

Crown Office and Procurator Fiscal Service

2020/21 Annual Audit Report



 AUDIT SCOTLAND

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

September 2021

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Key messages

2020/21 annual report and financial statements

- 1 Our audit opinions on the financial statements are unmodified.
- 2 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.
- 3 As a consequence of ongoing litigation, the audit was suspended before reaching completion.

Financial management and sustainability

- 4 COPFS have appropriate and effective financial management in place. The body operated within its revised Departmental Expenditure Limits reporting an SG approved overspend of £13.4 million due a late adjustment with regards to ongoing litigation.
- 5 The Inner House of the Court of Session clarified the law on the common law immunity from suit of the Lord Advocate in exercising the prosecutorial function on 30 October 2019. COPFS has been involved in civil litigation brought against the Lord Advocate by individuals prosecuted in connection with the acquisition and administration of Rangers Football Club since August 2016. Some cases have resolved, while others are ongoing.
- 6 Systems of internal control were adapted to reflect new ways of working and COPFS have maintained standards for the prevention and detection of fraud and error.
- 7 The medium-term financial plan has been revised to take into account the impact of Covid-19 which has had a significant impact on operational activities such as court activity.

Governance and transparency

- 8 COPFS has appropriate and effective governance arrangements in place and they were operational during Covid-19 with no significant impact on the organisation, decision making or scrutiny.

Value for money

- 9 Performance management and monitoring of key performance indicators has continued throughout 2020/21.

- 10** Court disposals were significantly affected by Covid-19: cases concluded reduced by 51% compared to the previous year, and cases not concluded increased by 112%.
- 11** COPFS were unable to maintain service performance levels due to continued delays with toxicology and post mortem results.

Introduction

1. This report summarises the findings from our 2020/21 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 Audit and Risk Committee on 5 May 2021. This report comprises the findings from:
 - an audit of the COPFS' annual report and financial statements
 - consideration of the four audit dimensions that frame the wider scope of public audit set out in the [Code of Audit Practice 2016](#).
3. The main elements of our audit work in 2020/21 have been:
 - an audit of the body's 2020/21 annual report and financial statements including the issue of an independent auditor's report setting out our opinions
 - a review of the body's key financial systems
 - consideration of the four audit dimensions.
4. The global coronavirus pandemic has had a considerable impact on COPFS during 2020/21. This has had significant implications for the services it delivers, such as court closures which has resulted in a significant backlog of cases and increased delays in the provision of toxicology/post-mortem results. Risks related to the pandemic were included in our Annual Audit Plan. No additional audit risks have subsequently been identified for which we have had to adjust our plan for.

Adding value through the audit

5. We add value to the body 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 financial statements 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.

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 financial statements. 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 officers 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 2020/21 audit fee of £106,630, 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 in due course.

14. We would like to thank staff for their cooperation and assistance during the audit.

1. Audit of 2020/21 annual report and accounts

The principal means of accounting for the stewardship of resources and performance

Main judgements

Our audit opinions on the annual accounts are unmodified.

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.

As a consequence of ongoing litigation, the audit was suspended before reaching completion.

Our audit opinions on the annual report and accounts are unmodified

15. The annual report and financial statements for the year ended 31 March 2021 were approved by the Audit and Risk Committee on 22 September 2021. As reported in the independent auditor's report:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework
- expenditure and income were regular 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.

The Covid-19 pandemic had minimal impact on the audit process

16. The completeness and accuracy of accounting records and the extent of information and explanations that we required for our audit were not significantly affected by the Covid-19 outbreak. As in 2020, the audit was conducted remotely with audit evidence being provided electronically and audit meetings conducted over the internet. The working papers provided to support the accounts were of a good standard and the audit team received good support

from finance staff which helped ensure the final accounts audit process ran smoothly.

There were delays in finalising the annual report and accounts

17. As a result of the continuing impact of Covid-19, the Scottish Government extended the deadline for submission of central government (agency) audited annual reports and financial statements from 30 June 2021 to 30 September 2021. This mirrored the 2019/20 arrangements.

18. The unaudited annual report and financial statements were received in line with our agreed audit timetable on 24 May 2021. However, management advised that there was the possibility of amendment to the financial statements due to anticipated post year end events resulting from ongoing litigation. Consequently, the audit was suspended and our sign-off date was postponed for one month to factor in and audit these late amendments. We were advised of the last amendment to the financial statements on 21 September 2021 and worked closely with officers to meet the revised Audit and Risk Committee meeting date of 22 September 2021.

Whole of Government Accounts

19. In accordance with the WGA guidance, we will be completing the required assurance statement and submit it to the National Audit Office (NAO) by the revised deadline, which has yet to be confirmed.

Overall materiality is £1.5 million

20. Our initial assessment of materiality was carried out during the planning phase of the audit. This was reviewed and revised on receipt of the unaudited annual report and accounts and is summarised in [Exhibit 1](#).

Exhibit 1 Materiality values

Materiality level	Amount
Overall materiality	£1.5 million
Performance materiality	£900,000
Reporting threshold	£45,000

Source: 2020/21 Unaudited COPFS annual report and financial statements

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

21. [Appendix 2](#) provides our assessment of risks of material misstatement in the annual report and financial statements 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 records the work we undertook to address these risks and our conclusions from this work.

We have one significant finding to report on the annual report and financial statements

22. 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 the body's accounting practices. We have one significant finding to report from the work done on the identified risks of material misstatement. This relates to the risk of material misstatement caused by estimates and judgements in provisions and contingent liabilities.

Exhibit 2

Significant findings from the audit of financial statements

Issue	Resolution
<p>1. Provision and contingent liabilities</p> <p>COPFS is required to evaluate whether any legal cases against it require provision and/or disclosure by the time the annual accounts are signed by the Accountable Officer. This was raised as a risk in our Annual Audit Plan.</p> <p>In line with International Standard on Auditing (ISA 501) Audit Evidence – Specific Considerations for Selected Items, Litigation and Claims we had to determine the adequacy of the accounting treatment/disclosure of provisions and contingent liabilities.</p> <p>On receipt of the unaudited accounts the accounts included a provision in relation to ongoing litigation.</p> <p>Post balance sheet, certain legal cases have progressed and it has been during the currency of the audit process that management has had to re-examine compliance with IAS37: Provisions, Contingent Liabilities and Contingent Assets.</p>	<p>Management has adjusted for post balance sheet events. The impact is an increase to expenditure of £12.3 million. In agreement with the Scottish Government, the majority of this provision is being treated as a charge against Annually Managed Expenditure (AME).</p> <p>The Scottish Government have authorised the 2020/21 overspend, which has increased to £14.6 million as a result of these late adjustments.</p> <p>The Performance Report and the Parliamentary Accountability Report have both been updated to reflect the revised outturn position, as have all associated notes and disclosures.</p> <p>In view of the ongoing litigation there remain contingent liabilities and this has also been disclosed in the notes to the accounts.</p> <p>Officers continue to re-assess the likelihood of liability in accordance with IAS 37: Provisions, contingent liabilities and contingent assets and have sought external expert advice to determine the most reliable estimate for inclusion as a provision.</p> <p>We are satisfied that we can place reliance on management's expert on their assessment of the likelihood of crystallisation of a contingent liability. Consequently we are satisfied as to what has been accounted for and what has been disclosed in the notes to the accounts in relation to ongoing litigation.</p> <p>We reported to officers that the transparency of the reporting could be improved to make it clear what</p>

Issue	Resolution
	costs were borne in 2020/21 and what was borne in 2019/20. This has now been attended to.

Source: Audit Scotland

Identification of misstatements through the audit process

23. In addition to late adjustments arising from post balance sheet events, referred to in [Exhibit 2](#) above, the aggregate of other individual misstatements identified was £0.9 million. The majority of this relates to late accruals.

24. We have reviewed the nature and causes of these misstatements and have concluded that they arose from issues that have been isolated and identified in their entirety and do not indicate further systemic error(s). We reviewed our audit approach to consider if additional testing was required and concluded that we did not need to revise our audit approach.

25. Adjustments made in the audited financial statements in respect of these increased net expenditure in the Statement of Comprehensive Net Expenditure by £144k and decreased net assets in the Statement of Financial Position by £144k.

26. Management have adjusted all identified misstatements above our reporting threshold; there are no unadjusted errors to report.

Good progress was made on prior year recommendations

27. COPFS has made good progress in implementing our prior year audit recommendations but more could be done to improve the timeliness of publishing agreed minutes on the website to enhance transparency and openness (refer [Appendix 1, point 6](#)).

2. Financial management

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

Main judgements

COPFS have appropriate and effective financial management arrangements in place. The body operated within its revised Departmental Expenditure Limits reporting an SG approved overspend of £13.4 million due late adjustments with regards to ongoing litigation.

The Inner House of the Court of Session clarified the law on the common law immunity from suit of the Lord Advocate in exercising the prosecutorial function on 30 October 2019. COPFS has been involved in civil litigation brought against the Lord Advocate by individuals prosecuted in connection with the acquisition and administration of Rangers Football Club since August 2016. Some cases have resolved, while others are ongoing.

Systems of internal control were adapted to reflect new ways of working and COPFS have maintained standards for the prevention and detection of fraud and error.

28. COPFS overspent its 2020/21 total budget by £14.6 million and received approval from the Scottish Government for this. The main financial objective for the body is to ensure that the financial outturn for the year is within the budget allocated by Scottish Ministers.

29. The body has reported an outturn of £172.4 million against its overall budget for 2020/21 with an overspend of £14.6 million mainly due to an overspend in non-cash Annually Managed Expenditure (AME) of £15.0 million. This overspend is due to costs arising from ongoing court proceedings against the COPFS. The closing provision as at 31 March 2020, in respect of the ongoing cases, which although was based on best information available at that time, proved to be understated. The impact was that substantial additional amounts above that which was provided for in 2019/20 were paid out in 2020/21. To date the COPFS has incurred £39.3 million of unplanned costs in connection with claims against the Lord Advocate: 2020/21: £27.9 million, 2019/20: £12.6 million.

The Inner House of the Court of Session clarified the law on the common law immunity from suit of the Lord Advocate in exercising the prosecutorial function on 30 October 2019. COPFS has been involved in civil litigation brought against the

Lord Advocate by individuals prosecuted in connection with the acquisition and administration of Rangers Football Club since August 2016. Some cases have resolved, while others are ongoing.

30. As disclosed in the annual report and accounts COPFS has been involved in civil litigation brought against the Lord Advocate by individuals prosecuted in connection with the acquisition and administration of Rangers Football Club. Some cases have resolved, with sums paid to the pursuers totalling £35.3 million. Other cases remain before the court. It is a highly complex matter in which the Inner House of the Court of Session clarified the law, on 30 October 2019, on the common law immunity from suit of the Lord Advocate in exercising the prosecutorial function. The Lord Advocate has made a statement in the Scottish Parliament about this matter and has committed to further public accountability and to a process of inquiry once all litigation has concluded.

31. The financial performance against Departmental Expenditure Limits (DEL) is shown in [Exhibit 3](#). The overspend is presented in the Performance Report as non-cash expenditure (AME). The Scottish Government confirmed that this overspend is allowable and is within the overall Scottish Government boundary.

Exhibit 3 Performance against DEL in 2020/21

Performance	Initial budget £m	Final budget £m	Outturn £m	Over/(under) spend £m
Resource DEL	129.5	162.1	160.9	(1.2)
Capital DEL	4.3	8.3	9.1	0.8
Total DEL	133.8	170.4	170.0	(0.4)
AME Provision 2020-21	-	-	15.0	15.0
AME Provisions 2019-20 Utilised	-	(12.6)	(12.6)	-
Total Outturn	133.8	157.8	172.4	14.6

Source: 2020/21 COPFS audited Annual Report and Financial Statements

Budget processes were appropriate. Covid-19 did not have a significant financial impact on resources in 2020/21.

32. COPFS budget was increased as part of the Autumn and Spring Budget revisions. Additional funding from the Scottish Government totalled £24 million. The majority of the additional funding relates to the additional provision required late in 2019/20 and utilised in 2020/21.

33. We observed that senior management and the Audit and Risk Committee continued to receive regular and accurate financial information on COPFS' financial position during the year and this was not affected by Covid-19.

Financial systems of internal control are operating effectively

34. We have reviewed revisions to key financial controls as a result of Covid-19 during 2020/21. Our management letter presented to the Audit and Risk Committee on 25 August 2021 concluded our findings from the review of systems of internal controls. We concluded that the controls tested were operating effectively.

35. No significant internal control weaknesses were identified during the audit which could affect COPFS' ability to record, process, summarise and report financial and other relevant data to result in a material misstatement in the financial statements.

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

36. There are appropriate arrangements for the prevention and detection of fraud, error and irregularities. COPFS is responsible for establishing arrangements for the prevention and detection of fraud, error and irregularities, bribery and corruption. 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.

37. We have reviewed the arrangements in place to maintain standards of conduct including the revised Making the Most of our Money booklets. There are established procedures for preventing and detecting any breaches of these standards including any instances of corruption.

38. The National Fraud Initiative (NFI) is a counter-fraud exercise across the UK public sector which aims to prevent and detect fraud. COPFS has completed their work and investigated all recommended matches with no issues noted.

3. Financial sustainability

Financial Sustainability looks forward to the medium and long term to consider whether a body is planning effectively to continue to deliver its services

Main judgements

The medium-term financial plan has been revised to take into account the impact of Covid-19 which has had a significant impact on operational activities such as court activity.

COPFS have revised their strategic plan and financial strategy to reflect the impact of the Covid-19 pandemic.

39. 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.

40. The finance strategy covers the period 2020-23 and was approved at the Executive Board in May 2021. The finance strategy is supported by a medium-term financial plan which went to the August 2021 Resource Committee.

41. Financial plans reflect that staff numbers increased by 98 (FTE) from 2019/20 to 2020/21, with 62 of these being permanent. This is in line with COPFS' longer term workforce strategy which includes further recruitment in 2021/22 in order to meet organisational objectives and public expectations.

42. The financial impact of the pandemic on COPFS has been limited with no additional funding being required in 2020/21 as a direct result of Covid-19. However the medium-term financial plan has been revised to take into account the impact of Covid-19 which has had a significant impact on operational activities such as court activity.

43. Covid-19 has resulted in temporary court closures and a significant backlog in cases as noted in the performance report. COPFS have requested Covid-19 consequential funding for 2021/22 to allow additional courts to be established to reduce the backlog over the coming years. It is anticipated this recovery will take several years.

44. In February 2021, COPFS reported to the Audit and Risk Committee that in 2021/22 the organisation will be able to access additional funding of up to £7 million to cover the costs of extra court capacity to eliminate the trial backlog caused by Covid-19. COPFS will work with the SG and criminal justice partners on the scale and timing of the recovery programme, dependant on progress with the overall recovery from the pandemic.

4. Governance and transparency

The effectiveness of scrutiny and oversight, and transparent reporting of information

Main judgements

COPFS has appropriate and effective governance arrangements in place and these were operational during Covid-19 with no significant impact on the organisation, decision making or scrutiny.

The governance arrangements and controls operating throughout the Covid-19 pandemic have been appropriate.

45. We have concluded that, overall, COPFS has appropriate governance arrangements in place. This is informed by our regular attendance at the Audit and Risk Committee meetings, review of Executive Board papers and other committees, as appropriate. The meetings and business to be scrutinised was not disrupted by the pandemic.

46. The impact of Covid-19 is included in the Performance Report in COPFS' annual report and financial statements. It comprehensively explains the measures COPFS took with regards to home working, court closures, working practices, reviewing risk in light of the changing circumstances, resilience planning and court recovery plans. The section acknowledges the challenges Covid-19 presented and plans to address them including the development of the Court Recovery Programme alongside Justice partners.

47. COPFS also responded to the Audit Scotland Paper, [Covid-19 What it means for public audit in Scotland - Update](#) (published January 2021). The Audit and Risk Committee was provided with a comprehensive summary and commentary on the recent and ongoing work by COPFS in addressing Covid-19 issues and key risks facing the organisation. This summary covered internal controls and assurance; financial management and reporting; governance: and risk management.

The performance report was of a good standard

48. In addition to the opinion on the performance report covered in Part 1 above, we also consider the qualitative aspects of COPFS' performance report. The performance report should provide information on a 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.

49. The performance report submitted for audit was compliant with 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.

5. Value for money

Using resources effectively and continually improving services

Main judgements

Performance management and monitoring of key performance indicators has continued throughout 2020/21.

Court disposals were significantly affected by Covid-19: cases concluded reduced by 51% compared to the previous year, and cases not concluded increased by 112%.

COPFS were unable to maintain service performance levels due to continued delays with toxicology and post mortem results.

Court disposals were significantly affected by Covid-19: cases concluded reduced by 51% compared to the previous year, and cases not concluded increased by 112%.

50. Available court time was significantly constrained throughout the course of 2020/21 because of the immediate court closures in response to Covid-19 and the changes which needed to be made, as courts re-opened, took account of physical distancing and the use of new technology. The court recovery programme was reduced again with the second wave of restrictions with only the most serious cases being resolved. As referred to above, COPFS is working with Justice Partners to formulate and deliver the Court Recovery Programme, with Scottish Government support.

51. Despite public health restrictions being in place, the number of criminal reports received was not significantly less than in 2019/20. The number of death reports increased substantially, by 50% relative to 2019/20.

COPFS were unable to maintain service performance levels due to continued delays with toxicology and post mortem results.

52. The Lord Advocate is responsible for the investigation of sudden and suspicious deaths. The service standard is that where a death requires further investigation, COPFS will advise the next of kin of the result within 12 weeks of the death being reported to the Procurator Fiscal. We reported in 2019/20 that service performance had deteriorated, and it has deteriorated further in 2020/21. [Exhibit 4](#) presents the impact of this on COPFS' business over the last five years with the most notable drop in service level in 2020/21.

Exhibit 4**Performance against published key performance indicator – trend analysis**

	2016/17	2017/18	2018/19	2019/20	2020/21
Investigation of deaths (80% target)	● 89%	● 89%	● 89%	● 70%	● 58%

Source: COPFS Annual Report and Financial Statements

53. As reported in the annual report and financial statements, many deaths require a post-mortem examination. Included within the examination process is toxicological analysis. Pathologists are unable to conclude their examinations and submit their final reports to COPFS until they receive the toxicology results. Since February 2019 COPFS has experienced delays in the provision of toxicology results from the main service provider. As a result, there have been delays in the provision of pathologists' final reports to COPFS at the conclusion of investigations.

54. A Pathology, toxicology and mortuary programme board (PTM) was established to monitor contract and toxicology performance and service continuity, and to secure the procurement of new pathology and mortuary service provision. The pathology contract renegotiation and toxicology transition is complex and of significant operational importance. It has proven to be a lengthy process to procure 'fit for purpose' toxicology and post mortem services. Whilst these areas are related, they are provided as separate services and therefore numerous suppliers are involved; there is no single contract. Pathology/post mortem services are currently provided by certain NHS Boards and universities. There are recruitment and retention issues for pathologists across Scotland. For the new round of contracts, bids were invited for September 2021 with a contract start date of April 2022. In the meantime, extant contracts have been extended. There is a risk that insufficient bids are received to ensure continuity of service. This will have operational and reputational implications. COPFS have compiled an action plan covering the various potential procurement outcomes and this will be considered at the PTM Board on 25th September. Pathology procurement will, if successful, substantially reduce the number of contracts to three for pathology and mortuaries and two for toxicology.

55. There is one main provider for 90% of toxicology analyses and the contract has been extended to November 2022. Subsequent to the end of 2020/21 their service performance has improved, clearing a significant backlog of cases, and with improved turnaround times. This has ensured that data was provided to the National Records of Scotland on time for the publication of the national drug death statistics, unlike in 2019/20 where the data was not submitted on time for publication.

56. It has been agreed that the provision for post mortem toxicology services will transfer to the Scottish Police Authority (SPA). This will involve the establishment of new laboratory services and the TUPE transfer of staff. There

is a risk of interruption in service provision as the current start date for SPA to take on this new service is 1 December 2022.

57. The Programme Board also includes the provision of mortuary services to COPFS within its scope. Current service providers contracted to COPFS include local authorities and certain NHS Boards, and contracts have been extended to March 2022. Although there are a number of challenges, including capacity and quality standards in certain facilities, in general current contacts are operating well. Scottish local authorities are required to have a 'mass casualties' plan. This has not been called upon during the Covid-19 pandemic.

58. As well as the existence of the Programme Board, supported by an external expert programme manager, the Operational Performance Committee, a sub-committee of the Executive Board, monitors service performance. Risk management and contingency planning is considered for these key services by the Programme Board. Formal arrangements are in place to brief key stakeholders on the development of procurement arrangements.

Recommendation 1

Progress needs to be made to secure continuity of service provision for the COPFS to fulfil its role for the investigation of sudden or suspicious deaths.

National performance audit reports

59. Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. In 2020/21 a number of reports were published which may be of direct interest to the body. These are outlined in [Appendix 3](#).

Appendix 1. Action plan 2020/21

2020/21 recommendations

Issue/risk	Recommendation	Agreed management action/timing
<p>1. Value for Money – procurement contract</p> <p>As we reported in our 2019/20 Annual Audit Report, there have been significant delays in the provision of toxicology and post mortem reports. This has resulted in delays in the provision of pathologists' final reports to COPFS and the ability to conclude on investigations.</p> <p>For 2020/21, the position remains unchanged and is reflected in the significant decrease in COPFS' KPIs for the investigations of deaths.</p> <p>COPFS continue to work on procuring a new toxicology and post mortem service.</p> <p>There is an overall risk to the continuity of service, and wider operational and reputational implications.</p>	<p>Progress needs to be made to secure continuity of service provision for the COPFS to fulfil its role for the investigating sudden or suspicious deaths (refer paragraph 52).</p>	<p>Toxicology</p> <p>The level of performance has improved and has been sustained for some time now within agreed performance targets.</p> <p>Revised performance targets that will result in further service improvement have been agreed and will be implemented in the current financial year and will cover the full period of the transition to SPA.</p> <p>The transition to SPA is well underway and COPFS is represented on both the Delivery Board and Steering Committee in addition to attendance at various other integral operational meetings.</p> <p>Pathology and Mortuaries</p> <p>The deadline for the submission of bids is 30 September 2021 and an Action Plan covering the response of COPFS to a range of potential outcomes has been drafted and was discussed at the Programme Board on 15 September.</p> <p>This Action Plan will mitigate any risks to pathology service continuity</p>

Issue/risk	Recommendation	Agreed management action/timing
		<p>Responsible Officer: Deputy Crown Agent</p> <p>Agreed Date(s): Toxicology Targets: period to 30 November 2022 Service Transition: as above Pathology Procurement: 31 March subject to procurement outcomes</p>

Follow-up of prior year recommendations

Issue/risk	Original Recommendation	Agreed management action / timing
<p>4. 2020/21 budget to be finalised</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>Risk: 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.</p>	<p>Completed</p> <p>The 2021-22 Budget was presented and formally approved by the Executive Board at the March 2021 meeting.</p>
<p>5. Finance strategy requires to be finalised and published</p>	<p>The finance strategy and medium-term financial plan need to be finalised to ensure that effective</p>	<p>Completed</p> <p>The medium term financial plan went to the August 2021</p>

Issue/risk	Original Recommendation	Agreed management action / timing
<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>Risk: 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>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'</p>	<p>Resources Committee for approval.</p> <p>The 2020-23 finance strategy is approved and is available on the internet.</p>
<p>6. Published minutes should be up-to-date on the website</p> <p>The minutes for both the Operational Performance Committee and Business Improvement Committee have 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 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 2018/19 COPFS Annual Audit Report, paragraph 70).</p>	<p>This remains an area for improvement.</p> <p>The latest minutes on the website are as follows:</p> <p>Business Improvement Committee – November 2020</p> <p>Operational Performance Committee – January 2021</p> <p>Resource Committee – April 2021</p> <p>Audit and Risk Committee - November 2020</p>

Appendix 2. Significant audit risks

The table below sets out the audit risks we identified on the 2020/21 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 financial statements and those relating to our wider responsibility under the [Code of Audit Practice 2016](#).

Risks of material misstatement in the financial statements

Audit risk	Assurance procedure	Results and conclusions
<p>1. Risk of material misstatement caused by management override of controls</p> <p>International Standards on Auditing require that audits are planned to consider the risk of material misstatement in the financial statements caused by fraud, which is presumed to be a significant risk in any audit. This includes the risk of fraud due to 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>Results: From the audit testing that we carried out, there was no evidence of management override of controls.</p> <p>Conclusion: We did not identify any instances of management override of controls in our 2020/21 testing.</p>
<p>2. Risk of material misstatement caused by fraud in expenditure</p> <p>As most public-sector bodies are net expenditure bodies, the risk of fraud is more likely to occur in expenditure. There is a risk that expenditure may be misstated resulting in a material misstatement in the financial statements. COPFS' main items of expenditure are staff costs and operational costs. The extent and nature of the expenditure means</p>	<p>Walkthrough of accounts payable / P2P processes focusing on key controls.</p> <p>Analytical procedures over expenditure streams.</p> <p>Focused substantive testing on higher risk and more complex areas such as trade payables, procurement and non-current assets.</p>	<p>Results: Some controls weaknesses were identified which meant that we couldn't place reliance in some areas. However, we were able to take assurance from our substantive testing which focused on more complex and significant areas of expenditure.</p> <p>Conclusion: No instance of fraudulent expenditure was identified from our audit work.</p>

Audit risk	Assurance procedure	Results and conclusions
<p>there is an inherent risk of fraud.</p> <p>3. Risk of material misstatement caused by estimates and judgements in provisions and contingent liabilities</p> <p>There is a significant degree of subjectivity in the measurement of the following material account areas: provisions and contingent liabilities. 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 disclosure is based on sound professional judgement. There is a risk of misstatement in the accounts over the completeness, presentation, and disclosure of these items.</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>Substantive testing of provisions and contingent liabilities, including valuations and disclosures.</p> <p>Monitor outstanding litigation.</p> <p>Cut-off testing.</p>	<p>Results: We received information from legal experts in support of post balance sheet events to support the recognition of a provision. This area will be subject to review again in 2021/22 to ensure appropriate assurances, including the estimates and judgements made by management are appropriate, as part of the financial accounts process. Further detail can be found in Exhibit 2.</p> <p>Conclusion: The accounting treatment and disclosure of provisions and contingent liabilities have been updated and are satisfactory.</p>

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

Audit risk	Assurance procedure	Results and conclusions
<p>4. Value for Money – procurement</p> <p>The pathology and toxicology contract renegotiation is currently the largest and most significant procurement exercise in the COPFS. There is a reputational risk as well as a risk to the overall provision of these services.</p>	<p>Review progress in implementing the final stages of the contract and report in annual audit report.</p>	<p>Results: The agreement of the new contract(s) is progressing but the project has encountered delays due to the various other stakeholders involved and contract negotiations are taking longer than anticipated.</p> <p>Conclusion: This area remains a risk and we will continue to monitor the progress of this significant contract during our 2021/22 audit. This risk has been</p>

Audit risk	Assurance procedure	Results and conclusions
<p>5. Financial Sustainability – long term financial planning</p> <p>As reported in our 2019/20 annual audit report, 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 linked. 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 and comment in annual audit report.</p>	<p>included in the Action Plan at Appendix 1 above.</p> <p>Results: The 2020-23 finance strategy was approved at the May 2021 Executive Board Meeting and is available on the internet.</p> <p>Conclusion: This area is no longer a risk as plans have now been updated.</p>

Appendix 3. Summary of 2020/21 national performance reports

June 2020

[Highlands and Islands Enterprise: Management of Cairngorm mountain and funicular railway](#)

[Local government in Scotland Overview 2020](#)

July 2020

[The National Fraud Initiative in Scotland 2018/19](#)

January 2021

[Digital progress in local government](#)

[Local government in Scotland: Financial overview 2019/20](#)

February 2021

[NHS in Scotland 2020](#)

[Covid-19: Tracking the implications of Covid-19 on Scotland's public finances](#)

March 2021

[Improving outcomes for young people through school education](#)

July 2021

[Community Justice: Sustainable alternatives to custody](#)

[Fraud and irregularity report 2020/21: Sharing risks and case studies to support the Scottish public sector in the prevention of fraud](#)

Crown Office and Procurator Fiscal Service

2020/21 Annual Audit Report

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