



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 18 November 2014

Session 4

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JUSTICE COMMITTEE
29th Meeting 2014, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (Ind)

*Alison McInnes (North East Scotland) (LD)

*Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

*Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Andrew Alexander (Law Society of Scotland)

Cliff Binning (Scottish Court Service)

Brian Carroll (Public and Commercial Services Union)

Catherine Dyer (Crown Office and Procurator Fiscal Service)

Fiona Eadie (FDA Union)

Alan McCloskey (Victim Support Scotland)

Martin McKenna (Scottish Government)

Eric McQueen (Scottish Court Service)

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Justice Committee

Tuesday 18 November 2014

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the 29th meeting in 2014 of the Justice Committee. I ask everyone to switch off their mobile phones and other electronic devices completely, as they interfere with the broadcasting system even when they are switched to silent.

No apologies have been received.

Item 1 is a decision on taking business in private. I invite the committee to agree to consider our approach to the Prisoners (Control of Release) (Scotland) Bill and to the draft Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2014 under items 3 and 4 in private. Are we agreed?

Members *indicated agreement.*

Draft Budget Scrutiny 2015-16

10:00

The Convener: Item 2 is a further evidence session in our draft budget scrutiny. This is the first day of scrutiny of the courts budget. We shall hear from three panels of witnesses, and I welcome our first panel: Andrew Alexander, head of access to justice at the Law Society of Scotland, and Alan McCloskey, director of operations at Victim Support Scotland.

We have received your written submissions, for which I thank you, so we will move straight to questions from members. In case you have not given evidence here before, I ask you please to indicate to me if you wish to answer a question, or, if a question has been directed at you specifically, your light will automatically come on—you will see that my light is on at the moment—and that means that you are live and should be careful what you say.

Are we awake and ready to ask questions? I see that John Finnie is.

John Finnie (Highlands and Islands) (Ind): Good morning. Can you comment on what stage we are at with the additional remote facilities for vulnerable witnesses? Has sufficient resource been put towards that from the budget?

Alan McCloskey (Victim Support Scotland): It is fair to say that our experience thus far of some of the remote sites has been disappointing in terms of the technology. The principle of having remote sites is sound and it is right and proper that vulnerable witnesses, particularly children, have the opportunity to give their evidence from a remote site facility, but the links often go down and the technology can be ineffective. A lot of court time can be lost in getting the links back in operation, so although it sounds good and we support it in principle, we would like to see better technology in place of what is currently available, which is hit and miss at best.

John Finnie: Given the connection between the provision of those facilities and court closures, is that a run-out of previous models that had those difficulties? Is it to do with the infrastructure? I am not technical, but I wonder if it has something to do with broadband or the absence or inefficiency thereof.

Alan McCloskey: The court closures may put more pressure on the use of remote sites, but the problems with technology have been an issue for a number of years. It is not a recent issue, and we have raised with the Scottish Court Service on a number of occasions the fact that the infrastructure needs to be better. Like you, Mr

Finnie, I am not technically minded, but I know that there are resourcing issues. A branch of the Scottish Court Service—ESDU, which I think stands for the electronic service delivery unit—is responsible for ensuring that arrangements are in place for the timely operation of the remote sites and television links, and that has been an issue for a number of years. To answer your question, it is nothing new.

Andrew Alexander (Law Society of Scotland): As Alan McCloskey said, we have had similar feedback from our members. We agree with the broad principle that the use of remote sites can be effective. With court closures having taken place, and continuing to take place until next year, it is particularly important that those facilities exist. The introduction of summary sheriffs has also concentrated sheriff and jury work into 16 locations—around 50 per cent of the remaining estate—so we believe that it will be important to utilise the technology effectively.

John Finnie: Is there sufficient resource in the budget directed to the provision of the equipment?

Andrew Alexander: We have questioned the draft budget for the justice digital strategy and asked whether additional resources have been earmarked for videoconferencing and other uses of technology, or whether that is intended to come out of existing budgets. We are very keen that the technology that is in place should be used effectively and that it ensures effective court proceedings. We are certainly keeping a weather eye on that.

Alan McCloskey: Just to add to that, we noted an increase to the Scottish Court Service budget of £4 million in 2015-16. If I remember correctly, £1.9 million has been allocated to information and communications technology, which is welcome, although we would be interested to know the timescale for implementation. It sounds good to say, “We’ve allocated the money,” but if there is going to be provision to deal with the issues relating to remote sites, we would like the timetable for that to be made public.

The Convener: As a supplementary question to Mr Alexander, I know that there will be issues to do with legal aid, but will there be savings to the legal aid budget if we use remote access more frequently?

Andrew Alexander: The Scottish Government’s white paper, “A Sustainable Future for Legal Aid”, which was published in 2011, thought that videoconferencing could save around £1.5 million in the legal aid budget. One of the principal ways in which that would save money is by cutting down travel time to prisons and allowing solicitors to have consultations remotely with clients who are held in prison. There has been a pilot of that and it

has been broadly successful. Although there have been some technical issues to do with some firms’ firewalls and the like, the pilot will be extended early next year. We think that it is an effective way for client consultations to take place. It has the capacity to save and it also has the capacity to deal with things efficiently.

Obviously, there will be questions about bandwidth, in that we cannot have too many connections taking place to prisons at the same time. In addition, we would want to ensure that there still exist payment structures under legal aid to allow face-to-face attendances at a prison, particularly for vulnerable accused. In principle, though, we think that the increased use of videoconferencing is a very good idea.

The Convener: Where was the pilot?

Andrew Alexander: It took place with a limited number of firms and in a number of prisons, including Barlinnie and Edinburgh.

Alison McInnes (North East Scotland) (LD): It was expected that the court reform agenda would result in more effective and efficient courts. Is that happening? Do you have any emerging concerns about how court reform is progressing?

Alan McCloskey: With the court closures and court reforms in general, more and more people are coming into the courts. That is a fact. There is pressure on some of the existing courts in terms of the availability of rooms for all the things that need to happen there, including justice of the peace court, sheriff court and civil business.

One of our concerns is whether there are separate facilities for victims and witnesses. Also, for many accused people, the only space where they can meet their lawyers tends to be the public areas, for example the atrium in Aberdeen. Victims and witnesses will come into contact with the accused and their supporters. Some court locations and layouts—because they are historic buildings—can make it challenging suddenly to say, “We need a new court.” Nevertheless, because there are not necessarily designated, separate areas for victims and accused, when victims and witnesses come into contact with the accused and their supporters, either at the court entrance or in and around the public areas of courts, it can be very intimidating. That is a particular issue, which perhaps results in victims and witnesses not turning up at court, which in turn means that the administration of justice is not as effective as it should be. There is a concern about that.

The Convener: I think that you would agree that that is not new. Even when I was in practice, it was a nightmare in certain very old courts.

Alison McInnes: It is not new, but is it more acute now?

Alan McCloskey: It is more acute because a number of courts are closing.

The Convener: I am happy to develop that. I just wanted to make it plain that I know about that from experience. I was quite surprised that, in certain old courts, you were all stuck together in one room in quite difficult circumstances. I agree with Alison McInnes that it is not a good thing.

Alison McInnes: No, it is not a good thing. If it is becoming a more pressing problem, do you support the suggestion that the Scottish Court Service needs to go through an iterative process on the reforms so that it can pick up on those pressure points and start to address them?

Alan McCloskey: I think that there is some mileage in that.

We have worked with the Scottish Court Service—we went on a tour of some of the bigger courts and walked Court Service staff through the journey of victims and witnesses. We gave them the experience of coming into a court.

There are simple measures that can be taken that do not necessarily cost money, such as providing adequate signage that points people in the right direction and operating a desk where people can find out where to go. Improving the customer experience does not necessarily cost money, but it is a good thing that encourages people to come back and say, “That was okay.” The process of coming into a court can be far more welcoming.

Providing water is another simple step that can be taken—some of the courts do not provide water. We took Court Service staff round the courts and showed them the facilities that people get. They do not get a glass of water, they might have to wait for six or seven hours in a waiting room where there is no television or reading material, and there is a lack of facilities for kids who come to court. There are some basics that need to be addressed with a bit of imagination, and we will continue to work with the Court Service to help it to identify some of those areas.

Alison McInnes: Do you feel that the correct formal channels exist for that sort of improvement to be fed into the Court Service or does the improvement process depend on you having informal links?

Alan McCloskey: We have formal channels and links with the Scottish Court Service. We identified that there was an issue and, in fairness, the Court Service agreed to do a tour of the eight or nine largest courts with us last year. I think that we will continue to revisit that, because it was a very practical way of demonstrating the

experiences that victims and witnesses tell us about on a regular basis.

Alison McInnes: Have seen improvements since the visits on which you walked Court Service staff through the victims’ journey? Have you been advised that improvements have been made?

Alan McCloskey: Yes, we have seen improvements. It is making a difference.

Andrew Alexander: As far as the court reform situation is concerned, the first two tranches of sheriff court closures have taken place and the third will take place early next year. In addition, the Courts Reform (Scotland) Bill has been passed, a system of summary sheriffs will be introduced across the courts of Scotland and a specialist personal injury court will be set up. The introduction of summary sheriffs will take place over a decade or so, so it will not be a big bang, which means that the opportunity will exist to deal with snagging issues as they crop up. There have already been some concerns about the way in which court business is being dealt with. We have noted Sheriff Liddle’s concerns about criminal cases in Edinburgh, and we have had reports of commissary delays in certain courts. In its submission, Scottish Women’s Aid mentions the increasing amount of time that it is taking for summary cases to be concluded.

It might just be the case that the courts have gone through one set of transitions and are on the cusp of another, rather than that there are any fundamental issues to do with resourcing. It might also be the case that some of the issues can be resolved through discussions between court users, the Court Service and others, but we are monitoring the situation.

Margaret Mitchell (Central Scotland) (Con): Good morning, gentlemen. You have touched on some of the legislation that has been introduced, such as the Courts Reform (Scotland) Act 2014 and the Victims and Witnesses (Scotland) Act 2014. Do you think that there is a need for additional resources to adequately meet the demands that that legislation is putting on court services at every level, whether defence, estate or Crown Office and Procurator Fiscal Service?

Andrew Alexander: There are areas of concern that we highlighted in evidence when the Courts Reform (Scotland) Bill was being considered, one of which was judicial training. Given that we will be developing the roles of summary sheriff and specialist sheriff, we thought that the provision for training of the judiciary might not be sufficient to allow those roles to flourish. That was certainly a concern. In relation to the Victims and Witnesses (Scotland) Bill, we looked at some of the costs to do with legal aid. I think that we are happy that

those costs have been adequately expressed and are being met.

10:15

Margaret Mitchell: The Scottish Civil Justice Council and Criminal Legal Assistance Act 2013, which reformed legal aid, seemed to raise quite a lot of concerns, from the Law Society in particular, in connection with the contributions from clients and solicitors' role in collecting those contributions. How is that panning out? Is the act having the impact that was feared in terms of solicitors not carrying out pre-trial preparation, solicitors withdrawing from representing clients and accused people representing themselves and causing delays?

Andrew Alexander: We thought that that would be a particular concern. We believed in the overall principle that the Government set out, which is that those who can afford to pay towards the costs of their defence should do so. We thought that the most practical way for those contributions to be collected was—as happens currently with civil legal aid—for the Scottish Legal Aid Board to collect contributions from clients rather than through individual arrangements being made with individual solicitors across the country. The act was passed, but it is yet to be implemented, and we remain concerned about what would happen if a client did not pay the contribution that it had been determined they were able to afford. We will see what plans the Government has for contributions overall when it publishes its refreshed legal aid strategy, which we expect this autumn. We have also published our own discussion paper on legal aid reform to start a debate about what a sustainable future for legal aid might look like.

Margaret Mitchell: So the act is still to be implemented and is a potential concern in the pipeline.

Andrew Alexander: There are certainly concerns about overall rates of collection and what to do with clients who are unable to pay the contributions. Those remain active concerns.

Margaret Mitchell: You mentioned some delays. What is causing those delays? Where are they coming from? What is not working properly? You mentioned Sheriff Little's comments.

Andrew Alexander: A number of issues are being raised about the way in which business is scheduled in courts overall, but those may simply be teething problems in a complex system. The sheriff courts in the Edinburgh area, which Sheriff Little's comments related to, are scheduled for closure next year, so court closures do not appear to have had an impact there but we are monitoring the situation. The introduction of summary sheriffs

through the justice system over the course of a significant period will, we hope, allow any issues to be resolved over time.

Margaret Mitchell: Are you in contact with the courts on a daily basis or at all?

Andrew Alexander: No. I work at the Law Society.

Margaret Mitchell: Do your comments reflect the views of your members?

Andrew Alexander: Yes.

The Convener: He is the head of access to justice, so I certainly hope so, or he has got the wrong title.

Margaret Mitchell: Mr McCloskey?

Alan McCloskey: Your question was about the legislation coming in and the impact on victims and witnesses. We recognise that, in 2014, there is a need to balance budgets for agencies and organisations but also to deliver services. There is a requirement to have effective and efficient justice, and we are keen to ensure that such justice is maintained and improved. We would have concerns if any reduction in the justice budget or the allocations to any of the agencies had a negative impact on the services for victims and witnesses, particularly in the light of the Victims and Witnesses (Scotland) Act 2014 and other legislation. Victims and witnesses need to have confidence in the system, which must be effective and meet their needs. They must have a positive experience of the justice system—that is crucial both today and tomorrow. The committee is well aware of the experiences that victims and witnesses have had, and the negative way in which they have had to repeat their stories many times has been articulated.

The Convener: You can accept that we are well aware of that, from having worked on the Victims and Witnesses (Scotland) Bill as well as from our own experience, Mr McCloskey. The committee is in favour of as much support as possible being given to victims and witnesses in court and, before that, in the early stages such as when they are interviewed by police.

Alan McCloskey: Absolutely.

Christian Allard (North East Scotland) (SNP): Good morning. Some of my questions have been answered already. I am sorry about my voice—I have a bit of a cold.

The Convener: I still sometimes have difficulties understanding you, Monsieur Allard, with or without a cold.

Christian Allard: Having a cold does not help.

Mr Alexander, you talked about teething problems. You said that there is concern about how the court reforms and court closures will happen, but will the changes result in the medium term and the long term in a more effective and efficient court system? What impact will court reform have on the budget? Is it a possibility that real-terms savings will be made?

Andrew Alexander: The intention of the Courts Reform (Scotland) Act 2014 is to introduce a hub-and-spoke model for the courts, in which summary sheriffs deal with a range of summary cause actions in civil matters, small claims actions, summary crime and other areas, and specialist sheriffs deal with ordinary cause for civil matters and sheriff and jury cases in criminal law. The idea is to concentrate the higher-value civil cases and the more complex criminal cases in the 16 sheriff and jury hubs and to take the consequent capital resource to make sure that there are facilities that support that generally more complex business.

The Law Society supports that broad principle. Our concerns about access to justice were to do with the small number of cases that would require a significant amount of travel. Let us take a sheriff and jury case in which the accused and witnesses are based in Wick. Customarily, under the hub-and-spoke model that the Court Service has suggested, the case would be heard in Inverness. The travel distances involved in that are significant with public transport, and with a car that can be about a nine-hour round trip.

We did not think that that was practical. It might open witnesses or the victim to intimidation if they took the same transport as other parties. We thought that, although the approach might allow the Court Service to consolidate, it might create costs for the other parties to a case. On that basis, we had significant concerns relating to access to justice.

We understand that some flexibility might remain to hear cases locally when they would otherwise be concentrated in one of the 16 hubs. In principle, concentrating resources in those areas under that model is a sensible idea. As we suggested in our submission, a significant maintenance backlog remains across the court estate. Prioritising areas to make sure that they are as fit for purpose for complex business as possible is the way forward.

Sandra White (Glasgow Kelvin) (SNP): Good morning. I am pleased that both witnesses broadly support the changes to have 16 hubs. There are issues with information and communication technology and with videolinks, which we will look at.

I will touch on a couple of things with regard to victims and witnesses. From my experience of

going around the courts, I commend the courts on the fantastic job that they do. I will touch again on churn and on victims and witnesses meeting the accused. I did not see that happen in the courts that I visited, but they were bigger courts. Is that more prevalent in smaller courts? If so, perhaps some of those courts are not fit for purpose.

Alan McCloskey: I can give you a few examples of courts in which that happens. Aberdeen's court is quite new, but the atrium is a choke point. In Hamilton court, there is a choke point at the entrance. In Tain, although the area for victims and witnesses is separate from the area for the accused, they are next to each other, so confrontation happens in and around those areas. There can be issues in Kilmarnock. In Livingston, there has been inadequate signage. In Dundee, issues can arise because of the nature of the court.

I recognise the adoption of the principle of new and better facilities in courts. As the Scottish Court Service has acknowledged, a collaborative approach must be taken so that all agencies work together to design properly something that will meet all the needs of all court users. We fully support that development.

Last year, we were involved in the pilot of the justice hub in the Borders and were—rightly—asked to come to the table to give our views about what would work. One of the biggest challenges that the Scottish Court Service had was identifying where the hub would be based—would it be in Galashiels, Peebles or Duns? There were logistical challenges.

Having a justice hub that people come to sounds like a good idea, but the transport difficulties can be challenging, and that all needs to be factored into the decisions about where the justice hubs will be. I am sure that there will be a wide public consultation to ensure that all needs are taken into account in identifying where the new facilities will be.

As you suggested, it is important that the appropriate information technology is in place. The location is not the only important issue; what is at the back end—where the remote sites and other facilities will be—is crucial in making the system much more modern, effective and customer friendly.

Andrew Alexander: I broadly agree. Because of the age of the buildings or other factors, a number of courts do not have the facilities that we would like. We understand that the Scottish Court Service is working on the issue. As has been mentioned, there are plans around feasibility studies for justice centres. Rather than considering an integrated hub on the Livingston model, with integrated services in the building, it was decided

that the present configuration, following court closures in Jedburgh and Selkirk, should be retained in the Borders.

Information technology might alleviate some of the pressures on physical resources at court buildings. However, equally, it is a human rights requirement that criminal hearings take place in public. It is important that people can see and participate in the justice system. For all its benefits, information technology might not be the answer in all situations. As I mentioned earlier, if it were, we could have used video screens to conduct the meeting that we are having today as a videoconference.

The Convener: I am disappointed by the decision not to have a hub in Galashiels. You mentioned transport links, and I cannot think that it is easy to get from Peebles or elsewhere to Selkirk, because the bus hub and, soon, the train hub will be in Gala. I am still fighting on that issue. I was interested to learn that Alan McCloskey had been there. Why that proposal was rejected is a mystery to me, but there you go—I expect it is a case of politics, dear boy, politics.

Sandra White: I will follow up on that point. As Mr Alexander said, the decisions depend on individual circumstances. It might be that, in certain areas—Gala or elsewhere—having videolinks would be an improvement on the current situation.

I want to talk about the experience of victims and witnesses and of the accused. When I visited the courts—I was called as a witness—the churn and the waiting around were caused mostly by lawyers advising their clients at the last minute whether to plead guilty or not guilty. It was mentioned that all agencies should work together. There must be a role for lawyers to play. I have raised that issue on a number of occasions.

10:30

My experience, as well as that of others, is that we have a very good service for victims and witnesses at court. The staff talk to everyone and explain what is going on. People can be there for hours and then, at the last minute, the trial is abandoned. Surely lawyers must provide input on the issue and recognise that some of the churn—perhaps most of it; I do not know—

The Convener: Ask a short question, Sandra—there is a whole story in there.

Sandra White: Would you say that all agencies, including lawyers, must play their part?

Andrew Alexander: Most certainly. A collaborative approach to some of the challenges in the justice system is, ultimately, the only way forward.

On summary justice reform, at the end of the noughties and the start of this decade, we looked to incentivise the early resolution of cases, and significant inroads were made. Further work can be done.

We read with interest Audit Scotland's 2011 report on efficiencies in the criminal justice system. Some churn is intentional. For example, there is the option at first hearing to continue without plea rather than to enter a not guilty plea when it is not clear how the evidence has worked and essentially to repeat the first stage rather than to proceed to an intermediate diet. That measure has proven to be effective.

We are looking at the issues of early resolution. That is one of the themes in our discussion paper on legal aid, which we have circulated to our members and to organisations across the justice sector for their views. We participate in a number of projects that work across the justice sector. For example, we are discussing with Audit Scotland issues around its work to revise its 2011 report, to see how efficiency in the criminal justice system has progressed. We can play an active part and share our experience; we are keen to work together with other agencies to do so.

Sandra White: I look forward to Audit Scotland's further report.

The Convener: On accelerating cases and being able to plead more appropriately at the first calling, would that include more time for the Crown Office and Procurator Fiscal Service to show the defence the nature of the evidence and the complaint against the accused? One quite often used to see in court a stream of defence lawyers leaning over the procurator fiscal's shoulder to see the paperwork and what the evidence was; they would discuss that there and then, just before the court was called. Do we need more time for the Crown to discuss its cases before the pleading diet, or have things changed?

Andrew Alexander: Improvements are being made, and summary justice reforms have made significant inroads. It is clear that cases are being dealt with differently. A key element is that significant numbers of people are requesting legal advice at police stations, so solicitors are being involved early in proceedings. As has been mentioned a number of times, the trial almost starts at the police station.

We have in excess of 70 people a day who are requesting advice, and solicitors are providing that advice. That is an opportunity to hear the evidence and be present for police interviews. That might be helping—it certainly is on the defence side.

The Convener: I just wondered about people being more informed before they put in a plea or continue.

Roderick Campbell (North East Fife) (SNP): Early disclosure is always advantageous.

The Convener: That is right. “Early disclosure” is the technical term.

John Pentland (Motherwell and Wishaw) (Lab): Victim Support Scotland depends on support from other agencies, and none more so than the Scottish Police Authority, which is making difficult decisions about efficiencies. What areas do you think will be under pressure from some of those efficiencies or cuts? Moreover, what input do you have into the SPA’s budget process?

Alan McCloskey: I should clarify that 80 per cent of our money comes from the Scottish Government, not the SPA. The SPA does not fund us in any way, shape or form. We get moneys from some local authorities and, because we are a charity, we also fundraise.

John Pentland: I read in your submission—

Alan McCloskey: No. We work closely with Police Scotland on referrals, but we get no direct funding from it.

John Pentland: Your submission says that if there were a

“real term decrease to the SPA budget, we would welcome further information from Police Scotland as to how they intend to fulfil this financial commitment”

with regard to

“domestic violence, sexual crimes and human trafficking”.

Alan McCloskey: That relates to how the police deal with cases. The SPA does not fund us. I am sorry if that has confused you.

The Convener: Shall I let Roddy Campbell in here, John?

John Pentland: No, convener. So you are totally funded by the Scottish Government.

Alan McCloskey: About 80 per cent of our funding comes from the Scottish Government.

John Pentland: Eighty per cent.

Alan McCloskey: Yes.

John Pentland: Okay.

Mr Alexander, you have said that, given the court closures and the fact that funding has not been committed to the digital strategy, you seek clarity about what resources will be available. Where do you see difficulties emerging if that clarity does not come soon?

Andrew Alexander: We know that resources for some projects such as videoconferencing involving solicitors and clients in prison are coming out of existing funding. However, we are keen for other elements of the justice digital strategy to be

adequately funded. We think that significant efficiencies can be made, and we are happy to report back to the committee if needs be.

John Pentland: Can I come back to my question to Mr McCloskey, convener?

The Convener: Of course—gather your thoughts.

John Pentland: In the third paragraph on page 1 of your submission, you say:

“We welcome Police Scotland’s continuing commitment to provide funding to ... areas”.

Given the pressure that the SPA and police budgets are under, what would be the impact if the police were to withhold funding from the areas that you have identified?

Alan McCloskey: I am with you now, Mr Pentland. We were trying to say in our submission that that is how the police fund those areas. They do not fund us to do that.

The Convener: But their funding has an impact on your role.

Alan McCloskey: On our work—yes.

The Convener: I think that that is John Pentland’s point.

Alan McCloskey: I am sorry—I get it now. We would be concerned if SPA funding were to be reduced and if the work that it funds—such as that on domestic violence, sexual crimes and human trafficking—were to be altered. We welcome the creation of those specific units, but we would be concerned if the SPA budget were to be altered and other priority areas were to be identified. We firmly support the fact that it has identified those areas as needing support. Does that answer your question?

John Pentland: Yes, now that we agree that you said what I thought you said in your submission. I was beginning to think for a moment that I had misread it.

What dialogue do you have with Police Scotland about continuing funding for those areas?

Alan McCloskey: We meet the SPA and Police Scotland to discuss a range of issues at the national level and identify priorities for us. We have regular dialogue with Police Scotland to press home what we believe are the priorities for victims and witnesses of such crimes.

John Pentland: If Police Scotland reduced your funding in any of those areas, which area would you be most likely to give up?

Alan McCloskey: I can only say again that it is not our funding.

The Convener: I understand what John Pentland is asking. If Police Scotland decreased its funding to deal with domestic violence and human trafficking, what impact would that have on Victim Support? You might not get the funding directly, but it has an impact on the people you represent.

Alan McCloskey: That could let down victims and witnesses of those very serious crimes. If the funding for the service was reduced, we would have concerns. I hope that that answers your question.

John Pentland: Yes—thank you.

The Convener: We will have Police Scotland here next week, when we can raise that important issue.

Alan McCloskey: I agree that it is an important issue.

The Convener: Roderick Campbell is next. I am mindful of the time.

Roderick Campbell: I shall be brief. I turn to the proposals for purpose-built justice centres. In the discussion so far, we have raised negative issues, such as transport difficulties and locations. Do you agree that, if we are to have proper, modern facilities for victims and witnesses, exploration of such purpose-built justice centres is a good idea?

Alan McCloskey: Absolutely. We are fully committed to working with the Scottish Court Service and other court users, who all have a legitimate right to be in the court, to find how we can make the experience better than it has been in the past. We have no issue with working together to see what can be done in a positive way. We know that some courts are not fit for purpose, and we would want to be part of finding a better way of having justice done in the future.

Andrew Alexander: It is useful to look at how justice can be provided locally. There was a feasibility study in the Borders, and other areas might be suitable for examination in the future, such as the north-east of Scotland. We are broadly supportive of people seeking to discuss and collaborate on how justice might be physically delivered in local areas in the future.

Roderick Campbell: I have a small question for Mr McCloskey on criminal injuries compensation. You commented on that in your submission. Do you have any further comments to share with the committee?

Alan McCloskey: In our experience, the changes that were made to the criminal injuries scheme in 2012 have affected a number of people who would previously have been eligible to receive awards. It is not necessarily the monetary award

that makes a difference to victims and witnesses; it is often the closure or the acknowledgement by the state that something has happened.

We would welcome further dialogue with the Scottish Government about improvements and changes to the criminal injuries scheme in Scotland. The Criminal Injuries Compensation Authority, which covers the whole United Kingdom, is based in Glasgow. We would look to develop—if we could—a Scotfied version of that in the future, but that depends on dialogue with the Scottish Government.

Roderick Campbell: Mr Alexander, the committee's focus is not primarily the examination of legal aid but, in your submission, you spent quite a lot of time on that, and we have the Law Society's discussion document. You pointed out:

"We are fortunate in Scotland to have a legal aid system which is demand led and not cash limited."

What lessons can we learn from the approach to legal aid south of the border?

Andrew Alexander: Having a demand-led budget can be a helpful way of looking at legal aid. I will give an example. In 2010, we had the Supreme Court judgment in the case of *Cadder v Her Majesty's Advocate*, which introduced—for the first time in a widespread way—access to a solicitor at a police station. That needed to be funded and, through the mechanism of advice and assistance, we accommodated that through the legal aid system and allowed people to receive advice, although the level of demand has been significantly higher than we expected and appears to be significantly higher than south of the border.

10:45

Legal aid south of the border has been under significant pressure, with a budget of about £2 billion a year being cut through a series of flat-rate cuts to criminal provision, through the contracting of duty slots at police stations and at court for criminal legal aid, and through re-examination of the scope of legal aid in civil matters. In particular, legal aid has been removed for areas for which there was not an effective human rights protection, including family law—unless there is any suggestion of domestic abuse, when a case can be dealt with separately—as well as housing, education and consumer debt. An exceptional case status has been retained to allow any case that might otherwise fall outside the scope of legal aid to be brought forward, although I understand that funding has been allocated to less than 5 per cent of applications for exceptional case status.

Those approaches have been taken in response to a significant set of financial pressures that the Ministry of Justice and the Legal Aid Agency face. Scotland has not dissimilar pressures, and we

have published a discussion paper that we have shared with our members and with justice stakeholders. One suggestion in that paper is to consider the scope of legal aid, as has happened in England and Wales, although with a different emphasis, rather than the blanket removals from scope that have taken place there.

The Convener: I do not really want us to get into a debate on your discussion paper on legal aid. You are moving away from what we are talking about, which is the courts budget.

Andrew Alexander: I apologise.

The Convener: It is not your fault; it is Roddy Campbell's. Be nice and take the blame, Roddy.

Roderick Campbell: A good chunk of the Law Society's submission is about legal aid, so I thought that I should ask about that.

The Convener: There will be another time and another place for that. I do not want to get back into the legal aid discussion paper.

Roderick Campbell: I shall leave it there.

The Convener: I shall stop there. If the witnesses feel that there is something that we should have asked but did not ask about the budget, please write and let us know. We have a tight timetable today, so any additions to your submissions, following on from members' questions, can be sent in writing.

10:47

Meeting suspended.

10:49

On resuming—

The Convener: I welcome our second panel of witnesses. As we have a large number of people in the gallery, I remind everybody to switch off their mobile phones and other electronic devices. Even when they are switched to silent they can interfere with broadcasting.

I welcome Catherine Dyer, who is the Crown Agent and chief executive of the Crown Office and Procurator Fiscal Service; Fiona Eadie, who is the secretary of the Procurators Fiscal Society section of the FDA union; and Brian Carroll, who is the branch secretary in the Scottish Court Service for the Public and Commercial Services Union. I know that you were here to listen to the evidence from the previous panel, so I shall move straight to questions from members.

Elaine Murray (Dumfriesshire) (Lab): The submissions from the Crown Office and Procurator Fiscal Service and the FDA suggest that there has been a significant increase in reporting of certain

types of serious crimes, so although the overall number of cases is falling, the complexity of cases is increasing. The COPFS submission states:

"This is very challenging and we are looking to realise savings from people and process reviews".

The FDA submission also indicates that the staffing budget is being cut in real terms. I presume that that means a decrease in staffing. How can such challenges be reconciled?

The Convener: I meant to tell the witnesses that their microphones will come on automatically. Miss Eadie looks as if she is on the starting blocks. Are you?

Fiona Eadie (FDA Union): Yes—I am happy to start.

The Convener: You were giving me that look, and I have taken the hint.

Fiona Eadie: First of all, I would like to thank the committee for inviting us to give evidence today. It has been some time since the Procurators Fiscal Society has been asked to come along, so the FDA welcomes this opportunity.

On the point about the number of cases falling, overall case reports since 2010-11 have, in fact, gone up by about 10 per cent. The specific point that we were making in our submission was about the types and nature of those cases and their complexity, and therefore about the resource demands of dealing with them.

Elaine Murray is right to note that, although there is a real-terms increase in the budget for the organisation, there is a £1.1 million cut in the staffing budget, which will undoubtedly result in fewer jobs.

Catherine Dyer (Crown Office and Procurator Fiscal Service): In the letter that we submitted to give information to the committee, we point out that the budget is challenging, but we have not yet agreed our budgets for our different federations and units. We are just going through them now; we want to protect staffing and take money from other areas where we can make savings. Some of those savings can come from technology. It is important for our organisation to have enough lawyers to do the type of work that we do, and in recent years we have moved into specialised units. That gives us better quality outcomes, because people are used to what they are doing and can do it more quickly. We are doing a variety of things involving technology and movement of staff to ensure that, although times are challenging, we have the legal complement to do the work that is required.

Elaine Murray: The FDA has pointed out that, since December 2009, there has been an overall

12 per cent reduction in permanent staffing levels. Is that a pressure, because permanent staff are not available to take on the complex cases that require more experience?

Catherine Dyer: Our business is split into several parts, so there are still some less complicated cases. We have tried to move the most experienced permanent staff, who are specially trained for different types of cases such as sexual offending and domestic abuse—the committee may have heard about this before—into the right units to cover those cases. We can also take on a number of fixed-term staff—administrative and legal—to relieve pressure when we cannot meet the demands of our workload with the permanent staff.

At the moment, the vast majority of our staff are permanent. It is difficult to discuss staffing numbers. You can take a snapshot at any time and talk about percentages, but everyone in the public sector, especially in the justice system, has realised is that it is a moveable feast. It depends on what comes in through the door; you have to try to match the resource to that and be flexible, so the figures go up and down a bit. When we look at the graphs of work coming in, we cannot predict that we will get X every month—that is not how it works. The staff numbers depend on the type of cases that we are handling. There have been some big cases, as members will have seen in the news recently, for which we have had to move specific resource to deal with the workload. We have a responsibility to ensure that the day-to-day work is also covered.

Elaine Murray: What sort of pressures are staff under at the moment? We have heard about the pressures that police staff are under, and the concerns that exist about stress and workload. Are those concerns for you, too?

Fiona Eadie: Yes. Last year, both of the unions in the Crown Office and Procurator Fiscal Service conducted stress audits. At that time, about 80 per cent of our members said that they had concerns about workload, reducing staff levels and the lack of court preparation time, and about a quarter of those who responded said that those concerns were a cause of stress to them. We have significant concerns about the health and wellbeing of our members, who are operating in circumstances in which their workload is increasing. In our submission, we make the point that the issue is not just the number of cases that we receive—those numbers can go up and down—but the type of cases that we deal with. The complexity and serious nature of cases and the personal impact that dealing with cases such as those that involve serious sexual offences and offences against children mean that they are very

demanding on individuals. Those combined pressures cause us concern.

Brian Carroll (Public and Commercial Services Union): I recognise what the FDA says about the pressures on staff. I can speak only for the members in the Scottish Court Service, but much of what the FDA has said is reflected by our members in the Scottish Court Service. We are getting consistent feedback from people that our members are spending more time than ever before in court. For example, clerks of court do not have enough time to concentrate on the people-management aspects of their job because of the pressures that they are under in having to resource the courts that are necessary to deal with cases.

Again, the issue is not just the number of cases, but their complexity. As a branch, we have been raising that with Scottish Court Service management for some time. If we look at some of the figures, we might think that it would be easy to manage that number of cases, but it is necessary to look behind the figures to see what is happening. For example, because of previous cuts in the Scottish Court Service budget, there was a reduction over the piece of 120-odd staff, but there has been an increase in some aspects of the criminal business that is coming through the courts, and in some areas the number of cases has increased by as much as 25 per cent as a result of a change in policy by the police and the prosecutors in relation to how they mark cases. An additional £1 million has had to be provided to the SCS for additional staff and judicial resource, which had been cut four or five years ago.

We raised that issue at the Justice Committee at the time of the court closures. We said that it was a concern for our branch that there was not sufficient resilience to deal with the number of cases that might come through if there was a change in marking policy or in policing, and I think that that has borne fruit.

The Convener: So, £1 million was reallocated.

Brian Carroll: I think that that is mentioned in the SCS submission. Page 3 refers to

“£1m to provide additional staff and judicial resource to support the increase in road traffic, domestic abuse and sexual offence cases, reflecting the proactive approach taken by the police and prosecutors.

Catherine Dyer: I think that that is evidence of the flexibility that we are trying to have in the justice system. To be quite frank I think that everyone is, as Fiona Eadie said, trying to deal with a huge upsurge in reporting of sexual offending and domestic abuse. It is very important for the victims of those crimes that we, the police and the courts are able to process that work properly.

In some senses, though, things have come out of the blue. We have talked before about the Savile effect; the publicity around various convictions has encouraged victims to come forward. To be perfectly frank, I do not think that anybody in the justice system really anticipated that. It came as a surprise to all of us. We have had several years in which there have been spikes in that type of reporting, but nothing quite so sustained. Over the past two and a half years, reporting has almost doubled in certain areas.

11:00

To give you an example, we think that roughly 70 per cent of cases in the High Court at the moment are sexual offending cases. When I was in the High Court unit in the Crown Office in the mid-1990s, the amount was easily less than a quarter of cases. Such cases are now mainstream work for everybody who works in the judicial system, the court system or the Procurator Fiscal Service, whereas before, they made up a smaller portion. Quite often, domestic abuse is connected with sexual violence, so we are getting cases in which there are many more charges and many more victims.

Fiona Eadie is right to point out that that has an impact on judges, prosecutors, police and court staff. In the Crown Office and Procurator Fiscal Service, we have a vicarious trauma project so that people who feel that they have been affected by dealing with such cases can get counselling and become more resilient. I suppose, however, that as the prosecution service and the justice system, our job is to deal with the victims and ensure that the accused are brought to justice. However, no one is underestimating the huge upsurge. The justice directorate has provided extra money to the Crown Office and Procurator Fiscal Service and the Scottish Court Service to deal with the cases that are currently going through.

Elaine Murray: You mentioned the development of innovative technology solutions, but I do not see how such solutions can help you to deal with those types of cases. Do you really need additional resources? Is that the answer?

Fiona Eadie: Work is under way within the organisation to streamline work processes and to benefit from information technology. Our anxiety, however, is that those benefits may well be felt some weeks, months or years down the line. Our members are struggling with the situation as it is now and they really need a solution sooner than that. We do not see how we can continue to provide the same, or improved, levels of service based on the current trajectory, with reducing staff numbers.

Catherine Dyer: The COPFS, too, is very mindful of that. We went to the Government justice directorate and explained that we had some big cases that we would, in years past, have absorbed into our budget, but that is not possible now. We were allocated money last year and for the coming year to allow us to deal with those big cases—we have three—which has allowed us to backfill with staff further down the organisation.

On the increased sexual offending and domestic abuse cases that we have now, we went to the justice board and had a comprehensive discussion with all the people who sit on the board, which includes the police, the Scottish Court Service, the Scottish Children's Reporter Administration and the Scottish Legal Aid Board. We said that we were seeing cases that would be difficult to put through the system, if we did not get additional funding at this stage. That funding was made available.

Our position now is that it is acknowledged that the justice system needs to be flexible in what it deals with. Obviously, it is unacceptable to tell to victims of crime that we cannot deal with their case at the moment. As a result of sitting round the justice board table with the justice directorate, that has been recognised. We are working hard to ensure that we are predicting properly what will come in the future and we are flexing our resource in the justice system as a whole to allow us to deal with the cases.

I agree with Fiona Eadie, however, that we cannot underplay the effect of the serious cases. I would not just include our staff; they also affect the judiciary and the police officers who deal with such cases. These are difficult and challenging areas of work and we have to ensure that people's health and welfare are taken care of. However, the bottom line is that we are here to serve the public and victims. Our job is to try to do that, while looking after our staff at the same time.

The Convener: Do you all have set meetings or ad hoc meetings with the justice directorate? I am not just talking about systemic pressures but about the blips and ups and downs that are caused by certain demands or certain cases, or when it becomes policy to prosecute certain things. How do your meetings with the justice directorate work in practice? Is PCS represented at those meetings?

Brian Carroll: No.

The Convener: I will come back to you. I just wanted to know how it actually works.

Catherine Dyer: For the past few years we have had a justice board. As has been talked about, all the elements of justice have to be separate. The police have to be separate from the prosecutor, and the prosecutor acts independently

and is separate from the courts. We are trying to say that managing work through the system is a joint endeavour.

The justice board has monthly meetings at which we highlight issues, and we have a number of working groups underneath that. One is looking at the business that is coming in; we have become much more sophisticated about understanding that. The problem is not with case numbers, per se, but with the types of case. A thousand speeding cases can be dealt with easily; they will not take a lot of the time of anybody who is involved in the system. However, 1,000 sexual abuse cases are a different matter.

Brian Carroll: For justice to be delivered timeously, efficiently and effectively for victims, witnesses, jurors and—we should not forget—accused persons, all aspects of the justice system need to be catered for.

The current average waiting period for a summary criminal trial in Glasgow and Strathkelvin is 19 weeks, it is 18 weeks in Grampian, Highlands and Islands, and it is 23 weeks in Lothian and Borders. The target is 16 weeks. In Lothian and Borders we expected waiting times to increase from about 23 weeks to 30 weeks because of the closure of Haddington sheriff court.

John Finnie: Elaine Murray has asked many of the questions that I was going to ask about the FDA submission. I have a question for Ms Dyer that picks up on Mr Carroll's point, which was alluded to in Ms Eadie's submission. In the part of the submission about the budget is the comment that the financial consequences

"will have a detrimental effect on our members' professional ability to prosecute cases in a timely and effective manner".

Given that timescales have to be complied with, will that mean any redirection in your budget?

Catherine Dyer: I give all credit to our staff because we are still exceeding our self-imposed target for making decisions in cases. We work across the justice system: the police aspire to report cases to us within 28 days of caution and charge, we then try to take a maximum of 28 days to make the decision, and thereafter, if the case continues, it goes into the court system. We aspire to an overarching target of 26 weeks from caution and charge to disposal of a summary case. The justice system is still meeting that target, but we are all very much aware that we have to keep an eye on all these things and that we have to move resources around so that we make sure that our resource allocation is not causing any delays.

In my submission, I explain the pre-petitions that come in in sexual and other serious crime cases in which it is not immediately clear that we will have enough evidence and for which we might have to

do more investigation. That is a hidden part of the mountain; it is under the sea. It is a big amount of work and we have given the committee figures for that.

John Finnie: I commend your comments about staff. It is important that they are valued and treated in the right way.

We are here to scrutinise the budget. At the bottom of the second page of the annex to the COPFS submission, you talk about non-court disposals. Is there ever a budgetary consideration when disposing?

Catherine Dyer: The thing is that all public authorities, including the Crown, must consider best value. We talk about the outcomes that we want to achieve—we want to achieve the optimum outcomes, which must be proportionate.

In the session with the first panel, reference was made to summary justice reform. As members will know, that allowed procurators fiscal to issue fiscal fines and fiscal compensation orders. In addition, we now have fiscal work orders, whereby we can ask that the accused person do up to 50 hours of work in the community. We want to recalibrate some of the actions that are available; we want to put in court cases that have to be dealt with by a court, but for offences that can be dealt with by a direct measure, that is the option that we want to take. That has been quite successful—many people receive one direct measure and do not come back into the system.

John Finnie: That is good to hear. I am very supportive of that approach. Can you assign to those disposals a figure for the consequential saving from a case not having to go to court?

Catherine Dyer: I can provide that information to the committee. We have average costings. It is clear from the point of view of the public purse that, if someone can be dealt with proportionately by a direct measure, that is a lot cheaper than their going to court. We want to strike a balance whereby only cases that need a court disposal go to court.

John Finnie: It would be extremely helpful if you could provide that information.

Catherine Dyer: We will do.

Alison McInnes: I want to follow up on a couple of things that Ms Dyer said earlier. You mentioned the difficulty of understanding where your workload is coming from—you called it a moveable feast. You could not have anticipated the results of the Savile effect, but you could have anticipated that Police Scotland's focus on domestic abuse would lead to an upsurge in such cases. In hindsight, do you think that you reacted quickly enough to reallocate resources to deal with that?

Catherine Dyer: I think that we have done that, but it is a bit like turning tankers around. In a sense, we are talking about a flotilla of justice ships. There is the police ship, there is COPFS, there are the courts, there is criminal justice social work, there is the ASSIST—advocacy, support, safety, information services together—service, there is Victim Support Scotland and there are all the other organisations, all of which have to adjust to changes in the workload. In hindsight, I think that we have dealt with that. We have learned how long it takes for all of us to join up.

The staff in COPFS were among the first to flag up the issue. The number of cases that we were getting from the police that we were able to proceed with increased considerably because of better detection and the greater attention that the police were paying to those cases. The proof of the pudding is in the eating. Until the police had done that for a sustained length of time, we could not say that it was a trend. As soon as we thought that it was a trend, we went back to our criminal justice partners, the police, the courts and the justice board and said that we thought that it was a trend that was not going to diminish in the next few years. We thought that it would increase and then plateau. We are at the stage at which we think that it might have plateaued.

Only a limited number of people in the community will carry out offences of that nature, and because the police have been so efficient at detecting those offences and encouraging victims to come forward, we are hopeful that we have reached a plateau. We have learned that the process takes time. The fact that more institutional discussions now take place allows us to react more quickly.

Alison McInnes: Does Police Scotland now understand the scale of the challenge that is faced when it introduces such new initiatives and that perhaps there should be more dialogue in advance of that happening?

Catherine Dyer: Police Scotland has been operating for almost two years. It took time for everything to settle down, but in a relatively short space of time we have got to the point at which we have meetings with Police Scotland and the courts outwith the justice board to check on what is coming up and what changes in policy there might be, and to talk through the consequences. I would not want to interfere with the operational independence of the police and the courts do not wish to interfere with our independence or that of the police, but we need to work together to be sure that we understand what we are trying to manage.

Fiona Eadie: I think that there is an issue with the domestic abuse cases, which relates not just to the fact that an increased number of cases are being reported but to the type of cases that are

being reported. We made reference to the domestic abuse task force. In those cases, we are not talking about just one complainer and one accused person; we may be talking about multiple complainers, perhaps spanning a period of years. Those cases are more complex and more resource intensive to prepare. We have provided examples of how long it takes to prepare a normal High Court case compared with a domestic abuse task force case. The latter takes roughly three times as long, in our experience. That is a factor to be aware of.

11:15

Brian Carroll: That might be reflected in some of the figures. I recognise the 26-week target for disposal, but I do not have any figures related to it. The Scottish Court Service, however, has a 20-week target, for which the percentage of summary accused disposed of within 20 weeks is the measure—I think that that is from the first calling to disposal. To be in the green zone the percentage needs to be 85 per cent or above, but the percentages for Glasgow sheriff court in dealing with those cases from April to September 2013 were 50, 48, 51, 51, 51 and 48 per cent. This year, for the same period, the percentages were 46, 46, 42, 48, 48 and 37 per cent. Performance has significantly dropped, and that trend is reflected in a lot of courts across the piece.

I am looking at the number of trials evidence led. That is where we see the pressure on the FDA members and our members and on the Court Service and Procurator Fiscal Service staff in general. The vast majority of courts—29 out of the 47—have seen an increase in trials led. I am not arguing against us wanting to get to a position in which the trials that go ahead are the ones that need to go ahead, but that will lead to pressures in the system that have to be dealt with. That is reflected in the fact that an extra £1 million was given to the Court Service to fund additional staff to man the courts.

I mentioned the conflict between staff going into court and the people management aspect of their jobs. That issue has now been added to the risk register for the Court Service, at the behest of the director of the Court Service. The Court Service is recognising that there are pressures on staff that may keep them from being able to focus as much as they would like on the people management side of things, which is a big part of their everyday job. They have to nurture, encourage, train, teach and develop the staff who are coming through, and they are not getting the time to do that properly because they are having to go into court. We are getting regular reports of that.

Alison McInnes: Ms Dyer, you spoke about having to go to the justice board for extra

resources. You described that as a flexible way of working, but it sounds like firefighting. Do you think that the budget needs to be increased to enable you to manage properly the workload that we have heard about?

Catherine Dyer: We need to be able to respond to what comes through the door, and in making choices we are being as sensible as we can be about what is proportionate. If we can deal with a case without taking it to court, that is what we do.

However, I think that the recent changes have shown that the justice board way of working is a flexible approach. It is difficult to predict how far ahead we can look. Until somebody is arrested, cautioned and charged, we do not know that they are coming into the system. Our workload depends on what crimes are committed, reported or detected and the proportion of those for which there is sufficient evidence under the rule of corroboration while we still have it. We start with quite a big expanse of things and it narrows down as it is coming through. I think that we now have a better understanding of what there is and have become better at working together. The justice board and the organisations that sit round it are committed to making sure that we make it work for the cases that come before us that have to go into court.

We identified that we had additional work that would not fit into the current programme, which was set out at the beginning of the year. It was a justice board decision to allow funding to be flexible across the justice system in order to assist the Scottish courts and us in putting extra courts on and having extra staff, and that is what has happened.

Alison McInnes: If the justice board had not been able to allocate those resources towards the end of the year, what would have happened?

Catherine Dyer: There would have been a slowing down of the system. Of course, it can take some time for things to get through, but to give credit to the staff both in the Scottish Court Service and in the COPFS, the figures that I gave in our submission show that more cases in all courts, except sheriff and jury cases, were disposed of than before—in other words, more conclusions were arrived at in the past year. There was a significant increase of 10 per cent in the number of JP court cases concluded, a 2 per cent increase in sheriff and jury cases and a 1 per cent increase in the High Court. However, within that workload, far more cases went to trial.

That is partly a reflection of the kind of work that is going through. People accused of domestic abuse or sexual offending, in our experience, tend not to plead guilty quite as readily as people who are accused of what we might think of as old-

fashioned crimes such as theft. It is a credit to the people who work in the system that we have had an overall increase in the number of cases that have come to a conclusion at the same time as more of them have gone to trial.

Alison McInnes: It clearly is a system under quite a lot of pressure at the moment. If it slows down very much more, surely you are at risk of hitting time bars, as the FDA points out.

Catherine Dyer: I do not think so. We are far, far from that. We have self-imposed targets that we set in the late 1990s and have adjusted as we have gone through, depending on the level of business that we have got, but we are not in danger of missing any statutory time targets for cases. We are reallocating resources. We have tried to have extra courts from September to the end of this financial year, so that we go into the next financial year with reduced times from caution and charge to disposal. That is a good reaction and I think that that is what people would expect us to have done.

Brian Carroll: On that last point, I cannot remember exactly when it was, but it was certainly within the past six months that Paisley sheriff court had 42 first diets calling on a Monday for a sitting of two weeks in length beyond that date. Edinburgh recently had a similar experience. In a two-week sitting, you may be looking at getting through between one and five sheriff and jury trials, depending on what happens, so 42 indictments will never be continued to that two-week sitting. I cannot say how widespread that is, but those are two examples of there being pressure on the system and on the staff of both the Crown Office and Procurator Fiscal Service and the Scottish Court Service, and a lot of the time bars, which Alison McInnes mentioned, had to be extended to keep the indictments alive.

The Convener: Could you just explain what you mean by time bars being extended?

Brian Carroll: If someone is in custody, the 110-day rule kicks in and the trial has to be heard within 110 days, so the time bars were extended to allow that to happen in some of those cases. There may also be time bars in some statutory cases that determine when the offence has to come into court.

Alison McInnes: I would like to press Ms Eadie on her evidence, which states:

“we have recently been told by our members that an increasing number of these serious cases at Sheriff and Jury and High Court level are being indicted on the last date of service before they time bar.”

Fiona Eadie: That is the information that we have. That is correct.

Alison McInnes: Thank you.

Margaret Mitchell: There seems to be a bit of a disconnect between what Catherine Dyer is saying about indictments not being in danger and that last piece of evidence, which clearly shows—

Catherine Dyer: Perhaps I could explain. It is quite complicated. Most of the work in the High Court is custody work. From the Crown's point of view, we have to be ready to serve the indictment on the accused person 80 days after they have first appeared in court for full committal, and that must happen within a certain time span.

To have indictments being served on the last day is not necessarily an indication that we are not able to cope with what we are doing. Equally, with bail cases, we have to do thorough investigations. I talked about the number of cases that we do not even put on petition. They can take a year or more to investigate, as can ones for which we think that we have enough to put them on. Because of the nature of victims and all the rest of it, we have to be very careful. We are now having conversations with all victims in sexual cases to ensure that they understand what is likely to happen in the process.

At the end of the day, we are not concerned that we are going to miss time bars in cases. A proportion of cases will always be served on the last day for service, but that has always been the case. I asked our High Court unit to look at that, and we think that there are other things that we could do to ensure that we are definitely not in the business of making victims not have their cases go to trial. That is just not what we will do. We would move resource to ensure that that did not happen.

Margaret Mitchell: Notwithstanding that very long explanation, do you believe that it is acceptable that, increasingly, your staff are being put in a position where it is the very last date before they are looking at cases, and they are complaining about stress levels?

Catherine Dyer: I do not think that they are looking at cases at that point. This is about the technical serving of papers.

Margaret Mitchell: Well, do you think that that is acceptable? You seem to be—

Catherine Dyer: I do think it is acceptable, yes.

Margaret Mitchell: So that will continue. It is just part of—

Catherine Dyer: It is something that we have always done. I can understand the position. Fiona Eadie is trying to indicate that, because the cases are more complex, we have more of them and more people are in custody, more indictments are being served on what is technically the last day, but I have to say that the people are in custody. They are in prison. What happens is that the

indictments are served on people in prison, so there is not a danger of us missing—

Margaret Mitchell: But this is about the complexity of cases. There may be a number of witnesses, including expert witnesses. Does this not point to a resource issue? As chief executive of the service, are you not doing your staff a great disservice by constantly talking about flexing on resource and optimising resource? There comes a point when you cannot do that any more and you need an increase in core resources and in staffing.

Catherine Dyer: That may come, but can I explain what I am saying? If we have a sudden increase such as the huge uplift in the past two years—if you look at the figures, you will see that we are talking about a 50 per cent increase in technically difficult cases—we obviously have to ask what we can do to deal with that. We have dealt with it, and we need to keep on working and looking forward with the other bits of the justice system to ask whether it is a permanent state of affairs or whether, as we expect, the figures will go back down.

I think that we agree that it is no longer sufficient to look at the crime figures. We also need to look at the different types of work within them, and we are now very good at doing that. You can see that there has been a huge increase in these cases. We have dealt with that, and we have got additional resource to deal with it. The point is that we need to keep looking forward and asking what resource we are going to need as we go forward. That is the position.

Margaret Mitchell: Is that not fairly predictable? We have the domestic abuse task force, and more serious sexual assault cases are going to come forward. You already know that they are more complex. You said that there is constant change in the system against a background of budgetary constraints. If I was in your shoes, I would be asking for more resources to cope with that and enable your staff to keep providing the excellent service that we all acknowledge they are providing.

I have to tell you, Ms Dyer, that this is not just the evidence here. I also see it in my local court. I see the morale of Crown and procurators fiscal and the lack of preparation time. Sometimes, very serious cases involving laundering that has gone on for ages are being abandoned because the fiscal is under such pressure. That is not sustainable, is it?

Catherine Dyer: As I said to the committee, we have been back and asked for money for the big cases. Jointly with the Scottish Court Service, we have been back and explained the position with the mainstream sexual offending and domestic

abuse cases that we are dealing with, and we got additional resource for that.

Margaret Mitchell: But you are firefighting.

Catherine Dyer: It is not firefighting. I really have to object to that, I have to say. As a public servant who is responsible for public expenditure, I would not expect you to think that I should ask for things when I do not have work to carry out with them. We said that we have had an increase in this kind of work and that we needed an increase in resource, and we got an increase in resource. You can talk about firefighting or about planning for expenditure on work that has arisen, which is what I would say that was.

11:30

The cases concerned are well prepared. When we concentrated on racial abuse cases at the beginning of the hate crime work that we did, we had a similar upsurge. People were confident about reporting such cases, so more of them came out. At the same time, the prosecution service is educating the public to say that such behaviour is not acceptable.

The trajectory was that we had less reporting when people were not confident and, the more we and the police made it clear that people were to come forward and we would deal with them in the court system, the more the reporting went up. At the same time as the reporting went up, there began to be publicity about such cases and the offending rate went down.

We hope that there has now been a suitable focus on the fact that, if victims of sexual abuse come forward immediately, it prevents somebody else from becoming a victim of the same perpetrator. Equally, people were not confident about reporting domestic abuse in years past and, as Fiona Eadie explained, there were perpetrators of domestic abuse who went on to serial relationships with people in which they dealt very badly with their partners and assaulted them. That is all coming out in the wash now.

We have asked for additional resource and got it. That is not firefighting; it is appropriately—

Margaret Mitchell: However, that is not core funding; it is additional resource because it might not happen next year. You know that there are other changes in the system, such as the right of victims to question some of the decisions by the Crown and procurators fiscal and new legislation coming through, as it is constantly. In the meantime, we have evidence that

“81% of legal staff respondents”

to a survey

“said that they had serious concerns about preparation time”—

my goodness, it does not get much more basic than that—

“workload and staffing levels.”

I ask you again: is there not a case for an increase in your core funding? Your staffing budget has decreased.

Catherine Dyer: No. That is Fiona Eadie’s interpretation of my staffing budget. I explained that, at this stage, we are setting budgets. Our mantra has always been that, when money is available, we move it to staffing resource as much as possible and that is what we intend to do. The resources of the Crown Office and Procurator Fiscal Service are set out such that we have a far bigger resource budget than any capital budget that we have. The bulk of that we move to work with staff. That is why it is important that, when we talk about the technological changes that we are making—

Margaret Mitchell: Which take time. They will not happen tomorrow, the next day—

Catherine Dyer: If I can explain, we have been working on this—

Margaret Mitchell: —or maybe in a year.

The Convener: Let the witness finish.

Catherine Dyer: It was obvious what was going to happen with public finances and we have been working on that assumption for several years now. We are ready with some of the technological changes. We have a website instead of people having to phone up. For instance, in particular cases, we can give witnesses access to a piece of the website that is purely dedicated to them, where they can email us about their case and get information about what is happening. That saves people resource that we can then move on to working on cases behind the scenes.

We are about to go forward with our iPad in court project. We tried that out two years ago, I think, and left it in a number of offices so that staff could have a good go and tell us what they wanted to be improved. We have taken it back and are ready to go back out with the finalised version of it into the proof-of-concept offices.

Margaret Mitchell: Despite all of that, we hear about targets still being missed regularly. Mr Carroll has already said that.

Catherine Dyer: No—

Margaret Mitchell: With respect, I do not think that I am going to get much further with this line of questioning with you.

Catherine Dyer: It depends on what targets you are talking about. Mr Carroll was talking about an internal target of the Scottish Court Service, which is a matter for the Scottish Court Service. I am concerned about our targets, and I can tell you that—

Margaret Mitchell: Sometimes, it is because the fiscal has not been prepared. They are not ready and do not have enough time to do the job that they were employed to do.

Catherine Dyer: Our staff do very well under pressing conditions.

Margaret Mitchell: I do not doubt that. I am questioning why they should be pressed to that extent and why there should not be an increase in core funding.

Fiona Eadie: To clarify, the figures that we took are from the level 3 breakdown of the amounts that were set aside in the COPFS budget for—I cannot remember the different terminology: there is departmental expenditure limit funding, resource funding and staffing. The analysis of whether it amounted to a £1.1 million cut was taken from the Scottish Parliament information centre briefing. That is how we came up with the figure of a £1.1 million cut in the amount that is set aside for staffing within the overall budget.

On a general point, when we represent procurators fiscal in court, at all grades, we represent civil senior servants. It is the job of senior civil servants to manage the budget that they are provided with. We make no criticism of how our senior management manages their budget.

We said that we are looking at a snapshot of the position. With the increase in the types and complexity of cases and with reducing budgets we would be concerned for our members if we saw reducing staff numbers. The consequences of that would not be sustainable.

The Convener: That is a fair point.

Brian Carroll: I would agree with Catherine Dyer. I am speaking on behalf of members in the Scottish Court Service. My focus is on the SCS budget and our members, although people in the justice system do work with one another.

A lot of forward planning and organisation goes into court programming. Like the FDA, I would not criticise my members or the staff and management of the SCS for all the planning that goes into managing its case load against its resources in terms of staff, the estate and the state of the estate. We have seen the previous budget cuts, with the loss of 120 staff and the court closures, and we are going towards very significant court reforms in probably the not-too-distant future—I heard members of the Law Society and Victim

Support Scotland refer to the reforms. We have the same concerns as the FDA, the Law Society and Victim Support Scotland and I see Women's Aid Scotland about access to justice issues and the pressure of the complexity of the cases that are being heard.

As I said, there is a conflict for our staff, which is probably the same for COPFS staff. If you are in court, you cannot manage people. That is on the risk register for the Scottish Court Service.

The Convener: Can we move on, please?

Margaret Mitchell: Yes.

The Convener: I am conscious of time. I know that this is important, but we have a lot to get through.

Sandra White: When I asked the previous panel a question about the reforms, they agreed that they supported the broad principles of reforms such as those regarding videolinks, ICT and so on. Do you broadly welcome the reforms?

Brian Carroll: PCS would broadly welcome the reforms, except there are still access to justice issues regarding the system's ability to cope with the cases that are going through the court. For example, plans are in place to restrict where sheriff and jury cases can be heard: from being heard in all sheriff courts, those cases will be heard only in 16 justice centres. I mentioned the courts in Edinburgh and Paisley, which are due to be two of those 16 justice centres, and they have that pressured level of business at the moment. I accept that there might have been a spike in business, but those courts will have to deal with cases that are not being heard elsewhere. We certainly have concerns about the court reforms in that regard, although I accept that the Scottish Court Service is planning for those issues.

The delegate from the Law Society mentioned that there might be a justice centre for the north-east, and we understand that three new justice centres are being considered—one for Inverness, one for Kirkcaldy and one for Airdrie. We recognise, from the evidence that the Scottish Court Service submitted, that a budget of £60 million has been set aside for those centres, although the Scottish Court Service will have to find money to fund other aspects. If justice centres are built in those locations, they will replace ageing estate that needs to be replaced and will enhance the service that is provided for victims, witnesses, jurors and the accused, as well as, I hope, providing better facilities for our staff.

Fiona Eadie: The FDA has always taken the position that we do not take a position on matters of policy generally, although we have no principled objection to the plans. The union's focus has always been on the impact and consequences for

our members of any changes, and the issue plays into the discussions about court closures and the discussion that we had earlier about the underlying picture of more cases going to trial. If the number of courts in which cases can be heard is reduced, there will be consequences and additional pressures for the staff who deal with those cases.

Catherine Dyer: We welcome the 16 justice centres. We understand that there has been a change and that Scotland looks very different from how it looked when the courts that are now in place were set up in the 1800s or whenever. I have been in Livingston court, where the High Court sat for the Angus Sinclair trial just last week, and have seen the modern technology and the facilities for witnesses and members of the public, which are very good compared with the facilities in some of the court estate that is very old. I understand the attraction of facilities such as those in Livingston, and we would be interested in considering how we could enhance our service if we had particular staff dealing with sheriff and jury cases. The public will expect an increased level of service for victims and witnesses at the 16 justice centres.

We will work with the Scottish Court Service as it moves to that system, but I understand that that will be a gradual movement—there is not going to be a sudden stop, and there will have to be planning around the movement of work. Where there are dedicated High Court facilities, the experience for victims, witnesses and members of the public is a lot better than where the court does not have those facilities.

Sandra White: Convener, can I—

The Convener: I am trying to move things along a bit. We have still to hear from another panel of witnesses.

Sandra White: Yes, but I want to ask about the budget.

The Convener: Make your questions short, please.

Sandra White: I will try to ask short questions.

We must welcome the fact that people are reporting sexual violence and domestic abuse more. As you said, Mr Carroll, the issue is not the increased number of cases but their complexity. Does that have a knock-on effect on cases concluding?

My final question is for Ms Dyer. You have talked about the possibility of providing specialised training in certain areas, and you mentioned that you have moved some of your budget to alleviate pressures on staff. Will you look to provide specialised training to alleviate the pressures on the staff in the Court Service?

Catherine Dyer: We have moved to specialisation and have staff who are specially trained to deal with domestic abuse, sexual offending and stalking. The quality of the service and their understanding of what they have to do in dealing with those things have definitely increased, and the fact that we are specialising in that way allows us to say that we need more staff at a particular point to deal with particular things.

Because of the way things are going, technology is going to help us a lot. For example, there is a pilot in Aberdeen where the police are using body-worn cameras. In domestic abuse cases, most of the compelling evidence can come from seeing the victim's distress and perhaps the perpetrator's continuing bad behaviour on the night when the police were called out. There is a lot of discussion in the justice system as a whole, including in the judiciary, about the need to move more into the 21st century. A video from a body-worn camera is perhaps a quicker way of getting compelling evidence.

Certainly, the experience of the Aberdeen pilot is that if there is a video record, it is pretty hard for the accused to say that something did not happen, whereas written statements that are looked at months after the fact are not quite as compelling for people.

I think that a combination of things means that we are generally moving to thinking about how we present cases and get them to the point where somebody who should plead guilty does so as quickly as possible.

11:45

Brian Carroll: The fact that the number of cases being disposed of within the 20-week time limit does not seem to be improving might be a reflection of complexity, as Sandra White said. If cases are becoming more complex and more cases are going to trial, the disposal periods get longer.

The Convener: I am afraid we will have to move on. I will take a question from Roderick Campbell. Do you have a question too, Christian?

Christian Allard: Yes.

The Convener: I will take questions from Roderick, John Pentland and Christian. If they cannot be dealt with collectively by the witnesses, we will obviously tease them out. However, I want to move things along because we have another panel of witnesses after this. Obviously, members can ask supplementary questions, too, if required.

Can I have your question, please, Roderick?

Roderick Campbell: First, I refer to my entry in the register of members' interests: I am a member of the Faculty of Advocates.

I want to focus again on domestic abuse. In the climate in which we now operate, far more domestic abuse cases come to trial. However, is there a problem with the complainer not actually giving evidence in the end, or, if she—I imagine that it would be predominantly a “she”—does give evidence, the quality of the evidence is so poor that it is suggested that court time has not been properly utilised? It would be helpful to know whether there is a line of command in the fiscal service that decides which cases will actually go the whole way.

The Convener: Although it might not be possible for the panel to take all the questions together, what is your question, John?

John Pentland: I have a couple of questions. The first one is for Mr Carroll, but before I ask it, I congratulate him: it was good to hear the good old trade union view that what is happening is about budget cuts rather than efficiency savings. Given how the budget is progressing, do you expect any jobs to be lost?

My other question is for Catherine Dyer. Like Margaret Mitchell, I think that you are trying to run your service on a false economy. Although you have been successful in receiving additional resource this time, I think that somewhere down the line the service will be under pressure. Can you tell me whether any serious cases have been time barred because of the pressures of increased workload?

The Convener: That is a straightforward question. What is your question, Christian?

Christian Allard: It continues the line of questioning on sexual offending and domestic abuse, and the pressure on the budget.

I thank the witnesses for their input this morning. If there were not immense pressure on the court system, would court reform be a lot more straightforward? On the complexity of cases that Ms Dyer talked about, what could we introduce to try to make them simpler and less costly?

The Convener: I will get Ms Dyer to answer the three questions that were directed at her. One is around court time and the “line of command” for assessing the prospects of cases, particularly with regard to the complainer. Christian, is your question on whether the pressures were making it harder for reform go through?

Christian Allard: I was asking whether court reform would be easier if we did not have the increase in complex cases.

The Convener: Okey-dokey. The other question is whether any serious cases have been time barred and therefore did not proceed. Those are Ms Dyer's three questions. There is also a direct question for Mr Carroll on job losses.

Brian Carroll: Shall I answer first, because I will be quick? [*Laughter.*]

The Convener: Please do.

Brian Carroll: We are not expecting any job losses. We work closely with Scottish Court Service management in that respect. We have what we call a true partnership arrangement in the Scottish Court Service, which keeps us up to date with anything that is planned for the future. We do not expect any job losses at all in the future.

On budget cuts, efficiencies involve doing things smarter and making savings. Budget cuts are budget cuts.

The Convener: John Pentland has got a pal there.

Catherine Dyer: Roderick Campbell's point was about victims of domestic abuse not speaking up at trial. I think that that happens quite often because of the dynamic that they find themselves in.

Obviously, we look at the case at the start, as it is reported by the police. In cases in which there is a specialist domestic abuse court, there will be support from the ASSIST service, Victim Support Scotland and other organisations that assist people to get over their nervousness in speaking out if the case, having been reported to the police, comes to court.

Because of the damage that is caused to the victims in such cases, there are far more cases in which people are reluctant to give evidence. They are frightened by what the consequence will be for them in their partnership. Obviously, we try to address some of that with bail conditions, and to ensure that people get access to support through the victim information and advice service.

I do not think that anybody would suggest that we should not take up a case if, at the beginning, it looks as though there will be enough evidence. We are learning more about how we can make victims feel more comfortable in the system and ensure that they have access to the services from which they need support.

A particular feature of domestic abuse cases is that a number of them get to court and the witness is then reluctant to give evidence, but we do our best to support and help people to give their evidence.

Roderick Campbell: Anecdotally, it has been suggested to me that there are too many cases that really should not be in court but the fiscals are

limited in what they can do because there is a line of command in the Crown Office that prevents decisions from being taken to desert cases.

Catherine Dyer: No. We have a presumption in favour. That is the Lord Advocate's policy. If it looks as if there is enough evidence, we will take the case to court, because these are serious cases. We see the impact on other areas, such as health, mental health and education, with children in such families not doing well.

It is a societal thing: we have a policy that says that, if there is enough evidence, we will take the case to court. We all know that people can come out of court with a result that is different from the result that they expected, but we still have a very high conviction rate in this country because of the work of the police. As Fiona Eadie said, we often get much more compelling cases, and people get strength from the fact that there are two or three witnesses, so they can speak up about what an individual has done to them.

If we had not had the spike, would things be going through with a lot less turbulence? I think that the answer to that question is yes, because obviously the planning was based on the situation at the time. Equally, we have additional cases, so the planning is now going forward on that basis, and we are asking for additional resource to deal with the additional cases.

The other question was about time-bar cases. We really are very clear that there are no cases that have been time barred as a result of pressure on resource. The target that we publish is that we expect 100 per cent of cases to be dealt with within the time limit. There can be the odd time when somebody has made a mistake, but I am not aware of any such case. Again, I can come back to the committee with details of what has happened over the past year if you wish me to, but the answer to the question is no: it is not about letting cases become time barred because of resource; indeed, we put in resource to ensure that cases do not become time barred.

Fiona Eadie: I would like to make a final quick point about job losses. Like PCS, we do not expect any job losses as such in our service, but, as we indicated in our written evidence, many of our staff are now employed on fixed-term contracts. We therefore expect a reduction in staff, as some of them may not be kept on beyond the end of their fixed-term contract. We consider that to be a cut to our staffing budget.

The Convener: I am sorry that that was a bit rushed towards the end, but we have overrun quite substantially.

I thank the witnesses very much for their evidence. Roddy Campbell and John Pentland can

come in first with their questions to the next panel, so that they are not cut short.

If there is anything that the witnesses wish that we had asked about and which we ought to know, please write to us. That would be very helpful.

I suspend the meeting for two minutes.

11:54

Meeting suspended.

11:56

On resuming—

The Convener: I welcome our third panel of witnesses: Eric McQueen, chief executive, and Cliff Binning, chief operations officer, Scottish Court Service; and, from the Scottish Government, Martin McKenna, acting deputy director, Scottish tribunals service and parole unit. As the Scottish tribunals service will merge with the Scottish Court Service in April 2015 to form the Scottish courts and tribunal service, it seemed appropriate to bring the witnesses together on one panel.

We will go straight to questions.

Roderick Campbell: First of all, with regard to the comments made by Sheriff Liddle that were reported in the press, the Law Society of Scotland representative on our first panel correctly pointed out that to date there have been no court closures in Lothian and the Borders. I wonder whether Mr McQueen will clarify his view on Sheriff Liddle's comments about the position in the Lothians.

Eric McQueen (Scottish Court Service): I do not normally comment on the views of an individual sheriff, but I am quite happy to comment on the position in Edinburgh. Shortly after the reports, I put out a statement to the media that was whole-heartedly agreed by the sheriff principal of Lothian and Borders.

There is a danger of mixing up court closures—and there has already been some discussion about some of the challenges that have been experienced in that respect—with the increase in volumes. We have no doubt whatever that Edinburgh has the capacity to deal comfortably with the Edinburgh business. In fact, we have the capacity to deal with more cases than the combined impact of Haddington and Edinburgh, and we are putting in place a court programme to deal with the business.

With the closure of the court in Haddington in January, Haddington trials are already being assigned to Edinburgh. At the moment, those cases are being assigned for 16 weeks, while the vast majority of cases in Haddington are currently

being assigned for 18 weeks. We expect that, by the end of January, all cases in Edinburgh will be assigned for 16 weeks, which is the optimum period between a not guilty plea and a trial.

We have absolute confidence that the capacity exists in Edinburgh. The extra resources have been deployed; indeed, Catherine Dyer mentioned the resources that have been added to the justice system. As a significant part of those resources has come to the Scottish Court Service, we have been able to employ additional staff, including additional judicial members of staff, and use our capacity to deal with the volume of business. We are absolutely confident that we can deal with the business coming to Edinburgh from Haddington in what is deemed, in the justice system, to be a reasonable time.

Roderick Campbell: Now that we have reached this stage of the court closure programme, can you tell us whether any unanticipated problems have arisen?

Eric McQueen: To be honest, there have been no such problems. The programme has gone surprisingly well. Significant concerns were raised about access to justice, witnesses not turning up, intimidation, public order and increases in churn in the courts, but we have experienced the reverse of that. If anything, the programme has allowed us to be more flexible in how we use our resource in many courts and to deploy judiciary and staff to help improve the flow of business.

Roderick Campbell: Can you clarify the Scottish Court Service's position on feasibility studies for justice centres, which the previous two panels referred to?

Eric McQueen: Absolutely. We have been quite clear with the Justice Committee and, indeed, were quite clear in our report "Shaping Scotland's Court Services" that we see justice centres as a key part of our vision for the future. The previous panel expressed a lot of concern about the quality of the accommodation, investment and the maintenance backlog, and our view is that we should move towards justice centres to redress some of those issues. In our report, we identified three areas—Inverness, Kirkcaldy and Fife, and Airdrie and Lanarkshire—where justice centres are our first priority, and in the coming months we will work up feasibility studies and take our proposals back to Government for funding.

12:00

We were delighted to see in the budget statement that our bid for justice centres has at least been earmarked for access to the additional £60 million pot that is being created for investment in capital projects. We believe that if we carry out the feasibility studies and produce the right

business cases, we can progress the centres at some stage in the next three to five years. We think that they are exactly the right way to go to improve services and facilities, and to get the most benefit from technology in the future.

Roderick Campbell: Finally, can you update the committee on how video technology in the courts is progressing?

Eric McQueen: We have had video technology for some time now in virtually every court throughout Scotland, and we also have a range of remote ad hoc sites. However, we recognise that there have occasionally been issues, and that our technology has not been the best.

Earlier, the committee heard evidence about failures in videolinks. To be honest, I think that that is the exception rather than the norm, but, that said, we have recognised that video technology is an area where we need to make a big investment, and we are channelling significant funds into ICT development both this and next year. In fact, we have allocated another £1.9 million to ICT next year to bring our standards right up to what we class as being state-of-the-art facilities, and work is under way to put in the right configuration system and the new bridges that we will need to connect to our remote sites.

A major upgrade in our videoconferencing system is taking place and will be completed by January. We expect then to have throughout Scotland high-quality state-of-the-art videoconferencing that is reliable and consistent and which meets the needs and demands that we expect to increase as a result of the implementation of the Victims and Witnesses (Scotland) Act 2014.

The Convener: Did you mention a date by which that system will be in place?

Eric McQueen: Yes. We expect to have it in place by the end of January.

The Convener: January next year.

Eric McQueen: Yes. That work is already under way.

The Convener: Alison McInnes has a supplementary.

Alison McInnes: Mr McQueen, you said that some concerns that were expressed at the time of the court closures about the impact on victims and witnesses had not come through. You were not present for Mr McCloskey's evidence, but he made it very clear that there is now great pressure on the facilities that are left, and that the problems for victims and witnesses are now much more acute in the courts that are still open. He also said that the pressure on meeting rooms and the lack

of separate facilities has been greatly exacerbated. What are you doing to review that?

Eric McQueen: I want to make a couple of points. First of all, on language, I think that talking about the courts “that are left” makes it sound as though there are very few left. Actually, the overall movement of business was 5 per cent, which means that any impact will be 5 per cent on what was previously there.

Over the past year, we have done a lot of work in partnership with Victim Support Scotland. We have visited our accommodation, looked at the types of facilities that we have in place and considered where we could make improvements. We completely recognise that some of our buildings have some physical limitations. The vast majority of our buildings are still Victorian buildings, and there is a limit to their design. We cannot change them overnight, and there are restrictions on public access with regard to the space that is available inside. However, we are working collaboratively with Victim Support Scotland to try to make any changes that we can make quickly and give victims and witnesses the best possible service.

Alison McInnes: It is always easy to work closely with others, but are you bringing anything through from the work that you have done? Are you allocating resources in this year’s budget to deal with some of the issues?

Eric McQueen: Absolutely. I did not hear all of the earlier evidence, but I hope that Victim Support Scotland reflected the results of some of that work. Where we carry out site visits, we follow up on the issues, and we make the changes that can be made. Most of the time, the issues are less to do with funding than with the building’s physical restrictions. We try to find ways of working around that, and we are asking how we can make our accommodation more flexible, putting better signage in place and using technology to deal with some of those problems.

There is no reluctance on our part to try to make improvements. We are trying to prioritise and do what we can within what is sometimes a restrictive estate.

Alison McInnes: If you think that extra resources are needed to deal with the issues, can you write to the committee and show us where you are planning to shift resources to pick that work up?

Eric McQueen: I am sorry—can I do what?

Alison McInnes: Can you write to the committee to show us how your budget over the forthcoming year is allocating resources to address those issues?

Eric McQueen: I am not sure that that would be particularly helpful for the committee. I am struggling to understand what the benefit would be—

Alison McInnes: So you are not shifting resources in order to improve access.

Eric McQueen: We are trying to shift resources into a whole set of areas. That is what we tried to set out in our earlier evidence on the work that we are currently planning to try to accommodate the implementation of the Victims and Witnesses (Scotland) Act 2014; on the investment that we are making in technology; and on the way in which we are trying to bring forward and improve the court reforms. I am not sure whether you are looking for something very specific about an individual court—

The Convener: How would you make Selkirk sheriff court, for example, accessible to people with disabilities and ensure sufficient separation between witnesses on both sides in cases? I do not know whether that is possible in an old building such as Selkirk court. I am just using that example because it is the one that I know.

What do you do in such cases? In a way, you are stuck with those Victorian buildings. I am talking not about Edinburgh or Livingston sheriff courts, but the old buildings that still exist. The question is: how would you do that?

Eric McQueen: We are trying to have minimum standards for accessibility and access to the courtroom for all our courts. In the vast majority of our courts—approximately 98 or 99 per cent of them—we can create that access to allow disabled people to access the building and the courtroom.

I think, if my memory serves me right, that there is still one court where that is not possible. In that case, we use the accommodation immediately next door if a disabled person requires access. As I have said, however, that is very much the exception.

The Convener: What about separating witnesses?

Eric McQueen: The vast majority of courts have separate witness and defence areas. In fact, I am not sure whether there are any courts where we do not have those facilities.

Alison McInnes: We heard quite a lot from Mr McCloskey this morning to suggest that there are issues even in modern courts such as Aberdeen, where the public atrium is a choke point.

Eric McQueen: I think that what Alan McCloskey was describing was not so much to do with the facilities that we provide. Aberdeen is a very good example, because we have two separate complexes, one that deals with the

sheriff court's criminal business and one that deals with its civil business. To a certain extent, that is pretty much the model for the justice centres, where we will separate the different strands in one building. In the sheriff court in Aberdeen, we have completely separate accommodation for Crown and defence witnesses, but, as with any old building, there is one access point and one main reception point, and we cannot change that physical configuration.

I think that Alan McCloskey was asking whether we can do more things about signposting and direction to move people more quickly through what might be described as the communal areas and into the separated areas. It is not that we do not have separate physical witness rooms; it is just that there is sometimes congestion in the public hall because there is only one reception area and one access door. We cannot put in two access doors.

Alison McInnes: I realise that I came in on a supplementary, convener.

The Convener: You can come back in later.

Elaine Murray: Mr McQueen, just as you were when you appeared before the committee during our consideration of the court reforms, you seem this morning to be very confident that everything is fine and that you are going to be able to cope with all the issues in front of you. However, the picture that you are painting is very different from and very difficult to reconcile with the evidence from our previous panel of witnesses, who told us about the stress that the Scottish Court Service was under, the pressure of the workload on the workforce and the fact that SCS targets for cases coming from first calling to disposal are just not being met.

Is the SCS suffering any challenges at present? If so, do you agree that they might become worse as the new legislation is implemented? Are you absolutely confident that you can meet all those challenges with the current level of resources that is being offered to you?

Eric McQueen: First, there is no doubt that we face challenges; indeed, any organisation working in the public sector with the expectation of reform and the current financial constraints faces challenges. We are very open about that.

You have raised two slightly different issues, which I will address separately. The first concerns business volumes and what you have described as targets, and the other concerns the perception of staff. I think it would be helpful to separate those out.

As far as business volumes are concerned—I think that Catherine Dyer discussed this issue earlier—we have experienced a change in

demand in the past 12 to 18 months with an upsurge in domestic abuse and, in particular, sexual crimes. From our point of view, that was unplanned for and unforeseen, but we can cope with it with the flexibility in the system. We are a demand-driven organisation and, when demand changes, we change our approach.

We have had extensive discussions with the justice board about the level of demand and how long we expect it to continue. Consequently, resources have been reallocated and redeployed within the justice system and waiting periods for trials are getting back to where we had expected them to be. We are confident that, as we move into the early part of next year, the vast majority of courts will either be at or be as close as possible to the 16-week period that is acceptable for trial diets. It is not that we are not encountering challenges, but that we are dealing with them in a collaborative way and are putting in place good measures for containing them and moving back to the position that we want to be in.

On the staffing side, the fact is that, again, all staff in all organisations are facing lots of pressures and challenges. However, I did not recognise the exact feedback that Brian Carroll, our trade union representative, gave us. As recently as last week, we got the high-level figures from our most recent annual people survey, which is carried out by the Cabinet Office across every Government organisation in the UK. It was completed by staff in October, so it is incredibly recent. I think that some of the results are pretty impressive. We have an overall engagement score—I know that that does not mean a heck of a lot—of 64 per cent, which is one of the highest levels in the whole of the United Kingdom civil service; 92 per cent of staff fully understand our organisational objectives and purposes; and 82 per cent of staff are comfortable with their workload levels and the resources available to them. Our staff have scored highly on how we manage change in the organisation and on their learning and development and career opportunities. In all of those segments, we have among the top scores in the civil service.

The Convener: I have not seen that paper. Is it public?

Eric McQueen: We will make it public in the next week or so.

The Convener: Now that you have read from it, it would be useful to make it public more quickly, so that we have it when we are considering our report to the Finance Committee. You are reading from it, but we are at a disadvantage.

Eric McQueen: As I have said, the results are only just out.

The Convener: I appreciate that. I do not think that there has been any jiggery-pokery; I just think that now that you have read from the document, we can put it on our website, and it will be public.

Eric McQueen: Absolutely. It is a good reflection on our staff in what has been a difficult and trying time.

There has been comment about the fact that people and pressure issues are on our risk register. That is absolutely right; indeed, it would be incompetent of us if they were not on it. To say that things are on our risk register does not mean that they are necessarily a problem; it just means that we recognise that there are risks. Our risk register covers technology, people, our capacity for change and change management and so on to ensure that we are aware of those risks and are taking appropriate actions to mitigate them as far as possible. As chief executive, I would find it quite scary if people and change issues were not on my risk register. As I have said, I think that that is a positive rather than a negative thing.

Elaine Murray: I do not know whether you heard what Fiona Eadie from the FDA was saying—

Eric McQueen: I did not hear a lot of it.

Elaine Murray: She said that a staff survey that the FDA had conducted indicated significant stress levels among staff, particularly with regard to preparation times and so on.

Eric McQueen: Within the Crown Office?

Elaine Murray: Yes, within the Crown Office. However, Mr Carroll said that there were similar stresses in his sector.

The Convener: We are not expecting you to answer for the Crown Office.

Eric McQueen: As I have said, I can feed back to you only what our staff told us last month.

The Convener: Which we will be able to make public by tomorrow.

Eric McQueen: Yes. The one thing that I would say is that we spend a lot of time discussing these issues with our staff. Over the summer, we have spoken to every member of staff about the change, the reforms, the business volumes and how we are planning to deal with all that. This has not come as a surprise to any of our staff.

Elaine Murray: The figures that Mr Carroll gave us showed that some of the courts were well off target at the moment. Is that only because of the stress caused by certain types of cases that are coming through just now?

Eric McQueen: It is primarily because of the increase in cases that we have had. As I have

said, we are already starting to see the figures coming down quite quickly as the recovery programmes are put in place. By early next year, we expect the vast majority of courts to be back where we expect them to be, with an optimum period of 16 weeks between a not guilty plea and a trial diet.

The Convener: The Scottish tribunals service staff will become part of the staffing of the Scottish Court Service. Would you like to say something about them, Mr McKenna?

12:15

Martin McKenna (Scottish Government): Sure. It is quite pleasing: we have just finished a similar survey—as Eric McQueen said, the survey in question is carried out across Government departments—and our scores have gone up, so our staff seem to be well engaged and well aware of the impending merger.

All aspects of the merger are going well at the moment. We are comfortable that it is a good thing for us to be doing. Next week, we kick off with a series of roadshows to engage with our staff, and the Scottish Court Service human resources people are coming along. We are doing a joined-up event with tribunals service and Court Service managers and HR people, which will involve speaking to and supporting our staff as we move into the new merged organisation.

We are putting a lot of time and effort into helping our staff into the new organisation. When they get there, the opportunities that they will have will perhaps be better than the ones that they have at the moment within the Scottish Government. The new organisation will be a better fit for them in terms of their operational background.

The Convener: I will let other members return to the issue of staffing.

Sandra White: I want to pick up on some of the issues that have been mentioned by other members and by Brian Carroll. There has indeed been an unprecedented rise in reports of domestic violence, rape and sexual abuse. That rise in reporting can only be a good thing. However, when we asked about the timescale for cases concluding—Elaine Murray raised this point—Mr Carroll said that the issue was not so much the number of cases but their complexity. Should we perhaps be a wee bit more flexible? After all, surely access to justice is more important than carrying cases through in 16 weeks. I am not suggesting that you name the cases concerned, but perhaps there should be asterisks for certain very complex cases that will take longer than 16 weeks to deal with.

Eric McQueen: That is a very valid point, and it is worthy of consideration. One of the main drives for dealing with domestic abuse in particular has involved a combination of the specialist courts and the toolkit that is in place for trying to cluster cases and bring them to court at an earlier stage.

My personal view is that there is still a lot of strength in that argument. The quicker we can get to a position in which evidence is given in a domestic abuse case, the greater the probability of the case proceeding and concluding. I would encourage any input of resources to help ensure that domestic abuse is dealt with in shortened timescales.

One of the difficulties that we have as a result of the recent surge in reporting levels is that domestic abuse cases account for about a third of the cases that come through the sheriff court. When there is such a high volume of cases, it makes it very difficult to determine how to apply a fast-track, specialised approach. Some thought and consideration is being and will need to continue to be given to ways to prioritise. How do we identify—perhaps with an asterisk—some of the more complex and difficult cases? If I also say “serious”, I am not implying that there are less serious cases, but you get my message about trying to deal with cases at a quicker pace.

It is arguably right that a longer timescale would help with the proper preparation and bringing to court of some of the more serious cases, particularly sexual cases, which involve intensive investigations. It is horses for courses as far as the types of cases and the levels of complexity are concerned.

Sandra White: I have some questions that arise from Scottish Women’s Aid’s submission. I would like you to clarify a response that you gave to the convener earlier about the IT system. I think you said that it would be up and running by January 2015.

Eric McQueen: Yes.

Sandra White: So that is definite. Scottish Women’s Aid raised a concern about that.

Eric McQueen: I do not know whether you want me to talk about the IT, but we are investing significantly in upgrading our IT systems generally, which goes way beyond just videoconferencing. I do not know whether it would be helpful to touch on that, or whether you want me to stick purely to the questions.

The Convener: Yes, we would like to know a little more about that. IT is very important for expediting cases and for assisting victims and witnesses.

Eric McQueen: I will give you a quick overview. We are working on a number of things this year,

and some of them will carry into next year—I am referring to the additional investment over the course of the two years.

First, our main priority is to put in place a new state-of-the-art infrastructure. Wide area network connections between every court, which give speeds of up to 100 megabits per second, are now in the process of being installed. They will provide high-speed access between all courts across Scotland. That should be in place by the end of this year.

At the same time, we are doing substantial work to upgrade our videolink capacity, which will be completed by January. We are also developing an electronic case management system for videoconferencing bookings. We expect that there are going to be more bookings and, rather than things being done manually, we will have an automatic system that staff will be able to use to book videoconferencing slots. That will allow us to ensure that we have resilience, that the expertise is there and that the lines are working. It will be a much better way of managing those things.

From December until probably September or October next year, we will be upgrading all the local area networks within individual courts, which will mean that they will be able to take real advantage of the high-speed capability. Importantly, that will allow us to provide wireless access—

The Convener: I am sorry to interrupt you, but I have a quick question. You are developing high-speed capability, but not all courts will be able to access that until September next year—is that correct?

Eric McQueen: No. Like all such things, there are different parts to it. First, there is the infrastructure in terms of the wide area network. That is being installed now. Secondly, there is a roll-out programme of upgrading the internal capability within courts. That will allow us to provide wireless access in courts by September or October next year. Some of that will be delivered earlier; some of it will be delivered by September or October. By next September, we will have wireless access in all our courts as well as high-speed connections and a very new infrastructure.

The other major development—this is one of the areas of big expenditure next year—is the introduction of what we describe as a new-generation case management system. That is out to procurement at the moment and the process is almost finalised. The business case will go to the SCS board for sign-off in December, and we expect to let the contract in January. That new case management system will be used initially for civil business and will enable full electronic access, electronic registration, case management,

online production of documents and online presentation of evidence. It is our first big step in moving paper significantly out of the system, and it is due to be delivered by October 2016.

Sandra White: Did you say October 2016?

Eric McQueen: Yes.

Sandra White: Thank you.

John Pentland: Last year, I asked a question that was similar to the one that Elaine Murray asked you earlier. You give the impression that everything is good within the service, but when I read your report I found out that, some months into the financial year, you are asking for an additional £2.5 million to help you to deliver the service. You are asking for £1.2 million to cover the transitional costs of the merger of the Court Service and the tribunals service, and £1 million to provide additional staff.

First, what assurance can you give the committee that, when your budget for the next year is set, you will not come along mid-term asking for additional money?

Secondly, you have said that you move resources to where the demand for them is. Where do those resources come from that you allocate to something else? Do you have some sort of contingency fund within your budget that allows you to do that?

Thirdly, what is your annual efficiency savings target? I am using the term “efficiency savings” rather than talking about budget cuts because you have not got down to losing jobs yet.

Eric McQueen: Half of the £2.5 million in-year request was well planned and relates to the bill for the merger with the tribunals service. The planning for the transitional costs has been in place for some 12 to 18 months and, when the SCS board agreed to the merger with the tribunals service last November, there was already an agreement with the Scottish Government that there would be £1.2 million of funding available for transitional costs to allow the merger to take place. That was agreed and in place in October or November last year; it just took until this year before the budget transfer took place. That part of the request was clearly planned.

The other part of the money—the £1 million to deal with the increased business volumes—was taken forward through the justice board. Difficult discussions took place about the change in business volumes and complexity, and about the need to move resources to deal with that. A decision was taken in justice to allocate additional money to the Crown Office and the Scottish Court Service to deal with the increased business volumes over the past 12 months. That is pretty much the rationale for the extra £2.5 million.

You asked whether we are assured that our budgets for next year are comfortable or whether we will go for any more increases. At the moment, we are confident that our budget is set at the right level and that it will allow us to deliver. The one caveat, which I will come back to, is the increased business volumes. No chief executive would turn away additional funding if it was offered, but we need to balance that with realism about the pressures on public sector funding. We must have plans in place that are affordable and deliverable, and we are confident that that is the case.

We have seen positive signs of a reduction in business volumes. Sheriff court business volumes are down about 4 per cent already this year and that looks as if it will continue. Given the movements that are being made with justice of the peace cases, we are expecting the business volumes to start coming back down. If, in the middle of next year, we find that there has been a change or that something else has happened to demand, we would need to discuss that with the justice board and the Scottish Government. That issue will always be under discussion, and we will always be fluid about how we identify our resources.

On efficiency targets, we do not set an absolute efficiency target. I am not a great fan of setting targets for the sake of setting targets. What we do have is a three-year strategy for the organisation to remain financially stable. We put that in place about two years ago as part of our thinking on how to reduce the cost base of the organisation. Difficult decisions were taken, including decisions about court structures, to ensure that we had funding at the right level that would allow us to invest in our buildings and technology and to deliver the court reforms. That is exactly what our corporate plan for the next three years has set out to achieve, and that is exactly what we will deliver next year as the first part of that corporate plan. We have undertaken long-term planning to ensure that the justice reforms are affordable and that we can deliver on them.

John Pentland: I understand that you will be responsible for making some sort of percentage efficiency savings. Is there a minimum percentage saving that you will make and a maximum percentage saving?

Eric McQueen: Absolutely not. I thought that I had covered that already. We do not set a target for efficiency savings. What we have set out is a long-term plan for the organisation on how we will deliver the change and the reforms, and how we will ensure that we have the budget to achieve that. That is what is in our corporate plan and our business plan for next year, and that is what we will deliver on.

John Pentland: As a service, you do not have a responsibility to achieve any efficiency savings.

Eric McQueen: What I am saying is that I do not have a target. I do not set the organisation a target of 10 per cent and say, "Go off and save it in any way you can." We have a very careful and worked-out plan for the next three years. Part of that is about driving efficiency as we move towards technical delivery. One of our key aims is to ensure that we do digital by design. There is a range of areas—which I am happy to talk about if you want me to—in which we are delivering efficiencies in the organisation by using technology. I would much rather have efficiencies as part of our plan and our thinking than impose arbitrary targets on the organisation to achieve savings of 3 or 4 per cent.

John Pentland: I am sure that the rest of the committee understands what you are saying, but I would like you to help with my understanding. During the reform of court services, an identified amount had to be saved through efficiencies. You do not have any responsibility for achieving those efficiencies so, in effect, could you not deliver any efficiency savings?

Eric McQueen: As the accountable officer, I have absolute responsibility for the funding, efficiency and delivery of the Scottish Court Service. The plans that I have put in place for the next three years are to deliver the reforms and the efficiencies that are part of that. If you are asking me whether I have a target of X per cent that I impose on the organisation, I do not. Again, I think that that is a positive thing.

John Pentland: In paragraph 13 of your submission, you say:

"The majority of the SCS annual running costs are met by voted funds".

What are voted funds?

12:30

Eric McQueen: Those are funds that are allocated by the Scottish Government as part of the Budget (Scotland) Bill. The budget bill allocates funds to the Scottish Court Service, and we receive other income through retention of certain elements of criminal fines that are imposed in courts and civil fees that are recovered through our courts. We also generate a much smaller amount of other income through leases and rental costs on our properties.

John Pentland: You are saying that you do not put your hands up to say, "I vote for X, Y or Z," and that "voted" is just a word that is thrown in. It gave me the impression that you put your hands up to indicate whether you agree to the funds.

Eric McQueen: I am sorry, John—I am confused about where we are going with this.

Cliff Binning (Scottish Court Service): "Voted funds" is a technical term to reflect—

John Pentland: Hopefully, Mr Binning you are not—

The Convener: Is it not what the Parliament agrees? Perhaps Mr Binning will explain it to us and then we can move on.

Cliff Binning: "Voted funds" is a technical term to reflect the fact that the funds are voted for and approved by Parliament, as opposed to coming from other income sources. It does not imply that there is an election or a voting process. It is part of the parliamentary budget process.

John Pentland: I fully understand that now, Mr Binning. Thank you.

The Convener: I think that Mr Pentland smelled a rat and there was no rat. Thank you for your evidence.

12:31

Meeting continued in private until 12:47.

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