

Criminal Justice Committee

27th Meeting, 2022 (Session 6), Wednesday 2 November 2022

Pre-budget scrutiny

Written submissions from witnesses and from other organisations and individuals

Introduction

1. The Criminal Justice Committee is holding its second oral evidence taking session today as part of its pre-budget scrutiny of the Scottish Government's forthcoming Budget for 2023/24.
2. As part of this pre-budget scrutiny, the Committee is also seeking to assess the potential implications for justice sector funding in Scotland in light of the current economic and inflationary environment, and the announcement by the Scottish Government of a broad flat cash funding settlement for the remainder of the current session of the Scottish Parliament out to Financial Year 2026/27.

Public call for views

3. The Committee undertook a public call for written views as part of this scrutiny. This consultation ran between 21 September and 21 October 2022. A copy of the public call for views is included in the Annex A (pages 3 – 5) for information.
4. The Committee had received 45 written responses to its call for views from both organisations and individuals. All of the responses will be available online on the Committee's 2023/24 pre-budget inquiry webpage from Monday 24 October: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-criminal-justice-committee/business-items/prebudget-scrutiny-202324> .
5. The Committee thanks all of those who have taken the time to respond to the call for views.

Written evidence from justice sector organisations

6. The Committee also sought a written response from the following justice sector organisations as their funding constitutes the bulk Justice portfolio budget-
 - Crown Office and Procurator Fiscal Service.

- Scottish Courts and Tribunal Service.
- Scottish Fire and Rescue Service.
- Scottish Police Authority & Police Scotland, and
- Scottish Prison Service.

7. In seeking a response, the Committee asked four questions, broadly similar to those in the public call for views, namely-

- I. What assessment these organisations are making of the impact of a possible flat cash settlement to the delivery of services for 2023/24? What contingency plans are in place? What is the impact on their services?
- II. Similarly, what assessment are these organisations making of the impact of a possible flat cash settlement on their capital spending for 2023/24?
- III. What assessment are these organisations making of the longer-term impact of the possible flat cash settlement out to 2026/27 if the present inflationary cycle continues beyond 2023?
- IV. Any other comments these organisations may wish to make on the potential impact of the flat-cash settlement on their organisation or the budget more widely

Oral evidence at this meeting

8. At its meeting today, 2 November, the Committee will take oral evidence from two panels of witnesses—

- Eric McQueen, Chief Executive of the Courts and Tribunal Service and John Logue, interim Crown Agent, Crown Office and Procurator Fiscal Service.

And then from-

- Teresa Medhurst, Chief Executive, and Gerry O'Donnell, Interim Director of Finance, Scottish Prison Service.

9. A written submission from the Scottish Courts and Tribunal Service is attached at Annex B (pages 6 – 15) for information.

10. A written submission from the Crown Office and Procurator Fiscal Service is attached at Annex C (pages 16 –22) for information.

11. A written submission from the Scottish Prison Service is attached at Annex D (pages 23 –29) for information.

**Clerks to the Committee
October 2022**

Annex A: Copy of the public call for views issued by the Committee from 21 September to 21 October 2022

Overview

On 31 May 2022 the Scottish Government's Cabinet Secretary for Finance and the Economy Kate Forbes MSP published the Scottish Government's [Resource Spending Review Framework](#). This set out the Scottish Government's scenario for budget spending of £180 billion over the four remaining financial years of the current Scottish Parliamentary session (Financial year 2023/24 to Financial Year 2026/27).

In the Framework, the Scottish Government set out a scenario for the allocation of £11.6 billion of public spending to the Scottish justice system over these four financial years as follows:

- 2023-2024: £2,839 million
- 2024-2025: £2,839 million
- 2025-2026: £2,954 million
- 2026-2027: £2,969 million.

These proposals, if realised, would represent an across the board, flat cash settlement for almost all parts of the justice criminal justice system in Scotland.

The UK Office of National Statistics [currently estimates](#) that the Consumer Prices Index (CPI) has risen by 10.1% in the 12 months to July 2022, up from 9.4% in June. A flat cash outcome would represent a significant real-terms reduction in spending across the justice sector if the current trend of high inflationary pressure continues into the medium to long term.

What might this mean for justice spending?

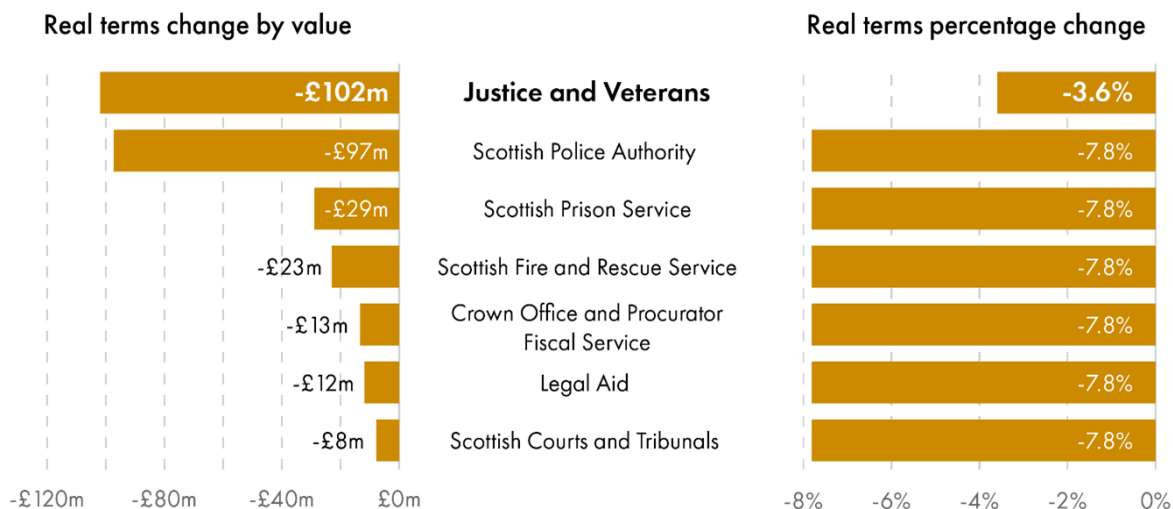
The Scottish Parliament Information Centre (SPICe) has produced the following information to indicate what this settlement may potentially mean, in real terms, if the current economic climate persists for the next few years.

Any real-terms shortfall in funding over this period may be substantially better or worse than the current estimate, depending on the inflationary pressure in each year up to 2026/27.

This estimate may also be affected by the forthcoming UK Government emergency budget, and the outcome of the Scottish Government's [Emergency Budget Review](#),

which the Scottish Government has confirmed would take place within two weeks from the forthcoming UK Government emergency budget.

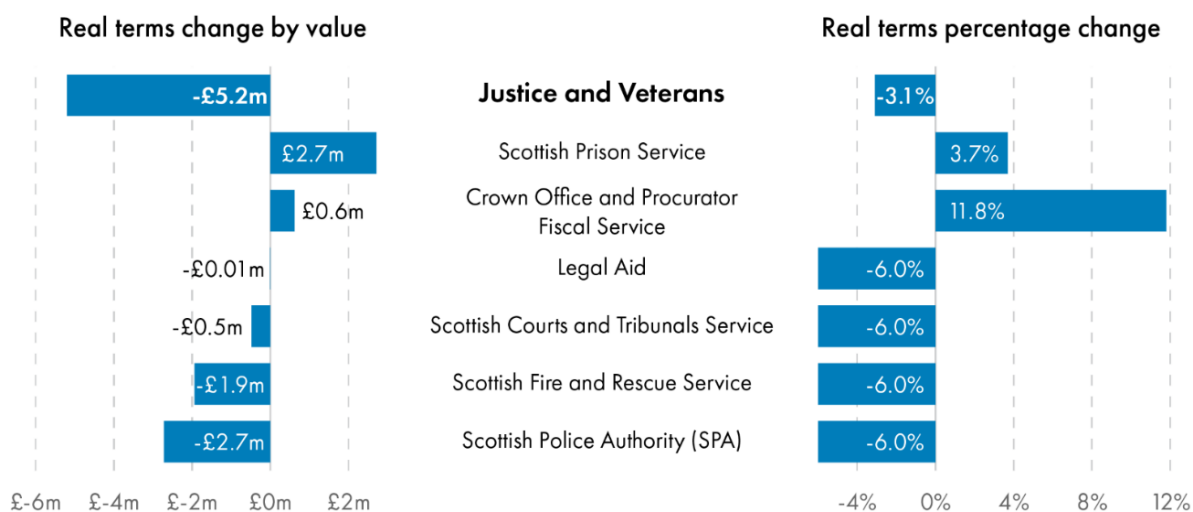
SPICe estimates that resource spending will fall in real terms by £102 million, or 3.6%.



There will be a cut to resource spending of 7.8% across the portfolio. These include the following reductions:

- Scottish Police Authority and Police Scotland: £97 million
- Scottish Prison Service: £29 million
- Scottish Fire and Rescue Service: £23 million
- Crown Office and Procurator Fiscal Service: £13 million
- Legal Aid: £12 million
- Scottish Courts and Tribunals: £8 million

SPICe's analysis also says that capital spending will also decrease in real terms by £5.2 million, or 3.1%.



Two elements of the portfolio will get an increased amount of funding:

- The Scottish Prison Service will receive an increase of £2.7 million (or 3.7%)
- The Crown Office and Procurator Fiscal Service will receive an increase of £600,000 (or 11.8%)

However, other elements of the portfolio will see their funding their funding cut by 6% in real terms. These include the following reductions:

- Legal Aid: £10,000
- Scottish Courts and Tribunals: £500,000
- Scottish Fire and Rescue Service: £1.9 million
- Scottish Police Authority and Police Scotland: £2.7 million

Questions

The Criminal Justice Committee would like to hear your views, or those of your organisation, on this situation:

- What are your views on the impact of a possible real terms cut in the funding for the Scottish justice sector for the financial year 2023/24?
- What are your views of the impact of a possible real terms cut in the funding for the Scottish justice sector for the financial years over the longer term if the present rate of high inflation continues beyond 2023?
- Any other comments you may wish to make on the impact of the possible flat-cash settlement on the Scottish justice sector or the budget more widely.

The deadline for submitting a response is 11:59 pm on Friday, 21 October 2022.

Annex B: Submission from the Scottish Courts and Tribunal Service

Thank you for contacting us on 21 September requesting that the Scottish Courts and Tribunals Service (SCTS) submit written evidence on the resource spending review process for 2023-24 by Friday 7 October. The Committee set out four questions on which evidence was sought – responses to these are provided below, alongside some commentary which is hopefully of assistance to the Committee as it conducts its scrutiny.

Background and Context

SCTS exists to support the efficient and effective administration of justice in Scotland. It does this by providing the people, buildings, systems and expertise to administer Scotland’s courts, devolved tribunals and the Office of the Public Guardian and Accountant of Court.

The total SCTS resource expenditure in 2022-23 is forecast to be around £183m. This includes in year budget transfers from the Scottish Government, an anticipated pay settlement and funding to support the criminal court recovery programme. The precise final figure is dependent on the level of in-year funding transfers made in the Spring Budget Revision, covering demand-led activity for which baseline funding is not in place, such as payment of members’ fees in relation to new business in a number of chambers in the First Tier Tribunal for Scotland.

The vast majority of our expenditure is committed in advance and can be subject to fluctuations which are not within our control. Table 1 overleaf provides a high-level overview of where these resources have been spent in the current year, alongside a brief explanation of the key factors that dictate costs in each area and the key factors that can cause those costs to change.

Where a cost pressure is identified as “demand-led” this means that the cost can rise or fall dependent on the level and complexity of business that enters Scotland’s courts and devolved tribunals. SCTS is not in control of those input levels and must therefore flex its capacity to deal with changes – or allow backlogs to accumulate should that not be possible.

Table 1 – SCTS Resource Expenditure Forecast 2022-23

Cost Category	2022-23 Forecast £m	What dictates cost in this area?	What drives future pressure on these costs?
Pay	79.4	Fixed cost/Business volumes	SG Pay Policy
Buildings	28.5	Fixed cost	Inflation (e.g. energy)
Judicial Pensions	15.3	Fixed cost	Demand led/scheme rules
Judicial Costs	2.6	Business volumes	Demand led/inflation
Tribunal fees	9.0	Business volumes	Demand led/fee rates
Office Services (e.g. postage, software, IT maintenance)	9.6	Business volumes / Digital	Inflation/demand
Supplies & Services (e.g. contractors, events, bank charges)	2.3	Business volumes / Digital	Inflation/demand
Training & Travel	0.9	Fixed cost	Inflation
COVID-19	2.0	Fixed cost	SG Guidance (e.g. ventilation, cleaning) Possible new variant
Court recovery	26.4	Business volumes	Demand led
Juror costs	3.4	Business volumes	Demand led
Court Orders / Reports (e.g. medical reports, sheriff officers)	3.4	Business volumes	Inflation
Total	182.8		

Whilst balancing the budget and making progress on reforms has been challenging in recent years we acknowledge the additional financial support that has been provided by the Scottish Government – particularly in relation to managing the consequences of the COVID pandemic. That funding has supported new investments, which have avoided civil and tribunal case backlogs and delivered the criminal court recovery programme which is on track to clear summary backlogs by March 2024, High Court by March 2025 and Sheriff Solemn by March 2026 – provided that both core and recovery funding can be maintained. It has also created the potential for significant further reforms which could deliver lasting improvements across the justice system, should it prove possible to maintain investment in the coming years.

Response to Committee Questions

What assessment you are making of the impact of a possible flat cash settlement to the delivery of services for 2023/24? What contingency plans are in place? What is the impact on your services?

Following the publication of the Resource Spending Review in May the SCTS performed sensitivity modelling to estimate the impact of a flat cash settlement against a range of inflationary assumptions. Realistic, optimistic and pessimistic scenarios were developed for consideration. At the time this modelling was conducted we were of the view that the realistic scenario was that which was most likely to emerge. However, key variables such as inflation rates and pay settlement projections continue to change.

Our initial modelling of the impact of a flat cash settlement, with no cover for pay increases or inflation, presents major concerns. Table 2 below presents the three modelled scenarios. In the realistic scenario we anticipated cumulative resource funding gaps from 2023-24 and beyond in the region of £7.8m next year, £12.7m (2024-25) £17.4m (2025-26) and £22.2m (2026-27). Given the current inflationary position our view is that we are more likely to be facing shortfalls in line with the pessimistic model, potentially creating an annual resource funding gap of over £9m next year, rising to some £30m+ over the four-year period.

Table 2 – SCTS Modelling of RSR impact

Total net expenditure including cost pressures (£m)	2023-24 Funding Gap	2024-25 Funding Gap	2025-26 Funding Gap	2026-27 Funding Gap
Realistic	7.77	12.69	17.37	22.22
Optimistic	6.95	11.42	15.68	20.07
Pessimistic	9.53	17.19	23.43	31.29

As table 1 (on page 2) indicates, the vast majority of the expenditure incurred by SCTS is absolutely necessary to maintain the current size and scale of operations. The level of business that enters the system is not within our control. The factors that increase or reduce costs in our main areas of expenditure are also outwith our control. The pressure on them is upward. It would be disingenuous to suggest that contingency planning could allow the current level and standard of operations to be maintained.

Budgets have been tight over the past decade and we have identified and delivered efficiencies throughout that period. As a consequence it becomes unrealistic to identify further efficiencies that do not directly impact on either the level of service or the quantity of business that can be processed.

Faced with real-terms funding pressures of the scale outlined reductions in our core services could not be avoided. Given the continued growth in reported levels of sexual offences and domestic abuse cases our priority would be to protect the most serious criminal cases and our statutory

requirements in Tribunals and OPG. The range of options that would need to be considered would include:

- A reduction in sheriff summary/civil court sitting days of 25% and a reduction in court staff headcount by approx. 180 – saving around £7.3m per year. This would require removal of the no-compulsory redundancy guarantee in the Scottish Public Sector Pay Policy and funding to support redundancies in year 1.
- The removal of all part-time sheriff provision (both for business as usual and the recovery programme) would release approx. £3m per annum – but would reduce overall capacity and restrict flexibility and resilience in court operations.
- Similarly it may be possible to reduce staffing numbers in Tribunals Operations and the Office of the Public Guardian by around 30 without breaching any statutory obligations, but with a reduction in tribunal hearings of around 10%, a general reduction in service levels and increased waiting periods. This could release savings of around £1.2m per year. A similar reduction in tribunals' members' sitting days could release approx. £0.6m per year – but would reduce capacity and increase delays in chambers including mental health, housing and property and the social security chamber, which is currently expanding as more benefits are devolved.
- The backlog maintenance budget for SCTS premises could be further restricted by £1m per year, to focus solely on health and safety issues and keeping buildings wind and watertight to the greatest extent possible. This runs the risk of safety related incidents and it should be noted that core capital funding could not support any works intended to support carbon reduction.
- Closing 3-4 court buildings has the potential to release one-off savings and income totalling up to £4m over several years. However court locations can only be closed by affirmative order of the Scottish Parliament – and there is no current evidence to support a further round of closures following the completion of the last round – which saw 10 Sheriff Courts and 7 Justice of the Peace Courts closed between 2013 and 2015.
- A reduction in corporate staffing by up to 20 posts across areas such as finance, digital services, human resources, training and estates could release up to £0.8m savings, but would increase the risk of compliance and system failures and reduce critical support to front line operations.

Steps such as these would be unpalatable, but will need to be seriously considered if savings of this order are required – as there are no discretionary budgets that could release savings of this nature. Some of the key impacts of realising such savings include:

- The benefits from the existing criminal recovery programme would be lost and summary case backlogs would start to increase again by approx. 4,000 a year – returning to the pandemic peak by 2025 and rising further thereafter.

- The risk that complainers and witnesses may disengage from the court process before cases reach court, with increased stress and anxiety.
- The ambition of a more victim centred approach would clearly be affected by increased delays.
- The quality of evidence and witness recall will diminish over extended waiting periods, with a reduction in early pleas adding to the levels of backlog and court churn.
- Increased time on remand due to delays in cases calling and increased bail applications – leading to further case churn, inefficiency and downstream impact on prison capacity.
- Where accused persons are bailed they may be in the community for longer periods pending trial, and subject to bail conditions for longer periods, with the risk of breaches and reoffending.
- Loss of progress on new approaches to better manage domestic abuse cases, an agreed high priority area for reform.
- The loss of experienced and skilled staff.
- The loss of judicial and legal profession confidence at a time when resilience is stretched.
- Scotland may also be seen to be failing compared with other jurisdictions – the UK Government had committed to a real-terms annual growth of 3.3% in justice spending until 2024-25 (note – this may be subject to change as UK public spending plans are reviewed).

Similarly, what assessment are you making of the impact of a possible flat cash settlement on your capital spending for 2023/24?

Irrespective of current inflationary headwinds the capital budget was already under significant pressure – as we sought to invest in a range of digital improvements, whilst maintaining an environment for all court and tribunal users that is safe, secure and supports the effective processing of business. Our current capital allocation of £8m does not support the continuation of major digital transformation projects or investment to improve our estate. Nor will it allow us to make any further significant progress in relation to climate change mitigation measures, to meet targets that have been set. The Scottish Government have recognised these pressures in recent years and provided in-year funding increasing the capital budget to around £15m. This level of capital funding requires to be baselined for future years.

Court locations can only be closed by affirmative order of the Scottish Parliament. A significant proportion of our buildings are historic and listed – factors that make it more challenging and expensive to maintain the fabric and introduce carbon reduction measures. The most essential capital works are carried out as a priority, informed by an ongoing programme of condition surveys. With the support of

additional in-year capital funding, as outlined above, we have been able ensure that the most essential upgrades and investments have been made. There have been no instances to date where a building maintenance issue has resulted in a court closure or impacted on any trials – but there is an outstanding list of capital works that we have to prioritise in order to make best use of the limited funding available.

Investment in our digital infrastructure, which requires capital expenditure, faces similar pressures. Work to increase remote and virtual hearings was essential during the pandemic and has the potential to deliver further significant benefits if investment can be maintained. However, we have to ensure that our core systems keep pace with new legislation and policy – when faced with a high volume of change in these areas the majority of our limited capital budget must be focused on system maintenance – at the expense of innovations and reform, such as work on digital evidence sharing, evidence by commission, improved case management systems and greater use of remote and virtual hearings.

Due to skills shortages and supply constraints it is probable that consultancy and IT contract costs will increase in 2023/24. This has the potential to further restrict our ambitious programme of work which is aimed at delivering tangible benefits to the entire justice system.

What assessment are you making of the longer-term impact of the possible flat cash settlement out to 2026/27 if the present inflationary cycle continues beyond 2023?

The importance of a system-wide assessment of the longer term impact of any settlement will be critical. Faced with a sudden requirement to make real-terms cuts there is a substantial risk that options selected to “survive” years 1 and 2 may be uncoordinated and unduly restrict future progress. Having said that if cuts are of real significance organisations may be forced to focus only on maintaining core operations using existing processes.

Table 2 (on page 3) sets out the projected SCTS funding gap, if faced with a flat cash scenario, to 2026-27. Should the present inflationary cycle continue until the end of 2023 the “pessimistic” modelling line in that table would become the reality. If it were to continue beyond the end of 2023 even that model may require further revision.

With so many of our costs either fixed or demand led our ability to “turn-off” expenditure at pace is extremely limited – and tends to focus on those areas where we are investing to make longer term improvements or savings. To illustrate this over 70% of the resources available to us are invested into pay and buildings – in view of the no compulsory redundancy guarantee (set in public sector pay policy) and the need for Parliament to approve court closures SCTS does not have flexibility in 6 these areas. Year on year pay uplifts will, cumulatively, be extremely challenging to accommodate. We are also concerned that we will not be able to make the investments required to maintain the good progress we have made on carbon reduction and meet targets that have been set.

The potential opportunity cost of real terms cuts must also be borne in mind. The SCTS Board is keen to ensure that a range of innovations which will benefit the criminal justice system as a whole are maintained, explored and fully exploited, to ensure a positive legacy from the experience of the COVID pandemic. These include:

- Making greater use of virtual custody cases – reducing the need for the physical movement of accused persons for short hearings.
- The continuation of virtual procedural hearings, where appropriate.
- Supporting the summary case management pilots that are currently under way at locations across the country. These have the potential to improve case preparation, allow issues to be agreed upon ahead of formal court processes and reduce case churn and delay.
- Extending the use of evidence on commission, to capture the best possible evidence early in the proceedings and reduce stress and trauma for child and vulnerable witnesses.
- Maintaining the new approach to remote jury balloting – which significantly reduces the number of members of the public who need to attend court ahead of selection for jury service.
- Exploring further appropriate use of virtual summary trials – in particular for domestic abuse cases, to reduce the need for victims or witnesses to attend court in these cases.
- Implementing the recommendations of the Lord Justice Clerk’s review of the Management of Sexual Offence cases.
- Developing our systems so that police and expert witnesses can give their evidence remotely where possible, freeing them from attendance at court so they can focus on front-line duties.
- Supporting the introduction of the Digital Evidence Sharing Capability project – so that evidence can be effectively shared across all parties requiring access to it throughout the journey of a case.

Unfortunately it will not be possible to maintain all of these if faced with real-terms cuts. The small areas of discretionary expenditure that we have available (less than £2m for development and change in the current year) are focused on digital investment and reform. If these areas can no longer be supported the opportunity cost to both SCTS and the wider justice system may be significant, as we miss out on improvements that are within reach. This is one of the few areas in which our expenditure can be quickly changed or stopped however and, as such, work on these initiatives may need to be postponed or abandoned to meet statutory duties. The examples above refer to activity in the criminal justice system – similar examples apply to civil justice, tribunals and the Office of the Public Guardian.

Funding in the current financial year has effectively supported recovery and reform efforts to date, but will need to be sustained if efforts to tackle backlogs and deliver new initiatives are to be maintained. In addition to the initiatives listed above the Scottish Government has a range of ambitious justice reform proposals in its programme for Government. While the cost and impact of these cannot be quantified until they are further developed a flat cash settlement would mean that it would only be possible for SCTS to support their implementation should they be cost neutral or deliver savings for the organisation. By way of example:

- The recommendations contained in the Lord Justice Clerk's Review of Sexual Offending propose a number of significant changes to current arrangements, intended to ensure that sexual offence cases are managed as effectively as possible. These include the creation of a new national specialist Court to deal with serious sexual offence cases; a considerable increase in the use of 7 pre-recorded evidence; and the wholesale adoption of trauma-informed practices and procedures for everyone involved in business of this nature. SCTS supports these recommendations – and we are already working to implement those where legislation is not required. The more significant structural proposals will require legislation however – and may have additional resource implications, which could prove challenging to accommodate.
- Similarly the potential review of how offending is dealt with by the summary justice process may lead to new legislation promoting changes in court structures, sentencing powers or the rules of summary criminal procedure. Changes of this nature would clearly have resource implications for SCTS and we would require financial support to manage their introduction.

These are only two examples – ongoing expenditure is required to maintain and develop case management systems as new laws and procedures are continually developed and implemented – this work is not discretionary, as the systems must reflect the laws and procedures in place.

A number of measures introduced or proposed during the pandemic, which are either cost neutral or have involved additional expenditure by SCTS, have facilitated more modern and efficient ways of working – or have realised savings for other agencies and individuals. For example:

- Provisions allowing electronic submission and signature of documents have created savings in printing and postage costs for parties to cases.
- A move to virtual custody cases reduces the level of transport and prisoner escort activity required by GEOAmev – which, if extended in the longer term, has the potential to yield resource savings and reduce carbon emissions.
- The introduction of remote jury balloting means that far fewer potential jurors spend a day attending court for the selection processes – improving their experience of the system and minimising lost time at work for the employers of those in question.

- In future, a greater use of virtual hearings may lead to savings in travel time and costs for prosecutors, defence agents and witnesses – whilst allowing victims and witnesses to participate in the process without being present in the court building – reducing stress and anxiety.

Once more, where the “traditional” way of doing business in these areas costs less for SCTS we may be compelled to consider a reversion to it, should resources be significantly pressed.

Any other comments you may wish to make on the potential impact of the flat-cash settlement on the SCTS or the budget more widely.

The SCTS generates income (projected at £46.5m in the current year) in order to offset costs and meet its approved Fiscal Resource expenditure limit. The majority of that income relates to fees charged in civil court cases. Levels of civil court business are still slightly below pre-pandemic levels. In addition the annual fee increase (set by the Scottish Government and approved by Parliament via passage of a fees order) has been set at 2% until 2025, which is significantly below current inflation levels. Over the coming years the amount of revenue that we will be able to collect from that business will reduce relative to the expenditure required to maintain it.

Whilst beyond the remit of the SCTS alone there are a number of potential changes in approach that could be considered in order to reduce costs or increase the efficiency of the system. We do not make a detailed case for or against these here – but note that they may be options worthy of developing further should it prove necessary to take further action to maintain system affordability. These include:

- Accelerated implementation of the sexual offences review.
- Consideration of developing a time-limited pilot of single judge rape trials to ascertain their effectiveness as proposed in the Lord Justice Clerk’s Review.
- A reassessment of the use of Police Direct Measures, fiscal fines and fiscal work orders, to reduce the level of business registered in the summary courts.
- A more significant move towards online/digital operations for summary criminal business, aligned with the recommendations in the Evidence and Procedure Review – an approach of this nature would have up-front costs but the potential to deliver real savings later in the RSR period.
- A review of summary justice including sentencing powers, police and fiscal penalties and the future role of sheriff summary and JP courts.
- Increasing the sentencing powers of summary sheriffs and of sheriffs sitting in summary or solemn business.

A number of these proposals may present opportunities to maintain capacity and capability in the face of limited or reducing budgets.

In concluding we would observe that the justice system is beginning to recover from the significant strains placed upon it by the COVID pandemic, but this will take time and sustained investment. By working together across justice organisations and the legal profession, with support from the Scottish Government, increased system capacity is now delivering real benefits. The most recent case modelling published by SCTS demonstrates that the backlog of outstanding cases has fallen by over 8,000 from its pandemic peak. Criminal case backlog levels in the High Court and summary business are now reducing. For that reduction to be sustained justice agencies will need their core funding to be maintained. In the absence of this any “additional” funding provided to support recovery will inevitably be used to plug the gap in core funding and meet the unavoidable costs of maintaining the system.

In addition to this we would note that, whilst the pandemic created significant backlogs, it also proved the concept of some innovative ways of working that have the potential to improve the operation of the justice system in the future. We are part way through the process of investment required to reap the benefits of using technology across the system – and are therefore at the point where we must carry the costs of running the system as it stands alongside the costs of investing to create a better future. The potential for improvement is significant and within reach – provided that we can continue to resource both current operations and the reforms in which we are engaged.

We fully understand that the entire public purse is under significant pressure and always seek to deliver our functions in the most efficient and effective way. The Lord President has previously observed that providing access to the courts and tribunals so that laws may be challenged and disputes resolved is more than just a public service: it is an essential aspect of the machinery of a democratic society, which must be maintained if confidence in the rule of law is to be upheld. The current financial outlook poses risks to the provision of access to justice in Scotland which we have sought to outline in this submission. We will continue to manage those risks to the best of our ability, but would note that the Judicial Principles for the Provision of Access to Justice in Scotland state that:

“In providing services in support of the courts of Scotland, and the judiciary in those courts, the SCTS cannot be asked to provide services at a cost greater than the resources made available”.

I would be happy to provide the Committee with further information should that be of assistance.

Yours sincerely

Eric McQueen
Chief Executive

Annex C: Submission from the Crown Office and Procurator Fiscal Service

Thank you for inviting the Crown Office and Procurator Fiscal Service (COPFS) to provide evidence to the Criminal Justice Committee on plans for the forthcoming 2023/24 budget and the Resource Spending Review (RSR) budget envelopes.

I will address the committee's four specific questions in describing the COPFS budget and ongoing resource planning with Scottish Government and the impact of a potential flat cash settlement for the period of the RSR.

COPFS Statutory Obligations and Caseload Demands

COPFS is a demand-led organisation with responsibility to meet state obligations to deliver justice, uphold the rule of law, prosecute crime, investigate sudden or unexplained deaths, recover proceeds of crime and investigate complaints against the Police. Our work helps to ensure that Scotland is safe from crime, disorder and danger.

We take a realistic view about the pressures on public sector funding and the need for efficiency and continuous improvement. But COPFS operates within a complex criminal justice system to deliver justice. The volume and complexity of the Service's casework continues to grow. The covid pandemic has changed aspects of our casework, including our investigation of deaths. It is not possible to say with certainty whether the volume of casework will continue to grow but it remains the case that violence against women and children, sexual crime and domestic abuse will form the bulk of our casework for some years to come. In line with established trends, sexual crime makes up almost 70% of High Court cases. Between 2019/20 and 2021/22 there was a 41% increase in the number of death reports. The number of charges reported to COPFS with a domestic abuse identifier increased by 7% between 2019/20 and 2021/22.

The continued increase in complex cases requires longer investigations and court hearings. The gathering and analysis of evidence is more complex and time-consuming, including responding to the expanded societal use of social media and electronic communications. The Service also increasingly relies on the evidence of expert witnesses to interpret technical, scientific and medical issues.

The impact of the COVID-19 pandemic and associated restrictions, including court closures, has resulted in significant backlogs of cases across the criminal justice system. The trial backlog will take multiple years to clear. COPFS, along with justice partners, made a five-year commitment to address trial backlogs caused by the effects of the COVID-19 pandemic and to implement Lady Dorrian's recommendations on the management of sexual offence cases. Furthermore, the Lord Advocate has a duty to meet state obligations to fully investigate the over 7,000 additional deaths reported to COPFS as a result of the COVID-19 pandemic.

Sexual Offending

As noted above, the investigation and prosecution of sexual crime represents most of the High Court casework in Scotland, our most serious criminal cases, and is a very significant proportion of cases prosecuted on indictment in the Sheriff Court. It is, in many ways, our most challenging area of work – evidentially challenging and often reported many years later. It requires significant resource to underpin a service which, in every case, meets the needs of victims, allows for intensive and detailed investigation, high-quality advocacy skills and appropriate administrative case support and preparation, all within challenging statutory time limits. We also know that it is significantly under-reported and that as improvements are made and high-profile cases prosecuted the confidence of victims improves and more historical cases are reported.

Significant reform is anticipated following Lady Dorrian’s Review of the Management of Sexual Offence Cases. This will be supported by an ongoing internal COPFS review of the investigation and prosecution of sexual offending led by an Assistant Principal Advocate Depute, Susanne Tanner KC. It will be impossible to implement the improvements from both reviews without the necessary resource to provide enhanced training, pre-record evidence at scale and to the required standard and to investigate and present cases in a way which meets and overcomes the challenging evidential issues.

We will continue to engage with the Scottish Government as the resource requirement to implement both reviews becomes clearer in 2023/24.

COPFS Resources

For several years, our funding was such that it became increasingly challenging to keep pace with the reasonable expectations of both the public and its staff. The growth in both the volume and complexity of casework, in particular in respect of serious and sexual crime and in deaths investigations, meant that it became progressively difficult for the Service to deliver its core tasks and functions - to prosecute crime and investigate sudden and unexpected deaths - to the necessary standard and to meet reasonable public expectations. This had an impact on many users of the services, including victims, witnesses, nearest relatives, and accused persons.

Supported by detailed analysis and information, the Scottish Government acknowledged in 2021 that it was essential to provide COPFS with additional funding for the minimum essential resources needed to meet the Service’s state obligations to deliver justice. The additional funding provided by Scottish Government in 2021/22 enabled COPFS to recruit additional staff - lawyers, case preparers and support staff - to maintain public confidence in the criminal justice system. COPFS was also provided with funding to staff additional courts to address case backlog as part of the court recovery programme.

This funding also enabled the Service to bring pay into line with equivalent Scottish Government roles. The Service is in year two of a committed three year pay parity implementation - agreed with Scottish Government and with trade unions - to align pay

for the first time in two decades. In underwriting this agreement, the Scottish Government sought assurance from COPFS that it would keep pace with Scottish Government pay in future, driving the requirement for the Service to match their pay offer for 2022/23 and in future years.

For 2022-23, we committed to absorb the pay policy award (based on the Scottish Government pay policy parameters published at the time) and an increase in employers' National Insurance, equating to unfunded cost pressures of £6.1m. This deficit is before factoring any pay settlement above previously published pay policy, or the impact of the higher inflation rates experienced on COPFS' legally committed contracts and services essential for delivering justice.

The essential funding the Service needs to deliver justice was further acknowledged in June this year when the Service was successful in its request to Scottish Government for additional in year funding of £2.2m (full year equivalent £4.4m) to establish a dedicated specialist COVID-19 Deaths Investigation Team (CDIT) to carry out the necessary investigation of COVID-19 deaths timeously, to support the Scottish and UK COVID 19 public inquiries and to engage with and support bereaved relatives appropriately. This work will continue over the next two financial years and recruitment is ongoing to progress the essential COVID deaths investigations as quickly as possible.

In October this year, the Scottish Government provided COPFS with additional resource budget to enable the Service to match the Scottish Government's 2022/23 pay offer to its own staff, therefore maintaining the pay parity commitment agreed with Scottish Government and Unions.

COPFS' resource budget for 2022/23, including the above in-year funding provisions, is as follows:

Resource Funding 2022-23 in £m	
Budget Allocation	169.8
CDIT Funding - part year	2.2
Pay Award support	3.6
Total resource	175.6

The Service considers this funding for 2022/23 the minimum needed to meet reasonable expectations and addresses the recognised historic organisational capacity, pay and resource deficits. Having achieved this additional funding, we must continue to meet these expectations in future years.

COPFS Resource Spending Review (RSR) Proposed Budget Envelope Allocations for 2023/24 to 2026/27

COPFS Resource Budget for 2023/24

Annex C

CJ/S6/22/27/1

The RSR provides a funding framework to plan rather than a budget. COPFS is engaging with the Scottish Government on the forthcoming budget allocations for 2023/24.

The Scottish Government recognises COPFS is a demand led organisation.

Whilst the multi-year backlog remains, unprecedented additional demand will be placed upon COPFS due to continued, repeat engagement with victims and witnesses to ensure that they are supported during significantly extended case journey times. Maintenance of resources is essential over the period of the RSR to meet reasonable public expectations, support victims and witnesses, deliver the five-year commitment by the Service and justice partners to address trial backlogs and meet the Service's state obligation to investigate reported COVID deaths.

The 2023/24 budget resources (and indicative budget figures for subsequent RSR years) the Service needs to deliver justice, tackle case backlogs, investigate COVID deaths and to maintain pay parity for its staff with SG Main roles is as follows:

RSR and additional requirement £m				
	2023-24	2024-25	2025-26	2026-27
RSR Envelope	170	170	170	170
CDIT	4.4	4.4		
Additional consolidated pay award 2022-23 ¹	3.3	3.3	3.3	3.3
Year 3 Pay Parity	1.1	1.1	1.1	1.1
Impact of new legislation - new offences	2.5	3.6	3.6	3.6
Reduction in staff attrition rate ²	1.5	1.5	1.5	1.5
Inflation on contractual spend (cumulative impact)	1.9	2.6	3.2	3.7
Pay award future years 2023-24 if at 2% (cumulative impact)	4.5	9.6	14.5	19.3
Savings from court recovery reducing (cumulative impact)	0	-1	-5	-9
Anticipated efficiency savings from digital transformation				-3
Total required funding	189.2	195.1	192.2	190.5

¹ £3.65 m received for 2022-23 includes non-consolidated element. Future years pressure is therefore £3.3 m.

² COPFS started 2022-23 with a pay bill pressure of £6.1 m (unfunded pay policy and NI increase) which is being managed through attrition and vacancy management. As COPFS has had staffing growth in 2022-23 this was manageable, but in years of no growth along with a no redundancy policy, this level will of saving will be unachievable.

COPFS has agreed with Scottish Government that the funding for CDIT (for the next two financial years) and the recurrent resource budget to maintain pay parity with equivalent Scottish Government roles will be discussed as part of the 2023/24 budget (and subsequent RSR) annual bilateral process. The funding for these essential resources is included in COPFS' budget bids for the next financial year.

The proposed RSR flat cash funding allocation falls well short of the funding essential for COPFS to meet its statutory obligations to deliver justice. A flat cash allocation over the period of the RSR represents a significant reduction in real terms to the essential resource funding needed. This excludes resources for unfunded costs relating to the increasing demands of investigating and prosecuting sexual offences, new or amended legislation, inquiries or other essential activities, and increasing inflationary cost pressures.

Due to the nature of the functions and services provided by the Service, there is no viable scope for stopping or scaling back any specific or significant activity without increasing risks to communities and the loss of public confidence in the Scottish Justice system. Neither does COPFS have flexibility over its expenditure which is contractual and statutory spend. Approximately 80% of the Service's current resource budget is spent on payroll costs. The current Service staffing levels are the minimum essential for managing case levels and complexity of our casework, and for tackling the backlog of cases.

The Service will engage further with the Scottish Government as part of the 2023/24 budget bilaterals to discuss the funding provided for 2022/23 to be reflected in COPFS' resource budget allocation for the next financial year. Bilateral discussions will also consider the recurrent budget impact of pay awards in excess of the original Scottish Government pay policy parameters.

Efficiencies and Savings

Approximately 80% of the Service's current resource budget is spent on payroll costs. COPFS has long had a careful approach to workforce planning and prioritisation. These are not practices we needed to introduce as a result of the RSR. The Service has embedded this approach for over a decade, the eventual consequences of which informed the bids for additional resource when additional demand was demonstrably no longer able to be absorbed and presented a serious risk to COPFS meeting reasonable public expectations. As ever, COPFS continues to refine its planning in light of changes to prevailing circumstances.

The Service's current staffing levels cannot therefore be considered in the context of a return to pre-pandemic levels, given the above points. The temporary increase in staff resources to tackle case backlogs and to complete investigations into reported COVID deaths will be managed in line with the defined timescales for this work being completed. To reduce COPFS' minimum required staff headcount to deliver justice to pre-pandemic levels would return the Service to the same structural deficit issues, and consequent risks and impact to delivery, only a year or so after being resolved by the provision of adequate resource funding.

Inflationary Pressures

During 2022-23, not unsurprisingly, COPFS is experiencing higher inflation than in previous years. In the past inflation has been absorbed as far as possible through the efficient management of resources and, importantly, through stringent and successful procurement, but this has proved very challenging in the current financial climate. Procurement continues to provide value for money, keeping costs as low as possible, with savings generated to offset what would otherwise be excessive increases. With Scottish Government securing advance purchase of energy for 2022-23, the impact of the related energy increases is mitigated but is expected to materialise in 2023-24.

The average inflation experienced on COPFS' non-staff expenditure for 2022-23 is 5% - with full year impacts materialising in 2023-24 - resulting in an additional £1.86m pressure on the Service's non-staff resource budget. Over the last 6 years witness costs have remained almost static, with very little inflationary impacts due to volume and claim profile variations. With the cost-of-living crisis, increasing earnings rates above levels faced in the past and increased court activity, the inflationary impact for 2023-24 is expected to be 5% in line with other non-staff costs. The Service continues to focus on procurement activity to reduce the impact of inflation as far as possible.

Capital Investment and Transformation

COPFS is committed to transformation projects and capitalising on digital innovation and business improvements to minimise future staffing and non-staffing cost pressures. While our transformation projects will minimise the impact of additional business demands as far as possible, they will not fully eradicate growth and cost pressures. The Service is committed to using investment in digital enabled business transformation to reduce future staffing levels and to deliver efficiencies. The Service is also working with its criminal justice partners on Summary Case Management Reform and other system level transformation programmes.

COPFS welcomed the allocation of an additional £9m in capital funds over 2023-24 and 2024-25 from the Scottish Government's Capital Spending Review (CSR) to progress the Service's strategic digital business transformation programmes. This investment will enable COPFS to replace its existing casework legacy systems with modern and innovative solutions that maximise the use of digital technology to transform casework systems and processes. This is not simply a technology project: this investment offers significant opportunity to transform the Service's casework process and ways of working and to operate and deliver services more efficiently.

The efficiency and benefit outcomes resulting from the implementation of the new digital casework systems and operating models will support reduced future resource requirements in the post-recovery period as case levels return to pre-pandemic levels.

Detailed efficiencies and benefits targets from this complex and large-scale transformation will, however, need to be defined in due course and budget and resource impact assessments considered. This work is being undertaken over the next few months in preparation for the investment being available from 2023/24.

Conclusion

To meet these challenges, we have developed a business model proposition in which we will take advantage of efficiency improvements and capital investment to keep our budget requirement at a level which allows us to meet reasonable public expectations and new demands. This model is predicated on:

- a) receiving the essential funding over the period of the RSR to deliver our statutory obligations to deliver justice, meet the increasing demands of investigating and prosecuting sexual offences, tackle the court backlog and investigate COVID deaths;
- b) completion of the court recovery programme and clearing of case backlogs within the required timeframes (and therefore enabling the associated staff resources to be released or reassigned);
- c) court case levels returning to or falling below pre-pandemic levels;
- d) the ability of justice partners to support our caseload and the prosecution of crime within statutory case time bar limits; and
- e) the detailed assessment of the efficiencies and benefits analysis from the strategic digital transformation programme.

The Service will further discuss this model with the Scottish Government at the upcoming budget bilaterals.

I hope this is helpful and would be happy to provide the committee with further information.

John Logue
Crown Agent.

Annex D: Submission from the Scottish Prison Service

Thank you for your letter of 21 September and the opportunity for the Scottish Prison Service (SPS) to provide a written response to the Criminal Justice Committee for Pre-Budget scrutiny deliberations.

We recognise the pressures on public sector funding. Since the publication of the RSR, we have been in frequent engagement with Scottish Government officials and Ministers to ensure there is a collective understanding of the implications of the forecasted funding and of a flat cash settlement to the SPS Budget and its impact on our operations.

In response to the RSR, we have initiated the establishment of a governance Board, Chaired by the Deputy Chief Executive. The Board will provide a governance structure to commission initiatives to target improvements in savings, efficiency and effectiveness in SPS. The Board will keep RSR implications under continual review and will explore a range of indicative options for potential savings such as improvements, drawing on lessons learned from our response to the pandemic, to our operating model and rationalisation of our estate.

In addition, as part of the development of our 5 year Corporate Planning process, we are also undertaking engagement with senior management, our Advisory Board, Trade Union partners, key staff groups and key partners to ensure RSR and wider fiscal challenge implications are embedded into SPS's future strategic priorities.

At present, we are unable to give a definitive view on required savings until Budget figures for 2023/24 are known in December. It is however unlikely that any savings can be realised in the short term. It is also very challenging to provide an analysis of impacts from 2024 and beyond due to unpredictability of a range of external factors which impact on our expenditure.

Wider Context and Challenges

The Scottish Prison Service's key objective is to protect the public by keeping those who have been sentenced by the Courts in safe and secure custody. Our commitment to public safety is delivered through positive relationships with those in our care, focussing on their rehabilitation and reintegration back to their communities in order to reduce reoffending. We operate 13 prisons across Scotland and a further two were run by private sector operators under contract to the SPS.

We directly employ around 4,500 staff and on a daily basis accommodate and provide support and services for around 7500 individuals in our care. We also manage the contract for the Scottish Court Custody and Prisoner Escorting Service (SCCPES), on behalf of multi-agency justice partners, for the provision of safe and secure transport of those in custody to and from courts.

Our operating context is demand-led and is complex in comparison to other parts of justice system and wider public sector delivery in Scotland. Each of the 13 prisons, operate as small communities and operate on a 24 hours a day, 7 days per week basis. A cell is in fact 'home' for those living in our prisons on a day-to-day basis. Prisons are also the working environment for our staff and as such, there are regulatory and ECHR requirements that simply have to be met. Keeping the prison environment safe, secure and stable across the estate is a core task for SPS.

The Committee will be aware of the increasing prison population and of its unprecedented complexity due to changes in offending profiles, sexual offences and longer sentence lengths. With increasing complexities comes increasing risk, needs and vulnerabilities, all of which impact on our existing system pressures. It is important that Budget decisions take into account this wider context which the SPS cannot plan for or predict.

Whilst recognising the impact that these evolving pressures has on our Budget, we do recognise the additional funding provided by the Scottish Government and how this has gone some way to alleviate pressures. This included an additional £24m in 2019 to address rising prison population pressures and additional funding for covid recovery which has allowed investment opportunities in our digital reform agenda.

SPS Operating Cost in Context

The Resource Budget for the SPS in 2022/23 is £369.6m, (21/22 £354.6) a 4.23% increase from the previous year. The budget for 2022/23 has been under pressure due to a number of challenges significantly in providing for a pay award above the Public Sector Pay Policy, cost of living rises particularly in increased energy costs, prisoner food costs etc. This will require an anticipated budget adjustment from Scottish Government of around £14.5m in year funding to be included in the upcoming (SBR) Spring Budget Revision. This will also be dependent on the outcome of ongoing pay negotiations with our trade union partners.

The capital budget for 2022/23 is £72.8m, (2021/22 £72.8), capital allocations each year are based on forecast capital projections from the capital spending review. The current capital programme includes the replacement of HMP&YOI Cornton Vale, replacement for HMP Inverness and the replacement for HMP Barlinnie. A further key capital project undertaken in 2022/23 is the installation of digital cabling in every Cell to provide a telephony solution that will facilitate digital improvements. The current year has also seen the completion of the two innovative Community 3 OFFICIAL Custody Units for women in our care, the Bella Centre in Dundee, which opened in July, and the Liliac Centre in Glasgow, opening this month.

Your specific questions are answered in turn below:

1. What assessment you are making of the impact of a possible flat cash settlement to the delivery of services for 2023/24? What contingency plans are in place? What is the impact on your services?

We will keep the implications of a possible flat cash settlement on our operations under review. Consistent with our justice partners, a key challenge facing SPS in 22/23 and beyond is the significant **inflationary increase** in our costs as a result of unpredictable external pressures from the cost of living increases, high fuel costs, utility costs, the impact of Brexit and the war in Ukraine.

With the challenges around the uncertainty including the current payroll position and the current inflationary increases, an analysis has been undertaken to look at the potential outcomes for the 20 23/24 Budget and the years through 24/25 to 26/27. **For 2023/24, the estimate is that SPS would require an uplift of £40.8 m to our Budget to maintain our existing services.**

Due to the nature of our functions there is no or at most, very limited, opportunity to the scaling back of our operations without significant risk to health and welfare support, ECHR challenge, reputational damage, the loss of essential rehabilitative regimes and risk to operational stability across the estate.

In addition due to the proportionality of the staffing costs, significant savings could only be met through cutting the pay bill, reducing direct running costs and drawing back on other current expenditure. SPS cannot easily make savings from 'committed expenditure' for long-term (outsourced) contracts - for example, private prisons, education, social work, court escorts - or from core 'fixed costs' such as prisoner canteen servicing and food.

Table 1

Cost Area	22/23 Outturn	Percentage of Outturn	Cost Category & Cost Drivers
Staff related Costs	229,429	60%	Statutory/Inflation
Private Sector costs	81,812	21%	Fixed/Contractual Inflation
3rd Party Services (NHS/Social Work/Ed	12,929	3%	Statutory/Demand Led
Energy Costs	15,013	4%	Demand Led/inflation
Food Costs	7,409	2%	Demand Led/Inflation
Buildings Running Costs	16,898	4%	Fixed/Inflationary
Rent & Rates	7,388	2%	Fixed/Inflationary
Prisoner related Costs	7,683	2%	Demand Led/inflationary
Administration Costs	5,297	1%	Variable/Inflationary
Total	383,859	100%	

The table above identifies the complex and multi-faceted nature of SPS costs and the drivers for them. Further detail on the drivers is provided below:

- **Staff pay:** Payroll Costs for the SPS is approximately 60% of the total resource budget. In delivering a flat cash position this would require restraint on pay increases and a review of the current employee operating model.
- **Contracts:** Approximately 21% of the SPS Resource budget is for payments to the private sector for the provision of 2 private prison establishments and the Scottish Court Custody and Prisoner Escort Service. These contracts have contractual built in Inflation mechanisms based on CPI and RPI increases. The forecast increase for 23/24 in the private sector contracts is circa 11.4%. Due to the uncontrollable nature of these costs the SPS would expect the required funding for private sector contracts to be ring-fenced and out with a flat cash settlement position.
- **Contracted–In Services such as education and social work:** This accounts for approximately 3% of the SPS budget at 12.9 m forecast for 22/23. These services are demand led and with forecast increased requirements due to a more complex health and aging prisoner population it is anticipated that there will be increased pressure in this area. Payroll pressures of the service providers have driven cost increases in this area.
- **Utilities:** Gas is the primary source of energy use in all the establishments in operating the heating systems, using the equivalent of 100 m kilowatt hours per annum. The service is also a large user of electricity using over 30 million kilowatt hours per annum, the equivalent to running 10,500 average size homes The increase in Gas and Electricity prices in the last 12 months has created a significant pressure on the SPS Budget in 202/23 with an increase of 47% on the 21/22 budget.
- **Rising food costs:** A key cost pressure is prisoner food, rising costs in this area in the last 12 months has been on average 16.8% There is however significant pressure from suppliers currently for further price increases over the next 6 months which could see the annual inflation rise to up to 30% for this area of expenditure.
- **Ageing estate:** The key challenges in this area are the maintenance of ageing establishments in the estate and high inflationary costs in the construction services the forecast includes plans to spend £8 m per annum to cover both preventative maintenance (linked to health and safety requirements in the main) and planned major equipment replacement in line with the life-cycle of the infrastructure. This expenditure is considered the minimum required.

2. Similarly, what assessment are you are making of the impact of a possible flat cash settlement on your capital spending for 2023/24?

Our understanding is that the flat cash settlement is for revenue budgets only. As you will be aware, we have a capital spending program that has been agreed with

Scottish Government until 2025/26. This provides funding for HMP Highland and the commencement of HMP Glasgow. Our main capital projects are as follows:

Women’s Estate

A significant investment in improving the care of women is nearing completion. The new HMP & YOI Stirling is being built on the existing Cornton Vale Site and is due to open summer 2023. Two new Community Custody units (CCUs) have been constructed – The Bella Centre in Hilltown, Dundee opened July and The Liliacs Centre, in Maryhill, Glasgow is scheduled to open later this month.

HMP Glasgow (HMP Barlinnie Replacement)

HMP Glasgow is the largest capital projects currently being undertaken by the Scottish Prison Service. The project is progressing as planned: a contract for pre-construction services was awarded in July 2022 and is scheduled to run until November 2023. The second stage of procurement, a contract for the construction of the prison, will conclude by the end of 2023. Construction is scheduled to be complete in 2026.

HMP Highland

HMP Highland is a new 200 place male prison to replace the Victorian HMP Inverness which is one of Scotland’s oldest and smallest prisons, built in 1902. The project is progressing as planned with an advanced works packages being awarded during 2022/23. The second stage of procurement, a contract for the construction of the prison is anticipated to start in spring 23 with a completion target of December 2024.

Provision of In-cell Services - Data Cabling Project

The data cabling project will deliver a cabling infrastructure across the SPS estate which consists of CAT6 Ethernet cabling into all cells as well as other identified areas throughout establishments. The project will initially enable the provision of a basic wired telephony services and provide the platform for developing a suite of more comprehensive in-cell based digital services such as education and health.

Table below has details the capital funding allocated to SPS over the RSR period.

Table 2

Revised Capital Spending Review (May 22)	22/23	23/24	24/25	25/26
	£72.8m	£97m	£192.3m	£80.3m

3. What assessment are you making of the longer-term impact of the possible flat cash settlement out to 2026/27 if the present inflationary cycle continues beyond 2023?

While the impact on 23/24 budget can be estimated, the impact in future years is much less certain and we are unable to give a definitive view.

Our initial estimate of a potential budget shortfall as a result of current wider economic factors is outlined below:

Table 3

Forecast Budget Increase required above RSR	2023-24 Funding Gap	2024-25 Funding Gap	2025-26 Funding Gap	2026-27 Funding Gap
Forecast (£m)	40.8	54.9	69.3	83.9
% increase on RSR funding	11.1%	14.9%	18.8%	22.7%

Payroll inflation is the largest determining factor in the forecasting of future year increases on budget. The assumption of the Resource Spending Review with flat cash settlements through to 2026/27 is that future pay increases are delivered with internal efficiency savings. However the challenges with operating a no redundancy policy and the uncontrollable nature of SPS expenditure makes this a challenging assumption.

Payroll inflation is the largest determining factor in the forecasting of future year increases on budget. The assumption of the Resource Spending Review with flat cash settlements through to 2026/27 is that future pay increases are delivered with internal efficiency savings. However the challenges with operating a no redundancy policy and the uncontrollable nature of SPS expenditure makes this a challenging assumption.

4. Any other comments you may wish to make on the potential impact of the flat-cash settlement on the SPS or the budget more widely.

As identified in the introductory commentary, a significant challenge facing us with a Flat Cash Settlement is the level and needs of the prison population which is the key driver of the costs in the organisation. **The forecasted running costs for a population of 7,500 in 22/23 is £384 m.**

The key impacts are:

- The impact of Covid and the resulting backlog of solemn cases increases the risk of an increased prisoner population and the associated operating running costs with the increase.
- The increasing complexity and vulnerability of the prisoner population impacts on SPS in a number of ways. The population is increasingly presenting with a range of multi-dimensional and complex needs including educational, behavioural, criminogenic need and increasingly complex needs around chronic health and social care need - responding effectively is resource and skill intensive, and the work environment is increasingly challenging for our staff.
- This requires investment in staff training such as case management and in trauma informed and person-centred approaches. It also includes increasing costs associated with longer sentence lengths such as programmes for OLRs and offending behaviour programmes to ensure progression.

- Any reduction in this support will have a detrimental impact on our ability to ensure rehabilitative regime delivery which in turn has ECHR and other legal implications not least a failure to prevent the risk of reoffending and effective release planning.

Future Improvements

Despite operating in a flat cash environment, we will aim to maintain our improvement agenda through our new governance Board and Corporate planning development that will continue to drive efficiency and increased effectiveness within the SPS.

Some areas of consideration include:

- **Digitalisation:** We will apply lessons from pandemic response and maximise use of digital opportunities to enable staff to focus on case management, risk management, progression, and release management. In-cell cabling will enable a new approach in delivering prisoner services with better access to education and health provision.
- **Review of the SPS infrastructure:** We will look at opportunity with the replacement prison programme to address the complex needs of the prison population on health and social care needs. In 2022/23, the move to new HQ will reduce the building footprint by 60%.
- **Workforce:** We will review in collaboration with key staff groups and our TUS partners, a non-operational and operational workforce model that ensures flexible capability and capacity that is reflective of a modern and diverse workforce.
- **Population management and rationalisation of estate:** We will expedite the review of our estate and how identify how best to maximise the estate, concentrate services, meet increasing 'specialist' demand. This includes an immediate review of rationalisation of our female estate.
- **Operating Capacity and model:** We will explore the opportunity to look at our operational model and to functionality to a model based on complexity of population, numbers and turnover (intensity of support & engagement), service to be delivered (case management, risk management, progression, release management) and justice system obligations (virtual courts).
- **Systems and partnerships.** We will continue to explore leverage of resources at system level (shared services across Justice) and other key partners such as NHS.

I trust this is helpful and I would be happy to discuss any of this response in more detail during the SPS evidence session next month.

Teresa Medhurst
Chief Executive
Scottish Prison Service