

Justice Committee

Scottish Government Draft Budget 2012-13 and Spending Review 2011

Written submission from the Procurators Fiscal Society

About Us

The FDA is the trade union which represents senior managers and professionals in the public sector, in particular, the civil service. We represent the biggest group of lawyers within the Law Societies of Scotland, Northern Ireland and England and Wales. This includes the prosecutors in each of these jurisdictions.

As a trade union, we promote and protect our members' interests. We influence policy on their behalf, and provide networking opportunities and forums for considering matters of common interest. In relation to lawyers we also, where appropriate, represent their professional interests as well as their terms and conditions.

We defend the reputations of our members by acting as their voice in the media, with ministers and the HR profession - an important role as civil servants are usually not permitted to defend themselves publicly.

As a public sector union, we strive to improve members' terms and conditions, workplaces, skills and working lives.

We are affiliated to the TUC and STUC, but are strictly politically neutral and have no formal links with any political party.

The Procurators Fiscal Society is a section of the FDA and represents over 350 members of mainly legal staff, including many of the most senior lawyers, within the Crown Office and Procurator Fiscal Service (COPFS). It began in 1930 as a professional association, and operated for over 60 years on that basis. In the early 1990s the Society became a section of the FDA. The Procurators Fiscal Society is represented on the Executive Committee of the FDA.

Our response

The Procurators Fiscal Society Section of the FDA welcomes the opportunity to comment on the Scottish Spending Review 2011 and Draft Budget for 2012-13.

We appreciate that, compared with others within the Justice sector, in this review COPFS has not fared as badly as some, although still receiving a real terms budget reduction. We note however in the detailed categories of spending 2012-2015 the only area of spending that is planned to fall is in relation to staff costs. The obvious consequence of this reduced spending is the further reduction in the numbers of staff, which we believe will have a detrimental effect on our members' well-being and their ability to meet COPFS performance targets. We also believe, in terms of the questions set out in the call for written evidence, that it will affect the "efficient and prompt handling of criminal cases".

We believe we can evidence the impact that reducing staff numbers is already having on performance targets by looking at the increasing number of unmarked reported cases. Looking back only 6 months to April of this year there were approximately 7,000 unmarked cases, and of those only c. 1,300 of them were over 4 weeks old. As at 16 October 2011 there were nearly 14,000 unmarked cases. This is 52% higher than the same point in 2010/2011 and 100% higher than only six months previously. When looking at the number of those cases which are more than 4 weeks old (the performance target being to take and implement a decision (mark) within 4 weeks), these account for approximately 31% (c. 4,300) of all the unmarked cases.

During the last six months COPFS, like many other public sector organisations, has held "Early Exit" schemes and in August 2011 not one of our trainee solicitors was employed by COPFS at the end of their training contracts. We also had a number of staff who were retained on fixed term contracts, most of whom left around March 2011. None of those who have left have been replaced. In addition, in previous years most of the trainee solicitors would have been offered contracts (either permanent or fixed term) as Procurators Fiscal Depute. This has not happened this year and we understand that it is unlikely to change over the course of the spending review.

We welcome the step that COPFS has taken in ending the use of "ad hoc" procurators fiscal (Advocates and former COPFS legal staff employed on casual contracts), but the reality is that this practice had long been used to cover many of the courts to allow permanent staff to attend to office matters, including the marking of cases and the preparation of serious and complex cases.

Taking all these factors into account means that COPFS is already operating with significantly fewer legal staff. The priority must be to cover the courts and this means, we believe, that there is work in the offices that cannot be done within existing resources and targets.

COPFS is currently in the process of inviting applications for a further "Early Exit" scheme.

Anecdotally we hear of members who are suffering from work related stress and we have no reason at present to believe that this will reduce.

We are particularly anxious about the recruitment freeze. As indicated above, none of last years' trainees were employed by COPFS at the end of their training contracts and it was made abundantly clear to all those trainees who entered COPFS this year that there would be no jobs at the end of their 2 year training contracts.

Our view is that this will have a long term impact on the service. It will mean, in terms of succession planning and resourcing for the future that we will not have a pool of "home-grown" trained and qualified Deputes to draw upon. We believe that the impact of this will be to produce a service which will be less well trained and equipped to deal with the challenges of the future. We have no doubt that the management of COPFS would recruit from this group of trainees, or elsewhere, if able to do so, but are unable to do so due to the recruitment freeze and the current budgetary constraints.

COPFS has already implemented a restructuring of the organisation moving from 11 Areas to 3 Federations with the aim of benefitting from economies of scale. We also acknowledge that work is underway to look at ways of streamlining processes of the work that we do in relation to case preparation. We fear, however, that these moves will only mitigate against the impact these cuts will have. We cannot see how COPFS can continue to deliver current or improved standards of service with fewer staff. We fear that, not only will our members bear the consequences of these increased pressures, but there will inevitably be an impact on the wider justice system and the service provided to the public.

In conclusion, we would wish to be clear that our evidence should not be seen as an attack on those who manage COPFS. Senior grades within COPFS have also been greatly reduced and this has placed additional burdens on staff at these levels. Our relationship with senior management is a reasonable one, especially in these difficult financial times. We have our differences but, generally work together wherever possible to ensure that the department, our members and the wider stakeholder community benefits from the work of the organisation.

We hope this information is helpful to the committee. We would of course be happy to expand upon the above in oral evidence if required.

Procurators Fiscal Society
21 October 2011