

# **Efficiency of prosecuting cases through the sheriff courts - costing the sheriff court system**

## **Methodology**

## Cost modelling in previous reports

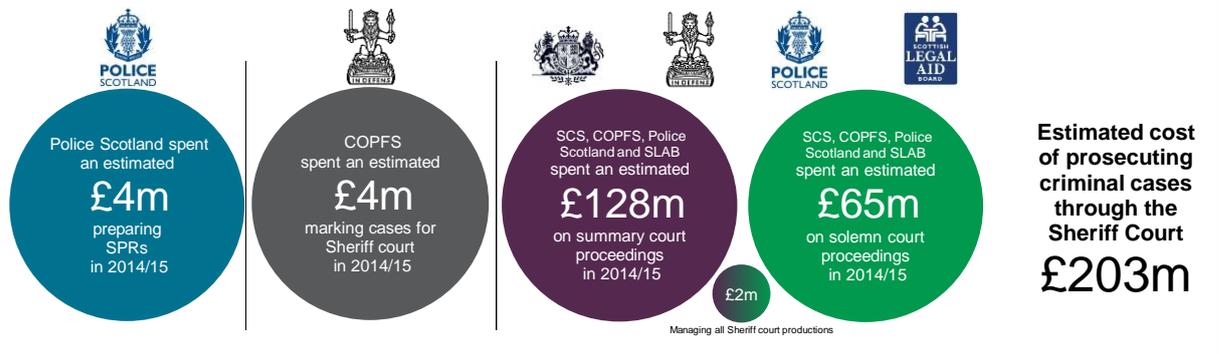
1. On 6 September 2011 Audit Scotland published 'Overview of Scotland's justice system' for the Auditor General and Accounts Commission. The report stated that in 2009/10 the estimated cost of delays in processing summary cases (for everyone involved, including victims and witnesses) cost at least £10 million, and that late decisions not to proceed cost an additional £30 million.
2. In the absence of any other means of calculating the cost of processing cases in the sheriff courts Audit Scotland devised a costing methodology to estimate costs based on the outcomes of cases during summary proceedings. These calculations involved the simple multiplication of three factors that were determined in collaboration with criminal justice organisations during the audit:
  - The cost of professionals present at a court appearance (and court running costs) per five minutes based on annual salaries and court sitting days.
  - The average time taken for a court appearance to reach a particular outcome.
  - The number of outcomes during the financial year.
3. The cost calculations in 'Efficiency of prosecuting cases through the sheriff courts' build upon this methodology using updated numbers, further guidance from criminal justice organisations and additional data to achieve a more comprehensive costing of the sheriff court system as a whole. Costs that appear to be the same as those reported in 2011 are not directly comparable. All figures are based on 2014/15 information where possible but include some information from 2013/14 when updated data was not available.

## Costing the system as a whole 2014/15

4. Four parts of the sheriff court system were calculated independently:
  - The cost of preparing SPRs for Police Scotland.
  - The cost of marking cases for sheriff court for COPFS.
  - The cost of summary court proceedings for all criminal justice organisations involved (using the updated costing methodology).
  - The cost of solemn court proceedings for all criminal justice organisations involved.

Additional court costs were added retrospectively if they could not be incorporated into costing models or could not be split across stages.

5. The costs of these distinct parts of the system were aggregated to reach the estimated cost to the system of £203m in 2014/15. The following sections will set out how the cost of each section was calculated in the 'Efficiency of prosecuting cases through the sheriff courts' report.



## The cost of preparing Sheriff Court SPRs for Police Scotland

6. The number of Police SPRs in 2014/15 (226653) was split into three categories after guidance from Police Scotland. This was necessary to better reflect different levels of crime complexity and its impact on SPR preparation time. The breakdown was as follows:

**25% simple SPRs taking an officer 45 minutes each = 56663**

**50% normal SPRs taking an officer 120 minutes each = 113327**

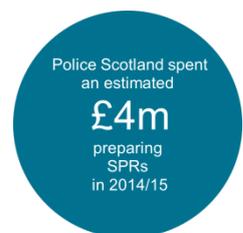
**25% complex SPRS taking an officer 240 minutes each = 56663**

7. A cost per SPR was also generated using the simple, normal and complex categories. These estimated times were converted into 5 minute periods and multiplied by a 5 minute average police officer cost based on 2014/15 salaries

9 five minute periods (45 mins)	x	£2.014 (5 min officer cost)	=	£18.13 per SPR
24 five minute periods (120 mins)	x	£2.014 (5 min officer cost)	=	£48.34 per SPR
48 five minute periods (240 mins)	x	£2.014 (5 min officer cost)	=	£96.68 per SPR

8. The numbers of simple, normal and complex SPRs were then multiplied by their respective cost per SPR to achieve a total cost of all Police SPRs of £12m. This number was then multiplied by the by the percentage of SPRs marked for Sheriff Court by COPFS (35%) in 2014/15 to generate a Sheriff Court SPR cost.

$$£11,983,325.98 \quad x \quad 0.35 \quad = \quad £4,194,164.09$$



## The cost of marking cases for sheriff court for COPFS

9. Initial case processing costs for 2014/15 were provided by COPFS and stated as £3.935m.



## The cost of summary court proceedings for all criminal justice organisations involved (using the updated costing methodology)

10. Summary court costs were calculated using an updated version of the costing model used in our 2011 report.
11. We calculated the salaries of professionals/officials (and other court costs) per five minutes. For example:

Official	Annual salary +25% on costs	Day rate based on 225 days	Hour rate based on 7.24 / 5 hours	5 min rate
<b>Sheriff</b>	<b>£189,310</b>	<b>£841.38</b>	<b>£168.28</b>	<b>£14.02</b>

12. We then calculated a cost per court appearance for each professional based on based on the appearance outcome and the average time for the court appearance. The average times for each outcome at each stage were estimated in conjunction with criminal justice organisations. For example:

<b>Sheriff 5min rate</b>		<b>First calling outcome: Warrant to apprehend issued</b>		<b>Sheriff cost per first calling appearance resulting in a Warrant to apprehend issued</b>
<b>£14.02</b>	<b>x</b>	<b>0.6 (of 5min)</b>	<b>=</b>	<b>£8.18</b>

This was repeated for every outcome at first calling, intermediate diet and trial diet as listed on the SCS Monthly Protocol Reports. The continued without plea hearing was excluded from costings.

13. The costs per appearance for each official (or running cost), for each outcome at each stage were aggregated to produce a total cost per appearance. This cost takes into account all of the people involved, their associated costs and the average length of a particular appearance

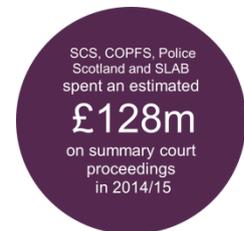
outcome. For Example:

First Calling Outcome	Court running costs	Sheriff	Fiscal	Court officer	Police presence	TOTAL
<b>Warrant to apprehend issued</b>	<b>£8.18</b>	<b>+ £8.41</b>	<b>+ £2.66</b>	<b>+ £0.63</b>	<b>+ £1.21</b>	<b>= £21.09</b>

14. The final stage of the costing process was to combine the cost per appearance with the number of instances there were in 2014/15 as reported by SCS in their sheriff court MPR. For example:

First Calling Outcome	Cost per appearance	Number reported on MPR in 2014/15	Annual cost
<b>Warrant to apprehend issued</b>	<b>£21.09</b>	<b>x 3040</b>	<b>= £64,130</b>

This is repeated for each outcome at each stage to generate a total cost of all summary court appearances in 2014/15 of £128m.



## Additional calculations within summary costs

### Accounting for Legal Aid

15. In our previous report all legal aid costs were included in first calling costs. In order to achieve more accurate costings across the court diets we asked SLAB to estimate the breakdown of legal aid over each stage of the court process. The breakdown was as follows, 45% at first calling, 27% at intermediate diet and 28% at trial diet. We calculated summary legal aid costs in the same way as in 2011 by multiplying the average summary support cost (£614) by the number of appearances at first calling that would involve legal aid (57,866). This came to a total of £35,426,232. This cost was then split between the three diets as per SLAB estimates.
16. These diet totals were incorporated into the costing model by calculating a legal aid cost per appearance for each outcome at each diet. This was achieved by calculating a legal aid cost per 5 minutes based on the total legal aid cost of each diet divided by the total number of 5 minute periods generated by at each diet, as per the SCS MPR in 2014/15. The legal aid costs per 5 minutes were adjusted for each outcome at each stage based on the length of the average appearance (see paragraph 12) to achieve a legal aid cost per appearance. The legal aid costs per appearance were then included when calculating the cost per appearance totals (see paragraph 13).

## Estimating the court running costs

17. We estimated sheriff court running costs using a similar methodology to our 2011 report. We extracted the total costs for accommodation and buildings costs from 2013/14 SCS annual report and accounts (£24.5m) before multiplying this total by the percentage of cases marked for sheriff courts (summary and solemn) out of all cases marked for all courts by COPFS in 2014/15. The estimated spend on sheriff court running costs was £16,835,120.
18. This was achieved by calculating a court running cost per five minutes (£13.64) based on the £16.8m sum divided by the total number of 5 minute periods generated by all appearances at all diets (summary and solemn), as per the SCS MPR in 2014/15 (1,234,382 five minute periods). The £13.64 was adjusted for each outcome at each stage based on the length of the average appearance (see paragraph 12) to achieve a building cost per appearance. The building costs per appearance were then included when calculating the cost per appearance totals (see paragraph 13).

## Cost of churn

19. In the 'Efficiency of prosecuting cases through the sheriff courts' we used a narrower definition of churn than in our 2011 report. This was to make a distinction between what we deem to be within the influence of criminal justice organisations and what is not. Churn in this report was identified as the intermediate diet outcome 'continued to further intermediate diet' and at trial diet 'no evidence led and adjourned for further trial diet'. In the process of costing the system a cost per appearance was calculated for each (see paragraph 13) and then multiplied by the number of times each outcome occurred in 2014/15 (see example in paragraph 14).

## Cost of late resolution

20. In an 'Overview of Scotland's justice system' 2011 we stated late decisions not to proceed cost an additional £30 million. This was a simple addition of the cost of cases that were not called or deserted and not guilty pleas accepted at intermediate diet and trial diet. In this report we focussed on the cost of late guilty pleas and late not guilty pleas being accepted. In addition we have attempted to calculate a minimum cost borne in court appearances prior to the late pleas.
21. We estimated the cost of late resolution of cases in 2014/15 as £25m. We arrived at this figure by adding the total cost of guilty pleas and not guilty pleas being accepted at intermediate and trial diet, calculated during the costing of all summary court costs, and added assumed costs from earlier diets (i.e. late resolution at intermediate diet being preceded by one appearance at first diet resulting in a not guilty plea and late resolution at trial diets preceded by one appearance at first diet resulting in a not guilty plea and one appearance at intermediate diet resulting in a continuation to original trial diet). The sum of all these costs came to a total of £53m. We then subtracted the cost of the total number of later resolutions had they achieved the same outcome at first calling; this sum came to £29m.

## Cost of outstanding trials

22. Outstanding trials have increased significantly since 2011 and as such have become a focus of some financial analysis in our report. We calculated the cost of outstanding trial appearances to be £29m.
23. In order to estimate the cost of all outstanding trials at the end of 2014/15 we calculated the number of trial appearances as a percentage of all trial complaints in 2014/15 (113%). This percentage was used to approximate the number of trial appearances generated by the 20,098 outstanding trial complaints. We estimate that the outstanding complaints would generate 22,931 appearances, approximately 44% of the total number of trial appearances in 2014/15. We then multiplied the total trial diet cost calculated in our costing of all court appearances (£66m) by 44% to generate a cost for the outstanding trial appearances (this assumes the breakdown of appearance outcomes will be similar to 2014/15 levels).

## The cost of solemn court proceedings for all criminal justice organisations involved

24. We attempted to cost solemn proceedings in the same way as summary costs but did not have access to a comprehensive MPR from SCS for solemn cases. As such all costs have been based on overall diet appearances and not outcomes at each stage and have been based on a number of assumptions.
25. We costed the solemn first appearance as a summary first calling equivalent and used the average time (6.5 minutes, 1.29 five minute period) of all outcomes at summary first calling. There was no number of first appearances listed on the SCS MPR so we used the number of appearances at first diet as a proxy for the number first appearances. We costed the first diet as a summary intermediate diet equivalent and used the average time (7.5 mins, 1.5 five minute periods) of all outcomes at intermediate diet. We used an estimate of jury trial appearance times from The Modern Scottish Jury in Criminal Trials published by the Scottish Government in 2008 rather than the average time of all outcomes at summary trials. This was necessary to reflect the fact that jury trials are much more complicated than summary proceedings. The report estimated the average length of a sheriff court jury trial at 2 days, this was included in our methodology as 120 five minute periods. As with continued without pleas hearings for summary cases we did not cost full committal appearances.
26. We also assumed the same professionals/officer/witness presence and building running costs as summary proceedings. As a result we may have underestimated the cost of payments to witnesses for lost earnings while appearing at solemn trials.
27. We estimate that the cost of solemn court proceedings in 2014/15 was £47m.

## Accounting for Legal Aid

28. SLAB legal aid costs were calculated differently to summary costs and were added as a cost per diet appearance due to no information being available at diet outcome level in the MPR. The total legal aid costs was calculated using the average solemn legal aid cost reported by SLAB of £1,892 multiplied by an estimate of solemn first diet appearances generating legal aid support (in the absence of any other means to calculate this we used the proportion of summary cases as a proxy). This generated an overall legal aid cost of £11.8m for all solemn appearances. In the absence of an idea of the distribution of this money across diets we split it even across first appearance, first diet and jury trial. We then calculated the cost per appearance by dividing these diet level totals by the related number of accused as per the SCS MPR for 2014/15 (N/B we used the number of appearances at first diet as a proxy for the number of first appearances).

## Additional Solemn Costs

29. In addition to the solemn costs calculated as above we included £17.6m of additional solemn costs derived in conjunctions with criminal justice organisations. These included:
- Jury administration costs £3.5m
  - Court preparation and investigation (precognition) costs £13.2m
  - Expert Witness Costs £910,000



## Other costs

30. In addition to the costs described above we also included the costs of the management and transportation of productions (physical evidence) for court proceedings (£2m). This was supplied by Police Scotland but can not be split accurately between summary and solemn proceedings.