

Operational Performance Committee

Minutes of meeting held on 1 December 2022 by Microsoft Teams

Present:

Stephen McGowan	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Laura Buchan	Procurator Fiscal, Specialist Casework (LB)
Ruth McQuaid	Procurator Fiscal, High Court (RMcQ)
Kenny Donnelly	Procurator Fiscal, Policy and Engagement (KD)
Andrew Laing	Procurator Fiscal, Local Court (AL)
Fiona Roberts	Head of Management Information Unit (FR)
Graham Kerr	Head of Business Management Local Court (GK)
Julie Boyce	Central Operations Unit (JB)
Jack Caster	Legal Assistant, DCA Office – Serious Casework (Minutes)

Apologies:

Robert Tinlin Non-Executive Director

1. Welcome and Apologies

The DCA welcomed everyone to the meeting, apologies were noted. AL and JB were welcomed to the OPC.

2. Minutes of previous meeting

The minutes of last meeting were agreed and can be published.

3. Outstanding actions

- Action 6/22: Recovery Mapping – ongoing
- Action 7/22. Progress of Stats/KPI's- ongoing
- Action 8/22: Policy minutes/work for clearance – ongoing

4. Monthly Stats/Key Performance Indicators

High Court (HC)

RMcQ updated the committee in respect of several preliminary matters-

- Highlighted that the OPC committee may want to clarify where the OPC sits as an escalation route. It was noted that this had recently been discussed at the Victims Forum in relation to the statistics that had been provided. It was noted that resourcing issues would be the main area of concern to be escalated via the OPC. It was suggested that there is a risk of work and an escalation process

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being overlooked if it is not included in the agenda as part of the remit of the OPC.

- Discussed the Forensic Network and advised that there is a lot happening with this with key personnel being brought together. Advised that there was nothing substantive to bring to the meeting today, but explained to the committee what personnel from each relevant department was involved and thereafter asked the committee members if there were any suggestions as to who else should be included. It was commented that it had been flagged that a risk champion might be required for the network. It was agreed that the committee would consider this further, and an action was created.

ACTION (9/2022): Local Court (AL) and SC (LB) to consider whether further personnel from these functions should be included in this Forensic Network.

ACTION (10/2022): DCA to contact secretariat to seek advice regarding whether a risk champion is required for the Forensic Network.

- Advised that the Sexual Offences Network has been set up which pulls together HC and S+J data. The intention is to look across both functions to provide a consistent response in these cases. It was flagged to the committee for info that an audit on the quality of sexual offence reports has been commissioned. This audit is ongoing at present and a response is being prepared to DCSI Faults in Police Scotland. Feedback has already been received from some HC Sexual Offences teams and an update will be provided in due course.
- The DCA noted that a new non-exec director will be joining the OPC in January and so on the back of what has been discussed, the group would benefit from the terms of reference being circulated again.

ACTION (11/2022): PADCA to include OPC terms of reference in agenda and circulate ahead of next meeting.

RMcQ then gave an update in respect of the HC paper and the points of interest were-

- It was highlighted that the previous update at the last committee meeting was positive. In particular, the increase in productivity generally and the rise in indicting had been noted.
- A noted issue of concern is the age profile of cases sitting within HC. Advised that HC is sitting with a quarter of the business in SOT at over a year old. 21% of cases are over 10 months past the CFE date, which it is recognised would have been past the time-bar pre-Covid. It was further noted that the volume of pre-petition work is sitting at just under 60% whereas the intention is to achieve a target KPI of 30%. In terms of marking, 18% of interim marked cases are over

a year old. It was noted that there are some vacancies in the marking teams which may be contributing to this.

- A concern was noted about the difficulties in progressing cases involving children in the manner that the organisation would hope to achieve. Last month's October figures put 11% percent of business at under 7 months which is behind LC (which is in 30%).
- In relation to SCAI Teams, it was advised that additional resourcing is required. It was highlighted that 46 SCA cases were results of large investigations. 30 of these cases are being prosecuted at S+J level. Highlighted that this is all difficult and complex work, and the main concern is that due to the old age of victims and accused, there is extra pressure in bringing these cases to a conclusion.
- In conclusion it was explained that there are pressures across most HC units. These were noted by the committee.

Local Court (LC)

AL provided the committee with a Local Court update. The points of interest were-

- The ICP headline is that the current unmarked cases figure is at 16,500 which is down from a previous high point of close to 20,000. It was noted that the Police have their own back log which although has been reduced from about 8,000 cases to 6,000, is likely to result in an additional 400 to 500 cases per week being reported to COPFS. At present, roughly 3300 cases are reported per week. ICP can clear this many cases but is not able to make progress into the remaining unmarked cases that are sitting. LC is putting more resources into trying to get the figure down. It was noted that there have been recent FOI enquiries, MSP questions, and that this 'backlog' figure raises important reputational issues, so work is being carried out here to address these issues.
- It was noted that the Police appear to have been reverting to a pre-Covid manner of reporting cases in relation to custodies. Of the cases reported from custody, only 16% result in a remand.
- In relation to the summary court backlog, it was highlighted that an important point has been reached in that the outstanding Sheriff summary case figure that was previously at 34,000 is now at 23,000. This is positive progress that could be communicated to staff. In relation to JP cases, this is even better having reduced from 8,000 cases to 5,300. To give a comparison the pre-Covid figure was 3,000.
- In relation to Sheriff and Jury work it was noted that more needs to be done. The figures are not reducing and are either stabilising or continuing to rise. LC are looking at unmarked cases, but further work is required to look at S+J case levels. The numbers of precognitions in hand over the 7-month date have risen

but the numbers of cases allocated has stabilised. The numbers of new petitions have remained fairly consistent but overall, the direction is on the increase. For example, there were 9,000 new petitions in 2018/19. Numbers are now up to 21,000 petitions. It's possible that this increase is due to more cases being investigated and reported.

- Domestic abuse statistics give interesting figures. It was noted that there still seems to be an anomaly with the figures in Edinburgh, and as a result discussions with the Sheriffdom Sheriff Principal and SCTS are planned. The average time is 12 weeks at the moment, but LC is confident that this will reduce to 10 in next 6 months.

In discussion on the above raised issues, the DCA noted that the Sheriff and Jury backlog will likely be a challenging area of business for the next 5 years or so. It was noted that the increase in reported custodies was disappointing. There followed some discussion in relation to the possible interplay not just in guidance but with recent cases in which there were criticisms with decisions to liberate where serious offences have then occurred. The competing pressures on the Police regarding their approach to reporting from custody were noted. It was considered that it may be possible that as a result of these pressures the Police are becoming more risk adverse. KD advised that the Bail Release from Custody Bill is before parliament and that this may require an update to the LA guidelines to the Police if/once passed.

Specialist Casework (SC)

LB provided a verbal update. The matters of interest were-

- Continuing to resource CDIT team. A consultation took place with the LA and the allocated Snr AD yesterday (30 November), and all involved are keen to see the work progress. Commented that good progress is being made.
- Issues in terms of the level of absence in SFIU. At present there is a high level of sickness which is impacting on the ability of the unit to action PM reports also ability to mark death reports. SC is looking at a plan of how support SFIU and ensure key areas of work are completed - especially during the upcoming AL period.

In discussion on the above raised points, RMQ flagged that absence rates are often hidden from statistics. She advised the committee that there is currently a 40% absence rate in HC VIA with lots of this being long term. It was further highlighted that a focus area of the LO's is the performance of VIA within the service. It was discussed that the work in some function's places extra pressure on staff and that rotation may help to alleviate this. In general, it was agreed that this issue may require further inspection and work to address. The DCA noted the concern and advised that this would be something that would be taken forwards in further discussions within SCG.

Policy and Engagement (PE)

KD provided an overview of the Criminal Reform Criminal Justice Bill which is likely to introduce fundamental changes that may impact COPFS significantly. It was advised that Policy will need some resource dedicated to the bill as it will likely have a huge impact on each function.

RMQ asked if KD considered it worthwhile for someone from Policy to sit on the Sexual Offences Network and it was agreed a further discussion about this would take place off table.

5. Recovery Mapping

The DCA advised that this is currently ongoing and advised that SCTS have announced that 2 extra courts will be introduced. The recovery statistics given by AL in the LC update were noted.

6. Minutes for OPC clearance

The committee considered the material submitted in relation to victim impact statements. RMQ advised that she knew discussion at the Victims Forum had taken place in relation to this and that this may be a good place to refer it to as it had originated from there. The DCA commented generally that he was content with the sign off process that the proposal had been through, and he was happy to rely on the advice offered.

It was agreed that if members wanted to discuss this further then comments can be submitted - deadline next Wednesday (7 December).

If no comments, then this will be approved.

ACTION (13/2022): Members to submit comments on Victim Impact Statement by CoP 7 December 2022.

7. A.o.b

FR raised the volume of statistics given in advance of the OPC meeting. It was noted that some figures may be overwhelming and unnecessary for the purposes of the committee discussion. It was agreed that national figures would be used, and the statistical data provided will be streamlined for ease of user. It was agreed that members would look at the statistics provided and assess what each require to provide to the committee.

ACTION (14/2022): Members to assess statistics and data provided to the OPC and consider streamlining if appropriate.

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The DCA recorded thanks to Robert Tinlin, who is stepping down from non-exec board, for his work on this committee. These thanks were echoed by all in the committee.

8. Date of Next Meeting

To be confirmed by PADCA.