Chapter 38: Disclosure FOS Reports

38.1 Introduction

38.1.1 To assist staff in ensuring that the Crown satisfies its disclosure obligations, particularly in relation to solemn cases, there are a number of different FOS Reports that can provide information in relation to disclosure.

38.1.2 These reports can be divided into 2 types of reports:

i) *Case Level Reports* – These can provide specific information in respect of a particular case and will be of particular assistance to Case Preparers and administrative staff; and
ii) *Office Level Reports* – These can provide information in respect of all cases within an office that fall into a specific category, e.g. all petition cases, and will be of particular assistance to solemn managers.

38.1.3 FOS reports can be created using the Reports Generator feature that staff can access from their Desktop. These reports will extract the information that has previously been entered into PROMIS. For the avoidance of doubt, these reports can be created at any stage of the case – whether it is still in FOS or not.

38.1.4 Guidance on how to run the FOS Reports detailed above is contained in the Case Processing Manual.

38.2 Production Records

38.2.1 As stated above, FOS reports will extract information that has previously entered into PROMIS. Accordingly, to ensure accuracy of the Reports, the records contained within PROMIS must also be accurate. In particular, there must be a separate production record for each witness statement submitted.

38.2.2 The investigating agency should submit statements individually in the form of the NSS. Where statements are submitted electronically with each statement as an individual document, a production record for the statement will be **automatically** created in PROMIS for that statement.

38.2.3 An **automatic** production record will **not** be created in PROMIS where a statement has been submitted by any of the following means:

i) In one document containing a batch of statements;
ii) Attached to a subject sheet;
iii) Under a different PF Reference Number (e.g. associated death, CAP, or criminal case);
iv) Hard copy only, e.g. statements from Scenes of Crime Officers, Forensic Scientists etc.; and/or
v) On CD-Rom.

38.2.4 Accordingly, where a statement is submitted using one of the above methods, administrative staff **must** add a **manual** production record for that statement. This is an essential step in the reconciliation process as the electronic reports (referred to below) that must be produced in each case extracts information from these production records. Guidance on how to add a manual production record is contained within the Case Processing Manual.

38.3 Case Level Reports

38.3.1 The following reports can be created to assist Case Preparers in ensuring that all statements purporting to have been submitted by the investigating agency have been received:

i) **List of all statements held in FOS** – this report details all the statements in a case that are held in FOS and includes the date and time the statement was obtained from the witness (this list will only be required where, for whatever reason, at the stage of considering the schedules, the case is still in FOS, e.g. where the case has been retained in FOS to enable redaction to be carried out in FOS).

ii) **List of all statement production records** – this report details all the statements in the case for which there is a production record (thus, it is essential that manual production records are created where the statement has been submitted in one of the ways described above at section 38.2). The report includes details of whether or not the statement has been disclosed; the disclosure status of the statement; witness information (first initial and surname); the date and time the statement was obtained and a note field.

iii) **'Do not disclose statement', or 'do not disclose statement meantime' production records** – this report details all the statements in the case which have a disclosure status of 'do not disclose' or 'do not disclose meantime'. The report includes details of the disclosure status; witness information; date and time the statement was obtained and a note field.

iv) **Disclosed witness statements to defence agents** (revised) – this report details all the statements that have been disclosed to the defence and confirms details of when the statement was obtained from the witness and when it was disclosed to the defence.

38.4 Office Level Reports

38.4.1 There are 2 main types of reports in PROMIS that Solemn Legal Managers should use in order to ensure that both the local investigating agency and the Crown are complying with the disclosure timescales. The timescales are that:

i) The investigating agency should submit statements within 21 days of CFE; and
ii) The Crown should disclose statements within 28 days of CFE.

38.4.2 The Solemn Legal Manager has overall responsibility for ensuring compliance with these timescales. FOS Reports at an office level can be run in relation to 3 different categories of solemn case:

i) All petition cases;
ii) All petition cases given a provisional marking on PROMIS for Sheriff and Jury; and
iii) All petition cases given a provisional marking on PROMIS for High Court.

Thus, in offices where there are separate Legal Managers for Sheriff and Jury cases and High Court cases, it will still be possible to run the appropriate reports.

38.4.3 Where there is a Federation High Court Team, or a High Court Team covering more than one office, it is not possible to run these reports at Federation level and separate reports will need to be run in relation to each office that the Unit covers.

38.4.4 The reports that should be used by solemn legal managers to monitor compliance with targets are as follows:

i) **PE*(All): No witness statements production records 21 days after CFE** – this report details all the petition cases (regardless of whether they have been given a provisional marking on PROMIS of PESJ or PEHC) in a particular office where statements have not been received within 21 days of CFE. This report will check for production records so, where statements have been manually submitted or submitted in a batch document within 21 days of CFE but no manual record has been added yet, this will show in the report as a case where no statements have been submitted.

ii) **PE (Only): No witness statement production records 21 days after CFE** – as for the last report but this will only include those cases with a PE marking in PROMIS. It will not include cases with a PESJ or PEHC marking.

iii) **PESJ: No witness statement production records 21 days after CFE**- as for the above report but this will only include those cases with a PESJ marking in PROMIS. It will not include cases with a PE or a PEHC marking.

iv) **PEHC: No witness statement production records 21 days after CFE** – as for the last report but this will only include those cases with a PEHC marking on PROMIS. It will not include cases with a PE or PESJ marking.

v) **PE*(All): Non disclose witness statements production records 28 days after CFE** – this report lists all the petition cases (regardless of whether they have been given a provision marking on PROMIS of PESJ or PEHC) in an office in which statements (or some statements in a case) have been received from the investigating agency but have not yet been disclosed to the defence.

vi) **PE (Only): Non disclose witness statements production records 28 days after CFE** - as for the last report but this will only include those cases with a PE marking in PROMIS. It will not include cases with a PESJ or PEHC marking.

vii) **PESJ: Non disclose witness statements production records 28 days after CFE** - as for the above report but this will only include those cases with a PESJ marking in PROMIS. It will not include cases with a PE or a PEHC marking.

viii) **PEHC: Non disclose witness statements production records 28 days after CFE** - as for the last report but this will only include those cases with a PEHC marking on PROMIS. It will not include cases with a PE or PESJ marking.

38.4.5 Solemn Legal Managers should create the relevant report(s) on a weekly basis and identify those cases which have passed the disclosure stage for the case (i.e. it is more that 28 days since the accused was committed for further examination) but no statements have been disclosed. The Solemn Legal Manager should then

make enquires to ascertain why disclosure has been delayed and take immediate steps to rectify this.