



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

VICTIMS' RIGHT TO REVIEW

FIRST YEAR REPORT 1 July 2015 - 30 June 2016

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Who we are

The Crown Office and Procurator Fiscal Service (COPFS) is Scotland's prosecution service. We receive reports about crimes from the police and other agencies and decide what action to take, including whether to prosecute someone. We also look into deaths that need further explanation and investigate criminal allegations against police officers.

COPFS plays a pivotal part in the justice system, working with others to make Scotland safe from crime, disorder and danger. The public interest is at the heart of all we do as independent prosecutors. We take into account the diverse needs of victims, witnesses, communities and the rights of those accused of crime.

Introduction

On 1 July 2015, the Lord Advocate published rules under Section 4 of the Victim and Witnesses (Scotland) Act 2014. The rules related to a victim's right to request a review of a decision of the Crown Office and Procurator Fiscal Service not to proceed with a case or not to continue a case. Included in the rules are sections covering:

- who can apply for a review
- how do I ask for a review
- what happens in a review
- what is the victim's right to review
- how long will the review take.

The full rules can be found [here](#).

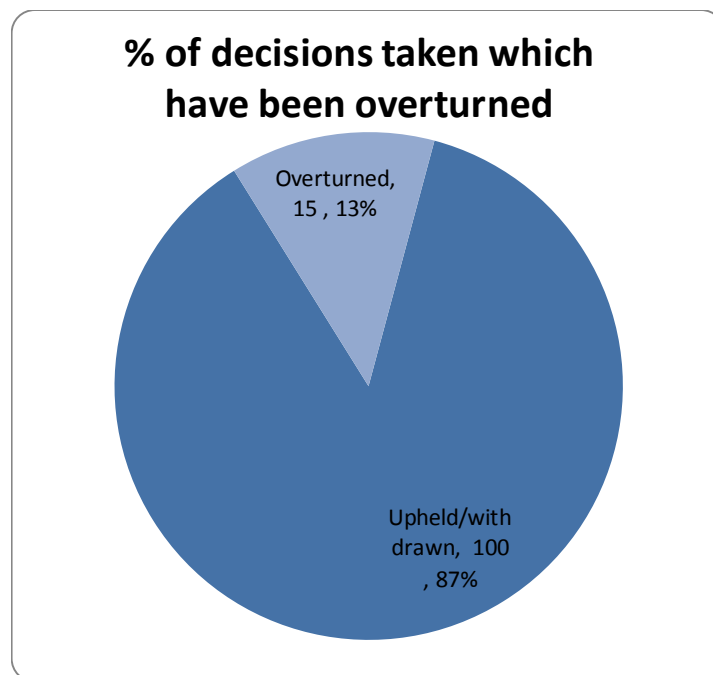
In the year 2015-16¹ COPFS received 225,537 criminal reports, of which, a total of 27,333 were marked no further action.

¹ See <http://www.crownoffice.gov.uk/images/Documents/Statistics/Statistics%20on%20Case%20Processing%20Last%205%20Years%202011-16.pdf>

All review applications²

Between 1 July 2015 and 30 June 2016 COPFS received 139 applications from victims for a review of the decision not to proceed or not to continue with a prosecution. The 139 applications³ were carefully considered. In 100 applications, the original decision made was upheld or the review request withdrawn. In 15 applications, the original decision was overturned and proceedings raised. Three of the 15 applications related to the same case. In 24 applications, the reviews are ongoing.

COPFS received 225,537 criminal reports in the financial year 2015-16. The total number of review applications therefore relates to approximately 0.06% of the total number of criminal reports COPFS received in a year. The 15 successful applications therefore, relate to approximately 0.007% of the total number of criminal reports received in a year. In a number of these cases, victims provided additional information and further inquiries were instructed during the review process. This involved obtaining information which was not provided to COPFS when the case was first marked.



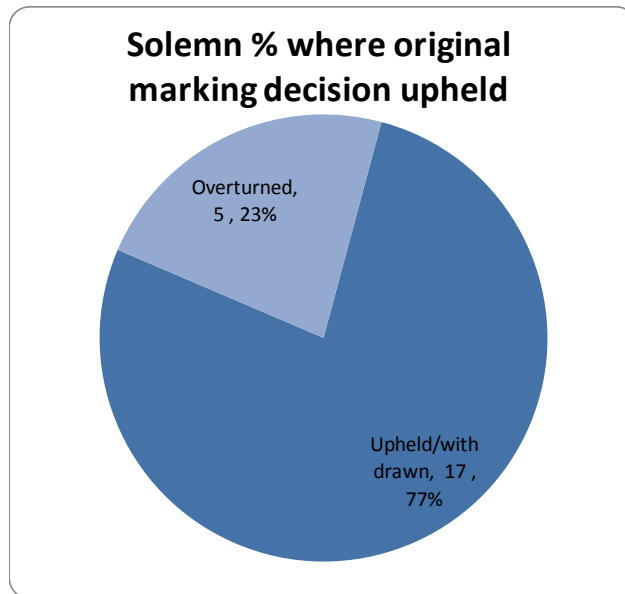
The cases overturned include the offence types listed in Annex A to this report.

² Statistics as at 28 September 2016.

³ The statistics refer to applications for a review from victims. In some criminal cases there may be more than one victim who has applied for a review in the same case.

Solemn statistics

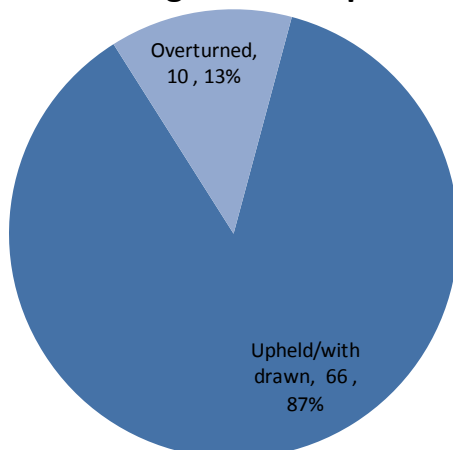
The number of review applications which, if proceeded with, would have involved solemn proceedings was 27. In five applications, three of which related to the same case, the decision not to take proceedings or to discontinue proceedings was overturned. In 17 applications, the prosecutorial decision was upheld or the application was withdrawn. Five applications remain under review.



Summary statistics

The number of review applications which, if proceeded with, would have involved summary proceedings was 82. In 10 applications the decision not to take proceedings or to discontinue proceedings was overturned. In 66 applications, the prosecutorial decision made was upheld or the application was withdrawn. Six applications remain under review.

Summary % where original marking decision upheld

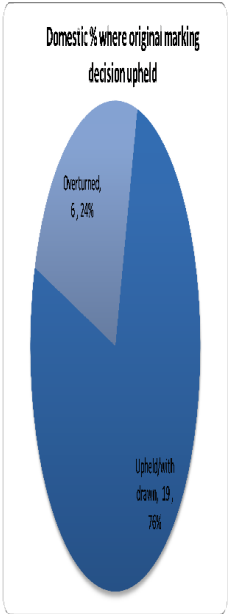


Offences with a sexual element statistics

The number of review applications where the offence(s) contained a sexual element was 23. In two applications, the decision not to take proceedings or to discontinue proceedings was overturned. In 18 applications, the decision made was upheld or the application was withdrawn. Three applications remain under review.

Offences with a domestic abuse element statistics

The number of review applications where the offence(s) contained a domestic abuse element was 30. In six applications, the decision not to take proceedings or to discontinue proceedings was overturned. In 19 applications, the decision made was upheld or the application was withdrawn. Five applications remain under review.



The cases overturned included the offence types listed below⁴:

- fraud
- vandalism
- assault and robbery
- assault
- breach of bail
- breach of an anti-social behaviour order
- theft
- exposure – Sexual Offences (Scotland) Act 2009
- sent an offensive message etc. by means of public electronic communication.

The cases where the original decision was upheld included the offence⁵ types listed below:

- assault
- theft
- lewd and libidinous behaviour
- sexual assault - Sexual Offences (Scotland) Act 2009
- stalking
- threatening or abusive behaviour
- theft by housebreaking
- rape - Sexual Offences (Scotland) Act 2009
- attempt to pervert the course of justice
- breach of the Data Protection Act 1998
- uttering
- cause an older child to hear or see indecent communication - Sexual Offences (Scotland) Act 2009
- creature causing a danger to person - Civic Government (Scotland) Act 1982
- breach of the peace
- indecent assault
- dog dangerously out of control
- vandalism
- fraudulent scheme
- failure to comply with water notice
- carrying a knife
- fraud
- breach of bail
- send an offensive message etc. by means of public electronic communication

⁴ More than one application may refer to the same offence

⁵ More than one application may refer to the same offence

- careless driving
- wilful fire-raising
- deprive resident of occupation
- theft by shoplifting
- culpable homicide.

The applications which are outstanding at 22 September 2016 include offences as listed below⁶:

- assault
- stalking
- sexual intercourse with an older child - Sexual Offences (Scotland) Act 2009
- causing death by careless driving
- threatening or abusive behaviour
- rape - Sexual Offences (Scotland) Act 2009
- send an offensive message etc. by means of public electronic communication
- sexual assault - Sexual Offences (Scotland) Act 2009
- attempt to pervert the course of justice
- perjury
- dog dangerously out of control
- stalking.

⁶ There is an additional rare charge which is not included due to potential identification of the accused and the victim involved.