

## **Justice Committee**

### **Scottish Government's Draft Budget 2018-19**

#### **Written submission from the Crown Office and Procurator Fiscal Service**

1. Thank you for the invitation to provide written evidence ahead of the Committee's consideration of the 2018-19 budget on 19 December.
2. I remain grateful for the interest shown by the Justice Committee in the work of the Crown Office and Procurator Fiscal Service (COPFS), in particular its inquiry which concluded earlier this year. The call for evidence provides a useful opportunity to update on the Committee's recommendations.
3. You will be aware that the Scottish Government's draft budget 2018-19 will be published on 14 December 2017. I will therefore be able to provide more detail to the Committee on how the draft budget fits with our financial planning in further written evidence prior to the Committee hearing on 19 December. I also anticipate providing the Committee with further details of developments regarding system-wide improvements once the draft budget is published.

#### **Our Resources and Staffing**

4. As the Committee is aware, in January 2017 we published four Corporate Strategies and shared these with the Committee before the conclusion of its inquiry. The strategies included a Financial Strategy, which set out a clear financial direction for COPFS to deliver and maintain levels of service with a better environment for staff and taking full account of likely expenditure constraints over the next five years. The core assumption underpinning the strategy was that the 2017/18 allocation from the Scottish Government would remain unchanged throughout the five-year period. It was assumed that inflation would be 3% per annum, that the prevailing Scottish Government pay policy would continue, and that the Scottish Government policy of no compulsory redundancies would also continue, with any staff savings being made instead from natural turnover. We assumed that additional pressures on staff time arising from new legislation and policy changes would have to be absorbed and netted against savings in staff time that could be made from implementing more efficient and effective approaches to prosecution and internal processes. We have applied a 1% vacancy assumption. We have implemented efficiency savings in accordance with this financial strategy throughout the year. We have been liaising with the Scottish Government in terms of this year's draft budget and our Financial Strategy will be updated in light of the budget.
5. The Committee will also recall our Estates Strategy aimed to maximise available savings from non-staff costs. I can advise that decisions have now been made in respect of four offices: Airdrie, Kirkcaldy, Oban and Stirling. To date, it has been decided that:
  - The lease for the Stirling Procurator Fiscal's Office (PFO) will end in August 2018 and colleagues will be accommodated in an upgraded Falkirk office, which is owned by COPFS. Colleagues in Falkirk have been

relocated to Stirling for some months to allow upgrading of the Falkirk office to accommodate the additional staff;

- The lease for the Oban office will end in March 2018 and staff will transfer to premises within Oban Sheriff Court; and,
- The Procurator Fiscal's Offices at Airdrie and Kirkcaldy will be retained but will reduce in size to allow savings to be made in lease costs.

6. We have and will continue to consult with affected staff and stakeholders in relation to implementation of our Estates Strategy. I am confident that the Strategy will ensure that the COPFS Estate remains both fit for purpose and delivers value for public funds whilst allowing us to deliver a local prosecution service in all of the local courts in Scotland.
7. As part of our Workforce Strategy we have reduced reliance on fixed-term contracts and temporary promotions. I am pleased to confirm that we have made further significant progress in strengthening our staffing position in line with our evidence to the Committee in December 2016 and January 2017. By transferring 177 colleagues to permanent contracts, the total number of temporary staff has reduced from 210 as at April 2017 to 36 as at November 2017, which is a reduction from 13.15% of the total staffing complement to 2.3%. Additionally, 115 staff members have been permanently promoted since January 2017.
8. We are also continuing to make progress in relation to sickness absence rates, which are now down to an average of 8.7 days per person, from 10.1 days in October 2016.
9. This year's staff survey results were published in November. They confirm that there is still much work to be done to improve the views of staff on the future of the organisation in areas such as pay and benefits, resources, workload and the leadership of change. The overall measure of a positive outlook on our direction fell slightly from 57% to 55%. The variation in responses across teams and functions appear to be more pronounced than in previous years, perhaps indicating a greater focus this year on more localised issues. Consequently, we are considering carefully the local results with a view to developing specific local responses which will supplement the recent corporate changes designed to improve how staff feel about their jobs and the Service. In terms of the response rate, there was an increase of 3% from last year of staff members who completed the survey. When the response rate fell to 39% in 2014, it prompted a radical re-think on how we approach staff engagement, which led to the Shaping the Future and now the Fair Futures projects, both of which have included unprecedented levels of consultation with colleagues. It is therefore encouraging to see the response rate continue to increase.
10. Our Fair Futures project continues and will be introducing some specific changes to the way in which we fill temporary vacancies and to our performance management arrangements as well as reviewing the application of our attendance management policy and making any necessary amendments. By early April 2018 the project will also have developed detailed proposals in respect of roles and responsibilities and our approach to rotation of staff across COPFS. We will consult with trade unions on proposals with a view to

implementation by April 2019. Our network of almost 80 staff volunteers are being consulted as specific proposals are developed and a Project board meets bi-monthly to oversee project progress.

## **The Efficiency and Effectiveness of the Prosecution Service**

### *(a) Witness citation*

11. The Committee was interested in ways in which COPFS is seeking to develop more efficient and effective means of notifying those whose attendance is no longer required at trial and my letter of 30 May 2017 provided information in this regard. I can now advise that in February 2018 we aim to extend the use of SMS texting, which we already use to remind witnesses to come to court, to also countermand witness attendance when they are no longer required. Additionally, our plans for the Witness Website are moving forward and we have been engaging with a range of suppliers who may be able to deliver our product requirements.
12. The Committee expressed some concern that the witness citation process is unreliable. As I indicated in my letter dated 30 May 2017, we understand the reliability concern to be a reference to the difficulty sometimes encountered by the police in securing a successful personal citation of witnesses who are difficult to trace or reluctant to engage with the criminal justice system. In addition, there was a concern that the volume of witness citations can make it a challenge, where personal service is required and witnesses cannot easily be traced, to effect service successfully and return the executions in time for the intermediate diet. We recognise the need to provide the court with as much information as possible about attempts which have been made to trace and cite witnesses, particularly where this is proving difficult for the police. Since the Committee issued its report we have put in place processes to accelerate the delivery of citations to the police. This will save between 2 to 5 days on previous processes to deliver these citations for service to the police. There will also be the same time saving on executions of service being returned to us by the police.
13. The Committee will be interested to note that Sheriff and Jury Reform is now fully implemented. All Sheriff and Jury cases are now indicted to a first diet rather than a trial- with a greater focus on early preparation and communication with the defence. Courts now appoint trial diets which have a four-day floating period, once satisfied that parties are prepared. These changes are intended to focus trials on the points which are contested inter alia through increased judicial management, and to reduce disruption to witnesses by citing witnesses to trial only following the first diet.
14. Some positive trends are already emerging. For instance, the number of witness citations issued for members of the public in Sheriff and Jury cases in July and August 2017 dropped by approximately 70% compared to the average for the rest of 2017. This is a significant benefit which reduces inconvenience to members of the public. Additionally, the percentage of cases resolving in a plea of guilty at first diet between April and August 2017 was 19.7%, a continuing increase on the percentages for the previous four financial years (9.7%, 10.5%,

13% and 17.8% respectively). In order to support the new provisions we have fully embedded a new witness engagement process for gathering information about availability of witnesses prior to trial.

*(b) Tablets in Court*

15. The first live test of our improved case management in court system involving the use of tablets in court was held in Perth in September and the feedback was positive. A second test has been successfully carried out at Livingston. The system is an improvement on current processes that rely on paperwork and manual handling and the earlier versions of the system which were piloted in the same courts. Our plans to roll-out the upgraded case management in court system to all summary courts remain on course for 2018.

*(c) Service Improvement*

16. In my letter dated 13 January 2017 I acknowledged the concerns relating to the use of 0844 numbers and advised that plans were underway to move to a new 0300 facility. I can advise that all COPFS telephone numbers changed to 0300 numbers in August. This move has reduced the cost for callers as calls to 0300 numbers will cost the same or less than calls to 01 and 02 prefixed numbers and are included as part of any inclusive minutes or discounts package. These rates apply to calls from any type of line including mobile, BT and other fixed line or payphone.

17. Furthermore, in recognition of the role of public confidence in encouraging victims to report crime, we have developed our first Service Improvement Strategy. As part of this strategy, our Local Court function plans to roll out training in service improvement to all Local Court staff and to identify Service Improvement Champions. Local Court colleagues are also encouraged to demonstrate an example of good service at their monthly meetings with their managers. Additionally, a pilot Service Improvement Office has been set up within Edinburgh PFO.

18. Two public surveys ran during May 2017 through the Enquiry Point and our external website. Findings relating to the Enquiry Point include high levels of satisfaction across nearly all metrics, including time taken to answer, resolution of query and the service provided. The survey highlighted that the vast majority of Enquiry Point callers (93%) had their queries resolved by operators without the need to contact colleagues in Procurator Fiscal Offices.

19. Proposed next steps in measuring service satisfaction include repeating the surveys imminently and in May 2018 to provide a baseline for measuring ongoing levels of improvement, arranging focus groups for defence agents and considering a focus group for the website for victims and witnesses.

**Sexual Offences**

20. COPFS has seen a significant increase in the number of sexual offences cases. These now account for 75 % of High Court cases. This is a very significant

increase since 2015 when they consisted of 50% of High Court work. Our assessment is that this increase reflects an ongoing trend which is expected to continue at this level for some time to come. The Thematic Report on the Investigation and Prosecution of Sexual Crime published by Her Majesty's Inspector of Prosecutions in November 2017 identified that, between April and August 2017, the number of new sexual offences cases was up by 57% on the equivalent figure last year. We expect the number to continue to be up 50% over the course of the financial year. The Lord Advocate wrote to the Committee when the Inspectorate report was published. We are very grateful to the Inspectorate for this Report and all 12 recommendations are accepted. There are some important lessons to be learned from it.

21. The Inspectorate report found that the journey time from report to trial is often too long. A significant contributory factor in that finding was the extent of the use of pre-petition investigation, without any evident reduction, in cases which had been investigated pre-petition, in the period from petition to indictment. The Service has in place a pre-petition recovery plan and, notwithstanding the challenges presented by the increased volume of new cases which also require to be processed, the number of cases on pre-petition investigation has halved since April 2016. It has also accepted the Inspectorate's recommendation that cases which have been investigated pre-petition should generally be indicted more quickly.
22. The increase in reports of serious sexual offences is a positive one as it shows that victims are coming forward to report sexual offences. Implementing the Inspectorate's recommendations will, however, be challenging given this significant change in the nature of our caseload and we are in the process of reforming how we work to take account of that change. The Committee explored a number of these reforms during its inquiry, including that sexual offences cases are now dealt with by specialist teams within COPFS supplementing the work of specialist Crown Counsel. The Inspectorate's findings about decision making in the specialist High Court teams provide significant reassurance that our reforms are proceeding on a sound basis.

### **Wildlife and Environmental Crime**

23. Turning to our relationships with third sector stakeholders in Wildlife and Environmental crime, I previously indicated to the Committee that the Lord Advocate had offered the RSPB an opportunity to meet with senior COPFS officials. This meeting took place on 10<sup>th</sup> July 2017 and included a fruitful discussion of recent case outcomes. Discussions focussed on how we can achieve more effective working in future cases and a number of practical steps were identified in that regard. We also offered training for RSPB staff on the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA). We have made a separate similar offer in the context of PAW Scotland with a view to other NGOs and partner agencies having an opportunity to partake in training on RIPSA. Wildlife and Environmental Crime (WECU) prosecutors continue to liaise regularly with NGOs, Police Scotland and the Scottish SPCA in respect of wildlife crime and animal welfare matters and to contribute to the work of the Environmental Climate Change and Land Reform Committee.

## **Victims and Witnesses**

24. The Committee expressed concern about communication with victims and witnesses. The evidence before the Committee is further supplemented by findings made by the Inspectorate of Prosecutions in its Thematic Report on the Investigation and Prosecution of Sexual Crimes.
25. Earlier this year, we introduced a revised Victim Strategy, the primary focus of which is to ensure that initial contact with victims is made at a much earlier stage of the case in order that a victim has a Victim Information and Advice (VIA) contact from the outset with and from whom they can discuss issues of concern and obtain updates. The revised Victim Strategy emphasises that it is the combined responsibility of VIA and Solemn Legal Manager/Case Preparer to communicate and agree the victim strategy for each case and to ensure that they were having ongoing consultation as the case progressed. Since September 2017, all VIA staff who work on High Court sexual offences cases have a geographic responsibility and, accordingly, have responsibility for the victims in their area.
26. The Committee will be interested to know that COPFS has recently agreed a feedback process with Rape Crisis Scotland, which will allow us to learn from victim experience and to drive improvements.
27. We continue to engage with relevant parties to discuss whether steps could be taken to remove the statutory requirement for written notices to be lodged with the court about special measures. Such a change would release VIA staff from an onerous administrative task to enable them to engage more effectively with victims. Support for removal of written notices can be found in the Inspectorate's report, which noted that their abolition would provide certainty for victims that they could give evidence in accordance with the standard measure of their choice.
28. The Committee also expressed some concern about vulnerable witnesses meeting accused persons in and around court buildings. Whilst COPFS is not responsible for the court estate, we fully understand the need to minimise the anxiety felt by victims and witnesses when attending court. To that end we have recently worked with the Scottish Courts and Tribunals Service and other partners to revise joint guidance to better improve the way information is communicated to the court about the needs of a child or vulnerable witness.
29. As I indicated in my letter dated 30 May 2017, we will work collaboratively with the Scottish Government and other justice agencies to assist in taking forward the recommendations of Review of Victim Care by Lesley Thomson QC and, in partnership with the Scottish Government and justice partners, to continue to develop options for further improving the support provided to victims. The Scottish Government held an event on 22nd September 2017 that brought together criminal justice partners and victim support agencies, including COPFS. The purpose of the workshop was to review victims' journeys through the criminal justice system in Scotland with a view to improving the information and support

provided. As part of the event, the workshop discussed the potential for a new 'single point of contact' or 'one front door' model of support and assessed the practicalities of introducing such a model. Thereafter there followed table discussion amongst attendees about how the current system could be reformed and improved. The Scottish Government is now preparing a report which will capture the outcomes of the workshop. This report and further engagement with criminal justice and victim support organisations will form the basis of future developments.

30. We continue to work with the Scottish Government and criminal justice partners to drive forward system-wide improvements including taking forward the recommendations in the Evidence and Procedure Review. One example of our work in this area is our implementation of the recent High Court Practice Note on Taking Evidence by Commissioner. This Practice Note is designed to improve the experience of giving evidence in the High Court for vulnerable witnesses, particularly children.

31. I hope that the Committee finds this update helpful.

David Harvie  
Crown Agent  
6 December 2017