

**COPFS AUDIT & RISK COMMITTEE**  
**MINUTES OF THE MEETING HELD ON 29 MAY 2020**  
**VIA MS TEAMS**

**Present:**

**Members**

Robert Tinlin	Non-Executive Director – Chair
David Watt	Non-Executive Director
Vanessa Davies	Non-Executive Director

**In Attendance**

David Harvie	Crown Agent, Chief Executive and COPFS Accountable Officer
Robert Sandeman	Accountable Officer for QLTR
Ian Walford	Deputy Chief Executive
Mark Howells	COPFS Director of Finance and Procurement (DFP)
William Wilkie	Audit Manager, SG Internal Audit
Esther Scoburgh	Senior Audit Manager, Audit Scotland
Gordon McAllister	Senior Auditor, Audit Scotland
Gillian Woolman	Audit Director, Audit Services, Audit Scotland
Marlene Anderson	COPFS Head of Finance (HoF)
Sharon Davies	Head of Financial Account and Finance Systems
Jim Montgomery	Senior Internal Audit Manager, SG Internal Audit
Carla Meechan	COPFS Secretariat
Colette Weir	COPFS Secretariat

**Apologies**

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**Welcome / Apologies / Introductions / Declarations of Interest**

1. The Chair welcomed everyone to the meeting and, for the benefit of Jim Montgomery and Sharon Davies (who were attending a COPFS ARC meeting for the first time), he asked those present to introduce themselves.

**Declarations of Interests**

2. The Chair received a note of interest from Jim Montgomery who had informed that a family member was a Sheriff in South Strathclyde, Dumfries and Galloway. Also, a note of interest

from Gillian Woolman who has recently been Appointed Auditor for the Scottish Police Authority which includes Police Scotland. It was agreed that these should not preclude the individuals from attending and participating in COPFS / QLTR ARC meetings.

### **Feedback on pre-meetings**

3. The Chair confirmed that there had not been any pre-meetings.

### **Minutes of the Previous Meeting – 20<sup>th</sup> November 2019**

4. The Minutes from the previous ARC meeting were agreed.

### **Matters Arising / COPFS ARC Action Tracker**

5. The Committee noted the progress made with actions, as reported by action owners. Actions 12, 16, 17 and 18 are now closed while 1, 5, 9 and 13 remain open.

Where there are longstanding, outstanding actions, the group proposed an alternative way to resolve and close these items.

**Action: Secretariat to delete the closed actions from the tracker and keep a record of deleted actions in a separate document.**

**Action: QLTR AO to circulate the revised QLTR Risk Register ahead of the next ARC meeting – July agenda item.**

### **Audit Action Trackers - Internal and External**

6. The Committee noted the progress recorded on the trackers.

### **Internal Audit Action Tracker**

7. DFP noted that there were two sets of colour coding in the tables on pages 1 – 4:

The first identified for IAD assessment of the importance of each recommendation: High (Red), Medium (Amber) or Low (Green). This was intended to allow the Committee to understand the significance of any lack of progress against the recommendation eg lack of progress against a High rated recommendation would obviously be of more concern than against a Low (green) rated recommendation.

The second colour coding was in relation to the assessment of progress made to date: Green = Fully Implemented, Amber = Partially Implemented, Red= Not implemented.

8. DFP confirmed that he and the IAD lead (WW) had invested time in ensuring that there was a shared understanding of progress against each recommendation.

9. The Committee reviewed the progress noted against a number of the recommendations (as recorded in the subsequent pages of the paper) and determined that once DFP and IAD had agreed that a recommendation had been fully implemented, it should be removed from the tracker. DFP was also asked to review the format to see if it could be simplified further.
10. Concern was raised that in a small number of cases, recommendations had not been fully implemented despite a significant amount of time having passed from the original audit and indeed, in some cases, the follow up audit.
11. IAD confirmed that in these cases, it would be left to COPFS management to take any further action.
12. WW confirmed that the final report for the Productions audit had been issued in March and that the issue of the Change Management report has been deferred until June.
13. The NXDs asked that for the recommendations where action is due between now and the end of 2020, COPFS should prioritise the most significant and produce a revised timetable.

**Action: DFP to further refine the Audit Action Tracker if possible – IAD (WW) to meet with the DFP to discuss.**

**Action: CA to share revised business plan.**

**Action: DCE and DFP to review the recommendations where action is due between now and the end of 2020, prioritise the most significant and produce a revised timetable.**

#### **External Audit Action Tracker**

14. DFP confirmed that all recommendations from the previous two annual audits had been actioned and that the current audit of the 2019-20 accounts would confirm this.

#### **Progress on Assurance Mapping work**

15. DFP spoke to his paper. He explained that this was a first attempt at using the framework that had been developed with help from the NXDs.
16. Feedback from the NXDs was that the framework appeared to be effective but that some of the wording was judgemental/excessively negative. DFP confirmed that he had taken the view that if documentation wasn't made available he had not given credit for it but he agreed to refine this. The chair requested that the assurance reports include the "who and when" of review/assurance and the time that had elapsed since the last review of each strategy.
17. It was agreed that the second group assessment should be submitted to the next ARC meeting.

**Action: DFP to prepare the assessment for the second group for the next meeting.**

## **COPFS Update**

18. The Crown Agent provided an update on COPFS and Covid-19. He noted that:

Since the last ARC meeting on 26th February “everything has changed”:

- 90% of staff are now working from home;  
Laptops had been distributed to all staff;
- A rota is in place for office and court cover, which is consistent with public health guidance.

After a brief reduction in reported crime of circa 25%, reports are now back to near normal levels:

- Custody reports are returning to near normal levels;
- Increase in police undertakings;
- An increase in death reports. A new unit within SFIU has been created for the investigation of COVID related deaths of care home residents, key workers and carers. A bid will be submitted to the SG in the next few days for the additional costs of the new unit.
- COPFS continues to deal with all crime reports, investigations, raise new summary cases and indict to both the High Court and Sheriff Courts Hitherto only 10 court hubs are operating for essential business such as custodies, therefore virtually no summary trials;
- No solemn trials have commenced since lockdown began
- Remand population is gradually increasing.

19. There will be 5 additional hub courts from 5th June and others will be opening to SCTS staff and Judiciary but no date for other users as yet. Prioritisation will be relative to capacity, including running some business in the High Court.

Two models for High Court trials have been proposed by a group led by the Lord Justice Clerk, one utilising three court rooms per trial, the other two. One model will be adopted to run a trial in Glasgow, the other a trial in Edinburgh, with planned incremental growth thereafter.

The capacity to run Solemn trials is likely to be considerably lower than prior to Covid, given the requirement for physical distancing measures.

Steps are being taken to introduce virtual Summary trials, initially in Aberdeen and Inverness.

Given the requirements of physical distancing, even with a move to greater use of virtual hearings, there is likely to be a need to increase the physical capacity available to the Courts in the short term to mitigate the recovery challenge in the medium to longer term.

COPFS are taking a cautious, public health informed, approach to reintroducing staff to offices. Safety is the priority. Assessments indicate a maximum office capacity of around 20% in the initial phases which could be increased as public health advice changes. 20% is not a target occupancy. Staff will be asked to continue to work from home unless essential tasks require to be completed in offices and courts. It is likely that office occupancy will continue to be low for some time to come.

20. The Chair and NXDs noted and discussed the risks to COPFS (current and future).

### **QLTR Update**

21. Robert Sandeman (RS) updated the Committee on the work of the QLTR, explaining that the team are working well despite lockdown and that they have received all necessary hardware to assist them. MS Teams has also been helpful in supporting business continuity and good communication within the team.
22. RS reported that property case work levels had dropped during the initial phase of lockdown. This is, in part, due to restrictions at Registers of Scotland and HM Treasury as they are currently unable to process Royal Warrants and Deeds of Gift necessary for the QLTR to complete formal title. On corporate business, the forthcoming quarterly dissolutions statistics published by Companies House at the end of June should give an idea of the initial impact of the lockdown restrictions on business. In anticipation of a surge in corporate and property cases, we are working with Anderson Strathern, our new legal suppliers, in putting in place contingency arrangements.
23. In related areas, on treasure trove, the department and National Museums of Scotland (NMS) are currently discouraging metal detecting as the treasure trove unit are unable to receive finds. This measure is intended to ensure potential finds still buried in the ground are not spoiled, and it remains under review in light of Scottish Government restrictions.
24. RS also reported that he has been assisting the Crown Office team (NUHU) who deal with non-suspicious deaths with no apparent next of kin during the lockdown period. RS reported the team are functioning well, and are at full complement with an additional 3 assisting; there is a full supply of PPE for three months and the team are following police inspection guidance where house searches require to be undertaken (72 hours for Covid houses). The team have increased their online searching capability with support from National Records of Scotland, a 50% success rate using national records. RS reported that, although the death rate had increased generally during this time, Covid 19 has not, as yet,

caused a noticeable increase compared with previous years in the number of referrals to NUHU where there appear to be no next of kin.

25. Finally, RS reported that the Scottish Land Commission are expected to publish their recommendations relating to vacant and derelict land. The QLTR's functions are clearly on their radar and we are keeping an eye on developments.
26. The Chair thanked Bobby and his teams for their work.

**Action: RS to update Risk Register**

**Finance Report**

27. DFP spoke to his paper. He advised that it was provided in order to give the ARC a high level summary of the latest developments in Finance and Procurement:

**2019-20 forecast outturn**

DFP confirmed that COPFS had previously identified expenditure of circa £1.25m that had emerged after the Spring Budget Revision and which could not be absorbed within the revised COPFS running costs budget. He confirmed that he had engaged with SG Finance Officials, obtaining a letter authorising the overspend.

DFP confirmed that due to the late quantification of one cost, the final forecast, which is subject to audit adjustment, was of a £1.35m overspend on running costs.

DFP advised that there had been a £3.0m underspend on capital largely due to £2.4m capital, ring fenced for use by the SPA not being spent and £0.6m of cross justice digital work that could not be completed due to the COVID-19 outbreak.

**2020-21 Funding**

DFP advised that there has been no indication from the Scottish Government that the COPFS budget allocation will be reduced or that the additional £3.2m in-year funding will not be forthcoming. He advised that the Lord Advocate had had a bilateral meeting with the Cabinet Secretary for Finance and that at it he had confirmed the need for the full funding that had been allocated and also additional funding for a small number of large cases. However, COPFS will begin work on contingency planning to see whether any reductions can be absorbed.

**2020-21 budget setting**

DFP advised that while a budget for 2020-21 had been set in February, Function level allocations were not approved due to the emergence of COVID-19. A corporate budget has been set and a commitment has been made to reassess budget allocations as soon as the COVID-19 situation is less uncertain. The same exercise will be used to identify any potential for savings for contingency planning purposes (as outlined above).

### **Annual Report on Fraud**

28. HoF spoke to her paper, explaining that she had nothing to add to the paper. The bi-annual NFI exercise had identified one duplicate payment, which had been recovered.
29. It was recognised that the COVID outbreak had afforded opportunities which fraudsters had been seeking to exploit and that the finance team had received an email from Government banking to the same effect.
30. HoF confirmed that action had been taken eg Finance has been updating all staff on the need to be vigilant with regular updates posted on the intranet.
31. DFP confirmed that despite remote working the controls eg for payment runs, were still in place.

### **Risk Management**

32. The Chair of the Risk Management Group (RMG) advised that the Annual Report for Risk Management across COPFS would be submitted to the July ARC meeting.
33. He also provided the Committee with his report covering the most recent RMG meeting and a copy of the latest Corporate Risk Register (CRR). He confirmed that the scheduled fundamental review of the CRR had been delayed due to the COVID-19 outbreak and that in recognition of the risks associated with COVID-19, a COVID-19 specific risk register had been produced and appended to the CARR.

### **Report on co-operation between Internal and External audit**

34. Audit Scotland and IAD confirmed that a good working relationship has been maintained between the two audit teams with good liaison and regular communication.

### **External Audit Update: Report on the interim audit and progress on the final audit**

35. Audit Scotland confirmed that the interim audit had been concluded without any significant issues having been identified and that the final audit was progressing. It was recognised that a small number of documents were not available digitally eg the control file, and that work is on-going to provide workarounds. Where this is not possible, due to the impact of the Covid-19 outbreak on the audit, the audit approach is being revised.
36. Audit Scotland confirmed that they are keeping abreast of, and are dealing effectively with the guidance on professional standards that has been issued in relation to COVID-19.

## **Internal Audit Progress Report**

37. WW provided an overview of the recent Progress Report confirming that since the last update to the ARC in February, Internal Audit has completed the COPFS 2019/20 Internal Audit Plan in full.
38. The 2020/21 Plan comprises of four main assignments and six follow up assignments.

### Main Audit Assignments:

- Status Case Management In Court (CMiC);
  - Financial Governance and Sustainability;
  - Impact of Fair Futures;
  - Strategic Relations and Communications.
39. The six follow-up reviews stemming from the 2019-20 main reviews (including the 2018-19 Strategic Benefits Analysis and Risk Management Arrangements review), will be progressed throughout the 2020-21 year and reported on accordingly. However, they may be subject to constraints caused by Covid.
  40. JM explained that the Audit Scotland Annual Overview is delayed on internal audit. This will be shared as soon as Internal Audit has results. Internal Audit's Annual Report is also due to be submitted to Scottish Government in June.

## **Internal Audit Annual Assurance Report 2019-20**

41. The committee noted the overall "reasonable assurance" opinion provided by IA for 2019-20 and IA's performance for that reporting period. The definition of "reasonable assurance" is: "Controls are adequate but require improvement. Some improvements are required to enhance the adequacy and effectiveness of procedures. There are weaknesses in the risk, governance and/or control procedures in place but not of a significant nature."

**Action: WW to resubmit an updated copy of the Annual Assurance Report.**

## **COPFS annual accounts**

### Feedback from Non-Executive Directors

42. HoF confirmed that all 3 NXDs had provided very helpful and insightful feedback, on the content and presentation of the draft accounts (COPFS and QLTR), all of which had been incorporated into the final drafts of the accounts that were submitted to Audit Scotland.
43. DFP confirmed that he viewed the enhancement of the accounts as an on-going, iterative process and that he would be grateful if the NXDs would agree to meet again towards the end of the current calendar year (as they had done in December 2019) to help further enhance the accounts.

**Action: Secretariat to arrange a non-ARC meeting for the DFP, HoF and NXDs in December 2020**

**Certificates of Assurance/Internal Control Checklists**

44. HoF confirmed that a full set of CoAs and ICCs had been received and that these had been used to prepare the draft Governance statement in the Annual Accounts.
45. HoF confirmed that there were 9 breaches of security and 5 breaches of personal data but that these had been dealt with in accordance with COPFS Policies and Procedures.

**Any Other Business**

46. The Chair noted the paper Covid-19: Risk Assessment and Internal Control Checklist on self-assessment of the ARC's performance and confirmed that it will be formally submitted to the July meeting.
47. The Chair discussed the late paper that was circulated by WW. JM explained it was a document prepared to support, and does not replace, current Risk Management guidance or Certificates of Assurance.

**Date of Next Meeting**

48. The next meeting will be on Friday 3<sup>rd</sup> July 2020.

ARC Secretariat