

OPERATIONAL PERFORMANCE COMMITTEE

**MINUTES OF THE MEETING HELD ON 25 APRIL 2018
CROWN OFFICE, EDINBURGH**

Present:

Lindsey Miller	Deputy Crown Agent Serious Casework (Chair) (DCA)
Anthony McGeehan	PF, Policy and Engagement (PF P&E)
Liam Murphy	PF, Specialist Casework (PF SC)
Ruth McQuaid	PF, Local Court West (PF LC West)
Helen Nisbet	Assistant PF, Specialist Casework (APF SC)
Graham Kerr	Head of Business Management, Operational Support (HBM OP)
Gioia Ezzi	Secretariat

By VC:

Stephen McGowan	PF, High Court (PF HC)
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Apologies:

Fiona MacLean	Non-Executive Director
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1. Welcome & Apologies

DCA welcomed everyone to the meeting, apologies were noted.

2. Minutes of previous meeting

Previous minutes were agreed.

3. Outstanding Actions

Action 25 – Graham Kerr to provide an update on productions to inform discussion at Tripartite meeting (update has now been provided). **Action: ongoing.**

Action 31 – Initial discussion has taken place regarding better interaction of the 3 committees and terms of reference. **Action: ongoing.**

Action 34 – PF SC had meeting with the Crown Agent (CA) who is content in general terms with process of receipt of confidential letters coming from Police Scotland (PSoS) and that current system is still a sound system. Following a discussion on the process the PF SC confirmed he would discuss with PSoS and prepare a draft process. **Action: closed**

New Action 38: PF SC to speak to PSoS and draft process and to ensure consistency of approach across functions/ geographical areas.

Action 37 – There is no training on sexual offences and case preparation which is fit for purpose. Training to be discussed at HC meeting on 2 May at Gartcosh. Training in general at Scottish Prosecution College is being reorganised. **Action: ongoing**

4. Monthly stats/indicators

High Court

- The increase in sexual offences tailed off at the start of 2018 but has increased again in March 2018. Cases with 9 month compliance against old departmental target is was at 21%.
- There has been another spike in homicides.
- Indicting spiked at Easter but now returned to a more manageable level.
- Indicting resource has been increased. Two experienced indicters have been set task of working through bail cases on the shelves. In 6 to 8 weeks we hope to see figures improve significantly.
- Trend varies from month to month but sexual offences increased significantly in last 5 years. Wider trend – in 2013 there was a change when PSoS came into being and then in 2017 due to divisional policing reallocation and now PSoS are to put in place a new management model which focuses not on car theft or housebreaking for example, but more on serious crime depending on priority from month to month. The continuing upward trend is likely to continue and PSoS may or may not reallocate resources.
- National Sexual Crimes Unit (NSCU) – reduction in reporting does not necessarily free up Advocate Depute (AD) resource due to floating trials which can float up to 10 days and also can be affected by defence counsels’ diaries. Management of courts by Scottish Courts (SCTS) is also an issue at moment.
- There are increasing backlogs for NSCU marking.

Local Court

- 19% increase in sexual offending.
- Reduction in petitions across country apart from slight increase in Tayside. Target was met due to additional funding.
- Concern regarding pre-petition cases sitting in interim marking.
- Reduction in requirements from NSCU which is creating capacity.
- Sheriff & Jury sexual offences is greatest anxiety. Bespoke training has been provided to those preparing sexual offence cases and indecent images.
- Additional prep - 2 additional days per every first diet court now required and while there might be increased pleas, there is a need to get rid of outstanding business to reap the benefit.
- SCTS proposed reduction in court programme is fines enforcement and signing days so that won’t necessarily align with reallocation of resource or free up additional resource for redeployment elsewhere in COPFS.

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- DCAs and CA met with SCTS and Scottish Government recently and flagged up issues regarding the court programme and wider justice system pressures.
- In summary cases there is a noticeable increased trend in adjournments nationally which is quite high. This could possibly be related to the severe weather but the committee will closely monitor and review next month.

National Initial Case Processing (NICP)

- Published target met, with the assistance of overtime. End of March figures unmarked case at 9,800 but now up to 11,500 in the last 3 weeks.
- NICP are resourced in terms of 2014 model which was 25 staff but are now down to 19. After a further process review was undertaken this showed should be resourced with 34 staff but further measurements still require to be done.
- Marking of custodies and undertakings is a concern.
- There is a 43% reduction in backlog and 62% reduction in out of target business. Marking which was over 10 weeks now only accounts for 20% of business whereas a year ago it was 68%. Reduction in interim marking of 31%. This is a combined effort across the service but that level of performance cannot be maintained.
- Now have control over budget and may be overtime - danger point in NICP is around 4 weeks of work in progress but 14,500 is deemed to be the maximum work in progress
- Location Neutral Team – resources ran out in the Autumn but have kept on 2 markers.
- Analysis has been done regarding reports submitted by the police - custodies down by 15%, undertakings up by 22%, and reports down 10%. Overall reduction is 9% but this is not consistent across the country – 45% increase in undertaking in Grampian, Highlands & Islands and only 7% in North Strathclyde.

Specialist Casework

- Management Information (MI) still remains a challenge but new spreadsheets are a step in right direction which is capturing correct information but with some caveats. MI not created for Specialist Casework as a function, there is work to be done round that. Should in due course give accurate information in relation to volume, age profile and journey times and should give accurate info which flags up any areas of concern. There is ongoing work in relation to the breakdown of charges for wildlife, environmental, health and safety. Incremental progress is being made but is labour intensive!
- Still issues with data integrity
- Pressures in specialist units remains - International Cooperation Unit (ICU) has had a couple of high profile cases and impact has highlighted staffing levels.
- Published targets met for last year in terms of Fatalities Investigation Unit (SFIU) and Criminal Allegations Against the Police Division (CAAPD)
- Helicopter Incidents Investigation Team (HIIT) – New Crown Counsel are now dealing with Clutha and a new timetable has been set. Working towards

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serving notice on 9 July with preliminary hearing on 19 September, the Sheriff Principal having provisionally fixed January 2019 for the Fatal Accident Inquiry (FAI).

- Appeals – there has been a run of cases where COPFS have been criticised - DCA to feed into advocacy programme with Jennifer Harrower and to include Appeals.

Policy & Engagement

Inspectorate Report on children:-

Looks at approach in regard to accused child. Inspectorate have met with the Scottish Children’s Reporter (SCRA) who have produced stats demonstrating that unmarked cases are getting older and increasing where a child accused is involved. There has been a gap identified in the process – SCRA list of older cases has been circulated to functions and within the protocol there is an escalation process for cases over 45 days old but there does not seem to have been any escalation process.

Inspectorate Victims Right to Review (VRR) Report:-

Key findings and recommendations were circulated to OPC. Positive findings in terms of COPFS providing a real and effective right to review. However, recommendations 3, 5, 6 and 7 have implications for capacity.

With regard to figures on Ministerial Correspondence, it was noted that the figures show deadlines but no reason given for those out of deadline. Policy maintain spreadsheet of timeline for each individual piece of correspondence and can identify timescales. These are reviewed weekly by PF P & E

5. KPIs

Draft report on KPIs from Internal Audit has been received. DCA flagged to Internal Audit that she would forward report to the Senior Executive Team (SET) given what is set down in the report for OPC is accurate but there are wider considerations, due to concerns raised in the report.

DCA flagged that one concern in the report is that the KPIs as currently published only link to one strategic objective and that is operational casework.

Internal Audit had attended OPC when KPIs were first discussed, but before the organisational focus required to turn to transfer of resource to deal with the upsurge in large scale and more complex organised crime investigations, the 50% increase in sexual offence reports and the spike in homicides.

A first draft of the new strategic plan went to the Executive Board (but post circulation of Internal Audit’s report) for discussion and comment. There will be an opportunity to address the issues in the report as part of the new strategic plan, but in the meantime the report does not reflect the current position or the work in progress as part of that consultation for the new strategic plan. SET felt that the report and findings do not take adequate account of the work in

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progress to address these issues, and that may simply be because the focus of the audit was more on the KPIs rather than what was in train for the Service as a whole, but the findings do not reflect where we are as an organisation.

A further meeting with IA has been arranged for 8 May – DCA will attend.

6. AOB

None.

7. Date of Next Meeting

Wednesday 23 May 2018.