

Justice Committee

Scottish Government's Draft Budget 2015-16

Supplementary written submission from the FDA Union

Thank you again for inviting the Procurators Fiscal Society Section of FDA to attend and give evidence to the Justice Committee. We appreciated the opportunity and hope we can be of further assistance to the committee in future.

We do have a couple of matters which we would be grateful if you would bring to the attention of the committee.

Firstly, in relation to the question mark over our analysis or interpretation of the budget cut for COPFS in terms of staffing, can I point the committee to where we took that information? The budget for COPFS is contained in the Scottish Government's draft budget 2015/16

(<http://www.scotland.gov.uk/Resource/0046/00462296.pdf>).

At page 151, table 2, it shows that the amount budgeted for staff costs remains the same at £69.1m for the financial years 2014/15 and for 2015/16. The SPICe Financial Scrutiny Unit briefing document goes on to conduct a Level 3 analysis of what these figures mean in real terms. The link to their document is below:

http://www.scottish.parliament.uk/FinancialScrutiny/2015-16_budget_Level_3.xls

This shows that **in real terms** our staffing cost will suffer a **£1.1million budget cut**. That is only the inflationary cut. As we pointed out in our submission, that is before the introduction of increased employer contributions next year and will therefore mean an even greater reduction in the money available for staffing.

We also wished to comment on the response to the questions put by committee members in relation to whether an increase was necessary to our core funding.

As we stated in our evidence, whilst we appreciate that it is the job of senior civil servants to manage the business within the resources provided to them, we do not accept the analysis that the additional resourcing is not required. In fact our position is that current performance demands of the organisation are incompatible and unsustainable against the background of the workload that we are dealing with at present, and not at some possible point in the future when it is hoped that reporting of certain types of crime may have fallen.

It was suggested that a public servant responsible for public expenditure shouldn't be asking for money when the work is not there waiting to be done. We do not accept the premise that additional funds for COPFS would be wasteful to the public purse, and nor do we accept that there is not work which needs to be carried out.

Our information from members is that they are routinely required to undertake overtime – both in relation to our initial case processing (ICP), sheriff and jury case preparation and high court case preparation. Whilst we would not suggest for a moment that our managers should not be going in to court or undertaking case

preparation duties, our information is that they are now doing this routinely to cover for gaps in their staff complement, which places an additional burden on them in terms of finding time to undertake their management responsibilities. I would also point out that our manager grades are not currently eligible for routine overtime payments and reliance is made upon their goodwill in carrying out unpaid overtime. It is further reported to me that some of our solemn legal managers have had to cancel annual leave themselves and of their team simply to ensure work is carried out to meet the statutory time-bar.

As the Crown Agent explained in evidence, in the main, our most experienced staff are working on our more serious and complex cases. This means that the summary courts are staffed by newer, less experienced staff (a high proportion of whom are on fixed term contracts) and their units are under such pressure in terms of staffing, that they have very little or no preparation time within office hours and the preparation cannot always be properly done in the time outside office hour. Our information from members is that cases which have been identified as requiring additional preparation are not always getting that additional time afforded to them. The consequence of this is that problems either with evidence, procedure or witness availability are not picked up as quickly as they could or should be and this in turn leads to delays in cases concluding as the trials have to be delayed and new court dates set ('churn'). It is true that to some extent, our members have occasionally experienced difficulties with lack of preparation time for many years. However, our concern is that it is now an ongoing difficulty and becoming 'the norm'.

Further, our information is that staff are travelling the country to provide court cover assistance for other areas who are unable to staff their courts from within their own staff resources. Whilst this demonstrates the way our new management and specialist working practices enables staff to be drafted in to cover absences, it takes no account of the gaps it leaves in the areas from which the cover is drawn.

All our members are professional, dedicated and hard-working and they are doing their best in an extremely challenging environment. It is not meant as a slight on the individuals dealing with the cases in court or preparing them in offices, but as the pressure on individuals grows, this is impacting adversely on the quality of cases and putting additional pressure on everyone at every level.

Our view is that the current situation is unacceptable for our members and for the public. Looking at the predicted trajectory for the future it is unsustainable without change. The FDA view is that the service does indeed require the additional resources suggested by the members of the committee. We believe that the cut in our staffing budget will further exacerbate the difficulties described above and whilst restoring our budget in real terms may not solve the problem, we do consider it would at least relieve some of the pressures our members are facing.

I hope this is helpful

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FDA Scottish Secretary

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FDA PFS Section Secretary

24 November 2014