

Report on Interviews with Victims and Witnesses and Focus Groups with Offenders

Key points

Interviews were held with a total of 18 victims and witnesses. Four focus group discussions were held involving 32 offenders. Key points were:

- There were some specific issues affecting each type of participant, but there were a number of common themes.
- There was found to be a common perception that the Sheriff Court process was slow. Most participants had experienced delays.
- Offenders, victims and witnesses identified a range of personal consequences of delays, including: stress; uncertainty; and disruption to work and family life. Some witnesses identified that the passage of time may interfere with their recall of events.
- Most would have preferred the process to have been quicker.
- Overall, most participants understood the court process and had sufficient information. The main exception was the group of first offenders.
- Offenders were very critical of both the process of appearing from custody and the general conditions at court.
- Some victims and witnesses were critical of waiting times and conditions at court.
- Participants were critical of the lack of information, lack of notice of changing schedules, and difficulties in contacting and enquiring about family members appearing in court.

Main suggestions

A range of suggested improvements were identified, including:

- Measures to reduce delays, including: diversion; fines; more and longer court sittings; more use of technology; fines for witnesses who do not appear; and privatisation.
- Improvements to communication, with better information about the court programme and what's happening, and better communication between offenders and families.
- Improvements for those appearing from custody, including: longer notice; shorter days; fewer wasted journeys; and particularly better conditions.
- Improvements to witness rooms, and, in some cases, safety measures.
- Greater consistency of conditions, processes and the approach of Sheriffs.

Introduction

1. This report describes the findings of individual interviews with 18 victims and witnesses and 4 focus groups (involving a total of 32 offenders) carried by Reid Howie Associates (RHA) to support a performance audit by Audit Scotland on the efficiency of Scotland's Sheriff Courts.

Methodology

2. RHA was commissioned to seek the views of victims and witnesses and of offenders on a range of issues relevant to their experiences of Sheriff Courts.
3. In relation to victims and witnesses, with the assistance of Victim Support Scotland (VSS), a total of 30 potential interviewees were identified from those attending trials at 4 Sheriff Courts (Hamilton, Falkirk, Edinburgh and Aberdeen) during the week of 21st July 2014.
4. All of the potential interviewees were then contacted by RHA, and a total of 18 interviews were completed.
5. The topic guide used for the interviews was developed by RHA in conjunction with Audit Scotland. The topic guide is set out at Annex 1. These interviews were carried out by telephone, and took between 20 and 40 minutes each.
6. Four focus groups with offenders were undertaken, as follows:
 - HMP Barlinnie: 7 adult male short term prisoners.
 - HMP Cornton Vale: 8 adult female short term prisoners.
 - HMYOI Polmont: 8 short term male young offenders.
 - Aberdeen City Council Unpaid Work Team: 9 offenders (8 males and 1 female) on Community Payback Orders (CPOs).
7. All of the groups (including the CPO group) contained participants with a mix of experience in relation to court types. All had experience of Sheriff Courts, while a number also had experience of the High Court, as well as District/JP courts. One participant had experience of a Crown Court in England (although this experience played no direct part in the discussion).
8. Most group participants had appeared in Sheriff Courts on multiple occasions, dating back over a number of years. Some participants had experience of more than one Sheriff Court, mostly in adjacent areas (e.g. Glasgow and Hamilton; Ayr and Kilmarnock; Aberdeen, Elgin and Stonehaven – which is now closed). Virtually all of the participants in the CPO group had also served custodial sentences, and had spent periods remanded in custody.
9. The same topic guide was used for each of the groups (and is set out Annex 2). It was agreed that those on the CPO group would also be given the chance to speak about their experiences of these orders (as this was part of their expectation of the discussion). In the event, this also identified a number of

issues which were pertinent to the operation of Sheriff Courts, and which have been reported here. Issues specific only to CPOs, however, have not been included in this report.

Note about the report

10. This report contains information from both victims and witness and offenders who participated in the research. While it would have been possible to create, in effect, two reports (one focusing on the experiences of victims and witnesses, the other on the experiences of offenders), it was clear from the initial analysis that, although their perspectives may vary, and the detail of their experiences may be markedly different, there were sufficient common issues to suggest that there would be value in combining both strands in a single report.
11. Throughout the report, points made have been attributed either to victims and witnesses as a group, or to one or more of the offender groups. Where individual points were made, or experiences shared which could allow the contributor or their family to be identified, these have been anonymised.
12. It is important to bear in mind that the material presented in this report represents the views of participants, and may not accurately describe matters of fact. It is likely that some participants will have misunderstood aspects of the court process, or made suggestions about matters which are already common practice. It would, however, have been inappropriate in these circumstances, given the purpose of the report, to edit, or exclude any matters raised.

Key Findings

13. The key findings set out below broadly follow the chronology of cases calling in the Sheriff Court.

The period following a charge and the first appearance (offenders)

14. Following arrest and charge, an accused person can be held in custody to appear in court on the next available day, or can be released with a requirement to appear at court at a date in the future.
15. Most adult offenders reported receiving little or no information about what was likely to happen to them following being charged. It was suggested that there appeared to be an assumption on the part of the police, as well as some duty solicitors, that they would know what was happening. For example:

*“They assume you know but there’s not any information. You’re not treated as a person and they don’t tell you how anything works.
(Offender group)*

16. However, offenders in each of the adult groups suggested that there appeared to be little consistency, with variations both across and within individual police offices. It was suggested that some police officers could be helpful in these circumstances, while others were less helpful.

17. Young Offenders, however, appeared to have a slightly different experience, with more effort appearing to be being made by police and solicitors to provide explanations of the next steps, court processes etc. Young offenders appeared to be more likely than adult offenders to have spoken with a solicitor while in police custody, or before making a court appearance.
18. Among those released on bail, a small number who had no previous experience of this expressed concerns that they did not fully understand their legal obligations in these circumstances.
19. At their first appearance in court, offenders can plead not guilty or guilty. If they plead not guilty, they can either be released on bail, or remanded in custody, pending future court appearances. If they plead guilty, they can be sentenced there and then, or their case can be deferred to allow the relevant Social Work Service to provide the Sheriff with a pre-sentencing report. Issues relevant to pre-sentencing reports are dealt with later in this report (starting at para 72).
20. For those appearing from custody, with the exception of bank holiday weekends, the time from being charged to their first court appearance was usually short (generally the next day). For example:

“It’s quicker going from the police station straight to court, but even then you can have to wait from Friday to Tuesday if it’s a bank holiday.” (Offender group)
21. For those released on bail to appear at a later time, the elapsed period before a first appearance could be weeks, or even months. There was a virtual consensus among participants that they would prefer this part of the process to be completed as quickly as possible. Some expressed particular frustration that they had intended to plead guilty on their first appearance, but had had no means of bringing this about.
22. A number of participants commented that they had only met their solicitor minutes prior to their first appearance in court, and that this had not given them time to properly assess their options. Some also had had experience of their own solicitor being unavailable (or “not turning up”) and of being represented by a duty solicitor.
23. Overall, a number of participants across different groups of offenders suggested that solicitors appeared to be too busy, and took on too many cases at each sitting to properly represent their clients.
24. A small number (across more than one group) had experience of duty solicitors entering not guilty pleas against the offender’s wishes. For example:

“I went to the court and my lawyer didn’t turn up so I got the duty one and he put in a not guilty. He didn’t listen to me wanting to plead guilty, but if you don’t plead guilty at the start you get a bigger sentence. They (duty solicitors) juggle so many people you don’t get a chance to talk. He said it was so that evidence could be gathered.” (Offender group)

25. It was suggested by some participants that this was a money making “scam” by solicitors, in order to earn additional fees by prolonging the process. Others noted that they had pleaded not guilty on the advice of their solicitors, and had regretted this, potentially losing the opportunity for a discounted sentence. One participant noted that “solicitors want to you go to trial for the money”.
26. Many participants felt that there was too much use made of remand, and it was noted that this was also expensive, and may have implications for offenders’ families or livelihoods. Some also highlighted the inconsistencies in the use of remand between Sheriffs, and across apparently similar cases. One group discussed some of the implications as follows:

“You don’t know if you’re coming or going – your life’s on hold, your family’s on hold. It can ruin your life. If you’re remanded you can lose your job, your family, your house and you can end up going out to a worse situation than when you came in”. (Offender group)

27. Virtually all of the participants believed that they had understood what was happening at a pleading diet, and the implications of their plea (although some had had experience of asking questions, but being unable to properly understand the answers given by court staff or solicitors). The main exception to this were first offenders who, as with offenders’ experiences of police custody, suggested that there was a general assumption that anyone appearing in court would understand the process. A number of women offenders suggested that, in these circumstances, other women within the court were generally the best source of information.
28. Most offenders indicated that they had understood either the terms of their remand, or any conditions of bail imposed by the court. It was noted that a Sheriff Clerk generally explained this in court, and solicitors also provided explanations, if required.

The period prior to the trial, and preparations for the trial (victims and witnesses, and offenders)

29. A large number of participants (both offenders and victims or witnesses) had had experience of trial dates being changed in advance. Among victims and witnesses, 15 of the 18 interviewees had experienced a change of date. Two had experienced 4 changes of date. Some identified that they had been told about postponements by phone the day before they were due to attend court (and, in one case, on the morning of their court appearance). One indicated that they had only found out when phoning to enquire about other matters.
30. Two participants in the women offenders’ group identified that they had arrived at court to be told that their cases had been postponed previously. Another noted that her case had been previously transferred to another Sheriff Court (apparently without her knowledge), leaving her with no means of reaching the court.
31. Some offenders appeared to accept changed dates as the norm, and to expect this as inevitable. For example:

“The courts are busy and they don’t know what they’re doing, so they end up having to postpone. Witnesses don’t show, they make a new date, you’re remanded. Trial dates are changed all the time.”
(Offender group)

32. Participants in one group suggested that courts appeared to be trying to deal with too many cases, with too few resources. Most offenders reported being given explanations of the reasons for the postponement by their solicitors (generally that the prosecution was not ready, the court was too busy or, in some cases, papers had been lost). However, this was less common among victims and witnesses.

33. Most offenders (even those on bail) appeared to want the waiting time until the trial to be as short as possible, in order to reduce the uncertainty, or to “get it over with”. Some had asked for cases to be accelerated, but reported having been unsuccessful in this. One group commented that:

“If you plead not guilty you’re left with your life on hold.” (Offender group)

34. For victims and witnesses who participated in this research, the elapsed time between the offence being committed and the case coming to trial ranged from “a couple of months” to “more than a year”. Around half expressed the view that the elapsed period was longer than they expected, with most of the remainder suggesting that it was around what they had expected. Only two had expected it to be longer.

35. Some, although not all victims and witnesses spoke of frustration and annoyance at the gap between the offence and the trial, and specifically in relation to the delays. A small number identified that they had experienced uncertainty or anxiety over this period. For example:

“I got nervous waiting. You try to forget about it, but I kept thinking about it.” (Victim and witness interview)

36. It was also noted that changing dates could make it very difficult and inconvenient, for example in relation to getting time off work. One identified specific difficulties they had faced in relation to scheduling family holidays. Another indicated that they had been told about a rescheduled date at a late stage, but, on seeking a postponement due to a specific previous commitment, were told that this was not possible (although the previous changes had, apparently, been to accommodate other participants in the trial). One expressed concern about the length of the gap between the offence and the trial because the accused person was known to them and lived close by.

37. The experiences of offenders were very similar in terms of the time elapsed between an initial appearance and a trial date. The waiting period between pleading and trial dates appeared to be highly variable, from some weeks to more than a year. For example:

“It can be weeks or months. It all seems like a numbers game to spin it out to make as much as they (lawyers) can from it ... And there’s no guarantee you’ll get your trial on the date”. (Offender group)

38. Participants expressed frustration and concern about this, particularly, but not exclusively those who, at that time, had not been convicted of any other offences. It was suggested that cases where there was a time pressure appeared to be heard first (e.g. where the accused was remanded in custody), with a negative knock on impact for other cases, which were delayed as a result.
39. Issues were identified in relation to, for example, stress, anxiety and uncertainty (for the accused person and their family), and the impact on work (as well as relationships) as a result of waiting time. For example:

“You’re worried about things – your family – there’s stress. And if you’re working, you’re messing your employer about and taking days off.” (Offender group)

40. One participant stated that “you can’t plan anything”. A participant in the group in Aberdeen identified that, during the period of their bail, they had kept a bag packed as they did not know what would be happening to them. One identified that, during the extended period prior to their trial, they had not had access to their passport, and this had had an impact on their family.
41. There were mixed views amongst those who participated in the offender groups about whether the fact of delays was worse for those held on remand, or those on bail in the community. Arguments were advanced that the uncertainties were arguably worse for those on bail, as those who were on remand at least had some indication of when their case would come to court, and thus a general view of what the endpoint might be.
42. Although, as noted above, most participants appeared to accept delays as inevitable, there was a clear view that the average time for cases to come to trial was too long.
43. A point made by both some offenders and some victims and witnesses was that, as the period between the offence and the trial lengthens, the likelihood that a person will have a clear memory of the circumstances of the case diminishes. One witness stated that:

“I had forgotten all about being a witness – I thought they’d cited the wrong person”. (Victim and witness interview)

44. Another witness highlighted that the case had taken so long to come to court, they could barely remember the detail of what had happened, stating that:

*“I started to forget about the incident, it had been such a long time”
(Victim and witness interview)*

45. Another suggested that they should have been encouraged to take a copy of their notes made at the time, in order to refresh their memory. Another,

however, commenting on the delay noted that they had, in fact, kept notes and were not, therefore concerned about the passage of time.

46. Generally, both offenders and victims and witnesses indicated that they had been clear about what had been happening between the first court appearance and the trial. With the exception of information about likely trial dates, and explanations in relation to delays, no particular issues were identified about which either group would have wished to have had additional information.

The trial: arrival at court and waiting (victims and witnesses, and offenders)

47. The research broadly explored three forms of experience:

- Accused persons appearing from custody.
- Accused persons appearing from bail (often referred to as “walk-ins”).
- Victims and witnesses cited to appear to give evidence.

48. The general process for those appearing from custody is broadly as follows:

- Notice of a court appearance is provided to the prisoner the night before (although they may have been informed at an earlier stage by their solicitor).
- They are provided with a pre-packed breakfast.
- Their cells are opened early, and they are processed within the prison (including being searched), before being transported to court by G4S.
- At court, the prisoner is again searched, and kept in a holding cell until their case is called. In larger courts, there may be more than one holding area.
- After their appearance, they are returned to the holding cell to await either processing for release, or transport back to prison.
- Where relevant, the prisoner is returned to custody by G4S or released directly from court.

49. Among those with experience of appearing from custody (virtually all of the participants in the offenders’ groups), a wide variety of issues were raised, including:

- Short notice of appearances, not allowing them time to prepare, or, in some cases, to retrieve appropriate clothing from storage.
- Difficulty in informing relatives of the court appearance in some establishments where access to a telephone is restricted (or where the prisoner has no credit on their phone card).
- Some offenders who were facing a number of charges indicated that they were not always able to identify which of these was to be the subject of the hearing, meaning that they had little time to prepare mentally. This appeared to be a particular issue for the small number of offenders who had been successful in having outstanding cases dealt with whilst in custody.
- A uniformly early start, in some cases with no breakfast, regardless of the actual time of the appearance.
- In some cases, lengthy journeys in G4S transport.
- Extended waiting times in court holding cells. It was noted that this could comprise three separate periods: on arrival at court, waiting for a case to be

called; in a holding area close to the court immediately prior to a case calling; and following an appearance, while either awaiting clearance to be liberated (for any outstanding warrants to be checked) or transport to return to custody.

- Extensive waits for return transport, and sometimes circuitous routes taken involving multiple courts and multiple establishments (although this seemed to be less of an issue in the North East).
- In some cases, long days (with 12 hours or more being common) although this appeared to vary across the country. Participants in the Aberdeen groups, for example, reported generally being out of the establishment for only for a few hours.

50. Views of court holding cells appeared almost uniformly negative, with these being described variously as cold, cramped, overcrowded and (particularly) dirty, often with evidence of bodily fluids or food waste. A number mentioned difficulties in accessing a toilet, and extensive delays in being provided with medication. A number of offenders (both men and women) suggested that toilets were rarely clean, and some women suggested that they felt that it was wrong that there should only be “mixed” toilets in some courts. One group described this part of their experience as follows:

“The holding cells are stinking and you can’t get the medication you need. There’s food up the walls. You can be waiting for two hours before you can even get to the toilet. It’s dirty and barbaric and degrading. It doesn’t feel like being innocent till proved guilty.”
(Offender group)

51. One offender identified that they had been unable to obtain appropriate food, while others mentioned that they felt that sandwiches and crisps were insufficient food for what may transpire to be a whole day spent at court.
52. A number identified concerns about the mental and physical condition of some of those with whom they had had to share cells at court. Offenders in more than one group indicated that they felt that it was inappropriate that prisoners should be expected to provide support to people who appeared to be mentally ill, or withdrawing from drugs or alcohol.
53. There were mixed views across each of the offender groups about the apparent attitudes of staff involved in the transport and court management processes. Generally, comments about escort staff were positive, while those about court staff were more mixed. Some were described as helpful and friendly, while others less so. A point made by a number of offenders was that there appeared be inconsistencies in this, both within individual Sheriff Courts over different days, and between different Sheriff Courts.
54. Some offenders suggested that the system did not appear to allow for individual needs (such as prompt access to medication, appropriate seating for those with physical impairments, or support with mental health conditions) to be met. It was suggested that there appeared to be an assumption that all offenders “were the same” and one group stated that:

“They don’t care about you. You’re all labelled. And then if you need medicine, and it’s for something like panic attacks, it can affect what you’re like in court.” (Offender group)

55. Most offenders had had experience of being called to court unnecessarily. Some (at Cornton Vale) had tried to alert SPS to this, but, as the notice of the appearance was not delivered until after both the court and solicitor had finished working, there was nothing they could do.
56. For those appearing from bail, the process is as follows:
- Prior to the appearance, the accused person is served with notice to appear at a specified date and time.
 - They report to the court (via the main door) and, depending on the arrangements in the court, can wait in a designated room, in the court itself, or even in the corridor.
 - Following their appearance, they either leave through the main entrance, or are taken to a holding cell to await transport to custody.
57. For those appearing from bail, there appeared to be fewer issues, although some commented on difficulties in getting information about which court their case would call in, and when. One offender appearing from bail indicated that they had reported to court at the correct time, and had been told when their case would call. However, the case had called at an earlier time than expected. As the offender had gone to the toilet, and could not be found, a warrant for his arrest had been issued in his absence. One of the groups stated that:
- “If you’re not from custody then you have to find your own way. You can sometimes miss your appearance, because you’re in the wrong place. You don’t know when you’re needed. Nobody tells you.” (Offender group)*
58. One offender suggested that the system in the High Court, where tannoy announcements are made throughout the building, appeared to be more effective, providing both the accused persons and their families with better, more accurate information. The same offender described Sheriff Courts as “chaos” by comparison.
59. For victims and witnesses appearing in court to give evidence, the process is as follows:
- Prior to their appearance, they are given notice to appear at a specified date and time.
 - They report to the court (via the main door) and generally wait in a witness room, although alternative arrangements can be made in certain circumstances. (It was noted that, in some courts, there may not be a dedicated waiting room.)
 - In many cases, the victim or witness would be met by, or approached by a Witness Service volunteer and offered any assistance required.
 - After giving evidence, victims and witnesses can wait in the court room, or are free to leave at any time.

60. Generally, victims and witnesses who participated in this research were content that they had been given sufficient information prior to the trial to allow them to prepare for their arrival at court. For example:

“The citation letter gives you details and there’s a leaflet. It was very full and easy to understand.” (Victim and witness interview)

61. Another respondent noted that the leaflet was:

“Very straightforward and in plain English”. (Victim and witness interview)

62. One, however, considered that the information provided appeared to them to be more focused on the rights of the accused than on issues pertinent to a victim or a witness. Another noted that communications from the Procurator Fiscal were never signed, contained grammatical errors and, in one case, that duplicate letters had arrived on the same day.

63. A small number of victims and witnesses were critical of the use of the police to deliver citations, and of the police for delivering these late in the day.

64. A number of victims and witnesses specifically identified the positive role played by Victim Support Scotland, and by Witness Service volunteers in providing them with information and support. For 10 of the 18 participants, the support from these services was the most positive aspect of their court experience. For example:

“The court staff and Victim Support are very good – the information was very clear”. (Victim and witness interview)

65. The most common concerns expressed by victims and witnesses about the court related to the witness room. Victims and witnesses identified a range of issues and concerns, including:

- The length of time victims and witnesses could wait – in some cases all day, and potentially over a number of days. Among those interviewed, around two thirds had experience of waiting at least two hours, and around a third at least four hours.
- The lack of facilities in the waiting room, with limited or no access to water or other refreshments, and no access to food.
- Having nothing to do for an extended period in the witness room, with no access to, for example, magazines or books.
- A lack of ventilation, or a lack of windows. One described a witness room in which the lights went off when no-one had moved for a specific period.

66. A number of victims and witnesses identified that they had felt nervous, or anxious during the waiting period, and in some cases, this was exacerbated by delays in being called to give evidence. One suggested that it was:

“... just horrible, I was getting more and more nervous.” (Victim and witness interview)

67. Another noted that the extended waiting period was:

“... a waste of time and money.” (Victim and witness interview)

68. They argued that witnesses were reimbursed for lost time (although another suggested that the payment given did not adequately compensate for the work they had lost).
69. Almost all participants (both offenders and victims and witnesses) had had experience of changing schedules on the day of the trial, with cases being moved between courts, or timings changed. It was also noted that those appearing from custody had little knowledge of what was happening, and had to rely on agents to keep their families informed.
70. Overall, although most understood what was happening (with the exception of some first offenders), concerns were expressed (among both types of participants) about the lack of information, and the apparent fact that, with the exception of the accused person’s solicitor, no one appeared willing or able to provide any information.

Adjournments (offenders and victims and witnesses)

71. Almost all of the offenders, and around half of the victims and witnesses who participated in this research had had some experience of cases being not called or being adjourned once the participant was at court. This was a particular cause of frustration for many. Among victims and witnesses interviewed, around a third had had to attend court on more than two occasions for the same case.
72. Most (among both types of participants) reported having been given explanations, the most common being witnesses not turning up, but also Sheriffs being too busy, or, in some cases, agents having too many cases on. As one group stated, for example:

“Sometimes witnesses don’t come. Not got the paperwork. Maybe the lawyers have too much on.” (Offender group)

73. Participants in one offenders’ group, whilst suggesting that adjournments appeared to be inevitable, nonetheless expressed considerable frustration that cases which might have taken more than a year to come to trial were not ready. In their view, much of the preparation for trial appeared to be left to the very last moment, leaving no margin for error if any issues arose.
74. Some offenders suggested that, in their view, too many cases appeared to be scheduled for each sitting, making the likelihood of delays and adjournments more likely.
75. A number of consequences of adjournments were identified, including extended periods on remand, general uncertainty for families and accused persons, and, for some on bail, additional costs relating to the need to return to court on another day. As one group stated, for example:

“You want to get on with it and get it over with. Get on with your life.” (Offender group)

76. It was also noted that, for those on bail, even if they were entitled to expenses, these were paid in arrears. One participant noted that they had been living in England at the time of their trial, and had travelled to the court only to find that the case was adjourned.
77. For a small group of offenders (those already serving sentences), it was also noted that a prolonged outstanding case may interfere with, for example, the opportunity for progression, or with their eligibility to take part in some programmes in prison.
78. Overall, most offenders and victims and witnesses believed that they had been clear about what was happening at the trial stage. As with a number of other stages, the main exception to this was first offenders.

Giving evidence (victims and witnesses)

79. Eight of the 18 victims and witnesses who participated in this research had given evidence. One noted that they had finally given evidence on their fourth visit to court. Two were unable to complete giving evidence. In one case, the communication technology appeared not to be functioning, while in the other, the witness indicated that the case had taken so long to come to court, they were unable to provide an accurate account of event.
80. Among those who were unable to give evidence, the most common reason cited was that the accused had tendered a late guilty plea. One participant indicated that the case had been deserted before any witnesses were called, and another that the case had been deserted following a previous witness changing their evidence.
81. Among those who were unable to give evidence (albeit small numbers), there were mixed views. One expressed relief, while others expressed frustration or anger. For example:

“I was frustrated and pretty annoyed.” (Victim and witness interview)

82. One witness, whose case had been moved from the intended court to another location, indicated that no preparations had been made for this change, and, although they had been shown the original court, they were entirely unfamiliar with the new location. In addition, in this instance, special measures had been requested at the original court, but this information had not been given to the new court, leading both to considerable frustration and stress for the witness.

Following the trial (offenders)

83. A particular concern for a small number of participants in relation to the period following the trial was that court staff refused to give family members information about the outcome of cases or offenders' whereabouts, and in one case, about their welfare (after the offender had collapsed on being sentenced). For example:

“You can't even get word to your family to say you're fine.” (Offender group)

84. It was suggested that the Data Protection Act had been cited by court staff as the justification for this.
85. Most offenders had had experience of sentences being deferred for pre-sentence reports. Although participants in the young offenders' group were generally cynical, some of the older participants believed there could be some merit in obtaining a pre-sentence report, although views were mixed. For example:
- “Sometimes the reports can be good if they keep you out of the jail, but there’s no obvious reason why you do or don’t get one done. And if you have a lot of previous there’s not a lot of point. Sometimes they don’t even speak to your family, and sometimes they use old ones even if things have changed.” (Offender group)*
86. Some suggested that the pre-sentence report could be more thorough, and less formulaic, and that more could be done to force Sheriffs to take these into account.
87. No specific issues were raised about the time taken to obtain pre-sentence reports, although some suggested that offenders should be able to opt out, and ask to be sentenced following a guilty plea or finding.
88. A number of participants in offender groups suggested that there did not appear to be much consistency among Sheriffs in terms of, for example, whether bail was granted pending reports and, subsequently, whether or not a custodial sentence was imposed. This echoes comments made earlier in relation to the use of bail, and whether or not pre-sentence reports were required.
89. In relation to actual sentencing, one group argued that this was the point at which they were clear about what was happening, and argued that:
- “When you get sentenced and you know what’s happening, that’s the only positive bit of the whole thing. Otherwise from the minute you go in the door and they do the security check, nothing goes smoothly – you’re all over the place.” (Offender group)*
90. In relation to CPOs, a number of participants suggested that they had had to make multiple court appearances to have their orders varied, as the Sheriff, in passing the original sentence, had not taken account of the actual number of days on which they could attend unpaid work each week, or of delays in starting, meaning that they could not complete their hours in the time allotted. For example, it was stated that:
- “When you get a CPO you get sent to social work, then you wait for a place. That can be for quite a while, and that affects the court, because you’re getting a set number of months to do your hours and you can’t because there isn’t enough time. They give you longer, but that has to go back to court, and that’s more solicitors and social work time. If they think you’re not trying, they’ll breach you, and that has costs too. (Offender group)*

Other issues (victims and witnesses)

91. A small number of victims and witnesses expressed overall concerns about the court process. One suggested that they had gained the impression that the:

“... process was very badly managed.” (Victim and witness interview)

92. Another noted that the process for them had undermined their confidence in the justice system. For example:

“It was a waste of time and money. The procedures are sloppy and it gives you a lack of trust in the system.” (Victim and witness interview)

93. As noted earlier, a small number suggested that the scale of the delays made it unlikely, in their view, that witnesses could have accurate recall of events, thus undermining the likelihood of justice being done.

94. A number suggested that they would try to avoid having to repeat the process, as a result of their experiences. As one stated, for example:

“I was put off ever being a witness again.” (Victim and witness interview)

Suggestions for improvements

95. A range of suggestions for improvement were made by most participants. These have been grouped into broad headings for ease of reading.

Overall suggestions (all types of participants)

96. Perhaps the most common suggestion across all types of participants was the need to reduce delays.
97. A number of specific suggestions were made about how delays could be reduced. These included:
- Committing more Sheriffs.
 - Committing more courts at each sitting.
 - Better scheduling, including not timetabling trials on a Monday, typically the day with the highest volume of first appearances from custody, or on a day following a bank holiday.
 - Longer sessions, with an earlier start and programmes extending into the evening where demand exists.
 - More use being made of video links for those appearing from custody (also suggested later in the context of improving the experiences of offenders).
 - Fining witnesses who do not appear.
 - Privatising the Scottish Court Service to make the courts run more efficiently.
98. A number of offenders suggested that improvements could be made to the system to allow them to plead guilty more quickly, whether at their initial

appearance or at an intermediate diet. It was also suggested by one offender that the Crown could take less time to disclose its evidence to the defence, hence allowing the accused person to reach an earlier decision about whether or not to plead guilty (or to change their plea to guilty).

99. Allied to this, it was also suggested that more use could be made of Fiscal Fines as a means of reducing the number of cases which came to court. Offenders in one group also suggested that the police should be given more powers to enable offenders to “plead” guilty to offences and accept an on-the-spot fine.
100. A number of offenders identified that more alternatives to remand in custody should be available to courts. It was suggested that, in many cases, a remand in custody appeared not to be justified in that the offender may be found not guilty, or be given a non-custodial sentence. It was also suggested that a period of remand could be particularly detrimental to those with families, or those in employment, and that more consideration could be given by Sheriffs to accused persons’ circumstances in deciding the best route to take.

Improvements in information

101. Among victims and witnesses, and among a significant number of offenders, a variety of suggestions were made relating to improvements in information.
102. The need for more information for accused persons and their families was raised. It was suggested that this could be delivered through a dedicated website which described pleading, intermediate and trial diets, and offered “virtual” walk-throughs of court buildings. A small number of participants (both offenders and victims and witnesses) indicated that they felt that more use should be made of pre-trial visits.
103. A number of victims and witnesses identified that they would have liked to have had more information about how the court works. In some cases, it was acknowledged that the Witness Service had provided good information, but it did not appear that all victims and witnesses were aware of these services. As noted earlier, a number of victims and witnesses, supported by offenders (reflecting views expressed by their families) had indicated that a website dedicated to explaining court processes from the perspective of victims and witnesses, or family members, could also be valuable.
104. Participants of all types suggested the need for improvements to the flows of information about changes to the court programme. One suggested the appointment of a liaison officer at each court specifically to pass information between families and accused persons, and to ensure that witnesses were kept up to date with any changes.
105. A small number of witnesses suggested that they should be given access to their original statements prior to giving evidence, in order to allow them to refresh their memories.

106. A small number of offenders suggested that a means could be found to allow information on the outcome of their cases, the offender's whereabouts, and, if relevant, their wellbeing, to be passed to family members.
107. Participants in one group who were first offenders suggested that more could be done to prepare accused persons for the consequences of either being remanded in custody or being given a custodial sentence. It was acknowledged by those making the suggestion that some matters should have been obvious to them (for example, not coming to court in their own car), but it was also suggested that people in this situation may not be thinking clearly. A number also suggested that those at risk of custody could be given a summary of useful information, such as the need to ensure that they brought money with them, appropriate clothing and any relevant contact numbers. Finally, in relation to first offenders, participants in more than one group suggested that solicitors should be clearer (and more "honest") about the possibility (or likelihood) of custody.

Improvements for those appearing from custody

108. A range of improvements were suggested to the circumstances under which people appear from custody, including:
- More notice of court appearances being given, thus allowing a better chance to prepare (including the chance to shower and dress smartly).
 - Clear information about the charge to which the court appearance relates.
 - Earlier access to solicitors.
 - Better scheduling by G4S to reduce the time taken in getting to and from court.
 - Reductions in the waiting times at court.
 - More use of video links, particularly for procedural matters.
109. A number of offenders suggested that more could be done to allow those with pending cases to have these heard while they are in custody. It was suggested that this would save time and money overall for the justice system, and would be preferable for most offenders (as the uncertainty of these pending cases would be removed).

Improvements to court holding cells

110. The need for improvements in the conditions under which accused persons are held in court cells was raised in all four offender groups, including the need for:
- Better standards of cleanliness.
 - Ensuring that cells are warm and properly ventilated,
 - Easier access to toilets, water and medication.
 - Tighter enforcement of the maximum numbers in each cell.
 - Improved food, and, for those likely to be in court for an extended period, more substantial food.
 - Dedicated care for those with mental or physical health problems (rather than appearing to rely on prisoners to provide this).

- Provision of a smoking area.
- Better training for, and supervision of court staff.

111. A number of participants highlighted a particular need for additional cleaning to be undertaken after bank holidays, or over the Christmas and New Year periods, when courts tend to be exceptionally busy.

Improvements in witness rooms

112. A number of victims and witnesses made suggestions about improvements in witness waiting rooms, including:

- Better access to food and drinks.
- Access to reading material.
- Having more regard to the circumstances of individual witnesses, for example, by not expecting bereaved families to wait in the same location as other witnesses.
- Providing an opportunity for witnesses with a history of offending to sit in a different location from police witnesses.
- Improving the waiting arrangements for defence witnesses, which may be poorer than those for prosecution witnesses.

113. A suggestion made by one witness was that more flexibility could be shown in terms of allowing those who were anxious or frightened to remain in a safe area within the court building over lunchtime.

Improvements in pre-sentencing reports

114. A number of offenders suggested that Sheriffs should make less use of pre-sentencing reports, and be prepared to impose sentences immediately following a guilty plea or a guilty finding.

115. Some also suggested that Sheriffs, having commissioned reports, should ensure that these are read. One suggested that, where the Sheriff chose not to follow the recommendation, a reason for this should be given.

116. In relation to reports themselves, two improvements were suggested:

- Seeking more information from family members.
- Including testimonials for employers.

117. A small number of offenders suggested that social workers, in preparing material for pre-sentencing reports, could make more use of video links, thus saving the time and expense of travelling to meet with the prisoner face to face.

Improvements following the end of a trial

118. Participants in the women offenders' group suggested that, where a woman is remanded or sentenced to custody, they should be able to get faster access to a court social worker in order to ensure that, for example, child care arrangements could be put in place.

119. It was suggested that the process of checking warrants prior to being liberated from court could be speeded up.
120. One offender suggested that prisoners with a reasonable expectation of being liberated (i.e. those who were not identified as “must return”) could place their belongings in lockers to simplify (and speed up) the process of retrieving them in the event of their release. Having easier access to a mobile phone was also noted as a benefit of this, thus allowing quicker contact to be made with family members.
121. The group in Aberdeen suggested that Sheriffs should liaise with social work services to ensure that conditions attached to CPOs were capable of being met (e.g. in the light of waiting lists, or restrictions on the number of days of attendance). It was suggested that this would reduce the number of unnecessary appearances to have orders varied (and hence reduce the overall pressure of business on the court).
122. One victim suggested that steps should be taken to ensure that those who participated in a trial were informed of the outcome.

Consistency

123. A number of offenders indicated that their main suggestion was to improve the consistency of the court process, both across Sheriffs and between courts. Among the issues identified were:
- Having common procedures across all courts.
 - Having a consistent set of facilities within courts.
 - For court staff, the need to be consistent in their treatment of prisoners, and the need to treat prisoners as individuals.
 - For Sheriffs, the need for consistency in the use of bail and remand, and to be consistent in the use of pre-sentencing reports.

Reid Howie Associates
August 2014

ANNEX 1 Topic Guide for the Interviews with Victims and Witnesses

The Pre-Court Process

1. How long did it take for the incident to come to court for the first time?
2. How did that compare to what you expected? (*Shorter, longer, about what expected*)
3. Was the date changed at any stage, or were there any specific delays before the case came to court?
If "yes" ...
 - (a) How and when were you told about the delay?
 - (b) What information were you given about the reasons?
 - (c) How did you feel about the delay? (*how did it affect you*)
4. Overall, how did you feel about the time period between the incident happening and it coming to court? (*Probe for the impact on them during that time: anxiety; practical issues*)
5. Was there any way the pre-court process could have been improved for you? (*Probe for information, support, timing, processes.*)

The Court Process

6. What sort of information were you given before the court day about your attendance? (*e.g. what would be expected on the day; who would be involved, where to go; what would happen; what to do*)
 - (a) If you were given information, at what point were you given it?
7. When you arrived at the court, what did the process involve? (*Probe for being met; shown into the witness room etc.*)
8. How long did you wait?
9. How did you feel about the waiting period? (*Probe for the impact of this; any concerns*)
10. Did you give evidence on that day?
 - (a) If yes, was it important for you to be able to give your evidence at the trial?
 - (b1) If not, why was this? (*e.g. adjourned; guilty plea; deserted*)
 - (b2) How did you feel about not being able to give your evidence?
11. If the case was adjourned ...
 - (a) How many adjournments were there? (If more than one, what was the impact of that?)
 - (b) How did you feel about the adjournment(s)?
12. If there was a guilty plea ...
 - (a) How did you feel about the guilty plea coming at such a late stage in the process?
13. If the case was deserted ...
 - (a) How did you feel about it being deserted?
14. Was there any way the court process could have been improved for you? (*Probe for information, support, timing, processes.*)

Overall Views

15. Overall, did you feel you understood the court processes? *(If not, probe for what was unclear)*
16. Do you feel that the information you received from any of the agencies involved was easy to understand? *(If not, probe for what was difficult e.g. not in plain English)*
17. What were the most positive aspects of your experience of the court?
18. What were the main problems with your experience of the court?
19. Do you have any suggestions about how the whole experience could be improved for victims and witnesses?
20. If you could suggest three things to improve the process for victims and witnesses, what would they be?

Annex 2: Topic Guide for Groups with Offenders

The Pleading Process

21. At the time of being charged, what information did you get (and from whom) about what to expect in relation to the court process? *(e.g. what the process would be; who was involved, how long it would take etc.)*
22. Generally, how long did it take between the charge and the first appearance in court? *(Was it different for people who appeared from custody, and if so how?)*
23. Did it matter to you how quickly this happened *(and if so, why?)*
24. What information did you get after you entered a plea about what would happen next? Who gave you this information?
25. Did you feel that you understood what was happening at this stage?

Not guilty pleas and process to trial

26. When someone pleads not guilty, in your experience, how long does it generally take before the trial? *(Mention that for those who have only ever pled guilty, we will return to the sentencing process later)*
27. Did you have any concerns during that period? *(What sort?)*
28. Was there any information or support you would have liked to receive?
29. Do you have experience of trial dates being changed or delayed before the trial starts *(we'll talk about trials adjourned on the day later)*? If so ...
 - (d) How and when were you told about the delay?
 - (e) What information were you given about the reasons?
 - (f) How did you feel about the delay? *(how did it affect you/others e.g. family)*
30. Overall, how have you felt about the time period between being charged and the case coming to trial? *(Probe for the impact on them during that time: anxiety; practical issues; specific issues for people remanded in custody or on bail with conditions).*
31. Do you feel generally that you understood what was happening with your case during the waiting period before the trial?
32. Are there any ways the pre-trial process could have been improved for you? *(Probe for information, support, timing, processes.)*

Trial

33. What sort of information were you given before the trial about what would happen on the day? *(e.g. what would be expected; where to go; what to do)*
How much notice did you get of the trial date? *(probe for differences between people on bail and remanded)*
34. When you arrived at the court, what happened, and how long did you wait? *(probe for differences between people on bail and remanded)*
35. How did you feel about the waiting period? *(probe for the impact of this)*
36. Did you have any particular concerns during the waiting period in the court?
37. What sort of information and support were you given during that period?
38. Did you give evidence?
39. If so, how did you feel about the process?
40. If not, why was this? *(e.g. adjourned; changed to guilty plea; deserted)*

41. If the case was adjourned ...
(c) Why did this happen?
(d) How did you feel about the adjournment (*what was the impact?*)
(e) How many adjournments were there? (If more than one, what was the impact of that?)
42. Do you feel generally that you understood what was happening during the trial?
43. Are there any way that the trial process could be improved for you?

Sentencing

44. If your sentence was deferred for reports (either following a guilty plea or a trial) how long did the process take?
45. How did you feel about the time it took, and what effect did it have on you?
46. What concerns did you have during that period?
47. What sort of information and support were you given during that period?
48. Do you feel generally that you understood what was happening at this stage?
49. Are there any ways the sentencing process could have been improved?

Overall Views

50. Generally, is there much variation between different cases in the same Sheriff Court? (*Probe for the nature of these variations*)
51. Generally, is there much variation between different Sheriff Courts? (*Probe for the nature of these variations*)
52. Is the length of time involved in the court process important (*and if so, why?*)
53. Generally, what goes well or smoothly about the court process?
54. Generally, what are the main problems with your experience of the court?
55. How would you feel if you had to go to court again?
56. Do you have any suggestions about how the whole experience could be improved for accused people?
57. If you could change three things to make the process better, what would they be?