

The background of the cover is a light blue gradient with a faint, semi-transparent image of a pair of scales of justice. The scales are positioned diagonally, with the top pan on the right and the bottom pan on the left. The text is overlaid on this background.

annual report

INSPECTORATE OF PROSECUTION IN SCOTLAND

2013-2014



safer
scotland
SCOTTISH GOVERNMENT

annualreport

INSPECTORATE OF PROSECUTION IN SCOTLAND 2013-2014

TO THE RIGHT HONOURABLE
FRANK MULHOLLAND QC
THE LORD ADVOCATE

THE NINTH ANNUAL REPORT
TO THE SCOTTISH PARLIAMENT

JULY 2014

MICHELLE MACLEOD
HM CHIEF INSPECTOR
INSPECTORATE OF PROSECUTION
IN SCOTLAND

LAID BEFORE THE SCOTTISH
PARLIAMENT BY THE LORD
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of the Criminal Proceedings etc.
(Reform) (Scotland) Act 2007

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FOREWORD

I am pleased to present my first annual report as Her Majesty's Chief Inspector of the Inspectorate of Prosecution in Scotland (IPS). I would like to extend my gratitude to my predecessor, Joe O'Donnell, who expertly steered the Inspectorate from its inception in 2003 through its transition to a statutory Inspectorate in 2007 and embedded the core strengths of the Inspectorate - independence and a rigorous evidence-based approach.



Since the creation of the Inspectorate in 2003 the criminal justice landscape has undergone a number of transformations. I agree with my predecessor's observation in last year's annual report that one of the most significant developments over the last decade has been the move towards more collaborative and joint working among the various justice organisations. A recent and visible manifestation of this approach is the Scottish Crime Campus (SCC) at Gartcosh that was formally opened in June 2014. The SCC brings together on one site key enforcement agencies, including the National Crime Agency (NCA), Police Scotland, Forensic Services, Her Majesty's Revenue and Customs (HMRC) and Crown Office and Procurator Fiscal Service (COPFS), with the purpose of combining and strengthening collaborative efforts to disrupt serious crime.

The last 12 months witnessed yet another significant change in the criminal justice landscape with the creation of a single police force for Scotland and the subsequent alignment of the police force with the COPFS Federation structure that was implemented in 2012. There will also be an impact on the day-to-day working of the criminal justice system arising from the recent implementation of the Victims and Witnesses (Scotland) Act 2014, which introduces a number of reforms designed to support victims and witnesses and the proposals contained within the Criminal Justice (Scotland) Bill, which take forward a range of recommendations originating from Lord Carloway's review of criminal law and practice and Sheriff Principal Bowen's review of Sheriff and Jury procedures.

Within this changing landscape there has been a strategic decision, actively promoted and advocated by the Law Officers, to develop greater specialisation in COPFS. This has resulted in a number of specialist units, including the National Sexual Crimes Unit, the Sudden Fatalities Investigation Unit, the Health and

Safety Division and the Wildlife and Environmental Crimes Unit. The creation of four Federations in April 2012 and the move to functional working within the Federation structure introduced a greater degree of specialisation when dealing with core operational work. Within the three geographical Federations, there are 'hubs' that deal solely with a particular work-stream, such as initial decision-making or Sheriff and Jury business.

The work of the Inspectorate this year reflects the trend towards specialisation with the publication of three thematic reports focussing on discrete areas of COPFS work. The first report examined the Knowledge Bank - the COPFS information knowledge database. The second report reviewed the work of the International Co-operation Unit, a specialist unit within Crown Office and Procurator Fiscal Service that leads in extradition and mutual legal assistance work. The most recent report was concerned with the sensitive issue of organ retention.

A common theme that emerged from the reports was the need for COPFS to undertake a review of procedures and working practices that pre-dated the Federation structure to ensure that they are still valid and effective within the new structure and specialised units and, in particular, to ensure that there is clarity within the Federations on where the responsibility lies for each aspect of an investigation, liaison with victims and witnesses and engagement with criminal justice partners.

Finally, I would like to thank all those organisations we have worked with throughout the year and the IPS staff for their delivery of high quality inspection reports.

Michelle Macleod.

Michelle Macleod
HM Chief Inspector
July 2014

CHAPTER 1 – OVERVIEW

Background

The Inspectorate of Prosecution in Scotland was established in 2003 and placed on a statutory footing in 2007 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The Act requires the Inspector to secure the inspection of the operation of the Crown Office and Procurator Fiscal Service and to submit to the Lord Advocate a report on any particular matter connected with the operation of the Service which the Lord Advocate refers to the Inspector. The Inspector must also submit an annual report which the Lord Advocate must lay before the Parliament.

Vision

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

Core Values

The core values of the Inspectorate are:

Independence – to provide impartial and objective advice and support.

Professionalism – to undertake inspections with integrity, rigour, competency and consistency.

Our Approach

The Inspectorate's approach to inspection is to encourage an inclusive and participative process designed to secure improvement across the system acting as an impartial and professional 'critical friend'. In addition to identifying areas for improvement, it is important to highlight and promote examples of good practice so that they can be adopted elsewhere. Our follow-up inspections will enable us to monitor progress in implementing our recommendations and evaluate their impact and effectiveness.

Equalities

The Inspectorate complies with equality legislation and is committed to promoting equality and diversity. To this end we will consider any impact our inspections and recommendations may have on individuals, groups and communities. IPS attends the Equality Advisory Group (EAG). The EAG was

established in 2003 and consists of COPFS staff and external members with a remit “to provide independent and informed advice to COPFS in relation to the impact of existing and future policies and practices on diversity and the promotion of equality and fairness in service delivery and employment”.

Continuous Improvement

One area highlighted as a concern by my predecessor was the suspension of the previous self assessment regime by COPFS. The resumption of a systematic internal quality assurance process has been the subject of ongoing discussion with COPFS following my appointment. COPFS advised that the intention was to move from the previous model of self assessment, which involved a review of all aspects of the preparation of the case of a designated sample of prosecution files, to a more objective, targeted and risk-based approach. Critical to the implementation of such an approach, however, is the ability of managers to access case-related data electronically.

COPFS has made significant progress to enable such access and has incorporated within its Management Information system (MI book) a facility that enables managers to drill down into a menu of options to view the initial decision taken in cases and the relevant associated documentation. The focus is to identify cases where the decision does not appear to comply with the prosecution policy and to undertake a review of such decisions. The facility has been utilised in two recent exercises to quality assure initial decisions taken in cases with an allegation of domestic abuse or stalking over a specified period. At time of publication, this facility is about to be rolled out to all managers responsible for initial decisions taken in cases reported to COPFS.

A similar facility that will be accessible as a separate application sitting on a manager’s desktop is being developed for cases where there are ongoing court proceedings. This will enable managers to interrogate any aspect of the preparation of the case at any stage to assess, for example, compliance with disclosure or witness citation procedures or identify issues that have resulted in cases being continued. It is envisaged that this will be available by the end of August 2014.

The next step is for the COPFS operational boards overseeing each function to agree a set of key performance areas to be monitored, based on a risk assessment analysis. We will continue to engage with COPFS on the implementation of their revised continuous improvement model.

CHAPTER 2 – OUR INSPECTIONS

This report covers the period from the end of May 2013 to July 2014. During this period three thematic reports were completed and published.

Crown Office and Procurator Fiscal Service’s Knowledge Bank

A thematic report on the COPFS Knowledge Bank was published on 10 December 2013.

The COPFS Knowledge Bank was established to provide a dedicated source of legal information. A quality information knowledge base containing relevant, readily accessible, accurate and up-to-date information is an invaluable resource for service delivery organisations.

We found that the Knowledge Bank had evolved since it was first introduced and now provided a repository of information for all staff in COPFS. Feedback from those who use the Knowledge Bank was in general positive. The issues that attracted negative comment were primarily due to IT limitations which had been recognised by COPFS and were being addressed through the development of a new software platform. We made six recommendations designed to further improve the Knowledge Bank. Following publication, COPFS established a dedicated project to progress and implement the recommendations and to develop an upgraded intranet to improve the functionality of the Knowledge Bank.

Update

We are pleased to report that progress has been made on all of the recommendations. Of particular significance is the development of a new intranet which is due to come on stream in late summer of 2014 and will include a facility to play DVDs and to allow feedback from staff on guidance etc that is published.

Link to report – <http://www.scotland.gov.uk/Publications/2013/12/7479>

International Co-operation Unit

A thematic report on the Crown Office’s International Co-operation Unit (ICU) was published on 19 March 2014. The ICU is a specialist unit within COPFS that leads in extradition and mutual legal assistance work.

One of the three strategic priorities of COPFS is to investigate, prosecute and disrupt crime. In pursuing this objective, it is widely recognised that crime is increasingly global and that international co-operation is a necessity and priority for all involved in keeping communities safe and in the investigation and prosecution of terrorism and serious crime. ICU plays a pivotal role in ensuring there is a co-ordinated approach within international circles to the investigation, detection and prosecution of such crimes.

We found that in international co-operation circles, ICU was highly regarded and respected. We made 11 recommendations designed to further strengthen the reputation of ICU, to improve procedures relating to obtaining and reviewing European Arrest and International Warrants and to introduce more accurate monitoring systems and key performance indicators.

Update

COPFS has accepted all of the recommendations and implemented a review of the interaction between ICU and COPFS colleagues across Scotland to improve existing procedures and their management systems.

Link to report - <http://www.scotland.gov.uk/Publications/2014/03/4872>

Organ Retention

A thematic report on organ retention was published on 1 July 2014. The report was commissioned by the Lord Advocate following the discovery of six cases involving deaths reported between 2007 and 2012 where nearest relatives had not been made aware that an organ had been retained for further examination at the conclusion of a post-mortem examination instructed by the Procurator Fiscal.

The public must have confidence that the examination of a body after death is conducted in a respectful manner and the nearest relatives are informed of all important decisions including if an organ or significant body part has to be retained and of the reasons for retention.

Greater awareness of cultural sensitivities and medical advances has significantly impacted on the need to retain whole organs. The overriding aim is to complete any examination of an organ prior to the deceased's body being released to the nearest relative.

We make 10 recommendations designed to provide assurance that the procedures implemented by COPFS are professional, effective and sensitive and that there are sufficient safeguards to prevent any further instances of nearest relatives not being informed of organ retention following a post-mortem authorised by the Procurator Fiscal.

To ensure that the system of organ retention is robust and working effectively, IPS will undertake an audit and test the procedures governing organ retention six and 12 months after the publication of this report.

Update

COPFS has accepted all of the recommendations and has commenced implementation of those that relate solely to COPFS. It has also established a project team to progress the recommendations which involve the pathology service providers.

Link to report - <http://www.scotland.gov.uk/Publications/2014/07/9645>

CHAPTER 3 – CURRENT AND FUTURE WORK PROGRAMME

It is important that the work of the Inspectorate is relevant to the issues impacting on our communities and within the justice system. In selecting topics for inspection, the Inspectorate adopts an objective risk-based assessment which is informed through consultation with our stakeholders. We also take account of the overarching strategic priority of COPFS to achieve operational effectiveness in all cases.

There are a number of different types of inspection work that can be undertaken by IPS.

Thematic Reviews

We will continue to use thematic reviews to scrutinise areas of work that benefit from a holistic approach. These can be focussed on specific types of case work or business approaches. We will highlight good practice and make recommendations designed to drive improvement and enhance quality.

Follow-up Reviews

A robust follow-up process is a critical part of an effective inspection regime and during 2014, the IPS has embarked on a detailed analysis of whether there are any outstanding recommendations from previous IPS reports that require further examination and review. Through this process, IPS is undertaking a follow-up review of the Community Engagement report published in June 2011. In addition, we have introduced a continuous rolling programme following the publication of all reports to monitor the progress made by COPFS in implementing our recommendations and will undertake formal follow-up inspections where necessary and appropriate.

Collaborative Reviews

IPS is a member of the UK-wide Heads of Inspectorates Forum which affords an opportunity to compare methodology and learn from the experiences of other mainstream UK inspectors and regulatory agencies. In addition, the legal staff are members of the International Association of Prosecutors which provides an opportunity to network with prosecutors from around the world.

Given the close association between the police and COPFS, IPS regularly meets with HM Inspectorate of Constabulary for Scotland to consider areas where joint inspection of cross-cutting issues would be of benefit. In addition, IPS liaises with Audit Scotland and the other inspection bodies within the criminal justice system in Scotland to ensure there is no duplication of work but rather that reviews undertaken by IPS complement work undertaken by other inspectorates.

Current Programme

- Thematic report on the management of statutory time limits in solemn proceedings
- Follow-up report on Community Engagement
- Thematic report on the Response and Information Unit (deals with complaints)
- Thematic report on Disclosure
- Follow-up report on Health and Safety Division
- Follow-up report on the Knowledge Bank
- An audit of the procedures governing organ retention

The programme is kept under continual review and altered as necessary to respond to any new challenges or developments which provide identifiable risks for COPFS and the wider criminal justice system.

ANNEX A

Finance

The Inspectorate's budget for 2013-14 was £320,000.

The expenditure was as follows:

Staff costs*	260,650.97
Subsistence and motor mileage	634.38
Printing and binding	3,672.18
Travel and accommodation	3,961.41
Hospitality	475.59
Conference fees	1,513.80
Other running costs	20,130.40
Total	£291,038.73

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

Staff and Accommodation

The staff of the Inspectorate during the period of the report consisted of the Chief Inspector, a Principal Inspector, a Legal Inspector, a Business Inspector, a Personal Assistant and also an Associate Legal Inspector on a fixed-term contract.

IPS consists of a small team (equivalent to four full-time because of part-time working) comprising of members seconded from COPFS and members employed by the Scottish Government, providing a range of skills and experience.

Freedom of Information (FOI)

We publish FOI information and all our reports on our website.

During the period to the end of June 2014, eight Freedom of Information requests were received - all were responded to within the required timescale.

Complaints Process

Our Complaints Handling Procedure is published on our website and seeks to resolve any dissatisfaction as quickly as possible and where necessary to conduct thorough, impartial and fair investigations of complaints. Our Complaints Handling Procedure does not extend to individual complaints about operational decisions relating to specific cases. These should be addressed to COPFS.

If you require this publication in an alternative format and/or language, please contact us to discuss your needs.



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