

EQUALITY ADVISORY GROUP

Meeting on 18th December 2014

Level 7 Conference Room, Edinburgh PFO, 29 Chambers Street, Edinburgh.

Present

Marsha Scott (Chair)

Lynda Carnochan, Crown Office Trainee (Minutes)

Members

Bill Gray
Michelle Macleod, HM Inspectorate
John Evans
Neelam Bakshi

Delegates

Ruth McQuaid
Karen Kennedy
Sandy Mackie

Apologies:

Bushra Iqbal
Nathan Gale
Diego Quiroz
Monica Lee-MacPherson
Heather McVey
Nico Juetten
Michele Burman
Sue Anderson
Maureen Sier
Sally Witcher

Attending:

Carol McDivitt
David Casey

1. Welcome and Introductions

- 1.1 MS welcomed everyone to the meeting and all present introduced themselves to the group. MS acknowledged the low level of attendance from members at the meeting and requested that the operation of the group and ways that it might be improved be discussed under AOCB today.
- 1.2 There were 10 apologies for today's meeting (see above)

2. Minutes of Previous meeting

- 2.1 The minutes of the meeting held in the Procurator Fiscal's Office, Edinburgh, on Wed 2nd July 2014 were approved without amendment.
- 2.2 Outstanding action points were noted by KK:
 - 2.2.1 **AP.4** Workforce sub-group – RMcQ apologised as she and NG had not met since the last full meeting in July 2014. The sub-group process would be covered under AOCB.
 - 2.2.2 **AP.11** KK to contact Andrew McIntyre regarding any COPFS involvement with the AMINA group since attending the Community Engagement event in Dundee in February 2014.
 - 2.2.3 **AP.13** SM to provide demographic information about the 2014 Modern Apprentices recruitment programme. SM provided the following update:

COPFS is proud of the approach it currently takes regarding recruitment but are keen to employ more disabled people. COPFS recorded a range of equality information from the applicants, including age, sexual orientation and disability. SM will check whether race information was recorded and will email the breakdown information to members. MS asked whether it was possible to ascertain how many people with disabilities applied for the programme, how many were then invited for interview and how many were offered employment?

MS believed that this data should be collected routinely in a managed way and asked how the group wanted to take this forward as this wasn't the first time this matter had been discussed at EAG meetings. SM advised that he would research the collection of protective characteristic information.

RMcQ advised that COPFS had undertaken a data collection exercise with staff recently but the response rate had been quite low, despite taking advice from the Workforce Strategy sub-group.

ACTION POINT 1. SM to email demographic information from the 2014 Modern Apprenticeship programme to EAG members.

ACTION POINT 2. SM to check whether detailed information about the progression of applicants with disabilities (and other protected characteristics) through the recruitment process can be extracted from current recorded information. If not, can a process be created so that this journey data can be captured?

ACTION POINT 3. SM to check with HR how demographic analysis of recruitment information is carried out and to ensure that race (and other protected characteristic) information is captured within their process.

NEW BUSINESS

3. Presentation from Response and Information Unit (RIU) – Carol McDivitt

3.1 Carol explained the rationale for setting up the RIU and described the aims and objectives of the team. She provided statistics for the previous six months of operation in terms of the number of complaints received and what format these took eg Freedom of Information (FOI) or Subject Access Requests (SAR). She also provided statistics on COPFS responses to complaints in terms of number upheld and number dismissed.

3.2 The top five types of Summary procedure complaints received include:

- Lack of communication with witnesses during trials
- Decisions to discontinue proceedings at trial diet
- Witnesses not being excused promptly
- Correspondence not being answered on time
- Witness address being read out at court.

3.3 The top four types of Solemn procedure complaints received include:

- Delay in release of Productions
- The lengthy time it takes for proceedings to actually commence
- Plea negotiation between the Crown and defence

- Crown witnesses not being protected by the Fiscal depute when being cross examined by the defence agent.

- 3.4 MS asked whether people from particular protected characteristics are over represented in those who complain about COPFS? KK explained that when a complaint is received, the person is not routinely asked to provide details about which protected categories they belong to and that there are no plans to request such confidential information from correspondents. It was felt that most people who write to COPFS already provided what information they thought we ought to know and therefore, any attempt to elicit additional information from complainers, which might not be relevant to their complaint, might not be well received. MS suggested that collecting data about protected characteristics is usually more difficult for the person asking than it is for the person being asked.
- 3.5 What is COPFS doing to address these recurring complaints? Carol responded that information is being passed to Management and Operational Boards on a monthly basis. We are still discussing how best to disseminate the information more widely but already there are a number of initiatives in place to address some of these complaints and details can be sent to the EAG.
- 3.6 Carol then described the work of the National Enquiry Point (EP) to the Group, which has been in operation for six years now. She gave details of the comprehensive training that EP staff receive prior to dealing with callers and described some of the benefits it has brought to the organisation. MS stated that unless customer satisfaction was evaluated, this was speculative.
- 3.7 NB asked what happens to people who have language issues? KK advised that EP staff have access to Language Line which enabled a three-way conversation for someone where English wasn't their first language. For people with hearing impairments, there is a dedicated mobile number and text messages are dealt with by EP staff.
- 3.8 Carol also advised that one of the biggest problems for EP staff is local offices not answering calls from EP staff – for instance this could be because legal staff are in court. However this problem is being addressed by management.
- 3.9 Carol advised that EP are currently considering the feasibility of extended opening hours for EP along with having a dedicated lawyer available to deal with legal questions rather than having to phone local offices or functional hubs.
- 3.10 MS stated that previously the EAG were interested about the prospect of gathering data through the Enquiry Point and asked whether there was an Annual Report showing what data is collected by EP? KK replied that there wasn't but that EP is open to collect whatever data it is asked to. MS asked what data had Management Board requested from EP and how frequently?

ACTION POINT 4. What is COPFS doing to address the solemn and summary complaint information it receives from RIU?

ACTION POINT 5. What data had Management Board requested from EP and how frequently? What dedicated equality information has been requested by them?

LUNCH

4. Presentation from David Casey regarding Proud in COPFS staff group

- 4.1 David recapped on the progress of the LGBT Group since it started 5 years ago. Staff engagement with Proud is quite high, with 22,000 hits on the group's intranet pages however visible membership is quite low, with only about 11 staff being actively involved with the group. David asked for the EAG's advice about how to grow membership and boost the impact of role models. At the moment, there are only two members publically campaigning from the group and David is keen to increase this number.
- 4.2 David described the current set of initiatives to influence COPFS staff about LGBT awareness including reverse mentoring of senior staff, and an Allies programme where straight friends of Proud display something to make others aware that they are a friend of the LGBT community. However he questioned how engagement with LGBT staff within COPFS could be increased especially within legal staff?
- 4.3 MS recommended that David contact NG, who couldn't make today's meeting, as he might have more insights into why LGBT staff aren't engaging based on his work with the Equality Network.
- 4.4 BG noted that there were still residual concerns amongst staff of declaring membership of protected characteristics, especially disability as well as LGBT. He queried whether it was the way information is requested and recorded and staff anxiety about how such information will be used?
- 4.5 David agreed and said that perhaps future requests to staff should come from the Proud network rather than senior COPFS staff. NB added that perhaps David should ask LGBT staff about their experiences in previous employment and whether that is a barrier to engaging with Proud?
- 4.6 David thanked the group for their time and helpful suggestions.

ACTION POINT 6. David Casey to invite EAG members to future Proud events planned for 2015.

5. Horizon scanning across COPFS – Karen Kennedy

- 5.1 **Transgender Policies.** KK advised that a Transgender prosecution policy had been published in August 2014 and the next area of work for Policy is the creation of a Transgender policy for victims and witnesses. This work would be carried out in collaboration with the Scottish Transgender Alliance. No date had been set for its completion.
- 5.2 **Domestic Abuse** – KK advised that HR are currently devising a domestic abuse support policy for COPFS staff. MS suggested that this be changed to a violence against women policy rather than limiting the policy to domestic abuse. SM noted her comments.
- 5.3 **Human Trafficking** – KK informed the group that a summit of the heads of prosecution services across the British Isles took place in November 2014. Actions arising from the summit would be carried out in 2015.

- 5.4 **Antisemitic Behaviour** – KK advised that the Scottish Council of Jewish Communities (SCoJeC) had contacted COPFS regarding a noticeable increase in abusive incidents towards the Jewish Community as a result of the Gaza conflict. In response, Policy worked closely with Police Scotland to ascertain whether there had been an increase in reported hate crime incidents towards the Jewish community. Evidence suggests that there had been a spike in incidents reported to the police. Consequently Policy recently completed a review of antisemitic cases reported to COPFS between June and Oct 2014 to ascertain how many cases were related to the Gaza conflict rather than an increase in antisemitic crime in general. The results will be shared with SCoJeC in due course.
- 5.5 **Scottish Refugee Council** – Work is ongoing with the SRC in relation to cases associated with a request for asylum in Scotland. MS advised that RMcQ should speak with Nina Murray at the SRC as she is doing specific work with women at risk of a number of crimes, including human trafficking, female genital mutilation, and other forms of violence.
- 5.6 **So called “Revenge Porn”** – KK advised the group that the proposed new name for this behaviour would be Intimate Image Abuse which would be used in any guidance created by COPFS. There would be stakeholder engagement to ensure that this name met with their approval.
- 5.7 **Victims and Witnesses** – There is a dedicated policy team working on this Bill.
- 5.8 **Social Media** – The Social Media policy was published in November 2014. Like the Transgender policy, this was created after extensive consultation with vested interested groups and has been a useful tool to staff marking cases where social media has been used as a conduit of offensive behaviour.

6. COPFS Equality and Diversity training programme – Sandy Mackie

- 6.1 SM advised the group that face to face training would remain mandatory for new staff but that e-learning programmes would be used for refresher training for staff already in post. The completion of refresher training would also be mandatory.
- 6.2 BG queried whether the e-learning packs he had viewed would deliver the outcomes that COPFS expected them to. MS agreed that it's impossible to have a one-size-fits-all pack as someone who does admin will have a different requirement to someone who is a strategic manager but is mindful that organisations are trying to create a competent and confident workforce with less money.
- 6.3 NB commented that organisations need to know what outcomes they hope to achieve from e-learning training so that their effectiveness could be measured.

ACTION POINT 7: People and Learning to send the equality and diversity training outcomes to the EAG members.

7. HR updates – Sandy Mackie

- 7.1 SM advised that the main issues relate to workforce planning and HR is currently looking at existing policies to ensure they were fit for purpose and also to rationalise the organisation in terms of roles and functions. MS asked whether an

equality impact assessment had been done for this work. SM replied that none had been done yet. RMcQ added that this would be a good time to consider doing the Equality Impact Assessment as work was still at an early stage. MS stressed that the assessment would provide a useful tool for this process as the starting point should be "these are the equality challenges of COPFS at present." Whatever changes are proposed, do these increase or exacerbate the equality challenges?

- 7.2 SM advised that the new Management Development Programme (MDP) is ready to go, subject to the approval of the Senior Executive Team (SET). Civil Service Learning have endorsed the new programme, which will use blended learning and look to involve staff across all functions in business planning activities. In NG's absence, SM will send MS the material that NG had provided feedback on.
- 7.3 SM also spoke about the COPFS results of the Civil Service staff survey. COPFS scored particularly badly for Change Management however the priority for HR at the moment is workforce planning.

ACTION POINT 8: SM to send Management Development Programme material to MS.

8. Updates from the 3 sub groups

MS advised that there would be no formal updates for either Workforce Strategy or Victims and Witnesses as both NG and NJ were unable to attend today's meeting however NJ had emailed some feedback about the work of the Victims and Witnesses sub group and the effectiveness of the sub group setup.

8.1 Domestic Abuse sub group – Marsha Scott

- MS reported that this Sub-Group had not met since before the Summer as those involved have really struggled to make it work as a face to face group.
- MS commended COPFS for work already undertaken including attempts to resolve court delays and the round table discussions on challenging cases.

8.2 Given the issues around the effectiveness of the sub group structure, MS suggested that the group spend time reviewing the current set up. NB suggested it would be helpful to know what COPFS considered were the three key areas where the EAG had added value. MS advised that she will send info to all early in 2015 to start the review of the EAG off and encouraged members to reply promptly.

8.3 By way of further updates, MS advised the EAG that:

- 8.3.1 NJ has resigned from the Scottish Commission for Children and Young People in order to pursue a career in law. His membership of the EAG will continue for the time being.
- 8.3.2 NG will be joining COPFS in August 2015 and consequently he will be resigning from the EAG prior to this date. It is hoped that another member of the Equality Network will replace NG on the group.

ACTION POINT 9: MS to contact every EAG member to gather their views on the effectiveness of the sub-groups, attendance at meetings and possible rotation of Chair and Vice Chair positions.

ACTION POINT 10: MS to conduct a survey to gather information from both EAG members and COPFS staff on what contribution the EAG makes to COPFS and to elicit suggestions re improvement in structure and operation.

ACTION POINT 11. EAG sub group structure, role and effectiveness to be included on the agenda for next full meeting.

9. AOCB

9.1 COPFS strategic Plan – feedback from the EAG

- MS expressed concern over the timing of request for feedback from the EAG in relation to the new COPFS Strategic Plan and felt that not enough time had been given to the group to allow them provide a meaningful contribution to such an important document.
- MS added that the Equality Impact Assessment (EIA) for the Plan was a very thoughtful document but lacked some vital elements that she would expect to see in such a document, namely, what are the equality challenges for the prosecution of crime in Scotland and how does the plan address them? And what are the equality challenges for COPFS as an organisation and how does the plan address them?
- NB shared the concerns of MS regarding the content of the EIA and expected to see evidence as to whether the Plan will have a positive or negative impact on protected groups and details as to how the Plan supports the General Equality Duty. She also asked whether COPFS used a similar EIA process to Scottish Government. KK advised that the current EIA process was launched in July 2013 and it closely mirrored the Scottish Government process.
- NB added that the EIA should demonstrate that decision makers had taken equality and diversity into account when formulating the Plan.
- KK explained that a considerable amount of work had gone into the EIA process for the Plan and suggested that the concerns raised might be the result of presentational issues and the style used in the summary record of the assessment which didn't fully reflect the work that had been done to assess the Plan.
- MS felt that the issues raised could be dealt with internally but offered to meet with those who had written the plan if that would be helpful. She looked forward to receiving a revised version of the EIA for the Plan in due course.

ACTION POINT 12: KK to discuss the concerns raised by the EAG about the EIA for the Strategic Plan with Crown Agent's office and update the EAG thereafter.

ACTION POINT 13: KK to send a draft copy of the COPFS Equality Outcomes report to the EAG for comment and feedback, once ready.

9.2 **Community Engagement** – MS suggested that the next location be somewhere in Highlands and Islands. COPFS staff to consider where would be suitable. The timeframe would probably be Autumn 2015.

10. Date and venue of next meeting

The next full meeting of the group will be fixed for the end of February 2015.