Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from the Scottish Courts and Tribunals Service

We refer to the above call for evidence and respond on behalf of the Scottish Courts and Tribunals Service (the “SCTS”) acting in its role to provide efficient and effective administration to the courts. The response does not include the views of the Judiciary.

By way of introduction, we think it is helpful to first make two general points about the broader context within which the Crown Office and Procurator Fiscal Service (“COPFS”) now operates.

First, justice delivery is a challenging environment. In recent years, the volume, length and complexity of many criminal cases has increased, particularly sexual offence and domestic abuse cases, and a greater proportion of all cases calling in court are now continuing to trial.

Secondly, the Scottish justice agencies very much recognise that justice is a jointly-operated system and measures to improve and reform it necessarily require committed, collaborative, working. This is reflected at strategic level, where the Justice Board provides the forum for the high-level consideration of the operation of the justice system, regularly commissioning joint working initiatives among the agencies to address issues. The Crown Agent is a member of this Board, and plays a crucial role both in bringing the perspective of the Crown Office and Procurator Fiscal Service to the table and in promoting joint working.

Turning to working relationships more specifically, in addition to the links through the Justice Board, the SCTS have good working relationships with COPFS at a number of different levels.

At local level, the SCTS worked closely with COPFS in rationalising the local Criminal Justice Boards from 11 to 6 (to coincide with the sheriffdom boundaries) and in reviewing remits. COPFS’s input was essential and has resulted in better forward planning of local resources.

At national level, there are a number of examples of good joint working between us:

- COPFS continue to work closely with the SCTS to achieve agreed key performance indicators to ensure that courts are programmed as far as possible to match business needs and respective resources. This close liaison has played a significant part in reducing waiting periods for trials in relation to domestic abuse cases across the country.

- COPFS made a significant contribution in the improvement of processes for dealing with sheriff and jury cases, following the issue of the then Lord Justice Clerk’s Criminal Practice Note No 3 of 2015 last year. The objective of the
Practice Note was to promote greater efficiency and the better use of available resources within the courts by enabling the sheriff to carry out active case management commencing at a First Diet, consistent with their duty to manage solemn criminal proceedings. The willingness and engagement of the Crown in following the spirit of the Practice Note has made a significant contribution to the success of the new process in the lead up to the commencement of the Criminal Justice (Scotland) Act 2016.

- Working closely with COPFS, we agreed a protocol with other justice agencies to ensure a joined up approach towards witnesses and victims of crime, and to ensure sharing of best practice. Related to this, COPFS also worked closely with the SCTS and justice partners in the publication of joint standards of service for victims and witnesses.

- Senior representatives from the SCTS, COPFS and Police Scotland regularly meet to discuss significant operational issues and agree appropriate responses.

More generally, we would also like to highlight the ongoing work we are leading on following the publication of the report Evidence and Procedure Review – Next Steps. This work is looking at the treatment of children and vulnerable witnesses, redesigning the summary justice system, and making effective use of technology.

The current inefficiencies and churn of cases within current summary criminal procedures have long been recognised and, despite some changes made over recent years, these inefficiencies still remain - as highlighted by the 2015 Audit Scotland report Efficiency of Prosecuting Criminal Cases through the Sheriff Courts. Churn in the system brings costs, with not only the need to repeat hearings, but also in the disruption and inconvenience for witnesses attending court.

The initial Evidence and Procedure Review report identified a number of factors that created this churn but also looked at the current system’s ability to get the best evidence from witnesses, in particular from children and other vulnerable witnesses. The work now being undertaken in response to Next Steps has the potential to be transformational, both in addressing the trauma and distress that children and vulnerable witnesses experience when giving evidence in court and also in the creation of a streamlined, modern digital summary process that means far fewer administrative hearings are required, and far fewer witnesses cited unnecessarily. As far as possible, evidence should be agreed in advance, and trials scheduled only when it is clear they will take place and evidence will be led.

The Lord President has made clear his ambition for a more responsive, effective, efficient and modern justice system, as has the Cabinet Secretary and the Lord Advocate. The Evidence and Procedure Review work aims to help fulfil that ambition, and the COPFS’s participation in this work has been at a senior level and absolutely essential. There is a shared sense that we are working towards a common objective of better delivery of justice for all.

I hope this response is of assistance to you. If you require any further information at this stage, please do not hesitate to contact me.
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