

EQUALITY ADVISORY GROUP

Meeting on 2nd July 2014

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

Present

Marsha Scott (Chair)

Kathleen O'Donnell, Crown Office Trainee (Minutes)

Members

Nathan Gale

Diego Quiroz

John Evans

Nico Juetten

Monica Lee-MacPherson

Nicola Dean, SCS

Michelle Macleod, HM Inspectorate

Delegates

Karen Kennedy

Sandy Mackie

Gertie Wallace

Neelam Bakshi

Catherine Dyer

Apologies:

Bill Gray

Heather McVey

Bushra Iqbal

Sue Anderson

Michele Burman

Attending:

Jane Benson

Cat Dalrymple

1. Welcome and Introductions

- 1.1 MS welcomed everyone to the meeting and all present introduced themselves to the group.
- 1.2 NB has joined the group as a delegate. She explained her role as a Government appointed non-executive director of COPFS.
- 1.3 There were five 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, Dundee, on Wed 27th February 2014 were approved with one adjustment on page 3: a minor re-wording of a comment by NG but no change to substance.
- 2.2 The minutes of the community engagement meeting held at the Deaf Hub, The Old Mill, Brown St, Dundee, were also approved.

There was some review discussion about the Dundee engagement meeting. All felt that the structure of the event worked very well and that it was a very productive event. There was discussion around the use of Third Party reporting and people being put off by long waiting times between court appearances. There was also discussion about the barriers that dissuade transgender and LGB people from reporting crimes. Fears were expressed about being outed by the press or being targeted because of their LGBT status. The following action points were noted:

ACTION POINT 1 – Chris MacIntosh, COPFS, to provide an update on any initiatives / feedback or progress made as a result of the Dundee engagement event – in the style of “you asked....we did”

ACTION POINT 2 – Chris MacIntosh to prepare an update report for people who attended the engagement event, copied to the EAG.

ACTION POINT 3 – Policy Division to look at existing guidance in relation to Anonymity Orders and press restrictions – to explain when and how these can be used.

ACTION POINT 4 – North Federation Staff (Andrew McIntyre) to continue contact with ANIMA regarding options for reporting crime and court waiting times.

ACTION POINT 5 – KK to create a list of video conferencing facilities that would be available to members, including COPFS offices, Sheriff courts and possibly academic sites.

2.3 Outstanding action points were noted by KK:

2.3.1 **AP.2** The HR team will provide an analysis of staff who take career breaks once the new policy has been in operation for 12 months. Date of first analysis is April 2015.

2.3.2 **AP.4** The sub group Leads will check the emerging list of priorities for their respective groups and will report back at the next full meeting. This is still in process.

2.3.3 **AP.8** Due to various factors, no meeting of the Workforce sub group took place but one will be organised prior to the next full meeting in Nov.

2.3.4 **AP.12** KK contacted Interfaith Scotland about joining the EAG and they have now responded that Maureen Sier, Director of IFS, would be delighted to join the group.

2.3.5 **AP.16** GW will cover this action during the Victim and Witnesses sub group update.

2.3.6 **AP.15** None of the Federation Equality Leads could attend the July meeting. They will be invited to the November meeting instead.

2.3.7 **AP.18** David Casey was unable to attend the July meeting but will be invited to attend the November meeting instead.

NEW BUSINESS

3. Update from HR – Sandy Mackie

3.1 SM provided an update about the COPFS Career Break scheme. A review will take place after April 2015, once the new policy has been in operation for 12 months. MS asked about the type of data that would be collected. SM replied that Survey Monkey would be used to gather data and that the analysis would include details

about the demographics of who uses the policy. He also advised that the HR data management system can capture the intersections between the protected characteristics, and that HR analysis is used to support COPFS business. MS asked if any under representation of disabled people could be included in the HR analysis. NG asked that there be an annual review of the Career Break scheme, in order to check if there were any emerging patterns to who uses the scheme and what happens to those staff on their return to work.

- 3.2 SM also provided an update about recent recruitment drives and the Two Ticks scheme. NG noted that 15% of successful legal trainees had used the scheme but that none of the applicants for Modern Apprenticeships who used Two Ticks made it through the selection process. NB suggested that a slot on a future agenda, prior to the publication of the next Equality Outcomes report in April 2015, would be good, in order for the EAG to discuss the data. SM also advised that the majority of successful applicants for MAs were older than the 16-24 age group.

ACTION POINT 6 – SM to provide a demographic breakdown of the applicants who were successful in the Modern Apprentice Recruitment drive for 2014.

4. Transgender Prosecution Policy – Diego Quiroz

- 4.1 DQ highlighted some concerns regarding the Crown Office draft guidance on transgender prosecution policy – specifically around Article 8 of the ECHR – right to respect for private and family life. Any requirement to disclose one’s birth gender is a contravention of Article 8 and would have a huge impact on the Trans community. Consequently a prosecution policy should focus on the intention to commit a criminal act rather than the status of the accused.
- 4.2 CD provided some background information as to why the policy was created as not all of the members had seen the draft policy or were aware of the circumstances that precipitated the policy. She also explained the consultation process that was used to create the policy which included early discussions with the Scottish Transgender Alliance and other key stakeholders. Once the draft policy had been created, it was issued to key stakeholders and organisations for consultation. CD advised that COPFS attended the Trans Access to Justice Conference in March 2014 and the draft policy was discussed at workshop sessions which provided a further opportunity to consult with key stakeholders.
- 4.3 CD acknowledged that it would be impossible to satisfy everyone concerned but that the way the policy was being developed was a new approach for Policy Division and feedback suggests that this is a success model for future policy development.
- 4.4 The policy will be sent to all members, once the Law Officers have approved it. MS noted that the degree of stakeholder engagement prior to the policy being written and the subsequent stakeholder consultation carried out on the draft policy worked very well and is a model that should be used in future. It was also acknowledged that this is the only transgender policy of its kind in Europe. DQ noted that he would be content if his concerns in relation to Articles 6, 8 and 14 are incorporated into the revised draft policy.

ACTION POINT 7: KK to send copy of the Transgender Prosecution policy to all EAG members, once the Law Officers have approved it.

5. Updates from the 3 sub groups

5.1 Victims and Witnesses – Nico Juetten

- NJ advised that a meeting of the sub group is arranged for tomorrow. They are looking at how COPFS communicates with victims – ie style and methods used, age appropriate language etc.
- JB introduced herself to the group as the Project Manager of the Victims and Witnesses Act Implementation team. She provided an update about the Victims and Witnesses Act, and highlighted the provisions which are due to be implemented in August 2014 namely:
 - Victim impact statements
 - Duty of court to consider making compensation orders
 - Right to specify the gender of an interviewer
 - Victim Notification Scheme (VNS) has been extended to any case where the accused is given in excess of an 18 month sentence.
 - The right to be notified directly about the VNS has been extended to include children aged 12 years and above.
- Work is also under way to review all of COPFS Victim Information and Advice leaflets.
- Special measures are also being looked at in order to better streamline the application process.
- GW dealt with AP 16 from today's list – to discuss the feasibility of Victim Information and Advice (VIA) staff monitoring special measures requests for a limited time frame. The focus should be around “this is what was requested and this is what was granted by the court”.
- NB asked if the team could also consider gathering data from victims around their thoughts on the special measures they received. She appreciates that this type of feedback may need to come from a source other than VIA staff.
- CD suggested that COPFS Enquiry Point (EP) could be a source of feedback from users of our services. She explained that EP deals with between 1300 and 1700 enquiries every day with more on Mondays and numbers declining as the week progresses. Perhaps a few well designed questions could be used to gather feedback from people who call the EP? The questions could be rotated to target different groups of users eg victims of specific crimes / victims who have a particular protected characteristic / feedback from defence agents etc.
- MS asked what data is currently recorded by EP staff? JE asked what is the referral process for callers who have needs that would be covered by the Equality Act duties and also enquired about the training received by EP staff, who are often the first human contact with COPFS for service users?
- CD suggested that perhaps a presentation about the work of Response and Information Unit, which encompasses the EP team, would be helpful for the group?

ACTION POINT 8: GW / JB to consider how to collect special measures data

around the protected characteristics and the type of special measures that are requested and subsequently granted.

ACTION POINT 9: KK to organise a visit to the Enquiry Point facilities in Dumbarton for EAG members and to ask RIU to give a presentation at the next full meeting of the group.

ACTION POINT 10: KK to send a copy of the Inspectorate's report on the Enquiry Point (published in May 2013), to members and to add a discussion about using the EP for data gathering to the next full meeting agenda.

ACTION POINT 11: Sub groups to consider what information they would like to gather, using Enquiry Point as a source. For November agenda.

5.2 Workforce Strategy – Nathan Gale

- NG apologised on behalf of the sub group as no meeting had taken place since the last full meeting in February. This had been a result of a combination of illness and annual leave.
- There was a discussion about the usefulness of the analysis provided on the staff survey. It was noted that the lack of anonymity may have contributed to staff feeling unable to answer some of the questions. The Crown Agent asked if a completely anonymous survey could be conducted and SM suggested the use of Survey Monkey to achieve this. The data from an anonymous survey could be compared with the data gathered from the staff survey to see what the impact of anonymity on data quality and gathering.
- NG added that issues already identified by the group are: What can the EAG do to help this endeavour and what can HR do?
- NB asked how COPFS had used the data published in the 2013 Mainstreaming report?
- The Crown Agent advised that COPFS has just received a request from Scottish Government for information to contribute to the Scottish Government Equality Statement in relation to Government spending. Given that this is now an annual event, perhaps a more systematic approach to the contribution from COPFS could be organised, incorporating our staff survey information.

ACTION POINT 12: Policy Division to arrange for annual contributions from across COPFS to complete the COPFS Equality Statement for Scottish Government.

5.3 Domestic Abuse – Marsha Scott

- MS gave an update on what the group had been focusing on and the involvement of Anne Marie Hicks, Domestic Abuse Prosecutor and Lisa McCloy from Policy – court waiting times and a stalking training programme for COPFS staff. She noted that there was still no strategic approach to gathering feedback from the victims of domestic abuse.
- Re the Stalking training programme – the training plan had been created and delivered before the sub group had heard about it. Consequently it felt like a

missed opportunity to use the expertise of the group to help shape the training intervention. She added that the assumption there are no equality issues in technical/legal training, is worrying. KK highlighted that Equality Impact Assessments are created for legal training along with all training interventions created.

- MMcL suggested that Policy and People and Learning could create a forecast of policy work which would require training products, which would then be incorporated into the strategic planning for both divisions and obviously incorporate adequate time for equality impact assessments to be completed.
- NB asked who sees the EAG minutes? Essentially, when issues are raised at meetings, where is the responsibility to ensure that issues are dealt with?

ACTION POINT 13: Policy Division to engage with People and Learning in order to plan for training interventions required for new policy guidance.

ACTION POINT 14: SM to discuss with Caroline MacLeod how and where People and Learning fits in with the workforce strategy and the work of the EAG.

ACTION POINT 15: MS to discuss with the Crown Agent strategic planning in COPFS and the role of the EAG to support this.

6. Group Membership

- 6.1 **Structure of Sub groups** – There is an uneven distribution of members between the 3 sub-groups. Currently there are:
- 5 members in Domestic Abuse
 - 7 members in Victims & Witnesses
 - 3 members in Workforce strategy

Workforce Strategy has suffered 2 recent resignations – Liz O'Neill and Peter Matthews. Another one or two members are required for Workforce Strategy to become viable again.

All subgroups are to consider their role and remit, how functionality can improve and what problems have impacted on group functioning. Sub groups leads will report back at the next full meeting.

ACTION POINT 16: Sub group leads to report back at next full meeting the outcome of discussions around role and remit, improving functionality and issues that have impacted on functionality.

- 6.2 **Sally Witcher** is a proposed new member of the group. Her biography is to be sent to members who are asked to confirm via email their endorsement of her membership.

ACTION POINT 17: KK to send Sally's biography to members and seek their endorsement to invite Sally to join the group.

- 6.3 **Notes of Thanks** – MS spoke about the contributions made by members who have recently resigned from the group for a variety of different reasons. She will send letters of appreciation to those members: Pramila Kaur, Liz O'Neill

and Peter Matthews.

ACTION POINT 18: MS to send letters of appreciation to members who have recently resigned: Pramila, Liz and Peter.

7. AOCB

- 7.1 **The Lord Advocate's press article about disability hate crime – 29 June 2014.** NG commented that some of the terminology used in the article wasn't correct. CD responded that the newspaper had made a last minute request to Private Office to respond to an earlier article they had published. The Lord Advocate didn't want to miss an opportunity to encourage victims of disability hate crime to report incidents to the police but acknowledges that some of the terminology used was outdated.

ACTION POINT 19: KK to send a copy of the Lord Advocate's article to the EAG members.

- 7.2 **Revised Equality and Diversion course –** David Casey was unable to attend today's meeting to discuss the review of this course but would welcome help from EAG members. MS offered to liaise with David on this.

ACTION POINT 20: David Casey to contact Marsha Scott regarding the revision of the mandatory equality and diversity course.

- 7.3 COPFS are organising an Equality Conference for staff who are involved in COPFS Federation Equality Networks. If any members would like to attend, please contact KK for details. Conference date is Friday 5th September, venue is the Scottish Prosecution College, Glasgow.

8. Date and venue of next meeting

The next full meeting of the group will be on Wed 5th November 2014, in Conference Room 1, Crown Office, Edinburgh. Start time is 10am.

A community event will be organised for the end of January or early February 2015. Location will be confirmed later.

MS thanked all for their attendance at today's meeting.