

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Wednesday 21 April 2004
(*Morning*)

Session 2

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JUSTICE 1 COMMITTEE

15th Meeting 2004, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Mr Stewart Maxwell (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)
*Marlyn Glen (North East Scotland) (Lab)
*Michael Matheson (Central Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

JUSTICE 2 COMMITTEE

14th Meeting 2004, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)
Colin Fox (Lothians) (SSP)
Maureen Macmillan (Highlands and Islands) (Lab)
*Mike Pringle (Edinburgh South) (LD)
Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

John Anderson (Scottish Court Service)
Shona Barrie (Crown Office and Procurator Fiscal Service)
Nicola Bennett (Scottish Court Service)
Cliff Binning (Scottish Court Service)
Val Bremner (Procurators Fiscal Society)
Jim Caldwell (First Division Association)
John Dunn (Crown Office and Procurator Fiscal Service)
Stephen Woodhouse (Crown Office and Procurator Fiscal Service)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Douglas Wands

ASSISTANT CLERK

Douglas Thornton

LOCATION

Committee Room 1

CLERK TO THE COMMITTEE

Gillian Baxendine
Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Wednesday 21 April 2004

(Morning)

[THE CONVENER opened the meeting at 10:42]

Budget Process 2005-06

The Convener (Pauline McNeill): Good morning. I welcome everyone to the joint meeting of the Justice 1 Committee and the Justice 2 Committee to scrutinise the budget process. I have received apologies from Colin Fox, Maureen Macmillan, Nicola Sturgeon and Jackie Baillie. I formally welcome Ken McKay, the adviser to the committee, who will assist us in our scrutiny of the budget process from here on in.

The only item on the agenda is our consideration of the budget process 2005-06. I welcome the team from the Crown Office and Procurator Fiscal Service. Stephen Woodhouse is the director of finance; Shona Barrie is the team leader of the policy group; and John Dunn is head of the High Court unit. I thank you for coming along this morning. There are a number of questions that we would like to put to you.

Margaret Smith (Edinburgh West) (LD): What is your latest assessment of the progress made in implementing the change agenda following the large injection of additional funds in 2002-03?

Stephen Woodhouse (Crown Office and Procurator Fiscal Service): We are making very good progress. You will know from our previous appearances before the committee that we have carried out a major restructuring of the way in which the Crown Office works, to improve relations with the police. That seems to be working well.

In the High Court unit, there has been a major restructuring of the way in which advocate deputes operate. We are introducing new information technology systems, which will improve the flow and management of casework through the system. We are now looking at the electronic transfer of cases to the Scottish Court Service. In general we feel that we are making very good progress—as evidenced by our improved performance against our targets.

Margaret Smith: I will pick up on the point about the electronic transfer of cases to the courts. Can you give us more information about that? What stage is that work at?

Stephen Woodhouse: The sheriff court material has been going to the Scottish Court Service for some time now. We are now piloting the transfer of High Court cases to the Scottish Court Service. John Dunn will perhaps say more about that.

10:45

John Dunn (Crown Office and Procurator Fiscal Service): We started the transfer of data in February as a pilot. That was successful and we have been continuing with it since 5 April. We have a little bit to do at our end in getting our data as up to date as we would like them to be—and as they need to be—but benefits are arising from the process. Those include the fact that the data files will be sent to the Scottish Court Service a fortnight in anticipation of the sitting. Prior to that—I hope two weeks prior to that date—the Scottish Court Service will have an electronic version of the indictment, which will generate savings in the quantity of paper that is used. In addition, a benefit will arise from the fact that once the Scottish Court Service has in its possession electronic data files, it can update, in real time, the court disposals. That information will then inhabit our standard office system—SOS VI. Therefore, as a result of the electronic exchange of data and indictments, the disposals will be available to the staff in the COPFS much more quickly than has been possible hitherto.

Bill Butler (Glasgow Anniesland) (Lab): The Lord Advocate told the committees on 7 October last year that the budget beyond 2002-03 was not a flat-line budget as additional money would be released by removing inefficiencies and by investment in IT, which you touched on in your response to Margaret Smith. Can you tell the committee a little more about the progress that has been made on those two fronts? You say that IT has generated and will generate savings. Can you quantify the savings in monetary terms? What savings have been, and are being, generated in removing inefficiencies?

Stephen Woodhouse: On the IT front, the systems that we are putting in automate the bulk of the processing; a lot of the paperwork is done electronically, so we do not need people to push paper about. We estimate that the saving produced by that amounts to, approximately, the costs of 80 staff.

Bill Butler: What is that in monetary terms?

Stephen Woodhouse: About £1 million.

Bill Butler: Are any other savings generated that have a monetary equivalent that you could let the committees know about this morning?

Stephen Woodhouse: That is the most direct saving. There will generally be more efficient

handling of cases and better planning of cases and of the work load. That will generate savings in due course, but we have not attempted to evaluate the next stage of that work.

Bill Butler: When will be the right time for you to attempt to evaluate that?

Stephen Woodhouse: We can do that once we have got the new office system fully in place—installation started late last year and will not be completed until we put the system into Glasgow in June. Until then we will not be in a position to assess the implications fully.

Bill Butler: I suppose that you assume that as those efficiencies and the investment in IT play out, they will generate savings year on year.

Stephen Woodhouse: Yes.

You mentioned other changes. On the solemn side of the business, we had a project called project solemn renewal, which relates to the serious cases. We have simplified much of the process for taking precognitions. Again, we are piloting that project.

John Dunn: I can pick up on that as I am one of the co-chairs of that project. What it means is that we can target our resources more effectively. It is not a theory, because it arose from experience in one of the fiscals' areas. I have some figures that show that a significant increase in the work load was capable of being dealt with within existing resources.

The particular area concerned had a net increase in petitions from 456 to 567. That meant that there was an increase in precognitions reported to the Crown Office from 326 to 416. That might not sound like much, but that is just for one area. We simplified the precognition process in relation to sheriff and jury work, not so that it is done carelessly but so that it is done in a manner that is fit for its purpose in the sheriff court. The efficiencies gained from that could be used to pick up the increase in work that arose and, in addition, to focus on High Court work to generate as good a product as possible for the end user: the advocate depute who is prosecuting the case in the High Court.

Bill Butler: That is good to hear, but are you looking to make other efficiencies that would have the same beneficial effects as the one that you have just illustrated?

John Dunn: Things are starting to feed through. The quality of our preparation is improving. We are better prepared because we have more advocate deputes, and we now have much greater opportunities for preparation and engagement with our counterparts in the defence, which means we are beginning to see a fairly dramatic improvement in the rate of disposal of our High Court business.

Bill Butler: How dramatic?

John Dunn: I have the figures for this year and last year. This time last year, it was an unfortunate fact of life that we were adjourning a high percentage—on occasion, as much as 60 per cent—of our cases in the High Court in Glasgow. Most of those adjournments were on defence motions—I do not doubt that this will take us back to the Bonomy proposals in due course. However, more recent figures show that far fewer cases are being adjourned, to the extent that in the last sitting for which we have records, we adjourned 25 per cent of cases. Clearly, the figure of one in four is not ideal, but it is a big improvement, and there is scope for more improvement. All those things are building up a critical mass to improve our throughput and our efficiency.

Bill Butler: Can we move on a little—

The Convener: Do you mind if we pick up a few supplementary questions first?

Bill Butler: Of course not.

Miss Annabel Goldie (West of Scotland) (Con): I want to try to get a picture of all this. If we go back to 2001-02 and 2002-03, my understanding is that there was an aggregate increase in your budget of about £24 million. Have those moneys been fully deployed with the various changes that you have talked about, or does any surplus remain?

Stephen Woodhouse: The moneys have been fully deployed. We have had quite large increases in legal staff since that time, as the committees probably know, and as 60 per cent of our budget goes on pay, a lot of the moneys have gone on that. The investment in IT has absorbed £3 million or £4 million each year. Just keeping the system going absorbs quite a lot. For example, we spend £10 million a year on our buildings.

Miss Goldie: So the staff component will be a recurring charge.

Stephen Woodhouse: Yes.

Miss Goldie: Will you have a rolling budget for IT? Will that be a continuing charge?

Stephen Woodhouse: It will be a continuing charge, because we have to maintain a network in 50 sites. Developments are required for the Bonomy measures and might be required for the McInnes review, but we think that the bulk of the IT spend either has happened or will happen this year, and it should scale down from 2005-06 onwards. We expect the spend to be much less, because the main change—which is the future office system—is happening now.

Miss Goldie: You referred to the apparent improvement in the adjournment situation over a year, but to what is that attributable?

John Dunn: In large measure, it is attributable to the ability to focus resources on the preparation of our more serious cases—namely the High Court cases—and the fact that we now have a complement of advocate deputes that is greater than we had in the past, which means they now have available to them a week of preparation time prior to the sitting. In a sense, the way in which that time is being used anticipates the Bonomy proposals, because the advocate deputes have their papers and engage with their counterparts in the defence to see what the position is, so that we know which cases are going to trial, on which cases pleas are likely to be made and which cases may have to be adjourned. We can discuss the reasons for adjournment and see if we can identify a means of not adjourning a case. For example, if the reason is something as simple as an expert witness not being available in week 1, we can try to schedule our case in such a way that it runs in week 2 of the sitting. Those are the primary reasons for the upturn in the disposal rate of our High Court business.

Miss Goldie: By removing those inefficiencies, you clearly cut down on the time that personnel spend appearing at useless and abortive diets—

John Dunn: That also prevents witnesses from needing to come along and victims from being distressed as a result of thinking that their case will be heard in the first week when it might not be.

Miss Goldie: I know that this is difficult, but can you quantify that improvement in monetary terms? Are you able to put a price on the saving?

John Dunn: I am afraid that I cannot do that just now.

Miss Goldie: Would it be possible to do so if you were given a little time?

Stephen Woodhouse: We could give a rough estimate. We can probably quantify how much time is saved by conducting the precognitions more effectively, because they now take less time. I am not sure that we could put a figure on the effect on the High Court, but we could take that away and have a think.

Miss Goldie: That might be helpful.

John Dunn: It is important to bear it in mind that although witnesses might not have attended court, thereby incurring costs for the Crown Office, they might have been told that the trial was the next day so they would in effect be on standby and would be inconvenienced. We are trying to eliminate that element so that when witnesses are told that a trial is going ahead on such and such a date, that will be so.

The Convener: I want to spend a bit of time on this, because it is the focus of our job to ascertain whether the Crown Office has an adequate budget

to fulfil its commitments. At some stage, you are going to have to be a bit more forthcoming about your estimates and about where you think the savings will be made. I would find it difficult to sign up to a flat-line budget if you cannot tell me where and how the savings will be made. I cannot see from where you are going to get the resources to meet the extra commitments and the targets that we all admire. I have to say early on that any information that you can give us either at this stage or later is crucial to our doing our job. Are you able now to give the committee your estimates of the savings from the introduction of the future office system?

Stephen Woodhouse: The savings will be about £1 million a year from the first stage, as I told Mr Butler. We think that there is scope for approximately another 30 posts to go in the second stage of FOS. I cannot recall immediately what that stage will cover—I think that it is summary processing—but it will automate another swathe of work and will save approximately £400,000 to £500,000 from 2005-06.

On savings generally, we are considering ways of conducting witness citation to try to reduce the inconvenience to witnesses and the cost to us. We are also considering our estates. For example, in Edinburgh we hope to move from five sites to three by the end of 2006—provided that we can get out of the leases on some of our buildings—which should save approximately £250,000 in rent. We are considering our procurement strategies to see whether we can make more use of central contracts, such as Scottish Executive and perhaps Scottish Court Service contracts, given that we use many Scottish Court Service buildings, to try to reduce the operating cost of the service. We think that there is scope to make 25 per cent savings in the course of 2005-06 just in keeping the service going. We are considering a range of efficiencies.

The Convener: That is what I am trying to draw you on. We have heard before about the plans that you have for making savings, some of which make perfect sense to me. At some point, would you be able to give the committee even an estimate of the figures and say where the efficiency savings will be made? I realise that it might be difficult to do that today, but when would you be able to do it?

Stephen Woodhouse: You would like a summary of the efficiency savings that we expect to make.

The Convener: Yes.

Stephen Woodhouse: I can provide a list of the savings.

The Convener: In your view, from what you have been able to scrutinise so far, will the

savings that you estimate will be made by the efficiency reforms be sufficient to accommodate the commitments that you have signed up to in the Crown Office budget?

Stephen Woodhouse: I believe that they will be sufficient for 2005-06. Members will know that we received additional funding for the introduction of the High Court reforms on the IT side and for the introduction of preliminary diets. In my view, we will have enough to operate the system properly and to deliver the service that people expect.

11:00

Mr Stewart Maxwell (West of Scotland) (SNP): I seek clarification on the same point. You spoke about £1 million per annum in savings on staff costs because of the cuts that have been made so far. Is that a net saving from staff costs or have you offset the figure against the costs of introducing the IT equipment?

Stephen Woodhouse: That is the cost of the staff whose posts will no longer be required.

Mr Maxwell: Right. So the total saving is not £1 million. You said that an investment of £4 million will be made in IT, which means that there will be an on-going IT cost that you have not quantified. Perhaps you might quantify it for us now. What are the annual on-going IT costs for maintenance and so on?

Stephen Woodhouse: Our overall annual IT budget is about £4 to £5 million, £3 million of which goes to running the data network.

Mr Maxwell: You said that your investment in IT had allowed you to remove staff. You also said that the removal of staff will save you £1 million a year. What are the additional costs of the IT equipment? In other words, if you save £1 million and yet the IT costs are X, what is the actual saving?

Stephen Woodhouse: I am not sure that I understand the question. The actual saving is the fact that there will be 80 fewer support staff next year—2005-06—than there are at the moment.

Mr Maxwell: Maybe I am not explaining the question properly. I understand that there are 80 fewer staff, but you said that you had invested in additional IT equipment. What is the cost of the additional IT equipment every year?

Stephen Woodhouse: It is not additional IT equipment. The cost is that of enhancing the system. In 2005-06, we expect to spend £3.6 million on IT, which includes works for Bonomy, developing further stages of the future office system and the partial replacement of terminals that need to be upgraded because they need more memory. It also includes other projects such as

the development of work for victim information and advice and the enhancement of our management information system so that we can get to information more quickly. All of those are things that will enable us to manage the business better.

Although some of that work will not produce direct savings, the best way of putting it is that, if we did not do the work, we would have to employ more staff. If we did not invest in an automated system for disclosing witness statements to the defence, the operation would be extremely time and people intensive.

An evaluation has been undertaken, but I do not have the figures to hand. A lot of what we are talking about is routine stuff that is needed just to keep the IT going. We have a big, complex system that does not, in itself, generate savings.

Mr Maxwell: I am a bit confused. I thought that you said earlier that you were investing an extra £4 million in IT and that, because of the extra investments and the change from paper to electronic data—which means that you will save on paper work and so forth—you will save £1 million. I am trying to get at the cost of the extra investment that is being made in the transfer to electronic data. Can you quantify the additional costs? I am talking not about upgrading personal computers, which is a normal, on-going procedure that you would undertake every so often, but about the extra investment that you are making in IT. I thought that you mentioned earlier that, given that you need 80 fewer staff, the result is a saving of £1 million. Can you quantify that particular part of the IT budget?

Stephen Woodhouse: It is the cost of the full system over a number of years. I think that the figure is about £6 million; most will have been spent in 2003-04 and 2004-05, with some being spent in 2005-06. The £4 million that we are spending on IT in 2005-06 is not all going on FOS.

Mr Maxwell: I am sorry—what did you say it is not being spent on?

Stephen Woodhouse: It is not all going on the future office system. I think that you are comparing two different numbers. Not all of the £4 million that we are talking about, which is to be spent in 2005-06, is being spent on the future office system.

Mr Maxwell: How much is being spent on that?

Stephen Woodhouse: I think that the figure will be about £1 million in 2005-06.

The Convener: As I said earlier, it would help the committee to prepare its report if you could give us estimates. We are trying to establish straightforwardly where money is being invested and where savings are expected, so that we can judge what we think is a flat-line budget.

Shona Barrie (Crown Office and Procurator Fiscal Service): You want to isolate the costs of the future office system project, against on-going savings—

The Convener: Yes, and the costs of any of the other efficiencies that you talked about. We would like those costs to be provided in straightforward terms, if you get my drift.

Bill Butler: What is the current position on the recruitment of procurator fiscal deputes? Do you still have vacancies?

Stephen Woodhouse: We still have some vacancies—offhand, I think that there are about 10 vacancies—and we are currently running a recruitment campaign. We hope to recruit some deputes on temporary contracts. Quite a lot of what we call temporary fiscals work ad hoc, to cover maternity leave for example, so we hope to recruit some people on such contracts.

Bill Butler: Are there 10 vacancies altogether?

Stephen Woodhouse: Yes, there are in the order of 10 vacancies.

Bill Butler: Do you have the budgetary provision to fill those vacancies permanently or will you simply fill them with, for example, people on temporary contracts?

Stephen Woodhouse: The 10 vacancies are for permanent posts.

Bill Butler: Do you have the budgetary provision for that?

Stephen Woodhouse: Yes.

Mike Pringle (Edinburgh South) (LD): I meant to ask earlier about the savings in relation to the 80 staff, because a quick calculation indicates that their average annual salary must be £12,500, which seems extremely low.

Stephen Woodhouse: They are junior staff.

Mike Pringle: Would they earn about that amount?

Stephen Woodhouse: Yes. The figure is about right.

Marlyn Glen (North East Scotland) (Lab): Do you have plans to establish a flying squad of staff who would go to offices that were facing particular pressure?

Stephen Woodhouse: Not as such. Area fiscals can move staff between offices. For example, the office in Airdrie was under particular pressure after the fire, so other offices in the Lanarkshire area and Glasgow moved staff in to help.

We now have the capability to move work to different offices, so for example if an office was acquiring a backlog in marking cases for

prosecution, cases could be moved electronically to another office to help to release the pressure. A combination of such operations can help to deal with particular problems.

Marlyn Glen: I understand that you tackle problems on an area basis and that you move work around. Would there be advantages to the establishment of a flying squad?

Stephen Woodhouse: I am not sure how advantageous that would be. What would such a squad do if no one needed help? That would be the basic problem. I think that we considered the possibility a couple of years ago and concluded that it would be better to use the area structure flexibly to move work or people.

John Dunn: That is right. The beauty of the electronic case system is that we do not have to move the people to the work; we can move the work to the people.

Marlyn Glen: That is much more advantageous.

Miss Goldie: This is a spending review year. Will the Crown Office and Procurator Fiscal Service bid for additional resources?

Stephen Woodhouse: I cannot prejudge what the Lord Advocate might do in the spending review. We are considering our requirements, but we have come to no final decision about what we might do.

Miss Goldie: Do you accept that it is important to try to anticipate whether the existing budgetary allocation will be adequate over the next three-year period?

Stephen Woodhouse: Yes, absolutely. We are forecasting the work load and taking account of the changes that we know about, to ascertain whether we will have enough resources. If we conclude that we will not have enough resources, we will put in a bid.

Miss Goldie: Will you be coming to a view on that in the near future?

Stephen Woodhouse: Yes. I forget the immediate timetable, but it will probably be towards the end of May when we have to come to a final view.

Miss Goldie: You mentioned that you were not sure what the Lord Advocate's attitude would be. Is there not an obligation on you, with your working knowledge of what actually happens in the sector, to determine whether representation should be made to the Lord Advocate?

Stephen Woodhouse: Yes, absolutely.

Shona Barrie: We consider the legislative programme and policy developments and innovations, which help us to inform the process.

Miss Goldie: Various things may well happen over the next few years that would impact on the provision of the service. I wonder how far down the road you are in estimating what the implications might be for the budget.

Stephen Woodhouse: We are some way down the line. It is difficult to know quite what the effects of the Bonomy measures will be. Equally, the McInnes review has some potentially wide implications for summary business. Its proposals could produce savings in some areas, but it will also have some cost implications. We have not yet come to a final view about that.

Shona Barrie: No policy has yet been developed on McInnes—it is difficult to predict what the Executive's policy might be in the vacuum in which we find ourselves. It would be premature of us to try to attach figures to the results of the McInnes review if we do not know what the result of the open consultation will be.

Miss Goldie: Presumably, you would want to take into account the possible effect on your budget, if only in order to signal that to the Executive.

Stephen Woodhouse: Yes.

Miss Goldie: Will you approach that matter before the deadline of late May?

Stephen Woodhouse: Yes. As you imply, we will have to. There will have to be a number of caveats, because of the uncertainty over the practical effects of the forthcoming changes, and the Lord Advocate will then have to take a view on the matter.

The Convener: We must compile our final report by 18 May. You said that you will be in a better position to give us your view in May. Might you be able to give us an indication of that before we draw up our report?

Shona Barrie: Is this in relation to, for example, the efficiencies for 2005-06?

The Convener: Yes. You said that you could not tell us about those, because they are not clear—they are not clear to us either at the moment, and I do not see how we can compile a report on that basis. It will be just our opinion, but we have to present a report to Parliament on whether we think that your budget is adequate, based on what you tell us. To be blunt, it would be useless for you to come to us at the end of May, when we are presenting our report. I do not see how we can make a judgment, unless you can tell us that you might be able to give us at least a preliminary indication of your views before then. Might that be possible?

Stephen Woodhouse: Yes. I believe that you will see the Lord Advocate on 4 May. We would hope to have something for you by then.

The Convener: Thank you—that is helpful.

Margaret Mitchell (Central Scotland) (Con): If the Crown Office and Procurator Fiscal Service were to be awarded an injection of additional cash today, where would you choose to spend that cash so as to improve the efficiency of the service?

Stephen Woodhouse: It would depend on how much it was, but I would probably choose to invest it in some of our buildings. Some of them are laid out in a way that is not ideally suited for the team working that we do now. That is particularly true for our Glasgow building, which probably needs the most work on it.

Margaret Mitchell: Any more takers?

John Dunn: More staff are always welcome, although whether they are necessary is another matter. We hope that the Bonomy measures will serve to identify the cases that have to go to trial. It is anticipated that the churning of cases will thereby be eliminated. We hope to generate savings in due course as a result. It is a very attractive offer—thank you very much.

Margaret Mitchell: Keep going—are there no other takers?

The Convener: We knew that you would like that question.

11:15

Karen Whitefield (Airdrie and Shotts) (Lab): You have already touched on some of the issues around the implementation of the Bonomy and Normand recommendations with respect to information technology. However, it is clear from the annual evaluation report that the Crown Office is already implementing those recommendations. Will the recommendations generate additional costs for the COPFS, apart from those that might be incurred by implementing the IT proposals? Will they lead to savings in the longer term and, if so, how will you be able to evaluate them?

John Dunn: As far as the High Court is concerned, members will no doubt know that we are in consultation with the Law Society of Scotland and the Faculty of Advocates on a practice note to achieve early disclosure of the basis of our case. Such disclosure will include the provision of witness lists, productions and statements and we expect that that will allow the defence to be in a better position to be ready for the case when it is indicted to a preliminary hearing. We hope that, as a result, we will be able to identify at the hearing before the judge the cases with a guilty plea and those that will involve

trials. The fact that we will have trial diets instead of adjourned trial diets will mean savings. Obviously, early disclosure will incur costs, but those costs will be covered by the provision for the IT that will be required to support that.

We want to make the system as user-friendly as possible. For example, I do not think that the police would disagree if we said that the quality of their statements can sometimes be patchy. We are working alongside them to improve the quality of those statements to ensure that they are fit for purpose for us and the defence. In that way, we will be able both to prosecute and to brief the defence so that it understands the case against its client. Although costs will be incurred, they have been budgeted for and indeed will be offset by the savings that we hope to make by eliminating the churn of cases. After all, that was at the core of Lord Bonyom's recommendations.

Karen Whitefield: How will you track those costs and savings to find out whether they balance out or whether the costs are greater than the savings? Will you make that information available so that we can judge whether additional money is required to fund the changes?

John Dunn: The savings that arise from implementing Lord Bonyom's recommendations will not be apparent until implementation takes place. I trust that we will be able to evaluate how High Court business is dealt with prior to the enactment of the Criminal Procedure (Amendment) (Scotland) Bill and how it is dealt with after its enactment to discover what efficiencies have been gained and what savings have been made. It is hard to attach any figures to that just now.

Karen Whitefield: When, theoretically, will you be in a position to attach some figures to that?

John Dunn: What do you mean by "theoretically"?

Karen Whitefield: What timescale are you working to?

John Dunn: We are hoping to compare data from the year immediately prior to the implementation of the Bonyom recommendations with data from the matching period immediately after implementation to find out what it has meant. For example, we could examine the throughput of our High Court casework to find out the number of trials and pleas. Because we have unit figures for the cost of a plea or a trial, we can then work out the savings that have arisen.

Karen Whitefield: As the implementation of the Bonyom recommendations is partly motivated by a wish to improve the service, you must believe that the changes will deliver savings. Have you any impression at all of the overall effects of

implementation with regard to improving the service's efficiency and to costs?

John Dunn: We could try to extrapolate from the figures that I gave earlier by comparing last year's adjournment rate with this year's. However, one would need to examine the costs of the cases to see whether they involved the attendance of witnesses and whether the witnesses were paid for their attendance or were simply inconvenienced. It is hard to quantify the savings without doing quite a bit of backtracking to calculate the costs involved.

The Convener: The Crown Agent has advised us that, as a result of the Bonyom reforms, all police witness statements will routinely be given to the defence. That does not happen at the moment. Can the committee be provided with estimates for the cost of copying those statements?

Stephen Woodhouse: Our budget includes costs for amending the IT system to allow the disclosure of all material to the defence. That includes police witness statements, but we have not costed those separately. We need a system to keep track of what has been sent and to whom, both so that we do not miss things out and so that, if the defence claims that it did not receive something, we can defend ourselves by saying that we sent it to such and such a person on such and such a date. The cost of that system is about £800,000 over two years, but we have not costed police witness statements specifically.

The Convener: I was thinking of photocopying costs.

John Dunn: The change is more radical than might be thought, because the defence must be given not just the statements of police witnesses but the police statements taken from witnesses, which could be statements taken from civilians. The requirement is across the board. We have worked with the police to improve the quality and format of their statements.

The Convener: I want to pin you down on the cost. Is that £800,000 over two years the total cost to the Crown Office of the additional commitment to provide all police witness statements to the defence routinely?

Stephen Woodhouse: Yes, that is the total capital cost.

The Convener: Have the budgetary implications of shifting business from the High Court to the sheriff court been estimated? What is the additional estimated cost to the Crown Office?

Stephen Woodhouse: There will not be additional costs. Sheriff court cases generally cost us less because they do not involve advocate deposes and are generally shorter trials. In general, sheriff and jury cases conclude earlier

than High Court cases. If that pattern continues in the cases that transfer, we expect that at worst the change will be cost neutral and at best it will produce some savings.

The Convener: There might be some savings.

John Dunn: Yes. It should be borne in mind that an expedited precognition format will be adopted for the sheriff and jury cases. That does not mean that the precognitions will be of a lower quality. They will be fit for purpose, although they will not be full High Court precognitions. In a sense, High Court cases involve the ownership of the case being transferred from the office to an advocate depute, so the precognition must contain every piece of information that requires to be known. In sheriff and jury cases, there is locally based knowledge, especially if people are working in teams and are aware of the case load. Therefore, savings will be made as a result of cases that might previously have been tried in the High Court being tried by a sheriff and jury.

The Convener: Will procurators fiscal require additional training, given that they will be required to work on more sheriff and jury cases? Is there anything in the budget for that?

Shona Barrie: We already provide a wholesale programme of advocacy training that is fit for purpose so that deputies are trained for sheriff and jury cases and have the requisite advocacy skills. I do not think that we expect additional training to be required.

John Dunn: It should be borne in mind that the types of case that we anticipate being transferred are ones with which deputies and principal deputies are already very familiar. I know from experience that the cases that will in future be dealt with by a sheriff and jury are of a type that is regularly dealt with by the sheriff court, although they will be a little bit more serious.

The Convener: Exactly. The cases will be more serious in that they can attract a sentence of five years, and deputies do not deal with them at the moment.

John Dunn: The cases are not more complicated, but they will attract a heavier penalty.

Miss Goldie: Will you clarify which personnel will prosecute such cases? Are you retaining advocate deputies to do that?

John Dunn: Do you mean in the High Court or in the sheriff court?

Miss Goldie: The sheriff court.

John Dunn: In the sheriff court, the work will be done by deputies.

Miss Goldie: When you say deputies, do you mean advocate deputies or—

John Dunn: Procurator fiscal deputies.

Miss Goldie: Do you have enough procurators fiscal to do that? The proposed transfer involves a significant volume of business.

John Dunn: Across the board, it represents a 7 per cent increase in sheriff and jury business. That increase has been examined by the Crown Office and Procurator Fiscal Service and we are confident that it can be absorbed. As I understand it, the Scottish Court Service has also examined the increase, because that obviously has an impact on its sheriff court business. I do not wish to speak out of turn by speaking for the Scottish Court Service, but I understand that it does not have any anxiety about that business being absorbed into the court service in the sheriff court.

Shona Barrie: It is a question of proportion. What could be creating an acute situation in the High Court—

The Convener: Could I stop you there? We are familiar with the idea that, under the proposals, a 20 per cent reduction in High Court business will result in a 7 per cent increase in the sheriff court work load, although I am not saying that we accept that that is the case. We are trying to draw out any additional burdens or responsibilities that will result from the shift. You suggest that there are no additional training requirements and that, if anything, there might be a saving as a result of that transfer of business.

Shona Barrie: With team working, the people who prepare and investigate cases are likely to take them to court and prosecute them, so they will be familiar with them.

Mike Pringle: We have all read in the press recently about the recovery of money. Will you update us on how much the criminal confiscation unit and civil recovery unit have recovered? Do you have figures on that?

Stephen Woodhouse: I am afraid that I do not have those figures to hand, but I can find them out.

Mike Pringle: That would be useful.

Stephen Woodhouse: Sorry about that.

Mike Pringle: No problem. The units that I mentioned are quite new, and it is a new process. Do you expect that the amounts that are recovered will increase and that you might therefore recover more money in 2004-05 and 2005-06?

Stephen Woodhouse: I think so. The units have a fair number of cases on the stocks, and they are processing them. You will appreciate that the cases are complex; it takes a long time to get anything out, so we will probably not see the benefit until 2005-06. Of course, the money goes

not to us but to the Scottish consolidated fund. I certainly expect an increase by 2005-06.

Mike Pringle: Where in the Scottish budget will the money that is recovered end up? Who will use that money and who will get the benefit of it?

Stephen Woodhouse: It goes initially to the Scottish consolidated fund. I know that it is not distributed by the Lord Advocate; I think that 50 per cent of it is distributed by either the health or the justice ministers as grants to help communities that are affected by drugs and such like.

Mike Pringle: What happens to the other 50 per cent?

Stephen Woodhouse: I think that the other 50 per cent goes to the Treasury.

Mike Pringle: So it does not go back to the High Court.

Stephen Woodhouse: No. None of it comes back to us.

John Dunn: I can speak from personal experience as I worked in the fraud unit from 1997, when the legislation was put in place for criminal confiscation in drugs cases. There has been an increase in the figures year on year. It is difficult to predict exactly where we will be, because that depends on what the criminals do.

Mike Pringle: Absolutely.

John Dunn: The money does not come back either to the COPFS—

Mike Pringle: Stephen Woodhouse said that the money goes back to the Treasury. Does that mean that it goes back to London and that money that has been recovered in Scotland will not come to Scotland?

Stephen Woodhouse: I am not an expert on what happens to it, so I am flailing slightly, but I can find out.

Mike Pringle: The committee would be interested to know about the process.

The Convener: I think that Karen Whitefield is about to clarify the matter, as she asked the question last time.

11:30

Karen Whitefield: Am I not right to say that 50 per cent of the money goes to the Treasury and 50 per cent is returned to the Scottish Executive to use on projects in communities that have been affected by crime? We have to remember that most of the money has been gained from illegal activities through which the Treasury has been done out of money. That arrangement is an attempt to ensure that the Treasury gets back money that it has been denied. Do you not agree

that it is more important that the money should go back to the communities that are affected by crime than that it should go to the Procurator Fiscal Service, which will have been helpful in prosecuting the activities of the criminals, but will not necessarily have been directly affected by them?

Stephen Woodhouse: It would be wrong for us to be seen to be benefiting financially from cases that we prosecute.

The Convener: We reported on that specific point last time.

If nobody wishes to clarify anything before we conclude our questions, I offer a point of information. Our adviser points out that the spending review process does not match our budget process exactly, which is perhaps why your mechanisms for decision making seem to be slightly out of synch with our need to report. That is something for us to bear in mind.

What you have said has been helpful and we would appreciate any more detailed information that you can give us. I think that you know what we are driving at—we want to see where the efficiency savings are so that we can look at the overall budget. I thank you all for attending this morning and we are grateful for your information.

I welcome the Scottish Court Service team. We shall hear from Cliff Binning, who is the director of operational policy and planning, Nicola Bennett, who is the director of finance, and John Anderson, who is the principal clerk of session and judiciary.

Karen Whitefield: Thank you for your written submission, which was helpful. I want to ask you about your spending priorities for 2005-06. What improvements in spending need to be made to improve the Scottish Court Service?

Nicola Bennett (Scottish Court Service): You have spoken about the spending review as being slightly out of synch. For 2005-06, we do not anticipate any additional funding, but we anticipate that we will be able to fund fully all our current commitments with the exception of some of the specialist courts where there have been pilot schemes. We will not be able to extend the specialist courts to any more of the courts in our estate, but we can fund everything that we are doing at the moment.

Karen Whitefield: If you believe that you have sufficient money in your budget, are you confident that you will be able to continue improving the courts' fabric? Many of the courts need refurbished. Further, will you be able to ensure that all courts in Scotland comply with the obligations of the Disability Discrimination Act 1995 and legislation that the Scottish Parliament has passed—for example, the Vulnerable

Witnesses (Scotland) Act 2004? Some courts in Scotland have closed-circuit television and other facilities that allow vulnerable witnesses to be given the help that they need, but such facilities are not available in all Scotland's courts. Will you be able to meet all your obligations from existing resources?

Nicola Bennett: We have made a significant investment in technology for the courts. We focus on different priorities each year. We have acquired new technology since the Vulnerable Witnesses (Scotland) Bill was introduced—for example, mobile units. We originally thought that we might need appropriate equipment in every court. However, our current assumption is that we will be able to move sufficient equipment around our courts to make them more flexible. The equipment is being procured this year. There will be running costs, but those will not be as significant as the initial investment in the equipment. Each year, we decide on priorities for modernising courtroom IT systems. I hope that that answers your question about court facilities for vulnerable witnesses. We are confident that we have a solution for that.

On the fabric of court buildings, anyone who looks at our funding can see that, because of the amount of money that we have for our estate, we are struggling. We must constantly juggle priorities. Our key priority is the redevelopment of Parliament House and that is taking a lot of funding away from the rest of the estate. However, we must focus on what is important. We are looking at the Disability Discrimination Act 1995 to ensure that we comply with all the elements that we need to. We could do with more money in that area, but it is not a high priority for the spending review. A bid for that area would not be successful because it would not gain anything in the public's eye. We hope that that funding situation will improve in the long term, once Parliament House has been redeveloped.

Karen Whitefield: Does that mean that, because you believe that those things are not particularly attractive or appealing, you do not ask for the money? I would be concerned if that were the case. There might not be obvious public benefits in complying with the requirements of the 1995 act, but people with disabilities must go to court on occasion and they should be able to get the same treatment there that an able-bodied person gets.

Cliff Binning (Scottish Court Service): Absolutely. Perhaps I can clarify the position on the relative priorities across our programme. The test of priorities rests on a number of variables: the capacity to allow the courts to operate the throughput of business effectively; the capacity to secure maximum value for money from the estate; and—more important—the capacity to have an

appropriate response for people with particular needs. It is correct to say that, in an ideal world, more expenditure would be available to target disability discrimination, but part of our strategic approach to disability discrimination is to fulfil the test of reasonableness under the statutory definition, which is to ensure that we are taking all reasonable steps to comply as far as possible with the position on disability discrimination. I hope that that helps to clarify matters.

Nicola Bennett: We regard compliance as a high priority. We have a number of ways of prioritising the capital programme, but compliance is a high priority.

Margaret Smith: Have the Normand and Bonyon reports had any budgetary implications for the service, either in additional costs or in savings? If so, what are they and has account been taken of them in the present expenditure plans for 2005-06?

Cliff Binning: I will deal first with Andrew Normand's report. A central thrust of that report was that criminal justice agencies had to generate the capacity to operate more effectively within the system and had to invest in the transaction costs and the information costs that were associated with that. Within current budgeted provision, we have invested and will continue to invest in two sources of capacity on that front. One source is improved personnel management capacity to engage and interact properly with the Crown and key justice players. An early response to the Normand report and the Pryce-Dyer report on the Crown Office and Procurator Fiscal Service was to ensure that, from an organisational and management perspective, we had sufficient capacities in place for that engagement.

Another element of Andrew Normand's report is the need for better sharing of information between agencies. On that front, and again within budgeted provision, we have invested in improved management information systems and continue to invest in improvements to our main computer system for criminal operations. That is the general position on Andrew Normand's report.

As far as High Court reform is concerned, it might be helpful to deal with specific legislative areas that were covered in the financial memorandum to the Criminal Procedure (Amendment) (Scotland) Bill and to deal with wider service areas. On the specific legislative provisions, we have secured funding under the financial memorandum and in budgeted provision to provide for the staffing and comparatively minor input to technological resources that were required to respond to the bill.

It might be helpful to place the wider High Court reform within the dynamic of continual Scottish

Court Service strategic and business planning. Part of our planning process, as with every organisation, involves some analysis of environmental demands that are likely to arise in the future. Irrespective of High Court reform, our analysis for the 2002 spending review was that court users and partners would rightly call for improvements in technology, accommodation and facilities to address the needs of vulnerable witnesses and victims in general, particularly in view of technological improvements in relation to the giving of evidence.

I hope that that covers the position on the Normand report and on High Court reform.

11:45

Margaret Smith: I want to double-check on some specific matters to do with High Court reform. I presume that we are talking about greater use of court facilities to take care of the extra work that preliminary hearings will involve, although perhaps you are content that the reduced number of adjournments will balance out the increased use of court facilities that will result from preliminary hearings. What is your thinking on the budget consequences of those two things?

Cliff Binning: In a sense, the relationship between preliminary hearings and what might be termed the general business of the court is such that, in key locations, there will be a need to provide the requisite accommodation for those people who are associated with the preliminary hearings. Again, that was taken account of in our analysis of what would be required for High Court reform.

On the more general position, the proposition is not that it is calculated that there will be a reduction in the on-the-day business of the courts; the availability of more court time will not be associated with the reform. The proposition is that court time will be utilised effectively, which will have the dividend that cases will come to a conclusion more quickly and with more certainty than they do now. That is not the kind of impact that would generate recoverable or recyclable resource dividends for the Court Service.

Margaret Smith: You are saying that, although additional costs are associated with the preliminary hearings, those costs have been taken into account in your spending plans.

Cliff Binning: Yes.

The Convener: Is that covered in the financial memorandum to the Criminal Procedure (Amendment) (Scotland) Bill or is there any further information that we should have about the impact of the Bonomy reforms?

Cliff Binning: The financial memorandum to the bill reported on the position in so far as it covered the bill's precise and direct implications. The position on what I have called the wider element is such that the budgeted provision provides for a degree of flexibility to target capital investment on areas in which it is most needed. I do not know whether that helps.

The Convener: Does that mean that additional resources are required to implement the wider implications of Bonomy?

John Anderson (Scottish Court Service): The process involves two stages. The financial memorandum reflected an initial injection to get the change through—the £2 million to £2.5 million for the judicial resources and supporting staff that will be required, in effect, to run two more courts. That will create the capacity to get the change through in a year to 18 months. As Mr Binning was saying, we should then have a more efficient system, which will enable us to claw back resources from the High Court. That will be the result of the Bonomy package, which will involve the transfer of some business to the sheriff court and will improve the High Court's efficiency. As I said, the process has two stages. We are talking about a short-term investment of resources to get the change through. We anticipate that we will need fewer judicial and court resources to run the new, efficient Bonomy system. I do not know whether that is helpful.

The Convener: Can you isolate any costs or savings arising from the Normand report?

Cliff Binning: It is difficult to isolate specific costs or savings that might arise from the Andrew Normand report, although there are indicators that we could prey in aid. The report suggests that better planning and interrelationships between SCS staff and Procurator Fiscal Service staff would lead to improvements in the throughput of cases. An example of an indicator is our target for disposing of 85 per cent of cases within 20 weeks of first calling in the sheriff court. That target might be used as an indicator of the extent to which the implementation of the Normand report recommendations is bringing a dividend. In the context of that target during the past year to 18 months, we have gone from disposing of an initial 76 per cent of cases within the 20 weeks to disposing of 83 per cent or 84 per cent of them. However, I do not attribute all that improvement to the Normand recommendations; part of it is due to the benefit that we are realising from more effective joint planning and exchange of information.

The Convener: Presumably there is some analysis of costs and savings as a result of the recommendations. If not, how do you know whether your budget is adequate?

Cliff Binning: In our estimation, the Normand report would not have contributed to what might be called appreciable business or other environmental changes. It was not an activity-generating report but one that was calculated to improve efficiency and effectiveness. It is not the kind of report that would generate tangible business activity.

Miss Goldie: To what extent will the recommendations of the McInnes report, if they are implemented, impact on the Court Service budget?

Cliff Binning: As we said in our opening statement, we are not equipped with enough information on what the outcomes will be and on the cost variables to draw any hard and fast conclusions about the impacts of the review of summary justice. The report was published and now there is an open consultation; in that context, it is difficult to determine the potential impacts.

The other factor is that, inevitably, a range of configurations of the administration and geographical locations of bench and courts might accrue from consideration of the report and its recommendations. From all those perspectives, we are at an early stage in our considerations of the impact and budgetary implications of the report.

Miss Goldie: At the most extreme point of speculation, district courts could close completely and business could transfer to the sheriff courts, so becoming the responsibility of the Court Service budget. Would that be a cost?

Cliff Binning: That is a hypothesis and it could be argued that there would be a potential cost. However, one of the variables is that, in reaching a view on the potential cost, we would have to take account of the extent to which other elements of the McInnes report were implemented. Those elements include increased use of diversion from prosecution, for example. It might be possible to isolate certain hypotheses and proceed on that kind of analytical basis. Whether it would be helpful to do that is debatable.

Miss Goldie: I am thinking of the long-term projection over a three-year period. If the situation is as you describe it, where does that leave you in relation to the spending review?

Nicola Bennett: I may be able to help on that. We have carried out an initial analysis of one option—based on a set of assumptions that are very broad at this stage. An estimate of cost has been put in, not through our proposals to the spending review, but through the justice area. They have put that bid through—

Miss Goldie: I am sorry, but could you be more specific? I do not understand.

Nicola Bennett: In the current spending review, a bid has been made to mark a certain amount of money for McInnes. We have worked out that figure based on a certain scenario, but we are very much at the early stages. As Cliff Binning said, we are still in the consultation period. We are trying to work out costs for a number of options. We have based our calculations on assumptions and things may change. Costs have been identified for the spending review—for the three years that you are talking about. However, although nobody knows what they will be exactly, there will obviously be costs elsewhere in the system.

Miss Goldie: Just so that I am clear, is the general projection one of costs for the Courts Service budget?

Nicola Bennett: Yes, definitely—but depending on the outcome of the review.

Cliff Binning: It is difficult and not entirely productive to venture too far into considering what the implications of the review of summary justice might be. I listened to the earlier discussion on that exercise and the 2004 spending review. The dynamics of the two are different. In SR2004, the potential impact of the review of summary justice has been acknowledged and a preliminary assessment is on-going. As is appropriate, and using the best available estimates, the review will figure in SR2004. That is the current position.

Margaret Mitchell: You have said that the court estate continues to be a drain on resources and that a priority is to make courts accessible for disabled people, to comply with legislation. You have also said that such work on the estate will not improve efficiency. If there were an injection of cash, where would you target it to improve the efficiency of the Court Service?

Cliff Binning: Are you asking just about the estate or about the wider context?

Margaret Mitchell: I am asking how, if you had money today, you would improve the efficiency of any aspect of the Court Service.

Cliff Binning: We have to consider more than just efficiency. Efficiency is a relative term, but it is defined as maximising output for input. Steps can be taken to improve efficiency. An ideal investment in the court estate would improve the effectiveness of the service provided to court users. Such an investment would improve the effectiveness of facilities for victims, witnesses and all other court users.

Spend on the estate continues to be less than it might be, so, ideally, money would indeed be spent on the estate. However, I want to put that comment in the wider context. It may not be good value for money to invest in the estate as it is currently configured or located. We are in the early

stages of a strategic review of the SCS estate. We want to ensure that we have the right buildings, in the right place and of the right quality. That might imply some investment in the estate, but it might not be investment in the estate as it is currently configured.

12:00

Margaret Mitchell: I will turn the question around. Is there a weak link in the service? Is there an aspect that could do with an injection of cash because some little bit is not operating as effectively as you think that it could?

Cliff Binning: The capital programme would be the most prominent area of desired expenditure. There are a number of continuing pressures on the estate, including disability, health and safety, security, service, facilities and technology obligations. There are more pronounced demands on the quality of the estate than there might be in other core business areas. That is one element.

Another element that must always be a priority is investment in skills development and systems improvement. That is another area in which we are investing through a number of people programmes and process programmes. Again, our expenditure in that area would be greater if we had more of a margin.

Margaret Mitchell: Thank you. That is helpful.

The Convener: You mentioned capital investment. Given that you are currently assessing the estate, have representations been made to you about Glasgow district court, which is the only one of which I have any knowledge? The common consensus seems to be that investment is required in the building. Will you consider matters in that depth?

Cliff Binning: For Glasgow district court?

The Convener: As an example.

Cliff Binning: Glasgow district court is not currently part of the SCS estate—it is within the local authority's responsibility and it will be for the local authority to determine the appropriate expenditure. I do not really want to begin to speculate about what the position might be if we arrive at a situation—

The Convener: I see. I misunderstood you. I thought that you were already making preliminary inquiries about the effect of the McInnes review.

Cliff Binning: I am sorry—I will retrace my steps. As part of scoping potential implications of the review of summary justice, and as a development of an earlier exercise that was commissioned two or three years ago, I think, we received not detailed reports on the district court estate, but certainly what might be called pretty

routine survey reports. It became quite evident from that that a number of courts in the district court estate might need some remedial action.

Michael Matheson (Central Scotland) (SNP): How much money are you investing annually in your estate?

Cliff Binning: There are two types of investment. One might be called capital or building investment; the other might be deemed expenditure on maintenance, development or improvement of the estate. It is estimated that the building spend in 2005-06 will be around £7 million, the bulk of which will relate to an on-going commitment to the supreme court project. As we have said, support to the estate is around £32.5 million. Part of what might be called expenditure on the estate relates to a phenomenon that is known as capital charging, which might best be described as a necessary book entry to reflect on the opportunity cost that is attached to the value of the estate and the depreciation of the estate. That does not involve a charge that is paid to the Treasury as a return or a cost; it is a charge on the budget or on the real budget within which we have to operate. I think that the actual percentage charge was 6 per cent.

The Convener: It came down last year.

Nicola Bennett: The cost of capital is 3.5 per cent, on top of which depreciation has to be added. For all our buildings, we are talking about capital charges of £20 million.

Michael Matheson: Given that the estate is one of the areas that you believe requires further investment, what sort of figure are you thinking of in that respect?

Cliff Binning: I do not have a precise figure on the estate at the moment. That would be contingent on the completion of the strategic review of the estate that I mentioned. The actual expenditure that is necessary to maintain and develop the estate sustainably is described in the budget for 2005-06.

Mike Pringle: Does the Court Service have any specific targets for dealing with persistent offenders? Clearly, that is one of the Executive's priorities.

Cliff Binning: In so far as the Court Service's targets relate to the throughput of criminal business, they concern the speed of disposal, the time within which trials can take place and the need to minimise adjournments. Generally, that characterises the Court Service performance regime.

The Court Service does not have a target to reduce the number of persistent offenders. What it would do—indeed, what it always does—is to co-operate with the wider justice system to ensure

that court business was programmed in such a way as to expedite types of business that were identified as priorities. That has to be considered in light of the fact that a necessary part of our performance regime entails proper consultation with the judiciary in relation to the targets that are set.

Mike Pringle: Who decides what the priorities are?

Cliff Binning: I am sorry—

Mike Pringle: You said that somebody makes a decision about priorities. Who makes that decision? Do you do it or does the Procurator Fiscal Service?

Cliff Binning: In the context of identifying the fast-tracking of particular types of cases, for example, the decision would be for the wider Justice Department and not for the SCS. The Justice Department would develop policy, in the conventional way that involves consultation as necessary. As for the more localised targets, two bilateral processes are involved. One entails a consideration with the judiciary of the targets and rates that are set and the other relates to the relationship between the SCS as an Executive agency and the parent Justice Department.

The Convener: As there are no other questions, I thank the members of the Scottish Court Service team for their evidence, which was very helpful.

I have had a request for a short comfort break. If members are agreeable, I will grant it. I realise that if any member leaves the room we will not be quorate. Before we hear from the next witnesses, I will suspend the meeting for a few minutes.

12:09

Meeting suspended.

12:16

On resuming—

The Convener: I welcome our final set of witnesses, from the Procurators Fiscal Society. I apologise for the fact that you have been kept waiting. I welcome Val Bremner, the Procurators Fiscal Society's secretary, and Jim Caldwell, a member of the society. We do not usually allow introductory statements, but I know that you want to clarify your role, so I ask you to do so now.

Val Bremner (Procurators Fiscal Society): I would like to clarify that my colleague, Jim Caldwell, is not actually a member of the Procurators Fiscal Society. The Procurators Fiscal Society is a section of the First Division Association—the FDA—which is a trade union. Mr

Caldwell is a full-time union official, and deals with the society.

The Convener: Thank you for clarifying that.

Bill Butler: When the society gave evidence to the committees last October, you said in effect that the jury was still out on whether the large increase that was made to the Crown Office and Procurator Fiscal Service budget for 2002-03 would lead to the desired improvement in service. What is your present assessment of the position? Is the jury still out?

Val Bremner: In all probability, the jury is still out on that. I can tell you only what our members tell us, and there is a pretty mixed picture across the country. Some members say that they feel that some of the changes within the COPFS have benefited how they do their work and have taken some of the pressure off them; others have a quite contrary point of view and say that they are working harder than ever, that they are still under pressure and that they are working at full stretch. It is hard to gauge those two views. I would say that the majority view among our members is that they are not yet feeling the benefit, and are still working at pretty much full stretch.

Bill Butler: Why is there that variation of opinion between those who see benefits and those who see disbenefits?

Val Bremner: Some of it could be down to the fact that some initiatives are introduced in certain areas first. There could be teething problems in one area that are resolved by the time initiatives are extended to another area. Some of it is about the communication of information. Some people are better able than others to deal with that and to act upon it. The general picture that we are getting is that people are still feeling pretty stretched and pressurised in their working lives.

Bill Butler: Are they as pressurised or more pressurised than they were before the changes were introduced?

Val Bremner: I would say that people are at least as pressurised as they were before. Part of the reason why people are still saying that is that, although the COPFS gives information to its staff about new initiatives and new staff who are coming in, pressure arises from the need to absorb the changes and the new information. When people are going through a period of intense change, the change itself can be an added pressure, which can create more stress among staff. That is the feeling that we are getting from members.

Bill Butler: Are your members—at least the ones who currently see disbenefits or no particular benefit in the changes—wholly pessimistic about

the situation, or do they see light at the end of the tunnel?

Val Bremner: People are always optimistic that things will get better. They know that some of the changes that have been put in place will take time to bed in, and that there will be light at the end of the tunnel. There is some optimism.

Bill Butler: Are you optimistic?

Val Bremner: I see that some of the changes can produce results and improvements in our members' working lives, but I do have concerns. We are here today to touch on the Bonomy and McInnes reviews, each of which covers a fairly substantial area of the work of the COPFS. In the view of the society, each has tangible benefits for our members, but a lot of the benefits will depend on the way in which the changes are introduced and the timing and pace of the changes. One of our concerns is that in implementing all the potentially useful changes, our members will become swamped by all the new initiatives.

Miss Goldie: On the Bonomy proposals, which are currently going through Parliament in the form of the Criminal Procedure (Amendment) (Scotland) Bill, which will be enacted shortly, I was struck by earlier evidence on the proposed transfer of work from the High Court to the sheriff court. The work was to be undertaken by advocate deputes, but apparently now it is to be undertaken by procurator fiscal deputes. What does that mean for staffing levels? Are current staffing levels adequate for the work that you do? What will be the impact on the Procurator Fiscal Service of the proposed transfer of business?

Val Bremner: On staffing levels, our members' perception is that we could always do with more staff. It is difficult to be more specific than that. We do not have access to the precise figures for the number of staff who have been taken on, and we do not know whom the department intends to take on in future. However, I hear reasonably regularly from members that when one person is off sick, there is juggling of staff, because courts have to be covered. Difficulties are caused all the time when staff are away on training courses—which is part of their development—and courts have to be covered.

On the extension of sheriffs' sentencing powers, we have been given to understand that the approximate transfer of business will be about 23 per cent of the High Court case load, which corresponds to an increase of about 7 per cent in the sheriff court solemn case load. In terms of sheer numbers, that does not seem like a great deal, but our concern is that it will mean that our members who are already doing sheriff and jury trials will be doing more of them—possibly around 7 per cent more—so they will be in court longer.

Inevitably, that will mean that they have less time to do their other work. In particular, we have concerns about the squeeze on our members' time to do precognitions—that is, the preparation of the most serious cases.

The COPFS position is that no more staff will be required, because new initiatives will make solemn work quicker and easier to prepare. However, we have some concerns about whether that will be borne out, not least because the initiatives are new and have not completely bedded in throughout the country, and because there is a lack of familiarity with them among our members.

We are concerned about whether our members will be able to do all the work that they currently do, when they will be in court more doing more sheriff and jury trials. However, we generally welcome the move, because many of our members aspire to prosecute in the High Court and, if nothing else, the move is perhaps a sign that there is confidence in their skills base and in their ability to deal with more serious cases, if not more difficult cases.

Jim Caldwell (First Division Association): The impact will depend on the level of resourcing that is applied, on how the current technology beds in, and on the new technology that is required to deal with the changes that are ahead. How all that is implemented and settles down will depend on the reaction of our members and their effectiveness under the new system.

Miss Goldie: Have you made representations to the Crown Office and Procurator Fiscal Service about your concerns?

Val Bremner: We had discussions with it recently, prior to the ministerial announcement about the extension of sheriffs' powers. One of our main concerns with the Bonomy proposals, in the longer term, is the disclosure provisions. We are not agin the disclosure provisions; our concern is that there could be more work for our members, at least in the short term. Already, statements are looked at in relation to certain legal obligations, but if the entire Crown case has to be given to the defence at an earlier stage, there will be additional work—perhaps for reasonably senior legal staff—in ensuring that nothing inappropriate, such as a confidential address, is given out. We understand that IT provision will be made for that work; however, we have grave concerns that, if that IT provision is not available in time, reasonably experienced senior members of our legal staff will have to comb through statements more regularly than is currently required. We do not think that that would be the best use of their time, considering all the other work that they have to do.

Miss Goldie: I have a final point for clarification in relation to this whole broad area. In evidence

last year, concern was expressed about the time lag between recruitment, training and someone having gained sufficient experience to prosecute cases. Is that an issue for you? If there is a pressure point for staffing levels consequent on the Bonomy proposals, does that need to be anticipated now? Is the situation dangerous? Is the requirement far more onerous than anyone realised, so that we need to increase the number of procurators fiscal by X per cent?

Val Bremner: The COPFS has taken on more staff in response to the proposals; however, most of them will not be experienced enough to go straight into sheriff and jury work. There may be sufficient numbers on the ground, but the pressure of doing the new, additional serious work will fall on those experienced people who are already telling me about the pressures that they face.

The Convener: Some time ago, when asked about discussions with Crown Office management, the society told the committee that there had not been any discussions. Are you both satisfied that you are now discussing the big issues with the Crown Office management?

Jim Caldwell: Having recently come on to the patch, I think that there is a way to go on that. There are certain key issues that we believe we have not had sufficient consultation and negotiation on. We are about to seek a meeting with the chief executive to have further discussion around what we and our members perceive those issues to be. I hope that we will begin to resolve them and to work towards a much closer working relationship on a partnership basis.

Val Bremner: Specifically, in relation to both Bonomy and McInnes, we were consulted prior to the ministerial announcement and we were made party to the plans or the information that the COPFS had about the transfer of business and the effect that it would have. In relation to the McInnes proposals, although we are at an early stage in the consultation process, we understand that we will be included in any implementation group that is set up as a result of the consultation. We are pleased about that.

The Convener: That is good news. I want to ask specifically about what you have said about the shift of business from the High Court to the sheriff courts. I understand what you say about your members' aspirations. The proposal seems to be something that the service should welcome, as lots of procurators fiscal are capable of taking on that type of work. Are you satisfied with the timescale? I believe that the shift of business has already started.

Val Bremner: Spring 2004 was always the likely time for the provision to come into being, as the white paper indicated some time ago. Our

members will have known about the shift in the third or fourth week of March, giving them five weeks' notice. Our members perceive that it has come about quickly. They now have much work to do to examine the cases that they are in the middle of preparing to decide whether they will be sheriff and jury cases rather than High Court cases, as that will affect their preparation.

The Convener: Can we take it that your members have a greater responsibility or burden than before?

12:30

Val Bremner: In the short term, considering whether cases that are being prepared should change route will mean additional work. However, the COPFS has issued guidance and will, before 1 May, issue more guidance to tell staff what they should look for and which route they should take with cases. Any additional work at the front end will be short term, but that leaves aside the fact that our members will have more cases to prosecute.

The Convener: Whether resources will be required interests me. As the sheriff court's sentencing power will be extended to five years, more serious crime can be prosecuted and your members will do more sheriff and jury cases and more serious cases than before. What are or are not the requirements for additional resources to accommodate that change?

Jim Caldwell: It is difficult for us to say until we see the detail of how the additional work pans out. As we said, the COPFS has said that it believes that the change can be contained within current resources. We disagree, but we have no immediate evidence. We cannot produce facts and figures that say that the COPFS is wrong and that we are right. We await feedback from our members.

The Convener: Surely you could give us an idea. I presume that more fiscals than before will undertake sheriff and jury cases in the working week. I do not know what the norm is. If a fiscal used to be in court for one in four weeks, they might now be in court for two in four weeks, or whatever system an office deploys. I know that the Glasgow office moves its fiscals around.

I presume that such cases will require more preparation. We have just heard that Crown Office management does not regard the cases as more complex—perhaps you will comment on that—but it accepts that more serious crime is involved. I would like to think that more preparation will be involved, because although you—and I—welcome the proposals, a greater responsibility is on the prosecution team to obtain a result on a more serious crime, so surely preparation will take

longer. Will you give us a broad idea of whether more resources are required or additional burdens are being created?

Val Bremner: We agree with the COPFS that the fact that a case is perceived by all to be more serious does not necessarily mean that it is more complicated. For example, perhaps the only difference in drugs cases would be the value of the drugs involved. The evidence might be the same, but more drugs might be found in one case. If more drugs are found, a case is more serious, but such a case is not more difficult to prosecute.

With the changes that management have introduced, sheriff and jury cases are now prepared in a slightly different format from cases that are destined for the High Court. Careful consideration is still given to sheriff and jury cases, but they are prepared in a slightly abbreviated format. That allows management to say that time will be saved by having more sheriff and jury cases.

You asked how much time deutes will spend prosecuting the new cases. As the committee heard from management this morning, in general, more team-based working is used throughout the country. Deutes tend to be collocated in teams to undertake summary work, initial case processing work or solemn work. For six months, a depute might undertake sheriff and jury prosecutions and precognition work.

In a place such as Glasgow, for example, deutes might have a sheriff and jury sitting, which means that they might be in court with a certain number of cases for perhaps two weeks. If the figures are correct, the proposals will mean 7 per cent more cases will have to be included in those sittings and worked through to a conclusion. Inevitably, as those sittings might take longer, those deutes will have to spend more time in court.

We are concerned that those people will not have the same time to do the precognition work that is sitting on their desk and that has to be done within the six-month period. Moreover, we are not convinced that the new abbreviated format will necessarily save the amount of time that deutes will spend in court carrying out more prosecutions. As a result, those deutes will be under more pressure.

That does not apply to all deutes, because not all of them do sheriff and jury work. In general, deutes would have reached the end of their second year in post before they carried out such work. Therefore, the proposals will not impact on some people.

Margaret Mitchell: Is there a continuing need to retain certain staff to be available at short notice to go to an office that is experiencing problems?

Val Bremner: That point is interesting and has been raised in the past. At the moment, it seems that more experienced and senior staff are going to places such as the cities where there appears to be the greatest need. Management are focusing on gathering experienced staff in those areas, no doubt in the expectation that they will take on some of the new sheriff and jury work.

In a sense, I am speculating, because we have not been advised about whether that is management's intention or told about the staff that will take on the extra work. However, we understand that management expect the existing complement of staff to cope with the increase in the work load.

It is difficult for us to say that X more fiscals are needed in such and such a place. Although a 7 per cent increase in cases might not mean many more cases in, for example, Highlands and Islands, it could mean a large number of extra cases in Glasgow, where it might have a more sizeable impact. We are concerned that there appears to be no way of gauging the impact of the increase on particular areas and we expect that some of our members in the bigger cities will be harder hit.

Margaret Mitchell: If the little pool of staff that I mentioned were available at short notice, they could go in and sort out the backlog of citations or whatever had caused the problem in an office. Would that be welcome?

Val Bremner: Assistance is always welcome to deal with a backlog in any office. However, I return to my initial point that we cannot keep a skills base of people to carry out sheriff and jury work, because we do not have that luxury. Not all of our staff can carry out that work and those who can are being utilised to the maximum. As a result, I find it hard to see how we could put together a squad of people who would go around doing other work. In our assessment, the COPFS does not have the resilience to create such a squad.

Margaret Mitchell: I think that the proposal was mentioned in the Pryce-Dyer report. How was it envisaged that it would work at that time?

Val Bremner: We have never been consulted about such a proposal and are not party to any current discussions about it. I understand that it was mentioned in the Pryce-Dyer report, but I am not aware that the COPFS ever took it forward as an initiative.

Margaret Mitchell: If we take away the practicalities, however, is it a good idea in theory?

Jim Caldwell: In theory, we welcome any additional resources and are happy to discuss how they are used. However, until additional resources are available, that possibility will remain

theoretical. That said, we hear what you are saying and might well consider your suggestion.

Karen Whitefield: Last October, you acknowledged to the justice committees that the COPFS had not always delivered a good service to victims and witnesses of crime. Have there been changes that ensure that those people are offered a better service, in particular as a result of the rolling out of the victim information and advice service to all 11 areas of the Procurator Fiscal Service in Scotland?

Val Bremner: There is a major difference in the way in which victims and witnesses are treated—I think that our members would endorse that. Prior to the inception of VIA—it was called the victim liaison office at first—our members did their best to keep victims informed on a piecemeal basis. However, because of other pressures, that was not always possible. Some people were kept informed but, sadly, others were left fairly ignorant about what was happening.

The progress report on the 11 key targets for the service, which the Lord Advocate has given to the Executive, indicates that the target for the delivery of bail information to victims and witnesses in 90 per cent of cases has been met. That bears out my point. There is good communication between our members and VIA, which is necessary to enable VIA to pass on information to those who need it. Throughout the country, the value of VIA and what it can do for our members has been recognised. VIA has the time to liaise directly with victims that fiscals might not have. I believe that VIA has embarked on a customer satisfaction survey, which I am sure will show positive results.

Miss Goldie: I have a brief specific question and a more general one. Are you satisfied with the resources that are available for training? Is enough training being provided?

Val Bremner: In the past two years, the COPFS has made great strides forward in training. A full-time legal training manager has been appointed and a wealth of training is on offer. The situation has never been better for our members—although it has always been difficult to free up staff from work to attend training and that is as bad as ever. People want to attend courses, but find it difficult to get away from sheriff and jury trials or from summary work to attend them. Courts have to be covered.

Miss Goldie: Dishes of food that you cannot eat are not much good to you.

Val Bremner: Indeed.

Miss Goldie: On a broader front, the general level of the budget for the Crown Office and Procurator Fiscal Service is, as you know, flat-

lined for the next couple of years. Is the budget adequate?

Jim Caldwell: It will not surprise you to hear that we always like resources to increase. At a time when the Scottish Executive and the United Kingdom Government are particularly targeting crime—especially youth crime—additional resources should be allocated. Some of that money should be spent on the introduction of technology that would help our members to do their jobs by releasing some of the pressure that is created, and some of it should go on salaries. Again, that will not surprise members. There is a problem about fiscals looking for the greater rewards that are available outside the service. Additional resources should be put into staffing levels, again to ease pressure. That brings us back to Miss Goldie's point about training; we are happy that more training is available but it would help if people could access it. That is also a resource issue.

We do not anticipate that such additional resources will become available. As Miss Goldie said, there is a flat-line budget for the foreseeable future and there are indications that things will not improve much beyond that time. Members might have heard what the Minister for Finance and Public Services said at the Scottish Trades Union Congress earlier this week. He suggested that further belt tightening is likely. We will continue to argue for additional resources because we believe that a legitimate case can be made for them, if cases are to be dealt with more quickly and on the fair basis on which they are dealt at present by the independent Procurator Fiscal Service.

12:45

Miss Goldie: Is a figure available on the loss of personnel from the Procurator Fiscal Service to other parts of the legal profession in the past two or three years?

Jim Caldwell: I do not have such a figure.

Miss Goldie: Could that be ascertained?

Jim Caldwell: I do not see why not. I will see what we can do.

Miss Goldie: That would be helpful.

Should the Crown Office and Procurator Fiscal Service explore the opportunity that the spending review presents to bid for additional resources?

Jim Caldwell: Without a doubt, we believe that the service should explore that opportunity. We hope to discuss with the COPFS what the additional resources should be and how they should be used.

Miss Goldie: What would your preferred rate of increase be, if you could get it?

Jim Caldwell: We want a year-on-year increase that is above the rate of inflation. I could not say whether it should be 5 per cent or 6 per cent, but we need a year-on-year increase to deal with the important issues. To be fair, management believe that those issues are important too, so we are in that sense singing from the same hymn sheet. However, we believe that it is unlikely that such resources will be made available.

The Convener: You say that consensus exists among management and the Procurators Fiscal Society about the need to resource the Crown Office. Perhaps similar consensus exists in the justice committees. We are trying to examine the additional responsibilities. We have not even mentioned the targets on non-custody cases, but we have talked about the reforms that will move business from the High Court to sheriff courts and about the pilots on victim statements. Given the changes and responsibilities on the Crown Office, we might expect a demand for a higher budget, but we have been told that savings can be made from X, Y and Z reforms. We want more detail on where savings can be made. If we were satisfied that genuine savings could be made, we might not be so worried about the additional responsibilities on the Crown Office. Will the union and the society have discussions with management along those lines?

Val Bremner: We want to do that. At present, we are not party to the detail of the potential savings, although we would like to be. At no stage have we been consulted on how the budgetary provision is spent, although I am sure that we could input into that. We hope to raise that issue with the COPFS.

Jim Caldwell: I return to my earlier comment that we want a more partnership-based approach to our discussions with management, as happens to a greater extent in the rest of the Scottish Executive, where we have a partnership agreement with management. We want to have strategic debates with management about funding so that we can achieve consensus, on the basis of which we can go jointly to the Executive to ask for what we believe is a reasonable and affordable amount of money for the judiciary in order that progress can continue to be made.

The Convener: Pay has been a thorny issue for the Procurators Fiscal Society. A pay claim has been settled, but perhaps not with satisfaction. How far away from your aspirations is the current settlement?

Jim Caldwell: They are still some distance apart. We eventually settled on pay for 2003 last month. The next settlement is not due until 2005. The result of our ballot on pay shows that a fair number of our members—about 40 per cent—voted against the improved pay offer, which was

produced after hard work and negotiation. Given that lawyers who are employed in the Scottish Executive are about £3,000 or £4,000 in front of their counterparts in the Procurator Fiscal Service, we have some way to go to get parity even with other lawyers in the civil service. We are a distance apart, but we will continue to work on that. We have resolved the pay issue for the next two years, but we believe that big hurdles are ahead if we are to resolve the pay issue, among others, in 2005.

The Convener: As there are no further questions, I thank the witnesses for their evidence, which has been helpful and clear.

We have reached the end of the agenda. Our next meeting is on Wednesday 28 April, when we will take evidence from the police division of the Scottish Executive and from police organisations.

Meeting closed at 12:51.

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