



CROWN OFFICE  
& PROCURATOR  
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

## OPERATIONAL PERFORMANCE COMMITTEE

MINUTE OF MEETING HELD ON 27 MAY 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)
- Anthony McGeehan, Procurator Fiscal, Policy and Engagement (AM)
- 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:

- 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

Previous minutes were agreed.

## 3. Outstanding actions

Action 2/20: Petition Warrant KPIs. **Action ongoing. Update to be provided at June meeting.**

Action 4/20: Justice SitRep analytical brief. As per discussion and agreement at Corporate Resilience Group (CRG) all functions to link in with FR to provide points of contact. FR has now confirmed she has the relevant contacts. **Action closed.**

## **4. Monthly stats/Key Performance Indicators (KPIs)**

### **HIGH COURT**

Staff have quickly adjusted to working from home. Levels of reporting have been maintained, although that comes with the caveat that those cases which have been indicted recently are not all complete, and many have outstanding matters to address before they could proceed to trial.

The High Court function is reviewing a number of different options for auditing cases as matters progress to ensure that there remains a degree of quality control. Petitions in April were low in general, but the Major Crime Team in Edinburgh was particularly busy, as was the Homicide Team with a number of suspicious deaths in April and May

In terms of risk management, the High Court function senior team remains satisfied that continuing to indict cases is the correct course of action on the understanding that every month that we continue to indict we are increasing the business for the court, and are looking at having at least around 1,000 cases when we move into the recovery phase.

There are 2 working groups looking at the nature and volume of court business, which might inform how we manage the business in the recovery phase. The Lord Justice Clerk Lady Dorrian's Group is looking at the potential for high court jury trials (the option of judge led trials is not within the terms of reference of her group) and in July and August it is hoped that there will be jury trial pilots in Edinburgh and Glasgow. The Glasgow pilot will have a social distancing jury in a court room with the Edinburgh pilot have the jury remote but still within court building.

Serious Casework Group is working with the senior Crown Counsel team on identifying 5 or 6 suitable trials to start the pilot, with any learning captured as these progress.

### **LOCAL COURT (LC)**

#### **National Initial Case Processing Unit (NICP)**

10,800 cases outstanding – this figure is increasing due to lot of new staff in NICP at time of lockdown. Sheriffdoms are lending resource to NICP but that resource requires training. 10,000 is a manageable number, down to 3.3 weeks of the work in total which is well below the 4 week KPI.

Over last 2 months there has been a steep fall in proportion of old business which was sitting at 82% of cases over 4 weeks old which is now down to 54% which is a significant benefit.

There is 2 months of work of unprocessed Fixed Penalties (FPs) due to a number of courts within the Scottish Courts & Tribunal Service (SCTS) remaining closed during lockdown, which is a real issue.

Discussion took place over the challenges regarding the throughput of business with SCTS. Some custody trials have been running with varying degrees of attendance, with bail cases ready to start piloting. Opportunity for remote attendance to use those Deputes who are working from home without child care issues, and can start to utilise them.

DCA advised that she and the DCA Local Court attend meetings regularly with senior leads with SCTS, Police Scotland and Scottish Government (SG) and can provide feedback to the committee.

AM made the committee aware of work ongoing in relation to monitoring of Fiscal Fines (FFs). He advised that a request had been received from the Justice Committee. Looking at a revalorised FF scale with a data set being put in place. Will be able to produce raw data in due course with number of caveats.

### **Sheriff & Jury (S&J)**

Meeting KPI at 81%, with one Sheriffdom not meeting target. Two Sheriffdoms, Tayside, Central & Fife and Lothian & Borders have large caseloads in terms of work in progress which they had pre lockdown, and Local Court function are already transferring business across Sheriffdoms.

All sexual offences now marked within 4 weeks, 100% target being met.

### **SPECIALIST CASEWORK**

Staff in specialist have adapted well to working from home. There is not a great deal of court facing work so the work of the function lends itself more readily to homeworking. Progress with non-criminal work such as FAls and financial recovery has been hampered to some extent where SCTS have not agreed their priority work. There is very little money coming into the SG consolidated fund from the Proceeds of Crime Unit and the Civil Recovery Unit since start of financial year due to the priorities being on custody and undertaking business, the appeal court, and the civil business in the Court of Session.

A Covid19 Deaths Investigation Team has been established dealing (including retrospectively) with the deaths from Covid19 which occur in care homes or as a result of the deceased's employment. This revisal of the reporting requirements was introduced recently by the Lord Advocate (LA). Work is in progress with an estimated 2,000 deaths falling into these categories, to be investigated. This new team is comprised of staff in the Scottish Fatalities Investigation Unit (SFIU) and the Health & Safety Investigation Unit (HSIU) and work is in progress to arrange the backfilling for those teams from High Court and Local Court preferably with those who have previous expertise or experience in SFIU/HSIU. JH will keep the committee updated on how this work is progressing. DCA advised that there is to be a meeting with police on how information in relation to the retrospective cases in particular will be ingathered and reported.

JH also advised of a major sensitive development in law enforcement with the results meaning a projected significant uplift in work in the Serious & Organised Crime. This is positive news in terms of disrupting and dismantling the work of SOCG but it is too

soon to assess the impact on Specialist Casework and potentially HC Major Crime Team caseloads.

## **POLICY & ENGAGEMENT**

Vast majority of staff are able to work remotely and are contributing fully. Enquiry Point (EP) is the exception as some physical presence is required with staff on a rota. Once the court programme ramps up there will be increased calls to EP. All working effectively remotely and plan to do so for immediate future as we move into phase 1.

Issue raised at SGoRR yesterday regarding demand upon resources and need for additional resources with the potential impact of the NHS test and protect model that will come into effect more fully in the coming weeks. Under test and protect we will experience a phenomena of persons testing positive, tracking contacts and contacts asked to isolate for 14 days. Efforts to contain Covid19 may impact on workforce where workforce are not able to work remotely. Potentially reduced staffing resource across organisation.

In terms of policy, 2 exceptional issues. Firstly, the need to respond urgently to issues continues. A recent urgent issue was regarding Fixed Penalties in relation to quarantine, followed by the UK Government plan to extend regulations on part of travel companies on point of booking travel and on part of checking in and at point of aircraft journey.

Second exceptional issue is that under the Coronavirus Scotland Act the SG have committed to reporting on the operation of the new powers contained within that Act and the continuing necessity of provisions within that Act. Act contains a sunset clause, the narrative around the Act was a clause of 6 months which does not necessarily mean these provisions need be in place for 6 months; if no longer necessary individual provisions will no longer apply. The challenge is that we will require to contribute to that reporting scheme. In discussing how we might report on the Act there is a whole series of overlapping questions and answers we can provide. Issue is in providing same set of data for same thing and lot of unnecessary work. After discussion Policy would create a table of statutory provisions we are obligated to report on and also those areas we may wish to be able to describe impact of Covid19 on our business. Table are around levels of solemn business, levels of summary business, Fatal Accident Inquiries before courts etc. The proposal is to share with Senior Executive Team so we have more coordinated approach to this work.

Discussion from committee over the future benefits of the legislation etc and whether sunset clause has to apply to all the provisions.

## **5. Final performance KPIs 2019-2020**

FR advised only single figure for each KPI and there are not many trends. It has been a lot of work and feels a little piecemeal, partially due to it being the first year and still require to have discussion on some work that cannot be measured. With the current situation some KPIs may not be met in the near future and may not be

appropriate to be measuring in the short term but perhaps keep these to see the effect of Covid19 on business.

DCA flagged that she was going to table a proposal to revisit the KPIs after the first full year of measurement of data, but due to the current global health crisis, lockdown and Covid19, it may not be feasible at the moment.

The consensus of the committee was to continue to measure performance against current KPIs and review at later date. Mid year is possibly the right time to review and this is to be put on the agenda for October with FR able to produce the most recent data for review and the October OPC will be discussing KPIs only.

## **6. AoB**

None

## **7. Date of Next Meeting**

24 June 2020