



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Criminal Justice Committee

Wednesday 11 February 2026

Session 6



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CRIMINAL JUSTICE COMMITTEE
6th Meeting 2026, Session 6

CONVENER

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

DEPUTY CONVENER

*Liam Kerr (North East Scotland) (Con)

COMMITTEE MEMBERS

Katy Clark (West Scotland) (Lab)

*Sharon Dowey (South Scotland) (Con)

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Marlene Anderson (Crown Office and Procurator Fiscal Service)

Heather Duncan (Scottish Prison Service)

Malcolm Graham (Scottish Courts and Tribunal Service)

Stephen McGowan (Crown Office and Procurator Fiscal Service)

Teresa Medhurst (Scottish Prison Service)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament Criminal Justice Committee

Wednesday 11 February 2026

[The Deputy Convener opened the meeting at 09:33]

Decision on Taking Business in Private

The Deputy Convener (Liam Kerr): Good morning, and welcome to the sixth meeting in 2026 of the Criminal Justice Committee. We have received apologies from the convener, Audrey Nicoll, and from Katy Clark. Fulton MacGregor has another commitment in the Parliament but will join us later.

Under our first item of business, do members agree to take item 3 in private?

Members *indicated agreement.*

Budget 2026-27 and Scottish Spending Review

09:33

The Deputy Convener: Under our next item of business, we will hear reflections from two panels of witnesses on the proposed budget for 2026-27 and the Scottish spending review. I refer members to papers 1 and 2.

For the first panel, I welcome Teresa Medhurst, the chief executive of the Scottish Prison Service, and Heather Duncan, its interim finance director. We have up to 90 minutes for the evidence session. Notwithstanding that fact, I remind all colleagues and witnesses to be as succinct and targeted as possible in their questions and answers.

I invite Teresa Medhurst to make a short opening statement.

Teresa Medhurst (Scottish Prison Service): I thank the committee for inviting us back and providing us with an opportunity to give some context to help you understand how our 2026-27 budget allocation will impact our ability to meet our statutory obligations.

As always, we are grateful for the support that the Scottish Government has shown through our potential budget allocation, but I must be clear that it falls somewhat short of what we need if we are to deliver the full range of our delivery agenda, support much-needed improvements and ease some of the current pressures.

Our ageing estate is in desperate need of upgrades and replacement. Although the continued capital investment for the two new prisons provides excellent new facilities to replace ageing buildings, it is still of great concern that the current pressures from prolonged excessive population mean that our existing estate continues to degrade, which could result in catastrophic failure.

In addition to the deepening unease caused by the infrastructure concerns, the demographics of our population continue to show an equally worrying trend. Since 2021-22, our long-term population daily average has increased by just short of 800, and the number of individuals who have been convicted of sex offences has increased by just short of 900, which is staggering. Based on design capacity, we could fill an additional prison similar in size to HMP Edinburgh or HMP Low Moss exclusively with long-term prisoners and those convicted of sexual offences, and we would still require additional spaces elsewhere. That trend also represents a prolonged and continued pressure on resources, including

access to rehabilitative programmes and psychology services, as well as national health service and social work resource. That has created a bottleneck—through no fault of the individuals—that prevents people from accessing the support that they need on their prisoner journey.

Along with our partners, SPS is committed to reducing future harm to our communities and supporting the rehabilitation of those in custody. Our staff have struggled with the relentless pressure, particularly over the past two years, but they continue to focus on building those important relationships and delivering services and support, and we make improvements where we are able to do so. However, I am clear that that pressure must now ease. Budget increases alone are not sufficient, although they would absolutely alleviate some of the pressures. The budget allocation for 2026-27, which does not meet our requirements, will potentially result in some form of degradation of our service delivery unless the funding gap is met in-year.

I reiterate the point that I made during my previous appearance at the committee. Our reach does not only remain within our perimeter walls; it extends much further. As a public service, we contribute to wider societal goals. We need a budget allocation that reflects that level of impact, because without it our efforts might be lessened or lost. We continue our on-going dialogue with the cabinet secretary and Scottish Government colleagues, who are all aware of the pressures and potential impacts, and we will continue to work closely with them to address those concerns in the next financial year. I remain appreciative of their on-going support.

The Deputy Convener: I am grateful for your statement. I was originally going to ask about your reaction to the budget, but you have set it out clearly. However, it puts in mind something that you told the committee last year. You said:

“If we are unsuccessful in our bid for funding, I will not have enough money to run the organisation next year. At some point, the funding will run out. I cannot see any area that we can cut back, particularly given the population pressures.”—[*Official Report, Criminal Justice Committee*, 19 November 2025; c 30.]

You were unsuccessful in your entire bid for funding, so it begs the question of whether that situation will come to pass.

Teresa Medhurst: In this financial year, we received an uplift of an additional £45 million in the budget allocation. However, in-year pressures resulted in an additional requirement for £22.5 million, which was allocated to us by the Scottish Government.

Outwith the actual budget allocation, there are additional cost pressures, such as the work on

further measures to reduce the prison population—if that is agreed to by the Parliament—and other work that we need to undertake to focus on the population pressures across the estate. We are also undertaking work in response to fatal accident inquiry recommendations, and other infrastructure work is required on security measures. All that has the potential to come with additional costs, so we are pulling together additional business cases at the moment.

In addition to the shortfall, we will require further money. If we are not successful in achieving an additional in-year allocation or in our additional bids, there will be degradation. Whether we run out of money will depend on how we spend what we have and on other pressures over the year. For example, inflationary pressure adds a significant amount to our budget allocation—in-year changes can increase or decrease the level of pressure, so a number of variable factors need to be taken into account. However, during this financial year and in previous financial years, we have kept very close to the Government and ensured that it fully understands the impact and the implications of its decisions. My understanding is that that collaboration will continue, but if there is no further allocation, it is likely that we will run out of money at some point.

The Deputy Convener: You have said a couple of times that the financial situation could result in a degradation of service delivery. What do you mean by that? You said in your opening remarks that there was a risk of “catastrophic failure”—those were the words that you used. What does catastrophic failure look like, and what are the chances of that happening, given the budget that you see before you?

Teresa Medhurst: As I said at the start, I welcome the capital investment in the two new-build prisons—HMP Glasgow and HMP Highland—but that does not negate the rest of the ageing estate. At times, failures occur at the prisons in Dumfries, Greenock and Perth. Certain infrastructure failures, such as boiler and heating system failures, have occurred recently, and, at the moment, three prisons have temporary boilers in place, which we have to pay for at significant cost until replacement boilers can be sourced and installed. Such failures happen fairly regularly now. Our estate staff and operational staff do a remarkable job in working through the difficulties that they face. Nevertheless, such issues have operational and cost implications for the service that is provided.

It is difficult for me to fully explain what degradation of service could look like. However, we know that the long-term prison population and the number of people who are convicted of sex

offences are both increasing, and, if we do not have sufficient funding, we will not be able to provide the investment that is required in relation to psychology and case management services for those populations. If we cannot provide the right level of resource, support and input, people will stay in prison for longer, and there will be other implications, too.

09:45

The other thing to consider is that, while all that happens, staff will continue to face pressure as a result of population levels, unless capacity is increased across the estate. One of the steps that I have taken is to change the shape of the operating day, which we call the regime and roster review. Only four prisons are yet to make those changes, which are intended to concentrate the staff group during the working day, so that we are able to deliver services in a far more consistent and structured way. That ensures that people do not feel that they are not getting access to the support that they require. We will better understand the implications of those changes as time goes on and will be able to see whether that will achieve our ultimate aims, particularly given the continued inflow of people into prisons.

However, there are limitations on what we can do with additional staff if we do not have the space and time to deal with people because of overcrowding. Resource increases will alleviate some of the issues, but not necessarily all of them. Due to changes in demographics and population types, prisons will become more costly, because enhanced multidisciplinary working will be required in order to manage more complex cases. I am not talking only about prison staff and social work; I am also talking about the work of NHS colleagues and other community-based colleagues. All of that will come at an additional cost at a time when the numbers remain significantly high.

The Deputy Convener: I am grateful for that answer. I understand your points.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. I want to stay on the resource funding question for the moment. To put the resource figures on the record, the 2026-27 budget figure of £509.3 million appears to be around £12 million less than what you said you were seeking when you provided evidence to the committee during pre-budget scrutiny.

You have said that that reduction will have an impact. What direct impact will it have on the prison population, with regards to throughcare, rehab and so on? Has that been thought through? How will the reduction affect prisoners?

Teresa Medhurst: I will ask Heather Duncan to confirm the figures when I am finished. We have slightly different figures from yours and, as you said, this is for the public record.

We have not fully worked through the implications yet, and we want to ensure that we understand where the pressures are likely to appear. Some of my concerns relate to the resourcing of services and support, but they extend equally to safety and security, as well as to reform. I have talked about the work on multidisciplinary case conferences, and I know that the committee recently took a lot of evidence on drugs in prisons. I welcome the report that you published.

There are improvements that we want to make in that area, such as introducing body-worn cameras, which comes at a cost. That would be capital funding rather than revenue, but the cost would come from the overall budget. In addition to that, introducing in-cell technology would make a difference in the provision of a lot of services. Our education contract, which was awarded in 2024, is predicated on being able to provide some services through that digital avenue.

There are ways and means by which we can reduce the impact, but further investment is required in order for us to do that.

I ask Heather Duncan to confirm the figures.

Heather Duncan (Scottish Prison Service): On the difference between the allocation and what we originally requested, the figure that I have is £15.6 million. As Ms Medhurst explained, the inflationary pressures alone mean that the figures are significantly higher. For example, the pay award alone is just under £18 million. Since that original request, SPS has followed the agenda for change model, which has an inflation protection element that uplifted the starting position for our salary base for 2026-27 by 0.15 per cent.

Rona Mackay: Thank you for clarifying that.

Ms Medhurst, in your opening statement, you said that the budget alone would not relieve the pressure but would alleviate it. Can you expand on what you mean by that?

Teresa Medhurst: It is very simple. We do not have the capacity for the number of people who are in custody at the moment, so we need the population to reduce.

The other thing to say is that, because we have been running at high population levels for the past two years, the distribution of the population across the estate is causing problems. The best way of saying it is that we are silted up with small cohorts of the population who need to be co-located on one site, and we cannot move them around to co-

locate them so that they can access better support and services and do so safely. I am talking about the type of people who require some degree of protection in custody because they might have drug debts or they have enemies who are linked with serious organised crime, for example. Those who are convicted of sex offences also need to be kept separate.

People are displaced all over the place across the estate. We need to rationalise that and co-locate people in areas where they can access support and services in a meaningful way. We cannot do that redistribution because we do not have the capacity and it is exacerbating the situation. More people are locked up for longer than is acceptable because we cannot do those things that we need to do. We need the population to come down.

Rona Mackay: You have talked about demographics, the population types and the way that things are going. This has come up during previous evidence sessions to this committee. Is there a greater argument for older prisoners who have long-term health problems and need specialist help to be located in a different estate where they have access to healthcare and are out of the mainstream prison population? Is there still an argument in your mind for that?

Teresa Medhurst: We discussed that at the previous meeting, and I welcomed your question then as I do now. The population is ageing and we know that cases of historic offences will continue to come through for a number of years. It is a growing problem and we know that it will not go away any time soon.

Social care needs exist across the population, not just in the ageing population. The offence profile is such that many prisoners do not require the high security of our mainstream prisons, but they still present a risk to the public so they should be kept in some kind of secure facility. That will be true for some individuals, but not for others. There is the potential for looking at a different models that might include licence conditions, so that we can be more multidisciplinary and respond effectively to individuals' needs.

Rona Mackay: Is that work beginning to be discussed in the wider sense? Is it the case that you are not alone in saying it and that it is being discussed throughout Government? Do you think that it could happen?

Teresa Medhurst: Scoping work is under way and we are involved with that. As I said previously, we are not experts in social care so it will require others to look at the potential and how things could be achieved. Early scoping is where we are at the moment.

Rona Mackay: Good. Thank you.

Sharon Dowey (South Scotland) (Con): Good morning. Do you anticipate there being a need for additional in-year resource funding during the rest of this financial year or in 2026-27? Given your previous answer, it sounds as though you think that there will be a need for that. Could you expand on your response?

Teresa Medhurst: I mentioned earlier that we will require additional funding in the next financial year. We received funding earlier in this financial year and we definitely will not require any more. My concern, for this year and future years, is that if the prison population remains at the same level, our ability to spend money will be reduced, because we do not have the time or capacity to create space for regular maintenance work. Usually, for contractors to come in, we would clear an area, such as a number of cells, to allow them to work uninterrupted over a day. That way, we provide the maximum time that we can and make the contract viable. We are not able to do that because I do not have contingency space. There is both degradation and pressure, and the ability to spend money is quite limited.

There is a £15.6 million shortfall in our allocated budget, as Heather Duncan indicated. There is a slight shortfall—I think that it is £3 million to £3.5 million—on the capital budget. I am not concerned about the capital budget. We have sufficient funding, which will definitely see us through the year. My reason for not being concerned is, in part, due to the pressure on the estate—given that I cannot free up the necessary space, it is unclear whether we will be able to spend the maintenance budget or carry out some of the required projects.

The concern is still the resource or revenue budget, in which there is a shortfall of £15.6 million. In addition, we are submitting extra business cases for more funding in year for other work on population pressures and for our responses to FAI recommendations. There is likely to be a further business case seeking additional funding for social work, too.

Sharon Dowey: Are the costs of the additional business cases that you are progressing included in the £15.6 million, or how much—

Teresa Medhurst: No, those are in addition to the £15.6 million.

Sharon Dowey: You are £15.6 million short on what you asked for, but there are additional business cases that will add even more to that amount. Therefore, you would prefer to have the £15.6 million shortfall and the costs of the additional business cases covered, too.

Teresa Medhurst: Yes. I have also said that the budget position fluctuates in-year. I wish that that was not the case, but it is. That is due to external pressures, such as inflation. The position can change and there is flux. We take the positive step of monitoring that very closely with the Scottish Government over the year, so that it knows and understands where we are likely to land at the end of the financial year.

Sharon Dowey: When we were carrying out our inquiry into the harm that is caused by substance misuse in prisons, you mentioned various technological developments, such as drone detection technology. Are you confident that the funding that is provided in the 2026-27 budget will allow the SPS to continue to develop and use technology to combat illicit substance misuse? If not, how much more would you need?

Teresa Medhurst: As I said, the capital funding is sufficient currently, so we can continue with the projects to which we have already allocated funding, including the additional security measures to which you refer. However, the difficulty is that, if there is a shortfall in the revenue budget, how do we square that circle? We are still going through that work at the moment, and we will have to have further discussions with the Scottish Government on that.

Sharon Dowey: When you gave the evidence to the committee last year, you said:

"There is also the larger remand population. Because of the different legal position that they are in, and given the current funding situation, we would require additional funding to enable us to provide services and supports to them in the same way as we do for short-termers or long-termers."—[*Official Report, Justice Committee*, 19 November 2025; c 42.]

Based on the budget allocation for 2026-27, how will the SPS deal with a large remand population? Does the budget that has been allocated allow for increased funding for services and support to be provided?

10:00

Teresa Medhurst: I suppose that one element is the introduction of in-cell technology, which will allow us to offer services to the whole prison population. Obviously, we have limitations on what we can do just now. Our buildings are finite and there are high population figures. If I have additional staff, as long as we have facilities to provide additional capacity to provide services and support, we would be able to do that. However, because of the population pressures, there will be limitations on what we can provide, even with additional funding. As I said, resource alone is not the panacea; there is also the issue of population pressures. Reducing some of those pressures

would allow us to focus the resource on the full population, as opposed to the convicted population.

Sharon Dowey: I have one final question. In quite a lot of your responses, you have mentioned the high population figures and the capacity issues. You said that there are issues with trying to get maintenance done, because you do not have capacity to move people out of cells. In answer to Rona Mackay's question about the ageing population, you said that that is a growing issue and one that will not go away any time soon. You also talked about the trend in respect of historic sexual offences increasing the number of long-term prisoners.

With the future capacity that we are putting in place, have we planned enough? More capacity is coming through the two new prisons that are being built but, given what you are seeing coming through, with the increase in sexual offence convictions and long-term prisoners, have we correctly anticipated how much the prison population will be in future? Are you convinced that the requirement will be met?

Teresa Medhurst: That is a good question. At the moment, justice analytical services in the Scottish Government project the population figures on a six-to-12-month basis. However, those projections are really broad, and they can be 1,000 to 1,500 out. It is really difficult to understand where the population will go.

Justice analytical services incorporates statistics that are provided by the Scottish Courts and Tribunals Service and the Crown. Nevertheless, at Christmas time, we saw a significant surge in the population. On the Saturdays after Christmas and new year, custody-only courts were run, and we took in an additional 150 people over those two weekends alone. We are seeing increases week on week of between 40 and 50.

The normal trend post-Christmas is a slow, steady rise in the population levels. This is not a slow, steady rise. We are not experiencing the normal trends, so it is very difficult to understand or predict where the population is likely to go. However, that is probably a question for the Scottish Government rather than for me. At the moment, I am concerned when I see another 41 individuals coming in on a Monday night. We are really struggling with the population flow at the moment.

Sharon Dowey: The committee definitely needs to look at that a bit further.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I have questions about your capital allocation. In answering Rona Mackay, you said

that some of your figures on the resource allocation were slightly different, so I want to check that I have the right figures on capital in front of me. I think that you sought £462 million for capital, and that you have been allocated £458.5 million, which is more or less what you asked for—it is 99 point something per cent.

I think that you said this to Sharon Dowey, but I want to ensure that I have captured it correctly. You said that that capital allocation is sufficient for the purposes of the year ahead.

Heather Duncan: Yes.

Jamie Hepburn: Does that cover everything? There are the two significant projects under way at Highland and Glasgow prisons. You have also spoken about the ageing estate. You mentioned Greenock, specifically. You mentioned another prison—forgive me, but I cannot remember which one it was, as I did not write it down quickly enough.

Will the capital allocation meet the requirements across all the priorities?

Teresa Medhurst: We are about £3.5 million short of what we asked for. We are satisfied that there is sufficient in the budget to cover the costs of the major infrastructure projects of Glasgow and Highland in the next financial year. The main bulk of the cost for Glasgow will be next year and the following financial year, and the development of HMP Highland will be concluded in the autumn. The remainder of the capital is for other infrastructure projects and other additional work around reform and investment, such as drone detection technology and in-cell technology. I am confident that we would be able to meet all of that within the existing allocation.

Jamie Hepburn: That is useful to hear.

You have pre-empted part of my follow-up question in respect of HMP Highland. In your annual report last year, you said that you expected HMP Highland to be completed this year. Are you still confident that we are on course to meet that?

Teresa Medhurst: We are still planning on completion in the autumn of this year. There was some slippage from the contractor last year, but an independent programme analytical expert is currently reviewing the revised programme to give us the confidence and assurance that we will still complete in the autumn of this year.

Jamie Hepburn: What caused the slippage? Was it the usual factors of weather and stuff like that having an impact on construction?

Teresa Medhurst: Some of it involved the pre-cast concrete offsite and some of it was down to other potential changes. We are still working our way through the implications of that.

Jamie Hepburn: So, it was more to do with the fabric and structure of the building itself.

I will put the same question in relation to HMP Glasgow. It will be completed further down the line; in your annual report you said late 2028. Again, would you say that the allocation is sufficient? Would you consider that the timescale is still achievable.

Teresa Medhurst: It is very early in the life cycle of that contract; we still have a number of years to go. At the moment, however, the contract is progressing well, both on cost and on timescales. I perhaps should not say this, but I do not have any concerns at the moment. Obviously, however, there could be a beast from the east or who knows what.

Jamie Hepburn: I get that. There are sometimes things that are outwith our control.

You have mentioned other capital investment for drone technology, which was an area of interest in the drugs in prisons inquiry—although I only came in at the end of that. This question might be more for Government, but there had to some interaction with the United Kingdom Government on the law as it affects that area. Is there any update on that?

Teresa Medhurst: It is the Scottish Government that is leading on that, rather than us. I am sorry, but I do not have anything up to date on that.

Jamie Hepburn: That is fine. We will perhaps pick that up with the Scottish Government.

I have one other question, convener, although it is not related to capital. This was my hobby-horse during evidence taking in advance of the draft budget being published: I asked about the impact of the increase in employer national insurance contributions, as I am sure you will remember, Ms Medhurst. Can you remind me whether you were able to set out what that was for this year? Do you have an assessment yet of the likely impact for the coming financial year, 2026-27?

Teresa Medhurst: I will hand you over to Heather Duncan, who is the figures person.

Heather Duncan: During the current year, we were awarded around £3.5 million, which was 60 per cent of our direct staff element uplift. As you will be aware, we were still required to find the remaining 40 per cent, which is rolled into this year. That has increased slightly.

Jamie Hepburn: It was more the total cost that I was looking for. I could sit here and try to work out the 40 per cent and the 60 per cent, but do you know, off the top of your head, what the impact is, notwithstanding some of it being alleviated through an additional amount?

Heather Duncan: The impact was around £5.5 million last year.

Jamie Hepburn: Do we know what that will be next year? I presume that it will be broadly similar. If there is an increase to salaries and so on—

Heather Duncan: There will be a small uplift, but I expect that it will still be under £6 million. I do not have the figure to hand.

Jamie Hepburn: Somewhere between £5.5 million and £6 million, then.

Rona Mackay: I wish to follow up on Jamie Hepburn's questions about the capital budget. Can you say how that will impact on the expansion of the women's custody units? We have two units, and I think that five were originally scoped and planned. Is progress being made on that, or will budgets affect it?

Teresa Medhurst: You are absolutely right: the original scoping was for five community custody units. The initial two were intended to pilot the model to see whether it would work in Scotland. There is the recently published Scottish Prison Service assessment and review of outcomes for women—SPAROW—report on the research into how the units have developed. As yet there has not been discussion of that, so there is no funding allocated for the next financial year in relation to further community custody units.

Rona Mackay: Are you pessimistic about the expansion? Has it been put on ice since the SPAROW report?

Teresa Medhurst: I would not say that it has been put on ice. The women's estate requires more focus in relation to the complexity of the population. When we opened HMP Stirling and closed Cornton Vale, a lot of middle-aged women came into custody, which we had not seen before. When they came in they were quite traumatised, very vulnerable and high risk, all at the same time.

There has been a shift in the population and in the type of women we are receiving into custody. More scoping is required of the population that we have just now and what may best suit their needs. There are certainly concerns about the highly vulnerable, high-risk women who are, unfortunately, coming in. I have no explanation as to why that happened when HMP Stirling opened. A lot of women we had had no contact with previously came in for the first time.

Rona Mackay: That is really interesting.

Pauline McNeill (Glasgow) (Lab): Good morning. I will first stick with the capital budget implications. I was going to ask about HMP Addiewell, but that contract will not be brought in until 2033, which is well beyond the spending review period. Instead, I will ask about HMP

Kilmarnock. It transferred in March 2024. Were there any implications of bringing that contract in-house?

Teresa Medhurst: We required to put additional investment into Kilmarnock, and there have been additional operating costs since that time, but that was all taken into account—the majority of it in the 2024-25 budget. We have since absorbed those costs as part of our on-going bids for funding.

Pauline McNeill: When Jamie Hepburn was asking about the new prisons—hearing that we are on track in that regard was positive news—it occurred to me to ask what is happening with the old Barlinnie prison. Is that an asset for the SPS? What is the status of the old prison?

10:15

Teresa Medhurst: HMP Barlinnie is still operating at full pelt, if I can put it like that.

When we open Glasgow, the intention is that Barlinnie will close and become an asset for the Scottish Government, which will then be involved in the disposal of the site and the buildings.

Pauline McNeill: So, it will become a Scottish Government asset eventually.

There looks to be a bleaker outlook in relation to the proposed funding that is set out in the spending review for the years 2027-28 and 2028-29. We understand that funding is set to decline significantly compared to 2026-27. Is it your understanding that that reflects expected changes in planned capital spending? If so, would the proposed funding allow for the completion of the new prisons? I think that you have said that it would, but what are the implications for the SPS of that proposed funding in the later years of the spending review?

Teresa Medhurst: On the capital side, the Scottish Government is aware of the full costs of both contracts. Highland will be completed in the next financial year, anyway, and Glasgow will be concluded in 2028. My understanding at the moment is that, because we are in contract, those full costs will be met. There are potential issues and difficulties around the additional capital for the general infrastructure projects.

Pauline McNeill: What about the revenue implications for the later part of the spending review?

Teresa Medhurst: That is a really good question, because a lot of that depends on what happens with the population and, as I said earlier, the population projections take us only a very short period into the future.

The Scottish sentencing and penal policy commission's final report, which was published just last week, contains a number of recommendations. However, what happens in the future will depend very much on the approach of the new Parliament, once the election is over, and on its decisions around how it wants to deal with the prison population, rather than on me making decisions today.

Pauline McNeill: I have not read all of the 149 pages of the report, but I noted that it says that, compared with other countries, our prison population should ideally be around 5,500, which I understand is significantly less than the population that you are managing at the moment, so let us see what comes of that.

The Deputy Convener: On that final point, Teresa, you will be planning ahead, notwithstanding the challenges that you are facing. What do you expect the resource funding requirements of the SPS to be for the period covered by the spending review?

Teresa Medhurst: I am going to assume that our costs will increase because of inflation, the public sector pay policy and the continuing high prison population. However, there are many factors within that which could affect and change the anticipated spend profile. The introduction of in-cell technology could have significant implications, once it is fully embedded, for not just the SPS, in terms of providing services to individuals, but our partner agencies, such as criminal justice social work, our community-based services and NHS services.

A lot of services could be delivered differently and in a way that would have an impact on resource profiles. It is difficult to anticipate what that would look like, particularly given the shifts in the population demographic that I referenced earlier—the shift in the long-term prisoner population and the lack of reduction in the remand population. It would be good to understand the implications of some of the decisions that are being taken in other parts of the justice sector, such as in policing, the Crown Office and the courts, and what impact those will have in two or three years' time. However, at the moment, we do not have that.

The Deputy Convener: I have one further question. If colleagues have any more questions, they should catch my eye after I have asked this.

Teresa Medhurst, at the start of this session, you talked about your staff—the officers that you have available—and the considerable pressures that they are operating under. What is the current trend in turnover, in your staff complement and in your ability to recruit to the service? Does the shortfall in resource funding of £12 million—let us call it

that—have any impact on your ability to look after your staff, particularly in relation to the mental health pressures?

Teresa Medhurst: That is another interesting question. I do not have with me the attrition rates, but I can write to the committee separately about that. Certainly, with our operational staff, we are sitting at 0.6 per cent below our complement position, which is pretty healthy overall. We are continuing to recruit. Our focus is currently on the recruitment for the new Highland prison, which will be almost double the size of the current prison there, so additional staffing resources are required. We continue to recruit and we constantly review and update our recruitment practices, but we are still getting people into the organisation in the numbers that we want.

Where the pressure is being felt is around our sickness absence figures. We have a lot of people with musculoskeletal and mental health problems. That partly stems from a period during the 1980s when there were changes in the organisation, and from the mid-1990s, when there were significant recruitment campaigns. The age profile means that a lot of those staff are now coming to the end of their service, and we are seeing more people who have health issues or conditions.

We are working our way through that. We have put in place and continue to put in place additional supports for staff, but there is definitely much more that we can do. We also need to provide training differently. Further investment is required. Once we are clearer about the scale of that investment, we will have to bid for additional funding. We might be able to repurpose some of our existing resource, but that will probably not cover all of it.

The Deputy Convener: To be clear, the extra resource funding that you might need is not currently there, which is partly a function of the £12 million shortfall from what you requested.

Teresa Medhurst: We have not bid specifically for any money for that. We have already provided additional support for staff and for our senior leaders, and we are managing that in the budget at the moment. Should that support increase or change, obviously, we would need to look at that. It would probably be more in relation to changes in how we train staff and the type of training that we provide that we will require additional resource, but we are still early in our thinking on that.

The Deputy Convener: I understand. Rona Mackay would like to come back in.

Rona Mackay: This is not a supplementary—it is on a different subject. Last week, the report of the sentencing review was published. I will not ask about that specifically, because I understand that it might be too soon for you to comment. However,

given the problems with the prison population, are you in favour of more alternative pathways, such as community justice? Do you think that more money should be put into such alternatives to alleviate the problems with the prison population?

Teresa Medhurst: If you walk around any of our prisons and speak to our staff or our senior leaders, they will tell you that there are people in prison who would be better served by community sentences and/or alternative types of support. In my view, given that we have one of the highest prison populations in Europe and that that population is only increasing, prevention and early intervention need to be given serious consideration.

Pauline McNeill: A lot has been said about the remand population, which is referred to in the report of the Scottish sentencing and penal policy commission. I am looking for food for thought. Certainly in this committee, there has not been much discussion about the profile of the remand population. All that we have discussed is the fact that remand population growth is escalating. We know that many people have been waiting far too long, to the extent that the sentence that they might have been given would have been shorter than the period for which they have been on remand. Therefore, there is a problem there.

Can you tell the committee about the management of remand offenders? You have talked about the changing demographics of the prison population. There are more sex offenders and more older prisoners. Even among female prisoners, the profile is changing. However, we do not hear much about the profile of remand prisoners who are awaiting trial. Are any elements of that profile changing?

Teresa Medhurst: The description that I provided of the demographics of the wider prison population with regard to ageing, social care, vulnerabilities and so on applies to the remand population as well. The difference is that, when people are on remand, they have not been convicted of anything, so they are still innocent. They do not have the certainty about what is going to happen to them that prisoners who have been convicted have. Even a long-term prisoner has a degree of certainty about when they will be released.

Remand prisoners have to live with a degree of uncertainty. Because they are different from other prisoners, different legislative conditions apply to them—for example, they can access a visit every day. Many of them choose to remain on remand rather than have their case brought forward, because they prefer their time on remand. That is one element.

Another element is the myth that exists that, because they are still to go through the court process, if they engage with services or support, that will somehow count against them because they will be admitting that they have, say, a drug problem. There is more work that we need to do with the remand population while they are in custody.

As you were speaking, the thought went through my head, “What do we actually know about the remand population?”, which led me to wonder whether it might be worth while undertaking a small piece of research to better understand who is on remand at the moment, so thank you for that question.

Pauline McNeill: Thank you.

Rona Mackay: This is a bit of a random question, but it just came into my mind. Are there international examples of what you consider to be good penal institutions or prison regimes that you think it would be lovely to emulate in Scotland? I am thinking about the issue particularly from the point of view of the impact that prison has on women and families.

Teresa Medhurst: I am probably not as in touch with this as I have been, but the exemplars that we usually look to are the Scandinavian countries. They tend to be where we would seek out good practice, although they have sought us out on some areas recently, including the women’s estate and our new approach to control and restraint—we are now seen as an exemplar for some elements. However, as regards the overall custodial environment and the training of staff, we would tend to look to the Scandinavian countries.

10:30

Rona Mackay: Would it be at all possible to emulate their approach here? I know that it would take money to do it, but is that something that you could look to do in the future?

Teresa Medhurst: If I can be a bit controversial, I do not think that it is just about money. It is about what the public and Parliament are seeking to achieve—that is, what they want from prisons and from justice in Scotland. A wider political and public debate is needed to better understand what we, as a country, are seeking to achieve.

Rona Mackay: Thank you.

The Deputy Convener: As there are no further questions, it remains for me to thank Teresa Medhurst and Heather Duncan very much for their evidence.

We will have a short suspension before we move on to the next panel.

10:31

Meeting suspended.

10:40

On resuming—

The Deputy Convener: Welcome back to the Criminal Justice Committee. For our second panel, I welcome Malcolm Graham, the chief executive of the Scottish Courts and Tribunals Service, Stephen McGowan, the legal director of the Crown Office and Procurator Fiscal Service, and Marlene Anderson, the director of finance, procurement and estates at the Crown Office and Procurator Fiscal Service. Good morning, and welcome to the committee.

We have up to 75 minutes for this session and I would like to start with some opening statements. I invite Malcolm Graham to make a short opening statement on behalf of the SCTS.

Malcolm Graham (Scottish Courts and Tribunal Service): Good morning, deputy convener and members of the committee. Thank you for the opportunity to come back and speak about the implications of the draft budget since its publication on 13 January.

I will not repeat anything that I said in our previous session about what the SCTS asked for. On the positive front, we were successful in that the Scottish Government has baselined the recover, renew and transform funding, which the SCTS had been receiving as a budget supplement for some time. That will help us to manage growing levels of business across the solemn courts, tribunals and the workload of the Office of the Public Guardian. We were also successful in receiving capital funding of almost £19 million, which is what we had asked for.

The balance of the uplift that we sought was required to meet costs in relation to pay, inflation and maintaining our essential built and digital estates, but there is an £11 million shortfall against our assessment of what we need. A range of challenging decisions will therefore need to be made to match available resource to priorities. Our final budget for 2026-27 will be published towards the end of March as part of the SCTS business plan for the coming year.

The funding settlement will not allow us to grow operational capacity to match developing pressures. Indeed, given the projections in the spending review that was published alongside the budget, we will need to identify further efficiencies. I am supportive of the approach that was set out in the Scottish Government's public service reform strategy, which calls for, among other things, the digitisation and reconfiguration of services to deliver future recurring savings. However,

achieving such savings requires a degree of up-front investment, so we might need to direct some resource away from operational delivery in the coming year to prioritise any further efficiencies that we can achieve to deliver such recurring savings while the capacity to do so still exists.

I will leave it at that, and I am very happy to answer questions.

The Deputy Convener: I am grateful. I invite one of our Crown Office witnesses to make a short opening statement.

Stephen McGowan (Crown Office and Procurator Fiscal Service): Thank you for the opportunity to give evidence today. I begin by recognising the constructive engagement that we have had with the Scottish Government throughout the budget process, and we appreciate the dialogue that we have had about our overall constrained financial position.

The draft budget that has been allocated to the COPFS for next year will allow us to do the three things that we set out when we appeared before the committee in November, the first of which is to maintain resource to reduce the criminal case backlogs, support work to meet the normalisation of time-bar requirements and investigate Covid deaths. Secondly, it will allow us to focus on reducing the age profile of our deaths investigations and support our larger and complex criminal investigations. Thirdly, it will allow the organisation to transform and change to meet the challenges going forward.

Nevertheless, the budget remains tight and there is a residual gap in what we assess as a minimal funding level to sustain delivery in full, and we will need to manage that carefully. In doing so, we will work on the basis that there will be on-going discussion with the Government about any pressures as the year goes on. We will continue to focus on making best use of resources throughout the year, and we will need to transform to meet the challenges in future. We are assessing the implications of the draft allocations that have been given for future years, which will help us in planning. We welcome that, which we called for.

10:45

However, the demand and cost drivers are not static. Case complexity continues to increase, and there continue to be increases in the most serious crimes that are reported to us. With the time bar mitigations falling away and the normalisation of time bars, we will have to look at how we do that activity. We must routinely absorb major incidents, which will have an impact on how we plan for years to come.

We have a relatively fair settlement overall, but there are still pressures on our budget for the coming year. We will be happy to help with any questions that you have.

The Deputy Convener: I will ask a couple of questions before I go to Pauline McNeill. My questions are for Malcolm Graham of the Scottish Courts and Tribunals Service. For complete transparency, I remind colleagues that I am a practising solicitor and, thus, an occasional user of the tribunals service.

Malcolm Graham, you picked up something in your opening remarks that you had also put in your written submission, in which you said:

“The funding settlement will not allow us to grow operational capacity ... to match developing pressures.”

In your opening remarks you referenced the spending review and talked about any “further efficiencies” that have to be made. I would like to give you the opportunity to tell us what those further efficiencies are. Are there any efficiencies that you can realistically make? If so, what will the impact be?

Malcolm Graham: On growing operational capacity—I think that I said this in our written submission at the tail end of last year, as well as in our short submission in advance of the meeting—we put in a budget request that was commensurate with the size of the organisation that we have, because we recognised that all the indications were that there would not be room for growth. That said, there are significant operational pressures in relation to solemn case business, which I have spoken about at some length—Stephen McGowan referred to that as one of the priorities for the Crown Office, too—in relation to tribunals business growing and in relation to growth in the work of the Office of the Public Guardian.

There is still room for efficiencies across the whole organisation, but those will be achieved only with the necessary level of investment for that to be supported through digital transformation and, thereafter, the creation of capacity through restructuring or different ways of working within the organisation or, perhaps most importantly, across the whole justice system—in particular, the criminal justice system.

At the moment, the settlement will not allow us to maintain the size of our current operational workforce and capacity and to make the necessary investment in transformation and change. That means that we and the SCTS board will have to make a choice about the extent to which operational capacity is perhaps limited in some regards, to ensure that the necessary investment can still be maintained. My final observation is that, as I hinted at in my opening remarks, it would

appear that this is the year for us to go hard at making that necessary investment, because the spending review indicates that we are likely to get less favourable settlements in the years ahead.

The Deputy Convener: You talked just then of limiting operational capacity, but, in your submission and opening remarks, you said quite clearly that you will not be able to grow operational capacity. If you had received the required funding settlement, you would have carried out some projects. What will not happen as a result of this funding settlement?

Malcolm Graham: We will not be able to put additional staff into the Office of the Public Guardian at the level that is needed to meet the growing level of requests for powers of attorney and guardianship orders, so it is likely that the time delays that people are experiencing in that space will continue to grow. We will not be able to staff and support some of the tribunals that are growing—at a rate that continues to accelerate—in a way that would allow us to ensure that the timescales for those tribunals being resolved and for hearings being set reduce rather than increase.

In the criminal courts, we have a slightly more complex picture. We are in the middle of trying to look at where we can use the capacity that has been gained through successes in the summary courts with dealing with business more efficiently, and translate that into dealing with solemn business, particularly in the High Court. However, I have a concern with that work in progress in that we might not be able to do that to an extent that would allow us to keep up with the predicted increase in cases coming into the High Court. As I said, that has just been heralded as a priority by the Crown Office and Procurator Fiscal Service.

That is all in the operational space. We are also having to balance that with our ambition to become a more efficient and effective organisation through investment in digitisation and more productive ways of working. That will potentially be limited as well, because we do not have the level of investment that we require to be able to do at scale and pace the digital transformation work that will free up capacity for us to become more efficient.

The Deputy Convener: Colleagues will ask about digital investment shortly. In the meantime, we will move to questions from Pauline McNeill, followed by Sharon Dowey.

Pauline McNeill: Good morning. My first question is for Malcolm Graham. You talked a bit about the limitations in relation to expanding the operational capacity of the court system that will be placed on you due to the budget constraints. There is a big commitment in the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 to the creation of a sexual offences court. Will

you speak to whether the limitations will result in a delay to the setting up of that court? I know that significant costs are attached to that reorganisation. It would be helpful to hear your thoughts on that.

Malcolm Graham: As far as I am aware, that has not moved on since we last discussed it. There will be significant costs attached to setting up that court. We are still involved in doing some preliminary work to look at what the national sexual offences court would mean. I do not know that it is necessary or possible to comment on there being a delay, because there is no timescale laid out for implementation of the court. We will need to come back to work on that with other justice partners and the Scottish Government in due course. It is not anticipated that that will be a feature during the coming financial year.

Pauline McNeill: In other words, we will not see the creation of a sexual offences court in the next year.

Malcolm Graham: That is not in the plans at the moment.

Pauline McNeill: How would that decision be taken? Would it be a joint decision with partners?

Malcolm Graham: It will require a degree of engagement with the Scottish Government around the funding. I am sure that there will be a degree of collaboration around that, as well as individual organisations doing it themselves. There will be a requirement for collaborative working to look at the implications of the national sexual offences court. That work has not commenced yet.

Pauline McNeill: The committee has had on-going concerns about court delays, as I am sure have you. We will speak to Stephen McGowan about that shortly, as it is obviously a matter for the Crown as well, but how do you see things panning out in relation to getting court delays down and getting cases back into the time bar?

Malcolm Graham: It is a mixed picture, as I hinted at. There have been huge successes in relation to summary business as a result of work that has been led on a collaborative basis. There is now a different way of managing cases through the summary courts, and the volume of cases that go to trial has reduced, cases are resolving at an earlier stage, and cases that go to trial across all parts of the country—now that summary case management has been rolled out—are being heard in shorter timescales than previously. The overall number of cases in the system has come down from a peak of 43,000 post-Covid to under 15,000. The vast majority of those are summary cases, so that is a good news story.

In the solemn courts, there is a trajectory within the sheriff and jury courts for the number of cases

to continue reducing. The system has not recovered yet, but timescales in that area are in reasonable shape.

The area of most concern is the High Court, where counting by case numbers does not necessarily tell the whole story. For summary cases, we might be able to have two trials a day and the levels of work for all the partners, including the courts and the judiciary, are far lower. For a High Court case, we work on the premise that it will take a week or the greater part of a week on average. Therefore, each case coming into the system will have a disproportionate effect in terms of delays. At the moment, that is continuing to increase. We have not yet stabilised High Court business post-Covid—levels have continued to go up. Prior to Covid there were fewer than 400 outstanding cases; we are now approaching 1,000 outstanding cases in the High Court. With the projections from the Crown about its intentions for indicting cases into the High Court, we do not currently have a system that is big enough to deal with that without time delays continuing to push out.

That is why, as I said earlier, we are looking to grow the capacity of the High Court into next year to ensure that we can at least stabilise the position.

Pauline McNeill: How would you do that? Would you create other locations?

Malcolm Graham: We will effectively need a combination of things—first, we have to identify courtrooms and court space, which we will find within the existing sheriff courts. The High Court sits in multiple locations across Scotland.

The bigger challenge is finding appropriately trained and competent staff to translate from sheriff court business into High Court business. There is a wider implication for the system regarding the necessary number of judiciary and defence counsel. There will of course also be implications for the Crown from that part of the system growing. We are at the early stage of conversations about what will be possible for everybody to support the plans for us to grow the capacity of the High Court during the course of the year.

Pauline McNeill: I wish to ask Stephen McGowan about the Crown's point of view. There is obviously a huge amount of pressure, and I know that there is a determination to get back to the legal time bars, which have been out of step for a long time. What would you say about the impact of trying to get the delays reduced?

Stephen McGowan: That is our priority over the course of this year. The challenge in doing that lies, as much as anything, in the fact that we are now running a dual system. There are the cases

with the legacy time bars and there are the cases with the new time bars. Over the course of the year, with the legacy time bars, there will be bulges across the system in indicting cases, which will translate into the court system. There will be a bulge of custody cases this month—in February—as they transfer into the new time bars. That will come later in the year for the bail cases. That is a real priority.

Malcolm Graham has referred to work being done to consider how we model that out through joint working. We hope that some of the principles that we have learned and the work that we did in the summary courts will apply, but we are conscious that not all of them will apply in the High Court, as the nature of the cases there is such—given the volume of sexual offences—that they do not lend themselves to as many pleas of guilty. We know from experience that those are cases that are more likely to go to trial.

The lessons that we have learned about agreement of evidence and focusing trials on the key matters in dispute will all help. There is that tension across the system, however; it is one of the pressure points that we will face this year.

Pauline McNeill: Are there any other blockages in the system? I am referring to trying to get early pleas, for instance. We have done some considerable reform with preliminary trials in the High Court and so on, to get agreed evidence in advance, as you have mentioned.

I have a continuing bugbear, which I have raised with the Lord Advocate—who at least seems to share some of my concern. For practitioners, contacting the Crown Office and communication with victims is still inadequate in many cases. Could communication be improved for those waiting beyond the time bar who want to know what is happening with their trial or who want to agree evidence, for instance? Are there infrastructure issues?

Stephen McGowan: Communication could always be improved. That goes without saying. We have a programme on at the moment: the victim information and advice—VIA—modernisation programme, which specifically considers how we communicate with victims. The Tanner review, done by Susanne Tanner on behalf of the Lord Advocate, has a whole series of recommendations about how we might do that better. That is all work that we have planned for this year to improve that area.

There is always more that we can do. It goes without saying that, the longer it takes for a case to go to trial, the more effect that will have on a victim and witness, because it is hanging over them for longer. However, we will be doing what we can to improve how we communicate with

victims and learn the lessons. As I said, our two planned pieces of work on that are the VIA modernisation programme, which has been in train for a while, and putting in place the lessons that we have learned from the Susanne Tanner review.

Pauline McNeill: Thank you.

11:00

Sharon Dowey: During our pre-budget scrutiny, the COPFS explained that the requested uplift in resource funding would allow it to focus on two priorities: dealing with the consequences of the disruption to the courts following Covid-19, and making progress with and demonstrating the benefits of reform. You mentioned three priorities in your opening statement rather than two.

Stephen McGowan: Yes.

Sharon Dowey: Will you outline what improvements you hope to see during 2026-2027?

Stephen McGowan: Yes, of course. Our focus will be on solemn business levels in the High Court. We will be ensuring that we comply with the new time bars. We intend to look at a transformation programme this year. We have restructured our business into different functional parts, and we are examining the fundamental processes that we use to get cases to court. We have a programme that is looking at the digitisation of some of that work. It is examining the processes to ensure that, when we consider the digitisation of our case management systems, which are old and do not do everything that we need them to do, we are digitising the right processes—those that can be made most efficient. This year, our big focus will be on that transformation of our processes, because we probably have to make too many manual interventions and lawyers are spending too much time carrying out some of the administrative work, some of which could be digitised and some of which could be done elsewhere. Once complete, that will lead to a series of efficiency gains.

As part of our allocated provisional budget, we have accepted that we need to make efficiencies of £5.6 million, but we needed funding on an invest-to-save basis so that we can look at changing all the processes that lie underneath our systems, to ensure that they are fit for the digitisation that will come.

Sharon Dowey: You said in your opening statement that you will get a relatively fair settlement but that you will still face pressures in the coming year. I want to double check the figures. It looks as though you have been allocated an additional £1.1 million in resource funding and an additional £3.4 million in capital funding, above what you had asked for. Is that right?

Stephen McGowan: Marlene Anderson will correct me if I am wrong, but I think that, on resources, we asked for £240.5 million and got £237.6 million.

Marlene Anderson (Crown Office and Procurator Fiscal Service): We have £237.6 million for resource funding. We had asked for £240.5 million, so we are £2.9 million short.

Sharon Dowe: I had that down as £236.5 million. You got less than you asked for.

Stephen McGowan: Yes.

Marlene Anderson: We got less than we asked for. On capital, we got what we asked for.

Sharon Dowe: Right—that is fine.

When I asked the COPFS about the potential impact of new legislation, including the Victims, Witnesses, and Justice Reform (Scotland) Act 2025, it told the committee that it did not include plans for the 2025 act as part of its budget, due to the legislation being in the early stages at that point. Since the Scottish budget was published, have you been engaged in any specific conversations on the impact of the 2025 act and other new legislation, either internally or externally, with the Scottish Government? Do you think that your organisation will be able to cope with the impact of the 2025 act?

Stephen McGowan: My answer is similar to that given by Malcolm Graham: there is a piece of work that has yet to be done. There have been early conversations, but the implementation of the 2025 act is, for us, an unfunded pressure. We have to achieve what the legislation sets out. However, we must bear in mind that the procedures of the new court are still to be developed. That is part of what we must cost, and it will have an impact. At this point, I cannot tell you how much that will cost. The early work that we did during the passage of the bill noted that the cost would be quite significant, particularly the engagement with victims and improving the victim experience through the court. That is a resource-intensive and expensive thing to do, no matter how we do it. I cannot tell you how much that will cost, because we have not really started that work yet.

Sharon Dowe: Have you had any conversations at all with the Government?

Stephen McGowan: We are in the very early stages of that, but there is nothing concrete on timescales and so on.

Sharon Dowe: So, nothing as yet.

Stephen McGowan: No.

Sharon Dowe: Thank you.

Jamie Hepburn: I have a question about capital allocation. The Scottish Courts and Tribunals Service set out in its helpful written submission that its request was met in full. We just heard from Marlene Anderson about the request from the Crown Office and Procurator Fiscal Service—I think that you said that you got what you asked for. That is positive news for both organisations. How will that capital funding be utilised?

Malcolm Graham: For the SCTS, the capital is broadly split 50:50 across two areas. We host large parts of the justice system in our buildings. A lot of those buildings were, for reasons that I will not go into, built over a 20 or 30-year period at the end of the 19th century. They require a huge level of investment just to keep them wind and water tight, never mind the improvements that we would like to make to improve the service that we provide to users across the courts and tribunals system.

The other part of the capital goes into maintaining and improving digital capacity in our estate across the country. As with the built estate, we are responsible for hosting a wide variety of justice users and have invested a huge amount in wi-fi and other technology that people beyond the SCTS can use in courts. It is now essential to the running of cases and daily business that people in courts can access wi-fi technology for things such as the digital evidence sharing capability and for the running of summary case management. We are continually improving that area and that is where, broadly speaking, half of our capital will be spent during the year.

I will just make a final point on the capital. We limited the ask to an extent because experience tells us that we need a certain amount of revenue to be able to spend the capital. Over last year and this year, I have been concerned that we have struggled to prioritise the revenue that we need to make sure that the capital is all spent. That means that, because of the shortfall in the revenue that I highlighted earlier, there remains some outstanding digital and estate work that we would be able to do with additional capital funding, but we judged that we would not be able to support its achievement because we would not have the necessary revenue to ensure that the capital was spent within the annualised cycle.

Jamie Hepburn: As a former student of history, I would be very interested to know why all those court buildings were built in such a short period of time in the 19th century, but that is perhaps a conversation for another time.

Can you explain the point that you have just made a bit further? You said that you need a certain amount of revenue in order to be able to spend the capital. Can you spell out more precisely what that means?

Malcolm Graham: In some cases, with buildings, we need revenue to be able to get survey work done, to get architects in and to get other contractors in place in order to plan for and secure the work. Doing that in an annualised cycle of uncertain funding settlements has proved to be challenging.

On the digital side, although we have moved to a model in which we are increasingly trying to use permanent workers for a number of good reasons, we are reliant to some extent on a contracted workforce, and that all comes out of revenue expenditure. If you cannot match the scale that you need in terms of the people and any elements that you need to outsource, the capital money will not be spent in the year that you are in. I would not see it as a success if I asked for a level of capital that I could not spend in the year.

Jamie Hepburn: Indeed. I understand that point. This is taking me down a line of questioning that I did not necessarily expect. What drives that reliance on contractors? Are you unable to recruit because of a shortage of qualified personnel?

Malcolm Graham: In part, it is because we are within the public service employment framework, so we are not necessarily competitive in the market for certain specific skills on the digital side.

On the estate side, and to an extent on the digital side, we would not seek to build functionality for things that require a high degree of expertise and that we need only on a time-limited basis. We are not in a position to have specialist architects, specialists in mechanical engineering and so on.

Jamie Hepburn: I think that we understand that you will not have in-house architects on the digital side. That would be an interesting concept for your organisation.

I go back to my opening question. Both organisations got the overall capital allocation that you asked for. What does that mean for the Crown Office and Procurator Fiscal Service?

Marlene Anderson: Like Malcolm Graham, we asked for what we could use. We asked for a fairly modest budget, but it is based on the level of activity and delivery that we can reasonably achieve in the single year, considering that our capital budgets cannot be carried forward over multiple years.

On the digital side, we are looking at modernising our casework systems through various applications to ensure that we are using digital technology to the best advantage for our casework. Through summary case management, our ultimate aim was to shorten case journey times, and that relies heavily on digital capability. We have been engaged in the digital evidence sharing capability programme, which is led by the

Scottish Government, to ensure that that capability is maximised.

We are rolling out complementary systems for the defence agent service and for the witness gateway to ensure that people can make the most of their time through digital means rather than, for example, a witness having to come to the office in person if they are engaging with our staff. Nowadays, many members of the public are used to engaging through digital means as opposed to in person, so we need to capitalise on that.

On the estate side, we have eight buildings that we own and eight buildings that we lease. Through the single Scottish estate programme, we plan to limit the number of our private sector leases. We have a multiyear plan for exiting private leases and ensuring that we move either into publicly owned buildings or into our own estate. Doing that will take time and we cannot do it all in the same year, so the capital requests that we put in have taken a phased approach to ensuring that we minimise our estate footprint across Scotland.

Jamie Hepburn: I presume that some of that phasing will also depend on how long the leases last. Is there any estimate of when that process is likely to be complete?

Marlene Anderson: We are looking at five years. By 2030, we aim to have moved all out of our private leases, bar one, either into our own estate or into shared accommodation with other public sector bodies.

Jamie Hepburn: That is a fairly short timeframe, if that is the proposal.

Marlene Anderson: Yes, it is. It is ambitious, but I should note that, although there are eight leases, we planned in previous years to arrive at the state where we are now, so we can take that forward fairly quickly.

Jamie Hepburn: I turn to something that touches on a lot of what has been said about investment in digital capacity and which picks up on what you say in your written note, Malcolm, on public service reform. You refer to the strategy, which talks about digitisation and reconfiguration of services.

I do not know whether this is a separate conversation, but how much potential is there for shared capacity in the casework system? Could that perhaps include evidence gathered by Police Scotland that goes to the Crown and has to be presented to the court if a prosecution goes forward? Is there scope for that? Is there a shared system?

11:15

Malcolm Graham: I am happy to kick off on that question. There is good evidence of collaboration to achieve shared systems, so it is already there in part, but it is not at the level that you are talking about in terms of the core of the system. We have digital evidence sharing capability across the key criminal justice partners, and several other pieces of work that aim to be collaborative in nature are in progress. They will look at the user perspective and at improving things for victims, and will involve all the agencies.

The SCTS was successful in bidding into the spend-to-save fund that the Scottish Government made available last year. I have been making inquiries about what is likely to happen with that for the year ahead, but that has not yet been confirmed. We have commenced an entire overhaul of the jury process, which will be more user-orientated, digitally enabled and efficient. I hope to be able to bid into that pot to get money, otherwise we will not be able to complete that work because it is not part of our current allocation.

There is a significant gap at the moment in terms of a criminal justice system-wide vision and articulation of what the future could look like if it was supported by considerable investment in digitisation. We have seen such things work in other jurisdictions to very positive effect, but we are in the early foothills. To be candid, we are some way behind where we could be, but we are where we are.

As the senior responsible officer on behalf of the criminal justice partners, I am leading a programme to look at criminal justice digital reform. During this year, with some limited investment and support from partners and the Scottish Government, we will build a case that presents the scale of the challenge over the longer term in order to really get in and about the issue.

My final point is that I do not think that we are necessarily aiming at having a single system. In my submission, I mentioned the Scottish Government data centre and the issues that have arisen there. The SCTS runs 134 separate information communication technology applications out of that data centre. I am sure that the Crown Office and Procurator Fiscal Service has multiple systems, too, and there needs to be a plan that brings forward the notion of a platform that allows us all to integrate and enables us to derisk some of the significant cybersecurity, safety and data protection risks that we are all carrying with the old systems. That will also need to bring in greater efficiency, integrate processes that are redesigned in advance of digitisation, as Stephen McGowan mentioned, and focus on the data and the insight that we can get from a system that is designed to be integrated. However, that does not

necessarily mean that the answer for everybody will be one case management system, given all the different needs that the organisations have.

I hope that, in a year's time, we will be in a strong position to say, "Here is the case for the programme and how much it will cost, and that cost will be exceptional to any of the funding that organisations currently have."

Jamie Hepburn: Is that case being made to the Scottish Government?

Malcolm Graham: Yes.

Jamie Hepburn: Who is making it? Is it a shared endeavour?

Malcolm Graham: Yes.

Jamie Hepburn: Is there work under way?

Malcolm Graham: Yes. As I say, I have stepped forward and agreed to lead that work on behalf of the criminal justice board and our partners, but I do it as no more than a first amongst equals. We will do it with the consent and collective agreement of the people around the criminal justice board table and the Scottish Government.

Jamie Hepburn: You have made yourself the man on the spot, though, so we know where to come.

Malcolm Graham: I go back to the point that I made earlier—the gap is significant, but the progress and the opportunity are huge.

Jamie Hepburn: I think that we can see that. It is useful to know that work is under way, although I recognise that it is still in its early phase.

Stephen McGowan: I do not have much to add. We are supportive of the work that Malcolm Graham is doing, and I agree that we are not going to have a supercomputer that does everything, because we all have our own individual needs.

The fact is that data is transferred around the system, from police investigations to prosecutors to courts and then onwards to criminal justice social workers and so on—all of which are essential parts of the system—in a fundamentally ad hoc way. I am no information technology expert, but as an example of what happens, I would point out that our emails sit underneath the system, not on our own desktops. That is fundamentally how we do it; it is, I am told, an antiquated way of transferring data. There are many better and more secure ways of doing that, so we are fully supportive of the work being undertaken.

When I refer to the work that we are doing on our cases, I should say that we have our own systems for processing our own cases. Some of them have been around for some time, and although they might be adequate to do what we

are doing at the moment, they will not be the platform that we will need to build on further if we are to achieve the wider vision and support things such as digital evidence sharing capability. That is why we need to do that work.

Jamie Hepburn: That might be an area of interest to our successor committee when it looks at the work that is happening across the justice portfolio.

I have one final question, if I may ask it, convener. It does not relate to capital—it goes back to something on which I asked the Scottish Prison Service, and indeed all the organisations in our previous evidence-gathering session, for an update: employer national insurance contributions. Obviously, there has been an increase in that respect, but can you remind us what that increase has been this financial year? Not everyone was able to tell me an answer when I asked that question in the earlier session. Also, have you a forecast for, or an assessment of what it will be in, the forthcoming financial year—that is, 2026-27?

Marlene Anderson: For the Crown Office and Procurator Fiscal Service, the pressure was £2.8 million—

Jamie Hepburn: When you talk about “the pressure”, does that figure factor in the allocation from the Scottish Government? It is the global cost that I am interested in. I know that everyone will say, “Oh, we’ve had this allocation, so that’s the pressure on us,” and I totally understand that that is the organisational imperative, but was the general increase in costs £2.8 million?

Marlene Anderson: The increased cost of the additional employer national insurance contributions was £2.8 million, and the Scottish Government funded 60 per cent of that—or £1.7 million, which left a residual pressure of £1.1 million.

That was in the current financial year of 2025-26. We have absorbed that, and it also forms part of the £5.6 million pressure in 2026-27 that we have said that we will absorb.

Jamie Hepburn: So, it was £2.8 million this year.

Marlene Anderson: The original increase was £2.8 million, and the figure was £1.7 million with the funding.

Jamie Hepburn: Do you know roughly what it will be in the coming year?

Marlene Anderson: The £1.7 million has been baselined, so the additional pressure is £1.1 million, or £1.4 million after the pay increases.

Jamie Hepburn: That is what I was asking for. So, there will be roughly £3.2 million of additional costs.

Marlene Anderson: Yes.

Jamie Hepburn: Okay. Is there a similar figure for the Scottish Courts and Tribunals Service?

Malcolm Graham: There will be. I remember that we wrote to the committee when it asked that question previously, but I do not have the figure in front of me. I do know that we requested an additional £1.2 million, which was the additional pressure going into 2026-27, and, as part of the resource settlement that I have already referred to, the Scottish Government said that the £1.2 million was included in the uplift that it gave us.

I have to say that, when you are £11.4 million short of what you asked for, it is, to some extent, a moot point, but the indication was that the £1.2 million, which was the additional unfunded pressure, would be included in our baseline budget for next year.

Jamie Hepburn: Of course, it is a pressure emerging from decisions made elsewhere, but it would be useful and helpful if you could once again give us a bit more clarification in writing.

Malcolm Graham: I will be happy to do so.

Jamie Hepburn: Thank you. That is me, convener.

The Deputy Convener: Before I go to Rona Mackay, I want to check something that Marlene Anderson said in response to Sharon Dowey earlier. The Crown Office’s submission in November set out a resource ask of £236.5 million, but I think that what was actually asked for was a slightly different figure. Just for clarification, what did the Crown Office ask for, and what resource budget have you been given in the draft budget?

Marlene Anderson: Our initial ask was for £236 million, but that was before the additional pay award for 2025-26. The assumption was for a pay award of 3 per cent, but it landed at 4.5 per cent. So, the additional funding is for the additional pay award, which takes us to £240.5 million, and for the additional pressure from post-mortems. Due to contract pricing increasing beyond what we had expected, we had to adjust our ask of the Scottish Government. As you will appreciate, as time goes on, more information becomes available, and we put the most up-to-date position forward just after November.

The Deputy Convener: And what resource budget have you actually been offered in the budget?

Marlene Anderson: We have been offered £237.6 million against a requirement of £240.5 million.

The Deputy Convener: That was very clear. Thank you.

Rona Mackay: I would like to move on to the spending review for 2026. My first question is for Malcolm Graham.

I want to put on record that, compared with the figure in the 2026-27 budget, the Scottish spending review proposes an additional £10.9 million of funding for SCTS in 2027-28. However, as you have said, Mr Graham, funding in the following year will revert to 2026-27 levels. First of all, is the additional funding that you got for this year earmarked for specific projects? I take it that a lot of forward planning will have been involved. Secondly, are the proposals for funding in 2027-28 and 2028-29 adequate?

Malcolm Graham: The additional funding that we got this year largely covers costs resulting from inflationary increases such as the pay increases that I have already mentioned; increases in building maintenance costs, as a result of inflationary pressures and the particular circumstances of SCTS; and additional costs arising from inflationary pressures on software and increases required to address cybersafety and cybersecurity, given our aged and degrading systems. A small amount is left over for investment in reform or improvement activity, but it is not sufficient to meet the needs that I have already outlined in some detail.

The request that we had made over a year ago to the Scottish Government fell some £8 million short of the allocation that we got for this year. Going into next year, the allocation is £11 million short. However, the £8 million shortage that we had last year has not disappeared, and it is, to some extent, compounded by what will now be an £11 million shortfall as we move into next year.

The projection in the spending review—and clearly it is an indication rather than an allocation—of an additional £10 million into next year falls short of what we project we will need to cover the inflation-based costs and the programmes that we are required to invest in for a sustainable future for our courts and tribunals system. The year beyond that sees a real-terms reduction and, if that were to materialise, it is highly likely, according to our best predictions and despite our desire to invest in further efficiency over the course of this year, to require a significant cut in service.

Rona Mackay: Would any particular service be in the front line in that respect? Are you able to prioritise that sort of thing?

Malcolm Graham: The answer to that question at this stage is not really. It will depend on where the pressures emerge and the extent to which, as a demand-led system, we are able to respond to changing and growing demands on the OPG, aspects of the growth in the tribunals system and all the different tribunals and of course, the differences in the criminal courts, which I have described in some detail already. It is very difficult to say where we will be in two or three years' time, but it is highly likely that, with the level of cut that has been indicated, we will be required to make a choice about where we will have to limit operational service.

Rona Mackay: That was helpful. Thank you.

I note that the spending review also provides for a reduction in resource funding for the Crown Office. I was just wondering why that is and how you will deal with it. Will you deal with it through planned efficiency savings? How can you make that reduction without damaging services?

11:30

Stephen McGowan: A couple of items in our budget are time limited and relate to specific funding to deal with the implications of the time-bar changes that we have discussed as well as funding for our Covid deaths investigation team, whose work—or certainly most of it—will, we hope, be completed in the course of this year. It also comes down, in part, to the transformation aspect that we are looking at, which is activity that we hope to make savings from.

Beyond that, it is difficult to say how we will deal with this. The advantage in having a figure is that we have a point to aim at, and it allows us to do the background work so that we can say, "Here's what we can do." However, it is important to point out that we are demand led, and some of the demands arising in certain areas—for example, more complex serious crime—continue to increase. The number of cases that we have been getting in that space has hovered around record levels each month of the past year, and it is showing no sign of disappearing. Work on that is on-going.

I think that the reduction will have an impact. At the meeting last November, when we were talking about the budget for the coming year, the Crown Agent and Yvette Greener set out the choices that we would have to make. We would have to ensure that work that was subject to a time bar was prioritised, because of the timeliness required, and it would mean that service would have to be decreased in other areas that were not subject to the same time bar, such as deaths work, which at the moment is not subject to a statutory time limit.

Those would be the choices that we would be faced with, but I cannot tell you how exactly we will do that work, because, as you will understand—

Rona Mackay: It is a moving feast.

Stephen McGowan: Indeed it is a moving feast, and we will have to plan for it in the course of the year.

Rona Mackay: Thank you for that.

Earlier, you said, in relation to the Victims, Witnesses, and Justice Reform (Scotland) Bill, that victim communication would require intensive resources. That has been a real issue since I joined the justice committee 10 years ago. Can you explain why it is so resource intensive to communicate with victims?

Stephen McGowan: The whole concept is based on a trauma-informed approach, and once you start getting involved with that—which is absolutely the right thing to do—you are looking at having a much more bespoke approach to the individual victim. Therefore, you need more information on that victim, what they need, how they want to be communicated with, what they need in terms of communications and what barriers there might be to communication. You need to know all that on an individual basis, and that is what we aspire to do.

Rona Mackay: Is that not about training for people and their staff?

Stephen McGowan: It is about training, but it is also about the time that you spend on that.

There are various ways in which we do such work; some of it is less bespoke and involves looking at victims, determining from what we know and from the work that we have done with victims groups what they will want, and giving them that. However, that is not a trauma-informed approach, in which you would ask how the victim wanted to be communicated with and what their needs were, and then you would respond to those needs.

Therefore, the pattern of communication might be different. With some people, the cadence of communication might be much more regular, while others might want much less communication because they do not want to be reminded that a case is hanging over them. At the moment, though, I do not think that we are in a place where we can really do that sort of thing, and we are not really set up to do it. Once you move into that space, which is absolutely the right thing to do, the approach becomes more intensive, and you need to work more closely with the victims. A lot more work needs to be put into it.

Rona Mackay: I completely understand what you are saying. Obviously, I am fully supportive of trauma-informed interaction, but I imagine that

there is a percentage of victims who will need only basic information about, say, a date, a change, or something else that they had not been informed of previously. I have to say that we as a committee have heard that such basic things have been lacking. Will you look at addressing that, too?

Stephen McGowan: Yes. Earlier I referred to some on-going work on that. The victim information and advice service review is looking at the issue in the round and at the service that we provide, and the recommendations from the Tanner review also relate to that. We have also done other pieces of work.

The victim information service that Marlene Anderson referred to earlier is a digital platform. It is a way of victims coming into our system, getting information and updating things on a self-service basis. If all they need is the date, they can do some of that themselves, or they can tell us that they want us to contact them to give them that.

All of that work is on-going and it responds to a need that victims told us existed. Those improvements are all on-going pieces of work, but there is an ambition to do much more.

Rona Mackay: Of course. Thank you.

The Deputy Convener: Fulton MacGregor is next.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have more questions for Malcolm Graham. In your response to Rona Mackay, you started to touch on case management systems that are at the end of their life and the work that will be needed to upgrade them. You might have mentioned it in your opening statement, but it certainly came across in your submission that that work will need strong financial backing. Can you expand on that a wee bit? What funding will be required, when will it be needed and what are the implications if it does not happen?

Malcolm Graham: As I said earlier, I am happy to speak about that, but I do not have a huge amount of detail about the future need.

In the past year, in conjunction with other key leaders across the justice system, particularly the criminal justice system—I will come back to other parts of the system in a minute—I have set up the mechanism and capacity to do the work that has not been done until now. Because of past pressures, the SCTS has had to respond to the areas that have been creating the highest risk. We brought in a new civil case management system that is up and running and is almost fully digital. We are starting to use different ways of interfacing with other parts of the civil justice system, including individual users and private law firms, in an innovative way. It is good to see the efficiencies and benefits from that coming through.

We got some investment for the Office of the Public Guardian case management system. Again, that came on the back of determining some critical risks, and we are working through implementing the system and seeking to set the benefits from it against some growing pressures in that space.

However, as other witnesses have already described, individual agencies across the criminal justice system are largely using systems that were designed in a different era and for a different purpose. They are all roughly 20 years old. It is important to note that we are talking not just about bringing in a new computer system but about what we conceive for the future of the criminal justice system and how that can be supported and enabled by the use of technology and digitisation in the way that we have seen happening in other jurisdictions. As I said earlier, the level of expenditure will be outwith the current envelope that any organisation gets. There is no doubt about that. I mentioned in my submission that more than £1 billion of investment has gone into His Majesty's Courts and Tribunals Service in England and Wales in the past 10 years.

This will not be a quick fix, but we need to get started on the journey. Some good things have been done, but they are not at the heart of developing the vision for the future. From what I have heard from ministerial and senior official conversations, I am hopeful that the Scottish Government will get behind that vision and recognise their importance and criticality and the opportunity that lies behind us doing that work. As I said earlier, I hope that, in a year, we will be in a position to make an outline case for what that work will look like over a number of years and the likely level of investment that will be required to achieve it.

Fulton MacGregor: If we do not start on the journey that you are talking about, what will the consequences be?

Malcolm Graham: The consequences will occur across different fronts. On one level—I speak from the SCTS perspective, but I understand that this might also be an issue in other organisations—we are dealing with systems that are already beyond the end of their useful life. That means that they present high levels of risk to data security through cyberintrusion, low levels of interoperability in terms of being able to share data and access meaningful insights in the system without large manual workarounds, and a level of inefficiency because of artificially constructed technological transfers that sometimes have manual handling in the middle, as Stephen McGowan highlighted. The criminal justice system is largely paper based. Even when individual organisations use technology, the crux of the

system relies on things being printed out, signed by hand and presented in courtrooms or other forums.

As we have seen from other jurisdictions following the Covid pandemic, and with the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill having been enacted, the legislative framework will facilitate our doing a pile of things differently, from online courts, digital submissions and the digital transfer of documentation through to an exploration of where it is and where it might not be appropriate to use online hearings in various parts of the system. That will all be open to us in a way that it is not at the moment.

Fulton MacGregor: Stephen McGowan and Marlene Anderson, have you anything to add on that?

Stephen McGowan: I am in violent agreement with most of what Malcolm Graham has said. We have built all sorts of apps so that we can do all sorts of clever things with our legacy systems and keep them up to date, but we cannot build any further capability on the basis of that. That is why we need to replace and refresh them. We have a legislative framework that probably gives us freedom to do more things than we are able to do with our organisations' current technical capabilities.

The Deputy Convener: I have one final question, although I will look out for colleagues coming back in. Malcolm Graham, on the question that you have just been asked, you set out in an earlier submission and in response to Fulton MacGregor that one of your biggest fears—and, indeed, one of the biggest risks—is a cyberattack. You mentioned the data breach. You also told Jamie Hepburn earlier that, because of funding challenges, you rely quite heavily on contractors in that area, which presumably introduces another element of risk. What impact does the shortfall of £11 million, which you said compounds the £8 million from last year and an on-going shortfall in the spending review, have on your assessment of those risks? Ideally, what do you need from the Scottish Government budget to mitigate that? I presume that it is not a luxury but a necessity.

Malcolm Graham: The short answer to the latter part of your question is that we need the budget that we asked for. We asked for that budget because it was the minimum that was needed. It was heavily contextualised in recognition of the public service fiscal constraints under which the Scottish Government is operating, so it was not excessive and no degree of luxury was built in. It was what is necessary to keep the system running. I will not repeat what I have already said about the consequences of the shortfall.

The earlier part of your question was about what it means for, for instance, cybersafety and data security and I have had to prioritise that area. It is one of the few areas where we have spent more money this year than we have in previous years, commensurate with our understanding of the risks.

We are presented with two risks. The first is the change in the global environment in terms of the capability and intent of the different threats that we face and keeping on top of those. Secondly, legacy systems that continue to degrade against modern standards present increased risks and an increased cost to mitigate those risks. That means that we will eventually get to a point where we have to spend an excessive amount of money to shore up those systems against a series of risks that should ultimately be superseded by the implementation of new systems. We cannot do that with legacy systems. They are not configurable any further to address some of the current-day risks.

On the contractor point, I do not think that that is the case. As I said, we limited our exposure to contractors this year. That was part of a deliberate programme intentionally to move towards a greater level of permanency in the ICT workforce. That has been successful. It has meant not only greater stability and permanence for the individuals concerned but that we saved some money. There is probably a slight and temporary shortfall in skills development and getting people up to speed but, in the longer term, that is the right thing to do. Based on the checks and balances that are in place for employing contractors or contracting out work, I certainly do not have any evidence that those decisions would result in any way in increased risk to cybersafety or data security.

The Deputy Convener: I am grateful. As there are no more questions, I will close this session and thank all our witnesses for their evidence.

That concludes our evidence taking, and I thank everyone for attending this morning. We will now move into private session.

11:46

Meeting continued in private until 12:15.

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