

**Criminal Justice Committee**  
**Wednesday 11 March 2026**  
**10th Meeting, 2026 (Session 6)**

## **Evidence Sessions with oversight and scrutiny Bodies (HM Inspectorate of Prisons for Scotland – HMIPS), HM Chief Inspector of Constabulary in Scotland (HMICS), HM Chief Inspector of Prosecution in Scotland (IPS), Scottish Biometrics Commissioner**

### **Note by the Clerk**

#### **Introduction**

1. As part of its agreed work programme for 2026, the Committee agreed to take evidence from a number of independent oversight and scrutiny bodies operating within the justice portfolio.
2. The Committee has previously undertaken scrutiny of operational justice agencies, including Police Scotland, the Scottish Prison Service and the Crown Office and Procurator Fiscal Service. Members agreed that it would also be appropriate to take evidence directly from the independent bodies responsible for inspection, investigation and assurance in order to consider:
  - How effectively these organisations are discharging their statutory functions;
  - the implementation of recommendations made to operational bodies;
  - emerging risks and pressures across the criminal justice system;
  - the impact of resources and budget allocations on their ability to fulfil their oversight roles; and
  - their views on the main issues within their remit that may require attention in Session 7 of the Parliament.

#### **This evidence session**

3. This paper provides background information and suggested areas for questioning for the Committee’s evidence session on the state of the criminal justice system and priorities for the next parliamentary session.
4. The Committee will take evidence from:

**Panel 1**

- **Sara Snell**, HM Chief Inspector of Prisons for Scotland (HM Inspectorate of Prisons for Scotland – HMIPS)
- **Stephen Sandham**, Deputy Chief Inspector of Prisons, HMIPS
- **Calum McCarthy**, Inspector of Prisons, HMIPS

**Panel 2**

- **Craig Naylor**, HM Chief Inspector of Constabulary in Scotland (HMICS)
- **Deborah O'Brien Demick**, HM Chief Inspector of Prosecution in Scotland (IPS)

**Panel 3**

- **Dr Brian Plastow**, Scottish Biometrics Commissioner
- **Karen McBride**, Subject Matter Expert (Senior Fingerprint Examiner seconded from SPA Forensic Services)

5. The session forms part of the Committee's wider consideration of the state of the criminal justice system and emerging priorities for Session 7.

- Additional written submissions and letters to the Convenor were provided by Chief Inspector of Constabulary in Scotland (HMICS), HM Chief Inspector of Prosecution in Scotland (IPS), and the Scottish Biometrics Commissioner in support of today's session. This is included in **Annexes A, B, C and D**.

## **Panel 1: HM Inspectorate of Prisons for Scotland**

### **Background**

6. HM Inspectorate of Prisons for Scotland (HMIPS) provides independent scrutiny of prisons and other places of detention in Scotland. The Chief Inspector of Prisons is appointed by Scottish Ministers and is responsible for inspecting prisons to provide assurance that they are safe, secure and humane environments that support rehabilitation.
7. HMIPS carries out a programme of inspections across the prison estate. These include full inspections of prisons as well as thematic work examining issues affecting the prison system. The Inspectorate also monitors the treatment and conditions of prisoners and reports publicly on its findings.
8. Recent inspection activity has highlighted a number of pressures across the prison estate, including high prison population levels, pressures on staffing and regimes, and increasing complexity of prisoner needs.
9. The Scottish Prison Service has also been operating within a challenging environment characterised by rising demand, increasing levels of remand and ongoing efforts to support rehabilitation and reduce reoffending.

## **Matters Members May Wish to Explore**

### 10. Prison Population and Capacity

- What are the most significant challenges currently facing Scotland's prison estate?
- How sustainable are current prison population levels?
- What impact do population pressures have on regimes, safety and rehabilitation opportunities?
- Are there particular parts of the prison estate where capacity pressures are most acute?

### 11. Prisoner Needs and Rehabilitation

- How have the needs of the prison population changed in recent years?
- Are prisons able to provide appropriate support for prisoners with complex needs, including mental health issues?
- What challenges exist in delivering rehabilitation programmes and purposeful activity?

### 12. Staffing and Operational Pressures

- What staffing challenges are currently facing the Scottish Prison Service?
- What impact do staffing pressures have on the operation of prison regimes?
- Are recruitment and retention pressures affecting prison safety or the delivery of services?

### 13. Oversight and Improvement

- How does HMIPS monitor the implementation of recommendations made following inspections?
- Are there recurring themes emerging across inspections suggesting systemic issues?
- Does the Inspectorate consider that sufficient progress is being made in addressing issues identified through inspection work?

## **Panel 2: HM Inspectorate of Constabulary in Scotland and HM Inspectorate of Prosecution in Scotland**

### **Background**

14. HM Inspectorate of Constabulary in Scotland (HMICS) provides independent assurance on the state, effectiveness and efficiency of Police Scotland and the Scottish Police Authority.
15. HM Inspectorate of Prosecution in Scotland (IPS) inspects the operation of the Crown Office and Procurator Fiscal Service (COPFS).
16. Both inspectorates undertake thematic and operational inspections and publish reports containing recommendations aimed at improving the effectiveness and efficiency of the justice system.
17. HMICS and IPS recently undertook a joint inspection into the process for citing witnesses in the sheriff court, examining how effectively witnesses are cited to attend court and the impact of the current system on victims, witnesses and justice agencies.
18. The inspection identified a number of systemic issues in the citation process, including limited use of digital systems, lack of effective oversight and governance, and negative experiences for many witnesses cited to attend court.
19. The inspection made a number of recommendations aimed at improving the efficiency and effectiveness of the citation process and reducing the impact on witnesses.

### **Matters Members May Wish to Explore**

#### 20. Witness Citation Process

- What were the principal findings of the joint inspection into the citation of witnesses in the sheriff court?
- What are the main causes of inefficiencies within the current citation process?
- How significant is the impact of the citation process on victims and witnesses?
- What changes are required to modernise the system and improve efficiency?

#### 21. System Governance and Collaboration

- How effective is collaboration between Police Scotland and COPFS in managing the citation process?
- Are there structural issues affecting coordination between policing and prosecution?

- What governance arrangements are required to ensure improvements are delivered?

## 22. Oversight and Resources

- Do HMICS and IPS have sufficient resources to carry out their statutory functions?
- How do the inspectorates prioritise inspection activity given resource constraints?
- Are there areas of the justice system where further inspection work is needed?

## 23. Police Misconduct and Public Confidence

- How do oversight bodies monitor serious misconduct within policing?
- Is data collected on predatory or sexually exploitative behaviour by police officers?
- Are current oversight arrangements sufficient to identify emerging risks to public confidence?

## **Panel 3: Scottish Biometrics Commissioner**

### **Background**

24. The Scottish Biometrics Commissioner was established under the Scottish Biometrics Commissioner Act 2020.

25. The Commissioner's role is to support and promote the lawful, effective and ethical use of biometric data for criminal justice and police purposes in Scotland. This includes biometric data such as fingerprints, DNA and facial images.

26. The Commissioner publishes assurance reviews examining the acquisition, retention, use and destruction of biometric data by Police Scotland and the Scottish Police Authority.

27. The Commissioner recently published a joint assurance review examining the acquisition, retention, use and destruction of fingerprints for criminal justice purposes in Scotland.

28. The Commissioner will be accompanied by Karen McBride, a Senior Fingerprint Examiner from SPA Forensic Services who has been seconded to the Commissioner's office to provide specialist expertise and support technical assurance work.

### **Matters Members May Wish to Explore**

29. Biometrics Governance

- What are the most significant governance challenges relating to biometric data in Scotland?
- How effectively are current oversight arrangements operating?
- Are existing legislative and policy frameworks sufficient to govern emerging biometric technologies?

#### 30. Fingerprint Assurance Review

- What were the key findings of the recent fingerprint assurance review?
- How significant is the issue of individuals not being fingerprinted despite police policy requiring this?
- What operational changes may be required to address these issues?

#### 31. Future Developments

- What emerging biometric technologies may raise ethical or governance challenges in the future?
- Does Scotland require a more comprehensive national biometrics strategy?
- What role should parliamentary scrutiny play in the oversight of biometric technologies?

### **Action**

**32. Members are invited to note the background information provided and use the suggested prompts above to inform questioning during the evidence session.**

**Clerks to the Committee  
March 2026**

**Annexe A: HM Inspectorate of Constabulary in Scotland (HMICS) –  
Briefing for the Criminal Justice Committee**

**Briefing for the Scottish Parliament Justice Committee**

Craig Naylor  
HM Chief Inspector of Constabulary

26 February 2026

## 1. Introduction

HM Inspectorate of Constabulary in Scotland (HMICS) is an independent scrutiny body, which has been in existence since the nineteenth century. Its role was reaffirmed by the Police and Fire Reform (Scotland) Act 2012, which gave HMICS wide ranging powers to look into the “state, effectiveness and efficiency” of both Police Scotland and the Scottish Police Authority (SPA).

We also have a statutory duty to ensure that the Chief Constable and the SPA meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the SPA or Police Scotland as they consider appropriate. We have an established role in providing professional advice and guidance on policing in Scotland.

Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions. The SPA and the Chief Constable must provide us with such assistance and co-operation as we may require to carry out our functions and must comply with any reasonable request that we make. When we publish a report, the SPA and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit. Where we make recommendations, we will follow them up and report publicly on progress.

We work with other inspectorates and agencies across the public sector to share specific expertise or jointly examine important areas where Police Scotland works in partnership and contribute to shared outcomes. We co-ordinate our activities to reduce the burden of inspection and avoid unnecessary duplication.

This briefing summarises the activities, key scrutiny themes and findings of HM Inspectorate of Constabulary in Scotland (HMICS), drawing specifically on the HMICS Annual Reports for 2023–24 and 2024–25, alongside the recent joint inspection by HM Inspectorate of Prosecution in Scotland (IPS) and HMICS into the witness citation process in the sheriff courts and the best value audit and inspection conducted with Audit Scotland.

## 2. HMICS Annual Report 2023–24: Key Themes

Period covered: 1 April 2023 – 31 March 2024.

Scope of inspection activity: In 2023–24 HMICS delivered inspections on organisational culture, vetting, mental health demand, officer and staff wellbeing, and SPA forensic toxicology. It also worked with partners on four custody inspections, four children-at-risk-of-harm inspections and seven adult support and protection inspections, ensuring focus on the effectiveness of Police Scotland’s collaborative working arrangements and governance of policing and the value delivered.

Contribution to national reform: HMICS engaged with the implementation of recommendations from Lady Elish Angiolini’s report and supported parliamentary scrutiny of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill (PECS Bill)—work designed to build trust and confidence in complaints handling, conduct management and suitability processes. The recommendations from the vetting review provided significant evidence to the PECS Bill and resulted in the inclusion of sections on the requirements for vetting and the new vetting regulations being introduced.

### 3. HMICS Annual Report 2024–25: Key Themes

Period covered: 1 April 2024 – 31 March 2025.

Completion of first three-year scrutiny plan and forward look: HMICS concluded its first three-year plan and, following consultation, launched a new 2025–28 scrutiny plan, a refreshed corporate plan and updated inspection frameworks—providing clarity to Police Scotland, the SPA and Forensic Services on areas of focus and expectations.

Maturing assurance model: HMICS increased reliance on self-assessments by Police Scotland, the SPA and Forensic Services, noting continuing improvements in their quality and the incorporation of learning and continuous improvement into day-to-day delivery.

During 2024–25 HMICS published a review of the SPA and reports on road policing, missing persons and wellbeing, and introduced a public online tracker for the progress of recommendations—enhancing transparency and accountability.

Joint inspections and whole-system opportunities: HMICS undertook joint inspections on adult support and protection, children at risk of harm and healthcare in custody, highlighting strong collaboration with the Care Inspectorate and Healthcare Improvement Scotland and creating whole-system opportunities for improvement.

**4. Mental Health Demand**- The October 2023 HMICS thematic review found that mental-health related incidents had become one of the most significant demands on Police Scotland, prompting a detailed examination of preparedness, demand understanding, partnership working, and the impact of police involvement on people in crisis. The review concluded that while officers play an important role, policing cannot sustainably continue filling gaps left by other agencies, and a whole-system approach—anchored in health and social care—must be adopted. It recommended that Police Scotland develop a clear mental health strategy, establish governance structures, improve training and guidance, and create a performance framework to better assess outcomes. Since the report’s launch, progress updates show that Police Scotland has formed a dedicated Mental Health Task Force (June 2024) to accelerate delivery of HMICS recommendations and improve referral pathways such as the NHS Mental Health Pathway and Distress Brief Intervention. A Mental Health Strategic Oversight Board has also been established to strengthen leadership, governance, and cross-agency influence over mental-health-related policing responses. It is also very encouraging to note the publication of the Scottish Government Framework for Collaboration which aims to enhance the multi-agency response to mental health crisis, ensuring people receive the correct support. Recent updates provide by the Chief Constable to the Scottish Police Authority talk about progress being made in this area but a significant demand remaining that is not being addressed by those who have the best skills to improve the wellbeing of those in distress or mental health crisis. This problem remains a significant demand on policing and one that is not improving quickly enough.

**5. HMICS and Audit Scotland Best Value in Policing** - The recent HMICS and Audit Scotland Best Value in Policing report concludes that policing in Scotland is well-managed and well-led, supported by effective leadership, governance, and strong partnership working, while also emphasising that further reform is required to ensure resources are used to maximum effect. It calls for clearer performance links to the strategic direction through a more focused and measurable Strategic Police Plan, alongside improved performance management with defined outcome-based success measures and stronger baseline data to track progress. Overall, the audit finds policing is on a positive trajectory but must accelerate transformation, address workforce planning and demonstrate continuous improvement across all services. However, concerns remain as to the medium term financial plan which needs updated. The inability of policing to maintain reserves or carry money between years causes problems, particularly in relation to expenditure in relation to large capital projects. Policing works within the single Scottish estate programme of work and have a significant plan to change the estate profile in an attempt to deliver the right building in the right place with the right access. Much of this work is now focused on co-location to enable sharing of estate and collaboration where this adds value to the services being delivered. The strategic workforce plan for policing is under developed and the evidence base for the officer number and staff mix is not well evidenced. While work is ongoing it needs to develop and join up the evidence and the finance to show the need across the demand for service. Inefficient IT systems that are not linked continue to be an inhibitor to progress.

**6. Joint IPS–HMICS Witness Citation Review** - The joint inspection of the citation process identified a system that remains antiquated, paper-based and inefficient, with substantial negative impacts on witnesses and policing capacity. Most civilian witnesses are still cited by second-class post, whereas other UK jurisdictions commonly use email. Approximately 154,000 citations were served by Police Scotland between October 2023 and October 2024; personal service demands equate to the full-time workload of a high number of officers, reducing time available for frontline duties. Lack of oversight, leadership, governance, strategy and monitoring of the citation process across COPFS and Police Scotland. Witness availability is rarely collected at the statement-taking stage and, where obtained, is seldom used in trial scheduling; excusal handling is inconsistent and often ineffective. Serious administrative issues were identified, including citations sent to deceased witnesses and multiple (up to six) citations for the same case. In 2024/25, 48,360 summary and 5,919 solemn cases called for trial in sheriff courts with 398,714 witness citations issued; evidence was led in only 13% of summary and 21% of solemn cases, indicating large volumes of unnecessary citation activity. Two key recommendations are that COPFS should use email or other electronic methods to cite witnesses and that the Scottish Government work with COPFS and other justice partners to provide an integrated digital trial scheduling solution or algorithm that would take account of all witness availability in fixing trials

## 7. Cross-Cutting Themes for the Committee

1) Modernisation and digital transformation: Police Scotland has delivered new capability in the digital space with mobile data devices, body worn cameras and the digital evidence sharing platform all adding to their more effective use of data and digital technology. However, many of the issues raised in reports show that once delivered the benefits realization aspect of these programmes are not clearly reported and may not fully deliver. Better cross justice work to align systems is needed and the failings of this are highlighted in the citing of witnesses report.

2) Efficiency and best value: Antiquated citation practices divert officer time and public money; modernisation would release capacity for visible policing and reduce unnecessary distress for witnesses.

4) Whole-system collaboration: HMICS's joint inspections across mental health, public protection and custody healthcare confirm that complex justice outcomes improve when scrutiny and delivery are coordinated across agencies.

5) New legislation remains a challenge to implement when it is enacted. We have commented in previous reports that it is often difficult to estimate the financial or operational impact of new legislation when Police Scotland have to implement new processes. The need to ensure that existing legislation is used effectively is an area we have concerns about and have noted with interest the recent report on anti-social behaviour with suggestions that new legislation is required to improve outcomes for communities.

6) The National Review of Group Based Sexual Abuse and Exploitation is progressing at pace and will report on stage one at the end of the summer. During this we will be working closely with officials to ensure that the recently announced public inquiry is aware of our work and briefed effectively to allow for the terms of reference of the inquiry to be produced.

**8. Conclusion-** Strengthened governance, culture and assurance across policing which emphasises improved vetting, wellbeing, public-protection and the need for consistent self-assessment and continuous improvement across Police Scotland, the SPA and Forensic Services has been delivered in recent years. Steps must be taken to address the persistent and unsustainable mental-health-related demand on policing by accelerating whole-system reform, ensuring health and social care partners take greater responsibility, and embedding Police Scotland's emerging mental health strategy, governance structures and referral pathways. They should enhance efficiency and best value by progressing the reforms identified in the Best Value in Policing audit, including clearer performance measures, stronger baseline data, accelerated transformation and improved workforce planning to support long-term sustainability. Finally, modernisation of the witness-citation system is essential, with justice bodies needing to deliver digital, user-centred scheduling, trauma-informed communication and improved oversight—measures that would reduce unnecessary demand, free officer capacity and improve experiences across the justice system.



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5 March 2026

Dear Convener

### **Work and challenges of HM Inspectorate of Prosecution in Scotland**

Thank you for inviting His Majesty's Inspectorate of Prosecution in Scotland (IPS) to provide a written submission on our recent work and challenges facing IPS in the immediate future.

I became HM Chief Inspector of Prosecution (the Chief Inspector) in July 2025. The Chief Inspector is appointed by the Lord Advocate in terms of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 to inspect the operation of the Crown Office and Procurator Fiscal Service (COPFS). The independence of the role of Chief Inspector is established in this Act. Since 2003 there have been four chief inspectors. For further information on the history and purpose of IPS please see paper apart at Annex A.

This submission sets out:

- IPS resources
- Discharge of IPS statutory functions – recent work of IPS
- Key messages from the recently published joint inspection report on 'Citing witnesses in the sheriff court'
- Value of IPS inspectorate work
- Value of joint scrutiny
- Challenges in implementing recommendations.

#### **IPS resources**

IPS is comprised of 4.57 full-time equivalent staff, namely:

- HM Chief Inspector of Prosecution
- Assistant Chief Inspector of Prosecution
- Business Inspector (0.57 FTE)
- Office Manager/Personal Assistant to Chief Inspector
- Legal Inspector (temporary secondment from COPFS).

IPS has 3.57 full time equivalent staff who carry out the day-to-day inspection work of COPFS, while the organisation which we inspect, at the end of March 2025, employed 2,416 full time equivalent staff.

In 2016-17 COPFS employed 1,621 full time equivalent staff. While the number of staff employed

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by COPFS has increased significantly during the lifetime of IPS, the number of IPS staff has remained the same.<sup>1</sup> This increase in COPFS staff reflects the demands of statutory obligations, the increase and complexity of prosecutorial work in serious crime, and to address pandemic related backlogs and deaths. IPS staffing numbers have not kept proportionally abreast with the body which it inspects. It is challenging at best for an IPS staff of 3.57 to effectively inspect COPFS, which as Scotland's sole prosecution and deaths investigation authority is a large organisation, not least given COPFS expansion and current priorities. Despite our constrained resources, IPS has consistently delivered detailed inspection reports that reflect our specialist knowledge and recommendations that, if implemented by COPFS, deliver realistic and meaningful change.

The IPS budget over the last few financial years has presented difficulties in fulfilling our statutory function. Staff costs accounted for:

- 97% of the IPS budget in financial year 2023-24
- 98% of the IPS budget in financial year 2024-25
- 94.64% of our budget in financial year 2025-26 (this was due to there being no Chief Inspector in post from 01/04/25-13/07/25. Had there been, there would have been an overspend on staff costs alone.)

The budget allocation for 2026-27 is £483,000. This is less than projected staff costs for the year at current staffing levels and we therefore start the financial year knowing that we will be over budget simply on our staffing costs.

Our staff costs in relation to our budget make spending on much else prohibitive, including travelling to COPFS offices around the country for inspection work, training and investment in the development of staff to keep abreast of changes in the criminal law sector staff and attending conferences. Current financial resource levels do not afford IPS the flexibility of some other Scottish inspectorate bodies to recruit temporary inspectors to assist with individual projects where specialist input may be required. This in turn can limit IPS to what areas of COPFS we can inspect.

Owing to lack of capacity, IPS is only able to deliver one inspection at a time rather than running multiple inspections simultaneously. Larger inspection topics can mean that IPS is limited to carrying out one inspection per year. This is particularly unfortunate given the seismic change going on across COPFS and the wider Scottish criminal justice system. The ability to gather information and intelligence outside of formal inspections and to carry out effective follow-up work in relation to previous inspections is frustratingly limited.

There are areas of COPFS that IPS would like to inspect together with considering the impact of changes from both within COPFS and the wider criminal justice system in Scotland. IPS will

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<sup>1</sup> Subject to in the past the budget permitting ad hoc staff being employed to assist in respect of certain inspection reports (not within the last 10 years).

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however always have to balance this up with the resources and budget of the inspectorate.

### **Discharge of IPS statutory functions – recent work of IPS**

We fulfil one of our statutory functions – to secure the inspection of the operation of COPFS<sup>2</sup> – by carrying out inspections and publishing reports of our findings. Please see Annex A for further statutory duties.

Issues for inspection are selected on the basis of adding value to the prosecution service (and, in particular considering topics which COPFS is not looking at itself under the auspices of its own changes such as Designed for Success), risk and intelligence, and following consultation with the Law Officers, COPFS and stakeholders. The Lord Advocate also has the authority to refer matters to IPS for inspection.<sup>3</sup>

In the last five years IPS has published the following thematic inspection reports:

(a) [‘Citing witnesses in the sheriff court’](#) (joint inspection with HM Inspectorate of Constabulary in Scotland (HMICS)) – published 3 March 2026

This inspection considered the citation process from both a prosecution and policing perspective, and 50 recommendations were made. This inspection is discussed later in this submission.

(b) [‘Responding to enquiries: service delivery through National Enquiry Point’](#) – published 29 January 2025

This inspection considered how COPFS responds to enquiries received by National Enquiry Point, its customer contact centre. We assessed how efficiently and effectively enquiries are addressed, whether they are resolved by Enquiry Point at the first point of contact or transferred to other teams within COPFS for action.

A key concern is the unmet public demand for the COPFS Enquiry Point service. In the year to September 2024, NEP received 343,205 calls. Over 65,000 calls were not even admitted to the queue to be answered. Of those who got into the queue, 50% (138,418) ended up abandoning their call whilst waiting for an answer. In total only 41% of calls received were handled by NEP.

The quality of call handling was found to be generally good but 22% of all calls and emails to Enquiry Point were due to failures of COPFS to carry out work correctly first time i.e. failure demand. A new contact centre IT system had caused challenges, and the anticipated benefits had not been fully realised. We found enquiry handling could be improved if more staff across COPFS recognised their own role in responding to enquiries, had a greater focus on

<sup>2</sup> Section 79(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

<sup>3</sup> Section 79(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

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customer service along with the skills, confidence and capacity to assist Enquiry Point where operators have been unable to resolve enquiries at first point of contact.

IPS made 18 recommendations which focused on customer service, improved governance, awareness raising about the role of Enquiry Point, and training for COPFS staff. A full assessment of COPFS progress will be reported in the next IPS annual report.

(c) [‘The prosecution of domestic abuse cases at sheriff summary level’](#) – published 17 April 2024

This inspection assessed how well COPFS prepared, managed and prosecuted domestic abuse cases at sheriff summary level, as well as how efficiently such cases were progressed. It also examined how well COPFS communicates with and supports victims and child witnesses in domestic abuse cases, keeping them up to date with developments and taking steps to ensure they are supported. IPS made 27 recommendations for improvement.

We found that tackling violence against women and girls is a strategic priority for COPFS but we found too many cases that could have been prepared more efficiently and effectively, too many in which victims’ individual needs were not considered and importantly far too many in which victims were not kept informed of developments. Despite the increase in COPFS budget, our inspection activity has found that there remains a lack of resource in frontline services.

Among the recommendations was that COPFS should take immediate steps to ensure that victims are receiving basic information about their case timeously. In a case review, IPS found that only 33% of victims were fully or mostly advised of the key dates in their case and the overall quality of communication was assessed as unsatisfactory for 80% of victims.

We noted delays and basic errors in the service provided by COPFS’s Victim Information and Advice service (VIA). While VIA was staffed by many who were committed to delivering a better service to victims, they said they were hampered by, amongst other things, backlogs of work; a lack of resources, training and support; and poor systems. We questioned whether VIA was fit for purpose in summary cases and whether it was capable of delivering the person-centred and trauma-informed service to which COPFS aspires.

(d) [‘Joint review of diversion from prosecution’](#) (joint inspection with HMICS, Care Inspectorate and HM Inspectorate of Prisons for Scotland (HMIPS)) – published 21 February 2023

This inspection assessed the operation and impact of diversion from prosecution in Scotland. It provided an overview of diversion practice from a policing, prosecution and justice social work perspective, highlighted what is working well and explored barriers to the more effective use of diversion. There were 34 recommendations made in total and 14 related to COPFS. These included recommendations on the need for training for staff on diversion from prosecution, ensuring the processes for managing diversion across agencies are as effective and efficient as possible and improved communication between COPFS and other justice agencies in this area.

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(e) [‘Inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure \(Scotland\) Act 1995’](#) – published 19 October 2022

IPS assessed the practice of COPFS in relation to legislation which regulates the use of evidence relating to the sexual history or character of complainers in sexual offence trials and which are designed to protect them from irrelevant and often distressing questioning when giving evidence. We found the quality of Crown section 275 applications to be generally good, and we found that the Crown generally opposed applications made by the defence when it was appropriate to do so. Nonetheless, there remained scope for further improvement in the way in which COPFS makes and responds to section 275 applications. Nine recommendations were made by IPS, one of which was directed at the Scottish Government.

(f) [‘Inspection of the management of criminal allegations against the police by COPFS’](#) – published 9 September 2021

IPS concluded that the quality of decision making by COPFS in such cases was good, and that the public should be reassured by the robust scrutiny and quality of decision making which is applied to on duty criminal allegations against the police. Nonetheless, IPS found scope of improvement in how criminal allegations against the police were managed. IPS made 18 recommendations for improvement.

**Key messages from the recently published joint inspection report on ‘Citing witnesses in the sheriff court’.**

On 3 March 2026, IPS and HMICS published an inspection report on citing witnesses in the sheriff court. The citation process was considered holistically – from the moment a witness statement is taken to the day the witness attends court to give evidence. The inspection was wide ranging as despite being such a fundamental part of the criminal justice process, citation of witnesses has never been fully scrutinised across the criminal justice system.

There are 50 recommendations in the report that would, if implemented, allow for a more efficient witness-centred approach to citation. The recommendations are for COPFS and Police Scotland, but many will require collaboration with other justice partners including Police Scotland, the Scottish Courts and Tribunals Service and Scottish Police Authority Forensic Services.

The inspectorates reported that during 2024/25, 398,714 witness citations were issued across Scotland for trials in the sheriff court. While witnesses in other parts of the UK are commonly notified of trial dates initially by email, in Scotland most civilian witnesses still receive formal legal citations by second class post. IPS and HMICS recommended that COPFS should use email or another electronic method as the principal means of citing all witnesses.

A large number of citations are also hand delivered to prosecution witnesses by police officers.

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Police Scotland estimated that in the year 2023-24 it had 154,000 witness citations to serve.

Despite this volume of work, the inspectorates found lack of oversight, leadership, governance, strategy and monitoring of the citation process across both Police Scotland and COPFS. This includes an inability to accurately identify the costs of the citation process. Whilst the summary case management<sup>4</sup> approach, now rolled out across Scotland, has significantly reduced the number of citations issued, it does not address the problems in the citation process itself.

A failure by COPFS to effectively deal with witness excusal requests was found to be extremely impactful on all witnesses including police officers who may be cited to give evidence in court when on rest days, nightshift or annual leave.

The recurring theme of 'churn' in the system, with trials being repeatedly adjourned, was again evident. Our case review found evidence of witnesses receiving as many as six citations to appear at court on different dates in the same case.

We undertook benchmarking with other jurisdictions and found that there was much to be learnt from how other jurisdictions cite witnesses. This included the use of a 'notice of trial' letter (usually emailed) to inform witnesses of the trial date and secure the attendance of engaged witnesses, leaving personal service of the heavier handed formal legal citation for more challenging witnesses. This would provide a more trauma-informed approach.

We considered whether the experience of being cited to attend court as a witness can be improved. Our report focuses on modernisation and achieving greater efficiency and effectiveness in the citation process, in particular through the use of digital technology across the entire process.

Two key recommendations are that COPFS should use email or other electronic methods to cite witnesses and that the Scottish Government work with COPFS and other justice partners to provide an integrated digital trial scheduling solution or algorithm that would take account of all witness availability in fixing trials. We acknowledge that budgets are restricted across all public sector funding, however if this investment is made it will in turn reduce excusals, adjournments and churn in the justice system, the significant attendant costs, and improve the witness experience.

### **Value of IPS inspectorate work**

The IPS vision is to promote excellence and confidence in Scotland's prosecution service through independent, evidence-based scrutiny.

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<sup>4</sup> Introduced in 2022, this uses a collaborative approach to manage proceedings through early disclosure, agreement of evidence and judicial management in sheriff court summary cases.

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We examine the effectiveness and quality of the prosecution service being delivered to the public in Scotland. Our published reports highlight what is working well and where development and improvement is needed on particular thematic topics or areas of work within COPFS. This in turn will help reassure the public that COPFS is independently scrutinised and held accountable, thereby enhancing public confidence in the justice system.

In all of our work, a key objective is to understand the experience of those whom the service is provided to by COPFS. This can include victims, witnesses, and stakeholders. We make evidence-based conclusions and recommendations that, if implemented, will enhance the effectiveness and efficiency of the service to the Scottish people.

Although a small team of staff, IPS currently has more than 100 years of combined experience in inspection of COPFS or the operation of COPFS. This is evidenced by the detailed reports IPS produce as thematic inspections.

In recent years, IPS has delivered reports that have identified areas of poor performance or ineffective practice in the operation of COPFS that would not have been readily identified by those without such experience. Examples include:

- our domestic abuse inspection – IPS team members identified that important communication from victims and witnesses was being stored in COPFS systems in a manner which prevented it being provided to prosecutors
- our CAAPD inspection – IPS staff identified that a key performance target was being ‘frozen’ when a request was sent to Police Scotland for information. This created a performance statistic which was not reflective of the actual time taken for COPFS to complete the investigation of a criminal allegation against the police.

Whilst we do not report on individual cases, our experience allows us to carry out assessment of decision making by prosecutors in a way that is credible and informed by experience of the reality of prosecutorial decision making. In our domestic abuse inspection, we were able to assess the quality of prosecutorial decisions and noted a correlation between that and the quality of police reports.

Given the complexity of COPFS IT systems and variation of use, our experience allows us to understand not only where to identify key information but often identify when it is missing and interpret what we find. It cannot be understated how much knowledge and time is required to navigate the COPFS ageing IT infrastructure.

Without the experience levels of IPS staff the ability of the inspectorate to provide the scrutiny necessary to the prosecution service of Scotland would be restricted to high level findings that would not drive improvement for the public, COPFS or its stakeholders.

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Given our expertise, our recommendations are practical and deliver meaningful change for the public when implemented. Some recent examples:

- In all recent inspections recommendations have led to improved guidance and training for COPFS staff which in turn leads to better informed staff and decision making by COPFS
- As a result of our criminal allegations against the police inspection, there is improved communication and engagement with complainers. COPFS now publishes information on this role and data on decisions taken.
- Our inspection into COPFS practices in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995 led to victims of sexual offences who face the potential of being questioned about matters other than the allegation, now being able to express how they will be precognosed and this should be facilitated. A recommendation that victims in such cases should be informed of the outcome of applications to lead such evidence has been given effect.

Many recommendations in respect of our last three inspections, once implemented by COPFS, will deliver improved services for victims and witnesses.

We continue to highlight failure demand to COPFS throughout our recent inspections and how the inability to action matters correctly first time leads to inefficiencies and repeated or additional work at a later stage.

As highlighted in our 2024/25 annual report, as Chief Inspector, I have a strong desire to make a practical difference, not least the explicit concern to contribute to the improvement of COPFS. With that in mind, my priorities for IPS are as follows:

1. People
2. Practical
3. Process
4. Primary
5. Progress
6. Public

IPS intends to publish a new strategic plan this year.

IPS is flexible and has been able to respond to sudden changes in the criminal justice landscape and to address urgent matters. During the pandemic, IPS worked in collaboration with HMICS to consider the emergency justice provisions, including electronic transmission of documents, remote attendance at court and national jurisdiction for first appearance. The report was published within two months of publication of the terms of reference.

### **Value of joint scrutiny**

IPS, like other inspectorate bodies, have a duty of cooperation. Joint inspection is perhaps the

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most common example of such collaboration between the inspectorates and with other scrutiny bodies.

Joint scrutiny can include one-off thematic inspections or programmes of inspection activity. IPS actively seek opportunities to carry out our inspection activity in partnership with other scrutiny bodies. The effective operation of the justice system cannot be achieved by any one agency therefore when appropriate, a similarly collaborative approach should therefore be taken to independent inspection, to ensure specialist knowledge and that shared outcomes are being achieved. These better supports improvement across public services and the justice system.

This can involve IPS working with a single other inspectorate or multiple inspectorate bodies. In the last 5 years IPS have undertaken joint work in the following inspection areas:

- Citations (3 March 2026) – an assessment by IPS and HMICS of how efficiently and effectively witnesses are cited for court and the scope for modernisation
- Diversion from prosecution (21 February 2023) – an end-to-end assessment of the diversion from prosecution process carried out by HMICS, IPS, HM Inspectorate of Prisons in Scotland and the Care Inspectorate
- Emergency criminal justice provisions (31 July 2020) – an assessment by IPS and HMICS of the use and impact of key emergency criminal justice provisions introduced in response to the pandemic

The absence of an independent court inspectorate is a gap in the current scrutiny landscape, meaning opportunities for inspection to contribute to the more efficient operation of the courts are missed. We have inspectorate bodies of police, prosecution and prisons but not courts. This can inhibit collaborative work and improvement across the justice system as SCTS are under no obligation to take account of the work of the inspectorates. Any work undertaken therefore cannot truly be from end-to-end of the justice sector. This can limit the impact of the work we carry out to make the justice system as a whole more efficient and effective for the public and justice partners. An inspectorate body of SCTS would not interfere with the independence of the judiciary, as any inspection and scrutiny work would be limited to the administration of the courts by SCTS. This is the missing key piece in the justice inspectorate landscape.

This was also reflected in the recent Scottish Sentencing and Penal Policy Commission Report<sup>5</sup> which recommended:

‘Consider the establishment of a new inspectorate to provide scrutiny of the administrative performance of the criminal courts, without encroaching on the judicial independence of decision making on criminal charges. Lead partner – Scottish Government’<sup>6</sup>

To support this collaborative approach with inspectorate and scrutiny bodies, IPS participate in the Justice Scrutiny Network. These regular meetings provide an opportunity to discuss and

<sup>5</sup> Dated 6 February 2026.

<sup>6</sup> Recommendation 9.5 Scottish Sentencing and Penal Policy Commission Report.

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share information about developments across the justice sector and to consider an appropriate scrutiny response. IPS also participate in the Strategic Public Sector Scrutiny Network and its supporting Scrutiny Coordination Group. These networks are made up of Scotland's main public sector scrutiny bodies. They aim to deliver efficient and effective, coordinated scrutiny that supports improvement across Scotland's public services. The networks facilitate collaboration between scrutiny bodies as well as the sharing of information and learning.

### **Challenges in implementing recommendations**

Where there is insufficient evidence of progress, where intelligence or an assessment of risk suggests that it is necessary, or where it is in the public interest to do so, IPS will continue to carry out follow-up inspections. A follow-up inspection may also be carried out at the request of the Lord Advocate.

Due to our limited resources however, it is not possible to carry out follow-up inspections of all previous work. We therefore have an agreed recommendation implementation process with COPFS which results in a more proportionate, risk-based and intelligence-led approach to following up previous inspections. COPFS provides us with action plans in response to our recommendations. We assess those plans and, alongside supporting evidence provided to us by COPFS about implementation, use them to inform decisions as to whether a follow-up inspection is merited.

We publish COPFS progress against each recommendation in our annual reports, and we continue to publicise this information until all accepted recommendations are achieved. A copy of our annual report is sent to the Convenor of the Criminal Justice Committee.<sup>7</sup>

It is clear that COPFS is committed to supporting the work of IPS and implementing our recommendations as highlighted in their published plans and reports. COPFS has accepted almost every recommendation of IPS in recent years and has publicly committed to the implementation of recommendations in order to achieve improvement in the areas identified by our thematic reports.

While IPS welcome this commitment from COPFS in accepting recommendations, the pace of implementation is not always as hoped and in recent years has become a concern to IPS.

It is inevitable that some of our recommendations will be more challenging to implement, but all too often where COPFS commits (in annual reports and business plans) to implementation of recommendations within a set period (usually one year from publication of the inspection) this has not been achieved. For that reason, going forward some IPS recommendations will have timescales for implementation attached to them.

An example of the pace of implementation is in relation to the inspection on 'the prosecution of

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<sup>7</sup> The most recent annual report 2024-25 was sent on 13 November 2025.

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domestic abuse cases at sheriff summary level' which was published in April 2024. For those recommendations which COPFS could deliver, they aimed to implement all of them by March 2025. COPFS aimed to implement those recommendations which they consider require stakeholder involvement by April 2026. Despite these targets, in November 2025 we assessed the current progress in implementing the 47 recommendations in our Annual Report 2024/25 as:

Achieved – 2  
Substantial progress – 8  
In progress – 27  
Not achieved – 10

There have been a number of positive developments across COPFS mostly focused on the improvement of training and guidance in relation to domestic abuse as set out in recommendation one of the inspection report, which provides a necessary foundation for COPFS staff working on these cases. However, a concern regarding the lack of progress on operational recommendations and in particular in relation to an IPS recommendation 19, that COPFS immediately ensure victims of domestic abuse receive basic information about their case timeously, has resulted in the decision that IPS will conduct a focused follow-up inspection on victim communication over the next few months.

The inspection on 'Joint review of diversion from prosecution' was published in February 2023. Two years and nine months later, in November 2025, we assessed that none of the 14 recommendations has yet been fully achieved and COPFS no longer accepts one of the recommendations. A delay in the publication of new national guidelines is the main factor in the lack of progress for many, but not all, of the recommendations.

Our inspection highlighted the value being achieved from diversion from prosecution, the potential to improve outcomes and, in the long term, reduce prison population through increased use of diversion. IPS is concerned that none of these recommendations have been implemented by COPFS in the past three years and this is all the more surprising given the Lord Advocate's statement in October 2024 emphasising the need for early intervention and use of diversion to address the prison population.

In relation to a number of other inspections, again the pace of implementation of recommendations was often not as hoped:

- 'Inspection of the management of criminal allegations against the police by COPFS' – published September 2021. By 2024, five recommendations remained outstanding. By November 2025, all but one were assessed as achieved.
- 'Responding to enquiries: service delivery through National Enquiry Point' – published 29 January 2025. COPFS has committed to implementing all of our recommendations by the end of March 2026. We will provide a full update on the implementation of this inspection

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in our 2025-26 annual report, however it is already clear to us that this target will not be met.

Monitoring implementation of recommendations absorbs significant time for IPS staff and given the small team can be a challenge to undertake while concurrently carrying out an inspection. When published inspection report recommendations remain open for several years before being fully addressed by COPFS, then this challenge is increased.

I hope the Committee finds this submission useful and I am happy to provide any further information.

Yours sincerely

Deborah O'Brien Demick  
HM Chief Inspector of Prosecution

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## Annex A

### History and purpose of IPS

#### Founding and history of IPS

IPS was established in 2003, following an independent inquiry into the liaison arrangements between the police, COPFS and the family of Surjit Singh Chhokar, following the murder of Mr Chhokar and related prosecutions. One of the recommendations of that inquiry was that an inspectorate of COPFS be established, 'to introduce a measure of accountability, which is essential for public confidence'.

After initially operating as a non-statutory body, IPS was placed on a statutory footing in 2007 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (the 2007 Act).

The 2007 Act confirms that HM Chief Inspector is appointed by the Lord Advocate for such period as may be determined by the Lord Advocate and may be reappointed.

The functions of the Chief Inspector are outlined in the 2007 Act:

- Secure the inspection of the operation of COPFS
- Submit to the Lord Advocate a report on any particular matter connected with the operation of COPFS which the Lord Advocate refers
- Submit an annual report to the Lord Advocate on the exercise of the Chief Inspector's functions (a draft must be provided to the Lord Advocate for comment) which is then laid before Parliament by the Lord Advocate

The 2007 Act is unambiguous that in exercising the functions conferred by the legislation the Chief Inspector 'is to act independently of any other person'. When inspecting COPFS, the Chief Inspector may require any person directly involved in the operation of the service to provide her with information. However, IPS does not have any statutory power to compel COPFS to implement our recommendations.

As well as the 2007 Act, there are a range of other duties to which IPS is subject, including duties of user focus and co-operation with other scrutiny bodies under the Public Services Reform (Scotland) Act 2010, and duties derived from the Human Rights Act 1998 and Equality Act 2010.

#### What IPS does

The stated vision of IPS is to promote excellence and confidence in Scotland's prosecution service through independent, evidence-based scrutiny. The focus of IPS is on the quality of the prosecution service being delivered to the public in Scotland and inspection reports highlight what is working well, as well as areas for development and improvement. In all IPS work, a key objective is to understand the experience of those for whom the service is provided.

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Recommendations are made by IPS that, if implemented, will enhance the effectiveness and efficiency of the service.

IPS seek to engage constructively with those inspected and to support them to deliver continuous improvement. In carrying out its duties IPS is mindful of the burden that scrutiny can impose on COPFS and seek to take a proportionate approach, minimising the scrutiny footprint where possible. IPS provides assurance to the Lord Advocate about the service being delivered by COPFS and published reports help reassure the public that COPFS is independently scrutinised and held accountable, thereby enhancing public confidence in the justice system.

### Thematic inspections

Thematic inspections look holistically at an issue or a service end-to-end. These inspections can focus on specific types of case work or business approaches. IPS has used thematic inspections to a greater extent in the last five years, reflecting increased specialisation in COPFS and the functional nature of its current work.

The most recent thematic inspections have considered a variety of areas of work of COPFS including –

- the citation of witnesses in the sheriff courts
- service delivery by the COPFS contact centre
- the prosecution of domestic abuse at summary level
- the use of diversion from prosecution
- COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995.

### Follow-up inspections

IPS also conducts follow-up inspections, to assess the progress made in implementing its recommendations. Follow-up inspections can provide information and reassurance to the Lord Advocate and the wider public that action is being taken in response to inspections and that improvements in service delivery are being achieved.

Due to the limited resources of IPS however, it is not possible to carry out follow-up inspections of all previous work. Consequently, IPS has agreed a recommendation implementation process with COPFS which results in a more proportionate, risk-based approach to following up previous inspections. COPFS provides IPS with action plans in response to its recommendations. Such plans are assessed and, alongside supporting evidence about implementation, are used to inform decisions as to whether a follow-up inspection is merited.

Where IPS is satisfied based on the action plan and supporting evidence that recommendations have been implemented, recommendations are closed. Progress is reported in IPS annual reports to maintain transparency. Where there is insufficient evidence of progress, where intelligence or an assessment of risk suggests that it is necessary, or where it is in the public

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interest, IPS will continue to carry out follow-up inspections. A follow-up inspection may also be carried out at the request of the Lord Advocate.

It is anticipated that the next IPS inspection will be a focused follow-up inspection on elements of the 2024 inspection on the prosecution of domestic abuse cases at sheriff summary level.

### **Collaborative inspections**

IPS actively seeks opportunities to carry out inspection activity in partnership with other scrutiny bodies given that the effective operation of the justice system cannot be achieved by any one agency.

To support this collaborative approach, IPS regularly engage with other criminal justice scrutiny bodies, including HM Inspectorates of Constabulary and Prisons. These regular meetings provide an opportunity to discuss and share information about developments across the justice sector and to consider an appropriate scrutiny response. IPS participates in the Strategic Public Sector Scrutiny Network and its supporting Scrutiny Coordination Group. These networks are made up of Scotland's main public sector scrutiny bodies. They aim to deliver efficient and effective, coordinated scrutiny that supports improvement across Scotland's public services. The networks facilitate collaboration between scrutiny bodies as well as the sharing of information and learning.

The most recent IPS inspection was published on 3 March 2026 and was a collaborative inspection with HM Inspectorate of Constabulary in Scotland (HMICS) on citing witnesses in the sheriff court. IPS is also monitoring the progress of recommendations of a collaborative inspection in 2023 of the use of diversion from prosecution.

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HM Inspectorate  
of Prosecution in Scotland



Improving  
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Annexe C: Joint inspection report by HM Inspectorate of Prosecution in Scotland (IPS) and HM Inspectorate of Constabulary in Scotland (HMICS) – Citing witnesses in the sheriff court

# Citing witnesses in the sheriff court

March 2026

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HM Inspectorate of Prosecution in Scotland  
HM Inspectorate of Constabulary in Scotland



# Introduction

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The aim of this inspection was to assess how effectively and efficiently prosecution witnesses are cited to give evidence in the sheriff court. This includes members of the public who have been the victim of a crime or who have witnessed a crime, as well as police and professional witnesses.

The inspection has been carried out jointly by HM Inspectorate of Prosecution in Scotland (IPS) and HM Inspectorate of Constabulary in Scotland (HMICS), which has allowed us to consider the citation process from both a prosecution and policing perspective.

In 2024/25, a total of 157,615 citations and 179,475 re-citations were issued in sheriff summary courts.<sup>1</sup> In the same year, 31,238 citations and 30,386 re-citations were issued in sheriff and jury courts. This amounts to 398,714 occasions on which witnesses' lives were potentially affected and disrupted.

In 2024/25, 48,360 summary and 5,919 solemn cases called for trial in sheriff courts across Scotland. However, evidence was led in only 13% of summary and 21% of solemn cases.<sup>2</sup> Many witnesses will have been cited to give evidence and attended court for trials that ultimately did not proceed.

While there are some signs of improvement across both organisations, we found that much work remains to be done by the Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland to reduce the impact of citation on witnesses – not least as most of those we heard from found the citation experience a negative one.

The personal and economic impact of the citation process on witnesses, the police and prosecution services, and the justice system have all been considered. Despite the high volume of citations issued, we found that COPFS and Police Scotland do not adequately monitor performance data on the citation process to allow for accurate identification of costs, issues, demand forecasting, or service improvement opportunities.

We looked at the current legal and policy frameworks for citing witnesses in the sheriff court; how COPFS and Police Scotland intend to deliver their obligations to cite witnesses to court; and to what extent the citation process is informed by an understanding of the current operating context and the needs of witnesses and the justice system.

We were particularly struck by the lack of oversight, leadership, governance, strategy and monitoring of the citation process across both organisations. This should be addressed as soon as possible to ensure the necessary improvements to what is an inefficient and largely outdated system.

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<sup>1</sup> Data provided by COPFS.

<sup>2</sup> [Scottish Courts and Tribunals Service Annual Bulletin Criminal Edition 28](#)

We found that COPFS and Police Scotland training and awareness of the citations process was not as practical or effective as it should be. Nor did it take account of how fundamental citation of witnesses in the sheriff court is to the criminal justice system in Scotland.

This has led to many operational police and prosecution staff not fully understanding how their role operates as part of the wider citation process, or the interdependencies between COPFS and Police Scotland to ensure an efficient and effective process. We observed that this lack of knowledge has contributed to negative perceptions between staff in each organisation, which often hampered collaborative working. A culture shift is required to ensure positive change.

In considering the end-to-end citation process we found systemic failings from the outset across both organisations:

- Police Scotland rarely obtains witness availability and sometimes does not obtain sufficient contact details when taking witness statements, leading to unsuitable court dates and citation challenges
- When witnesses provide availability, this is rarely considered when trial dates are fixed, resulting in witness excusal requests, countermands (cancellations) and longer journey times of cases
- COPFS failure to deal with witness excusal requests or countermands effectively or timeously is extremely impactful on all witnesses
- Police Scotland faces challenges serving witness citations due to the volume of personal citations and the need to balance this with other operational commitments
- There is ineffective consideration, by both organisations, of the adequacy of existing technology and lack of digital solutions.

We have looked at the current methods of citation in the sheriff court and the impact of being cited as a witness, particularly in light of the Victims, Witnesses and Justice Reform (Scotland) Act 2025. This mandates trauma-informed practices for investigations, prosecutions and court proceedings and – while we found evidence of a desire to ensure a trauma-informed approach by both organisations – there is still a long way to go.

We have also considered whether the experience of being cited to attend court as a witness can be improved, and whether there is scope to modernise and achieve greater efficiency and effectiveness in the citation process, including through use of digital technology.

We found that while many organisations across Scotland communicate with their customers digitally, and electronic communication is used routinely by most people in their daily lives, most citations for civilian witnesses are issued by post. This is not compatible with an effective, modern criminal justice process that has service delivery and customer care at its heart.

We also drew significant learning from how witnesses are cited in other jurisdictions where digital citation methods work effectively. With this in mind, we make recommendations for a more efficient, witness-centred approach to citation.

This is also in keeping with the Scottish Government's Digital Strategy for Scotland, launched in November 2025,<sup>3</sup> which aims to use technology to deliver improved public services in Scotland.

We would like to thank those from COPFS, Police Scotland and the Scottish Police Authority, along with all the witnesses and victims who shared their experiences of the citation process with us. Their views helped shape our findings and recommendations.

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HM Chief Inspector of Prosecution in Scotland

**Craig Naylor**  
HM Chief Inspector of Constabulary

**March 2026**

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<sup>3</sup> [Digital Strategy for Scotland: Vision Statement](#)

## Key findings

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- Email citation of witnesses has been a competent method of citation since 2007, but COPFS only uses this for Police Scotland witnesses. Email citation is witnesses' preferred method of citation.
- Personal service of citation by a police officer was the normal method of citation until the late 1990s. While postal citation has increased so that it is now the most common method of citation, there remains a significant role for and consequent impact on Police Scotland in serving personal citations.
- Summary case management has significantly reduced the number of witnesses, including police witnesses, requiring to be cited or re-cited to court. While this has reduced the number of personal citations required to be served on witnesses by police officers, it does not address all issues within the citation process.
- Summary case management and body-worn video footage, while reducing citation of witnesses and improving the quality of citation decisions, also places additional pressures on operational staff in COPFS and Police Scotland who are involved in reporting and marking of cases.

## Outcomes

- The current citation process leads to negative experiences of the justice system for civilian, police and professional witnesses. While Summary Case Management has successfully decreased the number of witnesses cited, there has been a lack of focus on the experience of the citation process for those who remain cited to attend court.
- While there are situations in which witnesses are cited shortly before a trial, the majority of witness citations are issued or served with adequate notice of the trial.
- Repeated citation or 'churn' in the system is a continuing source of frustration for all witnesses.
- Being cited to attend court as a witness has significant impacts on members of the public, as well as for police officers when this clashes with periods of rest, annual leave or nightshift. There is considerable disquiet among police officers about this issue.
- The citation of police officers who are rostered for nightshift creates particular challenges for Police Scotland in maintaining adequate operational cover levels on those shifts.
- Professional witnesses are also impacted by the citation process. Medical witnesses, for example, often have to arrange locum cover to ensure that their patients are seen.
- Forensic scientists are cited too often, with insufficient consideration of legislative provisions that mean, often, only one witness need be cited. The citation process for forensic scientists is inefficient and poorly managed by both COPFS and the Scottish Police Authority (SPA).

- The current citation process does not sufficiently take account of witnesses who face additional barriers to accessing the justice system, including those who do not have English as a first language, or those with additional support needs.
- COPFS and Police Scotland do not adequately monitor performance data on the citation process in a manner that allows for accurate identification of issues, demand forecasting, or service improvement opportunities.
- COPFS cannot quantify the cost of the citation process in terms of postal and associated costs, or the labour costs of processing citations.
- Police Scotland cannot accurately quantify the costs of serving personal citations or related costs such as investigation into witness whereabouts.
- Police Scotland does not collect comprehensive data on the organisational resource and fiscal impact of attending court, any subsequent backfill and other associated costs incurred as a result. The only identifiable financial cost to Police Scotland in the citation process is the overtime costs that may be incurred when officers attend court during their annual leave or rest days.
- Of the current targets COPFS has in relation to citations, many are inconsistent or not measured, and some are unachievable.
- COPFS and Police Scotland cannot quantify failure demand costs caused by the citation process.
- A change in the length of time for witnesses to respond to postal citations has led to a decrease in the number of personal citations issued.

## **Direction**

- The citation process has remained largely unchanged since 1996. Neither COPFS nor Police Scotland has a defined vision or strategies for the citation process.
- Staff at all levels of COPFS and Police Scotland are aware of failings in the current citation process and are clear that there is a need for modernisation.
- There is an absence of effective leadership and governance of the citation process within COPFS, with no effective oversight or control. This is mirrored in Police Scotland with a lack of effective oversight of the citation process until very recently.
- Police Scotland's absence of strategy for the delivery of legal documents has resulted in differences of practice across the country, including police officers dedicated to service of citations, officers on modified duties serving citations and officers serving citations alongside other duties.
- COPFS is undertaking a process aimed at improving its management structures and governance. This represents an opportunity to address issues identified in respect of inadequate leadership and governance of the citation process.

- There is a lack of effective structured liaison between COPFS and Police Scotland that allows for identification of failure in the citation process, or as a mechanism for improvement of this process. Local liaison between the two organisations allows for some degree of communication on citation but this tends to be reactive and is inconsistent in approach and delivery.
- COPFS and Police Scotland do not have adequate mechanisms to take account of the needs of victims and witnesses in the citation process.
- There is a lack of understanding of roles between COPFS and Police Scotland. Staff in both organisations often failed to fully understand either how their role operated as part of the wider citation process or the interdependency between COPFS and Police Scotland. This lack of knowledge has contributed to negative perceptions between staff in each organisation. There is a need for relevant training and awareness raising in both COPFS and Police Scotland.
- Service of citations is viewed operationally as a low organisational priority by Police Scotland, despite the consequences of failed service of citations having an impact on Police Scotland, as well as the wider justice system.

## Delivery

- There are gaps in guidance to COPFS administrative staff on the processing of citations and ancillary processes. COPFS should do more to ensure staff are aware of and follow guidance, and monitor compliance.
- Specialist units within COPFS face significant challenges in citing witnesses, due to IT systems that are not fit for purpose, and an absence of guidance.
- The 'Lord Advocate's guidelines to chief constables on the citation of witnesses', does not reflect operational reality and should be updated.
- Police Scotland's guidance on the service of legal documents and on the citation process needs improvement to ensure consistency.
- Information for the public about the citation process is inadequate; both COPFS and Police Scotland websites offer little practical guidance.
- Training for COPFS administrative staff on the citation processes tends to be peer-to-peer, which causes inconsistency of practice. Training for police officers on the citation process, including on the completion of the Standard Prosecution Report (SPR) is insufficient in terms of content, timing and frequency.
- When taking a statement, police officers do not consistently advise witnesses that they may have to attend court as a witness.
- Continued significant improvements to the SPR are crucial in improving the citation process, including the provision of email addresses of witnesses, witness availability, full details of which police witnesses seized physical evidence, and improved use of 'non-witness' as a description.

- There is significant concern across Police Scotland and COPFS that both the major staffing reduction in case management units (which act as a quality assurance check prior to the submission of SPRs) and a move instead towards direct reporting will have a negative impact on the citation process.
- There was limited evidence of 'over-citing'; in general, COPFS legal staff carefully consider which witnesses need to be cited at the first point witnesses are to be cited.
- A reduction in liaison officers embedded in COPFS offices has the potential to hamper communication between COPFS and Police Scotland on citation issues.
- COPFS has insufficient quality assurance checks and a lack of focus on learning from mistakes during the citation process. There is an absence of feedback between COPFS and Police Scotland about recurring issues. Pressure of time is often cited as an impediment to this.
- Agreement of evidence, which would reduce citation and impact on witnesses, is often dealt with too late in proceedings. While there are judicial practice notes that address the agreement of evidence, there remains inconsistent judicial practice regarding enforcement of the practice notes.
- Significant reforms introduced in 2017 to ensure effective scheduling of sheriff and jury trials and thereby increase certainty for witnesses, are no longer being applied in some areas. This has a negative impact on witnesses as they do not have certainty about what date(s) they require to attend court.
- The sheriff and jury witness engagement process has become ineffective, with many COPFS offices not using the system at all and some sheriff and jury deputies entirely unaware of the process.
- In summary cases, COPFS has no system to take account of unavailability of witnesses in scheduling trials with the Scottish Courts and Tribunals Service (SCTS), other than that of police officers. Where this information is proactively supplied, it is not routinely taken into consideration.
- A digital scheduling application has been developed jointly by Police Scotland and COPFS to identify the most appropriate dates for police witness attendance. However, the application is not used routinely, and its benefits are not always being realised.
- Formal citation documents that threaten arrest or punishment are inconsistent with trauma-informed principles.
- It is difficult for police officers to identify which personal citations are for child witnesses to enable them to deliver such citations in a trauma-informed manner.
- Sheriff and jury citations do not make clear to witnesses how many days they may need to be available at court. This is often a source of significant upset and practical impact to witnesses.
- The current practice is to issue formal citations to witnesses to attend court to give evidence but, in most situations, there would be no legal difficulty in issuing witnesses with a 'notice of trial date' letter which is more trauma-informed.

- Citations tend to be issued promptly after a trial is assigned and the automated cite procedure in summary cases is generally an effective system. A lack of an automated system in sheriff and jury cases leads to significant divergence in practice. COPFS is working to address differing practices.
- The automated citation procedure can re-cite witnesses in summary part-heard trials before COPFS administration staff identify those witnesses that have already given their evidence in court. This is often due to COPFS backlogs.
- In general, Police Scotland tends to receive personal citations with adequate time for service to be effected.
- When officers have a specific role to serve citations, the process is more effective and efficient.
- Service of personal citation in rural areas presents significant resource challenges to Police Scotland. When Police Scotland telephone witnesses in advance of service of citations, this works well and improves witness engagement.
- COPFS staff do not routinely telephone witnesses to remedy potential citation issues.
- On-demand citations are poorly managed by COPFS. It is not possible to quantify the extent of their use, and they are difficult to track on electronic systems.
- COPFS processes for reviewing the progress of citations are confused and inadequate. There is a lack of sufficient guidance on what, when and how this should be conducted.
- There is no central COPFS guidance on how the citation process should be managed in summary cases to take account of the removal of intermediate diets. These were a key and timely point in ensuring the effectiveness of the citation process and their removal represents a significant risk.
- In sheriff and jury procedure, a lack of court diet between citation issue and the trial often leads to cases not being actively managed for months at a time.
- Adding execution of service return dates to personal citations is ineffective and a cause of confusion.
- COPFS can learn of address changes for witnesses in various ways. These changes are not always shared or recorded properly, and often a lack of appreciation of the wider justice system means that these are not properly handled.
- COPFS has no single repository to record all communications with witnesses. Essential information is currently being stored in an area of COPFS systems that is not accessed by most staff. This leads to important decisions about the management of prosecutions often being made in ignorance of key information.
- The process for sheriff and jury 'sitting' management which relies upon telephone calls to witnesses in the days leading up to the trials is inefficient, with many witnesses cited to a balloting day on which there is no reasonable prospect that they will give evidence.

- The COPFS witness management team plays an integral role in the citation process but its existence and purpose is poorly understood by other COPFS staff. An absence of effective communication between the witness management team and wider COPFS leads to inefficiency, failures in the citation process and a lack of service improvement.
- COPFS citation systems do not always capture information about deceased witnesses, which can be due to ineffective use by COPFS staff. This means that deceased witnesses can be re-cited, which causes considerable distress to next of kin.
- Failures in obtaining witness availability and subsequent court scheduling increases the number of witnesses seeking excusal once a citation is issued. Responding to excusals is an onerous process for COPFS staff and often cannot be achieved without defence agreement.
- Excusal requests are very poorly managed by COPFS. This has a significant detrimental impact on all categories of witnesses.
- Excusal requests are not given adequate priority by COPFS, and witnesses often have to wait months for a decision or do not receive a response at all. Contributing factors to poor response times to excusal requests include a lack of resource, and an absence of monitoring or key performance indicators.
- Targets for responding to witness excusals are not widely known within COPFS and are not measurable, or even achievable. Current COPFS IT systems cannot adequately monitor the process.
- Failures in the excusal process significantly undermines confidence in COPFS and the justice system for all types of witness.
- COPFS resourcing issues and related backlogs lead to delays in processing countermands, which has a significant impact on witnesses.
- A key issue within the citation process is that witnesses can receive a further citation for a new trial date before being countermanded for the original trial date.
- COPFS does not always instruct Police Scotland to stop making efforts to serve personal citations when witnesses are no longer required.
- COPFS does not routinely consider why trials are adjourned to take account of any failure in the citation process, or identify opportunities for service improvement.
- When a trial is adjourned there is often insufficient regard given to witness availability when a new trial is assigned.
- SCTS, COPFS and Police Scotland do not keep records of the witnesses who gave evidence in summary cases, which would allow for analysis to inform service improvement.
- Many witnesses who attend court do not give evidence. Repeated citation or 'churn' has significant negative impacts on witnesses.

- COPFS, SCTS and Police Scotland have an agreement that allows for police witnesses to be on 'standby' at a local police office when they are cited to court. However, there is inconsistency of practice by Police Scotland as to what duties should be allocated to such officers when on standby.
- COPFS IT systems are not fit for purpose and hamper the effective management of the citation process.
- Police officers can use handheld devices to update the Legal Document Database (LDD) system on efforts to serve citations in real time, with that information transferred to COPFS.
- There is inconsistent use of the LDD to record service and efforts to serve personal citations by police officers. This is exacerbated when citations are allocated to officers whose role is not dedicated to the service of citations.
- Instead of using the LDD system, some officers record efforts of service on the physical paper citation. The return of unserved physical citations and executions of service to COPFS is done in batches, which builds in delay to the process.
- Due to Police Scotland data retention policies, information in the LDD system is ordinarily deleted every three months, which is often less than the time the case takes to conclude. This can inhibit the citation process.
- The COPFS digital Witness Gateway provides services that include allowing witnesses to update their address or availability and to see key information about a case. Unfortunately, use of the system by witnesses remains low.
- To assist Police Scotland with staffing levels on nightshifts, COPFS has engaged in initiatives to review cases to allow for countermand of police officers. While beneficial to Police Scotland, there is a risk that prosecutions are weakened or with the number of charges against an accused reduced. Such initiatives are also resource intensive for COPFS.
- There is significant learning to be gained from the approach to witness citation in other jurisdictions, such as increased digitalisation.

# Recommendations

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## Recommendation 1

COPFS and Police Scotland should:

- (a) review the targets in the 'Protocol for witness citation targets' to take account of the business rules on automatic citing and removal of intermediate diets in summary case management cases. Compliance with these targets should be monitored and performance data analysed; and
- (b) ensure all citation performance data is measurable and is collected, analysed and reported through governance structures to monitor performance across both organisations.

## Recommendation 2

COPFS and Police Scotland should develop a clear and consistent method of identifying all costs associated with the citation process and police officer court attendance.

## Recommendation 3

COPFS and Police Scotland should:

- (a) develop aligned, service-wide strategies for effective and efficient citation of witnesses, taking into account the needs of all categories of witness; and
- (b) publish information about commitments to witnesses and what witnesses should expect in the citation process.

## Recommendation 4

COPFS and Police Scotland should ensure that there is clear and effective leadership of the citation process that takes account of the respective internal structures of each organisation.

## Recommendation 5

COPFS and Police Scotland should ensure that information flows effectively between the framework of liaison meetings across both organisations at national and local levels, in order to manage the citation process consistently and comprehensively.

## Recommendation 6

COPFS and Police Scotland should ensure that all relevant staff have a comprehensive understanding of the citation process, including the role of each organisation, the operating context and the impact of unsuccessful citation on the criminal justice system. This should include mandatory training as part of the induction process, and ongoing awareness training.

## Recommendation 7

COPFS should:

- (a) ensure that guidance on all parts of the citation process in summary, and sheriff and jury cases, are connected and reflect business rules in full;
- (b) introduce an effective way of communicating changes to policy and guidance in the Local Court Business Process Handbook to staff; and
- (c) ensure that all relevant staff are actively following the Local Court Business Process Handbook. Regular compliance monitoring must take place.

## Recommendation 8

COPFS should review and update the 'Lord Advocate's guidelines to chief constables on the citation of witnesses' and this should include the consequence of the removal of intermediate diets and the use by police officers of the Legal Document Database. Both COPFS and Police Scotland should ensure that staff are aware of the guidelines and their content.

## Recommendation 9

COPFS and Police Scotland should provide information on the citation process on their websites.

## Recommendation 10

COPFS should develop training on the citation of witnesses for administrative staff, to ensure consistency of practice. All relevant staff should undertake this training as soon as practicable.

## Recommendation 11

Police Scotland should ensure that training in all elements of the citation process is up-to-date, delivered and refreshed at appropriate times, and in the most suitable format.

## Recommendation 12

Police Scotland and COPFS should consider a method whereby witnesses who are giving statements to police officers are also advised that they may be required to give evidence in court.

## Recommendation 13

Police Scotland should ensure that the Standard Prosecution Report contains information regarding: witness availability and contact details (including email addresses and phone numbers); and details about which police officers seized productions.

## Recommendation 14

COPFS should introduce and maintain effective and formal quality assessment for the citation process and citation decisions, ensuring that any failures identified are reported to those with managerial oversight.

## Recommendation 15

COPFS should:

- (a) issue guidance on where discussions between the Crown and defence, and final decisions about agreement of evidence, should be recorded in the case management system to provide a consistent and identifiable record;
- (b) issue guidance for case markers and local court staff on appropriate use and consequence of the 'agree evidence' facility in the case management system; and
- (c) implement instructions and measures for prosecutors to link evidence capable of agreement and specific witnesses, at the marking stage.

## Recommendation 16

COPFS should ensure all prosecutors engaged in the conduct of sheriff and jury business are aware of the content of the Sheriff Court Solemn Procedure Criminal Courts Practice No 1 of 2024 and are adequately trained on the contents to ensure compliance. Existing sheriff and jury prosecutors should undertake this training within six months of the publication of this inspection report, and prosecutors transferring to sheriff and jury teams should undertake relevant training within a month of their transfer.

## Recommendation 17

COPFS should:

- (a) ensure that the processes legislated for in the 2017 sheriff and jury reforms are given effect;
- (b) publish guidance for staff on the witness engagement process;
- (c) ensure that there are sufficient resources within the witness engagement team to give effect to this process;
- (d) monitor that staff in COPFS local offices are following the witness engagement process; and
- (e) monitor that written records are being completed with witness unavailability.

## Recommendation 18

To improve court scheduling:

- (a) the Scottish Government, COPFS, Police Scotland and SCTS should develop an integrated digital trial scheduling solution that takes account of all witness availability;
- (b) until such a digital solution in (a) is realised COPFS and Police Scotland should
  - (i) work with SCTS to realise the benefits of the current police witness scheduler application; and
  - (ii) ensure that information is continuously gathered on all witness availability and is provided to SCTS in a manner that allows effective trial scheduling at both first trial assignation and adjourned trials.

## Recommendation 19

COPFS should:

- (a) ensure that staff engaged in sheriff and jury case preparation identify reluctant witnesses, attempt to engage them in the justice process and then, if necessary, cite such witnesses to first diets where appropriate; and
- (b) work with Police Scotland to ensure that effective processes are in place for the issue and return of executions of service for witnesses cited to attend first diets.

## Recommendation 20

COPFS should:

- (a) work with SCTS to agree an effective national process on the transfer of sheriff and jury cases; and
- (b) produce guidance for staff on the transfer of sheriff and jury cases between sheriff courts.

## Recommendation 21

COPFS should:

- (a) use the correct form of witness citation in solemn proceedings – as prescribed in the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Witness Citations in Solemn Proceedings) 2023/276;
- (b) audit and ensure that local procurator fiscal offices who may issue ‘on-demand’ citations are using the correct form of witness citations; and
- (c) work with the Scottish Government and justice partners to ensure that all witness citations are considered and revised where necessary to ensure that they are trauma-informed and use accessible language.

## Recommendation 22

COPFS should ensure that correspondence included with the witness citation in sheriff and jury cases makes clear how many days the witness may need to be available to attend court.

## Recommendation 23

COPFS should review how citations are issued to witnesses who do not use English as a first language when they have been notified of this by Police Scotland.

## Recommendation 24

COPFS should review how child witness citations issued for personal service are prepared, to ensure that police officers are aware that they are serving a citation on a child and allow compliance with the relevant Lord Advocate’s Guidelines.

## Recommendation 25

COPFS should develop a process to ensure that autocite is not applied for witnesses whose evidence has concluded in summary trials that are part-heard.

## Recommendation 26

COPFS should investigate why sheriff court citations are issued for personal service other than in accordance with business rules and ensure that remedial action is taken where necessary.

## Recommendation 27

COPFS should:

- (a) investigate why on-demand citations are issued and take steps to minimise their use;
- (b) take steps to quantify and monitor the number of on-demand citations issued; and
- (c) work with Police Scotland to ensure that information regarding on-demand citations is recorded on the Legal Document Database/Legal Document Exchange systems.

## Recommendation 28

COPFS should:

- (a) introduce and monitor the use of a single document in which all citation records and information are recorded; and
- (b) ensure that staff consistently carry out checks on the citation position and record the citation status for each witness in COPFS case management systems.

## Recommendation 29

COPFS should implement and monitor a process to ensure that when witnesses change address, citations are issued to the correct address and Police Scotland staff serving citations are notified of the new address.

## Recommendation 30

COPFS should:

- (a) review the use of 'return by' dates printed on personal citations and ensure that the purpose of the date is understood by both COPFS and Police Scotland; and
- (b) review the use of the term 'execution date' in COPFS case management systems.

## Recommendation 31

COPFS should issue guidance in sheriff court cases on how and when citation status should be reviewed.

## Recommendation 32

COPFS should:

- (a) ensure that guidance for the witness management team staff is published internally;
- (b) implement systems that allow the witness management team to prioritise work by trial date and monitor implementation of this;
- (c) create processes to ensure effective information sharing between the witness management team and local offices;
- (d) ensure that the witness management team is sufficiently resourced to be able to respond efficiently and timeously to returned citations and executions of service;
- (e) prevent citations being printed and issued where there is no known address;
- (f) prevent citations being issued to witnesses who have died; and
- (g) implement a service improvement process arising from any systemic issues identified by the witness management team.

## Recommendation 33

COPFS should cite professional witnesses by email and ensure that there are consistent and effective national standby arrangements for these witnesses.

## Recommendation 34

The Scottish Police Authority Forensic Services should develop a consistent national approach and administrative process to manage court witness citations issued to forensic scientists.

## Recommendation 35

Police Scotland should:

- (a) explore whether a policy is required for police officers who incur carer costs, which cannot then be reimbursed when they are countermanded as a witness at short notice; and
- (b) consider whether there is a need to clarify its policy on maternity procedures in relation to the process and impacts of being cited to court as a police witness while on maternity leave.

## Recommendation 36

COPFS should:

- (a) ensure that local offices are sufficiently resourced to allow for effective and timely case preparation including citation related issues and monitor key stages of case preparation, including (i) issue of citations, (ii) preparation of cases for court, and (iii) response rates for excusals and countermands as indicators of resource issue; and
- (b) consider and monitor the role of the office depute.

## Recommendation 37

In order to improve the witness excusal process:

- (a) COPFS and Police Scotland should review, update and implement the 'The Joint Protocol for the Excusal of Police Witnesses from attending Court between Crown Office and Procurator Fiscal Service and the Police Service of Scotland' dated August 2013;
- (b) within six months of the date of this report, COPFS should implement a consistent national process on responding to sheriff court excusals and monitor compliance;
- (c) COPFS should ensure that any targets set in relation to excusals can be measured and are achievable; and
- (d) the importance of processing of excusal requests and the impact of not doing so on the justice system should feature in COPFS depute induction training packages and relevant administrative courses as per recommendations 6 and 10.

## Recommendation 38

COPFS should implement IT solutions to:

- (a) generate automated countermand emails to civilian and professional witnesses once email addresses are routinely included in police statements; and
- (b) ensure that all Police Scotland countermand emails are automated from the COPFS case management system to the appropriate Police Scotland unit.

## Recommendation 39

COPFS should:

- (a) review the target for processing countermands to ensure it is assessed from the date on which the decision is made that the witness is no longer required; and
- (b) consider implementing automated countermanding in summary cases.

In the interim, COPFS should address and monitor backlogs in case processing to allow countermands to be issued timeously and prior to autocitation for any new trial date.

## Recommendation 40

COPFS should:

- (a) develop an automated process to advise Police Scotland when witnesses are countermanded; and
- (b) until such a digital solution in (a) is realised, and within three months of the publication of this report, issue guidance and train staff to ensure that Police Scotland is advised when witnesses are countermanded.

## Recommendation 41

COPFS should implement effective quality assurance to consider why sheriff court cases are adjourned.

## **Recommendation 42**

COPFS should work with justice partners to ensure that, when a trial is adjourned, there are processes for ensuring that trial dates are checked with witnesses prior to being assigned by the court.

## **Recommendation 43**

COPFS should ensure that there is guidance for administrative staff on when copy documents from the citation storage system and the Legal Document Exchange should be uploaded to the case management system and what information should be provided to prosecutors.

## **Recommendation 44**

Police Scotland should:

- (a) ensure that all information on personal service of citations is recorded on the Legal Document Database; and
- (b) review the current data retention period for the Legal Document Database to ensure that the information is retained for the life of the case.

## **Recommendation 45**

Police Scotland, SPA, COPFS and SCTS should work together to widen the use of remote evidence for appropriate police and professional witnesses, to include summary, and sheriff and jury business.

## **Recommendation 46**

COPFS should use email or other electronic methods as the principal means of citing witnesses.

## **Recommendation 47**

COPFS should consider whether it is necessary for Police Scotland to complete and return paper executions of service in summary proceedings.

## **Recommendation 48**

COPFS and Police Scotland must develop and embed digital approaches to delivering citations to ensure the number of personal citations officers of Police Scotland require to serve on witnesses is kept to a minimum.

## **Recommendation 49**

COPFS should consider issuing a trauma-informed notice of trial date letter to witnesses by digital means, in the first instance, rather than a formal citation.

## **Recommendation 50**

COPFS should cease automatic personal citation of witnesses who have been assessed as 'hostile' or 'reluctant' in the Standard Prosecution Report.

## Areas for development

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- Police Scotland should review and actively manage the workloads of first-line supervisors in relation to additional functions created by the removal of case management units, to ensure they have sufficient capacity and support.
- Police Scotland and COPFS should regularly review their joint 'Guidance for Reducing Unnecessary Police Witnesses in Standard Prosecution Reports', and ensure that staff are kept up-to-date.
- COPFS should ensure that accurate trial court minutes are kept by prosecutors, and Police Scotland should collect data to record how many officers are cited to court and give evidence.
- Police Scotland should clarify an appropriate and proportionate approach to the use of officers for duty who are on standby for court.

# Context

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## Citation

1. A citation is an official letter sent to a witness. It advises the witness that they are required to attend court to give evidence in a trial, stating which court they should attend and the time and date they need to be there.
2. The citation of witnesses is a key element in ensuring that criminal trials proceed efficiently. The citation process has many purposes and requires that:
  - (a) witnesses are informed of the date of the trial and what is expected of them in a manner that is clear, and trauma-informed
  - (b) COPFS has sufficient information to inform SCTS on the availability of witnesses to permit effective trial scheduling and minimise the impact on witnesses
  - (c) COPFS knows whether witnesses have been cited ahead of a trial and is able to effectively respond to failure in the citation process and update the court when required.
3. The term witness is very broad and, in general, is used to describe the different categories of people who may be cited by COPFS to give evidence in a criminal case. In this report we consider:
  - **civilian witnesses** – members of the public who are witnesses (including employees of Police Scotland who are not police officers)
  - **police witnesses** – police officers who either witnessed the crime or who were involved in investigating and reporting the crime to COPFS
  - **professional witnesses** – people who provide evidence in connection with their job, such as doctors or forensic scientists.
4. In this report the terms ‘hostile’ or ‘reluctant’ witness may be referred to. We do this as it is the terminology currently used by Police Scotland and COPFS in internal business rules and SPRs. This language is often used to describe those witnesses who, for a variety of reasons, are reluctant to engage with the criminal justice process or are unsupportive of a criminal prosecution. IPS discussed how this language was outdated to describe victims in a previous report<sup>4</sup> and made an associated recommendation to stop using this terminology. We understand that Police Scotland and COPFS plan to move away from this language.

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<sup>4</sup> [The prosecution of domestic abuse cases at sheriff summary level](#) April 2024 at paragraph 105 and recommendation 2(b).

5. Witness citations are typically issued by COPFS by post, or hand delivered by the police. These delivery methods are known as 'postal service' and 'personal service'.<sup>5</sup> Personal service is the primary method of delivery for certain types of witness, or in certain circumstances:
  - when an accused person is in custody
  - when the witness is vulnerable, or a child
  - when there is less than eight weeks until the trial
  - when the witness is assessed by Police Scotland as hostile or reluctant
  - COPFS deems that personal citation is required for other reasons.
6. Other witnesses will only receive their citation by personal service where postal has not been achieved, or there is no response from the witness to the postal citation. Citation via email is also possible, but this method of delivery is currently only used by COPFS to cite Police Scotland officers.
7. If a witness citation needs be issued urgently, COPFS staff can issue 'on-demand' citations. These are paper citations which are either printed locally and collected by police officers, or emailed to the appropriate local citation unit in Police Scotland for printing and urgent personal service on the witness. This occurs when there is insufficient time to have the citation printed centrally and issued to the police in the usual manner.
8. The COPFS citation process consists of a mixture of automation and manual document generation. Where the process is automated, this consists of witnesses being cited automatically through COPFS IT systems triggered by the number of weeks until the trial. Other parts of the process still require COPFS staff to take action to generate documentation within COPFS systems.
9. Postal citations include a response form and a pre-paid envelope to return the form to COPFS. Witnesses are asked to reply to their citation, confirming that they will attend court on the date specified. Some information is also provided about what the witness should do if they cannot attend. If a citation is served on a witness personally, a paper form known as an 'execution of service' is completed by the police and returned to COPFS to inform it that the citation has been served.
10. Excusal requests can be made by witnesses if they wish to be released from their legal obligation to attend trial as a witness. Witnesses can either seek excusal from attending court on an individual trial date or from attending all trials in the event of the case being adjourned.
11. A countermand is a communication from COPFS to a witness who has received a citation, advising them that they no longer need to attend court to give evidence at trial. Countermands can be issued for a variety of reasons, for example, the trial is not proceeding, or a particular witness is no longer required to attend.

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<sup>5</sup> These will also be described as 'postal citations' or 'personal citations' respectively throughout this report.

12. Decisions about which witnesses should be cited, excused or countermanded are taken by COPFS legal staff – prosecutors.<sup>6</sup> During our inspection, we considered the purpose of the paper citation process and whether the current model (with a focus on obtaining executions of service for formal citations) is appropriate in all cases.
13. There have been some advancements in the process of serving citations. Police Scotland and COPFS created a link between their respective IT systems to share information regarding the service of legal documents. This link between the Police Scotland LDD and the COPFS Legal Document Exchange (LDX) system allows COPFS to see how the police have progressed with serving legal documents.

### **Trauma-informed approach**

14. As knowledge and understanding of the psychological impact on victims and witnesses develops, it is important that justice partners consider all interactions and processes in the justice system through a trauma-informed lens. This means recognising that trauma affects victims and witnesses, and that practices must be adjusted to prevent further harm or re-traumatisation, to support recovery.<sup>7</sup> The five key principles of trauma-informed practice are:
  - Choice
  - Collaboration
  - Empowerment
  - Trust
  - Safety
15. The key principles are not absolutes. Many witnesses may not wish to be involved in the criminal justice process, and they have little choice in this regard. However, trauma-informed practice is about harm reduction. For the purposes of this inspection, one of the key questions is whether the current citation process is sufficiently trauma-informed.
16. Both COPFS and Police Scotland have committed to become trauma-informed organisations. The Victims, Witnesses, and Justice Reform (Scotland) Act 2025 was passed by the Scottish Parliament during the course of our inspection and requires criminal justice agencies, including COPFS and Police Scotland, to have regard to trauma-informed practice in their work with victims and witnesses of crime.<sup>8</sup>

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<sup>6</sup> Prosecutor/procurator fiscal – legally qualified prosecutor who receives reports about crimes from the police and other agencies and makes decisions on what action to take in the public interest and, where appropriate, prosecutes cases.

<sup>7</sup> 'Trauma-informed' is defined in section 114 of the Victims, Witnesses and Justice Reform (Scotland) Act 2025.

<sup>8</sup> [Victims, Witnesses, and Justice Reform \(Scotland\) Bill: factsheet.](#)

## Procedural framework

17. The legal framework for citing witnesses is set out in the Criminal Procedure (Scotland) Act 1995 and the Act of Adjournment Criminal Procedure Rules 1996. While there are different types of criminal procedure and courts in Scotland, this inspection focuses only on citations issued for attendance at summary trials, and sheriff and jury trials in the 39 sheriff courts across Scotland. Witness citations in the Justice of the Peace Court, the High Court and Fatal Accident Inquiries are out of scope for this inspection.
18. There are two types of criminal proceedings that can be taken when a prosecutor decides on court proceedings – ‘summary’ or ‘solemn’. Summary procedure trials are before a sheriff sitting alone and have a maximum custodial sentence of 12 months’ imprisonment. In ‘solemn’ procedure in the sheriff courts, trials are before a sheriff and jury with a maximum custodial sentence of five years’ imprisonment, and the possibility for a sheriff to remit the case to the High Court for sentence if appropriate.

## The law of citation

19. A detailed examination of the law of citation of witnesses in criminal proceedings is not the purpose of this inspection but, given our view that increased use of digital options to improve the citation process is essential, consideration of certain aspects of the legislation is of benefit. Unfortunately, the legislation on citation of witnesses is often, and unhelpfully, combined with citation of accused persons. The law has developed incrementally and has been described as somewhat confused.<sup>9</sup>
20. The long-held method of citation of all witnesses in Scotland has been by personal service of citation by police officers. Until 1996, the only competent method of citing witnesses was by an officer of law personally delivering the citation.<sup>10</sup> In 1997, a pilot scheme was introduced to cite witnesses in certain cases by post. Postal citation of witnesses is now the default method when there are more than eight weeks between the issue of the citation and the trial in all cases in the sheriff court, including sheriff and jury trials. As explained above, postal citation requires civilian witnesses to return a reply form in a pre-paid envelope to COPFS, confirming that they will attend or explain if or why they cannot. This reply form is an ‘execution of service’ and is sufficient legal proof that the witness knows of the trial. There is a requirement for witnesses to return their citation within 14 days of receipt but there is no penalty for failing to do so.
21. While postal citation is now the predominant method of citation, Police Scotland remains significantly involved in delivering citations in the traditional way, i.e. attending at the home or business of the witness and hand delivering the citation to the witness. The circumstances in which ‘personal service’ of citation is used by COPFS are set out above at paragraph 5. On service of a personal citation, the officer completes the paper execution of service; this is returned to COPFS and is sufficient legal proof that the witness knows about the trial.

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<sup>9</sup> Renton and Brown Criminal Procedure 6<sup>th</sup> edition, 11-14.

<sup>10</sup> Criminal Justice (Scotland) Act 1995 c. 20 Sch.6(l) para 113.

22. The legislation in respect of citing witnesses to attend summary trials differs from witnesses in sheriff and jury trials. In summary procedure, a court cannot issue a warrant for the arrest of a witness if they do not attend a trial, unless it is proved to the court that the witness received the citation or that its contents came to the knowledge of the witness.<sup>11</sup> The consequence of the legislation is that it is possible for a sheriff in a summary trial to issue a warrant to arrest a witness without an execution of service, although this does not happen in practice. A similar requirement for witnesses in sheriff and jury trials has been repealed.
23. In 2007, legislation was enacted that allowed for the citation of witnesses by email in summary proceedings.<sup>12</sup> It is unclear if the legislator intended to allow for the use of email citation in both summary and solemn proceedings; however, a general provision in rules created by the High Court allows for email citation in both proceedings.<sup>13</sup> The law on electronic service of documents is in a period of flux and legislation has been passed to repeal the 2007 changes, but this has not been brought into force.<sup>14</sup> This same legislation<sup>15</sup> provided the High Court with the ability to amend the relevant Act of Adjournal to make provision for something to be done in electronic form or by electronic means.<sup>16</sup>
24. The wording and form of a citation is fixed by law (for more detailed consideration of citation content see paragraph 274). It is likely the legislator originally intended email citation to be used in summary proceedings, as an email citation was not created for use in solemn proceedings.
25. During our inspection, the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 was enacted and received Royal Assent on 19th November 2025. This legislation allows for service of documents, including citations, by electronic means<sup>17</sup> if a witness has 'indicated to the sender' a willingness to receive it that way. The legislation does not specify whether such an indication can be given to COPFS via Police Scotland, but this appears logical. If this interpretation is correct, willingness to be cited by electronic means could be granted at the time a statement is taken. This legislation is not limited to email and refers simply to 'electronic transmission'. While the legislative position has developed incrementally, it is clear that the Scottish Parliament has made efforts to allow those within the criminal justice sector to use technology in their processes, including for the citation of witnesses.

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<sup>11</sup> Section 141(5B) of the Criminal Procedure (Scotland) Act 1995.

<sup>12</sup> Section 8 of Criminal Proceedings etc (Reform)(Scotland) Act 2007 inserted subsection (3A) into section 141 of the Criminal Procedure (Scotland) Act 1995.

<sup>13</sup> r2.3 Act of Adjournal Criminal Procedure Rules 1996.

<sup>14</sup> Criminal Justice (Scotland) Act 2016 asp 1 (Scottish Act) Pt 6 c.4 s.111(2)(a)(i)).

<sup>15</sup> Criminal Justice (Scotland) Act 2016.

<sup>16</sup> Criminal Procedure (Scotland) Act 1995 section 305(1A).

<sup>17</sup> Criminal Procedure (Scotland) Act 1995 section 303D.

26. If a response to a postal citation is not returned to COPFS, then citation of the witness by personal service is mandatory.<sup>18</sup> There is no such requirement if email citation is used. Aside from this limitation, it is a matter for COPFS to decide upon the appropriate method of citation and when such citations are issued.<sup>19</sup> There is no minimum period of notice a witness must receive before they are required to attend court after receipt of a citation. The legislation does not explicitly require COPFS to issue citations when a trial is assigned. That means that there is no legal difficulty with witnesses being requested to attend court rather than through the issue of a formal citation.

### **Operating context – summary case management**

27. During this inspection, the procedure by which sheriff summary cases are dealt with has changed. An initial pilot scheme of summary case management (SCM) was rolled out to become the standard model. The changes brought about by the move to the SCM model has significant implications for the number of citations issued and how the citation process is managed in summary cases.
28. Through early case management hearings, SCM aims to reduce the number of cases set down for trial unnecessarily, the volume of late pleas of guilty, and late decisions on discontinuation, thereby reducing the adverse impact on victims, witnesses and the accused. Key features of the new approach are the early disclosure of key evidential material, agreement of evidence and early judicial case management. The pilot began in Dundee, Hamilton and Paisley on 5th September 2022. In each area it was rolled out for use first in domestic abuse cases, followed by all other summary cases at a later date.
29. On receipt of an SPR by Police Scotland,<sup>20</sup> if a decision is taken for a case to proceed in summary procedure as part of case marking,<sup>21</sup> an assessment is made by a prosecutor about which witnesses are required to prove a case. The SPR provides a synopsis of the available evidence. In domestic abuse cases, this is supplemented by key evidence.<sup>22</sup> It is possible for COPFS to request additional evidence (including witness statements) in non-domestic abuse cases, prior to deciding which witnesses to cite. A trial should not be scheduled and therefore witness citations not issued until key evidence has been disclosed to the accused's solicitor and evidence agreed. Prior to the rollout of SCM, initial decisions on citation of witnesses in summary cases were almost always taken on the content of the SPR alone.

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<sup>18</sup> r2.4(2) Act of Adjournal (Criminal Procedure Rules) 1996.

<sup>19</sup> Garrow v HMA 1999 J.C. 209.

<sup>20</sup> It is important to note that COPFS receives reports from bodies other than Police Scotland. These are referred to as Specialist Reporting Agencies (SRAs), and include HM Revenue and Customs, Health and Safety Executive, Scottish Environment Protection Agency, Maritime and Coastguard Agency and Trading Standards Scotland, among others. COPFS should therefore consider if any of the recommendations in this report are relevant to SRAs.

<sup>21</sup> When initial prosecutorial decisions are made on action to be taken in a case.

<sup>22</sup> Key evidence is the evidence required for proof of the offence, such as a statement from the complainer or other eyewitnesses, photographs, video and any forensic evidence.

30. Before SCM became the national model, the progress on citation of witnesses was gathered by COPFS in all summary cases for an intermediate diet<sup>23</sup> where the court requires to establish whether the Crown and defence are ready for trial. This includes whether the witnesses have been cited. The current model of SCM instructs that intermediate diets will be dispensed with unless the court considers it necessary and that citations will not be issued until the case is ready to proceed to trial.
31. The SCM model mirrors sheriff and jury procedure, where there is no routine court calling of the case between the citations being issued and the trial, which creates a potential gap for COPFS to effectively manage and check that witnesses have been cited for trial.
32. The number of first citations issued and re-issued in the SCM pilot areas has been monitored by COPFS since 2022. Reports detail the average (and actual) monthly numbers of first citation and re-citation for all types of offence<sup>24</sup> and any decreases in citation as a result of the SCM pilot. The table illustrates the decrease in issue of citations in the original five pilot offices since the pilot began in each area.

<b>Decrease in issue of citation in SCM pilot offices (pilot commencement – June 2025)</b>					
	<b>Dundee</b>	<b>Hamilton</b>	<b>Paisley</b>	<b>Glasgow</b>	<b>Perth</b>
<b>First cite – all types of offence</b>	-39%	-35%	-38%	-15%	-39%
<b>First cite – domestic</b>	-33%	-32%	-23%	-34%	-52%
<b>Re-cite – all types of offence</b>	-43%	-39%	-31%	-10%	-21%
<b>Re-cite – domestic</b>	-58%	-43%	-31%	-44%	-46%

33. Data showed in the month of June 2025, for all types of offence, 10,320 first-cite citations and 12,607 re-citations<sup>25</sup> were issued in summary courts, with a reduction of up to 39% and 43% respectively between pre and pilot periods in the pilot offices. This reduction is largely attributed to the success of SCM. Data provided by COPFS in September 2025 continues to show a decrease of witnesses cited and re-cited in these offices and others that have since joined the roll-out.
34. The COPFS Local Court Business Plan 2025/26 has a target to reduce the issue of citations by 25% in the areas where SCM has commenced. The table above shows COPFS is successfully achieving this in the five original pilot offices. These reductions represent hundreds of witnesses who are no longer required to be cited to give evidence. The success of the SCM model results in fewer witness citations being issued and, therefore, fewer witnesses impacted by the citation process, attending court and giving evidence. However, while SCM may have had success in reducing the number of citations being generated, it does not address all the issues in the citation process, nor the lack of modernisation and digitalisation.

<sup>23</sup> A procedural court hearing that calls in court around a fortnight before the trial, to establish the state of preparation of the prosecutor and the defence, and whether the trial diet is likely to go ahead.

<sup>24</sup> And separately for domestic offences.

<sup>25</sup> A re-citation is a second or subsequent citation of a witness in the same case.

35. The SCM pilot evaluation concluded that, during the 19 months of the pilot period, an estimated 18,000 witnesses were not cited or re-cited due to SCM, of which 11,000 were police witnesses. It was further estimated in this evaluation that – had SCM been in place nationally for the same 19 months – 89,000 witnesses would not have been cited or re-cited, of which 50,000 would have been police witnesses.<sup>26</sup>
36. While there was variation in metrics of success between courts in the pilot areas, should SCM succeed as a model nationwide the impact on the number of witness citations issued will reduce significantly primarily due to the reduction in trials.

#### **Data on citation**

37. Comprehensive data on the citation process is not readily available. Examples of data that should be available, but is not, include how many witnesses:
  - ask to be excused from giving evidence
  - are excused
  - are countermanded
  - attend court
  - give evidence.
38. The data that is available, although not fully comprehensive, provides an insight into the scale of witness citation in Scotland, the impact of ‘churn’ and repeated citation, and the limited numbers of witnesses who ultimately give evidence compared with the volume cited.
39. In 2024-25, in summary courts, a total of 157,615 citations and 179,475 re-citations were issued.<sup>27</sup> In the same year, 31,238 citations and 30,386 re-citations were issued in sheriff and jury courts. This represents an overall total of 398,714 – all potential occasions on which sheriff court witnesses’ lives could be affected and/or disrupted.
40. In 2024-25, 48,360 summary and 5,919 sheriff and jury cases called for trial in sheriff courts across Scotland. However, witnesses gave evidence in only 13% of summary and 21% of sheriff and jury cases.<sup>28</sup> While this is a slight improvement from 2023-24,<sup>29</sup> many witnesses will still have been cited to give evidence and attended court in trials that ultimately did not proceed.
41. Trials may not proceed for a variety of reasons – many of which are beyond the control of COPFS. However, adjournments and discontinuations can be caused by failures in the citation process. Over the past five years, an average of 56%<sup>30</sup> of all Crown adjournments at trial were due to witnesses not attending, or not being cited.

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<sup>26</sup> [The Summary Case Management \(SCM\) Pilot Final Evaluation September 2024.](#)

<sup>27</sup> Data provided by COPFS.

<sup>28</sup> [Scottish Courts and Tribunals Service Annual Bulletin Criminal Edition 28.](#)

<sup>29</sup> In 2023-24, evidence was led in 11% of summary trials and in 19% of sheriff and jury trials.

<sup>30</sup> This is a national figure and covers all types of court.

42. Police Scotland estimate<sup>31</sup> that between October 2023 and October 2024 they received approximately 154,000<sup>32</sup> witness citations to serve. There has been a decrease in personal citations issued by COPFS during the course of our inspection, in part, due to introduction of a longer timescale<sup>33</sup> for witnesses to return postal citations replies, which will be discussed at paragraph 99.

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<sup>31</sup> The reasons that Police Scotland are only able to estimate an approximate figure are that the LDD does not include all citations, e.g. on demand citations which are routinely received via email and not in all cases uploaded to the LDD; response officers may not have time to and/or forget to update the LDD after serving citations; expired citations remain as 'allocated and ongoing' until they are manually removed, which officers do not always have time to do; returned citations to COPFS are reprinted and sent back to Police Scotland; in addition to new citations received within the timeframe, Police Scotland will also have a backlog of citations to serve at any one point in time.

<sup>32</sup> Data provided by Police Scotland.

<sup>33</sup> From 21 to 28 days for summary cases and from 7 to 28 days for sheriff and jury cases.

# Methodology

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43. In carrying out our inspection, we were guided by our respective inspection frameworks. These frameworks provide a structure within which we ensure a consistent and professional approach to our work. Based on the European Foundation for Quality Management (EFQM) Model, our frameworks have three overarching themes, each supported by a key question:
- **Outcomes** – What is the service achieving? What does it intend to achieve in the future?
  - **Direction** – Why does this service exist? What purpose does it fulfil?
  - **Delivery** – How does this service deliver on its purpose?
44. The key inspection questions we sought to answer were:
- How efficient and effective is the process for citing witnesses?
  - How well does the current citation process meet the needs of witnesses and the justice system?
  - What is the vision for citing witnesses?
45. We used several different methods of gathering evidence for the inspection, including desktop research, case reviews, fieldwork (interviews and focus groups), surveys, observations and benchmarking.

## Case reviews

46. We undertook a review of 20 cases to follow the citation journey through the justice process. This involved an examination of the information on Police Scotland and COPFS systems, noting any issues and identifying best practice. Key areas reviewed included the SPR, management of the citation, excusal and countermand processes, and communication with witnesses.
47. Four geographical areas were chosen: Dundee, Edinburgh, Elgin and Paisley. These areas were chosen as they had a mix of demographic profiles, sufficient cases from which to extract a sample, and an appropriate mix of summary, and sheriff and jury cases. Two of the case review areas (Dundee and Paisley) were within the SCM pilot. Within these parameters, cases were sampled randomly; however, due to resourcing restraints, the sample size was not sufficiently large to be statistically significant, and the case review was qualitative in nature.

## Fieldwork

48. Fieldwork was conducted in the four same areas as the case reviews, as well as within Police Scotland and COPFS national and executive functions. Twelve focus groups were conducted and over 90 people from COPFS and Police Scotland participated in interviews. In both organisations, staff at all levels from frontline staff to senior management and executive positions were included in the fieldwork to ensure a breadth of knowledge and opinion.

## Surveys

49. We conducted two public surveys: one for those working in Police Scotland (police officers and staff members and forensic scientists – the ‘police’ survey), and one for members of the public and professional witnesses who had been cited for court (the ‘public’ survey). The survey links were publicised in various ways including the Police Scotland intranet, IPS and HMICS websites, via social media channels, and direct targeting of stakeholders including organisations representing victims.
50. The surveys were open from 13th to 27th March 2025. We received 988 responses to the police survey and 144 responses to the public survey.<sup>34</sup><sup>35</sup> Of those who responded to the public survey:
- **65% (94)** were victims and witnesses
  - **35% (50)** were professionals (a person who gives evidence in court in the course of their job, such as a doctor or a technical expert).
- Of those who responded to the police survey:
- **88% (870)** were police officers
  - **6% (63)** were members of forensic services
  - **6% (55)** were members of police staff
51. It should be noted that the surveys were non-probability samples (respondents chose to participate based on whether they saw the survey and wanted to complete it) and will therefore be subject to sampling bias.<sup>36</sup> However, the high number of respondents indicates a good level of engagement with the subject matter.

## Observations

52. Various site visits were conducted throughout the inspection. This included visits to the COPFS National Print Unit and COPFS offices, and demonstrations of the COPFS Witness Gateway Service and the Police Scotland Police Witness Scheduling Application.

## Benchmarking

53. As part of our inspection, we carried out a benchmarking exercise with other jurisdictions to look at how citations are dealt with in comparison with Scotland. We kept the focus narrow and looked at England, Ireland, Northern Ireland and Wales.
54. The benchmarking was a mixture of desk-based methods and speaking to practitioners from other jurisdictions.

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<sup>34</sup> It should be noted that blank responses to individual questions were excluded therefore percentages shown are not always calculated from the total number of respondents.

<sup>35</sup> An additional 43 responses were received over both surveys but were excluded from quantitative analysis due to completion of the wrong survey. Any free text responses were included in the narrative analysis.

<sup>36</sup> The statistics given represent the respondents of the survey only. It is not claimed that the survey is representative of any wider populations of public, professional, police or forensic witnesses.

55. The legal systems are different in each of these countries and therefore no direct comparisons can be made with the Scottish system, although we sought to identify any areas of good practice. We gathered evidence from various sources, including contacting the following organisations:

- Director of Public Prosecutions Ireland (DPPI) and Garda Síochána na hÉireann (Garda)
- Dyfed-Powys Police
- Essex Police
- Public Prosecution Service for Northern Ireland (PPSNI) and Police Service of Northern Ireland (PSNI)
- Thames Valley Police
- West Midlands Police.

# Outcomes

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## Impact of the citation process

“Horrendous. It’s bad enough having to be a witness and in my case to a serious crime that has impacted me. The total lack of organisation is bad. I was cited 4 times and 5th time finally gave evidence.”

“Each time I would maybe get a text to let me [know] sometimes never. Then I would maybe get a letter close to the time. Nothing was consistent.”

**Public survey respondents**

“Increased stress due to insufficient rests between shifts. Cancelled dental or medical appointments (including counselling). Missed family events, stress due to very late countermands when a holiday has been booked and paid for months in advance, and I have had to make phone calls to receive updates.”

“I have been cited for court potentially 100 times and out of those I have been required to give evidence 3 times. Majority of the time I attend I am not required as the cases are adjourned.”

**Police survey respondents**

56. Most members of the public have no desire to be involved with the criminal justice system. Many who are involved are victims of or witnesses to crime. It is essential those who devise citation processes and those involved in the citation of witnesses keep this at the forefront of their minds. The impact of being cited as a witness is at the heart of this inspection.
57. As part of our joint inspection, we sought to evaluate the effects of the citation process on civilian, professional and police witnesses and the criminal justice system. To achieve this, we have drawn on various sources, including documents reviews, performance data, interviews, focus groups and the two surveys conducted.
58. The results of the surveys showed that the current citation process is a largely negative experience for victims and all categories of witnesses, with a variety of adverse impacts both for witnesses and across the wider policing and justice systems.

## Impact on civilian and professional witnesses

59. The COPFS Local Court Business Plan 2025/26, which covers summary, and sheriff and jury work, states that COPFS will strive to be more victim focused and people centred. This includes having increased trauma-informed practices, enhanced and timely communications and, specifically, seeking to decrease the number of victims and witnesses cited and re-cited to attend court.
60. It was clear from our interviews that many COPFS staff are aware of the impact and upset to witnesses directly caused by citation-related issues – although did not always take action to address this. Examples will be further discussed in this report, including lack of clarity in citation documents, late or last-minute citation and police attendance at witnesses’ homes.

61. Of our public survey respondents, 59%<sup>37</sup> were dissatisfied or very dissatisfied with their experience of being cited; 23% were neither satisfied nor dissatisfied and only 18% of respondents were satisfied with their citation experience. These statistics mirror what we heard in interviews from those who interact with witnesses – that citation processes require significant improvement.

“Nothing appeared to have moved on substantively this century. The reliance upon communication by mail is quaint at best.”

**Public survey respondent**

62. Respondents to our public survey advised that, while post had been the most frequent method by which they had been cited, email would be their preferred option. Respondents also consistently told us that delivery of citation by police officers was their least preferred method to receive a citation.

“Police (although) pleasant appearing at your house can feel intimidating if not frightening and embarrassing.”

**Public survey respondent**

63. Almost two-thirds of respondents advised that they received several citations for the same case. This was echoed in our case review, with each witness being cited on average 2.25 times. One sheriff and jury case had 19 witnesses and six separate sets of citations issued. Repeated adjournments or ‘churn’ has been a longstanding issue that agencies across the justice system have sought to address.

“I was cited to attend on multiple occasions (5 I think) yet only asked to give evidence on my final visit. When not called, there was no real cohesive explanation as to why you were not called ... I never understood why Police Officers had to hand deliver a citation to me - it is the 21st century! An email or text would be far more efficient and less costly of already overstretched Police Officers time.”

**Public survey respondent**

64. Of the witnesses, 78% reported that they had not been asked to provide availability prior to being cited. This was supported by our wider inspection, where we found the processes for checking availability of witnesses to be inadequate or non-existent. For further discussion of this issue, which builds failure and delay into the justice system, see paragraph 248.

“No consideration is given to witness availability despite unavailable dates being submitted.”

**Public survey respondent**

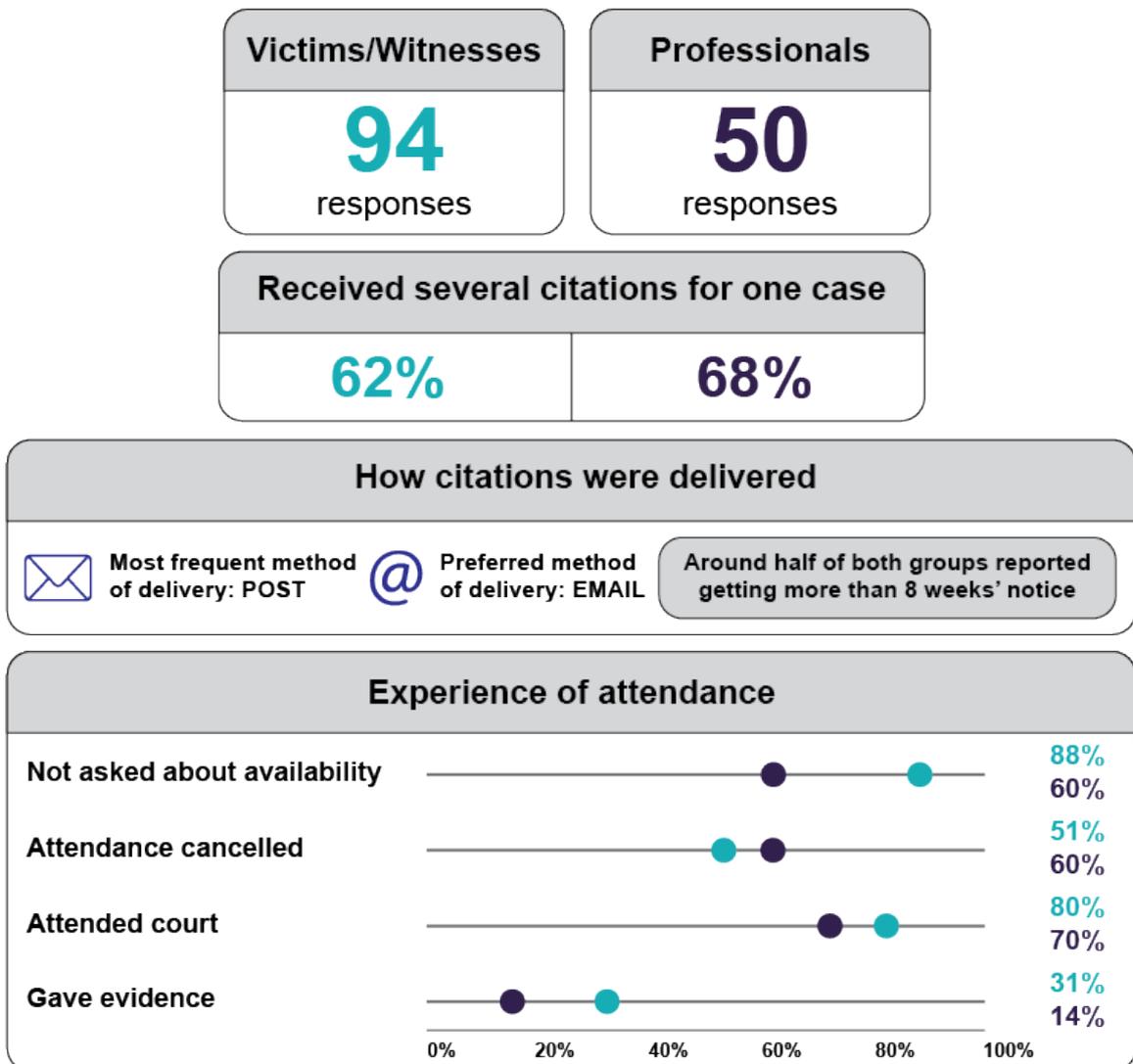
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<sup>37</sup> It should be noted that percentages drawn from the surveys have been rounded to the nearest whole number so may not always equal exactly 100 per cent.

65. Trials can be cancelled for multiple reasons<sup>38</sup> and just over half the respondents to our public survey advised their citation was cancelled at some point. Of those respondents who did attend court, only a third gave evidence. In our case review, only 17% of witnesses instructed to be cited ultimately gave evidence. Many respondents to our survey were understandably upset about having to attend court and not give evidence. While it is out of scope of this inspection, it is apparent that more must be done to communicate to witnesses why trials do not proceed. Many of the survey respondents were unhappy with a lack of updates on processes that occurred when they were at court. It is the responsibility of SCTS staff to update witnesses while at court. On many occasions the reason a trial does not proceed will be beyond the control of COPFS and it is important – for the sake of transparency – that witnesses are informed why they are being sent away and if they will be required at a future date.

66. The following picture shows the survey break down by type of witnesses:

### Experiences of court citation: Victims/Witnesses and Professionals



<sup>38</sup> For example, an early plea of guilty or adjourned to a later date. SCTS data at May 2025 shows in 2024/25, 31% of all trials were called and adjourned – [Scottish Courts and Tribunals Service Management Information Data May 2025](#).

67. Citation is only one process in the wider justice system, and understandably many witnesses advised us of issues that concerned or upset them that went beyond citation. While the volume of citations means that a tailored citation approach for every witness is impractical, our survey highlighted that there are questions about whether COPFS is adopting a trauma-informed approach. The main themes of the impact on witnesses taken from the public survey are:



68. **Fear and anxiety** – while court attendance is beyond the remit of this inspection, many respondents took the opportunity to explain how potential interactions in the court building caused them fear. In designing citation processes it is imperative that COPFS work with their justice partners to ensure that witnesses are prepared to give evidence in the best and safest way possible. In the context of citations, information is key, so that witnesses know what to expect. This aligns with the safety principle of trauma-informed practice.

“There aren’t a lot of places to wait around and you run the risk of also sitting waiting in close proximity to the accused in your case.”

**Public survey respondent**

69. **Poor communication** – many of our respondents were upset about the length of time COPFS took to respond to communication from witnesses. Response times to witnesses seeking excusal from attendance at court is a particular area of concern and is discussed further at paragraph 389. Other areas of weakness identified in our survey include inadequate communication on the day of trial and communication being too late in the process – such as being cited with a few days’ notice. Such poor communication often impinges upon the collaboration and trust principles of trauma-informed practice.

“The whole process is poorly explained and it's hard to get information about citation. Communication with Procurator Fiscal Service could be improved. They don't respond to emails and don't answer the phone.”

“My experience led me to clearly conclude that nobody in the system could [not] care less about victim experience. I was to give evidence about a highly traumatic offence. Took time off work for nothing, and nobody even had the decency to call me until after my mother emailed the court complaining I had not been told. Witnesses being told of a guilty plea should happen immediately.”

**Public survey respondents**

70. **Disruption to daily life** – of the respondents to our public survey, 54% reported that they missed work or education,<sup>39</sup> 22% cancelled plans such as holiday or appointments<sup>40</sup> and 18% had to find childcare,<sup>41</sup> which again added to stress and anxiety. Some felt no consideration was given to travel time if they lived far from the court they had to attend, and some reported having to make their own accommodation arrangements. While citation of witnesses is necessary, it is questionable whether the justice system is doing enough to implement trauma-informed principles of choice and empowerment for witnesses regarding remote evidence and considered court scheduling.

“The court case was to be held over three days, whereas I was initially told it was one day. I thereafter had to make emergency childcare arrangements which caused me upset.”

“I have to travel 150 miles to Court, so I required to book travel and accommodation. Ultimately, the case was adjourned on several occasions, each time a day or so before the hearing. Planning travel is challenging and reclaiming costs was expected to be an issue as hearing did not take place.”

“It’s always short notice and after our surgeries are booked: then we have to get locums or reorganise surgeries, it’s frustrating for us and our patients!”

**Public survey respondents**

<sup>39</sup> Victims and witnesses – 61%; professionals – 42%.

<sup>40</sup> Victims and witnesses – 20%; professionals – 26%.

<sup>41</sup> Victims and witnesses – 20%; professionals – 14%.

71. **One size does not fit all** – we heard from respondents that the trial process, including citation, can cause additional issues for certain groups in society, such as witnesses with learning disabilities and those with medical conditions. From several of the replies we received to the survey, it is evident that some respondents found the citation content difficult to understand. This also raises concerns that the citation process will be particularly difficult to navigate for non-English speakers, or those with limited English. We also learned that there were particular challenges in the citation process for witnesses who work away from their home or work shifts/evenings.
72. There are potential additional support measures in place to provide some victims and witnesses with more information and care, including links to support agencies. This is done through referral to the COPFS’s Victim Information and Advice (VIA); however, many witnesses do not fall within the referral categories. We heard from some COPFS staff that those witnesses who are referred tend to receive a better standard of service. In previous inspections, IPS has raised concern over the capacity for summary VIA staff to carry out their function.<sup>42</sup>

“Got my parent to contact as confusing and didn’t want to go.”

“Didn’t tell me what would be asked – just said if vulnerable get in touch – what does that mean? Do you not read my dob when issuing it? When I did get in touch and said I was worried just said I still had to go and answer questions – I didn’t want to stand in court and face the man as know he was local.”

**Public survey respondents**

73. **Inadequate citation content** – many respondents felt their citation lacked what they considered to be essential information. This was particularly the case with professional witnesses, for example, doctors who could not reasonably be expected to know about an incident without further information. Some felt the citation was not user friendly and had too much jargon. Several respondents felt there would be benefit in enclosing information on how to navigate the court process and what happens if the accused pleads guilty or the case is cancelled. This is discussed in more detail at paragraph 276, but it is evident from the response to our survey that citation content is an area in which COPFS could improve.

“The citation was full of too much jargon that someone who doesn't work for law related jobs wouldn't understand. There should be a booklet with the citation explaining next steps and FAQs.”

**Public survey respondent**

74. **Financial loss** – we noted that the financial impact of citation was a recurring issue. Some witnesses who replied to our survey reported being left out of pocket because of the citation/court process. Having to pay for childcare was a recurring problem. Civilian witnesses can apply for reimbursement of certain categories of costs as expenses, but the rate of these may not cover the actual cost incurred. As a minimum, there should not be a financial cost or loss to a witness who is giving evidence in court.

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<sup>42</sup> [HM Inspectorate of Prosecution in Scotland report on 'The prosecution of domestic abuse cases at sheriff summary level' paragraphs 403-420](#)

## Impact on police and forensic scientist witnesses

75. Our understanding of the impact of the citations process upon police and forensic scientist witnesses is drawn both from the police survey, and from the interviews and focus groups. Of the police survey respondents, 67%<sup>43</sup> felt that the whole citation process is not at all effectively managed; 32% felt it to be moderately effectively managed; and just 1% felt that it is very effectively managed.

“I can’t think of anything that is working well. This is my experience as a practitioner and now as a manager.”

**Police survey respondent**

76. While police officers have a legal duty to give evidence as part of their role, the survey and fieldwork indicates that the citation process in its current form often has negative impacts upon them, as it also does for forensic scientists for whom evidence giving is a critical part of their job. A number of different (though often related) impacts of the citation process upon the wellbeing, personal and professional welfare of police officers, staff and forensic scientists were revealed:



<sup>43</sup> As stated previously, it should be noted that blank responses to individual questions were excluded therefore percentages shown are not always calculated from the total number of respondents.

77. **Poor communication** – many police officers and forensic scientists were frustrated by communication with COPFS. They felt that it was challenging to get responses, in particular to excusal requests, and to queries about whether cases were going ahead, causing uncertainty, sometimes forcing emergency arrangements or resulting in cancelled plans. Of the police survey respondents, 95% felt that they had not received a prompt response to their excusal request.

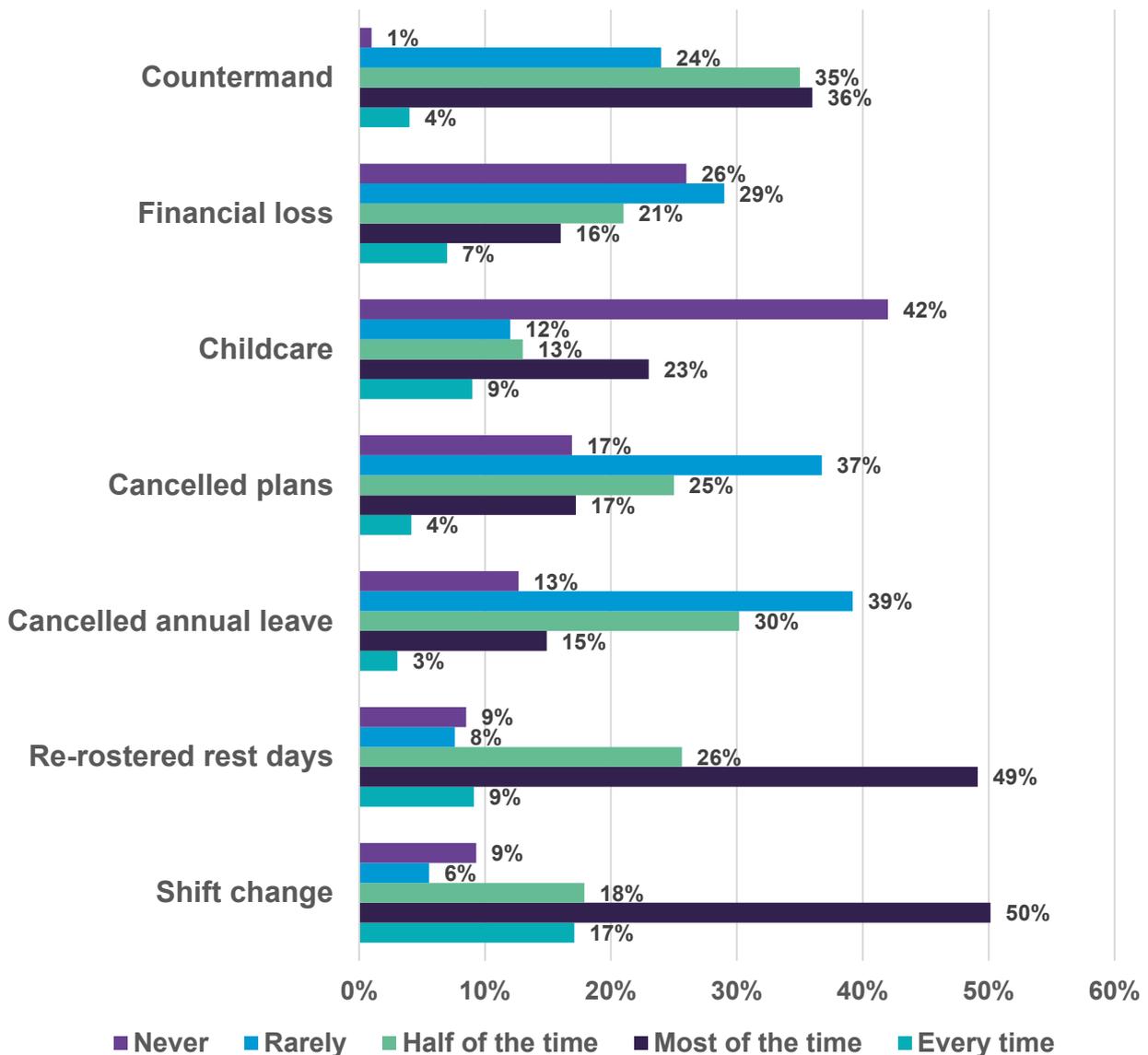
“Court excusals are never answered. As police officers we are expected to answer the PF within days however we don’t receive the same.”

“Mostly good communication when being cited. Poor communication when being countermanded/excused from court when excusals are submitted.”

“Have better, consistent channel of communication for Forensic Staff to be cited/countermanded to avoid time wasting.”

**Police survey respondents**

**Impact on police and forensic scientist witnesses**



78. **Operational impact** – in the focus groups and interviews, we heard about the operational impact of the citation process, including time taken to chase up excusals and being unable to attend training days unless considered ‘role critical’. When police officers attend court, there can be a knock-on effect upon their workload (and potentially that of their colleagues), but also upon the services they provide to victims and partners, which can, in turn, place further demand upon limited specialisms or resources.

79. The main operational Police Scotland shift pattern comprises two dayshifts, two backshifts and two nightshifts, followed by four days off. Being cited to attend court often results in shift changes within this pattern, and it can be challenging for officers to adjust to these changes, particularly in relation to sleep and rest. As illustrated in the graph above, a total of 85% of police respondents experienced a shift change half the time or more.

“..knock on effect of last-minute change/reversion of shifts often meaning lack of sleep for nightshifts due to being countermanded at 1600 hrs that day.”

**Police survey respondent**

80. **Rest and recovery impacts** – as above, being cited to attend court affects rest days, annual leave and changes in shift pattern. Court citations can often fall into the four days off, meaning that officers are interrupted during their rest period. Missing rest days between shifts was described as causing stress and burnout. Several officers described difficulties in maintaining a work/personal life balance. For example, one officer described working 12 days in a row as a result of rest days being cancelled for court attendance. When a rest day is cancelled, it can be challenging for it to be re-rostered and it can take place at a much later date, hence not providing the break from work. With reference to the graph above, a total of 84% of police respondents experienced re-rostered days half the time or more.

“Disruption of periods of rest – countermanded for some of the trial but told might not be required for another day with no rest day back or payment.”

“Increased stress due to insufficient rest between shifts.”

**Police survey respondents**

81. The police survey also showed that it was common for annual leave to be cancelled due to court citations, with almost half of respondents (48%) having experienced this, as detailed in the graph above. Many felt unable to plan holidays because of not knowing whether they would have an excusal request granted.

82. **Disruption to daily life** – across the police survey, interviews and focus groups, respondents advised that being cited as a witness affected their daily lives in many different ways. Family plans had to be cancelled or missed, including important life events such as funerals and birthdays. Almost half of the respondents (46%) said that they had had to cancel plans at least half the time or more, including medical appointments, as a result of being cited to attend court (see graph above).

83. Respondents also described disruption to caring responsibilities and commitments. Arranging childcare to attend court was a particular issue when the court date was on a rest day or annual leave when childcare might not normally be scheduled. Almost half (46%) of police survey respondents needed to find childcare to attend court, as shown in the graph above. This is further described at paragraph 409.

“I care for my parents every Wednesday and have compressed and reduced my hours to accommodate this. I have had to find alternative care for my elderly parents and rearrange appointments for them.”

“I have missed children’s birthdays, and returned from holidays for trials that have never progressed.”

“Not excused for a family funeral.”

**Police survey respondents**

84. **Financial loss** – police and forensic witnesses advised that they incurred financial loss in certain circumstances in order to attend court, such as through cancelled plans and holidays, and additional childcare costs. Of the police survey respondents, as shown in the graph above, almost half (45%) reported having experienced financial loss as a result of court citations.

85. **Stress and anxiety** – many police and forensic witnesses described impacts upon their mental health (such as anxiety, stress and burnout) caused by the citation process. We were told that this resulted from different aspects of the process, such as from having to miss rest days or annual leave and receiving late countermands. Childcare was a particular cause of stress, with many reporting problems in arranging childcare on days where it was not normally required. Frustration was described due to the frequency with which citations do not result in court appearance or evidence giving, after personal arrangements have been put in place. This left some feeling undervalued and disempowered.

“Awaiting decisions of excusals while on annual leave, anticipation of result leading to anxiousness during leave period.”

“Increased stress due to insufficient rest between shifts. Cancelled dental or medical appointments (including counselling). Missed family events, stress due to very late countermands when a holiday has been booked and paid for months in advance, and I have had to make phone calls to receive updates.”

“I am autistic and find the constant cycle of citation, countermand, citation for the following day (which can last up to a week) extremely draining.”

**Police survey respondents**

### **Impact on the justice system**

86. From interviews, it was clear that COPFS staff are aware that problems with citations can cause delays at court and can lead to adjournments and churn in the system, acceptance of reduced pleas by the Crown and cases being discontinued by the prosecutor.

87. SCTS data published November 2025 showed that, over the past five years, an average of 56%<sup>44</sup> of Crown adjournments were due to witnesses failing to attend court, or not being cited. In 2024/25, this figure was 58%, which represented approximately 3,862 trials. Care must be taken to remember that these statistics are a percentage of adjournments granted, due to Crown motions only.<sup>45</sup> In the year 2024/25, 16,810 cases were adjourned on the day of the trial. Witnesses not attending or not being cited account for 23% of the total.
88. From SCTS data, it is not possible to know what percentage of witnesses failed to attend because they were not successfully cited, or were cited but failed to attend. COPFS does not record this information in a manner that allows for analysis. During our case review we found difficulty determining why a case had been adjourned due to poor recording of proceedings by procurator fiscal deputies. While prosecutors face significant time pressures at court, it is important that there is an accurate record of which witnesses attended, which gave evidence, and why cases are adjourned. This is discussed further at paragraph 467.
89. While we cannot say how often trials were adjourned because a witness did not receive a citation, it is reasonable to conclude that failures in the citation process are having a significant financial impact on the justice system, with thousands of trials being adjourned annually. While COPFS cannot be responsible for the actions of witnesses who choose not to attend when cited, the organisation does not appear to know the scale of the problem or what can be done to reduce it.

## Targets

90. COPFS targets for citations should be aimed at ensuring efficiency of business and providing quality service to witnesses. However, we found that existing targets were often inconsistent across different corporate documents; many are currently not tracked or measured, and some are unachievable. COPFS should identify appropriate and realistic targets to improve efficiency and effectiveness of citation. Such targets must be capable of monitoring, and be monitored with clear responsibility for action identified when targets are not met.
91. There are targets and timelines for citations by COPFS (and service of these by Police Scotland) set out in 'Protocol for witness citation targets' in summary trials:<sup>46</sup>
- COPFS will issue postal citations and initial personal citations within 7 days of the pleading diet<sup>47</sup>
  - COPFS will print out the target date on each citation issued for personal citation
  - The police will serve the initial personal citations and return the executions to COPFS no later than 10 working days before the intermediate diet
  - The police will serve personal citations where postal citation has failed and return the executions to COPFS no later than 3 working days before the intermediate diet
  - Where no intermediate diet has been set, the police will serve the personal citations and return the executions to COPFS no later than 10 working days before the trial diet.

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<sup>44</sup> This is a national figure and covers all types of court.

<sup>45</sup> Cases can be adjourned either on Crown motion, defence motion, joint motion or by the court.

<sup>46</sup> [COPFS: 'Protocol for witness citation targets' May 2013.](#)

<sup>47</sup> The date assigned for a case to call in court where they will usually be asked whether they plead guilty or not guilty.

92. As far as we could establish during our inspection, COPFS and Police Scotland do not monitor compliance with these targets. It is also not clear who has the responsibility to monitor or ensure compliance. Without an efficient analysis of performance by both organisations there is limited value in such targets being set and published.
93. With a focus now on SCM and the replacement of intermediate diets with earlier case management hearings, the 'Protocol for witness citation targets' should be revisited and updated to take account of this and other changes in process.
94. Although COPFS staff now have guidance on how sheriff and jury citations should be issued, we could find no target aimed at ensuring prompt issue of those citations. And, while summary cases account for the vast majority of citations, it is logical that there should be similar targets for issue and delivery of citations in solemn cases.
95. There are targets set by COPFS to respond to excusal requests and countermands of witnesses when a trial is no longer proceeding and these are discussed later in this report.
96. We could find no specific organisational targets for witness citations within Police Scotland, either at a national or local divisional level. While Police Scotland has guidance for the service of legal documents, which describes prioritisation of legal documents to be served, as well as guidance for police officers and police staff who have been cited to attend court, we could not find any targets related to either of these processes.

## Performance

97. It is important for any organisation to monitor performance processes through targets and data to ensure efficiency, compliance, effectiveness, manage risk and ensure customer satisfaction. Comprehensive data about the citation of witness process is not readily available and any data can be difficult to extract from the COPFS case management systems. Despite recent work on performance management about the citation process, as described below, there is still room for improvement.
98. COPFS business managers receive some data on the citation process in the form of daily management reports. These cover:
  - a list of cases where the autocite has not been triggered by the system. This is where:
    - the trial is within 14 days of the date citations were due to be issued
    - there is a trial within 20 weeks of the date citations were due to be issued and no witnesses have been marked for citing
  - any cases where witnesses have not been marked for citing.

These lists allow managers to take remedial action in such cases. The COPFS system will continue to generate the daily lists until the witnesses are cited or the case closed.

99. In 2024, COPFS began to monitor the numbers of personal citations issued in both summary, and sheriff and jury cases, after senior officers in Police Scotland raised concerns over the number of personal citations police officers were instructed to serve and the impact this was having on operational policing. Both organisations worked together to identify ways in which personal citations could be reduced. COPFS increased the length of the time civilian witnesses had to return the reply form for postal citations from 21 to 28 days for summary cases, and from 7 to 28 days for sheriff and jury cases, before a personal citation was issued to police officers to serve. The aim was for more witnesses to return their postal reply form before personal citations were issued for police service.
100. In September 2025,<sup>48</sup> 2,064 sheriff and jury and 10,822 summary first citations were issued. Of these first citations, data showed:
- in sheriff and jury cases, personal citations after failed postal citations decreased from 18% in December 2024 to 12% by April 2025 – but increased again to 19% in September 2025
  - in summary cases, personal citations after failed postal citations decreased from 30% in December 2024 to 20% in September 2025.

These figures indicate that extending the period for postal citation from 21 to 28 days has resulted in a general increase in the number of summary civilian witnesses reply forms being received by COPFS and fewer personal citations being issued to the police to serve in sheriff court proceedings.

101. Monitoring this data highlighted the number of cases where personal service of citations rather than postal was used. This revealed that some offices were not following COPFS business rules. Staff were reminded of the business rules and following this:
- in sheriff and jury cases, personal service (excluding default) as set out at paragraph 5 above<sup>49</sup> decreased from a high of 58% in January 2025 to 40% in September 2025
  - in summary cases, personal service (excluding default) decreased from a high of 49% in January 2025 to 38% in September 2025.

This shows the value in monitoring performance data for citations, and managers being aware of compliance or training issues. If staff do not follow the correct business rules this can have an operational impact on Police Scotland, with more personal citations being issued for service, rather than postal citation.

102. Currently, data on the different type of citations issued in summary, and sheriff and jury cases is only shared among a few senior business managers in COPFS. There is a need for such data to be shared more widely by COPFS through a structured framework of governance, to identify trends and any divergence from the business rules on citation.

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<sup>48</sup> Source – COPFS.

<sup>49</sup> Where the accused is in custody, the witness is a child or deemed reluctant/hostile.

103. The September 2025 data reveals that – although successful postal citation has increased – there is still a high rate of witnesses who do not return reply forms to COPFS in response to their postal citation. This increases the number of personal citations issued to police officers to serve:

- in sheriff and jury cases, 61% of postal citations failed
- in summary cases, 45% of postal citations failed.

These figures support the need to make it easier, quicker and more accessible for witnesses to respond to COPFS, rather than posting a paper reply form. One obvious option would be to enable witnesses to respond to COPFS by digital means instead, which is explored later in this report.

104. Overall, there was little evidence of a performance management culture within Police Scotland regarding witness citations, with minimal oversight and accountability of day-to-day operations. As with COPFS, there were no clear mechanisms for monitoring or following up on citations approaching key dates, and no routine scrutiny regarding citation volumes, outstanding citations, timescales, or staff workloads. The approach was mainly reactive, with issues only addressed once they became problematic. Officers and staff responsible for administering citations described an overwhelmed, fragile system with no resilience.

105. Our divisional fieldwork in Police Scotland revealed similar limited evidence of performance management culture regarding witness citations, and none driven from a national level. Where performance management information was collected in divisions, it was often recorded in very basic ways and there was no identifiable consistency of approach. This information was sometimes used to determine staff resources in the delivery of citations, but it was not sought centrally.

106. We found that there was no systematic approach by Police Scotland to gathering or analysing performance data, further highlighting the absence of a structured framework for oversight in this area. We found no indication that citation-related performance information is routinely reported to the SPA. Without accurate collection of meaningful performance data, it is not possible to effectively evidence or assess whether organisational commitments, continuous improvement efforts, and strategic objectives are being met for the citation process.

107. COPFS and Police Scotland are in the process of developing a joint performance dashboard – a visual digital aid that will collate key performance measures from both organisations in a single view. There will be a number of measures on the joint dashboard, including the number of citations issued. Over time, this dashboard could be expanded to incorporate additional targets such as those relating to excusal requests. This would allow both organisations to identify areas of good practice and strong performance, and areas for improvement.

## Recommendation 1

**COPFS and Police Scotland** should:

- (a) review the targets in the 'Protocol for witness citation targets' to take account of the business rules on automatic citing and removal of intermediate diets in summary case management cases. Compliance with these targets should be monitored and performance data analysed; and
- (b) ensure all citation performance data is measurable and is collected, analysed and reported through governance structures to monitor performance across both organisations.

### Financial costs of the citation process – COPFS

108. It is important for any organisation to know how much a process costs to properly consider its efficiency and provide data for strategic planning and budgeting. COPFS cannot currently accurately determine the full costs relating to the witness citation process.
109. Most civilian witness citations are issued by second-class Royal Mail in the first instance. Postage costs are calculated on volume of 'bundled items.' Each bundle can include different types of documents including citations, so it is not possible to isolate the postage costs for citations. Some police stations can receive personal citations from COPFS via DX<sup>50</sup> but, again, we found there was no certain way to identify witness costs relating to this method. In addition, costs associated with locally printing witness citations cannot be quantified as such 'on-demand citations' are not monitored.
110. As previously explained, civilian witnesses are entitled to reclaim certain expenses from COPFS when they attend court to give evidence.<sup>51</sup> Witness expenses for COPFS amount to approximately £1.25 million annually, with sheriff courts (summary, and sheriff and jury) accounting for around £1 million per annum.<sup>52</sup> The text reminder service discussed at paragraph 378 adds an additional annual cost of approximately £11,000.
111. COPFS should identify a method of identifying overall costs associated with the citation process to help with monitoring and budgeting. If the citation process were to become more digitalised, knowing current costs would enable COPFS to carry out a cost benefit analysis to assess the value of such a change.

### Financial costs of the citation process – Police Scotland

112. We requested the financial data that Police Scotland or the SPA holds for costs relating to citations. We found that Police Scotland is currently unable to determine the exact cost associated with administering and delivering witness citations, or that of officers' attendance at court to provide evidence. Police Scotland collects some but not all citation data; we were unable to establish the reason for this. Quantifying the actual cost would enable a more evidence-based basis for service redesign.

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<sup>50</sup> DX Group – courier service.

<sup>51</sup> [COPFS: 'Guide to claiming expenses for attending court' August 2024.](#)

<sup>52</sup> Source – COPFS.

113. Police Scotland was only able to provide approximate figures<sup>53</sup> drawn from the LDD for the number of citations received and served. In the year from October 2023 to October 2024, Police Scotland estimated<sup>54</sup> that they had approximately 154,000 witness citations to serve.
114. Police Scotland used information gathered from its own interviews and focus groups to estimate the average time to serve a citation. This noted a huge variation in delivery time due to factors including rural versus urban locations, number of delivery attempts and whether the citation was being delivered by a dedicated citations server or response officer. It projected that the resource requirement for the above volume of citations ranged between 173,000 and 280,000 hours, equating to the annual workload of a very wide-ranging 98 to 164 full-time officers (approximately). Police Scotland acknowledges that these are subjective estimates, and that it does not collect data that would enable it to evidence this more accurately. Nonetheless, it gives a rough indication of the amount of resource and cost that Police Scotland expends upon the process of serving citations.
115. We also requested data relating to the financial costs of officers attending court as witnesses, and costs relating to this, such as the requirement to bring officers in to cover shifts to enable court attendance. Police Scotland does not gather comprehensive data to quantify the number of officers cited, attend court and ultimately give evidence, despite its current IT system (SCoPE) having the ability to do so. Gathering this data would enable it to better calculate the costs incurred and provide a more accurate view of the resource impact of officers attending court.
116. We found that, currently, the only occasion when Police Scotland gathers data on police witness court attendance on SCoPE is when overtime is incurred. This could be used further to capture information relating to all citations.
117. Police Scotland reported that, during the 2024-25 financial year, £2,663,643 was spent on police overtime for officers attending the sheriff court. Of this, £455,244 was for overtime incurred in relation to solemn cases, and £2,208,399 was in relation to summary cases. Data relating to 1st April to 31st August 2025 showed that 79.42% of court overtime related to the sheriff court and cost £822,926.
118. In the year to date (as at September 2025), we were advised that, in 75.6% of cases in which overtime was claimed, police witnesses did not give evidence; evidence was given by police officers in 14.4% of overtime for court claims; and it was not recorded whether evidence was given or not in 10.0% of claims. This figure of evidence given is higher than the preceding five years, where evidence was recorded as being given in between 9% and 12.1% of cases where officers claimed overtime for attending court. However, no accurate data was provided on how many officers overall gave evidence, which is a significant gap in management information.

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<sup>53</sup> The reasons that Police Scotland are only able to estimate an approximate figure are that the LDD does not include all citations, e.g. on demand citations which are routinely received via email and not in all cases uploaded to the LDD; response officers may not have time to and/or forget to update the LDD after serving citations; expired citations remain as 'allocated and ongoing' until they are manually removed, which officers do not always have time to do; returned citations to COPFS are reprinted and sent back to Police Scotland; in addition to new citations received within the timeframe, Police Scotland will also have a backlog of citations to serve at any one point in time.

<sup>54</sup> Data provided by Police Scotland.

119. There is an additional potential cost to Police Scotland when police officers are cited to give evidence. If a police witness's shift has to change for them to attend court, it is sometimes necessary to bring in other officers to ensure the minimum number of officers are available to cover a particular shift. Having a one-day citation to court can result in an officer being unavailable for two nightshifts. Officers brought in to provide this backfill are paid overtime. In the 2024/2025 financial year, £90,766 was spent to enable police witness court attendance through backfill cost. The data is not broken down by the type of court (so may include High Court and Justice of the Peace) or shift.
120. We noticed that there were very marked variations of overtime costs relating to shift cover across different police divisions. It was suggested to us that these variations are unreliable. We were advised in several interviews with police officers that backfill costs to enable police witnesses to attend court were not always recorded as such. This may indicate differences in awareness or understanding of how to appropriately claim and record such overtime and that better communication, business governance or training may be needed. In our fieldwork with police officers, the backfill costs were often described as the 'hidden costs' of court attendance as they are not captured within the main court overtime cost.

### **Recommendation 2**

**COPFS and Police Scotland** should develop a clear and consistent method of identifying all costs associated with the citation process and police officer court attendance.

## Direction

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121. We considered whether COPFS and Police Scotland have an effective vision, leadership and governance for the citation process. We found that absences of strategic focus, adequate governance and leadership on citation were common to both organisations.

### **COPFS citation strategy**

122. Citation of witnesses is not specifically considered in the current COPFS strategic plan,<sup>55</sup> which covers the years 2023-2027. This plan includes a strategic aim to continue to digitalise and modernise the work of COPFS. The organisation has made progress in this area, with digital defence agents service (DAS) and digital evidence sharing capability (DESC).<sup>56</sup> We found some evidence of increased digitalisation of processes that touch upon citation (for example, the Witness Gateway), but there was no overarching, cohesive citation strategy.

123. The 2025-26 COPFS business plan<sup>57</sup> contains strategic aims that are relevant to the citation process. These include rollout of the police witness scheduler application (discussed further at paragraph 262) and improvement of the SPR. As mentioned previously, a COPFS performance measure for this period is to reduce citations in SCM courts by 25%. While senior staff we spoke to could not point to an overall citation strategy, there was a high level of awareness of the benefits of SCM in reducing the number of witnesses cited and re-cited – albeit this does not address the citation process.

124. We considered COPFS internal local court business plans and found inconsistent reporting on the outcomes of aims and performance measures from one year to the next. As a result, it is difficult to assess how effective the COPFS local court function has been in achieving its aims. COPFS should have a consistent template for business plans, with a clear link between aims and targets from one year to the next.

125. We noted many quantifiable commitments in the local court business plans that did not translate into performance measures in the same report. For example, the local court business plan 2025-26, states that COPFS will reduce personal citations issued to Police Scotland by 10% – but this figure does not then appear among the performance measures as targets at the conclusion of the plan.

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<sup>55</sup> [COPFS Strategic Plan 2023-27](#).

<sup>56</sup> DESC is a collaborative programme between the Scottish Government, Police Scotland, COPFS and SCTS to allow digital sharing of evidence across the justice sector.

<sup>57</sup> [COPFS Business plan 2025-26](#).

## Police Scotland citation strategy

126. Police Scotland has a significant role in serving legal documents; this includes citations, but also indictments,<sup>58</sup> copy complaints,<sup>59</sup> and other types of legal documents. Despite this important function, we found that Police Scotland has no published national or local strategies for the service of legal documents and there is no mention of this in Police Scotland's published reports including the most recent Annual Police Plan 2025/26.<sup>60</sup>
127. Prior to the formation of Police Scotland in 2013, many legacy forces<sup>61</sup> employed civilian members of police staff to serve legal documents. In the early stages of Police Scotland, these police staff roles were made redundant and the responsibility for serving citations and other legal documents was returned to police officers.
128. The lack of strategy for the service of legal documents is reflected in inconsistent approaches to the delivery of citations across the country, both between and within police divisions. We saw that some areas use light duty or modified duty officers, others use fully operational officers, and some use a mixture of both. In some divisions citations are passed to response officers to deliver on their shift. We heard of an operational enquiry unit in one division consisting of officers on modified duties who have a number of tasks, including serving citations. It was suggested to us that having dedicated officers to serve citations would allow for a consistent national approach.

### Recommendation 3

**COPFS and Police Scotland** should:

- (a) develop aligned, service-wide strategies for effective and efficient citation of witnesses, taking into account the needs of all categories of witness; and
- (b) publish information about commitments to witnesses and what witnesses should expect in the citation process.

## Leadership and governance – COPFS

129. Despite the volume of citations issued by COPFS, we found an absence of effective leadership or governance of the process, and a vacuum of control. This may, in part, be due to the structure of COPFS. The relevant functions of COPFS responsible for the issue of citations include local court, which covers work in the sheriff and justice of the peace courts, the high court function and a specialist casework function.<sup>62</sup> We found there to be insufficient cross-function work on issues such as citation, and an absence of mechanisms to foster such work. We also found that there is no identifiable lead/(s) with overall responsibility for citations within COPFS and consequently no related reporting structure across functions that report on the topic.

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<sup>58</sup> An indictment is a court document that sets out the charges the accused faces at trial in solemn proceedings, along with lists containing the names of the prosecution witnesses and items of physical evidence.

<sup>59</sup> A complaint is a court document in summary proceedings detailing the charges against the accused.

<sup>60</sup> [Police Scotland Annual Police Plan 2025/26](#).

<sup>61</sup> Scottish police forces that were combined to form Police Scotland.

<sup>62</sup> We are aware that COPFS is undergoing a restructure towards the end of 2025 under the auspices of 'Designed for Success'; however, our inspection activity took place before this was fully implemented.

130. Senior leaders in COPFS recognise the need to modernise and improve the citation process. They variously described the legislation as being ‘nineteenth century’ and an inhibition to modernisation, and the citation process as ‘hugely wasteful’ and ‘not given the importance that it deserved’. Also, operational staff we spoke to were able to identify those areas of the citation process that had a negative impact upon witnesses.
131. One senior COPFS administrator referred to the citation process as business-as-usual, until concerns were raised by Police Scotland in 2024 over the resourcing impact of police officers serving personal citations. As a result of these concerns, we learned about steps taken by COPFS to reduce the number of personal citations issued (this is discussed further at paragraph 99).
132. Despite the views and knowledge of COPFS staff on the failings of the citation process, there was no clear oversight or centralised route to improve citation-related issues. We were often advised by COPFS staff of the benefits of SCM and consequent reduction in the number of citations issued. However, while reducing the amount of citations is undoubtedly beneficial, SCM addresses neither service improvement for those witnesses who still require to be cited, nor modernisation of the citation process. It is also relevant to note that SCM does not apply to sheriff and jury witness citations.
133. The lack of leadership or governance may have contributed to a failure to identify a significant risk to the process. COPFS currently relies on second-class mail for delivery and return of postal citations. Despite repeated fines for Royal Mail over recent years for failing to meet delivery targets – and an announcement in July 2025<sup>63</sup> of a reduction in frequency of delivery for second-class mail services – we learned that this risk to timely delivery of citations had not been addressed by COPFS. At the time of our inspection, we were not made aware of any discernible plan to address this risk.

### **Leadership and governance – Police Scotland**

134. In this inspection, we found limited evidence of effective oversight by the Police Scotland Chief Officer Team, or the SPA, on the service of legal documents, including the service of citations.
135. Within Police Scotland, Divisional Co-ordination Units (DCUs) provide local leadership on citations. The DCU leaders are responsible for raising any issues related to citations and court at local senior leadership team meetings. We also found that some divisions had held gold group (strategic level) meetings in response to situations or times where the numbers of citations they received had increased, particularly in the post-pandemic period.

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<sup>63</sup> [BBC News: 'Royal Mail to scrap second-class post on Saturdays' 10 July 2025.](#)

136. We found little evidence that either Police Scotland or SPA Forensic Services seek staff views on either the effectiveness of their approaches to dealing with citations, or work done regarding the national process of serving citations. In some divisions, we did find that some officers' views had been canvassed to improve local processes for serving citations, but we also heard from officers who told us that service improvement suggestions had not been implemented. We observed that officers on modified duties who are solely serving citations often developed a good approach. However, while we saw examples of such good practice in local problem solving, there was no evidence that these initiatives were being looked at nationally for learning purposes, or to ensure continuity.

#### **Recommendation 4**

**COPFS and Police Scotland** should ensure that there is clear and effective leadership of the citation process that takes account of the respective internal structures of each organisation.

#### **COPFS performance monitoring**

137. Performance data is a key indicator of effective governance or leadership for a high-volume process such as citation – i.e. who monitors such data and to whom it is reported. We learned that data on the total number of citations and re-citations issued is now routinely provided to senior staff in local court management to assist in monitoring the effectiveness of the SCM model of working – but not to all senior leaders in COPFS.
138. We found limited and inconsistent knowledge of performance data on the citation process within COPFS, with no structure on who should monitor the data, when action would be required in the event of performance issues, and to whom such issues should be addressed. Such an absence of effective monitoring of a process that directly affects witnesses hundreds of thousands of times per year is a matter of concern. At the time of our inspection, COPFS did not routinely publish data on citations.
139. We learned that the COPFS local court transformation team led on work with Police Scotland to reduce personal citations in response to police concerns. Unfortunately, given the current lack of overview of citations, lessons learned as part of this work will not necessarily be followed or implemented elsewhere in COPFS. This is illustrated in divergence of practice from local court to specialist units, and even within local offices where we found inconsistency with business rules on instructing the police to personally serve citations.
140. COPFS is in the process of altering many aspects of how it operates through a programme known as Designed for Success (DFS). This programme is changing the structure of COPFS and updating its governance. This presents an opportunity for COPFS to address many of the issues and recommendations we have identified in respect of leadership and governance. It is important that issues that cross the internal functions of COPFS, such as citations, do not continue to fall through the gaps and that DFS takes account of them.

## Police Scotland performance monitoring

141. We did not find any evidence that the Police Scotland Chief Officer Team requests any information from local policing divisions regarding performance about serving citations, nor did we find evidence of the SPA seeking information regarding citation performance from Police Scotland. Furthermore, there was no evidence that Police Scotland publishes data related to the service of legal documents. The lack of performance management and governance about citations means that the workload, and the extent to which it impacts frontline policing, is not fully known, recognised or quantified.
142. We identified that Police Scotland has access to a national performance management product, Power BI, which can draw citations data from the LDD. We did not find any evidence to show that Police Scotland always uses this effectively to manage or report on performance, or that it is widely known about at divisional level (some divisions still use a paper-based system). It was clear to us that, in terms of performance monitoring, the service of legal documents was not high on the list of priorities across Police Scotland.

## Liaison between COPFS and Police Scotland

143. Representatives from Police Scotland and COPFS meet regularly at the Criminal Justice Improvement Group, which is chaired by an Assistant Chief Constable. This group considers a variety of criminal justice topics including SPRs and citations, and as detailed elsewhere in this report has been instrumental in reducing the number of citations Police Scotland receives.
144. We learned of routine liaison meetings at different seniority levels, across both organisations (both nationally and locally), which we understand provide a forum to raise citation issues. The pattern and frequency of meetings – and who attends them – is not regulated. Citation issues tended to be raised reactively at such meetings, rather than as a regular standing item. We found no clear structure to allow effective flow of information between local and national level. There were also no links between local meetings that we could identify. This may explain isolated pilots in local areas being introduced as responses to local operational difficulties, rather than a cohesive national approach.

## Recommendation 5

**COPFS and Police Scotland** should ensure that information flows effectively between the framework of liaison meetings across both organisations at national and local levels, in order to manage the citation process consistently and comprehensively.

## Understanding the needs of witnesses

145. We noted an absence of effective systems across both organisations to take account of the needs of witnesses. While we are aware that both organisations regularly engage with third-sector agencies who represent witnesses, this has not been an adequate mechanism to identify the needs of all witnesses on the topic of citation, not least those who are vulnerable or may have additional needs. Given the high volume of citations issued and the cumulative impact of the process on the public it is essential that processes are fit for purpose and trauma-informed. Without improved engagement it is difficult to imagine how this can be achieved.

## Understanding operating context

146. COPFS and Police Scotland are the key organisations responsible for citing witnesses to court and it is therefore important that they are each aware of their respective operational frameworks, issues and challenges.
147. Our review identified positive examples of constructive engagement and mutual understanding at both strategic and tactical levels. However, this was not replicated at operational levels within each organisation.
148. During our interviews and focus groups with staff from COPFS and Police Scotland, we were struck by a lack of understanding of roles between the respective organisations. This became a recurrent theme during our inspection. Staff often failed to fully understand how their role operated as part of a wider citation process, or the interdependency between COPFS and Police Scotland. We observed that this lack of knowledge has contributed to negative perceptions between staff in each organisation.
149. Interviews with Police Scotland senior leaders revealed some concerns that newer officers may lack awareness of the broader consequences of failing to serve witness citations, and particularly the impact on the justice system. Indeed, some frontline officers in our focus groups described how the task of delivering citations was seen as a low-priority administrative burden, often citing frustration that it interfered with their ability to carry out their many other responsibilities.
150. Evidence from witnesses, including police witnesses, is a keystone of Scottish criminal procedure. This requires effective citation of witnesses, to secure their attendance at court and the giving of evidence itself. Service of citations and attendance at court are, therefore, essential elements of the police role. However, it is evident from our inspection findings that, for some police officers, these roles are viewed as supplementary to their duties rather than a fundamental element of them. It is vital to dispel such views and for police officers to fully understand the key role they play in the justice system, recognising that giving evidence and serving citations are part of their core functions.
151. The focus groups and interviews conducted with Police Scotland officers revealed that some have limited knowledge about evidential requirements and processes, and the role of the procurator fiscal. This lack of clarity led to some officers questioning why COPFS sought further information and evidence once an SPR had been submitted, with many feeling such requests were unnecessary. Some officers mistakenly felt that statements were requested and that they were being cited to court needlessly. They believed their evidence was minimal, uncontroversial, or could have been agreed. There was a lack of appreciation that agreement of police evidence in cases was not at the sole discretion of the prosecutor. This will be discussed further at paragraph 236. There was also limited understanding about the need for certain information in the SPR, and the role of COPFS and of SCTS in the scheduling of cases. All of these erroneous views have the potential to impact upon the wider justice system if evidential requirements for court are not met. They can also result in frustration and resentment for both police officers and COPFS staff.

152. We found that some COPFS staff did not adequately consider the impact of instructing police officers to serve a high volume of personal citations on witnesses, or how repeated requests for service of last-minute citations affected the ability of Police Scotland to respond to other operational duties. Some COPFS staff reported frustration that police officers were not prioritising the service of citations, or not responding to requests for updates on outstanding citations – without appreciation of the challenges that officers face.
153. We also found that communication at the operational level, particularly for urgent or on-demand citations, is frequently impeded by limited direct interpersonal interaction and an over-reliance on email correspondence.
154. We repeatedly heard positive comments about occasions when Police Scotland and COPFS were co-located in the same office building. We heard how helpful this was in terms of building relationships and increasing understanding between the two organisations.
155. There was a recurring issue in routine communications from COPFS, where essential contact details were often omitted. This practice contributes to delays and inefficiencies, as Police Scotland officers are often unable to easily follow up or seek clarification on COPFS-directed enquiries. Similarly, there is currently no requirement for Police Scotland to provide contact details in SPRs, which can result in COPFS staff having to call 101 to reach officers. We understand that providing contact details will be a mandatory requirement for police officers in the new style SPR. Addressing these issues would significantly enhance operational effectiveness and reduce avoidable frustration among frontline personnel.
156. We found evidence of frequent misrouting of citations from COPFS, which were sent to incorrect police stations due to confusion over Police Scotland divisional boundaries by COPFS. This results in delays of many days in serving citations on witnesses.

### **Recommendation 6**

**COPFS and Police Scotland** should ensure that all relevant staff have a comprehensive understanding of the citation process, including the role of each organisation, the operating context and the impact of unsuccessful citation on the criminal justice system. This should include mandatory training as part of the induction process, and ongoing awareness training.

## Understanding demand – COPFS

157. As we have already noted, the citation process within COPFS is viewed as business-as-usual, with a lack of adequate leadership, governance or performance management. It is, therefore, unsurprising that we found no evidence of an ability to forecast demand, or an appreciation of the financial or operational demand for COPFS caused by the citation process. We also found no evidence of attempts to quantify how failures in the citation process created additional work or pressures, known as failure demand. Failure demand can be prevented by ensuring that work is effective on the first occasion it is carried out. In their last two thematic inspections<sup>64</sup> IPS has previously reported on the impact of failure demand within COPFS. COPFS must do more to ensure the organisation understands the extent of failure demand caused by ineffective processes, and work to reduce this.

158. Throughout this inspection, we found that a lack of resources in COPFS local offices and national teams that deal with witness-related issues, has an impact on the citation process. As discussed elsewhere in this report, examples include:

- correspondence and excusal requests not dealt with timeously and remaining unactioned in cases for many months
- backlogs in case processing causing delays in courts being prepared – citation enquiries being made with police officers and countermands being issued to witnesses
- limited management of citations between first diets and the trial diets in sheriff and jury cases
- postal reply forms where the witness has indicated that they cannot attend, sitting unprocessed for a matter of weeks.

## Understanding demand – Police Scotland

159. We found that demand on Police Scotland is high due to the need to serve personal citations and the challenge of significant competing priorities. In our interviews with senior Police Scotland leaders, we were consistently told that serving citations was, organisationally, a low priority, since there was invariably always a higher priority. Such comments are an accurate representation of Police Scotland's overall approach to serving witness citations.

160. We identified a critical gap in the understanding and management of demand related to citation service. This gap is linked to the absence of a robust, organisation-wide performance management framework in this area.

161. Local policing areas have developed varying models for citation delivery, shaped by their understanding of local needs, resource availability, and citation demand. Rather than applying a standard approach, differing models have emerged. While a one size fits all solution may not be suitable across diverse operational contexts, there is a need for a national framework for citation delivery.

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<sup>64</sup> HM Inspectorate of Prosecution in Scotland reports: ['Responding to enquiries: service delivery through National Enquiry Point' January 2025](#), ['The prosecution of domestic abuse cases at sheriff summary level' April 2024](#).

162. Despite these models addressing local needs, we found there still to be occasions where Police Scotland fell short, with citations not being served. This then contributes to delays and inefficiencies within the criminal justice system. We believe a focus on continuous service improvement will lead to improved levels of citation service. Modernisation of the citations process should reduce the number of citations needing to be delivered by personal service, so efforts could be concentrated on those citations that are the most challenging to serve.
163. In our fieldwork, we heard from some police officers that officers working in busy urban areas are cited more frequently than colleagues in rural locations, due to the higher volume of incidents there. In a previous inspection,<sup>65</sup> HMICS had also raised concerns about the high number of citations that officers working in road policing roles receive which, given the nature of their job, can be in courts throughout Scotland. A higher number of citations – coupled with ineffective court scheduling – has an impact on the number of police rest or annual leave days that are cancelled, and the number of excusals that officers have to request.
164. We learned that SPA Forensics do not monitor the number of citations received nationally, or the number of related court attendances. They are therefore unable to quantify in a meaningful way the demand citation places upon its service. The processes for citation of forensic scientists are further discussed at paragraph 383.
165. As is the case with COPFS, we found there to be a recognition that failure demand is caused by current citation processes across Police Scotland. However, there is an absence of understanding of how much citation volume and additional work is attributable to failure demand.
166. Police Scotland has recently explored the demand associated with the service of citations and police officer attendance at court. In October 2024, Police Scotland's Service Design Team conducted an internal review to better understand the key factors driving demand for the service of citations. This led to discussions with COPFS to attempt to reduce the volume of personal citations.
167. We found a clear aspiration by Police Scotland to significantly reduce demand associated with the service of citations and police officer attendance at court. However, there is no evidence that this objective has been integrated into future Target Operating Models (TOMs). Specifically, in relation to the SCM pilot, limited effort was made at the outset of the pilot to identify, capture and cost projected business benefits. Neither did the SPA seek sight of a business case for SCM. Despite the pilot now being rolled out nationally, Police Scotland appears to be retrospectively identifying benefits and gathering learning from the pilot phase. This lack of strategic approach is a matter of concern, as Police Scotland is now rolling out what was a local pilot to a national business-as-usual model, without fully considering the projected business benefits or risks.

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<sup>65</sup> [HMICS, 'Thematic inspection of road policing in Scotland', November 2024.](#)

# Delivery

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## **COPFS – policy and guidance**

168. We considered policy and guidance available for COPFS staff on the citation process and whether they were aware of these instructions and resources. Citation of witnesses is a process undertaken by different COPFS units and specialist areas, but we found there is limited central guidance and consistency of practice.

## **Policy and guidance for COPFS legal staff**

169. There is little guidance for COPFS legal staff that focuses solely on the citation of witnesses. Guidance for prosecutors on whether to initiate a prosecution and the option of court proceedings is contained in many documents, but the principal source of guidance is the Prosecution Code,<sup>66</sup> with practical guidance in the COPFS Case Marking Instructions (CMIs).

170. The CMIs emphasise the importance of only citing essential witnesses, with the police reporting officer only cited if necessary. We heard that prosecutors mainly cite police officers, who may not otherwise be required, to bring any physical evidence to court (referred to as ‘productions’), or to confirm if a civilian witness gave a statement and then to confirm the detail of that statement. The CMIs specifically state that the reporting officer should not be cited simply to bring productions to court, and that local arrangements should be made for this, though practice varies across COPFS. The guidance also states that there may be a need to cite police witnesses where it is clear a civilian witness is likely to be uncooperative in court, but again practice varies. It would be preferable if COPFS had a clear policy for citing police officers in summary cases when a witness is likely to be reluctant.

171. The CMIs also provide guidance on citing children and vulnerable adults. As noted at paragraph 187, COPFS staff within the National Initial Case Processing Unit (NICP) tend to be aware of their obligations in terms of the United Nations Convention on the Rights of the Child (UNCRC). The final section of guidance in the CMIs advises staff of the need to decide which witnesses may require to be cited by way of personal service. We found that staff involved in case marking tended to be unaware that this was an option.

172. In our interviews with COPFS staff, it was evident that while most understood the need to reduce unnecessary citation, none of those we spoke to referred to the guidance in the CMIs. COPFS should ensure that all staff responsible for deciding which witnesses to cite are aware of this guidance and follow it in practice. While the choice of which witnesses require to be cited is often subjective, case markers need to follow the principles and guidance from the CMIs.

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<sup>66</sup> [COPFS Prosecution Code](#).

## Policy and guidance for COPFS administrative staff

173. To support its administrative staff in the citation process, COPFS has developed detailed guidance and business rules contained within the Local Court Business Process Handbook (the Handbook) largely developed by the local court business transformation team over several years in an attempt to provide desk instructions for staff and ensure consistency of approach. This includes guidance on the different stages of the citation process and the various actions to take in respect of each type of witness. It includes topics such as:
- automated and manual citing
  - rules for citation by witness type and personal service of citation by the police
  - dealing with excusal requests from witnesses
  - countermanding witnesses (cancelling the witnesses' attendance at court)
  - witness citation process maps.
174. To provide practical guidance, the instructions include screenshots from COPFS systems, showing the actions staff should perform in processing citations in summary, and sheriff and jury cases.
175. The rationale behind the production of the Handbook is commendable. However, we found gaps in sections where matters had not been adequately considered and areas of divergence in the business rules between summary, and sheriff and jury procedure when there was no apparent reason for variance. These will be considered throughout this report. It is important that such areas are addressed to ensure consistent practice for witnesses, and that staff are fully aware of all the steps they must take in the citation process.
176. We were advised that the Handbook is still being developed, and that refinement of processes and updating this guidance is a rolling process. The sheriff and jury guidance was only added to the Handbook in late 2024. Much of the 'service delivery' section of the Handbook remains under construction. While up-to-date national guidance requires proper consideration, it is a matter of concern that some years after the Handbook was launched, key sections of essential staff guidance remain absent.
177. When any new guidance on processes is published, it is important that COPFS staff are aware and adhere to these national processes. To achieve this there must be awareness raising and training. Handbook guidance updates are issued to local business managers and published on the COPFS intranet. We found this to be ineffective in practice. We established that many COPFS administrative staff involved in the citation process were unaware of either the publication of the sheriff and jury process section of the Handbook, or even existence of the Handbook. This has resulted in inconsistent practices in offices across COPFS. By way of example, we found offices routinely issuing personal citations in sheriff and jury cases, unaware that the Handbook instructs postal citation for most witnesses in the first instance. We also learned of staff using out-of-date guidance.
178. We understand that COPFS intends to move away from business rules to standard operating procedures, but unless the issues we have identified in respect of the Handbook are addressed there will continue to be inconsistency of practice across COPFS.

179. It is necessary to carry out quality assurance by compliance checking, to ensure consistency of practice. Currently, offices often follow their own established individual processes. Inconsistency is compounded by staff movement. COPFS must consider how to ensure effective compliance with national business rules on citations.

### **Recommendation 7**

**COPFS** should:

- (a)** ensure that guidance on all parts of the citation process in summary, and sheriff and jury cases, are connected and reflect business rules in full;
- (b)** introduce an effective way of communicating changes to policy and guidance in the Local Court Business Process Handbook to staff; and
- (c)** ensure that all relevant staff are actively following the Local Court Business Process Handbook. Regular effective national compliance monitoring must take place.

180. In addition to local court offices, COPFS has a number of specialist units that are also responsible for citation of witnesses and we heard that they try as far as possible to follow citation guidance for local court. We learned that a working group was attempting to align the processes that impact witnesses across the specialist units, and that citation of witnesses is part of this work. COPFS case management systems were designed before the move to specialist units, which has exacerbated divergence of practice.

181. While the work of specialist units is not the focus of this inspection, given the volume of citations issued by them, we observe that there remains a need for specialist unit guidance in respect of citation of witnesses, to take account of the additional challenges these units face.

182. A key document in the citation process is the 'Lord Advocate's guidelines to chief constables on the citation of witnesses' (LAGs).<sup>67</sup> These instructions to Police Scotland set out procedures to be followed in the citation of witnesses for attendance at court. They refer to the personal service of citations on witnesses by police officers and provide basic guidance to the police on effective service and completion of the execution of service. During interviews with COPFS staff we found no awareness of the LAGs and their content.

183. The LAGs explain that it is desirable for witness citations to be served on the witness well in advance of the trial and the execution of service completed properly. If the citation cannot be served, the LAGs explain how this should be recorded and notified to COPFS. The LAGs, however, do not reflect current operational practice in COPFS or Police Scotland, with a requirement that the Procurator Fiscal be contacted 'immediately' by telephone if a witness citation cannot be achieved. This aspect of the LAGs is outdated and is unachievable given the volume of citations. Police Scotland internal guidance is slightly more nuanced than that in the LAGs in that it states that the Procurator Fiscal should be notified by telephone/email of non-service of citations as soon as possible.

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<sup>67</sup> COPFS, ['Lord Advocate's guidelines to chief constables on the citation of witnesses'](#).

184. The LAGs reflect a paper-based system with a requirement for police officers to complete the paper execution of service when service has been successful, or where it has been unsuccessful to record any attempts made on the back of the citation and return the document to the Procurator Fiscal. This does not take account of police officers, in practice, emailing COPFS or using the LDD to digitally record the service of citations on witnesses, as discussed at paragraph 497 below.
185. It is evident that the LAGs need revising and updating, not least because of the removal of intermediate diets in summary cases. Given COPFS's ongoing commitment to increase digitalisation (as set out in its strategic and business plans and published reviews) and the recommendations for increased use of electronic systems that follow in this report, any revision to the LAGs must take account of such recommendations or changes once implemented.

### **Recommendation 8**

**COPFS** should review and update the 'Lord Advocate's guidelines to chief constables on the citation of witnesses' and this should include the consequence of the removal of intermediate diets and the use by police officers of the Legal Document Database. Both **COPFS** and **Police Scotland** should ensure that staff are aware of the guidelines and their content.

### **The citation of child witnesses**

186. It is beyond the remit of this inspection to consider the broad topic of children as witnesses, but we note that COPFS has taken significant steps to reduce both the unnecessary citation of children and the trauma that could be caused by giving evidence. While COPFS has also updated many existing policies to take account of the UNCRC, there are areas of the citation process where UNCRC considerations appear to have been overlooked. COPFS is in the process of considering the business rules about the citation of children in the Handbook through a UNCRC lens.
187. We heard that legal staff deciding whether to cite child witnesses were familiar with the appropriate procedures and policies to be applied. We also heard from prosecutors of an increased and improved level of recording decisions on citing child witnesses by NICP staff. Such increased recording serves to emphasise the importance of only citing children when it is necessary and proportionate.
188. During the inspection we identified an issue with the child witness citation document itself and the personal service of this document on children by police officers. This is discussed at paragraph 289.

### **Police Scotland – policy and guidance**

189. There are two core documents that provide national guidance and instruction for police officers and members of police staff on the management and administration of citations and service of legal documents, and on the attendance at court to provide evidence:
- Police Scotland Citations (Police Officers and Staff) National Guidance (2022)
  - Police Scotland Service of Legal Documents National Guidance (2024).

190. We found that this guidance has been kept relatively up-to-date and seeks to support those working on the citation of witnesses, both in terms of the service of legal documents, and the citations of police officers and staff to court. However, in their current form, we do not consider these guidance documents to be comprehensive enough in their detail and they do not provide sufficient guidance on practical scenarios faced by officers serving legal documents.
191. Court standby is not mentioned within the Police Scotland Citations National Guidance. However, for summary court appearances there is a 2013 'Police Witness Summary Court Standby Protocol (Memorandum of Understanding)' (MoU) between Police Scotland, COPFS and SCTS. It states that the aim of using a standby scheme is to allow police officers to use any waiting time that they have before court productively, to ensure efficiency and effectiveness. There was a lack of awareness among staff of the MoU.
192. The MoU sets out the standby time of 30 minutes within which an officer should be normally expected to arrive at court after being advised to attend, and it also states that police witnesses should remain available within the station at their point of contact. While in the station they should first prepare for court, and thereafter can undertake office work, but can also be deployed operationally, if they are still able to get to the court within the agreed time period. As described later in this report, however, we did not always find compliance with this MoU, finding instead that in some cases officers are being deployed to incidents without having sufficient time to prepare for the day of court (see paragraph 481).

#### **COPFS and Police Scotland websites**

193. The COPFS website<sup>68</sup> contains insufficient information about citation. There is no information for witnesses about what to expect when they are cited, including how/when they will receive a citation. Aside from very brief descriptions of the citation as a form of letter and a warning that witnesses are required by law to attend court, there is very little assistance for witnesses on the citation process. Respondents to our survey were not specifically asked to comment on the COPFS website, however a desire for more information on the court process once a citation was received was a recurring theme.

“The whole process is poorly explained and it’s hard to get information about citation.”

**Public survey respondent**

194. The theme of insufficient information echoes what IPS learned in a recent inspection<sup>69</sup> that 13% of all contact received by the COPFS National Enquiry Point related to citation. It is likely that a more informative website could reduce some of this demand. Given the strategic commitment to digitalise and modernise the work of COPFS and to improve communication with customers it is disappointing that there is such lack of information on the citation process on the COPFS website. We are aware that similar observations were recently made in the COPFS Sexual Offences Review.<sup>70</sup>

<sup>68</sup> [COPFS website](#).

<sup>69</sup> [IPS Inspection 'Responding to enquiries: service delivery through National Enquiry Point' paragraph 138](#)

<sup>70</sup> [COPFS Sexual Offences Review Report published December 2025](#).

195. We also examined the information available on the Police Scotland website regarding the citation process. We found that there is currently no guidance available to inform the public about how citations are issued or served. While the website does include information for witnesses that signposts users to external agencies and resources, it lacks specific content explaining the citation process itself. This represents a missed opportunity to improve public understanding and transparency about a key aspect of the criminal justice system.

### **Recommendation 9**

**COPFS and Police Scotland** should provide information on the citation process on their websites.

#### **Training – COPFS**

196. One of the COPFS strategic aims is to build 'knowledge and skills, ensuring competence and striving for excellence'.<sup>71</sup> This is supported in its business plan, which sets out that staff should be 'skilled and resilient' and 'provided adequate training'.
197. We found that there is no specific training on citations, as it is integrated into many different aspects of the work of COPFS. We learned that training for administrative staff involved in the processing of citations in local offices is either peer-to-peer or on-the-job, with no formal course or structure to ensure consistency of practice. The inherent risk in any such training is that errors in practice are perpetuated.
198. This absence of specific training on citation of witnesses may go some way to explain the processing failures that were evident in our case review. A common theme through the case examples that follow is a lack of appreciation by staff of the whole citation process – particularly given that more than one unit or organisation is involved. A risk with increased specialisation is that staff working in one area do not appreciate how their role should fit with others. Citation is a complex process that cuts across the work of many different roles and teams in COPFS, from those issuing citations to those preparing courts. While the Handbook explains processes, it tends to do so in isolation and without consideration of the wider criminal justice system.
199. It is apparent that there is currently a gap in responsibility for training. While the local court transformation team is responsible for the creation of new processes, it is not responsible for ensuring that such processes are embedded by training or quality assessment. Given the high turnover of staff across local courts, it is disappointing that COPFS does not have central training for administrative staff on such an essential element of their role. We note that there was a COPFS strategic aim in 2024 for case management training to be delivered to new and existing staff to ensure consistency of practice; however, this commitment is absent from the current local court business plan.

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<sup>71</sup> [COPFS Strategic Plan 2023-27](#).

200. As part of our review of COPFS training resources, we considered materials on the COPFS Local Court Business Process Hub<sup>72</sup> (the Hub) where guidance videos, training sessions and recordings of seminars have been uploaded by the local court transformation team. There is a training video that covers the use of the three main case management systems and how they interact with other systems. The video contains some citation-related content as part of an introductory overview to systems. The video is an aid for staff rather than job-specific training. We note that, since this video was uploaded in June 2024, the number of views has been low. As with the Handbook, the Hub contains some training materials that have no content.

### **Recommendation 10**

**COPFS** should develop training on the citation of witnesses for administrative staff, to ensure consistency of practice. All relevant staff should undertake this training as soon as practicable.

### **Training – Police Scotland**

201. We considered Police Scotland training on the delivery of citations and the completion of SPRs. The current training on the citation process is insufficient in terms of content, timing and frequency. This particularly relates to SPRs, but also to service of citations, evidential requirements for trials, and court attendance to give evidence.
202. Citation related training is mainly provided when officers attend the Scottish Police College (SPC) prior to becoming operational probationers. This is in the form of a PowerPoint presentation. While this input is generally well put together, it is theoretical and there is no opportunity to carry out any practical application until officers reach an operational environment. Officers learn how to serve citations and other legal documents while on the job, under the supervision of their tutor. On-the-job or peer-to-peer/tutor learning is important to consolidate training, but it requires quality assurance. During our fieldwork, we heard that some newer officers do not know the process for serving citations, which can lead to errors such as handing over a citation without obtaining the execution of service, or not uploading updates to the LDD.
203. Officers are also provided with training on completion of SPRs while at the SPC and given basic scenarios to allow them to complete mock reports. Given their main training is on the job under their tutor constable many staff felt that face-to-face training would be more effective. Many officers did not think the training was sufficient and felt that the standard of reports had reduced. There was also little evidence to suggest that fully-trained operational officers were being supported with continuous or updated training on to how to write SPRs. We were told that the introduction of the new SPR will allow more focus on training in the completion of SPRs. Some officers did not realise that a potential consequence of insufficient information in the SPR could be more police officers being cited for court.

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<sup>72</sup> Published internally within COPFS 01/08/24 – a SharePoint platform with a centralised online location within Microsoft where information can be shared - in this instance, training materials.

204. In our fieldwork, SCM was welcomed by most of the police officers and staff, who recognised that frontloading the work prevented time and effort further in the process. Many told us they had already experienced a reduction in the number of times they were cited to court. While SCM cases do not require additional information to be submitted, the information is required at an earlier stage, particularly for domestic abuse cases. We were told this could be challenging and could lead to officers staying on after the end of their shift, to complete their cases, reducing their rest and recovery time between shifts.
205. Embedding SCM requires adequate training and support for police officers. We heard from some officers that SCM had been rolled out in their division without sufficient awareness, and without training, leading to lack of understanding about its purpose and requirements. In another division, we were informed that uptake of training on SCM had been poor, so it had been made mandatory for supervisors.
206. In addition to SCM other new innovations have been introduced in a relatively short period of time. These include the introduction of body-worn video<sup>73</sup> (BWV) and DESC, both of which are used when relevant to provide information for cases. These are intended to assist officers and while most officers recognised the longer-term benefits they did feel that there was too much change within a short timeframe.

### **Recommendation 11**

**Police Scotland** should ensure that training in all elements of the citation process is up-to-date, delivered and refreshed at appropriate times, and in the most suitable format.

#### **Initial contact with witnesses by Police Scotland**

207. A key aspect of witness engagement is openness with witnesses about the consequences of providing information and statements to the police – including the possibility of being cited to give evidence in court. We heard that:
- some witnesses felt there was a lack of explanation at the time of providing statements to police that they may be required to give evidence in court
  - on occasion, victims and witnesses were informed by the police that they would not be required as witnesses but were later called to give evidence.
208. Focus group interviews with police officers and advocacy workers highlighted mixed practices on this issue. Some officers reported that they consistently ensure witnesses are made aware of the potential consequences of providing a statement to the police, including the possibility of being required to attend court. Others believed this should be self-evident and did not consider it necessary to explicitly communicate this. Some felt that the priority was to gather information about a crime or incident from a witness and that telling witnesses they could be cited to court could impede willingness to give a statement. However, citation servers said that witnesses were often angry or frustrated if served a citation without having been advised by a police officer that this might happen. From the evidence obtained, it is our view that transparency is key.

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<sup>73</sup> Body-worn video (BWV) is digitally recorded evidence from overt cameras worn by police officers and police staff.

209. In England and Wales, we heard that it is the practice for officers to ask witnesses if they are willing to attend court and that they record this response on the witness statement; the witness is therefore aware of this possibility. This approach offers greater transparency.
210. At first point of contact with victims and witnesses, police officers are required to ask for contact details and other information. With digitalisation of the citation process in mind, it is important that police officers obtain mobile numbers and email addresses from witnesses where available.<sup>74</sup> There has been a significant improvement in officers obtaining mobile numbers from witnesses and including them in SPRs, however, this is not the case with email addresses of witnesses. Similarly, COPFS will need to ensure that Specialist Reporting Agencies (SRAs) who report cases for consideration by prosecutors also include witness email addresses and mobile numbers in their SPRs.
211. In order for the most suitable trial date for a witness to be correctly scheduled, it is vital that police officers obtain details of witness unavailability when taking their statements. This is not the current practice. This is further discussed at paragraph 258.
212. One method of making the citation process more trauma-informed for witnesses is to tailor the process to their preferred method of citation and for this information to be gathered at first contact by police officers. This is an area that may be considered in the future as digitalisation of the process develops.

### **Recommendation 12**

**Police Scotland** and **COPFS** should consider a method whereby witnesses who are giving statements to police officers are also advised that they may be required to give evidence in court.

### **Standard Prosecution Reports (SPRs)**

213. When Police Scotland investigates a potential crime under the law of Scotland and considers that there is sufficiency of evidence, they can report the accused person to COPFS by submitting an SPR.<sup>75</sup>
214. An SPR is an important document in the criminal justice process – it is used by a prosecutor to decide if there is a legal sufficiency to prosecute the accused. In the context of citations, SPRs need to contain adequate information to enable the marking depute to cite the necessary witnesses to prove the case.
215. Police Scotland officers are provided with guidance on how to complete police reports and statements.<sup>76</sup> This guidance has been formulated in conjunction with COPFS to ensure that it meets the needs of prosecutors. As referenced at paragraph 203, officers are given training on SPRs while at the SPC.

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<sup>74</sup> Given the terms of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) 2025, there may require to be consideration of police officers obtaining consent to receive electronic communication from a witness when they obtain an email address.

<sup>75</sup> In some cases, Police Scotland does not require to report cases to COPFS and can consider other disposals, for example issue a Police Warning or a Fixed Penalty.

<sup>76</sup> Police Scotland, Reports and Statements Writing Guide (May 2024).

216. Despite this, we found evidence of a lack of understanding by some officers about why the provision of certain information was required by COPFS, and of the urgency for doing so. Some officers also had a lack of knowledge regarding the potential requirement to give evidence in court, for example, when they had noted a statement or seized a production. During our case review, we saw repeated examples of inadequate information about seizure of productions within SPRs, which often led to additional citation of police witnesses or requests for further information. These indicate a lack of awareness of evidential requirements and processes by some officers.
217. We also found that human error can, at times, result in the inaccurate recording of witnesses' addresses in SPRs. In our case review, in a small number of cases, although officers had correctly recorded the witnesses' details (including addresses), this information was not accurately replicated in the SPR. While the Police Scotland IT system allows for the smooth transfer of information, it requires officers to carry out the correct procedures to do so and, in some cases, it seems that errors by officers in following the guidance led to errors further in the process, such as citations going to the wrong addresses.

### **Recommendation 13**

**Police Scotland** should ensure that the Standard Prosecution Report contains information regarding: witness availability and contact details (including email addresses and phone numbers); and details about which police officers seized productions.

218. Quality assurance of SPRs is vital. It has always been part of the Police Scotland quality assurance process that first-line supervisors (usually police sergeants) check SPRs before they are submitted to COPFS. This enables supervisors to review officers' performance by assessing the quality of the SPR and their work rate. There is also currently a second layer of quality assurance in the form of Case Managements Units (CMUs). CMUs are staffed by Police Scotland Criminal Justice Services Division (CJSD) and situated in each of the local policing divisions. CMU staff have extensive knowledge and experience of checking SPRs and ensure they meet the necessary quality and standards prior to being submitted to COPFS. The CMUs work closely with COPFS staff, with the aim of reducing common errors and ensuring evidential standards are met.
219. We understand that Police Scotland has now significantly reduced the number of officers working in the CMUs, resulting in a move towards direct submission of SPRs to COPFS by local policing divisions. At the time of writing direct reporting was live in 7 of the 13 local policing divisions. This leaves quality assurance to first-line supervisors only. Officers expressed concern about this change in process, which will place additional pressure on already-stretched first-line supervisors. We heard concern that this will lead to a reduction in the standard of SPRs although we were told that divisions are going to closely monitor the transition away from CMUs. We would encourage Police Scotland to actively manage any additional workloads on first-line supervisors to ensure they have sufficient capacity and support to carry out any extra functions.

220. In some courts and COPFS offices, there is a co-located police officer who acts as local liaison between COPFS and Police Scotland. Liaison officers often help overcome defects in the citation process such as highlighting unanswered police excusals and providing police availability for sheriff and jury trials. Throughout our inspection, we heard how liaison officers improved communication between COPFS and Police Scotland. One member of COPFS staff described a court-based liaison officer as 'pivotal' in the sheriff and jury process. Differing changes at local and national divisional level has led to disparity in liaison officer provision across the country. We understand that the liaison officer is subject to review and observe that should this be phased out it could negatively impact the citation process.
221. We found that police officers and staff were sometimes slow to reply to requests for information from COPFS, resulting in frustration from COPFS staff that information was not always forthcoming in a timely manner. This was also noted in our case review. COPFS case markers advised that such issues led to delays in progressing cases, whether on the day of a custody appearance or for considerable periods of time if an accused was not in custody.
222. We learned of inadequate governance of how requests are sent and received between COPFS and Police Scotland. These were sometimes sent directly to the police via email or by phone call, rather than through the National Case Management IT system. This recently introduced system is linked to other Police Scotland systems, and enables Police Scotland to better monitor workloads. It also enables the work to be overseen by supervisors. It is important that requests from COPFS to police officers go through this system, as direct emails or calls are not recorded or auditable, and supervisors are not aware of any such direct requests. Following the conclusion of our fieldwork we were advised that COPFS and Police Scotland have entered into a protocol<sup>77</sup> that may address some of these issues.
223. There should be a closer working relationship between COPFS and Police Scotland at an operational level to ensure better understanding of why information is required, and any potential barriers to obtaining that information. Staff from both organisations need to follow agreed protocols for requesting and responding. There should also be clear routes for escalation, should either organisation fail to get a response to queries or requests.
224. Police Scotland, in conjunction with COPFS, has created guidance<sup>78</sup> for staff to ensure that only appropriate witnesses are included in the witness section of the SPR. This guidance, which has been revised on a number of occasions, seeks to avoid unnecessary court attendance for officers and staff who do not have any key evidential role in the incident. However, we heard concerns expressed by COPFS staff that the interpretation of the guidance by some officers was too wide and that some police witnesses were inappropriately being recorded as a 'non-witness' and not included on the witness list in the SPR. We also heard that prosecutors had to ask the police for witnesses to be added to witness lists, which took additional time. Some police officers were also not aware of the guidance.

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<sup>77</sup> Case-Related Instructions Protocol

<sup>78</sup> 'Guidance for Reducing Unnecessary Police Witnesses in Standard Prosecution Reports'.

### Areas for development

- Police Scotland should review and actively manage the workloads of first-line supervisors in relation to additional functions created by the removal of case management units, to ensure they have sufficient capacity and support.
- Police Scotland and COPFS should regularly review their joint 'Guidance for Reducing Unnecessary Police Witnesses in Standard Prosecution Reports', and ensure that staff are kept up-to-date.

### Choosing witnesses to be cited

225. Some respondents to our police survey and participants in focus groups believed that COPFS staff simply instructed that all witnesses be cited. It is important to dispel that myth.
226. In deciding which witnesses are needed to give evidence, there is a tension between citing witnesses to create a legal sufficiency of evidence and citing witnesses to prove a case beyond reasonable doubt. We found that in summary cases marked<sup>79</sup> by staff in the NICP unit of COPFS there tended to be considered and balanced choices over which witnesses required to be cited. In our review of cases, we found some limited evidence of overciting police witnesses. It is important to acknowledge that the choice of witnesses to be cited is subjective. In our review of 20 cases submitted by Police Scotland, there were 149 people described as witnesses and 79% of them were cited. Of the police officers listed as witnesses, COPFS instructed only 68% to be cited.
227. Decisions on which witnesses to cite by COPFS in summary cases tend to be informed by a combination of the information provided by the police in SPRs, witness statements, and where available digital evidence<sup>80</sup> and BWV evidence.
228. When cases are submitted to COPFS by Police Scotland or an SRA they are marked by COPFS deputs either for prosecution, no proceedings or alternatives to prosecution.<sup>81</sup> Cases can be submitted with an accused in custody, and those cases require to be marked on the same day. Cases in which the accused is not in custody are known as 'report' cases and COPFS has a target to take a decision on these cases within 28 days of receipt. Cases can also be submitted when an accused is released on an 'undertaking'<sup>82</sup> by Police Scotland.
229. Summary cases, except for some undertakings, are marked for court and have citation decisions made by legal staff in the NICP team. Decisions to initiate sheriff and jury proceedings are usually made by legal staff within local sheriff and jury units.

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<sup>79</sup> When initial prosecutorial decisions are made on action to be taken in a case.

<sup>80</sup> Digital evidence can include but is not limited to CCTV, mobile phone data, doorbell footage, etc.

<sup>81</sup> Instead of prosecuting an accused in court, the prosecutor may decide that it is more appropriate and in the public interest that an alternative to prosecution is offered.

<sup>82</sup> the document signed by someone who has been arrested and released on police bail after promising to come to court at a later date and agreeing to certain conditions, such as not committing any other crimes.

230. Police Scotland can release an arrested person on police bail to attend court at a later date, provided the accused person signs an undertaking to attend. Undertaking reports, when received by COPFS, are often marked for proceedings by local court deutes, whose experience as prosecutors can vary significantly. Given the differing experience profile of local court deutes, it is important that COPFS assures itself on the quality of case marking and related citation decisions.
231. We found an absence of effective quality assurance despite functionality in case marking systems that allow for this. Other than for trainee deutes,<sup>83</sup> routine dip sampling or other mechanisms that consider the quality of case marking and citation decisions within NICP, were notably absent. We heard that some managerial staff used the complaint signing process as a form of quality assurance but in terms of citation choices there was no effective review.
232. This issue of inadequate internal quality assessment of citation decisions was, we found, compounded by inadequate feedback mechanisms between those who prosecute in court (local court) and those predominantly taking citation decisions (NICP). It is possible for local court deutes to provide feedback to the individual who made a marking or citation decision (or through their line managers), but this is rarely done, showing a notable absence of a culture of service improvement. We were advised that time pressure in preparing future work was often a barrier to providing feedback or learning.
233. We were also told that lack of time is an impediment to NICP staff providing feedback to Police Scotland about the quality of SPRs, despite them having concerns over a perceived decline in quality of SPRs and the time taken to respond to specific case-related queries. COPFS should ensure that there are adequate mechanisms for identifying areas of weakness in SPRs and feed this back to Police Scotland so that these issues can be addressed.
234. We learned that, with the advent of SCM, the time taken to mark domestic abuse cases for court proceedings has increased substantially, as case markers are now required to consider both SPRs and other key evidence, such as witness statements and video evidence, at the marking stage. Some NICP staff expressed concern that this was leading to backlogs in the marking of report cases, but the overwhelming perception was that frontloading consideration of such key evidence led to better marking and citation decisions. This is encouraging, given the findings in the IPS inspection on the prosecution of domestic abuse case at sheriff summary level,<sup>84</sup> where it was noted that the submission of key evidence (which was still being piloted at the marking stage), had led to better decisions.

#### **Recommendation 14**

**COPFS** should introduce and maintain effective and formal quality assessment for the citation process and citation decisions, ensuring that any failures identified are reported to those with managerial oversight.

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<sup>83</sup> A trainee solicitor. Within COPFS, trainees receive training on the skills required to be a procurator fiscal depute.

<sup>84</sup> [HM Inspectorate of Prosecution in Scotland report on 'The prosecution of domestic abuse cases at sheriff summary level' paragraph 129.](#)

235. In sheriff and jury cases, the decision on which witnesses are to be cited is taken by local court deposes after a trial date has been set at a procedural hearing called a first diet. We observed that sheriff and jury prosecutors tended to provide clear instruction on which witnesses required to be cited to attend the trial. There was, however, an understandable caution in comparison with summary cases, potentially due to the gravity of the charges, which led to additional witnesses being cited who, ultimately, may not have been required.

### **Agreement of evidence**

236. As a matter of law, it is the duty of the prosecutor and an accused's defence solicitor to identify evidence and take all reasonable steps to secure the agreement of such evidence. That evidence should be recorded in a joint minute of agreement and the witnesses who would have given that evidence at court are no longer required. This can also be achieved by Crown or defence serving on the other a statement of uncontroversial evidence (SOUE) which, if unchallenged, has the same effect. Despite this duty being incumbent on both prosecution and defence, the burden disproportionately falls upon prosecutors including the requirement to draft the joint minute of agreement. Agreement of evidence is an essential element in reducing the number of witnesses cited when a case is scheduled for trial.

237. We found that in both summary and solemn cases evidence was often agreed late in the process and, regrettably for witnesses, sometimes on the day of the trial. Our case review showed multiple examples of cases in which witness evidence should have been agreed or having been agreed in principle not being entered into a joint minute. We also noted inconsistency where agreement of evidence was recorded in COPFS systems and when it was agreed: we observed records of evidence being agreed in principle in undated pre-intermediate diet minutes, court minutes sheets<sup>85</sup> and case minute sheet notes.<sup>86</sup>

### **Case study**

In one sheriff and jury case we reviewed, forensic evidence that the defence had indicated could be agreed was recorded in a COPFS court minute. Despite this, several forensic scientists were cited repeatedly (the trial was adjourned numerous times). On one occasion, the trial was adjourned specifically because a scientist was unavailable. Had the initial indication of agreement of this evidence been identifiable, these witnesses would not have been cited at all and at least one adjournment would not have been needed.

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<sup>85</sup> A COPFS court minute is the record taken by the procurator fiscal depute of proceedings in court on any given date.

<sup>86</sup> A case minute sheet note is a digital note that can be inserted into the case management system by COPFS staff in summary cases.

238. Judicial practice notes governing both SCM<sup>87</sup> and sheriff and jury<sup>88</sup> emphasise the importance of agreement of evidence before a trial is fixed. We heard that this process is often frustrated, due to matters beyond the control of COPFS. For the process to be effective, judicial management of agreement of evidence is required. However, we learned through interview and as part of our case review that some trials are fixed before evidence is fully agreed. Consequently, witnesses who are not needed are often cited to court. We heard of a culture in which defence solicitors will indicate a general willingness to agree evidence or indicate to the court that consideration will be given to evidence being agreed but then fail to revert to COPFS. It is not the role of this inspection to consider the role of the judiciary or defence, but COPFS does not operate in a vacuum. The prevention of unnecessary citation of police officers, doctors, experts and members of the public will only be possible if the judiciary, COPFS and defence work together to ensure that the principles of the practice notes are given effect and trials are not assigned until evidence is agreed.
239. Under SCM, evidence that is capable of agreement should be agreed prior to the trial being assigned at a case management hearing. Our review of SCM cases found no reduction in witnesses being cited after case management hearings, even when evidence should have been agreed. We noted marking deputies routinely identifying areas of evidence that could be agreed (for example, interviews, injuries and photographs). Unfortunately, no link was made between this evidence and specific witnesses who would no longer be required if the evidence were agreed. We heard concerns that the extra work in linking specific witnesses to agreeable evidence at the case marking stage would be onerous for already-stretched NICP staff. However, not doing so at the marking stage increases the possibility of more witnesses being cited and leads to double handling of work, as another prosecutor has to assess which witness evidence is capable of agreement at a later stage.
240. We learned of functionality in COPFS case marking systems that allows case markers to flag witness evidence as capable of agreement, but also heard differing views on when this should be used and what the consequence of this use is. Practice varied, with some case markers not using it at all. Our case review also showed examples of such varied practice, and COPFS should provide staff with guidance on how this should be used.
241. In sheriff and jury cases, as with summary, we heard concerns from some prosecutors of a lack of judicial support in securing agreement of evidence at first diets. We also noted in the small sample of sheriff and jury cases reviewed an absence of a SOUE served along with the indictment. SOUEs are useful in indicating to the defence at an early stage what evidence the Crown is seeking to agree, helping to focus on agreement of evidence at a first diet. The use of SOUEs should be the norm in sheriff and jury cases, although we also understand that SOUEs are routinely challenged by the defence, sometimes without any explanation, which can cause delays in evidence being agreed.

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<sup>87</sup> [Criminal Courts, Practice Note No 1 of 2025, Summary Case Management.](#)

<sup>88</sup> [Sheriff Court Solemn Procedure, Criminal Court Practice Note No 1 of 2024.](#)

242. The current sheriff and jury practice note requires the Crown to produce and lodge a draft joint minute of evidence prior to the first diet, with a view to judicial scrutiny and the minute being signed at the first diet. This reflects the reality that if the Crown does not actively seek to agree evidence, it tends not to happen. To prevent unnecessary citation of witnesses, it is important that sheriff and jury prosecutors conducting first diets adhere to this paragraph of the practice note and, of equal importance, that the defence actively engages in agreeing evidence.

### **Recommendation 15**

**COPFS** should:

**(a)** issue guidance on where discussions between the Crown and defence, and final decisions about agreement of evidence, should be recorded in the case management system to provide a consistent and identifiable record;

**(b)** issue guidance for case markers and local court staff on appropriate use and consequence of the 'agree evidence' facility in the case management system; and

**(c)** implement instructions and measures for prosecutors to link evidence capable of agreement, and specific witnesses, at the marking stage.

### **Court scheduling – sheriff and jury**

243. The legal framework and processes for sheriff and jury cases were significantly reformed by the Criminal Justice (Scotland) Act 2016, which came into effect in 2017 (the 2017 reforms).

244. One aim of the 2017 reforms was to reduce the number of witnesses unnecessarily cited and countermanded. Prior to 2017, each case was indicted to a trial sitting, of usually a fortnight, with a first diet normally a fortnight ahead of each sitting. Witnesses were cited after the indictment was issued and before the first diet. A negative of this system for witnesses was that because a significant number of accused pled guilty, or evidence was agreed at the first diet many witnesses were cited unnecessarily. Those witnesses who still had to attend the trial would often not know when they would be required over the course of the fortnight sitting.

245. Since 2017, the accused is indicted to a first diet only and it is at a first diet that a trial is assigned by the court. The benefit of this is that citations are only issued after the accused has confirmed a plea of not guilty and agreement of evidence is considered. Instead of trials being allocated to fortnight 'sittings', it was intended that each trial be allocated to a specific date with a four-day 'floating' period in which the case must call in court rather than being one of a large number of trials to call at any time within a fortnight.

246. We learned that, in at least one area of Scotland, fortnight long sheriff and jury sittings have returned, something that COPFS staff reported as having caused some distress to witnesses (including police witnesses). We also noted that, in some areas, the focus on allocating trials to specific days had been changed (from the initial 2017 intention) and that cases were always being allocated to the Monday of each week, rather than giving consideration to how long the trial would likely last and then assigning to a specific day. In one office reviewed, we learned that trials tended to be cited to either a Monday or a Wednesday which was closer to the 2017 reform model. The downside for witnesses in courts that only cite to Mondays, or fortnight 'sittings', is increased time in a state of limbo.

247. In sheriff and jury cases, we noted significant variations in the time between first diet and trial across the four areas reviewed (varying from a few weeks to many months). While having a trial as soon as possible is clearly desirable, there needs to be sufficient time to cite witnesses and to allow them to make arrangements to attend. This is acknowledged in a 2023 memorandum of understanding between SCTS and COPFS on the allocation of sheriff and jury business, which states that there 'should generally be a period of at least 4 weeks between First Diet and Trial Diet where possible'. Trials assigned with less than eight weeks to cite witnesses, inevitably mean:

- personal citation (with resource implications for Police Scotland)
- witnesses (who might otherwise have responded to a letter or email) having police officers attend at their homes
- limited time for witnesses to plan attendance.

COPFS should liaise with SCTS to ensure that trials being assigned less than four weeks from the first diet are kept to a minimum. We found no such formal agreement for summary cases and observe that the same issues apply and should be monitored by COPFS and SCTS.

### **Witness availability**

248. In our public survey, 78% of respondents stated that they were not asked about their availability to attend trial. Fixing a date for trial that will please every witness is not always possible. To avoid excusal requests, countermands, churn and re-citation of witnesses there should be adequate mechanisms in place to avoid fixing a trial when it is obvious that it cannot proceed on the assigned date. The current processes for collecting witness availability differ in summary, and sheriff and jury procedure.

### **Sheriff and jury**

249. Witness availability is complicated in solemn procedure. Many witnesses, including police officers, are not aware that they may be required to attend court on more than one day and to be available for several days not just the date that appears on their citation.
250. The 2017 reforms require that Crown and defence advise the court that they are ready for trial so that it can be assigned in the expectation that no further court input will be necessary, unless circumstances change. This is summarised in the sheriff and jury practice note, which states that the first diet is intended to be the endpoint of preparation, rather than the starting point. It is therefore crucial that the court has as much information as possible before assigning the trial.

251. In consequence of the 2017 reforms, COPFS created a system for checking witness availability ahead of the first diet. The initial version of this system involved:

- letters to all witnesses who may be cited, asking for their periods of unavailability
- text reminders asking the witness to return the availability form
- attempts to call those who did not reply
- assessment of whether they were likely to be cited
- Police Scotland officers tasked with checking with essential witnesses who did not respond.

This system was managed by the COPFS witness engagement team (WET), which has since been subsumed by the witness management team (WMT).

252. We found that the sheriff and jury witness engagement process has become ineffective, with many COPFS offices not using the system at all and some sheriff and jury deposes entirely unaware of the process. This is aggravated by an absence of guidance on COPFS systems on the witness engagement process. In the IPS previous inspection of sheriff solemn cases in 2019,<sup>89</sup> we found prosecutors to be generally unaware of the role and work of WET and this does not appear to have changed.

253. We learned that, due to resource issues, some telephone calls from WET staff to witnesses, to check on availability, do not take place until a few days before the first diet. As a result, this information does not reach the court prior to the first diet.

254. A consequence of the failure of the WET process was shown in our case review, where we found written records<sup>90</sup> submitted prior to the first diet without necessary details about witness unavailability. In some COPFS offices, staff had taken on this time-consuming role and were telephoning witnesses to check availability. The cases we reviewed predated the most recent sheriff and jury practice note. This practice note is clear that the written record should be completed 'fully, unambiguously and in detail'.

### **Recommendation 16**

**COPFS** should ensure all prosecutors engaged in the conduct of sheriff and jury business are aware of the content of the Sheriff Court Solemn Procedure Criminal Courts Practice No 1 of 2024 and are adequately trained on the contents to ensure compliance. Existing sheriff and jury prosecutors should undertake this training within six months of the publication of this inspection report, and prosecutors transferring to sheriff and jury teams should undertake relevant training within a month of their transfer.

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<sup>89</sup> [HM Inspectorate of Prosecution in Scotland 'Thematic review of the investigation and prosecution of sheriff solemn cases' February 2019](#), paragraph 105.

<sup>90</sup> A written record requires to be submitted by Crown and defence to the court in each sheriff and jury case prior to the first diet, outlining the state of preparation and covering many issues such as witness unavailability, evidence capable of agreement etc., that will inform the court of the state of preparation.

255. In some COPFS offices, information on police witness unavailability was provided by an embedded police liaison officer before each first diet. The police witness scheduler application, which is currently being piloted in some offices, could reduce the need for this work. For further discussion of the police witness scheduler application see paragraph 262.
256. As part of a drive to offer digital solutions to witnesses, COPFS completed national rollout of an online Witness Gateway in November 2024. This allows witnesses to update their contact details, receive notifications about cases and, for some, view their statements and provide availability for trial. While such innovation is to be welcomed, there remain issues over access and uptake of the Witness Gateway (for further discussion of the Witness Gateway see paragraph 518).
257. Presently, COPFS offers a service for sheriff and jury witnesses through WET, where witnesses can fill in and post a reply form or telephone COPFS, and a parallel digital gateway service. We have found that there are significant issues with both. Of equal importance is that many local offices are not using the information ingathered through either mechanism, and trials are assigned to dates when witnesses have advised COPFS they cannot attend.

### **Recommendation 17**

**COPFS** should:

- (a) ensure that the processes legislated for in the 2017 sheriff and jury reforms are given effect;
- (b) publish guidance for staff on the witness engagement process;
- (c) ensure that there are sufficient resources within the witness engagement team to give effect to this process;
- (d) monitor that staff in **COPFS** local offices are following the witness engagement process; and
- (e) monitor that written records are being completed with witness unavailability.

### **Summary**

258. COPFS does not have a system for capturing civilian or professional witness unavailability in summary cases. We learned that Police Scotland does not routinely ask about periods of unavailability when a statement is taken. While SPRs contain a section on witness unavailability, this is mostly used to report periods of police witness unavailability. In our review of cases, we also found inconsistent use of the police unavailability section of the SPR. In some, the periods of leave for multiple officers were so extensive that identifying a date for trial that did not clash would be impossible. In others, there was information on availability for some officers, but not all. By the time of trial, leave dates were often out-of-date, particularly if trials were adjourned. In our case review, we also found examples of cases being assigned to a trial when witnesses were not available. Due to unclear or incomplete COPFS court minutes, it is unknown if suitable dates could not be found, or no consideration was given to scheduling.
259. The reply forms sent to civilian and professional witnesses with their postal citation (further explained at paragraph 274) contain a section asking them to identify any dates within the next six months when they are unavailable. COPFS does not have an adequate system to record this information and bring it to the attention of prosecutors. The consequence of this is that adjourned trials can be assigned for dates on which a witness has advised that they are unable to attend.

260. The current SCM practice note states that the Crown and defence are expected to address the court on dates to avoid for trial. The SCM model mirrors sheriff and jury practice by front loading, with no further court hearings between the first calling and the trial. However, our inspection found significant weakness in the ability of COPFS to manage issues arising between these dates. This is more fully explored in paragraph 352 and highlights the need for COPFS to have robust systems to manage cases between court diets, and identify when witnesses are unable to attend trial.
261. In addition to police periods of unavailability contained in the SPR, it is often the case that when excusal requests are submitted by police officers they also take the opportunity to update their periods of unavailability. Unfortunately, there is currently no system within COPFS for capturing this updated information and adjourned trials will usually be assigned with no regard to this information.
262. To reduce the number of police officers cited to court while on periods of leave, rest days, nightshift and back shift, Police Scotland developed a colour coded scheduling system over ten years ago. This was a paper-based system. The purpose was to allow sheriff court clerks to view the colour coded dates when assigning trials, to reduce the impact on Police Scotland. This paper-based system was not successful, and Police Scotland and COPFS have now developed a digital application that is being piloted in Aberdeen, Dundee and Ayrshire. This digital version, which has the advantage of being more up-to-date than the paper-based version, was designed to be used live in court and to draw information from police systems. However, while there was a memorandum of understanding for the paper-based scheduler, there is not yet one in place for the electronic version.
263. We learned that, despite the police witness scheduler application being a live digital application, it is not being used in the pilot areas to display the information to sheriff court clerks at the point of trial assignation. Given the volume of cases in a summary court, we heard concerns over the ability of SCTS sheriff court clerks to consider this information. Recognising this, and to try and realise some of the benefits of the application, COPFS staff in pilot areas are currently importing screenshots from the application and trying to identify suitable trial dates. This is an expensive and labour-intensive process and prevents the information presented to the court as being live.
264. Despite significant effort by Police Scotland to provide accurate witness unavailability dates, there is a widespread perception amongst police officers that scheduling trials on suitable dates is a low priority. As a result, disruption to officers' personal and professional lives is frequent and could be avoided if there were more effective processes in place to take account of witness availability. This is discussed further at paragraph 75.

## Case study

We came across an example of the difficulties experienced where police witnesses do not adopt a consistent approach to providing their availability. In an SPR submitted in March 2024, one of the officers listed ten separate periods of unavailability spanning the following 12 months. These periods ranged from single days to a few days at a time, but none exceeded five days. Typically, when officers take leave, it is expected to be for longer durations within an allocated annual leave period. When these short absences are combined with the officer's annual leave, the overall number of unavailable dates increases significantly, limiting their availability for court. In the same case, another officer listed eight periods of unavailability extending through to the end of March 2025, just four months beyond the trial date. We examined the availability of the remaining police witnesses in the case. There was a notable variation, with some officers providing clear blocks of annual leave (typically weeks), while others, like the examples above, indicated unavailability for isolated single days. In total, we identified 13 police officers associated with this case who collectively submitted 49 periods of unavailability to attend court.

265. In the police survey, 80% of respondents whose role it was to complete SPRs said that they included their non-availability dates every time they completed an SPR. However, 83% of those whose role included completing SPRs felt that these dates were never or rarely taken into consideration when trials were set.
266. During our inspection, we heard a view that the police witness scheduler application places police witnesses at an advantage over other witnesses (including victims of crime) in trial scheduling. An integrated digital system that takes account of all witness availability ingathered by Police Scotland and COPFS, that feeds into an automated SCTS trial scheduling system, appears overdue. As part of our inspection, we met with criminal justice partners in Northern Ireland and they have successfully managed to implement such a process (as described in paragraph 559). Such a system will have cost implications that will need to be considered by the Scottish Government in allocation of budgets to the relevant criminal justice bodies, but any initial outlays required to implement such a system will be offset by a more efficient citation system.
267. Until such a system is developed it is vital that information about periods of unavailability for all witnesses are captured and used by those scheduling sheriff court trials. Additional information on the availability of witnesses will require a more considered approach to trial scheduling by SCTS. It is a requirement of judicial practice notes governing summary and solemn procedure for witness availability to be provided to the court. More considered court scheduling would provide benefits to wider society, since journey times of cases would be reduced for accused and witnesses if suitable attendance dates were identified from the outset. This would result in fewer witnesses seeking excusals, greater availability of police resources and more effective use of court time.

## Recommendation 18

To improve court scheduling:

**(a)** the **Scottish Government, COPFS, Police Scotland** and **SCTS** should develop an integrated digital trial scheduling solution that takes account of all witness availability;

**(b)** until such a digital solution in **(a)** is realised, **COPFS** and **Police Scotland** should  
(i) work with **SCTS** to realise the benefits of the current police witness scheduler application and

(ii) ensure that information is continuously gathered on all witness availability and is provided to **SCTS** in a manner that allows effective trial scheduling at both first trial assignation and adjourned trials.

## Citing reluctant sheriff and jury witnesses

268. Reluctant witnesses can cause difficulties for the successful commencement of a trial if they do not attend court, which will have a knock-on effect on those witnesses who do attend. For a witness who is considered unlikely to attend a sheriff and jury trial without being compelled, it is open to COPFS to cite them to attend a first diet court to check compliance.<sup>91</sup> We heard that this practice was not common, with such witnesses, and witnesses who had not engaged with the citation process, instead being cited to the first day of a sitting or floating period for a 'witness check'. On the first day of a jury sitting witnesses rarely give evidence. COPFS staff told us that dealing with witnesses cited for the purposes of such a check was stressful, and that they were routinely faced with witnesses who were upset, having been told they had to attend court, only to be sent away.

269. If a witness is cited to a first diet but does not attend, a warrant can be obtained for their apprehension. This affords time to invite the witness to attend at court again, or to be arrested ahead of the trial if necessary. However, seeking a warrant on the first day of the sitting for a non-attending witness, as currently happens, is often too late to ensure that the witness is traced and the trial can begin. Once the witness is before the court they will usually be admitted to bail or ordained (ordered by the court) to attend at the trial, or remanded in custody, with the question of potential punishment continued until the trial has concluded.

270. To seek a warrant for a witness who does not attend a first diet when cited, COPFS requires an execution of service from Police Scotland for that witness, i.e. proof that the witness knew that they required to attend court. It is often the case that an execution of service will not be available on the day of the first diet. To make this process effective, COPFS and Police Scotland should work together to implement systems that ensure that, when witnesses are cited to a first diet, the execution of service is returned as a priority and is available.

## Recommendation 19

**COPFS** should:

**(a)** ensure that staff engaged in sheriff and jury case preparation identify reluctant witnesses, attempt to engage them in the justice process and then, if necessary, cite such witnesses to first diets where appropriate; and

**(b)** work with Police Scotland to ensure that effective processes are in place for the issue and return of executions of service for witnesses cited to attend first diets.

<sup>91</sup> This is also possible in summary cases but is seldom used.

## Transfer of sheriff and jury trials between courts

271. Sheriffs have the power to transfer trials between courts within a sheriffdom to ensure efficient use of court time. We heard that transfer of jury trials is problematic. While there is benefit to witnesses in having a trial dealt with, rather than adjourned, it is evident that processes for COPFS and SCTS staff need to be improved, not least to take account of the impact on witnesses.
272. By and large, witnesses in criminal prosecutions tend to be local to the sheriff court to which they are cited. To expect witnesses to travel significant additional distances at short notice could have adverse impacts upon them. There appears to be no mechanism to check with witnesses about such impacts, nor consideration of whether this will affect the quality of evidence. Neither is there consideration of the potential impact on the accused. The sheriff and jury practice note is silent on these issues, but it is clear that last-minute movement of cases from one court to another has the potential be contrary to trauma-informed principles.
273. We heard that there were significant practical difficulties in managing the transfer of cases between COPFS offices and courts, with blurred lines of responsibility and an absence of internal COPFS guidance. We also found there to be insufficient practical guidance on how to transfer cases and how any witness-related issues should be addressed by COPFS and SCTS.

### Recommendation 20

**COPFS** should:

- (a) work with **SCTS** to agree an effective national process on the transfer of sheriff and jury cases; and
- (b) produce guidance for staff on the transfer of sheriff and jury cases between sheriff courts.

## Citation content

274. The formal citation document that COPFS sends as part of the citation pack includes:
- a covering letter
  - a reply form that must be returned to the procurator fiscal, along with a prepaid envelope (for postal citations only)
  - an expenses claim form
  - an information sheet about the options for travelling to the court, and services available at the court
  - information on what to do if the witness needs the citation to be translated into a different language.

275. For postal citations, the covering letter contains further information for witnesses including:

- the date, time and court the witness should attend
- instruction on returning the reply form
- a warning that, if they fail to return the form, the police will attend to serve a citation
- advice that a defence solicitor may be in touch
- advice on contacting COPFS if they have particular special, cultural or religious needs
- details of the COPFS web address to access more information.

The letter includes a sentiment that witnesses' attendance is much appreciated and contributes to the effective administration of justice.

276. Providing details of the COPFS website in the letter is a move away from providing paper information leaflets. COPFS staff felt this was unhelpful, as witnesses no longer had instant access and would be less likely to access the information.

277. The content of citations and the forms that witnesses must return to COPFS in summary, and sheriff and jury cases, are set by legislation.<sup>92</sup> The form for electronic citation is only available in summary proceedings.

278. The citation contains a warning – written in bold and upper case:

**“IF YOU DO NOT ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ORDER THAT YOU ARE APPREHENDED AND PUNISHED”**

This means that, for many victims and witnesses, their first contact from COPFS about attending court contains a threat of arrest. While witnesses must be given fair notice that a warrant may be granted for their arrest (should they fail to attend court after they have been cited), this is not a trauma-informed approach.

279. We considered the approach by other jurisdictions within the UK. Notice letters tend to be sent advising of the trial date, and that attendance is required, with the more formal legal documentation kept for those who are unwilling to attend. We discuss and commend this approach later in the report at paragraph 575.

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<sup>92</sup> Act of Adjournal (Criminal Procedure Rules) 1996 SI 1996/513 Schedule 2 Criminal Procedure Rules 1996 Rules 8.23 & 16.6. Forms 8.2-D, 8.2-E, 8.2-F, 16.6-A, 16.6-B, 16.-C, 16.6-D.

280. There has been a recognition of a more trauma-informed approach for citation documentation with justice partners.<sup>93</sup> Working together, postal and personal citations in solemn proceedings were revised to contain more accessible language and more information to support and assist witnesses.<sup>94</sup> During our inspection, we found that COPFS was not using these new forms, but was using the former style – although this appears to have been an oversight. As local offices issue on-demand citations direct to the police for personal service, it would be prudent for COPFS to undertake an audit, to check that all staff are using the correct form of citation style.
281. It was unclear during our inspection why only the solemn proceedings forms were amended to have more accessible language for witnesses and why this was not extended to the form of citations used in summary proceedings. These would benefit from similar revision.
282. The citation was considered easy to understand by 86% of civilian witnesses and 98% of professional witnesses who responded to our public survey. Issues highlighted were:
- Lack of information – witnesses would like a summary of the offence<sup>95</sup> or details of the charge included. We learned that 12% of victims and witnesses and 16% of professionals were not sure what incident the citation related to. Many were unaware that they might need to wait for several hours at court or might not be required to give evidence if the case were adjourned or the accused pled guilty
  - More user friendly – witnesses felt the citation should be easy to read and jargon-free
  - Additional information on the process – many would like practical guidance on the process of attending court, requesting an excusal, and a note of frequently asked questions
  - Additional information for professional witnesses – doctors would like to be informed of the patient's name as the accused's name will, in most cases, mean nothing to them. This would enable them to recall the case and prepare for court. There is the facility in COPFS systems (for non-automated citations) for a reference number or a note to be put in the citation with information that may assist professional witnesses, but this has to be in accordance with data protection legislation. In other jurisdictions, this information is provided to professionals – see paragraph 563 below.

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<sup>93</sup> “The forms were created following detailed consideration by the Criminal Courts Rules Council with input from the judiciary, Victim Support Scotland, Scottish Courts and Tribunal Service, the Crown Office and Procurator Service, the defence bar and the Scottish Government.” ([extract from a news item on the SCTS website dated 1st November 2023](#)).

<sup>94</sup> [Act of Adjournal \(Criminal Procedure Rules 1996 Amendment\) \(Witness Citations in Solemn Proceedings\) 2023](#).

<sup>95</sup> Although it is not possible to provide a summary of the evidence to witnesses for legal reasons.

## Recommendation 21

**COPFS** should:

- (a) use the correct form of witness citation in solemn proceedings – as prescribed in Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Witness Citations in Solemn Proceedings) 2023/276;
- (b) audit and ensure that local procurator fiscal offices who may issue ‘on-demand’ citations are using the correct form of witness citations; and
- (c) work with the Scottish Government and justice partners to ensure that all witness citations are considered and revised where necessary to ensure that they are trauma-informed and use accessible language.

### Sheriff and jury witness citation

283. The citation sent to sheriff and jury witnesses requires them to attend on a certain day and ‘at any postponed dates’. The covering letter informs witnesses the case is likely to last more than one day and is one of a number of trials to call. It advises that the witness may be required to attend court on the days following this date to give or complete their evidence. We found from our interviews with witnesses, including police officers, that despite the wording many witnesses do not understand that they are cited for more than one day and that they may have to make themselves available to attend for a period of between 7-14 days.
284. Most sheriff and jury witnesses are cited to the first day of a sitting. This is the one day of the sitting that witnesses may not be required to give evidence, as it is the day the jury is balloted.

“Witnesses do not understand the period they could be cited for... they often ask, ‘Is it going ahead this time?’”

“You really feel for the witnesses, they think they are helping the police, but they get really messed about.”

**Police survey respondents**

285. To ensure efficient use of court time, it is common practice for witnesses in at least two sheriff and jury trials to attend court on any given day. The prosecutor will intend to start one trial, and the others will be back-up trials should the priority trial not commence. To ensure witness attendance COPFS administrative staff have to telephone all the witnesses. They told us that this is not a task they enjoy, as they have to inform witnesses that they are required to attend court to give their evidence, in the knowledge that there is a high chance they will be sent away to attend at a later date. Witnesses, in the mistaken belief that they are only required for the date on their citation, may have made practical arrangements for just one day in respect of their work commitments, travel, childcare, etc. This process often leads to witnesses being unhappy and unsettled, given the lack of certainty.
286. While the form of citation is prescribed by legislation, the accompanying letter sent by COPFS to witnesses is not, so there is opportunity for COPFS to provide clarity on what to expect. Ideally, this should be reflected in the citation, for consistency. It would also be of value for this key information to be put on the COPFS website.

## Recommendation 22

**COPFS** should ensure that correspondence included with the witness citation in sheriff and jury cases states how many days the witness may need to be available to attend court.

### Summary witness citation

287. As summary citations to witnesses are issued via an automated process called 'autociting' (explained at paragraph 296) and the majority of citations are printed centrally within the National Print Unit (NPU), there is limited scope to tailor them to particular witness needs. COPFS should be alerted by Police Scotland if a witness's main language is not English and if they require an interpreter for a trial. COPFS has a process to ensure that such witnesses have an interpreter available when they give evidence at the trial. There is, however, no process or guidance to COPFS staff to proactively issue citations in a language other than English, even when informed of the need for one. Instead, the onus lies with the witness to contact COPFS if they require the citation translated into another language. As mentioned above at paragraph 274, there are instructions on this in the citation package for a witness.
288. We found that COPFS is unable to obtain data from its systems regarding the number of witnesses who have requested the translation of a citation. We understand that it would be possible for a witness to be moved from autocite to manual citation in order that a translated citation could be obtained in advance of one being issued, but in staff interviews we were not informed who would do this. COPFS systems should be automated to issue translated citations when required. This would shift the onus from the witness and move towards a more inclusive approach by COPFS, rather than sending out information that the witness is unlikely to understand.

## Recommendation 23

**COPFS** should review how citations are issued to witnesses who do not use English as a first language when they have been notified of this by Police Scotland.

289. When a child witness citation is printed by the NPU, it is addressed to the child – not their parent or guardian. When these citation envelopes are passed to Police Scotland to be personally served, the officers are usually unaware that it is a citation for a child. Even when officers open the envelope to extract the execution of service to complete, it will still not be immediately clear that the citation is for a child. The covering letter is addressed to the parent or guardian, but this is alongside a number of other documents within the envelope. If police officers are unaware that they are serving a citation on a child, they are unable to comply with the Lord Advocate's guidelines to Chief Constables on the citation of witnesses, which states:

"Where the witness is a child, aged under 18 years, consideration should be given to the impact of the attendance of uniformed officers, and the delivery of a citation, in causing unnecessary trauma or distress to the child."

## Recommendation 24

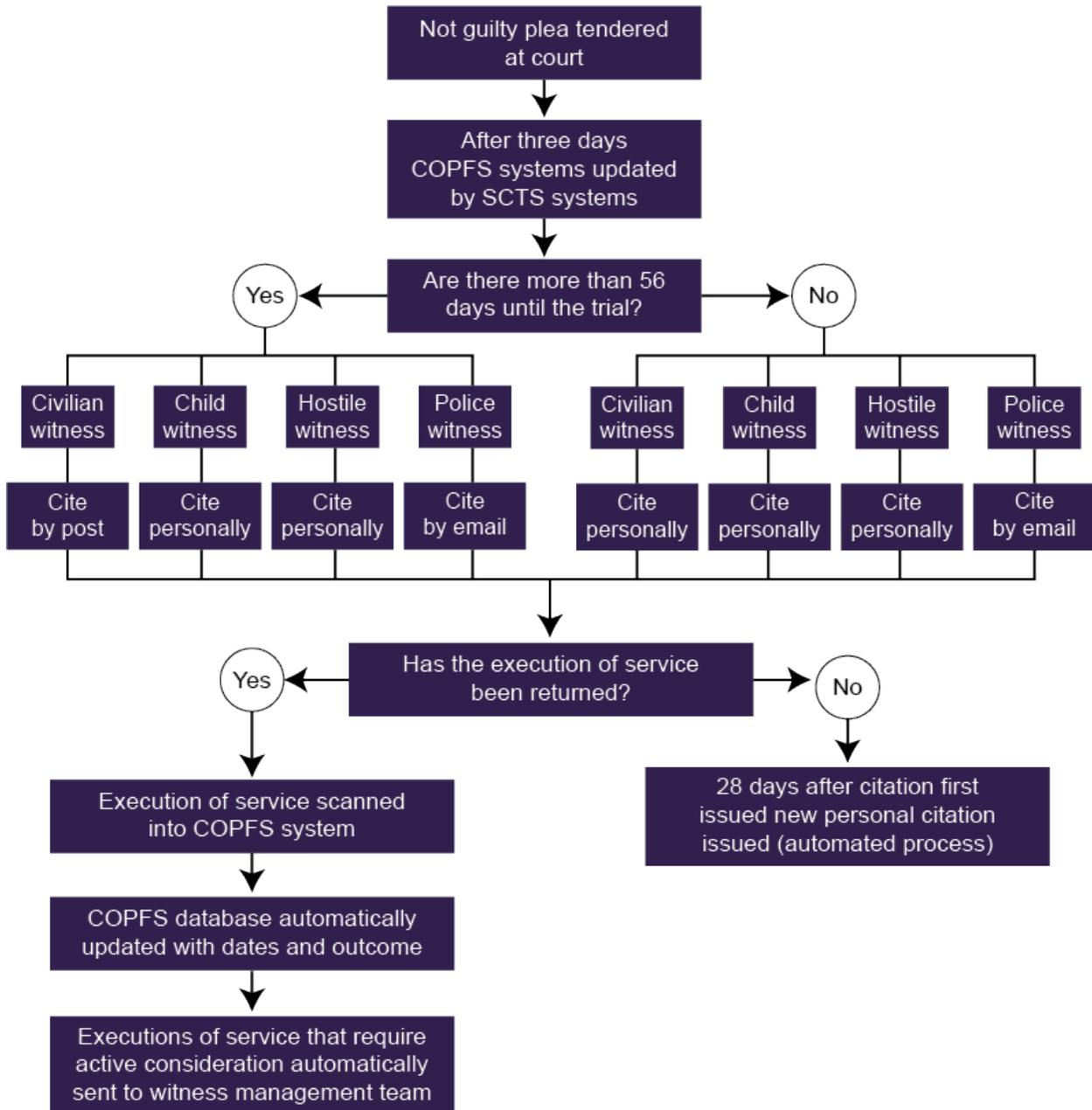
**COPFS** should review how child witness citations issued for personal service are prepared, to ensure that police officers are aware that they are serving a citation on a child and allow compliance with the relevant Lord Advocate's Guidelines.

### **Current citation process**

290. Most citations are printed at the COPFS NPU and issued to witnesses by second-class post in the first instance. When postal replies are returned, they are scanned into an automated system and filtered into email trays for staff in the WMT to action if necessary. The work of the WMT is discussed at paragraph 363. The scanned-in reply form is then available for staff in COPFS offices to download and, if necessary, produce to a sheriff as evidence that the witness has been cited. The physical reply form is retained for one month within NPU and then destroyed.
291. The NPU is responsible for printing and dispatching all hard copy citations that are delivered by Police Scotland to witnesses. They are sent in various bundle sizes, usually by mail, to designated police stations and buildings across the country. Some police offices were able to take advantage of a secure legal mail service, but not all.
292. One occasion when Police Scotland require to serve citations in person is when a postal citation has failed. Failure is assessed as no-reply from the witness within 28 days of issue of the citation, or a citation that has been returned indicating that the witness does not live at the address on the citation.
293. When a citation is served personally, the execution is completed by the police officer and returned to the NPU, and also scanned in for the WMT to action. As with postal executions of service, these are retained for one month and the digital version is available for download to evidence proof of service if required.
294. Personal citations for police service should be issued in accordance with COPFS business rules. We note that these business rules for summary cases were written prior to SCM being introduced, and they should be reviewed to ensure that the timescales remain appropriate.

## Issue of citations – COPFS processes

### COPFS process for issue of summary citations



295. In our case review, we found that citations tended to be issued promptly and well in advance of the trial.

296. In summary cases 'autocite' relies upon data on assigned trials being transmitted from SCTS systems to COPFS overnight. In most cases, three days after the trial diet is assigned, an automated instruction is sent to the NPU and citations are posted to witnesses or to the local police office for personal service on the witness, where appropriate. Police officers who will be witnesses are cited automatically by email through autocite. The autocite system in summary cases defaults to postal citation other than in accordance with business rules previously described at paragraph 5.

297. We heard that, due to a technical issue, police officers in legacy force areas could not be cited by email when autocite was introduced, for example, a police officer based in Lothian could not be cited by email if a case had been reported to a procurator fiscal's office outwith Lothian. We were advised that this has been remedied, but some COPFS guidance on the autocite process needs to be updated to reflect this.
298. Autocite does not trigger if the trial is less than 14 days away, in which case, COPFS staff require to use 'on-demand' citation for personal service. On-demand citations are discussed at paragraph 326. To prevent witnesses being cited too far in advance of the trial, the autocite system will not issue citations if there is more than 20 weeks until the trial. In such cases, the system will automatically wait until 20 weeks before the trial and then the instruction for the citation will be sent to the NPU for print and issue.
299. We found that, in most cases, autocite works well. The process is timesaving and provides consistency of approach. However, it does not always work well if trials are 'part-heard' and we heard that it was difficult for COPFS to override the autocite function.
300. In summary cases when evidence does not conclude in one day, the trial will be 'part-heard' and a further date will be fixed for the conclusion of evidence. It is anticipated that SCM will lead to more part-heard trials. The autocite facility cannot differentiate between a part-heard trial and an adjourned trial. Unless COPFS staff manually deselect witnesses who have already given evidence, the system will, after three days, reissue citations to them, so that witnesses who had already given evidence may be cited again unnecessarily. During the most recent IPS inspection, on how COPFS responds to enquiries through National Enquiry Point, there were calls from witnesses confused as to why they had been cited again when they had already given evidence.
301. We heard that cases were not always processed within three days by COPFS administrative staff. It is apparent that case processing after court is an early indicator of resource issues in COPFS offices, but this is viewed as a lower priority than preparation for cases yet to call. This requires to be addressed by COPFS.

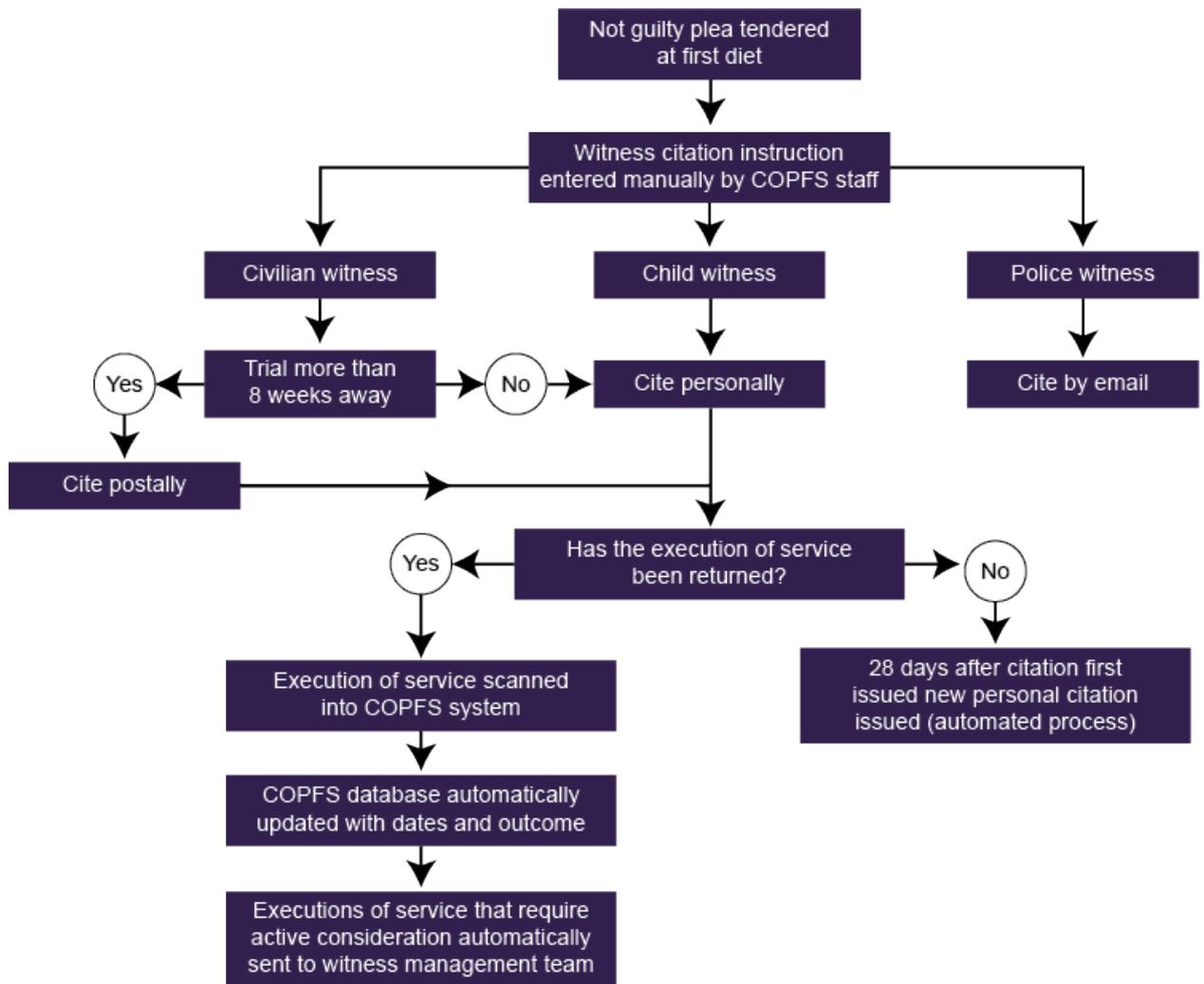
### **Recommendation 25**

**COPFS** should develop a process to ensure that autocite is not applied for witnesses whose evidence has concluded in summary trials that are part-heard.

302. In August 2024, COPFS staff carried out an assessment of personal citations issued in summary proceedings. Of the 4,914 personal citations issued during this period, 524 appeared to be contrary to business rules on personal citation (explained at paragraph 5). Despite the process being automated, we are aware that when administrative staff process cases after court, they must complete a checklist in the case management system for each case and that this can lead to override of the automated function. It is unknown if this is a contributory factor in additional personal citations being generated.

303. As a result of the extra personal citations issued contrary to business rules, an instruction was issued to local court business managers to remind staff not to override the automated system. Training or reminders to COPFS deputies on the cost and impact of instructing unnecessary personal citation would also be beneficial. In the interim, as already set out, COPFS should investigate why personal citations are being issued contrary to business rules.

### COPFS process for issue of sheriff and jury citations



304. In sheriff and jury cases there is no autocite facility and an instruction for citations to be issued requires manual input from COPFS administrative staff. Despite the lack of an automated process, we found that citations tended to be issued promptly after the first diet. Final decisions on which witnesses require to be cited cannot be made until after the first diet and, given the number of variables in a sheriff and jury trial 'sitting', there would be inherent risks in automated citing in sheriff and jury cases. The lower volume of citations in sheriff and jury cases allows for more tailored consideration of how witnesses should be cited, in comparison with summary citation.

305. However, the lack of an automated process in sheriff and jury cases does create inconsistency in the type of citation issued. We learned that, in some areas, staff believed that all citations in sheriff and jury cases require to be issued for personal service. This meant that thousands of citations were issued each month for personal service by police officers when there was adequate time for postal citation. This has significant cost and resource implications for Police Scotland and the likelihood of increased stress for victims and witnesses caused by uniformed officers attending at home addresses unnecessarily.
306. Before November 2024, there was no central guidance available to COPFS staff on the issue of sheriff and jury citations. We found there was a lack of awareness of the Handbook, which contains the guidance, among operational staff.
307. In the month of November 2023, out of 2,729 sheriff and jury citations issued, 46% (1250) were personal citations in the first instance with more than eight weeks until the trial diet.<sup>96</sup> Seven months after the guidance was issued, in June 2025, out of 2,229 citations issued, only 14% (319) citations were issued personally with more than eight weeks until trial. Postal citations accounted for 4% of all sheriff and jury citations in November 2023 and 29% in June 2025.
308. As previously described, in summary cases, autocite stops citations being issued when there are more than 20 weeks until the trial, to prevent witnesses losing or forgetting about citations. We found in our case review, examples of citations in sheriff and jury cases being issued in excess of 20 weeks. It would be preferable for summary, and sheriff and jury processes to match.
309. Another discrete issue we identified relates to 'roll-up' or 'conjoined' cases. The most common example of conjoined cases is when an accused person is alleged to have breached bail conditions after a trial has been set for the case for which they are on bail. When this happens it is common practice for the court to fix the same trial date for the breach of bail allegation as the trial date already fixed for the original offence. Cases are conjoined for efficiency and to prevent witnesses giving evidence twice. As the witnesses will often be the same for both cases this can result in two sets of citations being issued for the same witnesses to attend the same court on the same date – one citation for the original case and a further citation for the breach of bail case. Two sets of citations create the risk of confusion, miscommunication and inefficiency which require to be addressed by COPFS, examples include:
- confusion for witnesses who may have already received their first citation and then receive a second citation
  - miscommunication if information from a witness is recorded in only one of the two cases
  - inefficiency with either postal or police personal service costs and time duplicated
  - inefficiency and risk of confusion with any countermand processes duplicated.

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<sup>96</sup> Data provided by COPFS.

## **Recommendation 26**

**COPFS** should investigate why sheriff court citations are issued for personal service other than in accordance with business rules and ensure that remedial action is taken where necessary.

### **Issue of citations – Police Scotland processes**

310. In the police survey, when asked how effectively respondents thought the whole citation process is managed, 67% said 'not at all effectively' 32% said 'moderately effectively', and just 1% said 'very effectively'.
311. Once Police Scotland receives citations, either from the NPU by second-class post or DX (an end-to-end courier service), the citations are then administered by police staff or, on some occasions, police officers. They ensure that the details of the citations are recorded on the LDD. Officers said that the citations were usually received two to three months ahead of the trial, which allowed adequate delivery time, but those received with less time put pressure on police officers. When the NPU send citations to central police hubs to send on to local police stations for service this creates a delay.
312. Police Scotland also receives 'on-demand' citations from COPFS. These usually have short timescales for service and are received by email, hand delivered to the police station or collected by officers from local COPFS offices. These have to be added to the LDD manually and allocated for service. We found that, in most divisions visited, short notice citations were dealt with by dedicated officers, due to the short timescales involved.
313. As already discussed, the approach to service of citation varies across Police Scotland. Prior to Police Scotland becoming a single force, most forces used legal document servers, who were mainly police staff members with a dedicated role to serve legal documents including citations. The document server role ended in 2013 and the function of serving citations fell to police officers. Many of those interviewed felt strongly that a return to dedicated document servers would improve the process and reduce the burden on police officers. One officer gave the example of how the delivery of citations in their division was manageable, but only because it was allocated to a specific person and done as their full-time job.
314. In some remote locations, we found a lack of clear ownership or accountability for the service of individual citations. Citations are typically allocated to a police station or officer in charge of a station, rather than to a specific officer. As a result, whichever officer happens to be on duty or covering that area will attempt to serve the citation when they are able. While this approach reflects a pragmatic response to the challenges of resourcing remote areas, it raises concerns regarding accountability. It falls short of best practice and undermines the ability to ensure transparency and accountability in citation service.

315. We found from our case reviews and dip-sampling of cases on the LDD, that there were better enquiry updates and a more consistent approach in the divisions that utilised light duty or modified officers to deliver citations. One of the main reasons for the lack of consistency with operational officers is that they were trying to deliver citations while carrying out other duties. In our fieldwork, many police officers said that they did not feel that response officers were best placed to deliver citations, due to the reactive and often time-critical nature of their response activities. We determined during our inspection that serving citations was seen as a lower priority than other tasks by operational officers.
316. We noted evidence that some witnesses simply cannot be traced, and therefore citations are not served. In such cases, it is essential that Police Scotland maintains a defensible position through robust record keeping of all attempts made to trace and serve those individuals. We were told in our focus groups with police officers that they do not always record every delivery attempt due to time constraints.
317. We learned from our survey that the majority of witnesses preferred police officers who were not wearing uniform attending at their home to serve citations. This was also evident from our discussions with advocacy workers working with victims of crime.
318. While we understand that plain clothed officers serving citations can enable a more trauma-informed experience for victims and witnesses, some concerns were raised about the safety of modified duty officers delivering citations in an area that they may have previously policed, while not carrying personal protective equipment (PPE). In one particular case, a modified duty officer who was working alone and not in uniform, did not carry a police radio, because of not wanting to be recognised as a police officer, and so was potentially vulnerable should an adverse incident have occurred.
319. Some officers who were regularly involved in serving citations told us about their frustrations with a paper-based process. This included officers leaving calling cards with their email address, resulting in email correspondence, despite the officer being unable to email the actual citation. Repeated attendances to serve personal citations was another source of frustration.
320. Officers reported that witnesses often directed frustration at them when they attended at the home, in the belief that any delays or repeated citation were the fault of the police.
321. The remote nature of many locations, combined with limited policing resources, frequently hampers timely delivery of citations. We found that different divisions took different approaches to citation in rural areas. This included interrogating different systems to check or establish witnesses' addresses, making initial engagement with witnesses by telephone, or text messaging either to check availability or to give them the option to attend a police station to pick up the citation. We were told by some officers that establishing early contact was the key to success, with most witnesses engaging.

322. We heard accounts of officers travelling considerable distances to serve a single citation in rural areas. This practice is unsustainable and is not environmentally friendly, nor does it align with the expectations of a modern police service operating in a digital age, where communities are accustomed to more efficient and technology-driven solutions.
323. Once a citation has been delivered by the police, they return the paper execution of service part of the citation back to their police station. How long it takes for an execution of service to return to the police station depends on whether the citation has been delivered by a response officer, a police officer or staff in a dedicated citations delivery role. We found that there is no consistent approach to what happens next in the process. Executions of service are usually collected in one place in the police station, in a box, where they await being sent back to the NPU in batches. The frequency with which batches of executions of service are sent back to the NPU varies, but usually only once or twice a week. The current process creates a delay of up to a week between delivery of the citation and its being received by the NPU for scanning. If the executions of service are sent back to the NPU by Royal Mail, which is the case for some batches, then the time taken can be even longer.
324. This process is not only time consuming; sending the documentation in batches takes up resource and there is also room for error with a paper-based system. Alternatively, Police Scotland could scan and email the execution of service to COPFS. This process would be more cost effective, reducing the potential for error and enhancing environmental sustainability, and COPFS would be notified of citation delivery very quickly. Given that we learned that the executions of service are only retained by the NPU for a month – having a recorded scanned copy would be preferable, since it would afford an improved audit trail.
325. As previously explained, Police Scotland witnesses are cited by email through a single national case management IT system. This system is linked to other systems, including Police Scotland's SCoPE system. Officers and their immediate supervisors receive an email notification advising that they have been cited to attend court. The SCoPE system records the date officers are required to attend court; this allows the officer and Police Scotland's HR department to keep track of the case and also affords Police Scotland oversight of how many officers have been cited for each court every day. This enables Police Scotland to make operational resourcing decisions if required.

### **On-demand citations**

326. If a citation needs to be issued urgently, COPFS staff have the facility to issue on-demand citations. Such citations arise most often in summary cases where an accused is remanded in custody (requiring a trial to commence within 40 days) or other circumstances where there is insufficient time for the citation to be printed centrally and posted to the police. On-demand citations can be generated in the local COPFS office and emailed to the appropriate police station/officer for service.
327. We learned that COPFS has an automated system to help identify cases where there is less than 14 days to the trial and witnesses have not been issued with citations through autocite. To create an on-demand citation, COPFS staff require to generate the document, save it to their own computer and then email the document as an attachment to Police Scotland for service on the witness – or arrange for officers to uplift the physical copy citation to serve.

328. COPFS guidance about 'on-demand' citations in summary cases states that they should be printed and issued to the police for service. We heard that COPFS email these as attachments, which is in accordance with their sheriff and jury guidance instead. The guidance for sheriff and jury, and summary on-demand citations differs. In summary cases, the execution return date is two days before the trial, but there is no prescribed period in sheriff and jury guidance. Guidance is limited on how on-demand executions of service should be returned to COPFS – only that local practice should be used. Given the urgency in such cases, COPFS and Police Scotland should have clear mechanisms to ensure their effective management. We heard that return of the executions of service in such cases is often after the trial has passed and that executions of service are returned to the NPU, rather than the local issuing office.
329. We also learned that there is a risk of two citations being served on witnesses, leading to likely confusion and duplication of effort by both COPFS and Police Scotland. This can occur when there is doubt about whether an original citation has been served and, rather than taking steps to investigate, Police Scotland will request that a new on-demand citation is issued for urgent service.
330. When on-demand citations are issued to Police Scotland, they have to be manually added to their LDD system for management (for further discussion of this system see paragraph 497). When police officers record their attempts to serve these urgent citations on the LDD system, this information does not transfer to COPFS systems and COPFS staff will be unaware of service attempts.
331. As COPFS staff email on-demand citations to Police Scotland from their own email addresses, there is a risk of an insufficient audit trail if they do not upload a copy of this to COPFS case management systems.
332. COPFS cannot currently quantify the number of on-demand citations issued; however, we heard from Police Scotland staff that they are common. By necessity, such citations are urgent and require immediate resource allocation by Police Scotland. COPFS must therefore ensure that such requests are necessary and appropriate.

### **Recommendation 27**

**COPFS** should:

- (a)** investigate why on-demand citations are issued and take steps to minimise their use;
- (b)** take steps to quantify and monitor the number of on-demand citations issued; and
- (c)** work with Police Scotland to ensure that information regarding on-demand citations is recorded on the Legal Document Database/Legal Document Exchange systems.

## Recording of witness information

333. As part of our review of cases, we found inconsistency in where key information on the citation process was recorded by COPFS.
334. In summary cases, electronic case minute sheet notes in the case management system are the main store of information. These were often undated or unsigned, which led to difficulty understanding whether an entry related to the current citation cycle or a previous one. An absence of signatures also created the potential for a lack of ownership of citation-related issues and a lack of clarity over whether entries were for information only or requiring action.
335. Our case review was conducted with access to COPFS case management systems, yet understanding the citation position at any given time remained problematic. Prosecutors do not have access to the full range of COPFS systems while in court and the information available to them is contained on an iPad; this will be a snapshot from the point at which the information was downloaded.
336. In conducting courts, prosecutors require to be able to address the sheriff on the citation history and current position. We heard from one member of the judiciary that prosecutors were not always fully aware of the citation position while in court. The lack of a single document containing all information about witness citation makes the role of the prosecutor more onerous than it should be. Currently, it may not be immediately clear to prosecutors whether all of the witnesses have been cited or not (to assist the court to determine if the case is ready to proceed to trial)
337. The witness citation status report is a useful tool to inform COPFS deputies of citation status and efforts by Police Scotland to serve citations. This is created from information supplied by the LDD. In our case review we found that, in some cases, a copy of the report was uploaded to the case management system, but this was inconsistent. In some other cases, a summary of what was perceived to be the citation position was recorded on a case minute sheet note by administrative staff. Guidance on when this information should be captured and uploaded to COPFS management systems is absent.
338. In sheriff and jury cases our ability to review the management of the citation position was also challenging, due to the absence of information in COPFS case management systems. We learned that, in some areas, staff use spreadsheets or other documents to maintain a record of issues, including citation and excusal, and that these are stored separately from COPFS case management systems. As with summary cases, there was inconsistent uploading of the witness citation case report.
339. A simplified, consistent and central record of witness citation is required. With the advent of SCM this is of particular importance, given the removal of intermediate diets. To prevent unnecessary adjournments at trial due to citation failure, COPFS staff must be able to efficiently identify difficulties with citation to allow for remedial action where appropriate.

340. In January 2025, COPFS published guidance for sheriff and jury administrative staff about maintaining a full electronic record of all court minutes, case instructions and correspondence (including emails and memos from Police Scotland) in the case management system. The witness contact record has been a concern in IPS previous inspections<sup>97</sup> and remains so. Our case review found several examples of key information provided by witnesses stored in this repository that did not make its way to court prosecutors. We learned that some COPFS teams/units that feed into the citation process, such as the WMT, WET and NEP routinely record important information in the witness contact record. This is an area of COPFS systems seldom accessed by other COPFS staff despite a reminder having been issued that this should be checked on every occasion when dealing with a case. To comply with the guidance and to ensure there is a full record, it would be preferable for the WET and WMT to also upload emails into the case record that they send to local offices, until a centralised record is created. During our inspection, we learned that COPFS has established a working group to attempt to solve the issue of a lack of central contact record.
341. It is clear that COPFS staff do not routinely telephone witnesses when there is ambiguity over citation status, to check if they have been cited and are able to attend the trial. COPFS staff place great importance on obtaining an execution of service of citation which, in most cases, would allow a witness warrant<sup>98</sup> to be sought, to ensure a witness attends court. While there was some evidence of COPFS sheriff and jury prosecutors telephoning witnesses ahead of and during a 'jury sitting', this was not the norm. It is apparent that this would be a more efficient use of resources than always asking Police Scotland to make such enquiries. It would also align with enhanced witness engagement and a trauma-informed approach. Our case review highlighted that Police Scotland is now making concerted efforts to provide telephone numbers for witnesses and, for the sake of efficiency, COPFS must be prepared to use them.
342. We also noted inconsistent communication between COPFS and Police Scotland when information was needed about whether witnesses had been cited personally. In some offices, COPFS staff felt that there were good relations with local police, but that was not universal. In one office the relationship was so poor that some COPFS staff advised that they no longer asked the police for this information since they would either receive no response, or the police would advise that there had been insufficient time to serve citations. Reducing the number of personal citations issued, along with increased, consistent and accurate electronic recording of the citation position on the LDD/LDX system, would go some way to overcoming these communications issues.

## **Recommendation 28**

**COPFS** should:

- (a)** introduce and monitor the use of a single document in which all citation records and information are recorded; and
- (b)** ensure that staff consistently carry out checks on the citation position and record the citation status for each witness in COPFS case management systems.

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<sup>97</sup> HM Inspectorate of Prosecution In Scotland reports: '[The prosecution of domestic abuse cases at sheriff summary level](#)', paragraph 451 and '[Responding to enquiries: service delivery through National Enquiry Point](#)', paragraph 250.

<sup>98</sup> A warrant for the arrest of a witness in order that they may be brought before the court.

## Summary Case Management and the removal of intermediate diets

343. The pilot of SCM, which began in September 2022, was underpinned by judicial practice notes. The national rollout of SCM has now been completed; however, the latest practice note makes significant changes to the working model of summary business and court practice that are worthy of comment.
344. A fundamental element of summary procedure since 1980 has been the intermediate diet. Intermediate diets were introduced due to a concern over late guilty pleas and wasted court time. Accordingly, summary citation processes were designed with the intermediate diet in mind. The latest SCM practice note has the effect of removing the intermediate diet in almost all sheriff summary cases. Intermediate diets will not be assigned unless necessary and there is no guidance available to sheriffs on when such a diet is necessary.
345. The main purpose of an intermediate diet is to allow the court to ascertain whether a case is ready to proceed to trial. The Crown and defence are expected to advise the court whether witnesses have been cited or not. When an accused pleads not guilty, an intermediate diet and trial dates are set by SCTS. Intermediate diet are two to four weeks before the trial date. The volume of summary business does not always permit COPFS to consider issues arising between court diets, including citation issues. Preparation tends to focus in the week ahead of intermediate diets.
346. There is an absence of guidance for COPFS staff on how the removal of intermediate diets should be addressed, with COPFS offices responding on an individual basis. Citation issues such as reluctant witnesses, witnesses changing address, becoming unwell or requiring medical appointments, are commonplace and will often be unknown at the time citations are issued, despite the best efforts of Police Scotland and COPFS to frontload cases. It is against this background and experience of sheriff and jury procedure in which there is also no intermediate checking stage, that such internal systems must be designed.
347. The removal of the citation review process necessitated by intermediate diets creates a significant risk in summary procedure of citation failure or related key information not being adequately identified and managed. We found evidence of this risk manifested in the sheriff and jury cases we reviewed – cases with no clear ownership and the real potential for important issues not to be addressed. This is relevant, as SCM mirrors sheriff and jury cases, with no court calling between assignation of trial and trial. This risk is illustrated in the following case study.

### Case study

In one sheriff and jury case reviewed, there was information provided that established an accused person could not have committed one of several offences on an indictment. This information was contained in a police memo that was not seen by COPFS staff until the day of the trial – despite it having been in COPFS systems for a matter of months. As a consequence, witnesses were cited who should not have been and those witnesses, including the victim of a crime, attended court only to be advised of the error. There were other serious charges on the indictment and the case resolved at the trial in a plea of guilty to some of the remaining charges.

348. We learned of one SCM office where intermediate diet preparation has been replaced by reviewing of cases by legal staff. A depute engaged in these checks advised us that staff attempted to look at 'as many of these as possible' in the time allocated. While a form of review is welcomed, it is a matter of concern that there is already an apparent reduction in the importance of case reviews and isolated, individual local practices rather than standard. In intermediate diets, every case would have been subject to review, including whether witnesses had been cited.
349. In one office in our case review, checks on the citation position by administrative staff were carried out a week before the trial, However, we found no evidence that citation issues were brought to the attention of legal staff. In Dundee, there has been an increase in applications to adjourn trials by way of joint application with the defence,<sup>99</sup> which is evidence of active management of summary cases, with administrative staff tracking the applications and replies from the court. Without such checks there is a risk of trials being administratively adjourned and witnesses who have been cited not being countermanded. It is imperative that, when such administrative adjournments are granted, Police Scotland citation staff are informed immediately.
350. Administrative adjournments can be a slow process and this needs to be taken into account, so that witnesses can be countermanded timeously. There is an absence of guidance on when such applications are appropriate and COPFS should address this.
351. Issues discussed in respect of such adjournments in summary procedure are mirrored in sheriff and jury procedure, governed by section 75A of the Criminal Procedure (Scotland) Act 1995.

### **Sheriff and jury review of citation position**

352. In our small sample of reviewed cases, we found evidence of inadequate management of cases between witness citations being issued and sheriff and jury trials. It was common for there to be no active consideration of trials for several months at a time, which was acknowledged by operational COPFS staff. Aside from creating the risk of citation failure, leading to cases being adjourned or discontinued, it also tends to lead to last minute attempts to remedy situations that could otherwise have been prevented.
353. As with SCM, COPFS does not specify when the citation position should be reviewed in sheriff and jury cases, and practice varied on how this was managed. In one area, we heard that administrative staff used a spreadsheet, which recorded the witness position around six weeks prior to the trial, but this was not stored in the COPFS case management system. In another office, the citation position was not reviewed until one week before the trial. As already observed in summary cases, a central citation record, along with a consistent national approach, would assist. It is apparent that in many sheriff and jury cases the review and management of citations is inadequate, with key information not being sought or actioned until too close to the trial diet. The consequence of such failure demand means an additional burden on COPFS staff; this is often then shared with Police Scotland officers who are required to attempt to cite essential witnesses in serious cases at short notice.

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<sup>99</sup> Under section 137 of the Criminal Procedure (Scotland) Act 1995.

## Case study

In one sheriff and jury case we reviewed, there were two civilian witnesses to an incident involving a knife. A witness engagement letter was returned indicating that one witness had changed address. There was a note in the witness contact record of COPFS systems that this information had been emailed to the local procurator fiscal's office by WET, but there was no record of the email. COPFS systems were amended to reflect the address of the witness as 'unknown'. No further action was taken until the citations were generated six months later, whereupon a postal citation for the witness was generated with 'address unknown'. Fortunately, staff at the NPU prevented this from being posted and alerted the WMT, who requested the reporting officer obtain an up-to-date address for the witness. There was no record of an attempt to telephone the witness by WMT. The reporting officer provided a response quickly, with an updated address but the same telephone number that WMT already held. No action was taken in respect of this new address for four and a half months. Six days before the trial, an on-demand citation was issued to Police Scotland in an attempt to remedy the situation. The citation was returned, unserved, to COPFS after the trial sitting had concluded. As a direct result of the non-attendance of the witness, a plea to a significantly reduced set of charges was accepted by the prosecutor. Further negative consequences included lost time for four witnesses (including three police officers being cited for court) and the added cost of attempts to urgently serve the citation.

354. A change or incorrect address being identified once citations have been issued is common. We have already noted that there are numerous areas within COPFS systems for information to be recorded, including a new address. Updated witness addresses in VIA minute sheets are one area in which this can arise. COPFS staff should be mindful that witnesses require to be cited at their current address and that a failure to properly record/share that information can lead to citations being issued for incorrect addresses, with Police Scotland wasting time and resource attempting to serve citations at out-of-date addresses.

## Recommendation 29

**COPFS** should implement and monitor a process to ensure that when witnesses change address, citations are issued to the correct address and Police Scotland staff serving citations are notified of the new address.

## Execution return dates

355. We found that return dates on witness citations issued for personal service caused confusion for COPFS and Police Scotland. There is a longstanding agreement between both organisations called 'Witness Citation Target Agreement' in which it is agreed that COPFS will print a target service date on each citation issued for personal citation. This was to allow for more effective monitoring of performance and to give the police more time to serve citations. It is unclear whether these objectives have been met.

356. Despite this return date, we heard from both COPFS and Police Scotland that there is an expectation that attempts at personal citation should continue until the trial. While the return by date may allow for prioritisation of service by Police Scotland, there is scope for confusion about the purpose of the return date among officers serving citations. We heard from staff in the WMT that they routinely dealt with personal citations that had been returned to them, unserved, before the trial, with no indication of why they had been returned. Police Scotland can receive citations from COPFS with return by dates that have already passed. While the agreement between COPFS and Police Scotland related to summary cases, we note that sheriff and jury citations also contain such return by dates.
357. As part of our review of cases, we considered COPFS case management systems and noted that one electronic record on the system is called 'execution date'. We learned that the dates recorded in this record are not the date on which the citation was executed (served) but rather, the date on which the returned execution of service is scanned into COPFS systems. This is misleading. The difference in dates can be due to postal delays or delays in returning the execution of service by Police Scotland in personal service cases. It is unlikely that prosecutors will always understand the potential for such delays, with the potential risk of courts being incorrectly advised about when citations were actually served on witnesses.

### **Recommendation 30**

**COPFS** should:

- (a) review the use of 'return by' dates printed on personal citations and ensure that the purpose of the date is understood by both COPFS and Police Scotland; and
- (b) review the use of the term 'execution date' in COPFS case management systems.

### **Citation review process**

358. When essential witnesses are not cited or it is unclear if they have been, COPFS should decide if the purpose and timing of a citation review by a prosecutor before a trial is to:
- allow for further work to attempt to remedy citation failure before a trial; or
  - end the citation process and assess how the case should proceed – by way of a motion for adjournment or discontinuation.
359. The first approach allows Police Scotland to continue efforts to cite witnesses until the trial. Experience suggests that some witnesses who have not returned their citation postal reply will attend court on the date of the trial and, further, that many witnesses will be personally served in the days before a trial. This model maximises the time available for service of citations.
360. A benefit of the second approach would be increased certainty that the cases set for trial will likely proceed, whether with fewer witnesses or an acceptance that charges may be reduced. To work on this basis would require a cultural shift and clear communication with Police Scotland and the judiciary that the review date is the endpoint for citation efforts.

### **Recommendation 31**

**COPFS** should issue guidance in sheriff court cases on how and when citation status should be reviewed.

## **Sheriff and jury sitting management**

361. In the current sheriff and jury citation model, witnesses are usually cited for the start of sittings. In the week prior to the sitting, the prosecutor provides a running order of the cases to COPFS administrative staff. The working day before the trial, administrative staff attempt to contact all witnesses in the sitting and advise them what day they should attend. COPFS staff tend to email the police resource deployment units (RDUs) or local liaison officer for police witnesses, and telephone civilian and professional witnesses. We found that civilian witnesses were often advised not to attend on the date stated in their citation and that they would be contacted once a date was known. This was particularly problematic in the area where fortnight 'sittings' had been re-instated. If they cannot be contacted by phone, in some areas Police Scotland will make efforts to contact the witness and if this unsuccessful, the witness is left to attend court needlessly. This current process is highly inefficient. We note that, if scheduling of sheriff and jury trials were restored to the 2017 reforms model, then the need for this rescheduling should be greatly reduced.
362. Police witnesses are re-scheduled as necessary during a sitting by contact between COPFS administrative staff and the RDUs of Police Scotland. We heard that if this information is provided late in the afternoon there can be an issue reaching police officers who are no longer on duty.

## **Witness management team**

363. The COPFS WMT is integral to the citation process. The WMT deals with returned unserved citations and executions of service that need to be considered due to issues such as unavailability, incomplete executions of service and confusion over the status of the citation. Since creation of the WMT around three years ago, it has subsumed the Witness Engagement Team (WET), and all staff now carry out the functions of both teams. We were advised that, at the time of inspection, there were seven full time equivalent staff and a section manager.
364. Prior to the creation of the WMT, local COPFS offices or specialist units dealt with returned citations and executions of service that required further action. Despite this large burden of work being removed from local offices in COPFS, we found limited knowledge in the organisation of the existence or role of the WMT. The WMT has multiple citation roles which are often blurred and overlap with responsibilities of the local offices.
365. There is guidance on management of returned citation mailboxes on the COPFS intranet that needs updating, as it was written for local court and not WMT staff. We learned that updated guidance has been created but awaits final authorisation. Publication of such updated guidance for WMT staff could raise awareness of the role of WMT across COPFS and provide consistency of approach within WMT, particularly communication processes with local offices.

366. When physical executions of service and unserved citations are returned to the NPU by Royal Mail or Police Scotland they are scanned, and a barcode identifies the relevant case and updates COPFS systems that the document has been returned. This optical scanning system identifies the issue with the returned document and filters it to one of six email folders for WMT staff to consider. These folders are:
- late replies
  - will not attend
  - not served
  - status unclear
  - was served (extra info)
  - will attend (extra info).
367. It is not currently possible for WMT staff to prioritise work in order of the date of the impending trial due to the manner in which information is stored on email folders. To limit the risk caused by this, we were advised that staff work from the oldest email to the newest. Staff reported that they had experienced opening emails to find that the trial the citation or execution of service related to had passed. This has clear implications for both customer service and the efficient conduct of trials.
368. The majority of the WMT's work is responding to emails in the 'will not attend tray'. This includes witnesses who have advised they are unable to attend and citations that have been returned as unserved. We heard that this tray could have up to a three-week backlog. An internal three-day target for emails in each tray to be processed was often missed. WMT is now also required to deal with undelivered letters sent to witnesses, inviting them to access the online witness gateway. Such additional work inhibits the ability of WMT staff to respond to citation related replies timeously.
369. WMT guidance is inadequate on how urgent issues should be communicated to local offices. To be effective, such guidance must align with processes in local offices to review cases, otherwise important information can be missed.
370. In some circumstances WMT staff are required to telephone witnesses to give advice, or to seek information when a citation is returned. We found that there was no guidance for WMT staff on call handling and no method for WMT managers to monitor the quality of such calls. This is concerning, given the potentially difficult or sensitive nature of some of these calls. There was also a lack of monitoring to ensure that calls were actually being made, rather than a default to letters being issued.
371. We found weakness in communication between WMT and local offices. In summary cases, WMT staff tended to record information about a specific citation in the minute sheet note in the case management system. We also noted in our case review that WMT adds digital 'sticky notes' to the scanned-in PDF of the returned document in the case management system. As noted previously (paragraph 333), in the absence of a central COPFS record for citation issues this is a useful tool to record information – but only if staff in local offices are reviewing it. WMT staff are often aware of a lack of response from local offices to issues previously communicated, but have no process for escalation, so will simply add a supplementary note when this occurs. This is part of a wider issue – local offices are unaware of new correspondence/notes on electronic case files, and cases are not looked at by local court staff until preparing them for court.

372. A common example of inaction by local offices relates to citations returned where a witness has moved address. When this happens, WMT staff update the witness's address on COPFS systems to 'address unknown' and send a memo to Police Scotland requesting an updated address for the witness. We found many examples of new addresses being provided to COPFS by Police Scotland, but no subsequent action by COPFS staff to update the address in the system. Thereafter, citations are issued with 'address unknown' and passed to the Royal Mail. Some of these citations are identified by staff at the NPU prior to being posted, but not all. We questioned whether COPFS IT systems could be adapted to alert staff when an instruction is issued to print an 'address unknown' citation, but were advised this would be problematic. Despite the perceived difficulties, it is apparent that a consistent naming convention among staff, together with an IT script-based solution, could identify and eliminate such citations.
373. We also heard from WMT staff who had noticed citations being issued or re-issued when COPFS had previously been alerted that a witness had died. We learned that an attempt had been made in one office to address this, with Police Scotland agreeing to advise of witnesses who had died by sending an email to a specific local management inbox. Given the sensitivity of this issue, COPFS staff should follow a single, national process.
374. COPFS case systems already have an inbuilt facility to prevent citations being issued when a witness has died, so staff are either unaware of this or are using the system incorrectly. It is also possible that – since information such as the death of a witness may be recorded in a number of different places in the case management system – such information is often missed. Current guidance on this is outdated, but correct use of COPFS case management systems and guidance is essential, so that witnesses' families are not further distressed by re-issued citations for their deceased loved ones.
375. We also heard from WMT staff that VIA staff often learned of new addresses for witnesses given their specific contact role. However, WMT staff experienced inconsistent updating of addresses on COPFS systems by VIA staff. We also found examples of this in our case review, with staff across COPFS failing to consider the citation process and either not updating addresses, nor appreciating that a new citation would be needed or cancelled when a new address was obtained. This situation has the potential to be exacerbated with enhanced victim engagement (EVE) in SCM, which will lead to more information obtained from victims needing to be properly recorded. It is imperative that when COPFS staff contact a witness who may or has been cited, that they confirm the witness's current address and review the citation position if that address has changed.
376. In sheriff and jury cases, WMT staff will add an electronic case note and email the local office with the relevant information. Given the number of documents in sheriff and jury cases, the risk of a case note being missed by local sheriff and jury units is high. We learned that emails from the WMT alerting sheriff and jury units about issues with citation are not uploaded by WMT staff to the case management system. Similarly, we found no evidence to show that emails that had been sent were being uploaded by local offices. This prevents an effective audit trail.

377. A potential benefit of a centralised WMT is the ability to identify common areas of failure in citation across offices or nationally. Staff told us about issues concerning the service of citation on doctors, and problems with addresses (for example, incomplete flat numbers or postcodes). We found there to be inadequate communication between WMT, Police Scotland and local COPFS offices and units on these issues with a view to service improvement and learning. Given their overview, a WMT focused on service improvement and engaged with other units in COPFS and Police Scotland should be a useful tool in solving such issues and improving the overall citation process.

### **Recommendation 32**

**COPFS** should:

**(a)** ensure that guidance for the witness management team staff is published internally;

**(b)** implement systems that allow the witness management team to prioritise work by trial date and monitor implementation of this;

**(c)** create processes to ensure effective information sharing between the witness management team and local offices;

**(d)** ensure that the witness management team is sufficiently resourced to be able to respond efficiently and timeously to returned citations and executions of service;

**(e)** prevent citations being printed and issued where there is no known address;

**(f)** prevent citations being issued to witnesses who have died; and

**(g)** implement a service improvement process arising from any systemic issues identified by the witness management team.

### **Text reminders**

378. When COPFS has a mobile telephone number for adult witnesses it will send text messages at key stages to encourage responses to a citation or attendance at court. This is an automated process. Shortly before the citation is printed, witnesses are sent a text from COPFS advising them that they will receive a citation. An open-source internet search reveals that this text can cause confusion for some, with online posts enquiring if this text is a scam. This is unsurprising, as we could not find any evidence that witnesses were advised that they might receive text messages from COPFS. As discussed at paragraph 193 and at recommendation 9, COPFS should provide information on its website about the citation process, including when and how COPFS will communicate with witnesses about attending court. This should include information about COPFS text reminders and should include the telephone number used to send the text to provide reassurance that the message is from COPFS.

379. Ten days after the citation is issued, if the reply form has not been received by COPFS, a further text is sent to the witness asking them to complete and return the form as soon as possible or to telephone the COPFS National Enquiry Point.

380. A further text message is sent four days before the trial date, stating that the witness must attend court and giving the National Enquiry Point telephone number again. The automated system draws information from COPFS case management systems. This means that any backlogs or errors in processing within COPFS can lead to witnesses receiving text messages instructing them to attend court when they may not be needed.

## Case study

A witness received a text message stating that she must attend court four days later as a witness. She was in possession of two postal citations for different dates for the same case. One citation was a trial date in four days and the other for a date some months in the future. Due to backlogs in case processing, a countermand had not been issued for the trial in four days. That trial had been adjourned 11 days prior to the witness receiving the text reminder. The witness correctly concluded that her attendance would only be required for the later date, but became concerned when she received the text stating that she must attend court for the earlier trial. The witness attended at the sheriff court to make enquiry before being directed to the procurator fiscal's office, where staff confirmed to the witness that she would only be required for the later trial. This example illustrates the danger in having systems for citation, countermand and text reminder that work independently of each other.

## Medical witnesses and forensic scientists

381. As we learned, there is a particular issue regarding the citation of doctors. Doctors are often cited to court to give evidence about injuries or treatment, or an opinion about causes of injury. The most recent sheriff and jury practice note emphasises that Crown and defence will be expected to be able to address the court on agreeing medical evidence. Despite such an emphasis on agreeing this evidence, doctors are often cited in sheriff and jury cases.
382. The nature of medical training is such that many resident doctors move from one hospital to another, within the UK and abroad, and will often have moved by the time a citation is issued. Our case review showed that significant police resources are often used in locating doctors. Police officers must ensure that the full contact details for doctors are taken when the statement is given, including their email address, home address, mobile telephone number and full work address (including any future work addresses). However, these issues could be avoided if medical staff and other professional witnesses were cited by email.
383. As with medical evidence, the most recent sheriff and jury practice note expects Crown and defence to address the court on agreement of forensic evidence. Two forensic scientists prepare a joint forensic science report which is the basis of their evidence. It is not always possible to agree forensic evidence, and we noted that there is inconsistency in how forensic scientists are cited. COPFS guidance states that such witnesses 'are usually' cited by personal service. Our case review found evidence of both postal and personal citation, with personal service being used more often. However, personal citation of forensic scientists is a wasteful and inappropriate use of police resources in most cases. For instance, we learned that, in some locations, one member of staff at a laboratory will sign to accept the citations for numerous colleagues across multiple cases. This defeats the fundamental purpose of personal service of a citation.

384. In the West of Scotland, Forensic Services Operational Support team are responsible for the receipt, recording, and distribution of citations for forensic witnesses and will liaise with any local COPFS offices where necessary. In other areas, the Forensic Services Operational Support team will simply distribute the citations and these processes fall to the scientists themselves, which is inefficient and takes them away from their scientific work. In our focus group with forensic scientists, we were told that some can spend several hours a week trying to determine if cases are going ahead, which has an impact upon their workload.
385. SPA Forensic Services advised that in the West of Scotland there exists a long standing automatic standby arrangement with COPFS for forensic witnesses. The effect of this is that a cited forensic witness will not attend court unless they are contacted by COPFS staff. We learned that on occasion this arrangement can result in forensic scientists not always attending court when it was necessary for them to do so, not always submitting excusal requests and therefore impacting on case progression. In our focus group with forensic scientists, we were told that in the East of Scotland, which does not have any such standby arrangement, forensic witnesses can spend several hours a week trying to determine if they require to attend court and if their cases are still proceeding to trial, which has an impact upon their workload. We found that a lack of reference to this standby arrangement in COPFS guidance and prosecutors in the West of Scotland made no mention of it in our interviews. We heard that some prosecutors gave effect to this standby arrangement but COPFS guidance to staff requires to be updated to reflect any such arrangement to ensure consistency of approach. We question why there is not a single consistent national approach.
386. Due to the number of citations received, forensic scientists can be cited to multiple courts on the same day with no internal COPFS or SPA Forensic Services process identifying this. The consequence is that the forensic scientist will not know which court to attend without proactive steps on their part.
387. We heard that many forensic scientists do not complete the availability letter in sheriff and jury cases, due to the number of times they are cited against the limited number of times in which they give evidence. This was supported by our case review: in one case, a trial had to be part-heard because the forensic scientist did not attend due to maternity leave absence; and, in another, an excusal request was not received until the sheriff and jury sitting had commenced – despite the citation being served some months previously. This approach clearly needs to change and improve.
388. The Witness Gateway may be a method to improve knowledge of citation dates for forensic scientists, but it will not address the fundamental issue that of those cited, only a small percentage are required to attend court and a smaller percentage yet give evidence. COPFS should do more to reduce the number of forensic scientists cited. However, when forensic scientists are cited, there should be consistent and national approaches to their citation, standby arrangements and provision of evidence by remote means. Email citation should be the initial method of citation.

### **Recommendation 33**

**COPFS** should cite professional witnesses by email and ensure that there are consistent and effective national standby arrangements for these witnesses.

### Recommendation 34

The **Scottish Police Authority Forensic Services** should develop a consistent national approach and administrative process to manage court witness citations issued to forensic scientists.

#### Excusals

389. Civilian, police and professional witnesses seek excusal from attending court for a variety of reasons. Our surveys sought to understand these reasons.
390. Witnesses will first become aware of the trial date that has been fixed by the court through receipt or service of the citation.<sup>100</sup> It may be that the trial date scheduled by the court is not suitable for the witness to attend. This could be for a number of reasons including:
- the police did not take a note of witness availability when they took a statement
  - the witness was not asked by COPFS to provide their availability
  - the witness did not provide COPFS with their availability
  - the availability of the witness was not taken into account when the court set the trial date
  - the circumstances of the witness changed.
391. Any witness seeking an excusal has to submit a formal written request to the Procurator Fiscal. The circumstances should be considered by a prosecutor with reference to the prosecution case and a decision reached whether the witness can be excused from attending court or not. It is important to note that, in sheriff and jury proceedings, Crown witnesses must be made available to the defence if they have stated at the first diet that they require a Crown witness as part of their defence case. Such witnesses, once cited, can only be excused from attending court with both Crown and defence consent.
392. The number of requests received by COPFS from witnesses seeking excusal from their witness citation is linked directly to witness availability and court scheduling. If witness availability is not proactively ingathered by COPFS and Police Scotland, and is not taken into account by SCTS when scheduling trials, then the number of witnesses seeking excusals will naturally increase. This is a further example of failure demand in the system. Excusal requests cause:
- lost time in the submission of excusal requests by witnesses
  - increased work for COPFS in processing witness excusal requests
  - anxious waits for witnesses to hear from the prosecutor whether they are excused from attendance at the trial
  - trials adjourned and the journey time of cases for victims, witnesses and accused persons extended
  - churn of cases in the justice system.

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<sup>100</sup> Some civilian witnesses may be told by Victim Information and Advice (by telephone or letter) of the trial date prior to the citation being issued, or may have been in attendance at court when a trial was adjourned to a later date.

393. A prosecutor has to balance many matters when considering an excusal request. These include the reason for the excusal, the procedural history of the case, whether the prosecution can prove the case or a particular charge without that witness, or whether the prosecutor should seek an adjournment of the case to enable the witness to attend at a later date. An excusal is not automatic and can be refused by the prosecutor. If an excusal is refused, the witness remains under legal citation and is obliged to attend court.

### **Process to seek an excusal – civilian and professional witnesses**

394. Excusal requests from civilian and professional witnesses can be received by the prosecutor in a number of ways (including phone, letter and email). Excusal requests are also submitted to different departments across COPFS, but all require to be considered by a prosecutor. Written communication will be scanned by COPFS office or NPU staff and imported into the case on the case management system, together with any supporting documentation from the witness evidencing their lack of availability on the date of the trial. The limitations of the COPFS case management system means that it will highlight that a new document has been received, but not the nature of the document.

395. For postal citations, civilian and professional witnesses can complete the postal reply form describing any difficulty they have in attending court for trial. This could relate to such matters as a pre-booked holiday, a hospital appointment or another commitment or difficulty. Along with the form, they must submit evidence, such as a copy of the holiday booking confirmation, and return it all to COPFS in a pre-paid envelope.

396. Professional witnesses told us of prosecutors requesting evidence of a holiday booking and many viewed this as questioning their professionalism and duty to the court. This was reflected in our survey where one witness stated the following.

“As a Professional witness when receiving multiple citations, we would never get any annual leave if the annual leave is not respected. To have this challenged isn't good practice”.

**Public survey respondent**

397. While we appreciate such frustrations, it may be that the court (rather than the prosecutor) will insist on such vouching if the case has to be adjourned due to the non-availability of the witness. The Handbook should be clear to COPFS staff when vouching should be sought.

398. The citation pack for witnesses (sent by post or served by police officers) does not provide full guidance to civilian and professional witnesses on the excusal process and what action they should take if they have another commitment on the date of the trial and are unable to attend. There is only brief information on the postal reply form. In our public survey, only 40% of victims and witnesses who had received a citation knew how to request an excusal. For professional witnesses, this increased to 70% , likely due to knowledge of the court process.

399. Witnesses often phone COPFS through NEP with excusal related questions. In the IPS inspection report on NEP, we noted in the audit that witnesses contacting COPFS via phone or email with either citation related enquiries or excusal from court requests is common, and that much of that demand could be reduced by providing better information on the excusal process on the COPFS website.<sup>101</sup> In that inspection, we audited 200 enquiries<sup>102</sup> and found that 13% related to citation and 14% to witness availability or excusal. NEP operators will usually advise witnesses to submit an excusal request to COPFS in writing (by email or letter). This information, along with general guidance about what to expect if cited as a witness, should be clearly set out on the COPFS website to assist witnesses – for example, how long a witness should expect to wait for a response to an excusal request and examples of the reasons which may be acceptable for a person to submit an excusal request. This should be captured by COPFS in implementing recommendation 9.

### **Process to seek an excusal – police witnesses**

400. Police excusals requests require to be set out in a particular form and include certain information. COPFS and Police Scotland's protocol<sup>103</sup> on police witness excusals aims to:

- encourage co-operation between Police Scotland and COPFS
- reduce unnecessary public expense
- consider officer's work/life balance.

401. This protocol states that acceptable reasons for police witnesses seeking an excusal include:

- annual leave
- national training which is critical to the role of the witness and where standby is not appropriate.

Excusals for personal reasons will be assessed on their individual merits and take account of the police witness's work/life balance and welfare. Suitable personal reasons include bereavement and hospital appointments. We heard from police officers that the guidance was insufficient.

402. We found that the current excusal process for police and forensic scientists is not fit for purpose. It is inconsistent, inefficient and opaque, and COPFS can take a long time to respond to excusal requests. Of our police survey respondents, 95%<sup>104</sup> said that they felt as though they had not received a prompt response to their excusal requests. The system was variously described as a "shambles" and "an absolute disgrace."

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<sup>101</sup> [HM Inspectorate of Prosecution in Scotland report on 'Responding to enquiries: service delivery through National Enquiry Point, January 2025 , page 32.](#)

<sup>102</sup> A random sample of 144 calls and 56 emails from over 4,000 enquires received by National Enquiry Point in the week commencing Monday 22nd April 2024.

<sup>103</sup> Joint Protocol for the Excusal of Police Witnesses from attending Court between Crown Office and Procurator Fiscal Service and the Police Service of Scotland.

<sup>104</sup> As stated previously, it should be noted that blank responses to individual questions were excluded therefore percentages shown are not always calculated from the total number of respondents.

“The entire excusal system needs to be reviewed as it is a broken system for actually receiving any response.”

**Police survey respondent**

403. The main themes taken from the survey and from the focus groups with police officers and forensic scientists are set out below (we have considered issues particular to forensic scientists at paragraph 383 above).
404. **Lack of response** – police officers and forensic scientists frequently receive no reply to excusal requests. This results in multiple, time-consuming attempts to seek a response. One officer reported making 23 phone calls the day before going on holiday to confirm an excusal. Another described submitting an excusal three months before his annual leave period, but felt unable to book a holiday as he did not receive a response. Several officers described how they felt that holidays abroad were given greater priority for excusal than holidays within the UK, or planned periods of annual leave at home. We heard from police officers that they feel they are expected to respond quickly to requests from COPFS, but do not receive the same courtesy in return. There is a strong perception of inequity and lack of respect for officers’ time and commitments. This underlines the recurring theme across our inspection activity – that communication is not always what it could or should be between organisations, with fault on both sides perpetuating matters.

“Court excusals are never answered. As police officers we are expected to answer the PF within days however we don’t receive the same [courtesy].”

**Police survey respondent**

405. **Delayed responses** – when responses are received, they are often last-minute, causing disruption, uncertainty and stress – and sometimes forcing emergency arrangements or cancelled plans. Officers often do not receive confirmation that their excusal request has been received or processed. This uncertainty can result in officers attending court unnecessarily or taking leave without the excusal being granted. Some felt this exposed them to personal risk of being held in contempt of court or arrest for non-attendance. Forensic scientists also said that they may still attend court unnecessarily because of unclear or delayed responses.

“The ridiculous delay in the decision to grant an excusal or not means that arrangements during annual leave are extremely risky and as such I have missed out on events involving friends and family.”

**Police survey respondent**

406. **Lack of communication** – we were advised that police witnesses had no direct or reliable way of contacting COPFS and felt that a more communicative partnership approach was needed. This has been particularly hindered by court liaison roles within Police Scotland being phased out. There is no guidance for officers about what they should do if they do not receive a response to their excusal request. Other than submitting a second excusal request there is no national escalation processes that officers should follow.

407. **Operational impact** – managing excusals and preparing for court is time consuming for police officers. We were told that some officers who had been cited to attend court were not permitted by COPFS to attend non-critical training courses on the court date as they required to attend court as a witness. A loss of training days can have an impact on the continuing professional development of officers.
408. **Personal disruption** – police officers reported disrupted rest days and delays to re-rostered rest days, which had an impact on their rest and recuperation. Both police witnesses and forensic scientists felt unable to plan or take their annual leave with confidence, and some reported lost annual leave if cited to attend court frequently.
409. **Financial loss** – police officers advised that they can experience financial loss through delayed excusal responses relating to cancelled or rearranged plans or holidays. We were told of a particular situation when officers are countermanded by COPFS more than eight days before the trial, they are no longer eligible to work and be paid. They may still end up paying for any additional childcare already arranged, since childcare settings often have minimum cancellation periods and will still charge.
410. We heard that, for police officers on maternity leave (i.e. who could be on a reduced income), being cited to attend court could result in their being out of pocket due to the childcare costs incurred. For those on maternity leave, it may be difficult to plan for childcare when they believe they are cited for a particular date but then have to be available for the 10-day trial period in a sheriff and jury case, since this may require them to arrange and pay for childcare for the entire period.
411. The Police Officer Handbook<sup>105</sup> sets out expenses that officers can claim when cited to attend court. Childcare is not mentioned. We were told by Police Scotland that police staff are entitled to claim for registered childcare costs where the attendance at court has resulted in additional expenses. However, this does not extend to police officers. The Police Officer Handbook states that 'Where officers incur other expenses in the execution of their duty, they shall be entitled to be reimbursed provided that the expenditure is necessary, reasonable and backed by a receipt (where possible)'. We could not find any evidence in our inspection that the issue of expenses for police officer childcare costs incurred due to court citations had ever been considered.

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<sup>105</sup> [The Police Negotiating Board Scotland, 'Police Officer Handbook - Agreed Guide to Police Officer Conditions in Scotland'](#).

“It is EXTREMELY frustrating to have to find and pay for childcare on what should be my rest day, when I should be spending time with my child on my one or two days I have off a week; hoping the nursery has space for her and then paying £85 for a day’s childcare, to be cited as a witness for something very minor, then to be stood down from court without even giving evidence. I have no family nearby who can provide childcare. My husband has also had to take annual leave from work to allow me to attend court on a rest day and I’ve not given evidence, so we are using up our valuable time and money for what feels like nothing.”

“School holidays are often a nightmare, being cited for sheriff and jury trials that countermand each day to the next cost a fortune in childcare and a huge stress in organising such and no help or costs recovered on days that are countermanded even though the childcare still has to be paid.”

**Police survey respondents**

### **Recommendation 35**

**Police Scotland** should:

- (a)** explore whether a policy is required for police officers who incur carer costs, which cannot then be reimbursed when they are countermanded as a witness at short notice; and
- (b)** consider whether there is a need to clarify its policy on maternity procedures in relation to the process and impacts of being cited to court as a police witness while on maternity leave.

### **Administrative excusal process**

412. The Local Court Business Process Handbook (the Handbook) requires COPFS administrative staff to rename the memo from the police or excusal correspondence from a civilian witness as ‘Witness Excusal Request’. The purpose of this is twofold – to easily identify the documents as an excusal request that requires action and to enable data to be extracted from the system on the number of outstanding excusal requests. To improve this, COPFS and Police Scotland should streamline the existing police witness excusal process by investigating whether police excusals can be renamed to make them identifiable and measurable from the outset.
413. The excusal request is then moved to another electronic tray to be considered by a prosecutor. There are instructions in the Handbook on how prosecutors should process these excusal requests when making a decision and how administrative staff should process these thereafter. These processes are cumbersome, requiring multiple renaming and movement of the excusal request; this builds in potential for delay and risk of error. It also prohibits extraction of accurate data. We found that COPFS staff do not routinely follow the Handbook when processing excusal requests and there is no consistent national practice in offices, or even between staff in each office.
414. Some prosecutors undertake the entire excusal process themselves, including the administrative process of cancelling of witnesses on the system when excused, while others undertake only the decision-making part of the process. This leads to differing practices and there is a risk that some excusal requests are not properly dealt with, fully processed or identified for statistical purposes.

415. We found that some instructions for processing excusal requests in the Handbook were not fully considered and were inconsistent. Examples of this include:

- lack of clarity on who has responsibility for advising civilian witnesses if an excusal has not been granted (the prosecutor or the administrative member of staff)
- lack of direction about the need for COPFS to advise witnesses if they have been excused. It is possible that the civilian witness will not necessarily associate the formal countermand as a response to their excusal request
- if there are more than three full working days between the countermand and the trial, the countermand is to be sent by post – taking into account overnight printing and limited delivery times for second-class mail, it is unlikely that the witness will receive the countermand letter before the trial
- instructing the use of email (where COPFS have an email address) to advise civilian and professional witness of an excusal request decision is limited and inconsistent
- inconsistencies between the summary, and sheriff and jury excusal sections – for example, the need for a witness to provide a soul and conscience letter in the sheriff and jury excusal section, but not in the summary section.

As we mention elsewhere in this report, the Handbook would benefit from further revision.

416. If a police officer is unavailable to attend court for the trial and is excused by the prosecutor, another police witness in the case who can provide evidence on the same issues, may be cited in the first officer's place. We found that, if the trial is subsequently adjourned, both officers may often be cited for the new trial. This is down to COPFS human error in not 'deselecting' the first officer as a witness in the case management system. This is a waste of police resource, if only one officer is needed to give evidence at the trial. COPFS should ensure that this practice stops.

### **Timescales for processing excusal requests**

417. A witness must wait until they receive a response from the prosecutor to know whether they have been excused from attending the trial. For many, with commitments such as booked holidays or hospital appointments, this can be an anxious time. As part of this inspection, we examined the response time from COPFS to excusal requests.

418. COPFS does not externally publish any information for witnesses about the timescale in which they may receive a response to their witness excusal. However, internally, COPFS has several different targets for responding to witness excusals and we found three targets in operation:

- the summary, and sheriff and jury excusal chapters in the Handbook state that excusal requests should be responded to within five working days
- in the local court business plan, the target for processing all witness excusal requests is within 10 working days
- the 2013 Protocol referred to above states the COPFS will respond to police excusals within 21 days.

These three contradictory targets, concurrently in place within COPFS, indicate a lack of oversight regarding excusal requests.

419. In reality, these inconsistent targets are not an issue, since our interviews revealed that COPFS staff are largely unaware that any such targets are in place. The 2013 Protocol was only referred to by one member of staff and, given its age, it appears to have no value in its current format. If it is to remain, it will require COPFS and Police Scotland to consider and update.
420. COPFS targets for witness excusals are not currently measurable. The way in which witness excusals appear on the COPFS case management system (described above), combined with the cumbersome practice of reindexing documents (followed inconsistently by staff), means that COPFS is unable to extract accurate data to measure how many excusals it has received and how many are outstanding.
421. The current COPFS excusal targets are also unachievable. During our inspection, COPFS senior managers told us that current targets for excusals were 'aspirational' and acknowledged that they could not be met with current resources. Such targets are not realistic or attainable; given the current resource of deputes within the local court function, they do not have time to do office-based tasks when they are required at court daily.
422. As far as we could determine, COPFS has never had a consistent national process to effectively manage and allow excusals from all categories of witnesses, so that decisions can be considered and made timeously. We heard from COPFS staff that excusals are not actioned for several months and are only dealt with when a prosecutor is undertaking case preparation for court. We were advised that this is not wilful, but rather a reflection of:
- resourcing in local court
  - prosecutors having no available time in their day to consider excusals, due to being at court and preparing upcoming courts
  - there is no process for checking a case for outstanding matters, including excusal requests, between preliminary diets and trials.
423. COPFS must guard against this poor customer service and ensure that there is a step in the process that requires a check of cases between the first calling, any subsequent procedural hearings and the trial.

424. This failure to manage excusals was reflected in our case review:

- A police officer submitted an excusal to COPFS on 1st June 2024. This was not considered until a prosecutor prepared the case for a court on 14th July 2024 – over six weeks later
- A civilian witness stated in her reply form on 16th July 2024 that she could not attend court as she did not see the offence happen. She received a reply from the procurator fiscal's office (advising that she was not excused attendance at the trial) on 29th October 2024 – more than three months after her excusal request was received
- A civilian witness sent in an excusal stating she was unavailable for trial, which was received on 29th January 2024. Her evidence was essential, but the excusal was not considered until the prosecutor prepared the case for a court on 26th March 2024. The case was adjourned at the intermediate diet because of her unavailability, and the witness was countermanded after this court. This was nearly two months after she first sent her excusal to the procurator fiscal and she had received no direct response to her correspondence. This is a case that would have merited an administrative acceleration to be adjourned, to shorten the journey time and inconvenience for witnesses
- A police excusal was considered by a prosecutor during court preparation 10 weeks after it was submitted.

425. Excusals were traditionally considered and processed by the 'office depute' within COPFS offices. This is a prosecutor who is allocated office-based tasks. Currently, the resource level in COPFS local court function is such that many offices no longer regularly have an office depute, as all available procurator fiscal deputies are in court. Even where an office has the capacity to have an office depute, the demand is such that they are unlikely to make much (if any) impact on the volume of witness excusal requests, if there is a significant backlog to address. An office depute often has to deal with a range of tasks, many of which are urgent. These include: search warrants; cash seizures; queries at the public counter; correspondence; marking cases; and miscellaneous queries from administrative staff. They will also likely be scheduled to be in court the next day and have a requirement to prepare cases. Such a range of tasks amounts to "hidden work" that COPFS is unable to easily quantify and, in the absence of a dedicated office depute, the reality is that these tasks will have to be shared by legal staff (including managers) to ensure they are carried out.

### **Recommendation 36**

**COPFS** should:

- (a)** ensure that local offices are sufficiently resourced to allow for effective and timely case preparation including citation-related issues and monitor key stages of case preparation, including (i) issue of citations, (ii) preparation of cases for court, and (iii) response rates for excusals and countermands as indicators of resource issue; and
- (b)** consider and monitor the role of the office depute.

426. The Law Officers recently focused on the failing of COPFS to answer correspondence of victims timeously, or at all.<sup>106</sup> During 2024-25, a target was put in place that all local court correspondence was to be responded to within 10 working days. We heard conflicting views from staff about whether civilian excusal requests were counted as “correspondence”. In the fourth quarter of 2024/25, 72% of correspondence in local court cases was within this target.<sup>107</sup> While this is a step forward, our inspection revealed that this figure was achieved through overtime being given to staff towards financial year end and it is therefore unclear how sustainable this is in the long term, without adequate processes and resources to routinely answer correspondence.
427. During our inspection, we learned of an office where sheriff and jury police excusals were being dealt with effectively, with one prosecutor given responsibility for placing all excusal requests received on a spreadsheet and allocating them weekly to fellow prosecutors, to consider and process. The allocations are monitored to ensure that they are answered timeously and that any impact on a case proceeding is caught at an early stage. This is an example of a local office introducing its own practice to address the lack of effective national systems and processes. That is commendable but, as we have previously found, it is an isolated example of good practice, not shared across COPFS.
428. Delays in answering excusal requests can lead to a last-minute adjournment of the case at a procedural diet, or on the morning of the trial. This extends the journey time for victims, witnesses and accused, and contributes to the churn of cases in the justice system. If excusal requests are dealt with promptly, then any adjournment can happen months earlier by administrative application to the court by the prosecutor.
429. There requires to be a culture shift within COPFS, whereby excusals are no longer viewed as an additional task but rather as integral to the preparation of case work. We found little understanding among staff about the impact of failing to consider excusals on the witness. This may be due to the lack of guidance and training on the citation process, which has led to staff in COPFS not considering excusals as a priority, but rather seeing them as an administrative task.

### **Impact of excusal requests on civilian and professional witnesses**

430. The impact on civilian witnesses when their excusal requests are unanswered or delayed risks witnesses disengaging from the process and losing confidence in the criminal justice system. The current excusal process is neither trauma-informed nor witness-centred.
431. Months of waiting for a response to an excusal request, or receiving no response at all, attracted numerous comments within our public survey:

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<sup>106</sup> This was highlighted in [HM Inspectorate of Prosecution in Scotland report 'The prosecution of domestic abuse cases at sheriff summary level'](#). See para 392 et seq.

<sup>107</sup> COPFS Local Court Business Plan 2025-26.

“a joke – never heard back”.

“It took too long to reply to excusal”.

“I had to submit proof I was away on holiday and it was unclear on the contact details to use. No one ever contacted me so I assumed I was never needed.”

“excusals are regularly entered and no response is ever received. If travel is planned, this involved considerable time and effort, often over days or weeks to try and get an answer in relation to this, which causes significant stress and upset in the build up to a holiday.”

**Public survey respondents**

432. If SCM continues to reduce the number of trials scheduled by the court (and, therefore, the number of witnesses required to attend court), then the number of excusal requests being sent to the prosecutor should proportionally decrease. However, because of the failure to capture and take into account witness availability when setting trials (outlined above at paragraph 248), excusals will still feature and requires to be managed successfully by COPFS. There is a need for an efficient, national and consistent process; one that is published by COPFS and that sets out what witnesses can expect when they submit an excusal request.

### **Recommendation 37**

In order to improve the witness excusal process:

- (a) COPFS and Police Scotland** should review, update and implement the ‘The Joint Protocol for the Excusal of Police Witnesses from attending Court between Crown Office and Procurator Fiscal Service and the Police Service of Scotland’ dated August 2013;
- (b)** within six months of the date of this report, **COPFS** should implement a consistent national process on responding to sheriff court excusals and monitor compliance;
- (c) COPFS** should ensure that any targets set in relation to excusals can be measured and are achievable; and
- (d)** the importance of processing of excusal requests and the impact of not doing so on the justice system should feature in **COPFS** depute induction training packages and relevant administrative courses as per recommendations 6 and 10.

### **Soul and conscience certificates**

433. COPFS will usually request that a witness obtain a soul and conscience certificate from their doctor if they are seeking excusal from being a witness at a trial. This is a document provided by a doctor certifying, on their ‘soul and conscience’, that a person is medically unfit to attend court as a witness.
434. During our inspection, we heard that some witnesses (including police witnesses) experience difficulty obtaining soul and conscience certificates from their doctor, usually general practitioners (GPs). Prosecutors also informed us in interview that they have heard anecdotally from witnesses that some GPs were no longer providing such certificates, or were charging for them. Prosecutors had also spoken to GPs who were unwilling to provide such certificates as they did not want to risk being called to court to give evidence in relation to the certificate.

435. Due to the limits of this inspection, we were unable to ascertain the reasons for witnesses being unable to obtain soul and conscience certificates. Given the pressures on the NHS, we would invite consideration from the Scottish Government and COPFS, with the necessary input from the judiciary, on what role soul and conscience certificates should play in the justice system, or explore if there is a possible alternative method of establishing witness unfitness to attend court that may be appropriate.

### **Countermands**

436. When a witness no longer has to attend court, COPFS will issue a countermand (cancellation of the citation). This advises the witness that they are no longer required to attend court on that date. Reasons for this include:

- the accused pled guilty at a preliminary diet
- the prosecutor has decided to discontinue the case
- the witness's evidence has been agreed
- the trial has been adjourned, and a new trial date has been set. The witness will therefore be issued with a new citation in due course.

437. COPFS issues countermands to witnesses in a variety of ways, depending on the type of witness and how imminent the trial is. It is generally done through the COPFS case management system. If a member of staff selects the option of email (currently only possible for officers of Police Scotland) or post, this will send an email or a letter to be printed and sent the next day by the NPU. Telephone countermands are undertaken by administrative staff, and a record should be put on the case management system.

438. COPFS will instruct a personal countermand for a civilian or professional witness where there is less than five full working days between the countermand date and the trial date, and a telephone countermand has not been possible. This instruction should be sent to an agreed local Police Scotland email address. That email should be uploaded to the case management system.

439. Police officers and forensics scientists are frequently cited to attend court. In our police survey, we heard concern over the number of times they were countermanded, the short notice of countermands, the significant personal impact on witnesses and on the operation of Police Scotland of this. In the police survey, the majority of respondents described frequent countermands: 36% of respondents said that they were countermanded most of the time, with a further 35% saying they were countermanded half of the time and 4% every time.

### **Process for countermands**

440. COPFS has guidance for staff on the countermand process for both summary, and sheriff and jury cases in the Handbook. Again, we found that the countermand instructions were inconsistent between different parts of the Handbook and not always fully considered. One example was that a civilian witness can be countermanded by post if there are five working days before the trial in summary proceedings, but it is only three working days before the trial in sheriff and jury proceedings. There is no reason for this inconsistency and neither instruction is realistic given the limitations of the second-class post discussed further below at paragraph 537, the risk being that the witnesses may not receive this notice timeously.

441. There was no consistency in the Handbook on the preferred method for countermanding among the different types of witnesses in the first instance. The Handbook advises that professional witnesses should be countermanded by telephone, police by email and civilians by letter. There should be a tiered and consistent approach (for example, email) among the different type of witnesses, which takes into account cost, with an overarching focus on being trauma-informed. As with many aspects of the citation process, the current countermand process does not take account of witnesses with vulnerabilities, additional needs or lack of familiarity with the criminal justice system.
442. The Handbook does not direct staff to issue countermands to civilian or professional staff by email, even if an email address is held for that witness. Email would be the most efficient way to issue countermands, as it is modern, timely and cost effective. As the case management system does not automate email countermands to witnesses (other than police officers), it involves COPFS staff sending the witness an email from their personal COPFS mailbox. COPFS staff do not consistently import this email to provide an audit trail. COPFS should consider an IT solution to generate automated emails to civilian and professional witnesses once email addresses are routinely included in police statements.
443. We also found that the case management system for countermanding a witness contains a mixture of automated and manual processes. Only postal countermands are automated for civilian witnesses, while staff have to actively telephone and email witness without using the system. This difference is not evident from the system and may cause staff to believe that a witness has been countermanded when they have not.
444. From our case review, we found that there was either an absence of countermanding of witnesses by telephone or an absence of a record that this had been done. It is reasonable to infer that witnesses were routinely being countermanded by a telephone call from COPFS staff, but they failed to record that it had been done.
445. The direction to COPFS staff in the Handbook is that if there are less than seven days to a trial, they should not email countermands directly to police officers. Instead, they are instructed to send an email from their personal mailbox to the local police RDUs. This separate approach is intended to assist Police Scotland in its management of frontline staff resourcing. However, we saw no evidence – either in our case review or in interviews with operational COPFS staff – that there was an awareness that this was to be done. COPFS should ensure that staff are following this guidance.
446. We heard from police witnesses of a frustration at not receiving notifications of countermands for trials until the morning of the trial. This seemed to be a particular issue where there was a countermand the day before the trial. For urgent police countermands for next day trials, COPFS staff are also directed to send an email to RDUs. However, these units are not manned beyond 5pm at the latest, so any email will not be actioned until the next morning. A more practical arrangement would be to email the Contact, Command and Control Division (C3 unit) at Police Scotland, since this is manned 24 hours a day and they could attempt to contact the officer. Currently, this instruction only appears to exist for police officers based outwith the local area of the procurator fiscal's office.

447. To have COPFS staff sending emails from personal mailboxes is cumbersome, time consuming, and also presents a risk of incomplete record keeping. There is a high risk that staff could forget to send this email and police officers will not receive the countermand. Police witnesses can be countermanded through the COPFS case management system when the trial date is seven days or more away. It would appear logical that the same system can be adapted to include trials less than seven days away, to notify police witnesses and relevant police units. COPFS and Police Scotland should work jointly on an IT fix to remedy this problem.
448. Receiving late countermands also has an impact on Police Scotland and SPA Forensics in terms of their operational and shift planning, court preparation, resource management and workloads. Officers retain the right to work on the citation date if it falls on a rest day, even if countermanded, when less than eight days' notice is given. There is then an associated financial impact upon Police Scotland, with officers paid double-time.
449. During our inspection we heard there was inconsistent communication about countermands. Police officers often reported experiencing delays in receipt of countermands and, on occasion, this was much later than when COPFS had taken the decision to countermand. During our inspection, it was sometimes not clear where the delay had occurred. We heard from officers of cases where the accused had pled guilty at a previous court hearing, but, despite this, no countermands were received by the officers cited in the case. This resulted in officers attending court when not needed, working on rest days, and unnecessarily cancelling leave and/or arranging childcare arrangements.

“Getting email chains and last minute “oops the accused plead guilty but we forgot to countermand the Police witness” is so demoralising especially when an excusal has been submitted for annual leave and refused.”

“I have found on numerous occasions it has taken over a week for me to be notified I am no longer required after a decision has been made. On more than one occasion I have arrived on the date of the trial to find out the trial has been adjourned or cancelled all together”.

**Police survey respondents**

### **Recommendation 38**

**COPFS** should implement IT solutions to:

- (a)** generate automated countermand emails to civilian and professional witnesses once email addresses are routinely included in police statements; and
- (b)** ensure that all Police Scotland countermand emails are automated from the COPFS case management system to the appropriate Police Scotland unit.

## Timescales for processing countermands

450. Witnesses should be notified as soon as possible that they are no longer required for a trial, to keep disruption to their lives at a minimum. Many witnesses will have made practical arrangements (such as taking time off work or arranging childcare), which may be difficult to cancel at short notice. The COPFS local court business plan 2024-25 has a target for staff to process countermands 'at least three working days before the trial'. It would be preferable that any target to notify witnesses should be within a certain number of days from the date on which a decision is made that the trial will not proceed.
451. The difficulty for COPFS in setting such a target is that backlogs in processing summary court results often make this unachievable. We heard similar issues with administrative backlogs in a previous inspection<sup>108</sup> and it is disheartening to hear that this failure demand still exists. In some areas, because of a lack of resources to process summary cases after they call in court, there remain backlogs of several weeks. This, among other things, affects countermands being actioned by staff. Often, the automated issuing of citations for a new trial date has taken place before the countermands for the first trial date have been processed. The lack of timeous countermanding of witnesses has several practical implications, which are discussed below.
452. We heard from civilian and professional witnesses in our survey that 66% did not feel that they received enough notice about the cancellation of their citation. Professional witnesses reported that they were more likely to learn that the trial was not proceeding by contacting COPFS by telephone or by checking the court information on the SCTS website themselves.

"Being cited to attend court for the same case on four occasions and on each occasion was countermanded to a different date with little-to-no notice."

**Public survey respondent**

453. In summary proceedings, a combination of the volume of cases, the lack of staff resources and the timescales of the Royal Mail second-class post to deliver countermands, leads to delays in the countermand process. It is illogical that one side of the citation process in summary cases is automated (the issuing of citations), but countermanding is not. If the countermanding process was also automated, this would avoid these issues.

## Recommendation 39

**COPFS** should:

- (a) review the target for processing countermands to ensure it is assessed from the date on which the decision is made that the witness is no longer required; and
- (b) consider implementing automated countermanding in summary cases.
- In the interim, COPFS should address and monitor backlogs in case processing to allow countermands to be issued timeously and prior to autocitation for any new trial date.

<sup>108</sup> [HM Inspectorate of Prosecution in Scotland report 'The prosecution of domestic abuse cases at sheriff summary level'](#) page 99.

454. Often when a trial does not proceed, police officers will continue to try and serve citations, unaware that the trial is no longer proceeding. There is no automated system to alert Police Scotland when this happens. They will only be informed if COPFS staff advise them directly.
455. Often police officers serve witness citations only to be informed by the witness that the trial is no longer going ahead. This requires police officers to carry out further investigation to confirm this. Without confirmation that the witness is no longer required, police officers still need to serve the citation and obtain an execution of service. This can also lead to confusion for witnesses.
456. The consequence of a lack of automated system to notify Police Scotland of the countermand of civilian witnesses is frustration and an inefficient use of police resources. This also contributes to failure demand in the overall process.
457. It was clear from our interviews with COPFS staff that they had not considered the implications of failing to advise the local police citations unit that the trial was no longer proceeding and that there was no need to continue to make attempts to personally serve any witness citations. COPFS has not considered this issue and there is no related guidance. The COPFS case management system should be updated to issue an automated email to local police citations units when countermands are processed.

#### **Recommendation 40**

**COPFS** should:

- (a)** develop an automated process to advise Police Scotland when witnesses are countermanded; and
- (b)** until such a digital solution in **(a)** is realised, and within three months of the publication of this report, issue guidance and train staff to ensure that Police Scotland is advised when witnesses are countermanded.

#### **Adjourned trials**

458. Trials can be adjourned in advance of the trial diet for a range of reasons. This will result in witnesses being countermanded and, usually, new citations issued. A trial may also be adjourned on the day, often due to reasons outwith the control of the procurator fiscal. A new trial date will be fixed and the citation of witnesses will start again. A statistical bulletin published November 2025 (available from SCTS) estimates 27% of all trials will be adjourned.
459. During our inspection we attempted to ascertain the number of trials that are adjourned due to witnesses having not received or been served with their citation. The closest measure that is available is the SCTS record of the percentage of Crown adjournments that are granted for the reason “witness absent” or “witness not cited”. However, this will also contain the figure for those witnesses who do not attend court despite receiving a citation. In 2024/25, this represented 58% of Crown adjournments.<sup>109</sup> These figures include justice of the peace and High Court cases, which are beyond the scope of this inspection, but it is not unreasonable to conclude that the figures are also representative of the sheriff court.

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<sup>109</sup> Between the financial years 2019/20–2024/25, this figure has varied between 52% and 59%. Data source SCTS.

460. The justice system is making some progress towards reducing the number of trials that are adjourned. The percentage of trials called and adjourned to a new trial diet were 28% in the financial year 2024/25, down from 34% in 2023/24.<sup>110</sup>
461. While these statistics show reassuring progress in reducing adjourned trials, COPFS has no formal process to investigate and analyse why cases were adjourned or discontinued. In our case review, we saw examples of failures in the citation process, or wider issues that should have been remedied or identified timeously. It is unclear how COPFS identifies to what extent failures in citation are having an impact on the justice process. Quality assurance of cases (such as dip sampling) would highlight any recurring themes relating to failed or late service of citations, with the knock-on effects of adjournment, churn of cases and inconvenience to witnesses who have attended to provide evidence. If systemic failures are identified, this should lead to service improvement by COPFS and Police Scotland.

### **Recommendation 41**

**COPFS** should implement effective quality assurance to consider why sheriff court cases are adjourned.

462. We heard that, when a case is adjourned, there is no current practice to systematically capture witness availability for any new trial dates. Any civilian witness or police officer availability gathered for the first summary trial diet or sheriff and jury trial will likely be out of date if a trial is adjourned.
463. If witnesses are present at court when a trial is being adjourned, attempts are sometimes made to check any potential trial date with them, to ascertain if it is suitable. This will not be possible where cases are adjourned in advance of the trial date, or where witnesses are not present on the trial date. The sheriff and jury witness engagement process discussed at paragraph 249 is not carried out for adjourned cases. We heard of good practice by some deputes who attempted to telephone witnesses to check future availability if they knew a case was going to be adjourned, but having the capacity or opportunity to do this was often limited and this practice was not universally applied throughout COPFS.
464. When a trial is adjourned, the sheriff clerk will often provide the next available trial date. The risk in setting trial dates without full witness availability or at least to have a process where this could be obtained, risks trials being further adjourned, increasing witness inconvenience and adding churn and journey time of the case.
465. In our fieldwork, police officers told us that cases are frequently adjourned without an explanation being given. This was described as being frustrating, given the investment officers have in their cases, and also because they are sometimes asked for updates from civilian witnesses in the course of their day jobs. However, it is not always possible for COPFS to provide information about why a case has been adjourned, for legal reasons.

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<sup>110</sup> Data source SCTS.

## Recommendation 42

**COPFS** should work with justice partners to ensure that when a trial is adjourned there are processes for ensuring that trial dates are checked with witnesses prior to being assigned by the court.

### Witnesses called to give evidence

466. During our inspection, we were unable to obtain data from COPFS or Police Scotland about the number of witnesses who gave evidence in a trial compared with the number of witnesses who were cited to attend the trial. This would be a useful tool in assessing whether there was any pattern of overciting witnesses by prosecutors and to what extent witness evidence is only agreed on the morning of a trial.
467. Unfortunately, COPFS does not keep such data. Neither were we able to carry out an accurate check in our case review, due to poor quality trial court minutes recorded by prosecutors. Prosecutors should record on the court minute sheet the names of witnesses who give evidence at trial, witness who attended to give evidence but did not, as well as the reasons for this and any other relevant matter. This is to ensure that there is an accurate record of what happened during the trial. However, we observed that such practice varies and this hampered our ability to fully assess the citation process. Prosecutors should be reminded and trained on the importance of this practice. Currently, no justice agency holds a comprehensive record of summary proceedings documenting: which witnesses attended; who gave evidence; and when they were authorised to leave court.
468. As detailed in paragraphs 115 and 164, we found that neither Police Scotland nor SPA Forensic Services gather complete data for how many of their officers or staff attend court, or go on to give evidence, having received a citation. The ability to collect this data for police officers, police staff and forensic scientists has existed since the establishment of Police Scotland and remains accessible via the SCoPE personnel system. However, Police Scotland only records this when there is a financial cost (i.e. an overtime claim) as a result of court attendance on a non-working day. Therefore, accurate figures of police officers, police staff and forensic scientists' attendance at court cannot be provided by Police Scotland or SPA Forensic Services, nor reported accurately to the SPA.
469. We understand that some police officers considered gathering this information to be too time consuming. However, this readily available management information is essential, not only to provide transparency and accountability to the SPA, but also to help identify inefficiencies within the wider criminal justice process. This is particularly important in the context of reported ongoing fiscal and resource pressures.
470. Very few police officers, police staff and forensic scientists in the survey reported that they gave evidence, with 85% stating that they have rarely or never given evidence. A forensic scientist, who kept their own record, told us that they had been cited 886 times for 476 cases, attended court on 17 occasions, and gave evidence on eight occasions. This issue was also illustrated by the comments in the survey.

"I have been cited approx. 110 times in 4 years and given evidence 3 times."

**Police survey respondent**

471. Of the 144 civilian and professional witnesses who responded to our survey, 110 (76%) stated that they attended court. Of these, 36 witnesses (33%) gave evidence while 74 (67%) did not. This means that only a quarter (25%) of the respondents who received a citation gave evidence. An efficient justice process should only cite essential witnesses for trial and ensure (as far as possible) that they give evidence on that day.

472. Reasons witnesses attend court but do not give evidence can include:

- the evidence of the witness is agreed on the day of the trial
- the case was adjourned or discontinued
- the accused changed their plea to guilty on the day of the trial.

None of these reasons are wholly in the control of the prosecutor. Throughout our inspection this was not readily understood by civilian, police and professional witnesses. With the rollout of SCM, COPFS is continually working with justice partners to ensure early preparation of cases. This includes the rollout of DESC to encourage early focus of issues and guilty pleas.

473. The effect of the justice process and being cited as a witness numerous times to court for the same case, only to attend court to be sent away and re-cited, has a huge impact on witnesses. This was commented on frequently in our public survey by civilian witnesses.

“I was cited to attend on multiple occasions (5 I think) yet only asked to give evidence on my final visit. When not called, there was no real cohesive explanation as to why you were not called ...”

“There are too many times where you are sitting in court for a number of hours with no information and the case is then cancelled”.

**Public survey respondents**

474. This frustration was not limited to civilian witnesses. Professional witnesses also commented on this.

“On two occasions I was sat in the witness room and waited 3 hours to be told the case wouldn’t be heard that day and I would be cited again .... Third time I sat for 3 hours to be told the case was no longer going ahead”.

**Public survey respondent**

475. Due to the nature of court scheduling in summary proceedings, there may be between 5-12 trials scheduled for a single court. Court scheduling is a matter for SCTS but not all of these cases will proceed. As a result, while the court deals with these cases, witnesses will need to wait in the witness room, often for significant periods of time, until they are called to give evidence or advised that they are not required.

476. Our public survey revealed that not being provided with information about what is happening with their case is a constant source of frustration for witnesses:

“Turning up at court on numerous occasions to be told trial not going ahead or I should have been cancelled. Waiting for hours with no information.”

“Absolutely no support, no information, nothing. Left in witness room until called into court. Awful experience.”

“The entire process was extraordinarily poorly managed, aside from the delayed date due to court availability I was left without any reasonable explanation of what was going on with several hours wasted in hanging about in the court building.”

**Public survey respondents**

477. The Standards of Service for Victims and Witnesses<sup>111</sup> is published annually by those organisations involved in the justice process<sup>112</sup> and describes the standards that victims and witnesses can expect from these bodies. SCTS has a relevant standard, namely:

“If you are a witness attending one of our locations to give evidence in person or virtually, we will update you once per hour on the progress of the court case while you wait. We will advise when you are no longer required.”

478. SCTS advised that its staff are trained in this standard, and their practice is to update witnesses even when there has been no progress. However, adherence to this standard is not monitored nationally by SCTS, and from the comments we received in our survey, it appears that the standard is not being universally followed. Adhering to this standard would make a significant difference to witnesses.

479. We learned that most witnesses are cited to attend court at 9.45am, for trial courts that commence at 10am. A significant proportion of accused delay pleading guilty until the last possible moment, until they know that witnesses have attended court to give evidence. Dealing with such late guilty pleas at the start of the court day takes up prosecutor and court time. This, coupled with other duties on the prosecutor, mean that the 15-minute window between witnesses attending court and the court commencing is a challenging time for summary prosecutors. They require to check such issues as which witnesses are in attendance (including liaising with witnesses who are on standby), which accused and solicitors for each case are in attendance, and which witnesses they require to speak to, in up to 12 or more trials. Depending on these issues, they will need to determine a running order for the cases and may also have other matters to deal with including deferred sentences.<sup>113</sup>

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<sup>111</sup> [Standards of Service for Victims and Witnesses 2024-25](#).

<sup>112</sup> Police Scotland, Crown Office and Procurator Fiscal Service, Scottish Courts and Tribunals Service, Scottish Prison Service and Parole Board for Scotland.

<sup>113</sup> After conviction, the court may defer a case to a date in the future before imposing a final sentence on an accused.

480. We heard differing opinions on whether 9.45am was the appropriate time for witnesses to be cited to attend court. Some prosecutors felt that there was insufficient time to carry out their functions in the 15-minute window, while others took the view that extending this time would be unfair on witnesses who already spend a long time at court waiting for trials to proceed. Given the need for efficient use of court time, and prompt commencement of trial courts, COPFS together with SCTS, should determine the optimal time for witnesses to be cited to attend court, balancing efficient use of court time, the duties on a prosecutor and the impact on witnesses.

### **Standby arrangements**

481. COPFS and Police Scotland have in place a national agreement<sup>114</sup> that police officers cited for summary trials do not have to attend court, but can instead wait in the nearest police office to the court and undertake operational police duties. This is on the understanding that they are less than 30 minutes away from the court and available when required by the prosecutor to give evidence. This ensures that operational police witnesses are able to undertake some police work while waiting to attend court. Previously, large numbers of police officers spent significant time at court waiting to give evidence. COPFS has guidance on this process for staff in the Handbook. We heard from both sheriffs and prosecutors that this 'standby' system works well and there have been no issues with police attendance at court.

482. Our inspection revealed that standby arrangements vary, depending on officers' proximity to the court. Some officers described being given less notice to get to court now than in the past, sometimes being asked to attend immediately, creating logistical issues for them (such as finding parking near the court).

483. We were told that police officers are not listed as a resource by the RDUs if they are on standby for court. We found that there are inconsistent approaches being applied by Police Scotland to standby arrangements, resulting in situations where police witnesses do not have protected time to prepare to give their evidence, or situations in which they have difficulties getting to court on the day. This can be stressful for the police witnesses and can jeopardise trials.

484. There was an inconsistent approach to how officers were deployed and this also varied depending on officers' roles – for example, CID officers were able to stay within their office, only being deployed for very serious reasons. Officers described a range of standby arrangements, including:

- being permitted to prepare for court attendance in the police station
- being permitted to carry out office-based enquiries
- being permitted to remain in the police station undertaking admin work relating to their own cases
- being assigned to response-style calls, including high-risk incidents
- being allocated to locus protection duties
- conducting interviews at police stations.

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<sup>114</sup> Police Witness Summary Court Standby Protocol (Memorandum of Understanding), dated August 2013.

485. Officers may be required to attend incidents while on standby (depending on operational demand); however, it is a critical part of an officer's role to give evidence in court. Adequate time for preparation is vital. It is also important that officers attend court when required.
486. It was evident that the effectiveness of standby arrangements is linked to local demand and resources, as well as the specific role of the officer. Operational pressures directly affect how well officers can balance court attendance with their frontline responsibilities. We heard that some supervisors prioritised operational tasks over court attendance, rather than ensuring officers were adequately prepared and supported to attend court. This approach diminishes the importance of court attendance, and fails to take into account the stress and wellbeing implications for officers, who are expected to balance operational duties.
487. For police officers required to attend court, several in our fieldwork described the experience of waiting without updates, sometimes only finding out later that the case had been dealt with earlier in the day. This echoes our public survey.

“Mentally draining. Sitting within a windowless witness room from 09:30 hours until 1500 hours simply isn't fair. You are never provided with any form of reasonable update. As someone who is cited frequently due to the nature of my job, I find myself within that witness room several times a week.”

**Police survey respondent**

### **Areas for development**

- COPFS should ensure that accurate trial court minutes are kept by prosecutors, and Police Scotland should collect data to record how many officers are cited to court and give evidence.
- Police Scotland should clarify an appropriate and proportionate approach to the use of officers for duty who are on standby for court.

488. Standby arrangements can also be put in place for professional witnesses such as doctors. COPFS staff often telephone professional witnesses advising them they are required to give evidence with one or two hours' notice. This allows professionals to continue their working day until they are required to give evidence. It aims to minimise the impact of busy professionals attending at courts across the county, potentially taking them from important day jobs.
489. The Handbook recognises that standbys may be given to professional witnesses, but there is no practical guidance on how to go about this. We are aware that the COPFS Sexual Offences Review has recently recommended that victims of sexual crime are afforded the opportunity of a standby arrangement if they so wish. This makes the need for clear, practical guidance on standby arrangements for witnesses all the more important.
490. There is an increased use of giving evidence by remote means, for police witnesses from a police station and for professional witness from their office or home (discussed further at paragraph 531). This will further minimise the impact of giving evidence for police and professional witnesses.

## Tools and systems

491. The flow of digital information between COPFS and Police Scotland in respect of the citation process is limited and much of the process remains in hard copy paper form. As with governance and leadership of the citation process, there is currently not one member of staff in COPFS Information Systems Division (ISD) who has overall responsibility for the IT systems used for citations. In the absence of any direction or leadership, the work falls to different members of ISD working on projects, as required.
492. In order to establish the citation position of witnesses in our case review, IPS had to interrogate no less than five different COPFS systems, and multiple screens within each system. Establishing the citation position for witnesses in each case took some time, as each system needed to be negotiated and the information pieced together to obtain a full picture. As many cases have several citation cycles, this can create further challenges. We heard that many COPFS administrative staff found this process frustrating and time consuming. To provide context, COPFS issued 398,804 sheriff court citations in 2024/25.<sup>115</sup> This challenge is exacerbated by the poor performance of some COPFS systems, which was a recurring theme among staff. Having multiple systems leads to inconsistent practices by staff. We found that some senior leaders in COPFS had little understanding of how many systems had to be accessed by staff to access the full information on witness citations.
493. In court it is important that prosecutors have clear and accurate information about whether witnesses have been cited, to be able to inform the court of the Crown's readiness for trial.<sup>116</sup> They need to be able to access this information in court via their iPad. We found that the amount of information provided to prosecutors about witness citation by administrative staff (and where this was recorded) varied greatly. As explained above, exactly when administrative staff extract this information from the system and prepare the information for the prosecutor also varied from a few days to a couple of weeks before trial.
494. There is a separate COPFS system that stores copies of postal reply forms from civilian witnesses, citations that are returned as undelivered or unserved, and the executions of service returned by Police Scotland. All of these documents are scanned into the system by the NPU. We understand that the search facility on this citation storage system is weak. Searches conducted under a PF case reference number (the identifier for all cases reported to COPFS) do not necessarily pull in all the citation related documentation in respect of that case. This means that staff have to spend additional time undertaking multiple searches to find the relevant documents. This is further complicated because the system does not distinguish between citation cycles. If a case has many witnesses and several citation cycles, COPFS staff must sift through a high volume of citations. While ISD are aware of the issues created by the search facility, there are no current plans to address this.

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<sup>115</sup> Source – COPFS. This consisted of 337,090 summary cases and 61,714 sheriff and jury cases.

<sup>116</sup> Section 148 of the Criminal Procedure (Scotland) Act 1995 and [Practice Note No 1 of 2025 Summary Case Management](#).

495. We also found inconsistency in administrative staff uploading the relevant citation documents to the case management system, including postal reply forms and executions of personal service from the citation storage system to the case management system for the use by prosecutors in the trial. Prosecutors cannot access the citation storage system from their iPad when in court. However, they can access some parts of the case management system, which would enable prosecutors to seek witness warrants if they have evidence that the witness is aware of the trial diet but has not attended court. As discussed below, given that the majority of witness warrants are taken in sheriff and jury cases, COPFS may wish to limit uploading such documents to the case management system to sheriff and jury cases only.
496. As previously mentioned, COPFS has a range of specialist units that cannot generate witness citations through the case management systems due to their cases being allocated unique reference numbers. Citations in these units have to be manually produced and there is inconsistency in how they are served on witnesses. To compound this, when such citations are printed, they revert back to the original PF reference, which leads to confusion when executions of service are returned. These frequently end up in various mail trays in local offices and require a specialist unit staff member to search for them.
497. The LDD is used by Police Scotland across all areas to manage legal documentation, including citations and countermands. The LDD is accessible to officers and police staff via desktop computers and handheld mobile devices.
498. Police officers or staff who deliver citations are also required to update the LDD with details of their delivery attempts, including any successful service of the citation. This link between the LDD and the COPFS LDX system allows COPFS to see how the police have progressed with serving legal documents. It provides evidence for prosecutors seeking witness warrants. Entries by the police on to the LDD are not immediately seen on the LDX, but it is updated several times a day.
499. There was some variation in feedback from police officers about updating the LDD on the handheld devices, with some officers reporting that they found it difficult to navigate and preferred to update the LDD when they returned to the police station using desktop devices.
500. Citations are created in the COPFS FOS<sup>117</sup> system and are sent in batches to the Police Scotland system. The electronic notification of the citations usually appears in the Police Scotland system before divisions receive the paper copies. This is designed to enable Police Scotland to ensure sufficient resource to deliver citations.
501. Officers enter updates about the citation they have served (or attempted to serve) into the LDD, including whether they have left calling cards or spoken with witnesses. This information is viewed in the LDX by COPFS administrative staff. They find the LDX entries useful, when they capture all the efforts that the police have made to serve witness citations. As discussed above, this detailed information is useful for prosecutors, especially if a witness appears to be avoiding citation.

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<sup>117</sup> FOS – Future Office System, part of the COPFS case management system.

502. Officers involved in serving citations full time told us that they update the LDD regularly, including on their handheld devices. However, others, particularly response officers who are delivering citations alongside other responsibilities, described how both the delivery of the citations and updating the LDD system was often treated as low priority, with officers citing workload pressures and other operational tasks taking precedence. In addition to competing demands on their time, some officers described particular difficulties using handheld devices for this work, such as information not saving, an inadequate search facility, and difficulties inputting updates owing to the size of the device.
503. Some officers who participated in our focus groups said that they did not know that they needed to put all information about attempts to deliver citations on the LDD. They sometimes did not capture information on the LDD at all, but only wrote citation attempts on the envelope containing the citation unless they were unable to serve the citation for example, when a witness had moved address.
504. Failure to properly use the LDD means that attempts to serve citations will not be recorded promptly. A lack of delivery attempts recorded on the LDD/LDX results in enquiries from COPFS about the status of the citation. The importance of recording all attempts at serving citations in the LDD should form part of the Police Scotland training, as noted at recommendation 11.
505. The LDD can be updated by police officers right up to the trial date if they continue in efforts to serve the citation, and this information will transfer to the LDX. However, we found a lack of understanding among police officers that COPFS have to prepare courts a number of days prior to the trial and that information about witness citation is extracted at that stage. If citations are served after cases are prepared for court, the information provided to prosecutors will be out of date. Due to the delay in paper executions of service being returned to COPFS (and then scanned on to the system by NPU), the LDX is a quicker method for COPFS staff to check if a citation has been served by a police officer.
506. As previously explained at paragraph 323, police officers or staff who deliver citations are required to take executions of service to their police station. From there, hard copy executions of service are physically returned to COPFS in batches via mail or courier, where they are electronically scanned by the NPU. COPFS systems are then updated, which allows prosecutors to see if a citation has been delivered. The frequency with which the batches are sent varies, but we were advised that this was usually once or twice a week. This creates a delay between delivery and receipt/scanning of the document by COPFS.
507. We understand that no user testing has taken place since the LDX went live. We were informed of some issues with the LDD and the LDX. These are mainly areas where the system is vulnerable to human error. For example, there is potential for duplicate citations to be issued by COPFS for personal service by Police Scotland – to the annoyance of witnesses and to those officers serving the same citations more than once.

508. Although the LDD system remains functional and continues to meet its core purpose, there is significant scope to:
- enhance the user experience
  - increase operational efficiency
  - generate meaningful management information
  - improve the overall system capability.
509. We were advised that there are currently no plans for Police Scotland to review or replace the LDD. While we acknowledge the competing demands within Police Scotland for IT replacement programmes, a review should be undertaken as a basic measure of capability, to understand if the current LDD meets the requirements of the organisation when considering the totality of this inspection. This should be a priority, given the overall recommendations of this report to move to a more modern and efficient digital citation process.
510. COPFS administrative staff use different practices to capture the data on the LDX and upload it to the COPFS case management system. In some offices, staff uploaded the report from the LDX on to the system and others did not, thus creating inconsistent records. The LDX report is a useful snapshot of which witnesses are cited at that time and should form part of record keeping. The guidance in the Handbook lacks clarity on when and how often this report should be produced to ensure that the most up-to-date information is available to prosecutors in court. Due to the volume of work and resources across local courts, it is unlikely that these reports would be run more than once by administrative staff, unless the prosecutor has a specific query regarding a witness.

### **Recommendation 43**

**COPFS** should ensure that there is guidance for administrative staff on when copy documents from the citation storage system and the Legal Document Exchange should be uploaded to the case management system and what information should be provided to prosecutors.

511. The LDD holds a considerable volume of witnesses' personal data. This includes contact data such as names, addresses, telephone numbers, email addresses and information about previous attempts to serve citations, including any new addresses. This data is subject to a Police Scotland data retention policy (weeding policy), which means that the data is deleted from the LDD system after three months. The weeding policy was reviewed in 2019 and Police Scotland advises that there was no Data Protection Impact Assessment (DPIA) carried out when the weeding policy was changed to three months.
512. Removal of personal data after three months causes considerable practical difficulty for Police Scotland if additional citations for the same case are received for a witness after this period. It can create safety issues for officers, since removal of information about a witness being a risk might affect how the police approach citation. Information that assisted in tracing witnesses is also removed, including updated telephone numbers and addresses. This creates an inefficient system where duplication of effort is commonplace. We found that any new contact details are not updated on any other Police Scotland database.

513. The LDX is not subject to the same weeding policy. Information transferred to the LDX is retained, even once weeded from the LDD. From interviews with COPFS ISD, we understand that COPFS deletes information from the LDX 60 days after the case has been closed.
514. Given that many summary, and sheriff and jury cases, have several trial cycles before a trial takes place, the current LDD weeding policy means that valuable information obtained by police officers serving citations on witnesses is deleted, which is a cause for concern.
515. We found in interviews that COPFS staff at all levels were unaware that the LDD was weeded every three months. We concluded that this information should remain on the LDD throughout the life of a case and should only be deleted once the case has had its final disposal (including any appeal period). Until this retention issue is addressed by Police Scotland, it is important for COPFS staff to save the reports extracted from the LDX on to case management systems as a record of the citation history.
516. The quality of the updates on the LDD vary depending on the officer serving the citation which reflects the varying use of the LDD by those officers. For the LDD and the LDX to work efficiently and provide COPFS with assurance, there must be a record of all efforts made to serve a citation and for this to be the sole record. To achieve this, Police Scotland should issue guidance and ensure police officers are adequately trained in the use of the LDD. This will become particularly important if there is removal of paper execution of service of citations in summary cases to COPFS (as we discuss and recommend below at paragraph 547 and recommendation 47).

#### **Recommendation 44**

**Police Scotland** should:

- (a)** ensure that all information on personal service of citations is recorded on the Legal Document Database; and
- (b)** review the current data retention period for the Legal Document Database to ensure that the information is retained for the life of the case.

#### **Initiatives**

517. During our inspection, we were informed of various ongoing projects and initiatives happening across the justice sector related to the citation of witnesses. These may reduce some of the issues with the current system that we have outlined above, but they fall short of the fundamental overhaul and modernisation of the process that is required.

#### **Witness Gateway**

518. From March 2024, Witness Gateway has been being rolled out across COPFS. This is a portal that allows witnesses to access online information about their case. It enables them to update their contact details, receive notifications about their case(s), input their availability dates for a trial (sheriff and jury only) and for some to access and read their witness statements for sheriff and jury, and summary cases.

519. Such digital products are welcome; unfortunately, there has been a limited uptake of the Witness Gateway by witnesses offered the service, with only 20.4% of witnesses accessing case information from March 2024 to June 2025<sup>118</sup>. We understand that one of the reasons for the low take-up of the service by witnesses may be the onerous sign-up provisions (witnesses are required to set up a Scottish Government ScotAccount). While we understand that a digital service can take a time to establish, and COPFS does engage with the ScotAccount team, for many, involvement in a criminal case will be a one-off event. This means that, unlike other services that have become digital, repeated use of the system, which encourages take-up and familiarity with the product, will probably not be necessary.

520. During our inspection, we heard that COPFS aims to increase the uptake of the service by:

- establishing an internal working group to discuss different approaches
- increasing the range of services available on the portal
- comparing engagement with offline processes.

We are aware that the recently published COPFS Sexual Offences Review also recommends increased use of the Witness Gateway, including use of live chat and email forms.

521. The COPFS local court business plan 2024/25 included an intention to develop new ways to cite witnesses via email or the Witness Gateway, but these specific practical solutions are not further advanced in the 2025/26 business plan, and we are unaware of any progress in developing the Witness Gateway to cite witnesses.

522. While the Witness Gateway allows witnesses to update contact details such as addresses and this then automatically updates the COPFS case management systems, it does not alert COPFS staff about those changes. It does not flag to COPFS administrative staff, or to Police Scotland, that there is a citation currently with police officers for personal service where the address may need changed. This is a missed opportunity to join up processes and ensure that a new address is received by the officers with the citation to serve.

### **Extension of time period**

523. COPFS has had some recent success in reducing the number of personal citations issued to the police to personally serve on a witness after a postal citation has failed. This extension of time from 21 to 28 days before police officers are instructed to serve personal citations after an unsuccessful postal citation, appears to have helped reduce the burden on Police Scotland of serving personal citations. The extra seven days allows more time for postal responses from witnesses to be received by COPFS.

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<sup>118</sup> Source COPFS.

## Countermand projects

524. We heard of joint work in different parts of Scotland between COPFS and Police Scotland to reduce the number of police witnesses required for trial. The focus was on cases where police officers cited as witnesses were due to work nightshift, as this can result in substantial overtime costs and resource issues, with Police Scotland having to cover nightshifts. If a decision is taken early enough in the process to countermand those officers, then the officers could proceed with their original shift.
525. While these projects had slight variations across the country, they generally involved Police Scotland providing COPFS with a list of cases where police operational rotas were affected, and prosecutors then considering such cases to decide if the police witnesses could be countermanded. While this has savings for Police Scotland, both financially and in operational resources, we heard that it is also resource intensive for COPFS, since they have to review these cases.
526. There was a suggestion during our inspection that, because COPFS took the view in some of these cases that the officers could be countermanded, this was evidence that COPFS was over-citing police officers. This was not the case. Often, to enable police officers to work their shifts, a decision would be taken by the prosecutor to discontinue minor charges on a complaint or indictment against an accused.
527. This raises an interesting question about the balance between the financial cost to Police Scotland in officers attending courts, versus the interests of justice. To excuse officers, prosecutors may have to decide to do without that police officer's evidence on a particular charge. The charge may technically prove evidentially without the officer, but there is an important difference between building a strong evidential case against an accused to persuade a decision maker, and a bare sufficiency in law. Occasionally, prosecutors considering cases under these countermand initiatives may have had difficult decisions to make.
528. We found that these various countermand initiatives around the country would not have been necessary if citation processes were effective from the outset, including the scheduling of trials to take account of police officer availability. Such projects are an attempt to compensate for a defective system.

## Child witness pilot

529. The Edinburgh Child Witness Pilot applied to all summary cases between 1st September 2024 and 28th February 2025, and utilised some of the principles of SCM. Instead of a not guilty plea being tendered, the court continued the case in order for the defence solicitor to consider agreeing the child's evidence. This aimed at reducing the number of citations issued to children. Effective judicial case management was a key feature of the pilot, to focus issues for trial and reduce case journey times as much as possible. Staff from COPFS and the third sector worked together to ensure specialist support and advocacy services were available to any child witnesses. In recognition of the positive benefits of the pilot, at the end of the initial period it was agreed to continue the process. An interim evaluation based on data from May 2025 showed a 13% reduction in children being marked for citing<sup>119</sup>. A further evaluation is due to take place in May 2026.

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<sup>119</sup> Source COPFS.

## **Witness kiosks**

530. COPFS, together with its justice partners, is developing the use of 'witness kiosks' at courts. These would allow witnesses to check in digitally when they attend court, with that information electronically notifying the prosecutor in court. The project remains at the early development stage, but aims to improve the witness experience at court. It should result in shorter queues at reception desks and reduce the delay in vital information on witness attendance reaching the prosecutor. There will, of course, always be a place for a traditional reception check-in desk at a court for those witnesses who do not wish or who are unable to use the kiosks.

## **Remote evidence for police and professional witnesses**

531. In some cases, witnesses can give evidence remotely through a secure link, live to the courtroom. Whether in a police station, an office or at home, this must be a private room with a quiet environment. Police Scotland has some designated rooms where officers can give evidence remotely, but these are limited in number. Allowing a police or professional witness to provide evidence to court from a remote venue has many benefits, including:

- reducing the inconvenience and expense of travelling to court (especially in rural locations)
- enabling professional witnesses to limit the effect of their absence on their patients, clients or business
- reducing the operational impact of police officers attending courts on Police Scotland.

532. Remote evidence arrangements will be made by SCTS in consultation with the prosecutor, if granted by the court. The connection is through an online link. While COPFS has some guidance about remote sites for civilian witnesses as a special measure, we could find little evidence of guidance for COPFS staff on the possibility and use of remote evidence for police and professional witnesses.

533. The use of remote evidence for professional and police witnesses can be a mixed experience for COPFS staff. Prosecutors based in rural settings use the link regularly for professional witnesses to prevent them travelling long distances, but other prosecutors can find the logistics of setting up the remote evidence link challenging. Often courts do not communicate directly, and prosecutors have to become involved in resolving issues such as where the remote link booking is made for just one day of a jury sitting.

534. Forensic scientists tend to give evidence mainly in sheriff and jury trials (although they can be cited to give evidence in summary cases too) and they told us that they found the remote evidence option extremely helpful, when available, since it enabled them to balance the competing demands of their job with multiple citations for courts all over the country. However, some advised us that they prefer to be in the courtroom if their evidence is extensive or complicated, so they can assess how their evidence is being received by a jury.

535. Remote evidence is currently mostly used in High Court cases. The Chief Constable has recently reported that officers have been able to provide remote evidence in 30% of High Court cases, rising to 40% in 2024.<sup>120</sup> We understand that, as a result of this success, there is a plan to increase the use of remote evidence by police and professional witnesses in the sheriff court. This is dependent on financial resources and accommodation from SCTS, Police Scotland and SPA Forensic Services. It is also a strategic aim of COPFS in the local court business plan 2025/26 to ‘Support and promote the greater use of remote hearings and witnesses giving evidence remotely by video link’.

### **Recommendation 45**

**Police Scotland, SPA, COPFS and SCTS** should work together to widen the use of remote evidence for appropriate police and professional witnesses, to include summary, and sheriff and jury business.

## **Modernisation of the citation process**

### **Digital solution**

536. It is clear that the citation process requires substantial modernisation. As one witness who responded to our survey stated:

“Nothing appeared to have moved on substantively this century. The reliance upon communication by mail is quaint at best.”

**Public survey respondent**

Having a citation system for witnesses in 2026 that still relies on paper and postage is antiquated and not environmentally sustainable.

537. The reliance by COPFS on a paper-based citation process using second-class post has faced a further challenge with the decrease in the second-class service by Royal Mail. This limitation to delivery of second-class mail to two or three days a week does not provide certainty to COPFS of when a witness will receive a citation or whether a countermand will be delivered before the date of a trial that is no longer proceeding.

538. There is a strong desire from those who work within the justice system to see the citation system modernised. The current process is time consuming, resource intensive and inefficient. Modernisation of the process, including digital service, would reduce the resourcing impact on the police of serving paper citations. It would also be more cost effective and a more environmentally sustainable solution to the current paper-based solution.

539. COPFS is committed to modernising the process. Their local court business plan 2024/25 made reference to “increasing the digitisation of justice” and the local court business plan 2025/26 commits to “developing new ways to electronically cite witnesses”. This intention needs to be realised.

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<sup>120</sup> [Chief Constable's assessment of policing performance 24-25](#), page 24.

540. In law, it has been possible to cite witnesses by email for 19 years;<sup>121</sup> however, to date, this has only been utilised for Police Scotland officers. Until November 2025,<sup>122</sup> the legislation had not kept pace with developments in technology. Since 2007, when legislation first introduced the possibility of citation by email, communication has progressed to include smartphone text and application-based methods. COPFS and its justice partners should now consider the opportunities afforded by legislation.<sup>123</sup> However, before developing electronic and digital means of citing witness, COPFS must ensure that it works with witness groups to explore issues such as digital poverty, so that it understands fully the needs of witnesses and what impact digital citation could have.

541. In our public survey, we asked how witnesses would prefer to be cited. The results showed that there was an appetite for a more digital solution, as well as traditional postal service. There was a clear indication that service by police officers was not the preferred option:

<b>Victims and witnesses (94)</b>	<b>Professional witnesses (50)</b>
42% – email	48% – email
39% – post	30% – post
10% – text	10% – text
4% – delivered by police	4% – delivered by police
5% – other (collect from police station; advance notice before citation issued; phone call followed by text; police system and none)	8% – other (collect from police station or via work)

542. As the legislation already provides for a digital process, it is within the control of COPFS when a move to electronic citation is introduced. In our case review, we saw an instance where a witness expressed a preference for all communication to be sent to his business email. This was noted by police officers, but the email address was not provided in the SPR as there is currently no field in the template for this to be inserted. Despite this, the email address was transferred to the COPFS case management systems through data transfer between Police Scotland and COPFS (showing capability of the system), but then the email address was not used, because COPFS does not use email citation for civilian witnesses.

543. There is a lack of COPFS corporate guidance on communicating with civilian witnesses by email, for example, the guidance on countermanding and excusals only makes reference to letters and telephone. The most recent IPS inspection<sup>124</sup> made reference to this lack of guidance for staff in responding to enquiries by email.

<sup>121</sup> Section 141(3A) of the Criminal Procedure (Scotland) Act 1995.

<sup>122</sup> With the introduction of Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025.

<sup>123</sup> In particular, the Criminal Justice (Scotland) Act 2016 which inserted section 305(1A) to the Criminal Procedure (Scotland) Act 1995 and Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 which inserted section 303D into the Criminal Procedure Scotland Act 1995. See also paragraphs 23 to 25 above.

<sup>124</sup> IPS report: ['Responding to enquiries: service delivery through National Enquiry Point' January 2025](#)

544. For a revised and modernised citation process to work effectively, much depends on the commitment of Police Scotland to collect the necessary witness contact details when taking statements. This should include accurate postal addresses, email addresses, mobile numbers and consent to receive citation by electronic means. COPFS will be unable to move successfully to a digital citation process without this data being obtained from all witnesses. It was a strategic aim in the last two local court business plans (2024/25 and 2025/26) for COPFS to work with the police to ensure victims' mobile and email addresses are provided in the SPR. Officer training needs to make clear the practical link between collecting this information from witnesses and a potential reduction in the numbers of personal citations sent to Police Scotland for service on witnesses.
545. During our inspection, we heard of references to data protection concerns in the use of email citations, but we were unable to establish if there was any legal foundation to these concerns.<sup>125</sup> Email citation is authorised in legislation, and any data protection issues do not appear to be any more of a risk than sending citations to addresses that may be neither accurate nor secure. We noted in our benchmarking, detailed below, that email communication to witnesses is commonly used by criminal justice bodies in the rest of the UK. It is also commonplace to use digital means, including email, as a contact method across other large organisations, such as NHS Scotland.

#### **Recommendation 46**

**COPFS** should use email or other electronic methods as the principal means of citing witnesses.

546. Paper documentation is still relied upon by COPFS, with a focus on obtaining hard copy executions of service from police officers. This gives prosecutors reassurance that the witness knows they must attend the trial, and the capability to request the court grant a warrant for their arrest if they fail to do so.
547. We found that this focus is misplaced in summary proceedings. In reality, the execution of service amounts to an unnecessary 'comfort blanket' for prosecutors. Even when warrants are sought by prosecutors, they are very rarely passed by COPFS to the police to have the witness arrested. We heard this in numerous interviews with COPFS staff. Data obtained from COPFS for the period 1st April 2024 to 31st March 2025 showed that, in summary proceedings, only 79 witness warrants were passed to the police.<sup>126</sup> Recently, recognising the trauma many victims may have experienced, prosecutors have adopted a more considered approach to seeking witness warrants for non-attendance of witnesses in summary proceedings. Given that there is now a presumption against custody for accused persons in terms of the Bail and Release from Custody (Scotland) Act 2023, it is difficult to square this with the potential remand of witnesses, particularly in summary cases.
548. This calls into question the practice in summary proceedings of Police Scotland spending valuable time and resource ensuring paper executions of service are returned to COPFS, when they are not used to obtain witness warrants. In more rural areas, this can be a particularly challenging process for Police Scotland.

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<sup>125</sup> Given the terms of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) 2025, there may need to be consideration about obtaining consent to receive electronic communication from witnesses.

<sup>126</sup> Source, COPFS.

549. Rather than having the paper execution of service, it is the information contained in the execution of service that is essential for the prosecutor to know – if the witness has been cited or not. This information could be provided digitally through the LDD, which will transfer electronically to COPFS. This would result in the paper executions of service no longer being required in summary proceedings, together with removal of the requirement for police officers to send the original paper execution of service back to COPFS.
550. A physical execution of service is not required in some other jurisdictions. Rather, those courts will accept the information provided by the prosecutor as an officer of court that the citation was served on the witness by a police officer. If necessary, the officer who served the citation can attend the court to advise the judge of the information under oath. The small number of witness warrants sought by prosecutors in summary proceedings do not justify the industry for Police Scotland of completing and returning all paper executions of service to COPFS.
551. We recognise that the level of serious offending in sheriff and jury cases requires witness warrants to be sought for witnesses who do not attend court when cited. These warrants are frequently passed to the police to arrest witnesses and bring them to court to provide their evidence to the jury. It therefore remains necessary for Police Scotland to provide COPFS with the original paper execution of service in sheriff and jury cases. However, given the need to expand digitalisation, it is still essential that COPFS considers how to work towards courts accepting this information from prosecutors, rather than insisting on a piece of paper to provide the necessary reassurance.

#### **Recommendation 47**

**COPFS** should consider whether it is necessary for Police Scotland to complete and return paper executions of service in summary proceedings.

552. In the meantime, Police Scotland should work on having a consistent national digital process to allow the paper executions of service for sheriff and jury cases to be scanned and sent back electronically to the NPU. This would reduce the time-consuming manual process of large quantities of paper being moved around the country, causing potential delay and error. A reduction in paper documents would also assist COPFS in achieving its aim to reduce its carbon emissions by 2.5% each year and to become carbon neutral by 2040.<sup>127</sup>
553. While we recommend a move towards a digital solution, we recognise that Police Scotland will still have a crucial role in the citation process, in particular, serving citations on individuals who are difficult to trace or reluctant to engage in the criminal justice process. For such witnesses, the police have the necessary knowledge, experience and access to IT systems to be able to trace these individuals in person. With an effective digital solution, Police Scotland would have significantly fewer personal citations to serve.

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<sup>127</sup> COPFS intranet article entitled 'COPFS Solar Energy – we've got the power', published 21.06.23.

## Benchmarking

554. We considered the citation processes in neighbouring jurisdictions to explore whether there was any good practice that could be applied to Scotland. The legal systems in other jurisdictions differ from Scotland, so a direct comparison cannot be made. In each of the jurisdictions we reviewed there was a positive victim-centred approach taken when engaging with victims and witnesses, from initial police contact right through to the trial and beyond.
555. In England and Wales, the Crown Prosecution Service (CPS) is the prosecuting authority, and it works with various police constabularies to ensure witnesses attend for trial. We heard that all contact with witnesses after a file is submitted to the CPS by the police is undertaken by witness care units (WCUs) covering different geographical areas. WCUs also provide information and support. WCUs currently comprise police staff, who ensure the needs assessment of victims are updated and shared with wider criminal justice agencies.
556. The Public Prosecution Service for Northern Ireland (PPSNI) has victim & witness care units (VWCUs) staffed by a mixture of employees from Police Service of Northern Ireland (PSNI) and PPSNI. We understand that victim care officers are allocated to witnesses as single points of contact throughout the life of the case. The aim is early engagement with victims to provide them with information and signpost them to support services. A Victim's Charter sets out victims' entitlements and the standard of service they should receive through the criminal justice process.
557. Since 2002, all criminal justice agencies in Northern Ireland have access to a shared IT system. This is an integrated system that supports electronic information sharing between the five main criminal justice organisations – PSNI, PPSNI, Forensic Science Northern Ireland, Northern Ireland Courts and Tribunals Service and the Northern Ireland Prison Service.<sup>128</sup>
558. We understand that civilian witness availability in England is collated by the police, either at the time of noting their statement or during the period the police are preparing the case file for submission to the CPS. We were told that officers make it clear to witnesses when they take a statement that they could be called as a witness in the case. Witness care officers (WCOs) have access to live police shift schedules and compile both the civilian and police witness availability into a form for prosecutors in court, where the trial date is set.
559. In Northern Ireland, we were advised that civilian availability is obtained from witnesses by the VWCU in advance of the trial date being scheduled by the court. VWCU staff also have access to police witness shift patterns to obtain the police witness availability. We understand that police and civilian availability is input into the case management system, where an algorithm produces three preferred dates for trial, which accords with the availability of witnesses in the case. Prosecutors use these dates to agree the trial date with the court. Notably, we were informed that police witness excusal requests in respect of trial dates are extremely rare in Northern Ireland, as a result of this process.

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<sup>128</sup> [Northern Ireland, Department of Justice, Causeway.](#)

560. In England, Wales and Northern Ireland, we understand that witnesses are kept informed during the case by staff within WCUs and VWCUs. This is generally by their preferred means of contact, which will be noted on their witness statement by a police officer or directly obtained during initial contact with a witness. This preferred contact could be by telephone, email or post, but is dependent on witness data gathered by the police.
561. In these jurisdictions, we were advised that a proforma notice letter is issued by post or email to witnesses, advising of the date and time that they are required to attend court. This letter requires the witness to respond to the WCU or VWCU within a set number of days, confirming their intention to attend for the trial either by email or telephone. These letters aim to be less formal and avoid the use of legal language. The letter also provides witnesses with information about the court, facilities and support agencies.
562. We were provided with an example of this letter from one area in England. For cases before a jury, the letter advises the witness of the day and time of the trial and the number of days the trial is expected to last. The letter explains that the WCU are unable to tell the witness of the exact time and date when they will be required to attend, but that it is important to keep the full number of days it is likely to last free. We noted that this is clearer than the information provided to sheriff and jury witnesses in the COPFS citation.
563. We were also provided with a sample letter issued to professional medical witnesses in Northern Ireland. It helpfully provides the professional with the name and date of birth of the person they treated and the date and time of the treatment. The lack of such information in the citations in Scotland was a frustration expressed by professional witnesses (as discussed in paragraph 282).
564. If a witness indicates they are unwilling to attend court, or does not respond to the letter or email within the set time, we were advised that, in both jurisdictions, these units will attempt to contact the witness by telephone. This is to discuss if there is any assistance that could be provided that would enable the witness to attend court. Occasionally, they may ask the investigating police officer to attend, to speak to the witness personally. In cases where the witness has a reason that they cannot attend, such as a pre-booked holiday, an excusal will be sought from the CPS or PPSNI. If a witness is reluctant to attend, or will not engage, we were told the unit will discuss with the CPS or PPSNI whether a summons needs to be obtained for that witness, to ensure attendance.
565. The summons is a formal legal document requiring the witness to attend the court on the trial date. It is equivalent to the witness citation in Scotland. As in Scotland, failure to attend court in answer to this summons can result in the prosecutor seeking a warrant for the arrest of the witness.

566. In both jurisdictions, a witness summons is served on the witness by a police officer. We were advised that, in England and Wales, the execution of service in the form of a police notebook entry is returned to the CPS. In Northern Ireland, the police confirm by email, which includes the time and date that the summons has been served. If the witness does not attend court in response to the summons, the prosecutor could seek a bench warrant. We understand that to obtain this, the officer will be required to confirm the service of the summons under oath, or the judge may accept the information from the prosecutor.
567. While we were unable to obtain data from England and Wales on either the number of summonses served on witnesses or the number of witness warrants granted, we heard anecdotally during interviews that a witness summons is not often obtained and bench warrants are rarely obtained. In Northern Ireland, for the period 1st January 2024 to 31st December 2024, 33,602 invitation/notice letters were sent, but only 219 summonses were issued.
568. We also looked at the citation process in the Republic of Ireland, which uses a paper system. The prosecution authority is the Director of Public Prosecutions (DPP). The Garda (police) has a much more prominent role, with victim information offices in each policing division sending letters to victims at various stages of the case. It is the Garda who obtains availability of witnesses, serves citations on witnesses personally and advises witnesses of any countermands or new dates for the case. The Garda views the personal service of citations as an important step in engaging with victims and witnesses in the wider community.
569. This staged approach to citations taken by these other jurisdictions before moving to the more formal summons, has much to commend it from a trauma-informed perspective. There is no formal language or threat of arrest in the letters issued to witnesses, with a greater emphasis on preferred contact methods, and only a small number of the formal witness summonses used to cite witnesses.
570. We are of the view that the witness availability algorithm used in Northern Ireland would be invaluable in Scotland in further developing the current police witness scheduling application discussed and recommended at paragraph 262 and recommendation 18. It could be advanced further in Scotland to provide all witness availability to SCTS, so that the court dates fixed are suitable for civilian, professional and police witnesses. This would be revolutionary in:
- reducing inconvenience and the likelihood of disengagement for all witnesses
  - providing reassurance that availability is taken into account by justice partners in scheduling trials
  - reducing court adjournments due to witness unavailability
  - improving use of court time
  - shortening the journey time of cases for accused and witnesses (as they are more likely to proceed at the first calling)
  - reducing the number of excusal requests
  - restoring faith and confidence in the justice system.
571. We are surprised, given the proven effectiveness of this algorithm and the ease with which this has been successfully used for years in Northern Ireland, that a similar approach has not already been adopted in Scotland. What is key is that Police Scotland, COPFS and SCTS work together, rather than in silos.

## A potential vision

572. While one of the key aims of SCM is to reduce the number of trials and cite fewer witnesses, it is essential that for those cases that do proceed to trial there is a modern, effective citation process for witnesses and justice partners.
573. Of vital importance and as a priority is the need to adopt an algorithm that uses data from civilian, professional and police witness availability and trial court date options from SCTS, to identify the most suitable trial date in a case (as outlined at paragraph 266 and recommendation 18). Justice partners will have to work collaboratively to ensure that there is a “getting it right first time approach” to witness availability and fixing a trial date, which will prevent trials being adjourned because of witness unavailability.
574. For any electronic process to work in practice, it is essential that Police Scotland ensures that witness email addresses, mobile numbers, postal addresses and consent to receive citation by electronic means are obtained as a matter of course, and are included in the SPR. COPFS can thereafter use a variety of contact methods to engage with witnesses and secure the confirmation that they will attend for the trial, to reduce the need for personal service by a police officer.

### Recommendation 48

**COPFS and Police Scotland** must develop and embed digital approaches to delivering citations to ensure the number of personal citations officers of Police Scotland require to serve on witnesses is kept to a minimum.

## Summary proceedings

575. Witnesses in Scotland are no different to those in other jurisdictions in the UK and Ireland, yet Scotland takes the approach that all witnesses require a formal legal document with the threat of arrest for non-attendance, when being informed of the trial date. This could be viewed as heavy handed and not trauma-informed. In summary proceedings, sending notice of trial letters to all witnesses in the first instance allows those witnesses who are engaged to quickly confirm they will attend the trial without the need for further action. This allows the more formal citation documentation, giving notice of the risk of arrest for non-attendance at the trial date, to be reserved for the smaller number of witnesses who have either indicated that they will not attend or have not engaged with the process. We would strongly commend this approach, used by other jurisdictions, in any revision COPFS makes to the summary citation process.
576. The notice of trial letters sent by email could contain a digital reply form for a witness to complete, which would automatically update COPFS case management systems. If a witness indicated on this form that they could not attend, it could be considered by WMT.

577. For those witnesses without an email address, or for those unwilling to provide it, there will remain the need to send any notice of trial letter by post. For those who have not responded to the email, there could be an additional step of an attempt to obtain a response to the notice of trial letter by post. Improvements can be made to increase the response options for a witness to confirm attendance at a trial and could include such methods as a QR code, to a simple form to complete, and the email address and telephone number of NEP (in addition to the traditional postal reply form). SCTS currently utilises a QR code in jury citations so that jurors have the easy option of a digital response. We understand that this works well, and we see no reason why COPFS could not make use of a similar product in their letters, rather than requiring a reply form to be returned by post.
578. We consider that there may be a benefit in introducing a stage where telephone contact is attempted with a witness who has not responded to a notice of trial letter. This could reveal issues such as a mistake in the contact details of the witness. For those witnesses who have simply forgotten to respond, their verbal agreement to attend the trial could be recorded by COPFS staff. While we appreciate this has to be weighed against resource implications, it is still a more people-centred and cost-effective approach than moving immediately to police personal service. It is also an approach utilised effectively by other jurisdictions, as discussed above. COPFS has already recognised the benefits of contacting civilian witnesses directly and has made a policy decision to introduce such a step for engaging with domestic abuse victims in cases under SCM.
579. The use of a notice of trial letter and telephone contact stage would advise witnesses of the trial date and quickly confirm for COPFS the attendance of engaged witnesses. The use of these means would aim to reduce the number of witnesses who need to be cited personally by a police officer using the formal statutory written citation. Such a stage would only be required for those witnesses who did not respond to either the notice of trial letter or telephone call.
580. This is in keeping with COPFS moves to enhanced victim engagement and improved communication with victims and witnesses, as set out in its current strategic plan, and recommendations made in the recently-published COPFS Sexual Offences Review that COPFS should make better use of digital communication. By minimising the number of personal citations issued to Police Scotland for service on witnesses, this will allow more resource for other policing activities.

#### **Recommendation 49**

**COPFS** should consider issuing a trauma-informed notice of trial date letter to witnesses by digital means, in the first instance, rather than a formal citation.

## Solemn proceedings

581. In solemn proceedings, which are more serious in nature – with fewer overall witnesses and a greater use of witness warrants – the formal witness citation may be more appropriate in the first instance (rather than a notice of trial letter).<sup>129</sup> However, there is still scope to increase the responses of witnesses confirming attendance by emailing this citation to witnesses in the first instance, with a link to a digital reply form. As with the summary process, there may be a need to use the post to send these citations to witnesses who either do not have an email address or who are unwilling to provide it. However, as set out at paragraph 577, there should be more options for responses to be submitted to COPFS. Again, this must be designed to obtain as many responses as possible, to reduce the number of personal citations to be served by Police Scotland.

## Reluctant witnesses

582. In the current citation process, witnesses who are identified in a police report as ‘hostile’ or ‘reluctant’ are automatically cited by personal service by a police officer. There are many reasons why a witness may present as hostile or non-engaged at the time a police officer is taking a statement (including being terrified, confused or exhibiting trauma). This does not necessarily mean that they would not respond to a notice letter from COPFS requiring them to attend court or that they would not ultimately attend the trial. We are of the view that, in all but exceptional circumstances, this practice of automatic personal citation should stop. It is a further burden on overstretched policing to proceed to personal citation of these witnesses without first attempting citation digitally, or by other quicker and cheaper means. It also runs the risk of further traumatising a witness with a police officer attending in person.

### Recommendation 50

**COPFS** should cease automatic personal citation of witnesses who have been assessed as ‘hostile’ or ‘reluctant’ in the Standard Prosecution Report.

583. There would be benefit in piloting any new citation approach for a number of months, to iron out any difficulties. COPFS and Police Scotland will be best placed to consider various options, taking into account their strategic priorities, resources and commitments to victims and witnesses.

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<sup>129</sup> In solemn proceedings there may also be a legislative difficulty in issuing a ‘notice of trial letter’ given the terms of section 90A of the Criminal Procedure (Scotland) Act 1995 which contrasts with the wording in section 141(5B) of the Criminal Procedure (Scotland) Act 1995 for summary proceedings.

## Appendix A – key terms

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**Accused:** person charged with committing a crime.

**Adjournment/adjourned diet:** a break in court proceedings. Most commonly used in this report to refer to a case being put off until a later date.

**Advocacy services/support agencies:** agencies that support a victim through the justice process, including by assisting them to express their views and have those views heard. Usually employed by a third sector/support organisation.

**Alternatives to proceeding:** instead of prosecuting an accused in court, the prosecutor may decide that it is more appropriate and in the public interest that an alternative to prosecution is offered.

**Autocite:** an automated process COPFS computer system that generates witness citations when a trial is fixed. Autocite applies to summary cases only and citations are generated in accordance with business rules on witness type and time until the trial.

**Bail:** an accused person's status when they have been allowed to remain at liberty (that is, not imprisoned) pending trial or sentence, subject to conditions.

**Bail conditions:** conditions imposed by the court on the accused – usually designed to protect victims and the public. These can be standard conditions of bail or additional special conditions to protect a witness. If an accused person does not follow these conditions they may be in breach of bail and reported to the procurator fiscal by the police.

**Case management hearings:** a feature of the summary case management pilot that involves early judicial case management. Sheriffs may continue cases to these hearings to ensure the defence has had sight of the key evidence in a case before a decision is made by the accused to plead guilty or not guilty.

**Case marking:** when initial prosecutorial decisions are made on action to be taken in a case.

**Case marking instructions:** essential guidance and direction for prosecutors making initial decisions on reports from the police and other agencies.

**Charge:** the crime that the accused person is alleged to have committed.

**Child:** a person under the age of 18, as defined in the Children (Scotland) Act 1995.

**Citation:** a legal document sent to a witness requiring them to attend at court on a certain time and date to give evidence.

**Complaint:** a court document in summary proceedings that details the charges against the accused.

**Countermand:** a communication from COPFS to a witness who has received a citation to advise that they no longer need to attend court to give evidence at trial. Countermands can be issued for a variety of reasons, for example, the trial is not proceeding, or a particular witness is no longer required to attend.

**Court depute:** prosecutor who appears in court to prosecute or process criminal cases.

**Crown Office and Procurator Fiscal Service (COPFS):** the independent public prosecution service in Scotland. It is responsible for the investigation and prosecution of crime, the investigation of sudden, unexplained or suspicious deaths, and the investigation of criminal allegations against the police. Also referred to in this report as 'the Crown'.

**Custody:** when a person is kept in police custody until the case is heard in court.

**Depute:** abbreviated term for a procurator fiscal depute.

**DESC:** a collaborative programme between the Scottish Government, Police Scotland, COPFS and SCTS to allow digital sharing of evidence across the justice sector.

**Disclosure:** COPFS has a duty to disclose all material information to the defence, including that which strengthens or weakens the case against the accused.

**Discontinuation:** when a prosecutor decides to stop the prosecution in a case that has commenced in court.

**Excusal:** requests made by witnesses to ask to be released from their legal obligation to attend at a trial as a witness.

**Execution of service:** a form completed by the police and returned to COPFS advising whether or not a citation has been served on a witness.

**Failure demand:** demand for a service caused by a failure to do something or do something correctly for the service user. The service user makes additional demands of the service, which could have been avoided, and unnecessarily takes up further time and resources.

**First calling:** the first time a case is called in court.

**First cite:** the first time a citation is issued to a witness.

**Hostile/reluctant witness:** a term used by Police Scotland and COPFS to describe a person who is reluctant to engage with the criminal justice process or is unsupportive of the criminal prosecution.

**Indictment:** court document that sets out the charges the accused faces at trial in solemn proceedings along with lists containing the names of the prosecution witnesses and items of physical evidence.

**Intermediate diet:** A procedural court hearing which calls in court around a fortnight before the trial to establish the state of preparation of the prosecutor and the defence and whether the trial diet is likely to go ahead.

**Key evidence:** evidence required for proof of the offence such as a statement from the complainer or other eyewitnesses, photographs, video and any forensic evidence.

**Legal Document Database (LDD):** an electronic system used by Police Scotland to track legal documents to be served, including citations. COPFS can access data on citations and attempts to serve citations on an interface called the Legal Document Exchange (LDX).

**Lord Advocate:** ministerial head of COPFS. She is the senior of the two Law Officers, the other being the Solicitor General.

**Marking:** decision of action to be taken in a case. Initial marking is the first decision made in a case reported to COPFS by the police, usually by the marking depute.

**Marking depute:** the prosecutor who makes the initial decision on how to proceed with a case.

**Motion:** an application made by the prosecutor or defence solicitor during court proceedings for a decision to be made by a sheriff on a particular matter. These can usually either be made in writing or verbally in court. Usually either party can oppose the other's motion.

**National Enquiry Point:** COPFS's customer contact centre. The first point of contact for many members of the public seeking information from COPFS. Where appropriate, calls are transferred to local procurator fiscal offices.

**National Initial Case Processing Unit (NICP):** the national unit within COPFS where initial decisions are made about alternatives to prosecutions and prosecutions in the justice of the peace courts or sheriff courts before a judge without a jury.

**National Print Unit (NPU):** unit of COPFS, currently based in Paisley, which prints and issues citations and other legal documents. It is also responsible for scanning in returned citations and executions of service.

**No proceedings:** a decision made by a prosecutor not to prosecute or to take any action for an offence reported by the police or other reporting agency.

**On-demand citations:** citations printed in local COPFS offices that are collected or emailed to local police citation units of Police Scotland for urgent personal service on witnesses where there is insufficient time for the citation to be printed centrally.

**Part-heard trial:** where a trial cannot conclude, usually due to the absence of a particular witness. The trial begins and the available witnesses give evidence. It is then adjourned to a later date for the remainder of the evidence.

**Personal citation:** a citation issued to the police for personal service on witnesses of certain categories (where an accused is in custody, the witness is vulnerable or a child, there is less than eight weeks to trial, the witness has been assessed by Police Scotland as hostile or reluctant, where COPFS deems it is required for other reasons, or where postal citation has failed).

**Pleading diet:** the first date assigned for a summary case to call in court where the accused will usually be asked whether they plead guilty or not guilty.

**Plea(s):** the answer an accused gives to the court at the beginning of a case when they are asked if they are guilty or not guilty of an offence. It also can refer to a plea where the prosecutor accepts that the accused will plead guilty to all or a reduced number of charges, or part of a charge, in order to resolve the case with a guilty verdict. Plea negotiation is a legitimate exercise of a prosecutor's discretion.

**Police Scotland:** police force established in 2013 responsible for policing across the whole of Scotland, made up of 13 local policing divisions, as well as national specialist divisions.

**Police Scotland Chief Officer Team:** command team that supports the Chief Constable and consists of Police Scotland's chief police officers (ranks of Deputy Chief Constable and Assistant Chief Constable) and selected senior members of police staff.

**Police witness scheduler application:** digital scheduling application developed by Police Scotland that takes account of police shift patterns to identify the most appropriate dates for police witness attendance.

**Pre-intermediate diet meetings:** a meeting between the prosecutor and the defence outwith the courtroom to discuss a case. The purpose is to help ensure that only cases that cannot be resolved by a plea and are ready for trial proceed to the trial date. Parties are present at an intermediate diet only when necessary.

**Procurator fiscal depute/prosecutor:** legally qualified prosecutor who receives reports about crimes from the police and other agencies and makes decisions on what action to take in the public interest and, where appropriate, prosecutes cases.

**Production(s):** physical evidence shown in court.

**Prosecution code:** sets out criteria for decision making, the range of options available to COPFS prosecutors, and values that underpin decisions.

**Protocol for witness citations targets:** a joint agreement dated 2013 between COPFS and Police Scotland setting out targets for both COPFS and the police in the service of personal citations in summary cases.

**Protocol for the excusal of police witnesses:** a joint agreement dated 2013 between COPFS and Police Scotland setting out targets for responding to excusal requests from the police.

**Public interest:** as well as considering whether a police report discloses sufficient admissible, reliable and credible evidence of a crime alleged to have been committed by the accused, prosecutors also consider if any prosecutorial action is in the public interest. Assessment of the public interest often includes consideration of competing interests, including the interests of the victim, the accused and the wider community. The factors taken into account in assessing the public interest will vary according to the circumstances of each case.

**Re-cite/Re-citation:** second or subsequent citation of a witness in the same case.

**Report case:** where a person is not in custody or released on an undertaking, a report, in the form of an SPR, is sent to the procurator fiscal, who will decide what action to take.

**Reporting officer:** the police officer who submits the SPR to COPFS.

**Response and Information Unit (RIU):** this unit manages and responds to formal complaints made to COPFS.

**Scottish Courts and Tribunals Service (SCTS):** supports justice by providing the people, buildings and services needed to support the judiciary, the courts, devolved tribunals and Office of the Public Guardian.

**Scottish Police Authority (SPA):** independent of both the Scottish Government and policing, the SPA is the primary governance body for policing in Scotland with the remit of holding the Chief Constable to account, and promoting, supporting and overseeing improvement in policing. It also has responsibility for the management and delivery of Forensic Services in Scotland and Independent Custody Visiting Scotland.

**Sheriff Clerk:** responsible for the organisation of the work of the sheriff court. In the courtroom, the clerk will call out the case, keep a formal procedural record and record the decision of the sheriff.

**Sheriffdom:** the court system in Scotland is divided into six areas called sheriffdoms. These areas are Glasgow and Strathkelvin; Grampian, Highland and Islands; Lothian and Borders; North Strathclyde; South Strathclyde, Dumfries and Galloway; and Tayside, Central and Fife.

**Solemn proceedings/cases:** prosecution of serious criminal cases before a judge and a jury in the High Court or sheriff court.

**Soul and conscience certificate:** a document provided by a qualified medical practitioner certifying, on their 'soul and conscience', that a person is medically unfit to attend court on a particular date or dates.

**Special measures:** different ways to help vulnerable witnesses, including all children, to give evidence.

**Specialist reporting agency (SRA):** an organisation other than Police Scotland that reports alleged crimes to the Procurator Fiscal. These include, amongst others, HM Revenue and Customs, Health and Safety Executive, Scottish Environment Protection Agency, Maritime and Coastguard Agency and Trading Standards Scotland.

**Specialist units:** teams within COPFS where prosecutors focus on a particular specialised area of criminal law, such as serious sexual offences or health and safety offences.

**SPR:** Standard Prosecution Report (also sometimes called Standard Police Report).

**Sufficiency of evidence:** evidence from at least two independent sources that the crime was committed, and that the accused was the perpetrator of the crime.

**Summary case management:** introduced in 2022, this uses a collaborative approach to manage proceedings through early disclosure, agreement of evidence and judicial management in sheriff court summary cases.

**Summary proceedings/cases:** prosecutions in the sheriff or Justice of the Peace court before a judge without a jury.

**System to Co-ordinate Personnel and Establishment (SCoPE):** Police Scotland's human resources system.

**Trainee depute:** a trainee solicitor. Within COPFS, trainees receive training on the skills required to be a procurator fiscal depute.

**Trauma-informed:** being aware of how trauma or experiences that have harmed or threatened a person will negatively affect their behaviour over time. It involves taking steps within working practice to recognise this, address what the person needs and avoid distress and re-traumatisation.

**Trial diet:** a court hearing where evidence is led before a judge (and a jury in solemn proceedings) to determine if a person is guilty of a crime.

**United Nations Convention on the Rights of the Child (UNCRC):** a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities.

**Undertaking:** the document signed by someone who has been arrested and released on police bail after promising to come to court at a later date and agreeing to certain conditions, such as not committing any other crimes.

**Victim Information and Advice (VIA) service:** a service provided by COPFS that offers information and assistance to some victims and witnesses. It does not provide emotional support to victims, but can signpost victims to other services for such support. Records of action taken by VIA are recorded in a VIA minute sheet.

**Warrant:** a document granted by the court, usually at the request of the prosecutor, giving police the authority to arrest someone. A warrant may be issued for the arrest of the accused or a witness if they have failed to attend court.

**Witness:** person who may be cited by COPFS to give evidence in a criminal case. This may be a civilian (members of the public or police staff who are not officers), police officer (who either witnessed the crime or was involved in investigating and reporting the crime to COPFS), or a professional (people who provide evidence as part of their job, for example, doctors or forensic scientists).

**Witness engagement team:** a team within COPFS that manages availability of witnesses in sheriff and jury cases. This team has been subsumed by the witness management team (WMT).

**Witness Gateway:** a digital platform allowing victims and witnesses optional online access to information related to their case, and guidance about the court process.

**Witness management team:** a team within COPFS that deals with returned unserved witness citations and executions of service. It now includes the role of the witness engagement team (WET).



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**Annexe D: Letter to the Convener from the Scottish Biometrics Commissioner regarding the Criminal Justice Committee evidence session**

**Scottish Biometrics Commissioner**

Bridgeside House  
99 McDonald Road  
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Audrey Nicoll MSP  
Convener  
Scottish Parliament Criminal Justice Committee  
cc Clerk to Criminal Justice Committee  
by e-mail

Dear Audrey,

4 March 2026

**Criminal Justice Committee: Evidence Session 11 March 2026**

Thank you for the invite to appear before the Criminal Justice Committee for the final time during this session of Parliament. As always, I wish to express my gratitude to the Committee for their kind support over the last 5 years and for the numerous opportunities to engage so positively during the sixth session of Parliament.

I was appointed as the Scottish Biometrics Commissioner (SBC) in April 2021 during the COVID-19 pandemic and my current period in office is almost coterminous with that of the Committee. Accordingly, I thought that it might be helpful to summarise some of the achievements of the SBC function during the sixth session of Parliament before highlighting some future challenges.

In doing so, I start by highlighting that the SBC function is one of the smallest public authorities in Scotland with an officeholder and only three permanently employed staff. I also have a Senior Fingerprint Examiner from the SPA Forensic Services, Karen McBride, temporarily seconded to my office until September 2027 as a subject matter expert. This is to temporarily increase our capacity and capability to assist with two technically challenging assurance reviews requiring forensic expertise including our recent fingerprint review and our next on forensic imaging. Karen will also attend the evidence session and will be delighted to meet with the Committee.

The SBC function has low overhead costs and has operated within the funding envelope provided by the SPCB in every year since inception in 2021. As previously highlighted in evidence to the Committee and to the SPCB Supported Bodies Landscape Review Committee (SSBLR), the SBC function provides 'proof of concept' in terms of the economies of scale and best value approach that is possible through the sharing of back-office services within an independent officeholder landscape.

**Partnerships**

Recognising our small scale and desire to deliver value for the public purse, our approach has been to work extensively in partnership from the outset both internally through shared services with the Scottish Public Sector Ombudsman (SPSO) and externally in the delivery of our assurance reviews and associated work.

External partners in our assurance activity over the period have included The Scottish Police Authority and SPA Forensic Services, Police Scotland, HM Chief Inspector of Constabulary in Scotland (HMICS), The Children and Young People’s Centre for Justice (CYCJ), the Leverhulme Research Centre for Forensic Science, and Scottish Government with whom we jointly reviewed the [laws of retention of biometric data in Scotland](#) in 2024.

Our external work is informed by the advice of a statutory Advisory Group maintained under section 33 of the 2020 Act, and our governance and performance against budget is assessed through external audit by Audit Scotland and strong internal governance arrangements including an Advisory Board on Audit.

### Strategic Plans

My [first 4-year strategic plan](#) commenced on 1 December 2021 and expired on 30 November 2025 having achieved everything that it set out to do back in 2021. The plan was updated twice during those four years to add in two additional assurance reviews.

My second and [final 4-year strategic plan](#) was approved by the SPCB before being laid in Parliament in October 2025 and extends slightly beyond the period when I demit office in April 2029. The current strategic plan will deliver assurance reviews on fingerprints, with reviews of forensic imaging, biometric data acquired through digital forensics techniques, and body worn video following from 2027 through to 2029. The strategic plan can be amended at any time, including for example to provide the necessary assurance to Parliament should Police Scotland seek to introduce new biometric modalities in Scotland, for example live facial recognition.

### Code of Practice

Our statutory [Code of Practice](#) was a ‘world first’ for Scotland, and took legal effect in November 2022 after being approved by the Parliament. The [first statutory 3-year review of the Code](#) was laid in Parliament in October 2025. The report noted that there had been only six complaints made by data subjects in a 3-year period with no complaints having been upheld. The Code remains fit for purpose and will be updated in the seventh session of Parliament to reflect some minor required changes including to UK legislation.

### Assurance Reviews

Since 2023, we have conducted six assurance reviews. Those already published include on the specific themes of [Vulnerable Adults](#), [Children and Young People](#), [Images and Photographs](#), [DNA](#) and [Retrospective Facial Search](#). Our sixth assurance review on fingerprints will be laid in Parliament next week and once ready an advance copy will be provided to the Committee.

From those six assurance reviews, we have made no less than twenty-eight recommendations to improve the lawful, effective, and ethical use of biometric data for policing purposes in Scotland. Together with Scottish Government, we also made a further six recommendations from a joint review of the laws of retention bringing the total number of recommendations for improvement from seven reports to Parliament to thirty-four.

The forthcoming fingerprints assurance review contains ten recommendations and will confirm to the Parliament that all pertinent recommendations from the [Scottish Fingerprint Inquiry 2011](#), have been successfully implemented by the SPA Forensic Services who now provide a world-leading forensic science service to the criminal justice system in Scotland.<sup>1</sup> Conversely, the report will highlight some serious failings in operational practices by Police Scotland including the failure to fingerprint significant volumes of officially accused persons following arrest.

## Outcomes

In the summer of 2026, I shall lay a specific report in Parliament which evaluates the outcomes from the first strategic plan from a qualitative and quantitative perspective. A few specific examples of the outcomes to highlight to the Committee include:

- Fewer children (7% reduction) having biometrics taken following arrest.
- Improved information being provided to data subjects following arrest through provision of biometrics leaflet since the summer of 2024 (Scotland has 100,000 custody episodes each year)
- More transparent public reporting by Police Scotland on biometric data volumes
- Improved environmental storage for DNA buccal swabs to enhance future investigative opportunities.
- The development of a joint Police Scotland and SPA biometrics strategy
- Re-profiling of some older DNA samples to improve forensic effectiveness.
- Improved governance and management information
- Police Scotland discontinuing use of the retrospective facial search functionality in the UK Police National Database (PND) because of the algorithm search results found by the National Physical Laboratory to demonstrate statistically significant demographic bias<sup>2</sup>
- Investment in new custody cameras to address issues of image quality.
- Sustained elevated levels of public confidence in the use of biometric data for policing purposes in Scotland assessed through public surveys in 2021, 2025.<sup>3</sup>

Many of our recommendations from recent years, including those made jointly with Scottish Government are also still ‘work in progress’ with some having a dependency to technology upgrades by Police Scotland which in turn have a dependency to appropriate capital allocation to the Chief Constable.

Taken as a whole, our work over the period has confirmed to Parliament the lawful, effective, and ethical use of biometric data for policing and criminal justice purposes in Scotland with no significant controversies arising and no breaches of the Code of Practice.

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<sup>1</sup> The Scottish Fingerprint Inquiry 2011 cost £4.8 million. It is often referred to colloquially as the Shirley McKie fingerprint scandal.

<sup>2</sup> Available on Home Office website:

[https://assets.publishing.service.gov.uk/media/693002a4cdec734f4dff4149/1a\\_Cognitec\\_NPL\\_Equitability\\_Report\\_October\\_25.pdf](https://assets.publishing.service.gov.uk/media/693002a4cdec734f4dff4149/1a_Cognitec_NPL_Equitability_Report_October_25.pdf)

<sup>3</sup> 2021 Survey conducted by ScotCen and 2025 Survey by Diffley as part of SPA Public Confidence in Policing Survey.

## Outreach and engagement

The nature, extent, and scale of our outreach and engagement activity is proportionate to our small scale and budget and accordingly we maximise partnership working opportunities. For example, in 2024, and working in partnership with the SPA and Police Scotland, we co-hosted the first ever '[Biometrics in Criminal Justice Conference](#)' in Scotland. The conference was opened by the Cabinet Secretary for Justice and speakers included the Chief Constable and Chair of the Scottish Police Authority.

The Commissioner and SBC Director Cheryl Glen, meet regularly with Scottish Government officials and with Home Office officials on matters related to shared UK databases and international exchange mechanisms. This includes advisory capacity membership of the UK [Forensic Information Databases Strategy Board](#) which provides governance and oversight of the UK DNA, fingerprint, and custody images databases.

In terms of public engagement, our [website](#) provides the primary mechanism through which we provide information to the public and we engage through various other mechanisms. For example, on July 10, 2025, SBC hosted a [workshop](#) at our office in Edinburgh with vulnerable adults and team members of COSLA and SOLD network (a partnership between People First Scotland and the Association for Real Change Scotland - which support people with cognitive and neurological impairment who have experience with the criminal justice system). Similar engagement with young people during 2025 was facilitated through the Scottish Youth Parliament.

On political engagement 15 January 2026 saw the Commissioner and SBC Business Support Officer Joanna Milne hosting an SBC stand in the Members area of Parliament providing a valuable opportunity to engage directly with many MSPs. This provided an opportunity for the Commissioner to highlight future opportunities for potential low-cost expansion of remit.



## Challenges and opportunities in the seventh session of Parliament

As required by section 6 of the SBC Act, Scottish Government officials are now conducting the first statutory review of the Commissioner's powers and functions with a view to considering whether the legal powers are adequate and whether any bodies should be added or removed in terms of the Commissioner's independent oversight.

Scottish Government officials have already interviewed a range of stakeholders and are currently conducting a [public survey](#) on citizen space. The final report is anticipated in late autumn during the next session of Parliament and will come to a future committee with responsibility for criminal justice.

As Commissioner, I have advised Scottish Government officials that I already have adequate legal powers; but have asked them to consider extension of remit to the wider criminal justice ecosystem within which biometrics are shared extensively including prisons. I have also highlighted an opportunity in relation to the future development of a public space safety camera code of practice given the inexorable rise of surveillance technologies and the application of artificial intelligence (AI) to such systems.

### Prisons

The rationale for including prisons within my remit, is because biometrics data (fingerprints, photographs, and recordings) are acquired from prisoners without consent, including those on remand under domestic legislation devolved to the Scottish Parliament and such data is often then shared for example with Police Scotland. The powers relating to the acquisition of biometric data in Scottish prisons are contained within the [Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012](#).

Furthermore, one privately managed Scottish Prison (HMP Addiewell) also collects biometric data (fingerprints and photograph) from prison visitors including legal representatives and even police officers in uniform attending to investigate crimes or deaths in custody. Accordingly, the absence of independent oversight over the subsequent use of such data should be of concern to everyone.

Biometric technologies can also support Scottish Government strategic approaches including alternatives to prison at a time when our prisons are at capacity. Such technologies, often known as “e-carceration” include biometrically verified non-fitted devices (rather than conventional tagging), typically involving GPS tracking combined with mobile biometric apps and biometric solutions to manage offenders in the community to ensure compliance with parole or community service requirements. Other solutions include remote alcohol monitoring where body worn biometric solutions can measure transdermal drug or alcohol levels by sampling sweat every 30 minutes to ensure compliance with abstinence restrictions.

### Government Strategy and Public Space Surveillance

The Home Office has a government led biometric strategy for England and Wales which includes UKG objectives in relation to UK biometric databases such as the UK DNA Database (NDNAD) and the UK fingerprint database (IDENT1). More recently, the Home Office has been investing significantly in facial biometrics including funding fifty live facial

recognition (LFR) vans for police forces in England and Wales.<sup>4</sup> The Home Office also funds the [Police Digital Service](#) and has recently announced the creation of a new £115 million [National Centre for Artificial Intelligence \(AI\)](#).

By contrast, Scottish Government has no official position or vision of where it wants Police Scotland to be with biometric data or technologies in three, five, or ten years. Accordingly, there is no multiyear capital allocation to Police Scotland in support of such a vision. This helps to explain why Police Scotland was the last UK police service to be equipped with body worn video.

Similarly, Scottish Government does not have a coherent strategy in relation to public space surveillance or the network of public safety cameras throughout Scotland with the potential for the application of AI-enabled facial recognition to such systems. There is also no independent oversight of such systems beyond UK data protection law. Against that context, there is an opportunity to expand the remit of the SBC, potentially to cater for a future public safety camera code of practice for Scotland.

Such issues are likely to feature in the thinking of the subsequent criminal justice committee during the seventh session of Parliament given recent statements by Police Scotland and the Scottish Police Authority that they wish to explore the potential future application of live facial recognition.

The Chair of the SPA Policing Performance Committee has recently published an [article](#) highlighting that Scotland may be 18 to 24 months away from a business case on Live Facial Recognition being presented by Police Scotland to the Authority. Accordingly, it is improbable that any plans will come to fruition before I demit office. Nevertheless, I would anticipate that discussions around the potential adoption of such technologies will feature in my own work and that of the Parliament in the next session of Parliament.

### Closing remarks

I trust that this short paper will be of assistance to Committee members in advance of the evidence session on 11 March.

It also allows me to place on public record my sincere appreciation to the Committee for the exceptionally positive engagement during the sixth session of Parliament and to congratulate the Committee on the successful delivery of a massive and diverse programme of work since 2021.

Yours sincerely,

*Brian Plastow*

**Dr Brian Plastow**  
**Scottish Biometrics Commissioner**

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<sup>4</sup> UK Government promises to ramp up facial recognition and biometrics: Home Office, 4 December 2025.