Letter from the Lord Advocate

Thank you for your letter of earlier this month addressed to Mr MacAskill, Cabinet Secretary for Justice. This has been passed to me to assist with clarifications which you are seeking that relate to my responsibilities rather than his.

Efficiency Savings

The Crown Office and Procurator Fiscal Service (COPFS) has a substantial change programme to deliver efficiency savings. Examples of projects are given below.

COPFS is an active participant in a range of projects involving collaboration across the criminal justice system. The two most significant for COPFS are "Getting People to Court" which is largely concerned with ensuring witness attendance, and a “Summary Justice System Model” project which is revisiting summary justice reform with a particular focus on reducing churn.

Within COPFS we are nearing completion of the roll out of our Secure Disclose Website, which has already eliminated the need for agents to attend our offices to collect disclosure in 70% of cases. We are introducing a secure email system for use by the defence agents to eliminate the need for letters to and from the defence, this will also speed up the process of case preparation. COPFS is also in the process of implementing a full electronic case record which will include all documents relevant to a case. Among other things that will enable us to move work between offices to relieve pressures and make the full case record available to our contact centre for answering queries from defence agents and the public. COPFS are rolling out a project to significantly speed up timings across our electronic case management system. There is further ongoing work to review all our case preparation processes to maximise efficiencies.

COPFS recently moved to a shared service for estates and health and safety, delivered to us by Scottish Courts which has resulted in savings for both our organisations.

Impact of Cadder ruling and "son of Cadder"

An immediate impact of the Cadder ruling was that in 2010-11 COPFS had to put substantial resources into reviewing cases affected by the ruling. While, COPFS was unable to prosecute in cases where the ruling impacted on the admissibility of admissions made by the accused resulting in there being insufficient evidence to provide corroboration, there has been substantial efforts by both the police and COPFS to explore alternative sources of corroboration, such as forensic evidence, which will have had some impact on increasing costs in relation to such cases in 2011-12 and that position may change again depending on the outcome of the Carloway Review.
You will be aware that the Crown’s arguments in the "Sons of Cadder" cases at the Supreme Court were successful, and as such there are no additional costs in dealing with these cases.

**Summary Justice Reform**

As indicated above COPFS are looking again at what was achieved in the immediate period following implementation of Summary Justice Reform and whether there is more that can be pursued now to speed up the delivery of justice event further.

The provision of secure electronic disclosure of statements and photographs etc and secure communication facilities to the defence, referred to above, will avoid unnecessary delays in the course of case preparation.

**How many fewer cases will be prosecuted and go to trial?**

The key consideration in how cases are dealt with will continue to be the public interest. In less serious cases diversion and direct measures are an appropriate response but in cases where prosecution is merited then that will happen. Whether those cases go to trial is then a matter for the defence, although COPFS are working with the police to ensure that evidence such as CCTV is available to the defence at the earliest possible time to try to encourage further increases in the number of early pleas.

**Audit Scotland report on an Overview of Scotland's Criminal Justice System**

This report has many strands that are relevant to COPFS, all of which are being actively considered, but I will comment on some of those most relevant to efficiency.

One of the issues highlighted in the report is churn. That can arise for a number of reasons. Joint work with the police and courts to reduce churn was already ongoing before Audit Scotland began its review. That joint work has been concentrating on the 7 busiest courts and is yielding results. The big issue to be addressed is non attendance of witnesses and accused to which there is no simple solution. That is why a number of initiatives are being pursued.

The Audit Scotland report highlights cases which are not proceeded with after considerable investment of effort by police and the Crown and use of court time. It would be easy for us to decide to take no proceedings in cases which COPFS know will be challenging, for example because COPFS can anticipate issues with witnesses, but it is in the public interest for us to make every effort to deliver justice in those cases. While I am looking again at our guidance on discontinuation of cases, any changes will be limited.

The report highlights some of the potential for greater use of IT. I should start by pointing out that a feature of how we work within our criminal justice system which most impresses visitors is our joined up IT. COPFS receives many visitors from other legal systems who specifically come to see it. Most of the reporting and processing of cases is largely paperless until they reach the courts. The creation of
a single police force, with one set of IT systems rather than 8, will facilitate further integration. The Spending Review outcome will enable COPFS to continue to invest in IT, albeit at a slower rate than before the Scottish Government’s overall capital budget was reduced.

I hope that the above information is helpful to your scrutiny of the budget.

Frank Mulholland QC
Lord Advocate
24 October 2011