



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

OPERATIONAL PERFORMANCE COMMITTEE
MINUTES OF MEETING HELD ON 24 JULY 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)
- Ruth McQuaid PF, Local Court West (RM)
- Anthony McGeehan PF, Policy and Engagement (AM)
- Karen Wilson Legal Assistant to DCA – Serious Casework (Minutes)

BY VC:

- Kenny Donnelly PF, High Court (KD)
- Fiona MacLean Non-Executive Director (FM)

APOLOGIES:

- Sharon Duffy Serious Casework Compliance and Resource Manager
- Graham Kerr Head of Business Management, Operational Support

1. Welcome and Apologies

The DCA welcomed everyone to the meeting and apologies were noted.

2. Minutes of previous meeting

RM clarified that having an economic crime team set up in each Sheriffdom was an aspiration at this stage and not yet a reality. The DCA indicated that the minutes would be amended to reflect the position (minutes updated 21/8/19).

3. Outstanding actions

Action 44 - continued to September.

Action 45 – ongoing. RM advised no meeting had taken place of Quality Group yet. A paper was being worked on setting out what is being done on quality in each respective area. Anticipate it will be October for an update. It was agreed that RM would attend a future Disclosure Reference Group meeting to discuss work in this area.

Action 46 – complete. Paper on Key Performance Indicators (KPIs) should be available in September. KD to provide OPC with verbal update at next meeting in August.

Actions 47 & 48 – continued to September meeting.

4. Monthly stats/indicators

HIGH COURT

Input levels remain high;

Reported major crime cases have dipped;

Increases in homicide and sexual offences – it is too early to draw any conclusions in respect of the latter but matters will continue to be monitored;

Downward trend in precognitions and continued improvement in age profile of cases in hand;

39 cases over a year old – this is down from 60 last year. While improvement acknowledged still not where we want to be;

Service of indictments output has increased.

KD advised that work remains ongoing to improve the High Court statistical return for the Committee with the intention of providing a more refined, bespoke report in due course. Highlights include indicted awaiting trial; some work has been commissioned around indicting old legacy cases which is a priority; the charts included in the return breaks down the KPI by category; there is lots of work to do on category 1. It is anticipated the refined report will be available in the next couple of months and it is important not to overlap with work being done by others on capturing data.

There was a general discussion around the lack of improvement currently seen with the introduction of the additional courts. It has perhaps been unfortunate that this has coincided with courts sitting empty due to time of year with many on annual leave. As a result no real benefit is currently being seen. KD advised that the Lord Advocate had asked for data in relation to this in advance of his meeting with the Lord President.

LOCAL COURT

In National Initial Case Processing Unit (NICP), number of unmarked cases – 15,700;

Take and Implement target suffering and this has been raised with the Crown Agent;

Staffing within NICP remains a challenge;

Sheriffdoms also struggling in dealing with people with no experience of court;

Cannot demonstrate progress at the moment;

Sheriff and Jury figures are looking healthy at the moment – initial marking figures are good with KPIs for 4 week and 8 week marking targets being met and there is an improvement in the 8 month target also.

The DCA confirmed that there were discussions around resourcing to take place with the DCA for Local Court and DCA for Operational Support. Following said discussions it would be the intention to come back to the OPC as the corporate committee.

SPECIALIST CASEWORK

Not quite there yet with management information;

KPI around indicting being met;

Scottish Fatalities Investigation Unit (SFIU) - routine deaths target not being met due to ongoing issues with toxicology provider – discussions are ongoing in an effort to resolve that issue;

Serious & Organised Crime Division (SOCD) – the intention is to provide revised KPIs as they are currently sitting at levels that will never be achieved for the lengthy and complex investigations. A proposal will be submitted to the Committee in due course;

Civil Recovery Unit (CRU) – there are 2 major cases preparing for proceeding to proof and looking like they will settle.

Legacy cases in Health & Safety Investigation Unit (HSIU) and SFIU are a concern. An audit revealed that there are 12 cases involving a death and 40 involving injuries that are over 2 years old. Work is ongoing with the teams to try to address these cases. A Case Management Panel system will be adopted to monitor progress. A team in HSIU is being established to take forward the legacy cases. A further update will be provided to the Committee in September in respect of progress.

In subsequent discussions, it was acknowledged that the legacy cases were often a result of cultural issue with cases sitting interim marked, or less commonly unmarked, while discussions with the defence were ongoing. RM expressed the view that cases that had been read and considered should not be unmarked. The greatest risk from an organisational perspective was those cases that were unread and unmarked.

POLICY AND ENGAGEMENT

There was nothing to flag to the Committee by way of exceptional issues. That being said, AM highlighted a number of issues as follows which may be of interest to members:

Policy had received a Freedom of Information (FOI) request from Labour researchers asking how many Standard Police Reports (SPRs) had been received by the police that had to be rejected on a quality basis. There is clearly a political interest in the quality of material received from the police.

The Law Officers had approved a change to the approach taken to Theft by Housebreaking cases. The published policy around same will be amended accordingly.

The Law Officers are looking to move to a model where decisions of no action are intimated to all accused with the usual caveat. The decision to not intimate would be truly exceptional. This clearly has resourcing issues and consideration is being given in relation to how to manage this alongside intimating to victims.

The Scottish Government has recently announced an independent review of forensic mental health provision. AM is a member of the group established to look at this which is due to meet for the first time next week.

The Scottish Government has reconvened its Advisory Group looking at the age of criminal responsibility. This was a commitment given when the issue was previously being considered. The Group will now consider raising the age to 14 or 16. This will raise challenges for COPFS as the level of offending at this age will be more serious.

The Scottish Government has established a drugs death task force to address the rise in drug related deaths. This is receiving intense focus in the media.

The Scottish Police Federation at a recent meeting with the Crown Agent raised the issue of police assaults and the approach taken by the PF in respect of same. While it did not appear that inappropriate pleas of not guilty were being accepted in relation to these charges, a reminder of the policy would be issued to staff.

5. KPIs

This was covered under the previous agenda item.

6. Annual Audit Update

The DCA advised that she had requested this document be circulated to Committee members for interest. She highlighted paragraphs 76-79 in particular. It is acknowledged that COPFS has an effective performance management committee but further work is required to address the internal audit recommendations on KPIs.

Progress on KPIs is published on the external website every quarter and will be due at the start of October. Thought will require to be given to the associated narrative that will feature alongside that. While more resources have been allocated, progress against targets will be down. It was agreed that this issue required to be on the August agenda

7. AOB

KD advised that the cybercrime forensic attack investigation continues with the Scottish Police Authority tracking matters. The 'green light' to continue business has however been given. KD also informed the Committee that in the context of the

Scottish Child Abuse Inquiry, staff members who had been referred to by witnesses had been advised and offered appropriate support.

8. Date of next meeting

28 August 2019, 10am