



Inspectorate of Prosecution in Scotland

Annual Report 2017-18



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TO THE RIGHT HONOURABLE JAMES WOLFFE QC
THE LORD ADVOCATE

The Thirteenth Annual Report to the Scottish Parliament

December 2018

MICHELLE MACLEOD
HM CHIEF INSPECTOR
INSPECTORATE OF PROSECUTION IN SCOTLAND

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FOREWORD

During my time as Chief Inspector, Crown Office and the Procurator Fiscal Service (COPFS) has, in common with other public service organisations, operated within an environment of budgetary constraint. In this context, the evolving complexity of crime, often transcending territorial boundaries; the changing profile of serious offending including a substantial increase in reporting of sexual crimes; the need to modernise the delivery of criminal justice by harnessing digital technology; and the provision of a quality service that expedites cases where necessary and responds to victims, witnesses, nearest relatives and, where appropriate, accused and young offenders, taking account of individual needs and vulnerabilities, has posed significant challenges for COPFS.



In recent reports we have identified areas where COPFS has fallen short of the levels of service expected by those who come into contact with the prosecution service, often at a time of personal crisis or distress.

In our thematic report on Fatal Accident Inquiries (FAIs),¹ we reported that delays between the date of death and the start of an FAI adversely impacts on:

- The momentum of investigations and the operational capacity of investigating agencies;
- The well-being of potential witnesses for whom the prospect of the inquiry “hanging over them” is a source of anxiety and concern;
- The confidence of the nearest relatives and the public; and
- The quality of the evidence and, in some cases, the purpose of the FAI.

Of particular concern was the finding that mandatory FAIs² took on average 14 months from the date of death to the start of the FAI. To impose more focus and rigour when dealing with such cases, we recommended that COPFS should introduce an internal target for progressing mandatory FAIs.

In our thematic report on the Investigation and Prosecution of Sexual Crimes³ published last year we identified a gap between the service provided to victims and witnesses and what they want, need and expect. We made recommendations designed to provide victims with information and support in a more nuanced way tailored to their individual needs.

¹ IPS, [Fatal Accident Inquiries: review](#), 18 August 2016.

² Requirement to hold an FAI where a death occurs as a result of a work-related accident or the deceased was in legal custody at the time of their death.

³ IPS, [Investigation and prosecution of sexual crimes: review](#), 16 November 2017.



Similar themes arose in our most recent thematic review of the Prosecution of Young People⁴ where we made recommendations to improve the timeliness of implementing decisions and the content of communication with young people who are diverted from prosecution.

Managing mandatory FAIs within specific timescales and increased engagement with victims and witnesses and offenders inevitably involves more time and resources for COPFS but is essential for a prosecution service that aspires to provide a high quality service.

Following an exercise undertaken by COPFS to scope the implications of the shift in the profile of cases being reported and to ascertain the number of additional staff that would be required to deliver the level of service that the public expects, COPFS secured a significant increase in their in-year budget. On receipt of the additional funding, an extensive recruitment drive has commenced aimed at securing up to 140 new permanent members of staff, resulting in the highest ever level of staffing in COPFS.

The additional funding is extremely welcome and provides a significant opportunity to tackle some of the issues highlighted in our recent reports. The Lord Advocate has advised that indicting all sexual crimes in the High Court within shorter timescales, providing victims, witnesses and nearest relatives with an improved level of service, including providing regular updates and shortening the time taken to conclude death investigations are among the priorities for the allocation of the additional resource.

Taking account of the time required to train new staff which will allow more experienced staff to be re-deployed to specialist areas of work such as investigating sexual crimes and deaths, I have deferred the follow-up report on FAIs to allow the additional resource to become established and make an impact.

Additional funding for the development of digital facilities including the Witness Website, discussed further at Chapter Two, has also been acquired. Digital innovations, including the ability of witnesses to access information on the progress of cases, offer the means to improve the effectiveness of COPFS' service delivery. In this context, I would re-iterate the potential savings of serving indictments electronically as recommended in our report on the Management of Time-Limits.⁵ This has the potential to replace the existing out-of-date system and enable indictments to be served more quickly and securely.

We look forward to monitoring the impact of the additional staff and digital innovations in our follow-up reports on FAIs and the Investigation and Prosecution of Sexual Crimes during the next reporting year.

I would like to thank all who shared their experience and knowledge to help inform our reports this year and the IPS staff for their support and assistance.

Michelle Macleod.

Michelle Macleod
HM Chief Inspector
December 2018

⁴ IPS, [Prosecution of young people: report](#), 27 November 2018.

⁵ IPS, [Thematic report on the management of time limits: follow-up](#), 28 February 2017.



CHAPTER 1 – ABOUT US

1. The Inspectorate of Prosecution in Scotland (IPS) was established in 2003 and placed on a statutory footing in 2007 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The Act requires the Inspector "acting independently of any other person" to secure the inspection of the operation of COPFS and make recommendations that will contribute to the improvement of COPFS and enhance public confidence. It provides that the Lord Advocate may require the Inspector to submit a report on any particular matter connected with the operation of the Service.

Vision

2. The Inspectorate's vision is to enhance the effectiveness of and to promote excellence in the prosecution service in Scotland through professional and independent inspection and evaluation.

Values

3. The core values of the Inspectorate are:

I ndependence	to provide impartial and objective scrutiny of the service provided by COPFS
P rofessionalism	to undertake inspections with integrity, rigour, competency and consistency
S ervice	to provide a service that enhances public confidence in the investigation and prosecution of crime and any deaths that need further explanation and any associated fatal accident inquiry proceedings in Scotland.

Equalities

4. The Inspectorate is committed to promoting equality and diversity. To this end we consider the impact our inspections and recommendations may have on individuals, groups and communities. We carry out Equality Impact Assessments for each report focusing on the potential impact of our work on those with protected characteristics.



Our Approach

5. We encourage an inclusive and participative process and acting as an impartial and professional 'critical friend' aim to secure improvement across the system. We also seek to identify examples of good practice.
6. It is important that the work of the Inspectorate is relevant to the issues impacting on our communities. In common with other inspectorates, IPS inspection activity has evolved to develop programmes aligning inspection resource to risks by using sector risk profiles (from inspections) and sector intelligence (such as performance data and stakeholder feedback).
7. There are a number of different types of inspection work undertaken by the Inspectorate. These include:

Thematic Reviews

8. Thematic reviews look holistically at services end to end. These can be focused on specific types of case work or business approaches. We will highlight good practice and make recommendations designed to drive improvement and enhance quality.

Follow-up Reports

9. The main way in which inspectorates have impact is through their published reports and recommendations. For maximum impact and value from inspection findings, a robust follow-up process is a critical part of an effective inspection regime. Since 2014, the Inspectorate has embarked on a rolling programme of follow-up reports to monitor the progress of COPFS implementation of our recommendations and to evaluate the effectiveness and outcomes of measures implemented. Follow-up reports will continue to form part of our inspection cycle.

Collaborative Inspections

10. It is recognised that some issues are best addressed by a multi-agency or partnership approach. IPS has previously conducted joint inspections with Her Majesty's Inspectorate of Constabulary in Scotland (HMICS). The Inspectorate also liaises with Audit Scotland and the other inspection bodies within the criminal justice system to ensure there is no duplication of work and that inspection work is undertaken in a collaborative and complementary way.



Engagement between IPS and other Prosecutorial Systems

Visit of Kenyan Prosecutors

11. This year, IPS was pleased to welcome the newly appointed Director of Public Prosecution (DPP) of Kenya, Mr Noordin Haji, and a delegation of prosecutors. The DPP advised that they were considering establishing an inspectorate of prosecution in Kenya and was interested to understand the impetus for the introduction of the Inspectorate in Scotland and what was involved in its establishment. There was a fruitful discussion on the role and function of the Inspectorate, the methodology of conducting inspections, how improvements are measured and what influence the Inspectorate has in ensuring the recommendations are implemented. The discussion enhanced our knowledge of the system of prosecution in Kenya and increased awareness of some of the issues arising from their constitutional framework. The role of prosecutorial independence was further explored at the International Association of Prosecutors annual conference in September.



Pictured: Dorcas Odour (Secretary of Public Prosecutions), Noordin Haji (Director of Public Prosecutions), Michelle Macleod (HM Chief Inspector IPS), Kate Neill (Business Inspector IPS), Mary Mwange (Head of Complaints and Compliments), Alan Buchanan (Director of Operations, Police Investigation and Review Commissioner – PIRC) and Duncan Ondimu (Principal Prosecution Counsel)



International Association of Prosecutors (IAP) Annual Conference

12. Established in 1995, the International Association of Prosecutors is the first and only worldwide organisation of prosecutors, representing over 300,000 prosecutors from over 176 different countries and territories. The main impetus for its formation was the rapid growth in serious transnational crime and the need to meet the challenges this presents through greater international co-operation.
13. The 23rd Annual Conference of the IAP was held in Johannesburg, South Africa. Our hosts were extremely welcoming and, in the year that they celebrated the centenary of the birth of Nelson Mandela we heard much about the spirit of Ubuntu – a traditional African philosophy, which speaks to their humanity and interconnectedness and a belief that the wellbeing of the South African people is deeply ingrained in the wellbeing of others.
14. The theme “Prosecutorial Independence – the Cornerstone of Justice to Society” resonated with all prosecuting authorities. The hallmark of independence is an environment where prosecutors exercise their mandate without fear, favour or prejudice. The absence of political interference and the accountability of prosecutors were identified as critical for prosecutorial independence. In both aspects, Scotland fared better than some countries – in some parts of the world a certain level of interconnection between the government and the public prosecutor’s office remains rather than the separation of powers necessary to prevent political interference.
15. We heard that prosecutorial accountability can be furthered through a variety of means, ranging from the publication of annual reports and key performance indicators, independent complaints mechanisms and legislative provisions that provide victims of crime with the right to seek a review of prosecutorial decisions such as the Victims’ Right of Review introduced by COPFS in 2015.
16. In this context, dedicated prosecution service inspectorates were acknowledged as an important mechanism for providing an extra layer of scrutiny and accountability. As such, the conference provided an opportunity to discuss the role and function of the independent Inspectorate in Scotland with prosecutors from various jurisdictions including Austria, the USA and Kenya.



CHAPTER 2: DIGITAL INNOVATION

Ipads in Court

17. In our 2015-16 Annual Report we advised that the use of Ipads/tablets in court was ready for user testing in two procurator fiscal offices.⁶ Technical issues impacted on the original time scales for the roll-out but taking on board feedback from users in both offices significant improvement has been made to their functionality, including the provision of larger screens, resulting in a more user-friendly and intuitive product.
18. Ipads allow prosecutors to electronically access case files, through the use of a digital application “Case Management in Court” (CMiC), without the need for hard copy papers. This provides the following benefits:
 - Improved presentation in court – the ability of prosecutors to access all documentation held electronically for each case at a click of a button should improve the standard of service provided to the court.
 - Environmental – less printing/use of paper will reduce COPFS’ carbon footprint.
 - Improved efficiency and customer service – the application allows prosecutors to electronically transmit what happens in court in real-time to the COPFS system creating efficiencies for administrative staff. This enables staff in offices to provide victims and witnesses with speedier updates on what has happened.
 - Enhanced security – the reduction of transportation of hard copy papers lessens associated security risks. All Ipads are secure and encrypted.
19. Ipads have now been rolled-out to a further eight offices,⁷ with a further five⁸ due to come on board before the end of 2018 and the remaining 22 offices by the end of 2019. The use of Ipads in court represents a cultural change for prosecutors. To mitigate concerns, roadshows have taken place across the country to showcase the application and encourage familiarity with its functions. Ipads are currently limited to summary courts although the next step is to scope what is required for their use in Sheriff and Jury courts.
20. While there is still a requirement for some hard copy papers to be available in court, including previous convictions that need to be tendered to the court following a conviction and productions, work is underway with partner agencies to increase the use of electronic transfer of documents to further reduce the need for hard copy papers.

⁶ Livingston and Perth.

⁷ Airdrie, Ayr, Dunfermline, Falkirk, Jedburgh, Kilmarnock, Kirkcaldy and Selkirk.

⁸ Dumbarton, Edinburgh, Elgin, Hamilton and Peterhead.



21. We received a demonstration and were impressed with how user-friendly and intuitive they had become from the initial prototype. While we were not in the pressured environment of a court, the advantages were readily apparent and we received positive feedback from prosecutors who are currently using the I pads in court. Prosecutors continue to feedback on where further improvements can be made to enable further refinements as part of a programme of continuous improvement. Overall, this is a significant advancement in the way cases are prosecuted in Scotland in the 21st Century... So far the feedback is “It’s an Aye to I pads”.



Witness Website

22. During the Justice Committee Inquiry into the role and purpose of COPFS in 2017 COPFS advised that part of the response to the evolving nature of crime was the development of a public witness website that allows for the secure posting by COPFS of information for witnesses. It will also enable the secure provision of information by witnesses and victims, such as change of address and provide witnesses with:
- secure access to their statement;
 - the opportunity to see their particular case progress online; and
 - the opportunity to ask questions online.



23. COPFS has recently received funding from Scottish Government to produce a prototype of the witness website or “portal” by the end of March 2019. Initially it will have secure log-on capabilities and the functionality to allow witnesses to access their statements on-line and produce an audit trail of activity. Once the prototype has been developed, there will be a period of testing/evaluation of its functionality and capability before the system is rolled out for use. It is envisaged that the portal will be further enhanced in due course to allow more general provision of information to assist victims and witnesses.

24. The Inspectorate will watch with interest how these developments unfold with a view to assessing the impact this has on COPFS’ service provision.



CHAPTER 3: OUR INSPECTIONS

25. This year we published a thematic report on the Victims' Right to Review, a follow-up report on Complaints Handling and Feedback and a thematic report on the Prosecution of Young People.

Thematic Report on the Victims' Right to Review

26. Our Thematic Report on the Victims' Right to Review (VRR) was published in May 2018. Victims of crime or bereaved relatives have the right to seek a review of a decision by COPFS not to prosecute a criminal case or to discontinue criminal proceedings that have commenced.⁹
27. For many victims of crime or bereaved relatives, contact with the criminal justice system is unfamiliar and often traumatic. Providing reasons for such decisions is essential to retain confidence and to deliver accountability and transparency to those whose lives have been affected and allows victims to make an informed decision on whether to submit a VRR application.
28. The aim of the inspection was to assess the operational effectiveness of the COPFS Victims' Right to Review Scheme.
29. We found the COPFS review process was robust with reviews being conducted independently and thoroughly and reviewers overturning decisions where they found the initial assessment of sufficiency and/or the public interest was incorrect or unreasonable. Of the applications we examined, we found over 90% of reviews were conducted to a high standard. The responses issued to victims were also generally empathetic.
30. However, not all victims are notified of decisions not to prosecute. This policy has the potential, in some cases, to deny victims access to an effective remedy, in the form of a prosecution, if the decision is overturned.

⁹ Introduced by COPFS on 1 July 2015.



31. The report identified a number of areas where COPFS can improve the quality of service offered to victims:
 - By working towards a system of notifying all victims of decisions not to prosecute;
 - Providing substantive and understandable reasons for initial decisions not to prosecute or to discontinue proceedings;
 - Expediting requests for a review for offences subject to time limits; and
 - Tailoring communication of the outcome of reviews to the needs of the individual.
32. The report made 11 recommendations, all of which were accepted, designed to ensure the review process is thorough, effective and conducted to the highest quality, in accordance with the individual needs of the victim(s).
33. The key findings and recommendations are set out below.

Key Findings

- ❖ Different approaches were applied by those undertaking reviews.
- ❖ The VRR process was robust with reviewers overturning decisions where they found the initial assessment of sufficiency and/or the public interest to be **incorrect** or **unreasonable**.
- ❖ Of the 57 applications examined, we found 91% (52) were conducted independently, thoroughly and to a high standard.
- ❖ Specialist areas of law require the reassurance of a specialist undertaking the review.
- ❖ There is a correlation between victims not being notified of decisions not to prosecute or to discontinue proceedings and delays in VRRs being submitted.
- ❖ The optimum approach would be to notify all victims of decisions not to prosecute.
- ❖ There was a commitment in the Response and Information Unit (RIU) to conduct full and thorough reviews and responses were generally empathetic. In the majority of the 57 applications reviewed, efforts had been made to respond to all issues raised and where there was fault or poor service, it was acknowledged, often with an apology.
- ❖ 70% (40) of the responses were issued more than 20 working days after receipt of the application.



Recommendations

Recommendations 1 and 2

COPFS should provide guidance on the factors to be considered and the approach to be taken to conducting VRRs – it should be supplemented by workshop training for the core participants involved in such reviews.

COPFS should ensure that the factors taken into account and the reasons for the initial decision and the outcome of the review are recorded in a consistent and standardised manner.

Recommendation 3

COPFS should ensure that reviews, involving specialist areas of law, including sexual crimes, are conducted by a prosecutor with the relevant specialist skills and expertise regardless of whether the offence(s) is likely to be prosecuted at solemn or summary level.

Recommendation 4

COPFS should clarify who is responsible for notifying victims of any decision to discontinue proceedings in summary cases that do not fall within the VIA remit and reinforce and embed existing policies regarding notification of decisions not to prosecute and to discontinue proceedings.

Recommendations 5 and 6

COPFS should work towards a system of notifying all victims of decisions not to prosecute, whether through the use of IT solutions or otherwise.

COPFS should undertake a review of the VIA remit to assess whether it remains appropriate following the prosecution policy review.

Recommendation 7

COPFS should undertake a review to identify all summary offences, involving victims and a statutory time limit, where there is no suitable alternative charge, with a view to extending notification of decisions not to prosecute to such offences.

Recommendation 8

COPFS should raise awareness in the Procurator Fiscal Offices of the importance of identifying requests from victims to review decisions not to prosecute or to discontinue proceedings and to transfer them without delay to RIU to enable reviews to be completed within any time limits.



Recommendation 9

COPFS should provide substantive and understandable reasons for initial decisions not to prosecute or to discontinue proceedings to victims who are notified of such decisions.

Recommendation 10

COPFS policy should reflect that the VRR response should be communicated in a manner consistent with previous communication, in terms of the victim strategy or, in death cases, with the Family Liaison Charter and in accordance with any equality considerations.

Recommendation 11

COPFS should avoid issuing multiple template holding replies and provide an explanation for the delay and an indication of the timescale for completion for all cases that are likely to take longer than 20 days.

Complaints Handling and Feedback Follow-up Report

34. The Complaints Handling and Feedback follow-up report was published as part of the Thematic Report on the Victims' Right to Review. It followed an inspection of Complaints Handling and Feedback in December 2015.
35. Complaints provide valuable insight into areas where there is scope for improvement in an organisation. Critical to improving service delivery is a culture that values complaints and commits to learning from them.
36. In our thematic report on complaints handling and feedback we concluded positively that the complaints handling staff within COPFS Response and Information Unit (RIU) were helpful, skilled and in the majority of cases we examined, efforts had been made to respond in full and where there was fault or poor service this was acknowledged with an apology. However the quality of these responses was hindered by the use of legal terminology, jargon, using formulaic paragraphs, overly defensive, and a lack of empathy.
37. We found less evidence of the wider organisation accepting the need to learn from complaints and resolve them at the point of receipt. Learning from complaints was not systematic – there was no register of themes, actions taken, lessons learnt and outcomes.
38. We made 15 recommendations designed to strengthen and improve the complaints process and promote a culture focused on people rather than process, where complaints are valued as a key indicator of customer satisfaction, and as a source of feedback to identify recurrent themes and systematic issues.
39. In our follow-up report we found that, whilst COPFS had implemented a substantial number of the recommendations from our 2015 thematic report, recommendations 14 and 15 remained outstanding:
 - 14.** COPFS should introduce a system to record, analyse and report on complaint outcomes, trends and improvement actions.
 - 15.** COPFS should establish a set of key performance indicators to measure complaints handling performance and drive improvements.



40. These recommendations were critical to COPFS developing strategies for improving service delivery, tackling the underlying causes of complaints and embedding a culture of valuing complaints and learning from them.
41. We reported that these recommendations were being taken forward by the newly created Service Improvement Board (SIB), chaired by the COPFS customer service “champion”, and that assurances had been given that progress would be made by the time of our annual report.
42. We are pleased to report that these recommendations are now being progressed:
 - A system has now been introduced in RIU to capture themes arising from complaints and a senior lawyer in RIU provides analysis of these themes to the SIB.
 - A national Service Improvement Strategy with the primary focus on service improvement has been introduced.
 - Each function within COPFS has been tasked by the SIB with developing a bespoke improvement plan to implement the overarching national strategy. Within the local court function an improvement plan is being developed for each sheriffdom, recognising the need for a nuanced approach to improving standards in different geographical locations.
 - The SIB has recommended the introduction of two key performance indicators, focusing on reducing the numbers of complaints which are upheld due to failing to communicate and increasing the number of complaints dealt with by quick resolution. They will be considered by the Operational Performance Committee before the end of the year and thereafter will go to the Executive Board for consideration.

Thematic Report on the Prosecution of Young People

43. “In the “year of young people”, we thought it timely to assess the effectiveness of COPFS processes and procedures for prosecuting young people and their use of alternatives to prosecution including diversion.
44. The inspection tracked the journey of 95 young offenders reported to COPFS who fell into three categories – under 16 years, 16/17 year olds who fell within the joint remit of the Children’s Hearing System and COPFS and all other 16/17 year olds.
45. We found that there was a tension between the consensus that those under 18 should be treated as children and the current legal framework where, for many, 16 still represents the transition from child to adult.
46. A young person’s journey through the criminal justice system can differ greatly. For some, there may be contact with the police resulting in use of direct measures, early interventions or Recorded Police Warnings. This may graduate to interventions through the Children’s Hearing System and some may receive an alternative to prosecution such as a warning, fiscal fine or diversion. Further offending may result in prosecution and criminal convictions.



47. For others, aged 16/17, who have no history with the Children's Hearing System or have not come to the attention of the police, their offending can take them directly into the adult criminal justice system.
48. The report makes 12 recommendations designed to ensure that:
 - COPFS guards against dealing with young people who can appropriately be dealt with by the Children's Reporter;
 - COPFS facilitates the maximum use of alternatives to prosecution, including diversion for all of those under 18 years;
 - Timelines on implementing decisions to divert young offenders are improved;
 - Communication with offenders is simplified and tailored to individual needs and vulnerabilities; and
 - Other opportunities are explored to address low level road traffic offending by young people.

Key Findings

- ❖ 16/17 year olds were twice as likely to be prosecuted as 16/17 year old offenders subject to a Compulsory Supervision Order (CSO). 53% were prosecuted in comparison to 23% of the offenders subject to a CSO.
- ❖ Of those prosecuted in the sheriff summary and Justice of the Peace courts the sentence imposed in 41% of cases could have been achieved by an alternative to prosecution.
- ❖ Compared to the police reports for the categories of offenders under 16 or 16/17 year olds subject to a CSO, there was a significantly higher percentage of reports where no information was provided on the offender's individual or family circumstances or vulnerabilities for those in the 16/17 year olds category.
- ❖ Delays in reporting or taking decisions when an offender is approaching 16 or has an intervening birthday has the potential to create a different outcome for young people who are older by a few days or weeks.
- ❖ There is a disconnect between the emerging consensus that young people aged under 18 should be treated as a child or young person in the criminal justice context and the current legal framework where, for many, 16 still represents the transition from a child to an adult.
- ❖ There was a high success rate (80%) for the 16/17 year olds diverted as an alternative to prosecution.
- ❖ Diversion only failed in three cases (3.5%) due to a lack of co-operation or further offending.
- ❖ Of the 69 offenders where diversion was completed successfully almost two thirds (43) did not re-offend.



- ❖ For those with complex needs more than one intervention may be necessary to address the causes of the offending behaviour.
- ❖ In 56% of cases, it took more than four weeks to implement the decision to divert the offender.
- ❖ Close proximity between the offence and the commencement of engagement with Criminal Justice Social Work (CJSW) is essential for diversion to be effective and relevant for the offender.
- ❖ The average time between receipt of the police report and the completion of diversion was seven months.
- ❖ Updates on progress from CJSW need to be obtained in a timely manner to ensure final decisions can be taken as swiftly as possible to minimise any adverse impact on the young person.
- ❖ Communication with offenders during the diversion process was inconsistent and often at variance with COPFS guidance.
- ❖ Letters sent to offenders were overly complex and contained legal jargon.
- ❖ Communication was not tailored to offenders' needs taking account of, any known, equality issues.

Recommendations

Recommendation 1

COPFS should guard against “net-widening” by dealing with jointly reported offenders who do not fall within the Lord Advocate’s Guidelines and those who have not yet turned 16 where the presumption is that they should be dealt with by the Reporter.

Recommendation 2

COPFS should prioritise consideration of the review that offenders aged 16/17 subject to a CSO are presumed to be dealt with by the prosecutor.

Recommendation 3

COPFS should liaise with Police Scotland to standardise the provision of information on any known vulnerabilities or individual and/or family circumstances that may have a bearing on the appropriate prosecutorial action. The report should specify if there are none identified or whether the offender refused to divulge such information.

Recommendation 4

COPFS should ensure that there is a written record of discussion with the Reporter, in all jointly reported cases, including the factors taken into account in determining who should deal with the young person.



Recommendation 5

COPFS should facilitate the maximum use of diversion (or a lesser form of alternative action) for all young people under 18 years. Where there are compelling reasons in the public interest to prosecute they should be clearly recorded by prosecutors.

Recommendation 6

COPFS should improve the timeline of cases involving young people where diversion is offered.

Recommendation 7

COPFS should introduce a national streamlined process for communicating with social work departments and offenders to support the effective operation of diversion.

Recommendation 8

COPFS should review and simplify all correspondence issued to young people being offered diversion.

Recommendation 9

COPFS should tailor communication to the individual needs and vulnerabilities of young offenders taking account of, any known, equality issues.

Recommendation 10

COPFS should, on completion of diversion, confirm in writing what action, if any, is to be taken.

Recommendation 11

COPFS should clarify whether the applicable age requiring CCI, prior to any proceedings being commenced for children aged 13, 14 or 15 years, is the age of the child at the date of the offence, when the police report is submitted or when there is a decision to prosecute.

Recommendation 12

COPFS should explore the possibility of expanding the scope of the Driver Improvement Scheme and/or the feasibility of introducing a new road safety programme to address low-level road traffic offences.



Current and Future Work Programme

- IPS has recently commenced an inspection of Sheriff and Jury cases. As part of the review, we will assess:
 - The effectiveness and robustness of the systems, processes and procedures governing the prosecution of solemn cases in the Sheriff Court, including those designed to manage the new time limits;
 - The timeliness of the investigation and prosecution of cases;
 - Compliance with statutory obligations and COPFS guidance when engaging with defence solicitors and when preparing the written record;
 - Reasons for adjournments and delays;
 - The effectiveness of liaison arrangements both internally, including where cases are transferred between those with a specialist function and sheriff and jury teams, and externally with stakeholders such as Police Scotland and Scottish Courts and Tribunals Service (SCTS);
 - Whether those investigating and prosecuting sheriff and jury business are sufficiently resourced and trained to provide a high quality service; and
 - Whether there is appropriate communication with victims and witnesses throughout the life of the case.
 - A follow-up report on the thematic review on Fatal Accident Inquiries.
 - A follow-up report on the thematic review on the Investigation and Prosecution of Sexual Crimes.
49. The IPS programme is kept under review and altered as necessary to respond to any new challenges or developments which provide identifiable risks for COPFS and the wider criminal justice system.



ANNEX A

Finance

The Inspectorate's budget for 2017-18 was £320,000

The expenditure was as follows:

Staff costs*	301,018
Subsistence and motor mileage	94
Printing and binding	1,140
Travel and accommodation	7,136
Hospitality	179
Conference fees	887
Other running costs	<u>7,427</u>
Total	<u>£317,881</u>

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

Staff

50. The staff of the Inspectorate during the period of the report consisted of the Chief Inspector, an Assistant Inspector, a Legal Inspector, a Business Inspector and a Personal Assistant.

Freedom of Information (FOI)

51. We publish FOI information and all our reports on our website. During the period to the end of November 2018 three Freedom of Information requests were received and responded to within the required timescale.

Complaints Process

52. Our Complaints Handling Procedure is published on our website and seeks to resolve any dissatisfaction as quickly as possible and where necessary to conduct thorough, impartial and fair investigations of complaints. Our Complaints Handling Procedure does not extend to individual complaints about operational decisions relating to specific cases. These should be addressed to the Crown Office and Procurator Fiscal Service (www.copfs.gov.uk).



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About the Inspectorate of Prosecution in Scotland

IPS is the independent inspectorate for the Crown Office and Procurator Fiscal Service. 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.

IPS operated on a non-statutory basis from December 2003. Since the coming into effect of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 Sections 78 and 79 in April 2007 the Inspectorate has been operating as a statutory body.

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