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**Justice Committee**  
**Comataidh a' Cheartais**

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



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# Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/justice-committee.aspx>



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# Introduction

The Justice Committee reports to the Finance and Constitution Committee as follows—

1. The Scottish Government's [Draft Budget 2018-19](#) was published on 14 December 2017. The Justice Committee focused this year's scrutiny on the Crown Office and Procurator Fiscal Service (COPFS) budget.
2. The [Committee's scrutiny of the 2017-18 draft budget](#) also focused on funding for the COPFS. In April 2017, the Committee published its [inquiry report](#) on the role and purpose of the Crown Office and Procurator Fiscal Service. This report contained a number of recommendations relating to the resources and funding of the COPFS.
3. This year's budget scrutiny provided the Committee with the opportunity to consider developments since last year's budget report and its inquiry report, including progress in responding to relevant recommendations.
4. As the draft budget was not published until 14 December 2017, there was only time for the Committee to arrange one post-publication evidence session on 19 December 2017 before reporting to the Finance Committee. This [evidence session](#) was with the Lord Advocate and the Crown Agent.
5. To inform this evidence session, the Committee issued a [call for evidence](#) on the financial planning of the COPFS ahead of the 2018-19 draft budget being published. Six responses were received (see Annex C), which were all submitted prior to the publication of the draft budget. A supplementary written submission was received from the Crown Agent on 18 December 2017, after the draft budget was published. A further supplementary written submission was received from the Crown Agent on 8 January 2018.
6. The Committee also offered those who had provided written evidence the opportunity to respond to the evidence given by the Lord Advocate and the Crown Agent at the Committee's meeting on 19 December 2017. A supplementary submission was received from the Inspectorate of Prosecution in Scotland on 3 January 2018.
7. In addition, the Justice Sub-Committee on Policing undertook scrutiny of the police service's financial planning for 2018-19 (ahead of the publication of the draft budget) and wrote to the Justice Committee with its findings. This is considered further [below](#).

## Overview of the Draft Budget 2018-19

8. Although the focus of the Justice Committee's scrutiny this year is solely on the COPFS budget, figures from the Draft Budget 2018-19 are also provided below on the following areas of spending:
  - the Justice portfolio
  - the COPFS portfolio

- the ring-fenced central government grant to local authorities to provide criminal justice social work.

9. These figures are presented in this report for general interest, and to put in context the COPFS budget. Table 1 reproduces cash terms figures for Justice, COPFS and Criminal Justice Social Work.

**Table 1: Justice, COPFS and Criminal Justice Social Work (cash terms)**

	2017-18 Budget £m	2018-19 Draft Budget £m
<b>Justice</b>		
Community Justice Services	33.6	35.4
Judiciary	31.6	34.0
Criminal Injuries Compensation	17.5	17.5
Legal Aid	137.2	137.4
Scottish Police Authority	1,092.4	1,137.8
Scottish Fire and Rescue Service	316.4	321.6
Police Central Government	117.9	90.3
Safer and Stronger Communities	4.1	5.7
Police and Fire Pensions	350.6	350.6
Scottish Prison Service	361.0	361.4
Miscellaneous	37.4	43.5
Scottish Courts and Tribunals Service	105.6	117.7
<b>Total</b>	<b>2,605.3</b>	<b>2,652.9</b>
<b>COPFS</b>		
<b>Total</b>	<b>111.1</b>	<b>116.0</b>
<b>Criminal Justice Social Work</b>		
<b>Total</b>	<b>86.5</b>	<b>86.5</b>

Source: Scottish Government Draft Budget 2018-19 (tables 8.01 and 15.01)

10. Table 2 reproduces real terms figures (i.e. adjusted for the effects of inflation). All real terms figures in this report are expressed in 2017-18 prices.

**Table 2: Justice, COPFS and Criminal Justice Social Work (real terms)**

	2017-18 Budget £m	2018-19 Draft Budget £m
<b>Justice</b>		
Community Justice Services	33.6	34.9
Judiciary	31.6	33.5
Criminal Injuries Compensation	17.5	17.2
Legal Aid	137.2	135.4
Scottish Police Authority	1,092.4	1,121.2
Scottish Fire and Rescue Service	316.4	316.9
Police Central Government	117.9	89.0
Safer and Stronger Communities	4.1	5.6
Police and Fire Pensions	350.6	345.5
Scottish Prison Service	361.0	356.1
Miscellaneous	37.4	42.9
Scottish Courts and Tribunals Service	105.6	116.0
<b>Total</b>	<b>2,605.3</b>	<b>2,614.2</b>
<b>COPFS</b>		
<b>Total</b>	<b>111.1</b>	<b>114.3</b>
<b>Criminal Justice Social Work</b>		
<b>Total</b>	<b>86.5</b>	<b>85.2</b>

Source: Scottish Government Draft Budget 2018-19 (tables 8.02 and 15.02)

# COPFS funding

11. Table 3 sets out figures for COPFS funding for the period 2014-15 to 2018-19. Real terms figures are expressed in 2017-18 prices.

**Table 3: COPFS funding 2014-15 to 2018-19**

	2014-15 Outturn £m	2015-16 Outturn £m	2016-17 Outturn £m	2017-18 Budget £m	2018-19 Draft budget £m
<b>Cash terms</b>	112.4	113.2	112.7	111.1	116.0
<b>Real terms</b>	117.5	117.6	114.5	111.1	114.3

Source: Scottish Government Draft Budget 2018-19 (tables 15.01 and 15.02 and Annex D)

12. Table 4 provides more detailed figures for 2017-18 and 2018-19.

**Table 4: COPFS funding 2017-18 and 2018-19**

	2017-18 Budget £m	2018-19 Draft Budget £m
<b>Cash terms</b>		
Staff Costs	72.3	78.3
Office Costs	3.9	3.8
Case Related	13.4	13.3
Centrally Managed	17.9	17.0
Capital Expenditure	3.6	3.6
<b>Total</b>	<b>111.1</b>	<b>116.0</b>
<b>Real terms</b>		
Staff Costs	72.3	77.2
Office Costs	3.9	3.7
Case Related	13.4	13.1
Centrally Managed	17.9	16.8
Capital Expenditure	3.6	3.5
<b>Total</b>	<b>111.1</b>	<b>114.3</b>

Source: Scottish Government Draft Budget 2018-19 (tables 15.01 and 15.02)

13. The 2017-18 budget, as set out above, does not include £950,000 of additional funding which was transferred to the COPFS in-year for the prosecution of domestic abuse cases. In its report on the 2017-18 draft budget, the Committee recommended that such predictable funding for specific purposes should be included within the baseline budget. As set out in the [supplementary submission](#) from the Crown Agent, such funding has been included in the 2018-19 draft budget figure.
14. Comparing this financial year (2017-18), with the £950,000 of additional funding included, to next (2018-19), there is therefore a net increase in the COPFS budget of £3.95 million in cash terms (3.5%) and £2.25 million in real terms (2.0%).
15. However, the real terms draft budget figure for 2018-19 is slightly lower than the real terms outturn figure for 2016-17 (-0.2%).

16. The increase in funding, comparing 2017-18 with 2018-19, is directed towards staff costs. Spending on other areas has fallen in real terms.
17. In its report on the 2017-18 draft budget, the Committee noted that it would be helpful for the COPFS to provide annual details of spend by area of work. The COPFS's [Annual Report and Accounts](#) for the year ended 31 March 2017 provided only limited information on the use of funds broken down by area of work. However, the Crown Agent stated in his supplementary evidence to the Committee that, after having made some improvements to the COPFS's accounting system, a breakdown of expenditure by case type would be provided in its 2017-18 Annual Report and Accounts.
18. In its report on the 2017-18 draft budget, the Committee recommended that predictable funding for specific purposes should be included within the COPFS's baseline budget. The Committee therefore welcomes that the funding for the prosecution of domestic abuse cases has been included in the 2018-19 draft budget figure.

## Scottish Government priorities for the COPFS portfolio in 2018-19

19. The Draft Budget 2018-19 sets out the Scottish Government's priorities for the COPFS portfolio in 2018-19. <sup>1</sup> These are to:
  - prosecute crimes and investigate deaths that require further investigation;
  - provide appropriate support to victims of crime, vulnerable witnesses and bereaved relatives;
  - respond to the increasing number of serious sexual offences that are reported to the COPFS;
  - subject to the approval of Parliament, implement the provisions of the Domestic Abuse (Scotland) Bill;
  - implement reforms introduced by the Criminal Justice (Scotland) Act 2016 including improvements to procedures for sheriff and jury cases;
  - meet the challenges of prosecuting serious organised crime and cyber crime;
  - continue to play a full part in delivering the Digital Strategy for Justice in Scotland;
  - continue to develop our digital systems and processes to further enhance the service we provide to increase case-processing efficiency;
  - improve communications with victims and witnesses and comply with relevant legislative requirements; and
  - continue to co-operate with counterparts in other jurisdictions, while preparing for the UK's withdrawal from the EU.

## Demands on COPFS resources

20. During its inquiry into the role and purpose of the COPFS, the Committee considered whether the COPFS has the resources it needs to carry out its prosecutorial role effectively. Evidence taken during the inquiry portrayed the COPFS as “being squeezed by decreased resources but also by increasing demands”.<sup>2</sup> These demands included more complex cases; increased responsibilities on the COPFS to the defence as well as to victims and witnesses; and continuous reform of the criminal law. The Committee’s inquiry report stated:
- ” Witnesses’ overall perception was of a ‘just about managing’ prosecution service, lacking the time and resources to always get things right.
- Source: [Justice Committee, 9th Report, 2017 \(Session 5\): Role and Purpose of the Crown Office and Procurator Fiscal Service](#), executive summary.
21. In its written submission to the Committee ahead of the publication of the 2018-19 draft budget, the FDA (the union which represents mainly legal staff within the COPFS) argued that the COPFS’s current resources are “insufficient for the additional demands placed on and increased workload of the service”.<sup>3</sup>
22. It went on to state:
- ” We cannot see how COPFS can continue to deliver current or improved standards of service with the reduced staffing levels that will be required under the predicted real terms budget cuts that a ‘flat cash’ settlement would represent. We fear that, not only will our members bear the consequences of these increased pressures, but there will inevitably be an impact on the wider justice system and the service provided to the public.
- Source: [FDA written submission](#), paragraph 18.
23. As noted above, the Draft Budget 2018-19 (published after the FDA’s submission to the Committee) provides for a real terms increase in funding for the COPFS. At the Committee’s evidence session on 19 December 2017, the Lord Advocate told the Committee that this would provide stability for the service. Nonetheless, while paying tribute to the professionalism and commitment of the COPFS’s staff, the Lord Advocate went on to say that he did not underestimate the challenges the COPFS faces, for example, due to the changing nature of its caseload<sup>4</sup> (as is discussed further [below](#)).

## Long-term financial planning

24. In its report on the 2017-18 draft budget, the Committee expressed its disappointment at the delay by the COPFS in producing a long-term financial strategy. This was following a recommendation from the Auditor General for Scotland that, due to the financial pressures facing the service, the COPFS should develop such a strategy.<sup>5</sup>
25. The COPFS published a [Financial Strategy](#) on 30 January 2017, which covers the five-year period from 2018-19 to 2022-23. The Financial Strategy is informed by

three other corporate strategies also published on 30 January 2017: a [Workforce Planning Strategy](#); an [Estate Strategy](#); and a [Digital Strategy](#).

26. The purpose of the Financial Strategy is

” to set out a clear financial direction for COPFS that provides sustainable options to enable COPFS to deliver and maintain improving levels of service, consistent with the Scottish Government Performance Framework, within a better environment for staff and taking full account of the likely expenditure constraints over the next five years.

Source: [COPFS Financial Strategy](#), page 3.

27. It states that:

” The core assumption underpinning the strategy is that the 2017-18 allocation from Scottish Government (revenue and capital) will remain unchanged throughout the period; i.e. any additional resources must be regarded as over and above normal requirements and thus deployed accordingly.

Source: [COPFS Financial Strategy](#), page 4.

28. On the basis of this and other assumptions (e.g. relating to inflationary pressures), the Financial Strategy indicates that there may be a need to make around £15m worth of savings by 2022-23 – an annual average of £3m with the savings slightly higher in the early years.<sup>6</sup>

29. The stated intention is to look for the required savings on a 50/50 basis between staff and non-staff costs (despite some two-thirds of COPFS expenditure being payroll-related).<sup>7</sup>

30. On staff costs, the Financial Strategy suggests a reduction (with no compulsory redundancies) of around 210 full-time equivalent posts during the five-year period. It indicates that savings in staff time will be made through various means, including changes in prosecution policy, further digitisation of processes and reductions in levels of sick absence.<sup>7</sup>

31. On non-staff costs, the Financial Strategy states:

” The major areas of focus for non-staff savings will be estates; witness costs; reduction in running costs (such as paper, printing and postage) arising from digitisation; and reductions in costs of contracts as a result of improved procurement and contract management including rationalising contracts and identifying opportunities for additional outsourcing and shared services.

Source: [COPFS Financial Strategy](#), page 6.

32. A significant part of non-staff savings are targeted at reductions in spending on the estate.

33. Issues relating to [staffing](#) and [estates](#) are discussed further below.

34. As noted above, the draft budget provides for an increase in COPFS funding for 2018-19, whereas the Financial Strategy was based on the core assumption of Scottish Government funding remaining at 2017-18 levels. In his written submission

to the Committee, the Crown Agent stated that the Financial Strategy would be updated in light of the COPFS's budget allocation for 2018-19.

35. The Committee welcomes the commitment by the COPFS to publish figures in its 2017-18 Annual Report and Accounts by area of work and the publication of the COPFS's Financial Strategy, which covers the five-year period from 2018-19 to 2022-23. The Committee notes that this Strategy will be updated in light of the COPFS's budget allocation for 2018-19. However, the Committee notes the comments from the FDA about the COPFS's resources and the additional demands placed on the workforce, and notes with concern the requirement, as indicated in the COPFS's Financial Strategy, for the COPFS to make £15m savings over the next five years.

## Staffing issues

### Staffing levels

36. During the course of the Committee's inquiry into the role and purpose of the COPFS, an opinion expressed by a number of those giving evidence was that many of the challenges facing the COPFS are due to it not having enough staff.
37. Last year, the Committee heard that the COPFS would have to shed around 30 staff in 2017-18 to deal with the real-terms reduction in the budget for that financial year. In both its report on the 2017-18 draft budget and its inquiry report, the Committee expressed concern about any reduction in staff numbers.
38. At its evidence session on the 2018-19 draft budget, the Committee heard that the COPFS had seen a reduction in overall staff levels of "about 20" over the past year.<sup>8</sup> The Committee sought further clarity from the COPFS as to where those job losses had fallen. In a supplementary submission on 8 January 2018, the Crown Agent advised:
- ” The staff in post figure as at the end of the last financial year to March 2017 was 1,604.1. As at 30 November 2017, the latest date for which we have fully verified information, the figure was 1,584.6, a fall of 19.5.
- Source: [COPFS supplementary written submission](#), page 1.
39. In its written submission, the FDA stated:
- ” COPFS has taken the approach of achieving savings by cutting staff, despite the Scottish Government commitment to no compulsory redundancies. When posts are vacant they are not always filled, or are filled with someone on a lower grade. Abolishing a post is making it redundant whether it is currently filled or not, and posts should not be re-graded without proper consultation and job evaluation exercises being carried out.
- Source: [FDA written submission](#), paragraph 7.
40. However, in oral evidence, the Lord Advocate told the Committee that:

- ” It is certainly not the case that the service is making savings by cutting staff as opposed to making non-staff savings. It has taken a deliberate decision to prioritise non-staff savings where it can.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 19.

41. The Crown Agent added:

- ” On the overall use of funds by the Crown Office and Procurator Fiscal Service, in 2010, 59 per cent of the budget was spent on staffing. It is projected that the figure will be 72 per cent next year and higher than that the year after. We are showing that we are prioritising savings in non-staffing areas over savings in staffing areas, and the proportion of the budget that we spend on staffing is ever increasing.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 8.

42. The Committee also heard that work would be carried out in 2018 to consider whether resources needed to be realigned in light of the COPFS's changing caseload (discussed further [below](#)). The Crown Agent told the Committee that the trade unions would be fully involved in that work.<sup>9</sup>

43. The Committee's inquiry report also highlighted concerns about the number of staff on short-term contracts, long-term temporary promotion and on sick leave. In his written submission for this year's budget scrutiny, the Crown Agent stated:

- ” As part of our Workforce Strategy we have reduced reliance on fixed-term contracts and temporary promotions. I am pleased to confirm that we have made further significant progress in strengthening our staffing position in line with our evidence to the Committee in December 2016 and January 2017. By transferring 177 colleagues to permanent contracts, the total number of temporary staff has reduced from 210 as at April 2017 to 36 as at November 2017, which is a reduction from 13.15% of the total staffing complement to 2.3%. Additionally, 115 staff members have been permanently promoted since January 2017.

We are also continuing to make progress in relation to sickness absence rates, which are now down to an average of 8.7 days per person, from 10.1 days in October 2016.

Source: [COPFS written submission](#), paragraphs 7-8.

44. In its written submission, the FDA welcomed the recent recruitment of permanent prosecutors and the move to permanently filling promoted vacancies. However, it went on to say that:

- ” Even after the recent recruitment exercises, there is still a reduction of almost 6% in the full-time equivalent number of prosecutors from our highest recorded number of prosecutors in 2009.

Source: [FDA written submission](#), paragraph 15.

45. The Committee sought further information from the COPFS on current staffing levels. In a supplementary submission, the Crown Agent stated:

” There can be slight fluctuations in staff numbers at particular grades due to recruitment cycles. However, as at March 2017, there were 523.4 FTE prosecutors in post. By 30 November 2017 this figure had increased slightly to 527.8 FTE. Following the recent permanent promotion exercises, 348.7 FTE of those are currently in front line posts. Further recruitment exercises to fill legal posts will be held this year. Over the same 31 March to 30 November 2017 period, the number of staff performing all other duties in COPFS reduced from 1080.7 FTE to 1056.8 FTE.

Source: [COPFS supplementary written submission](#), page 2.

46. In oral evidence, the Committee also asked for an update on the number of available trainee places and the retention of trainees. The Crown Agent told the Committee that, for the first time, in 2018 the COPFS would bring in a small tranche of trainees in February, in addition to the usual tranche in August. He suggested this would provide more consistent availability of legal staff throughout the year. He also indicated that the number of trainees would increase slightly overall.<sup>10</sup>

### Effect of 2018-19 budget on staffing levels

47. As noted above, the COPFS's Financial Strategy suggests a reduction of around 210 full-time equivalent posts during the five-year period. This is reiterated in the COPFS's Workforce Planning Strategy<sup>11</sup> which, as with the Financial Strategy, deals with a five-year period (2018-19 to 2022-23) and sets "the strategic direction for the management and development of COPFS staff".<sup>12</sup>
48. However, this was based on the assumption that COPFS funding would remain at 2017-18 levels, whereas the 2018-19 budget provides for a real terms increase. The Committee heard that this would allow for stability in staffing levels for 2018-19. In his opening remarks, the Lord Advocate stated:

” The real-terms increase in the service's budget this year will allow the service, from April, to respond to the release of the cap on public sector pay and, at the same time, to choose to maintain its staff at or at about current levels. The Committee will recognise that the budget allocation represents a significant departure from the previous planning assumptions, which were for flat cash and a reduction in staff levels, that the service had been working to.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 2.

49. The Crown Agent similarly told the Committee that the previous need to achieve 50% of savings from staff costs would not apply in 2018-19 and therefore the COPFS would have "stability in staff numbers" and would be in the position "to make choices about filling posts that might become vacant over the next year".<sup>13</sup> However, he went on to say that it was difficult to look any further beyond 2018-19 in terms of staffing costs.<sup>14</sup>
50. The Lord Advocate noted that the Workforce Planning Strategy would need to be revised to reflect the change in the COPFS's budget allocation for 2018-19.<sup>9</sup>
51. The Committee questioned whether the decision not to reduce staff numbers in 2018-19 suggested that the previously planned reduction would have had a

negative impact on the COPFS's workforce and its service delivery. In response, the Crown Agent stated:

” The strategy was a projection of what we would have to do to live within our means, if that was to be where we ended up. I think that I have indicated previously that the situation would have become increasingly challenging and that the choices would have become increasingly difficult. We would have found ourselves in a situation in which I would have been presenting to the Lord Advocate options about what a service at those levels might look like.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 13.

52. The Lord Advocate added:

” I was very clear last year that I could fulfil my public responsibilities with the budget settlement that we had then. ... Looking forward, the service was scenario planning on an assumption of flat cash, recognising that, with justice reform, there would be changes in the system and so on. The Crown Agent was very clear that the scope for choice would become increasingly challenging and that, were we unable to unlock some of the benefits of justice reform, no doubt he would be coming to me with difficult choices. Thankfully, we are not in that position.

Source: Justice Committee, [Official Report 19 December 2017](#), cols. 18-19.

## Staff well-being

53. During its inquiry, the Committee heard concerns, particularly from the two main unions represented in the COPFS – the FDA (mainly representing legal staff) and the Public and Commercial Services Union (PCS) (mainly representing administrative staff) – about the well-being of staff and work pressures.<sup>15</sup>

54. Similar concerns were again expressed by the unions in their submissions to the Committee ahead of the publication of the 2018-19 draft budget. The PCS submission stated:

” Low morale in the service is exacerbated by chronic underfunding which means:

- staff have seen low pay awards and reducing living standards over a substantial period of time
- a failure to fill posts has led to staffing shortages and pressures on the workforce further damaging staff morale
- the threat of office closures has contributed to stress and anxiety in the justice sector.

Source: [PCS written submission](#), paragraph 2.

55. The PCS submission also suggested that “morale has never been lower amongst COPFS staff. The main reasons for this are staff being underpaid and increasingly overworked”.<sup>16</sup>

56. In preparation for its submission, the FDA asked its members for their views and comments received are attached at Annex A of the submission. In relation to these comments, the FDA stated:

” The Committee will see in these comments an overwhelming sense of significant pressure against rising workload in High Court business, members working additional, unpaid hours on a regular basis out of a sense of dedication, professionalism and commitment. There was a strength of feeling that our members are bearing workloads which are such that they are increasingly unable to deliver an effective service and fearful of mistakes being made, and that the impact will be on the broader quality of work and a sense of concern that we are letting victims and witnesses down.

Source: [FDA written submission](#), paragraph 20.

## Staff survey

57. Evidence from the COPFS also referred to the results of its most recent staff survey (published in November 2017). In his written submission, the Crown Agent stated:

” They confirm that there is still much work to be done to improve the views of staff on the future of the organisation in areas such as pay and benefits, resources, workload and the leadership of change. The overall measure of a positive outlook on our direction fell slightly from 57% to 55%. The variation in responses across teams and functions appear to be more pronounced than in previous years, perhaps indicating a greater focus this year on more localised issues. Consequently, we are considering carefully the local results with a view to developing specific local responses.

Source: [COPFS written submission](#), paragraph 9.

58. In a supplementary written submission, the Crown Agent added that the results in relation to workload showed that 57% of staff confirm that they have an acceptable workload (up 1% from last year) and 64% confirm they achieve a good balance between work life and private life (down 3% from last year). He went on to state:

” We remain committed to doing everything possible to improve that position within the limits of our available funding. In particular, as part of the Fair Futures project we are looking at how and where we might be able to improve the overall environment for staff as part of our review of wellbeing, roles and responsibilities and recruitment and performance management processes.

Source: [COPFS supplementary written submission](#), page 2.

59. In oral evidence, the Lord Advocate told the Committee that he was “disappointed that, on a number of measures, the survey fell back this year from what was a very favourable—in historical terms—survey last year”.<sup>4</sup> The Lord Advocate told the Committee that he did not seek to “shy away from the challenging nature of the work that is demanded of public prosecutors or from the Committee’s evidence of individual experience”.<sup>17</sup> However, he emphasised that it was important to see the results in their historical context and that, although the figures had remained the same or fallen back slightly from last year, they were still better than they had been

in the past.<sup>18</sup> He later added that all staff should have monthly one-to-one meetings with their manager to discuss workload and other issues and that the COPFS had regular meetings with the unions to discuss issues that are of concern to the unions.<sup>19</sup>

60. The Crown Agent highlighted significant differences in the responses to the survey from different localities, going on to say that local responses were being encouraged. The Crown Agent also emphasised the work being undertaken as part of the Fair Futures project to improve staff well-being, as well as the downward trend in relation to sickness absence.<sup>20</sup>

## Conclusions on staffing issues

61. The Committee welcomes the real term increase in next year's budget allocation and the indication from the Lord Advocate and the Crown Agent that this will provide for stability in staff numbers in 2018-19.
62. However, the Committee is concerned that, on the basis of the evidence previously received from the Lord Advocate during its scrutiny of the 2017-18 budget, it was not made fully aware of the potential implications of a flat-cash settlement for the COPFS.
63. The Committee has previously expressed concern about any reduction in the number of COPFS staff. The Committee heard that, due to the real terms reduction in the 2017-18 budget, the COPFS had reduced its staffing complement by 20 staff this year. Particularly in light of the evidence received from the FDA and PCS, the Committee is concerned about the impact of such job losses on workload and staff well-being, and on the service itself. However, the Committee welcomes the increase in trainees and trainee retention.
64. The Committee remains concerned that any further reduction in staff numbers in future years would be unsustainable. The Committee notes that the COPFS's Workforce Planning Strategy will be updated in light of the 2018-19 budget allocation and hopes its concerns will be taken on board. The Committee will continue to maintain a watching brief on this issue.
65. The Committee is concerned that it continues to hear from the FDA and PCS about significant pressures facing staff and the negative impact this is having on their well-being. The Committee also notes that the results from the COPFS's most recent staff survey are less positive in some areas than last year. The Committee welcomes the commitment from the Lord Advocate and the Crown Agent to continue to take steps to improve staff well-being. The Committee further welcomes the Crown Agent's commitment to consider the local results of the staff survey and to develop specific local responses.

## Changing workload

66. The Committee heard that the changing nature of the COPFS's workload was also having an impact on its resources.
67. In relation to increased demands placed on the COPFS, the FDA highlighted the impact of a rise in the number of sexual offences cases.<sup>21</sup> A similar point was made in the written submission from the Inspectorate of Prosecution in Scotland. The submission referred to the Inspectorate's thematic report on the investigation of prosecution of sexual crimes (published in November 2017), which now constitutes approximately 75% of the COPFS High Court workload. It went on to state:
- ” The increase in complexity of cases, with greater focus on historical sexual offences and domestic abuse, was highlighted as a source of pressure by Audit Scotland in their report on the efficiency of prosecuting criminal cases through the sheriff courts published in September 2015. The continuing upward trend of such crimes undoubtedly impacts on COPFS resources.
- Source: [Inspectorate of Prosecution in Scotland written submission](#), paragraph 3.
68. The FDA submission also suggested that forthcoming changes to police powers set out in the Criminal Justice (Scotland) Act 2016 would have an impact on the resources within the COPFS. It argued:
- ” It cannot simply be that on every occasion we are required to absorb the extra demands and implement change on a 'cost neutral' basis.
- Source: [FDA written submission](#), paragraph 16.
69. In his written submission to the Committee, the Crown Agent also pointed to the “significant increase in the number of sexual offences cases”.<sup>22</sup> He noted that the COPFS had accepted all 12 recommendations made in the Inspectorate's thematic report. He went on to say, however, that implementing those recommendations would be challenging.<sup>22</sup>
70. In a supplementary submission, the Crown Agent added:
- ” The nature of our work has changed very significantly this year – we have seen an increase of around 50% in serious sexual offences reported to the Service, a continued decline in the overall number of cases reported to us and a drop in the number of summary cases in the JP [Justice of the Peace] court. ... The Lord Advocate and I will be considering further the implications of the change in the profile and complexity of the Service's casework over the next few months.
- Source: [COPFS supplementary written submission](#), pages 1-2.
71. The Committee notes Lord Advocate's assurance that this work would involve “scoping out the implications of a strategic shift of further resources to deal with serious sexual cases and other complex cases”.<sup>4</sup> The Crown Agent reassured the Committee that the trade unions would be fully involved in that work.<sup>9</sup>
72. In relation to the impact of the Criminal Justice (Scotland) Act 2016, the Crown Agent told the Committee that, from a budgetary perspective, no further assessment had been done since the Financial Memorandum, which accompanied

the Bill that then became the 2016 Act, was published in 2013. However, he added that “significant work” had been done in anticipation of the introduction of the legislation including training and the on-going provision of guidance.<sup>23</sup>

73. The Committee notes that there has been an increase in the complexity of cases and increased demand placed on the COPFS resulting from the rise in sexual offence cases. It notes the Inspectorate of Prosecution's comment that sexual crimes now constitute approximately 75% of the COPFS High Court workload. Additionally, the Committee notes the FDA's submission that the implementation of the Criminal Justice (Scotland) Act 2016 will impact on resources. Furthermore, the Committee notes with concern the Crown Agent's evidence that, from a budgetary perspective, no further assessment had been done on the impact of the 2016 Act since the Financial Memorandum accompanying the Bill when it was introduced in 2013.

## The COPFS estate

74. As noted above, a significant part of non-staff savings in the COPFS's Financial Strategy is to be achieved through reductions in spending on the estate. The Financial Strategy notes:

” In relation to estates we believe that there is significant scope to reduce our expenditure of roughly £10m pa (around £9m for the shared service with SCTS, and £1m of other estate-related expenditure). We have set a very ambitious target that by 2022-23 we will be spending £2m pa less than at present in real terms i.e. around a third of the total non-staff savings target. ... There is no question that some COPFS offices will need to close or reduce in size.

Source: [COPFS Financial Strategy](#), page 6.

75. The Financial Strategy is informed by the COPFS's Estate Strategy, which deals with how the COPFS will maintain and develop its estate over the period up to 2026.

76. The Estate Strategy states that:

” A key requirement of the strategy is to deliver an estate in a configuration, and at a cost, that ensures we focus available funding on people (numbers of staff) rather than places (challenging our traditional approach to the use of space and the number of locations from which we operate). The strategy is not standalone and relies on delivery of other strategies – financial, digital and workforce planning. The focus of all subsequent delivery plans will be to seek a reduction in our estates running costs of up to 20% (circa £1m – £2m) to support the funds available for resources involved in the preparation and prosecution of cases.

Source: [COPFS Estate Strategy](#), page 3.

77. The Strategy sets out a number of principles to support delivery of planned changes. These include a reducing estate during the lifetime of the strategy; and the non-renewal of private sector leases during the lifetime of the strategy – subject to suitable public sector accommodation being available. <sup>24</sup>
78. In his written submission, the Crown Agent provided an update on decisions made in relation to four Procurator Fiscal's Offices: Stirling is to close in August 2018 with staff transferring to Falkirk; Oban is to close in March 2018 with staff transferring to premises within Oban Sheriff court; Airdrie and Kirkcaldy are to be retained but reduced in size. <sup>25</sup> In oral evidence, the Crown Agent clarified that this would not result in a reduction in staff numbers. <sup>26</sup>
79. The Crown Agent told the Committee that these decisions would realise £720,000-worth of savings in the financial year after next (2019-20). <sup>27</sup>
80. The PCS raised concerns, however, that such savings had not been weighed against the costs of staff travelling to courts in other locations. It suggested that moving staff to offices in other areas, and increasing travelling time, was causing stress and anxiety to staff. <sup>28</sup>
81. The Lord Advocate emphasised to the Committee that the Estate Strategy was “set firmly in the context of a commitment to serving local courts and prosecuting local cases in local courts across Scotland”. <sup>29</sup> He added:

” The question of staff travel to serve a local court and the arrangements for that are very much part of the analysis before any such decision is taken. Engagement with the staff who are involved has also been an important part of what the service has done in relation to the decisions that have been made this year.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 28.

82. The Committee notes the projected savings for 2019-20 as a result of decisions taken to date in respect of the COPFS estate, in line with the COPFS's Estate Strategy. The Committee considers that local access to justice should remain a priority and therefore welcomes the Lord Advocate's commitment that the COPFS will continue to serve local courts across Scotland. The Committee also considers that staff and the unions must be fully involved in discussions before any decision is taken in respect of the COPFS estate.

## Support for victims and witnesses

83. During its inquiry, the Committee heard about the negative experiences of some victims and witnesses involved in the criminal justice process.
84. The Crown Agent's written submission provided an update on work that has since been undertaken by the COPFS to improve communication with victims and witnesses. This included the introduction of a revised Victim Strategy, as well as an

agreed feedback process with Rape Crisis Scotland so that the COPFS can learn from victim experience and drive improvements.<sup>30</sup>

85. The Crown Agent also referred to ongoing discussions concerning the removal of the statutory requirement for written notices to be lodged with the court about special measures. He suggested that such a change would release COPFS staff working in its Victim Information and Advice (VIA) service from “an onerous administrative task to enable them to engage more effectively with victims”.<sup>31</sup> This was welcomed in a supplementary submission from the Inspectorate of Prosecution in Scotland, which stated that the removal of the requirement for written notices “has the potential to increase the capacity of VIA, allowing VIA Officers to focus on their core function of engaging with victims and witnesses”.<sup>32</sup>
86. A written submission from Victim Support Scotland argued for the need to simplify “a complex and sometimes confusing network of public and third sector organisations and agencies”, suggesting a single point of contact for all victims would provide the most effective service.<sup>33</sup>
87. The Crown Agent's written submission noted that the potential development of such an approach had been discussed at a recent Scottish Government event.<sup>34</sup> The Lord Advocate told the Committee that he supported the “direction of travel” towards a single point of contact for victims. He suggested that, while the COPFS has an important role to play in supporting and providing information to victims, there is a “real limit to what it is either appropriate or possible for prosecutors to do, and the needs of victims go well beyond what we can provide”.<sup>35</sup>
88. The Committee welcomes the steps that have been taken by the COPFS to improve the experience of victims and witnesses involved in the criminal justice process. The Committee notes the evidence it received that the removal of the requirement of written notices for special measures could increase the capacity of COPFS's Victim Information and Advice officers to engage with victims and witnesses.

## Efficiency savings

89. In its report on its inquiry into the role and purpose of the COPFS, the Committee made a number of recommendations aimed at improving the efficiency and the effectiveness of the COPFS. In his written submission ahead of the publication of the 2018-19 draft budget, the Crown Agent provided an update on progress that had been made since the Committee's inquiry report.
90. For example, in relation to witness citation, the submission stated that from February 2018 the COPFS will extend the use of SMS texting, already used to remind witnesses to come to court, to countermand witness attendance when they are no longer required.<sup>36</sup> The submission also noted that Sheriff and Jury Reform is now fully implemented, with some "positive trends" emerging including a drop in the number of witness citations issued for members of the public and an increase in the percentage of cases resolving in a plea of guilty at first diet.<sup>37</sup>
91. A written submission from the Scottish Courts and Tribunals Service (SCTS) also outlined work being done to improve the efficiency of court business. It noted that full data on the impact of solemn reforms made under the Criminal Justice (Scotland) Act 2016 would be available in 2018.<sup>38</sup> The SCTS submission also highlighted ongoing work to develop a New Model for Summary Criminal Court Procedure, as well as a working group established to identify interim measures which could deliver system improvements without the need for legislative change.<sup>39</sup>
92. In oral evidence, the Committee heard from the Lord Advocate that real change in the summary justice system would have "a significant impact on the pressures on the service".<sup>40</sup>
93. As noted [above](#), the COPFS's Financial Strategy envisages savings in non-staff costs through digitisation. The COPFS's Digital Strategy states:

” The outcomes and products from this strategy must optimise resources and deliver efficiency, making a significant contribution to our financial sustainability planning by enabling us to reduce our non-staff costs and to deliver our priorities and services at a time of reducing resources.

Source: [COPFS Digital Strategy](#), page 14.

94. The Crown Agent told the Committee that there were a "variety of different digital developments" that would deliver efficiency savings. For example, he referred to the planned roll-out of a case management system involving the use of tablets in court in 2018 which would result in savings of around £800,000 "a couple of years after launch".<sup>41</sup> He went on to say:

” Overall, given the number of different reforms that we have, a lot of which are underwritten by digital reform, we anticipate that about £1.5 million of the savings over the next period will be as a result of digital reform.

Source: Justice Committee, [Official Report 19 December 2017](#), col. 23.

95. In its submission, the PCS raised concerns about the amount of money paid to IT contractors and limited transfer of knowledge to IT staff employed by the COPFS.<sup>42</sup> In response, the Crown Agent told the Committee that this issue was being looked at but contractors are expected to deliver knowledge transfer and that, going forward, the COPFS intended to increase its IT resource which would reduce its reliance on contractors.<sup>43</sup>

96. The Committee notes the steps that have been taken to improve the efficiency and effectiveness of the COPFS, including enhanced in-house IT provision, as well as wider system reforms. The Committee will continue to monitor the impact of these measures.

97. The Committee notes the Crown Agent's reference to digital developments including the roll-out of a case management system and cautions against over-reliance of digital developments to deliver efficiency savings.

# Police funding

98. As indicated in the introduction of this report, the Justice Sub-Committee on Policing undertook scrutiny of the financial planning of the police service for 2018-19, ahead of the publication of the draft budget. It wrote to the Justice Committee setting out its views. The letter is attached at Annex A of this report.
99. Cash and real terms figures for the Scottish Police Authority (SPA)<sup>i</sup> and Police Central Government<sup>ii</sup> are set out in table 5 below.

**Table 5: Scottish Police Authority and Police Central Government**

	2017-18 Budget £m	2018-19 Draft Budget £m
<b>Cash terms</b>		
Scottish Police Authority	1,092.4	1,137.8
Police Central Government	117.9	90.3
<b>Real terms</b>		
Scottish Police Authority	1,092.4	1,121.2
Police Central Government	117.9	89.0

100. These figures show a £45.4m (4.2%) increase in the SPA budget in cash terms, and a £28.8m (2.6%) increase in real terms. The Police Central Government budget has decreased by £27.6m (23.4%) in cash terms, and by £28.9m (24.5%) in real terms.
101. The increase in the SPA budget in cash terms includes an additional £20.4 million funding, provided by the Scottish Government to protect the SPA's revenue budget in real terms.<sup>44</sup> The remaining £25 million has been transferred from the Police Central Government budget following the UK Government's announcement to legislate to allow the SPA to recover VAT from April 2018.
102. In previous years, the Scottish Government had provided funding within the Police Central Government budget to cover the cost of VAT paid by Police Scotland. This funding has now been mainstreamed into the SPA budget, resulting in a corresponding decrease to the Police Central Government budget. The remaining change in the Police Central Government budget reflects projected reform and change funding requirements in 2018-19.
103. The Scottish Government states in the Draft Budget 2018-19:
- ” From April 2018 we have ensured that policing will fully benefit from being able to reclaim the VAT previously paid to the UK Government. In addition to the changes in this budget document, the change to VAT status means that the effective spending power on policing will increase by around £25 million compared with previous years.

Source: [Scottish Government Draft Budget 2018-19](#), page 84.

<sup>i</sup> The SPA passes on most of the budget to Police Scotland, whilst retaining a proportion to cover its own services and running costs.

<sup>ii</sup> This budget is used for police reform and other elements of national police funding.

104. On 8 December 2017, Audit Scotland published its 2016/17 Audit of the SPA. In her [report](#), the Auditor General for Scotland, Caroline Gardner, welcomed the progress that had been made in terms of the financial management of the SPA and Police Scotland.<sup>45</sup> However, she went on to say that a series of governance failings and the poor use of public money were unacceptable. She concluded that the new Chair and Interim Chief Officer of the SPA “must ensure that the culture, policies and operating systems of both the Scottish Police Authority and Police Scotland improve so that such occurrences are not repeated”.<sup>46</sup>

105. The Justice Committee notes the views of the Justice Sub-Committee on Policing on the financial planning of the police service for 2018-19.

106. The Committee notes that the UK Government has committed to changing its VAT rules and welcomes that, from April 2018, the SPA will be able to recover VAT. The Committee also welcomes the Scottish Government's commitment that the police service will fully benefit from this change.

107. The Committee notes the report from Audit Scotland on the 2016/17 audit of the SPA. The Committee and the Justice Sub-Committee on Policing will continue to scrutinise the effectiveness of the SPA and Police Scotland's financial management.

# Annex A - Letter from the Justice Sub-Committee on Policing

## Financial planning: Police Scotland and the Scottish Police Authority

The Justice Sub-Committee agreed, at its [meeting on 26 October 2017](#), to undertake pre-budget scrutiny of the police service's financial planning for the year 2018-19.

At its [meeting on 9 November 2017](#), the Sub-Committee took oral evidence from Police Scotland, the Scottish Police Authority (SPA), the Association of Scottish Police Superintendents (ASPS) and the Scottish Police Federation (SPF). The Sub-Committee also considered [written evidence](#) provided by Police Scotland, the SPA and the SPF.

The Sub-Committee reports to the Justice Committee as follows—

### Introduction

Since 1 April 2013, Scotland has had a single national police force. Reforms included new funding arrangements. The Scottish Government provides funding under the following budget lines:

- Scottish Police Authority (SPA) – the SPA passes on most of the budget to Police Scotland, whilst retaining a proportion to cover its own services and running costs
- Police Central Government – budget for police reform and other elements of national police funding
- Police Pensions – budget to meet the full pension costs of retired police officers (the sum actually provided is determined by the amount required to meet pension costs).

In addition, local authorities retain the ability to provide additional funds to supplement policing in their areas and Police Scotland can levy charges when providing some goods and services.

The Sub-Committee's conclusions on the financial planning arrangements of Police Scotland and the SPA for 2018-19 as set out below are not a criticism of the continued hard work and dedication of police officers and staff throughout Scotland.

The purpose of the Sub-Committee's conclusions is to ensure that the police service has sufficient resources and an effective sustainable financial management model to enable it to continue to provide the same high quality service that people have come to expect.

### Forecasts for 2017-18 budget

At its [meeting on 22 March 2017](#), the SPA Board approved the [SPA draft budget 2017-18](#). The draft budget noted that:

“The underlying revenue budget deficit for 2017-18 started at approximately £60m. A number of cost reductions and savings proposals have now been incorporated into the budget to reduce this gap. Despite this however, the proposed revenue budget requirement for 2017/18 (excluding VAT) is £1,069.6m compared with revenue grant funding of £1,022.4m and so this means that the SPA will be approving a budget with

an operating deficit of £47.2m in 2017/18. This includes £0.4m of non-recurring net savings, meaning the underlying recurring revenue gap in 2017/18 is £47.6 m.

All measures possible will be taken throughout the year to minimise this deficit through seeking further non-recurring savings and additional income opportunities. The Scottish Government is aware of this budgetary position and that the SPA is working to a three year plan to deliver financial sustainability as part of the Policing 2026 work. [...]

The proposed capital budget for 2017/18 is £42.4m. There is £30m of funding available from core grant and projected capital receipts. The balance of expenditure will be funded from the Police Reform / Change fund to support irrecoverable VAT and transformational investment (on presentation of business cases to Scottish Government demonstrating the business change that will be delivered as a result of the capital investment requested).

The Police Reform / Change fund is available to fund the cost of VAT and transformational change. Total funding of up to £59.5m is available to the SPA and there are proposals to fully utilise this funding”.

At its meeting on 9 November 2017, the Sub-Committee sought an update on the forecasts for the 2017-18 budget. James Gray, Police Scotland's Chief Financial Officer, told the Committee that forecasted revenue overspend had reduced from £47 million to £36 million. He noted that the reduction in the revenue deficit involved a number of one-off savings so that, on a recurring basis, the revenue deficit was forecasted at “about £45 million”.<sup>iii</sup>

In a subsequent [letter](#), David Page, Police Scotland's Deputy Chief Officer, stated:

“At the end of September 2017 (Quarter 2) the forecast outturn position is as follows:

- Revenue £36.6 million overspend
- Capital £1.2 million overspend
- Reform £5.2 million overspend”.

### **Long-term financial strategy**

In November 2013, the Auditor General recommended that the SPA and Police Scotland develop a long-term financial strategy. This was reiterated in three subsequent reports to the Scottish Parliament. The SPA prepared an initial long-term financial strategy in March 2016. In her [report](#) on the 2015/16 Audit of the SPA<sup>iv</sup> (published in December 2016), the Auditor General recommended that this strategy should be continually updated to reflect new information.

The Auditor General's view was that updating the strategy would be essential given the scale of the financial challenge facing the SPA and Police Scotland. Audit Scotland

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<sup>iii</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 7.

<sup>iv</sup> The Sub-Committee took evidence from the Auditor General on the 2015/16 Audit of the SPA at its meeting on [16 March 2017](#), and from Police Scotland and the SPA on [1 June 2017](#).

estimated that the police service could face a cumulative funding gap of almost £190 million by 2020/21.

In February 2017, the SPA and Police Scotland launched a consultation on Policing 2026, setting out a 10-year strategy for policing in Scotland. The [final strategy](#) was laid before Parliament on 20 June 2017 and ratified by the SPA Board on 22 June 2017.

Policing 2026 states:

“Alongside the development of the 2026 strategy, we have been developing a long term financial strategy which ensures that we can deliver the aims and objectives of the 2026 strategy while achieving financial sustainability. As the scoping and design of projects to deliver the 2026 strategy portfolio may impact our future costs, we will only finalise the draft 3 and 10 year financial plans after the required planning has been completed”.<sup>v</sup>

At the [SPA Board meeting on 28 September 2017](#), a draft [three-year financial plan](#) and a draft [ten-year financial strategy](#) were approved. These documents will be updated on an ongoing basis as the financial planning process and Policing 2026 strategy progress.

The three-year financial plan is a crucial planning document that sets the financial context for Police Scotland and the SPA in delivering the Policing 2026 strategy and its underpinning three-year implementation plan, as well as core operational policing and corporate strategies.

The plan sets out how investment in change and transformational activity during this period will enable the organisation to deliver significant capacity gains. These will be used primarily to enhance the operational effectiveness of the police service, but some will enable the organisation to balance the revenue budget by 1 April 2020.

The plan points out that for 2017/18, the Scottish Government made available up to £59.5 million (£47.1 million revenue; £12.4 million capital) to support reform and transformation (including VAT). The plan assumes continuing Scottish Government reform and transformation funding for the next 2 years.

The plan envisages that a balanced budget will be achieved in 2020/21. The elimination of the deficit is based on recurring savings being secured in the intervening years. The ten-year financial strategy suggests that, after achieving financial balance in 2020/21, the police service will move back to a position of annual deficits due to unaddressed recurring costs pressures.

In their [joint written submission](#) prior to the Sub-Committee's evidence session on 9 November, Police Scotland and the SPA stated:

“From this work Police Scotland can now articulate a high-level assessment of the financial resources required to deliver the organisation's strategic priorities and essential services over the next three years whilst working towards a balanced budget. Although this is a much improved position we continue to refine and develop our insight, capability and planning so that our forecast medium and long term finances continue to improve and become more robust”.<sup>vi</sup>

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v [Policing 2026](#), page 50.

vi Police Scotland and the SPA, written submission, page 3.

In oral evidence, James Gray, Police Scotland's Chief Financial Officer, told the Sub-Committee that:

"The financial plans are only as good as the detailed plans that come out of Police Scotland, which is working hard to develop new plans and operating models for different parts of the organisation in order to deliver on the key objectives of the Policing 2026 strategy. As that work develops, the resourcing requirements will become clearer, and those will feed into the future financial plan. We do not create the financial plan and leave it on a shelf. It is a live document that we will continually update, probably on a six-monthly basis".<sup>vii</sup>

**Conclusion: The Sub-Committee welcomes the development of the three-year financial plan and ten-year financial strategy by the Scottish Police Authority and Police Scotland. This is an important step in setting the financial context for the police service in achieving future financial sustainability and delivering its Policing 2026 strategy. The Sub-Committee notes that these plans will be continually reviewed as other core operational policing and corporate strategies are developed.**

### Reform funding and reserves

In its [written submission](#), the SPF stated that while it may be a moot point given the financial realities currently facing Police Scotland, "it is of the strong view that the inability of the SPA to hold reserves is in itself a significant impediment to delivering efficiencies within the police service".<sup>viii</sup>

The SPF provided the following example to underline its point: telling the Sub-Committee that Police Scotland currently has an allocation of reform funding for 2017-18 which the SPF states is in "a use it or lose it" manner. The SPF is concerned that in the drive to demonstrate "transformational change" this is forcing the service into making spending decisions in year that might not necessarily deliver the savings promised. The SPF believes that many of the systemic problems facing Police Scotland cannot be resolved by making spending decisions on a year-to-year basis.<sup>ix</sup>

The SPF recognises that "reform funding" will not be made available forever but considers that the basis on which it is provided is not conducive with allowing the service to introduce truly innovative change to deliver sustainable savings in the mid to longer term.<sup>x</sup>

In oral evidence, both Police Scotland and the SPA told the Sub-Committee that the inability to hold reserves could cause difficulties in planning reform and capital spend.<sup>xi</sup>

**Conclusion: The Sub-Committee notes the concerns expressed that the Scottish Police Authority's inability to hold reserves can act as a barrier to fund longer-term plans and deliver efficiencies. The Sub-Committee asks the Cabinet Secretary to consider whether the SPA should be able to hold reserves.**

### Financial leadership and management

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vii Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 6.

viii Scottish Police Federation, written submission, page 2.

ix Scottish Police Federation, written submission, page 2.

x Scottish Police Federation, written submission, page 3.

xi Official Report, Justice Sub-Committee on Policing, 9 November 2017, cols. 11-12.

In [December 2016](#), the Auditor General stated that the SPA and Police Scotland continued to suffer from weak financial leadership and considerable budget pressures. This was the third consecutive year that the Auditor General had drawn the Scottish Parliament's attention to substantial issues found during the annual audit of the SPA.

In their joint written submission, Police Scotland and the SPA outlined a number of key actions that had been taken to support financial planning:

“Since 2015/16, a re-organisation of senior financial leadership across the SPA and Police Scotland has taken place. A single Chief Financial Officer has been appointed within Police Scotland who has a dual reporting line into the SPA Accountable Officer and the Deputy Chief Officer. This protocol did not exist before, is a significant governance improvement and we are pleased to report that it is working effectively and delivering benefits in relation to financial management across both organisations”.<sup>xii</sup>

The submission states that a number of “significant appointments” have also been made to key roles within Police Scotland to ensure that appropriate governance and controls can be designed and ingrained into all financial processes. Key appointments include:

- a Chief Financial Officer
- a Director for Change
- 15 Finance Service posts
- an arrangement with a Professional Services firm for short term specialist support in some more challenged areas.

The written submission also sets out that a number of strategic decisions followed these appointments to adapt the approach to a range of financial planning activities within Police Scotland. These include the devolving of budgets to key accountable personnel throughout both policing and corporate services to ensure that accountability for, and control of, financial outcomes reside with a single devolved budget holder who can plan and influence financial outcomes.<sup>xiii</sup>

At its meeting of 9 November, the Sub-Committee considered the changes to personnel within Police Scotland, the number of temporary and permanent posts, and the impact that this has had on the ability of Police Scotland to improve its financial planning capacity.

Following the evidence session David Page, Police Scotland's Deputy Chief Officer, [wrote](#) to the Sub-Committee with further information. In his letter, Mr Page clarified that the 15 Finance Service posts referred to above had been made on a temporary basis. He stated:

“With regards to the future roles within the finance team, a full review of the organisational structure is underway as part of the transformation of Corporate Services ... This work is underway so at present we do not know the exact number of permanent posts that will be created, or how many other posts may be deleted. However, there are no intentions to bring in any further temporary posts into the finance structure”.

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xii Police Scotland and the SPA, written submission, page 1.

xiii Police Scotland and the SPA, written submission, page 2.

He went on to explain that a restructure of Police Scotland's Senior Management Team was to be completed by the end of November 2017. There would then be consultation on the wider management team structure, followed by the remainder of the finance service.

Mr Page also confirmed that Police Scotland had paid £794,369.90 for Professional Services support from Deloitte through 2016/17 and up until 24 November 2017. He stated that Deloitte were brought in because these posts (included within the 15 temporary Finance Service posts referred to above) could not be filled following a recruitment exercise. He went on to say:

“The new organisational structure which is described above will result in the service no longer requiring Deloitte secondments. This arrangement will therefore come to an end once all of these posts have been recruited”.<sup>xiv</sup>

During its meeting on 9 November, the Sub-Committee asked whether Police Scotland and the SPA were confident that the changes which they have put in place were enough to respond to the Auditor General's concerns.

James Gray told the Sub-Committee that there had been a “big improvement in the quality of the annual report and accounts” and that understanding of financial management had improved across the organisation. He recognised, however, that “it is still a work in progress”.<sup>xv</sup>

**Conclusion: The Sub-Committee welcomes the steps that have been taken to improve financial leadership within the Scottish Police Authority and Police Scotland. Retaining staff with the necessary financial expertise is essential. The Sub-Committee notes with concern the £794,369.90 for Professional Services support from Deloitte through 2016/17 and the fact these posts could not be filled following a recruitment exercise.**

**Conclusion: The Sub-Committee therefore requires Police Scotland to keep it informed about the review of its organisational structure, in particular providing details of the number of permanent or temporary financial posts and any reduction in those posts.**

### **Communication and engagement in relation to financial planning**

When the Sub-Committee [reported](#) to the Justice Committee last year on its pre-budget scrutiny, it concluded that the decision by the SPA that its Finance and Investment Committee<sup>xvi</sup> should discuss budget and financial issues privately had left staff and officers feeling that they had less input to the budget decision-making process. The Sub-Committee also concluded that it was incumbent on Police Scotland and the SPA to ensure that its employees are confident that the financial management process is robust and informed.

Nonetheless, this year the Sub-Committee again heard that unions and staff associations had been excluded from discussions about budget priorities and future financial planning.

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<sup>xiv</sup> Letter from Police Scotland to the Convener, 27 November 2017.

<sup>xv</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, cols. 8-9.

<sup>xvi</sup> This is now the Finance Committee.

At an evidence session on financial planning earlier in the year (20 April 2017), Drew Livingstone, representing UNISON Scotland, told the Sub-Committee that UNISON had “not seen any long-term financial planning concerning the next three years”. He went on to state that “the situation is not great at this moment in time but there is certainly a commitment that it will improve”.<sup>xvii</sup>

At the same meeting, Calum Steele of the SPF told the Sub-Committee that the Federation was aware of the “generalities” and had been able to engage with the SPA on those generalities. However, he went on to say:

“No detail has been shared. More importantly, I do not think there has been – in fact, I can say that there has not been – any specific effort to see from us suggestions about what can be done to mitigate or ameliorate some of the challenges that are coming”.<sup>xviii</sup>

In its written submission prior to the Sub-Committee’s evidence session on 9 November, the SPF stated:

“It is with considerable regret that the SPF has to advise that the position we articulated at Committee on 24th November 2016 and 20th April 2017, insofar as they related to lack of involvement in any discussions with either the Scottish Police Authority or the Police Service of Scotland around the budget, prevail for the financial planning for 2018-19.

The SPF continues to have general awareness of the financial issues through our own experiences and publicly available documents and commentary but specific detail is not made known to us. It is worth highlighting that whilst the SPF recognises that the SPA and Police Service of Scotland do not have budgetary clarity for 18/19, analogous to the position that prevailed in November 2016 for the year ahead, that even once that clarity was provided, the SPF was not involved in subsequent discussions on how the budget was to be utilised”.<sup>xix</sup>

In oral evidence, Calum Steele told the Sub-Committee:

“The reality is that we continue to be excluded. There comes a point in time where you have to ask yourself whether that is a consequence of poor thinking or more deliberate consideration. ... There may well be legitimate reasons for why we are not being included in the discussions but – and I can speak only from the SPF’s perspective – I have yet to hear what those may be”.<sup>xx</sup>

Craig Suttie of the Association of Scottish Police Superintendents (ASPS) suggested that, while not relating specifically to financial matters, there had been “far more consultation” than had taken place in the past. He referred to the consultation on Policing 2026 as a good example of such engagement.<sup>xxi</sup>

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<sup>xvii</sup> Official Report, Justice Sub-Committee on Policing, 20 April 2017, col. 2.

<sup>xviii</sup> Official Report, Justice Sub-Committee on Policing, 20 April 2017, col. 3.

<sup>xix</sup> Scottish Police Federation, written submission, page 1.

<sup>xx</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, cols. 1-2.

<sup>xxi</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 2.

James Gray, Police Scotland's Chief Financial Officer, explained that consultation would take place on individual savings proposals or service redesign.<sup>xxii</sup>

Police Scotland and the SPA stated in their joint written submission:

"The SPA is committed to applying robust governance and challenge over the delivery of SPA and Police Scotland Financial Strategy and Plans. ... Separately, the SPA and Police Scotland will continue their engagement with staff associations and trade unions in relation to financial planning matters through the recently established strategic engagement fora".<sup>xxiii</sup>

Andrew Flanagan, then Chair of the SPA, told the Sub-Committee that engagement happens through the strategic engagements forums, saying that:

"There is an opportunity to consult and discuss with the staff representatives and the unions the general shape of the budget and some of the assumptions that are in it. We have set up the strategic engagement forums, which are opportunities for us to engage across a wide range of matters, not just financial matters, and we would seek to use those as opportunities to discuss some of the assumptions that are in the budget".<sup>xxiv</sup>

He went on to say that the forum was "relatively recent" and was "still evolving".<sup>xxv</sup>

However, Calum Steele of the SPF suggested that the forum is a separate issue from engagement on financial matters.<sup>xxvi</sup>

Mr Flanagan also told the Sub-Committee that the SPA's Finance Committee now meets in public. Craig Suttie, of the ASPs, commented that he had recently attended a meeting of the Finance Committee and had been "very reassured by the level of questioning at that meeting".<sup>xxvii</sup>

In a supplementary written submission, Police Scotland stated:

"The membership and participation by Trade Unions and Staff Association at monthly meetings of project boards, and the 6 weekly transformation board, ensures the current and future shaping of service improvement is fully transparent and recognises the vital role of the unions and associations".<sup>xxviii</sup>

**Conclusion: The Sub-Committee welcomes steps that have been taken to improve engagement with unions and staff associations in the financial decision making, such as the SPA's Finance Committee meeting in public and the creation of strategic engagement forums. However, the Sub-Committee is concerned that unions and staff associations continue to be excluded from more detailed discussions about budget priorities and future financial planning. The Sub-**

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xxii Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 2.

xxiii Police Scotland and the SPA, written submission, page 3.

xxiv Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 2.

xxv Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 3.

xxvi Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 4.

xxvii Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 4.

xxviii Police Scotland, supplementary written submission, page 1.

## **Committee considers that additional steps must be taken to address this situation as a matter of priority.**

### **Custody provision**

In its written submission, the SPF highlighted areas where reduced resources had had an impact on the delivery of policing. One such area was custody capacity.

In its submission, the SPF recognised that the move to a dedicated custody division within Police Scotland means that the care and attention provided to those in police custody has never been greater. However, it raised concerns about the human rights of prisoners being transported long distances due to a significant reduction in geographical locations in which prisoners can be held (without restriction of provision), as well as moving prisoners from one custody holding facility to another, which it described as “almost routine”. The SPF also highlighted the challenges for police officers due to waiting times of “several hours” to process prisoners at custody facility being “not uncommon, and the “considerable stress” caused to officers and prisoners of travelling long distances and delays at custody centres.<sup>xxix</sup>

The SPF noted that it understood that around 118 Police Custody and Security Officer (PCSO) vacancies had “simply been deleted”. It argued:

“Whilst the zig-zagging of the country with prisoners self-evidently results in significant diminution of local policing resources, that diminution is exacerbated with 118 police officers having to perform these duties in their place”.<sup>xxx</sup>

In conclusion, the SPF stated:

“We trust the Committee recognises that as a direct consequence of diminished funding, coupled with what should be lauded as a desire to enhance prisoner welfare through a dedicated custody division, police officers and the police service are under intolerable pressures to the point where notwithstanding the best intentions and efforts of all involved, an unacceptably large number of prisoners are treated in a manner which in the view of the SPF, is completely incompatible with their human rights”.<sup>xxxi</sup>

In oral evidence, Calum Steele of the SPF argued:

“If we are not prepared to put investment into facilities and into places where we can hold people that are close to where they were locked up in the first instance, that is a very retrograde step”.<sup>xxxii</sup>

He went on to conclude that:

“The closure of custody facilities in the round and the reduction in 24/7 custody facilities in the round—and the ability to staff ancillary custody facilities that are more geographically spread with properly trained staff, which is a problem in its own right—are problems that prevail and mean that what would have been a relatively

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<sup>xxix</sup> Scottish Police Federation, written submission, pages 1-2.

<sup>xxx</sup> Scottish Police Federation, written submission, page 2.

<sup>xxxi</sup> Scottish Police Federation, written submission, page 2.

<sup>xxxii</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 13.

quick process of taking someone to a local-ish police station to deal with them for the purpose of an inquiry is now extended significantly because of the issues that I identified in the submission".<sup>xxxiii</sup>

However, Craig Suttie of the ASPs refuted the suggestion that the transfer of prisoners between custody centres was "routine".<sup>xxxiv</sup>

Andrew Flanagan, the Chair of the SPA, also told the Committee that a new operating model for custody was being developed by Police Scotland. He noted that this would allow for recruitment to take place "to prevent the current amount of backfilling".<sup>xxxv</sup>

In a supplementary written submission, Police Scotland explained that the reduction in custody centres reflected the reduction in the number of people being taken into custody, stating that:

"Since the establishment of Police Scotland there has been a reduction in the numbers of those held in police custody from in excess of 190,000 to year end March 2014 to approximately 140,000 to year end March 2017. In line with this reduction in numbers we have introduced new procedures to appropriately adjust and manage the custody estate and resource to continue to meet the needs of local communities, local policing and to deliver the most cost efficient and effective model.

As the numbers of those coming into police custody has fallen we continually review our existing custody estate and resourcing to best meet demand. This has seen some of the smaller and quieter custody centres close during the week in response to considerably reduced demand and open at weekends when required. Police Scotland maintains a core custody estate that is operational 24/7 assisted by smaller supporting custody centres when required.

Prisoners are sometimes transferred to custody centres better able to provide the care and welfare they require or in order to make best use of our available custody estate, thereby freeing capacity within a custody centre to enable its continued use by local officers. This is kept to an absolute minimum, with human rights and the safety of prisoners and officers at the forefront of any decision".<sup>xxxvi</sup>

The Sub-Committee subsequently held a further evidence session on Police Scotland's custody provision at its [meeting on 7 December 2017](#). It took evidence from Police Scotland, the SPF, UNISON Scotland and Positive Prison? Positive Futures. The Sub-Committee heard that there had been considerable improvements in the care provided to prisoners in custody. However, it heard that more needed to be done to ensure that custody centres were properly staffed, and to reduce the time spent transferring prisoners between centres. The Sub-Committee have asked Police Scotland to provide more information on Police Custody and Security Officer (PCSO) vacancies and recruitment, as well as an update on the ongoing review of the custody division.

**Conclusion: The Sub-Committee is concerned by the evidence it has heard that, due to a reduction in the geographical locations in which prisoners can be held, prisoners are routinely conveyed over longer distances than would seem**

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<sup>xxxiii</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 14.

<sup>xxxiv</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 15.

<sup>xxxv</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 15.

<sup>xxxvi</sup> Police Scotland, supplementary written submission, page 1.

**acceptable. The Sub-Committee considers that sufficient resources should be available to ensure that police officers can process prisoners in local custody centres.**

**Conclusion: The Sub-Committee notes that a review of Police Scotland's custody division is ongoing. It also welcomes the steps that are being taken to recruit more Police Custody and Security Officers (PCSOs). The Sub-Committee will continue to monitor this issue going forward.**

### **ICT provision**

In June 2013, the newly established SPA signed a contract for £46.1 million with Accenture to deliver a national information technology system for Police Scotland. The system, known as i6, was intended to replace more than 130 IT and paper-based systems inherited from Police Scotland's predecessor forces, and to transform how Police Scotland records, manages and analyses information.

In July 2016 – three years after signing the contract – the SPA and Accenture mutually agreed to terminate the contract for the i6 programme.

In March 2017, the Auditor General published a [Review of the i6 programme](#). The Sub-Committee took evidence from the Auditor General on this Review at its [meeting on 30 March 2017](#). The Auditor General told the Sub-Committee:

“The failure of the i6 programme means that some of the benefits of police reform have been, at best, delayed. Police officers and staff continue to struggle with out-of-date, inefficient and poorly integrated systems”.<sup>xxxvii</sup>

She added:

“It is fair to say that it [i6] was intended to be a central part of police reform, both in terms of the £200 million savings, which were a contribution to closing the funding gaps that we are now aware exist, and, just as importantly, with regard to making police officers and police staff more effective, joined-up and fleet of foot because of the good use of IT”.<sup>xxxviii</sup>

The Auditor General described the ICT vision in the Policing 2026 strategy as “ambitious”, saying:

“I would like to see a detailed strategy and plan for how ICT will support the change to policing across the piece, as well as how it will contribute to making the savings that were initially an integral part of the police reform agenda (...) it is hard to be clear about whether it is challenging but realistic or challenging and unlikely to be achieved in the required timescale”.<sup>xxxix</sup>

The three-year financial plan approved by the SPA in September 2017 states that the corporate strategies for Fleet, Estates, ICT and Workforce are all currently at different stages of development and that the plan will be refreshed to support the setting of the 2018/19 budget in March 2018.

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<sup>xxxvii</sup> Official Report, Justice Sub-Committee on Policing, 30 March 2017, col. 3.

<sup>xxxviii</sup> Official Report, Justice Sub-Committee on Policing, 30 March 2017, col. 7.

<sup>xxxix</sup> Official Report, Justice Sub-Committee on Policing, 30 March 2017, cols. 11-12.

At its meeting on 9 November 2017, the Sub-Committee sought an update on the development of ICT provision within the police service. Andrew Flanagan, then Chair of the SPA, told the Sub-Committee that a draft ICT strategy had been developed. However, Police Scotland's view was that it should be extended to include digital and data issues. He went on to say:

“With regard to the longer term, there is a clear acceptance that technology is at the heart of the Policing 2026 strategy and that we need to have a long-term plan ... As we develop that strategy, the key focus of the ICT department in Police Scotland is to make sure that the legacy systems continue to work effectively and, where possible, to roll out other systems and benefits to ensure that some of the intended benefits of i6 can be delivered”.<sup>xi</sup>

Both Mr Flanagan and Mr Gray, Police Scotland's Chief Financial Officer, confirmed that the approach to ICT in the future would not follow the i6-approach.<sup>xii</sup>

Mr Gray added that “the fact that we only have a draft strategy at the moment is not stopping investment”. He noted, for example, that there was current investment to develop a single log-on capability.<sup>xiii</sup>

Craig Suttie of the ASPs told the Sub-Committee:

“The issue of how we are going to get the efficiencies that IT is going to deliver is a matter of massive frustration for our members and the service. I understand what has been said about the need to look at information in the larger sense, including digital data and infrastructure, but we must push on and get some deliver on this ... this is an absolute priority because, until we get an effective and efficient digital IT system across the country, we are not going to get the efficiencies that we are looking for and we are not going to be able to deliver the service to the level that we are looking for”.<sup>xiiii</sup>

**Conclusion: The Sub-Committee agrees with the evidence it heard that the development of effective ICT provision within the service is integral to the delivery of efficiency savings and achieving the vision set out in Policing 2026. The Sub-Committee notes that a draft ICT strategy has been prepared and that there has been recent investment in some ICT projects. However, the Sub-Committee considers that a full ICT strategy must be finalised and implemented as a matter of priority.**

### **Body-worn video cameras**

At its [meeting on 15 June 2017](#), the Sub-Committee took evidence from Police Scotland, the SPF and the ASPs regarding the use of body-worn video cameras.

The witnesses all agreed that there could be significant benefits in the use and roll-out of body-worn video cameras across the service. Perceived benefits included the increased possibility of early guilty pleas as a result of evidence having been captured, resulting in less time spent at court for officers; the possibility of victims not having to attend court as a

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<sup>xi</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 19.

<sup>xli</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 19.

<sup>xlii</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 19.

<sup>xliii</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 20.

result of guilty pleas; and the fact that officers would be less likely to suffer assaults if they were wearing the cameras.

However, while acknowledging the benefits associated with their use, Calum Steele of the SPF urged a note of caution with regard to the costs associated with the cameras.

“The question is not so much whether there are benefits or disbenefits, but whether there are benefits that we can afford and whether those benefits should be a priority at this particular moment in time. That is a more fundamental question, given the financial realities that are faced by the police service in Scotland, and indeed some of the pressures that are as yet unknown in terms of the capability of other organisations in the justice sector”.<sup>xliv</sup>

He went on to say that any roll-out of body-worn cameras would have on-going revenue costs.

At the Sub-Committee's meeting on 9 November 2017, Calum Steele stated that he considered that there were “many more pressing things to be addressed than rolling out body-worn cameras at this point”. Craig Suttie of ASPS similarly stated that fundamental ICT provision had to be delivered first, and that body-worn cameras were “a later, bolt-on issue”.<sup>xlv</sup>

James Gray told the Sub-Committee that Police Scotland was considering the issue but there were no “concrete plans or a signed-off business case. It is still at the point of development”. Andrew Flanagan confirmed that there would be consultation with unions and staff associations on any roll-out. He also stated that he expected there would need to be wider public consultation on the issue.<sup>xlvi</sup>

**Conclusion: The Sub-Committee notes the views of the SPF and the ASPS that the roll-out of body-worn video cameras should not be a priority for Police Scotland at this time. The Sub-Committee requests to be kept updated by Police Scotland on the development of any plans for the roll-out of body-worn video cameras. The Sub-Committee considers that it is essential that unions and staff associations, as well as the wider public, are fully consulted if and when any plans for roll-out are developed.**

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<sup>xliv</sup> Official Report, Justice Sub-Committee on Policing, 15 June 2017, col. 5.

<sup>xlv</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 22.

<sup>xlvi</sup> Official Report, Justice Sub-Committee on Policing, 9 November 2017, col. 22.

# Annex B - Extracts from the minutes

## Extracts from the minutes of the Justice Committee and associated written and supplementary evidence

### 32nd Meeting, 2017 (Session 5) Tuesday 7 November 2017

**Draft Budget Scrutiny 2018-19 (in private):** The Committee considered its approach to the scrutiny of the Scottish Government's Draft Budget 2018-19 and agreed (a) to focus its scrutiny on the budget for the Crown Office and Procurator Fiscal Service; (b) to invite relevant stakeholders to provide written evidence in advance of publication of the Draft Budget 2018-19; and (c) to invite the Lord Advocate to provide oral evidence to the Committee.

### 37th Meeting, 2017 (Session 5) Tuesday 19 December 2017

**Draft Budget Scrutiny 2018-19:** The Committee took evidence on the Scottish Government's Draft Budget 2018-19 from—

Rt Hon James Wolffe QC, Lord Advocate, and David Harvie, Crown Agent and Chief Executive, Crown Office and Procurator Fiscal Service.

#### Written evidence

[Crown Office and Procurator Fiscal Service](#)

[Crown Office and Procurator Fiscal Service \(supplementary submission\)](#)

[Crown Office and Procurator Fiscal Service \(further supplementary submission\)](#)

### 1st Meeting, 2018 (Session 5) Tuesday 9 January 2018

**Draft Budget Scrutiny 2018-19 (in private):** The Committee considered a draft report to the Finance and Constitution Committee. Various changes were agreed to and the Committee agreed its report.

# Annex C - Written evidence

## List of other written evidence

[Inspectorate of Prosecution in Scotland](#)

[Inspectorate of Prosecution in Scotland \(supplementary submission\)](#)

[Procurators Fiscal Society Section of the FDA](#)

[Public and Commercial Services Union](#)

[Scottish Courts and Tribunals Service](#)

[Victim Support Scotland](#)

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