Efficiency of prosecuting criminal cases through the sheriff courts

AUDITOR GENERAL

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Key facts

The number of accused registered for prosecution in criminal cases in the sheriff courts in 2014/15

77,080 Summary

Solemn **8,277**

£10 million

The estimated cost of unnecessarily repeating a court appearance in 2014/15

£203 million

The estimated cost of prosecuting criminal cases through the sheriff court system in 2014/15

48 per cent of 214,533

The percentage of summary court appearances that did not proceed as planned in 2014/15

35 per cent of 56,433

The percentage of summary cases that took longer than six months to reach a verdict in 2014/15

Summary

Key messages

1 On average, just over 88,000 people are prosecuted in the sheriff courts each year, though this number has varied by up to ten per cent from year to year. The system for prosecuting criminal cases through the sheriff courts is under increasing pressure. The complexity of cases being considered has increased with greater focus on cases involving domestic abuse and historical sexual offences. Between 2010/11 and 2014/15, the average time for summary cases to be concluded has risen, a greater proportion of summary cases are going to trial and the number of outstanding trials at the end of the year has increased.

2 Between 2010/11 and 2014/15, the Scottish Government's overall budget fell by seven per cent in real terms. Over the same period, the overall budgets of the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Courts Service (SCS) fell by 14 and 28 per cent respectively and their revenue budgets fell by 12 and 17 per cent respectively. There is limited information on the full costs of prosecuting criminal cases through the sheriff court system. We estimate that Police Scotland, COPFS, the SCS and the Scottish Legal Aid Board (SLAB) spent at least £203 million prosecuting criminal cases through the sheriff court system in 2014/15.

3 The efficiency of the sheriff court system affects victims, witnesses, accused people, staff and others involved with it. Currently, the sheriff court system publicly reports its efficiency as the proportion of summary cases completed within 26 weeks. On its own, this is not a measure of efficiency and other measures are needed to assess efficiency fully. In 2014/15, 65 per cent of summary cases were completed within 26 weeks. This is a fall of eight percentage points since 2010/11. Almost half of all sheriff court appearances in summary cases did not proceed as planned. We estimate that the cost of cases repeating stages unnecessarily (termed churn), could be as much as £10 million in 2014/15.

4 The key public bodies involved in managing the prosecution of criminal cases through the sheriff court system – Police Scotland, COPFS and the Scottish Courts and Tribunals Service (SCTS) – make decisions independently which affect how efficiently and effectively the whole system works. The establishment of the Scottish Government's Justice Board has improved joint working across the sheriff court system at a national level and helped manage a ten per cent increase in cases in 2013/14 relative to the previous year. This improved joint working at a national level has not always been replicated at a local level.

the system for prosecuting criminal cases through the sheriff courts is under increasing pressure

Recommendations

Our recommendations aim to improve:

- the management of the sheriff court system as an integrated system of individual organisations
- public reporting on the wider performance of the sheriff court system
- the performance of the sheriff court system.

The Scottish Government, Police Scotland, COPFS, the SCTS and other members of the Justice Board should:

- model how changes in policy on charging and prosecution in one part of the sheriff court system affect costs across the whole system. This will require the sharing and coordination of management information across the sheriff court system and should enable better forward planning and reallocation of resources between the main criminal justice bodies (paragraphs 29–30).
- supplement the single existing 26-week performance indicator with other publicly reported performance indicators. One example is the number of outstanding trials and the costs to the sheriff court system of different types of cases. This would:
  - provide the public with a broader picture of the performance and efficiency of the sheriff court system at a national, sheriffdom and court level
  - support efficient and effective management of the whole sheriff court system (paragraph 38).

The Scottish Government, COPFS, the SCTS and members of the judiciary should:

- improve performance throughout the sheriff court system by sharing and implementing good practice across sheriffdoms and individual courts that, for example, reduces avoidable churn and reduces the time taken to reach a verdict (paragraphs 59-60, Case study 4).
- improve how the main criminal justice organisations work together at a local level to ensure that:
  - national initiatives are effectively implemented at a local level
  - the improved joint working among the main criminal justice organisations at a national level is reproduced locally (paragraphs 35–37).

About our audit

1. The efficiency of the system for prosecuting cases through sheriff courts involves a number of bodies and affects a wide range of people – victims, witnesses, jurors, the legal profession and accused people. Inefficiency can cause stress, uncertainty and disruption to work and family life. One of the challenges in improving the efficiency of the sheriff court system is that different people may want different outcomes from it. When last surveyed in 2012/13, less than half of people in Scotland were confident that the justice system handled cases efficiently.[1] Our focus groups (Appendix 1, page 39) suggested that almost all of the offenders and around half of the victims and witnesses who participated had experienced cases not being called or being adjourned once they were at court. Around a third of victims and witnesses interviewed had to attend court on more than two occasions for the same case. We have published a separate report based on our focus groups on our website www.audit-scotland.gov.uk.

2. In September 2011, we published *An overview of Scotland's criminal justice system [PDF]* . We identified that changes were needed to improve the efficiency of the criminal justice system in Scotland. These included:

- more information being made available on costs and performance to help individual organisations and the system as a whole operate more effectively
- summary cases being processed through courts more efficiently
- improvements in the way victims and witnesses are supported and kept informed about what is happening in their case.

3. This audit examined the second of these in more detail. It focuses on how efficiently criminal cases are handled, from the point at which the police and other bodies submit a report to COPFS until the sheriff reaches a verdict in court. We did not look at sentencing. In the report, we refer to the main criminal justice bodies involved in progressing criminal cases through the sheriff court. These main bodies are Police Scotland, COPFS and the SCTS and the process is referred to as the sheriff court system.

4. All the data used in the report is based on the period 2010/11 to 2014/15, with the exception of data from the Criminal Proceedings Statistical Bulletin which is available up to 2013/14. Appendix 1 explains our methodology. Appendix 2 lists the members of our advisory group.

5. We did not consider the impact of recent court closures. Recent court closures are part of an ongoing broader programme of reform of the justice system. The SCTS is currently assessing the impact of these closures.

6. On 1 April 2015, the Scottish Court Service (SCS) merged with the Scottish Tribunal Service to form the Scottish Courts and Tribunals Service (SCTS). In this report, we refer to the SCS as we are using financial and performance information for the period up to 31 March 2015. Our recommendations are directed, in part, to the SCTS.

Part 1

Prosecuting criminal cases in the sheriff courts

Key messages

1 On average, 88,066 people faced prosecution in the sheriff court system each year, ranging from a maximum of 93,245 in 2010/11 to a minimum of 82,121 in 2012/13. This number has varied by up to ten per cent from one year to another.

2 Pressures on the sheriff court system are mounting. There has been an increase in the number of complex cases such as historical sexual offences and domestic abuse. The total budgets of COPFS and the SCS fell by 14 and 28 per cent respectively between 2010/11 and 2014/15. COPFS and SCS' revenue budgets fell by 12 and 17 per cent in real terms respectively over this period. This compares with a fall in the overall Scottish Government budget of seven per cent.

3 There is limited information on the full costs of prosecuting criminal cases through the sheriff court system. We estimate that Police Scotland, COPFS, the SCS and SLAB spent at least £203 million prosecuting criminal cases through the sheriff court system in 2014/15.

4 Improving efficiency across the sheriff court system requires all those involved to work together. The establishment of the Justice Board has enabled better understanding of how changes in demand and new initiatives affect the sheriff court system. This joint working helped manage the ten per cent increase in the number of cases experienced in 2013/14. There is scope to develop this improved joint working further, especially at a local level.

at least £203 million was spent prosecuting people in the sheriff court system in 2014/15

There are different courts and procedures for different types of criminal cases

7. In Scotland, three main types of court deal with different levels of offending:

- The High Court of Justiciary deals with the most serious crimes such as murder and rape.
- Sheriff courts and Justice of the Peace courts deal with all other crimes and offences. In Glasgow, there are also stipendiary courts. Stipendiary magistrates are legally qualified and sit in the Justice of the Peace courts.

This report focuses on sheriff courts.

8. An individual court building may contain several courts. A court is the room where a judge, sheriff or Justice of the Peace hears a case. There are 39 sheriff court buildings in Scotland, with 174 court rooms that can be used for sheriff court business.[2] Some of these court rooms are also used for High Court or Justice of the Peace court business, civil cases or fatal accident inquiries.

9. Courts are organised into six districts called sheriffdoms (Exhibit 1, page 10 and 11). The volume of business each sheriffdom deals with varies. For example, in 2014/15, the Tayside, Central and Fife sheriffdom processed over 17,304 criminal cases through its eight courts. In contrast, the North Strathclyde sheriffdom dealt with just over 11,251 criminal cases. In 2014/15, seven of the 39 sheriff court buildings (Glasgow, Edinburgh, Hamilton, Aberdeen, Kilmarnock, Paisley and Dundee) heard 54 per cent of criminal cases. At the end of 2014/15, there were 13 court buildings that had dealt with less than 500 cases during the year. The number and size of courts in a sheriffdom affects how resources such as court staff, sheriffs, fiscals, social workers, security and police are used and how business is scheduled.

There are two procedures for prosecuting criminal cases

10. Summary cases are the most common. They relate to crimes, such as breach of the peace and common assault. In 2014/15, sheriff courts heard 71,350 summary cases. The procedure for summary cases is:

- A copy of the charges against the accused person or people is given or sent to them before they appear at court.
- At the pleading diet, which is the first calling of the case, the sheriff asks the accused how they want to plead. If the accused pleads guilty, the case ends at this point and the sheriff decides on a sentence unless they ask for reports from criminal justice social work before sentencing.
- If the accused pleads not guilty, there is an intermediate diet where there is a short hearing to ensure that the prosecution and defence are ready to proceed.
- There is the trial.

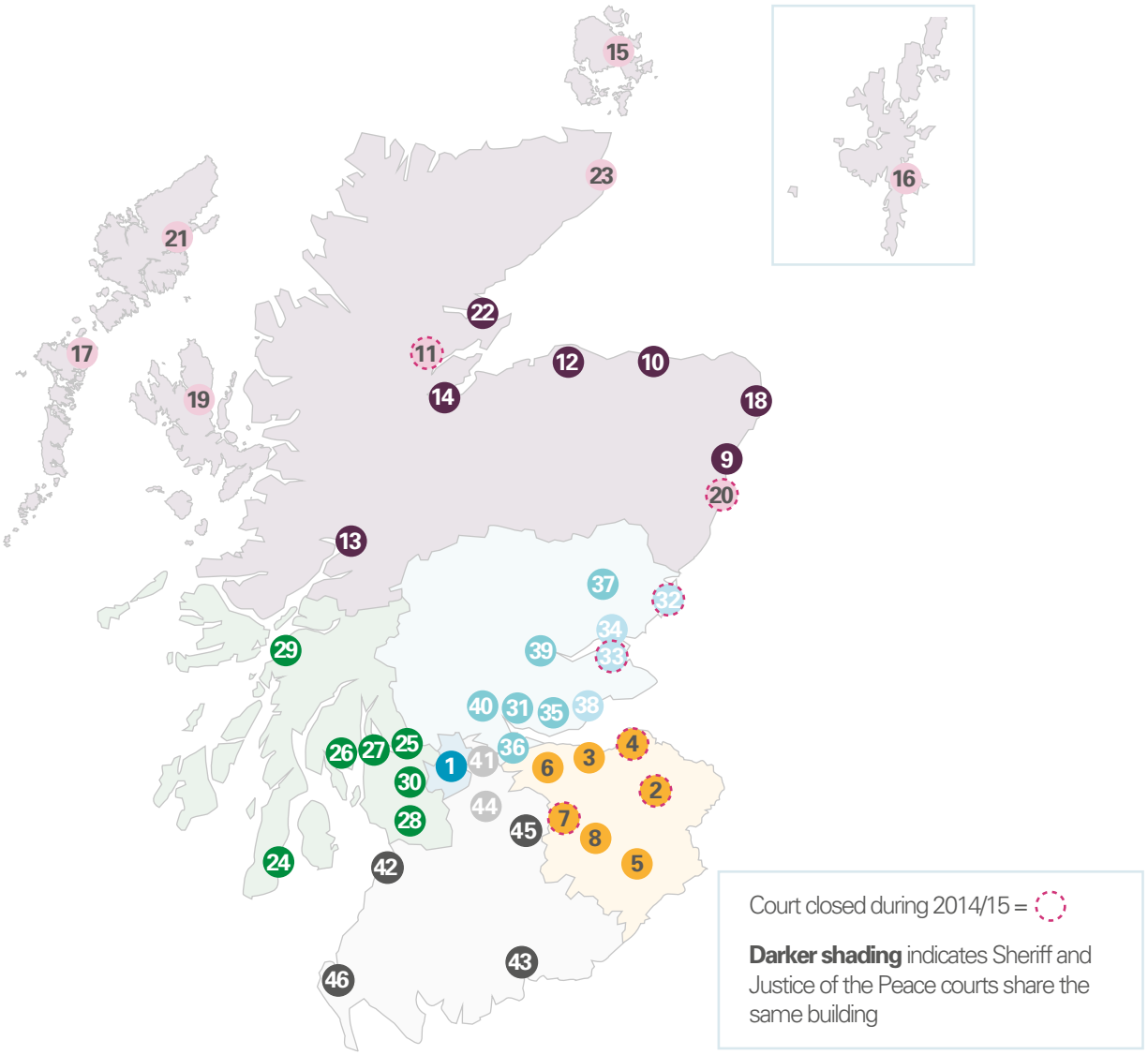
11. Solemn procedure is used to prosecute more serious crimes, such as murder, rape or serious assault. All solemn cases begin in the sheriff court in the district where the alleged offence took place. However, some cases are too serious to be prosecuted in the sheriff court. For example, the most severe charges, such as murder, will go on to be heard in the High Court. In 2014/15, sheriff courts registered 6,920 solemn cases. In the same year, 812 cases were registered in the High Court. The procedure for solemn cases is:

- A first appearance where the procurator fiscal gives the accused person or people a document known as a petition that contains the initial charges against them. This happens in private. After the first appearance, COPFS may conduct further investigations before the accused's second appearance in court (known as a full committal hearing), which also happens in private. The accused will only make a second appearance in court if they have been remanded in custody during their first appearance.

Exhibit 1

Sheriff courts in Scotland, 2014/15

At the end of 2014/15, there were 39 sheriff court buildings with 174 court rooms in six sheriffdoms.



Number of summary and solemn cases in 2014/15

Sheriffdoms	<100	100 - 499	500 - 999	1,000 - 2,499	2,500 - 4,999	5,000 -10,000	>10,000	Total
							1	11,573
	2 7	5	4 8	6		3		13,646
	17 19 20	10 11 13 15 16 21 22 23		12 14 18		9		11,564
		24 26 29		25 27	28 30			11,251
	32 33		37	31 35 39 40	34 36 38			17,304
			45 46	42 43	41 44			12,932

Cont.

Exhibit 1 continued

		Court Rooms	Summary Cases	Solemn Cases
Glasgow and Strathkelvin		**26**	**9,792**	**1,781**
1	Glasgow	26	9,792	1,781
Lothian and Borders		**31**	**12,539**	**1,107**
2	Duns*	1	74	-
3	Edinburgh	17	8,835	900
4	Haddington*	2	576	18
5	Jedburgh	2	350	9
6	Livingston	6	2,165	161
7	Peebles*	1	45	-
8	Selkirk	2	494	19
Grampian, Highland and Islands		**31**	**10,728**	**836**
9	Aberdeen	11	4,828	483
10	Banff	1	164	-
11	Dingwall*	1	225	5
12	Elgin	2	980	56
13	Fort William	1	222	8
14	Inverness	3	1,667	141
15	Kirkwall	1	203	10
16	Lerwick	1	304	13
17	Lochmaddy	1	47	1
18	Peterhead	2	1,036	84
19	Portree	1	94	4
20	Stonehaven*	2	12	-
21	Stornoway	1	314	4
22	Tain	1	318	4
23	Wick	2	314	23

		Court Rooms	Summary Cases	Solemn Cases
North Strathclyde		**28**	**10,283**	**968**
24	Campbeltown	1	121	9
25	Dumbarton	5	1,782	151
26	Dunoon	2	354	21
27	Greenock	4	1,221	109
28	Kilmarnock	6	3,620	363
29	Oban	1	234	14
30	Paisley	9	2,951	301
Tayside, Central and Fife		**37**	**16,043**	**1,261**
31	Alloa	2	935	67
32	Arbroath*	2	34	1
33	Cupar*	1	17	6
34	Dundee	8	3,338	347
35	Dunfermline	4	1,859	178
36	Falkirk	4	2,608	147
37	Forfar	2	1,326	78
38	Kirkcaldy	5	2,832	192
39	Perth	5	1,926	159
40	Stirling	4	1,168	86
South Strathclyde, Dumfries and Galloway		**33**	**11,965**	**967**
41	Airdrie	5	2,671	172
42	Ayr	5	1,982	168
43	Dumfries	4	1,587	131
44	Hamilton	13	4,462	421
45	Lanark	2	710	27
46	Stranraer	2	553	48

	Court Rooms	Summary Cases	Solemn Cases
Total	**184**	**71,350**	**6,920**

Note: *Court building closed during 2014/15.

Source: Scottish Courts and Tribunals Service

- The first diet is where the sheriff asks the accused how they want to plead. The accused can plead guilty at this point. If this happens, there is no trial and the accused will be sentenced.

- If the accused pleads not guilty, the case proceeds to a trial in front of a jury.

12. Many organisations and people play a role in processing criminal cases through the sheriff courts. In both solemn and summary procedures, a trial cannot proceed unless everyone involved is ready and available. Prosecuting criminal cases includes the sheriff, the procurator fiscal, the accused, the solicitor representing the accused, witnesses (including police witnesses) who have been called by the prosecution and the defence, court staff and, where required, translators and involvement of SLAB. SLAB provides financial assistance to people charged with committing a crime. How legal aid is structured and administered has the potential to influence how the defence agents behave.

13. Demand for Justice of the Peace courts, fatal accident inquiries and both criminal and civil business within the same building affect the availability of court rooms and staff for sheriff courts. These competing demands affect availability of staff across the justice system including SCS staff, sheriffs, fiscal deputes and defence agents. An increase in demand in one area will put pressure on others in terms of available court rooms and staff. For example, in 2013/14, the number of summary cases registered in the Justice of the Peace courts increased by 25 per cent compared to the previous year due to a focus by Police Scotland on road traffic offences.

There are three stages in prosecuting a criminal case through the sheriff court system

14. There are three main stages in the process of prosecuting a criminal case:

- The police identify and charge someone with criminal activity and report the case.

- The procurator fiscal decides what to do about each of the accused.

- The case is heard in court (Exhibit 2, page 14).

15. Each of the main criminal justice bodies measures activity differently. Police Scotland count standard prosecution reports (SPRs), COPFS count the number of cases and accused people, and SCS count numbers of cases and accused appearances. There is no consistent way to identify distinct individuals (be it as witnesses, victims or accused) across the whole sheriff court system.

Stage 1: The police identify and charge someone with criminal activity and report the case

16. In 2014/15, the police submitted 226,700 prosecution reports to COPFS. Fifty-four other organisations can submit prosecution reports. For example, the Health and Safety Executive and the Scottish Environment Protection Agency can submit prosecution reports for criminal breaches of health and safety or environmental law respectively. In 2014/15, these other organisations submitted an additional 17,700 prosecution reports. A prosecution report may contain information about one person and one crime, one person and several crimes, several people and one crime or several people and several crimes.

17. Once the police have charged someone and intend to submit a prosecution report, they have three options for how they deal with the accused. This depends on the seriousness of the case and potential risk to the public:

- The police release most people (72 per cent in 2014/15) who have been arrested and may face criminal proceedings in the sheriff courts. If COPFS is considering taking criminal proceedings against the person, they will write to them telling them to appear in court on a given date.
- Over a fifth of people (23 per cent in 2014/15) facing criminal proceedings appear in court the next day, and go to court directly from a cell in the police station (police custody).
- The remainder are released on an undertaking: a written promise to meet certain conditions and to appear at court on a later specified date. This is sometimes called police bail.

Stage 2: The procurator fiscal decides what to do about each of the accused

18. Once COPFS receives the prosecution report, a procurator fiscal decides what to do about each of the accused named in the prosecution report. This process is called marking. Procurators fiscal are independent public prosecutors and decide whether to prosecute an individual accused of a crime. COPFS has guidance for procurators fiscal to encourage a consistent approach to marking.

19. When procurators fiscal are marking a prosecution report, they may:

- accept all the charges the police have listed for an accused person
- only proceed against some of them
- amend them, for example if they are the wrong charges in light of the available evidence
- make different decisions for each of the accused people identified in the report
- decide that an alternative to prosecution in court is more proportionate to the crime committed or that no further action should be taken.

20. If the procurator fiscal decides that a person should be prosecuted, they must identify which type of court and whether the case should be heard under solemn or summary procedure.

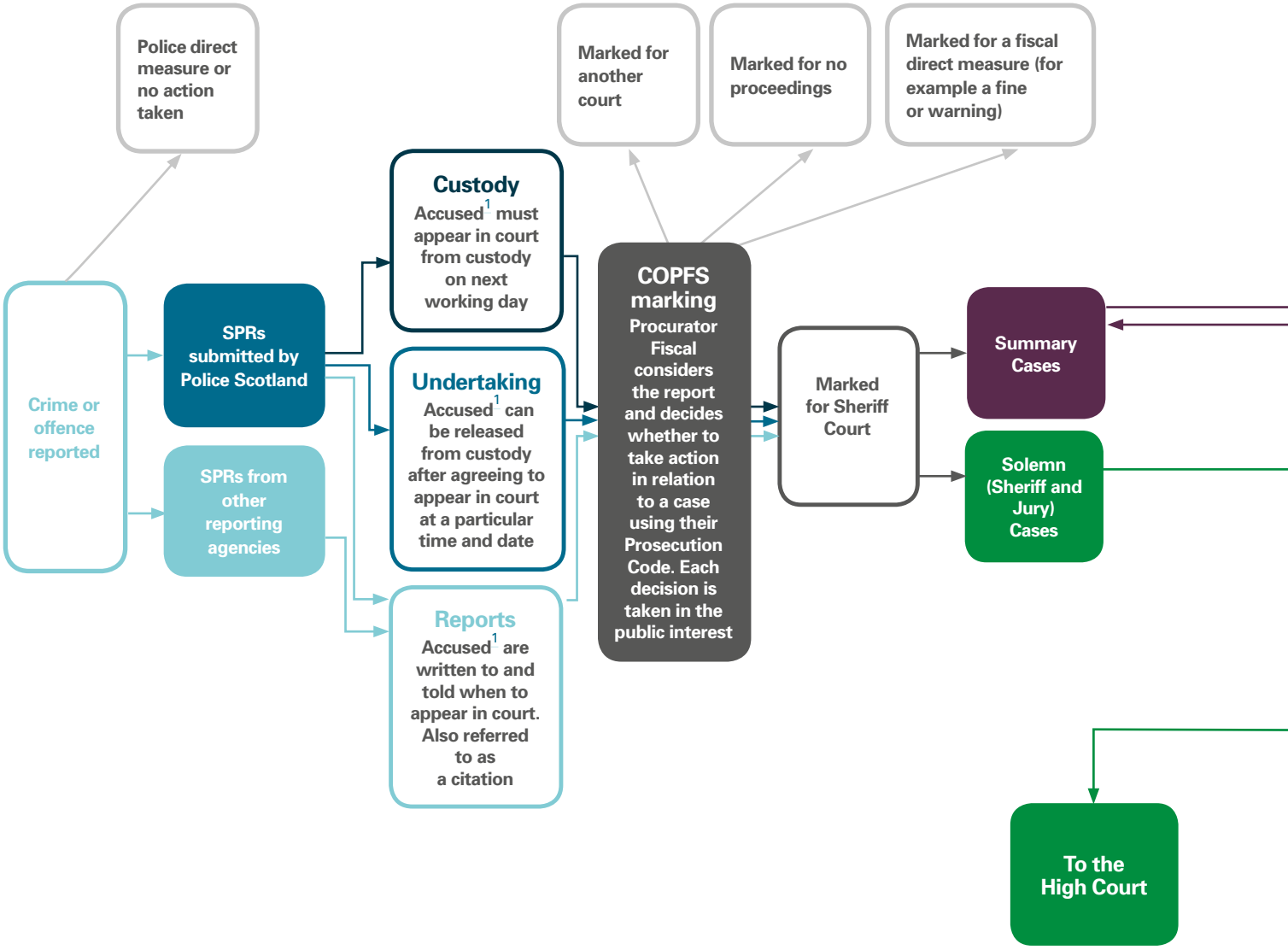
Stage 3: The sheriff court hears the case

21. Prosecuting a case in the sheriff court requires a procurator fiscal to present evidence and witnesses to support the case that an accused person has broken the law. The accused person, through their legal representative, then either agrees or challenges the evidence. In solemn cases, a jury of 15 people decides whether or not the accused person is guilty on the basis of the evidence presented. The sheriff sentences those that are found guilty. In summary cases, the sheriff decides whether or not the accused person is guilty, on the basis of the evidence presented.

Exhibit 2

The process of taking a criminal case through the sheriff court system

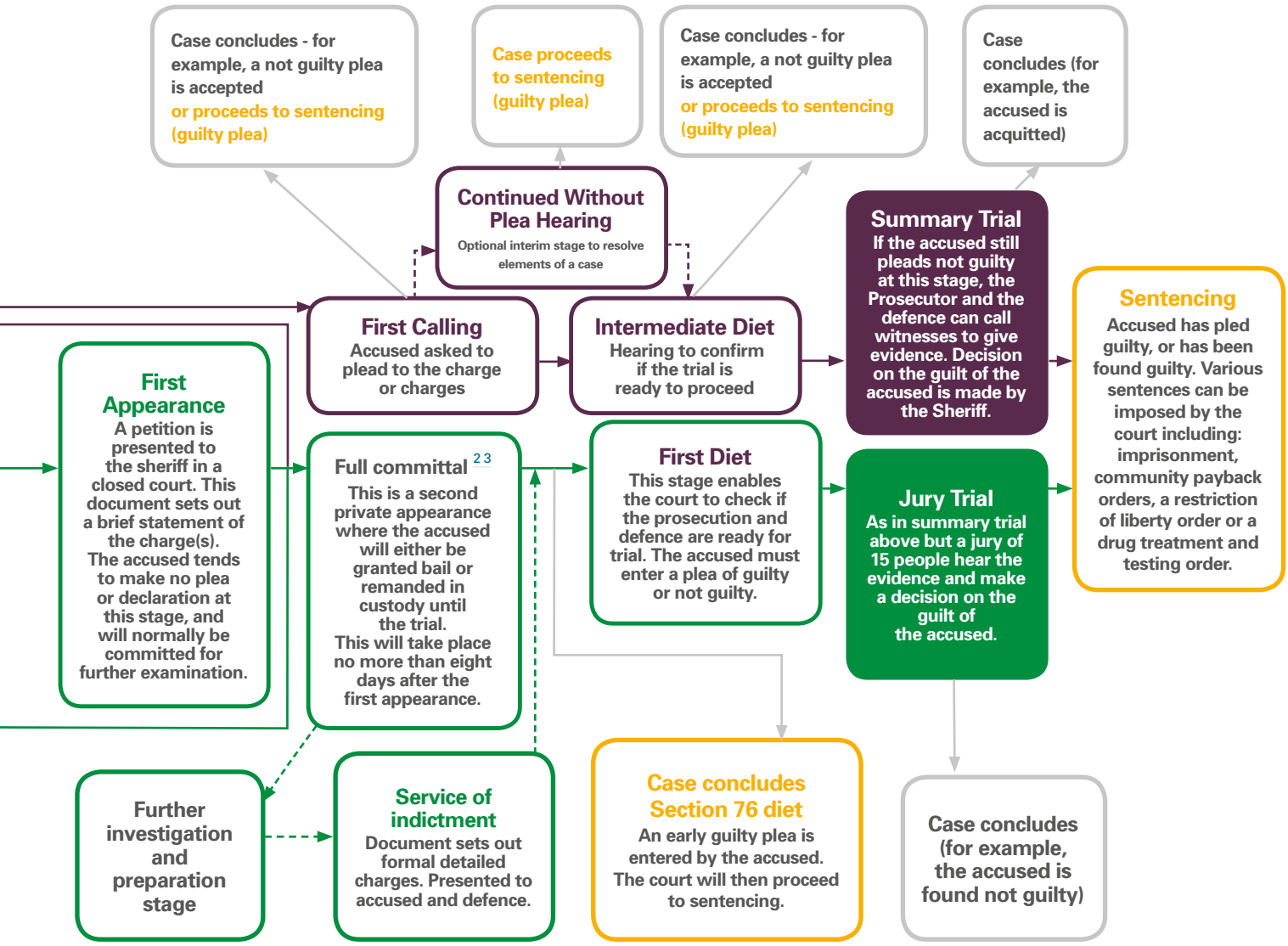
Processing criminal cases through the sheriff court system is complex.



1. If marked for court action.
2. If a Judicial Examination is to take place then this will generally be held at either the first appearance or full committal. This gives an opportunity to go through any statement given to the police by the accused and for the accused to add further comment in respect of his or her defence.
3. There is no need for a full committal to take place if the accused has been granted bail after the first appearance.

Cont.

Exhibit 2 continued



Source: Audit Scotland

Around half of people identified in prosecution reports were dealt with outside courts

22. Not everyone charged with committing a crime ends up in court. The police can take direct measures such as issuing a formal adult warning or a fixed penalty notice. In 2014/15, 3,742 formal adult warnings and 101,542 fixed penalty notices were issued. Alternatively, the police can speak informally to the person involved or refer a child under 16 to the children's hearing system.

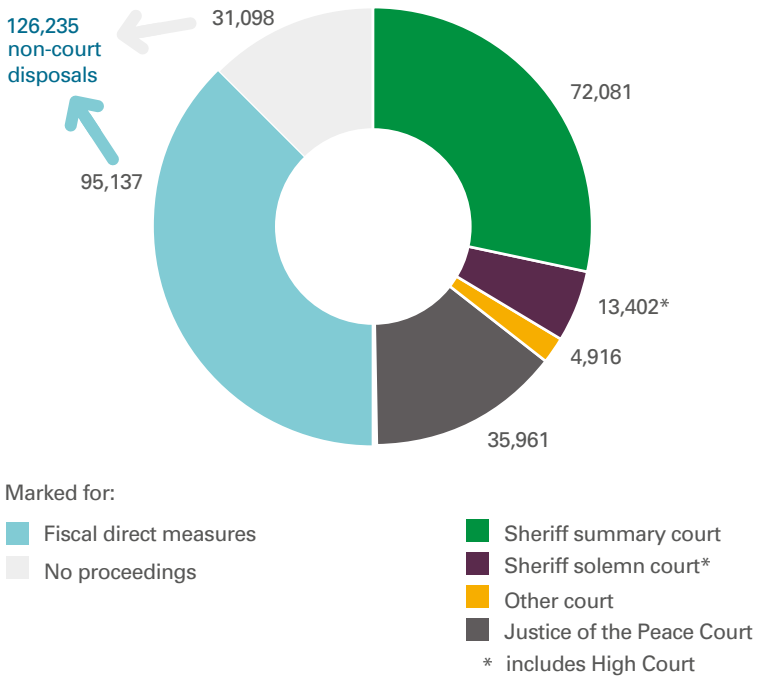
23. When COPFS mark cases, the procurator fiscal can use a non-court disposal. COPFS may consider a non-court disposal if proceeding with the case in court is

not in the public interest. For example, court proceedings may be disproportionate in a minor road traffic accident where no one was injured and the driver has a clean record. Non-court disposals include fiscal direct measures such as a fine or a warning or a decision to take no action. Another option for COPFS when other types of crime are committed is to refer the accused for specialist support, such as mediation or psychiatric help. In 2014/15, COPFS marked cases involving over a quarter of a million individuals (Exhibit 3). Fifty per cent (126,235) of these individuals received a non-court disposal. Thirty-eight per cent of these individuals received a fiscal direct measure and 12 per cent of individuals faced no proceedings.

Exhibit 3

Results of COPFS marking in terms of individuals, 2014/15

Over 126,000 people charged with committing a crime received a non-court disposal in 2014/15.



Note: In 2014/15, the total number of SPRs submitted to COPFS by the police and other reporting agencies was 244,386. It is not possible to relate the number of SPRs to the number of individuals involved since one SPR can include one or more individuals.

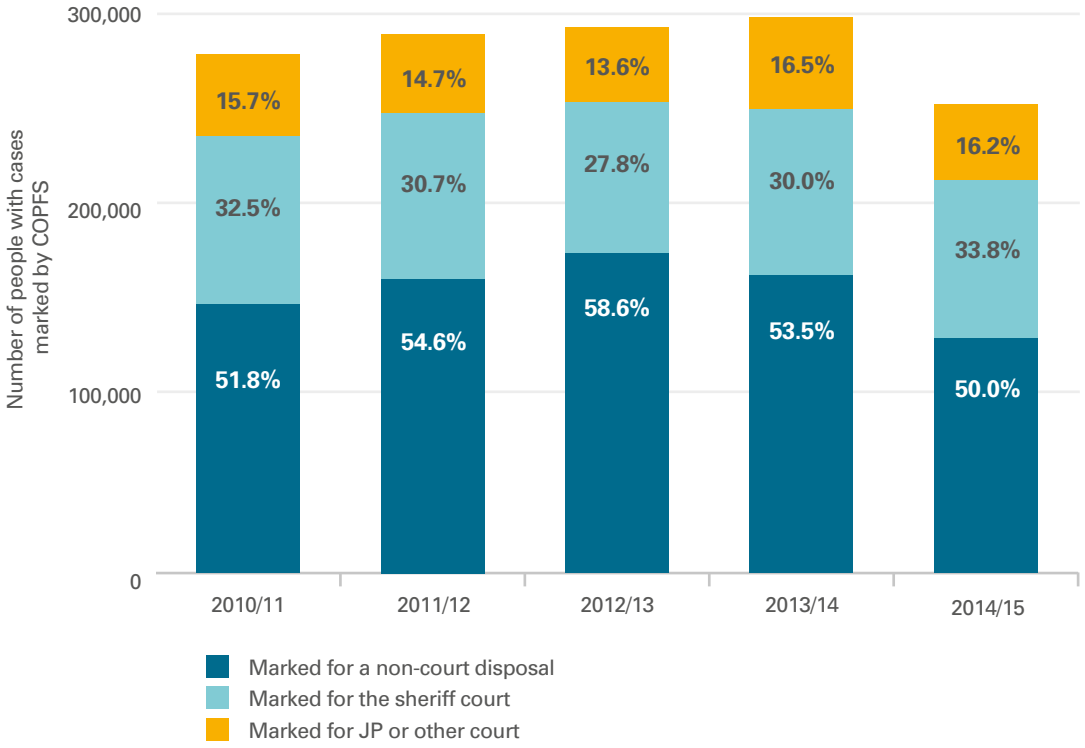
Source: Crown Office and Procurator Fiscal Service

24. Between 2010/11 and 2013/14, there was a seven per cent increase in the number of people who had a case marked by COPFS, rising from 279,158 to 299,082 (Exhibit 4). This trend reversed in 2014/15. Between 2010/11 and 2012/13, there was an increase in the number of people who received a non-court disposal and a decrease in those facing prosecution in the sheriff court. This trend reversed in 2013/14 and 2014/15. The types of crimes that people are charged with determines whether they face prosecution or receive a non-court disposal.

Exhibit 4

The number of people with cases dealt with outside of court and those prosecuted in court, 2010/11 to 2014/15

In 2014/15, the total number of people with cases marked by COPFS decreased but the percentage of people facing prosecution in the sheriff court increased.



Note: A small percentage of people identified in cases marked for the sheriff court will ultimately be heard in the High Court.

Source: Crown Office and Procurator Fiscal Service

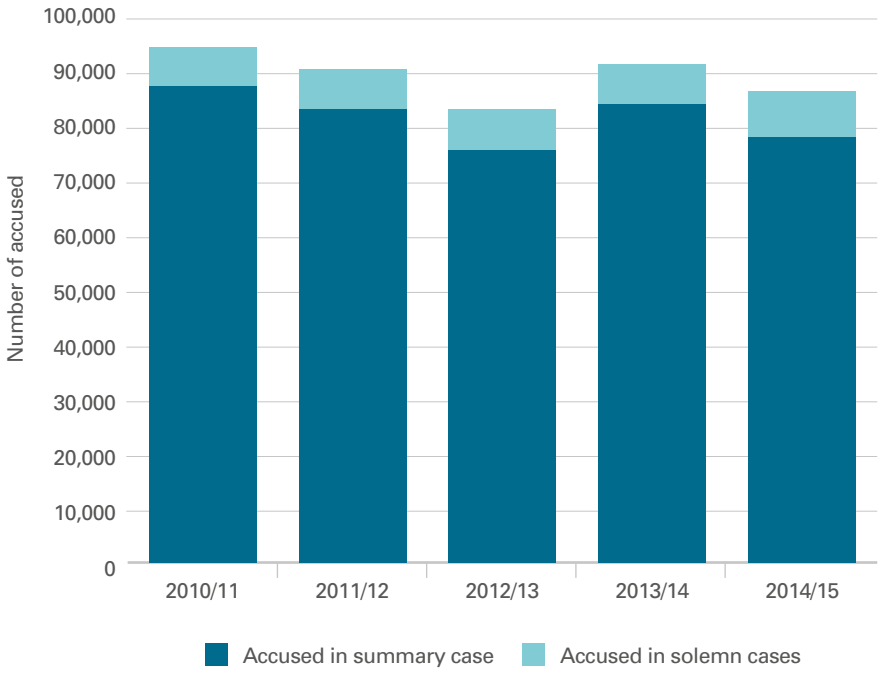
The changing nature of cases in the sheriff court system is increasing pressure

25. Between 2010/11 and 2014/15, an average of 80,641 people faced prosecution in summary cases in the sheriff court system each year. Over the same period, an average of 7,425 people faced prosecution in solemn cases. The total number of people facing prosecution in the sheriff court system has varied by up to ten per cent from one year to another. The related number of accused in these cases ranged from a minimum of 82,121 in 2012/13 to a maximum of 93,245 in 2010/11 (Exhibit 5).

Exhibit 5

Number of accused people in cases registered in the sheriff courts, 2010/11 to 2014/15

Over 90 per cent of people faced prosecution in summary cases.



Source: Scottish Courts and Tribunals Service

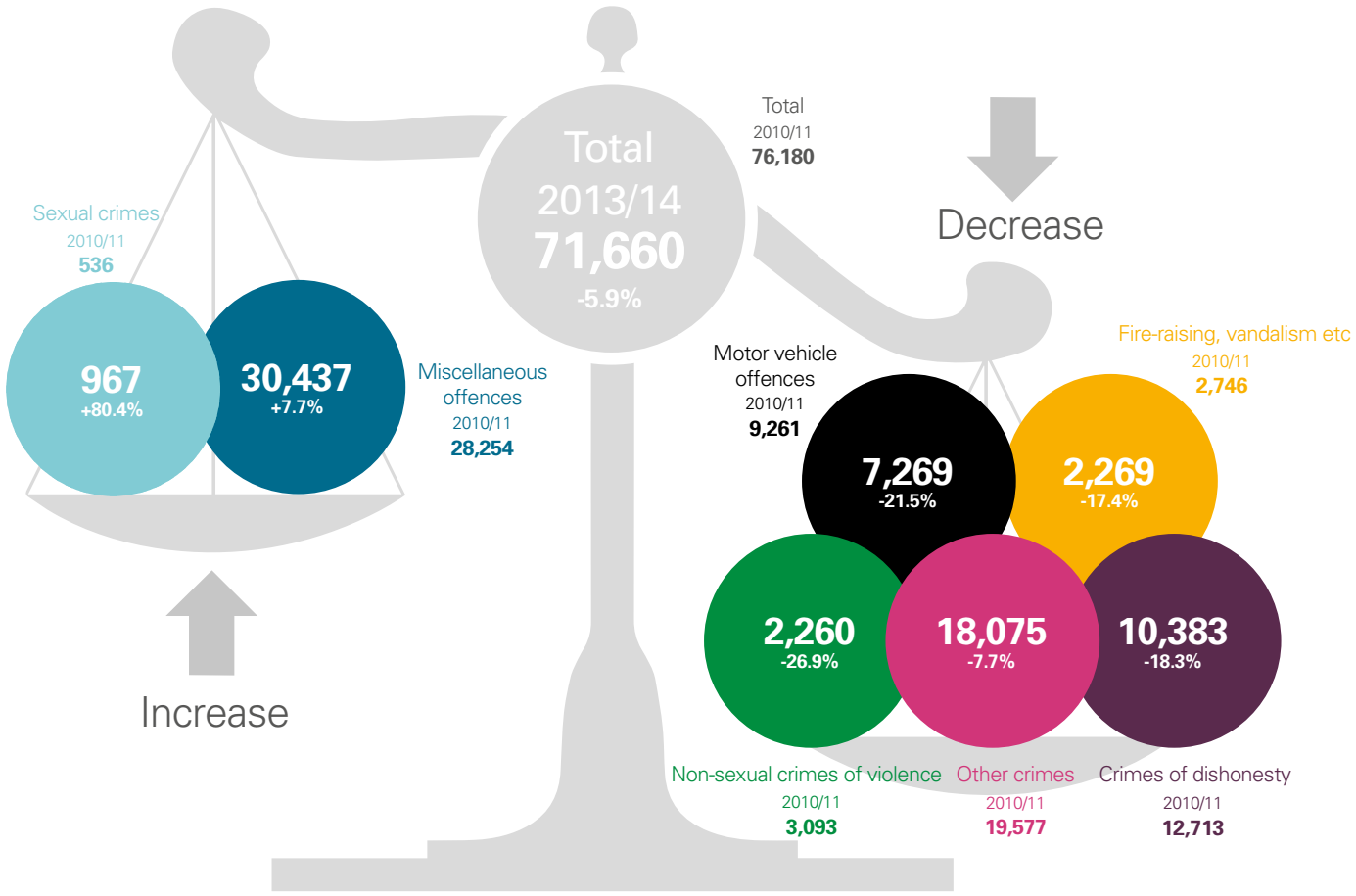
26. Despite the relatively small numbers of sexual crimes compared to other crime types, the nature and complexity of these cases has increased pressure on the sheriff court system. Between 2010/11 and 2013/14, the number of people facing prosecution in the sheriff court decreased for all crimes, apart from sexual crimes and miscellaneous offences such as common assault (Exhibit 6, page 19). The reporting and prosecution of sexual crimes has increased by 80 per cent between 2010/11 and 2013/14. This reflects:

- increasing confidence among victims about reporting such crimes
- greater media and public awareness
- a focus on these crimes across the criminal justice system and in particular by the police and COPFS.

Exhibit 6

Changes in the types of crime prosecuted in the sheriff court, 2010/11 to 2013/14

The number of people prosecuted in the sheriff court decreased for all crime types, except for sexual crimes and miscellaneous offences.



Notes:
1. The 2010/11 figures relating to sexual crimes will be an underestimate due to changes in recording implemented by the Sexual Offences (Scotland) Act 2009. This means that the percentage increase in sexual crimes between 2010/11 and 2013/14 may be overstated. Nevertheless, there was a 58 per cent increase in sexual crimes between 2011/12 and 2013/14.
2. Examples of other crimes would be handling offensive weapons and drug related crimes. Miscellaneous offences include common assault and breach of the peace.

Source: Scottish Government

27. Domestic abuse is not identified as a separate crime type. But its occurrence in criminal cases is recorded. Between 2010/11 and 2013/14, the number of people who faced prosecution in the sheriff court for cases involving domestic abuse increased by over a third (37 per cent) from 9,762 to 13,372. By 2013/14, almost one in five (19 per cent) people facing prosecution in the sheriff court were involved in cases connected with domestic abuse. This reflects a focus in the Scottish Government's justice strategy and by the police and COPFS.

Domestic abuse cases can be complex and require additional specialist staff support. For example, specialist procurators fiscal may be involved from COPFS and the court may have to provide additional measures such as screens or videolinks to protect vulnerable witnesses. Currently there is no data on the time and resource implications for the sheriff court system as a whole for these types of case.

The estimated cost of prosecuting cases through the sheriff court system is over £200 million

28. Between 2010/11 and 2014/15, the overall Scottish budget fell by seven per cent in real terms. Over the same period, the total budgets of COPFS and the SCS fell by 14 per cent and 28 per cent in real terms respectively. These figures include budgets for capital. COPFS and SCS' real terms revenue budget fell by 12 and 17 per cent respectively over this period. Police Scotland's total budget fell by six per cent in real terms between its establishment in 2013/14 and 2014/15.

29. The main criminal justice bodies do not analyse all of their costs by different types of court or type of case. Although the Scottish Government has published some information on the costs of different criminal procedures, this is insufficient to assess:

- the unit costs of all stages of prosecuting cases in the sheriff court system or different types of case
- how changes in numbers and types of cases and new initiatives affect activity, cost and quality across the sheriff court system as a whole.

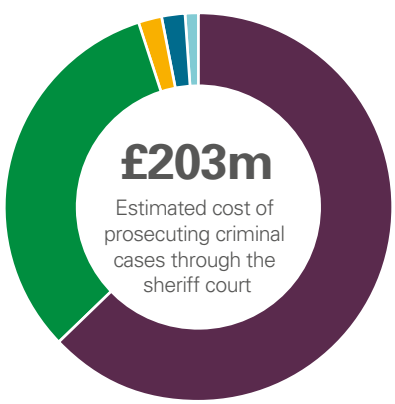
This is key information for improving the efficiency of the whole sheriff court system.

30. In the absence of this information, we estimated the cost of each stage by identifying all the organisations involved and estimating the time taken for each task. In total, we estimate that at least £203 million was spent prosecuting people in the sheriff court system in 2014/15 (Exhibit 7).

Exhibit 7

Estimated expenditure on prosecuting people through the sheriff court system, 2014/15

Over £200 million was spent on prosecuting people in the sheriff court system.



Source: Audit Scotland

The establishment of the Justice Board has improved joint working at a national level

31. The main criminal justice bodies and the individuals involved in prosecuting criminal cases through the sheriff court system are independent. They are also part of an integrated system. Decisions made by one organisation or one individual have implications for other parts of the system. To improve efficiency of the whole system, all those involved must work together. To support this, the Scottish Government established the Justice Board in 2011. The chief executives of all the main criminal justice bodies are members of the Justice Board.[3] The board agreed *The Strategy for Justice in Scotland* in 2012.[4] One of its priorities is enhancing efficiency, which includes specific objectives to:

- continue to work on improving processes for getting people to court, avoiding people being called unnecessarily to court, ensuring an efficient and timely flow of information among partners and upgrading IT and management systems
- ensure that expensive court time is used proportionately and efficiently.

32. The Justice Board, together with its planning subgroup, has improved joint working among justice bodies at a national level in terms of better communication and sharing of information. In 2013/14, the total number of cases going through the sheriff court system increased by over ten per cent relative to the previous year. The Justice Board responded to this increase by:

- SCS reviewed the number of cases scheduled for each court sitting and changed these where appropriate
- COPFS brought together cases where an individual faced multiple charges
- The Scottish Government provided additional short-term funding of £1.47 million in 2014/15 for additional procurators fiscal, court staff and sheriffs to deal with outstanding business.

33. Criminal justice bodies are working together to deliver the objectives in *The Strategy for Justice in Scotland* through a variety of projects that span civil and criminal law in the *Making Justice Work programme* (see Case study 1 and 2, page 22).

Case study 1

Making Justice Work – Getting people to court project

The project aimed to improve the attendance of accused people, witnesses (including victims) and police officers required to attend court:

- COPFS use mobile phone numbers, collected by Police Scotland when taking witness statements, to text witnesses to remind them of upcoming court appearances. This followed a successful pilot, which reported that over 85 per cent of witnesses taking part found this helpful. Seven per cent suggested that they would not have remembered to attend otherwise.
- Police Scotland, COPFS and the SCS operate a national court witness scheduler that allows more efficient advance scheduling of court dates. This means that dates can be scheduled around police witnesses' planned annual leave and shift patterns, and therefore saving money on police overtime.
- A court witness standby scheme allows police officers to be called to court only when needed rather than waiting all day in the court to be called. In 2009/10, police court overtime was calculated at £5.5 million. In 2013/14, it was £2.8 million. The reduction in cost is not due solely to this scheme but it has contributed to the reduction.
- One of the objectives of the project was to reduce the number of witnesses cited to appear. However, this is affected by the volume of cases. In 2013/14, a 29 per cent increase in the number of summary cases registered in Edinburgh Sheriff Court meant that COPFS cited 62 per cent more civilian witnesses and 47 per cent more police witnesses than in the previous year.

Case study 2

Making Justice Work – The door list data hub

Prisoners move between prisons and the courts on average just over 4,000 times a month. In 2011, 30 per cent of those in custody failed to attend scheduled court appearances. This was primarily because IT systems were not compatible and the Scottish Prison Service (SPS) was unaware when prisoners held in custody were scheduled to appear in court. For example, a prisoner who was serving a custodial sentence for one case might miss a cited appearance for another case which was still outstanding. The Scottish Government developed a secure data hub that matches information from the court systems and the prison systems. Since establishing the data hub, the number of accused people in custody who failed to attend a court appearance fell to ten per cent. The set-up cost for the project was £214,000 and the Scottish Government estimates that it has saved £3 million a year.

Source: Audit Scotland

34. Victims and witnesses play an important role in ensuring that the criminal justice system is efficient and effective by reporting crimes and giving evidence in court. In April 2015, Police Scotland, COPFS, SCTS, SPS and the Parole Board for Scotland published standards of service for victims and witnesses, as required by the Victim and Witnesses (Scotland) Act 2014. The standards of service state that information about an investigation or proceeding should be available to a victim or witness, and also ensure that those involved are treated fairly and supported throughout the process. Full performance against these standards will be published annually by justice organisations. The first report will be published in March 2016.

National organisational changes affected joint working at a local level

35. Since 2007, 11 Local Criminal Justice Boards (LCJBs) have overseen the criminal justice system at a local level and have sought to promote joint working and improved performance across the various criminal justice bodies. Each LCJB consists of key people in the local area from each of the main criminal justice bodies. Sheriffs principal have a duty to ensure that court business in their sheriffdom is dealt with efficiently and effectively. One of Scotland's six sheriffs principal chairs each LCJB but the representation of bodies varies throughout the country. Their structure is currently being revised.

36. Over the last few years, there have been national changes that have affected the operation of LCJBs. In 2012/13, COPFS was reorganised into three regional level federations. On 1 April 2013 the newly created Police Scotland and the Scottish Police Authority replaced eight predecessor forces and the Scottish Police Services Authority respectively. As a result of these national reorganisations, there were interruptions to existing working relationships at a local level.

37. Operational staff across the justice system said that they are not always aware of changes in national policy or new strategies. Staff across all organisations reported limited opportunities to share operational good practice both within their own organisations and across the justice sector. This suggests there is scope for the organisations represented on the justice board to promote its work more widely.

Part 2

Performance and efficiency of the sheriff court system

Key messages

1 The sheriff court system publicly reports its efficiency through a single performance indicator. The system aims to increase the proportion of summary cases completed within 26 weeks. On its own, this is not an indicator of efficiency and a wider set of measures is needed. Since 2010/11, performance against this indicator has fallen each year. In 2014/15, 65 per cent of summary cases were completed within 26 weeks. In the same year, 11 per cent of cases had taken over a year to complete. Between 2010/11 and 2014/15, the average length of time that a case took to complete increased from 19 weeks to 22 weeks.

2 We estimate that almost half of summary cases did not proceed as planned in sheriff courts in 2014/15. The proportion of appearances that lead to churn (repeating stages unnecessarily), delays or an additional process is similar to 2010/11. We estimate that the cost of cases repeating stages unnecessarily, could be as much as £10 million in 2014/15.

3 In 2014/15, a greater proportion of summary cases went to trial and were outstanding at the end of the year. The criminal justice bodies are exploring a range of different approaches to improve the overall efficiency of the system. These include changing how individual cases are managed, how resources such as staff and buildings are used and seeking to make greater use of technology.

effective communication between all partners across the system is essential

The percentage of summary cases concluded within 26 weeks has fallen

38. Between 2007 and 2011, the Scottish Government's national performance framework contained an indicator relating to the percentage of summary cases completed within 26 weeks. Since 2011, the indicator has not been part of the national performance framework. It remains the only publicly reported indicator of the efficiency of the whole sheriff court system, although there is a large amount of management information available to the Justice Board. Between 2010/11 and 2014/15, the percentage of cases completed within 26 weeks fell from 73 per cent (44,369 cases) to 65 per cent (36,850 cases) with the sharpest decrease occurring between 2013/14 and 2014/15 (Exhibit 8, page 25). This indicator does not measure efficiency as it does not compare the output (the percentage of summary cases completed within 26 weeks) to any input.

Exhibit 8

The percentage of summary cases concluded within 26 weeks, 2010/11 to 2014/15

The percentage of cases concluded within 26 weeks has fallen.

	2010/11	2011/12	2012/13	2013/14	2014/15
National	**73.0%**	**72.1%**	**71.4%**	**70.9%**	**65.3%**
The Sheriffdom of:					
Glasgow and Strathkelvin	72.0%	73.3%	67.7%	59.7%	52.0%
Lothian and Borders	65.4%	70.1%	71.1%	70.2%	62.1%
Grampian, Highlands and Islands	77.0%	72.8%	71.6%	70.3%	66.6%
North Strathclyde	73.3%	70.9%	68.6%	71.5%	64.8%
South Strathclyde, Dumfries and Galloway	68.3%	66.5%	69.2%	68.8%	66.5%
Tayside, Central and Fife	79.6%	77.8%	77.3%	79.2%	72.7%

- more than 5 percentage points above national average
- 1 to 5 percentage points above national average
- within 1 percentage point of national average
- 1 to 5 percentage points below national average
- 5 to 10 percentage points below national average
- more than 10 percentage points below national average

Note: These figures relate to sheriff court summary business only. The figures reported on the Criminal Justice Board Management Information System scorecard are for sheriff summary business and JP business combined.

Source: Scottish Government

39. The main criminal justice bodies each have an important role to play for summary cases to be concluded within 26 weeks. Police Scotland aims to submit over 80 per cent of prosecution reports to COPFS within 28 days of the accused being cautioned and charged. Once a prosecution report has been received by COPFS, it aims to reach a decision and act on this in over 75 per cent of cases within 28 days. Both bodies are exceeding their targets, but their performance has fallen slightly between 2010/11 and 2014/15. If a case arrives later at court then this affects the time available to the courts to conclude the case within 26 weeks.

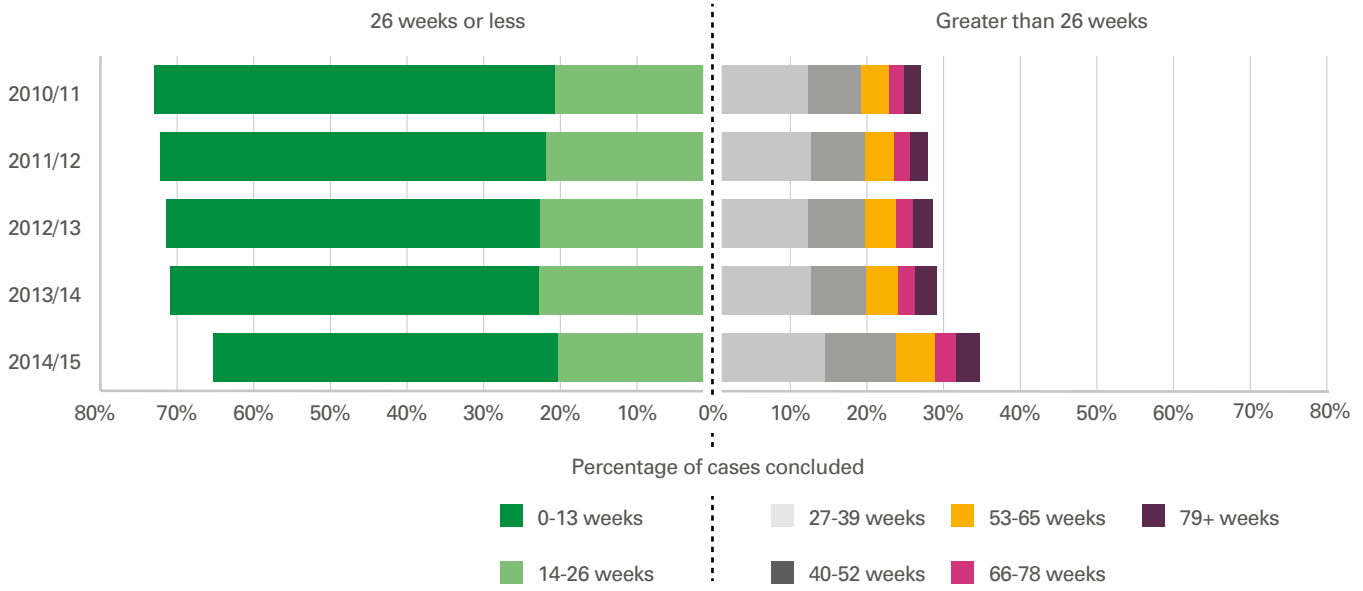
40. Performance across all sheriffdoms has fluctuated between 2010/11 and 2014/15. In 2014/15, five out of six sheriffdoms concluded fewer than 70 per cent of cases within 26 weeks. Anecdotal evidence suggests that domestic abuse cases entering the system take longer to process. This may have had an impact on the decreasing percentage of cases concluded within the 26-week period. There is no data available to support or quantify this. Tayside, Central and Fife has been the only sheriffdom to achieve consistently more than five percentage points above the national average. It has seen a decrease of seven percentage points in cases processed within 26 weeks between 2010/11 and 2014/15. It is not clear why this sheriffdom performs better than others. The effectiveness of court management by the sheriff principal and sheriffs may be a contributory factor together with the type of crimes being considered, the preparedness of procurators fiscal, the culture of the defence and the behaviour of the accused and witnesses.

41. Nationally, the number of cases that took between 27 weeks and 52 weeks to reach a verdict increased from 11,649 in 2010/11 to 13,430 in 2014/15. This represents an increase from 19 per cent to 24 per cent of all summary cases (Exhibit 9). In 2014/15, 11 per cent of cases took more than 52 weeks to reach a verdict. Between 2010/11 and 2014/15, the number of cases that took over 52 weeks increased by 29 per cent from 4,773 to 6,153. The largest contributor to this increase came from the sheriffdom of Glasgow and Strathkelvin where the number of cases taking over 52 weeks to complete more than doubled from 721 in 2010/11 to 1,471 in 2014/15.

Exhibit 9

Total time taken for summary cases to be concluded, 2010/11 to 2014/15

Eleven per cent of all summary cases concluded in 2014/15 had taken more than a year.



Note: These figures relate to sheriff court summary business only. The figures reported on the Criminal Justice Board Management Information System scorecard are for sheriff summary business and JP business combined.

Source: Scottish Government

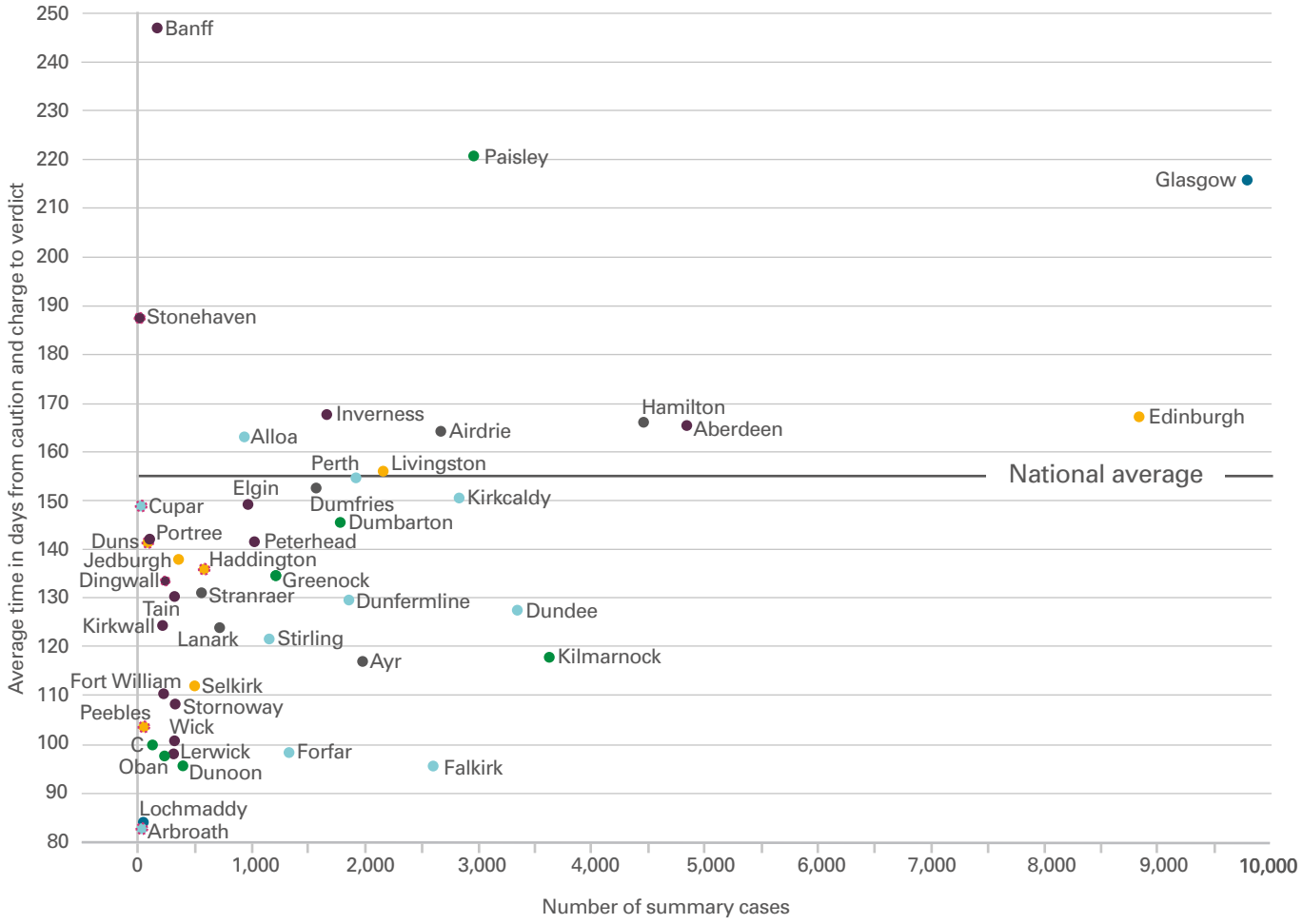
Summary cases are taking longer to go through the system

42. In 2014/15, summary cases lasted on average 155 days (22 weeks) from when the police cautioned and charged the accused until a verdict was reached. In 11 sheriff courts, summary cases took on average longer than 22 weeks (Exhibit 10, page 27).

Exhibit 10

Average time taken for summary case to reach a verdict in 2014/15

Eleven sheriff courts took longer than the national average of 155 days (22 weeks) to reach a verdict in summary cases.



Notes:
1. These figures relate to sheriff court summary business only. The figures reported on the Criminal Justice Board Management Information System scorecard are for sheriff summary business and JP business combined.
2. Data points outlined in red represent sheriff courts that closed during 2014/15.
3. C = Campbeltown

Source: Scottish Government

43. There is wide variation in the average time taken to reach a verdict. In part, this may reflect variations in the volume and complexity of cases but this cannot explain all the variation. We compared Kilmarnock and Paisley Sheriff Courts to illustrate the difference in performance (Case study 3, page 28 and 29).

Case study 3

Kilmarnock and Paisley Sheriff Courts are both in the sheriffdom of North Strathclyde. In 2014/15, 3,620 summary cases were registered in Kilmarnock Sheriff Court and 2,951 in Paisley Sheriff Court. There are six court rooms and five sheriffs at Kilmarnock Sheriff Court and nine court rooms and six sheriffs at Paisley Sheriff Court. Recently, the number of sheriffs available to hear cases in Paisley Sheriff Court was increased to seven to help reduce delays in summary cases. Although more cases were registered at Kilmarnock Sheriff Court in 2014/15 and there are fewer sheriffs to hear summary business, Kilmarnock Sheriff Court manages business more efficiently. The data below show that (for 2014/15) Kilmarnock Sheriff Court has:

- more guilty pleas at first calling and at trial diet
- more cases concluded at first calling
- less churn at trial diet
- shorter waiting times once cases reach court

than Paisley Sheriff Court.

All of this contributes to cases heard in Paisley Sheriff Court taking (from the time of caution and charge to verdict), on average 103 days longer than at Kilmarnock Sheriff Court and 66 days longer than the national average. Cases heard at Kilmarnock Sheriff Court take an average of 37 days less than the national average. A range of factors could result in this difference including the behaviour of the accused and defence agents; the frequency of not guilty pleas being entered; and the way sheriffs manage court business.

	National	Kilmarnock Sheriff Court	Paisley Sheriff Court
Average weeks between first diet and trial diet	14	19	25
Average number of days to reach a verdict	155 (22 weeks)	118 (17 weeks)	221 (32 weeks)

Lower percentage is better			
Not guilty pleas registered at first calling*	50.0%	46.9%	57.5%
Churning of cases at intermediate diet*	20.8%	22.7%	25.5%
Churning of cases at trial diet*	34.4%	29.9%	38.4%
Outstanding trials as a percentage of annual trials	43.8%	43.8%	47.3%
Higher percentage is better			
Cases concluded at first calling*	29.7%	37.8%	23.9%
Guilty pleas registered at first calling*	28.2%	36.3%	22.9%
Cases concluded at trial diet*	58.3%	62.8%	51.8%

Note: *Data based on the related number of accused.

- more than 5 percentage points above national average
- 1 to 5 percentage points above national average
- within 1 percentage point of national average
- 1 to 5 percentage points below national average
- 5 to 10 percentage points below national average
- more than 10 percentage points below national average

Cont.

Case study 3 continued

Paisley Sheriff Court saw a 48 per cent rise in the number of solemn cases registered in court between 2010/11 and 2014/15 (from 203 to 301) in comparison to an increase of 69 per cent in Kilmarnock Sheriff Court (from 215 to 363). Both courts dealt with a similar distribution of crime types in 2013/14 and there is no reason to believe that this was significantly different in 2014/15. The rise in the number of solemn cases affects all sheriff court business as this has an impact on the availability of court staff, fiscal deputes and court rooms for summary business. Despite this, Kilmarnock Sheriff Court performed better than Paisley Sheriff Court in terms of the average time taken to complete a summary case.

Source: Audit Scotland

44. The length of time taken to process summary cases also varies according to how the accused enters the sheriff system. This reflects the seriousness of the offence, with the most serious offences progressing quicker. If the accused appears from police custody, the average time from being cautioned and charged by the police to reaching a verdict in court was 13 weeks in 2014/15. If the accused appeared on an undertaking it took, on average, 23 weeks to conclude. People who were summoned to appear in court waited for as long as 37 weeks before their case was concluded.

Almost half of summary court appearances did not proceed as planned in 2014/15

45. In our 2011 report, we found that many summary cases repeated stages unnecessarily, and that adjournments at trial were common.[5] In the summary system, cases can:

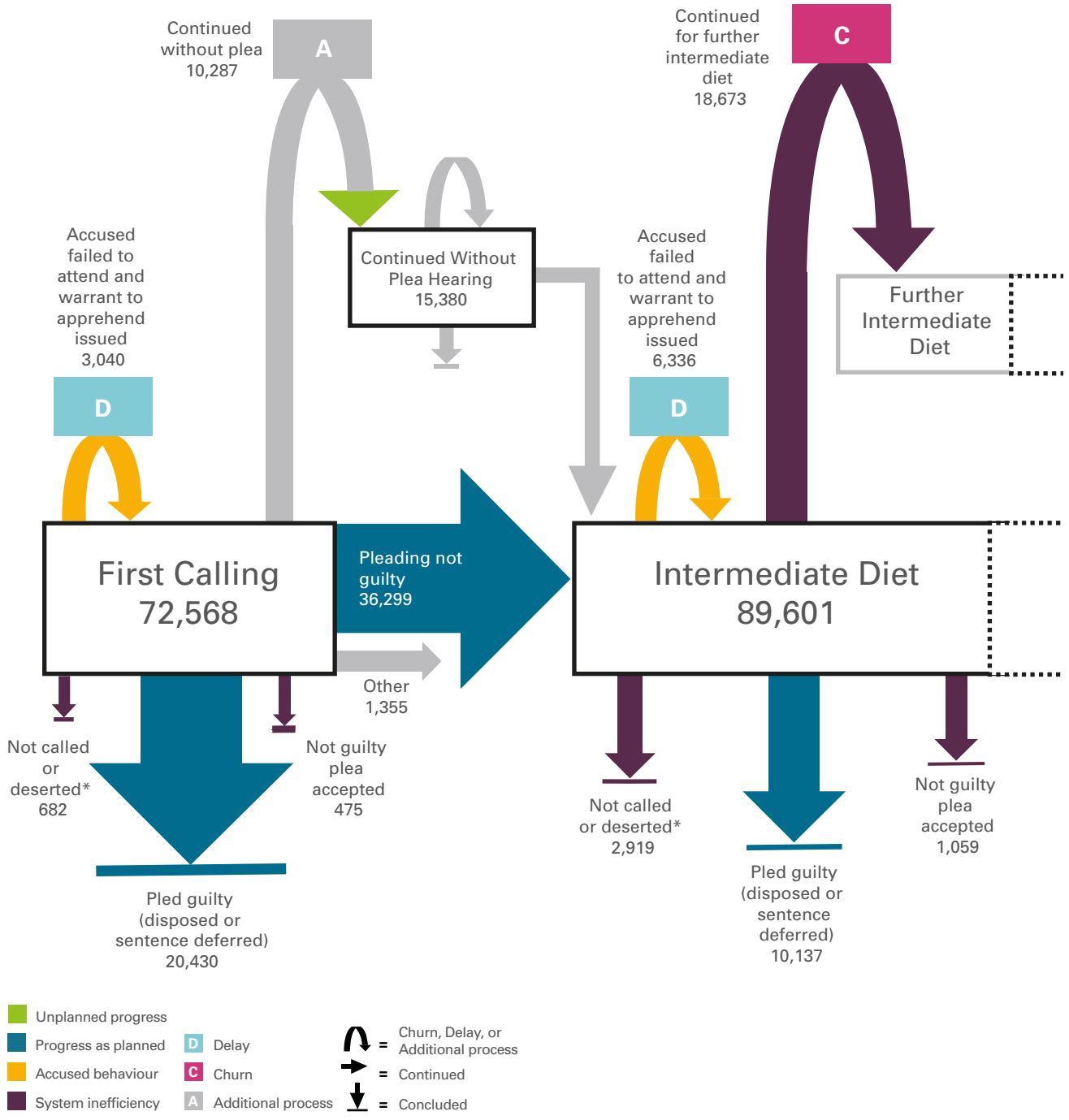
- conclude at any stage (for example, if the accused pleads guilty)
- continue as planned (for example, continue to trial diet)
- repeat a stage, create an additional process, or cause a delay, because the accused fails to attend or due to factors including availability of evidence, witnesses and other key individuals
- progress but not as planned (for example, continue to a delayed trial diet (Exhibit 11, page 30 and 31).

46. Inefficiency in the court system is often called churn. Some court appearances will result in delays or additional processes but this may ultimately progress a case more quickly or efficiently at a later stage. For example in a Continued Without Plea Hearing, there is an opportunity for the prosecution and defence to discuss and resolve issues and conclude the case earlier than at trial. For example, the accused may plead guilty at this stage once they have received more information from the prosecution.

Exhibit 11

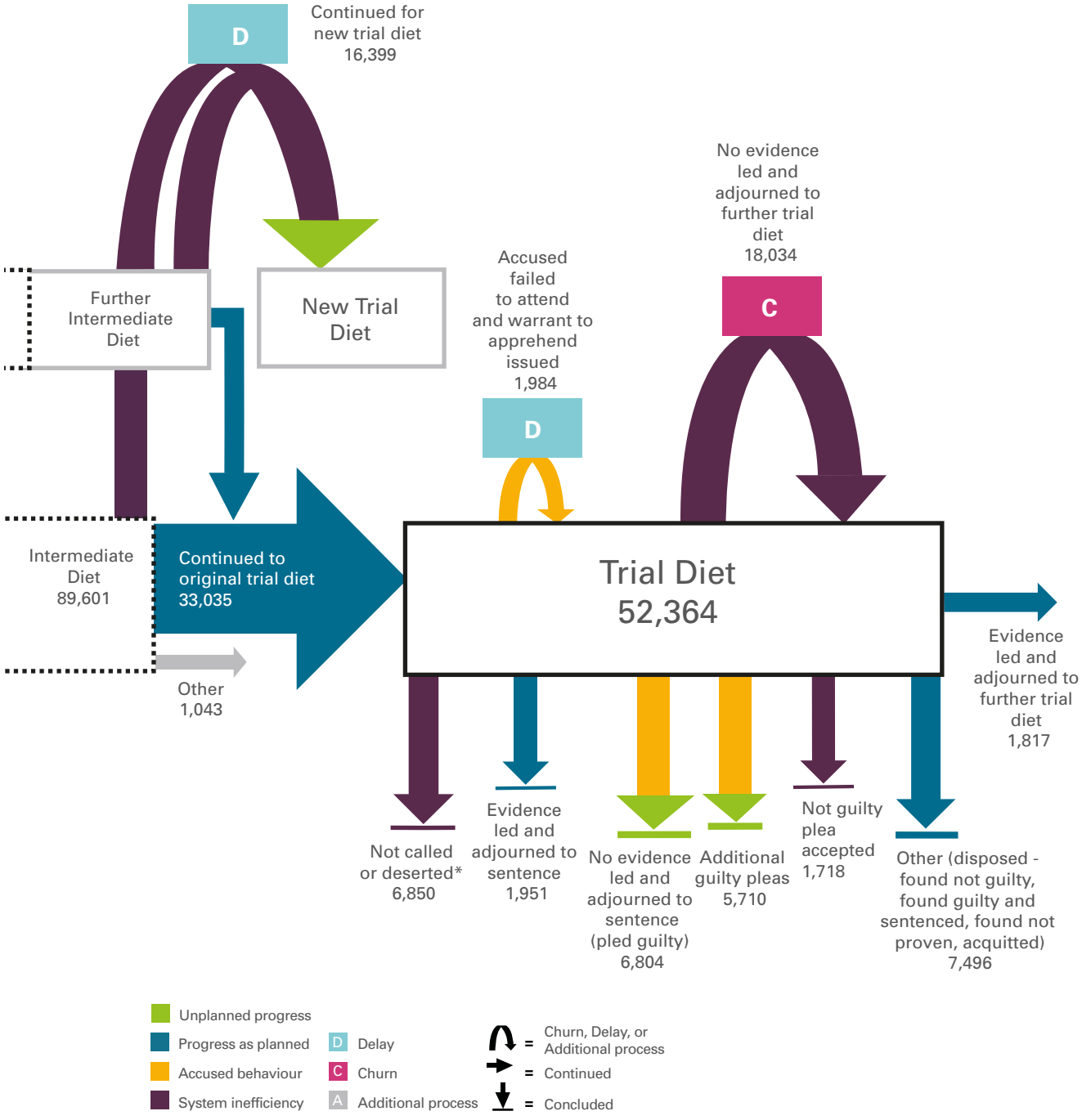
Outcomes of summary appearances in sheriff courts in 2014/15

There were 214,553 summary appearances in sheriff courts in 2014/15.



Cont.

Exhibit 11 Continued



Notes:
1. All figures are "number of accused" appearances
2. *If a case is deserted 'pro loco' it may be re-raised by the Crown, if deserted 'simpliciter' it can not.

Source: Scottish Courts and Tribunals Service

47. In this report, we define churn as appearances in court that have to be repeated due to problems with the:

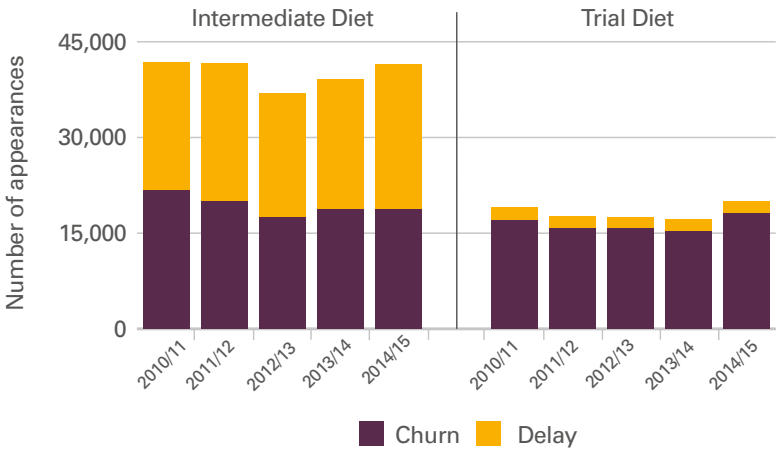
- correct citation and availability of witnesses
- readiness of the prosecution and the defence
- availability of court time.

48. During our fieldwork, we heard frequent reference to workload pressures facing procurator fiscal deputes and the subsequent impact on their readiness for an appearance in court. This may be a contributing factor to the amount of churn identified. We estimate that, out of 214,533 appearances in summary courts during 2014/15, just over a half (52 per cent) proceeded as planned (Exhibit 12). The remainder resulted in delays, additional process or churn, or concluded in another unplanned way. Thirty-nine per cent of all appearances (35,072) at intermediate diet resulted in churn and delays. Thirty-eight per cent of all appearances (20,018) at trial diet resulted in churn and delays. Trial diets are the most expensive to run because more people need to be involved in them and it takes a longer time. This means that if more cases churn at this stage, the overall cost to the system increases.

Exhibit 12

Number of appearances that result in churn or a delay at intermediate diet and trial diet, 2010/11 to 2014/15

Churn at trial diet is now almost as high as at intermediate diet.



Source: Scottish Courts and Tribunals Service

49. At Aberdeen and Hamilton Sheriff Courts, COPFS has a dedicated fiscal depute who has responsibility for preparing cases and conducting the intermediate diet court. This has improved communication between the fiscal depute and the defence agents. It has also provided a more consistent approach to preparing for this stage of the process. This system is not yet in place throughout the country. Aberdeen and Hamilton have both reduced churn

at the intermediate diet stage. In 2014/15, Aberdeen has reduced churn at the intermediate diet stage by seven per cent and Hamilton by five per cent in comparison to the previous year. These courts, together with Dundee Sheriff Court, are the only of Scotland's seven largest courts to achieve a reduction in 2014/15.

In 2014/15, the cost of churn was just over £10 million

50. In our 2011 report, we estimated that the cost of delays in prosecuting summary cases through the sheriff court system was £10 million.[6] We have updated and refined our model and estimate that, in 2014/15, the cost of appearances resulting in churn, delays or an additional process is £13.6 million, of which about £10.1 million was churn. In 2014/15, the cost of churn at intermediate diet and at trial diet was £2.6 million and £7.5 million respectively.

51. Nationally, the cost of appearances that result in churn accounts for ten per cent of total spending (£99 million) on intermediate and trial diets. This extent of churn varies across sheriffdoms, from 13 per cent of intermediate and trial diet costs in the sheriffdom of Glasgow and Strathkelvin to eight per cent in Grampian, Highlands and Islands. If all sheriffdoms were able to reduce their level of churn to the same level as Grampian, Highlands and Islands, savings of £1.7 million a year could be made.

Late resolution of summary cases cost £25 million in 2014/15

52. In addition to summary cases repeating stages unnecessarily, cases being resolved later result in greater costs. Late resolution happens when a case reaches the trial stage but is not heard. This can be because:

- the accused pleads guilty
- the prosecution accepts a not guilty plea
- the sheriff dismisses the case.

53. The most common reason for cases being resolved late is the accused pleading guilty at trial diet. The accused can plead guilty at any stage of the process. This is not in the prosecution's control. If the prosecution has shared indisputable evidence, for example CCTV clearly showing the accused committing a crime, some cases should be able to be resolved at an earlier stage, there by reducing the overall cost of the case. In 2014/15, there were 22,651 later guilty pleas at intermediate and trial diets. This represents 16 per cent of all appearances at intermediate and trial diet. We estimate that later guilty pleas cost at least £23 million more than reaching the same conclusion at first calling. The extent to which cases are resolved early in the process varies considerably across sheriffdoms. For example, in 2014/15, 30 per cent of accused pled guilty at first calling in South Strathclyde, Dumfries and Galloway compared with 23 per cent in Glasgow and Strathkelvin. In part, late resolution of summary cases can reflect different cultures among defence lawyers across the country. In addition, there were 2,777 not guilty pleas accepted at these stages. We estimate these accepted pleas cost at least £2 million more than the same resolution at first calling.

54. Effective communication between all partners across the system is essential at all stages to ensure that the whole process works as efficiently as possible. For example, the quality of communication between prosecution and defence can affect the extent to which cases can be resolved at an early stage. Effective communication with victims and witnesses can encourage them to attend court, reducing the number of cases delayed or cancelled because they have not turned up. Victim Support Scotland and COPFS are piloting work in Tayside, Central and Fife, providing victims of crime with a single point of contact and specific information on the progress of their case to support them in summary cases.

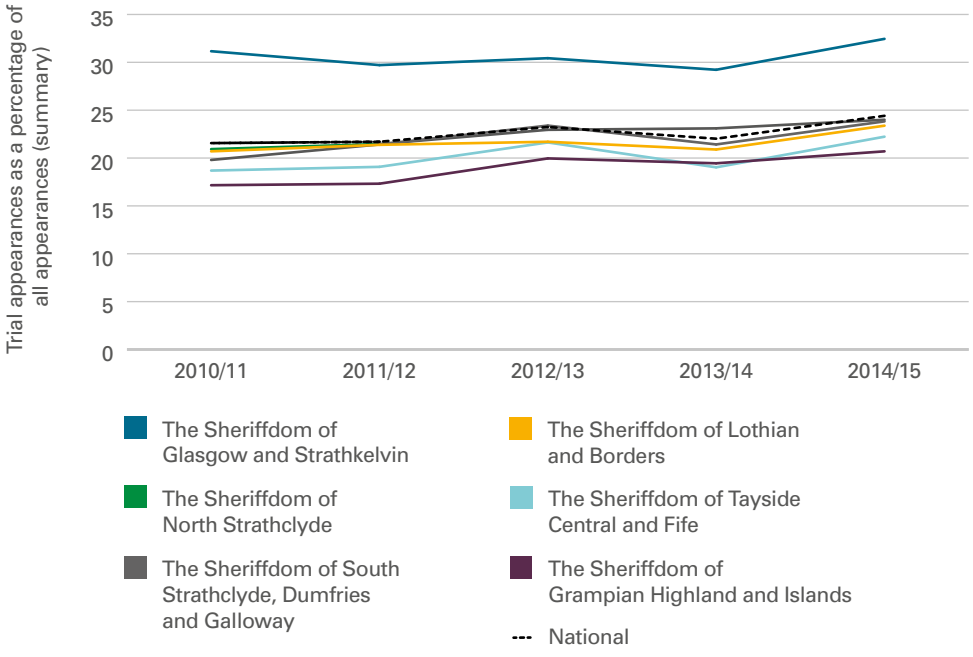
A greater proportion of cases are going to trial

55. In 2014/15, a greater proportion of all court appearances were trial appearances (Exhibit 13). As more cases reach the trial diet stage, there is an increase in the overall cost to the sheriff court system as trial diets are the most expensive part of court proceedings to run. We estimate that the additional cost of trial diet appearances in 2014/15 relative to 2013/14 was £6.8 million.

Exhibit 13

Appearances at trial relative to total number of appearances, 2010/11 to 2014/15

In 2014/15, 24 per cent of all court appearances were trial appearances.



Source: Scottish Courts and Tribunals Service

56. Across the sheriffdoms, the likelihood of cases reaching a trial diet once it is registered in court varies (Exhibit 13). Over the last five years, accused registrations in the sheriffdom of Glasgow and Strathkelvin are almost twice as likely to result in a trial diet appearance than in the sheriffdom of Grampian, Highland and Islands. This may reflect the volume of business in the Glasgow sheriff court and the way in which sheriffs, defence agents and procurators fiscal interact.

57. At the end of every year, there will always be a number of cases that have not been completed within that year. The number of outstanding trials may give an indication of the overall pressure on the system and how well court business is managed. Between 2010/11 and 2014/15, the number of accused people registered fell by 12 per cent but the number of accused people awaiting a trial at the end of the year has increased by 14 per cent from 19,749 to 22,436. This equates to an estimated cost of £29 million already in the system at the start of 2015/16. In 2014/15, using additional funding from the Scottish Government, SCS, COPFS, Police Scotland and sheriffs supported additional trial courts in some court buildings to reduce the number of outstanding trials in the system and deal with the increasing number of trials. These additional courts reduced the number of accused people awaiting trial at the end of 2014/15 by 1,339.

There has been an increase in the number of cases being combined

58. If COPFS can bring together all the outstanding cases that relate to a particular individual, this can reduce the total volume of court business. COPFS is using this approach more frequently. In 2010/11, the number of combined cases across all types of court was 3,748. This figure increased to 8,158 in 2014/15. Over this period, the number of cases combined each year at Glasgow Sheriff Court increased by over 400 per cent. All of the seven largest courts had a higher number of combined cases in 2014/15 compared with 2010/11. Combining cases reduces the number of staff required to manage all of the different cases, reducing the number of times the accused and witnesses need to attend court and potentially spending less on legal aid. Existing legislation means if an individual is being prosecuted in the sheriff courts for two different crimes in two different sheriffdoms, COPFS cannot combine these cases. It is not clear how many individuals this affects.

The judiciary play an important role in managing cases

59. Individual sheriffs have an essential role in setting expectations for the management and conduct of court business and the culture of their court. Sheriffs principal are responsible for efficiently dealing with business in their sheriffdom. They delegate the scheduling of court business to a court programmer or a sheriff clerk. Scheduling is predominantly performed at the level of individual courts (Case study 4, page 36). Any changes to a court programme will be considered at sheriffdom level to ensure that any impact this may have on other courts in the sheriffdom is taken into account.[7]

60. Scheduling is complex and needs to take into account:

- other demands for court time
- the number and suitability of court rooms available to hear different types of cases
- the number of different diets requiring scheduling, for example intermediate diets and trial diets
- any legal requirements for when cases must be heard, such as limits on how long someone can be held in custody before their case is first heard.

Case study 4

Court management in Aberdeen Sheriff Court

Aberdeen Sheriff Court put a new system of court management in place in 2013/14. Sheriffs work in small groups and specialise in specific types of business, for example summary or solemn, for nine months at a time. Sheriffs actively manage court business. They challenge requests for adjournments and encourage cases to be resolved early, for example by establishing what the case is about and removing any doubt where possible. They regularly meet together to build a greater consistency in their approach to sentencing. This discourages the defence from requesting adjournments so a different sheriff can hear a case.

Each trial court sitting hears a maximum of seven summary cases each day. This encourages defence agents to be more prepared for trials to proceed as scheduled. It is difficult to attribute improvement solely to court management and additional resources may have contributed but before the new system was put in place in 2012/13, 39 per cent of cases churned at the trial diet. This fell to 31 per cent in 2013/14 and 30 per cent in 2014/15. This has moved Aberdeen Sheriff Court from being below national average in terms of the level of churn to better than the national average.

Source: Audit Scotland

61. A range of factors affect the number of cases that can be heard in an individual court. These include the number of available court rooms and the availability of staff such as fiscals, clerks and sheriffs. Courts can operate from 9.30am to 4.30pm on weekdays but there is flexibility in the starting and finishing times. For example, if evidence in a case is being given by a witness when the court is due to finish, the sheriff may decide to allow that to continue so the witness does not have to return to the court the following day. Furthermore, the varying levels of demand may also influence the starting and finishing times on any given day. When there are bank holidays, custody courts can be held on a Saturday. Police Scotland is leading a working group looking at the feasibility of introducing weekend courts to reduce the time individuals spend in custody and help with the management of cases, in particular police custody cases.

The sheriff court system is expanding the use of technology to improve its efficiency

62. In August 2014, the Scottish Government and criminal justice bodies launched a justice digital strategy for Scotland that spans civil and criminal justice. They plan to implement the majority of the strategy by the end of 2016. The strategy aims to:

- improve access to information
- develop a justice public information portal that will provide advice and guidance on the court system
- provide online help and support and give victims of crime the ability to track their case by the end of 2017.

63. As part of the strategy, and of relevance to improving the efficiency of sheriff courts, by the end of 2016, SCTS plans to:

- upgrade technology so that evidence can be presented digitally, and roll out live video links to all courts to agreed national standards
- introduce new electronic case management systems that should minimise the duplication of data and enable court users to do more things electronically, for example paying fines
- have access to wi-fi in all court buildings. This will enable sheriffs, prosecutors and the defence to retrieve files more easily, have immediate access to all legal precedents and administrative updates, and reduce stationery costs
- work with the judiciary to simplify and modernise rules of evidence and criminal procedures to take advantage of new technologies. The Criminal Justice (Scotland) Bill proposes to allow prisoners, subject to judicial approval, to appear in court by video link.

64. The extent to which defence agents use digital systems varies:

- Defence agents have access to a secure email system, hosted by the UK Government's Ministry of Justice, to communicate with COPFS. A third of defence lawyers in Scotland have signed up to use it and COPFS is further promoting its use. COPFS recognises that it could be more user-friendly and is investigating the possibility of developing an alternative, but this is in its early stages.
- COPFS set up a secure website in 2011 to allow procurators fiscal to share witness statements, documentary evidence and photographs with defence lawyers before appearing at the intermediate diet. This means that both parties have access to the information they need to try to resolve cases early. It also helps to avoid duplication in requests for disclosure of evidence. Around half of legal firms are registered to use the website.
- Video-conferencing equipment has been installed in every prison to enable solicitors to talk to their client without having to visit them in person. There are over 1,400 criminal defence lawyers and public defence solicitors in Scotland but only 40 solicitors (three per cent) have registered to use the system to date and it is not used regularly.

65. The strategy estimates that £20-£25 million could be saved each year by operating a fully digitised justice system. Achieving this will require cultural and behavioural change across the justice system.

Endnotes

1 Scottish Crime and Justice Survey, 2012/13.

2 At the time of audit field work there were 43 sheriff courts across Scotland at the time of publication there are 39 sheriff courts.

3 Organisations currently represented on the board are COPFS, Police Scotland, Scottish Police Authority, Scottish Courts and Tribunals Service, Scottish Legal Aid Board, Scottish Prison Service, Scottish Children's Reporter Administration, and Scottish Fire and Rescue Service.

4 *The Strategy for Justice in Scotland*, Scottish Government, September 2012.

5 *An overview of Scotland's criminal justice system [PDF]* Audit Scotland, 2011.

6 *An overview of Scotland's criminal justice system [PDF]* Audit Scotland, 2011.

7 In Glasgow and Strathkelvin, programming is done at sheriffdom level because there is only one court building.

Appendix 1

Audit methodology

Our report assesses the efficiency of prosecuting criminal cases through the sheriff courts in Scotland:

- from the point at which the police submit a report to the Crown Office and Procurator Fiscal Service (COPFS)
- until the point at which the sheriff reaches their verdict on the charges faced by the accused.

Recent court closures are part of an ongoing broader programme of reform. We did not consider these closures in this audit as it is too early for data to reflect any impact this may have had.

For this audit we did the following:

- Analysed data from the Criminal Justice Board Management Information System (CJBMIS), the Scottish Courts and Tribunals Service (SCTS), COPFS, security company G4S, and the Scottish Legal Aid Board (SLAB).
- Reviewed relevant documents from the police, COPFS, SCTS and the Scottish Government.
- Analysed data, including activity and performance measures, at local and national level.
- Analysed financial information about the costs of prosecuting criminal cases through the sheriff courts.
- Interviewed staff in all the main criminal justice bodies and in the Scottish Government.
- Commissioned focus groups with offenders and telephone interviews with victims and witnesses. We have published this work in a supplementary report on our website www.audit-scotland.gov.uk

Interviews

We conducted individual and group interviews, both at a strategic level and at an operational level, from the following agencies involved in the criminal justice system:

- Criminal Justice Social Work
- Crown Office and Procurator Fiscal Service
- Faculty of Advocates
- G4S
- Inspectorate of Prosecution in Scotland
- Inspectorate of Prisons for Scotland
- Law Society of Scotland
- Members of the judiciary, including the Sheriffs' Association
- Police Scotland
- Scottish Courts and Tribunals Service
- Scottish Government
- Scottish Legal Aid Board
- Scottish Prison Service
- Victim Support Scotland.

Desk-based research

We researched national information such as the Scottish Government's Making Justice Work programme which includes improving procedures and case management. We also researched local single and multi-agency pilots and initiatives.

Data analysis

We analysed data provided by the main criminal justice bodies at a national level to understand the current demands and pressures in the system. We then analysed local data to explore local variation.

Data was also provided through the criminal justice board management information system. This allowed us to analyse additional performance data, for example the time summary cases took to proceed through the system.
We analysed data from the point at which the police cautioned and charged the accused to the point at which the sheriff reached their verdict in court, as well as data relating to one particular body.

Financial analysis

To estimate the total costs of the sheriff court system we split it into four parts and estimated the unit costs of the processes involved. We mapped out the staff who were involved in each process, or contributed to the outcome of each court appearance, and their average salaries. We used information about the average time each process took and included any additional costs, for example legal aid, witnesses and an estimate of court running costs. We multiplied these costs by the number of times a process was repeated, for example the number of specific court appearance outcomes, or the number of SPRs produced by Police Scotland.

If we did not know the exact proportion of sheriff court specific business we estimated this figure. For example, 35 per cent of all cases marked by COPFS in 2013/14 were for the sheriff court so we included 35 per cent of all SPRs submitted by Police Scotland in the costs.

We calculated the cost of churn within the overall cost calculations. We classed certain outcomes at intermediate and trial diet as churn. These were when a case was continued to a further intermediate diet and when no evidence was led at trial so the case continued to a further trial diet. To estimate the cost of churn we multiplied the number of times these things happened at the intermediate diet and trial diet by a unit cost for each outcome.

The full methodology can be found on our website www.audit-scotland.gov.uk

Focus groups and interviews

We commissioned Reid Howie Associates (RHA) to interview victims and witnesses and arrange focus groups with offenders to ask for their views on issues relating to their varied experiences of the sheriff courts in Scotland. The full report from RHA is available separately on our website www.audit-scotland.gov.uk

Victim Support Scotland assisted RHA in identifying 30 interviewees who had attended trials during the summer of 2014 at the sheriff courts in Hamilton, Falkirk, Edinburgh and Aberdeen. All potential interviewees were contacted and 18 interviews were completed by telephone.

In relation to offenders, both those serving custodial sentences and those on community payback orders took part. Focus groups were held in HMP Barlinnie, HMP Cornton Vale and HMYOI Polmont, with 23 prisoners volunteering to take part in the focus groups. For offenders on community payback orders, the focus group was held in Aberdeen with nine offenders participating.

Appendix 2

Project advisory group

Audit Scotland would like to thank members of the advisory group for their input and advice throughout the audit.

Member	Organisation
Superintendent Andrew Allan	Police Scotland
Alan McCloskey	Victim Support Scotland
Cliff Binning	Scottish Courts and Tribunals Service
David Dickson	Local Criminal Justice Board Coordinator
David Harvie	Crown Office and Procurator Fiscal Service
Martin Hayward	Equality and Human Rights Commission
Elspeth MacDonald	Scottish Government
Lindsay Montgomery	Scottish Legal Aid Board
Sheriff Principal Craig Scott	

Note: Members of the advisory group sat in an advisory capacity only. The content and conclusion of this report are the sole responsibility of Audit Scotland.

Efficiency of prosecuting criminal cases through the sheriff courts

This report is available in PDF and RTF formats, along with a podcast summary at:
www.audit-scotland.gov.uk

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