



HM Inspectorate
of Prosecution in Scotland

Annual Report

2021 - 2022

To The Right Honourable Dorothy Bain KC
The Lord Advocate

The Seventeenth Annual Report to the Scottish Parliament

November 2022

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HM Inspectorate of Prosecution in Scotland

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Produced and published by HM Inspectorate of Prosecution in Scotland

Laid before the Scottish Parliament by the Lord Advocate in pursuance of s79(8) of the
Criminal Proceedings etc. (Reform) (Scotland) Act 2007

SG/2022/250

ISBN: 978-1-80525-244-3 (web only)

<https://www.gov.scot/collections/inspectorate-of-prosecution-in-scotland/>

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Foreword



This report sets out the work of HM Inspectorate of Prosecution in Scotland (IPS) between 1 April 2021 and 31 March 2022. During this period, the criminal justice system continued with its response to and recovery from the Covid-19 pandemic. Despite this being a further year of uncertainty, change and challenge, the Crown Office and Procurator Fiscal Service (COPFS) continued to fulfil its purpose of securing justice for the people of Scotland through the investigation and prosecution of crime and the investigation of deaths.

COPFS was assisted in its efforts by an increase in its resource allocation from the Scottish Government from £124.9 million in 2020-21 to £146.8 million in 2021-22. It also received additional capital funding of £0.5 million and a share of £50 million allocated by the government to criminal justice organisations for their Recover, Renew, Transform programme. For 2022-23, the resource allocation for COPFS was further increased to £169.8 million, with additional funding provided in-year to support, for example, the investigation of Covid-related deaths.

The additional resource allocated to COPFS was not just to meet the additional demands arising from Covid, but also reflected the changes in the profile and complexity of its casework and an increase in staffing costs as a result of efforts to ensure pay parity between COPFS staff and their government colleagues. Increasing resource allocations in recent years have also reflected an acknowledgement that for some time COPFS had been underfunded.

While the recent, significant increases in funding have been welcome, I share concerns expressed by COPFS itself and other justice sector organisations about the impact of the Resource Spending Review in May 2022. This review proposed a flat cash settlement for COPFS and other parts of the justice system, with COPFS being allocated £170 million in 2023-24 and in each of the three subsequent years. While budget negotiations for 2023-24 and beyond will continue, it is of some concern that this flat cash settlement was proposed in May 2022, prior to the financial situation deteriorating even further and with the cost of living crisis becoming increasingly acute and inflation continuing to rise.

I echo the warnings of others that the proposed flat cash settlement risks impeding the justice system's recovery from Covid, increasing delays across the system with the consequent impact on victims, witnesses, next of kin and the accused. It also risks limiting the ability of COPFS to sustain progress it has made in recent years as well as to further improve its service. In short, there is a real risk that, despite best efforts, the aspirations for a person-centred, trauma-informed justice system as set out in the government's Vision for Justice in Scotland would be just that – aspirations, rather than the transformative change that is needed.

The inspectorate

In 2021-22, we published an inspection of how COPFS manages criminal allegations against the police. Overall, we concluded that the quality of decision making by COPFS in such cases is good, and that the public should be reassured by the robust scrutiny which is applied to on duty criminal allegations against the police. However, we also found there to be scope for improvement in how such allegations are managed and made 18 recommendations. For example, there is work to be done to ensure that decisions on whether criminal allegations should result in a prosecution are made timeously and are communicated effectively to complainers and those complained about. We also highlighted the need for greater transparency in the handling of criminal allegations against the police by COPFS and we hope that the publication of our report helped in this regard.

In 2021-22, we also began two new inspections. The first was an inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995, provisions which regulate the use of evidence relating to the sexual history or character of complainers in sexual offence trials. The report of this inspection was published in October 2022 and continues the focus the inspectorate has had in recent years on how COPFS investigates and prosecutes serious sexual crime. This focus has been merited given the sensitive and expert handling that such cases require, and the resources COPFS must allocate to ensure they are managed well. Sexual crime makes up almost 70% of High Court cases. While all police recorded crime in Scotland fell by 4% in 2021-22 compared to the previous year, sexual crime increased by 15%. Sexual crime is at the highest level seen since 1971, the first year for which comparable data is available.¹ The frequency with which sexual crime continues to be reported to the police indicates it will continue to form a significant part of the Crown's casework for years to come. I therefore welcome a review of how prosecutors deal with reports of sexual offences commissioned by the Lord Advocate and led by Susanne Tanner KC.

The second inspection we began in 2021-22 was a joint review of diversion from prosecution. Working alongside our scrutiny partners, HM Inspectorates of Constabulary and Prisons and the Care Inspectorate, we are assessing the operation and impact of diversion from prosecution in Scotland. Work on this review is ongoing. It is already clear, however, that a joint approach to this review has been hugely beneficial and has allowed us to track cases through the diversion process, from when the police submit a report to COPFS, to the decision by COPFS to divert and refer the accused to justice social work, and to the diversion intervention delivered by justice social work.

In our *Annual Report 2019-2020*, we highlighted 11 recurring themes arising from our inspections of a range of topics and business areas within COPFS since 2013.² We thought it useful to highlight these themes to COPFS so that it is aware of the issues which appear to cause particular challenges and where its own self-assessment and internal improvement activity could helpfully be targeted. More recent inspections, as well as our

¹ Scottish Government, [Record crime in Scotland 2021-22](#) (2022).

² IPS, [Annual Report 2019-20](#), paragraphs 33-34.

ongoing scrutiny activity, suggest that these themes continue to be areas in which improvement is required and to which COPFS should direct its attention. Examples of some of the previously highlighted themes that recurred, yet again, in our recent scrutiny activity include:

- The need for **communication** with complainers, witnesses and others to be understandable, appropriate and timely.
- The need to reduce **delays** in the progress of cases.
- The need to improve **IT systems and processes** to help improve efficiency.
- The need to update **guidance** to staff following changes to policy and procedures and to provide them with appropriate **training**.
- The need to improve the approach to **performance management** and to use **data** more effectively.
- The need to improve **record keeping**, to ensure key decisions about a case are recorded and that staff have access to all relevant case documents.

In 2021-22, the inspectorate also began work on a Strategic Plan for 2022-25. This plan reflects our commitment to our own continuous improvement. We reviewed what we do well and where we can develop and improve our approach to scrutiny. We also refreshed our vision and values, and identified five strategic objectives which will guide us over the next three years.

In reviewing our own work, we considered that our current staffing model may not best meet the needs of an independent, resilient organisation with capacity to respond to emerging issues as they arise. Our initial plan, to increase our permanent inspection resource in order to boost our capacity, increase our resilience and rebalance the mix of permanent and seconded staff, may no longer be achievable due to the current financial climate. Over the life of our Strategic Plan, we will be working to resolve any weaknesses in our staffing model while acknowledging that this can currently only be done within the budgetary and recruitment constraints placed upon us by the Scottish Government.

Prosecutors, support staff and other professionals across the criminal justice system have demonstrated admirable commitment to delivering a vital public service during the pandemic and in the current recovery phase. I pay tribute to their efforts and their resilience, and thank all of those who facilitated and contributed to our inspection activity over the year. I also thank the inspectorate's own staff for their continued support and assistance.

Laura Paton
HM Chief Inspector of Prosecution in Scotland
November 2022

About us

1. HM Inspectorate of Prosecution in Scotland (IPS) is led by HM Chief Inspector of Prosecution who is appointed by the Lord Advocate to inspect the operation of the Crown Office and Procurator Fiscal Service (COPFS). COPFS is the sole prosecuting authority in Scotland and is also responsible for investigating sudden, unexplained or suspicious deaths and criminal allegations against the police.
2. IPS was first established in 2003, following an independent inquiry by Dr Raj Jandoo into the liaison arrangements between the police, COPFS and the family of Surjit Singh Chhokar, following the murder of Mr Chhokar and related prosecutions. One of the recommendations of the inquiry was that an inspectorate of COPFS be established, 'to introduce a measure of accountability, which is essential for public confidence'. After initially operating as a non-statutory body, IPS was placed on a statutory footing in 2007.

Mandate

3. The functions and powers of HM Chief Inspector are set out in the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The role of the Chief Inspector is to:
 - secure the inspection of the operation of COPFS
 - submit a report to the Lord Advocate on any particular matter connected with the operation of COPFS which is referred by the Lord Advocate
 - submit to the Lord Advocate an annual report on the exercise of her functions, which the Lord Advocate must lay before the Scottish Parliament.
4. The 2007 Act makes clear that in the exercise of any of the functions conferred by the Act, the Chief Inspector acts independently of any other person. When inspecting COPFS, the Chief Inspector may require any person directly involved in the operation of the service to provide her with information.
5. As well as the 2007 Act, there are a range of other duties to which IPS is subject, including duties of user focus and co-operation with other scrutiny bodies under the Public Services Reform (Scotland) Act 2010, and duties derived from the Human Rights Act 1998 and Equality Act 2010.

Our purpose

6. Our statutory purpose is to inspect the operation of the Crown Office and Procurator Fiscal Service.

Our vision

7. Our vision is to promote excellence and confidence in Scotland's prosecution service through independent, evidence-based scrutiny.

Our values

8. Our values underpin our approach to scrutiny. We always seek to demonstrate our values in the way that we work.



Independence – We act independently in all we do, providing impartial and objective scrutiny of the service provided by COPFS.

Credibility – We deliver high quality, evidence-based scrutiny and report publicly on our findings. Our approach is rigorous but fair and proportionate.

User-focus – The views and experiences of those individuals and organisations who are affected by the work of COPFS are central to our scrutiny activity. This includes victims, witnesses and next of kin as well as those who advocate on their behalf. We are also mindful of the experience of accused persons and those who represent them.

Respect – Respect for human rights is at the heart of what we do, and we support equal access to justice. We engage constructively with those we inspect, and we value the contribution they make.

Partnership – We work in partnership with others. We support continuous improvement in COPFS, and we work with our scrutiny partners to support improvement across the criminal justice system.

What we do

9. Our focus is on the quality of the prosecution service being delivered to the public in Scotland. Our inspection reports highlight what is working well as well as areas for development and improvement. In all of our work, a key objective is to understand the experience of those for whom the service is provided. We make recommendations that, if implemented, will enhance the effectiveness and efficiency of the service.
10. We seek to engage constructively with those inspected and to support them to deliver continuous improvement. We are mindful of the burden that scrutiny can impose on COPFS and seek to take a proportionate approach, minimising our scrutiny footprint where possible. We provide assurance to the Lord Advocate about the service being delivered by COPFS and our published reports help reassure the public that COPFS is independently scrutinised and held accountable, thereby enhancing public confidence in the justice system.

11. Issues for inspection are selected on the basis of risk and intelligence, and following consultation with the Law Officers, COPFS and stakeholders. The Lord Advocate has the authority to refer matters to IPS for inspection, meaning that a certain degree of flexibility in the programme is required to incorporate issues that emerge throughout the year.
12. We carry out different types of inspection activity, including thematic reviews, follow-up inspections and collaborative reviews.

Thematic inspections

13. Thematic inspections look holistically at an issue or a service end-to-end. These inspections can focus on specific types of case work or business approaches. In the early years of IPS, area-based inspections were carried out which reflected the structures and service delivery mechanisms within COPFS at that time. More recently, we have used thematic inspections to a far greater extent, reflecting the increased specialisation in COPFS and the functional nature of its current work.

Follow-up inspections

14. We also carry out follow-up inspections, to assess the progress made in implementing our recommendations. Follow-up inspections can provide information and reassurance to the Lord Advocate and the wider public that action is being taken in response to our inspection and that improvements in service delivery are being achieved. Due to our limited resources however, it is not possible to carry out follow-up inspections of all previous work.

Collaborative inspections

15. We actively seek opportunities to carry out our inspection activity in partnership with other scrutiny bodies. The effective operation of the justice system cannot be achieved by any one agency – it is dependent on a range of organisations working together at a strategic and operational level. When appropriate, a similarly collaborative approach should therefore be taken to independent scrutiny, to ensure that shared outcomes are being achieved.
16. To support this collaborative approach, we regularly engage with the other criminal justice inspection and scrutiny bodies, and we participate in the Accounts Commission-led Strategy Scrutiny Group which meets quarterly and comprises Scotland's main public sector scrutiny bodies. The group aims to deliver efficient and effective, well-coordinated scrutiny that supports improvement.

Inspection Framework

17. Our inspection activity is supported by an Inspection Framework, which helps ensure we take a consistent, professional and transparent approach to our work. Based on the European Foundation for Quality Management (EFQM) Excellence Model, our framework has six themes – outcomes, leadership and governance,

process, people, resources and collaborative work. The framework informs all of our scrutiny activity but is also sufficiently flexible so that bespoke key lines of enquiry can be developed for each inspection. In recent years, the EFQM model has been updated and one of our tasks in the year ahead will be to review our own framework in light of developments in EFQM and ensure it continues to be fit for purpose.

User involvement

18. Under section 112 of the Public Services Reform (Scotland) Act 2010, IPS has a duty to secure continuous improvement in user focus in the exercise of our scrutiny functions and to demonstrate that improvement. We consider how to include service users, and those who represent them, in all our scrutiny activity. Their views and experiences are sought when scoping and planning inspections and in the evidence gathering stages. This is most commonly done through interviews, focus groups and surveys.

Our inspection activity

19. In 2021-22, we published the report of an inspection of the management by COPFS of criminal allegations against the police. We also commenced two inspections: the first was an inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995; and the second was a joint review of diversion from prosecution.

Inspection of the management by COPFS of criminal allegations against the police

20. In 2021, IPS inspected how COPFS manages criminal allegations against the police. Terms of reference for the inspection were published in February 2021³ and the final inspection report was published in September 2021.⁴ The aim of the inspection was to assess the management of criminal allegations against the police by COPFS with a view to providing assurance to the Lord Advocate, the public and other stakeholders that such cases are dealt with effectively and efficiently. The inspection was intended to complement a broader review of police complaints handling in Scotland carried out by Dame Elish Angiolini, the final report of which was published in November 2020.⁵
21. The inspection was timely given that criminal allegations against the police have been the subject of much media and public interest in recent years. The privileged place that the police occupy in our society and the powers they exercise on behalf of the state mean it is essential that allegations are investigated thoroughly and independently, and in a manner that maintains public confidence in the criminal justice system.
22. In Scotland, all criminal allegations against the police are reported to COPFS. COPFS is able to independently oversee and direct the investigation into criminal allegations before making a decision as to whether the person complained about should be prosecuted. COPFS has separate processes for dealing with criminal allegations against the police depending on whether the alleged criminal conduct was committed while on duty or off duty. We reviewed how COPFS manages both types of allegation.
23. In support of our inspection, we interviewed almost 40 COPFS personnel involved in the investigation and prosecution of criminal allegations against the police. We also engaged with a wide range of stakeholders and partner organisations, including Police Scotland, the Scottish Police Authority, the Police Investigations

³ IPS, [Inspection of the management of criminal allegations against the police by COPFS – Terms of Reference](#) (February 2021).

⁴ IPS, [Inspection of the management by COPFS of criminal allegations against the police](#) (September 2021).

⁵ The Rt. Hon. Dame Elish Angiolini DBE QC, [Independent review of complaints handling, investigations and misconduct issues in relation to policing – Final report](#) (November 2020).

and Review Commissioner, British Transport Police, the Scottish Police Federation, the Association for Scottish Police Superintendents and the Scottish Chief Police Officers' Staff Association. We met with solicitors who represented those who had made a criminal allegation against the police, and solicitors who represented police officers and staff who had been accused of a crime.

24. We also reviewed a statistically significant sample of 80 cases reported to COPFS in which a person serving with the police was alleged to have committed an offence while on duty, and a sample of 40 cases in which the offence was committed while off duty.
25. Overall, we concluded that the quality of decision making by COPFS is good and that the public should be reassured by the robust scrutiny which is applied to on duty criminal allegations against the police. The creation of CAAP-D, a national unit to manage all on duty criminal allegations against the police, has resulted in consistent decision making by specialist prosecutors and has facilitated effective relationships with stakeholders. Nonetheless, we found there to be scope for improvement in how criminal allegations against the police are managed:
- The most common complaint made by stakeholders was the length of time COPFS takes to decide whether a criminal allegation should result in prosecution. In the 80 cases we reviewed, the average time taken to decide whether to prosecute was 18 weeks.
 - While communication with many complainers in the cases we reviewed was good, more could have been done to involve complainers in the investigative process and to ensure they were kept up to date on the status and progress of their complaint. The quality of communication with some complainers could also be improved.
 - There was a lack of written policy or guidance about how COPFS manages criminal allegations against the police, both for reporting agencies and for the Crown's own staff. There was also scope for COPFS to be more transparent about how criminal allegations against the police are handled and to publish data on the volume of cases and their outcome.
 - While leadership and governance arrangements for the management of criminal allegations against the police were good, governance could be strengthened if better quality data was available. We found there to be a lack of robust and accurate management information about CAAP-D's work.
 - There was a lack of information about the protected characteristics of complainers and those complained about, and there may be scope to give greater consideration to the role that race may play in complaints.
 - CAAP-D was not being routinely notified by the police of the existence of criminal complaints at a sufficiently early stage, which risked compromising its ability to direct or provide independent oversight of investigations.
 - There was a need for greater clarity about how on and off duty allegations should be distinguished and managed among those agencies that report allegations to COPFS and among the Crown's own staff. Of the 40 off duty

criminal complaints we reviewed, a quarter should have been subject to the process for on duty criminal complaints.

26. We made 18 recommendations for improvement. In response to our inspection report, we asked COPFS to prepare an action plan to address our recommendations. We await the action plan. Once received, the plan and any progress made in implementing our recommendations will inform our decision as to whether a follow-up inspection is required.

Inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995

27. In 2021, we began an inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995. These provisions regulate the use of evidence relating to the sexual history or character of complainers in sexual offence trials, and are designed to protect complainers giving evidence from irrelevant and often distressing questioning.
28. Section 274 contains a general rule that evidence or questioning falling within certain categories is not admissible in sexual offence cases. Section 275 allows the court, on application made to it, to admit evidence or questioning falling within the general prohibition at section 274 so long as certain tests are met. Sections 274 and 275 apply equally to evidence sought to be led or elicited by either the Crown or the defence.
29. This topic was chosen for inspection following developments in case law regarding sexual history and character evidence. In recent years, a series of cases have sought to clarify the import of sections 274 and 275 and to set out the correct approach to be taken to section 275 applications.⁶ These cases had been a response to challenges faced by the courts, the Crown and the defence in making, responding to and determining applications regarding sexual history or character evidence. A report published in 2020 by the Equality and Human Rights Commission on the use of sexual history and character evidence had also suggested that a review of COPFS practice in this area take place.⁷
30. We found that COPFS responded swiftly to developments in case law, issuing new instructions to staff and creating a training course dedicated to sexual history and character evidence. This has led to a significant shift in practice regarding how section 275 applications are managed – complainers are now regularly told about section 275 applications, asked their views on the applications' contents, and those views are presented by the Crown to the court. We found the quality of Crown section 275 applications to be generally good, and we found that the Crown

⁶ Including *RN v HMA* [2020] HCJAC 3; *CH v HMA* [2020] HCJAC 43; *Macdonald v HMA* [2020] HCJAC 21; *RR v HMA* [2021] HCJAC 21; *XY v HMA* [2022] HCJAC 2.

⁷ Professor Sharon Cowan, [The use of sexual history and bad character evidence in Scottish sexual offence trials](#) (EHRC, August 2020).

generally opposed applications made by the defence when it was appropriate to do so. Nonetheless, there remains scope for further improvement.

31. We made nine recommendations, eight of which were directed at COPFS and one of which was directed at the Scottish Government. If implemented, the recommendations should support further improvements in the way in which COPFS makes and responds to section 275 applications. Four of the recommendations directly relate to the Crown's duty to engage complainers about section 275 applications.
32. The report of our inspection was published in October 2022. We had originally intended to publish our findings in Spring 2022, but the progress of our inspection was significantly delayed by difficulties identifying and tracing key documents. As a result, one of our recommendations was for COPFS to clearly set out its expectations of staff regarding record keeping, and to remind them that key decisions about a case should be recorded and key documentation relating to a case should be imported into the relevant case file.
33. Upon publication of the report, the Lord Advocate accepted the eight recommendations directed to COPFS and instructed that improvement work be taken forward as a matter of urgency. She also noted that work had already begun to address the recommendations.

Joint review of diversion from prosecution

34. In 2022, we also began a joint review of diversion from prosecution. The aim of the review is to assess the operation and impact of diversion from prosecution in Scotland. We will provide an overview of diversion practice from a policing, prosecution and justice social work perspective, highlight what is working well and explore any barriers to the more effective use of diversion. The review is being carried out jointly with HM Inspectorate of Constabulary, the Care Inspectorate and HM Inspectorate of Prisons.
35. Diversion from prosecution is one of several alternatives to prosecution available to COPFS upon receipt from the police of a report of offending. Diversion is the process by which COPFS refers an accused person to local authority justice social work (or a partner agency) for support, treatment or other action as a means of addressing the underlying causes of the alleged offending. Diversion from prosecution is considered in any case where the person reported to COPFS has an identifiable need and where it is assessed that diversion is the most appropriate outcome in the public interest.
36. As part of this review we will consider:
 - the extent to which the police, COPFS and justice social work, alongside their community justice partners, share a vision for diversion from prosecution and collaborate on a strategy for delivery, while respecting the important principle of independent prosecutorial decision making

- how effectively the police identify whether an accused person has an identifiable need which has contributed to their offending and communicate this via the Standard Prosecution Report to COPFS
- the extent to which diversion is being considered and the systems and processes within COPFS which support prosecutors to make the most appropriate prosecutorial decision in respect of those who have an identifiable need
- the process by which accused persons are assessed for their suitability for diversion by justice social work
- the extent to which relevant and appropriate diversion schemes are available across local authority areas to meet the needs of those who have been diverted
- how well community justice partners work together to identify individuals suitable for diversion and to deliver effective diversion from prosecution
- the extent to which the impact of diversion is understood and intended outcomes are being achieved.

37. Terms of reference for this joint review were published in March 2022.⁸ The majority of the evidence gathering to support the review took place in the Spring and Summer of 2022. A report is expected later in the year.

Inspection programme 2022-23

38. Our inspection programme for 2022-23 includes:

- **An inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995**

As noted above, IPS commenced this inspection in 2021-22. Work on this inspection continued until its publication in October 2022.

- **A joint review of diversion from prosecution**

As noted above, IPS commenced a joint review of diversion from prosecution in 2021-22. Work on this inspection will continue throughout 2022.

39. At the time of writing this annual report, IPS is reviewing our future inspection programme and consulting with the Law Officers, COPFS and other stakeholders on issues that would benefit from independent scrutiny.

⁸ IPS, HMICS, Care Inspectorate and HMIPS, [Joint review of diversion from prosecution – Terms of Reference](#) (March 2022).

Other inspectorate activity

Strategic Plan 2022-25

40. In early 2022, IPS began work on a strategic plan for 2022-25. The plan was published in June 2022 and sets out who we are, what we do and how we will continue to support continuous improvement in the service provided by COPFS and help strengthen public confidence in the justice system.⁹
41. The development of our first published three-year strategic plan reflects the inspectorate's commitment to our own continuous improvement. We reviewed what the inspectorate does well and where we can develop and improve our approach. We considered how we are fulfilling our statutory purpose and how we can build on our achievements and continue to deliver an independent and credible inspection programme that meets the needs of the Lord Advocate, COPFS, stakeholders and the wider public.
42. In developing our strategic plan, we revisited and refreshed our vision and values and identified five strategic objectives as well as underpinning actions which will guide us over the next three years. Our five strategic objectives are:
 - We will inspect the operation of COPFS and report publicly
 - We will increase awareness of and engagement and confidence in our inspection activity
 - We will enhance our organisational resilience and invest in our people
 - We will invest in our own continuous improvement
 - We will work with our partners to maximise the impact of our work
43. The strategic plan will be kept under review and updated as necessary to take account of emerging issues and feedback we receive.

Follow-up inspections

44. In 2014, IPS embarked on a rolling programme of follow-up inspections to monitor the progress made in implementing our recommendations. Due to our limited resources, however, it is not possible to carry out follow-up inspections of all previous work. In 2021, we agreed a new process with COPFS which is intended to result in a more proportionate, risk-based and intelligence-led approach to following up previous inspections. In response to our recommendations, COPFS will provide us with an action plan which we will use alongside supporting evidence about implementation to assess the progress being made and to inform decisions as to whether a follow-up inspection is merited.
45. Actions plans will usually be provided three months after an inspection report is published, although this may vary depending on the nature and urgency of the

⁹ IPS, [Strategic Plan 2022-25](#) (June 2022).

recommendations. The action plan should set out how COPFS intends to address each recommendation and the anticipated timescales. The development of the action plan will provide an opportunity for those leading the response to engage with IPS and discuss the findings and recommendations, proposed actions, prioritisation and the evidence that might be gathered to show progress on implementation. Action plans should also be shared with the COPFS Audit and Risk Committee, to ensure it is sighted on the work of IPS and the COPFS response to our recommendations as part of its broader oversight of audit and assurance activity.

46. Where IPS is satisfied on the basis of an action plan and supporting evidence that recommendations have been implemented, the recommendations will be closed. Progress will be reported in our annual reports to maintain transparency. Where there is insufficient evidence of progress, where intelligence or an assessment of risk suggests that it is necessary, or where it is in the public interest, IPS will continue to carry out follow-up inspections. A follow-up inspection may also be carried out at the request of the Lord Advocate.

Evidence to Criminal Justice Committee

47. In October 2021, we submitted written evidence to the Scottish Parliament's Criminal Justice Committee regarding its pre-budget scrutiny of the 2022-23 budget. While welcoming the significant increase that COPFS had secured in its budget the previous year, we expressed concern about the additional demands on COPFS arising from its usual business as well as its response to the pandemic.
48. We noted that additional demands had arisen from, for example, the increase in complex cases and investigations which require the gathering and analysis of greater volumes of electronic data. We also noted that the pandemic had increased the workload of COPFS in various ways, not least in respect of the backlog of cases. In addition, COPFS was required to establish a dedicated team to identify and investigate thousands of Covid deaths. COPFS was also facing rising staff costs as a result of efforts to ensure pay parity between its staff and government colleagues. We also commented on the impact of Covid on the justice system, drawing on the findings of our joint inspection of emergency criminal justice provisions introduced in response to the pandemic.¹⁰

¹⁰ IPS and HMICS, [Joint inspection of emergency criminal justice provisions](#) (September 2020).

The inspectorate in 2021-22

Finance

49. The inspectorate is funded by the Scottish Government. Our budget for 2021-22 was £400,000, an increase from £350,000 in 2020-21 primarily to take account of rising staff costs. Staff costs typically account for around 95% of our annual spend (in 2021-22, staff costs made up 97% of our annual spend).

50. In 2021-22, our expenditure was as follows:

Staff costs ¹¹	358,414
Subsistence and motor mileage	0
Printing and binding	1,419
Travel and accommodation	0
Hospitality	102
Conference fees	641
Other running costs	9,149
Total	£369,725

51. In 2021-22, the inspectorate's travel and accommodation costs continued to be significantly less than normal due to the Covid-19 pandemic and the fact staff worked mostly from home for a significant proportion of the year and carried out inspection activity remotely. In 2021-22, we had allocated money within our budget to the development of a standalone, independent website. Due to delays in progressing this project by the Scottish Government, this money was not spent, contributing to our underspend. The website will now be procured in 2022-23.

Staff

52. As at 31 March 2022, the staff of IPS was 4.4 full-time equivalents and consisted of the Chief Inspector, Assistant Inspector of Prosecution, Legal Inspector, Business Inspector and a Personal Assistant.

53. The current Chief Inspector was appointed in 2019 to serve a three-year term. She was reappointed for a further three-year term in 2022.

54. The posts of Assistant Inspector of Prosecution and Legal Inspector are held by individuals seconded from COPFS. Their knowledge and familiarity with COPFS systems and procedures assists the inspectorate in its scrutiny activity, and the secondments offer COPFS personnel an invaluable development opportunity. The remaining staff are civil servants employed by the Scottish Government.

¹¹ No member of staff earned in excess of £150,000.

Register of interests

55. At the time of her appointment as HM Chief Inspector in 2019, Laura Paton had served as a trustee of the charity Together (Scottish Alliance for Children's Rights) since 2016. Her involvement in Together was noted in the register of interests held by the Scottish Government and highlighted on the inspectorate's web pages, and her appointment as HM Chief Inspector of Prosecution in Scotland was likewise noted in Together's register of interests. Appropriate safeguards are in place to avoid any potential conflicts of interest. In September 2020, Ms Paton was elected as Vice Chair of Together, and continued in her role as trustee. In the interests of transparency, her involvement in Together will be noted in the inspectorate's annual reports as well as any inspection report which deals with any substantial issue of children's rights. Ms Paton's term as Vice Chair and as a trustee of Together came to an end in September 2022.

Freedom of Information requests

56. IPS is subject to the Freedom of Information (Scotland) Act 2002. We publish information about our work, including our inspection reports, on our web pages which are currently hosted on the Scottish Government's website. In 2021-22, we received no freedom of information requests.



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About HM Inspectorate of Prosecution in Scotland

HM Inspectorate of Prosecution in Scotland (IPS) is led by HM Chief Inspector of Prosecution who is appointed by the Lord Advocate to inspect the operation of the Crown Office and Procurator Fiscal Service (COPFS). The functions of HM Chief Inspector are set out in the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The 2007 Act makes clear that in the exercise of any of the functions conferred by the Act, HM Chief Inspector is independent of any other person. COPFS is the sole prosecuting authority in Scotland and is also responsible for investigating sudden deaths and complaints against the police which are of a criminal nature.

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ISBN: 978-1-80525-244-3 (web only)

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Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1196722 (11/22)