

“Releasable under the Freedom of Information (Scotland) Act 2002 after the next meeting”

OPERATIONAL PERFORMANCE COMMITTEE

MINUTES OF MEETING HELD ON 30 October 2019 CROWN OFFICE, EDINBURGH

Present:

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

By VC:

Anthony McGeehan	Procurator Fiscal, Policy and Engagement (AM)
Ruth McQuaid	Procurator Fiscal, Local Court West (RM)

Apologies:

Jennifer Harrower	Procurator Fiscal, Specialist Casework (JH)
Helen Nisbet	Head of International Cooperation Unit and Brexit Team (HN)
Graham Kerr	Head of Business Management, Operational Support (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 44: Progress assessment of post indictment workload.
Update: Continued to November. Action ongoing
- Action 47: Petition warrants KPI paper. Draft paper circulated, input required from Local Court.
Update: To be added as substantive agenda item to the November agenda. Action closed.
- Action 48: Risk Register – mitigate risk across casework for each function.
Update: Substantive item on agenda. Action closed.
- Action 49: DCA to raise at SET VIA remit re sexual offence victims.
Update: Continued to November in light of recent VRR in a sheriff and jury case. Action ongoing

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Action 50: Policy to produce paper on broad picture of complaints.

Update: Paper circulated. Action closed.

Action 51: Produce paper on Parliamentary Question (PQ) on case marking statistics.

Update: Paper circulated. Action closed.

4. Monthly stats/Key Performance Indicators (KPIs)

High Court

Output in September has dipped. This is being looked at by Management Teams as there is no apparent reason for this dip in productivity.

Regarding broader picture, still looking at an increase in new cases overall of 5%. The profile is changing again with a projected increase in sexual offences of 15% for this year.

Major crime has dropped with homicide figure small with variable decrease of 13% which equates to 9 cases. Significant resource is put into suspicious death cases which may result in no further action being taken, which often has no demonstrable output in terms of the noted statistics but take up a great deal of Crown Counsel, case preparer and legal management time. These types of deaths investigations will be looked at to see how to record the statistics to get a better understanding of figures and the resourcing implications.

Precognition in progress has been on downward trajectory but over last couple of months there has been a slight upturn. This is not causing HC managers any particular concern but there will be a push to prioritise older cases to ensure that all the excellent work over the last 2 years to reduce the pre petition work in progress is not undone

Increase of 5% in reports submitted for Crown Counsel Instruction. Once there has been training for new case preparers, it is hoped that there will be a further increase.

Indicted awaiting trial figure is reducing slowly which is welcome. High point in June 2019 has reduced to a current figure of 503 which is a 7% dip over 4 months. During that time 2 new trial courts have been introduced in Glasgow and Edinburgh sheriff courts, although that has not been fully effective yet due to the intervening summer leave period.

The indication from SCTC is that there is likely to be additional High Court capacity in Inverness with effect from April 2020 and completion of refurbishment in Kirkcaldy will provide capacity to for the High Court to sit in Dunfermline.

KPI figures for this month are disappointing, following the dip in performance for September which will continue to be monitored as per the action noted.

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ACTION: KD to ask Business Managers to provide breakdown with contributory factors.

Local Court

National Initial Case Processing Unit (NICP)

Work in progress is sitting at just under 18,000. Marking output of over 5,000 cases assisted with addressing the work in progress but this did not have the desired effect on the work in progress due to an increase in police reports submitted each week over the preceding 6 to 7 weeks. There would seem to be no particular reason for increase in number of reports from police.

There remains the ongoing challenge of older cases requiring more experienced deputies to deal with them.

There are currently 30 deputies in post. Resources continue to be a challenge due to long term sick, maternity leave, retiral and new unaccredited deputies. The process of accreditation continues to cause difficulties in terms of rotation of staff and spreading that process evenly across the functions. Moving resource from solemn business to NICP is not practical as much of that is case preparer resource.

It is hoped that Fair Futures will assist with dealing with defining roles of Procurator Fiscal Depute and Senior Procurator Fiscal Depute.

Members discussed whether there required to be a change in the narrative for NICP, the point being that if there is high quality initial decision making then the process should flow from that. There seems to be a perception that NICP is not valued as much as other parts of the organisation and what is required is a good balance of experience and new staff

NICP one of the units most easily measured in terms of input, output and journey time, but not necessarily quality, and is now under Justice Committee scrutiny and the subject of PQs.

ACTION: DCA to discuss at SET changing of narrative of NICP.

Specialist Casework

Committee noted papers produced by JH on actions being taken to address cases over 2 years old in Health & Safety Investigation Unit (HSIU) and Scottish Fatalities Investigation Unit (SFIU).

This will be reported to Executive Board.

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Policy & Engagement

AMcG advised that there is an ongoing S&J case which a plea, reflected in a proposed S.76 indictment has been the subject of the Victims Right to Review (VRR) process. The victim has also lodged a civil petition in relation to damages suffered in relation to the decision making process. A review was conducted, Crown Counsel concluded that the decision to accept the plea was unreasonable and therefore to be overturned. Local Court are currently assessing whether the plea resolution decision can be reversed in law.

There was discussion of VRR process and it was recognised there is an inequality of approach between complainers in different fora.

Law Officers are currently considering a requested revised articulation of the VRR reasonableness test. Once approved, revised VRR guidance and processes will be developed. OPC will have to keep this under review re case journey times to ensure that the right to review is viable.

5. Corporate Risk Register

Discussion took place over corporate review where risk sits regarding casework. Current risk score is 12. Decision was taken to put target risk score at 9. This is to be put on agenda for January meeting for discussion to see if any progress around journey times and quality.

ACTION: SD to update risk log.

6. AoB

None.

7. Date of Next Meeting

27 November 2019