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Court Closures: Experiences from Wales

Daniel Newman and Roxanna Dehaghani

Abstract

England and Wales have seen court modernisation programmes since 2010, which have led to nearly half of all courts closing. There has been a disproportionate impact on Wales, which has seen higher rates of court closures in comparison to England. This paper explores the implications of these court closures by focusing on experiences in south Wales. The paper draws on interviews with solicitors and barristers working in south Wales to further understanding of how court closures are impacting the communities that the courts serve and the people that use the courts. The court closures are shown to challenge access to justice and there emerges a need for more study on the effects of court closures in Wales, and across the jurisdiction.

Introduction

This paper examines the impact of criminal court closures in England and Wales with a focus on magistrates' courts. The UK government has been engaged in court modernisation programmes over the past decade that claimed ambitions to reduce the number of courts with lower rates of utilization – often smaller courts in rural and remote areas – selling those no longer deemed suitable, and invest money in updating remaining courts and promoting greater use of technology¹. In 2022, the Bar Council introduced their new Access to Justice dashboard.² This online tool is an interactive map showing local, regional and constituency comparisons of key access to justice indicators in England and Wales. The dashboard opened with up-to-date data on court closures in England and Wales. On launch, it showed that, over the previous 12 years, there have been 239 court closures in England and Wales meaning 43 percent of all courts have now been closed. It revealed that whilst 200 parliamentary constituencies and 178 local authority areas have an active local court, 373 parliamentary constituencies and 155 local authority areas do not. These court closures are important in how they challenge and undermine notions of access to justice for those who need to use courts. This threat is particularly pronounced for those living in rural areas, wherein many of the smaller courts were located and/or served; many remaining courts are increasingly centralised in cities and larger towns. This, amongst other issues, has resulted in increased difficulty in getting to court for victims, witnesses, and defendants.

In examining the impact of court closures, this paper follows Newman's (2016: 2021) call for more research on rural access to justice in England and Wales:

In recent years, studies have been conducted in the US and Australia, but England and Wales lag behind, with the leading research...up to two decades old and, as such, very nearly completely out of date, considering that the institutions of justice they looked

¹ This information is most clear captured in the House of Commons parliamentary briefing paper provided by Caird (2016).

² This can be accessed on the Bar Council website, <https://www.barcouncil.org.uk/policy-representation/dashboards.html>.

at may soon become a rare sight in rural areas. This is not simply an opportune time for further research, but an essential moment at which to consider what impact these changes are having with regard to rural access to justice and how this affects communities. It may just be that such research could capture the end of an era and the start of a brave new world.³

Rural scholarship is most notably absent within legal studies (see Economides and Watkins, 2022). Adisa's (2015: 8) research on court closures in east England is a rare example of research that examines rural experiences; these 'court closures...aggravat[e] issues already present in the system'.⁴ Wales has also, until recent times,⁵ been neglected in legal scholarship,⁶ although Lee and Franklin's (2006) report (see also Franklin and Lee, 2007) is a key exception; writing before court modernisation programmes were implemented, they urged that 'distinctions [be] made between ... rural and urban contexts' (2006: 15) with Wales serving as a strong example.

Wales is also unique in that whilst criminal justice is reserved, i.e., not (yet) devolved, there are distinct points of divergence, particularly where criminal justice intersects with currently devolved areas such as health and education (see Jones and Wyn Jones, 2022). Wales is, however, typically hamstrung by the current devolution arrangements; the Welsh Government often have little influence over the trajectory of UK criminal justice policy.⁷ Wales, therefore, 'remains out of step inasmuch as justice functions' (Wyn Jones and Lerner, 2020: 241) when compared to the other devolved nations of the UK. Wales also suffers from a lack of Wales-specific data: the recent Commission on Justice in Wales (2019),⁸ which provided the first review of justice in Wales for over 200 years, found a wealth of data on England or England *and* Wales yet a dearth of data on Wales alone.⁹ The Commission did, however, find that many of the taken-for-granted assumptions made in England did not apply squarely in Wales and, perhaps more importantly, Wales was quite different to England in many regards. As Newman and Dehaghani (2022: 212) have outlined in the first book specifically focusing on criminal justice in Wales:

Whilst there are...similarities between and within England and Wales, there are also, crucially, very clear points of divergence. Not only should these differences be reflected within academic and policy discourse, they must also be accounted for within policy and legislative initiatives. The "for Wales, see England" approach is indefensible when viewed in the broader frame of sovereignty, yet it is also unsuitable in practical terms when our criminal justice institutions are – and should be – deeply connected to communities in which they operate.

³ Echoing what Moody (1999) has previously labelled "rural neglect".

⁴ Such as the impact of austerity on courts (see Welsh, 2022).

⁵ See, e.g., Jones and Wyn Jones, 2022; Newman and Dehaghani, 2021; Dehaghani and Newman, 2020.

⁶ As Newman (2016) highlights, there has been a general neglect of rural issues in access to justice scholarship in England and Wales over recent years, with little building on the important work of studies such as the 'Access to Justice in Rural Britain' project in the 1990s (see Blacksell et al, 1991).

⁷ Although Evans et al (2021) suggest that they have not used all the freedom they possess.

⁸ The Commission urged for devolution of criminal justice and the Welsh Government has established a Law Commission to explore how could be achieved. Hereafter 'The Commission'

⁹ Notable exceptions included work carried out through the Wales Governance Centre at Cardiff University.

Picking up on this thread, this paper examines court closures in Wales, specifically in the south Wales region. All too often ignored, this paper provides insight from the criminal justice frontline in south Wales to stimulate and inform discussion into criminal justice in the country. Initially, this paper will examine court closures across England and Wales as a unitary jurisdiction. Drawing on several threads above, we then propose that Wales should be examined alone; collecting Wales-specific data is necessary 'to enable...proper evidence-based policy development and as a basis for research' (Commission on Justice in Wales, 2019: 24). We examine rurality, in terms of areas remote from cities *and* areas within the post-industrial landscape of larger and small towns that have been similarly left behind by the retreat of key justice institutions (see, e.g., Commission on Justice in Wales, 2019: 10). We supplement key studies already undertaken on access to justice in Wales, such as Lee and Franklin (2006), providing a crucial update two decades later after the court closure programme, whilst also augmenting Newman (2016) by including the views of lawyers. After outlining the methods adopted, we explore in-depth the semi-structured interview data that informed our examination of court closures, focusing on two broad themes: the impact on place and the impact on people.¹⁰ The paper concludes by reflecting on how best to address the effect of court closures, including an appeal for greater attention on Wales.

Court Closures and their Context

Since 2010, there have been two major court closure programmes: the, then, Her Majesty's Courts Service's (HMCS) Court Estate Reform Programme from 2010 and, thereafter, Her Majesty's Courts and Tribunals Service's (HMCTS) Estates Reform Project from 2015. According to Caird (2016: 4):

Successive governments have identified the courts estate as a target for efficiency savings. There are two main reasons given. The first is that the utilisation rate of some courts is low. This means that the workloads of these courts can be transferred, without pushing recipient courts beyond capacity. The second is the policy aim of reforming access to justice through modernisation, and by increased use of technology in particular. Increased use of online forms and video links for witnesses, for example, could help to mitigate the impact of the loss court buildings upon access to justice.

All criminal court cases will start in a magistrates' court and the vast majority of cases are also completed there. As part of these court modernisation programmes, 164 out of 320 of magistrates' courts in England and Wales have been closed with the money raised from the sale of court buildings purportedly being reinvested to improve the justice system (Bowcott and Duncan, 2019). According to the UK government, those courts that were closed were 'underused and inadequate', and an annual magistrates' courts bill of £500 million would be cut by £200 million (Caird, 2015). The money saved from the closures would supposedly be

¹⁰ People and place are intertwined – an element of what constitutes a place is its people and people will be located in a place, and when court closures cause problems for one so almost invariably do they cause problems for the other. All the same, the lawyers' discussions did lend themselves to being distinctly organised under these two themes. Setting them out as such in this paper helps to communicate the perspectives of the lawyers with which we spoke.

invested in refurbishing courts and improving technology use within them (although not all courts have been sold to date). Most of the courts to be closed are located in rural parts of England and Wales. As such, court closures have raised concerns around the growth of justice deserts in rural areas (Leftly, 2014). The Ministry of Justice (2015) has previously responded to anxieties around the adverse impact of the court closure programme. First, they state that, following the court closures, 95 percent of people would still be able to access their required court within an hour by car. Secondly, they suggest that it is not necessary to physically attend court in this information age. Thirdly, they propose the ad hoc usage of alternative public buildings.

The Law Society (2015) countered all three UK government positions on court closures, raising concerns that court closures could have a negative impact on court users, including those from low-income households, those with disabilities or mobility issues, those with children or caring responsibilities, those from rural areas or without access to a car, and those who own a business. It further noted (Law Society, 2022a) that some of these groups may not be best served by the increased remote hearings being proposed. For example, hearings involving vulnerable parties or witnesses are likely to be best served by an in-person hearing. Such factors that may inhibit the fairness of remote hearings include caring responsibilities, disability, English as a second language, experience of trauma, learning difficulties, mental health problems, and socio-economic background considerations. Despite the closures, communities have been reassured that they will have access to alternative courts if affected by closures (Ministry of Justice, 2018). However, the nature, extent and quality of such access was not assured.

The discussions above related to England and Wales. However, even before the court closure programmes under discussion were mooted, Kirby (2002: 96) advocated for the specific importance of understanding court closures in Wales:

The Court Service appears to think that court closures based purely on numbers have no greater effect in Wales than anywhere else. This is simply not the case, and the approach fails to take into account the public interest in its widest sense. It ignores the dangers of creating further social exclusion by denying ready access to justice to people who live in remote areas and/or who may already be marginalised. In simple economic terms it fails miserably to take into account the real cost of court closures in terms of the cost of travelling time of practitioners, defendants, victims, witnesses and advisers.

Court closures in Wales need to be understood as a problem in their own right, and not simply lost in the mass of England and Wales data. The closures that have followed since Kirby (2002) was writing have borne out that concern. The figure typically given in discussions of court closures across the jurisdiction is that around half of magistrates' courts have been closed in England and Wales since 2010. This figure masks the disproportionate impact of closures on Wales. In Wales, two thirds of magistrates' courts have been closed meaning Wales has lost 22 out of its 36 magistrates' courts. By way of comparison, then, 59 percent of magistrates' courts have been closed in Wales against 49 percent that have closed in England. As a result of these closures, 9 out of 22 principal areas of Wales are now without magistrates' courts. This includes five of the 10 largest towns in Wales. South Wales has borne the brunt of the

cuts, with 12 of the 22 Welsh magistrates' court closures taking place in the region. South Wales has been left with six magistrates' courts. Although these six are in the main centres of population, the Valleys especially have seen their courts decimated. Following closures in Aberdare, Abertillery, Caerphilly, Llwynypia and Pontypridd, there are only two magistrates' courts in the south Wales Valleys – in Cwmbran and Merthyr. Figure 1 provides a visual representation of magistrates' court closures in south Wales between 2010 and 2020.

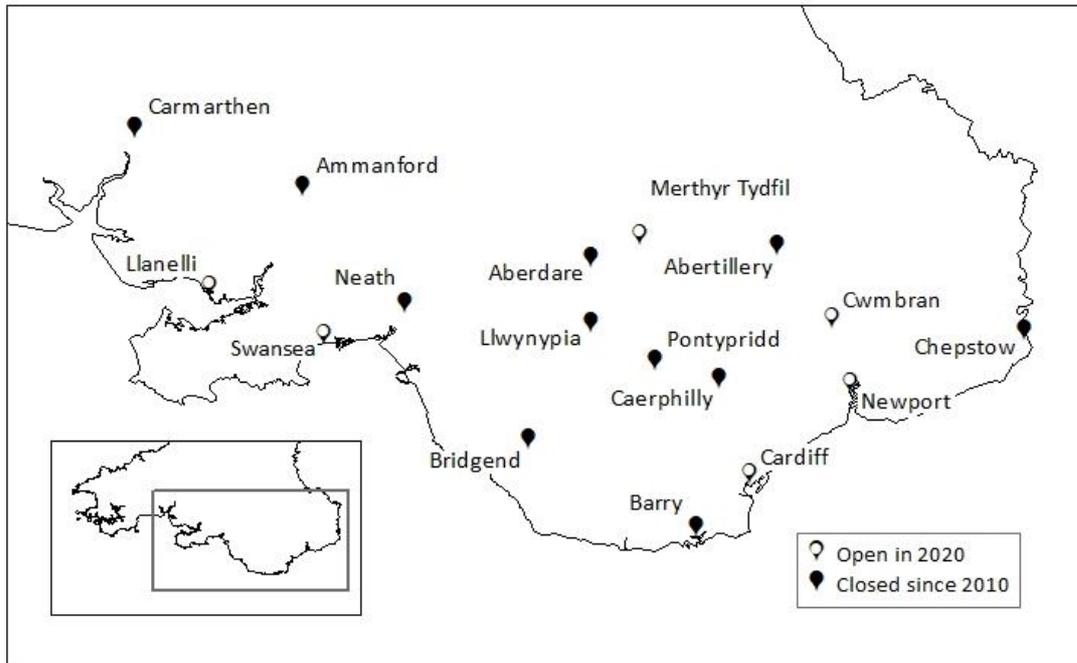


Figure 1 South Wales Magistrates' courts

These court closures in Wales have gone too far and have adversely impacted access to justice in Wales. The modern system of county courts established by the County Courts Act 1846 saw courts located across the country. Yet, court closures in Wales have, as The Commission (2019: 349) notes, 'occurred over a long period of time', especially since 2000 with 'the majority of these closures having taken place in towns, often in rural locations in Wales'.

Methods

To provide a frontline insight into the impact of criminal court closures in England and Wales, this paper draws from previously unpublished interview data with 20 solicitors (DS1-20) and 16 barristers (BS1-16).¹¹ Solicitors were drawn from nine of the 12 local authorities in south Wales, including all three south Wales cities (Cardiff, Newport and Swansea), rural areas (e.g. Carmarthenshire), and predominantly post-industrial areas (e.g. Pontypridd), and from 16 different firms of various sizes, including those practicing crime only in addition to mixed practices. Barristers were drawn from five chambers covering criminal work in Cardiff and Swansea, within the Wales and Chester circuit (one of six geographical areas into which the administration and organisation of the court system of England and Wales is divided). All

¹¹ Taken from a wider sample in a project that included police officers, and defendants and their families (see Newman and Dehaghani, 2022).

solicitors and barristers served clients from across the areas impacted by court closures and most had experience of working in courts that had been closed.

We recruited initially by a mixture of “cold-calling” local law firms and taking suggestions from colleagues, thereafter using the “snowball method” of sampling to expand our sample as interviewees recommended others. We interviewed every lawyer that we contacted. The solicitors and barristers we encountered were responsive to the research: despite the working pressure they faced, they were pleased to see Wales represented and, also, keen to have a means through which their voices could be heard.

We conducted semi-structured interviews, which have been anonymised to protect the identity of those who took part. The interviews followed a schedule with flexibility to vary based on the expertise and interests of the participants, as well as the time they had available. Interviews with these lawyers lasted from 29 minutes to 2 hours and 2 minutes; the average length was 1 hour and 2 minutes. The interviews were transcribed by an external transcriber and were thereafter coded by the researchers in NVivo 12. The interviews were coded using thematic analysis, which is a method for identifying, analysing, and reporting patterns across a data set allowing the authors to draw out new insight for the current exploration (see Braun and Clarke, 2006).

The solicitors and barristers had differing schedules that reflected their varying roles but that overall followed similar patterns so as to offer comparable, cohesive data across the two parts of the sample. The interviews were broadly focused on the lawyer-client relationship, and the lawyer’s perceptions of how those suspected and accused of crimes experienced the criminal justice system. The lawyers were not routinely asked specific questions on court closures albeit some may have occurred in response to points that had been made by the lawyer – such is the nature of the semi-structured interview. The lawyers were asked direct questions on defendant experiences of court. The three most relevant standard questions for this paper, were: Do many of your clients have to travel far for the court case?; How do you think they experience their journey to court?, and; How do you think your clients find the atmosphere at court?

We deployed a social constructivist methodology (Denscombe, 2002), which is positioned between positivism – that broadly views reality as an objective fact to be discovered – and, interpretivism – that is largely grounded in the view that objective knowledge of the social world is impossible to achieve, rather urging the need to look at the socially constructed nature of knowledge. Following Blumer (1969), our research has been informed by the notion that reality is not “out there” to be discovered but, more accurately, produced through interaction with others. Our research also took an integrative approach as outlined in Newman (2013). We were aware of the methodological debates between Bridges et al (1997) and Travers (1997b) on criminal defence research. We thus sought to position our scholarship between structuralism – an outlook supposedly premised upon the development of largely politically motivated, theoretical frameworks that produce some manner of privileged understanding – and interpretivism – which emphasises the truth as something which is constructed by individuals, thus leading to multiple realities in which the experiences of the participant need to be respected. Crucially, having not conducted related observations to complement these interviews, we did not feel in a position to readily contradict or discredit

the accounts and thus the views of participants were given due prominence alongside our own analysis.

Through our focus on those who had experience of the criminal process in one region, we can provide a “thick description” of how certain aspects of the criminal process are working in practice (see Travers, 1997a). Such an approach improves understanding of what may have changed and how problems play out. We concentrated our research on south Wales to start to address the dearth of justice system research on Wales (Newman, 2016). One of our aims was to produce scholarship that would mean Wales was represented in criminal justice debates. Thus, this research means Wales is included but it speaks to the England and Wales jurisdiction in just the same manner that an empirical study using participants from England would generally be accepted to do so; our data has synergies with England. Due to the research design that went for quality of input over quantity, with an in-depth understanding of criminal justice participations, our research cannot be claimed as being generalisable at national or jurisdictional level but we are confident that it does have implications for criminal justice scholars across England and Wales.

The Importance of Place

A place-based impact of court closures can be found in the loss of local institutions. Courts represent significant establishments within a community. Lawyers in this study were concerned that the notion of the local court had been taken away in many instances by the closure programme:

The main examples are from, if you're in Pembrokeshire, so if you're in Haverfordwest or Aberystwyth, travelling to the Crown Court in Swansea is extremely difficult for a lot of people. Even if you live in Carmarthen, I'm not sure which magistrates' court you would be sent to. Probably Haverfordwest, was it? I'm not sure. I think then it gets split, but that's still a good forty-five, fifty minutes to your nearest magistrates' court then. And then again if you're sent to the Crown Court it's the same problem, you're sent to a different location again. So that's the effect of the closures, now some places don't have a local court, whether that's the magistrates' court or a Crown Court. (DS13)

What we see is an interest in how places across south Wales were now without their courts. For Adisa (2015: 23), local people were concerned about the loss of ‘the court as a symbol of justice in a community [and] the disconnection that would have occurred because of the court closures’. In Newman’s (2016: 15) study, this was the most common way members of the community saw the court closure in their town:

Most of the respondents who expressed their belief in the importance of local courts did so by invoking the role that they might play in the community. For this group, taking a court out of a town, as with the Abergavenny magistrates' court, was seen as one more act of desecration with regard to the idea of community identity, another dissection from the core.

Lawyers in our study recognised such views and took a similar stance. Indeed, the following lawyer – citing the same court closure as in Newman’s (2016) study above – presents their own view as a member of one such community that has lost its court:

So many courts have closed. There is a lot more travel that's impacting upon people. But it's also a complete loss of the community as well, isn't it? There used to be a lot of local courts all around south Wales as you know only too well and they've gone. I live in Abergavenny and there's no court there anymore – there used to be a court there...it's a loss of law and order. (DS5)

When the lawyer talks of a loss of law and order, it does not appear to be lawlessness that they are discussing, as may commonly be associated with the phrase. Instead, the lawyer evokes the way that the court is the visible presence of the State – law and order as a notion of community tying people together in a common identity, with the court as a manifestation of those binds that grounds a location within the wider nation. By this line, the towns that lose courts lose a little of their identity, their standing; perhaps they are diminished in status as the State retreats.

The loss of courts can thus leave an absence, a gap that, if filled, may well be replaced with something of much lesser grandeur or significance. In the following quote, a lawyer talks about half a dozen courts spread across the south Wales valleys, from west to east but with a focus on what happened to the court building in one of these towns:

And the one thing that stands out in my mind about those days is the number of little magistrates' courts, all over the country. So, you know, I would go to Defynnog, which is just south of Brecon, and we would have a court in a little church hall; the same in Pontardawe – we used to use the village hall in Pontardawe. There would be courts in Pontlottyn, Bargoed, Aberdare, Mountain Ash. In fact, I can remember going to Aberdare court when it was in the centre of town, a very small building, you know, done out traditionally, I suppose – late Victorian, early Edwardian sort of decor. That place is now an amusement arcade, it's been converted. So that's a bit sad. And there is no court in Aberdare, there is no court in Mountain Ash, there is no court in Pontypridd, you know? It's the landscape, in terms of court closures, has changed dramatically. (DS 20)

The lawyer provides a glimpse into, both, the scale of these losses and their impact. That this lawyer chose to give examples highlights the tangible effect of these court closures on places across south Wales. These are concrete examples; we were not engaging in an abstract debate but, rather, learning about changes that had been and were being experienced by people in and around each one of these locations. We see a court building now occupied by an amusement arcade; the invitation to open justice replaced by an occluded window that hides patrons inside, the pursuit of fairness usurped by rigged slot machines. As alluded to by DS20, there is a difference in these two usages, what they stand for, and how they position a place.

This decline was part of a wider loss of local services. Robins and Newman (2021) examined challenges to access to justice across England and Wales and, as part of a south Wales Valleys case study that they offered, spent time with Citizens Advice Rhondda Cynon Taff in Mountain Ash. They briefly considered the impact of court closures, which, here, was placed in the wider context of services leaving the area. It is worth providing an extended extract from their work to give a flavour of the sheer scale of the problem as they saw it:

‘A lot of the banks have closed and statutory services have moved to Aberdare,’ Taylor says. ‘There was a town hall and a police station; now, in Mountain Ash, we are one of the only organisations that are open five days a week. We see people coming in, outside of opening hours, desperate for help in really vulnerable circumstances.’

Citizens Advice runs from its the local library so its accessible to residents in a town where even the job centre has been shut down. The branch runs two dozen outreaches across the local authority. ‘Our advice is supposed to be free. But if you have to travel from down to Ponty[pridd] it’ll cost you - so actually it’s not free. We need to be spread around all of the valley to make sure people are getting properly free advice.’

‘We had somebody walking four miles to get to us. It’s 4.45PM and we’ve been there all day but we’ll try and sort them out and get them the help they need,’ Taylor says. Residents have also been affected by court closures. ‘It was centralised in Port Talbot,’ Taylor says. ‘All of a sudden, people weren’t paying their fines because they couldn’t get to the court to pay the fines.’ She accepts the business case for centralising public services at a time of austerity. ‘But sometimes removing it from the community has a massive ripple effect. How can somebody who is on £75 a week afford to get to Merthyr and pay their £10 fine?’ she asks. (Robins and Newman, 2021: 70)

The court closure was part of a wider deterioration, a deeper malaise afflicting the town. People who lived in Mountain Ash would now need to go elsewhere to access key services; services that people had grown up with and become accustomed to having on their doorsteps. Further, in this vein, Newman and Dehaghani (2022: 87) have identified:

‘Concern for remote, “left-behind’ areas in the Valleys... The amount and type of work available in Wales, it seemed, necessitated the existence of small firms practicing in criminal only and high-street practices offering advice and representation in an array of areas; there were very few firms in Wales offering criminal defence alone... Closures of banks and businesses, and the wider decline in the high street, is having an impact. Fee reductions and changes in legal aid regulation have also promoted the death of the high-street practice across many small towns of Wales, the effect of which is taking justice further away from communities.’

The part that court closures play in these diminishing Welsh places is noteworthy. For example, lawyers in our study were well aware that, as part of this decline, there would be a knock-on effect of law firms leaving:

That’s where we’re based because that’s where the court centres are. But if you’re a client in Tredegar, we don’t get paid travel or waiting anymore, so we don’t to travel to you, so if you want us, this is where we are... with the rurality of Wales, that’s very much a live issue that nobody has really thought too much about... I think you’re going to have lots of firms coming out of crime in the next five, ten years. (DS9)

Such echoes Franklin and Lee’s (2006: 103) research; they predicted that ‘more solicitors [will] choose to voice their dissatisfaction with the extra burdens that court closures place on them,

by exiting this area of the legal market' quoting a lawyer that, 'you get paid half of the peanuts for doing the travelling and people are just going to stop doing it'.¹² What emerges, then, is the double loss of, both, local legal services from communities and, thereon, local expertise from more distanced law firms.

There is a knock-on effect beyond criminal practice in and of itself as noted by the following solicitor:

'We're a nation of high street firms, we don't have national criminal practices. So, if you lose your criminal firm, you lose every area of practice. That will especially impact rural areas like the valleys. So, you might find that you only have one family firm for a whole community. What happens in a divorce case? The firm can only represent one side. Or in complex care proceedings? There could be four or five parties. It all falls apart without our high-street firms and the powers that be need to understand that. We might not be very popular, nobody likes solicitors but we're necessary. People are always going to fall out and have arguments, it's human nature. So you might not like us but you need us.' (DS9)

Due to the scale and volume of work, the lawyers told us there were very few firms in Wales offering criminal defence alone so losing a criminal practice could compromise a community's legal services as a whole. Such is echoed by The Commission (2019: 391) finding that 'most Welsh solicitors' firms are perceived and categorized as high street practices'. The Commission (2019: 397) notes that such 'high street firms are found throughout Wales' but 'they are the category of law firm most generally found in rural and post-industrial areas of Wales' as articulated by the lawyer here. The Commission (2019: 10) identified 'a serious risk to the sustainability of legal practice...especially in traditional "high street" legal services'. Closures of courts, alongside the wider decline of the high street in terms of bank and business closures, is having an impact, alongside legal aid fee reductions (see Thornton, 2020). Thus, the court closures are caught up in the decline of the high-street practice across many small towns of Wales, the effect of which is taking justice further away from communities, especially rural communities.

Beyond the practical, there was also a palpable sense of nostalgia in many of the interviews. Lawyers understood what a court represents to a town but, on a personal level, some lawyers simply enjoyed visiting the range of locations that present themselves when there were more courts across a greater variety of locations. This quote encapsulates some of that sense of longing as the lawyer laments losing a pair of courts:

I much preferred it when we could have all of the others as well. I loved Carmarthen, loved Haverfordwest...you know, getting away from it all. You know, we used to really enjoy that. The court in Carmarthen – it's just peaceful. It's a gorgeous court... It's sat there empty now. (BS16)

Lawyers were often regretful that the courts had closed because the places all had different characters that were appreciated and welcomed in their practice. The lawyers were thus losing out on experiences that they had found satisfying or beneficial. Such was the case in

¹² See, also, Law Society (2022b).

this example where working at some smaller, quieter courts may represent a change in pace for the lawyers, an opportunity to switch off from the hustle and bustle of a larger, busier court.

Nostalgia can sometimes inhibit progress, and the court closure programmes were couched in the language of modernisation. However, some lawyers were concerned that, despite the UK governmental rationale to use cost savings to improve remaining court buildings, there was a general downgrading of courts:

They had some lovely buildings like Pontypool but they're just closed now. It's all part of the devaluation really... of the system. It doesn't matter and we don't spend very much money on it. It's hardly a gold-plated service anymore, is it? The Ministry of Justice has had more cuts following austerity than any other government department, and apparently there's more still to be cut. And it's just unbelievable. Which is why they're closing magistrates' courts and the buildings that they have got are falling to pieces. You know, there's constant things on Twitter about, you know, rain coming through the roof and toilets not working and all that sort of stuff... it's just everything is pretty shoddy. (DS19)

This was the impact of cuts; even where courts remained, they were being run down. The modernisation was not happening or, at least, was not bringing palpable improvements. Such would have an impact on all who come into contact with the courts.

The lawyers were also sure to discuss the impact of courts being lost for defendants. The closing of a court means that the justice system is taken out of that community and that can be intimidating for those defendants who are forced to attend a court in a community they do not know, as well as the defendants potentially needing to have their case heard in a court with very different characteristics to the smaller courts that have been closed. The following account from a lawyer captures such a defendant experience:

By pulling it further away from the community, it creates an even bigger gap then. Because I think some of the old magistrates' court in the South Wales valleys, they were small courts. It was like some of the courtrooms weren't much bigger than a room in a four-bed house in Cardiff would be, you know? But then those courts have closed, and then you're moved then to Cardiff magistrates' court, an even larger court, makes it even more intimidating then. (BS11)

There is a double layer of intimidation here. The defendants needing to leave their smaller court in their community for the larger courts, in the more populous locations means that their experience of the justice system is also altered in a detrimental manner. What lawyers saw, then, was that the defendants they represented were affected by the removal of the court system from many of the places where it used to be present also. Newman and Dehaghani (2022: 89) discussed the importance of local justice and knowledge of local issues as something pronounced in Wales:

Wales was said to have a much less homogenous population across its different towns and regions, with variation even within south Wales such as between the Rhondda Valley and Cardiff city (only 15 to 20 miles by car). The impact of court closures was such that cases from the Valleys were not being properly understood where they were now tried, i.e. in Cardiff.

The quote indicates the existence and operation of local legal cultures (see Church, 1982). These local legal cultures were increasingly undermined and dismantled by the centralization of justice procedures as discussed by these lawyers.

An important issue of this distance in Wales can also involve the language. Whilst our study was focused in south Wales where Welsh is generally spoken less as a first language than it is in the north or west of the country, language is nevertheless an important consideration. Indeed, for The Commission (2019: 441) 'it is notable that in some parts of Wales with the highest proportion of Welsh speakers, people are faced with...much longer journeys to court venues as a result of the court closure programme'. The Commission (2019: 441), saw that 'this position is unacceptable'; we posit that studies in other regions of Wales would have included language-based access problems as a significant issue resulting from the travel expectations that are increasingly placed on defendants. The Welsh Courts Act 1942, the Welsh Language Act 1967, and the Welsh Language Act 1993 provide rights to speak Welsh in court proceedings, but the impact of court closures potentially takes defendants from first-language Welsh communities to first-language English communities. This needs to be better understood.

Having considered the impact of court closures on place, we will now move on to a more focused discussion of the people concerned, examining the impact of court closures on defendants and lawyers.¹³

The Role of Travel

The impact of travel on defendants was the most notable problem that the lawyers identified when discussing the effect of court closures, and we were provided with a great deal of insight into how defendants struggled as a result of having to travel greater distances for court appearances, across a range of examples demonstrating how these problems played out in practice.

Some of the court closures lead to long trips to the nearest court. Lawyers talked us through the kind of distances defendants would now need to travel including the following example in south west Wales:

Yes, it is hugely significant in Swansea, because Swansea is, covers the whole of West Wales and it's a massive geographical area. They closed Haverfordwest, they closed Carmarthen, they closed The Guildhall in Swansea. So, Swansea has gone from having effectively seven courts to four courts, but the significance – and I've always said this

¹³ Owing to the nature of our project, we did not consider the impact on witnesses and victims, although impacts should also be acknowledged, and share some similarities to the impacts on defendants, with notable exceptions.

in terms of Pembrokeshire cases – you would have people basically travelling to Swansea from Pembrokeshire, taking hours and hours and hours to simply plead not guilty, and spend all their money for one hearing... There is no justification for that at all, and it was a *fait accompli*. I mean, there were, allegedly consultations. I mean, there were huge, huge representations made saying, “This is just ridiculous”, and “if you think you could do it, come and do it, we’ll put you on a bus from Milford Haven, and let’s see what time you get to Swansea? And they’ll be a warrant for your arrest by the time you’ve finished, because you won’t get there in time, I’m telling you that”. (BS15)

Haverfordwest, the largest town in Pembrokeshire, is around 60 miles from Swansea by car, a journey of nearly one and a half hours. There is a train that takes a similar amount of time and a bus that takes closer to two and a half hours. Even when the distance was not necessarily excessive on paper, the geography of areas such as the Valleys could make the trips deeply impractical. This lawyer identifies the obstacles that people in these south Wales Valleys areas can face:

But if you’re one of my clients living in Rhigos or Treherbert, at the very top of the Rhondda Valley, then imagine how difficult it is, knowing east-to-west communication routes in Wales – normally you have to go down to the bottom of the valley before you come up the next valley, there are very few routes which go over the top. So, if you’re living in Treherbert, to get to Merthyr would be – I say Merthyr because that would be the nearest magistrates’ court, or Crown Court – it would be a huge task and a huge economic burden for that person. And they are challenged people. These people are not working, they have no riches to spare. It must make it very difficult for them. (DS20)

Lee and Franklin (2006: 15) noted that, ‘in looking to plan for the future provision of legal services in rural and peripheral areas, this requires more than a simple understanding of distances on a map’. Wales, where residents must travel through England if they want a train from the south to the north of the country, has many complications for those who wish to travel and the example of how hard it can be to leave one valley for the next in south Wales is something those outside the country may not realise.

The lawyers in this study noted problems for those in communities where travel was now required. Lawyers discussed how defendants were less likely to attend as a result of the court closures. In the following example, a barrister speaks about experiences of those in towns that had lost their courts and now needed to leave for a court appearance:

Bridgend magistrates’ court closed, Pontypridd magistrates’ court closed. And what happened then is that all the cases of those, in those areas are then sent to either Merthyr, Cardiff or Swansea. And people who live... for example, ... very close to Pontypridd magistrates’ court, and don’t have a car, don’t have a lot of money, are going to find it very difficult to get to Cardiff, or to get to Merthyr or to get to Swansea. And I’ve personally noticed when those court closures happened, there were more and more defence solicitors coming in, or I was coming in and saying, “Well I’ve had a

telephone call this morning, they can't get here. They don't have enough money to get to court this morning." (BS13)

In Adia's (2015) study in the east of England, the court closure meant a trip by public transport required both train and bus components. Assumptions are often made about the accessibility of public transport: the reality is different in large cities as compared to more remote areas. However, public transport was often identified as a problem in many parts of south Wales:

Clients are stressed about getting to court on time, having to get up at silly times in the morning. And particularly Valleys. It's, the public transport is not great there, isn't it? You know, like if you're talking about South-East London, Birmingham, Manchester, the public transport is much better there whereas south Wales, as you know, is much more difficult for people to get anywhere. (BS8)

The Commission (2019: 361) suggested that, 'given the geography and demography of Wales, the dearth of public transport...there is after the extensive court closures little alignment between the justice system and communities and people in Wales'. Need for public transport could still be problematic, as in Newman's (2016: 15) study:

Respondents recounted personal stories about people close to them who had gone through such an experience and how upsetting they had found it, especially when the person they knew who had made the accusation found themselves surrounded, on public transport, by the family of the individual they had accused.

Even when there are services, lawyers highlighted that many defendants struggled financially. This echoes Adisa's (2015: 17) findings in England where, following the closure of the local court, 'the generalised time costs of a defendant coming from rural and rural remote locations daily has doubled in almost all cases'. In Wales, Newman and Dehaghani (2022: 93) cite an example of a defendant that had to spend ten of their 50 pounds a week wage on court travel due to closures; 'previously, they would have travelled around six miles from Porthcawl to Bridgend but after Bridgend Magistrates' court closed in 2016, this left them with a journey of closer to 30 miles to Cardiff'. Lawyers recognised how this could make travel even more difficult when so many local courts were removed from the equation:

There used to be courts in Barry, Bridgend, and they've moved to Cardiff. And I think those that were covered by Bridgend, particularly, might have to travel a long way. And yeah, that can cause people problems, yeah. Same with the Valleys, the Rhondda Valley, etc. They used to have their own courts in Pontypridd, and Rhondda and now they've got to go to Merthyr, so it's further, so I'm sure they've got problems as well. People who are on benefits are obviously going to have difficulties getting to court, if they've got to travel, you know, and then pay for their bus fare or train fare or whatever. (DS4)

The cost of extra travel can be a major inhibitor for access to justice. And, even if defendants can get to court, all these problems can mean they are more likely to be late as noted by a barrister in the study:

Our clients, let's face it, really struggle with management of their time. They're deficient because of their upbringing and education, because of their lifestyles so it's difficult enough to get anywhere on time let alone to Cardiff Crown Court if they live up in Blaenavon, you know? I mean, the timescales to get public transport are ridiculous, so they have to rely on lifts. So, clients would regularly turn up late, risk being remanded into custody if the judge didn't accept their explanation. (BS8)

Late appearances at court could lead to worse outcomes than might otherwise have been encountered by clients. Such is an additional problem for defendants created by the court closures programme.

There was also consideration of how these travel difficulties could make court appearances simply incompatible with the lived-reality of day-to-day life for many:

You know if you're a single mother with three children, and you have some sort of dispute with your former partner over the children, you may not have childcare, you may have to drag the three kids with you. Or you have to be rushed back by a certain time, so if the court time is, you know, ten till four, whatever it is, you may have to pick the children up from school at half-past three, you may not have cover for that. So, these practical considerations, particularly where you do not have a local court. So, for that lady, living in Aberdare, or Pontypridd even, who would be able to dash from the court to pick their child up, no, that can't happen anymore, because you're on a bus for an hour or an hour and a half to get home. You have to leave the court by two o'clock to get home by half-past three. And you may have two or three bus changes to encounter along the way – you know, assuming that all the buses are running, or the trains are running on time. So these practical considerations, these practical difficulties for the court users are immense, I feel a real sense of sadness for them – cost, inconvenience, and the trauma that they're going through in having to attend court for whatever reason in the first place. It just compounds it, doesn't it? (DS20)

This lawyer highlighted the crux of the matter for many: that these extra stressors simply compound the negative experience of having to attend court in the first place. They add new trauma onto the existing distress. Adisa (2015), identified travel time as having a cost value in its own right every bit as significant as financial cost in and of itself. However, these additional values are neither recognised nor factored into discussions around the cost of forcing additional travel onto defendants.

The situation in Wales as it was recounted to us was that too many people are having to travel too far for access to justice. Fundamentally, there were not enough courts open following the closure programmes:

But you can go from quite accessible areas in South Wales to certainly very inaccessible areas. Cardiff can get you anywhere quite easily but certainly you go beyond the Brecon Beacons or Merthyr, it's a lot more difficult. There are issues actually with people who travel in from, you know, Blackwood across to Cwmbran, or

they travel down from Brecon to Merthyr, and it is, it is quite tough. I think at the moment, there aren't enough magistrates' courts open. (BS7)

Too many courts had been closed and this was making things much more difficult for defendants. For Lee and Franklin (2006: 15), it is not 'fair to conclude that just because the demand for legal services may be lower in sparsely populated areas, the need is any less'. This research was conducted before the pandemic but these trends are only likely to be exacerbated now with the pre-existing court backlog massively extended (National Audit Office, 2021). The House of Lords Select Committee on the Constitution (2021: 3) concluded that the justice system is 'under strain' and that 'actions that might have been capable of alleviating the effects of the pandemic' had not been taken, with the backlog of cases in the criminal courts now reaching 'crisis levels'.

Conclusion

What is now required is further research within and of Wales. Such scholarship would look to expose the issues specific to Wales – and the areas herein – and general to the entire England and Wales jurisdiction. Important is the recognition of differential impacts per locality. Courts have closed at a much higher rate in Wales than in England. These closures present significant court access obstacles for those in rural and otherwise poorly connected areas such as the post-industrial south Wales Valleys. The investigation of the effects of policy decisions must have specific regard to demography and geography. Whilst our research contributes to the dearth of research on criminal justice in Wales, there is much more left unexposed.

On the matter of community need and involvement, we must be alert to changes within the court estate. The closure of courts across England and Wales, and particularly in the latter, may frustrate local justice, recognised by, grounded in, and working for the community, as well as the unfavourable impacts of significant travel to court. Such may hinder participation in the criminal process and may increase the likelihood of miscarriages of justice through reduced understanding, increased stress, or the need to pursue a swift resolution. Decisions seem to be taken by those in privileged positions who have little regard for and understanding of the effects on the already marginalised, deprived, and disadvantaged. These decisions also seem not to have regard for or understanding of the geography of Wales: whilst 10 miles on a map may not look far or appear to be so from those sitting at a desk in the incredibly well-connected London, the difference is significant on the ground where a journey cuts across two different valleys. These decisions not only take criminal justice institutions away from communities, but also demonstrate a failure to recognise the specific requirements of – and absence of provision within – the locale.

We call on research to be commissioned that gives voice to defendants in the criminal justice system and collects their experiences of whether and how court closures have impacted upon them in Wales. This would help redress some of the evidence gap identified by The Commission (2019), and would represent a necessary follow up to our paper examining lawyer's perspectives. First-hand accounts are needed from defendants as those most likely to suffer as a result of court closures. This could entail interviews but understanding of the impacts could be deepened through other methods such as accompanying defendants on their journey with participant observation or asking defendants to recount their journey

through diary study. These would provide opportunities to capture real-time thoughts and feelings, which could, then, better inform policy decision-making.

On policy, the Commission on Justice in Wales (2019: 361) set out their position that, 'it is clear that there should be no more court closures in Wales unless and until a clear overall strategy for Wales is produced'. Whilst justice remains a reserved issue, the Welsh Government is hamstrung from implementing these proposals and the impact of the Commission may be limited. Such is evident from the non-committal response the Commission (2019: 360) received from the UK government:

We asked for an assurance that there will be no more court closures. None has been forthcoming. We were told that there were no current plans to close more court buildings in Wales. HMCTS has, however, published a response to a consultation on its estate, which adopts new principles by which any future closure of buildings will be considered. HMCTS maintains that any further closures will be based on evidence, and it is more likely to look at the issue on a site by site basis rather than large blocks of closures. In the consultation, HMCTS said that it would be reasonable for court users to leave their home at 7:30am and return by 7:30pm. We do not consider this acceptable as it does not take into account childcare and family needs or the length of the day... [meaning] long distances to court, particularly if the notice is short, may lead to people failing to attend to give evidence.

A key consideration of The Commission was for the need for the justice system to be devolved to Wales and we believe such a development is crucial to ensure the harms of the court closure programme can be mitigated or reversed. For The Commission (2019: 16):

Only full legislative devolution, combined with executive powers, will overcome the obstacles of the current devolution scheme. It will:

- enable the proper alignment of justice policy and spending with social, health, education and economic development policies in Wales, to underpin practical long-term solutions;
- place justice at the heart of government;
- enable clearer and improved accountability;
- enable advantage to be taken of Wales' size and ability to innovate, for example by integrating legal aid and third sector advice, bringing health and justice resources together to tackle drug abuse, and providing better means of dispute resolution through ombudsmen services;
- and, strengthen the constitution of the UK.

Creating a Welsh legal jurisdiction has the potential to improve access to justice for those living in Wales. As such, the mission of The Commission (2019: 32) could be realised, to make 'the rule of law through access to justice relevant to everyone as the means by which the right to just, equal and fair treatment in all aspects of life is realised and Wales as a nation is just, fair and prosperous'. Moving justice powers to the Welsh Government could bring decisions closer to communities and increase the likelihood that decisions are taken with consideration

of these communities. How to manage the court estate could be part of this process carrying the possibility of improving the experience of places and people in Wales. The time has come to remedy the ills caused by lack of justice powers for Wales and what happens with courts should be part of this.

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