



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

OPERATIONAL PERFORMANCE COMMITTEE

MINUTE OF MEETING HELD ON 24 JUNE 2020
BY VIDEO CONFERENCE

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Attendance

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)
- Kenny Donnelly, Procurator Fiscal, High Court (KD)
- Sharon Duffy, Serious Casework Compliance and Resource Manager (SD)
- Fiona MacLean, Non-Executive Director (FM)
- Fiona Roberts, Head of Management Information Unit (FR)
- Gioia Ezzi, PA DCA – Serious Casework (Secretariat) (GE)

APOLOGIES:

- Anthony McGeehan Procurator Fiscal, Policy and Engagement (AM)
- Graham Kerr Head of Business Management, Local Court (GK)

1. Welcome and Apologies

The DCA welcomed everyone to the meeting, apologies were noted

2. Minutes of previous meeting

Minutes agreed after few minor amendments from Local Court.

3. Outstanding actions

Action 49: Victim Information & Advice (VIA) remit for sexual offence victims. The Committee was advised that following a recent appeal court decision there is the possibility of a detailed review of preparation and prosecution of sexual offence cases. This could have resource impact on VIA. VIA remit review is with stakeholders at moment. RM to provide quarterly update on main issues for October meeting. **Action ongoing - carried forward to October meeting.**

Action 2/20: Petition Warrant Key Performance Indicators (KPIs). **Action ongoing - update to be provided at August meeting.**

4. Monthly stats/Key Performance Indicators (KPIs)

HIGH COURT

New petition numbers have lessened which is welcome, but now worryingly growing and if this continues June would be busier than any month last year.

Business is returning to some extent. Homicide levels have not dropped, and sexual offences are starting to creep up. The challenge is to be able to progress the cases once they are indicted. A few Evidence on Commission hearings have commenced and preliminary hearings have started to call but only for procedural business, there are no trials being fixed.

Scottish Courts & Tribunal Service (SCTS) will not commit to a time frame for trials starting, but possibly September at earliest depending on the outcome of the work being done by the Lord Justice Clerk's (LJC) working group. Witnesses are being countermanded in trials other than those for the Glasgow and Edinburgh social distancing model trials. Stakeholders are concerned because witnesses have citations and are anxious to know if they require to attend court in the current situation.

Two different models for jury trials are due to start 20 July in Edinburgh and 21 July in Glasgow. The court in Glasgow will have jurors in court room but social distanced on the public benches and 2 other court rooms will be taken up by this pilot. Members of public and press will be able to view trial in other court room. This will be quite resource intensive. Second model – jurors are not in court room but in another room within the court building, social distanced watching trial on CCTV. These are models to be used for single accused trials only, no sexual offence trials which excludes 70% of business.

One trial in any one location is not going to address the current business levels and the concern is what we do thereafter. The backlog will continue to grow and we will struggle to see how inroads will be made into this.

Judge only trials are not being considered by the LJC group.

Everybody recognises at group that models are not sustainable and could not be replicated in Sheriff Court where there is a significant backlog in business and not enough of an available estate to house socially distanced juries.

Going forward there may need to be separate group to deal with Sheriff & Jury (S&J) business.

Reduction to one metre distancing will help with some aspects but not with juries, this would still present a huge challenge in accommodating a jury.

LOCAL COURT (LC)

25% of staff are sitting in covid category 3 (child care category) and this is bringing challenges in level of productivity. NICP have 50% of staff between categories 2 & 4. Shielding staff (category 2) can be on desk work and try to encourage them to do

virtual courts. LC are encountering the issue of asking deputes to conduct trials by phone only and are pushing for a visual link. Inexperience level exposed as some staff have not done a lot of court work and cannot start doing this by phone and iPad and have no marking experience in any great volumes. NICP have to train these deputes which is causing some issues. Assistance is on its way in the form of additional first year trainees in Sept.

Wider organisational issue of relatively inexperienced staff are taking lead from experienced members of staff.

National Initial Case Processing Unit (NICP)

Marking is sitting at 73.7% which is just under target. Work in progress now sitting at 12,000. Important to emphasise huge change in age profile, sitting at start with 82% of unmarked cases at 10 weeks, now down to 42%. Similar drop in out of target business which is down to 45% from 85%. Old business has dropped significantly.

Summary

Outstanding trials up, predominantly in Sheriff Court not Justice of the Peace court. LC has appointed a lead for domestic abuse issues they will look at recommending KPIs going forward.

Sheriff & Jury

Just managing KPI at 76%. Not able to indict as normal rely on extended time bars. Age profile not within KPI and live indictments rising. Custodies also rising almost back to pre Covid level. Also impact of NICP progressing the older cases has an impact. Large focus is proactively trying to get pleas but ability in to do that in the summary forum is not extensive

Investigative Assistants did not have laptops for a few weeks in the immediate aftermath of lockdown which has had an impact.

The committee noted that it was inevitable that some of the solemn cases may have benefit of extended time bar and these should be recorded. Second point of concern going forward is that more cases will be pushed into that category which is a bigger challenge once the temporary legislation comes to an end. It was agreed that it would be helpful for LC to share their recovery plans with HC and vice versa to ensure consistency. It was noted that the extension will run for a year once the legislation comes to an end

SPECIALIST CASEWORK

Covid Deaths Investigation Team (CDIT) now fully established with thanks to LC for assisting with the backfill for Scottish Fatalities Investigation Unit (SFIU) and Health & Safety Investigation Unit (HSIU) which was greatly received.

Ongoing business has been at a standstill in relation to Fatal Accident Inquiries (FAI) although one very straightforward FAI was conducted remotely. The Sumburgh FAI will take place fully remotely and is due to commence end of August.

Operation Venetic is an ongoing operation and it is anticipated this will lead to an uplift in serious & organised crime cases at the upper level of offending/offenders, but that will come some months down the line and the Serious & Organised Crime Unit do not expect uplift in casework.

It was proposed to group that the KPI for HSIU is amended. The reason for that is that the current wording that we will serve 80% cases within 12 months from receipt of the Health & Safety Executive (HSE) report does not take into account the fact that HSIU receive such reports from agencies other than HSE. Proposal is amend wording so that it reads 12 months of receipt of final offence report from reporting agency. The Committee content with this change.

5. Recovery phase – stats and performance

There was general discussion on what requires to be measured in terms of the workload during Covid and what we would like to retain as best practice once we get to the recovery phase and hit the timing of sunset clause.

The Committee considered the paper circulated from Policy & Engagement on proposal for what the organisation should be measuring in the recovery phase

Corporate Resilience Operational Sub Group is recording the benefits of the amended provisions and the committee was keen to ensure that the two pieces of work dovetail. There are provisions that HC are keen to retain electronic service of indictments and hope to influence change. KD to circulate to OPC members the pieces of work from op sub group

KD also mentioned that members of staff have raised vicarious trauma (VT) issues. Whilst we have embraced the move to home working quite successfully, there is a hidden risk that if staff are not in the office they do not have support and the line of sight for managers is gone for staff who we expose to challenging work. Home working can enhance the sense of loss of support, and loss of boundary between home life and work life

The Committee discussed home working and it was observed that home working is not suitable for a lot of jobs but could look at roles which would benefit from this. There are jobs which do require someone in the office but there is also the welfare aspect, security issues etc. FMcL mentioned that there are some techniques that can be used in identifying welfare issues. There could also be a reputational risk with regard to advocacy work and court craft affecting the quality of the prosecution if using the virtual model.

6. AoB

None

7. Date of Next Meeting

29 July 2020 (cancelled).