REVIEW

OF THE

PLANNING, ALLOCATION AND MANAGEMENT

OF RESOURCES

IN

THE CROWN OFFICE

AND

PROCURATOR FISCAL SERVICE

FEBRUARY 2002
EXECUTIVE SUMMARY

Introduction

The Crown Office and Procurator Fiscal Service exists to “provide the sole public prosecuting authority in Scotland; investigate sudden deaths and, where appropriate, conduct public inquiries; and to investigate independently all complaints of criminal conduct by Police Officers.”

The environment in which the Service operates has changed dramatically over the past two decades. The demands to improve performance and to become more accountable for delivery have become much more pronounced in all Civil Service Departments. The nature of the business has also changed: rising public expectations; increasing levels of serious crime, especially complex fraud and international crime; improvements in forensic technology; the additional considerations and workload arising from the adoption into Scots Law of the European Convention on Human Rights. In the four years up to 2001-2 the number of petitions (that is serious cases going forward to be heard in the High Court or by a Sheriff and a Jury in the Sheriff Court), increased by 23%. In the current year, 2001-2, High Court business alone has risen by around 13%.

This combination of factors has led to extreme pressures on the Procurator Fiscal Service. These pressures became public following the unsuccessful prosecution in the case of the murder of Surjit Singh Chhokar. The reports by Sir Anthony Campbell, QC and Dr Raj Jandoo provided evidence of a service near breaking point. This was confirmed by a Stress Audit commissioned by the management of the Department which found remarkable levels of stress in the organisation. The inquiry by the Justice Committee of the Scottish Parliament into the “working as a Department and the question of whether it is equipped to meet the needs of Scotland’s criminal justice system” is due to report in the Spring.

The Lord Advocate and the Crown Agent considered it was likely that significant changes in the way that the service carried out major areas of work would be required in the wake of all of these reports. It was in this context that the Management Review was commissioned, commencing October 2001, and asked to report by 28 February 2002.

The work of the Service

In Chapter 1 we describe the varied and complex business of prosecution. There are particular pressures arising from the statutory time limits, unique to the Scottish criminal justice system, that date back to the seventeenth century. They take no account of advances in forensic technology, giving evidence which can take some time to prepare, or modern fraud and international crime where the evidence is complex and takes a long time to analyse.

As stated in the Department’s Annual Report
The level of service that the COPFS is expected to provide to the public, victims and witnesses is ever increasing. The Service has traditionally been a quite closed organisation, reluctant to explain the reasons for a particular decision, and generally poor at engaging with the community. Staff in the Service work hard with victims and witnesses of traumatic crime, which they can themselves find difficult and disturbing. The COPFS has set up a Victim Liaison Office to provide a better service to victims of serious crime and to support members of staff in dealing with such cases. It is, however, in its early days and it is essential that the Victim Liaison Office is fully integrated with the Service so that sensitive treatment of victims is properly mainstreamed. The Service has also made major strides in the improvement of the quality of service to those from ethnic minorities, but the mainstreaming of race issues will have to be sustained and carefully evaluated to ensure it is not lost amongst the other pressures facing the Service.

Our remit asked that we have regard to the relationships between the Service and other agencies in the criminal justice system with the aim of improving joined up working. What we found was a catalogue of issues that could be put down to poor communication between the COPFS and its main criminal justice partners – the police and the court service – as well as with the agents that act on behalf of the defence. Communication problems are not the monopoly of the COPFS and are apparent across the criminal justice system. Greater efforts must be made to improve communication at all levels and we recommend that service level agreements be formalised in some cases to clarify the division of responsibilities between the relevant organisations and to ensure mutual understanding about the deadlines that must be met on all sides.

The High Court

We devote a chapter to the management of High Court business, these being the cases that are the most serious, the most complex and attract the greatest public and press interest. The marked increase in the amount of business in the High Court is placing acute pressures on the whole criminal justice system. Two other reviews are in process: an internal review into the way that the COPFS prepares and presents High Court cases carried out by its Quality and Practice Review Unit; and a wider review of High Court operations being led by Lord Bonomy. Comprehensive recommendations should follow from those reviews.

We comment on some of the issues that impact on the effectiveness of the COPFS in managing its business and on the management of staff within the organisation, and make recommendations on improving communication and clarity of ownership, which we believe should smooth the processing of cases. We comment on the pressures on the staff that support Advocates-Depute in the High Court and the need for additional resources there. We also touch on the sensitive issue of the recruitment and appointment of Advocates-Depute and the advantages and disadvantages of the current system. We note the impact this has on the morale of fiscals while balancing that with the advantages of the additional perspective brought by Advocates Depute, who are not career prosecutors. We speculate on the possibility of some modifications to the appointments system but
recognise that there are many considerations to be weighed in the balance. We therefore recommend that further work be done on this issue.

**Business Management**

The complaint we encountered most often from staff in the Procurator Fiscal Service was that they had insufficient resources to carry out their work effectively. This view was reflected by external sources as well. There are a catalogue of management issues: poorly focused management information; inconsistencies in budgeting; a lack of resilience in the staffing of the organisation; and overall a lack of a corporate and united approach being taken to standards and processes across the service. We make specific recommendations on improvements that could be made in this respect. We also note the weakness of the corporate function within the Crown Office. The core Departments – Personnel, Finance, Estates, etc - are understaffed and there is a lack of strategic thinking capacity. There needs to be a considerable strengthening of all these Departments and a strategic approach taken to Human Resource Management across the Department. We note that some of the central services in the Department might usefully be integrated more closely with the corporate services in the Scottish Executive.

We devote a chapter to information systems. This is another part of the core function that is seriously under resourced with only one third of the staff that one might expect for an organisation of this size. Information systems play an increasingly business critical role in the Service and the resourcing needs to be improved accordingly. We commend the concept of the Department’s Future Office System – an electronic workflow and document management system which will enable many core business processes to be carried out electronically – but note the serious implementation issues that remain. This is a Department that has only in the last six months provided its legal and para-legal staff (almost 40% of its people) with access to information technology and personal computers.

**People Management**

The COPFS has a skilled workforce carrying out complex tasks and in co-operation with many external contacts elsewhere in the criminal justice system. Many staff are working very long hours to ensure that their primary objective – the effective and consistent investigation of crime, and the prosecution of offenders – is carried out successfully. The pressures on the Department have, as the Stress Audit confirmed, had a serious impact on the morale of staff and left them feeling “stressed and undervalued”.

We found significant communication issues at all levels across the Service. Management and communication skills are at a premium in the Department. We make some basic recommendations about how to improve communications, but the fundamental point is that the Service needs to give much greater priority to management and communication skills training and in recruiting and promoting staff. We comment on the benefits of more external validation in the recruitment and promotion systems, and the benefit of
bringing in skills from outside the Department by recruiting a proportion of promoted posts externally.

There are cultural barriers between legal and administrative staff across the organisation which impact on the morale of the staff and on their effectiveness. This is reinforced by the existing accommodation arrangements where the two seldom mix. We note the benefits of open plan accommodation mixing legal and non-legal staff and recommend increasing use of small multi-functional teams to streamline the processing of business.

The Future

The overwhelming conclusion of our examination of the COPFS is that the Service is presently severely undermanaged. Poor management of people and budgets is a theme that has recurred throughout the evidence we heard from staff at all levels. The catalogue of issues that can be put down to poor management demonstrate a deeper problem – and one that cannot be completely addressed simply with more resources and better management training.

We comment on the existing vision and objectives of the Service. At present they largely describe what the organisation does rather than the objectives it is seeking to achieve. We recommend that the Service should revise its vision and strategic aim to produce something that is more meaningful to staff and more accessible to the public. We go so far as to suggest that the Department should explore alternative names for itself, bearing in mind the obscurity of terms “Crown Office” and “Procurator Fiscal”.

The management culture of the organisation has to change. We believe that there are important structural issues in the way that the Department is currently arranged that inhibit good management. We believe that effective and efficient management of the business will only be achieved after a significant restructuring.

There are 49 District Offices. Each District Procurator Fiscal acts autonomously on legal matters with this independence reinforced by a personal commission from the Lord Advocate which we believe limits the management relationship between the District Fiscals and their managers. The 49 Districts are brigaded into six Regions each with a Regional Procurator Fiscal. While the Regional Fiscals have budgetary and management responsibility they do not have operational control. We were told of the management difficulties this created and the variations in practice across the country which interfered with the Department’s external relationships.

We recommend a restructuring from 49 Districts and 6 Regions into a unitary structure of 12 Areas, drawing on work carried out by the Crown Office itself in 1995 but never taken forward. The area boundaries are drawn coterminously with the Police Force Areas – with Strathclyde Force divided along police divisional boundaries into 5 Fiscal areas, facilitating better working relationships with the police. We recommend that this be done without undermining the relationships with the courts: there would be no reduction in the number of offices across the country, since the existing Sheriff Courts would need to
continue to be covered. We propose that the new Area fiscals have full management and budgetary responsibility for their area.

We found very little managerial capacity in most offices. The management spans of the administrative managers are large (averaging between 1 in 15 and 1 in 20) with very few managers above Executive Officer level. The administrative staff therefore get little supervision, management and support and there is little capacity for the administrative managers to provide legal staff with intelligent management support. We recommend significant strengthening of the management and support structures in the Procurator Fiscal Offices. We envisage the work processes being redesigned and handled by small mixed teams of legal and administrative staff with a legal manager providing close management support to the legal team leader. The legal manager can then concentrate on the quality of legal supervision. This concept is reproduced in our recommendation for the appointment of senior Area Business Managers in support of each Area Fiscal, taking a strategic view of the management of the business in an area.

We conclude that the management of this large and complex business merits a Chief Executive at the very top of the organisation. The present range and scope of responsibility of the Crown Agent post is far too wide and demanding for one individual. We consider carefully the relative merits of the relationship between the two most senior posts in the new organisation – Chief Executive and Crown Agent. We conclude that the most important factors are access to strong leadership and management skills to lead the reform of the Service and the delivery of a modern public service. We are conscious that the independence of the prosecution system must not be compromised by an arrangement that does not have a professional prosecutor as the permanent held of the Service.

The Lord Advocate is, of course, the head of the public prosecution system to whom the Chief Executive would be accountable. In future, the Crown Agent post, although subordinate to the Chief Executive, would maintain a special relationship with the Lord Advocate as senior prosecution advisor. The post would also provide an avenue of appeal against any possible compromise of prosecutorial independence. The Crown Agent would be Head of Profession and lead and manage the central Crown Office legal functions. We set out the respective responsibilities of the Chief Executive and the Crown Agent in draft job descriptions, and also provide drafts for the new Area Fiscal, Area Business Manager and Local Procurator Fiscal posts.

We describe a new Management Board, chaired by the Chief Executive, with much strengthened representation of corporate functions – e.g. Finance, Human Resources, etc. – as well as strong legal representation through the Crown Agent, the core Crown Office functions and two or three of the most senior Area Fiscal posts ex-officio. There would also be one or two non-executive Directors from outside the Service. In addition to the Management Board, there would be a legal and policy forum consisting of the 12 Area Fiscal and chaired jointly by the Chief Executive and Crown Agent. It would meet regularly to discuss operational matters and would lead the development of prosecution policy. It would ensure that all Area Fiscals had easy access to the Chief Executive, the Crown Agent and the other Corporate Directors on the Management Board.
Financial Implications and Implementation

We acknowledge the ambitious nature of the change agenda we recommend and the difficult financial implications that go with the strengthening of the managerial functions in the Service. We set out in chapter 7 our estimate of the cost of the proposed new structure and of additional legal staff for the front line. In the medium term, we expect the restructuring to deliver improvements in efficiency and effectiveness that will enable the Service to cope with the continuing rise in the volume of complex business.

We expect implementation to take up to two years. It is a challenging agenda for change and will only be possible with key appointments of the highest calibre. We recommend that appointments are made from the top down – a new Chief Executive will want to participate in the appointment of the new Area Fiscals. They, in their turn, will play a key role in the appointment of their Area Business Managers. The Area Fiscal and Area Business Manager will form the team that will transform the management culture and the delivery of the Service in their area. The strengthening of the central corporate functions should go on in parallel, again starting with the senior corporate appointments first.

Conclusion

The Review was asked to concentrate on the management of the organisation in the light of the effect severe financial and workload pressures were having on its staff and on the delivery of its business. All the staff in the COPFS will be affected in some way or another if our recommendations are adopted. We have tried to prepare staff for the possibility of change by setting out our emerging conclusions in advance of submitting this report. Their written responses are included in an annex to the report.

Whatever the decisions of Ministers and Senior Management, we wish the Service well. The work of the Service is difficult and sometimes thankless. Almost without exception staff carry it out diligently and with impressive commitment to their calling. It is the management structures – the product of slow and not always well focused change which besets the whole of the criminal justice system – that have let them down. We hope that our recommendations show the way to a better and more modern Service where staff will thrive doing the work that they enjoy, while providing the public with the standards of service that they have a right to expect.
SUMMARY OF RECOMMENDATIONS

CHAPTER 1:  THE WORK OF THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE

The Service needs to learn to relate better to its partner organisations in the criminal justice system and to continue to work at improving its contact with communities, the provision of information to the public, and the support provided to victims and vulnerable witnesses. In particular, we recommend:

- Service level agreements with the Police formalising the division of responsibilities and time scales for response and quality of delivery.
- Service level agreements with the court service with a particular emphasis on timescales and length of notice.
- More contact with defence agents in order to encourage earlier pleas.
- Greater interchange of staff and stronger communication relationships with both the courts and the police, as well as with the representative organisations such as CRE and VSS.

CHAPTER 2: THE MANAGEMENT OF HIGH COURT BUSINESS

- Establish formal systems to ensure that there is clarity over the ownership of cases between the service of indictment and the beginning of the trial.
- Review Chapter 4 of the Book of Regulations to take account of Advocate Deputes’ preferred layout for the contents of precognition papers presented to them immediately prior to trial including amended narrative and analysis sections relevant to the charges actually proceeded with.
- The High Court Unit should work proactively to build better relationships with staff in Procurator Fiscals Offices and with the Advocate Deputies.
- The administrative support in the High Court Units should be strengthened.
- Further work should be carried out on the complex and sensitive issue of the appointment and induction of Advocate Deputies and whether there is a place for greater use of Fiscal Staff.
CHAPTER 3: BUSINESS MANAGEMENT

Organisational Resilience

- Personnel should hold a central budget to pay the salaries of staff who, for whatever reason, are unavailable for work for an extended period. This would enable fiscal offices to be able to pay for appropriate cover arrangements.

- Regions should explicitly plan resource and work allocations to enable nominated staff to be redeployed for short periods to other offices.

- Explore the feasibility of setting up a centralised or regional ‘flying squad’ to help cover absences.

Management Information

- Case management systems should be enhanced to provide management information about the status of cases in the system, measure these against pre-defined targets, and highlight any potential bottlenecks or ‘hot spots’. Particular consideration should be given to exception reporting, rather than simply status reporting.

- Further consideration should be given to a service-wide system that records the number of “staff hours” input in each office (a “resource availability return”) and monitors trends in that availability.

- The Service should undertake a new management information project, with the objective of providing full information about caseload throughput, including a measurement of the number of cases outstanding in the system.

- Further consideration should be given to introducing a sampling time recording system to provide senior management with information on the input time required by staff to process different classes of case.

- The management information division should be transformed into a performance management unit championed at the level of the Management Board, with the resources to take action on emerging issues and resolve problems at an operational level.
Budgeting

- Financial systems should be reviewed and revised with a view to collaborating more closely with the Executive and adopting the Scottish Executive Accounting System (SEAS).

- Central finance function should be strengthened to provide additional advice and assistance on financial planning and management to budget holders, and to devise and implement standards.

Press Office

- A Press and Communications Director should be appointed and the Press Office further resourced.

Personnel

- There should be a new dedicated board level appointment of Human Resource Director.

- Additional staff should be recruited to strengthen the breadth and depth of the HR function, developing a proactive human resource strategy and higher quality, customer focused, services to managers across the Department.

- Integration of the finance systems with the Scottish Executive Accounting System should be explored.

- The central Finance function should issue detailed bidding guidance to the budget holders and should enforce consistency in the bids submitted from the various regions and Crown Office units.

- The finance function should have a more senior post representing it either at board level of just below level.

Other corporate functions

- The training unit should be strengthened to support a significant improvement in the level and coverage of training across the organisation and represented appropriately on the management board by the Human Resource Director.

- The Estates Function should be strengthened. There should be an explicit customer orientation with feedback sought on a regular basis from the users. Modernisation of the Estate should be a priority so that more flexible accommodation can be provided.
• The Department should explore integration of its central corporate functions into the wider corporate services of the Scottish Executive, while maintaining units dedicated to the specific needs of the COPFS and gaining from the flexibility and economies of scale of the Scottish Executive.

CHAPTER 4: INFORMATION SYSTEMS

General

• More resources should be devoted to the IT function. Particular attention needs to be given to how these resources are deployed operationally and geographically.

• The scope for closer integration of IT services with the Scottish Executive should be explored.

Strategy and development

• The IS function should identify separate dedicated strategy and development roles.

• SOSVI should take account of any functionality that was lost during the upgrade from version II to version IV

Future Office System

• The business case for FOS should be reassessed, including an assessment of its impact on the workload of legal staff. Consideration should be given to a possible hybrid system where clerical staff would play a larger role in the processing of cases.

• The underlying business changes needed to support the introduction of FOS should be identified and implemented in advance.

• There should be urgent work to improve the IT competencies of staff and provide training, guidance, and greater support to staff.

IT helpdesk

• There should be deployment of additional IS resources within the IT Helpdesk and network support area.

• The IT Helpdesk should undertake professional customer skills training and implement regular customer surveys and feedback forms.

• There should be a review of the IT Helpdesk systems and greater collaboration with the Scottish Executive Helpdesk, or even integrating 1st level support with the SE Helpdesk, should be considered carefully.
IS career development

- The IS unit should adopt the same professional development framework as IT specialists in the mainstream Scottish Executive;

CHAPTER 5: MANAGEMENT AND PEOPLE

Communication

- There should be greater interchange and mutual understanding between Crown Office and District Offices.

- As they have done in the past, Crown Office Units should go “on the road” to promote their work to District Offices. Members of Senior Management (or even meetings of the whole Senior Management Team) should be seen in other offices.

- There should be more regular interchange of staff between the centre and the districts.

- More use should be made of “development deputes” postings lasting around a year which would give many more staff the experience of working in Crown Office.

- The Service should commit itself to greater use of modern communication technologies, upgrading the currently primitive Intranet.

Cultural barriers between legal and other staff

- More use should be made of open plan accommodation mixing legal and non-legal staff in the same environment as part of the move to multi-functional teams.

- A development and training framework for Precognition Officers should be developed.

- Assessment centres should be utilised for would-be Precognition Officers to test abilities against core competencies before entry to the specialism.

Pay and performance appraisal

- A major communication and training programme should be undertaken to ensure that staff understand the purpose and operation of the new performance management system and to ensure appropriate standardisation of appraisal across the Department.

- The scope for a limited number of complex and specialist casework promoted posts for legal staff should be considered.
Training

- Priority given to training in the organisation should be increased significantly and backed by the allocation of sufficient resources.
- Induction training should be revisited and strengthened.
- Particular priority should be given to management and communication training with this seen as a continuing objective rather than a one off.
- More use should be made of full time, professional trainers.
- The Service should establish a “training college” demonstrating its commitment to ongoing professional and developmental training. This might be a virtual college with a menu of options delivered by a range of training providers. There should be a strategic training function within a Directorate of Human Resources with all staff having allocated developmental advisors.

Career development, recruitment and promotion

- Opportunities should be sought to fill a proportion of promoted posts from outwith the Service.
- Assessment Centres should be used in the selection process for more senior posts.
- A Personnel professional should be present on all appointment and promotion boards.
- Senior Civil Service appointment boards should include someone from outside the Service.

CHAPTER 6: THE FUTURE

Vision and objectives

- The Service should revise its vision/strategic aim to produce something that is more meaningful to staff and more accessible to the public.
- Alternative names for the Service should be explored, perhaps combining this exercise with consultation on aim, vision and values.
Structure

- The existing Districts and Regions should be integrated into a unitary 12 Area structure drawing on the work carried out by the Crown Office senior management review in 1995, but shelved at the time.

- No reduction in the number of offices since existing Sheriff courts would need to continue to be covered.

- The Area boundaries drawn coterminously with police force areas – with the Strathclyde force area divided along Divisional boundaries into 5 fiscal areas – facilitating much better working relationships with the police, without undermining relationships with the courts.

Operational responsibilities

- The Area Fiscals would be the key management and legal supervision post, probably carrying the commission and title from the Lord Advocate to prosecute in terms of the 1927 Act.

- The District Fiscal post would remain as the local Procurator Fiscal in each local office, protecting the concept of the local prosecutor.

- Full budgetary control would be devolved to the 12 areas.

- Each area fiscal would be responsible and fully accountable for the management of the business of prosecution and deaths investigation across their entire area.

- They would also have personal responsibility for handling complaints against the police (CAP), perhaps for a neighbouring Area.

Management arrangements

- An Area Business Manager should be appointed to each of the 12 areas, reporting to the area fiscal, to manage the finance and personnel functions in the area, as well as being the senior administrative manager for the area.

- Both the ABMs and promoted legal grades (APFs and PDs) should be supported by a hierarchy of HEO and EO equivalent staff managing the delivery of the business and working in partnership with each legal manager to enable them to concentrate more on legal supervision than daily management hassles.

- Casework processing should then be handled in new multi-functional teams working in mixed accommodation with new technology in support.
Recruitment

- Given the relatively few promoted posts in the existing support structure, the many new administrative appointments should be filled through open competition. Existing staff in the COPFS would, of course, be eligible to apply.

The Centre

- The Deputy Crown Agent post should be renamed – Director of Central Operations, perhaps – to reflect its true role and responsibilities for the High Court, Fraud and Specialist Services and Appeals Units.

- There needs also to be a significantly strengthened management services core to ensure that major business functions – personnel, finance, IT, procurement and estate management – are adequately resourced and to support and empower the new devolved areas.

- There may be scope to strengthen the service delivery aspects of these functions through sharing skills and resources with the Scottish Executive’s corporate services.

Senior management arrangements

- A new Chief Executive should be appointed as Head of Department and Accountable Officer with distinct responsibilities from the legal advice role currently fulfilled by the Crown Agent.

- The Crown Agent post should be redefined to be the senior prosecution adviser to the Lord Advocate, the Head of Profession and the head of the central Crown Office legal functions. The post would report to the Chief Executive but would also provide an independent avenue of appeal to the Lord Advocate, protecting the independence of prosecution decisions.

- The Area Fiscals should report to the Chief Executive. They would be accountable jointly to the Crown Agent and Chief Executive jointly (on behalf of the Lord Advocate) for the quality of legal decision making in their Area.

- There should be a new Management Board, chaired by the Chief Executive. Membership would include the Crown Agent, a Finance Director, Human Resource Director, and Director of Corporate Strategy, the Head of Central Operations (legal), the two or three most senior area fiscal posts ex officio and one or two non-executive Directors from outside the Service.

- In addition to the Management Board, there would be a Legal and Policy Forum consisting of the 12 Area Fiscals and chaired jointly by the Chief Executive and Crown Agent. The forum would meet regularly to discuss operational matters. Its main purpose would be to lead the development of prosecution policy.
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INTRODUCTION

1. The Office of Procurator Fiscal is an ancient one dating back at least to the 11th Century. The Procurator Fiscal was then the officer (Procurator) employed by the Sheriff to collect fines imposed by the court and to pay them to the Sheriff’s treasury (or Fisc). It was not until the 15th Century that the office began to transform into something rather closer to the role that we know today – the Sheriff who had previously acted as investigator, prosecutor and judge began delegating certain prosecutorial duties to the Procurator Fiscal and, in 1700, the Criminal Procedure Act officially acknowledged the Fiscal’s status as the public prosecutor.

2. It was not until the 18th Century that the Lord Advocate assumed a degree of control over the Fiscals. It was, however, only in 1907 that the power to appoint Procurators Fiscal was transferred from the Sheriff to the Lord Advocate. It was even later than that, however, before Procurators Fiscal fell under the control of the Crown Office and of the Crown Agent. Indeed, it was only in 1945 that the post of Crown Agent became a full time, permanent civil service position. It is therefore only within the last half century or so that Procurators Fiscal have come together under the umbrella of the Crown Office and Procurator Fiscal Service.

3. In 1975, following local Government reorganisation, the existing regional structure (the 49 Districts grouped in 6 Regions corresponding to the 6 new Sheriffdoms created as part of local Government reorganisation) came into being. The number of employees in the service back in 1975 was substantially smaller than the current level of 1200 or so, just over a quarter of a century later. (A much fuller description of the history of the Procurator Fiscal Service is set out in Annex B).

4. The environment in which the Crown Office and Procurator Fiscal Service operates has changed dramatically over the past two decades. While the demands to improve performance and become more accountable for delivery have become much more pronounced in all civil service departments particular pressures have been experienced by the Crown Office and Procurator Fiscal Service.

There has been a marked shift in public expectation with regard to the level of explanation provided on decisions not to take proceedings in particular cases.

Demand has risen for public airing of evidence gathered by Procurators Fiscal surrounding deaths which are not homicides, for example, in relation to questions of suitability of medical treatment and the circumstances of road traffic accidents where the Fiscal decides not to run criminal proceedings.

There are a number of dedicated organisations lobbying on specific issues. They are able to comment publicly on individual cases unconstrained by the need that the Crown has to take account of competing interests such as those of the accused, the victim or wider public considerations.
5. The very nature of crimes has altered in the last decade and the tools available to detect and prove their commission have changed dramatically. So has the modern understanding of what constitutes appropriate treatment of victims of crime, particularly in relation to sexual offences.

More crimes involving serious sexual offences including historical child abuse are being reported. Procurators Fiscal require to consider new offences introduced by legislation such as breaches of orders imposed in relation to those who have been placed on the Sex Offenders’ Register and the use of Non Harassment Orders.

Those criminals previously involved in “traditional” areas of organised crime such as wages snatches and bank robberies have shifted their operations as a result of improvements in security and money handling techniques to involvement in drug trafficking.

In the past decade the successes in detecting and apprehending those involved in UK wide and international drug trafficking have also altered the nature of the work done by the service resulting in many more multiple accused and complex cases being processed.

6. There have been increasing demands on staff to assess their more complicated work with many more factors to be considered while balancing the need to deliver value for money.

It is generally accepted that the assimilation of the fresh legal knowledge required by the adoption into Scots Law of the European Convention on Human Rights was exceptionally well handled by the Service. The extent of the impact on workloads was hard to predict in advance but has actually resulted in a substantial volume of additional work.

At the same time the already strict time limits in place in Scotland covering the starting dates of trials have been supplemented by decisions of the Court of Appeal and the Privy Counsel that further limit severely the length of time that the Crown can take in bringing a case to trial.

7. With so many crucial changes the quality of internal communication took on an increasing importance and existing practices came to be regarded as increasingly inadequate.

The need to introduce innovative technological assistance for the ever changing workload was fully accepted by management but in turn led to uncertainty for staff about their role and job security.

Staff also began to raise concerns about morale. There was a diminution of staff confidence that the organisation was in a position to secure an appropriate level of resources to care properly for its workforce.
8. Devolution further altered the landscape in which the Service operated. The existence of the Scottish Parliament itself has impacted significantly on the Service. Crown Office and Procurator Fiscal Service was the first Department to become devolved in May 1999 and, understandably, has come under much closer scrutiny by the Members of the Scottish Parliament than was ever the case with the previous Westminster arrangements. The benefit of having an exclusively Scottish Parliament dealing with matters affecting the Scottish Criminal Justice System also means that there are now specific committees having particular interests in the work of the Service.

9. The statistics bear out the effects of many of these pressures on the caseload of the service. In the 4 years up to 2001-2 the number of petitions (that is serious cases going forward to be heard in the High Court or by a Sheriff and a jury in the Sheriff Court), increased by 23%. In the current year, 2001-2 High court business alone has risen by around 13% over the previous year (extrapolating Judiciary office figures over the whole financial year). Even these figures, themselves, take no account of the increase in scale and complexity of each of the individual cases and the rising public expectations discussed earlier.

10. This combination of factors has led to extreme pressures on the Procurator Fiscal Service across the country, but especially in the main centres of population such as Glasgow, where the most serious cases tend to arise. Outturn expenditure by the Crown Office and Procurator Fiscal Service increased by only 11.5% over the 4 years to 2000-1 and, while the number of lawyers in the organisation increased by around 50 (18%) over the same period, much of this additional resource was absorbed by the extra work arising from the incorporation of the European Convention of Human Rights at devolution and the stronger legal policy functions required in the Crown Office following the creation of the Scottish Parliament.

11. The Service hit the public eye in November 2000 following the second unsuccessful prosecution of accused for the murder of Surjit Singh Chhokar. The public outcry that followed, with many feeling that the Criminal Justice System in Scotland had failed the victim’s family, led to the commissioning of two independent reports. These reports by Sir Anthony Campbell, QC, and Dr Raj Jandoo were published on 24 October 2001. The pressures that such extreme public scrutiny was placing on staff in the Service were already evident, however. In many ways this case was the final straw for a Service that felt embattled and undervalued.

12. An internal staff survey carried out in the Spring of 2000 made worrying reading. 55% of those that responded to the survey reported experiencing regular work related stress and 63% experienced occasional work related stress. Overall the profile was of a workforce that felt “stressed and undervalued”. The Department had concluded, in the light of the results of the staff survey to commission a service wide pressure audit which was expected to report late in 2001.
13. The publicity surrounding the Chhokar case had also precipitated an unprecedented enquiry by the Justice Committee of the Scottish Parliament into the “workings of the Department and the question of whether it was equipped to meet the needs of Scotland’s Criminal Justice System.”

14. The Lord Advocate and the Crown Agent considered that it was likely that significant changes in the way that the service carried out major areas of work would inevitably follow publication of these reports. It was in this context that the Management Review was commissioned, commencing in October 2001 for a period of five months. (Further background to the commissioning of the Review along with the terms of reference, steering arrangements and the method of working are set out in Annex A.)

15. The Service stands at a cross-roads. The public profile it has gained – for ill rather than good – and the subsequent public and parliamentary interest that have followed has brought many serious underlying issues out into the open. The Service has been forced to look at itself in a new light and compare itself with the rest of the public service in contemporary Scotland. We see this as an opportunity rather than a threat, and hope that this Review will provide a basis for the modernisation of one of Scotland’s most important and essential public services.

Structure of the report

16. In the first two chapters that follow we describe the work of the Service, including the role of Crown Counsel in the handling of the most serious criminal cases. We pay particular attention to the interactions that the Service has with its partner organisations in the criminal justice system. We make some recommendations on improving those relationships.

17. In the next three chapters we examine the way that the Service manages its business, the contribution of Information Technology to that, and the people management and communication issues we encountered. We make specific recommendations for improvement in each of these areas.

18. Chapter 6 discusses in detail the underlying structural issues that have contributed to the Service’s difficulties in recent years and sets out an alternative vision for the future. We recommend significant change in the management structures of the organisation at all levels. Finally, in Chapter 7 we provide some information on the likely costs of restructuring and comment briefly on implementation issues.
CHAPTER 1: THE WORK OF THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE

1.1 Introduction

1.1.1 The Crown Office and Procurator Fiscal Service exists to “provide the sole public prosecuting authority in Scotland; investigate sudden deaths and, where appropriate, conduct public enquiries; and to investigate independently all complaints of criminal conduct by Police Officers.”

1.1.2 The core business of prosecution is varied and complex. It starts with the “marking” of reports passed to the Procurator Fiscal Service by the Police. This is the process whereby legal staff assess the evidence in the report and decide whether or not proceedings should be taken against an accused and if so what the charge should be and in which court the case should proceed:

if proceedings are not to be taken there are a number of alternative avenues ranging from no action (“no proceedings”), alternatives to prosecution such as a warning letter, diversion schemes or fiscal fine;

if proceedings are to be taken there is a significant amount of work to be done in preparation for the trial.

1.1.3 For less serious cases, taken under summary procedure before a lay magistrate in the District Court or a Sheriff sitting alone in the Sheriff Court, the Procurator Fiscal uses statements that have been taken by the Police at the time of the crime was reported to prepare the case and decide which witnesses need to come to court. The further processes are to:

- cite the witnesses, commission any supplementary statements from the Police and forensic evidence from the laboratory;
- prepare and take an “intermediate diet” on a date around two weeks before the date set for the trial at which the Fiscal and Defence Agent have to advise the court if they are ready to go to trial and be able to say if the witnesses that they intend calling at the trial have been cited; and
- conduct the prosecution at the full trial diet, calling witnesses into the court to answer questions about what happened and summing up the case for the prosecution.

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1 As stated in the Department’s Annual Report. In addition, the Department supervises charities and investigates concerns about misconduct or mismanagement in the charitable sector, and administers property falling to the Crown.
1.1.4 The preparation for a Solemn Trial (where the evidence is heard before a Jury) is much more onerous. It involves:

- the preparation of a full written report (known as a precognition) containing the full details of the case and detailed statements (also called precognitions) taken by Procurator Fiscal staff from the essential witnesses;

- the submission of this report to the Crown Office for consideration by Crown Counsel (the collective name for Advocate Deputes) who will decide on the basis of the precognition whether the case should proceed in the High Court or in the Sheriff Court before a Jury or, even, be downgraded to a summary hearing in the Sheriff Court;

where the case is to be heard in the Sheriff Court before a Sheriff and Jury the case is prepared and presented by the Procurator Fiscal; but

where the case is to be heard in the High Court, while further preparation is carried out by the lawyer or para-legal that precognosed the case on instruction from the central “High Court Unit” in the Crown Office, the presentation of the case is handled by an Advocate Depute.

1.1.5 Full details of the various tasks carried out by the members of the Procurator Fiscal Service are contained in Annex C.

1.1.6 The Service faces particular pressures because of statutory time limits, unique to the Scottish Criminal Justice System, that date back to the 17th Century. These are especially acute when an accused is held in custody pending trial.

In petition cases – those to be held under solemn proceedings in the High Court or before a Sheriff and Jury – the indictment (the detailed charge) must be served on the accused within 80 days and the trial must commence within 110 days.

In summary cases the trial must commence within 40 days.

In petition cases where the accused is not in custody, the trial must start within 12 months, with the indictment served at least 30 days before that.

1.1.7 These statutory time limits place particular pressures upon the Procurator Fiscal Service. It is not the place of this Review to recommend changes to Criminal Justice Policy. It is clear, however, that these time limits are ever more rarely adhered to by the defence and are extremely difficult for the prosecution, especially in days when increasing reliance is placed upon modern forensic evidence which takes some time to prepare, or a case involves complex fraud or international crime where the body of evidence is very large and takes a very long time to analyse.
1.2 The Service and the Public

1.2.1 We mentioned in the introduction the ever increasing expectation of members of the public of the service. It was once possible for the service implacably to refuse to give any reasons for prosecution decisions, even to victims or the bereaved family of a victim. While it is still policy not to give detailed reasons for decisions the context in which the service is operating is continuing to change.

1.2.2 It will become increasingly difficult for the service to continue to decline to give reasons for its decisions and still remain accountable to the public. There have already been movements south of the border where the Crown Prosecution Service now has an explicit policy on giving reasons, although fairly limited information is given, mainly whether a decision not to prosecute was taken because of a lack of evidence or for some other public interest reason.

1.2.3 There has been much debate within the service in recent years about the policy on giving reasons. We recognise that there are often legal, evidential or privacy reasons why detailed explanations for decisions cannot be given, but it should be possible for the service to develop an approach that will go some way towards meeting the increasing public expectation of a demonstration of accountability and openness.

1.2.4 This is not to suggest that there is any reluctance on the part of the Procurator Fiscal Service to deal with the public, although there is certainly scope for closer contact with the community than exists at present.

1.3 Contacts with the Public

1.3.1 It can be challenging for all those who work in the Criminal Justice System to remember that those outside it find many of the structures and much of the culture confusing and at times threatening. Even the language used can appear deliberately confusing or exclusive. The public cannot be expected necessarily to appreciate or sympathise with the differing duties and responsibilities that fall to individual organisations within the System.

1.3.2 It is within these constraints that the staff of the Service face daily contact with victims of crime and witnesses essential to the proof of these crimes. Such contacts cover numerous situations. Examples include:

- the anxious telephone calls from witnesses wishing to be excused from appearing at court on a certain date because of medical, work or holiday commitments;
- advising already distressed relatives why a post mortem examination is being instructed;
- taking evidence from witnesses in court at a trial; or
obtaining a detailed statement at precognition from the victim of a serious offence.

1.3.3 In all such instances these members of the public would not choose to interact with the Service. They find themselves doing so because they have in some way been exposed involuntarily to a crime or death occurring that requires to be dealt with by the staff of the Service in the public interest.

1.3.4 The effect on the lives of those individuals touched by such events is wide ranging. Some witnesses and victims find it exceptionally hard to recover from their experiences and yet have effectively to revisit the events to enable proper preparation of criminal prosecutions or Fatal Accident Inquiries to take place.

1.4 The Services provided to Victims and Witnesses in cases of Serious Crime

1.4.1 Staff involved in the investigation and prosecution of cases at serious level require to deal sensitively with victims and witnesses who are often traumatised by their experiences and who are wary and uncertain of what will happen.

1.4.2 Many staff will admit privately that from time to time they find dealing so closely with some of the most difficult and disturbing cases deeply affecting but are always aware of the relative freedom that they have to distance themselves to an extent that allows them to deal professionally with the subject matter which is not an option for the traumatised victim.

1.4.3 There have been many initiatives launched by the Service over the past 20 years to improve the quality of service provided to victims and witnesses and which have been commended by those working with and representing them. These include special provisions now routinely made for child witnesses and vulnerable witnesses such as arrangement of pre-trial visits to court. This allows them to familiarise themselves with the surroundings within which the trial is to take place and can go some way to lessening the fear of the unknown.

1.4.4 The recognition that special skills must be acquired to enable effective precognitions of child witnesses or victims of any age who have been subject to sexual assault has also been praised, albeit that the constraints on delivery of such training (dealt with elsewhere in this report) mean that a lot still requires to be done. Much work has been done to provide user friendly information for those attending at court.

1.4.5 Detailed written guidance has been prepared for victims of rape and other sexual assaults explaining as clearly as possible what can be expected at the various stages of the investigation and prosecution process. It is recognised by the Service that no matter how well the precognoscer explains matters at the precognition interview it may be just too much to take in when also trying to cope with the distress caused by having to recount the detail of terrible events.
1.4.6 The Prosecution Code published by the Service last year is a general guide for the public. For the first time there is written confirmation in an easily obtained document available in hard copy and on the internet which sets out the criteria used by Procurators Fiscal to ‘mark’ cases. It also contains explanations of the way in which Crown Office and the Procurator Fiscal Service operate within constitutional constraints and those that arise from the actual operation of the legal system in Scotland.

The Victim Liaison Office

1.4.7 The Victim Liaison Office (VLO) has been developed by Crown Office to act independently of the COPFS and provide general information about procedures and courts to pass on to victims in certain categories of case, together with information about individual case progress obtained from the Service. In certain cases the VLO will be able to discuss concerns that a victim may have about the marking decision in a particular case and explain the background to the decision making process. Throughout 2002 work will be ongoing to establish the VLO throughout Scotland. A Director at Senior Civil Service Level took up post at the beginning of the year.

1.4.8 The key point about better treatment of victims, however, relates to the mainstreaming of this priority in the work of the entire Service. It would be a mistake to think that the creation of the Victim Liaison Office enables front-line staff to export the sensitive handling of victims so that it becomes someone else’s problem. There are worrying signs that significant numbers of staff are thinking this way, given the relief that they need from the other pressures in their daily work. The VLO can only support better treatment of victims. Staff throughout the service will need to improve their contact with victims, and other measures will be needed to address the underlying resource issue.

1.5 Services to Bereaved Relatives

1.5.1 The role of the Procurator Fiscal in the investigation of sudden deaths that are not necessarily related to any criminal activity also requires the ability to deal with bereaved relatives as sensitively as possible. Many are understandably very distressed and often anxious to ascertain as much detail as possible about the precise circumstances surrounding the death.

1.5.2 The range of circumstances surrounding sudden deaths that are investigated by the Fiscal is very wide. Suicidal deaths, accidental drug overdoses and road traffic accident deaths where it is later established that there is insufficient evidence to prosecute any person, are some examples of deaths regularly reported to Procurators Fiscal where post mortem examinations are likely to be considered necessary and further investigations instructed.

1.5.3 There may also be the need to explain why cause of death cannot be established with certainty, in spite of the autopsy having taken place, until the result is available from forensic tests which may take some time and involve retention of tissue samples or
organs all of which can add further to the distress of all relatives and particularly to those parents trying to cope with the death of a child.

1.5.4 Crown Office is currently preparing written guidance for bereaved relatives to explain what to expect from the investigative process and the reasoning behind some of the actions that the Fiscal may have to take in the public interest to ensure that a thorough investigation is achieved while reassuring that every effort will be made to accede to the wishes of relatives so far as is possible in these circumstances.

1.6 Representative Organisations

1.6.1 There are now many organisations representing those who have to interface with the Criminal Justice System as a whole. Some organisations were formed as a result of experiences following tragic incidents that they or their friends and relatives were personally involved in. We are aware of the representation that many of these groups have made to Crown Office over the years. Two examples are:

Victim Support Scotland (VSS), which has a broad remit to speak for those who are affected by crime as victim or witness. It has made many helpful submissions to Crown Office that have increased the Service’s understanding of the difficulties experienced by members of the public who come into contact with the Criminal Justice System; and

The Commission for Racial Equality, which has provided invaluable advice to Crown Office and the Procurator Fiscal Service in relation to the particular difficulties facing those from ethnic communities who have become involved in all capacities with the Criminal Justice System and the Service in particular.

Victim Support

1.6.2 Victim Support have regular well established contacts with COPFS staff at all levels in the organisation throughout the country. In general terms it was acknowledged that the Service had improved greatly over the past decade or so in its approach to victims and witnesses although there are still considered to be many opportunities for improvement.

1.6.3 Along with many other victim representatives VSS have been pressing for some years for the COPFS to issue reasons for ‘no proceedings’ markings to victims who wish this information. They consider this to be one of the biggest issues for these victims. They recognise that in many cases there are compelling reasons why such decisions are taken in the public interest. They argue that victims simply wish to be informed of the reasons behind the decisions and that many would be satisfied by that. On the other hand, the failure to give reasons is seen by many victims to be an indication that something has gone wrong within the COPFS and that attempts are being made to cover up mistakes, when it may be that there is simply insufficient evidence in law.
1.6.4 While the publication of the Prosecution Code is welcomed by Victim Support as a clear sign that the Service wished to engage even further with the public than has been seen in the past it does not go as far as giving of reasons in specific cases.

1.6.5 There was also some disappointment that there had been no real attempt to obtain feedback in advance from Victim Support about the style and presentation of the information. It might have been helpful to obtained views from Victim Support as to how the information could be presented most usefully for those who find themselves victims or witnesses.

1.6.6 VSS also expressed concern that the development of the VLO had to an extent been carried out in a vacuum given that Victim Support had recently developed the Witness Service as a separate arm of support services to victims from the main VSS functions.

The Witness Service remit includes dealing with all those witnesses actually called to attend court. Advice is provided about what to expect when attending court to give evidence. Witness Service personnel will accompany victims or witnesses at court if desired. The Witness Service will also approach Fiscal offices to obtain answers to specific questions that may arise on behalf of victims and Crown witnesses.

At the time that VSS was planning the Witness Service they kept Crown Office informed about the developments and would have welcomed an invitation from Crown Office to reciprocate at the time that the VLO was conceived. VSS applaud the concept of the VLO and consider that the Witness Service will to some extent compliment it.

1.6.7 While they have some concerns as to how the VLO will work in practice VSS accepts that such increases in the agencies specialising in providing assistance to victims and witnesses can only prove to be of positive benefit in the long term.

The CRE

1.6.8 The CRE has contributed a great deal to the emerging strategy of the service aimed at ensuring that diversity is valued within the Service. Major strides have been made to improve the quality of service to those from ethnic minorities who have previously been less well catered for in respect of their particular needs. The CRE worked with the Crown Office in development of the race relations strategy, assisted in the initial training in 1999 and in the assessment of training. In the past year or so further progress has been made to ensure that all information provided by the Service is able to be translated appropriately so that no section of society is excluded.

1.6.9 The CRE felt that the Service had a long way to go in improving contacts with the community. Local communities have been able to engage with to a much greater extent with the police than with the PF Service and it has always been more difficult to get
information from the PF Service. But they were optimistic that the Service could change as the police had been forced to in recent years.

1.6.10 The CRE reported generally positive contacts with the Crown Office. Their main concerns related to whether the mainstreaming of race issues in the service would, in fact, be successful without considerably more work. Some staff still do not appear to understand why they are having this training and CRE have perceived a sense of resistance among some fiscals. The mainstreaming of race issues will have to be sustained and carefully evaluated to ensure it is not lost among the pressures to make the service more efficient.

1.7 Contact with the main criminal justice system partners

1.7.1 As our remit requested, we spent some time talking to the Service’s partner criminal justice organisations to establish how effective these relationships were and to explore ways to encourage joined up partnership working across the Criminal Justice System. The detailed evidence we heard is set out in Annex D. We summarise it, along with our recommendations, over the following pages.

Police

1.7.2 The main issues coming out of contact with the Police appear to be as follows.

The need for some form of service level agreements to formalise the division of responsibilities between the Police and the Fiscal Service and what each partner can reasonably expect of the other in terms of speed of response and quality of delivery. Formalising these should help to overcome the variations in practice that the same police force encountered between different Procurators Fiscal.

The development of service level agreements with specific timing requirements should help to reduce the extent to which everything is done at the last minute by both the Police and the Fiscal Service, for example in relation to the issue and then serving of witness citations and countermands.

There is scope to promulgate best practice in the handling of Police leave and witness excusal requests, such as the pilot currently being carried out in the Edinburgh Fiscals Office.

Better understanding of each other’s business to encourage partnership working and break down the master/servant relationship and occasional arrogance that the police complained of.

1.7.3 Fundamentally, the import of the evidence we gathered was that communications are poor at all levels and in both directions between the Police and the Fiscal Service. Both sides need to work much harder at communicating effectively and constructively with each other. There should be no question of instructions that Police Officers should
not be allowed to telephone legal staff in the Fiscal Office. On the other hand, the onus should also be on the Police to avoid doing so unless absolutely necessary. There must be active liaison arrangements and every opportunity taken for staff to meet each other and learn about each other’s work and the pressures that each organisation faces. The more that there can be a shared understanding of those respective pressures the more effective will be the partnership working between the two organisations.

**Court Service**

1.7.4 Similar communication difficulties arise with the Sheriff Clerks and the Court Service. Overall the impression is one of chaos and firefighting arising from the relentless pressure of business.

There was general consensus that the differing targets of the Procurator Fiscal Service and the Court Service were often in conflict. It would be more sensible to have overarching targets which encouraged the two to work together rather than against each other.

Pressures of workload appeared to lead to less cordial relationships between Fiscal staff and Court Service staff than might be wished, exacerbated when Courts staff encountered variations in practice between different Fiscals.

1.7.5 Again, the two organisations should try to formalise service level agreements with a particular emphasis on timescales and the length of notice that should be given in various circumstances. Everything seems to happen at the last minute. A requirement to adhere to certain notice periods, even as a courtesy if not service level agreement, should help to discourage the firefighting culture that at present simply leads to more work for both organisation.

1.7.6 It is disappointing that there is so little common purpose between the two organisations at present and that shared, or even compatible, management information has not been developed. There is little point in both organisations collecting data separately (or not as the case may be). We commend the attempts in some Courts and Fiscal Offices to promote better partnership working. Once again the key to this is communication with staff in both organisations gaining a better understanding of the pressures and constraints upon the other organisation.

**Defence Agents**

1.7.7 Communication was also the message we heard in discussions with Defence Agents. They had good contacts with fiscals on a personal level and therefore a lot of sympathy for the pressures on the Procurator Fiscal Service. There were communication problems, however.

They found it frustrating that they were normally unable to speak directly to a legal member of staff about their case – the switchboard would take a message but
legal staff did not return their calls. They argued that this inability to have a sensible dialogue in advance of trial made it more difficult to persuade their clients to plead in advance of trial.

Defence agents also expressed concern that the Service was routinely sending less experienced fiscals into court. This could lead to delays in processing the business and concerns that fiscals were not always disclosing information fully to the defence, whether because of pressure of work or other cultural pressures.

1.7.8 It is clear that Fiscals need to have the time to be able to discuss the handling of cases with defence agents and negotiate early pleas when possible. It is about having the resources to be able to do so, including the administrative and IT systems that will enable a Fiscal to retrieve the relevant papers quickly enough. But it is also about taking an open approach to communication and positively inviting defence agents to make contact about cases. If this can be encouraged, there are opportunities for savings and greater efficiency, not only for the Procurator Fiscal Service, but for the whole criminal justice system.

1.8 Conclusion

1.8.1 In this chapter we have tried to give a picture of the current business of the Procurator Fiscal Service, the unique pressures that it currently finds itself under and to make some recommendations about how it might relate better with its external contacts: the public, victims and witnesses, and partner criminal justice organisations. In summary, our recommendations are as follows.

1.8.2 Recommendation:

Overall, despite continuing efforts in the treatment of victims and witnesses, the service remains too closed an organisation. It needs to learn to relate better to its partner organisations in the criminal justice system and continue to work at improving its contact with communities, the provision of information to the public, and the support provided to victims and vulnerable witnesses. In particular, we recommend:

The development of service level agreements with the Police formalising the division of responsibilities between the two organisations and the time scales for response and quality of delivery;

Service level agreements with the court service with a particular emphasis on timescales and the length of notice that should be given in various circumstances;

A new deal on making itself available to defence agents in order to encourage earlier pleas;
More interchange of staff and stronger communication relationships with both the courts and the police, as well as with the representative organisations such as CRE and VSS.

1.8.3 If there is a single theme to both the problems and the solutions in this chapter it is one of communication. All organisations suffer from communications difficulties at various points in the various times, but the Criminal Justice System seems to suffer more than most. It has been suggested to us in the course of the Review that there should be greater interchange of staff between the various criminal justice organisations and that this would also help to promulgate better understanding of the partner organisations’ pressures and difficulties amongst each other. This could be reinforced by a combined professional development programme for senior managers from across the criminal justice system. This goes beyond the remit of our Review, but is an idea we think worthy of further consideration.

1.8.4 We have concentrated on external contacts on this chapter. We have not yet touched in any detail upon the handling of High Court business, which is unique in that the prosecution is handled by an independent group of Advocates who are not members of the Procurator Fiscal Service. That is the subject of the next chapter.
CHAPTER 2: THE MANAGEMENT OF HIGH COURT BUSINESS

2.1 Introduction

2.1.1 The prosecution of accused for the most serious crimes takes place in the High Court. By their very nature, the cases that are heard in the High Court are invariably the cases that are the most serious, the most complex, the most high profile and attract the greatest public, press and even parliamentary interest. Given this context it is especially important that prosecutions in the High Court run smoothly and that High Court business is well managed.

2.1.2 The Procurator Fiscal Service has, in recent years, given particular priority to the handling of this most serious business. This has been particularly demanding given the marked increase in the amount of business in the High Court which, as we noted in the introduction, is set to rise by 13% this financial year compared with the last. The total number of High Court trials looks set to break the 1500 figure for the first time.

2.1.3 The management of High Court business is unusual in that the presentation of the case in the High Court is handled by an Advocate Depute, a member of Crown Counsel appointed by the Lord Advocate to conduct proceedings in the High Court, but not a member of the Crown Office and Procurator Fiscal Service. It derives from the fact that until the 1990s all lawyers appearing in the High Court were required to be members of the faculty of Advocates.

2.2 Reviews of High Court Work

2.2.1 This review is not alone in touching on issues around the management of High Court business. Reports are due later this year from 2 other review teams tasked with considering the issues surrounding High Court business in much greater depth than was possible in this review.

The Justice Minister, Jim Wallace, commissioned a complete review of High Court operations following on the submission of the reports in the Chhokar case. This is being led by Lord Bonomy.

The Lord Advocate has separately commissioned a review into the way that the Crown Office and Procurator Fiscal Service prepares and presents High Court cases. This is being carried out by the internal quality and practice review unit of the Crown Office.

2.2.2 It is not our place to make firm recommendations on the role of Advocate Deputes and the relationship between Crown Counsel and the COPFS. It is, however, important that we reflect and discuss some of the issues that impact on the effectiveness of the COPFS in managing its business and on the management of staff within the organisation.

\footnote{One member of the COPFS was appointed an Advocate-Depute for a term in the mid-1990s and was very successful. Otherwise only members of the Faculty of Advocates have been appointed as Crown Counsel.}
2.3 The Work of the High Court Unit

2.3.1 We summarised in Chapter 1 the process by which the preliminary work in relation to the prosecution of serious charges is carried out. Once the accused has been placed on petition, the preparation of the precognition (a compendium of the detailed statements from the essential witnesses in the case along with an analysis of the evidence) is begun.

2.3.2 When the precognition has been completed it is submitted by the Procurator Fiscal’s Office to the Crown Office for consideration by one of the Advocate Deputes. (Cases are not allocated to particular Advocates Depute but simply placed in a pile for whichever Advocate Depute may be free to consider the precognition.) If the Advocate Depute marks the case to proceed to the High Court the papers are then passed to a legal member of staff in the High Court Unit at Crown Office for careful scrutiny.

2.3.3 That legal member of staff will draft the indictment to be served on the accused and send a letter to the Precognoser, colloquially referred to as a “shopping list”, outlining any additional work that requires to be done prior to the commencement of the trial. (Some request for additional work to be carried out may simply reflect the particular practices adopted in the conduct of High Court cases which have not been adequately covered in the Procurator Fiscals Office.)

2.3.4 The major difficulty at this stage is the lack of clarity as to who is responsible and accountable for the case once the indictment has been served on the accused. Does the ownership lie with the High Court Unit or with the Procurator Fiscals Office that prepared the original precognition? This has been described to us as papers apparently disappearing into a black hole after the indictment has been drafter.

2.3.5 In the majority of cases there is still additional work that has to be carried out, such as that set out in the “shopping list”. The difficulty is that the Procurator Fiscals Office feels no ownership of the case once the precognition has been sent to Crown Office as the work of preparation and presentation in court will not be carried out by them. The High Court Unit staff, however, are not in the position of the Precognoser to carry out the additional work requested in the “shopping list” and, due to the sheer volume of cases passing through the High Court Unit, the staff are often unable to check that the additional work has been completed prior to the court sitting at which the case will be heard.

2.3.6 Given this context, the question of ownership is a difficult one to resolve. Additional resources for the High Court Unit would allow more time for the unit staff to ensure that all follow up work is completed satisfactorily, but the key factor is ensuring sufficiently good relationships between the High Court Unit and the Procurator Fiscals Offices so that unit staff are able to work with and influence the Precognoser in the Procurator Fiscals Office, bearing in mind that that Precognoser will already be engaged on the precognition of another case. However this is managed, it is essential that the case
is fully prepared and in a presentable state before it is handed over to the Advocate Depute. This does not always happen at present.

2.3.7 **Recommendation:**

*Formal systems need to be established to ensure that there is clarity over the ownership of cases between the service of indictment and the beginning of the trial.*

2.3.8 Once again poor communication lies at the heart of many of the difficulties. The issue of the “shopping list” letter is itself a bone of contention that inhibits good relationships between Fiscal Offices and the Unit. There seems to be insufficient time for Advocate Deputes and members of the High Court Unit to meet to discuss the handling of cases or to get proper feedback from each other. There is apparently not enough time for High Court Unit staff to foster better relationships with Precognosers in Procurator Fiscals Offices. Direct contact between an Advocate Depute and the Precognoser is even rarer.

For example, Advocates Depute tell us that a significant number of cases are not as fully prepared as they would wish and the precognitions are set out with a view to Crown Counsel taking a decision on the original marking of the case, which is quite different to what is required when presenting a case in court.

More generally Advocate Deputes expressed some dissatisfaction with the general layout of the precognition files, as specified in Chapter 4 of the Book of Regulations, albeit that the current layout was agreed with their predecessor Advocate Deputes in the mid 1990s.

2.3.9 Some of this again comes down to a lack of resources to deal with the ever increasing volumes of High Court business. It is a mistake, however, not to devote sufficient time to building good relationships between all of the key participants in the process.

2.3.10 **Recommendations:**

*A project should be carried out to review Chapter 4 of the Book of Regulations to take account of Advocate Deputes’ preferred layout for the contents of precognition papers presented to them immediately prior to trial including amended narrative and analysis sections relevant to the charges actually proceeded with.*

*The High Court Unit should work proactively to build better relationships with staff in Procurator Fiscal Offices and with the Advocate Deputes. This may involve more travel e.g. of Precognosers to visit the High Court Unit and Crown Counsel, and there will be resource consequences in both Fiscal Offices and the High Court Unit.*
2.4 Management and Support at Court

2.4.1 One of the awkward aspects of the fact that cases in the High Court are prosecuted by Advocates Depute rather than by Procurators Fiscal is that staff with prior knowledge of the case are not involved in the presentation of the trial. In many cases Advocates Depute would find it of benefit to speak to the Precognoser who has first hand knowledge of the intricacies of the particular case. The ideal would be to have the Precognoser in court – indeed this was the norm up until a decade ago – but this would interfere with the heavy workload of ongoing precognitions that each Precognition Officer has, bearing in mind the uncertainties over the programming of any court business. Fiscal Offices cannot, in general, afford to lose a Precognoser or Fiscal Depute for the length of time that such support would take. The additional resources that would be required to provide such a service appear at first sight to be prohibitive.

2.4.2 In its stead, each sitting of the High Court has the High Court Manager with one or more other Procurator Fiscal Staff in support of Advocates Depute. (It is perhaps a mark of the separation of Advocates Depute from the service that there are no dedicated administrative staff supporting them.) The present High Court Managers are providing the best service that they can in the circumstances but they are overstretched. This is particularly acute at Glasgow where three Fiscal staff attempt to assist six Advocate Deputies each with up to twelve trials. This leads to Advocate Deputies themselves (or a Crown Junior – a Junior Advocate employed on an ad-hoc basis to take notes on behalf of the Advocate Depute and otherwise provide support during the presentation of the trial) having to carry out much of their own administrative support such as photocopying and checking that all the necessary witnesses are present.

2.4.3 Again this is an issue of resources. There is a clear need for additional staff to provide support to Advocates Depute in the High Court Units. This is very much a management task, however, and it is questionable whether additional legal staff would be needed and the strengthening of support could be drawn from the administrative side of the Fiscal Service.

2.4.4 Recommendation:

The administrative support in the High Court Units should be strengthened (probably with Band B or Band C staff, i.e. AO or EO equivalents).

2.5 Recruitment and Appointment of Advocate Deputes

2.5.1 There is much debate generated within the Procurator Fiscal Service and Crown Counsel over the current method for appointing Advocates Depute and the fact that members of the Fiscal Service are not allowed to prosecute cases in the High Court. Whatever the merits of the arguments, this fact has a serious impact on the morale of fiscals and leads sometimes to injudicious comments upon the quality and skills of Crown Counsel.
2.5.2 There is, however, recognition from many that on the whole the quality of advocacy in the High Court is high and that the current system secures people with a range of other experience to work as Advocate Deputes. For example, recent examples have included expert in domestic violence and European Law.

2.5.3 Nevertheless, it is becoming increasingly difficult to attract Advocates to apply to become Advocates Depute. The remuneration package is typically poorer than that of a District Fiscal in charge of a large office. It is particularly poor compared to what an Advocate might earn in private practice. With the introduction of the new judicial appointments system, many Advocates see less point in becoming an Advocate-Depute, despite the fact that experience of criminal advocacy should stand them in good stead in any application to the judicial appointments board.

2.5.4 There have been concerns expressed to us about the quality of induction training for new Advocate Deputes, especially when they come from the civil or commercial background in their previous private practice. There seems to be a clear need for a more structured induction programme and perhaps more assessment of the potential skill of an Advocate at criminal business before an appointment as an Advocate Depute is made.

2.5.5 Members of the Procurator Fiscal Staff do not understand why, when they are the professional prosecutor in the Sheriff Court, conducting trials in front of a Sheriff and Jury, there are no opportunities for them to prosecute at the High Court. On the Defence side, it is possible for Solicitor Advocates to appear in the High Court. Many fiscals in the service have passed the equivalent exams that give them rights of audience in the High Court. Yet they are not allowed to prosecute in the High Court or be appointed as Advocates Depute.

2.5.6 Fiscals find this puzzling and in many cases demotivating, especially when their colleagues in the Crown Prosecution Service are now able to prosecute cases in the Crown Court to supplement the traditional use of barristers south of the border. They do not understand arguments that they are not sufficiently independent to assist the Lord Advocate in the High Court business as they do in all other criminal businesses. It closes off what many would see as an attractive alternative career path, specialising in complex and serious legal work rather than having always take on more management responsibilities to progress through the service. They were encouraged by the appointment of the Solicitor General from the ranks of the Service, but that one position is not sufficient to provide realistic alternative avenues for the many legal specialists in the Department.

2.5.7 These are important issues that impact on the morale of the Service. There is an important principal, however, about the protection of the service from any allegations of bias. The independence of Crown Counsel underpins that protection, by providing an additional perspective from someone who is not a career prosecutor. Fiscal Staff themselves accept that it can be helpful to have input at the indicting stage from someone who has not taken part in the investigative process in a particular case. They agree that legal staff who were involved in the precognition of a case may find it difficult to stand
back sufficiently to make the final decision and it is desirable to have the facts subjected
to the quality control of another’s scrutiny.

2.5.8 It is not for us to make recommendations about the appointment of Advocate
Deputes, something that is entirely at the discretion of the Lord Advocate. We think it is
important, however, to point out the issues that exist, especially the cultural divide that is
created by the current “closed door” policy to the appointment of Advocates Depute from
within the Fiscal Service. It may be that a mixed economy of appointments, with
strengthened appointment and induction processes, could work effectively without
necessarily compromising the independence of those that prosecute on the Lord
Advocate’s behalf in the High Court. We recognise that there are many considerations to
be weighed in the balance. We therefore recommend that further work be done on this
issue.

2.5.9 Recommendation:

That further work be carried out on the complex and sensitive issue of the
appointment and induction of Advocate Deputes and whether there is a place for
Fiscal Staff in that system.
CHAPTER 3: BUSINESS MANAGEMENT

3.1 Introduction

3.1.1 It is safe to say that the complaint we encountered most often from staff in the Procurator Fiscal Service was that they had insufficient resources – i.e. people – to carry out their work effectively. It is also worth noting that this view was reflected by a number of external sources – police and defence agents – who had experienced difficulties in their business relationship with the service. Many felt that these were at least partly attributable to pressure of business and a lack of fiscal staff to deal with that business. Our analysis of the work of the Service in Chapters 1 and 2 has served to reinforce this view.

3.1.2 In this chapter we consider the background to these complaints: the reasons why the Service may now be under-staffed; and whether, in fact, it is as much a question of how staff are deployed as the absolute numbers of staff. Given the continuing increase in the volume and complexity of business the service needs to learn to think and manage smarter rather than harder.

3.2 Organisational Resilience

3.2.1 The Procurator Fiscal Service faces unusual pressures for a public sector delivery organisation. Statutory time limits such as the 110 day rule – which requires that the trial of an accused person being held in custody must commence within 110 days of full committal – mean that the Service has little flexibility available when pressures of business increase. In other organisations, peaks of business can - to an extent - be dealt with by deferring certain work until the pressure of incoming work has declined a little – fiscals do not have that option.

3.2.2 This makes the provision of adequate staffing cover at all times absolutely essential, but the service currently lacks the systems to enable it to do so effectively. We were told many times that no account was taken of planned absences, whether for training or maternity leave. There is usually no attempt to fill a post left vacant temporarily, whether it is due to maternity leave or long term sick leave. This is partly because under the existing accounting conventions a budget holder (the regional procurator fiscal) continues to have to pay for the absentee for some time so there is no money available to pay for (even a temporary) backfill. In other organisations, it is normal for the salary of such staff to be met from a centrally managed budget to enable the work area to pay for a replacement member of staff.

3.2.3 Recommendation – Personnel should hold a central budget to pay the salaries of staff who, for whatever reason, are unavailable for work for an extended period to enable the budget holder to be able to pay for appropriate cover arrangements.
3.2.4 Overall, the service is very weak on the information it needs in order to plan and allocate its resources effectively. There is very little management information about the resilience of the organisation or how it varies from office to office. When unexpected gaps arise, even for short periods, there are few sources of help to the manager seeking to plug that gap or reallocate work in order that critical deadlines are met without unreasonable pressure being placed on the remaining staff.

3.2.5 It has been suggested to us by a number of staff that there should be a centralised or regional “flying squad” to help cover unexpected absences. The Scottish Courts Service operate such a system with around 4 staff located in their 3 Area offices on standby to enable court business to proceed where staff absences would otherwise make that impossible. We recognise that there is always a difficulty with such a system in maintaining the morale and enthusiasm of a group of staff that have no ownership of a body of work, and exist simply to fill gaps elsewhere in the organisation. However, there is a clear need to ensure that cover can be provided at short notice. A compromise approach may be to resource particular parts of the organisation sufficiently that they can provide short-term support to other parts.

3.2.6 **Recommendations:**

Regions should explicitly plan resource and work allocations to enable nominated staff to be redeployed for short periods to other offices where staff absence would otherwise jeopardise the ability to meet statutory deadlines.

The feasibility of setting up a centralised or regional ‘flying squad’ to help cover absences should be explored.

3.3 Management Information

3.3.1 Accurate and timely management information is essential to the success and continued business improvement of any modern organisation, particularly with a view to effective use of resources and high standards of service delivery. We have been surprised during the Review by the lack of coherent management information systems employed by COPFS and the amount of essential information needed for local and national consideration that is being collated manually or only on an ad-hoc basis. It is largely because of this lack that the organisation has failed to bid for and build in resilience in its staffing levels and workload planning.

3.3.2 One symptom highlighting the absence of much needed management information is that crucial deadlines are being missed or running ‘down to the wire’ in certain areas of the business. We understand, for example, that in some Fiscal offices many indictments in Sheriff and Jury cases where the accused is on bail, although submitted for Crown Counsel instructions in good time and rapidly returned with instructions to proceed, are actually issued on the last day for service because the Fiscal’s office has not ensured immediate turn around for service. The statutory time limits mean that the accused has to be served with the indictment by midnight that night – often requiring staff in Fiscal
offices to work late when there are large numbers to process and leaving the police only a few hours to serve them before their midnight expiry. There have also been examples of summary proceedings being commenced by means of warrants so that prosecution can continue, simply because the case has not been processed in time to comply with a statutory time bar. These instances point to there not being enough crucial management information available in these areas to set and monitor targets effectively (e.g. that 90% of bail case indictments should be issued for service 40 days before the sitting). In several of these situations, it is extremely fortunate that more has not gone wrong. There is a clear need to know much more about the work in progress and its current status, in order to predict and allocate adequate resource and meet targets. It is not enough to rely mainly on measuring input and output.

3.3.3 Recommendation: Case management systems should be enhanced to be able to provide management information about the status of cases in the system, measure these against pre-defined targets, and highlight any potential bottlenecks or ‘hot spots’. Particular consideration should be given to exception reporting, rather than simply status reporting.

3.3.4 In practice, there is currently no system for assessing the numbers of staff available for work in a given office, or the number of hours actually put in by those staff – i.e. the work input of the office. There was some work done in the late 1990s by an internal team on developing a performance management system for the service. One of its purposes was “to produce a model which would inform Senior Managers faced with difficult decisions as to the appropriate allocation of resources.” Part of this involved the collation of “weekly resource availability returns” from offices showing the number of input hours by each grade of staff in the office, taking account of all absences and overtime. It would then be easy to detect trends in resource levels in offices for whatever reason (e.g. an increase in sickness absence rates) and to take appropriate action either to address the cause of the trend, or to reallocate resources to take account of the trend. While these returns were piloted for a period, the information was never presented to management in a useful form and one opportunity to improve resource allocation was wasted. (The Department ranks poorly in its sickness absence rates when compared with other Civil Service departments. While the Senior Management Team receive regular reports on the numbers of long term sickness absenteees, the overall sickness absence rate seems to have been overlooked and there appears to have been little action taken to address this systemic issue.)

3.3.5 More generally, there was considerable effort put into the development of this performance management system. The Senior Management Committee agreed to implement the system, but the resources and impetus to do so were never delivered. While the system was undoubtedly not perfect, it would certainly have represented an improvement on what was available then (and what is available now). That opportunity was lost. Almost as significantly, many staff involved in its development were left

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3 Report to the Senior Management Committee by the Project Managers, November 1997, page 17
feeling that their hard work had been for nothing.

3.3.6 **Recommendation:** Consideration should be given to a service-wide system that records the number of “staff hours” input in each office (a “resource availability return”) and monitors trends in that availability. This would enable local and senior managers to detect when a problem was arising in a particular office and have the evidence to take action to address the cause or to bid for resources to address the consequences of, for example, an increased workload.

3.3.7 The service also takes no active role at present in predicting future trends in caseload and the impact this will have on the required resources if the tight work processing time limits are still to be met. Part of the reason for this is that there are significant problems with data availability on existing caseload. The service collects data on the numbers of cases disposed of and the disposal avenue for each. It does not, however, keep data on the number of cases outstanding prior to disposal despite the fact that some calculations should be possible from comparison with the numbers of new cases entering the system. This means that the data on numbers of cases provides a rather dated, historical perspective and makes any predictive use of the data far more difficult.

3.3.8 The service needs to adjust its data collection methods to ensure that it is possible to provide timely and valuable information about caseloads. Managers need information, by type of case, on the number of new cases reported to the procurator fiscal in each period, the number of cases disposed of, and therefore the number of cases still being processed. Given the information already recorded by SOSIV this should not be particularly difficult to arrange, nor should it take more than a day or so after the end of the period for the information to be available. This information would alert local and senior managers to any backlog of work building up in any particular office, or service-wide, and enable appropriate investigation and remedial action to be taken as a matter of urgency.

3.3.9 **Recommendation:** The Service should undertake a fresh management information project, with the objective of providing full information about caseload throughput, including a measurement of the number of cases outstanding in the system.

3.3.10 It is arguable that more detailed information is required on the amount of staff time spent on particular cases or different types of work. In private practice, for example, lawyers are used to the concept of time recording with every 15-minute period allocated to a particular client. The primary driver for such a system is to enable billing of clients. It does, however, provide valuable management information on the length of time particular cases take to handle and enable better prediction of workload for the future (and in the private sector model, more accurate cost estimates which will inform any tenders for future work.)

3.3.11 In the case of the fiscal service, such information would enable senior management to predict further in advance the resource consequences of any changes in
the character and volume of the cases being reported to the service by the police; and to facilitate better allocation of cases between prosecution teams within offices. We are reluctant to recommend the imposition of an additional chore on hard pressed staff unless absolutely necessary, but we are conscious of the need for this kind of information. It may be that sufficient predictive information would be obtained by random sampling of offices, or of individuals from different offices across the service, so that the burden of time recording was minimised and shared. As part of the development of the performance management system, a random activity sampling exercise was carried out for a two-week period during 1997 in a handful of offices, to establish a baseline timing for each type of case. These timings are currently used to weight different types of case and to compare these weighted caseloads in different offices. The weightings are recognised as being dated now, however, and senior management give little time to considering this information.

3.3.12 **Recommendation:** Consideration should be given to introducing a sampling time recording system to provide senior management with information on the input time required by staff to process different classes of case. This would alert management quickly to trends in productivity or in the complexity of cases being reported and enable remedial action, or the construction of an informed case for the reallocation of resources.

3.3.13 The main way in which the organisation can address its problems with a lack of management information is by introducing enhanced electronic information gathering systems at both local and central levels. This, however, will achieve only part of what is required. The remainder of the problem can only be tackled effectively by putting sufficient resources at the centre to be able to act upon the management information is being produced. In a modern and effective organisation, there should be no need to escalate problems upward through the hierarchy in order to have them tackled and resolved. There need to be more direct ways in which empowered staff at the centre can intervene and take action at an operational level when problems are identified. There may be a role, for example, for a small ‘Performance Management’ unit to oversee the resolution of particular issues and liaise with area managers to advise and assist on improving performance.

3.3.14 **Recommendations:** The Management Information D should be transformed into a Performance Management Unit championed at the level of the Management Board, with the resources to take action on emerging issues and resolve problems at an operational level.

3.4 **Budgeting**

3.4.1 In the course of the Review, it has become increasingly apparent that each COPFS region has established its own methods for determining and monitoring its annual financial plan. In particular, Regional Area Managers use different systems to derive potential staff costs and other on-going costs for subsequent financial years. This is not a criticism of the way in which RAMs are carrying out this role, but a pointer to a lack of a
consistent and standardised method to assist financial processes. In reality, the devolution of financial planning has translated into devolved standards and processes and there are **significant risks** to the way that this is currently being carried out. This particular example also highlights the need to provide further specific, updated training to all those who are involved in financial planning and management roles, although this alone will not resolve the issue without revising the processes and applying a clear set of standards.

Budget holders complained to us that there was a lack of central guidance available to them when preparing their bids for resources. There was therefore an inconsistency in the bids that came forward for consideration by the centre with some regions making quite different assumptions to others. We were also told by the budget managers that once the bids had been submitted there was no apparent corporate consideration of the relevant merits of the bids – the budget holders all sit on the Senior Management Team and would, therefore, have had access to any such discussion had it taken place. Their perception was that the bids disappeared into the central finance function where decisions had, in the past, been taken on the allocations without further consultation with the budget holders. In the budgeting round for 2001-02 budgets had not been issued or confirmed with budget holders 6 months into the financial year to which they applied. The lack of clarity this produced effectively paralysed further planning at the regional level and made good management in the regions much more difficult than it needed to be.

3.4.2 This lack of feedback has simply compounded the situation. The whole budgeting system appears to be in need of more stringent controls and a more coherent approach if good financial planning and management is to be achieved.

3.4.3 A more corporate approach to financial matters is urgently required, with the centre playing a much stronger and more supportive role in the organisation and co-ordination of these. The RAMs that support the budget holders should be bound into a corporate finance framework where they are loyal to the effective operation of the centre as well as to their area or region. There is a need to examine and revise the financial systems that are currently in place and consider whether greater collaboration with the mainstream Executive would bring benefits and save duplicating effort. We know, for example, that the Scottish Executive Accounting System (SEAS) was designed with a view to incorporating other associated departments. It would help in providing a standardised reporting and budgeting framework along with standard management information reports.

3.4.4 **Recommendation:** Financial systems should be reviewed and revised with a view to collaborating more closely with the Executive and adopting the Scottish Executive Accounting System (SEAS).

3.4.5 **Recommendation:** The central finance function should be strengthened to provide additional advice and assistance on financial planning and management to budget holders, and to devise and implement standards.
3.5 Work Processes

3.5.1 Currently, there is very little evidence of a corporate and united approach being taken to both standards and processes across COPFS. For example, the centre should hold regular conferences of budget managers to instil a corporate identity, common purpose and common standards. Viewed from a number of perspectives, the organisation can appear like a confederation of smaller organisations, rather than the national procurator fiscal service that it is. While, in a bygone era, this may not have been so apparent to those outside the organisation, it is now one of the main reasons that its practices and processes are so vulnerable to scrutiny.

3.5.2 We are aware of a number of situations where external bodies, e.g. police or defence agents, see a particular approach taken by one Fiscal Office and an entirely different one taken by a neighbouring Office. This is not an issue about the legal independence and autonomy of the local Fiscal, but is about the need to apply coherent and consistent corporate standards that are defensible and can stand up to challenge. To many, the Crown Office and Procurator Fiscal Service is the face of the legal process in Scotland – but they should not need to have any understanding of its organisation structure or geographical dynamics in order to expect consistent procedures and levels of service.

3.5.3 There can be little doubt that this lack of unity in approach and processing methods also impacts the effectiveness and efficiency of the business. For every ‘pocket of excellence’, there must be another area that is simply ‘getting by’. There are also bound to be areas where good practice or efficient techniques could be picked up and applied on a more widespread basis. There is a clear need for (a) a strengthened central role in defining and enforcing corporate standards and the principles behind corporate standards; (b) an acceptance by staff across the organisation that they are all working towards a common purpose and need to apply consistent corporate standards.

3.5.4 Recommendation: A central role should be created to champion and enforce standards of approach and methods across the organisation.

3.6 Core Functions

3.6.1 This raises the whole question of the COPFS core functions. Like any organisation the Crown Office and Procurator Fiscal Service has a range of corporate business functions required to support its core business of prosecution: Personnel; Finance; Internal Audit; Training; Estates; Information Systems; Management Information; Procurement and Welfare. At present all of these functions are centralised in the management services at headquarters under a single senior civil servant – an immense span of responsibilities for one individual.

3.6.2 The evidence that we gathered from staff suggested that the support provided from these central services functions was falling short of what they need, and that this was placing additional pressure on the front line staff. This view is reinforced when we
examine the overall staffing levels for these central functions and compare them to comparable organisations.

3.6.3 The overall impression is of a centre that has not been valued by the Senior Management in the Department and has in consequence not been adequately resourced for many years. The legally oriented culture of the organisation has tended to downgrade the status of the corporate functions, despite the fact that this then inhibits the effectiveness of the organisation at its core legal business. In the rest of this chapter we address specific points raised with us and avenues for addressing these issues.

3.7 The Press Office

3.7.1 Many staff and several of those who contributed to the Review from external organisations had concerns about how the Service deals with the media. Traditionally, members of the Service have been reluctant to engage with the media, feeling that it is not appropriate to comment on the details of prosecutions. Respect for the confidentiality of information held by the Service and the sensitivities of victims and witnesses remains paramount. There is, however, a need for a more proactive media management strategy given the nature of modern broadcasting and the increased activity of the Scottish media post devolution.

3.7.2 In recent years the Service has not had a good press. Staff can feel quite wounded by what they read in the newspapers. They now want to see a stronger press office, resourced to put their side of the story. We have noted elsewhere that most members of the public have a fairly poor understanding of the work of the Service. The media provide an avenue to address that knowledge gap and to promote the interests of the Service to the wider public.

3.7.3 The Department’s Press Office tries hard, but is not resourced sufficiently at present to provide the level of service the media, the public, and now, the staff expect. Their task is not made easier by the fact that there are often complex legal issues in the background of cases that end up under the media spotlighted. What is needed is a commitment to press and communications at the most senior levels, with the resourcing to match.

3.7.4 Recommendation: The Department should appoint a Press and Communications Director and, once that person is in place, be prepared to increase the resourcing of the Press Office further.

3.8 Personnel

3.8.1 The Personnel function is currently headed by a band F member of staff reporting to the Director of Resources and with a total of 9 other staff. This gives a ratio of 1 personnel officer to every 120 staff. This should be compared with the Scottish Executive which has approximately 150 personnel officers providing services to almost
7,000 staff giving a ratio of approximately 1 in 45 or a three fold improvement on the position in the Crown Office at present.

3.8.2 The feedback we received from staff showed the impact of the under resourcing of Personnel. Staff were very supportive of the work that Personnel staff carried out and very sympathetic to the pressures they faced. They found, however, that the lack of Personnel resource led to delays in recruitment, especially security clearance of new staff, and other situations that involved the movement of staff from post to post. When there were acute difficulties with staffing, for example disciplinary cases, managers felt unsupported by Personnel when trying to resolve the situation.

3.8.3 We also heard complaints from recent recruits to the organisation. They too noted the delays in the recruitment process. In more than one case the Department had been unable to give a binding confirmation that an appointment would proceed until 10 days before they had requested the individual to take up the post, which was well after they had been required to submit notice of their resignation to their former employer. It was also suggested to us that the recruitment advertising had been misleading in relation to pay and conditions.

3.8.4 We saw evidence of a lack of strategic approach to Human Resource Management which can again be put down to the lack of resource and time for such thinking and planning. The Department rarely seemed to be able to anticipate future staffing demands exacerbating the delays in recruitment mentioned above.

3.8.5 The Personnel function has found itself in a vicious circle. Without a sufficient senior management and planning capacity to develop a modern human resource strategy nor even to bid for the resources they themselves need they find themselves overburdened with essential routine tasks and unable to make the time for the strategic planning that is actually required.

3.8.6 Recommendation: There should be a new dedicated board level appointment of Human Resource Director, recognising the significant strategic work required which cannot currently be delivered by a post that combines Personnel, Finance and all other central management services. That Human Resource Director should then recruit additional staff to strengthen the breadth and depth of the function, developing a proactive human resource strategy and higher quality, customer focused, services to managers across the Department.

3.9 Finance

3.9.1 The Finance function is similarly under resourced and again lacks appropriate priority in the organisation. The impact is the lack of sufficient support to the budget holders (the Regional Procurators Fiscal and their Regional Administrative Managers) in their budget management capacity noted earlier in the chapter.
3.9.2 The existing general ledger system used by the Department is reliable but ageing. It is not flexible enough to produce quickly and easily the kind of management information that budget holders would find helpful. The result is that budget holders maintain local systems in parallel with the central ledger function. A considerable amount of time can be taken up by regional budget holders trying to reconcile their local system with the information from the central ledger.

3.9.3 It is clear that the lack of consistency in bidding and the general unwieldiness of the budgeting process has made it more difficult for the Department to monitor its resource allocation and, more importantly, plan and bid for its future expenditure requirements.

3.9.4 There appears to be an opportunity for the Department to modernise its general ledger and gain access to flexible management reporting by co-operating more closely with the Scottish Executive Finance function and joining SEAS (the Scottish Executive Accounting System) that has recently been installed across the Executive. This would promote the better integration of the Department with the other Departments of the Scottish Executive as well as providing benefits in improved financial systems and information.

3.9.5 Recommendation: The Service should approach the Scottish Executive to negotiate integration to the SEAS. We recommend that, in future, the central Finance function should issue detailed bidding guidance to the budget holders and should enforce consistency in the bids submitted from the various regions and Crown Office units. The Finance function should see its role as both Policeman and Social worker in supporting and policing the effective operation of a standardised budgeting and bidding process.

In addition the finance function requires a more senior post representing it either at board level of just below level as the existing management burden on the Director of Resources is too great for Finance to receive the attention it requires.

3.10 Training

3.10.1 Substantive recommendations on training within the organisation are contained elsewhere in the report. Like its other management services counterparts the Training Unit, however, suffers from a lack of resource with 8 staff serving the training needs of the entire organisation. While staff were very complimentary about the quality of training delivered, the training unit is not valued by the organisation as a key part of its corporate structure. It is essential that in future training considerations are mainstreamed into business planning and that the Training Unit is adequately resourced for the increased training provision we recommend elsewhere.

3.10.2 Recommendation: The training unit should be strengthened to support a significant improvement in the level and coverage of training across the
organisation. We also recommend that the training function should be represented appropriately on a management board (through the dedicated Human Resource Director) to ensure that the training implications of any strategic change are considered by the Management Board at an early stage.

3.11 Other Management Services Group Functions

3.11.1 Other key parts of the Central Services in the Department find themselves under resourced.

3.11.2 The Estates Unit has only 3 staff, including one exclusively devoted to Health and Safety matters. The Unit fulfils a very important role with a large and, in many cases, ageing estate spread across the whole of Scotland. With its existing resource level the Estates Unit is unable to provide a quick and flexible response to accommodation issues around the country. It does not have the staff to travel regularly around the Estate dealing with issues face to face and reassuring managers that there is an Estates and Accommodation presence available to help them. Like other parts of central services, there needs to be a stronger customer focus with particular and measurable customer satisfaction targets. The move to smaller team working arrangements discussed elsewhere in this report may prove a particular challenge for the Estates function as it may well require the modernisation of much of the existing Estate. There may be some scope for integrating the Estates function more closely with its larger counterpart in the Scottish Executive.

3.11.3 **Recommendation: The Estates Function should be strengthened.** There should be a new and explicit customer orientation with feedback sought on a regular basis from the users of the Estates and Accommodation function. Modernisation of the Estate should be set as an explicit target so that more flexible accommodation can be provided to meet the modern demands of integrated teamworking that we recommend elsewhere in the report.

3.11.4 Other central functions such as Procurement, Welfare and Internal Audit might well benefit from closer integration with the equivalent functions in the Scottish Executive. It is not clear that the Service requires independent provision of these services, provided there are staff dedicated and sensitive to the particular requirements of the COPFS. For example, the procurement function might benefit from access to the better value call off contracts that the larger Scottish Executive can command. The staff themselves in these units should benefit from access to stronger professional development opportunities in the wider Scottish Executive.

3.11.5 **Recommendation: The Service should seek to integrate these functions into the wider corporate services of the Scottish Executive, while maintaining units dedicated the specific needs of the Service but gaining from the flexibility, economy of scale and a stronger corporate identity gained from proper integration with the rest of the Scottish Executive.**
CHAPTER 4: INFORMATION SYSTEMS

4.1 Introduction

4.1.1 With information technology playing such a key part in carrying out the business of the modern office, it is not surprising that one of the main areas of feedback during the Review was on the subject of Information Systems. In addition to some concerns that were voiced about IS resources, the implementation of FOS, and the workload of the IS Helpdesk – there was also some very positive feedback about the impact that information technology is having across the office.

4.2 Positive Feedback

4.2.1 Many staff were extremely positive about SOS and none questioned the business need and rationale for this type of electronic case management tool. While some expressed marked disappointment at having lost some elements of functionality in the upgrade from SOSII to SOSIV, the arrival of SOSVI was greatly anticipated.

4.2.2 The Crown Office deserves a great deal of praise for the vision and ambition of the Future Office System and we endorse many of the principles underpinning it. Moves to increase connectivity with the rest of the Criminal Justice system in Scotland are also to be applauded and demonstrate that the department is happy to embrace new technology and look at new ways of working with its partners in the system.

4.2.3 In general, staff at all levels also welcomed the recent rollout of desktop computers across the office, with many confident that access to e-mail and the Intranet offered a range of possibilities and business benefits to the organisation.

4.3 General IS Resources

4.3.1 One of the main issues raised by staff was that the Crown Office IS Unit appears to be substantially under-resourced for the level of support and development work being demanded of it.

4.3.2 This perception would seem to be borne out by a comparison of the number of IS staff in the Crown Office with those performing similar functions across the rest of the core Scottish Executive. The Crown Office currently employs 18 IS staff to support 1200 staff in over 50 locations throughout Scotland – a ratio of 1 member of IS staff to every other 67 staff. This compares with 1 member of IS staff to every other 20 staff in the mainstream Executive. While there is no accepted optimum figure for the ratio of IS staff to those whom they are supporting, this disparity would seem to lend weight to the assertion that Crown Office IS Unit is currently under resourced.

4.3.3 The differential in IS resources is further compounded by the ambitious nature of several of the ongoing projects. The additional support work created by extending IT facilities to all members of staff and implementing FOS will have a large impact on IS resources. Part of this support role must also include educating and assisting the user community in order to build core IT competencies across the organisation. It will be
necessary for the Crown Office to invest significantly in IS resource to ensure that these projects are successful.

4.3.4 The overall picture is of insufficient resources devoted to IT within the Service.

4.3.5 Recommendation: IS resources should be increased in line with the additional level of support required and the increasingly business-critical role of IT systems to the office; particular attention needs to be given to how these resources are deployed both operationally and geographically;

and

that the Service examine the ways in which it could collaborate more closely with the mainstream Executive on IS-related matters and look at the potential for sharing resources in some aspects of support and development.

4.4 IS Strategy and Development

4.4.1 Although a number of IS staff are currently engaged in some degree of development work, there appears to be little dedicated resource given exclusively to IS strategy – be that technical strategy, research and development, IT exploitation, or knowledge management.

4.4.2 Most, if not all, Crown Office IS staff combine support and development functions within their role – meaning that the time spent ‘fire-fighting’ impacts heavily on the time available for development. While this may certainly create interesting and challenging roles for the staff involved, the inevitable end result has been slippage on several key development projects. The recent PC rollout, for example, was hampered by the resources involved having to perform network support and implementation functions simultaneously. This is a clear illustration of the risks associated with individuals performing several, often conflicting, roles.

4.4.3 While it is entirely possible – indeed, desirable for the development of the job-holder - to combine elements of support and development in any role, careful consideration needs to be given to separating the support and development functions currently resting with individual members of staff in IS Unit. True project management is extremely difficult to achieve if the deployment of resources continues to be influenced heavily by demand and reaction. Separate IS teams dealing exclusively with support or strategy & development are the best way to address this problem.

4.4.4 Another effect of these conflicting roles has been a lack of capacity for strategic analysis. This is borne out in evidence by considering problems during the upgrade of SOSII to SOSIV. It appears that some key functions were lost in some Procurator Fiscal Offices, largely due to a lack of version control and software standardisation. Because of
local ‘fixes’ applied to the software, it seems that some offices had extra functions available to them in version II that was not available in others (i.e. the software was not standard across COPFS). In an attempt to standardise, everyone received identical functions under version IV meaning, for example, that offices lost the ability to use online forms – for example, countermand forms. We understand, at the time of writing, that only Glasgow now has this facility available.

4.4.5 The role of the User Group involved in specifying priority functions for SOSIV has been the subject of some debate, as has the assertion that users did not realise that some functionality would be removed from SOS as part of the upgrade. However, our primary concern that we have is that end-users lost functions that they had come to rely upon in processing their business.

4.4.6 Given the clear user-led demand for the reinstatement of some of the functions lost in the upgrade from SOSII to SOSIV, it would be extremely prudent for the IS Unit to re-examine the functionality of version VI. This should be done with a view to reinstating previous function if technically possible or finding alternative ways of achieving them.

4.4.7 **Recommendation:** The IS function should identify separate dedicated strategy and development roles;

and

that SOSVI take account of any functionality that was lost during the upgrade from version II to version IV.

4.5 **Introduction of the Future Office System (FOS)**

4.5.1 The Crown Office plans to start implementation of the Future Office System later this year. FOS is intended to be an electronic workflow and document management system, developed by software consultants, which will enable many core business processes to be carried out electronically. By putting the PC workstation at the centre of its day-to-day operations, COPFS anticipates that legal staff will carry out large elements of their work - e.g. case marking - on screen. It is envisaged that this will lead to a reduction of duplicated effort during text creation/text entry, improved process flows, and easier document storage and retrieval. A further intended result of all of this is a reduction in the level of clerical support that the Office requires.

4.5.2 We believe that the Crown Office needs to give further thought to the business case for introducing FOS. While the use of technology to support business processes is to be applauded, it is our understanding that one of the overarching aims of FOS is to achieve a 1:1 ratio of legal to non-legal staff. However, it is not clear that a full cost analysis and risk assessment has been done to measure the impact of this. How will the system affect the workload of legal staff? Will it mean, for example, that they have less time available to appear in court? Testing of the first phase of the software would
certainly seem to suggest that there are workload issues that are worthy of further investigation. On the whole, the value-for-money that FOS will deliver needs to be carefully considered before proceeding further with the project.

4.5.3 We do not, by any means, intend to imply that the introduction of FOS is a bad idea, or that some of the extremely good work done to date should be disregarded. However, there are other options for how FOS is designed and implemented that would still improve processes and offer value for money, but would help to minimise some of the risks that currently exist - for example, should FOS be developed around a more hybrid operation that would make greater use of administrative staff?

4.5.4 Undoubtedly, a great deal of time and effort has gone into the design and development of FOS. However, in whatever format it is eventually implemented, it seems to us that crucial preparations to change the underlying business processes are at a much earlier stage.

4.5.5 Any technical solution, no matter how good or how comprehensive, will be seriously undermined unless urgent attention is given to how the business processes and user skills need to change in order to support it. A drive to analyse, communicate and implement process change is required in advance of the rollout of the technical solution. The size of the business and cultural changes needed across COPFS for the successful implementation of FOS should not be underestimated. Other organisations, with well established IT competencies and lengthy experience of electronic working, have found it difficult to achieve similar exercises.

4.5.6 Further work is required on identifying the business changes that need to be made at a local level to accommodate the introduction of the electronic system. There needs to be an urgent exercise to adapt current (non-IT) business processes to mirror the new system well in advance of it being rolled out.

4.5.7 The Crown Office also has a hill to climb in raising the general IT competencies of staff in order for FOS to be a success. We have found the lack of IT literacy across the organisation very worrying. This is not a reflection on the staff themselves, but is symptomatic of the opportunities that the organisation has missed by seriously underestimating the priority that should be given to IT. The fact that PCs have only recently been rolled out across the organisation, in combination with the questionable effectiveness of cascading initial IT training via ‘lay’ trainers, is further demonstration of this. In view of the aims of the Modernising Government agenda, the Crown Office needs to concentrate efforts on raising the IT skills of its staff as a matter of urgency.

4.5.8 There are a number of serious implementation issues around FOS. We recommend that:

- the business case for FOS be given further consideration, including an assessment of its impact on the workload of legal staff; more thought needs to be given to the value-for-money issues involved in legal staff carrying out
more administration, and the possibility of introducing a hybrid system where clerical staff would play a larger role in the processing of cases;

the underlying business changes needed to support the introduction of FOS be identified and implemented; and

urgent work to improve the IT competencies of COPFS staff and provide training, guidance, and greater support to staff; the current policy of using ‘lay trainers’ to perform IT-related training is in need of revision.

4.6 IT Helpdesk

4.6.1 Feedback during the Review tells us that users regularly experience difficulties in reporting problems to the IT Helpdesk, and lengthy delays in the problems being rectified. There are a quite a number of examples of staff repeatedly getting the engaged tone, leaving numerous messages on voice-mail, and waiting days for relatively minor problems to be resolved. Yet, it should be noted that not one individual across the organisation had anything critical to say about the Helpdesk staff themselves, with the vast majority of users sympathising with their workload and the apparent pressures that they are under. Further investigation has satisfied us that lack of resources is indeed a major part of the problem. With IT facilities now having been extended throughout the office, the Helpdesk and network support areas are substantially under-resourced and require significantly more staff. If on-screen electronic working is to be at the core of Crown Office operations, then delays in rectifying network and PC problems present significant risks to the business of the organisation that need to be addressed.

4.6.2 However, in addition to the above, we believe that there is scope to improve the service and systems of the IT Helpdesk from within. A greater emphasis on customer service and customer care is needed – along with the realisation that the rest of the service is the customer and needs to be seen as such. Regular customer feedback must be sought – with the aim being continuous improvement. However, we fully appreciate that this requires adequate resources.

4.6.3 The system for prioritising and escalating calls is also in need of attention. The Helpdesk currently operates largely as a problem-logging facility rather than one that provides true 1st level support – for example, it should be checking problems against a script of known and recognised problems in an attempt to resolve them before passing on for greater technical input. There is a clear need for the Crown Office to consider how it can truly provide 1st, 2nd and 3rd line support to users – with the aim of having the most appropriately skilled people deal with the problem at each level, to ensure the best use of time and resources.

4.6.4 Currently, IS support across COPFS is not at all well tailored to the needs of a geographically dispersed organisation and there can be little doubt that the people located further from the centre receive a poorer service as a result. There would seem to be some scope to consider distributing components of IS support at a much more local level.
4.6.5 In relation to the helpdesk, we recommend:

deployment of additional IS resources within the IT Helpdesk and network support area; there may be scope to deploy a small number of these at geographically dispersed locations to provide on-site support more readily;

that the IT Helpdesk undertake professional customer skills training and the implement regular customer surveys and feedback forms; and

review of the IT Helpdesk systems; the potential for greater collaboration with the SE Helpdesk, or even integrating 1st level support with the SE Helpdesk, should be considered carefully.

4.7 IS Career Development

4.7.1 A number of IT staff have told us that they feel under-valued by the organisation and not recognised or rewarded as professionals. This may well be perpetuated by the fact that the Crown Office does not currently operate any accredited development scheme for its IT professionals. As a consequence, career development and the planning and delivery of training is not approached in a structured or systematic way.

4.7.2 IT staff in COPFS have made obvious comparisons between the financial rewards that they receive, and the rewards given to professional IT staff in the mainstream Scottish Executive. They are only too well aware of the inconsistencies that mean that they receive no form of Recruitment and Retention allowance – which is payable in mainstream SE - based on their IT competencies. With this allowance having been absorbed into their general salaries in a previous pay and grading exercise, new IT staff no longer benefit from it, meaning that they earn approximately £4000 less per year than their equivalent in the Scottish Executive. The nature of this anomaly is even stranger when considering the individual roles of IT staff in the Crown Office. Arguably, because of their smaller numbers, they need a greater breadth of knowledge and skills. We believe that the eroding of IT salaries is symptomatic of the lack of priority given to IT and makes the Crown Office less attractive to skilled IT staff than other Departments of the Executive.

4.7.3 IT members of staff in the mainstream Executive participate in the Professional Development Scheme (PDS), which is an industry recognised scheme run and monitored by the British Computer Society. PDS provides a framework that allows participants to map and record their professional skills, development and training. As a Department of the Executive, it is highly likely that the Crown Office would be covered by the agreements and procedures already in place within SE and we believe that participation in the scheme should be considered.

4.7.4 We recommend that:
the IS unit adopt the same professional development framework as IT specialists in the mainstream Scottish Executive;

the scope for closer integration of IT services with the Scottish Executive be explored; and

note that Crown Office IT salaries may need to be evaluated against those of the mainstream Scottish Executive in the light of any recruitment and retention considerations.
CHAPTER 5: MANAGEMENT AND PEOPLE

5.1 Introduction

5.1.1 It is often said that an organisation’s most valuable resource is its people. This is certainly the case in the Crown Office and Procurator Fiscal Service. The organisation has a skilled workforce carrying out complex tasks in often difficult circumstances and in co-operation with many external contacts elsewhere in the criminal justice system. Many staff are working very long hours to ensure that their primary objective – the effective and consistent investigation of crime, and the prosecution of offenders – is carried out successfully.

5.1.2 The preceding chapters have made clear the extent of the pressures on the service and on its people. That pressure is detrimental to the effective operation of the service and, indeed, to the success of the wider criminal justice system. It contributes to a serious morale problem in the workforce.

While it was still fair to say that staff were in general committed to the principles of their occupation and found the content of the work enjoyable and varied, there was marked lack of commitment to the organisation and general distrust and suspicion of senior management.

Staff reported significant levels of stress in the workplace. This had been raised in a staff survey carried out by the Department in the Spring of 2000, which found staff feeling “stressed and undervalued” and was confirmed by the subsequent pressure audit carried out by Success Through People (summarised in Annex E). This is a situation that should concern the management of any organisation.

5.1.3 Pressure of work (and the underlying resource issue) is certainly a cause of much of the existing morale problem. But there are many reasons why staff may feel undervalued. We seek to address some of these people management issues in this chapter. Whatever the cause, the inevitable result of low morale in the workforce is that the organisation performs below its best.

5.2 Communication

5.2.1 Communication, or rather the lack of effective communication, is one of the strongest themes running through first two chapters of this report. It was also one of the issues raised with us most often by staff during the Review. There is no doubt that Senior Management in the organisation have tried to improve communications throughout the service. Nevertheless there appears to have been a little success.

There were a catalogue of examples of significant changes in the organisation being introduced without consultation with staff and without adequate management of expectations.
More generally, staff were not convinced that there was a real dedication within the organisation to the concept of open communication.

**Senior Management and the Crown Office**

5.2.2 There was a feeling that Senior Management were distant, isolated in the Crown Office, and with very different motivations and interest from the rest of the Service. It was clear that staff in general had a very poor understanding of the role of the Senior Management Team (SMT). Its attempts to communicate by way of the core brief (a summary report circulated to all staff after each meeting of the SMT) failed, perhaps because there were usually few decisions to report and the long and discursive document was considered by most to be unenlightening.

5.2.3 Overall, Senior Management are not sufficiently visible to staff throughout the organisation. Staff feel that they are not consulted sufficiently before important decisions are taken that have a material impact on their work. The Senior Management Team, like the rest of the Crown Office, needs to be seen more by staff around the country.

5.2.4 The Crown Office is the headquarters function for the service. It provides essential services, both management and operational support. Yet the Crown Office as a whole is held in low esteem by many staff. District Offices see the Crown Office as an encumbrance, or necessary evil, rather than as a supporter of the core objective of effective prosecution. We heard many complaints about the increase in staff numbers in the Crown Office in recent years at the expense of resources to the front line. (It was true that additional staff had been recruited to the Crown Office to cope with the additional work created by devolution and of the Parliament, but the negativity this generated in District Offices was out of all proportion.)

5.2.5 We were surprised at how few staff in the service had had exposure to the Crown Office. Some had been to Edinburgh only once as part of a short induction; others not at all. Not surprisingly, staff that had spent time in the Crown Office had very much more positive views of the work done there than staff who had not.

5.2.6 On the other hand we heard tales about staff spending too much of their career in Crown Office without any exposure to the frontline. This fed the view in the Districts that the Crown Office did not understand their core business.

5.2.7 This cultural division between the Crown Office and the rest of the Procurator Fiscal Service is clearly unhealthy. It is not unusual in large organisations for there to be a general disaffection with the centre. The Crown Office has been poorer than most, however, in taking steps to minimise such disaffection. There needs to be much more proactive communication between the Crown Office and the frontline.
5.2.8 **Recommendation:**

There needs to be greater interchanging and mutual understanding between Crown Office and District Offices.

As they have done in the past, Crown Office Units should go “on the road” to promote their work to District Offices. Members of Senior Management (or even meetings of the whole Senior Management Team) should be seen in other offices.

There should be more regular interchange of staff between the centre and the districts giving the Crown Office the benefit of recent frontline experience and a network of alumni across district offices, and district offices the benefit of recent experience of the Crown Office and staff who have the networks to more easily communicate with and influence the centre.

In particular, more use should be made of “development deputes” – postings lasting around a year – which would give many more staff the experience of working in Crown Office.

Care should be taken to ensure that staff that spend more than two or three years in the Crown Office get regular exposure to front line work.

**Managers’ Communication Skills**

5.2.9 It was also clear that many managers did not communicate well with their staff. We were told that managers often retreated behind the closed doors of their offices and were relatively inaccessible to their staff. There was not much evidence of “management by walking about”. We were also told of bullying behaviour by some managers, and this was also reflected in the stress audit.

5.2.10 Managers themselves told us of the lack of training and skills development in management and communication that they received. This lack of training combined with a tendency to promote legal staff on the basis of their legal skills rather than their business or people management skills. In such circumstances, management and communication training is all the more important.

**General Communication Issues**

5.2.11 More generally, communication in a widely distributed organisation such as the Procurator Fiscal Service is always going to prove a challenge. Modern technology such as email, Intranet and video conferencing can help significantly. The lack of such technology has proved a hindrance in the past but even during the period of the Review the increasing coverage of new IT equipment, enabling universal access to email and the Intranet, has led to a marked improvement in the speed and quality of communication.
5.2.12 **Recommendation:**

The service should commit itself to greater use of modern communication technologies, upgrading the currently primitive Intranet.

**Cultural Barriers between Legal and Other Staff**

5.2.13 We were often told by legal staff of how hard the administrative staff worked. There was considerable sympathy for the pressures that administrative staff faced, especially with the increasing use of casual staff who needed extensive training and support from the permanent staff. Nevertheless, we were regularly told of a cultural divide between legal and non-legal staff.

5.2.14 This was evident in the accommodation arrangements in most offices, where legal staff all had their own individual rooms away from the administrative staff. Legal staff often congregated in larger rooms to carry out much of their work, such as case marking or trial preparation but these were still some way removed from the administrative staff. The physical barriers imposed by the accommodation significantly hindered good communication and made a cultural divide that much more likely.

5.2.15 We are confident that having legal and non-legal staff sharing accommodation would markedly improve communication and help to break down these cultural barriers. This is inherently linked to our proposals for multifunctional teamwork in chapter 6.

5.2.16 **Recommendation:**

More use should be made of open plan accommodation mixing legal and non-legal staff in the same environment as part of the move to multi-functional teams.

**Role of Precognition Officers**

5.2.17 By definition, Precognition Officers (POs) play a unique paralegal role in the organisation. While this can offer a great many opportunities and challenges, several precognition staff have told us during the Review that they also experience a number of difficulties with their role in the organisation – simply because, in their own words, they are “neither one thing or the other”. Many staff became POs because of the lack of alternative promotion avenues at present within the Service, when they may not otherwise have considered precognition work.

5.2.18 One particular concern raised by Precognition Officers focused on the way in which they are currently managed within the structure of COPFS - with many feeling that the previous arrangement incorporating the supervisory role of Higher Precognition Officer was more effective and gave them greater opportunities for career development. We appreciate that the removal of the HPO role can make it appear that there is no ‘natural’ outlet for POs looking for progression. We understand, however, that the grading - and therefore salary - of Precognition Officers was subsequently reviewed and revised.
favourably. We feel, on balance, that the best way to address the management issues raised by Precognition Officers is not to recreate artificially an additional role in the hierarchy – but instead to concentrate on moving towards a true and effective team structure that will see Principal Deputes operating as Team Leaders in true multi-functioning teams mixing Fiscal Deputes, Precognition Officers and Administrative staff.

5.2.19 Precognition Officers also told us about the skills they feel are needed in order to do their job well and the difficult situations that their work can present. We recognise this and acknowledge the importance of working up a development and training framework for those already within the PO specialism. Assessment of the relevant competencies (or the ability to develop these competencies) could be introduced for those who wish to enter into precognition work from other areas.

5.2.20 **Recommendations:**

- Set-up a development and training framework for Precognition Officers on the basis of the core competencies required.
- Introduce Assessment Centres for would-be Precognition Officers to test abilities against core competencies before entry to the specialism.

**Other paralegal opportunities**

5.2.21 There has been discussion within the Service about the possibility of paralegal staff undertaking some of the more routine District Court prosecutions (ie the processing and prosecution of minor statutory offences.) This reflects the move in the Crown Prosecution Service to use Designated Caseworkers for straightforward pleading diets and other routine business. A feasibility study is to be carried out in Glasgow and Strathkelvin. We believe such initiatives should help further to break down barriers between legal and administrative staff and we welcome the proposed study.

**5.3 Pay and Performance Appraisal**

5.3.1 Changes in the appraisal system and in pay and grading in recent years provide a case study of how communication and consultation within the organisation can fail.

5.3.2 The Department implemented in 2001 a new appraisal system for all staff not in the senior civil service moving from a 5 box appraisal system to a 3 box system. Staff find the new system demotivating as they see no scope for differentiating between the good enthusiastic worker who does not quite merit an outstanding marking and someone who simply turns up at work and does the bare minimum required.

5.3.3 The benefits of the new appraisal system have not been well marketed to staff. Under the system, all staff marked as fully effective receive a greater consolidated pay rise than they would received under the old system. Most importantly, the three year pay deal for the years 1999-2002 was the most generous for many years. Overall the payroll
was anticipated to rise by over 20% with most staff receiving a larger pay increase than they would have done under the old system. Yet legal staff were so disenchanted with the new proposals that they voted to reject, the pay deal. The underlying problem seems to have been a failure to consult on the appraisal system before its introduction and a lack of resources to train staff fully and help them to understand the purpose and operation of the new system. The overall effect has been a large increase in the Department’s pay bill accompanied by a loss of staff goodwill – the worst of both worlds.

5.3.4 **Recommendation:** The Department should undertake a major communication and training programme, as one might expect from such a major change in the performance management system of the Department, to ensure that staff understand the purpose and operation of the new system and to ensure appropriate standardisation of appraisal across the Department.

5.3.5 Another example of poor people management dates back to the mid-1990s when the Department restructured its grading system. In the past legal staff had been promoted automatically after five years in the organisation reflecting their greater level of experience. In future, legal staff would only be promoted if they moved into legal management positions. While it was undoubtedly right to move away from the old through grading system, it is questionable whether it was wise to remove the only promotion avenue for staff that wished to concentrate on specialist and complex legal work. The lack of any non-management promotion avenues continues to be an issue for many legal staff.

5.3.6 In addition, the assimilation of staff into the new structure was poorly handled. While one would expect that staff would not lose pay as a result of the regrading there was no attempt to buy out preserved rights. Staff were allowed to retain their old job titles, and still do so today. The streamlining benefits of the new grading structure were effectively lost – staff continued to behave as they had always done and there was resentment of those staff who had moved into the new Principal Depute Grades.

5.3.7 **Recommendation:** The service should consider carefully the scope for a limited number of specialist promoted posts, filled entirely on merit rather than length of service, which might be appropriate for complex and specialist casework.

5.3.8 Finally, staff frequently raised the question of pay with us during the Review. We were at pains to emphasise that pay was a matter for negotiation between Management and the Trade Union Side. We were told, however, of structural pay issues relating to the recruitment of new staff at salaries greater than the existing staff who were sitting alongside them, doing the same work, and being expected to train the new recruit as well.

5.3.9 The possibility of this arose from structural pay problems in the past, which the latest pay settlement had sought to correct. Nevertheless, managers appeared to have been less sensitive that one would wish to the morale problems such appointments caused. We were also told of approaching problems caused by the latest pay deal with
large increases in the bottom of the pay scale for junior administrative staff. This too has the potential to be demotivating and will need careful handling by management.

5.4 Training

5.4.1 We have already mentioned the concerns of managers about a lack of good management and communication training. This hints at a wider problem within the Department. As with any public sector organisation, the public and staff must be confident that the service is training and developing all its employees to standards designed to meet its particular current business needs. Indeed the Department’s investors in people status requires it.

5.4.2 Nevertheless, the percentage of the budget allocated to training and the average number of training days per member of staff contrast sharply with the figures from the rest of the Scottish Executive: 2.7% of the budget allocated to training compared with 0.75% in the COPFS; average training days per member of staff in excess of 5 days per year compared with approximately 2 days in the COPFS.

5.4.3 This points at a deep problem with the extent of training in the Department despite the comprehensive structure of regional and departmental training committees. This was confirmed by staff who spoke of their perception that there was no cohesive approach to training.

Much local training was delivered on a cascade basis without the use of the professional trainers.

While legal staff delivering legal training were generally comfortable with the role they were not happy at the lack of resources to cover their normal workload when they were preparing and delivering training.

Those attending training suffered the same difficulties. Some required to cancel training arrangements at short notice because there was no one to cover some critical work for them.

5.4.4 There were many comments about the appropriateness of the timing of training.

Many staff would have preferred a more formal induction course to introduce them to the most basic skills and knowledge required prior to starting in a local office, followed by progress up a “learning ladder” that delivered incremental training within set timescales. Some reported that by the time they were offered a place on the core training courses they had covered most of the content by virtue of practical experience. Many reported, for example, that they received no training in interview technique despite the critical nature of such work in the precognition process.
5.4.5 These concerns were reflected in the Campbell and Jandoo Report on the Chhokar case. Both referred to the difficulties arising from inadequate training and the fact that “in office” supervision of those dealing with precognition work was not provided. Both recommended that deputes should not have “serious”4 or “major crime”5 cases allocated to them such as murder cases unless they had received appropriate training or were assigned to work alongside or under an experienced member of staff throughout the case.

5.4.6 On a related matter, many legal and precognition staff, several with considerable experience, appear to have little knowledge or appreciation of the work carried out by their own administrative staff, by other staff elsewhere in the organisation, or by other criminal justice organisations. Many are apparently unaware as to how their own actions impact on the performance of others. This finding was borne out by the submissions of the COPFS administrative staff and representatives of the other criminal justice organisations that we spoke to during the Review. The opportunity to learn from others by means of “job shadowing” within the service or with local criminal justice partners such as the Police and Scottish Courts Service should be encouraged.

5.4.7 Many of the staff who hold management posts in the organisation reported receiving little managerial training. Other staff identified wide variations in the management skills displayed throughout the service often leading to marked deficiencies in people skills and work process analysis skills.

   The initial management training programme offered to Principal Deputes by the service since 1997 was considered helpful but in many cases there was no additional training thereafter.6

   Many of the administrative managers reported that they had only attended a one day course which provided only a short introduction to management issues and techniques.

5.4.8 The service is beginning to address the paucity of management training through the introduction of a new “management for results” course being offered to all managers from February 2002. It will be mandatory for new managers and available as a refresher course for those who have held management posts for sometime.

5.4.9 There are, however, resource issues, particularly as the course will be delivered by tutors who are not full time trainers. It appears highly unlikely that the course will meet the substantial demand anticipated for such training in the light of the problems that the Service currently faces in the quality of its management skills.

5.4.10 Several staff suggested that a training college could be used to provide courses across the service in the same way that the Police make use of Tullicallan so that staff

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4 Campbell Report Chapter 16.7
5 Jandoo Report recommendation (22)
6 c.f. Jandoo Report recommendation (22)
could apply to attend courses that were run on a regular basis by trainers who were not trying to fit in the training function on top of full time commitments in their own offices.

5.4.11 Recommendation: The priority given to training in the organisation should be increased significantly and backed by the allocation of sufficient resources. We expect this will be essential if the Department is to maintain its Investors in People status. In particular:

Induction training needs to revisited and strengthened.

Particular priority should be given to management and communication training with this seen as a continuing objective rather than a one off. Offices should be set specific training targets and training should be seen as a sufficient priority that cancellations from training courses are avoided.

More use should be made of full time, professional trainers. The costs of doing so can often be less than the opportunity costs of using in house lay staff.

The service should establish a “training college” demonstrating its commitment to ongoing professional and developmental training. This might be a virtual college with a menu of options delivered by a range of training providers. The essential element would be a strategic training function within a directorate of human resources with all staff having allocated developmental advisors.

5.5 Career Development, Recruitment and Promotion Boards

5.5.1 There are significant issues in the organisation over career development and promotions. There are few opportunities for administrative staff to progress within the service – with a ratio of approximately one line manager for every twenty staff and one second line manager for every fifty staff, promotion prospects are somewhat limited. There is at present only one administrative manager post in the Senior Civil Service.

5.5.2 The flatness of this structure puts understandable pressure on the organisation to promote from within as external recruitment would be more damaging to staff morale than would be the case if there were more regular promotion opportunities. But the limited range of promoted posts puts pressure on individuals to apply for roles for which they are not naturally suited and may not always be in the best interest either of the individual concerned or the service as a whole. Our proposals in Chapter 6 will address this.

5.5.3 The situation is not very much healthier on the legal side, but for different reasons. The age profile of legal staff means that only seven legal staff have retired in the last three years. The service is also very successful at present in retaining its staff and only three Principal Deputes have left in the last three years. The net effect has been that
there have been only fifteen promotions from Depute to Principal Depute, a rate of only 2.5% of the Depute Grade each year. Until recently almost all of the promoted posts within the service have been filled by internal candidates. It is understandable that the level of specialist expertise required to deal with legal decisions encountered in the service is unlikely to be found in candidates outwith the service. There are, however, a number of other promoted posts where management experience is core and a background in the Service while advantageous, need not be essential.

5.5.4 In recent years some posts have been advertised externally resulting in appointments of some candidates from outside the Service as well as those within, but the majority of promoted posts are held by staff who have been in the service for several years. Many have no external experience. This has led to a lack of ventilation, particularly in relation to consideration of work processes and people management.

5.5.5 There also appears to be a lack of thoroughness and external perspective in the existing promotions board arrangements, when compared with best practice outside the service.

At present promotion is determined entirely on the basis of an interview before a board of senior staff.

Many other organisations make use of independent assessment centres which, through a series of exercises tailored to reflect the particular skills required of the post, provide a subsequent interview panel with very much more evidence than they would otherwise have.

5.5.6 Concerns were also expressed to us at the lack of Personnel Division representation on recent promotion boards for legal staff. It is unusual for larger organisations not to utilise the expertise that can be found in Personnel Divisions when making crucial decisions about appointments to key posts in an organisation. This situation reflects the general lack of resourcing of the central personnel function in the service.

5.5.7 In addition Senior Civil Service entry in other Civil Service Department would normally involve some element of external input from outwith the Department. The wide ranging influence that Senior Civil Service posts have on their organisation and their external contact requires that the successful candidates should be of the highest calibre and an external perspective on the interview panel can prove invaluable.

5.5.8 **Recommendations:**

Opportunities should be sought to fill a proportion of promoted posts from outwith the Service Department recognising the benefits that flow from a diverse workforce with different experiences.
Assessment Centres should be used in the selection process for more senior posts.

A Personnel Professional should be present on all appointment and promotion boards.

Senior Civil Service appointment boards should include someone from outside the Service.

5.6 Conclusion

5.6.1 People management is perhaps the most complex and difficult task that all of us face in our day to day work. There are many aspects in the service that could be improved and we have tried in this chapter to make appropriate recommendations. Overall, however, the scale of the culture change required in the organisation is enormous and it will take many years before these changes will begin to pay dividends. We believe that there are deeper fundamental issues in the management or the organisation that require even more radical action. In the next chapter we consider the future of the Service and how best to address these underlying issues.
CHAPTER 6: THE FUTURE

6.1 Introduction

6.1.1 In the preceding Chapters we have attempted to set out in considerable detail the work of the Crown Office and Procurator Fiscal Service (COPFS), the issues that it faces in the management of that work, and recommendations to try to help the organisation improve both its internal management and its service to other stakeholders in the Scottish criminal justice system.

6.1.2 There is a wealth of information about how the Service functions brought together for the first time in Part I. This provides a rare opportunity to stand back and consider the future of the COPFS in the round armed with a fairly complete picture of the present.

6.2 Vision and objectives

6.2.1 One of the striking aspects on approaching the COPFS at the beginning of the Review was the lack of a coherent vision statement. The strategic aim of the COPFS, as stated in its latest annual report, is

“to play a pivotal role in the achievement of the purpose of the criminal justice system of maintaining the security and confidence of the people of Scotland by providing just and effective means by which crimes may be investigated and offenders brought to justice.”

6.2.2 This is not the easiest of statements for staff to carry around and relate to their day to day work. There is no other agreed vision statement within the organisation. There needs to be one.

6.2.3 It is not for us to prescribe what should be in that vision statement, but we imagine that phrases such as “professional”, “commanding public confidence”, “providing an excellent service”, “working in partnership” and “valuing and empowering its people” would be likely to feature.

6.2.4 There are similar problems with the Service’s stated key objectives. The COPFS key objectives set out in its annual report and strategic plan are to:

provide the sole public prosecuting authority in Scotland;
investigate sudden deaths and, where appropriate, conduct public inquiries;
investigate independently all complaints of criminal conduct by police officers;
supervise charities and investigate concerns about misconduct or mismanagement in the charitable sector;
administer property falling to the Crown.

6.2.5 These are a description of what the organisation does rather than objectives that it is seeking to achieve. They do not subscribe to best management practice in objective setting, eg they are not SMART (“specific, measurable, action-oriented, realistic and timed”).

6.2.6 It is perhaps worth reflecting on the vision statement promulgated within the Crown Prosecution Service in England and Wales:

“…to be a prosecuting authority of stature, providing the best possible service to society. We want to be a professional organisation which values all its people, performs to a high standard, inspires pride, and works in partnership.”

6.2.7 The CPS key objectives are:

to deal with prosecution cases in a timely and efficient manner in partnership with other agencies;

to ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of offending by the consistent, fair and independent review of cases in accordance with the Code for Crown Prosecutors;

to enable the courts to reach just decisions by fairly, thoroughly and firmly presenting prosecution cases, rigorously testing defence cases and scrupulously complying with the duties of disclosure;

to meet the needs of victims and witnesses in the criminal justice system in cooperation with the other criminal justice agencies.

6.2.8 Clearly, these could not simply be translated directly into objectives for the COPFS given the different nature of the work carried out compared with the CPS. They do, however, give an indication of the sort of objectives that might be more appropriate.

6.2.9 It is for the COPFS itself to develop and agree its vision statement and key objectives. The wider the internal consultation during that exercise, the more likely it is to have meaning to the staff in the organisation.

6.2.10 Recommendation: The Service should revise its vision/strategic aim to produce something that is more meaningful to staff and more accessible to the public. We suggest that the Service begin a major internal and external consultation on this as one of the first acts following this review, as a statement of intent that communication methods are going to change in the organisation.

6.2.11 It is probably also worth reflecting on the current name of the organisation. With “Sutherland’s Law” no longer on their televisions, there are few members of the public
who have a clear idea of what the COPFS does. The name does not help. As discussed in Annex B, the “procurator fiscal” was historically the officer employed by the Sheriff to collect fines imposed by the court and pay them to the Sheriff’s treasury (or fisk). The Procurator Fiscal Service does not adequately describe the current work of the public prosecutor. Nor does the distinction between the “Crown Office” and the “Prosecutor Fiscal Service” in the title help. It serves to highlight and encourage division within the service. The Crown Office should really be viewed as the headquarters of the service rather than as a separate entity.

6.2.12 Again, we would not be so bold as to recommend an alternative name for the Service. We do think, however, that there is now an opportunity to reposition the Service in the public eye and that a new name would support that. The most positive outcome in a renaming exercise is achieved when staff throughout the organisation are involved in its selection and therefore buy in to the new concept.

6.2.13 **Recommendation:** Alternative names for the Service should be explored, perhaps combining this exercise with the consultation on aim, vision and values.

6.3 **The Reinvention of the Service**

6.3.1 We have during the course of the revi ew tried to encapsulate what we think the Service should be aspiring to in the future. We do not think we are in a position to do so perfectly, but what we wrote down in our note to staff on emerging conclusions was:

A strong devolved structure of offices where staff feel empowered by a new deal on the delegation of management responsibility and accountability. That devolved structure needs to be supported by a strong centre helping to empower (rather than direct) front-line staff, with a new emphasis on better corporate management at the highest level.

At the front-line, improved working practices in small multi-functional teams, mixing legal and administrative staff, with ownership of specific allocations of work. The teams working to a common goal of providing a high quality service to other stakeholders in the criminal justice system, including witnesses, victims, and other criminal justice organisations.

6.3.2 This “vision” underlies what follows. The organisation needs its own vision, built from within, to see it through the change process that will follow if our recommendations are accepted. We hope that the above provides a foundation on which to build.

**Why Change?**

6.3.3 The overwhelming conclusion of the examination in Part I is that the COPFS is at present severely undermanaged. Poor management of people and budgets is a theme that has recurred throughout the evidence we heard in focus groups and interviews from staff at all levels. Most of the members of the Senior Management Team (SMT) would not
deny that the organisation is not well managed. The evidence and conclusions in the earlier chapters confirm this:

Communication; performance appraisal; training; career development; promotion arrangements; working environment; integration of legal and non-legal staff; lack of transparency in budgeting; etc. all require attention.

6.3.4 This catalogue of issues that can be put down to poor management demonstrates a deeper problem – and one that cannot be completely addressed simply with more resources and better management training. We believe that the recommendations we have made already will significantly assist the Service in the management of its business, but that without more fundamental change the culture of undermanagement will reassert itself and the Department will find itself in a similarly difficult resource situation in a few years’ time.

6.3.5 Many staff in the Service put the current difficulties down simply to a lack of resources. It is clear that the Department is not well resourced at present – Ministers and senior management have in the last six months begun to admit this to staff and to the outside world for the first time. It is worth asking the question how it is that the organisation has got itself to the position where there are acute resource pressures and staff are under such extreme stress?

6.3.6 The answer, we believe, is all part of the underlying management issue – good management has been undervalued by the Department. The result is a lack of up to date management systems to help managers identify resource pressures and bid appropriately for additional support; which has left the Department as a whole without the necessary evidence to justify its resource bids to the Treasury (and since devolution, to the Scottish Executive) nor the management skills to negotiate effectively the financial settlement.

6.3.7 What is perhaps most remarkable, and admirable, is that the Service has until now been able to deliver its core legal business to tight statutory deadlines with few significant errors or embarrassments despite the acute pressure on resources. The Chhokar case was, perhaps, the beginning of the end for the existing culture, however. The additional pressures that the public outcry over the Chhokar case has placed on staff now seems to make future errors more rather than less likely.

6.3.8 The management culture of the organisation has to change. This has been recognised by senior management in response to the results of the pressure audit, and initial progress has been made in announcing a “culture change” champion on the SMT and the intention to set up a small team to begin the process.

6.3.9 The question is how one goes about changing the culture? Many factors contribute to the management culture: the people; their skills; their behaviours; and the management structures that condition those behaviours. Training will help to improve managers’ skills and, in time, begin to make an impact on behaviours. But it is extremely
difficult to create the change in behaviours necessary to improve the management culture if the underlying structures inhibit rather than support good management.

6.3.10 We believe that there are a number of important structural issues in the way that the Department is currently arranged that get in the way of good management. We believe that effective (and efficient) management of the business will only be achieved after a significant restructuring.

6.4 The Evidence of Structural Problems

6.4.1 The existing management structure is sketched out in Appendix 1. In this section we consider in detail the major issues we have identified in the existing structure of the organisation.

Number and size of offices

6.4.2 The Department currently delivers its core business through a geographically dispersed network of 49 District offices. Each of these 49 commands act autonomously on operational matters (legal decisions), with the Procurator Fiscal in each theoretically subject to instruction only from the Lord Advocate on legal matters.

We firmly believe that a span of 49 commands is too great for anyone to manage effectively. The Lord Advocate is not in a position to know personally what work is being carried out in those 49 separate commands. Nor is the Crown Agent able to do so on behalf of the Lord Advocate. But there is no need for the span of command to be so wide. Most other public service organisations have a considerably more streamlined structure.

In response to our note on emerging conclusions, some have pointed to the Crown Prosecution Service where 43 Areas all report directly to the Director of Public Prosecutions. We know, however, from our contact with the CPS that such a wide span presents a major challenge and it is difficult to make the management arrangements operate effectively. In Scotland, with 10% of the population and 20% of the staff of the CPS, such broad spans are neither necessary nor sensible, no matter how different the work of the COPFS is.

Operational autonomy versus effective management relationships

6.4.3 Although the 49 Districts are brigaded into 6 Regions, the regional structure is not as effective as it needs to be. While Regional Fiscals have budgetary and management responsibility for their region, they do not have operational control of their District Fiscals and therefore normal management and delegation arrangements do not work. Most districts are too small to be able to hold a meaningful budget and financial control is therefore often not a priority at the District level. The “commission” from the Lord Advocate that protects the autonomy of the District Fiscal limits the management relationship between regional and district fiscals.
6.4.4 This point is perhaps the most disputed in the written responses we received following the issue of our note on emerging conclusions. We are aware of the sensitivities and not surprised that some District Procurators Fiscal should be exercised. What we were told during focus group and interview with staff, including senior managers, in the organisation was that:

District Fiscal autonomy was a constitutional anachronism that meant that although a Regional Procurator Fiscal could control staffing and might be able to comment on bad practices in the annual appraisal, the RPF could not effectively instruct a District Fiscal even on a management matter since it was possible to hide behind the shield of legal decision making;

many District Fiscals did not consider the RPF to be their manager;

tensions existed between RPF and District PF because the RPF was responsible for budget and staffing, but could not direct PFs in the exercise of their discretion. There was a cultural gap between staff in the RPF office and the District office;

the independence of District Fiscals could lead to problems;

many Districts are too small and of that size only for historical reasons; and

RPFs have responsibility but no power.

Others reported no problem with the decision making independence of District Fiscals. District Fiscals could make decisions but were accountable to the RPF for them.

In terms of career structure, the system offered a degree of responsibility that was attractive to some people. If you took away people’s feeling of status, what would they have?

6.4.5 There is very much more written about this in the feedback we received that is reproduced in Annex G mostly about “status” and the ability of District Fiscals to relate to their counterparts effectively in the criminal justice system if they did not hold the commission. None of this dissuades us from our view that the kind of behaviours that we heard about during interviews and focus groups during the course of the review is damaging to the good management of the Service, and that it arises largely because of the existing structural arrangements.

Consistency of external relationships

6.4.6 The number and independence of district fiscals also interferes in the Department’s external relationships. Strategic arrangements that may be agreed by the Regional Fiscal with an external partner such as the police are subject to variation or may
be ignored by a District Fiscal arguing local circumstances and operational autonomy in the face of an attempt to standardise and improve quality of practice across a force area. Even where such agreements are observed the mismatch in geographical structures (some Regions corresponding to 2 or 3 police forces, while others covering only a small part of one force) puts joined up working at a premium.

6.4.7 There has also been considerable debate following the publication of our emerging conclusions over the question of whether there are in fact practical difficulties with variations in practice. Certainly, this was the view we heard from police staff, the Scottish Children’s Reporters Administration and the District Courts Association and, to a lesser extent, from Court Service staff and from defence agents. Again we heard from senior staff in the organisation that:

- there was no method of sharing best practice among offices – the Lord Advocate’s directions were complied with by different offices in varying ways;
- a Region covering multiple police force areas could cause problems with regard to common policies; and
- if Regions corresponded with force areas, Fiscals and Chief Constables could communicate one-to-one, which would seem to make more sense.

6.4.8 We have no doubt that there are significant issues over the consistency of the relationships with other parts of the criminal justice system. This was put to us strongly by representatives from those other partner organisations, and is reflected at least to an extent by internal feedback. The precise extent of the problem remains in dispute, but it is an issue that needs serious consideration.

6.5 Management spans and the benefits of teamworking

6.5.1 Within the regional and district offices there is very little managerial capacity available in support of legal staff. Most larger district offices have at most 1 Executive Officer (first line) manager in charge of all administrative staff. The spans of command of these administrative managers are almost certainly too great for them to manage and supervise effectively. Taking a broad brush approach there are approximately 550 administrative support staff spread over the 49 district offices, managed by approximately 30 EO managers (average span of between 1:15 and 1:20) and perhaps 5 HEO (second line) managers (but most EO office managers have no HEO manager). So their own staff get little supervision, management and support, and there is certainly no additional capacity to provide legal staff with intelligent management support.

6.5.2 We were also concerned to note the extent of double-handling of papers in the day to day work of the office and the way that legal and administrative staff operated in disparate pools, something akin to the old days of the typing pool, which modern organisations have almost all integrated into their administrative structures. At present, in many of the larger offices:
police reports relating to accused in custody are received into the office by the administrative staff, who order the papers and pass them through to a pool of legal staff – the case marking team;

the legal staff pick a report at random from the in-tray; mark and annotate it; draft the charges for the complaint or petition; draft the custody statement if necessary; and these are then passed back to the administrative staff;

the administrative staff pick these up at random from their in-tray and carry out the necessary typing and administrative work; preparing the complaint or petition ready for signature and passing it back to the case marking team;

a Depute in the case-marking team has then to sign the complaint before it is passed back to the administrative staff to issue to the police at court for service on the accused; the Depute may well be different to the one that drafted the charges – they may well wish to read over the papers again before they are prepared to put their signature to the complaint.

6.5.3 There should be clear benefits in moving to smaller multi-functional teams where the legal and administrative staff are integrated and have ownership of a certain allocation of work. It was notable during our visit to the CPS Area in Newcastle that the CPS have much more successfully integrated legal, paralegal and administrative staff into a team working environment, with intelligent use of open plan accommodation and partnership working.

6.5.4 This kind of arrangement should ensure that there is less double-handling of work, and that the Depute that handles a case continues to do so throughout its early stages working closely with allocated administrative staff who would also get to know more about the specifics of each of the cases. As has been made clear to us in feedback this kind of team-working arrangement is similar to that which is to be found in the small district office.

6.5.5 In fact the one-fiscal offices are too small to be optimal in terms of work processes. But, the subset of two-fiscal offices turn out in the existing management information to have the lowest cost per weighted unit of work, which is encouraging about the opportunities that team working should offer to help the Service cope with the continuing increase it is experiencing in the volume and complexity of its work.

6.5.6 We recognise that there are issues over the need to cover the courts and that those pressures may interfere with the ideal team working arrangements. We are convinced, however, that there are significant benefits to be achieved from better teamworking. We are encouraged that the Regional Procurator Fiscal in Glasgow is proposing to do just this in a reorganisation of the Glasgow office into 4 Divisions matching the police divisional boundaries, and with smaller teams throughout the new structure there.
6.5.7 We have received only positive feedback about the prospect, set out in our note on emerging conclusions, of strengthening the management structures at the office level. We should be clear about how we see these managerial posts operating. We were again impressed by what we found in the CPS in Newcastle, where legal and administrative managers worked very closely together.

Each of the teams had a legal head supported by an administrative manager. The two managers worked in a Siamese twin relationship: the legal manager supervising the work of the legal staff and ultimately responsible for the management and delivery of the multifunctional team, but the administrative manager having the necessary authority from the legal supervisor to instruct and influence the legal members of the team on the management of the business processes as well as, obviously, the management of the administrative staff.

This Siamese twin relationship is duplicated at the next layer in the hierarchy, at Unit Head level, and again between the Chief Crown Prosecutor in the CPS area and their Area Business Manager, who is a relatively senior (Grade 7, equivalent) administrative manager. While the effectiveness of these twinning relationships is critically dependent on the personalities of the people involved they worked effectively in by allowing the lawyers to concentrate on legal supervision with the administrative manager taking on much of the process management and scheduling of the business, including of the lawyers in the team.

6.6 Senior management arrangements

6.6.1 The parts of the centre of the Department that are intended to provide support to the distributed structure are weak. Personnel, Finance, IT, Procurement and Estate management are all under strength for a department of over 1200 personnel. Significantly, there is also a lack of senior positions in these areas. A single Senior Civil Servant covers all of these responsibilities supported by a handful of Grade 7 and Senior Executive Officer equivalents. There is therefore insufficient capacity for the centre to take a strategic approach to essential human resource, financial planning and information systems issues.

6.6.2 This problem is again evident in the Department’s most senior decision making body, the Senior Management Team (SMT). Only the Director of Resources post carries sufficient seniority to be represented on the SMT. The rest of the SMT consists of the Deputy Crown Agent (responsible only for the legal operational aspects of the centre), the 6 Regional Procurators Fiscal and the Head of Policy, and chaired by the Crown Agent. The variety of legal knowledge and opinion that the SMT contains makes it an excellent policy forum, but the lack of business function representation leaves it entirely unsuited to firm decision making and strategic management of the business. In fact, having all 6 Regional PFs represented on the SMT, all of whom have the same functional role yet may well have differing opinions, makes effective decision making even more difficult. Overall, the SMT focuses too little on the delivery of the business, partly a reflection of the culture and lack of management skills available within the organisation.
6.6.3 We heard from a range of staff, including several existing members of the SMT, that:

SMT was not sufficiently involved in decisions on budget allocations and no corporate view was really taken;

while the SMT thought strategically, it did not always appear to connect Fiscals’ tasks with the resources they required. There was an uncertainty in the organisation about what happened to requests to SMT for resourcing;

there was no management training on stepping up to an RPF post;

management of change was very bad across the organisation and there was a lack of management training at all levels;

there was little succession planning for RPF posts, and less interest in them from staff than there had been in the past. The SMT had not worked well as a team over the last year. Too much of SMT’s time was spent on things that did not matter, and too little on those that did;

there was far too much discussion at SMT and they took too few decisions. There was too much “going round the houses” seeing what was happening in each of the regions. There was too much duplication of effort, because there were 6 people with the same job, that did not have particular portfolios;

SMT was a mixed success in terms of decision-making. Meetings could be too busy and it could take a long time to discuss an issue. But a very important and useful policy forum as it covered the whole operational side of the Service.

6.6.4 Overall, no one has argued to us that the Senior Management Team is an effective decision making body. What has been disputed is whether the existing problems arise from the skills and training of the current membership and could therefore be addressed incrementally, or whether, as we believe, there is a fundamental misunderstanding about the purpose of the Senior Management Team which points to a problem with the existing functional make up of the SMT.

6.7 Discussion of options for change

6.7.1 We can re-summarise the main drivers for change discussed above as follows.

(a) Existing span of 49 operationally autonomous Districts is too great to be managed effectively by the Lord Advocate and Crown Agent.
(b) The mediation of the 6 regions does not succeed in reducing the effective management spans since District Fiscals are operationally independent (on legal decisions) and take their legal instructions only from the Lord Advocate.

(c) This inhibits (and can prevent) the Regional Fiscal (RPF) agreeing sensible and consistent working arrangements and partnerships with external organisations across the region.

(d) The 49 Districts are too small to hold a meaningful budget. The regional budgets are meaningful, but the RPF budget-holders’ hands are tied by the independent decisions taken by the District Fiscals.

(e) Regional Procurators Fiscal wear two hats. They are the District Fiscal for a major office as well as having management (but not operational) responsibility for the other Districts within their Region. This creates a perceived, if not actual, conflict of interest.

(f) Three of the existing Regions map onto multiple police forces, leaving the RPF having to negotiate separate agreements (and potentially differing operational practices) within their region.

6.7.2 We do not have a blank canvas on which to paint and our ultimate recommendations have to take account of the current set up and history. We could address some of these issues if we left the existing 6 regional structure in place and changed the delegation arrangements. If District Fiscals were placed under the operational control of the Regional Fiscal this would go some way towards addressing (a), (b), (c) and (d) above.

6.8 The place of the Commission

6.8.1 The first question is how this new deal on management delegation could be achieved. The comments we cite earlier in the chapter indicate the current difficulties that RPFs can encounter in managing the Districts, and how this can be related to the mismatch of responsibilities that is given substance through the existence of the commission from the Lord Advocate.

6.8.2 We agree with the comment that the sacred autonomy of the District Fiscal is a constitutional anachronism that leads to many District Fiscals declining to be managed by their RPF. We can see no safe way to assert the primacy of the RPF in their management role – encompassing legal decision making as well – without significant constitutional change, either:

6.8.3 re-issuing the commissions with a revised wording that makes it explicit that District Fiscals are fully accountable to their RPF for all of their work and only through the RPF accountable to the Lord Advocate; or
restructuring in such a way that the 6 RPFs were appointed by the Lord Advocate as the commission holders.

6.8.4 Without such explicit change, we believe that there would be continuing discouragement to District Fiscals to pay proper heed to their RPF on operational matters. What we are not suggesting is that this should lead to any significant change in the day to day work carried out by the existing District Fiscals – they would continue to have the discretion to take decisions (many of them irrevocable) on a daily basis, but they would be explicitly accountable to their RPF for the quality of those decisions and the overall management of their caseload with an expectation that they would involve and consult their RPF in major or sensitive cases.

6.8.5 This is, of course, a point of major controversy, as the written feedback we have received makes clear.

Existing District Fiscals see this as striking at the heart of their existence and the “raison d’etre” of their work.

We are told that the status afforded to the District Fiscal by their commission is important to their motivation and is essential if they are to be able to command the respect of their partners in the criminal justice, notably the police, as well as the local community.

It is suggested that the police will ignore the views of the local Procurator Fiscal and go over their heads to the Area or Regional Procurator Fiscal.

We are told that the existing structure of the service along with the commission has served the local delivery of justice well for over 5 centuries.

6.8.6 We are sensitive to these concerns. But we fail to find the “status” argument compelling. Respect from the local community and from partner organisations in the criminal justice system – and the whole criminal justice system should be seen as a partnership if it is to work effectively – should be earned through the quality of the work and constructive nature of the relationships. We are confident that District Fiscals and the Service as a whole can build such relationships and earn the necessary respect without the need for a special commission.

6.8.7 We also have a concern that we are unlikely to see a change in District Fiscals modus operandi if we maintain the existing Regional and District structure. Staff would be more able minimise the changes and view them as merely technical. Some District Fiscals might continue to resist their Regional Fiscal taking a close and responsible interest in operational matters. The benefits of our proposals will only flow if there is a change in behaviours and in the relationships between District Fiscals and their managers. Without that positive change in behaviours the reforms are unlikely to succeed.
6.8.8 We are also told that without the status of the commission it will prove impossible for the Service to recruit legal staff to work in the small offices in the more remote and isolated parts of Scotland. The fact is that the majority of staff are already reluctant to be posted to be the Procurator Fiscal in a small local office. They fear, on the basis of the way the posts operate at present, that they will lose touch with the wider Service, and that they will become stuck in post without an opportunity to return to the larger offices. So the Service currently fills such posts with staff who explicitly enjoy the status and independence of being the District Fiscal, thus perpetuating the cultural divide between the District and the centre and inhibiting any attempt to instil a shared corporate identity across the Service.

6.8.9 We see scope for filling such posts in the medium term with a more mobile group of highly motivated staff, perhaps earlier in their career, who see the posting to a small local office as an excellent development opportunity where they will, through necessity, exercise more discretion and autonomy than is possible in a large office. If the postings are explicitly agreed for a shorter period of time (eg for two years) they could return to the mainstream with valuable experience and continuing career development. Both ends of the relationship would benefit – the local office (and local community) from staff with recent experience of the centre or a major office, and the rest of the service from having a mix of staff at the centre (and in time in senior management positions) with recent experience of the unique pressures and problems of the small local office. We have had encouraging signals from younger legal staff that they would find such opportunities attractive.

6.8.10 In summary, we recognise the commission point as perhaps the most contentious proposal we make, and something that the recipients of this report will have to weigh most carefully before deciding on implementation. We firmly believe, however, that such change is necessary in the modern Scotland, and the advantages far outweigh the disadvantages.

6.9 A new Area structure?

6.9.1 Returning to the list of drivers for change, RPF responsibilities could at the same time as change in the delegation arrangements be redefined so that they took on full operational and management accountability for their entire region, and were no longer tied to a particular District Office, addressing (e) above.

6.9.2 There is, however, no way that we can see to address point (f) within the existing regional structure.

The sparse geography of Grampian, Highlands and Islands, with 15 District Offices dispersed across the north of the country, makes the existing management task of the RPF very difficult. (The former RPF said that she spent only 17 days per year in her Aberdeen office.) Adding operational responsibility for the entire region would make the task immense.
Tayside, Central and Fife is the second largest region, with 10 Districts. While it does not suffer the same sparse geography, the RPF there has to deal with 3 different police forces.

6.9.3 We see compelling sense in aligning the Service structure more closely with the police force area structure. The police are the principal partners in getting a case to the stage where it is ready to go to court. The Crown Prosecution Service has demonstrated significant benefits and efficiency savings in aligning itself and working more closely with the police forces. We believe it is possible to do this in Scotland without losing the existing synergies with the court structure.

6.9.4 If one accepts that there is a case for some geographical restructuring, and that a move towards the police force boundaries would be beneficial, there are a number of ways that the new area boundaries could be drawn. The internal senior management review produced by the COPFS itself in 1995 recommended a 12 Area structure. We think this is sensible and set out the rationale below.

The discussion above would argue strongly for splitting Grampian, Highlands and Islands into two more manageable areas. Along the force boundaries for Grampian Police and the Northern Constabulary would make obvious sense. (There is a second-order issue about the brigading of Shetland and Orkney. We would recommend that they be part of the Highland area, matching their brigading in Northern Constabulary. Scheduled airline communications are, however, somewhat better with Aberdeen and the Department will want to consider that carefully if it implements our recommendations.)

Tayside, Central and Fife, with over 51,000 police reports each year, is second only to Glasgow in overall workload. Given the additional operational responsibilities proposed it makes sense to subdivide. It would be possible to divide into 2, brigading Central with Fife (31,000 reports) and separating Tayside (21,000 reports) if it was considered sensible to have the area fiscal for Central and Fife dealing with 2 police forces. If not, subdividing further into Central (16,000 reports) and Fife (14,000 reports) makes reasonable sense.

Glasgow and Strathkelvin (City of Glasgow and East Dunbartonshire Councils) remains the largest of the areas with over 70,000 reports. There is, however, no way to subdivide this within the existing court structure without having 2 or more area fiscals operating in the same sheriff court. (The internal subdivision into 4 units matching the 4 Glasgow police divisions proposed in the Glasgow and Strathkelvin management plan seems the best way forward here.)

There is then the question of how best to subdivide the rest of Strathclyde. South Strathclyde, Dumfries and Galloway with almost 50,000 reports looks suitable for subdivision. Separating Dumfries and Galloway would leave a South Strathclyde area with a more manageable 40,000 reports, comparable with North Strathclyde at 39,000 and Lothian and Borders at 40,000 reports respectively.
The arguments for further subdividing North and South Strathclyde are less clear cut. If the benefits of closer working with the police are agreed, however, there are difficulties with the existing structure. U Division of Strathclyde Police, which covers North, South and East Ayrshire Councils, is cut in two by the North/South Strathclyde divide. An incremental change option is to extend the boundary of South Strathclyde north to include North Ayrshire (Kilmarnock). However, Kilmarnock office deals with 10,000 reports itself which pushes the workload of South Strathclyde up to 50,000 reports again. The easiest way to cut it down to manageable proportions again is to separate North Lanarkshire (Airdrie – with 9,000 reports), or since this would leave North Lanarkshire rather isolated, to include South Lanarkshire as well (Hamilton – 21,000 reports and Lanark – 4,000 reports). Doing this leads to the proposals for Ayrshire (U Division – East, North and South Ayrshire Councils – 18,000 reports) and Lanarkshire (N and Q Divisions – North and South Lanarkshire Councils – 34,000 reports).

North Strathclyde, having lost Kilmarnock (North Ayrshire) falls to a more manageable size of 7 offices and 27,000 reports covering L Division (Argyll & Bute and West Dunbartonshire Councils) and K Division (Renfrewshire and Inverclyde Councils). The 1995 proposals further subdivided this into Dumbarton and Argyll (L Division – 12,000 reports) and Renfrewshire and Inverclyde (K Division – 16,000 reports) – with the wrinkle that Rothesay on Bute was brigaded with Renfrewshire (it is currently a satellite office out of Greenock) reflecting the ferry links with the mainland south of the Clyde, rather than with the rest of Argyll and Bute Council (or L Division in police terms).

Lothian and Borders remains a large area, coterminous with the police force boundaries, with 39,000 police reports. Further subdivision of Lothian and Borders would be problematic because of the geography of the area with 31,000 of those reports going to Edinburgh and Linlithgow. The only possible alternative would be to cut Edinburgh (25,000 reports) out on its own and leave the rest of Lothian and Borders (14,000 reports) as a separate area.

6.9.5 So while there are many ways to divide the country into areas using the building blocks of the sheriff court districts, some of the more plausible alternatives to the 12 area structure would be as follows.

8 areas – coterminous with the 8 police forces; but with Strathclyde enormous.

9 areas – dividing Strathclyde into Glasgow and the rest.

11 areas – dividing Strathclyde into 4: Glasgow, a smaller North Strathclyde, Ayrshire and Lanarkshire.

10 or 11 areas – leaving Fife and Central combined.
6.9.6 We do not think that any of these offer significant advantages over that proposed in 1995, although combining Renfrewshire & Inverclyde with Dumbarton & Argyll to create a smaller North Strathclyde might be a serious alternative, giving 11 areas rather than 12. We include a map of the 12 area structure at Appendix 4.

6.10 Proposals for Reform

6.10.1 The preceding paragraphs help to identify the key issues and the argumentation that underlies our proposals. Before setting out our proposals in details, it may be helpful to restate the facets that we should ensure are covered in any new organisational structure:

The overarching need to increase significantly the management capacity of the organisation and restructure so that new management arrangements can work.

A reduction in the number of autonomous operational units, to bring the operational management spans to a controllable level.

An increase in the size of the basic autonomous unit to enable meaningful budget delegation.

Improved structural compatibility with key criminal justice partners. In practice, this means looking closely at the police force structure, where there is no likelihood of a major reorganisation in the medium term, while maintaining compatibility with the existing courts structure – although it is arguable whether the existing sheriff court structure would benefit from some rationalisation.

An injection of more senior and quality managerial and administrative staff in support of the legal staff.

A new management focus at the very top of the department with a functionally rather than geographically organised management board.

In the light of these considerations, and always bearing in mind the vision for the future that we tried to articulate earlier we recommend a significant restructuring of the service along the following lines.

Geography

6.10.2 Integrate the 49 Districts and 6 Regions into a unitary structure of 12 Areas, drawing on the work carried out by the Crown Office senior management review in 1995, but shelved at the time.

6.10.3 No reduction in the number of offices since existing Sheriff courts would need to continue to be covered.
6.10.4 The Areas drawn coterminously with police force areas – with the Strathclyde force area divided along Divisional boundaries into 5 fiscal areas – facilitating much better working relationships with the police, without undermining relationships with the courts.

Operational responsibilities

6.10.5 The Area Fiscals would be the key management and legal supervision post, probably carrying the commission and title from the Lord Advocate to prosecute in terms of the 1927 Act. The management (and operational) spans between the centre (and Lord Advocate) would be much more achievable.

6.10.6 The District Fiscal would no longer hold the commission, or might hold a modified commission placing them under the operation direction of the Area Fiscal, but the post would remain as the local Procurator Fiscal in each local office, protecting the concept of the local prosecutor.

6.10.7 Full budgetary control would be devolved to the 12 areas, which would now each be large enough to hold a meaningful budget.

6.10.8 Each area fiscal would be responsible and fully accountable for the management of the business of prosecution and deaths investigation across their entire area. They would not have a special relationship with any particular office in their area – the dual District and Regional roles currently held by the Regional Fiscals would end.

6.10.9 They would also have personal responsibility for handling complaints against the police (CAP), perhaps for a neighbouring Area. One of the key objectives of our recommendations is that Area Fiscals should build stronger relationships with their corresponding police force and the CAP system would be seen to be more robust if Area Fiscals investigated cases in a different force.

Management arrangements

6.10.10 The new roles would be much more managerially focused, with an emphasis on taking time to supervise the quality of the legal decisions executed in their area. They would not be expected to carry a caseload of their own or to appear regularly in court. Other legal staff would, in practice, maintain almost as much operational autonomy as they enjoy at present but through a properly managed delegation of power and responsibility to an empowered front-line.

6.10.11 An Area Business Manager should be appointed to each of the 12 areas, reporting to the area fiscal, to manage the finance and personnel functions in the area, as well as being the senior administrative manager for the area. (These appointments would be at around Band F – Grade 7 equivalent – but dependent on the size of the Area.)
6.10.12 Both the ABMs and promoted legal grades (APFs and PDs) should be supported by a hierarchy of HEO and EO equivalent staff managing the delivery of the business and working in partnership with each legal manager to enable them to concentrate more on legal supervision than daily management hassles.

6.10.13 This structure should significantly reduce management spans. Casework processing should then be handled in new multi-functional teams working in mixed accommodation with new technology in support.

**Recruitment**

6.10.14 Given the relatively few promoted posts in the existing support structure, the many new administrative appointments should be filled through open competition. Existing staff in the COPFS would, of course, be eligible to apply.

6.10.15 In contrast, there will at least at first be very few promotions for legal staff arising simply from the new area posts. While it would theoretically be possible to put the new posts to open competition, in practice there is unlikely to be much external interest or suitable candidates, and the possible damage to morale within the service should be considered.

6.10.16 In the unitary structure there would no longer be a regional tier for fiscals to aspire to. The area fiscal posts should, however, fulfil that function and it is unlikely that there would be much reduction in the number or seniority of the top legal posts. Glasgow and Lothian and Borders would be likely to remain Grade 3 (Band 2 in the new senior civil service system) appointments. Most of the other area fiscal posts would probably merit old Grade 4 (Band 1A) with only the smallest area posts – perhaps Dumfries & Galloway and Dumbarton & Argyll – as old Grade 5 (Band 1) posts. The senior career path would in future be from Assistant PF to area fiscal in a small area, to a medium area, to a large area, and ultimately to Crown Agent or Chief Executive.

6.10.17 The precise arrangements for recruitment and promotion are, of course, an implementation issue for management, but we think it is worth noting that recommendations we make elsewhere in terms of opening up the organisation to external talent should be grasped where possible.

**The Centre**

6.10.18 On the legal side of the Crown Office, the Deputy Crown Agent post should be renamed – Director of Central Operations, perhaps – to reflect its true role and responsibilities for the High Court, Fraud and Specialist Services and Appeals Units. This is an operational post and, like the areas, should be supported by a (central operations) business manager.

6.10.19 There needs also to be a significantly strengthened management services core to ensure that major business functions – personnel, finance, IT, procurement and estate
management – are adequately resourced and to support and empower the new devolved areas. There may be scope to strengthen the service delivery aspects of these functions through sharing skills and resources with the Scottish Executive’s corporate services.

6.10.20 The existing weakness of these departments in the COPFS is reflected in their under-representation on the Senior Management Team. The SMT as currently constituted is not an effective management board. There is plenty of legal expertise but little management expertise and no corporate management functions.

6.10.21 The management/legal balance at the top of the organisation should be redefined with a new Management Board, focusing on the management of the business, replacing the SMT. New Board level appointments should be made as a minimum in finance, personnel, and corporate strategy. Senior appointments just off board level should be made in IT and accommodation. These appointments should be made through open competition to secure people with appropriate qualifications and expertise.

6.10.22 It would be fruitless to imagine including all 12 area fiscals on the management board. The legal balance on the board would be provided by the existing central posts and one or two representatives from the area fiscals, most probably the two or three most senior area fiscal appointments including probably the Fiscal from Highland representing the more remote parts of the country. The 12 would still need to meet regularly together and with members of the Board, but such meetings would constitute a policy and operational management forum feeding views and papers into the Management Board to inform the Board’s decisions.

6.11 The Chief Executive and Crown Agent posts

6.11.1 In re-balancing the management and legal responsibilities, the management of this large and complex business merits a full time manager or Chief Executive at the very top of the organisation, with distinct responsibilities from the legal advice role currently fulfilled by the Crown Agent.

6.11.2 The suggestion that there should be a new Chief Executive post leading on the management of the business is something that was put to us by a number of staff during our interviews and focus groups. It is a proposal that is also made in the Success Through People report on the pressure audit. The view is nicely summed up by one senior manager who wrote that the present range and scope of responsibility of the Crown Agent post was far too wide and demanding for one individual.

6.11.3 What is far less welcome to the Service is the suggestion that the Chief Executive might be the most senior post in the Department and the Accountable Officer. The same correspondent wrote that it was more logical to support the Crown Agent on the management side than the other way around…it was not obvious to a Prosecutor why the permanent head of the Prosecution Service would not be a Prosecutor or why the Management Board of the Prosecution Service should not be substantially composed of Prosecutors.
6.11.4 We have considered very carefully the relative merits of the relationship between the two most senior posts in the new organisation – Chief Executive and Crown Agent.

In one view, the chief officer should remain the Crown Agent post, combining the Head of Profession and senior legal adviser with the executive responsibility and ultimate accountability of the Accountable Officer.

The Chief Executive post would then be subordinate to the Crown Agent, and would support the Crown Agent in the management of the business, in much the same way as the Area Business Managers, subordinate to the area fiscal, support the business management in an area.

Under this arrangement, the area fiscals could report to the Crown Agent through the Chief Executive. This would introduce an additional, and in our view unnecessary, layer of hierarchy.

The Chief Executive’s role would be rather like that seen in the Crown Prosecution Service, managing the central services functions while influencing and supporting the area business managers, although they would still report to their area fiscals.

6.11.5 We recognise the sensitivities that argue for a legal permanent head of the service. We remain concerned, however, that this arrangement would still leave a single post with the burden of being Accountable Officer for the business as well as for all of the legal decision making and legal advice to the Lord Advocate. There is a very limited pool from which one can recruit such a person –from existing members of the Service and in effect from the Senior Management Team. We believe that there is a strong argument in favour of widening the field of potential future appointees to the top job by not requiring it to be a legal post and ensuring that the special legal responsibilities of the Crown Agent are fulfilled in an independent post.

6.11.6 We are not persuaded by the argument that the head of the organisation must be a member of the profession. You will not find the Chief Executive Officer of ICI to be a chemist by trade, for example, nor that the Board is full of scientists. Looking to the commercial sector, only 7 of the CEOs of the top 100 FTSE companies have spent their entire career with that company. The Management Board of the Inland Revenue is it not chaired by a tax inspector, indeed there is only one member of that Board with a tax inspection background.

6.11.7 We are also conscious that the Service would continue to have a senior lawyer at its head in the form of the Lord Advocate. The primacy of the professional prosecutor could in part be protected, therefore, by the position of the Lord Advocate as the head of the public prosecution service, to who the Chief Executive would be accountable, while the separate Crown Agent would still have an independent route into the Lord Advocate on professional matters.
6.11.8 It has been suggested to us in feedback on our emerging conclusions that the position of Lord Advocate is rather ephemeral and it would be perfectly possible for there to be a political appointment of someone who was not experienced in the business of prosecution. We accept that as a risk. As at present, a strong insurance against that risk is the existence of a strong Crown Agent as Head of Profession, upholding the independence of the prosecution service. That person does not need to be the Head of the Department to do so.

6.11.9 These arguments lead us to recommend the appointment of a Chief Executive as the most senior position, and Accountable Officer.

The Area Fiscals’ reporting line would run to the Chief Executive, acknowledging their primary role as delivery of the business objectives for their area.

The Crown Agent post would in future be subordinate to the Chief Executive, but would act as Head of Profession, as well as managing the central Crown Office legal functions (as the post used to…its wider relationship to the rest of the Service has only become established within the last century.) The postholder would maintain a special relationship with the Lord Advocate as his senior prosecution adviser.

The special nature of the Crown Agent post would protect the independence of prosecution decisions and provide an avenue for area fiscals (or any other legal member of staff) to raise a formal grievance if they felt that they were being placed under pressure by the Chief Executive to compromise their professional responsibilities for managerial considerations.

While this option appears to turn the area fiscal/ABM relationship on its head, it reflects the increasing importance of (and difficulty in procuring) management skills and experience, the higher up in the organisation one goes. In this model, the Chief Executive post could be filled externally, or on promotion from within from any of the most senior Management Board posts, legal or management, but it would be filled exclusively on the basis of management rather than legal expertise.

6.11.10 The new management structures proposed are sketched out in Appendix 2. We have also attempted to clarify the respective roles of the Chief Executive and Crown Agent by way of the draft job descriptions contained in Appendix 3. Draft job descriptions for the other key posts in the new structure - Area Fiscal, Area Business Manager and local Procurator Fiscal – are also contained there.

6.12 The Management Board

6.12.1 The Management Board would be chaired by the Chief Executive and membership would include a Finance Director, Human Resource Director, and Director
of Corporate Strategy with one of these possibly being a slightly more senior post representing a number of senior posts just below Board level - perhaps the IT Director, a Change Management Director and a Press and Communications Director. On the legal side there would be the Crown Agent, the Head of Central Operations representing the Crown Office operational units, as well as the two or three most senior area fiscal posts *ex officio*. There should also be one or two non-executive Directors from outside the Service.

6.12.2 In this model the 12 area fiscals will report direct to the Chief Executive. We recognise that this represents a significant management span. We have considered the case for an intermediate layer of 2 or 3 regional fiscals or regional managers as exist, for example, in the Scottish Court Service. We believe, however, that the benefits of reducing that management span are outweighed by the disadvantages.

Introducing regions runs the risk of replicating the responsibility without power problems evident in the existing regions. If the commissions from the Lord Advocate lay with the areas then the regional fiscals/managers would lack the necessary operational authority to manage their area fiscals.

It is possible that the 2 or 3 regional fiscals might attract sufficient authority from the Lord Advocate to influence their area fiscals on operational matters. It seems more likely, however, that the Chief Executive/Crown Agent partnership will be in the unique position to build a sufficiently strong relationship with the Lord Advocate to ensure that the area fiscals follow a strong corporate vision on operational as well as management issues.

The job description of such intermediate regional fiscals/managers is not immediately apparent and it is not clear that an additional (and expensive) tier would add sufficient value.

6.12.3 We have also given further consideration to the charge that the Management Board will fail to represent the best interests of the Service if it is not predominantly made up of legal members of staff and, furthermore, does not include representation from each and every Region or Area.

We considered the senior management structure of Strathclyde Police. Its Management Board has:

- a number of operational functions headed by Assistant Chief Constables
  - Community safety (including communications)
  - Operations
  - Crime

- an Assistant Chief Constable in charge of Personnel

- a Civilian in charge of Finance, Administration and Physical Resources
a Civilian in charge of IT and Radio & Telecommunications

a Head of Legal Services; and

a Policy and Development Group reporting directly to the Chief Constable

This is similar to what we propose for the Service: Board level legal positions covering central legal operations, policy, and front-line operational representation; Board level representatives of corporate functions including Personnel, Finance, Corporate Strategy and possibly IT.

6.12.4 It has also been put to us that it would be a loss if those responsible for the delivery of the business in significant parts of the country were to be unrepresented at Board level. In this respect it is worth noting that the 9 operational Divisions in Strathclyde Police do not each have a representative on the Board. What is different is that the 9 Divisional Commanders all report into a single Assistant Chief Constable who represents their interests on the Board whereas we envisage the Area Fiscals reporting direct to the Chief Executive and being accountable to the Crown Agent and Chief Executive jointly for the quality of the legal decision making in their area. We are conscious of the arguments we presented against having 2 or 3 Regional Directors and think that these hold here too. We think it is preferable to maintain the special status of the Crown Agent independent of the direct management relationship between Area Fiscal and Chief Executive.

6.12.5 We also considered the Headquarters functions of the Scottish Court Service. The Management Board is chaired by the Chief Executive and comprises the Deputy Chief Executive, 3 Area Directors with geographical responsibilities, 4 Headquarter Unit Directors (Operations and Policy, Personnel and Development, Finance and Information Technology, Property and Services) and the Principal Clerk of Session and Judiciary.

6.12.6 The balanced representation of front line operations and Corporate Functions paints a picture broadly resembling the Management Board we are proposing save.

6.13 The Legal and Policy Forum

6.13.1 In addition to the Management Board, there would be a Legal and Policy Forum consisting of the 12 Area Fiscals and chaired jointly by the Chief Executive and Crown Agent. The forum would meet regularly to discuss operational matters. Its main purpose would be to lead the development of prosecution policy. Another key objective of the forum would be to ensure that all of the Area Fiscals had easy access to the Chief Executive and Crown Agent, and to the other corporate Directors on the Management Board. To this end we envisage that it would sometimes meet alongside the full Management Board.
6.14 Conclusion

6.14.1 We have tried to set out in this chapter our vision for the future of the COPFS and a practical scheme for bringing that to fruition. There are certainly details left to be resolved and Ministers and management will wish to consider these carefully in any implementation scheme. As we said at the beginning of this chapter, despite the incremental recommendations we made earlier, we are concerned that without a radical overhaul of the structures and management relationships, the Department will only be tinkering at the edges and ignoring the underlying reasons for the malaise that has afflicted the Department in recent years.
CHAPTER 7: FINANCIAL IMPLICATIONS AND IMPLEMENTATION ISSUES

7.1 Introduction

7.1.1 The last chapter set out a significant change agenda. The financial implications of such change, particularly the strengthening of the managerial functions in the Service, are considerable. There are also important implementation issues in such major plans for change.

7.2 Financial Implications

7.2.1 The main financial costs of the proposed new structure arise from recruitment of:

- 12 new Area Business Managers;
- approximately 30 additional Executive Officer equivalents to support Principal Deputies in the management of small multi-functional teams;
- approximately 20 additional Higher Executive Officer equivalents to support autonomous Procurators Fiscal and local Procurators Fiscal in large offices (Senior Civil Service Posts) in their management role;
- A significant strengthening of the central management services functions (at least an additional 25 posts);
- 3 or 4 additional board level posts covering major functional responsibilities: (Personnel, Finance, IT, Communications) as well the appointment of a Chief Executive.

7.2.2 We expect this strengthening of management could cost between £4m and £5m. It should deliver a better managed organisation with clear vision and clear, focused targets, ensuring that existing and additional resources are used efficiently and performance targets are developed and met.

7.2.3 In addition, we have made clear the significant resource pressures facing the organisation at a number of pinch points. Additional legal resources and corresponding administrative support need to be recruited if the service is to be able to deliver its business in the face of an increasingly complex caseload. We recommend that legal posts should be increased by approximately 10% over the next two years and the situation be reassessed once the new organisational structure and management arrangements are fully in place. The overall cost of this should be some £2-3m.

7.2.4 In the medium term, we expect the restructuring to deliver efficiency savings in two respects:
The service will be better managed overall and will be sufficiently resourced to put in place a performance management regime that will help to keep unnecessary costs to a minimum and ensure that performance targets are met; and

The move to small multifunctional teams has the potential to generate efficiency savings in a reduction in double handling and slicker processing of casework. It is noticeable that medium sized district offices, which are perhaps closest to the new multifunctional teamwork arrangements that we envisage appear to be the most efficient offices in the service according to the existing management information.

7.2.5 Given current workload trends, however, it is highly unlikely that these improvements in efficiency and effectiveness will lead to a subsequent reduction in budgets for staffing. Rather, the stripping out of unnecessary work and costs should enable the service to cope more easily with the continuing rise in the volume of complex business.

7.3 Implementation

7.3.1 We do not underestimate the complexity of the implementation of the new management and organisation arrangements. We estimate that it may take as long as two years to implement fully the new structure, taking account of the level of recruitment required. It will be essential that the implementation risks are carefully managed and that the Department continues to carry out its business efficiency during the transition.

7.3.2 The main implementation considerations will be to ensure that the right people are appointed to the key posts in the new structure. Given the importance of constructive relationships, especially between legal and non-legal staff, it is essential that appointments are made from the top down.

   The Chief Executive will need to be appointed first. He or she will want to participate in the appointments of the new Area Fiscals.

   The Area Fiscals, in their turn, will wish to play a key role in the appointment of their Area Business Managers. The Area Fiscal and Area Business Manager is the key to the integration of legal and managerial staff throughout the organisation.

   The Area Fiscal and Area Business Manager will then wish to begin the restructuring into smaller multifunctional teams within each area and the appointment of additional managerial posts that will flow from that.

7.3.3 The strengthening of the centre can go on in parallel.

   Once the Chief Executive is in place, the additional senior corporate appointments can proceed.
Each of those new appointees will then wish to consider with the Chief Executive the degree of strengthening and restructuring required within their business function.

7.3.4 This is a challenging agenda for change. It will only be possible with key appointments of the highest calibre. It will be a long and difficult voyage, but we are convinced that the journey will be worthwhile.
CHAPTER 8: CONCLUSION

8.1.1 The Crown Office and Procurator Fiscal Service remains the subject of much scrutiny. The inquiry by the Justice 2 Committee is still to report and there is further review work being carried out by the Quality and Practice Review Unit in respect of the Service’s handling of High Court cases, as well as the wider criminal justice reviews being carried out by Lord Bonomy and Sheriff Principal McInnes.

8.1.2 This Review was asked to concentrate on the management of the organisation in the light of the effect severe financial and workload pressures were having on its staff and on the delivery of its business. We found a Service that had been slowly ground down by this combination of increasing workload and lack of adequate resource. Management and communication skills are at a premium in the Department and the organisation has been unable to create the space for the difficult strategic decisions needed to reverse the tide. The result has been an organisation that is now at breaking point.

8.1.3 Many of the solutions to the Service’s problems are not difficult to see. We have made recommendations in the first five chapters of this report that are aimed at addressing many of the individual problems we saw during the Review. The catalogue of issues we encountered, however, led us to the conclusion that the organisation is fundamentally undermanaged. The list of issues that could be put down to poor management demonstrated a deeper problem – one that could not be addressed simply through additional resources.

8.1.4 We set out in Chapter 6 our proposals for transforming the management of the organisation. We set out starkly our arguments and the evidence that led us to these conclusions: the underlying problems are deep seated and we have had to be quite direct to begin to get managers and staff to acknowledge this.

8.1.5 We knew when we began work on the Review that we faced a daunting task. We have tried throughout to be as open as possible with the staff of the Service and to ensure that they have felt able to speak freely to us. The co-operation we encountered from staff across the Service was excellent.

8.1.6 We recognise that our conclusions will not be welcomed by a number of staff in the Service, particularly District Fiscals who feel threatened by the prospect of working in future without the anchor of a personal commission from the Lord Advocate. We have set out in full in an annex the written responses we received once we had made our emerging conclusions know to staff. The responses are mixed. Nevertheless, we remain convinced that Procurators Fiscal across the country should be able to carry out their duties professionally without the need for a special commission, except in the most legal and technical sense.

8.1.7 These staff will be critical to the success of the reforms that we propose and the future effectiveness of the Service. Ministers and Senior Management will need to weigh
the competing views on the place of the commission carefully before deciding on whether to implement that part of our recommendations.

8.1.8 All of the staff in the COPFS will be affected in some way or another if our recommendations are adopted. We have tried to prepare staff for the possibility of change by setting out our emerging conclusions in advance of submitting this report. We hope that if staff understand the reasons for the changes - and have participated in the review that led to their development - they will be more willing to accept them.

8.1.9 Whatever the decisions of Ministers and senior management, we wish the Service well. The work of the Service is difficult and sometimes thankless. Almost without exception the staff carry it out diligently and with impressive commitment to their calling. It is the management structures of the organisation - the product of slow and not always well focused change which besets the whole criminal justice system - that have let them down. We hope that our recommendations show the way to a better and more modern service where staff will thrive doing the work that they enjoy, while providing the public with the standards of service they have a right to expect.
Crown Office – Present Structure

Lord Advocate

Solicitor General

Crown Council

Deputy Crown Agent *

Crown Agent

6 Regional Fiscals *

Operations Group

Head of Appeals Unit
Head of High Court Unit
Head of Fraud and Specialist Services Unit
[Director of Scottish Charities Office]

49 Districts

Head of Quality Practice & Review Unit

Director of Resources *

Head of Policy Practice & Parliamentary Support Group *

Management Services Group

[Head of Personnel] 10 total
[Head of Finance Unit] 8 total
[Business Review Unit] 1 total
[Head of Internal Audit Unit] 4 total
[Head of Training Unit] 8 total
[Head of Estates Unit] 3 total
[Head of IS Unit] 16 + 2 (helpdesk) total
[Head of Management Information Division] 2 total
[Head of Procurement] 2 total
[Welfare Unit] 2 total

KEY

* Members of SMT
[-] Not Senior Civil Service Posts
----- Lines of influence or accountability other than direct management lines
Appendix 2 to Chapter 6

Lord Advocate

Chief Executive *

Solicitor General

Crown Counsel

Crown Agent *

Head of Policy

Director of * Central Operations

Director of Finance *

Director of HR *

Director of Central Operations

Corporate Strategy *

Independent Inspectorate

12 Area Fiscals
(* Includes 2/3 Board Appointments)

12 Area Business Managers

Possible off-board positions:
IT
Change Management
Press and Communications

KEY

Lines of influence or accountability other than direct management lines
* Members of Management Board
APPENDIX 3: JOB DESCRIPTIONS

DRAFT JOB PROFILE: CHIEF EXECUTIVE

Context for the Job

The emerging conclusions of the Management Review of the Crown Office and Procurator Fiscal Service envisages a restructuring of the service into a new area structure (with approximately 12 areas) and the appointment of a Chief Executive as the Accountable Officer and Head of Department.

The Chief Executive’s principle role will be the corporate leadership of the Crown Office and Procurator Fiscal Service, Chairing the Management Board and setting the strategic direction of the organisation. The Chief Executive will be responsible for implementing the reforms to the Crown Office and Procurator Fiscal Service resulting from the Management Review recommendations and ensuring that the necessary changes are made to the business direction, structure, management style and culture of the Department in order to transform the organisation into a modern, well managed, prosecution business fulfilling its leading role in the administration of Justice while working in close partnership with other organisations in the Criminal Justice System.

Organisation and Resources

The postholder reports to the permanent secretary of the Scottish Executive. The Chief Executive has direct line management responsibility for all Crown Office and Procurator Fiscals Service staff. Total COPFS staff is approximately 1200.

The Chief Executive will chair the COPFS management board and has direct line management responsibility for the Crown Agent who is the Head of Profession for all COPFS legal staff. The Crown Agent provides, however, an avenue of appeal direct to the Lord Advocate against any alleged compromise of the independence of the Service.

Total COPFS budget is approximately £64m in 2001-02.

Overall Job Purpose

The Chief Executive is responsible and accountable to the Lord Advocate for ensuring the effective, efficient and economical management of the COPFS. The postholder manages directly, with the support of the Crown Agent, the (12) Area Procurators Fiscal. Under these arrangements each Area Fiscal is accountable to the Chief Executive for the overall performance of their area and accountable to the Chief Executive and Crown Agent jointly (on behalf of the Lord Advocate – under the new structure the Area Fiscals will hold the Lord Advocate’s commission under the terms of the 1927 Act) for the quality of the legal decision making in their areas.
Within the overarching accountability for the leadership and management of the COPFS, the Chief Executive has the following core responsibilities:

- Setting the corporate strategy, business direction and plan for the COPFS;
- Leading and managing the COPFS efficiently and effectively and delivering the major changes to organisation, systems and culture following on from the Management Review recommendations and Ministerial decisions;
- Contributing to and influencing decision taking on the development of the wider Criminal Justice System;
- Contributing to the development of central government initiatives, especially in relation to the management of the civil service, and overseeing the implementation as appropriate in the COPFS;
- Managing the essential corporate functions of the Department;
- Managing the Area Fiscals, supported by the Crown Agent;
- Through the Crown Agent, managing the central operations functions in the Crown Office.

The major issues of current concern and immediate priorities of the post are:

- Establishing a programme of action and the necessary machinery for implementing those recommendations of the Management Review that are accepted by Ministers;
- Managing the transition from the existing Regional and District Structure to the Unitary Area Structure. A key aspect of this will be completing the early appointment of the new Area Fiscals and the recruitment of Area Business Managers;
- Managing and supporting the Area Fiscals in the transition to multifunctional teamworking within the areas;
- Getting the commitment and enthusiasm of the organisation as whole to the change programme;
- Ensuring that the Department continues to deliver an effective and efficient service during these changes;
- Facilitating better partnership working with other parts of the Criminal Justice System.
The key success indicators for assessing the achievement of these priorities would include:

- The achievement of Ministers’ vision for the COPFS and with the development over time of an organisation which is “positive, successful and esteemed”;
- Making the key appointments needed to transform the culture of the organisation;
- Achieving a successful transition with the challenges met and risks managed;
- Establishing an organisation in which the staff take pride, where they enjoy their work and where there is mutual understanding and recognition of the value added by all colleagues throughout the service and across the Criminal Justice System.

**Strategic Planning**

The Chief Executive is responsible for co-ordinating and developing strategic planning for the COPFS overall; setting national objectives, core business priorities and targets and for drawing up, implementing, monitoring and evaluating the Department’s overall business plan. This involves securing resources for the COPFS; agreeing performance targets which are stretching but achievable, which Ministers accept, and which measure and support the overarching objectives agreed for the wider Criminal Justice System; and ensuring that the COPFS meets its targets, through holding the various budget holders and Area Procurators Fiscal to account for their performance.

The postholder will need to establish an efficient corporate decision making infrastructure, along the lines of that proposed in the Management Review – an effective decision making management board mixing legal and corporate functions while ensuring that all those in the frontline operational aspect of the business are properly represented through the joint chairmanship with the Crown Agent of the legal and policy forum. The corporate team, including the Area Fiscals will need to ensure that the corporate purpose, objectives and values are understood and acted on throughout the organisation.

**Management of the COPFS**

The Chief Executive has the primary responsibility for the management of the COPFS overall. It will be the pivotal role in leading the COPFS successfully through the major changes to organisation, systems, management style and culture which flow from the Management Review. This will involve providing a clear vision and visible leadership for all staff and promoting, managing and gaining commitment to the changes across the COPFS. The postholder will be responsible for establishing, leading and overseeing work programmes to achieve the transition to the new Area Structure, subject to Ministerial decisions on implementation. The postholder will be responsible for co-ordinating and the work programme to ensure that Ministerial objectives and targets are met.
The Chief Executive’s management role is varied and complex. As well as leading and driving forward the changes and reforms to the COPFS, it includes:

Ensuring that appropriate operational autonomy is delegated to the areas (under the direction of the Lord Advocate), while maintaining a strong centre that supports and empowers the areas and local offices and promotes a consistent corporate identity;

Ensuring that there are national frameworks and policies for the efficient and effective administration of the COPFS to support the core business of prosecution;

Setting the highest standards of financial management to promote the proper, efficient and economic use of resources. Critically, this includes ensuring that policy proposals and organisational decisions take proper account of the financial considerations;

Identifying and developing new approaches, systems and procedures to support improvements in the Departments efficiency and effectiveness;

Ensuring that there are satisfactory career development structures, that skills and competencies of all staff are utilised and developed, and that senior posts are filled by the right people and that they are properly trained and developed;

Ensuring a modern, participative approach to management at all levels and providing leadership, commitment and inspiration to change the culture to one that encourages innovation, learning and continuous improvement;

**Representing the COPFS in the wider Criminal Justice System**

The Chief Executive has a key role to play, as a major stakeholder, in contributing to decision making on development of the Criminal Justice System. The postholder will need to liaise closely with, and have a major influence on, other parts of the Criminal Justice System to ensure a co-ordinated approach to policy, objective setting and implementation. The postholder will need to reconcile the COPFS interests and priorities with those of the wider Criminal Justice System and formulate tactics and strategies for influencing working with partners in the Criminal Justice System.

**Personal Actions and Decisions**

As the Accountable Officer the postholder will be ultimately accountable to the Lord Advocate and through him to the Parliament for the overall performance and achievement of the COPFS.

**Qualities and Experience**

The postholder will need to be able to:
Manage a complex, large organisation with a diverse and group of staff, geographically dispersed;

Provide strong and decisive leadership in a period of major change and uncertainty;

Lead the implementation of the proposed new structure;

Encourage, promote and deliver empowerment and high performance at the local level while maintaining national standards and consistency;

Work with others in the Criminal Justice System in a spirit of co-operation, and manage Area Procurators Fiscal and local Procurators Fiscal across the country to do the same, while ensuring the interests of the COPFS are properly protected;

Provide the leadership and personal authority necessary to generate widespread commitment to the proposed changes;

Analyse complex managerial issues, devise solutions, and promote them to managers across the service;

Prioritise and take contentious decisions;

Be open and adopt an inclusive approach to change and management while being resilient, self-reliant and robust when necessary;

Be energetic and committed to making the new arrangements work.

No specific qualifications, professional or otherwise are required for the post. Substantial experience of management issues at the highest levels and the delivery of major change in large organisations is essential.

**Relations, Networks and Influence**

Internally, the postholder needs to be able to develop the closest and most constructive working relationship with the Lord Advocate. Just as important is the relationship with the Crown Agent – the Professional Head of the Service. That relationship is at the heart of mending the cultural divide between legal and non-legal staff in the organisation and improving the overall effectiveness of the Department.

The postholder will need to secure the trust and confidence of the senior managers of the organisation and of the staff generally, and create a positive and proactive corporate team that leads by example.
Externally, the postholder needs to work closely with the Crown Agent to develop close and constructive relationships with other parts of the Criminal Justice System and with the many stakeholders of the Criminal Justice System, and to ensure that Area Procurators Fiscal and local Procurators Fiscal carry out this external representative role at local level.
DRAFT JOB PROFILE: CROWN AGENT

Context for the Job

The emerging conclusions of the Management Review of the Crown Office and Procurator Fiscal Service envisage a restructuring of the service into a new area structure (with approximately 12 areas) and the appointment of a Chief Executive without necessarily any legal background as the Accountable Officer and Head of Department. This proposed change in the arrangements at the top of the organisation creates the need for a new definition of the post of Crown Agent to work in close partnership with the Chief Executive, the Area Fiscals and other Senior Managers in the Crown Office.

The Crown Agent’s principal role will be as the civil service head of the legal staff in the Department; Principal Legal Advisor to the Lord Advocate on prosecution matters; the guardian of the continuing independence of the prosecution service and a key member of the Management Board and Joint Chair of the Legal and Policy Forum. [In the immediate future a key corporate objective of the post will be to support the Chief Executive and Area Fiscals in securing the purposeful and effective implementation of the Management Review in the light of ministerial decisions.]

Organisation and Resources

The postholder reports to the Chief Executive. The Crown Agent is Head of Profession for all COPFS legal staff – approximately 350 at present.

The postholder has direct line management responsibility for all legal operations and policy staff within the Crown Office (the Policy Group, the High Court Unit, the Appeals Unit, the Fraud and Specialist Services Unit and the Scottish Charities Office – approximately 50 staff at present) and is the Queen's and Lord Treasurer's Remembrancer.

Overall Job Purpose

The Crown Agent is responsible and accountable to the Chief Executive for ensuring the effective, efficient and economical management of the Crown Office legal resources. The postholder is accountable to the Lord Advocate and Chief Executive for the professional leadership and development of the legal and precognition staff in the service, in particularly for the effectiveness of legal decision making, precognition and prosecution of the Area Procurators Fiscal and their staff. Under these arrangements each Area Procurator Fiscal is accountable to the Crown Agent and Chief Executive jointly (on behalf of the Lord Advocate – under the new structure the Area Fiscals will hold the Lord Advocate’s commission under the terms of the 1927 Act) for the quality of the legal decision making in their area.

Within the overarching responsibility for the quality of legal work in the Department and for the legal advice to the Lord Advocate, the Crown Agent has the following core responsibilities:
professional development of all legal [and precognition] staff within the Department;

leading the development of prosecution policy and legal decision making criteria; to this end, jointly chairing the Legal and Policy Forum;

managing the central operations functions in the Crown Office – High Court, Appeals and Fraud & Specialist Services;

with the Chief Executive, contributing to and influencing interfaces with the wider Criminal Justice System;

supporting the Chief Executive in the management and leadership of the Area Procurators Fiscal;

providing an avenue of appeal against any alleged compromise of the independence of the Prosecution Service.

Major issues of current concern and immediate priorities of the post are:

supporting the Chief Executive in managing the transition from the existing regional and district structure to the unitary area structure;

supporting the Area Fiscals in the transition to multifunctional teamworking within the areas;

providing professional leadership to the legal staff in the Department during these transitions to secure their commitment to the change programme;

facilitating better partnership working with other parts of the Criminal Justice System.

The key success indicators for assessing the achievement of these priorities would include:

the achievement of Ministers’ and the Management Board’s vision for the COPFS and in particular legal staff recognising the benefits of the restructuring and the development over time of a professional cadre that are “positive, successful and esteemed” and who integrate effectively and constructively with colleagues throughout the service;

the achievement of continuous improvement [in the quality of legal decision making, precognition and prosecution] across the service;

the removal of barriers between central operations staff in the Crown Office and front line legal staff – delivering effective communication between the centre and the local offices on such matters;
the establishment of a culture in which the legal staff work in partnership with others within COPFS and across the criminal justice system.

**Personal Actions and Decisions**

The postholder will be responsible and accountable for taking decisions on the management of the operations and policy groups in the Crown Office, e.g. setting the direction and priorities, resourcing, structure, streamlining workflow, systems, integrating with the wider fiscal service, setting targets etc., and handling complex policy and operational issues.

Some of these decisions will need to be subject to the final agreement of the Chief Executive and will also need to be subject to the decision taking processes at senior levels: the Management Board and the Legal and Policy Forum. But the Crown Agent will expect to be held accountable for the impact such decisions have on the performance and quality of the legal work of the Department, and accordingly to take the lead on them.

The postholder will have full responsibility for ensuring that any concerns and complaints from legal staff about the quality and independence of legal decision making within the Department are addressed and raised appropriately with the Chief Executive and the Lord Advocate.

**Qualities and Experience**

The postholder will need to be able to:

- handle decisions and advise on the most complex and high profile prosecutions;
- with the Chief Executive, provide strong and decisive leadership in a period of major change and uncertainty;
- with the Chief Executive and other senior staff take forward the detailed technical implementation of the proposed new structure;
- encourage, promote and deliver empowerment and quality legal decision making at the local level while maintaining national standards and consistency;
- work with others in the criminal justice system in a spirit of co-operation, and encourage local Procurators Fiscal across the country to do so, while ensuring the interests of the Prosecution Service are properly protected;
- with the Chief Executive work with all staff in the Department in a constructive way to generate widespread commitment to the changes;
be open and adopt an inclusive approach to change management while being resilient, self-reliant and robust when necessary;

be energetic and committed to making the new arrangements work.

The postholder must be legally qualified and substantial experience of managing prosecution at the highest levels in Scotland is essential.

**Relations, Networks and Influence**

Internally, the postholder will need to be able to develop the closest and most constructive working relationship with the Chief Executive. That relationship will be at the heart of mending the cultural divide between legal and non-legal staff in the organisation and improving the overall effectiveness of the Department.

The postholder will need to secure the trust and confidence of the Area Fiscals and of the staff generally, ensuring the legal staff are confident that their interests are being properly represented at the most senior levels in the organisation.

Externally, the postholder needs to work closely with the Chief Executive to develop close and constructive relationships with other parts of the criminal justice system and with the many stakeholders of the criminal justice system, and to ensure that Area Procurators Fiscal and local Procurators Fiscal carry out this external representative role at the local level.
DRAFT JOB PROFILE – AREA PROCURATOR FISCAL

Context for the Job

The emerging conclusions of the Management Review of the Crown Office and Procurator Fiscal Service envisage a restructuring of the service into a new area structure (with approximately 12 areas). In charge of each area would be an Area Procurator Fiscal appointed by the Lord Advocate under the terms of the 1927 Act.

An Area Procurator Fiscal’s principal role will be to lead and manage the public prosecution of offenders within their area, subject to the direction of the Lord Advocate on legal decisions and of the Chief Executive on business management matters.

Organisation and Resources

The postholder reports to the Chief Executive. The Area Procurator Fiscal is accountable to the Crown Agent and Chief Executive jointly (on behalf of the Lord Advocate) for the quality of the legal decision making in their area. They are accountable to the Chief Executive alone for the effective, efficient and economical management of their area.

The postholder has direct line management responsibility for all of the legal and administrative staff within their area. The precise number of staff involved would be dependent on the size of the area.

Overall Job Purpose

The Area Procurator Fiscal is accountable for the performance of the area, taking full responsibility for the supervision of casework, management and liaison with other key players in the Criminal Justice System and the wider community. The postholder is appointed on a personal basis by the Lord Advocate under the terms of the 1927 Act.

The Area Fiscal plays a pivotal role within the Criminal Justice System. The postholder’s focus is on delivering a local service within a national framework, operating through devolved responsibility and accountability and, in partnership with other Criminal Justice contacts, notably Chief Constables and Sheriff Clerks, driving up the performance of the COPFS and the Criminal Justice System more generally.

Area Procurators Fiscal will be visible in taking a lead in the fair and assiduous prosecution of offenders and in the fight against crime. They will hold themselves accountable to the local community and to other Criminal Justice System partners for the quality of legal decision making and the overall performance of the area.
Area Procurators Fiscal will play an active role in contributing to the framing and delivery of the service’s strategic objectives. The postholder will be a member of the legal and policy forum and participate in subgroups of the forum as appropriate.

The Area Procurator Fiscal will take a lead role in driving through the major change in working methods proposed by the Management Review, and play an active leadership role in the wider Criminal Justice System. The postholder will be tasked by the Management Board with delivering key performance targets.

The postholder will be proactive in gaining the respect and confidence of the community by engaging with them directly and by implementing an effective communications strategy.

The Area Procurator Fiscal will strive to create a diverse workforce, reflective of the wider community, and develop a working environment in which all are valued and able to flourish.

The Area Procurator Fiscal will report directly to the Chief Executive and will be accountable to him for the overall performance of the area and accountable to the Crown Agent and Chief Executive jointly for the quality of the legal decision making in the area. The postholder will be responsible for developing and implementing the area business strategy and plan and for the delivery of the objectives set by the Management Board. The postholder will oversee the management of resources in the area.

Major issues of current concern and immediate priorities of the post are:

- Managing the transition to multifunctional teamworking within the area;

- Facilitating better partnership working with other parts of the Criminal Justice System;

- Developing an effective local strategy for improving the service to victims and witnesses through clear direction, leadership, communications, internal and external, and a strong personal lead to all staff. This will involve close liaison with representative groups such as victims groups, and working closely with Criminal Justice partners on the provision of information to victims and witnesses;

- Working with and engaging the community, raising the profile of the COPFS through effective communication, greater transparency in decision making and active promotion of the COPFS and the wider Criminal Justice System to the local community;

- Developing a culture within the area which promotes treatment of staff, victims and witnesses and accused that is fair, and free from bias or discrimination;

- Creating constructive and proactive relationships with the media in order to develop the positive profile of the COPFS. It provides the opportunity for Area Fiscals to
demonstrate their local accountability for legal decisions through the media and to ensure common messages are delivered alongside other criminal justice organisations.

The key success indicators for assessing the achievement of these priorities would include:

- The restructuring of case processing into small multifunctional teams and the development over time of a staff that integrate effectively and constructively with their colleagues throughout the service;
- The achievement of continuous improvement in their area;
- The establishment of a culture within their area in which the legal staff work in partnership with others within the COPFS and across the Criminal Justice System;
- The development of a culture within the area that is sensitive and proactive in delivering a quality service to victims and witnesses that is fair and free from discrimination;
- The establishment of effective contact with the local community involving regular meetings with key community representatives as well as attendance at public meetings.

**Personal Actions and Decisions**

The postholder will be accountable for all legal decisions and the quality of case presentation in the area. They will play a role in the review and handling of some of the most serious and sensitive cases in the area. These cases may involve difficult evidential or legal issues, sensitive or difficult public interest decisions or the cases with a high media profile or which could have a substantial impact on the image and reputation of the COPFS in the local community. Rather than handle a personal case portfolio, the Area Fiscal will become involved selectively in particular cases. For example, it may involve advising and agreeing the strategy for presenting a complex or high profile case in court; or on a critical handling issue at a key stage of a case or giving final approval to press briefing on sensitive and high profile cases.

The Area Fiscal will have a personal responsibility in leading the handling of complaints against the police; usually in relation to police officers in another force area.

The Area Fiscal will have a duty to promote high standards and account for the quality of legal decisions and case presentation in the area. The postholder will be expected to seek opportunities to exert influence and promote the service’s profile and standing at court by personal attendance and case presentation in appropriate cases.

The postholder will need to influence effectively other criminal justice contact at a senior level – Chief Constables, Sheriffs and Sheriff Clerks. They will have to promote the right culture, common behaviours and attitudes within the staff of the area to encourage partnership working at all levels, and to recognise the benefits that accrue from it in terms of supporting performance
improvement in both the COPFS and the wider Criminal Justice System. This will often require subtle influencing and leadership skills to persuade partners to take a view wider than the sole interests of their agencies.

**Qualities and Experience**

The Area Procurator Fiscal will be responsible for setting the aspirational vision, overall business direction, short and long term business plans and priorities for the area. They will be the ultimate decision maker in determining the business direction of their area, although they will need to work in close partnership with their Area Business Managers. The postholder will need to be able to:

- Provide visible leadership for all staff, through effective understanding and promotion of the Department’s vision and values, its people policies and the link with the overall business directions and by demonstrating to staff their own personal commitment;

- Promote a clear and consistent understanding of the Department’s aims, objectives and priorities;

- Create and maintain effective structures to communicate the purpose and context of initiatives to all levels of staff;

- Agree and oversee the implementation of the Area Business Plan within the corporate framework, setting of local targets, objectives and priorities and the achievement of those objectives consistent with the Department’s aims and those of the wider Criminal Justice System;

- Encourage area staff at all levels to develop and foster effective partnerships with Criminal Justice System colleagues; and more broadly within the community;

- Create a culture of critical self assessment and continuous improvement in order to deliver a consistently high level of public service;

- Take personal responsibility for raising the skills and standards of all the staff and ensure that essential training and developing needs are met;

- Be capable of negotiating the share of available resources within the service to achieve proposed plans and targets balancing the resources available against workload pressures and work priorities;

- Establish efficient and effective organisational structures and supporting frameworks across the area and deliver value for money. The postholder will set the framework for driving forward and improving performance and the quality of service within the area, and ensure the critical performance objectives and targets are met.
The postholder must be legally qualified and have significant experience of managing prosecution at all levels in Scotland.

**Relations, Networks and Influence**

Internally, the postholder will need to be able to develop a very close and constructive working relationship with their Area Business Manager. That relationship will be at the heart of a strong multifunction teamwork culture and underpin the overall effectiveness of the area.

The Area Fiscal will have to demonstrate qualities of leadership, the ability to motivate, inspire and develop staff, sound powers of judgement, communication and negotiation and a good grasp of community engagement issues. The postholder will also need to understand the importance of planning strategic priorities, networking, managing and delivering change and performance management, and have the capacity to take decisions on those issues. They will need to be able to represent the interests of their area to senior management through their membership of the legal and policy forum and be capable of gaining the trust and confidence of their area staff that they are doing so.

Externally, the postholder needs to develop close and constructive relationships with other parts of the Criminal Justice System and with its many stakeholders.
DRAFT JOB PROFILE – AREA BUSINESS MANAGER

Context for the job

The emerging conclusions of the Management Review of the Crown Office and Procurator Fiscal Service envisage a restructuring of the service into a new area structure (with approximately 12 areas). This proposed change in the structural arrangements creates the need for a new post of Area Business Manager, to work in partnership with the new Area Procurator Fiscal in each area.

The Area Procurator Fiscal is accountable for everything which goes on within their area, and the Area Business Manager will be responsible to the Area Procurator Fiscal alone. For this relationship to be successful, the two posts will need to be seen as a partnership in many aspects of Area business.

Organisation and Resources

The postholder reports to the Area Procurator Fiscal. The Area Business Manager has a professional role in relationship to the management of all of the administrative staff in an area – approximately two thirds of the total staff in the area.

The postholder has direct line management responsibility for staff in the Area Business Unit – the secretariat supporting the Area Business Manager and the Area Procurator Fiscal. In addition, the Area Business Manager has direct line management responsibility for the administrative managers that support each team leaders within the area with that reporting responsibility shared jointly with that respective legal manager.

Overall Job Purpose

The Area Business Manager is responsible for and accountable to the Area Procurator Fiscal for ensuring the effective, efficient, and economical management of casework systems and processes in the Area. In this respect the Area Business Manager works very closely in partnership with the Area Procurator fiscal and supports the Area Procurator Fiscal in their responsibilities to the Chief Executive and Crown Agent (on behalf of the Lord Advocate) for the effective, efficient and economical performance of their area.

Within the overarching responsibilities for the overall performance of the Area business functions, the Area Business manager has the following core responsibilities:

- Area business planning and resourcing;
- Area casework systems and processes;
Representing the Area in local partnerships with other Criminal Justice agencies;

Managing Area wide administrative services;

Managing, in partnership with the legal team leaders, the supporting Administrative Managers in charge of each casework unit;

Working closely with, and influencing, the legal team leaders throughout the Area;

Contributing to service wide strategy and the implementation of consistent standards across the country.

Major issues of current concern and immediate priorities of the post are:

in close partnership with the Area Procurator Fiscal, managing the transition to multifunctional team working within the Area;

Setting up new resource planning and allocation systems within the Area:

Tracking performance and setting priorities through forecasting, measuring and evaluating outcomes, trends and changes; and ensuring targets are met in all aspects and that there is sufficient resource to cover for contingencies and absences.

Improving the administrative and casework systems throughout the area, reviewing best practice and identifying opportunities for information technology solutions and continuous improvement; working closely with the Area Procurator Fiscal to facilitate better partnership working with other parts of the Criminal Justice System;

Working with the Headquarters finance function to ensure that proper financial procedures are followed, seeing that the area operates within budgets and that payments are made promptly and accurately to Departmental standards;

Working with the central human resource function to ensure that the Area has the right distribution of people, with the right knowledge and skills, in the right places and at the right levels; and delivering Personnel policy at the local level;

Working with the central estates function to modernise working practices and achieve maximum efficiency and effectiveness in the use of office and accommodation services; the Area Business Manager will also have to ensure that the Area meets requirements on Health and Safety.

The key success indicators for assessing the achieving these Priorities would include:
The restructuring of case processing into small multifunctional teams and the development over time of a staff that integrate effectively and constructively with each other throughout the Area;

The delivery of management information to the Area Procurator Fiscal to ensure the achievement of Area targets;

The establishment of effective joint working relationships with other Criminal Justice agencies in the Area;

The development of a modern working environment and a staff culture that ensures every employee receives treatment that is open, fair and free from bias and discrimination;

A positive profile with Headquarters functions and with Area Business Managers in other areas.

**Personal Actions and Decisions**

The Area Business Manager will be responsible for preparing and managing the Area Business Plan under the direction and guidance of the Area Procurator Fiscal and in accordance with corporate-wide strategic objectives. The postholder will be expected to develop, introduce, evaluate and improve systems and will have considerable discretion to do so. The Area Business Manager will be expected to take decisions on the management of the business in their area, e.g. resourcing, structure, streamlining workflow systems. They will be expected to act with the authority of the Area Procurator Fiscal in a range of issues, whilst being able to identify legal matters that should be referred to the Area Procurator Fiscal.

The postholder will have a specific role in developing the business management of the area and will be expected to coach and mentor other administrative managers within their area.

**Qualities and Experience**

The postholder will need to be able to;

Inform the overall direction and priorities of the Area through their specialist understanding of workload forecasting, and financial and manpower planning;

With their Area Procurator Fiscal, provide strong and effective leadership in a period of major change;

Identify and develop opportunities for improvement, while being alive to the impact of change and how it is best managed;
Advise on the management of risk, as part of the corporate governance of the Area, with input from others on legal matters;

Influence and gain commitment from local Procurators Fiscal through fostering successful partnerships;

Establish networks with other areas and with headquarters to ensure access to good practice and appropriate specialist knowledge and skills;

Establish their own credibility and manage relations with local Criminal Justice agencies, which will require extensive interpersonal and negotiating skills as well as a working knowledge of the prosecution process;

Operate the business planning and resources functions with sound knowledge of performance management and finance and resource accounting;

Be able to balance competing priorities;

Be open and adopt an inclusive approach to change management while being resilient, self-reliant and robust when necessary;

Be energetic and committed to making the new arrangements work.

No specific qualifications are required for the post. An IPD or equivalent Personnel qualification would be helpful, but more important is substantial experience of performance management, business planning and resourcing, management of change, personnel, financial and facilities management and, if possible, a working knowledge of the structures and procedure in the local Criminal Justice system.

**Relations, Networks and Influence**

The postholder will need to be able to develop the closest and most constructive relationship with the Area Procurator Fiscal. That relationship will be at the heart of a strong multifunction teamwork culture and underpin the overall effectiveness of the Area.

The postholder will need to secure the trust and confidence of the legal staff in the area, including the local Procurators Fiscal, so they can act on the Area Procurator Fiscal’s authority on resource planning and allocation matters.
The Area Business Manager will have to build networks and influence with their colleagues in other Areas and the Crown Office.

Externally, the Area Business Manager will need work closely with the Area Procurator Fiscal to develop close and constructive relationships with other parts of the Criminal Justice system at the local level.
DRAFT JOB PROFILE – LOCAL PROCURATOR FISCAL

Context for the job

The emerging conclusions of the Management Review of the Crown Office and Procurator Fiscals Service envisage a restructuring of the Service into a new Area structure (with approximately 12 Areas). In charge of each would be an Area Procurator Fiscal and it would in future be the Area Procurator Fiscal that was person appointed by the Lord Advocate under the terms of the 1927 act.

The principal duties of the District Fiscal would remain, however, and this job profile sets out the main responsibilities and characteristics of the new role.

A local Procurator Fiscal’s principal role will be to lead and manage the public prosecution of offenders within their Sheriff Court District, subject to the support and guidance of their Area Procurator Fiscal.

Organisation and Resources

The postholder reports to the Area Procurator Fiscal and is accountable to the Area Procurator Fiscal for the effective, efficient and economical management of their local office and the quality of the legal decision making of the staff in that office.

The postholder has direct line management responsibility for all of the legal and administrative staff within their office. That management responsibility for the senior administrative manager within that office is held jointly with the Area Business Manager that supports the Area Procurator Fiscal.

Overall Job Purpose

The local Procurator Fiscal is responsible for the performance of their office, taking full responsibility for the casework and management within the office and for liaising with other key players in the Criminal Justice system and the wider community.

The Local Procurator Fiscal plays a pivotal role within the local Criminal Justice system. The postholder’s focus is on delivering a local service within a consistent national framework, operating through devolved responsibility and accountability and in partnership with other Criminal Justice contacts at the local level.

The Local Procurator Fiscal will be visible in the fair and assiduous prosecution of offenders and the fight against crime. They will hold themselves accountable to the local community and to local Criminal Justice partners for the quality of legal decision making and the overall
performance of their office. The postholder will be tasked by the Area Procurator Fiscal with delivering key performance targets in their office and will be responsible for contributing to the implementation of the area business strategy and plan and for the delivery of corporate wide objectives.

The postholder will be proactive in gaining the respect and confidence of the community by engaging with them directly.

The Local Procurator Fiscal will facilitate a diverse workforce, reflective of the wider community and ensure the local office provides a working environment where all are valued and encouraged to flourish.

Major issues of current concern and immediate priorities are;

- In larger offices, managing the transition to multifunctional team working;
- Developing better partnership working with other parts of the Criminal Justice system at the local level;
- Improving the service and provision of information to victims and witnesses; this will involve close liaison with local representative groups and meeting victims that have concerns about particular COPFS decisions;
- Working with and engaging the community, developing local community contacts, some of which will be for the specific purpose of increasing public confidence among minority or vulnerable sections of the community;
- Promoting a culture in the office which promotes treatment of staff, victims and witnesses and accused that is fair, and free from bias and discrimination.

The key success indicators for assessing the achievement of these priorities would include:

- The restructuring of case processing in the office into small multifunctional teams (in the larger office) and the development of enough staff who integrate effectively and constructively with their colleagues;
- The development of an office culture that is sensitive and proactive in delivering a quality service to victims and witnesses that is fair and free from discrimination;
- In partnership with their Area Fiscal, the establishment of effective contact with the local community involving regular meeting with key community representatives as well as attendance at public meetings.
Personal Actions and Decisions

The local Procurator Fiscal will be accountable for all legal decisions and the quality of case presentation in their office and will carry out a good deal of this personally (depending on the precise size of the local office). In smaller offices, the postholder will cover all business while in larger offices they will wish to concentrate on difficult evidential legal issues, sensitive or difficult public interest decisions or cases with a high media profile.

The local Procurator Fiscal will have a duty to promote high standards and account for the quality of legal decisions and case presentation in the local office. The postholder will be expected to seek opportunities to exert an influence and promote the Service’s profile on a personal basis.

The postholder will be expected to influence other Criminal justice contacts at a local level. They will have to promote the right culture, common behaviours and attitudes within their staff to encourage partnership working and to recognise the benefits that accrue from it in term of supporting performance improvements in both the local office and local partners in the Criminal Justice System.

Qualities and Experience

The local Procurator Fiscal will be responsible for managing the legal decisions and case processing in their office. They will be supported in the management role by the senior administrative manager in their office and they will need to work in close partnership with their Area Business Manager. The postholder will need to be able to;

- Provide visible leadership for staff in their office through promoting effective and economical working and demonstrating to staff their own personal commitment;

- Encourage staff at all levels in the office to foster and develop effective partnerships with Criminal Justice system colleagues; and within the community;

- Take personal responsibility for raising the skills and standards of all staff within the office and ensure that essential training and development needs are met;

- Take complex legal decisions quickly and effectively and present cases well in court while recognising those sensitive cases that may need to be escalated to the Area Procurator Fiscal for consideration.

The postholder must be legally qualified and have experience of managing prosecution at all levels in Scotland. (The degree of experience required will depend upon the size of the local office).

Relations, Networks and Influence
Internally, the postholder will need to be able to develop a close and constructive working relationship with their senior office manager, and with their Area Business Manager. Those relationships will be at the heart of a strong multifunction teamwork culture and underpin the overall effectiveness of the local office.

The Local Procurator Fiscal will need to have a mature management relationship with their Area Procurator Fiscal to ensure that they are in a position to exercise a high degree of discretion and autonomy within their office while consulting their Area Procurator Fiscal on cases that may prove particularly sensitive or high profile.

Externally the postholder needs to develop close and constructive relationships with local partners in the Criminal Justice system and with its many stakeholders.