equality impact assessment and why?

The Impact Assessment accompanying the consultation identified magistrates as the group most likely to be affected by the policy change. Travel times and accessibility to facilities at courthouses were identified as potential issues for magistrates that may have an impact. The Impact Assessment noted current measures in place to mitigate impact, preferences for sitting locations for magistrates faced with travel difficulties and individual needs assessment with reasonable adjustments for magistrates with disabilities.

Only two respondents commented on the Impact Assessment as follows:

Any negative effects on magistrates in Surrey have been ignored. The respondent did not accept that magistrates may be willing to travel greater distances if they are 'occupied meaningfully for a full day session' and indicated that they would not be happy to do that. They also pointed to actions that they felt would make magistrates feel more valued, in particular in relation to publishing more sitting information from the rota in advance of the day of sitting.

The lack of opportunity to undertake half day sittings; Adding extensive travel time to an already long day and consequent issues surrounding acceptable childcare, and a reduction in the diversity of the bench. It was felt by one respondent that measures should be put in place to monitor recruitment, reasons for resignation and that there should be an equality impact assessment to include socio-economic diversity.

Reviewing the responses, the JBG considers that there were no significant equality issues identified and the enhanced flexibilities in respect of scheduling should contribute towards improved equality.

The JBG considers that the issues raised in relation to travel have been addressed in the consultation and has regard in particular to the fact that where appropriate reasonable adjustments will be made. It also notes the direction from the Senior Presiding Judge that magistrates must be prepared to and expect to sit at all court houses within their LJA.

The JBG noted the responses concerned primarily with travel but concluded that the decision to close the courthouse at Redhill had already been taken as part of the national work being undertaken in relation to court reform before this consultation. The closure inevitably impacts on travel commitments for magistrates but the decision about bench merger does not add to that.

The comments about courtroom capacity and future flexibility refer to decisions about listing which as stated will be subject, in accordance with good listing practice, to separate local consultation with partner agencies and other court users.

The observations about diversity of the bench are matters which are addressed as part of the work of the advisory committee. The JBG does not consider that these proposals to bring the benches together will impact on this, and no evidence has been provided to support such a contention.

In light of these observations the consultation impact assessment has not been revised.

Question 4:

Please indicate any alternative options you would like to put forward with your reasons why you consider this to be more appropriate than the proposed single Local Justice Area

No respondents suggested any alternative options. Five specifically stated that there were no alternative options. One suggested it should be discussed at the next Bench AGM.

Conclusion and next steps

1. The Judicial Business Group have analysed all of the responses provided and take this opportunity to thank those who took the trouble to contribute to this consultation.
2. Noting the initiative for this merger proposal has come from the Judicial Leadership Group whose membership includes the three Bench Chairmen subject to the proposal, the main consideration of the Judicial Business Group has been to ensure that the responses have been fully examined in particular to identify any alternative proposals and to consider issues which are directly related to the merger proposition. Particular regard was had to the fact that no alternative proposals were suggested, and of the 20 responses 13 were in favour, 3 were neutral and only 4 opposed it.
3. In reaching its decision the JBG noted that the group of consultees most impacted would be the magistrates. Of the 234 magistrates currently assigned to Surrey Benches 14 submitted individual responses, 4 of whom objected as outlined above. Additionally all three bench Chairmen responded in support of the proposals. It was also noted that although the Surrey Magistrates Association (SMA) had not formally responded to the consultation, at their AGM in May the then Chairman had publically announced the support of the SMA for a single Bench in Surrey.
4. The JBG formed the opinion that the opposition raised by the consultation did not represent the views of the majority of magistrates in Surrey. It was understood by most that the decision, outside the scope of this consultation, to close the court house at Redhill left South East Surrey LJA without a courthouse within its geographical limits, and as such there was no option but to reframe the Bench configuration within Surrey. It was the view of the JBG that there was no other obvious geographical split and given the relatively small size of the court operations within the county and the small number of active magistrates when compared with other benches in England and Wales, a single bench provided the most robust structure for delivering justice effectively and efficiently in the future. This was further supported by the fact that during the consultation process no other proposal was put forward for consideration.
5. In reaching this decision, the JBG noted that some magistrates were concerned about the impact of travel and the requirement to sit at different courthouses. The JBG was conscious of the impact for magistrates and endorsed the need to make adjustments where appropriate to support magistrates. However it was mindful of the guidance issued to magistrates on 23 May 2016 by the Lord Chief Justice in relation to the obligations of magistrates to sit in all court houses within their LJA. It was also mindful of the fact that the changes in relation to travel were in fact aligned with the decision to close Redhill and the subsequent changes to listing that this would entail. Consequently these particular concerns are largely outside of the scope of the consultation in Bench merger which will impact on future leadership and management of the Bench and not listing decisions.
6. The JBG noted the observations about the diversity of the Bench going forward and was confident that this was a matter which is quite properly kept under review by the Lord Chancellor's Advisory Committee, and they would continue to carry out this important role. The JBG could not see any evidence to support the contention that bench merger would have a negative impact on this.

7. There were no responses on the proposed name for the new LJA and so the JBG has endorsed the proposed name of Surrey LJA
8. The JBG has decided to proceed with the proposed merger of the South East Surrey, South West Surrey and North Surrey LJAs and will therefore seek the approval of the Lord Chancellor to form a new single LJA for Surrey with effect from 1 April 2017.
9. A shadow bench meeting will be arranged in October to prepare for activities which need to be undertaken to manage the merger in the hope that the approval of the Senior Presiding Judge on behalf of the Lord Chief Justice, and the Lord Chancellor will be received for the single LJA in time to allow elections to take place in January 2017.

Annex A – List of respondents

INDIVIDUAL MAGISTRATES:

Sally Found JP; Sylvia Williams JP; Kevin Walters JP; Christopher Cooper JP; Stuart Wilkinson JP; Richard Huckle JP; Janet Davies JP; Carole Evans JP; Bernadette Spencer JP; Deborah Stevens JP; Diane Hall JP; Allison Harding JP; Nicola Edge JP

Bench Responses:

Stuart Wilkinson JP – Bench Chairman on behalf of the South East Surrey Bench

Karon Goodfellow JP – Bench Chairman on behalf of the South West Surrey Bench

Robert Freeman JP – Bench Chairman on behalf of the North Surrey Bench

Julia Aisbitt JP – Bench Chairman on behalf of the West Sussex Bench

Other Respondents:

Jaswant K Narwal Chief Crown Prosecutor – CPS South East

Waverley Borough Council (from Helen Riglia- solicitor (Litigation and Licensing) Policy and Governance)

Surrey Administrators and Solicitors (from Helen Riglia- solicitor (Litigation and Licensing) Policy and Governance)

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