

## OPERATIONAL PERFORMANCE COMMITTEE

### MINUTES OF MEETING HELD ON 28 AUGUST 2019 CROWN OFFICE, EDINBURGH

#### Present:

Lindsey Miller	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Jennifer Harrower	PF, Specialist Casework (JH)
Fiona Roberts	Head of Management Information Unit (FR)
Helen Nisbet	Head of ICU and Brexit Team (HN)
Anthony McGeehan	PF, Policy and Engagement (AM)
Fiona MacLean	Non-Executive Director (FM)
Sharon Duffy	Serious Casework Compliance and Resource Manager (SD)
Gioia Ezzi	PA DCA – Serious Casework (Secretariat) (GE)

#### By VC:

Kenny Donnelly	PF, High Court (KD)
Ruth McQuaid	PF, Local Court West (RM)
Graham Kerr	Head of Business Management, Operational Support (GK)

#### 1. Welcome and Apologies

The DCA welcomed everyone to the meeting, there were no apologies.

#### 2. Minutes of previous meeting

Previous minutes were agreed.

#### 3. Outstanding actions

**Action 42** – Closed. To be taken off table as wider corporate issue re scale of service delivery. Require to look at summary business as well as solemn. DCA to consider who best to deal with this going forward. **New Action: DCA to raise at SET.**

**Action 45** – Analysis shared widely with police. Issues are national. Joint project which needs to involve buy in from the police at senior levels as COPFS has taken this as far as possible. Closed.

#### 4. Monthly stats/indicators

##### High Court

3% increase in new petitions with slight decrease in major crime;

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Sexual offences projected an increase of 18%, if this continues will be under significant pressure and will be closely monitored;  
Precognition in hand, output heading in right direction, 8½% decrease from last year which is encouraging;  
Precognition in hand over 7 months, drop of 31% from same time last year, positive indicator;  
Precognitions in hand from date of Standard Police Report (SPR): 8% of cases over a year old which amounts to 40 cases, this time last year there were 62 cases (12%), acknowledged is progress but slow progress;  
Indictments served increase of 14%;  
Indictments awaiting trial, overall trend is 93% increase over 2 years, projection slightly stalled due to annual leave;  
Work has been commissioned with a view to informing Scottish Courts due to reduction in number of courts.

Key Performance Indicator (KPI) charts require further work to capture precognition reported figures. Month on month general trend is gradual progress and comfortably on track. Slight variations in some categories with general upward trend. Similarly there is progress against the indicators for indicting and with additional resource in place it is hoped that significant progress can be made. DCA acknowledged that while we are in the initial stages of monitoring the revised KPI figures, the OPC requires to monitor closely because if we start to meet indictment indicators across all categories of cases that will bring down journey times considerably and could put additional pressure on Scottish Courts and Tribunal Service (SCTS).

There are 10 Advocate Deputes (ADs) now allocated to Preliminary Hearing (PH) preparation at one time which is taking these 10 ADs out of the rota. Whilst looking at resourcing and allocation of business we are getting to the stage where High Court may require to work with SCTS in terms of provision of more PH courts

### Local Court

National Initial Case Processing Unit (NICP) is not meeting any KPIs including Take & Implement (T&I) target which is sitting at 68%. Taking on new inexperienced staff and getting them accredited within 2 years is an enormous challenge. There are 25 legal markers, this is not near the figures that were estimated to turn around the backlog. Constant ongoing challenge with resources and not going to see any big breakthrough in next few months. Applying as much overtime as possible and finding small pockets of additional resources in sheriffdoms. The experience level is going down.

Sheriff & Jury (S&J) is performing well, exceeding target and meeting KPIs. Imbalance in performance is that there is a different set of people in S&J. There are not a lot of deutes preparing cases, it is mainly Investigative Assistants. At moment 50% of business is being reported within 8 months. KPI initial marking figures are excellent and exceeding both of those.

DCA commented that the issue is the T&I target and is that what NICP be concentrating on. Is the T&I target achieving anything, is that how we want to

measure health and standard of our business. Is it now the time for the OPC to consider a recommendation to review and revise T&I targets is that where we should be focusing our resources? The 26 week target across the criminal justice system is more of hindrance, and incentivises the focus on new fresh easy marking as opposed to the more complex. The Committee was cautious about too extensive a revision of the T&I target and agreed that the 26 week target is flawed. The published target is one COPFS could meet this year despite the current levels of work in progress and the current compliance but it is not a reflection of where we are with the business.

**ACTION: DCA to raise with DCA LC with view to taking to SET.**

### Specialist Casework

Still not quite there with Management Information.

Appeals – no KPI for appeals and journey times or outcomes are not measured. Lord Advocate (LA) recently commented on quality of written submissions and Lord Justice General also critical in recent case regarding standard of submissions and his concerns were that they were free flow of narrative of the case as opposed to structured propositions and grounds of appeal. JH is going to request a meeting with LA with view to proposing training for Appeals staff and ADs.

Proceeds of Crime Unit – 2 cases have settled since last meeting. Civil Recovery Unit has doubled the amount they have recovered from £1million to £2million with one large proof outstanding.

Serious & Organised Crime Unit (SOCU) – looking at trends and new petitions, might be too early to say but there appears to be increase in number of new cases which will be monitored. Much further ahead in terms of numbers this time of year compared to last year. KPIs for organised crime, not sure that there is sufficient detail to be able to provide level of assurance, meeting times bars for High Court (HC) and indicting for S&J.

Scottish Fatalities Investigation Unit (SFIU) – there is still some media scrutiny. Modernisation project continues with team expanded to take forward project which is to be completed by end of the year. There has been criticism regarding progress in terms of Inspectorate recommendations.

Health & Safety Investigation Unit (HSIU) exercise to collate and identify casework which is of concern, ie more than 2 years old, is ongoing. Forward planning project on how cases will be tackled with paper expected end of this month and first Case Management Panel (CMP) to deal with these cases scheduled to take place on 16 September which coincides with additional staffing coming to HSIU to deal with legacy casework.

The KPI mentioned at last meeting proposing recommendations for large SOCU cases, not in position to be brought to committee yet.

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SFIU first time since unit created not meeting published compliance target in relation to 80% of cases where there is a further investigation; this is sitting at 64% at end of June. JH circulated proposed form of words as explanation that can be added to publication of stats in arrears as co-ordinated by MIU – everyone content with wording. From September meeting onwards require update on legacy casework.

*"A key target in the investigation of deaths is that where a death requires further investigation, we will conduct the investigation and advise the next of kin of the result within 12 weeks of the death being reported to the Procurator Fiscal. Many of these deaths require a post mortem examination to be conducted. The examination process includes toxicological analysis. Pathologists are unable to conclude their examinations and submit their final reports to COPFS until they receive the toxicology results.*

*Since (date) COPFS has experienced delays in the provision of toxicology by service providers. As a result, there have been delays in the provision of pathologists' final reports to COPFS and the conclusion of investigations. Performance against target has therefore reduced.*

*COPFS continues to liaise with toxicology service providers to ensure that toxicology is provided within the required timescales"*

FR commented on publication of T&I target and would we want an explanation for those. OPC agreed that this was not necessary at the moment as not full year picture and the target itself was under further consideration.

### Policy & Engagement

Comparison between the financial year to date and the same period in last financial year has established that COPFS has received 70% increase in complaints and 28% increase in Victims Right to Review (VRR) requests. This is a snapshot of year to date. The meeting noted that it had always been anticipated that we would experience a rise in VRRs as a new right within our system. However, the same could not be said of complaints and any long term rise in complaint numbers would be concerning. The meeting noted that it was too early too early to say whether the rise in complaints was a short term spike or longer term trend. OPC will continue to monitor. FM requested that a more longitudinal picture of complaints be produced for OPC's information.

**ACTION: AM to produce a broader complaints picture to the next OPC meeting.**

There is an increasing focus by the Scottish Government (SG) on the prison population. Approximately 20% of the prisoner population on remand. As a result, there is a systemic focus on the court's decision making process in deciding to refuse bail and alternative to remand such as supervised bail. The meeting discussed the complexity of the decision making process and factors impacting upon remand periods.

## **5. KPIs**

This was covered under the previous agenda item.

**6. Annual Audit Report** – not discussed as DCA had to leave the meeting.

## **7. AoB**

Planned outage scheduled for 3 September between 4pm & 7pm for enhancements to the Pathway document which would require the document to be taken offline.

**ACTION: GE to bring to attention of Functions regarding potential impact and if agreeable for outage to go ahead. (closed 29/8/19)**

## **8. Date of Next Meeting**

25 September 2019