

## OPERATIONAL PERFORMANCE COMMITTEE

### MINUTE OF MEETING HELD ON 29 APRIL 2020 BY TELECONFERENCE

#### Present:

|                   |   |
|-------------------|---|
| Lindsey Miller    | Deputy Crown Agent – Serious Casework (Chair) (DCA)   |
| Ruth McQuaid      | Procurator Fiscal, Local Court West (RM)              |
| Jennifer Harrower | Procurator Fiscal, Specialist Casework (JH)           |
| Anthony McGeehan  | Procurator Fiscal, Policy and Engagement (AM)         |
| Kenny Donnelly    | Procurator Fiscal, High Court (KD)                    |
| Graham Kerr       | Head of Business Management, Local Court(GK)          |
| Sharon Duffy      | Serious Casework Compliance and Resource Manager (SD) |
| Fiona MacLean     | Non-Executive Director (FM)                           |
| Fiona Roberts     | Head of Management Information Unit (FR)              |

#### 1. Welcome and Apologies

The DCA welcomed everyone to the meeting. No apologies were noted.

#### 2. Minutes of previous meeting

Previous minutes were agreed.

#### 3. Outstanding actions

Action 49: Victim Information & Advice (VIA) remit. **Action ongoing with AM and RM. Update to be provided at June OPC given other commitments**

Action 2/20: Petition Warrant KPIs – KD to provide update before end of month. JH to link with KD on paper for issue of specialist KPIs. Update before end of March for OPC. **Action ongoing. Update to be provided at May meeting.**

#### 4. Monthly stats/Key Performance Indicators (KPIs)

##### High Court

The volume of new High Court business continues to increase. As highlighted in previous updates to OPC the number of new High Court petitions in the financial year 2017/18 increased to 1028 from 867 in the previous financial year (2016/17). This represented a rise of 161 cases (18.6%). This increase in business was unprecedented and fell exclusively within the area of sexual offences where the number of new petitions rose from 476 to 655, an increase of 179 cases (38%).

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There has been a further increase in the level of new petition in High Court of 69 cases (6%). This is slightly less than had been projected but the drop in new business in March has not been as significant as anticipated having regard to the current restrictions. That may manifest itself more obviously in coming months and present a drop in new business for a period but that needs to be viewed with caution as it won't be clear if that is an artificial picture of business levels.

The level of new petitions for Major Crime has dropped by 15%, although the business levels are still 35% higher than was the case prior to the last financial year. Whilst the reduction in Major Crime is welcome it has unfortunately coincided with a further significant increase in Sexual Offences cases. As a general rule sexual offences cases are significantly more resource intensive than major crime cases so this change in the profile of the business is more challenging than might be immediately apparent.

The year-end figures represent a decrease of 74 cases (15%) in Major Crime, an increase of 92 cases (14%) in Sexual Offences and a decrease of 1 case (1%) in Homicide cases. The number of Homicide cases is relatively small and experience suggests that their workload can change over the course of a busy weekend. Further, PWIP figures do not reflect the totality of the workload of the Homicide team as they do not include the large number of suspicious deaths which sit with the team for investigation, often for many months, until criminality can be ruled in or out, nor do they reflect the often complex and thus resource intensive nature of many of their cases.

Indicted awaiting trial figures – as long as we are accruing new petition and continuing to indict creates greater pressures in terms of the restart. Performance of teams has been extraordinary – number of cases reported and indicted has been excellent.

The volume of business in this category was of significant concern prior to the coronavirus situation, and even more so now that we will not be doing any trials in the short to medium term. Subject to the caveat above, there is a clear and obvious upward trend in this area of our business which has increased from 279 cases in August 2017 to at least 508 (83%) based on the present statistics. There will ordinarily be significant volumes of work to be done by our teams during this post-indictment phase of a case so the high level of such cases, although not surprising given the rise in new cases and the increasing output of our teams, increases the pressures on our case preparation teams in terms of the volume of work that they are carrying. The fact that no trials are currently running due to the coronavirus will further increase the volume of this business, making this even more challenging. Working with partners to reduce this workload is a key priority for our function both now and when we reach the recovery period.

Trying to maintain business as usual – expecting a slight dip in April due to time lag for allocation of laptops. Everyone now has ability to work and looking to ensure business processes are capable of supporting the new way of working.

Some staff still attending offices for essential work.

### Local Court (LC)

#### National Initial Case Processing Unit (NICP)

10500 cases outstanding – 3.2 weeks’ worth of work. Meeting internal KPI.

80% of those cases over 10 weeks’ old and that has to be priority.

That will have an impact on T&I target which was met for the last financial year and SET has agreed that while OPC will continue to monitor the compliance with the T&I target, NICP is not expected to meet it at the expense of dealing the older work in progress which is now a priority.

#### Sheriff & Jury (S&J)

Target met for the end of the year but TCF and L&B sheriffdoms have continued to have a considerable increase in petition business.

There are now in place dedicated sheriffdom teams for sexual offences who met the T&I target, and reported 52% of cases within 8 months, with 62% indicted within 9 months.

Just under one third of vulnerable sexual offence victims were indicted within 7 months of receipt of SPR.

Local court will have a sexual offences board to be chaired by Les Brown, Sheriffdom PF for SSDG.

Positive feedback has been reported from staff regarding allocation of laptops to contribute to wider case preparation if they are not court facing. There are as few people as possible in office and grateful for assistance from other functions to assist with rotas for court facing work.

#### Summary

Rise in outstanding sheriff court trials from 12000 last year to 14000 – local court focus since Covid has been to engage with SCTS to assist with managing the court business, on the basis that many of the SCTS staff do not have capacity to work remotely.

Outstanding business is a clear focus going forward and there are issues with fixed penalties and processing of mail, which could be an ongoing public safety issue.

Covid – virtual courts being piloted in Ayr – expansion of police video link and accused dialling in remotely – it takes longer for custody appearances so that has an impact on business throughput. Looking to get buy in from Sheriffs principals to pilot a virtual pleading diet court and if that is successful that is likely to roll out across the country.

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Continuing to engage with SCTS, police and Scottish Prison Service for greater use of technology to support virtual courts and definition of essential court business.

14 prisons with only one link to the court (point to point link) but only for short procedural hearings at the moment.

11 custody centres linking to the courts.

Looking to pilot virtual attendance of PF – pilot in Dumfries next week

There are ongoing challenges with bringing general public in “virtually” whether accused or victims.

### Specialist Casework

Positive response from staff to working remotely and nature of the work lends itself to remote working, but confidential and sensitive matters still require to be dealt with “in person” within social distancing constraints and not electronically or by phone.

Case Management Panel process SFIU/HSIU – progress being made to reduce age profile of SFIU investigations. Similarly, despite the protracted nature of the HSIU investigations, there has been a reduction in investigations.

SFIU – Law officers considering a change in reporting of Covid related deaths, for deaths in care homes (residents and employees). Looking to engage with SCTS to progress FAIs by way of affidavit and virtually.

SOC – significant breakthrough by law enforcement in identifying how SOCG business is being conducted which will likely have an impact on Specialist workload.

### Policy & Engagement

RIU – rise in a number of request for information for COPFS from Disclosure Scotland – prompted in the main by return to NHS for former staff recruited to enable response to Covid 19. No concern about ability to address the requests.

### Policy

New act - Coronavirus (Sc) Act 2020 – policy has paused all non essential work meantime to focus on bill development, regulations and legislative provisions.

Current provisions within new Bill are amendments to the Criminal Procedure (Sc) Act 1995:

- time limit extension for continuation without plea to allow courts more flexibility.
- Undertaking provisions
- Proceeds of Crime – proposals for time limits to be amended.

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- Potential proposals for amendment of bail provisions to reduce pressure on prison estate.

Proposals for solemn trials without juries

- SG has produced discussion paper and series of engagements with parties within the criminal justice system
- Looking at modelling work to consider the likely work in progress depending on the preferred option
- Still no clarity on what the proposal is likely to be, but it is clear that trial without jury is not the preferred option

Capacity of policy to deliver is a concern but at the moment it is anticipated that there is sufficient resource but that will be monitored continually.

**Action from CRG**

Committee noted that MIU is already reporting to justice analytical services the following:

- Weekly number of reports split into custody, undertakings and others
- Unmarked and interim marked and first substantive marking

It was agreed OPC would recommend to CRG that the following stats be provided:

- Outstanding trials – summary, Sheriff and jury, HC
- Outstanding FAIs where we have lodged the first notice
- Inputs and outputs and disposals compared to last year

Challenge in identifying shared understanding of the business with SCTS – agreed that should agree a uniform approach and measure with SCTS.

**Action – FR to be the point of contact for collation of information for submission to Justice Analytical services when CRG agree on the provision of these stats.**

**7. AoB**

**8. Date of Next Meeting**

May