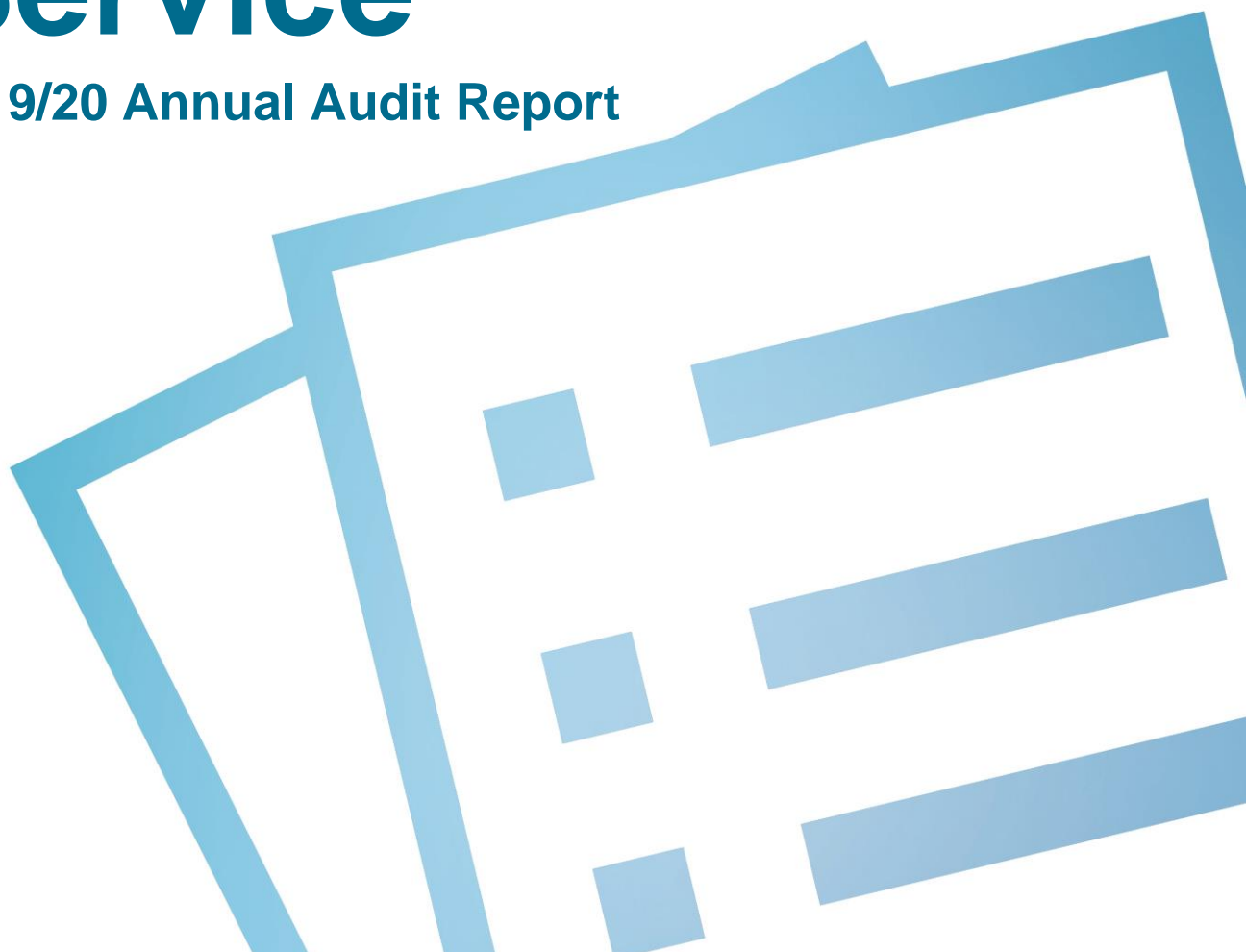


# Crown Office and Procurator Fiscal Service

2019/20 Annual Audit Report



 AUDIT SCOTLAND

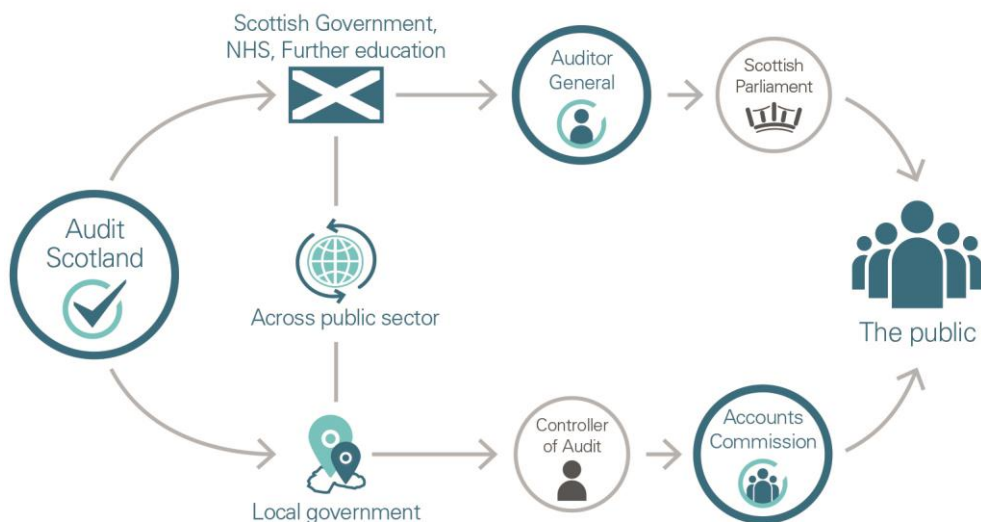
Prepared for the Crown Office and Procurator Fiscal Service and the Auditor General for Scotland

November 2020

## Who we are

The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland:

- The Auditor General is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
- The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government.
- Audit Scotland is governed by a board, consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair, and two non-executive members appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament.



## About us

Our vision is to be a world-class audit organisation that improves the use of public money.

Through our work for the Auditor General and the Accounts Commission, we provide independent assurance to the people of Scotland that public money is spent properly and provides value. We aim to achieve this by:

- carrying out relevant and timely audits of the way the public sector manages and spends money
- reporting our findings and conclusions in public
- identifying risks, making clear and relevant recommendations.

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# Key messages

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## 2019/20 annual report and accounts

- 1** The financial statements of the Crown Office and Procurator Fiscal Service (COPFS) give a true and fair view of the state of affairs of COPFS at 31 March 2020 and of the net expenditure for the year then ended; and have been properly prepared in accordance with the financial reporting framework.
- 2** The outturn was a net overspend of £11.2 million due to a late adjustment to recognise a provision. The Scottish Government has provided written assurance that this overspend is allowable and is within the overall Scottish Government boundary.
- 3** The audited part of the remuneration and staff report, performance report and governance statement were all consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.
- 4** There was no adverse effect from the impact of Covid-19 on the accounting and auditing timetable for the 2019/20 financial statements. There was however a delay in completing the audit due to a post balance sheet event which, after consideration of the impact on ongoing litigation, required an adjustment to the accounts.

## Financial management

- 5** COPFS has appropriate arrangements in place for financial management however improvement is required regarding the timeliness in the budget setting and approval process.
- 6** Systems of internal control tested, operated appropriately and effectively in 2019/20.
- 7** Arrangements for preventing fraud and corruption in the procurement function are appropriate.
- 8** For 2019/20, the Covid-19 global pandemic did not have a significant impact on the focus and priorities of COPFS. There was minimal impact on the 2019/20 financial position of COPFS.

## Financial sustainability

- 9** COPFS' strategic plan and finance strategy require to be finalised and published.
- 10** The Covid-19 outbreak did not have a significant impact on the short-term finances of the body and the impact of this in medium/longer-term planning is still to be evaluated. Looking ahead, there will be significant impact on the way in which the COPFS conducts its business due to social distancing requirements and challenges associated with this.

## Governance and transparency

- 11** COPFS has appropriate and effective governance arrangements in place. The Covid-19 pandemic has not had a significant impact on the governance arrangements of COPFS. Virtual meetings are being held and scrutiny of decision by members continues to be supported by officers.

## Value for money

- 12** We concluded that COPFS has an effective process for collecting, monitoring and reporting its key performance indicators which supports the achievement of value for money and continuous improvement in the provision of services. The area is under routine scrutiny by internal audit.
- 13** Procuring a new contract for pathology, mortuary and toxicology services is ongoing however certain challenges remain which must be addressed to ensure the new service is reliable, effective and fit for purpose.

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# Introduction

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1. This report summarises the findings from our 2019/20 audit of the Crown Office and Procurator Fiscal Services (COPFS).
2. The scope of our audit was set out in our Annual Audit Plan presented to the February 2020 meeting of the Audit and Risk Committee. This report comprises the findings from:
  - an audit of COPFS' annual report and accounts
  - consideration of the four audit dimensions that frame the wider scope of public audit set out in the [Code of Audit Practice 2016](#) as illustrated in [Exhibit 1](#).

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## Exhibit 1 Audit dimensions



Source: [Code of Audit Practice 2016](#)

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3. The main elements of our audit work in 2019/20 have been:
  - an audit of the COPFS' 2019/20 annual report and accounts including the issue of an independent auditor's report setting out my opinions
  - a review of the COPFS' key financial systems
  - consideration of the four audit dimensions.
4. Subsequent to the publication of the Annual Audit Plan, in common with all public bodies, the body has had to respond to the global coronavirus pandemic. This impacted on the final month of the financial year and will continue to have

significant impact into financial year 2020/21. This has had significant implications not least for the services it delivers, sickness absence levels, and the suspension of non-essential projects and activities. Our planned audit work has had to adapt to new emerging risks as they relate to the audit of the financial statements and the wider dimensions of audit.

## Adding value through the audit

5. We add value to COPFS through the audit by:

- identifying and providing insight on significant risks, and making clear and relevant recommendations
- sharing intelligence and good practice through our national reports ([Appendix 3](#)) and good practice guides
- providing clear and focused conclusions on the appropriateness, effectiveness and impact of corporate governance, performance management arrangements and financial sustainability.

## Responsibilities and reporting

6. COPFS has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing an annual report and accounts that are in accordance with the accounts direction from the Scottish Ministers.

7. COPFS is also responsible for establishing appropriate and effective arrangements for governance, propriety and regularity that enable the board to successfully deliver its objectives.

8. Our responsibilities as independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2016](#), and supplementary guidance and International Standards on Auditing in the UK. As public sector auditors we give independent opinions on the annual report and accounts. Additionally, we conclude on the appropriateness and effectiveness of the performance management arrangements, the suitability and effectiveness of corporate governance arrangements, the financial position and arrangements for securing financial sustainability. Further details of the respective responsibilities of management and the auditor can be found in the [Code of Audit Practice 2016](#) and supplementary guidance.

9. This report raises matters from our audit. Weaknesses or risks identified are only those which have come to our attention during our normal audit work and may not be all that exist. Communicating these does not absolve management from its responsibility to address the issues we raise and to maintain adequate systems of control.

10. Our annual audit report contains an agreed action plan at [Appendix 1](#). It sets out specific recommendations, the responsible officer(s) and dates for implementation. It also includes any outstanding actions from last year and progress against these.

## Auditor Independence

11. Auditors appointed by the Accounts Commission or Auditor General must comply with the Code of Audit Practice and relevant supporting guidance. When auditing the financial statements auditors must comply with professional standards issued by the Financial Reporting Council and those of the professional accountancy bodies.

12. We can confirm that we comply with the Financial Reporting Council's Ethical Standard. We can also confirm that we have not undertaken any non-audit related services and therefore the 2019/20 audit fee of £104,040 as set out in our Annual

Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

**13.** This report is addressed to both the body and the Auditor General for Scotland and will be published on Audit Scotland's website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk) in due course.

**14.** We would like to thank the management and staff who have been involved in our work for their cooperation and assistance during the audit.



# Part 1

## Audit of 2019/20 annual report and accounts



### Main judgements

The financial statements of COPFS give a true and fair view of the state of affairs of COPFS as at 31 March 2020 and of the net expenditure for the year then ended; and have been properly prepared in accordance with the financial reporting framework.

The outturn was a net overspend of £11.2 million due to a late adjustment to recognise a provision. The Scottish Government has provided written assurance that this overspend is allowable and is within the overall Scottish Government boundary.

The audited part of the remuneration and staff report, performance report and governance statement were all consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

There was no adverse effect from the impact of Covid-19 on the accounting and auditing timetable for the 2019/20 financial statements. There was however a delay in completing the audit due to a post balance sheet event which, after consideration of the impact on ongoing litigation, required an adjustment to the accounts.

The annual report and accounts are the principal means of accounting for the stewardship of resources and performance.

### The audit opinions on the annual report and accounts are unmodified

**15.** The annual report and accounts for the year ended 31 March 2020 are yet to be approved by the Audit and Risk Committee.

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework and in accordance with applicable enactments and guidance
- the audited part of the remuneration and staff report, performance report and governance statement were all consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

**16.** The completeness and accuracy of accounting records and the extent of information and explanations that we required for our audit were not affected by the Covid-19 outbreak. There was however a delay in receiving audit evidence to support a post balance sheet event which, after consideration of the impact on ongoing litigation, required an adjustment to the accounts.

## The unaudited annual report and accounts were submitted to audit as planned

17. The unaudited annual report and accounts provided for audit were delivered on time, complete and of a good standard. Finance staff provided good support to the audit team which helped ensure the final accounts audit process ran smoothly especially as everyone adapted to a 'working from home' environment.

## Overall materiality is £1.3 million

18. The assessment of what is material is a matter of professional judgement. It involves considering both the amount and the nature of a misstatement in the financial statements.

19. On receipt of the unaudited annual report and accounts we reviewed our materiality calculations and updated our materiality from £1.2 million to £1.3 million.

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## Exhibit 2 Materiality values

Materiality level	Amount
Overall materiality	£1.3 million
Performance materiality	£800,000
Reporting threshold	£13,000

Source: 2019/20 COPFS Unaudited Annual Report and Accounts

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## Appendix 2 identifies the main risks of material misstatement and our audit work to address these

20. [Appendix 2](#) provides our assessment of risks of material misstatement in the annual report and accounts and any wider audit dimension risks. These risks influence our overall audit strategy, the allocation of staff resources to the audit and indicate how the efforts of the audit team were directed. [Appendix 2](#) also identifies the work we undertook to address these risks and our conclusions from this work. There were no additional risks identified resulting from the impact of Covid-19.

## We have one significant finding to report on the annual report and accounts as noted in [Exhibit 3](#)

21. International Standard on Auditing (UK) 260 requires us to communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of an organisation's accounting practices. Significant findings are summarised in [Exhibit 3](#).

## Exhibit 3

### Significant findings from the audit of financial statements

Issue	Resolution
<p><b>1. Provisions and contingent liabilities</b></p> <p>COPFS is required to evaluate whether any legal cases against it require disclosure by the time the annual accounts are signed by the Accountable Officer. This was raised as a risk in our Annual Audit Plan and remains a risk.</p> <p>We have not yet received sufficient audit evidence in line with International Standard on Auditing (ISA 501) 'Audit Evidence – Specific Considerations for Selected Items' to determine the adequacy of the accounting treatment/disclosure of provisions and contingent liabilities, which remains unchanged from 2018/19.</p>	<p>Post balance sheet, certain cases have progressed. Officers have re-assessed the likelihood of liability in accordance with IAS 37 and sought external expert advice to determine the most reliable estimate for inclusion as a provision. As a result, a £12.6 million provision has been recognised in the 2019/20 accounts.</p> <p>The impact is an increase to expenditure (non-cash AME) of £12.6 million. All other outstanding litigation is being monitored up to the date of signing the audit opinion.</p> <p>The Scottish Government have authorised the 2019/20 overspend of £11.2 million.</p> <p>The Strategic Report and Parliamentary Accountability Report have been updated to reflect the revised outturn position, as have all associated notes and disclosures.</p>

Source: Audit Scotland

**22.** One monetary error was identified. This resulted in an adjustment of £60k between the General Fund and the Revaluation Reserve in Statement of Changes in Taxpayers' Equity. This related to revaluation gains and losses. This did not affect the overall year end balances and impacted instead on items not classified to net expenditure e.g. net gain/loss on revaluation of property, plant and equipment.

**23.** Section 22 of the Public Finance and Accountability (Scotland) Act 2000 states, in sub-section 3, that the auditor must send the account and the auditor's report to the Auditor General, who may prepare a report on the account. In view of the deficit outturn in 2019/20, the auditor has been requested to keep the Auditor General informed of the financial performance in 2020/21. The Auditor General may consider producing a report on the account in 2020/21.

### Progress on prior year recommendations

**24.** COPFS has made substantial progress in implementing our prior year audit recommendation regarding the reclassification and transfer of non-current assets (refer [2018/19 COPFS Annual Audit Report](#)).

**25.** For actions not yet implemented, revised responses and timescales have been agreed with management, and are set out in [Appendix 1](#) under the heading of '[follow up of prior year recommendations](#)'.

# Part 2

## Financial management



### Main judgements

**COPFS has appropriate arrangements in place for financial management however improvement is required regarding the timeliness of the budget setting and approval process.**

**Systems of internal control tested, operated appropriately and effectively in 2019/20.**

**Arrangements for preventing fraud and corruption in the procurement function are appropriate.**

**For 2019/20, the Covid-19 global pandemic did not have a significant impact on the focus and priorities of COPFS. There was minimal impact on the 2019/20 financial position of COPFS.**

Financial management is about financial capacity, sound budgetary processes and whether the control environment and internal controls are operating effectively.

### **COPFS overspent its 2019/20 total budget by £11.2 million and received approval from the Scottish Government for this**

**26.** The main financial objective for COPFS is to ensure that the financial outturn for the year is within the budget allocated by Scottish Ministers.

**27.** COPFS' budget was £134.1 million for 2019/20 with a final, reported outturn of £145.3 million, mainly due to an overspend in non-cash Annually Managed Expenditure (AME) of £12.6 million. This overspend is due to a late adjustment made to the accounts to recognise a provision ([refer Exhibit 3](#)). The total overspend was partially offset by an underspend of £3.1 million on the capital budget. The financial performance against Departmental Expenditure Limits (DEL) is shown in [Exhibit 4](#). The overspend is presented in the Performance Report as non-cash expenditure (AME). The Scottish Government provided written assurance that this overspend is allowable and is within the overall Scottish Government boundary.

## Exhibit 4

### 2019/20 budget against outturn

Performance	Initial budget £m	Final budget £m	Outturn £m	Over/(under) spend £m
Resource DEL	117.1	122.1	123.8	1.7
Capital DEL	3.6	10.2	7.1	(3.1)
<b>Total DEL</b>	<b>120.7</b>	<b>132.3</b>	<b>130.9</b>	<b>(1.4)</b>
AME Impairment / Provision	0	1.8	14.4	12.6
<b>Total Outturn</b>	<b>120.7</b>	<b>134.1</b>	<b>145.3</b>	<b>11.2</b>

Source: 2019/20 COPFS audited annual report and accounts; 2019/20 COPFS budget reports

**28.** The capital budget underspend arose from unspent funding in relation to the provision of toxicology services and an underspend from cross-Justice Digital work which could not be undertaken.

**29.** We noted that the Executive Board, Resources Committee and Audit and Risk Committee receive regular updates on the financial position of COPFS.

### Improvement is required in the timeliness of the budget setting and approval process

**30.** The 2019/20 budget was not presented or formally approved by the Executive Board until after the start of the 2019/20 financial year. It was presented and approved on 30 May 2019 at the Executive Board.

**31.** For the 2020/21 financial year, a draft corporate budget was presented to the February 2020 meeting of the Resources Committee with a final budget to be presented for approval at the April 2020 meeting of the Executive Board. However, the Covid-19 outbreak had a number of effects on the budget setting and agreement process. A revised interim corporate budget was submitted to the May 2020 Executive Board with plans to delay delegation to function level once the Covid-19 situation is clearer. The Executive Board plan to review the budget allocation later in the year, including the scope for any further recruitment, in the light of revised priorities following the Covid-19 crisis.

**32.** The finance update provided to the Audit and Risk Committee in May 2020 noted that budgets would not be allocated to business functions until June 2020 at the earliest. From discussions with officers, we have noted that the budget is still being managed at the corporate level and has yet to be delegated to functions.

**33.** COPFS did not require additional funding directly as a result of the Covid-19 pandemic and managed increases in areas of expenditure within the overall 2019/20 budget allocation.

**34.** COPFS continue to monitor Covid-19 related expenditure closely, both in terms of staff costs and non-staff expenditure.

**35.** We conclude that COPFS should improve the timeliness in the budget setting and approval process to ensure that fully developed budgets are formally approved and delegated to functional level prior to the beginning of the financial year.



### Recommendation 1 – 2020/21 budget to be finalised

**COPFS should formalise the delegation of its 2020/21 budget to functional level to ensure that the budget informs and demonstrates the ability to deliver business plans and objectives in-year. The absence of an agreed, detailed budget will make it difficult to scrutinise performance and outcomes.**

### Financial systems of internal control are operating effectively

**36.** As part of our audit we identify and review the key internal controls in those accounting systems which we regard as significant to produce the financial statements. Our objective is to gain assurance that COPFS has systems of recording and processing transactions which provide a sound basis for the preparation of the financial statements.

**37.** Our management letter presented to the Audit and Risk Committee in May 2020 presented our findings from the review of systems of internal controls. We concluded that the controls we were able to test were operating effectively. No significant internal control weaknesses were identified during the audit which could affect the body's ability to record, process, summarise and report financial and other relevant data to result in a material misstatement in the financial statements. Where, due to Covid-19, we were not able to test certain controls, we revised our audit approach for the final stage of our audit.

### Standards of conduct and arrangements for the prevention and detection of fraud and error are adequate

**38.** COPFS is responsible for establishing arrangements for the prevention and detection of fraud, error and irregularities. Furthermore, the Executive Board is responsible for ensuring that its affairs are managed in accordance with proper standards of conduct by putting effective arrangements in place.

**39.** We have reviewed the arrangements in place to maintain standards of conduct including the Money Matters 10 (Fraud and Whistleblowing) booklet as well as the Staff Handbook and Civil Service and Members' Codes of Conduct. There are established procedures for preventing and detecting any breaches of these standards including any instances of corruption.

**40.** During the year, there was a loss from a productions store. In response to this, COPFS carried out a full audit of the area and have revised their controls and procedures. We are not aware of any other specific issues that we need to bring to your attention.

### Arrangements for preventing fraud and corruption in the procurement function are appropriate

**41.** Our consideration of financial management includes evaluating the arrangements in place for preventing and detecting fraud and corruption. Instances of fraud and corruption can be particularly prevalent in the procurement function. As part of our Annual Audit Plan, we carried out an assessment of the arrangements in place at COPFS to prevent fraud and corruption in the procurement function.

**42.** COPFS was the first Scottish public sector body assessed by the Scottish Government Capability Team in January 2019 against the new Procurement and Commercial Improvement Programme (PCIP). COPFS achieved a score of 64%, meaning a B+ Performance Band which reflects the progress made in re-establishing a professional procurement function. In the previous, Procurement

Capability Assessment (PCA) in 2016 COPFS was in the D+ Performance Band. Due to the level of expenditure for the 2019 PCIP, COPFS moved to the Full Assessment regime and achieved an improved score. This higher score reflects the considerable effort and work undertaken to re-establish a professional procurement function in COPFS.

**43.** A number of COPFS staff have been identified as Service User Leads (SULs). The outcomes of all lower value procurements carried out by SULs are reviewed by the Central Procurement Team (CPT) before a contract is authorised. An internal training programme which includes fraud has been established and is delivered by the CPT. CPT staff attended a Procurement Fraud workshop in January 2020 run by the Competition and Markets Authority that covered price fixing, market sharing and bid-rigging. Fraud and procurement are included in the mandatory induction training for all new COPFS staff.

**44.** Delegated authorities and segregation of duties are in place. Guidance on the receipt of gifts and hospitality and the provision of official hospitality is available on the intranet. Registers of hospitality are maintained, instances of hospitality are recorded, and a register of any valuable gifts is retained by Human Resources.

**45.** COPFS' intranet has a dedicated page for whistle blowing and guidance on fraud and whistle blowing is included in COPFS' Money Matters Booklet.

**46.** We concluded that COPFS has appropriate and effective arrangements in place for the prevention and detection of fraud and corruption within the procurement function.

# Part 3

## Financial sustainability



### Main judgements

**COPFS' strategic plan and finance strategy require to be finalised and published.**

**The Covid-19 outbreak did not have a significant impact on the short-term finances of the body and the impact of this in medium/longer-term planning is still to be evaluated. Looking ahead, there will be significant impact on the way in which the COPFS conducts its business due to social distancing requirements and challenges associated with this.**

Financial sustainability looks forward to the medium and longer term to consider whether a body is planning effectively to continue to deliver its services or the way in which they should be delivered.

### COPFS' strategic plan and finance strategy require to be finalised and published

**47.** We reviewed the financial planning systems of COPFS and assessed how effective they are in identifying and addressing risks to financial sustainability across the medium and longer term.

**48.** 99% of COPFS's funding is from the Scottish Government budget allocation, which is determined annually. As we reported in our 2018/19 Annual Audit Report, this annual budget setting process should not restrict COPFS from preparing medium to long-term financial plans using sensitivity analysis and scenario planning to determine the application of funding.

**49.** The finance strategy covering the period 2020-23 remains in draft and awaits formal approval. The finance strategy is supported by a medium-term financial plan which also remains in draft and has not been finalised and formally approved. At the May 2020 Audit and Risk Committee, it was noted that an interim finance strategy and an interim medium-term financial plan were produced and submitted to the April 2020 Resources Committee meeting. These will be reviewed and updated once the final version of the strategic plan is available and the effects of Covid-19 are clearer.

**50.** The COPFS strategic plan has not yet been published.



### Recommendation 2 – Finance strategy requires to be finalised and published

**The finance strategy and medium-term financial plan need to be finalised to ensure that effective financial planning is in place that supports medium to long term plans. Once this is done, the other strategies should be reviewed and updated to ensure they are all 'joined up'.**



## **COPFS recognise the need to revise the existing financial plan due to the impact of the Covid-19 pandemic**

**51.** The Resources Committee meetings held in March and April 2020 considered the next steps and how to best manage and monitor the 2020/21 budget in light of the Covid-19 pandemic. A number of risks were noted that may increase cost pressures going forward as court activity resumes and backlogs are worked through.

**52.** The Resources Committee agreed in April 2020 that a full budget, business, risk and workforce review will be carried out once there is more clarity around the timing and nature of the Covid-19 recovery.

**53.** Financial plans are being revised due to the impact of Covid-19 on COPFS' business. Additional, new costs have been identified and will be incurred regarding working from home, extending video links and virtual working of courts as examples. The impact of Covid-19 may require COPFS to recruit additional staff to address new ways of working to ensure social distancing is maintained. These are all being considered as part of the revised financial plans to be revisited in August 2020 and are being monitored on the risk register.

**54.** For 2019/20, the Covid-19 global pandemic did not have a significant impact on the focus and priorities of COPFS. There was minimal effect on the 2019/20 financial position of COPFS. Looking ahead, there will be significant impact on the way in which the COPFS conducts its business due to social distancing requirements and challenges associated with this will continue into 2020/21. COPFS have plans in place to address these issues and continue to monitor them on a regular basis.

## **EU Withdrawal**

**55.** COPFS have carried out extensive planning for the impact of EU withdrawal on the business. In particular, they have focussed on the impact from the loss of EU justice measures and the impact on substantive criminal law in Scotland.

**56.** COPFS have carried out a significant amount of work to ensure that they are well prepared for any potential impact of EU withdrawal under several scenarios. Work continues in the wider Justice family on this topic and COPFS continue to have regular meetings and updates with partners and key stakeholders.

**57.** Regular updates have been provided to the Audit and Risk Committee and the potential impact of EU withdrawal has been considered in the corporate risk register.

# Part 4

## Governance and transparency



### Main judgements

**COPFS has appropriate and effective governance arrangements in place.**

**COPFS is open and transparent in the way it conducts its business. However, there is some scope for improvement regarding the timely publication of committee minutes.**

**COPFS has sufficient policies and procedures in place to ensure that service delivery, staff development, recruitment and profile, and the development of policies and practice are considered for fairness and equal opportunities.**

**Governance arrangements have continued to operate adequately since the start of Covid-19, with COPFS hosting committees using virtual platforms.**

Governance and transparency is concerned with the effectiveness of scrutiny and governance arrangements, leadership and decision-making and transparent reporting of financial and performance information.

### Overall governance and transparency arrangements were appropriate

**58.** We commented on governance and, openness and transparency arrangements in our 2018/19 Annual Audit Report and our conclusion is still relevant, *'that COPFS has effective governance arrangements and is open and transparent in the way it conducts its business'*. There has been no significant change during 2019/20, with the exception of specific comments below on the response to the Covid-19 outbreak in March 2020. The governance and transparency arrangements we consider include:

- board and committee structure and conduct
- overall arrangements and standards of conduct including those for the prevention and detection of fraud, error, bribery and corruption. This includes action in response to the National Fraud Initiative
- openness of board and committees
- public access to information via websites
- reporting of performance and whether this is fair, balanced and understandable.

**59.** The Audit and Risk Committee (ARC) carried out a self-assessment exercise which was reported to the ARC in November 2019. There were no changes in non-executive membership during 2019/20. Areas for action which were identified from the self-assessment continue to be actioned and the progress is reported at each meeting of the ARC.

## The Covid-19 pandemic has not had a significant impact on governance arrangements from March 2020

**60.** The impact of Covid-19 from March 2020 has been set out in the Performance Report in the COPFS' annual report and accounts. It explains the impact and how COPFS responded. COPFS moved to a 'virtual' workforce from the end of March 2020.

**61.** COPFS' governance arrangements have continued to operate adequately since the start of Covid-19. Scrutiny committee meetings are now virtual and held on MS Teams or other platforms as appropriate. The May 2020 ARC was held virtually using MS Teams, fully attended, and demonstrated effective scrutiny by non-executives.

**62.** COPFS' Risk Management Group (RMG) have formally considered the risks arising from Covid-19 with the focus of the May 2020 meeting to consider the introduction of an interim Covid-19 focused risk register. The interim Covid-19 focused risk register has been included as an annex to the corporate risk register and the Covid-19 risks have been cross-referenced to the corporate risk register.

**63.** The risk registers are scrutinised by RMG and the Executive Board. An update on the activities of the RMG was provided to the ARC at the May 2020 meeting. This included a review of the corporate risk register and the associated Covid-19 related risks.

**64.** There are appropriate and adequate governance arrangements in place to support good governance and accountability during Covid-19.

## Openness and transparency

**65.** There continues to be an increasing focus on demonstrating the best use of public money. Openness and transparency in how a body operates and makes decisions is key to supporting understanding and scrutiny. Transparency means that the public have access to understandable, relevant and timely information about how the board is taking decisions and how it is using resources such as money, people and assets.

**66.** There is evidence from a number of sources which demonstrates COPFS' commitment to transparency including:

- Minutes of the Executive Board, its three sub-committees and the Audit and Risk Committee are publicly available on COPFS' website.
- COPFS' annual business plan, strategic plan and corporate strategies are available on the COPFS website, although these now need to be reviewed and updated as most are dated 2017.
- COPFS report on the handling of freedom of information (FOI) and environmental information requests (EIR) on its website. In addition, since July 2018, COPFS have reported a register on their website of requests which have received a full or partial response in the prior week.

**67.** Up to date minutes for the Executive Board, Operational Performance Committee and ARC are available on the website. However, the minutes for Business Improvement Committee and the Resources Committee have not been brought up to date from April 2018 and August 2019 respectively.



### **Recommendation 3 – agreed minutes should be up to date on the website**

#### **COPFS should ensure that the minutes of its committees are published in a timely manner to enhance transparency and openness**

### **The performance report was of a good standard**

**68.** In addition to the opinion on the performance report covered in Part 1 of our Annual Audit Report, we also consider the qualitative aspects of the COPFS' performance report. The performance report should provide information on the body, its main objectives and the principal risks faced. It should provide a fair, balanced and understandable analysis of a body's performance as well as helping stakeholders understand the financial statements.

**69.** The performance report submitted for audit was of a good standard and was compliant with the requirements. We are pleased to report the continued improvement in the quality, structure and content of the performance report, having reported the need for improvement in prior years.

### **Equality and diversity**

**70.** Ministerial guidance to Accountable Officers for public bodies and the Scottish Public Finance Manual (SPFM) set out the accountable officer's duty to ensure that arrangements are in place to secure best value.

**71.** In 2019/20 as part of our Annual Audit Plan, we assessed the arrangements in place for one of the best value characteristics, Fairness and Equalities.

**72.** COPFS' current set of equality outcomes, published in April 2017, are designed to demonstrate the importance of equality in service delivery, staff development, recruitment and profile, and the development of policies and practice. Since the introduction of the Equality Act, COPFS has received national recognition for its dedication and commitment to equality and diversity from organisations including the Employers Network for Equality and Inclusion and Stonewall. COPFS has consistently retained its 'top 100 employer' status with Stonewall since 2012.

**73.** Under the Equality Act, Section 3, a listed authority needs to publish a report on the progress made to make the equality duty integral to the exercise of functions at least every 2 years. We can confirm that COPFS published their Equalities Outcomes Progress Report in April 2019 in line with the requirements and this is available on COPFS' website.

**74.** I AM ME, a registered charity with whom COPFS works closely and provides representation on their Board of Trustees, was awarded the Queen's Award for Voluntary Service for raising awareness of disability hate crime and keeping vulnerable people safe in their communities.

**75.** Delivery is led by an equality champion, supported by five National Staff Network leads and 40 National Equality Ambassadors representing specific protected characteristics, and six Sheriffdom Equality Network leads, each of whom is responsible for organising and co-ordinating local equality engagement.

**76.** Based on the work we carried out, we conclude that COPFS has sufficient policies and procedures in place to ensure that service delivery, staff development, recruitment and profile, and the development of policies and practice are considered for fairness and equal opportunities.

# Part 5

## Value for money



### Main judgements

**COPFS has an effective process for collecting, monitoring and reporting its key performance indicators.**

**Procuring a new contract for pathology, toxicology and mortuary services is ongoing however certain challenges remain which must be addressed to ensure the new service is reliable, effective and fit for purpose.**

Value for money is concerned with using resources effectively and continually improving services.

### The body has developed an appropriate Best Value framework

**77.** *Ministerial guidance to Accountable Officers* for public bodies and the *Scottish Public Finance Manual* (SPFM) sets out the accountable officer's duty to ensure that arrangements are in place to secure best value. The guidance sets out the key principles of best value and the requirement to have a systematic approach to self-evaluation and continuous improvement.

### Performance management

**78.** The performance of COPFS is monitored by the Operational Performance Committee (a sub-committee of the Executive Board). The Operational Performance Committee has responsibility for the oversight of performance and delivery of targets. COPFS' key performance targets and case processing statistics are reported in the Statistics (Performance) area of COPFS website and are updated quarterly.

**79.** The work on performance management and key performance indicators (KPIs) is reviewed by Internal Audit and the Operational Performance Committee has continued to work to take forward and implement recommendations made by Internal Audit and these continue to be monitored and scrutinised by the ARC.

**80.** COPFS' KPI strategy has been developed by the Operational Performance Committee. Functional reports have been developed that are aligned with the KPIs and have been approved as the framework for measuring performance, trends, journey times and reviewing and developing COPFS KPIs.

**81.** COPFS' Quality Group works with other parts of the justice sector, monitors improvement in reporting standards and reports to the Operational Performance Committee. KPIs for the delivery of toxicology and post-mortem results are now included in pathology contracts with all service providers.

**82.** We conclude that COPFS has effective performance management arrangements in place, however work is ongoing in this area to fully develop the KPI strategy. The Deputy Crown Agent responsible for performance management is scheduled to provide an update to the ARC in August 2020 on the statistics relevant to KPI progress.

## Procurement – pathology, toxicology and mortuary contracts

**83.** The pathology, toxicology and mortuary contract renegotiations are currently part of the largest and most significant procurement exercise within COPFS. The negotiations are procurement work is split into three distinct but interlinked areas and each is at a different but advanced state of negotiation, agreement and finalisation with a variety of stakeholders.

**84.** There have been significant delays in the provision of toxicology by a service provider. This has resulted in delays in the provision of pathologists' final reports to COPFS and the ability to conclude on investigations. This has been reflected in the significant decrease in the performance against the published target for the 2019/20 investigations of deaths.

**85.** The provision of mortuaries remains an issue particularly in Edinburgh, although not a statutory function for the COPFS, and is linked to the carrying out of post-mortem examinations. All mortuaries were under pressure due to Covid-19. Work on the restructuring mortuary service provision in the Central, Fife, Lothians and Borders areas to accommodate Edinburgh City Council contracts and agreements over the provision of mortuary services has been paused due to Covid-19.

**86.** A pathology programme board oversees the review and progress of this significant project and it is also reported to the Executive Board and Resources Committee. COPFS have sought professional, external advice to help with this project and an external project manager is employed full time to work on the project.

**87.** The procurement process with regards to longer term service provision as covered by this project, remains ongoing and COPFS plan to go to competitive tender in the coming months. In the meantime, COPFS have extended the provision of various services until contract negotiations and procurement are finalised.

## National performance audit reports

**88.** Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. In 2019/20 several reports were published which are of direct interest to COPFS. These are outlined in [Appendix 3](#). COPFS has arrangements in place for considering and reviewing national reports including any locally agreed actions.

# Appendix 1

## Action plan 2019/20



No.	Issue/risk	Recommendation	Agreed management action/timing
1	<p><b>2020/21 budget to be finalised</b></p> <p>As reported in previous years, the budget was not presented or formally approved by the Executive Board prior to the start of the financial year.</p> <p>The annual budget is a key document that informs and demonstrates the ability to delivery business plans and objectives in-year. The absence of a formally agreed budget will make it difficult to scrutinise performance and outcomes.</p> <p><b>Risk:</b> There is a risk that without a formally agreed budget decisions could be made that have an adverse impact and are not fully informed.</p>	<p>COPFS should agree and formalise its 2020/21 budget to ensure that the budget informs and demonstrates the ability to deliver business plans and objectives in-year.</p> <p>The absence of an agreed, detailed budget will make it difficult to scrutinise performance and outcomes, (refer <a href="#">paragraph 30.</a>)</p>	<p><b>Agreed</b></p> <p>COPFS recognises the benefits of allocating budgets sufficiently early to allow managers to take preparatory action before the start of the financial year.</p> <p>However, for 2020-21 we regard delaying budget allocations to function level as being prudent, given the potential impact on COPFS of the Covid-19 outbreak.</p> <p>We remain optimistic that the circumstances in the first few months of the 2021 calendar year will allow early delegation of the 2021-22 budget. The aspiration for subsequent years is the setting of function level budgets by the preceding December.</p> <p>A workshop was held on 13th August to recalibrate the 2020-21 budget based on the latest Covid-19 information and also the Quarter 1 forecasts and budgets were subsequently set at Function level.</p> <p><b>Responsible officer:</b> Chair of the Resources Committee</p> <p><b>Agreed date:</b> The 2021-22 budget to be allocated to function level by the end of February 2021. Budgets for subsequent years to be set earlier, ideally before the end of the preceding calendar year (although it is recognised that this will dependant on the Scottish</p>



No.	Issue/risk	Recommendation	Agreed management action/timing
2	<p><b>Finance strategy requires to be finalised and published</b></p> <p>The finance strategy covering the period 2020-23 remains in draft and awaits formal approval. The finance strategy is supported by a medium-term financial plan which also remains in draft and has not been finalised and formally approved.</p> <p><b>Risk:</b> There is a risk that without up to date plans in place, the organisation will be unable to demonstrate that plans are affordable, realistic and deliver the longer term savings plans required in line with COPFS objectives.</p>	<p>The finance strategy and medium-term financial plan need to be finalised to ensure that effective financial planning is in place that supports medium to long term plans.</p> <p>Once this is done, the other strategies should be reviewed and updated to ensure they are all 'joined up' (refer <a href="#">paragraph 49</a>).</p>	<p>Government's Spending Review timetable).</p> <p><b>Agreed</b></p> <p>Whilst the Finance Strategy (FS) and Medium Term Finance Plan (MTFP) must reflect the overall COPFS Strategic Plan, we will, in future put in place a FS and a MTFP that extend beyond the Strategic Plan period so that any delays in the updating of the COPFS Strategic Plan do not prevent COPFS having an extant FS and MTFP in place.</p> <p><b>Responsible officer:</b> Director of Finance and Procurement</p> <p><b>Agreed date:</b> Finance Strategy and MTFP are now scheduled to be reviewed by the Resources Committee at its February 2021 meeting, following the announcement of our budget by the Scottish Government on 28 January 2021.</p>
3	<p><b>Published minutes should be up-to-date on the website</b></p> <p>The minutes for the Business Improvement Committee and the Resources Committee have not been brought up to date from April 2018 and August 2019 respectively.</p> <p><b>Risk:</b> Relevant and timely information is not available for stakeholders to understand how public money has been used or decisions made.</p>	<p>COPFS should ensure that the minutes of its committees are published in a timely manner to enhance transparency and openness (refer <a href="#">paragraph 67</a>).</p>	<p><b>Agreed</b></p> <p>Corporate Office to confirm the minutes that need to be published and Corporate Communications to maintain a bring-up file and to monitor publication.</p> <p><b>Responsible officer:</b> Head of Corporate Communications</p> <p><b>Agreed date:</b> Now actioned.</p>

### Follow up of prior year recommendations

18/19 Rec. 1	<p><b>Performance Report</b></p> <p>The Performance Report which was presented for audit required improvement in a number of areas to ensure compliance with FReM requirements.</p>	<p>COPFS should continue to work to improve the structure and content of the performance report which is included in the annual report and accounts (refer <a href="#">2018/19 COPFS Annual Audit Report</a> exhibit 3, point 2).</p>	<p><b>Completed</b></p> <p>The 2019/20 Performance Report submitted as part of the unaudited accounts was improved in structure and content and included key performance information.</p>
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No.	Issue/risk	Recommendation	Agreed management action/timing
	<p>The report did not adequately tell the story of the business in 2018/19. In particular the report lacked information on performance and reporting of performance against key objectives and key performance indicators.</p> <p><b>Risk:</b> There is a risk that the performance report does not meet reporting requirements and does not tell the story of the business to a user of the annual report and accounts.</p>		
<b>18/19 Rec. 2</b>	<p><b>Non-current asset reclassification/transfers</b></p> <p>Recommendations regarding non-current assets that were reported in 2017/18 have been followed up however there remains an issue with how reclassifications and transfers are communicated, recorded and maintained.</p> <p>A number of adjustments were made to the accounts due to the incorrect classification / reclassification of IT assets.</p> <p><b>Risk:</b> There is a risk that assets are incorrectly recognised in the fixed asset register which has further impact on revaluations, depreciation and amortisation.</p>	<p>Improvements to the process of transferring and reclassifying assets is still required.</p> <p>A log or reconciliation of assets being transferred out of 'under development' to 'developed/in use' should be maintained. This would help evidence what has been reclassified in year and support the movements in the fixed asset register and associated transactions. It will also provide reassurance over the accuracy of the figures (refer <a href="#">2018/19 Annual Audit Report</a>, paragraph 30).</p>	<p><b>Completed</b></p> <p>Our recommendation has been implemented. We found the process for non-current asset reclassifications had been improved. There were no issues in this area noted during the 2019/20 audit.</p>
<b>18/19 Rec. 3</b>	<p><b>2019/20 budget to be finalised</b></p> <p>The 2019/20 budget had not been presented or formally approved by the Executive Board until after the start of the 2019/20 financial year. It was presented and approved on 30 May 2019 at the Executive Board.</p> <p>The annual budget is a key document that informs and demonstrates the ability to deliver business plans and objectives in-year. The absence of an agreed budget will also make it difficult to scrutinise performance and outcomes.</p> <p><b>Risk:</b> There is a risk that without a formally agreed</p>	<p>COPFS should present and formally agree budgets prior to the start of the new financial year (refer <a href="#">2018/19 COPFS Annual Audit Report</a>, paragraph 52).</p>	<p><b>Not complete</b></p> <p>The point about timely agreement and publication of the 2020/21 budget in advance of the year commencing has been raised again and is included above as <a href="#">recommendation 1</a>.</p>



No.	Issue/risk	Recommendation	Agreed management action/timing
	budget, decisions could be made that have an adverse impact and are not fully informed.		
<b>18/19 Rec. 4</b>	<p><b>Long term financial planning - Financial Strategy requires to be updated and agreed</b></p> <p>The 2018/19-2022/23 Financial Strategy has yet to be updated and finalised.</p> <p>This is a key area for COPFS to address in order to demonstrate that delivery and savings plans are achievable and realistic. It also supports medium to long term plans and other key strategies within COPFS.</p> <p><b>Risk:</b> There is a risk that without up to date plans in place, the organisation will be unable to demonstrate that plans are affordable, realistic and deliver the longer term savings plans required in line with COPFS objectives.</p>	<p>The Financial Strategy 2018/19 – 2022/23 needs to be updated and finalised to ensure that effective financial planning is in place that supports its medium to long term plans. Once this is done, the other strategies should be reviewed and updated to ensure they are all joined up. (refer <a href="#">2018/19 COPFS Annual Audit Report</a>, paragraph 58).</p>	<p><b>Not complete</b></p> <p>The point about finalisation, agreement and publication of medium to long term plans has been raised again and is included above as <a href="#">recommendation 2</a>.</p>
<b>18/19 Rec. 5</b>	<p><b>Review and update of plans</b></p> <p>COPFS' business plan, strategic plan and corporate strategies are available on the COPFS website although these now need to be reviewed and updated as most are dated 2017.</p> <p><b>Risk:</b> COPFS plans on the website are out-of-date and therefore, relevant and timely information is not available for stakeholders to understand how public money has been used.</p>	<p>The business plan, strategic plan and corporate strategies should be reviewed, updated and added to the website once approved (refer <a href="#">2018/19 COPFS Annual Audit Report</a>, paragraph 69).</p>	<p><b>Not complete</b></p> <p>This has yet to be completed and has been raised above and included in <a href="#">recommendation 2</a>.</p>
<b>18/19 Rec. 6</b>	<p><b>Published minutes should be up-to-date on the website</b></p> <p>The minutes for both the Operational Performance Committee and Business Improvement Committee have not been not been brought up to date from August 2017 and April 2018 respectively.</p> <p>Risk: Minutes on the website are out-of-date and therefore, relevant and timely information</p>	<p>COPFS should ensure that the minutes of its committees are published in a timely manner to enhance transparency and openness (refer <a href="#">2018/19 COPFS Annual Audit Report</a>, paragraph 70).</p>	<p><b>Partially complete</b></p> <p>The minutes for Business Improvement Committee and the Resources Committee have not been not been brought up to date from April 2018 and August 2019 respectively. This has been raised again and include above as <a href="#">recommendation 3</a>.</p>



**No.**

**Issue/risk**

**Recommendation**

**Agreed management  
action/timing**

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is not available for stakeholders to understand how public money has been used or decisions made.

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# Appendix 2

## Significant audit risks identified during planning

The table below sets out the audit risks we identified during our planning of the audit and how we addressed each risk in arriving at our conclusion. The risks are categorised between those where there is a risk of material misstatement in the annual report and accounts and those relating to our wider responsibility under the [Code of Audit Practice 2016](#).

Audit Risk	Assurance procedure	Results and conclusions
<b>Risks of material misstatement in the financial statements</b>		
<p><b>1 Risk of material misstatement caused by management override of controls</b></p> <p>Auditing Standards require that audits are planned to consider the risk of material misstatement caused by fraud, which is presumed to be a significant risk in any audit. This includes the risk of management override of controls.</p>	<p>Detailed testing of journal entries.</p> <p>Review of accounting estimates.</p> <p>Focused testing of accruals and prepayments.</p> <p>Evaluation of significant transactions that are outside the normal course of business.</p> <p>Review whether disclosures reflect our understanding of the business.</p>	<p>From the audit testing that we carried out, there was no evidence of management override of controls.</p>
<p><b>2 Risk of material misstatement caused by fraud in expenditure</b></p> <p>As most public-sector bodies are net expenditure bodies, the risk of fraud is more likely to occur in expenditure.</p> <p>COPFS' main items of expenditure are staff costs and operational costs. The extent and nature of the expenditure means that there is an inherent risk of fraud which cannot be rebutted</p> <p>There is a risk that expenditure may be misstated resulting in a material misstatement in the financial statements.</p>	<p>Walkthrough of accounts payable/P2P focusing on key controls.</p> <p>Focused substantive testing on higher risk and more complex areas such as trade payables, procurement and non-current assets.</p>	<p>Although we were unable to fully complete our planned walkthrough/controls work due to the Covid-19 pandemic, we were able to take assurance from our substantive testing which focused on more complex and significant areas of expenditure.</p> <p>There were no fraud risks identified in relation to expenditure.</p>
<p><b>3 Provisions and contingent liabilities</b></p> <p>COPFS is required to evaluate whether any legal cases against it require disclosure by the time the annual accounts are signed by the Accountable Officer. It is essential that each</p>	<p>Review whether disclosure reflects our understanding of the business.</p> <p>Review the work done by management and rationale used to assess provisions and contingent liabilities.</p>	<p>We received information in support of post balance sheet events to support the recognition of a provision.</p> <p>The accounting treatment and disclosure of provisions and contingent liabilities have been updated and are satisfactory.</p>

Audit Risk	Assurance procedure	Results and conclusions
<p>disclosure is based on sound professional judgement.</p> <p>There is a risk of misstatement in the accounts over the completeness, presentation and disclosure of these items.</p>	<p>Substantive testing of provisions and contingent liabilities, including valuations and disclosures.</p> <p>Monitor outstanding litigation.</p> <p>Cut-off testing.</p>	<p>This area will be subject to review again in 2020/21 to ensure appropriate assurances, including the estimates and judgements made by management are appropriate, as part of the financial accounts process.</p>

### Risks identified from the auditor's wider responsibility under the Code of Audit Practice

<p><b>4 Value for money - procurement</b></p> <p>The pathology, post-mortem and toxicology contract renegotiation is currently the largest and most significant procurement exercise in the COPFS. The latest KPI report (April 2019 – September 2019) points to a diminution in the level of service.</p> <p>There is a reputational risk as well as a risk to the overall provision of these services.</p>	<p>Monitor the progress of the contract negotiation.</p> <p>Meet with the project lead for update on progress.</p>	<p><b>This area remains a risk.</b></p> <p>Monitored the progress of the project through regular update meetings with the project lead and the Deputy Crown Agent (serious casework) for updates on progress.</p> <p>The project continues to progress albeit slower than anticipated by COPFS due to delays with stakeholders in finalising and agreeing contracts.</p>
<p><b>5 Financial sustainability – long term financial planning</b></p> <p>As reported in our 2018/19 annual audit report (July 2019), the COPFS' Financial Strategy 2018/19 – 2022/23 requires to be updated and finalised to ensure that effective financial planning is in place to support the medium to long term plans. Once this is complete, other key plans need to be reviewed and updated to ensure they are all joined up.</p> <p>There is a risk that without up-to-date plans in place, the organisation will be unable to demonstrate that plans are affordable, realistic and deliver the longer-term saving plans required in line with COPFS objectives.</p>	<p>Review COPFS' progress in finalising the plans as they emerge.</p>	<p><b>This area remains a risk.</b></p> <p>The point about finalisation, agreement and publication of medium to long term plans has been raised again and is included above in appendix 1, <a href="#">recommendation 2</a>.</p>

# Appendix 3

## Summary of national performance reports 2019/20

		 <b>2019/20 Reports</b>	
		Apr	
Social security: Implementing the devolved powers		<b>May</b>	
Scotland's colleges 2019		<b>Jun</b>	 Enabling digital government
		Jul	
NHS workforce planning - part 2		<b>Aug</b>	
Finances of Scottish universities		<b>Sept</b>	
NHS in Scotland 2019		<b>Oct</b>	
		Nov	
Local government in Scotland: Financial overview 2018/19		<b>Dec</b>	
Scotland's City Region and Growth Deals		<b>Jan</b>	 Privately financed infrastructure investment: The Non-Profit Distributing (NPD) and hub models
		Feb	
		<b>Mar</b>	 Early learning and childcare: follow-up

### Central Government relevant reports

[\*Social security: Implementing the devolved powers\*](#) – May 2019

[\*Enabling digital government\*](#) – June 2019

[\*Scotland's City Region and Growth Deals\*](#) – October 2019

[\*Privately financed infrastructure investment: The Non-Profit Distributing \(NPD\) and hub models\*](#) – Jan 2020

[\*Early learning and childcare: follow-up\*](#) – March 2020

# Crown Office and Procurator Fiscal Service

## 2019/20 Annual Audit Report

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