



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Criminal Justice Committee

Wednesday 6 November 2024

Session 6



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CRIMINAL JUSTICE COMMITTEE

33rd Meeting 2024, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Liam Kerr (North East Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)

*Sharon Dowe (South Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Malcolm Graham (Scottish Courts and Tribunals Service)

John Logue (Crown Office and Procurator Fiscal Service)

Teresa Medhurst (Scottish Prison Service)

Gerry O'Donnell (Scottish Prison Service)

Linda Pollock (Scottish Prison Service)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 6 November 2024

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): Good morning, and welcome to the 33rd meeting in 2024 of the Criminal Justice Committee. We have received apologies from Pauline McNeill.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take item 4 in private?

Members *indicated agreement.*

Pre-budget Scrutiny 2025-26

10:01

The Convener: Agenda item 2 is pre-budget scrutiny. Our focus today is on the courts, the prosecution service and prisons. We have two panels of witnesses this morning. Our first panel consists of representatives of the Scottish Courts and Tribunals Service and the Crown Office and Procurator Fiscal Service. I am pleased that we are joined by Malcolm Graham, the chief executive of the Scottish Courts and Tribunals Service—welcome to your new role—and John Logue, the Crown Agent at the Crown Office and Procurator Fiscal Service. I offer you both a very warm welcome.

I refer members to papers 1 and 2. I also refer members to the FDA union's written submission, which was circulated separately and is relevant to our questioning of Mr Logue. We thank the FDA union for its submission.

I intend to allow about 75 minutes for this session. I will begin by asking the witnesses an opening general question to set the scene, after which we will move on to other members' questions.

What do you see as being the main financial challenges that your organisation faces, and what is the latest position on any discussions that you have had with the Scottish Government on your budget for 2025-26?

Malcolm Graham (Scottish Courts and Tribunals Service): Good morning, and thank you for the opportunity to give evidence in support of the written submission that I provided last week.

The challenges that the justice sector has faced over the past number of years have been significant. By collaborating with justice partners, and with support from the Scottish Government, the SCTS has made real progress in addressing some of those challenges. For instance, we have reduced the number of scheduled criminal trials by more than 20,000 from a pandemic high of 43,500. We have managed continually growing case loads: over the past five years, solemn case levels have grown by 36 per cent and tribunal business has grown by 88 per cent.

We have delivered change and improvement as resources have allowed. For example, we have improved summary justice through the summary case management pilots, which reduced the level of trials that needed to be called and the number of witnesses who required to be cited, 11,000 of whom were police witnesses. We have increased the number of evidence by commissioner suites in operation, thereby minimising the potential for

further trauma for victims and witnesses. There were approximately 700 hearings in 2023-24, and I expect that figure to be more than 1,000 by the end of this year. We are well advanced in developing a trauma-informed workforce and improved models that put victims at the centre of how the courts are run.

In answer to your question about next year, we have many challenges to address. The criminal case modelling indicates a further increase in the number of solemn indictments coming our way, and tribunal business continues to grow. There is a need to invest in people and systems so that we can deliver a service that has changed significantly in both function and size in recent years. In my written evidence, I said that the SCTS faces both volume and financial pressures that are often outwith our control. It will cost about £14 million more to provide the same size and shape of service in 2025-26 as we have provided this year.

You asked about our conversations with the Government. We have been asked to make submissions that broadly reflect the submission that I made to the committee, but we have also been asked to look at the potential impact of a flat-cash settlement. That would result in the need to reduce court and tribunal business programmes and to postpone more or less all the changes that we had planned to make to improve services in the coming year. To give some indication of the impact on the courts, I note that absorbing those pressures would be equivalent to removing 10 solemn trial courts—for example, four High Courts and six sheriff and jury courts—with effect from April 2025.

Committee members will be aware that we have been in the very positive position of receiving additional funding from the Government, under the recover, renew and transform banner, to ensure that additional courts could be run as part of the programme of recovery from the pandemic. However, with solemn case levels growing, the impact of a flat-cash settlement would be immediate and drastic, and our modelling indicates that victims, witnesses and the accused in the most serious cases could wait more than three years for a trial to come to court. That would be completely at odds with the commitment across the justice sector to reduce the traumatising of victims and witnesses.

However, if we secure the funding that is set out in our submission, we will be able to continue investing in our people, our reform programmes and—perhaps most importantly—our joint work with justice system partners. Those reforms will deliver further efficiencies for the SCTS and for the justice sector as a whole in the longer term. Most importantly, they will improve service quality for

those who find themselves involved in the justice system through no fault of their own.

We are at a critical stage in making real changes to how the system operates in order to improve services and manage future pressures. In my conversations with the Government, I have made a plea for funding to be sustained, which will be critical to ensuring that we keep making positive progress and maintain a sustainable and effective justice system in the years to come.

The Convener: Gosh, there was a lot in that answer, but it was very helpful.

I will bring in John Logue before I ask a follow-up question about multiyear funding.

John Logue (Crown Office and Procurator Fiscal Service): Thank you for the invitation to discuss next year's budget with the committee. In brief, all the information that I think is relevant and important is in my letter of last week, so I will not rehearse any of that.

I would describe the financial pressures in two ways. In the justice system as a whole, we have made good progress in the past year in overcoming the effects of the pandemic on the criminal justice system and in relation to reform, but there is still a lot of work to do in both areas.

As a result of the pandemic, there is still a lot of work in the system that would not otherwise have been there. We might discuss this in more detail later, but there are areas in which we can point to real evidence of reform that matches the ambition of the justice system as a whole, as well as my ambition and that of Scotland's prosecution service, to do more.

In general terms, any restriction on funding in subsequent years would put both those areas at risk. It would take longer to overcome the impact of the pandemic, and it would slow down, or prevent, the sort of reform that we would all like to see.

On your second question, we are still in the process of holding discussions with the Government—they have not yet concluded. Therefore, we still await an indication of what our budget will be in 2025-26. I do not think that this year's process is any different from the process in previous years in relation to progress, so I do not have any concerns in that regard.

The Convener: One standout point in your submission related to the significant pressures arising from investigations of deaths and the increasing number of post-mortems. That point certainly caught my attention. It is helpful that both your submissions are very detailed. There is a lot for members to ask about, so thank you for that answer, Mr Logue.

I will come back to funding provision and multiyear funding. You might be aware that a similar process of pre-budget scrutiny has been undertaken by the Finance and Public Administration Committee, which has heard strong evidence from the Scottish Fiscal Commission and Audit Scotland that the Scottish Government should adopt a longer-term approach to budgeting, including multiyear plans. That is nothing new for this committee. Obviously, that would offer greater flexibility for managing challenges, balancing future needs and so on.

Do you agree with that analysis? I am interested in hearing about how a multiyear funding approach would support Scottish courts and tribunals.

Malcolm Graham: As you said, the conversation about multiyear funding is not new. In fact, such funding would return us to a position that we enjoyed in public services at some point in the distant past. I understand the reasons why multiyear funding has not been deemed to be possible relatively recently, but what lies behind your question, I think, is what the advantages would be if we moved back to that position. Clearly, there would be advantages.

On the SCTS budget, we do not even enjoy the privilege of having a whole year of planning. I hope that our submission makes clear the way in which our budget is structured. We get a budget through the budget bill, but that is only about 50 per cent of what we would forecast to spend. The two other parts of the budget, which are almost equal, are made up of court fees and fines recovered, as well as from other in-year settlements, which come either in the autumn or in the spring through the Scottish Government, in relation to elements of the business that are highly variable and still changing. A lot of that relates to tribunals that have been devolved in recent times and are still settling down. Never mind moving to multiyear planning, that context makes it hard to plan within a year.

That said, the SCTS's requests for both resource funding and capital funding have largely been met by the Scottish Government in recent years. On capital funding, the fact that we do not have multiyear funding settlements has not prevented us from being able to do multiyear planning at times. It is inevitable that we will not be able to set out and achieve each of our capital projects on an annual basis, because of the requirement for that expenditure to last over multiple years. We work on the premise that the capital funding will come. Although the SCTS's baseline capital budget has been at a very low level of about £7 million or £8 million, the actual capital settlements through the year have been more towards £17 million or £18 million, which is

the sustained level. That is the absolute minimum that we would need.

Multiyear settlements would offer much greater flexibility regarding the month-to-month variability in some of our revenue and capital expenditure, and they would reduce a lot of the management and administration overhead that comes into the annual budget-setting process.

10:15

A huge amount of time and effort is required, including from me, based on the annual process of discussion and negotiation with the Scottish Government, all the people in the SCTS and the other organisations that work to do that planning and manage it. The amount of effort that goes into coming in on budget—in effect, landing about £230 million on the head of a pin for 31 March every year—is disproportionate to the benefits that that brings. That is a requirement of me, as the accountable officer, but if we had multiyear planning, we would have greater flexibility and would not have to put so much effort into that process, which would, at that point, become more of a false exercise.

Finally—I understand that this is how the issue has been looked at through the other structures that you referred to—given the criticality of everything that, I hope, I will emphasise, along with colleagues in other parts of the justice system and this sector, if we are going to move to multiyear funding, we need to do it as a whole. We need to be able to take the benefits of multiyear planning into our collaborative work. It should not apply to only one organisation, for example.

John Logue: Malcolm Graham captured the general points that apply to the prosecution service, too. Our budget is much simpler than that of the courts service. Our primary cost is our staff. Beyond that, our costs relate to the buildings from which we operate and to forensic pathology.

I emphasise Malcolm Graham's point about looking beyond the advantages to a single organisation's budget to the advantages to the justice system as a whole. If all parts of the justice system were able to plan together on a slightly longer-term basis, with slightly increased certainty and clarity, that would be particularly helpful.

Liam Kerr (North East Scotland) (Con): I remind the committee and the witnesses that I am a practising solicitor and that I appear in the employment tribunals every so often.

Malcolm Graham, in October, the SCTS published the latest modelling for criminal business in the High Court and sheriff courts, which you referred to earlier. There is a suggestion that an additional trial court might be

required in the High Court to achieve recovery by 2026. Are the resources for that available? If not, how much is needed for that in this budget?

Malcolm Graham: At the moment, the resources for an additional court are not available. Alongside the issue of multiyear planning, another great uncertainty that we, as a demand-led system, have is what the demand on the system will be next year. The modelling is an attempt to start to shape up what future demand will look like, so that we, not only as an organisation but—this is most important—with other partners in the justice system, can start to plan to build capacity, because there is inevitably a lead-in time for that.

We cannot stand up an additional High Court trial court, with the requirement for all the extra staff, judiciary and space—which, frankly, we do not have at the moment—without a degree of notice. The modelling indicates that if we do not do something different in response to the level of demand on the High Court, the direction of travel with regard to the number of cases that are waiting to go to trial and the overall journey time of those cases, which are very important measures of the impact on victims and witnesses, is likely to be the opposite to the direction of travel that we have seen in recent years through the recovery programme.

Fundamentally, that brings us to the point about recovering from the pandemic. When case backlogs went through the roof, for reasons that are well understood, there was a fantastic response from the justice system and—at the core of that—SCTS in order to recover, which was absolutely the right thing to do.

However, that moment is passing, and we are now dealing with a new level of sustained demand, which—as I indicate in the modelling—is likely to increase in the future. That has nothing to do with Covid; it is to do with the fact that there are more cases being indicted into the High Courts and the sheriff and solemn courts. It is likely, given some changes in the law and what I see from other data around recorded crime and crime that has been reported to the Crown, that that will continue for the foreseeable future.

At present, alongside some of the concerns about the time bar changes, which will come into effect next November, we do not have the capacity in that part of the system to deal with the additional demand that is coming down the road.

Liam Kerr: I am grateful for that—I will come to the time bar issue in a moment.

There was a second part to my question. When this committee is looking at the budget that comes out, are you able to give us an idea of how much will be required with regard to the High Courts and the extra trial court?

Malcolm Graham: At the moment, I propose that we stick with the number of High Courts that we have, which is 22, not the figure of 23 that is in the modelling. At present, we are exploring jointly with the Crown and with the people who administer and run the High Courts how we can use the existing capacity to try to manage the cases in a different way that will allow us to absorb the existing demand.

I flag that up specifically because it is important to say that it is not unlikely that the demand will increase. I go back to the fact that there have been some changes in the law, and that we have an assistant chief constable from Police Scotland who has heralded—based on some unpublished data—a 20 per cent increase in the number of rapes recorded by Police Scotland in the first six months of this year in comparison with the first six months of last year. I have not seen the data on that, but it was heavily covered in the media.

Those are all indications that demand is likely to rise. I am trying to draw on the different data sources that I can use to get ahead of what that will look like before it arrives at court, because of the lag time.

At present, the plan is to stick with 22 High Courts, because it is not just the capacity of the court that is important. There would have to be consultation on the capacity of the Crown and of the Faculty of Advocates, and capacity in the other parts of the system, such as judicial capacity, before we move to a position of changing the number of courts, so that might be some way down the road.

Liam Kerr: I am grateful for that.

John Logue, I move to your submission. You heard Malcolm Graham talking just now about the Covid time bar legislation. You mention that specifically in your submission, in which you say:

“The Scottish Parliament has approved an extension of the date for removal of the pandemic extended time bar legislation to November 2025.”

You go on to say:

“The model chosen by Parliament to end the extended time-bars represents a very significant challenge for the criminal justice system with a high risk of disruption to the operation of the courts and increases in the prison remand population.”

For the benefit of the committee, can you explain precisely what you mean by “significant challenge” and “high risk of disruption”?

Given that, as you have pointed out elsewhere, the time bar will not be extended further, what do you need to see in the budget to ensure that the disruption from the backlog does not continue to be felt in November 2025?

John Logue: As a starting point, I should clarify that neither I nor any of my colleagues in the prosecution service are in favour of extending the emergency time bars permanently; we wish to return to the traditional time bars that existed before the pandemic. The question is how we do that. The model that the Parliament has chosen involves a single date on which every single case that is currently live and being prepared for court would just stop.

I would have preferred to see a staged approach whereby Parliament could have chosen to bring the time bar to an end for new cases after a particular date. The system would therefore have been able to continue working on the basis that cases already in preparation were being prepared according to one time bar and new cases were being prepared according to the traditional time bars.

That would introduce a degree of complexity, but it would avoid what we are now facing, which is a date on which everything is suddenly affected by a change in the time bar. That presents a significant risk. In our current case load, we have approximately 2,000 cases being prepared for court, which we expect to indict, and which are currently beyond the traditional time bar.

We will do our very best, with the resource that we have next year, to make progress in bringing that number down as close as possible to zero. However, if we are not able to make the progress that we would like, the cases that are beyond the traditional time bar suddenly risk being time barred.

If that happens, there would be actions that we would require to take either by applying to the court to extend the time bar on a case-by-case basis or by seeking to bring those cases into court as quickly as possible. Both those options present risks. That risk is quantified largely by the resource that we have available to do the work over the next year, but there is no doubt that that is a significant challenge, the likes of which I have not seen in my career in the prosecution service.

Liam Kerr: I think that people will understand that your staff and the whole system will be doing its absolute best, given that hard stop in November 2025. For the benefit of those who are following this session, will you make it clear to them what the implications are if the backlog is not addressed in time and the time bar reverts in November 2025? I have certainly had it expressed to me that in some of the most serious cases—because I understand that solemn cases will be particularly impacted—it is possible that some accused would not be held or, indeed, tried. Is there a risk that some individuals accused of the most serious crimes that we heard about earlier—murder, rape—could walk free?

John Logue: The law is that, if time bars are not met—if the process has not reached a particular stage by a particular point by reference to the first appearance in court—there is a risk of either the accused being released from custody or the case not being prosecuted. We will do everything that we can to avoid that. However, the consequence of having to bring many applications before the court to retrospectively extend time bars, or to do it in advance, risks interfering with the normal flow of the court business that we currently see. Even taking some of the preventative steps that we might plan for on a contingency basis risks slowing down the general operation of the court system. That therefore has an effect that I do not think is commonly or widely understood, which is that you risk slowing down the progress of cases before the court.

There is a narrow view of the time bars, which is that the sooner we move to the traditional time bars, the better, because we might then expect the system to work on a much shorter period of time. However, the consequences of doing that in the way that Parliament has decided risks creating the very consequences that we are trying to guard against, because it will slow down the court process, which might well have an impact on the prison population. There might be various adverse consequences if the situation cannot be dealt with in a way that allows the cases to be indicted, avoids the risks that you are talking about and avoids the wider risks to the operation of the justice system as a whole.

Liam Kerr: That is clear.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Good morning, and thank you for your evidence so far and for your submissions. The written submission from the Crown Office and Procurator Fiscal Service states that the organisation

“is committed to reducing resource needs as pandemic recovery progresses, and reflecting efficiencies in casework, reform, and system level transformation.”

Do both of your organisations see scope for future savings if there is investment in the coming budget and the coming years, and multiyear budget settlements, as has already been discussed? If so, when might those future savings be realised? Mr Logue, do you want to take that first?

John Logue: Certainly. The clearest example that I can give of what you are describing is the summary case management reforms, which I first mentioned to the committee two years ago at a point when they were just being introduced. We now have the benefit, two years on, of a full evaluation, which was published in September. That confirms that everything that we had hoped for when I first described it two years ago has come to pass.

That evaluation has confirmed that there is a different way of operating the summary courts, and a different way for all parts of the system to work together and achieve outcomes at a much earlier stage, which is better for everyone. That cuts down on the work that is needed to maintain the system in the way that it currently operates.

10:30

The evaluation report, which I am sure that the committee has seen, confirms a number of points that describe that benefit, with fewer witness citations for all witnesses, including the police, and cases coming to a conclusion much more quickly. I can describe that in very general terms to illustrate the scale of what we think could be achieved once the reforms are rolled out across the country. Before the summary case management reforms were introduced in Dundee, Paisley and Hamilton, there was a figure that I traditionally quoted—that I need about 120 to 125 prosecutors every day to go to all the summary courts in Scotland. That is at all stages, not just for trials. In order to have 120 to 125 prosecutors, I need more than that, because I need to be able to cover leave, sickness absence and training. At the moment, that is the resource requirement of all the summary courts.

Ben Macpherson: Together with support staff.

John Logue: I am just talking about the prosecutors who have to go to court, but there are many more case staff working in the offices, preparing the cases and dealing with them once they have finished in court.

If we can achieve the reductions and the benefits that we are beginning to see in Dundee in particular, or even go beyond what Dundee has achieved and do so consistently across the country, I would not need to send 125 prosecutors to court every day; I might only need to send two thirds or half of that number. There could be very significant reductions, judging from the indications.

It is difficult to be precise about that—I cannot put a figure on it—but we know from what the evaluation report says about Dundee that there was not just a marginal gain there; it was very significant. For example, the number of police witness citations in Dundee dropped by two thirds, according to the most recent data that I saw. In Paisley and Hamilton, the number was very close to going down by half.

Those are not marginal improvements; they are very significant changes, which demonstrate the real benefits that can be achieved. You can imagine what that would be like for victims, witnesses and the accused. The case is dealt with much more quickly, in some cases within a matter of weeks, rather than taking many months. If we

put all that together, we can begin to see a summary court system that is much smaller than the one that we have at the moment.

You ask when that might happen. Realistically, we have two very challenging years ahead of us to continue dealing with the pandemic. There are still many consequences from the pandemic for the case load that is before the court and is about to come before the court. The reform of the summary courts will take another year to two years, realistically. I would like it to happen as quickly as possible.

Ben Macpherson: So, by mid-2026?

John Logue: Realistically, for the prosecution service, between 2027 and 2030 is when we could begin to see the benefits of reform and of moving beyond the consequences of the pandemic.

Ben Macpherson: So, for the rest of this parliamentary session, the focus could and perhaps should be on supporting the reform, so that we start to see the benefit in the next session.

John Logue: I would like there to be support across the whole justice system for the two things that I mentioned at the beginning. The first of those is reform, which we are demonstrating is working—and we can learn things from that which we can apply elsewhere in the criminal justice system, too. We can work with the rest of the criminal justice system to improve the operation of the jury courts in the sheriff court and in the High Court. The second point is about dealing with the consequences of the pandemic, and we still have another couple of years of working through those.

Support for the justice system as a whole in all aspects, in those two broad areas, would position the justice system to look quite different, from 2027 onwards, from how it looks at the moment.

Ben Macpherson: Quite rightly, you have emphasised the reality of the backlog of the pandemic implications. Thanks for emphasising that. Before Mr Graham comes in, I invite you both to respond to one further point.

Yesterday, the Public and Commercial Services Union published a report that highlighted the effect on productivity of a number of issues, including information technology infrastructure and the challenges of physical infrastructure such as IT and digital systems. Will you comment on the importance of capital investment in and improvement of that infrastructure for efficiency, the progress of justice and morale, and the knock-on effect on your revenue budget and some of the demands that you mentioned?

John Logue: I am aware of the PCS report. I have not yet had a chance to discuss it with my colleagues who are members of the PCS or represent it, but I have asked for a meeting so that

I can discuss the report with them and work out how we can involve their suggestions in the reform work that we are already undertaking.

The key point is that the prosecution service is already undertaking a process of reform to address a number of issues. In broad terms, from what staff have told us, we have already identified some of the things that they would like to work better in the future: for example, better IT—better case management systems—and more investment in learning and training, which are two priorities for us as an organisation. My plan is to have a discussion with PCS about how we can take account of its report in the work that we are already doing.

You linked those points to the budget, and you are absolutely right to do so. There is no doubt that our ability to invest more in learning and training and to invest capital in new IT systems—which can help with automating work, becoming more efficient and changing and improving the way that we work—is directly linked to the budget that we get. As I described at the beginning, our ability to reform is directly linked to the budget in the coming two to three years.

Ben Macpherson: Mr Graham, do you want to add anything?

Malcolm Graham: There are a number of questions in there, and I will attempt to address them all. I will not repeat what John Logue has said, but I emphasise the criticality and importance of the summary case management approach and our dependence on that for efficiencies in its roll-out over the next calendar year.

Your first question, which was about future savings, is absolutely at the heart of my whole approach to SCTS and a commitment to collaborative working across the justice system. The change that we seek to bring in is on two fronts: introducing efficiencies, and introducing improvements to, for instance, victim-centred and trauma-informed approaches or to our ability to introduce new and different services.

Ideally, the reforms would bring in both those things, but that will not always be the case. Initially, some service improvement reforms that we are bringing in have an additional cost attached to them. For instance, evidence by commission, which is trauma focused and victim centred, allows victims in certain cases to give evidence at an early stage, which reduces trauma through their not having to appear at a trial. However, it adds cost to the system. It is a reforming measure that is facilitated through legislation but will not bring efficiency.

However, we are focused on productivity and efficiency. It is right to focus on summary case management because, by case volume—albeit

that that is not the only indicator—sheriff summary business accounts for roughly 65 per cent of what goes through the courts. If that element of criminal business is made more efficient, it might free up substantial efficiencies, but those will not necessarily all be realisable as savings, because—to go back to Liam Kerr's comments—part of what we plan to do is to reinvest that capacity into areas where demand is growing, such as the High Court and sheriff solemn procedure. The exact path by which we can create sufficient efficiencies at scale, through all the reforms that are laid out in our written submission—which I will not address as a list, by way of saving time, as it is already there—will allow us to have a choice, as individual organisations and as a system, as to where that capacity is put.

We have that choice only if the investment comes in a sustained way that allows us to make the transformation. Much of that is process driven, but a lot of it is supported by digitisation, as you hinted at. That choice gives us a greater level of certainty in answering that question alongside the variability of demand. I have already said that I do not think that all the demands on the system will remain constant, particularly as a result of more serious crime coming into the court system. However, if the demands were to remain constant, I would be able to give you a more certain answer and say that we would make savings and deliver a clearer timeline in relation to what a smaller court system might look like.

However, as those demands are likely to increase, the criticality of the investment in the reform that we want to continue with and the new reform that we want to start is even greater for creating capacity that we can move into other parts of the system where the demand is increasing.

The investment to date has not always allowed us to move at the pace that we would like to on digitisation. That is why the submission that is in front of the committee is a realistic assessment of what looks like a substantive budget to put into digital transformation—to continue with the digital transformation that we are already doing but also to move into new digital transformation, which will have the effect that I have referred to.

On the risk of reduced budgets across the system, my experience is that the impact of that is the creation of a vicious cycle. If budgets are reduced, individual organisations retrench to core duties and our ability to collaborate as a system diminishes. I have experienced that throughout my career, and I have no reason to think that it would be different now. However, there is light at the end of the tunnel—if the sustained funding that is being sought is given. In that case, based on carefully

developed business cases and the evidence that has been submitted, there is every prospect that there will be efficiencies that will allow us to create capacity and not only make savings but divert those savings into areas where demands are growing or where we want to improve services—areas where that might cost more money but where it is the right thing to do because, strategically, that is the direction that we have agreed on.

I have glanced at the PCS report but it was published only very recently. If the report's headlines are that there is not a sufficient level of funding in the system, that our people are absolutely critical to delivering what we do and that we need digital transformation to enable that to happen faster, I can agree with all that. I plan to work very closely with PCS to ensure that we do these things together.

The Convener: We have about half an hour left and we still have four members who wish to come in, so I politely ask for succinct questions and responses.

Sharon Dowey (South Scotland) (Con): Good morning. I will continue my colleague Ben Macpherson's line of questioning. You might have already answered some of these questions, but, given that you have just referred to the criticality and importance of the summary case management pilot, I will ask the question again in case you can provide extra information.

The recent evaluation noted that the pilot led to an increase in the early resolution of cases, along with a range of associated benefits. Can you tell me more about the main benefits of the approach that was taken in the pilot, not only for your organisation but for others?

John Logue: I am happy to give you a bit more detail on that.

I can provide a figure that illustrates the scale of what can be achieved and indicates how things could look quite different. About a year ago, in Dundee sheriff court, there were approximately 1,100 summary cases; a year on, the number is about 250. As far as summary cases are concerned, you can imagine a busy sheriff court with far fewer cases in it, where it is much easier to programme those cases and bring them to a conclusion at an earlier stage. It is much easier for the judge in the case—the sheriff—to make inquiries of the prosecutor and the defence at the beginning, work out what the issues are and manage the process from the judge's position, as opposed to the traditional model of cases starting and being assigned a date in the future, and then work being done to ensure that they are prepared.

10:45

That extra bit of information illustrates the scale of the benefit that we have seen in Dundee in the past year. As for the benefits to my organisation, the system and the public, such an approach means that we are not preparing and repeat-preparing cases, which is one of the critical impacts on the organisation and, most important, the public. In the Dundee, Hamilton and Paisley courts, as well as the other courts that have started to adopt the model, there is an increasing certainty that, if you are told that a trial will be on a particular date, it will take place on that date. That is better for all the witnesses in the case; it is better for the accused, in that the case is resolved as quickly as possible; and there is a particular benefit for the victim in having greater certainty. That is a very significant part of the public benefit.

For the prosecution service, the approach translates into less work, because we are not repeat-preparing a number of cases. We are able to take more cases through to a conclusion, and to do so as planned when a case is first set down. As you can imagine, there are a number of ways in which that benefits the organisation, but they all flow from the single fact that fewer cases are going to trial and those that do are more likely to go ahead on the first trial diet.

Sharon Dowey: You mentioned that it is starting to be rolled out in other places, too. Will you tell us more about the plans for rolling out the pilot in courts across the country? Is it likely that it will ultimately lead to resource savings?

John Logue: The pilot is led by the judiciary—that is, by sheriffs principal, who, for each of their respective sheriffdoms, have certain statutory responsibilities with regard to the operation of the courts. Therefore, they are leading on this particular project. I should say that the courts service, the prosecution service, the police and others, including the Scottish Legal Aid Board and defence lawyers, have been involved, too. It is a joint project involving all the parts of the criminal justice system.

The roll-out will be determined by the project team, which is led by the judiciary. That has still to happen formally, but it is clear from the evaluation that every part of the system strongly wishes for it to be rolled out to all the summary courts in Scotland. The timetable for that has still to be established, but, at the moment, the pilot is operating in the original courts of Dundee, Paisley and Hamilton. It is also operating in Glasgow for domestic abuse cases as well as in Perth. Personally, though, I would like to see it being put in place in all sheriff courts for all summary cases as soon as possible.

As for resource savings, I agree with what Malcolm Graham said a moment ago. There will be a combination of making resource savings and allowing the criminal justice system to redirect resource to other important work. In relation to the prosecution service, for example, if I no longer need to send 125 prosecutors to the summary courts every day, I have the capacity to look at either resource savings or redirecting that resource to communication with victims, the preparation of jury cases or the investigation of deaths.

Indeed, there are a number of areas of great importance for us when it comes to changing the way in which people experience the service that we provide, and I would like to be able to redirect resource to them. At the moment, though, I cannot do that; the largest part of the criminal justice system, by volume, demands a certain amount of resource, because of the number of courts that sit every day. Therefore, as far as savings are concerned, it will be a combination of increasing the capacity to make savings and allowing parts of the criminal justice system to redirect resource.

I should have mentioned another benefit to the prosecution service, which is that we have been able to implement a new model for contacting victims in domestic abuse cases. Over and above the victim information service that we normally provide, one of the prosecutors in the team now contacts the victim in each domestic abuse case in each pilot court. Victims have benefited from that and we, as prosecutors, think that taking the time to do that has benefited the preparation of our cases before they come to trial. That is another important benefit for the prosecution service from the pilot.

Sharon Dowey: Your submission makes it sound really good. You also say that it

“has been achieved to date without additional funding or the need for legislation”,

which is also good, because it shows that we can have reform without legislation and at no extra cost.

You talked about reallocating resources. Is there anything that you need extra resources for? I was thinking about victim notification, and Ben Macpherson touched on the subject of IT systems. Some of my colleagues heard last night from PCS that the systems are antiquated and unfit for purpose and that there are issues with contacting people to cite them to come to court. Will the pilot have any unintended consequences or do you already know where any extra resources will have to be allocated?

John Logue: I see that Malcolm Graham wants to come in, too, so I will keep my answer brief.

We will have to look carefully at any large-scale reform. Until now, in the pilot courts, we have been able to deal with the consequences of doing work at an earlier stage in the case. When you operate in a court that is also operating the traditional model, extra work has to be done, because, as well as operating the existing model, you have to do work at the beginning of new cases that might otherwise have happened at a later stage.

Until now, that has been manageable in the courts on a pilot basis, but it is a real question for all parts of the system, particularly for the police and the prosecution service, who bear the greatest burden in providing evidence to the accused's solicitor at the beginning. That is a real challenge. In the wider roll-out, we need to look at whether it would be possible to have additional funding, on a non-recurring basis, to help with that, so that we can reach a point as soon as possible where we are operating a smaller system that provides a better and more efficient service.

I will pick up the point about “antiquated” IT systems so that the committee gets a fair and accurate picture. I accept that some of our case management systems are older than I would like them to be; they do the basics, and they can sometimes feel difficult to operate. However, we have other, far more modern case management systems and digital tools. For example, when prosecutors in every sheriff court take cases to court today, they all use an iPad and an app that we have developed for ourselves over the past five to seven years. That is unlike the situation when I began as a prosecutor.

I would not want you to think that describing some case management systems as “antiquated” means that they are all like that, because they are not. There is a mix, and I would like to ensure that we can modernise and update those that need to be updated, while continuing to develop new tools such as those that we have with prosecutors taking iPads into court. When I started in court, I would take a crate of files, but that is no longer the case. Prosecutors now take an iPad and, as far as I am aware, we are the only prosecution service in the world that operates that sort of model.

Sharon Dowey: Do you have enough money in the current budget to upgrade your IT systems to allow, for example, the roll-out of body-worn video cameras for the police? We heard last night that that could be an issue, too, but we are very keen for that to be rolled out as quickly as possible. Is there enough money in your current budget for the IT updates that would allow the police to roll out body-worn video?

John Logue: Body-worn video is part of our current planning and budget assumptions for next year. The longer-term work to update and modernise all of our case systems will have to be

done over a number of years—and that takes us back to our earlier point about having annual budgeting as opposed to multiyear budgeting. We are starting that work, but it will take many years, and a number of years of capital funding. We have raised the issue and are discussing it with the Government.

Malcolm Graham: I am conscious of the time, so I will say that I support everything that John Logue has said.

On summary case management, it is important to recognise what is different about the pilots. I believe that the ambition is to roll out summary case management over the course of the next calendar year. It is right to consider rolling it out in combination with some of the other digital changes that are taking place in the system, not because that is absolutely necessary for summary case management, as has already been proven through some of the pilots, but because it will accelerate the advantages and benefits that come from it.

John Logue has already highlighted how critical it is that the pilot has been judicially led and that it now has the support of the most senior judiciary in the country. That is critical for understanding how change happens across the court system. Case management is digitally enabled in many places, with digitally enabled evidence sharing, and we have made a substantive effort with some of the expenditure on digital at SCTS to enhance connectivity substantially in courtrooms across the country. There are wireless networks that are open to everybody who is working in the justice system, and they make a massive difference. In fact, they are a fundamental requirement for sharing evidence digitally, because people can access evidence online in the place where they are working. As John Logue has said, what lies at the heart of summary case management is early disclosure with a view to agreement of evidence. Now, we have different ways of presenting and sharing that evidence, with many more opportunities to come.

The final thing that I think is different about summary case management is the importance of partnership and of having some equivalence in the relationships between different people who have key roles to play. Clearly, the judiciary and the courts service are at the heart of that, with the Crown and the police being responsible for making the effort on the early disclosure of evidence, but we must be careful not to forget the criticality of the defence in any criminal case. Engagement with the defence through the programme has been exemplary, and I certainly plan to build on that through my relationship with the criminal committee of the Law Society of Scotland, for instance. That also applies to how I would want to pursue other changes.

Defence bar associations in Scotland have their own issues with the system, and they have raised them publicly. It is critical to note that, if we do not work with everybody who plays a key part in what is a public service, we will not be able to achieve the changes. One individual organisation or agency could effectively hold us back. Summary case management is an excellent example of where, through judicial leadership and partnership and through tone and feel, there has been a very different outcome. It prevents unnecessary churn, which will ultimately lead to a reduced court programme, and that means that there will be more trials where evidence is led. That is better for victims, and it could have better outcomes for justice, too.

As for the points that have been made about digitisation, I would agree that it is absolutely required, and the refresh rate of systems continues to increase. In our written submission, I point out that we will increasingly need additional sustained revenue budget to pay for IT as a service, instead of investing in a system. However, the legacy estate that we have been left with comes from a time when there were large capital investments in monolithic systems, which were then difficult to change.

In SCTS—

The Convener: I should say that we still have three members seeking to come in, and there will probably be a couple of supplementary questions, so I will just stop you there, Mr Graham.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning. There will probably be an opportunity for Malcolm Graham to reflect on some of the work that he has been talking about in response to one of my questions.

The main issue that I wish to address is one that came up when we had witnesses from Police Scotland before us last week, and it is an issue that the committee has grappled with on various occasions. I am referring to the amount of time that police officers spend in court. We heard some shocking figures from Police Scotland last week about just how much time is spent in court, including when officers are on annual leave or off for rest days. We also heard that, in about 90 per cent of cases, officers are not actually called to speak. We all recognise that from our work as MSPs and perhaps from previous roles before we came into Parliament.

11:00

What steps has the Crown Office and Procurator Fiscal Service taken to address that issue? We heard last week that there has been good engagement between the police and the Crown and that work is on-going. Can anything be

done to accelerate that and avoid police officers having to be at court unnecessarily? There could be huge savings in that for the police service.

John Logue: I recognise the issue that the police described to the committee. It is a priority for us in our working relationship with the police. The answer to any issue in the criminal justice system is never a simple one; it is never that only one thing needs to be fixed in order for the problem to disappear. What the police are understandably concerned about also impacts on members of the public who are called to give evidence in cases that do not go ahead, so they are called to give evidence more than once.

There are multiple causes of that, some of which rest with the preparation of the case. In some cases, the prosecution needs material from other organisations, including the police. If all that material is not available, the case cannot go ahead, and there are multiple reasons for that.

However, the very short answer to your question is that we are working with the police, who have done a great job in supporting summary case management. The change in police practice, to support the early disclosure of evidence at the beginning, is significant and is paying dividends to policing. A two-thirds reduction in the number of police witness citations in Dundee—as I think I said earlier—is the primary impact of our pilot on the issue that you have described. The police understand that, which is one reason why they are keen for summary case management to work.

That is the primary way in which we are addressing that long-standing issue, which is down to the way in which the summary system currently operates—it drives a lot of activity that is not always productive at the appropriate point. If we can implement summary case management in the timescales that Malcolm Graham has described, we will see a very different picture for police officers who are required to come to court and give evidence.

Fulton MacGregor: That would be good—any progress in that area would be welcomed by this committee and others.

Malcolm Graham, I will give you a chance to come back in on some of the stuff that you talked about and which both of you had begun to reflect on in previous answers. Could there be more efficiency in other areas of the criminal justice system? You had started to talk about some of the IT systems, for instance. Can you give some practical examples of how that work might create efficiencies, perhaps with social work or health services?

Malcolm Graham: To go back to your previous question, I will briefly mention that I certainly identify with the issue, as John Logue said. We

are heavily engaged in conversations on a variety of different steps that will make a difference for police witnesses. One that I hope to accelerate in the course of next year, which is included in our pitch for budget, is about the remote provision of witness evidence. We have made that available to expert and police witnesses, but only in the higher courts. The take-up of that this year has been encouraging. It got off to a bit of a slower start, between teething issues with the technology and perhaps some issues on the police side, but it has been used to good effect. It is not the whole answer, but it is a positive step whereby police officers do not need to come to court and can therefore be available where they work. I appreciate that those officers are not necessarily fully deployable, but it is part of the answer.

In relation to other parts of the justice system, the SCTS has been going through a programme of case management refresh. We started by moving to the civil online platform. The ambition on the civil side, which I appreciate is not within the purview of the committee but is within our budget pitch, is for an end-to-end digital process for civil justice, which, I think, we can achieve within a meaningful timescale. There will be a lot of learning from that for the criminal element of the system, which is far more complex and on a larger scale.

Another thing that we are doing, which is in the budget bid, is introducing a wholly new case management system in the Office of the Public Guardian Scotland, building on all the principles that I have spoken about so far. It will be a system that we can update; it will not be a bespoke, monolithic system that we will implement but will then have to replace in its entirety at a later stage down the road.

That will be the methodology that we will use for the consideration of the case management system on the criminal side, about which I have already had an early conversation with John Logue and other partners. We need to design a system that benefits the whole criminal justice system; we do not want something that is designed by and for one organisation, which happens to be the organisation that runs the courts. It needs to have at least a strong level of coherence and connectivity, if not more than that as we go through the process.

That is the next stage that we will move to for criminal case management, if we get the funding that we have asked for. The benefits that come from that will align with everything around summary case management that comes from the early disclosure of evidence and efficiencies in processing, which is done wherever possible by machines rather than by repeating human input. That means that the added value from our staff

comes from their skills and experience in running courts, in dealing with vulnerable victims and in meeting and dealing appropriately with jurors, who are a critical part of our system; it does not come from their inputting data to systems that are not able to share the data with other organisations or from data having to be input in multiple different ways.

The Convener: Liam Kerr has a supplementary question.

Liam Kerr: My question follows on very well from Fulton MacGregor's question. Malcolm Graham talked earlier about capacity planning, and he has just talked about collaboration throughout the system and, especially, the criticality of the defence. There is huge concern about legal aid levels, and there is evidence that the result is that criminal defence is struggling, with those whom we saw last week—Aamer Anwar & Co—exiting the legal aid area. Of course, we know that people are perhaps less keen to enter the profession due to the conditions and pay. Where will that situation end up, if we take the holistic view of the system that you are putting forward? What needs to happen if we are not to end up in that place?

Malcolm Graham: A healthy system needs to be run in balance, and balance means that every component part of that system needs to be able to coherently come together for the common purpose. If one part of the system is out of balance, it will hold back the whole system.

I do not have the evidence and I am not well placed to speak on behalf of defence solicitors across the country. You have already alluded to them making their own case in relation to their concerns. I would merely say that we will watch that closely, and I make a commitment to work with every part of the system to ensure that we are aware of what the pressures are. I will do what is appropriate within my roles and responsibilities to ensure that concerns are either flagged or, where I am responsible for them, addressed.

Liam Kerr: John Logue, do you have any thoughts on that?

John Logue: I have never practised as a defence lawyer, so I am not best placed to comment on issues such as legal aid or capacity. However, from my own experience, from defence lawyers I know and from what has been said publicly, I would observe that, at the moment, the way in which the summary courts in particular operate often requires defence lawyers to be in multiple places at the same time. That is a challenge for them in operating their business, and I can imagine what that is like.

Alongside all the other benefits that we have talked about in relation to summary case

management, there is no doubt that having a smaller court system with greater certainty removes a lot of that burden for defence lawyers. That has already been said. Indeed, in the pilot evaluation, one of the lawyers in Hamilton who took part said that, in his experience, he has found it easier to be able to manage his business by having fewer multiple commitments on the same day—he said so publicly, too, I think. It is another issue in which summary case management will help.

Liam Kerr: That is interesting.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I have a quick question for John Logue before I move on to Malcolm Graham.

There is a story in the press today about 4,600 Covid deaths in care homes still being under investigation by the Crown Office. How is operation koper going, and what is the timescale for investigating the remaining cases?

John Logue: I am not aware of any press story today, although there might have been press reporting yesterday.

Rona Mackay: It might have been yesterday; I beg your pardon.

John Logue: I think that the press story was commenting on the information in my letter. The clarification that I should offer in response to your question is that those are not 4,600 care home deaths; they are 4,600 deaths that are in some way related to the pandemic and that procurators fiscal are investigating.

Rona Mackay: Right.

John Logue: To go back to my point at the very beginning about evidence of progress in the past year, I think that the committee is aware from previous evidence that, when we established the new capability in the organisation to focus on Covid deaths, we started with about 6,000 cases of deaths to investigate. What the news article is describing, based on my letter, is the remaining case load of deaths to be investigated. Some, but far from all, of those cases relate to care homes. If it would be of interest, I could try to break down the data in more detail after the meeting.

Rona Mackay: Would it be right to say that that work began in 2020 and that it might take a few years to conclude?

John Logue: The pandemic began in 2020, but I would need to double check when our team was established. I think that the resource that allowed us to establish a team of about 90 staff did not take effect until about 2023.

Rona Mackay: There is some inaccurate reporting here.

John Logue: We were given Government funding to do that because we explained that it was essential and needed to be done. The funding was for an initial two-year period to take us to March 2025. We are making progress but, with more than 4,000 cases still to be investigated, I do not expect us to be able to conclude all that by March next year, so part of our budget discussion with the Government is about continuing that funding to allow the work to continue. It is difficult to put an end date on it with any certainty.

Rona Mackay: That is helpful.

John Logue: I hope that the figures that I have given you show that we are making progress on the work.

Rona Mackay: The work is in progress. Thank you; that is helpful.

Malcolm Graham, I have a question about virtual domestic abuse courts. You say in your submission that you require agreement on funding for a pilot of those courts. I am a bit confused, because I understood that there were already pilot domestic abuse courts. Were those physical courts rather than virtual ones? What level of funding would you need to set up virtual courts?

Malcolm Graham: Thank you for the opportunity to clarify that. There are domestic abuse courts in parts of the country, some of which have been running for a long time. For instance, they have been running in the west of Scotland for more than 10 years.

There is a really exciting opportunity to bring together the benefits of summary case management while trialling that in an entirely virtual way. We propose to do that in Grampian and in the Highlands and Islands, where the benefits of doing that virtually might be most strongly felt because of the rural and remote nature of those areas and the travel that is involved for all individuals. That would be the first time that we would have an end-to-end, trauma-informed and specifically designed court process, and doing that for domestic abuse cases would undoubtedly be the right place to start.

We have done a lot of work on that and everything is ready to go, with the exception of the provision of some temporary funding for the pilot. We have asked the Government to give us that from the start of next year, to ensure that there is recognition of the additional work that is being undertaken, particularly by defence solicitors. The on-going debate—if I can put it that way—is about the best way to recognise that in the absence of evidence of what that additional work is. The purpose of the pilot is to prove the concept, and I remain in conversation with Government officials and the cabinet secretary about our hope of securing the funding for the start of next year.

11:15

Rona Mackay: That is really encouraging. You will know that women's organisations, including Scottish Women's Aid, are very much in favour of that, so that is a step in the right direction.

Katy Clark (West Scotland) (Lab): I have a quick supplementary question on Rona Mackay's point, before I ask a general question about funding.

My recollection is that, during the pandemic, there was a virtual trials pilot process in Aberdeen that involved many domestic abuse cases. However, in reality, very few cases operated virtually, because both parties had to agree to take part in the pilot. Is the new proposal different from what happened in the previous pilot?

Malcolm Graham: Yes, it is different. There were a number of pilots of virtual custody appearances as well as, in a smaller way, virtual trials. This pilot is different in the way that it has been conceived. The group that met to design what the court process would look like included everybody who would need to sign up to the process—to go back to my earlier comments—from the defence to the Crown Office, the police and, most important, Victim Support Scotland and some of the other victim support and advocacy agencies, which play a key part. Therefore, this pilot will be different from some of the previous ones, but it will build on the learning from those, too.

Katy Clark: Do both parties have to agree to the process? Do the accused and the defence agents in each case have to agree to take part in the virtual trials pilot?

Malcolm Graham: That will remain to be seen. I do not think that we have quite nailed down the process in order to know whether we will be able to overcome that.

Katy Clark: I understand that that was a problem before, so it would very much be appreciated if you could keep us closely advised on that.

This evidence session relates primarily to budgets, and we have asked questions about a number of areas. I understand from the submissions that, for next year, the Scottish Courts and Tribunals Service is suggesting an additional £20.8 million in revenue and the Crown Office and Procurator Fiscal Service is suggesting an additional £16 million in revenue. We have heard about a number of proposals and work that might have substantial budget implications. I will go through those proposals and ask whether we can get some more information on those today or in writing after the meeting.

In relation to the summary case management pilot, as we know, there have been attempts to get better case management in the court for many decades. It sounds as though what might be different on this occasion is the very central role of sheriffs in driving that and perhaps their being given more powers to do so. However, that can work only if other parts of the system are resourced. What work is being done on the financial implication of that, even if that will be on a one-off basis over a small number of years? For example, in order to use and agree police evidence, you need the police to play its part, COPFS must be able to provide the evidence to the defence, there has to be a defence agent who is able to take instructions from the client and they need to be able to agree well in advance of the case going before the sheriff. As you know well, that all has resource implications. Often, one part of the process fails, and, as a result, it is not possible to agree something in court.

Therefore, to what extent are you looking at that as a whole system, and what might the resource implications be? If you cannot give the committee that information today, which I would fully understand, could you write to us about that—not just in relation to this year's budget but with regard to what that cost might be?

As you know, a number of us, as committee members, met PCS, which published its report yesterday. The report noted that there had been problems with COPFS's information technology system for many years. It said:

"A plan to develop a new case management system, called Phoenix, was abandoned in 2010 after millions of pounds were invested, due to budget cuts following that year's General Election. As a result, COPFS has continued using the same IT systems deemed unfit for purpose back in 2010."

The committee has heard a lot of detail about the problems that that causes. System failures means that the system goes down for many hours or for a day at a time, and there are problems with postal citations for witness statements.

There are many other problems that relate not only to COPFS but to the fact that different IT systems in the justice system cannot speak to or share information with each other. That sounds like a mammoth challenge that involves more than just one part of the system. Will you provide us with an understanding of what needs to be done, not just this year but in relation to the investment implications for justice budgets and potential savings? The committee would then be able to look at that over a period of time. Those are two issues that you might already have done work on and that you could look at and respond to the committee on.

The Convener: I am mindful of the time. I will let the witnesses respond to that, but there has been a lot of discussion of the whole-system approach, which both our witnesses have spoken about at length, and reference was made earlier to the PCS report. Therefore, given what we have already covered, there would be value in written follow-up responses.

Malcolm Graham: I will be brief. Katy Clark provided a good summary of what I have said and of the discussion. In relation to summary case management, all the additional funding that is required will come in bids for other digitisation processes that will support it, as opposed to a bid for an increase in summary case management funding. However, I agree with Katy Clark's point, which I have also emphasised, that a sustainable and well-balanced system is at the heart of ensuring these improvements for the future.

On the wider budget, I have flagged up additional pressures, which are itemised. As I said at the start of the evidence session, those amount to around £14 million. We are also seeking an additional £6.4 million for new digital transformation. I have covered in detail how that might be spent. However, I am also seeking the baselining in the budget of the recurring £21 million of RRT funding. That is important because, to go back to where we started on multiyear planning, that funding is not currently secured in the budget on an annual basis—it is deemed to be additional and temporary. I am clearly making the pitch that that needs to be a baseline part of our budget so that we are a sustainable organisation.

On Katy Clark's final point, I am happy to come back with further detail on investment in digital processes and on the benefits and savings that might come from that over a prolonged period.

The Convener: I will give you the final word if you wish, Mr Logue. You do not have to add anything.

John Logue: I will say a few words, but I will be brief and we will follow this point up in writing.

In general terms, it is difficult to do what Katy Clark is asking for, because of the period over which the work requires to be done, if we are honest with ourselves. In conversations with staff, I am clear that modernising IT in our services could easily take five to 10 years. The days of building one big new computer system that fixes everything are long gone, if they ever existed.

Over a period of years, we use our capital budget to invest either in new tools that we can turn on so that we can switch off the old ones that people find frustrating or in updating the existing systems to keep them going. Although I get the point that PCS made in the report that staff find some of our existing systems frustrating, I

emphasise my earlier point that that relates to some, not all, of our systems. The key example that I would emphasise in that regard is the digital evidence sharing system, which we have not really talked about today and which is very simple to use. At a stroke, it cut out all the movement and copying of information, the use of discs and pen drives and all the risks that that involved—all that went overnight.

Things are happening in some of our offices that are benefiting PCS members, so it is important to keep the question of IT difficulties in context. Even the systems that our staff find frustrating actually have a very, very high standard of availability and reliability. There are things about using them that are frustrating. I find that, too, and I understand and agree with the staff who find it frustrating, but it is important to put that in context. We are not an organisation that has only one system that is many years old and is not fit for purpose. I do not think that that is the picture that PCS was trying to create, and I would not want the committee to have that picture.

We will be able to share the information, such as we have it, on our immediate plans for the modernisation that we are talking about. However, for the reasons that I mentioned at the beginning, it would be very difficult to project more than two or three years ahead or even further, which, realistically, is the timescale that we are talking about. I suspect that I will be gone from the organisation before it achieves everything that I want to see in terms of the digital tools that committee members probably have in mind.

The Convener: I will bring the evidence session to a close. We have overrun a bit but that discussion was valuable. I thank both our witnesses for attending. We will have a short suspension to allow for a changeover of witnesses.

11:25

Meeting suspended.

11:31

On resuming—

The Convener: For our next panel of witnesses, we are joined by representatives of the Scottish Prison Service. I extend a warm welcome to Teresa Medhurst, chief executive; Linda Pollock, deputy chief executive; and Gerry O'Donnell, director of finance. I intend to allow about 75 minutes for the session. I ask for concise questions and responses, and for brevity, as there is a lot to get through and a lot that we are interested in.

In addition to papers 1 and 2, which members already have, I refer members to the written submission from His Majesty's Inspectorate of Prisons for Scotland, which was circulated separately and is relevant to our questions.

I will kick things off with general opening questions for Teresa Medhurst. In your view, what are the main financial challenges that are facing the Scottish Prison Service? What advice has the SPS given to the Scottish Government on the budget resources that are needed for prisons in 2025-26?

Teresa Medhurst (Scottish Prison Service): Good morning, convener and committee members. I welcome the opportunity to speak to you this morning and to answer questions about the budget. I ask you to be patient with me as I am struggling with my voice. My colleagues will step in and help out when I have difficulty.

On your first question, you will know from our submission that the SPS is a complex and demand-led service. The prison population has once again tipped over 8,300 prisoners. Today, there are 8,313 prisoners, with 125 individuals who are on home detention curfew. Operating and infrastructure expenditure is often subject to fluctuations that are outwith our control. A large proportion of our budget is exposed to inflation and to public sector pay policy. Therefore, we are limited in the tools that we have available to address and mitigate cost pressures from new and emerging challenges.

We are experiencing critical pressure as a result of the rising prison population. Currently, the Scottish Government's modelling figures are available only six months in advance. Working on six-monthly population figures makes it very difficult for us to plan and prepare even a year in advance.

In addition to the rising costs from population pressures, which are related to payroll and prisoner-related costs, there are also costs that are related to an increase in complexity. We are seeing increased social care costs and increased costs associated with security in relation to things such as drone activity, which has increased significantly this year.

On the pressures that we are experiencing just now arising from the population increase, we have seen a rise of more than 900 in our population since the beginning of 2023. That equates to an establishment the size of Barlinnie, which is clearly very significant.

We also have two private sector contracts—one is with a private sector prison, HMP Addiewell, and the other is the escorts contract. The costs of those continue to be above normal inflation levels. Additional costs are required for HMP Kilmarnock,

which came into the public sector for the first time in March of the last financial year. The associated cost increases are an impact of the enhanced terms and conditions with the transfer of staff into the SPS.

We remain committed to our five-year corporate plan. Our strategic intent is still to provide safe, secure and rehabilitative regimes and environments in prison. Additional funding will be required for that, so we have been looking at our case management processes. We have a four-year plan to make improvements in that area, which will improve progression for long-term prisoners. We also need body-worn cameras for security for staff in prisons. Therefore, there is a range of factors that we want to continue to develop that are in line with our corporate plan.

We recognise all the pressures that we are experiencing this year. We started with a funding pressure of around £18 million, which, over this financial year, due to the increased costs from HMP Kilmarnock, has risen to just over £20 million of in-year cost pressures. We have been working really closely with the Scottish Government during the year, having discussions about those cost pressures for this year alone.

We have done some high-level forecasting, and we are continuing with more detailed budget forecasting across the organisation. We submitted high-level figures to the Scottish Government last month. The figure that we consider that we require for our revenue budget, in addition to our current budget, would be more than £53.6 million, and our capital request for next year would be for £387 million. The bulk of that funding would be for HMP Highland, which is already under contract, and for HMP Glasgow, for which we are yet to sign a contract.

I think that I will stop there, convener.

The Convener: Give your voice a break. Thank you for that helpful opening scene setting.

I will pick up on the prison population, which is pretty much uppermost in all our minds. We recognise the significance of the challenges that that places on the Scottish Prison Service. At 25 October, the prison population was sitting at 8,226, and, as you say, it is expected to rise, with several prisons already over capacity. What are the implications for the Prison Service arising from those increasing numbers—specifically the budgetary implications that we are looking at today? I know from your submission that there are practical things, such as the cost of food, social care, healthcare and so on. It would be interesting to hear a wee bit more detail on that.

Teresa Medhurst: What we are unable to cost is staff time. When the population increases in number and complexity, we are talking about far

more prisoners who, for example, are in our talk to me process, or who are being managed because they are at risk of substance abuse. All those processes require to be case managed, and case management takes time and takes staff away from their daily duties.

In addition, when we are overcrowded, we struggle to move people across the estate. For example, at any one time, around 8 to 10 per cent of our population is involved in serious organised crime gangs. Below that, in most of the major cities, there are localised crime gangs. At one point, the governor of HMP Edinburgh indicated that she was having to manage 14 localised gangs below the serious organised crime gang structure.

To keep people safe, we must apply rule 95 far more frequently, to keep people out of association. Normally, we would be able to move them to other locations, but if we are unable to do that because we do not have the spaces to separate people out, all of that needs to be case managed. We have to restrict and constrict our regime activity—our purposeful activity. Our ability to provide services and support to people through rehabilitative activity is constrained because we are concentrating on keeping people and our prisons as safe as possible. Although there are costs associated with food, clothing and so on, those other costs are the unseen costs.

The other point about staff time is that when staff focus more on transactional work and on heightened case management, they are unable to manage relationships as well as they normally would. Tensions then rise in prisons, and staff are not able to detect and identify information that helps our intelligence analysts, nor understand when people are experiencing distress. Staff are being kept continuously busy and are focusing on immediate tasks, as opposed to looking at the broader picture in our prison estate.

The Convener: I take it that that makes it quite difficult to put a figure on it. You spoke about unseen costs—a lot of what you have set out are impacts or outcomes that I imagine are quite difficult to quantify in budgetary terms. From what you are saying, presumably there is quite a significant budgetary impact, in relation to not only the practical aspects that we have spoken about but some of the things that are not quite so obvious. Is that fair to say?

Teresa Medhurst: Yes. We have tried to put in some quantification, but it is fairly high level around what additional resource each establishment needs in order to settle things a bit more. We are still not able to get on the front foot. The £53.6 million includes some additional staffing costs to ease some of those pressures.

My concern is that we cannot plan or predict where the population will increase. For example, when we undertook the emergency early release arrangements in June and July, we anticipated that we would have a three-month window in which we would be able to ease the pressure across the estate. That was not realised and the pressure has continued. It eased the pressure somewhat, in that we are still sitting at around 8,300 prisoners, when we had predicted that, at this time, the figure might be 8,500. However, we are still unclear where that is likely to go into next year, and I cannot recruit staff any more quickly than we are recruiting at the moment.

The Convener: Thank you. That is very helpful indeed. I will open up the questioning and pass over to Liam Kerr.

11:45

Liam Kerr: Good morning. I will perhaps direct this question to Gerry O'Donnell, because it is a finance question.

In her opening remarks, Teresa Medhurst mentioned that modelling was not available until six months prior to any particular point in time. If it is not available until that point, how can you realistically be expected to budget for what is coming up? You might not know the answer to this, but how much of a challenge do you think that it would be for the Scottish Government to give you more lead time?

Gerry O'Donnell (Scottish Prison Service): When we put together our budgets, one of the key drivers is what the prison population will be. In addition to the information that we get from justice analytical services, we have our own intelligence. We have people who, over the years during which I have been with the SPS, have been able to provide us with predictions of what they think the population numbers will be, and those have been pretty on the money.

Over the past couple of years, we have put in figures for what we estimate that the population is going to be. That could go up or down, and we flex our budgets accordingly, but we have been able to budget pretty close to the mark. Going forward into next year, we anticipate that we will have a high prison population throughout the year.

Teresa Medhurst: I think that Gerry O'Donnell is absolutely right. From January 2023, there was a slow, steady rise, but from the beginning of April this year, there was a marked increase, of which we had no prior notice, and everyone struggled to understand the reason for that. We cannot plan on that basis. That increase of 200 in six weeks could happen again. I have no idea why it happened—that is for others to answer—but that is the kind of unpredictability that we are dealing with at the

moment and have been dealing with in this financial year.

When we are not sure what the position will be, it is extremely difficult to plan for a budget. The only thing that I would say is that, all through this period, we have continued to engage closely with the Scottish Government and to make it aware of the pressures that we are experiencing. However, as I said, I cannot retrospectively magic staff out of thin air in order to deal with those pressures. We are placing more pressure on our existing staff group, and that can be sustained for only so long.

Liam Kerr: I have a very quick supplementary, which has just come into my mind. Do you know, off the top of your head, what the capacity of Barlinnie and Inverness prisons is, and what the projected capacity of Glasgow and Highland prisons will be?

Teresa Medhurst: The number of cells is not necessarily a predictor of capacity. There is complexity. In 2019, the Prison Service hit a peak of just over 8,200 prisoners. At that time, the then chief executive indicated that he could take another 500 prisoners into the prison estate. Five years on, I am not saying that. The difference now is the complexity.

When somebody comes into custody, we undertake a cell-sharing risk assessment. Each individual is assessed in relation to whether they can share a cell and what risks are associated with that individual sharing a cell. We could have 20 individuals admitted to Edinburgh prison tonight. That might result in 60 moves of other individuals to create the right spaces in the right locations, because, legally, we have to keep certain types of prisoners separate. Asking people to pack up and move in with someone whom they do not know creates all sorts of tensions and pressures. Even though 10 single cells might be available, there might still not be sufficient capacity. We are making least worst risk decisions based on the information that we have. In other words, we will find space for people, but it might not necessarily be as safe as it would be if we had fewer prisoners coming into the system. That is why I try to shy away from specific numbers.

As I said, we could have taken 8,700 prisoners in 2019. However, the complexity has increased to such an extent in the past five years that, because we released capacity when the children were moved out of prisons earlier in the summer, where we are sitting now, at 8,300 to 8,400 is where our limitation lies.

We have the numbers for Glasgow and Highland prisons, which will increase capacity.

Gerry O'Donnell: The design capacity will be 1,344 prisoners for Glasgow and 200 prisoners for Highland.

Liam Kerr: I am grateful. That was an interesting answer, if I may say so.

I will stick with capacity. Gerry O'Donnell, you might wish to take this question about the recent early release programme. What was the budgetary impact of that emergency release of prisoners? Is there any strategic and holistic plan, as you understand it, at the Government level that suggests that that situation will not arise again?

Gerry O'Donnell: The budgetary impact was not huge. The idea was to create capacity and space for the backlog that was coming through, because we were going over the numbers of prisoners that we had anticipated. I am not able to quantify the impact on the budget. The programme will have reduced some of the costs that we would have had if our numbers had gone a bit higher but, as Teresa Medhurst rightly said, at the start of the year, we identified where our outturn forecast was going to be and that is still the same, as we speak today. There has been no impact on our budget as a result of any savings from the release of prisoners, but it has potentially reduced our scope for increasing our budget.

Liam Kerr: I understand.

Teresa Medhurst: No budgetary figure was put on the programme at the time because we had to pause other work and release capacity to other places. Something that we did, which came at a cost—I do not know whether we have the figures, but we can certainly send them to the committee—was to centralise assessments for home detention curfew. That was one of the pressures on establishments. It cost roughly £400,000 to centralise that team and ease the pressure, which gave governors more capacity to deal with things such as emergency early release. However, we are looking at developing costings for the proposed emergency bill that the cabinet secretary has announced will go through the parliamentary process next year, because that will come at a financial cost to the organisation.

Liam Kerr: I understand. Thank you very much.

Katy Clark: I want to ask about capital funding, particularly in relation to the building of the new prisons. You have already spoken about Glasgow and Highland and, as you know, there is a lot of pressure on other prisons, such as Greenock. You mention in your written evidence that you have an underspend of £25 million in this year's capital budget. Can you confirm what is likely to happen to that? Could you also outline the current position, particularly the timescales for the Glasgow and Highland prisons? We fully understand the pressures of rising building costs, but could you give the committee an update of where you are with that?

Teresa Medhurst: I will ask Gerry O'Donnell to speak to the figures. We have concluded the design for Glasgow, which is positive, and we are in commercially sensitive discussions about the price. That will inform the timescale for signing the contract and for budget availability. That is where we are with Glasgow.

We are in a much better position with Highland, because the contract was signed in April this year and the build of the prison is due to be completed in August to September 2026.

With regard to the other prisons, we have capital investment in those, but they have not been included in the Government's infrastructure investment plan. It is more likely than not that the Glasgow prison will have to be concluded before any further investment is made in prison build. However, Gerry O'Donnell has more detail on the figures.

Gerry O'Donnell: I can explain how the £25 million underspend has come about. The capital budget for this year was set a year ago, and at that time we were not in contract for either Highland or Glasgow. As Teresa Medhurst said, we are still not in contract for Glasgow. The difficulty is that those are large projects and a one-month delay represents a significant sum of money. A year ago, we were anticipating that Highland would start on a certain date and that Glasgow would progress this year.

We almost always have to budget for the optimum position because, at the end of the day, we do not want to find ourselves not having enough money, so that initial budget was set, but it took a bit longer to get Highland signed. That is normal for large construction projects—there is quite often a delay in the process of agreeing the price and the terms and conditions. That happened, and the impact is that there has been an underspend this year.

The good thing is that we were able to identify that to the Scottish Government very early, so that capital can be repurposed. We knew at the start of the year that that was roughly where we might be. We thought at the outset that we would be have an underspend of around £25 million.

Fulton MacGregor: I want to ask about changes in the population of the prison estate. That has had more news coverage recently, particularly in relation to the complex health concerns and needs that are arising. I have asked about that in the chamber. A wee while ago, one of the governors—I think that it was the governor of HMP Glenochil—suggested that, at some point in the future, we might need institutions that are more like care institutions. What impact do you expect such health and social care needs to have on your budget?

Teresa Medhurst: I will say a little about that, and then I will ask Linda Pollock to comment. We have certainly seen an increase in social care costs. Over the past couple of years, there has been a 16 per cent increase in the number of individuals who require social care. The other thing that we have increasingly seen is people who require palliative care and people who are choosing to stay in prison rather than be transferred to hospital or to a hospice for end-of-life care. The complexity around mental health needs and those who are experiencing substance issues is also increasing.

All of that has implications not just for our staff in terms of training, support and awareness, but in relation to our partners because, clearly, we cannot undertake the assessment of need or deliver the care that is required without the input of national health service colleagues and health and social care partnerships. That is quite a complex landscape. However, we have been working with a range of partners and the Scottish Government across a number of health workstreams over recent years.

12:00

Linda Pollock (Scottish Prison Service): Mr MacGregor is absolutely right about the complexity of health, social care, mental health, addiction and neurodiversity issues that are having a real impact on how we care for our residents. I think that the interview that you were referring to was about ageing prison populations. Because of the number of historical sexual offences that are going through the courts, there is an increase in the ageing prison population, which has high social care needs. Our cost for social care this year is more than £2 million, but I suspect that that is not the full cost, because a lot of that care is picked up by our staff. There is also a lot of impact on our NHS colleagues, particularly because of the significant numbers of prisoners who have mental health issues and addiction needs. As Teresa Medhurst indicated, we are seeing an increase in the number of health conditions, particularly with the older generation coming in, which requires more input from health services.

All that takes up a lot of our staff's time. I was in Edinburgh prison yesterday, and staff were saying that, sometimes, they feel like carers for some of the folk in our care. There are complexities in providing social care for the ageing population, as well as in picking up on the mental health of the people who are coming in and any addictions that they have. It is really important to pick that up.

Fulton MacGregor: How much of a rise in the ageing population has there been recently? Have you been able to put that into stats or numbers?

Teresa Medhurst: We do have statistics. I am sorry that I do not have them with me, but we can write to the committee separately and provide those stats, because we monitor age profiles over years. We have seen an increase in the number of people who are elderly. People who come into custody often come in with poor health conditions, so we normally tend to age them about 10 years above where they are sitting. We have seen an increase in people who have come in when they are in their 60s, 70s and 80s.

As Linda Pollock indicated, there have in particular been successful prosecutions around historical sex abuse cases, and longer sentences are being handed out by the courts, particularly in relation to serious organised crime, so the prison population is ageing and it is anticipated that that trend will continue to increase.

Fulton MacGregor: I am the convener of the cross-party group on adult survivors of childhood sexual abuse. The convictions that you have spoken about have been welcomed by survivors in that community.

If that trend is going to increase, what is the answer? Sticking to the pre-budget scrutiny purpose of today's meeting, what is the answer to dealing with the social care and health needs of an ageing prison population? Is consideration being given to how the estate is set up, such as having part of the estate set aside for an older population, as you do with other types of offences or characteristics?

Teresa Medhurst: We have been looking at a range of options. We clearly do not need the most expensive, high-security buildings for people who have social care needs, so one of those options would be for something that is more akin to a hospital-type care home facility. We have been undertaking work on that and scoping out options, but, unfortunately, because of the population increase this year, we have not been able to take that further forward at this time.

Fulton MacGregor: If further work is done, you could perhaps come back to the committee on that.

Teresa Medhurst: Absolutely.

Gerry O'Donnell: In the design of HMP Glasgow, which is replacing Barlinnie, there will be a special block for social care, which will be designed specifically for high social care needs.

The Convener: That is very interesting.

Sharon Dowey: I have specific questions on HMP Kilmarnock, which Teresa Medhurst mentioned in her opening remarks. It came back under SPS control on 17 March this year. What was the budgetary impact of that move? Will there be any further impacts going forward and, if there

are, do you expect those to be covered by the Scottish Government?

Gerry O'Donnell: One of the challenges is in comparing the previous regime in Kilmarnock with the one that is going forward. It is a bit more complex. This year, our budget forecast for Kilmarnock is £20.8 million. In the last year of operation, the price that was contracted with the private sector provider was about £18.8 million. However, we have to take into account inflationary factors this year, which, arguably, might have taken that figure up to £19.5 million. There are a couple of other things to point out. The contractual price at Kilmarnock was for 548 places. We are currently operating Kilmarnock at 596 places. That is an example of why it is difficult to do a comparison.

We are going through a harmonisation process this year that will require further costs, which are in our budget submission. We anticipate that, with the additional costs going through, the cost of running Kilmarnock will go up from £20.8 million this year to £23.9 million next year. As Teresa Medhurst said, harmonisation comes with a lot of changes in staff benefits and terms and conditions. One key change is going from a 40-hour week to a 35-hour week. That is as well as harmonisation with SPS terms and conditions. That cost increase reflects the fact that we are operating with a higher prison population. That is the cost of running Kilmarnock next year and it is in our budget submission.

Sharon Dowey: You put in for £3.1 million of increased costs. Is that in staffing alone?

Gerry O'Donnell: Yes, that is for staffing, but there are probably other costs, such as inflationary costs for food and so on.

Sharon Dowey: The increase includes other things. What would be the impact if you did not get it?

Gerry O'Donnell: There is a contractual agreement in place, so we would have to look at other areas of savings across the service.

Teresa Medhurst: The £3.1 million of additional funding has been included in our submissions to the Scottish Government and our discussions with it, so it is fully aware and fully appraised that that is our funding position for this year. We have put in full-year figures for next year, and those just become part of the pot of money. Not receiving that funding would not have a detrimental impact on one establishment in particular, but would have a detrimental impact across the whole system. If we were not to get a particular part of the funding, we would have to look at the distribution of funds across the whole organisation. They form part of the same pot.

Sharon Dowey: We heard from the previous panel of witnesses about the reform of their systems. One of the biggest costs in Kilmarnock is the increase in staff costs. Did you take into the SPS any learnings or best practice from the operation of Kilmarnock, so that you could save money in the rest of the estate?

Teresa Medhurst: There is on-going consideration of that, as part of the harmonisation. Until March, we were not on the ground in Kilmarnock to understand how it operated. We have been looking at its systems processes since then, and that learning will be migrated into SPS once we are clear about it; however, that process is still on-going.

The focus and priority has been our agreement, as part of the Scottish Government's position, that we would move to a 35-hour working week on 1 December, which Kilmarnock staff were obviously very keen to do. The focus has been to harmonise terms and conditions, including that 35-hour week, for 31 December. However, the intention is still to focus on that learning, to see whether there are efficiencies or savings that we can transfer from Kilmarnock to other parts of the SPS.

The Convener: Liam Kerr has a supplementary question.

Liam Kerr: I have a brief question on Kilmarnock. I understand that, when HMP Kilmarnock was privately run, officers there had body-worn cameras and there were dedicated drug sniffer dogs. Was the SPS given a budget to continue to provide those, or have you had to change that provision because you do not have the budget to maintain it?

Teresa Medhurst: As I understand it, the drug dogs are now much happier because they have a new van and better accommodation, so they are still in place and settled. The staff are still there.

The body-worn cameras were Serco's equipment and were coming to the end of their life. We were undertaking a pilot in the SPS, anyway. In three establishments—Low Moss, Barlinnie and Perth—we are piloting our own body-worn camera system, which is much more modern. When the pilot is complete, if it is successful, we will have to make a budget submission to the Scottish Government for full funding for body-worn cameras. The early signs are that it is having an impact on staff safety, which is good.

Liam Kerr: I am very grateful for that. Thank you.

Rona Mackay: Good afternoon. I will go back a wee bit to the issue of prison population and capacity. I am curious to know whether you think that a whole-system approach will be needed. I am thinking specifically about alternatives to

custody. Do you think that they are a solution, and is there enough provision for alternatives at the moment?

Teresa Medhurst: With regard to community provision, we all know that the position in parts of the public and third sectors across Scotland is patchy. A lot of services in communities are also under pressure. One of the concerns that came through in the consultation that the Scottish Government undertook earlier in the summer on long-term prisoners was about the capacity to respond to more people coming out of prison early. However, from my perspective, if there were to be more consistency and greater capacity, more people could benefit from community-based alternatives to custody. From research and evidence, we know that they are more effective than periods on remand or short-term sentences. I have been advocating the whole-system approach and that perspective.

Recently, due to the steep rise in population this year, there has been a much more forensic look at some of the things that have been happening across justice, which has been really welcome. For example, justice social work colleagues have been looking at the women who are on remand in Stirling—I know that this is an area of interest for you, Ms Mackay—and at whether there are alternative services in place to support those women. That work is on-going.

The number of people who fail to attend court has increased significantly since last year. There was a 100 per cent increase in warrants being issued for such offences in the first six months of this year, when compared with the period last year. We need to understand those issues better, because they are definitely driving an increase in the prison population.

Rona Mackay: Earlier, you mentioned the difficulties with throughcare, given the size of the population. In its written submission to us, HMIPS said that greater provision will be made available

“via Community Justice and the Third Sector”.

How confident are you that that could be part of the solution to the problems that you are experiencing with throughcare?

Teresa Medhurst: Throughcare services make a significant difference to people who come out of custody, who are very often still in a chaotic state. They are disconnected from their communities and have a range of complex needs that require a range of services and inputs to support them. Any kind of throughcare service definitely makes an impact.

The third sector has had significant success in that regard. When the service was in place within the SPS, it helped us to gain a better

understanding of the kinds of difficulties and problems that people face on their return to communities.

12:15

To be frank, there is a bit of a gap for people who are on remand. We know that, since the pandemic, people have been spending longer on remand, which can be for up to two years. They can be disconnected from their communities, services and other people during that time. We still have quite high levels of unplanned liberations every week from custody, and there is no support for those people, who then land on the streets.

Rona Mackay: I can see that that would be a huge issue. Throughcare would help to stop the revolving door of people coming back into the system.

Teresa Medhurst: Absolutely.

The Convener: I will bring Liam Kerr back in for another follow-up question. We have time.

Liam Kerr: Very good. I have a short thing to ask about. You mentioned employee safety, and rightly so. I am led to believe that recent statistics suggest that there has been a rise in the number of attacks on prison officers in the estate. Do you have any detail on why that might be happening? Is it due to the overcrowding that we have explored, the complex needs that Fulton MacGregor touched on, or the increased number of sex offenders and organised crime gangs in your estate, as is set out in your submission? Crucially, what funding do you need in the budget that would allow you to address employee safety properly?

Teresa Medhurst: That is a really good question, and a complex one. With any rise in population numbers, you will see an increase in violence and concerns about factors such as safety, because of the pressure that is created by having more people in the same amount of space. Tensions and pressures rise, and people become less tolerant.

An overlay to that is the increase in serious organised crime gangs, which means that we have seen increased credible threats to our staff over the past year or two. We can also overlay the type of substances—mainly benzodiazepines and psychoactive substances—that are coming into our prisons. It is the same in communities, and I am sure that our colleagues in Police Scotland would say that they are having the same experience. When people are taking those substances, their behaviour becomes really unpredictable and they can become quite violent towards staff, although they do not realise it. Very quickly, they can lapse into unconsciousness.

Staff would not know what they are dealing with when they are trying to save that person's life and bring them back around, after which the person would tend to become violent again. The environment that staff are working in is incredibly unpredictable. Body-worn cameras would definitely improve staff safety.

In addition, it would help to have further investment in our IT systems and technology. Some staff have to be tied to a desk, because they still work using desk-based personal computers, but equipment that they could carry around with them would help them to undertake other tasks and to input information and data at times when that is convenient for them. It would also give them immediate access to information and they would have more freedom to do more of the other work that they could be doing.

There are a range of factors in which investment would be helpful. We are intent on exploring how the information flow between ourselves and Police Scotland can be improved. We can work to improve on areas and make enhancements, but although the increase in prison population has been steady over a period of time, particularly over the past year or two, the complexity of what we are dealing with is causing the greatest amount of concern.

Another factor that I mentioned earlier was drone activity. We have seen that increase by more than 150 per cent in the first six months of this year, which is unprecedented. Again, investment will be required in drone detection equipment and, potentially, other types of equipment, because I would not want just to detect when a drone is coming over our establishments—I would want to prevent it.

Liam Kerr: Thank you for the depth of the answer. Is that sufficiently factored into your budget request such that, if you were to get that amount, it would allow you to take those remedial steps, but if you were not to get it, that would provide challenges to addressing the problems that you have raised?

Teresa Medhurst: Absolutely—that is correct. I am glad that nobody here fell off their seat when I mentioned the figure of more than £56 million. That is a significant amount of money, but it relates not just to the overall inflationary and cost pressures; it also factors in the complexity pressures.

Liam Kerr: I understand. I am very grateful.

The Convener: I have a couple of questions that I am interested in picking up on from the submission from HMIPS. Theresa Medhurst touched on Castle Huntly prison in earlier evidence. I note that, in the recently published thematic review on progression, there was a

reference to significant improvements being required in individualised case management, and in training and development of staff, if people in prison are to progress to less secure conditions—such as in Castle Huntly—in preparation for release, thereby optimising the benefits of the underused capacity. Are there specific blockages or challenges—for example, around staff training and development—that are adding to that and which, from a budgetary point of view, are of interest to the committee?

Teresa Medhurst: Absolutely. I agree with that, convener. Thank you for that. As with every other public sector organisation, the pandemic paused and halted a lot of our ability to undertake training, but we were still able to recruit staff to high levels. It has meant that we have fallen behind with our training activity in some critical areas, including progression.

There are some areas of good practice, particularly in HMP Shotts and in the open estate. Those places are migrating the work that they are doing and trying to share it across the estate. However, we need capacity to release staff for training. In order to do that, we need sufficient space within the system, but we do not have that at the moment. It is a challenge to release staff for training purposes—even for things such as control and restraint, and health and safety. In relation to progression, unfortunately, other things must come first. Although progression is, of course, a priority—we fully accepted the recommendation in the report from HMIPS—safety and security clearly come first.

Linda Pollock: I will come in with some stats. We have been doing quite a lot of work, particularly around population pressures, and we have done targeted work on progression. In the two female custody units, the Liliac centre is sitting at 100 per cent and the Bella centre is at 75 per cent, so we are seeing women moving through the system. Also, Castle Huntly is up at almost 80 per cent, so we are starting to move people through the progression system.

As Theresa Medhurst indicated in her opening comments, we have a team working on our case management programme to try to make it more risk-based and personalised. That is taking time and has been impacted by pressures, but that is something that we can focus on.

The Convener: That is really interesting. I was going to pick up on the situation with the community custody units that you have just mentioned.

However, I think that what you are describing is a real need for—and the importance of—probably quite specialist training, depending on where staff are deployed and their roles and responsibilities. I

presume that that will, as you have said, mean quite a significant abstraction from day-to-day business that you will have to cover, both in terms of managing the workforce and covering the costs. Is it fair to say that that is a really important aspect of managing the prison population, particularly given the challenges with numbers at the moment?

Teresa Medhurst: Absolutely. The other thing that I will mention that we have talked about is the range of complex needs that individuals have. As a result of that, an individualised case management approach is really important. Somebody who is, say, neurodivergent, will have a raft of individual issues that staff need to understand, work through and help to manage. Therefore, when we help somebody with criminogenic needs to work their way through things and progress, we need to think not just about issues to do with risk and taking a needs-based approach to case management, but about the raft of other issues that can make cases more complex and which staff need to be aware of, too, if they are to support people better and be informed in the work that they are doing. There is a lot more that we could and should be doing, but it is very challenging when we are struggling to get staff on the ground doing the work that they need to do, regardless of the other pressures that we are experiencing.

The Convener: As members have no more questions—and in the interests of your voices and vocal cords—we will bring this evidence session to a close. Thank you very much indeed for your time. It has been a really interesting session.

I suspend the meeting briefly to allow our witnesses to leave.

12:26

Meeting suspended.

12:27

On resuming—

National Performance Framework

The Convener: Our next item of business is consideration of a paper from the clerk on revisions to the Scottish Government's revised national performance framework and national outcomes. I refer members to paper 3.

If members have no comments, is the committee content to note the developments in and around the review of the national performance framework?

Members indicated agreement.

The Convener: That completes our business in public today. We now move into private session.

12:28

Meeting continued in private until 12:49.

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