

EXECUTIVE BOARD

DATE: 17 November 2021, TIME: 1000 - 1200

MS Teams

CHAIR: DAVID HARVIE, CROWN AGENT

AGENDA

1	TIME	ITEM	ASSOCIATED PAPER	PRESENTED BY
1	1000	Welcome and Apologies		Crown Agent
2	1005	Minutes of Previous Meeting		Crown Agent
3	1010	Finance Update	EB21/22(37)	Marlene Anderson
	1020	Overtime Update – For noting	EB21/22(38)	
4	1030	Health & Wellbeing (6 monthly update)	EB21/22(38)(a)	Ian Walford Sandy Mackie Kathryn Leslie
Committee Updates – For Noting				
5	1100	Resources	Verbal update	Lindsey Miller
6	1110	Operational Performance	EB21/22(39)	Stephen McGowan
7	120	Business Process Improvement	EB21/22(40)	John Logue
Function Updates – For Noting				
8	1130	Operational Support	EB21/22(41)	Lindsey Miller
9	1140	Local Court	EB21/22(42)	John Logue
10	1150	Serious Casework	EB21/22(43)	Stephen McGowan
11	1200	Any other business/close		

Executive Board meeting minutes

Meeting held on 17 November 2021 by Microsoft Teams

Present:

Lindsey Miller (Chair)	Deputy Crown Agent, Operational Support
David Harvie	Crown Agent
John Logue	Deputy Crown Agent, Local Court
Stephen McGowan	Deputy Crown Agent, Serious Casework
Ian Walford	Deputy Chief Executive
John Cooper	Non-executive director
Annie Gunner Logan	Non-executive director
Fiona McLean	Non-executive director
Rob Tinlin	Non-executive director

In attendance:

Marlene Anderson (Item 3)	Head of Finance and Procurement
Sandy Mackie (Item 4)	Head of Diversity, Inclusion and Wellbeing
Kathryn Leslie (Item 4)	Diversity, Inclusion and Wellbeing Manager
Mairi Boyle	Legal Assistant to the Crown Agent (Secretariat)

Agenda Item 1 – Welcome and Apologies

1. Deputy Crown Agent, Operational Support opened the meeting and welcomed all colleagues. There were no apologies.

Agenda Item 2 - Minutes of previous meeting

2. The minutes of the meeting held on 22 September 2021 were approved and can be published. Members confirmed there were no conflicts of interest.

Action tracker

3. Item 1 (Annual Business Plan) - Deputy Chief Executive confirmed that all function plans had been received and the business plan was being prepared for consideration of the Crown Agent.

4. Item 2 (Whistleblowing Policy) – DCA Operational Support will provide an update for the January meeting.
5. Item 9 (Communications and Engagement) - Discussion focussed on trusted voices and on engagement of Law Officers and Sheriffdom Procurator Fiscals with members of the Parliament. DCA Operational Support will ask the Heads of Strategic Communications and Engagement and Corporate Communications to develop a formal proposal on trusted voices for consideration of the Board at the January meeting. The process of engagement with elected representatives has been a positive one with effective communication of the challenges facing the Department.

Agenda Item 3 - Finance Update

Finance Update

6. The Director of Finance and Procurement introduced paper EB21/22(37).
7. There was an update on decisions of the Resources Committee on allocation of resource underspend for the current financial year to projects to support court recovery and core business and to cover capital overspend; and on extent of drawdown of court recovery funds for in-year costs including recruitment.
8. In terms of the budget for 2022-23 the Board noted current activity in the Spending Review process and that discussions with the Scottish Government continue.
9. There was some discussion of toxicology costs.

Action

DCA Operational Support will provide an update to the Board on toxicology and pathology for the December meeting.

Overtime Update

10. The Director of Finance and Procurement introduced paper EB21/22(38).
11. The Board noted the paper and were content with the update provided.

Agenda Item 4 – Health and Wellbeing

12. The Deputy Chief Executive welcomed the Head of Diversity, Inclusion and Wellbeing and the Diversity, Inclusion and Wellbeing Manager to the meeting and introduced paper EB21/22(38(a)).
13. The Board thanked the authors for the report and there was discussion about the issues it raised, principally about the sort of data that it is useful for the Board to see about health and wellbeing; how the Board is supporting leaders to support their staff in terms of wellbeing; the importance of performance management and how leaders can be encouraged to address this; the significance of absence figures and how these are being monitored; and the People Survey and “softer” ways of engaging with staff on health and wellbeing issues. The Board agreed that there should now be a quarterly update on health and wellbeing.

Action

PS CA to note that quarterly updates are to be provided on Health and Wellbeing.

Head of Diversity, Inclusion and Wellbeing to review data in MI Wellbeing Dashboard in light of this discussion, particularly to add compliance with quarterly conversations.

Fiona McLean to provide further information on exit questionnaires to DCA Operational Support to take forward as part of planning.

Agenda Item 5 – Resources Committee

14. DCA Operational Support gave a verbal update on the work of the committee. Matters have been dealt with by correspondence given the cancellation of the last meeting to allow members to support the Lord Advocate in giving evidence to the Criminal Justice Committee; and these were addressed in the update from the Head of Finance and Procurement. The Board noted the update.

Agenda Item 6 – Operational Performance Committee

15. DCA, Serious Casework introduced paper EB21/22(39) in which the overwhelming theme was the impact of the pandemic and explained what the Committee was doing in terms of looking at its wider role. The Board noted the update.

Agenda Item 7 – Business Process Improvement Committee

16. DCA Local Court introduced paper EB21/22(40). There was discussion about this focussing on an IT outage, how this was addressed, and what it demonstrated about vastly improved resilience and lessons learned from previous incidents. The Board recognised the valuable work of ISD in supporting the organisation.

Action

DCA Operational Support to feed back to ISD on the Board's comments.

Agenda Item 8 – Operational Support

17.DCA Operational Support introduced paper EB21/22(41) and highlighted key issues in the paper.

18.The Board noted the paper and reflected on the amount and scope of the work of Policy & Engagement including support to Law Officers.

Agenda Item 9 – Local Court

19.DCA Local Court introduced paper EB21/22(42) which the Board noted .

20.DCA Local Court also gave the Board an update on the department's response to COP26 in which planning had been key. He extended his thanks to DCA Operational Support, DCA Serious Casework and the Head of Policy & Engagement for strategic work and to members of the delivery group and staff who volunteered to cover other duties to allow staff to take on COP26 related work. There will be internal and cross-sector debriefs.

Agenda Item 10 – Serious Casework

21.DCA Serious Casework introduced paper EB21/22(43) and provided further detail on work ongoing to address productivity issues, review processes so as to work more effectively and to allow a Future Ways of Working blended working approach.

22.The Board noted the paper.

November 2021

EXECUTIVE BOARD

NOVEMBER 2021 MEETING

FINANCE UPDATE

Purpose

1. This paper provides the Resources Committee with an update on:
 - The Financial budget and considerations for 2021-22.
 - Spending Review update for SR21 – 2022-23 budget.

Finance update 2021-22

2. As detailed below the forecast is showing an underspend of £3.5m on resource excluding IONA. This includes assumption of the full drawdown of RRT (Court Recovery) funds which are subject to change.

2021-22 Summary Net Cash Expenditure (£000)

Expenditure Type	Annual Budget	Budget ADJ	Revised Annual Budget	Annual Forecast	Variance Forecast to Revised Budget	Actuals YTD 2021/006	Proportion YTD Actual over Annual Budget
Staff (excluding MC)	110,658	6,736	117,394	114,226	3,169	51,983	44%
Non-staff (excluding MC)	32,229	1,380	33,609	33,970	(361)	15,612	46%
Income	(70)	-	(70)	(75)	5	(9)	13%
Sub Total	142,817	8,116	150,933	148,120	2,813	67,587	45%
Major Cases (excluding IONA)	3,334	14	3,348	2,628	720	879	26%
Total Cash	146,151	8,130	154,281	150,748	3,533	68,465	44%
Capital	4,800	993	5,793	6,755	(962)	(905)	-16%
Non-Cash	5,100	-	5,100	5,482	(382)	(12,396)	-243%
Total	156,051	9,123	165,174	162,986	2,188	55,165	33%
IONA	2,794	4,662	7,457	12,490	(5,033)	10,029	134%
Total	158,845	13,786	172,631	175,476	(2,845)	65,194	38%

3. The capital overspend has £824k cover for interim staff which have been involved in capital projects currently forecast within staffing which leaves a residual overspend of £138k. The Resources Committee have approved the cover for the £138k from the remaining contingency funds.

4. We are continuing to press ahead with the recruitment of staff to fill all the agreed budgeted posts. Work with Management Accounting and Planning team Finance Business Partners and functions are continuing to ensure posts are correctly forecast and allocated to a budget.
5. Careful monitoring of non-staff expenditure is continuing and where pressures are identified without corresponding savings in other budget lines, allocation of contingency funds will be taken to Resources Committee for approval.
6. RC recently approved the allocation of £2.18m of the underspend to support projects that would support Court recovery and more efficient ways of working.
7. RC approved the decision not to draw down £1.3m of the remaining £2m of RRT funding due to recruitment delays.

Risks and Uncertainties

8. Recruitment is continuing but we are facing challenges in recruiting into certain legal grades.
9. The overtime budget has been reduced in line with staffing increases. The risk is where courts are sitting on public holidays as per the new courts proposal from SCTS. This budget is now under pressure, please refer to Overtime section for more information.
10. Current areas of NSE risk remain as:
 - ISD licencing and maintenance costs – as staffing levels increase, licensing costs increase as these are now resource spend (on a subscription basis);
 - Post mortems/toxicology – contract creep and inflationary rises above that expected;
 - Witness costs – as the court recovery programme beds in, careful monitoring of witness costs is required to ensure additional costs are covered by the additional funding accessible. Witness costs are currently under budget due to fewer court sittings;
 - Non recoverable VAT is currently forecast to be over budget due to increased spend on non-recoverable categories. Careful monitoring and scrutiny of recoverability is ongoing and if this trend continues, it will require attention and budget cover from the contingency funds. This will, however be taken to the Resources Committee for approval if required.
 - Pay settlement has not concluded and any additional costs that may arise from this will have to be covered from the contingency funds and vacancy management. It is to be noted that any agreement reached by SG in their pay negotiations will be required to be matched by COPFS to ensure that pay coherence is maintained.
11. Ongoing work will be required to monitor and control all expenditure, including HOBMs, HR and Finance working together to ensure pressures and savings are

identified as early as possible to allow COPFS to fully utilise the allocated budget to the benefit service provision. WPG and Resources Committee will approve movements, variations to FTE, reallocation of posts, budget savings and control measures for pressures identified.

12. COP26 took place in the first 2 weeks of November 2021 and although COPFS has not bid for any funding, any associated additional costs as a result will be closely monitored. It is currently felt that as there were reduced courts during this period, COPFS is able to absorb the associated costs within our core budget.

Overtime

13. The table below shows the actual against budget for 2021-22. This budget needs to be carefully controlled by HoBMs with all pressures reported to the Resources Committee. The Table below shows actual spend at the end of P6 with a total forecast overspend of £0.98m.
14. LC are forecasting £795k over budget. This is down to the additional court sittings being held on public holidays, anticipated overtime claims for COP26 and recruitment gaps. There is increasing reported overspend in SCG and OS of £120k and £62k respectively which are being managed by HoBMs. The overspend in overtime is included in the staffing total in the table at paragraph 2 and therefore currently being funded by savings in staffing from vacancy management/recruitment delays.

Overtime & On-Call (£000)

Function	Annual Budget	Forecast	Actuals YTD 2021/006		2020/21 Accrual	Actuals YTD 2021/006	Proportion YTD Actual vs Annual Budget
			On Call	Over-time	Total	Total	
Local Court	318	1,112	94	516	(215)	394	124%
Serious Casework Group	245	364	74	199	(87)	186	76%
Operational Support	65	127	4	94	(32)	67	102%
Major Cases	-	3.4	2	4	(2)	3	-
Total	627	1,604	175	812	(337)	651	104%

Court Recovery Programme

15. The court recovery budget of £7m, plus £0.062m for Pay Parity is now embedded across the functions, phased from September 2021 to March 2022. The table below shows a high level view of forecast and YTD spend by Function as at 30th September.
16. £5m was drawn down at ABR and we have agreed to draw down £0.7m of the remaining £2m at SBR due to recruitment delays. Budgets will be adjusted in P7 to reflect the reduced drawdown and forecasts

2021-22 COURT RECOVERY BUDGET (£000)

A/c Description	Budget	Forecast	Variance	Actuals YTD 2021/006
Total Staffing Budget	5,512	3,342	2,170	858
Total Non-Staffing Budget	1,551	882	669	122
Total Revenue Budget	7,062	4,224	2,838	981

Spending Review 2021

17. Following from last month there has been further information on the preparation for the Spending Review 2021 and a verbal update will be provided at the meeting.

- The timelines have been notified as follows:
 - i. Early to mid October – commissions on budget portfolio chapters text and budget tables;
 - ii. Early November bilaterals for COPFS;
 - iii. Mid to end November second round of bilaterals for portfolios;
 - iv. End November revised allocations notified to portfolios;
 - v. Scottish Budget announcement 9 December 2021.

Conclusion

18. Executive Board is asked to note and invited to comment on the above.

Finance Directorate

10 November 2021

APPENDIX A

Staffing budgeted FTE movement from 2020-21 Baseline to date at 27/09/2021

Function total	2020-21 including secondees	2020-21 WPG Approved Changes	Total 2020-21	2021-22 Reconciled to baseline	Essential New posts	2021-22 Core Baseline	Court recovery	2021-22 WPG Additional Approved	Total Staffing FTE	increase in FTE
LC	949.79	1.00	950.79	0.24	27.58	978.61	139.00	-	1,117.61	167.82
SCG	599.98	- 2.00	597.98		86.00	683.98	68.00	1.00	752.98	153.00
MC	4.00		4.00	- 4.00	63.27	63.27			63.27	59.27
PM			-		1.00	1.00			1.00	1.00
OS	324.74	8.00	332.74	3.92	31.80	368.46	16.00	1.00	385.46	60.72
Total	1,878.51	7.00	1,885.51	0.16	209.65	2,095.32	223.00	2.00	2,320.32	441.81
ADs	43.41				13.00	56.41	16.00		72.41	29.00
Total	1,921.92	7.00	1,885.51	0.16	222.65	2,151.73	239.00	2.00	2,392.73	470.81

Note: the reconciliation to baseline takes account of minor changes in hours.

EXECUTIVE BOARD – 17 NOVEMBER 2021

OVERTIME REPORT

Purpose

1. The purpose of this paper is to provide an update to the committee on the 2021/22 overtime financial position for each function as at 31 October 2021.

2021/22 Budget v Expenditure

2. The table below shows the annual budget versus the actual spend to date as at 31 October 2021 for overtime and on-call aggregated. The period 1 figure is net of the sum accrued into financial year 2020/21. A period by period breakdown of each function's overtime and on-call payments can be found in Annex A.

Table 1: 2020/21 Overtime and On-call (Annual Budget and YTD Actual) Analysis

	Operational Support £	Local Court £	SCG / Major Cases £	Total £
Budget	65,000	318,000	245,000	628,000
Expenditure				
P1	1,067.93	11,707.25	-3,245.82	9,529.36
P2	10,986.41	65,531.55	25,430.48	101,948.44
P3	15,879.47	70,381.94	42,928.61	129,190.02
P4	13,736.56	74,227.52	41,685.64	129,649.72
P5	15,161.61	94,369.49	42,432.32	151,963.42
P6	10,090.57	78,207.06	40,632.04	128,929.67
P7	24,396.41	103,006.11	49,323.36	176,725.88
Total	91,318.96	497,430.92	239,186.63	827,936.51
Forecast for the year	127,000.00	1,112,000.00	367,400.00	1,606,400.00

3. A significant element of the overtime costs for 2020/21 have arisen because of the continued high number of vacant posts, particularly within Local Court and Serious Casework Group. The Executive Board will note that major recruitment drives have been completed to fill many of the existing vacancies. Where necessary budget savings from other staff areas will be transferred to the overtime budget to ensure that a breakeven position is maintained in the financial year.
4. Annex B (attached) details the top 20 claims for overtime and on-call for this financial year. Cumulatively the top 20 overtime and on-all submissions have cost £247,743 to date.

Recommendation

5. The Committee are invited to
 - (a) Note the content of this report;
 - (b) Recommend that the overtime remains devolved to functions but that the overall financial position is closely monitored each month by the Heads of Business Management.

EB21/22(38)
ANNEX A

	OPERATIONAL SUPPORT				LOCAL COURT				SERIOUS CASEWORK GROUP / MAJOR CASES				Total				
	O/T	P13 Accrual	On-Call	Total	O/T	P13 Accrual	On-Call	Total	O/T	P13 Accrual	On-Call	Total	O/T	P13 Accrual	On-Call	Total	
P1	31,870.54	- 31,537.00	734.39	1,067.93	209,443.66	- 215,488.00	17,751.59	11,707.25	78,774.91	- 89,151.00	7,130.27	- 3,245.82	320,089.11	- 336,176.00	25,616.25	9,529.36	
P2	10,323.09		663.32	10,986.41	47,937.12		17,594.43	65,531.55	12,203.68		13,226.80	25,430.48	70,463.89		31,484.55	101,948.44	
P3	15,096.70		782.77	15,879.47	53,727.28		16,654.66	70,381.94	26,344.32		16,584.29	42,928.61	95,168.30		34,021.72	129,190.02	
P4	13,025.86		710.70	13,736.56	63,259.42		10,968.10	74,227.52	31,953.12		9,732.52	41,685.64	108,238.40		21,411.32	129,649.72	
P5	14,593.05		568.56	15,161.61	76,819.44		17,550.05	94,369.49	26,510.08		15,922.24	42,432.32	117,922.57		34,040.85	151,963.42	
P6	9,190.35		900.22	10,090.57	64,408.90		13,798.16	78,207.06	26,882.80		13,749.24	40,632.04	100,482.05		28,447.62	128,929.67	
P7	23,685.71		710.70	24,396.41	91,992.59		11,013.52	103,006.11	38,568.22		10,755.14	49,323.36	154,246.52		22,479.36	176,725.88	
TOTAL	117,785.30	- 31,537.00	5,070.66	91,318.96	607,588.41	- 215,488.00	105,330.51	497,430.92	241,237.13	- 89,151.00	87,100.50	239,186.63	966,610.84	- 336,176.00	197,501.67	827,936.51	
Budget	50,000.00		10,000.00	60,000.00	100,000.00		190,000.00	290,000.00	110,000.00		120,000.00	230,000.00	260,000.00		320,000.00	580,000.00	

TOP TWENTY OVERTIME CLAIMS 2020/21

Grade Name	Function	Business	Grand Total

* 1,479 individuals have claimed overtime in 2021/22, with 624 claims being processed in P7

TOP TWENTY ON-CALL CLAIMS 2021/22

Grade Name	Function	Business	Grand Total

* 185 on-call claims have been submitted to date, with 55 being made in period 7.

Wellbeing Update for Executive Board

November 2021

1. Background

- 1.1 The purpose of this paper is to describe summary information that would be useful to the Executive Board about **wellbeing** at COPFS. Included with the paper is a package of wellbeing-information (both quantitative and descriptions of current wellbeing initiatives). The Board is asked to consider whether the recommended reporting proposals are useful for it and if they should be adopted. The Board is also asked whether the information provided is sufficient, too little, or too much.
- 1.2 The proposals are described in response to the advice of the Directorate of Internal Audit from their paper 'Internal Audit Report, COPFS 2021 – 22 – COVID: Impact on Staff Wellbeing and Morale'. In the Management Action Plan (point 2.1), of this report, COPFS is advised to use improved Management Information (MI) and 'focused and targeted' reports for the Executive Board.
- 1.3 COPFS can provide some information automatically from its HR system and this is described below. It can also provide MI from its occupational health provider Optima.

2. Current Position

- 2.1 The Corporate Health and Wellbeing Committee (CHWC) overviews wellbeing management in COPFS. The CHWC is chaired by the Deputy Chief Executive and consists of senior operational managers and the trade union side. The meeting is supported by HR, Business Services and Health and Safety managers. The meeting is held quarterly.
- 2.2 HR has recently set up a new Diversity, Inclusion and Wellbeing function consisting of:
- Sandy Mackie – Band F – Head of Diversity, Inclusion and Wellbeing
 - Kathryn Leslie – Band D – Diversity, Inclusion and Wellbeing Manager, and
 - Connor Anderson – Band C - Diversity, Inclusion and Wellbeing Advisor
- This new team is better able to manage Wellbeing initiatives, MI about this and set plans to support CHWC in meeting its strategic goals.
- 2.3 The systems of Wellbeing data usage and review currently are underdeveloped and will not be complete until the full introduction of the imminent new HR system. However, the team can provide regular information as described below.

3. Proposed Wellbeing MI Dashboard for the Executive Board

3.1 *Absence statistics* are the most important measure of organisational wellbeing and morale. COPFS has developed good comparable information over some years to look at overall absence, absence caused by stress related illness and specifically work-related stress. There are comparable, annual, Gov.UK, Civil Service summary statistics for COPFS to compare against and these would be provided.

3.2 Turnover (number of employees leaving as a percentage of average headcount) is usually used to complement absence information, to highlight grades and types of work which may be less fulfilling to work in.

3.3 Statistics can be provided about 'Fair Treatment' complaints and subsequent dismissals – that is, complaints about bullying, harassment, discrimination, and victimisation. This information provides colour to absence statistics.

3.4 Optima (who provide the Employee Assistance Programme *and* occupational health advice to COPFS) provide regular information about the following:

- Number of referrals
- Number of re-referrals
- Consultations, and
- Specialist interventions

COPFS can compare these statistics cumulatively over 12-month periods now.

3.5 The use of Workplace Adjustment Passports (WAP) could be another index of activity in terms of managing absence. WAP usage is increasing at COPFS to support employees deal with disability and other perceived barriers to working effectively. It could be the case that higher WAP usage could lead to lower absence in the long run. In the COPFS Wellbeing Strategy and Action Plan one of the goals is to promote greater WAP usage. Senior managers may wish to promote WAP usage and see regular reports of this happening.

3.6 An operational Wellbeing Dashboard would include:

- Overall Absence rates by departments, function, and grade
- Overall stress related rates by department, function, and grade
- Work-related rates stress rates by department, function, and grade
- Headcount and turnover rates
- Grievance and dismissal counts
- Optima statistics on referrals

4. Wellbeing Initiatives at COPFS

4.1 Reporting Wellbeing at COPFS inevitably requires other descriptions of successes and failure. The Diversity, Inclusion and Wellbeing function regularly reports on truly inspirational accounts of COPFS employees' individual battles with mental health and physical disability; how COPFS employees have *cared* for loved-ones despite the worst adversities, *and* it has reported on the altruistic initiatives of COPFS employees to improve the lives of their communities including charity-work and voluntary-work.

4.2 COPFS Diversity, Inclusion and Wellbeing also regularly suggests opportunities and initiatives for COPFS employees to become involved in, for example Mental Health First Aid, wellbeing surveys and development programmes (about dyslexia, autism...)

4.3 A report of Wellbeing initiatives would be included with dashboard results

5. Conclusion

5.1 The Board are recommended to use the Wellbeing-Dashboard suggested *and* reports of initiatives to update itself about the state of wellbeing at COPFS at regular points in time.

Sickness Absence Statistics

The below information included in this paper covers the period 01 October 2020 to 30 September 2021.

Key Statistics

- Over 16,000 working days were lost due to absence during the 12 months October 2020 to September 2021.
- 8.58 average days were lost year ending September 2021 – 0.94 more than 3 months ago and 0.71 more than September 2020.
- September 2021 (1776 days) saw the highest number of absences posted since the initial lock down in March 2020, which is now comparable to pre-COVID absence levels. The AWDL figures continue to see a steady increase from April 2021.

Average working days lost between 01 October 2020 to 30 September 2021

	Specialist casework	High Court	Local Court	Business Services	Policy & Engagement	Overall
October 2020	6.74	6.24	8.60	4.58	10.17	7.55
November 2020	6.84	5.97	8.36	4.06	9.58	7.31
December 2020	7.06	5.87	8.29	3.77	9.11	7.23
January 2021	6.68	5.65	7.91	3.94	9.10	6.98
February 2021	6.69	5.74	7.47	4.31	9.13	6.78
March 2021	6.53	5.58	7.19	4.58	8.91	6.60
April 2021	6.80	5.60	7.43	4.87	10.23	6.84
May 2021	7.23	5.76	7.86	5.23	11.68	7.26
June 2021	7.75	5.92	8.23	5.52	13.11	7.64
July 2021	8.30	6.08	8.44	5.52	13.55	7.88
August 2021	9.10	6.38	8.82	5.66	13.46	8.24
September 2021	9.60	6.47	9.22	5.95	13.85	8.58

The impact of absence in particular longer-term absences in smaller units is more significant due to the smaller staff headcount

Average Days Lost	Coding
less than 6 days	
6 - 6.9 days	
7 - 8.9	
9+	

Wellbeing Strategy Annual Report 2020-2021

In December 2019 our Wellbeing Strategy and associated Action Plan were published. The Wellbeing Strategy and Action Plan incorporate existing and planned wellbeing initiatives, such as flu vaccinations and our Occupational Health programme. These services, together with others in the plan, promote and support wellbeing and improve employee engagement. The Employee Wellbeing Strategy meets our overall organisational objectives of Delivering High Quality Casework, Supporting Our People, and Improving Our Service. The Employee Wellbeing Strategy also promotes the COPFS Values of 'Being Professional' and 'Showing Respect' and supports the Fair Futures vision.

This is the first Wellbeing Strategy Annual Report, and the purpose of this report is to outline our progress against the Wellbeing Strategy, to determine our success and to direct our future wellbeing initiatives.

Flu Vaccine Vouchers Initiative 2021

No. of Vouchers Ordered	No. of Vouchers Requested	No. of Vouchers Left
700	652	48

HR Wellbeing Policies Under Review

Policy/Product Name	Target Date for Completion
Alternative Working Arrangements Policy	End November 2021
Overtime Policy	End November 2021
Gender Based Violence Policy	December 2021

Policy/Product Name	Target Date for Completion
Menopause Policy	January 2022
Carers' Policy	January 2022
Probation Policy	January 2022

Policy/Product Name	Target Date for Completion
Social Media Policy	January 2022

HR Wellbeing Policies Published in 2021

Policy/Product Name	Target Date for Completion
Mental Health Policy	May 2021 Published
Maximising Attendance Policy	June 2021 Published

Policy/Product Name	Target Date for Completion
Agile Working Policy	September 2021 Published
Flexitime Policy	October 2021 Published

Wellbeing Comms Reporting Q2 (July – Sept 2021)

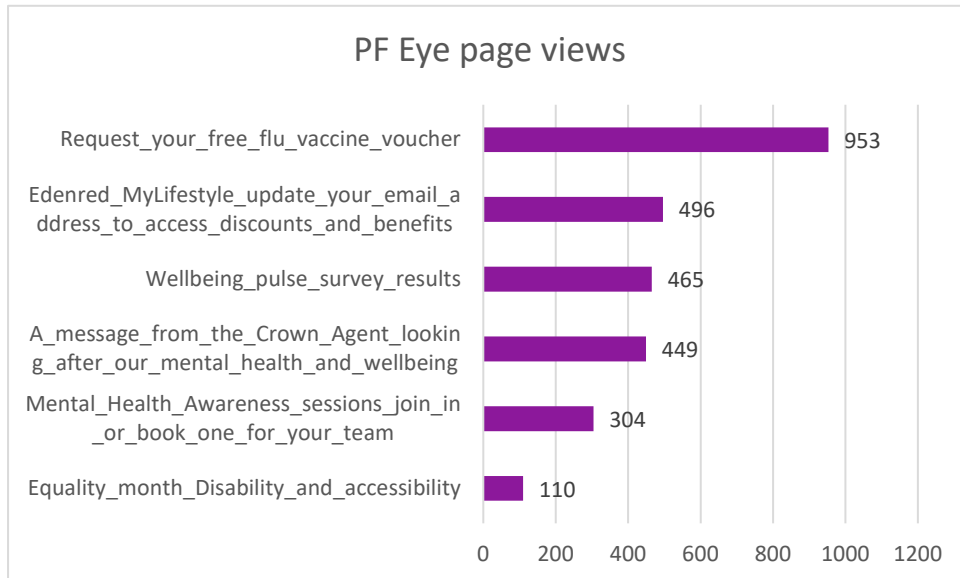
What we did in Q2:

- Equality month, including Suicide Prevention Day and disability information
- Flu vaccine vouchers – very successful campaign to allocate all vouchers.
- Mental health awareness sessions – the three sessions, led by MHAs, were well attended with 20+ at each of them.

PF Eye

6 articles were published this quarter from the Corporate Health and Wellbeing Committee (-6) and the average view rate has seen a boost to 463 (+244). This continues the trend; PF Eye view rates fluctuate and are heavily dependent on the

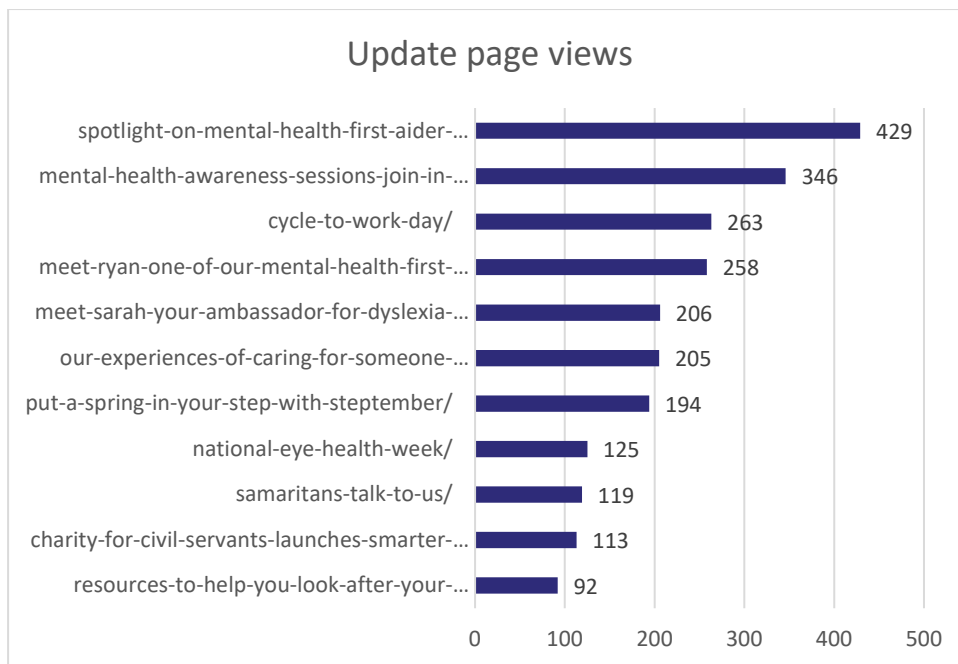
'hard news' – this time the flu vaccine vouchers.



Update

11 Update articles were published by the Corporate Health and Wellbeing Committee about wellbeing in this quarter (-6), with 214 average views per article (-160).

There was a significant drop in view rates this quarter, which is unusual. This is partly down to the seasonal impact of the summer holidays (when we always see a dip). Also working on the assumption that the huge increase in volume of articles around Equality Month and an increase in BAU articles, combined with increasing workload pressures for staff as covid recovery ramped up, led to a depression in the figures. We've seen this across all Update articles, not just wellbeing ones. Another factor may be that we had more general articles and fewer personal stories this quarter. We're seeing some improvement in October and are working to continue this throughout the rest of the quarter.



What we are doing in the next quarter (Q3 Oct-Dec):

Digital Wellbeing

Planning to run a specific campaign on Digital Wellbeing and aiming to release this in the second half of November. Focusing on reducing email traffic, taking regular breaks, and making use of existing digital tools to improve wellbeing.

Seasonal mental health

The Mental Health Ambassadors would like to run the seasonal mental health campaign again around the festive season. Comms will be working with them to get more personal and visual content where possible.

People Survey results

Comms expect the high-level People Survey results before the end of the year. Given that they have a wellbeing dimension we'd expect this to feature in the general communications around the results.

New intranet – Connect

On 1 December COPFS will be launching Connect, our new intranet. This will give us a lot of scope to better understand how staff are using wellbeing content – and to improve it. We will be able to add more visual and interactive content to the new site and be more certain about the analytics (resolve the issue Stephen brought up last time where we get some double counting in the figures if the article is viewed more than once by the same person). Moving to Connect will also see us using Yammer, which will be another tool for creating communities around H&W, getting feedback,

and sharing information. We'll work to make the most of all these new opportunities in 2022.

Health & Wellbeing Monthly Newsletter

This newsletter is emailed out every month to all Corporate Health and Wellbeing Committee Members, Sherifffdom Health and Wellbeing leads and Sherifffdom Equality Networks. The newsletter allows each group to share within their areas events which have been promoted and taken place the month before and news on which are coming up in the next month.

Accident and Incidents Summary Statistics

The COPFS Accident /incident stats for the period 01 January 2020 to 30 September 2020 and for comparison purposes 01 January 2021 to 30 Sept 2021.

Overall, there has been a 50% drop in accident reports received for the above period. I feel that this shows that COPFS have good working practices throughout the estate and that our staff are working in a safe environment.

	Accidents	Incidents	Illness	Fire incident	Totals
2021	4	11	1	0	15
2020	8	19	2	1	30

Accident reports broken down

	Slip, trip, and Fall	contact with sharp object	Man Handling	Animal contact/bite/sting	Human Error	Contact with moving object
2021	1	0	1	1	1	0
2020	4	3	0	0	0	1



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

WELLBEING STRATEGY ANNUAL REPORT 2020-2021

Date published	Version	Changes made by
XX November 2021	1	HR/Sharon O'Hare/Kathryn Leslie/Connor Anderson

COPFS's Wellbeing Strategy

In December 2019 our [Wellbeing Strategy](#) and associated Action Plan were published. The Wellbeing Strategy and Action Plan incorporate existing and planned wellbeing initiatives, such as flu vaccinations and our Occupational Health programme. These services, together with others in the plan, promote and support wellbeing and improve employee engagement. The Employee Wellbeing Strategy meets our overall organisational objectives of Delivering High Quality Casework, Supporting Our People, and Improving Our Service. The Employee Wellbeing Strategy also promotes the COPFS Values of 'Being Professional' and 'Showing Respect' and supports the Fair Futures vision.

The purpose of this report is to outline our progress against the Wellbeing Strategy, to determine our success and to direct our future wellbeing initiatives.

Wellbeing Strategy Action Plan 2020 – 2023

Our [Wellbeing Strategy and Action Plan](#) has been developed to incorporate all our wellbeing related policies, promotions and initiatives proposed across COPFS during 2020 – 2021, it is updated on a quarterly basis.

To increase the support provided to our employees' mental health and wellbeing, we have trained specific employees in Mental Health First Aid, and in Leading First Aid for Mental Health (SVQ).

This training has been supported by the development of Mental Health First Aid Guidance, including a Mental Health First Aid Practitioner's Guide and the development of our Mental Health Policy.

Other initiatives include the development of a Carer's Network, becoming a 'See Me in Work' Partner, and the promotion of our wellbeing support, such as our Mental Health First Aiders, Employee Assistance Programme, Occupational Health, Workplace Adjustments Passport and My Wellbeing Space.

Our Action Plan also incorporates the extensive guidance that has been published to support employees during the COVID-19 pandemic.

Wellbeing Communications Plan April to December 2020

Our communications objectives are aligned with the aims and outcomes of our Wellbeing Strategy and Action Plan. In March 2020, it was even more essential that COPFS could support the health and wellbeing of employees during the uncertain times of the coronavirus pandemic. It was becoming increasingly clear that changes to our working and home life are likely to have to remain in place, in one form or another, for at least the remainder of 2020.

The communications plan helped us ensure we are giving colleagues the support they need to get through this pandemic as healthily and as well as possible as we adapt to these new and emerging circumstances.

Our Wellbeing Communications Plan for April to December 2020, developed in March 2020, is found in [Annex 1](#).

Wellbeing Strategy Completed Actions 2020

We have also captured all our actions completed in 2020 in the COPFS Wellbeing Strategy Completed Actions for 2020 which are found in [Annex 2](#).

Measurement and evaluation: 2019 and 2020 Comparison

We measure how effectively we are supporting our employees' wellbeing using the following metrics. The data below has been collected from 2019 and 2020.

NB: Timeframe for each year is indicative of a full calendar year running from January-December.

The number of work absences due to ill health

Stress and Work-Related Stress 2019 vs 2020

Working Days Lost			
Year	Work Related Stress	Stress related illness	Grouped Stress
2019	971.44	3566.91	4538.35
2020	1261.57	3266.77	4528.34
% change	29.87%	-8.41%	-0.22%

NB: Stress related illness is inclusive of mental health and anxiety related absences. Stress related illnesses are excluding any family and bereavement related absences. Consideration that the headcount in COPFS has increased between 2019 and 2020.

This is the information that COPFS reports to the Scottish Government yearly. The data in the first column shows an increase of 29.87% in work related stress, this could be due to many factors e.g., pandemic, increased workforce due to court recovery. The data in the second column shows a slight decrease of 8.41% in stress related illness, this could be due to many reasons e.g., pandemic, employee flexibility relating to working from home. Finally, altogether to conclude stress within COPFS has slightly decreased from 2019 to 2020 by 0.22%.

The number and type of Dignity at Work cases

Workplace Dismissals for misconduct relating to discrimination, harassment bullying and/or victimisation: 2019 vs 2020

Dismissals		
Year	Count	Related to misconduct- bullying, victimisation and/or harassment?

2019	*	*
2020	*	*

**The number of staff dismissed during 2019 and 2020 were less than 5, therefore we cannot report on this information.*

Grievances		
Year	Count	Related to discrimination, bullying and/or harassment?
2019	*	*
2020	*	*

**The number of grievances raised during the years 2019 and 2020 was less than 5, therefore we cannot report on this information.*

Both the number of staff dismissed, and grievances raised during the years 2019 and 2020 was less than 5, therefore we cannot report on this information.

Analysis of flexible working requests

Flexible Working: the number of employees successfully moving onto a flexible working arrangement 2019 vs 2020

Flexible Working Arrangements Approved	
2019	83
2020	69

NB: These figures are an indicative figure of the number of flexible working arrangements which were put in place in each respective year. They representative of an employee having reduced their working hours. They do not include any arrangements of compressed hours. They do not include any part time to full time hour changes.

Flexible working arrangements have decreased by 14 from 2019 to 2020, which could be due to the pandemic. In March 2020, it was confirmed we were to work from home for the foreseeable due to COVID-19. Therefore, employees were given more flexibility by working from home and the extension of the flexi bandwidths.

Ongoing monitoring and assessment of available wellbeing initiatives and services

1. Edenred

[Edenred mylifestyle](#) provides offers and discounts that can help employees save on supermarkets, high street stores and leisure, including our Cycle to Work Scheme. The 'Activity Report', [Annex 3](#) is a comprehensive picture of our employee take up over 2020 and shows the percentage of our employees that used Edenred, the login activity and voucher use.

2. Employee Assistance Programme

Uptake of EAP Service 2019 v 2020 and breakdown of user

Utilisation of EAP		
	2019	2020
New User	18	38
Re-User (new or different) problem	13	11
Total	31	49

The data above shows an increase of 20 new users from 2019 to 2020, this could be for various reasons. Firstly, the COVID-19 pandemic employees are living within uncertain times and are utilising this service to help. Finally, the reason for these figures could be due to COPFS increased promotion of the EAP service and that employees are more aware the EAP. Also, there has been a decrease of 2 re-users between 2019 and 2020 however, the overall figures have increased in 2020 by 18 both new and re-user.

2020 Breakdown in type of EAP Services Used

Breakdown of 2020 EAP utilisation	TOTAL
Number of Employees receiving assessment	41
No onward Referral	22
Referred for counselling & structured interventions*	19

**Referrals are inclusive of being Passed to Legal helpline, passed for computerised CBT, referred signposted to NHS, Referred for Telephone Counselling*

The above data shows the breakdown of the total number of 41 employees which received an initial assessment, 22 were identified as no onward referral and 19 were then referred for counselling and structured interventions. This illustrates just less than half of employees were referred onwards for counselling and structured interventions, which is a good sign as those employees are engaging and receiving the support they need.

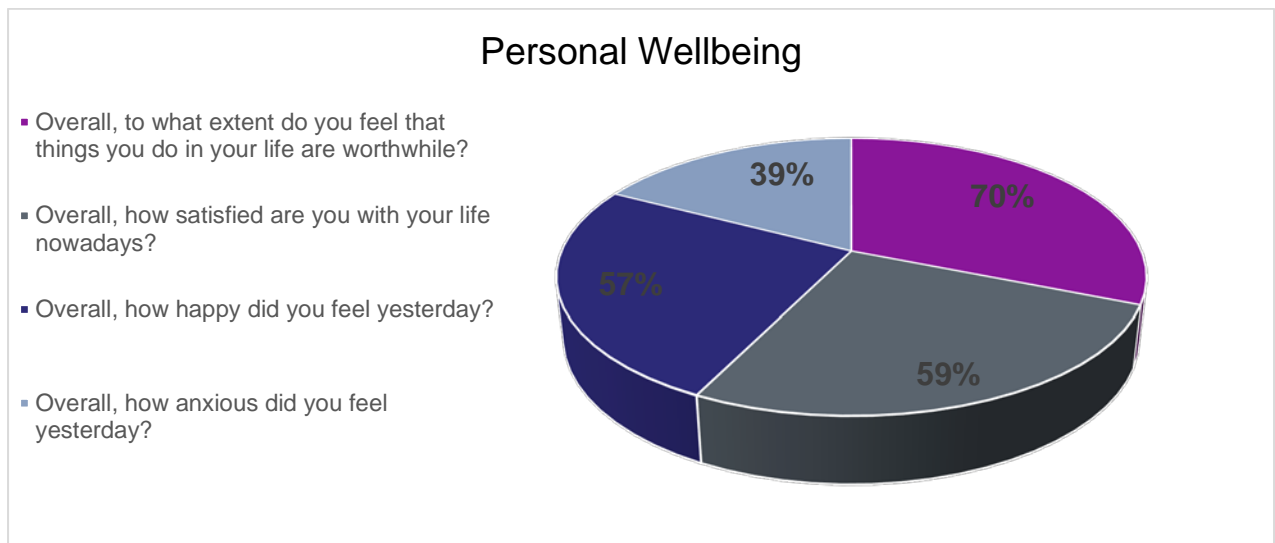
3. Workplace Adjustments Passport

Workplace Adjustment Passports set up	
2019	7
2020	13

NB: These figures currently exclude any leavers from COPFS who may have had a Passport set up within the retrospective years above.

Since 2019 the number of Workplace Adjustment Passports set up has almost doubled. The reason for these figures could be due to COPFS increased promotion of the Passport service and that employees are more aware the Passport and the support they can get. This is an excellent result and hopefully we can see a further increase within the 2021 data because of the continued promotion of the Passport throughout 2021.

Analysis of wellbeing and engagement data from the People Survey 2020



Personal wellbeing is measured in the People Survey using four questions that ask people to evaluate how satisfied they are with their life, whether they feel they have meaning and purpose in their life, and their emotions during a particular period. These questions are used by the Office for National Statistics (ONS) to monitor wellbeing across the UK, as part of their Measuring National Well-being Programme. One of the main benefits of collecting information in this way, is that it is based on people's views of their own individual well-being and takes account of what matters to people by allowing them to decide what is important when they respond to questions.

Review of comparable data (year-on-year)

Personal Wellbeing as taken from People Survey, 2019 vs 2020

October 2019 People Survey



**For question 4, the scale is reversed, where the percentage “favourable” in dark blue refers to proportion of respondents who said they had low or very low levels of anxiety.*

October People Survey 2020



** For question 4, the scale is reversed, where the percentage “favourable” in dark blue refers to proportion of respondents who said they had low or very low levels of anxiety.*

Comparing the data from 2019 and 2020, the key information we can draw is firstly, there has been an overall decrease in the level of how satisfied employees feel

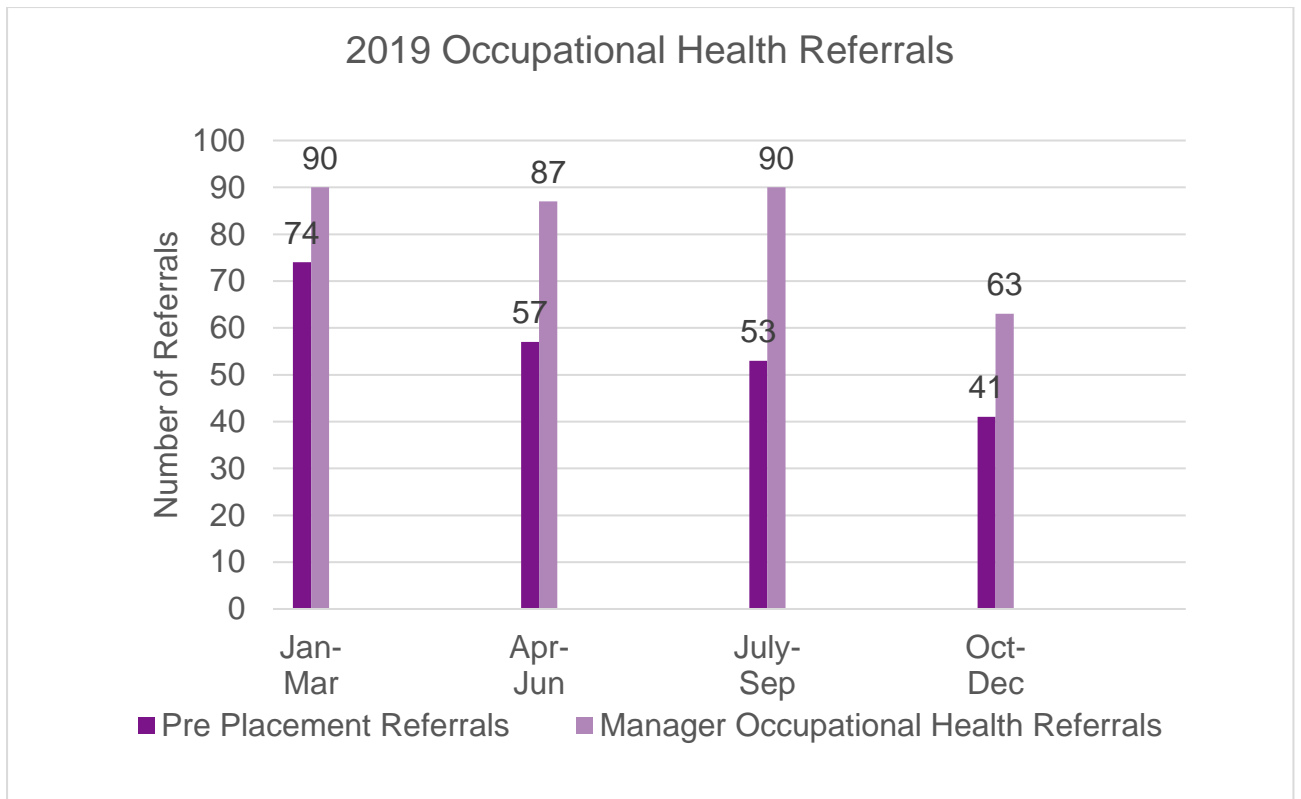
about their life, with more voting within the neutral and negative levels. Secondly, there has been a slight decrease in the level of how employees feel the things they do in their life are worthwhile, with slightly more voting within the neutral and negative levels. Thirdly, there has been a decrease in the level of how happy employees felt yesterday, with more voting within the neutral and negative levels. Finally, there has been a decrease in the level of how anxious employees felt yesterday, with more voting within the neutral and negative levels. The main reason for these results could be because of the COVID-19 pandemic. When the survey was taken in October 2020 employees would have just spent four months in lockdown and then some restrictions were then brought back in around late Summer/early Autumn 2020.

Reviewing relevant HR data, including stress, support services referrals, exit interviews, etc.

Occupational Health Referrals 2019 v 2020

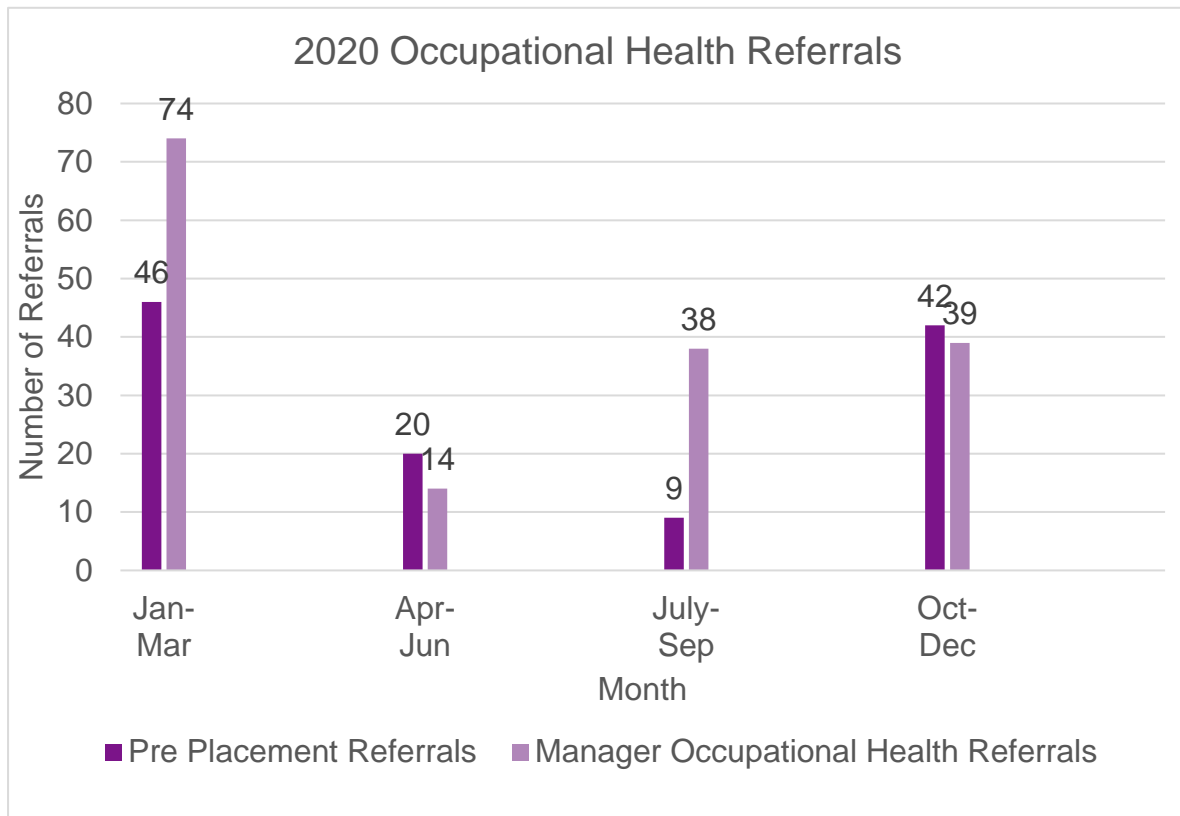
2019 Occupational Health (Optima) Referrals

2019				
	Jan-Mar	Apr-Jun	July-Sep	Oct-Dec
Pre-Placement Referrals	74	57	53	41
Manager Occupational Health Referrals	90	87	90	63



2020 Occupational Health (Optima) Referrals

2020				
	Jan-Mar	Apr-Jun	July-Sep	Oct-Dec
Pre-Placement Referrals	46	20	9	42
Manager Occupational Health Referrals	74	14	38	39



Comparing the two sets of Occupational Health (Optima) referrals between 2019 and 2020, overall, we can see a large decrease in the number of referrals. This could be due to numerous reasons but there is a similarity that in the 2020 data the referrals start to drop after Jan-Mar 2020, this is probably due to the COVID-19 pandemic. In March 2020, it was confirmed to work from home for the foreseeable due to COVID-19. Therefore, employees were given more flexibility by working from home and the extension of the flexi bandwidths. There is a slight increase near the end of 2020, which could be showing the increase in employees going back into the office or due to the increased workforce to help with court recovery.

Conclusions

To conclude, the main factor affecting employee wellbeing from 2019 to 2020 has been the impact caused by the COVID-19 pandemic. COPFS had to suddenly adapt policies, issue guidance for employees and managers, organise equipment for employees to work from home etc. Working from home has been without its challenges but now looking at what 2020 brought will put COPFS in a stronger position for 2021 and onwards.

Recommendations for 2021 and onwards

Following on from the information provided in the above report, these are the recommendations for 2021 are firstly; continued wellbeing comms promotion of Workplace Adjustments Passport, Employee Assistance Programme, Optimise, MHFAs, VTSS, Equality Groups, Edenred, etc. Secondly, promoting COPFS wellbeing initiatives e.g., cycle to work and flu vaccine voucher etc. Thirdly, ensuring line managers know what support is available to help signpost employees.

Fourthly, the promotion of SHENs and Sherifdom H&W groups – allowing employees to join in to feel as a team despite remote working and to know where they can go for support despite not being in the office. Fifthly, continual updates of policies relating to wellbeing to ensure COPFS is up to date and ensuring the continued support available to employee wellbeing.

Finally, there is some information which we can include for the Wellbeing Strategy Annual Report in 2021 which were not completely set up in time for the 2020 report. This can be firstly, the Optimise usage and VTSS referrals statistics yearly comparison. Secondly, Mental Health First Aiders training and referrals statistics. Thirdly, statistics surrounding the Wellbeing Initiatives e.g., Cycle to Work and Flu Vouchers. Fourthly, in relation to the wellbeing events which have taken place, e.g., data around wellbeing webinars/sessions. Also, number of views and engagement rates for intranet articles related to wellbeing activities. Finally, information covering any accreditations COPFS have been involved with e.g., See Me in Work Programme and Carer Positive Scotland.

Annex 1

Wellbeing Communications Plan April to December 2020

COPFS has a long-term commitment to providing a healthy working environment that promotes and protects the physical and mental wellbeing of employees, but we recognise that the next few months will be particularly challenging because of the coronavirus pandemic. During this period, we will do all we can to enable employees to stay well, to support them in the most appropriate way when they are unwell, and to create a culture where employees look after and support one another.

Supporting the health and wellbeing of our employees is even more essential during the uncertain times of the coronavirus pandemic. Many will have worry and concerns about their own health or may struggle to adjust to the consequences of social and physical distancing measures put in place to reduce the spread of the pandemic. It is becoming increasingly clear that changes to our working and home life are likely to have to remain in place, in one form or another, for at least the remainder of 2020.

This communications plan will help us ensure we are giving colleagues the support they need to get through this pandemic as healthily and as well as possible as we adapt to these new and emerging circumstances.

Communications Objectives

Our communications objectives are aligned with the aims of our [Wellbeing Strategy](#).

Our communications objectives are to ensure that:

- We listen to our employees to understand their wellbeing worries and we provide support and advice on those themes.
- Employees know that COPFS is committed to providing a healthy and supportive working environment during the coronavirus outbreak and that their wellbeing is of utmost importance.
- Employees know how to get the advice, support, and help they need to maintain and enhance their health and wellbeing.
- Employees engage with wellbeing resources, activities, and services throughout the pandemic response.

Audience

Without exception all employees have been affected by the consequences of the outbreak and we want to cater for their needs, but we wish to provide particular attention to those who are:

- Struggling with their own physical, mental, and emotional health and wellbeing.

- The individuals who others rely on or turn to, such as carers, the family member others look to in difficult times.
- At higher risk of needing support: those who are feeling: vulnerable, isolated, unsupported, perhaps because of working remotely or due to the requirements of their role.
- Reluctant to seek support, reluctant to admit that they need help.
- Seeking help to make positive changes to their lifestyle.

Strategy

We will continue to seek views from employees, wellbeing champions and committees to understand the worries, issues, and concerns of colleagues in relation to wellbeing. We recognise that these may change as circumstances change. We will identify wellbeing themes from these and will tailor our communications to these themes.

Traditionally, wellbeing initiatives rely heavily on events where colleagues are physically present and provide support and assistance to one another— for example through “lunch and learn” sessions or Wellpoint kiosks. To engage employees even though we cannot be physically together we will make the most of new digital technologies as they become available as part of the Digital Workplace Project. This may include activities and events hosted via Microsoft Teams.

We will also make full use of the trusted channels already available to us, by co-ordinating messaging with Sheriffdom Wellbeing Groups, Mental Health Ambassadors and Sheriffdom Equality Networks.

We will also make use of Andrew Laing our Wellbeing Champion, including regular updates from him to promote initiatives and health and wellbeing across COPFS.

Finally, we will make the most of new and existing campaigns like Mental Health Awareness Week and the new “Clear your Head Campaign” announced by the First Minister in April. By doing so we will help keep up the sense of regularity in the communications. We will continue campaigns that normally happen throughout the year and support Scottish and UK campaigns.

Please see the [Annex for the Implementation plan](#).

Key messages

- The Coronavirus pandemic has completely changed the way all people in Scotland live and work. We recognise that all employees will struggle to adapt to the significant changes coronavirus has brought to our lives.
- It’s okay to not be okay during this time but know that COPFS is here to support you.

- We have a range of support services and resources to help us maintain our health and wellbeing through the coronavirus outbreak, including the Employee Assistance Programme and My Wellbeing Space.
- Speak to your line manager or the EAP if you need further advice and support.
- We have talented, resourceful, and resilient colleagues who will help one another. We will adapt to the new circumstances and will get through this together.

Channels

- PF Eye and Update articles
- Online meetings of Sherifdom wellbeing groups and ShENs
- Online lunch and learn sessions
- Emails including senior leaders' updates
- Line managers' email network and line managers themselves as a channel to reach their employees.
- Wellbeing and ShEN groups as a channel to reaching employees in their Sherifdoms

We aim to have a weekly wellbeing bulletin on PF Eye for the duration of the crisis and recovery period. Some weeks this may have no more than a standard reminder of the resources available to staff and key contacts (such as the wellbeing committees, Mental Health Ambassadors, EAP etc). It will also include the latest wellbeing article/initiative to be launched.

Each week the wellbeing update will include 3 standard questions to encourage employee feedback:

(a) is there anything that has worked particularly well in terms of supporting your wellbeing?

(b) is there anything else that you think COPFS could do to support wellbeing?

(c) is there anything that you have heard of in another organisation that is being used to support wellbeing and could be adapted by us?

There will be a dedicated 'wellbeing' mailbox to which people can respond so that we can further tailor our wellbeing activities.

Evaluation

We will measure the impact of this campaign through regular communications analytics like page views, comments, and other analytics data.

We will seek qualitative feedback from members of wellbeing committees.

We will also use the evaluation measures outlined in the Wellbeing Strategy, including:

- Uptake of support services like the EAP
- Civil Service People Survey employee engagement levels and wellbeing indicators
- Uptake of flexible working hours
- Number of sick days taken
- Number of employees leaving the Service.

Annex: Implementation

Below is a grid of the key communications themes we have planned until December 2020. We will develop a full communications grid to detail the specific communications activities which will support these themes.

When	Theme	Wellbeing Topic /Activity	Focus	Article Development	Impact
May	Work life balance and Juggling responsibilities	Charity for Civil Servants	<p>'bespoke' messages from the Charity focussing on Wellbeing during the pandemic covering topics including.</p> <ul style="list-style-type: none"> • Caring for loved ones. • Family & relationships • Maintaining positivity • Avoiding burnout • Staying active • Staying grounded 	Kathryn Leslie Jamie Mitchell	Colleagues will get gentle 'nudges' around 3 times a week pointing them in the direction of tailored help. Each 'blog' is around 5 minutes to read but has practical tips for maintaining resilience and suggested coping mechanisms.

			The starting point is to sign up to receive the messages by email.		
May	Work life balance and Juggling responsibilities Anxiety	Clear Your Head Campaign New SG Campaign https://clearyourhead.scot/	The focus is on - Keeping to a routine, moving more, taking a break, making time for yourself, keeping in touch.	Jamie Mitchell Kathryn Leslie Ian Hanlon	Advice Guidance Support
May	Wellbeing at home	SG initiative https://www.parentclub.scot/topics/coronavirus	website providing advice on parenting, education at home, coronavirus advice, feeding your family, supporting teenagers.	Jamie Mitchell Kathryn Leslie Ian Hanlon	Raising awareness, Giving advice, and Offering support
May 18 th – 24 th	Anxiety and Mental wellbeing	Mental Health Awareness week – Kindness (include WAP, EAP)	Sharing information, tips, and advice for supporting positive mental health.	Mental Health Ambassadors, Jamie Mitchell, Kathryn Lesley and Ian Hanlon	Raising awareness, Giving advice, and Offering support
May	Anxiety and	Employee Assistance		Jamie Mitchell	Reminder

	Mental wellbeing	Programme		Kathryn Leslie Robert Harvey	
May	Anxiety and Mental wellbeing	Vicarious Trauma Support	Launch the revised Policy Promote the VTS	Policy Launch – Kathryn Christie. VT Service promotion – Jamie Mitchell	Raising awareness Offering support
May	Bereavement	Bereavement	Optima factsheet on bereavement Optima factsheet for Managers about supporting the bereaved Promote the EAP Promote – My Wellbeing Space	Jamie Mitchell Kathryn Leslie Ian Hanlon	Information Advice Guidance Support
June	Wellbeing at home	Wellbeing – working from home	Optima advice. And develop an article on practical issues, security, and specialist equipment at home. Include the Workplace Adjustments Passport. A focus on tensions at home – Relationships Optima are developing a	Jamie Mitchell Kathryn Leslie Ian Hanlon	Information Advice Guidance Support

			factsheet on domestic abuse.		
June	Fit and Active	Keeping Active	<p>Develop an article on Fitness within the home</p> <p>Promote the Optima Managing Fatigue advice.</p> <p>Develop an article on Outdoor exercise - virtual walking groups and step challenges</p> <p>Promote – Managing Fatigue</p>	<p>Jamie Mitchell</p> <p>Kathryn Leslie</p> <p>Ian Hanlon</p> <p>Sheriffdom Chairs</p>	<p>Information</p> <p>Motivation</p> <p>Socialising virtually whilst keeping active</p>
June	Financial	Financial	<p>Develop an article acknowledging the issue and signposting</p> <p>Ask PCS to develop an article on Financial Advice and PCS Debt Advice</p> <p>PCS – Benevolent Fund</p> <p>Check with FDA for input</p> <p>EAP – Financial advice</p> <p>Optima factsheet on Debt Support</p>	<p>Jamie Mitchell</p> <p>Kathryn Leslie</p> <p>Ian Hanlon</p>	<p>Advice</p> <p>Guidance</p>
June	Isolation	Promote the – Don't Stop	Develop an article on Isolation,	Jamie Mitchell	Signposting Advice

	Anxiety and Mental wellbeing	Talking – See Me Campaign	Loneliness, Contact with managers / colleagues, friends – current and past and virtual socialising Intro by Andrew Laing	Kathryn Leslie Ian Hanlon Andrew Laing	
July	Work life balance	Quarterly Conversation with a Wellbeing focus	Develop and article focussing on Objectives – (at home) Booking Annual Leave Workplace Adjustments Passport	HR Kathryn Leslie Ian Hanlon Jamie Mitchell	Advice Ideas
July	Financial	Edenred discounts	Promote the Edenred discount scheme	HR	Advice
July	Anxiety and Mental wellbeing	Anxiety / Depression Optima advice	Article based on Optima advice and EAP support Promote My Wellbeing Space	MHA's Jamie Mitchell Kathryn Leslie Ian Hanlon	Information Advice Guidance Support
August	Wellbeing at home Development	Learning at Home	Develop an article on CPD at home and Civil Service Learning	L&D	Advice Learning Development

August	Mental wellbeing	Mental Health First Aider's Mental Health Policy	Launch the Mental Health Policy and the Mental Health First Aider's Service	HR Ian Hanlon MHFA's	Advice Support
August	Juggling responsibilities	Juggling responsibilities	Develop an article around managing multiple responsibilities - Work – relationships – childcare – caring - teaching Intro by Andrew Laing	HR Kathryn Leslie Ian Hanlon Jamie Mitchell Andrew Laing	Advice Support
September	Physical Wellbeing	Flu Immunisation	Launch the Annual Flu Immunisation programme	HR	Health
September 10.9.20	Mental wellbeing	World Suicide Prevention Day	Promote awareness Signposting to resources My Wellbeing Space EAP	Mental Health Ambassadors Kathryn Leslie Ian Hanlon Jamie Mitchell	Advice Support
October	Physical Wellbeing	Wellpoint kiosks	Consider a strategy for Kiosks or alternatives depending on	HR	Health Promotion

			Coronavirus guidance.		
October	Work life balance	Quarterly Conversation	Develop an article with a Wellbeing focus, values focus and supporting colleagues	HR Kathryn Leslie Ian Hanlon Jamie Mitchell	Advice Ideas
November 4.11.20	Mental wellbeing	National Stress Awareness Day	Promote the campaign Link to our policy on Stress Promote Individual Stress Risk Assessment Occupational Health Workplace Adjustments Passport My Wellbeing Space	Mental Health Ambassadors Kathryn Leslie Ian Hanlon Jamie Mitchell	Advice Guidance Support
November	Mental wellbeing Physical wellbeing	International Men's Day – 19th November	Promote the campaign Intro by Andrew Laing	Kathryn Leslie Ian Hanlon Jamie Mitchell Andrew Laing	Advice Guidance Support
November	Mental wellbeing	Seasonal Mental Health Campaign	Focus on Seasonal Affective Disorder – Financial Pressures – Relationships – Christmas and	Mental Health Ambassadors Jamie Mitchell	Advice Guidance Support

			New Year pressures	Kathryn Leslie Ian Hanlon	
December	Financial	Christmas Advances		HR	

Annex 2

Wellbeing Strategy Completed Actions 2020

Wellbeing Activity	Action	Lead	Completed in 2020
Policies	Launch revised Special Leave Policy	HR	Apr-20
	Vicarious Trauma Support Service Relaunch	HR	Jul-20
	Launch of Mental Health First Aid Guidance and Mental Health First Aid Practitioner's Guide	HR	Aug-20
	Launch of Life Limiting Illness Support Guidance	HR	Oct-20
	Train selected employees in Mental Health First Aid. <i>8 employees trained.</i>	HR	Jan-20
	Relaunch of My Wellbeing Space – to ensure information and resources are search-friendly	HR, Comms	Jun-20
	Launch of Mental Health First Aider Programme	HR, Mental Health Ambassador Group	Aug-20
Initiatives	Provide information and support relating to the menopause. Menopause Workshop held 17 September 2020. Follow up Wellbeing Weekly article/diary entry to raise awareness	Employee Relations Team	Sep-20
	Offer free flu vaccinations	Employee Relations Team	Sep-20
	Train selected employees in Leading First Aid for Mental Health Training (Accredited by	L&D, HR	Nov-20

	SQA and Ofqual) <i>6 employees trained.</i>		
	Promote Mental Health Awareness week as part of the annual HR Comms plan	HR, Comms	May-20
	Promote Suicide Prevention Day as part of the annual HR Comms plan	HR, Comms	Sep-20
	Promote retirement planning course as part of the annual HR Comms plan and as employees advise they wish to retire	L&D	Sep-20
Promoting Wellbeing	Charity for Civil Servants Webinar	HR, Comms	Sep-20
	2020 Pulse Survey	HR, Comms	Oct-20
	Promoting the EAP and the Optimise website	HR, Comms	Oct-20
	Promote Edenred – employee benefits and discounts	Comms	Oct-20
	Promote World Mental Health Day	HR, Comms	Oct-20
	Provide Christmas advance 2020	HR	Nov-20
	2020 Civil Service People Survey	HR	Nov-20
	Present the John Dunn award for kindness at the annual Equality Conference	The Solicitor General	Nov-20
	Promote National Stress Awareness Day	HR, Comms	Nov-20

Annex 3

Edenred Employee Activity 2020

Activity (Cumulative)	Jan	Feb	Mar	Apr	May	June	July	Aug
Total Employees	2116	2130	2129	2143	2165	2166	2175	2174
Employees logged in	1133	1144	1150	1161	1177	1220	1235	1242
Total % logged in	53.54%	53.71%	54.02%	54.18%	54.36%	56.33%	56.78%	57.13%
Employees left to engage	983	986	979	982	988	946	940	932

Monthly Activity	Jan	Feb	Mar	Apr	May	June	July	Aug
Number of Logins	140	109	94	107	210	456	227	174
Number of Users	63	55	45	51	80	191	92	71
Joiners/Leavers	Jan	Feb	Mar	Apr	May	June	July	Aug
Number of Joiners	7	20	5	14	35	1	10	2
Number of times new joiners logged in	8	15	2	6	37	3	32	4
Number of leavers	0	1	0	0	5	0	0	3

Participation Rate								
Total Page Views	1122	888	857	895	1566	3660	1571	1238
Ave Page Views Per Logon	8.01	8.15	9.12	8.36	7.46	8.03	6.92	7.11
Users as % of Employees	2.98	2.58	2.11	2.38	3.7	8.82	4.23	3.27
Voucher Order Activity	Orders	Order Value	Savings	% Saving				
January	2	£205.00	£17.65	8.61				
February	5	£217.00	£18.79	8.66				
March	2	£468.00	£28.23	6.03				
April	4	£413.00	£23.14	5.6				
May	9	£815.00	£45.85	5.63				
June	14	£2,145.00	£113.70	5.3				
July	6	£632.00	£44.53	7.05				
August	7	£484.00	£27.92	5.77				
September	4	£500.00	£26.85	5.37				
October	9	£456.00	£27.73	6.08				
November	12	£1,935.00	£110.71	5.72				
December	10	£447.00	£28.91	6.47				
Total	84	£8,717.00	£513.99	5.9				

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OPERATIONAL PERFORMANCE COMMITTEE

MINUTES OF MEETING HELD ON 22 SEPTEMBER 2021

BY MS TEAMS

Present:

Stephen McGowan	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Ruth McQuaid	Procurator Fiscal, Local Court West (RM)
Kenny Donnelly	Procurator Fiscal, High Court (KD)
Gioia Ezzi	PA DCA – Serious Casework (Secretariat) (GE)

Apologies:

Jennifer Harrower	Procurator Fiscal, Specialist Casework
Anthony McGeehan	Procurator Fiscal, Policy and Engagement (AM)
Graham Kerr	Head of Business Management, Local Court
Fiona MacLean	Non-Executive Director
Fiona Roberts	Head of Management Information Unit

1. Welcome and Apologies

The DCA welcomed everyone to the meeting, apologies were noted.

2. Minutes of previous meeting

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

3. Outstanding actions

Action 4/21: Meeting on 6 October to discuss governance of committees with all DCAs. **Action ongoing**

4. Monthly stats

High Court (HC)

- Recognition that throughput of work needs addressed. Each team to come up with action plan for next month's High Court Ops Board on how to remedy situation and to highlight barriers, ie vacancies, induction new staff, in the plans.

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- Review of old cases has been completed, some cases are one year plus and would like to know the reason for this, if systemic issues require to flush them out.
- Agreed in principle to revert to plan to bring staff back into offices 2 days a week. In 3 sites there is insufficient equipment to support that so a report has been commissioned on each of the sites. This is essential as part of recovery to get staff back into the office. May be necessary to go to one day a week, if so, plan will have to be adjusted.

Local Court (LC)

- Solemn age profile is sitting at 16% over 8 months old with proportion over one year old.
- NICP sitting with 18,000 unmarked cases, this is well in advance of what it should be.
- Outstanding trials have jumped up by 1,000.
- In terms of resources to start of make inroad has not been ideal and in terms of recruitment, alternate working patterns is proving an issue. 160 staff short and cannot recruit staff especially in North.
- Appetite of staff to do overtime is diminishing. Still on volunteer basis for public holiday custody courts but not sure how long that can continue. Rise in number of public holidays that require covering is proving to be an issue. Require COPFS response to specific duty in a specific job, understanding that overtime/on call comes with it. Members agreed it is an operational issue for Workforce Planning Group (WPG) to look at overtime non-compliance.

ACTION: Graham Kerr to raise at WPG.

Specialist Casework (SC)

Paper 3 noted.

Policy & Engagement (P&E)

Paper 4 noted.

5. Publication of performance against CAAPD target

Paper 5 for approval. Members approved explanatory text for publishing.

6. Remit

Meeting on 6 October with other DCAs to discuss governance.

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7. AoB

None

Date of Next Meeting: 27 October 2021

DRAFT

**EXECUTIVE BOARD
BUSINESS PROCESS IMPROVEMENT COMMITTEE
NOVEMBER 2021 UPDATE**

Purpose

1. To provide the Executive Board with an update on the progress of the work of the Business Process Improvement Committee (BPIC).

Priority

2. Routine

Update

3. BPIC met on 5 November and is next scheduled to meet in January 2022 (date to be confirmed).
4. This update provides an overview of the BPIC improvement projects being delivered over the next few months and ISD's delivery of the Digital Transformation Programme for 2021/22.

Delivery Updates

5. Delivery updates for the main projects and improvement initiatives are summarised at ANNEX A.
6. The Chief Digital Officer (CDO) presented an overview of key solutions being implemented or developed over the remainder of Q3 and Q4, including:
 - Release of an enhanced PIDM Booking Application, internally on 23 November and to Defence Agents on 7th December;
 - Rollout of Digital Meetings and new collaboration facilities to all offices from November;
 - Launch of the new Intranet (incorporating Corporate Apps) on 1 December;
 - Publication of COPFS' Cloud Strategy in December;
 - Development of SCG key digital casework priorities, including electronic reporting to Crown Counsel and Artificial Intelligence video transcription solutions;
 - Implementation of CMiC for use in S&J cases (likely to be phased from January to factor COP26 and festive IT systems change freeze periods);
 - Evaluation of the Witness Gateway (focussing initially on witness availability) and development of the new Defence Agent Service from Q4, with definition documents and roadmaps detailed in advance.
7. BPIC received updates on progress of other projects in the portfolio, including the DESC project moving at pace with workshops and planning sessions taking place, imminent readiness of the new HR digital system for testing and implementation next year, and the release of a new Corporate App to replace the current overtime paper based system.
8. BPIC also noted plans for engaging with key stakeholders over Q4 to scope COPFS' next generation case management system (enabling a project for replacing FOS and SOS-R to commence in 2022/23) and defining a roadmap for evaluating Artificial Intelligence and automation technologies to transform digital

casework processes. A new COPFS Digital Strategy will be published for the start of the 2022/23 corporate year. The CDO will set out vision, principles and frameworks for these strategic and digital business transformation initiatives, and details of a series of stakeholder engagement workshops over Q4. BPIC will discuss these plans at its meeting in January. A statement on the delivery of the current Digital Strategy will be published early next year.

9. BPIC acknowledged the scale of the ambitious programme of work and discussed ISD's capacity to deliver projects over what will be a very busy period through to the end of the current corporate year. The CDO outlined the resourcing, capacity and project planning measures being applied, which includes the extended use of contractors, supplier partnerships and the phased development or delivery for some projects. BPIC noted these approaches and will review a project update against the portfolio delivery plan at its next meeting.
10. BPIC discussed ISD's digital strategy driven modernisation of the National Enquiry Point (NEP) telephony and contact centre management systems. A key NEP improvement requirement is to have the capability to record customer calls for management and quality purposes. While it was envisaged that call recording capabilities would be provided to NEP staff and the direct customer contact services they provide, further consideration by business areas has highlighted business value from utilising this capability more widely across the organisation. BPIC discussed call management scenarios and indicative costs and will consider a detailed business case at its next meeting.
11. Updates on ISD's latest staff recruitment positions (including temporary resources to support the delivery of DESC) were provided. While progress is being made in filling vacancies, over twenty permanent and temporary DESC roles remain unfilled. BPIC noted the proactive measures being applied to improve the recruitment and profiling of external IT advertisements and ISD's ongoing work with HR to develop a strategic recruitment plan. The CDO will also discuss the short, medium and longer-term options for mitigating ISD staff recruitment and wider strategic options at the Workforce Planning Group on 11 November. BPIC will continue receiving recruitment updates at each meeting to enable it to monitor capacity to deliver and prioritise corporate business improvements. The current ISD recruitment challenges are reflected in the COPFS Corporate Risk Register.

Decisions/Actions required by Executive Board

12. The Executive Board is invited to note progress and comment as appropriate on BPIC's portfolio priorities for 2021/22.

John Logue

Deputy Crown Agent – Local Court

November 2021

ANNEX A

BPIC PORTFOLIO AND DIGITAL TRANSFORMATION PROGRAMME 2021/22: PROJECT AND DELIVERY UPDATES [NOVEMBER 2021]

1. Offsite Datacentres and IT Systems Resiliency Enhancements

The Chief Digital Officer (CDO) wrote to SET and CRG on 19 October confirming the digital resiliency systems and ISD additional support services in place for COP26 and the ongoing capabilities delivered. These capabilities were installed temporarily in our Edinburgh datacentre to enhance our resiliency preparedness for COP26 (avoiding datacentre and complex casework systems changes close or during the agreed COP26 partners' systems change freeze). These solutions will be installed permanently in our new offsite datacentre early next year to establish the long-term systems.

ISD carried out an extensive test of the resiliency solutions over the weekend of 16 October. This exercise involved the full-scale switchover of our VDI desktops and case management applications and data from Glasgow to the Edinburgh backup datacentre. These and other corporate and digital casework resiliency systems were tested successfully, with the architecture and configurations designed and implemented by ISD delivered to specification and performance. This exercise was a success and delivered expected resiliency capabilities and confirmed estimated return to operating target SLAs.

The CDO's COP26 Digital Systems and Services: Preparedness Statement to CRG of 19 October 2021 is available at Annex A. This details the assessed resiliency failover and return to operations SLA's indicated to SET and CRG previously, and the additional ISD customer and digital services support provided throughout the COP26 period.

ISD will install the resiliency solutions permanently in the new offsite datacentre early next year to establish the long-term systems.

[Update note: The CDO provided BPIC with a brief overview of the case management system issue encountered on the morning of 5 November. While the new resiliency systems implemented temporarily in the Edinburgh datacentre for COP26 were applied, an issue with a legacy case management software product (StaffWare) was encountered during the switchover from the Glasgow to Edinburgh datacentres, which resulted in a delay in providing access to the backup case management applications until later that morning. The CDO will provide a post incident review statement]

2. Digital Meetings Room Innovation

Communications were published on PF Eye in July. Corporate solutions are installed in hub sites: Edinburgh, Glasgow Falkirk, Hamilton, Aberdeen and Dundee. The new solutions are also being installed in all offices and are on schedule for completion by end of November. ISD communications will be published in November announcing the availability of the new solutions, which delivers new levels of digital meetings and collaboration capabilities for staff working in the office, home or from any connected location. ISD will also publish guidance information and videos and direct the support available to staff to help use and make the most of the new integrated Microsoft Teams digital solutions. ISD are removing the previous CISCO video conferencing equipment and will decommission this infrastructure and related contracts in line with planning.

3. Digital Workplace Programme

Work continues to prepare the remaining Digital Workplace products, including Microsoft Exchange Online, SharePoint, OneDrive and other O365 collaboration products. This work will proceed after the Cloud Strategy has been presented and approved (scheduled for presentation and discussion at the BPIC and Executive Board meetings in December). ISD is having to plan the delivery roadmaps to take account of the COP26 system change freeze periods from 25 October to Friday 19 November. Communications will be published in November setting out the delivery roadmap and the transformation and productivity capabilities available from the new digital solutions, including highlighting the implementation of a suite of new Microsoft digital wellbeing, productivity and other facilities being released as part of the next phase in our digital workplace journey.

4. Corporate Intranet

The new corporate Intranet - titled 'Connect' – will be released on 1 December. The new solution will deliver the Digital Strategy vision of a single corporate browser product, combining the current PF Eye Intranet and Corporate Apps facilities. Work continues to finalise the Intranet content. ISD will deploy a new look landing page for Corporate Apps as part of this launch.

5. Corporate Website

The new website product is in final stages and is being prepared for the live launch. ISD is applying final technical configurations and independent security assessments in preparation for the launch at an agreed date in Q3 2021/22.

6. COPFS Corporate Telephony System

ISD are in advanced planning stages for the implementation of the new COPFS digital telephony system (replacing the current office Cisco telephony systems with new integrated Microsoft Teams solutions). Comms and stakeholder engagement details will be issued shortly to commence formal planning for the new systems to be introduced next year.

ISD is working in partnership with Enquiry Point (EP) managers to scope and define the solutions for replacing and modernising the EP call management systems. Further planning and preparedness sessions will be arranged with Enquiry Point over the coming weeks which will provide defined timescales for training, testing and implementation (in 2022). As previously updated, the workshop sessions held included initial discussions for incorporating relevant digital strategy planning and innovation to further modernise and enhance call management and frontline customer services. These strategic digital innovation and transformation elements will be factored to the vision for COPFS' next-generation case management systems, which the CDO will set out in December 2021 and commence engagement with key stakeholders over January - February 2021, with the aim of defining the vision, aims and approaches for a programme of work to be undertaken from 2022/23.

7. HR Replacement System

The new solution is in advanced design and development. The functional build of the first launch product incorporating the core HR functions is complete and in final testing phases. Remaining activities relate to data integration and the transition for supporting the launch. Analysis is being undertaken to understand the integration of Starter, Mover, Leaver processes to the new HR digital solution. The core solution is on track for readiness in late Q4 2021/22, with specific release plans being considered by the Project Board.

Corporate Apps:

- 8. Desk Booking App:** Implementation of a new desk booking app to support phased return to office working and future hybrid ways of working is in the final stages of solution and product analysis. ISD has identified a preferred product but further due diligence is needed relating to the security and information assurance for the use of a new cloud software service. Key stakeholders will be invited to attend a demo to confirm the solution for implementation. ISD continues working to have a product available for testing and deployment as soon as the security related and supplier due diligence work is complete. Detailed timelines and communications will be confirmed and issued shortly.
- 9. Overtime App:** ISD is testing this new Corporate App and is on track to deliver this solution to replace the current paper based system in 2021/22 (specific launch date being discussed with lead stakeholders and will be confirmed in ISD's November communications update).
- 10. Homeworking Self-Assessment Form:** A new digital form was released in October. The new online form has been developed by ISD using Microsoft's customisable online apps technologies. Until our systems are fully migrated to Office 365 over the course of the coming months, there are some limitations in the design and presentation of information. ISD will release further version enhancements in line with increased use of the latest cloud technologies and services going forward.

11. Digital Evidence Sharing Capability (DESC)

The contract has been signed with the supplier - Axon. Vendor engagement commenced on 18 October. [REDACTED] and [REDACTED] continue leading work on this for COPFS. Recruitment of additional ISD resources is ongoing to provide the capacity for implementing DESC in line with project timelines. Partner and supplier engagement sessions are underway over October and November to discuss and define detailed design and outputs. A key dependency for DESC is the new Defence Agents Service (DAS) [see below]; ISD has identified a recommended technical platform design for the DAS service, incorporating data interexchange for the new DESC product. This work will be progressed and underpinning technical platforms and solutions confirmed as part of the DESC supplier design engagement over coming weeks.

Defence Agents Services:

- 12. PIDM Booking Service:** The enhanced PIDM Booking Application development work is complete and ISD is preparing the app for launch. An independent security health assessment was completed successfully in October, with the initial report confirming the design and security compliance of this new cloud solution. The detailed report is imminent. The new PIDM Booking App and services will be released internally on 23 November and released for use by Defence Agents on 7 December. Stakeholder communications, guidance and implementation arrangements will be published over early November in advance of the above release dates.
- 13. Defence Agents Service (DAS):** As previously reported, an overview of the strategic vision for a new Defence Agents Service, building on the prototype solution developed by ISD, was presented to the DAS consultative group. DAS will provide defence agents with a modern and secure single user interface to access COPFS case disclosure information and services. The first application

available is the PIDM Booking App. ISD are shaping and driving the design of DESC in regard to the future interoperability of information stored in DESC with the new DAS digital solution. The CDO will set out the key transformation aims and solution and design principles to lead internal stakeholders later this month, followed by confirmed roadmap and project plans to support the development of the DAS solution from January 2021.

14. Expansion of CMiC

ISD has developed a CMiC app for use in S&J cases, assurance acceptance activities undertaken over September and October. The new CMiC app is in the final stages of testing ahead of its phased deployment. While the app is ready for release in Q3 as planned, the three week justice systems agreed change freeze for COP26 closely followed by the festive period change freeze means the formal rollouts of the new S&J app likely being scheduled from January. The confirmed dates will be confirmed in ISD's November's communications update on PF Eye. The next phase focusses on implementing CMiC for use in High Court cases and preliminary hearings. ISD are working closely with SCG colleagues on defining requirements. Electronic reporting to Crown Counsel has been identified as a prerequisite for this next phase of CMiC; the development approach will identify areas where work can commence outside of this dependency, with the electronic reporting to Crown Counsel forming part of the AI and automation proof of concept (refer to AI related update below). The CDO and the SCG HoBM are discussing potential tactical solutions to deliver Electronic reporting to Crown Counsel ahead of the strategic digital casework solutions.

15. Witness Gateway

ISD have developed an advanced application for delivering the first Witness Gateway product, which will focus on *witness availability management*. This work builds on ISD's engagement with internal stakeholder groups over recent months. The CDO will present a detailed overview and framework statement later this month to confirm the scope, evaluation and delivery approaches, with the aim of having a Witness Gateway (Witness Availability) solution available for evaluation from late Q4 2021/22. Detailed delivery, stakeholder and evaluation plans will be published in January to support this work. In the meantime, ISD has developed with stakeholders target operating model and processes for detailed consideration. ISD have also created a digital infrastructure architectural High-Level-Design (HLD), which is being reviewed in detail by the ISD Architecture and Cyber-Security teams before moving to a Low-Level Design (LLD).

16. SCG Digital Casework Improvements:

- **ICU Live – Next Generation:** ISD continues engaging with SCG and project board colleagues to confirm any remaining development and project closure arrangements. ISD continue to investigate the remaining ICU live issues with document generation. This appears to be related to Edge browser compatibility.
- ISD Business Analyst is assigned to work on Proceed of Crimes Unit (**POCU**) with work needed to create detailed processes and scoping of solutions. ISD Business Analyst resource is available to work with SCG and Police Scotland partners to consider scoping and principles for the Complaints Against Police (**CAPS**) and **HOLMES** systems.
- **AI (Cognitive services) Transcription Service:** Video transcription prototype was demonstrated to SCG with subsequent testing highlighting degradation in performance and translation quality when processing long or

poor quality audio or video recordings. ISD is working with a strategic supplier to refine this solution, with work over recent weeks having to be aligned with resources for COP26 and DESC. An update on the availability of the revised solution will be confirmed shortly.

- The CDO and the SCG HoBM continue discussing the above and other SCG digital casework priorities (including electronic reporting to Crown Counsel) and are meeting on 3 November to define immediate actions or definitive next steps. The agreed SCG solutions will be prioritised for delivery or development in the Q3 – Q4 programme of work.

17. Cyberattack Simulation and Business Resiliency Exercise

Local business resiliency plans and COP26 preparedness activities are being aligned. CDO will provide a further update to CRG at its meeting in December outlining the next steps to enhance our business resiliency plans and documents.

18. COVID-19 Response (incl. CJ Recover/Renew/Transform programme)

Work continues to deliver RRT and EPR needs. Work with SCTS to electronically transfer document is ongoing. Updates are, however, required from SCTS to enable LC and ISD teams to complete or further progress targeted deliverables. This is being progressed with SCTS and in liaison with LC senior managers. ISD supported the Policy Team by completing an impact assessment on potential further changes to the Fiscal Fine scale to assist with recommendations to Scottish Government for an improved scale when the temporary legislation is further extended. ISD are also working to define and drive digital casework solutions with partners to support the introduction of Hate Crime Legislation.

19. AI/Automation/Cognitive Services

CDO met with senior [REDACTED] executive contacts on 13 September to discuss significant [REDACTED] [REDACTED] engagement to develop the AI vision and deliver the proof of concept project [including re-engagement on the project that had to be cancelled due to COVID impact last year]. [REDACTED] are strongly interested in using COPFS' digital strategy AI vision as a European criminal justice 'centrepiece' exemplar. [REDACTED] rescheduled a follow-up meeting planned for late October. The CDO will produce an updated vision statement providing a strategic vision overview of how this work will be aligned with the Crown Counsel AI and process automation proof of concept with [REDACTED] that had to be postponed last year due to the impact of the pandemic and provide a framework for the subsequent projects or evaluation initiatives. This will be presented to BPIC for discussion at a future meeting (January 2022).

Function Update for Executive Board: Operational Support

17 November 2021

Operational Support brings together a range of central services which enable COPFS to deliver its objectives. The function currently has 382.51 FTE staff (including all 63 trainee solicitors) divided into two broad teams: Policy and Engagement; and Business Services. Its budget for 2021-22 is £44.8m which includes £20.1m of centrally managed expenditure (e.g. estates and ISD budgets) and £5.7m capital.

Policy and Engagement Update

Policy and Engagement (P&E) leads on prosecution policy and supporting the Law Officers in the development of same. P&E also provides both an internal and external service in relation to Complaints, Victims Right to Review (VRR), Freedom of Information (FOI), Data Protection, Management Information, Media Relations and National Enquiry Point (NEP).

P&E have a staffing complement of 91.94 FTE staff (this includes 42.24 FTE Enquiry Point staff). Within Policy there is a staff complement of 19.25 legally qualified members of staff. As a result of promotions and the need to fill Justice Recovery posts, several SPFDs and PFDs have transferred to Local Court and SCG. This has resulted in Policy & Engagement continuing to carry several vacancies at SPFD and PFD. Difficulties in filling those vacancies are replicated across the whole of COPFS and this issue is being considered by Workforce Planning Group.

Policy resources are currently directed to responding to the impact of COVID-19 on the justice system alongside mainstream Policy work.

Policy and Engagement Update

Policy and Engagement (P&E) leads on prosecution policy and supporting the Law Officers in the development of same. P&E also provides both an internal and external service in relation to Complaints, Victims Right to Review (VRR), Freedom of Information (FOI), Data Protection, Management Information, Media Relations and National Enquiry Point (NEP).

COVID-19

Emergency Legislation and Prosecution Policy

Policy have contributed to the urgent development, drafting and Parliamentary passage of Emergency legislation. Policy developed consequential prosecution policy and guidance for prosecutors and Lord Advocate's Guidelines for police.

The relevant legislative framework is:

Coronavirus Act 2020:

- Creates offences by potentially infected persons and offences in relation to events, gatherings and premises

Coronavirus (Scotland) Act 2020:

- Electronic signatures and transmission of documents;
- Electronic search warrants & apprehension warrants;
- Attendance of parties by electronic means;
- Revalorisation of Fiscal Fines;
- Ability to call custody cases in any Sheriff Court;
- Extension of time limits;
- Extension of section 259 of the Criminal Procedure (Scotland) Act 1995 (this provision expired on 30 September 2021)

Coronavirus (Scotland) (No 2) Act 2020:

- Extension of time limits in criminal proceedings;
- Authority for prison custody officers to operate on police estate;
- Continuation of Undertaking conditions following a failure to appear at court – Schedule 2, Part 1, Paragraph 6 of the 2020 Act (No.2) makes provision which enables the court to prevent the expiry of an undertaking given under section 25(2) (a) of the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”);
- Extension of Proceeds of Crime procedural time limits;
- Electronic transmissions of documents to the Registers of Scotland;
- Electronic Signature and Transmission of Documents to Registers of Scotland.

The abovementioned provisions of the Scottish Coronavirus Acts will remain in force until at least 31 March 2022, with the exception of the provision in relation to the extension of section 259 of the Criminal Procedure (Scotland) Act 1995, which expired on 30 September 2021.

The Scottish Government are currently exploring legislative options in recognition of the continuing need for a number of the justice provisions. Policy officials are engaged with the Scottish Government in this regard.

The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021

- Reflect the ending of the tiered system of restrictions, whilst maintaining certain requirements on businesses and individuals, including the wearing of face masks in relevant settings (including on public transport). The new Regulations revoke the Health Protection (Coronavirus)(Restrictions and Requirements)(Local Levels)(Scotland) Regulations 2020.

Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021

- The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 came into force on 20 September 2021. The Regulations replace the
 - Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020;
 - Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020; and
 - Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021.

- The Regulations relate to, *inter alia*, individuals providing passenger information and updated passenger information; individuals providing false or misleading information; quarantine offences and travel operators who provide services to individuals to facilitate entry into Scotland. In broad terms, the 2021 Regulations consolidate the terms and offences contained within these three previous Regulations.

Other Coronavirus Related Policy

Lord Advocates Guidelines on Liberation during the pandemic are in place.

Policy division have drafted revised guidance on access to witness statements, with provision made for access by Microsoft Teams and by email in appropriate scenarios. The guidance has been agreed by the Disclosure Reference Group and has been approved by SET. Work is ongoing to ensure that data and information security issues are fully addressed and process maps provided for staff.

Prosecution Policy has been published to enable the wider supply of naloxone – an opiate overdose remedy – in the context of the current public health restrictions.

Prosecution guidance has been provided to enable the forensic examination of sexual offences victims in the context of the current public health restrictions.

Legislation

Age of Criminal Responsibility (Scotland) Act 2019

This Act raises the age of criminal responsibility to 12 and received Royal Assent on 11 June 2019. A date for implementation is yet to be confirmed.. An Advisory Group has been convened to report on implementation of the Act and possible raising of the age of criminal responsibility to above 12 years old. Policy officials are the COPFS representatives to the group and chair a subgroup on the operational implications of any further rises. Policy officials are also members of the Data and Research Subgroup, working with key partners to collate relevant information to consider a future age of criminal responsibility.

Separately, a criminal justice planning group was formed under the auspices of the Youth Justice Improvement Board. The remit of the group was to plan for possible extension of the Children's Hearing system to all under 18s. Policy officials contributed to the Group, which has just recently issued its final report to YJIB.

The Scottish Government has also commissioned SCRA to proceed with a research proposal looking at children aged 12–15 years who are involved in offending behaviour, to provide a proper evidence base which can be used to inform any future discussions and policies in potentially raising the age of criminal responsibility beyond 12 years. Policy is a member of the SCRA Research Advisory Group.

The Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019

The Act includes new measures to increase the number of cases in which the evidence of children and vulnerable witnesses is pre-recorded to avoid them having to give evidence during a subsequent trial.

The first implementation phase began on 20 January 2020. That phase mandates that the evidence of all child witnesses aged under 18 in High Court cases for certain specified offences be pre-recorded.

Policy and operational staff have formed an implementation group in connection with the second phase, relating to Sheriff and Jury cases, and have started preparations for a significant change in the way evidence is taken from child witnesses. However, postponement of the implementation of the next phase to an, as yet unidentified date has been confirmed due to the impact of the COVID-19 pandemic.

The recommendations made by the Lord Justice Clerk regarding routine use of pre-recorded evidence for adult complainers in sexual offences cases requires to be considered alongside planned Sheriff and Jury implementation.

Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021

This Act, which seeks to place on a secure statutory footing the provision of forensic medical services by NHS Boards to victims of sexual crime, received Royal Assent on 20 January 2021. It covers both the provision of services where a crime has been reported to the police but also through self-referral services where there will be no requirement for the victim to report the matter to the police in order to obtain medical services following the crime.

Policy, through their position on the CMO Taskforce – National Self-referral subgroup, are involved in the drafting of the national protocol that is to be, following approval by the Lord Advocate, issued to the NHS Boards. The draft protocol has been completed and has been approved by the CMO Taskforce. Policy are also working with partner stakeholders on the subgroups in the design and delivery of training for the NHS Boards in relation to the legislation.

Hate Crime and Public Order (Scotland) Act 2021

This Act was passed by the Scottish Parliament on 11 March 2021 and received Royal Assent on 23 April 2021. The Scottish Government's Act modernises, consolidates and extends Hate Crime legislation.

The Act adds age and variations in sex characteristics to the list of protected characteristics, with provision to add gender at a later stage. The Act creates statutory aggravations for the 7 protected characteristics and creates a number of offences, in particular the stirring up of hatred. The Act also creates freedom of expression provisions covering all of the protected characteristics with the exception of race.

An implementation date has yet to be confirmed. Guidance for prosecutors will be provided on implementation.

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2021

On 16 March 2021 the Scottish Parliament passed a Bill which incorporates the UN Convention on the Rights of the Child into Scots Law. This places an obligation on public authorities not to act incompatibly with UNCRC.

The implementation date of the Act is specified as 6 months after the date of Royal Assent or "on such earlier day as the Scottish Ministers may by regulations appoint". The UK Government referred the Bill to the UK Supreme Court to assess whether certain sections of the Bill are beyond the competence of the Scottish Parliament. The Supreme Court Hearing took place on 28th and 29th June 2021 and the judgement was issued on 6 October 2021. It stated that sections 6, 19(2)(a)(ii), 20(10)(a)(ii) and 21(5)(b)(ii) of the UNCRC Bill would be outside the legislative competence of the Scottish Parliament. The Bill will return to the Scottish Parliament so that these

issues can receive further consideration. The planned implementation timetable will be affected as a consequence.

It is envisaged that Court Rules similar to those in Chapter 40 of the Act of Adjournment (Criminal Procedure Rules) 1996, will be created to support the primary legislation. Policy continues to work with the Scottish Government in that regard.

The legislation will require COPFS to review prosecution policies and processes relating to prosecution and the investigation of deaths which are both directly and indirectly associated with children (as accused and witnesses) to ensure that they are compatible with the UNCRC. Policy has begun that process. A working group has been set up involving members from Policy, SFIU and other specialised operational divisions and work is ongoing in relation to this. Sub-groups have been set up to (a) examine policies and process for engaging & communicating with child victims and witnesses, (b) examine business processes for prioritising the preparation of cases involving accused aged under 18 and (c) support the training of staff.

Domestic Abuse (Protective Orders) Act 2021

The Act was passed by Parliament on 17 March 2021 and received Royal Assent on 5 May 2021. The Act creates protective orders for people at risk of domestic abuse to enable the removal of a suspected perpetrator of abuse from the home of the person at risk. Policy Officials are members of a SLWG created by Police Scotland and Bill Officials in relation to the Bill and provide regular input to this working group. Policy Officials are also members on the Scottish Government Implementation Board which involves key partners and is to oversee the work required for implementation. Policy will continue to work with the relevant stakeholders in relation to the implementation of the Act following Royal Assent and will prepare and issue appropriate guidance to staff.

Domestic Abuse Act 2021

The UK government have sought to ratify the Istanbul Convention which seeks to create a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. The 2021 Act seeks to do this by extending the jurisdiction of the Crown in Scotland to prosecute some offences that occur in countries outside of the United Kingdom. The Scottish Government implemented the relevant legislative changes on 29 June 2021. An Operational Instruction outlining the legislative changes was issued following approval by the Law Officers.

FGM (Protection and Guidance) (Scotland) Act

The purpose of the Act is to strengthen statutory protections for women and girls at risk of female genital mutilation (FGM). The Bill creates a new FGM Protection Order, a form of civil order which can impose conditions or requirements upon a person for the purpose of protecting a person or persons from FGM, safeguarding them from harm if FGM has already occurred, or for the general purpose of reducing the likelihood the FGM offences will occur. Breach of this order will be a criminal offence. The substantive provisions of the Act are not yet in force. There is no timetable for progress at present as a result of Covid-19. In due course, Policy will work with SG on draft guidance.

Redress (Survivors of Historical Child Abuse in Care) (Scotland) Act 2021

The purpose of the legislation, passed on 11 March 2021, is to establish a financial redress scheme for survivors of abuse in care. The legislation is not yet implemented. COPFS is likely to require to put in place additional staff resources in order to respond to applications for information to support claims for redress.

Covert Human Intelligence Sources (Criminal Conduct) Act 2021

Since June 2017 the lawfulness of the Security Service (MI5) to authorise criminal conduct by CHIS has been subject to an ongoing court challenge. A Court of Appeal's judgment, published 9 March 2021, found in favour of the UK Government and the Security Service. The claimants are in the process of seeking permission to appeal to the Supreme Court.

To address possible legislative gaps highlighted in considering the appeal, the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 was passed and amends RIPA to expressly provide for various public authorities granting a "criminal conduct authorisation". The UK Act received Royal Assent on 1 March 2021 and was scheduled to be commenced in stages over August and September 2021. The UK Act does not amend RIP(S)A, as a result of the Scottish Parliament withholding a Legislative Consent Motion.

A Scottish CHIS Bill is proposed.

Dogs (Protection of Livestock) (Amendment) (Scotland) Act

The Act was passed by the Scottish Parliament on 24 March 2021 and is yet to receive Royal Assent. The Act, inter alia, extends enforcement powers and increases penalties for the Protection of Livestock offence. The key provisions will come into force 6 months after Royal Assent. Policy will ensure that relevant guidance is updated.

Police, Crime, Sentencing and Courts Bill

UKG Bill which contains various provisions relating to the criminal justice system. The Bill contains provisions which aim to afford greater protection to the police when carrying out duties including provisions which would amend the definition of dangerous and careless driving for police officers driving in the course of work. There are various road traffic provisions including extending the ability to offer fixed penalty notices under s54 of the RTOA 1988 to Scotland, removal of the requirement to surrender driving licences to the court, the creation of an offence of causing serious injury by careless driving, higher penalties for various offences including causing death by dangerous driving and enabling police cost recovery for speed awareness courses. The Bill further includes provisions in relation to the extraction of data from electronic devices (see "Draft Digital Device Guidance" below) and Policy officials are reviewing a code of practice on this area.

Policy officials are engaging with officials from the UKG, SG, and criminal justice partners on the provisions which extend to Scotland. The Bill has received a first and second reading in the House of Lords and is due to be further considered at Committee Stage in October/November 2021

Bail and Release from Custody Bill

The Scottish Government proposes to consult on the provisions of a bill relating to bail and release from custody.

Northern Ireland Legacy Bill

The broad proposals to be delivered by the Bill are as follows:

- Establish a new independent body to enable individuals and family members to seek and receive information about Troubles-related deaths and injuries;
- Establish a major oral history initiative - to be delivered via new physical and online resources and through empowerment of the museums sector in NI - supported by rigorous academic research projects, to further mutual understanding and reconciliation in both the short and long term while realising ideas put forward at Stormont House;
- Introduce a statute of limitations to apply equally to all Troubles-related incidents, bringing an immediate end to the divisive cycle of criminal investigations and prosecution.

Policy officials are engaged with the SG and UKG in relation to any impact of the Bill on the constitutional position of the Lord Advocate or duties placed on the Lord Advocate.

Other Significant Policy Work

Pilot on Visually Recording the Statements of Complainers in Rape Cases

The Lord Advocate approved the implementation of a pilot project to test the effectiveness of visually recording the statements of complainers in rape cases. The pilot is taking place in three Police Scotland Divisions – Edinburgh City, Dumfries and Highland and Islands and commenced on 1 November 2019. The pilot was originally due to run until 1 November 2021. Extension of the pilot is currently under consideration.

Guidance has been issued to COPFS staff. Policy is monitoring the progress of the pilot.

Draft Digital Device Guidance

Policy are leading work under the Disclosure Reference Group to draft guidance on the approach to be taken to the seizure, examination and return of digital devices belonging to witnesses and accused persons. This will reflect upon a recent ICO report on practice in E&W, a specific English Appeal Court decision, a number of issues identified in ongoing High Court cases and a further ICO report on practice in Scotland.

Guidance on sexual history evidence

Policy is doing extensive work to update policy and guidance for prosecutors in light of several recent Appeal Court judgements regarding the appropriate approach to applications to lead evidence of a complainer's past sexual history. New guidance in relation to the impact of s275 on docket evidence was published in March 2021 and an initial draft of a revised chapter 9 of the Sexual Offences Handbook (which addresses sexual history evidence) has been circulated amongst key stakeholders both internally and externally.

Joint Investigative Interviews (JIIs)

Policy is working with Police Scotland and Social Work Scotland to improve the quality of JIIs capturing the evidence of child witnesses. There are two pilot projects ongoing in North Strathclyde and Lanarkshire to test a new interviewing model. Policy has created an evaluation process to measure changes in quality of JIIs. A third pilot in Glasgow is commencing and the Procurator Fiscal at Glasgow has confirmed that she is content for a similar evaluation process to be put in place. Policy is working with the High Court Unit to implement an evaluation model for JIIs falling outside of the pilot projects. Policy is also working with operational staff in areas out with the initial pilot areas to assist as the new model is rolled out nationally to ensure nationwide consistency of application.

Barnahus

Policy are involved in work around the potential for a Barnahus (Children's House) in Scotland. The Scottish Government have a manifesto commitment to developing 'Bairn's Hoose' and they aim to ensure that all eligible children who are victims or witnesses to abuse or violence will have access to a 'Bairns' Hoose' by 2025. Children below the age of criminal responsibility, whose behaviour has caused harm, will also have access to the services it will provide.

Policy will work with Health Improvement Scotland, the Care Inspectorate and the Scottish Government to ensure the development of these standards are cognisant of the adversarial system in Scotland and the role of the Lord Advocate as head of investigation and prosecution of crime. The intention of the Scottish Government is to publish 'Bairn's Hoose' Standards by end of 2022.

Nurse Sexual Offence Examiners

The former Lord Advocate approved a pilot project to test the viability of Nurse Sexual Offence Examiners (NSOEs) in the Scottish criminal justice system. Two NSOEs have been identified and began performing supervised forensic medical examinations of complainers in cases involving rape/attempted rape/sexual assault at Archway Glasgow in February 2021. COPFS Policy and People and Learning Division provided training about the Scottish criminal justice system to the two successful candidates. Policy will monitor relevant cases to assess the viability of the role. A cadre of nurses are undertaking a degree course in Forensic Medicine at Queen Margaret University with a view to implementation of the new role should the pilot be successful. COPFS Policy Division and People and Learning Division have provided input and training.

Drugs Death Taskforce

The Scottish Government formed a Drugs Death Taskforce to lead a response to the high level of drug related deaths in Scotland. COPFS are members of the Taskforce.

The criminal justice subgroup of the Taskforce have obtained funding for a pilot scheme involving the referral of accused persons with dependency issues to support services. This referral would be in tandem with a criminal justice response. The pilot is now live in the Inverness area.

In September 2021, the Taskforce published a report on the law in relation to controlled drugs and public health making a variety of recommendations. Policy are engaged with those recommendations relevant to COPFS.

Lord Advocate's Statement to Parliament

On 17 June 2021 the Scottish Parliament passed a motion on tackling drug related deaths, indicating that it would support a review of guidance on Recorded Police Warnings and that a statement from the Lord Advocate on the principles and practicalities of diversion would be beneficial. A review of RPWs had already taken place and engagement has taken place with Police Scotland. The Lord Advocate made the requested statement to Parliament on 22 September 2021. The statement confirmed the extension of RPWs to possession only offences of all classes of drug.

On 27 October 2021 the Justice Committee of the Scottish Parliament convened a roundtable evidence session on the criminal justice system response to the misuse of drugs. Policy provided written evidence to the Committee in advance and oral evidence as a member of the roundtable.

COP26

Policy officials have carried out extensive work with the Police Service of Scotland to develop guidance in relation to the policing and criminal justice response towards the COP26 conference taking place in Glasgow in November 2021. Policy Officials are represented on the COP 26 Steering Group and COP26 Delivery Group. COP26 Lord Advocate's Guidelines have been approved by Law Officers and issued to Police Scotland. Complimentary guidance for prosecutors has been developed.

Chapter 4 Victims and Witnesses Manual

Policy officials are undertaking an extensive revision of Chapter 4 of the Victims and Witnesses manual which relates to Domestic Abuse. The revision will reflect recent legislative changes and appeal court decisions and will consider alterations to guidance in relation to authorisation levels for key decision making.

NES Trauma Informed Knowledge and Skills Framework.

Dr Caroline Bruce in NES has commenced a Scottish Government funded development of a knowledge and skills framework for justice sector professionals to enable the recognition of trauma and how to address it. COPFS has been invited to assist in the development of this framework as a “critical friend to the project”. Policy Division is providing the necessary input into this work.

Data Protection Act reforms

The UKG has proposed reforms to the Data Protection Act 2018. The UKG anticipate that the reforms will simplify the current Data Protection regime. The proposals are at an early consultation stage however it is expected that a Bill will be placed before the UK Parliament in early 2022.

A working group consisting of law enforcement agencies across the UK has been established to consider the reforms to Law Enforcement Processing. Policy officials are participating in these discussions and meetings now take place on a monthly basis.

Review of the Investigatory Powers Act 2016

The UKG are conducting a review of the Investigatory Powers Act 2016 and Policy officials are working with the Home Office in particular in relation to reviewing data extraction/ interception provisions in relation to both routine forensic analysis but also obtaining information from external servers/ the cloud.

Body Worn Cameras

Police Scotland are in the process of providing body worn video cameras to armed police officers across Scotland. Police Scotland is also progressing its plans to introduce body worn video (BWV) cameras to more police officers and staff across Scotland. This development has the potential to significantly impact on the way that evidence is gathered, and the processes involved in the revelation, disclosure and presentation of that evidence. Policy officials will be supporting the work of a new working group looking at the impact on COPFS and the criminal justice system.

Electronic Monitoring of Bail

An Operational Implementation Group, chaired by the Scottish Government, has been meeting since December 2020 to discuss the introduction of electronic monitoring of bail (EM Bail). Policy and NICP officials are the COPFS representatives of the Operational Implementation Group. Guidance for prosecutors will be developed in due course once a final model for implementation has been agreed by justice partners.

Scottish Government officials are also looking at the landscape of Bail Supervision including a review of the current Bail Supervision Guidance, which was published in 2019. Policy officials are involved with this work.

Offensive Weapons Act 2019

This UKG Act received Royal Assent in May 2019 although it has not yet been commenced. The Act creates offences relating to the sale to those under 18, delivery and possession of corrosive substances. The Act also introduces offences relating to the sale, delivery and possession of certain offensive weapons.

COPFS Policy officials are engaged with SG officials on the implementation of Scotland specific guidance prior to commencement of the Act.

Drones

The Air Traffic Management and Unmanned Aircraft Act 2021 received Royal Assent on 29 April 2021.

Schedules 8, 9 and 10 of the Act create the offence provisions, stop and search powers for the police and the powers for police constables to issue Fixed Penalties for certain offences relating to unmanned aircraft. Schedule 9 came into force on 29 June 2021. Schedule 10 of the Act provides that the Secretary of State may, by regulations, prescribe the offences as fixed penalty offences for the purpose of this Schedule. These Regulations have not been laid yet.

National Enquiry Point (NEP)

The number of Enquiry Point operators working in the office has increased, following changes to health and safety guidance on social distancing. There has been an increase in both telephone calls and email requests following the re-opening of courts. Additional recruitment is underway to bolster the staffing complement.

Response and Information Unit Update

COPFS Complaints Handling Procedure (CHP)

A fully updated and revised CHP was published in August 2021.

COPFS Unacceptable Actions Policy (UAP)

A fully updated and revised UAP was published in August 2021.

BUSINESS SERVICES UPDATE

The attached business plan for 2021-22 sets out the main priorities for each of the units which comprise Business Services. A comprehensive mid-year review of progress is being carried out.

As indicated in the plan, the vast majority of the time of staff across BS is committed to supporting colleagues across COPFS on a day-to-day basis. Progress in providing day to day support is monitored by the BS Heads at their monthly meeting using the KPI tracker. While the tracker does not cover all BS activity it gives a very good picture of service delivery. The latest 2021-22 KPI tracker is attached.

Among many other achievements across BS in 2021-22 to date are:

- Negotiation and implementation of the historic pay parity settlement – all staff paid by end-June;
- Annual audit and completion of 2020-21 accounts completed and accounts laid in Parliament;
- Allocation of 21-22 budget and court recovery funding completed on time;
- Completion of withdrawal from Ayr office and upgrading of Kilmarnock office;
- Commencement of Fair Futures policies on 1st July and project closedown;
- Excellent progress with new corporate intranet and COPFS website – both due for launch in next few weeks;
- Launch of new agile policy and Digital workplace facilities to facilitate future ways of working
- Launch of new corporate strategies (People, Learning and Development, Estates, Procurement, and Finance)
- Compilation and submission to SG of 2022-23 financial requirements document
- Completion of review of trade union facility time
- Appointment of new head of Learning and Development and good progress with implementing new strategy and governance
- Preparation for COP 26

IAN WALFORD

November 2021

BUSINESS SERVICES: PLANNING AND PEOPLE PRIORITIES: 2021-22

ENABLING COPFS AND SUPPORTING OUR PEOPLE

Our Purpose

COPFS' purpose and priorities are set out in the Strategic Plan for 2020-23.

The purpose of Business Services is:

“to enable and support COPFS in delivering the objectives set out in the Strategic Plan in the most efficient and effective way within available resources and creating the conditions for all staff in COPFS to lead healthy and fulfilling working lives”

Our Overarching Priorities

Our overarching priorities in fulfilling this purpose are to:

- **Provide continuously-improving, customer-focused service in supporting the day-to-day business of COPFS** (this takes up approximately 90% of BS time)
- **Support all aspects of covid recovery across COPFS including the court recovery programme**
- **Support progress towards financial sustainability**
- **Support continuing transformation of business and people processes**

The specific priorities for 2021-22 for each unit in Business Services are set out below.

Our approach

The core elements of our approach – i.e. how we will deliver – are as follows:

- Ensuring that everything we do is consistent with the priorities set out in the COPFS strategic plan and the various underpinning corporate strategies
- Engaging closely with all our customers across COPFS
- Working together across Business Services, maximising cohesion and cutting out unnecessary duplication: none of our overarching priorities can be achieved by any one unit working in isolation
- Respecting all the various specialisms which make up Business Services
- Working with and learning from our partners in the criminal justice sector and from other organisations
- Taking full account of risks and benefits in providing advice

Specific Priorities for 2021-22

2020-21 was an extraordinary year. Right from the outset, and then right throughout the year, our focus had to shift to supporting COPFS as we managed together the consequences of the covid-19 crisis and supported preparation for recovery and renewal.

It is anticipated that COPFS will continue to recover from the covid crisis during 2021-22, and then move to new ways of working once social distancing restrictions in offices are removed. The timing of the recovery is, of course, uncertain, and so everyone in Business Services will need to be prepared to adapt day to day priorities as public health guidance changes, and to activate contingency plans in the event of a third or subsequent wave of covid.

BS is benefiting from the additional resources provided to COPFS by Scottish Government in 2021-22. This is funding 27.80 FTE additional posts across the BS units.

New corporate strategies will be finalised and published during 2021-22 as follows: People, Estates, Finance, Digital, Learning and Development. These will underpin unit priorities in 2021-22 and beyond.

Against this background of additional staff, short-term uncertainty, and long-term strategy the following are the five key priorities for each of the six units which comprise Business Services, over and above business as usual and implementation of the corporate strategies. To state the obvious, these priorities are only the tip of the iceberg in terms of what colleagues across Business Services will do on a day-to-day basis.

The key priorities will be reviewed throughout the year and adjusted as necessary.

ISD:

- Completion of the Digital Workplace project, including introducing digital meetings and full features of Microsoft Teams to further equip our people to work productively and collaboratively from the office, home or from any location
- Enhancing our IT datacentres, systems resiliency and support capabilities, and testing cyber-security and business resiliency plans
- Implementing the Digital Transformation Programme and supporting Criminal Justice Recover, Renew and Transform priorities, virtual courts and external stakeholder information and communication systems
- Developing DESC and implementing the Witness Gateway and Defence Agents Service
- Developing full digital casework and our next generation case management systems by maximising the use of digital technology

HR:

- Working with the trade unions on implementation of pay coherence in the current and next two financial years
- Working in partnership with L&D on the implementation of outstanding Fair Future products and ensuring that the benefits are realised
- Supporting the Future Ways of Working project, especially the development of an agile working policy
- Implementation of the new HR digital system and Learning Management System
- Implementation of a strengthened approach to HR diversity and inclusion practices, particularly in recruitment, retention, and career development

Support Services:

- Working in partnership with HR on the implementation of outstanding Fair Future products and ensuring that the benefits are realised
- Leading and co-ordinating the work of the Office Recovery and Safety Group and recovery planning to address the backlog of court cases built up during the Covid-19 Pandemic
- Leading and co-ordinating the work on Estates Transformation and delivery of high-quality facilities management and business support services
- Implementing the L&D Strategy, including a revised structure for L&D, development of learning pathways and blended learning solutions, and leadership and management development for legal and non-legal grades
- Leading and co-ordinating the Future Ways of Working project and working with HR to develop training material for working and managing remotely

Finance and Procurement:

- Managing 2020-21 year-end and annual account including liaison with SG, Audit Scotland, and ARC
- Supporting the operational Functions in preparing plans to draw down court recovery funding
- Supporting the business in providing forecasts that are as accurate as possible and managing pressures against the 21-22 budget allocation
- Supporting preparation for 2022-23 and beyond resources and capital spending reviews
- Implementing outcomes of review of off-contract expenditure and contract management and managing the volume of procurement exercises required to ensure procurement compliance across COPFS

Corporate Communications:

- Continuing to deliver targeted internal communications campaigns to support achievement of corporate goals and positively impact employee engagement
- Working with HR to implement the COPFS wellbeing strategy
- Continuing to lead the work to develop and launch a new intranet
- Leading the work to develop and launch a new COPFS website and develop a new operating model for website management and publications
- Supporting plans for further staff engagement building including pulse surveys

OS Business Management

- Leading support for the Corporate Resilience Group
- Supporting the Risk Management Group including preparation for a risk workshop in autumn 2021
- Supporting the recruitment of Business Services technical apprentices (as and when social distancing restrictions in COPFS offices are removed)
- Supporting OS managers in preparation for 2022-23 spending review

Our People

In April 2021 the number of staff in post (SIP) in Business Services stood at 209.44 FTE. There were in addition 51.54 FTE vacancies. The current BS organogram is at Annex A.

The top priority while the vast majority of BS staff work from home will be to stay in touch and support their wellbeing. At the same time all Business Services units will consider options for their own future ways of working taking into account the experience of mass working from home since March 2020 and extensive experience of location-neutral working in recent years, to feed in to the corporate FWOV project.

We will plan to replace staff who leave through natural turnover, but not necessarily on a like for like basis. We will take every opportunity – such as the end of a project, and the departure of any member of staff – to review our structure.

We will aim to improve year on year the engagement index from the current **68%** (which is already above the average for the highest-performing units across the Civil Service) in the annual people survey.

We will aim to continue to reduce sickness levels across Business Services in line with the revised attendance management policy.

Our other workforce planning priorities are as follows:

- We will fill permanent posts on a permanent basis. We will use short-term and agency staff and temporary promotion/responsibility as necessary and appropriate to support operational priorities in COPFS and/or project work, particularly where there is an invest to save or improve business case;
- We will continue to develop a flexible, project-based approach to staff deployment: every permanent member of staff will have a core role but will be expected to contribute to other priorities in Operational Support and elsewhere as they emerge;
- We will use automation and process redesign to cut out work which adds relatively little value and ensure that all staff are in roles where they can add optimum value consistent with their competence and experience;
- We will provide opportunities for career development: in particular we will continue to develop team profiles, implement the high potential leadership development scheme for Bands C-E and develop plans for the BS technical apprentice scheme and a high potential development programme for staff in Bands F-H
- Each unit will continue to support continuing professional development for the staff in their teams

A workforce plan for the Operational Support Function sets out people priorities in more detail.

Communication

The involvement and participation of everyone in BS is essential to delivering our workforce and business priorities. Thus we will:

- ❖ Hold regular virtual workshops for all Senior Managers in Business Services, and at least one face to face workshop once restrictions in offices are lifted sufficiently
- ❖ Continue to publish a quarterly newsletter, with each unit taking a turn to edit
- ❖ Send out regular updates from the Deputy Chief Executive;
- ❖ Disseminate information through unit-level comms;
- ❖ Hold monthly Business Services Heads meetings.

Risk Management

The overall risk to COPFS if Business Services is not able to deliver its planning and workforce priorities is that the operational Functions will not be able to deliver services to the people of Scotland on a daily

basis to an acceptable standard and/or they are not able to improve efficiency and effectiveness and quality as well as or as quickly as planned.

Each unit within Business Services will be responsible for monitoring and mitigating risks within their particular unit and escalating risks as necessary for discussion with the Deputy Chief Executive and at Business Services Heads meetings and ultimately to the Risk Management Group. The Deputy Chief Executive will consider whether to propose escalation of risks to the COPFS corporate risk register.

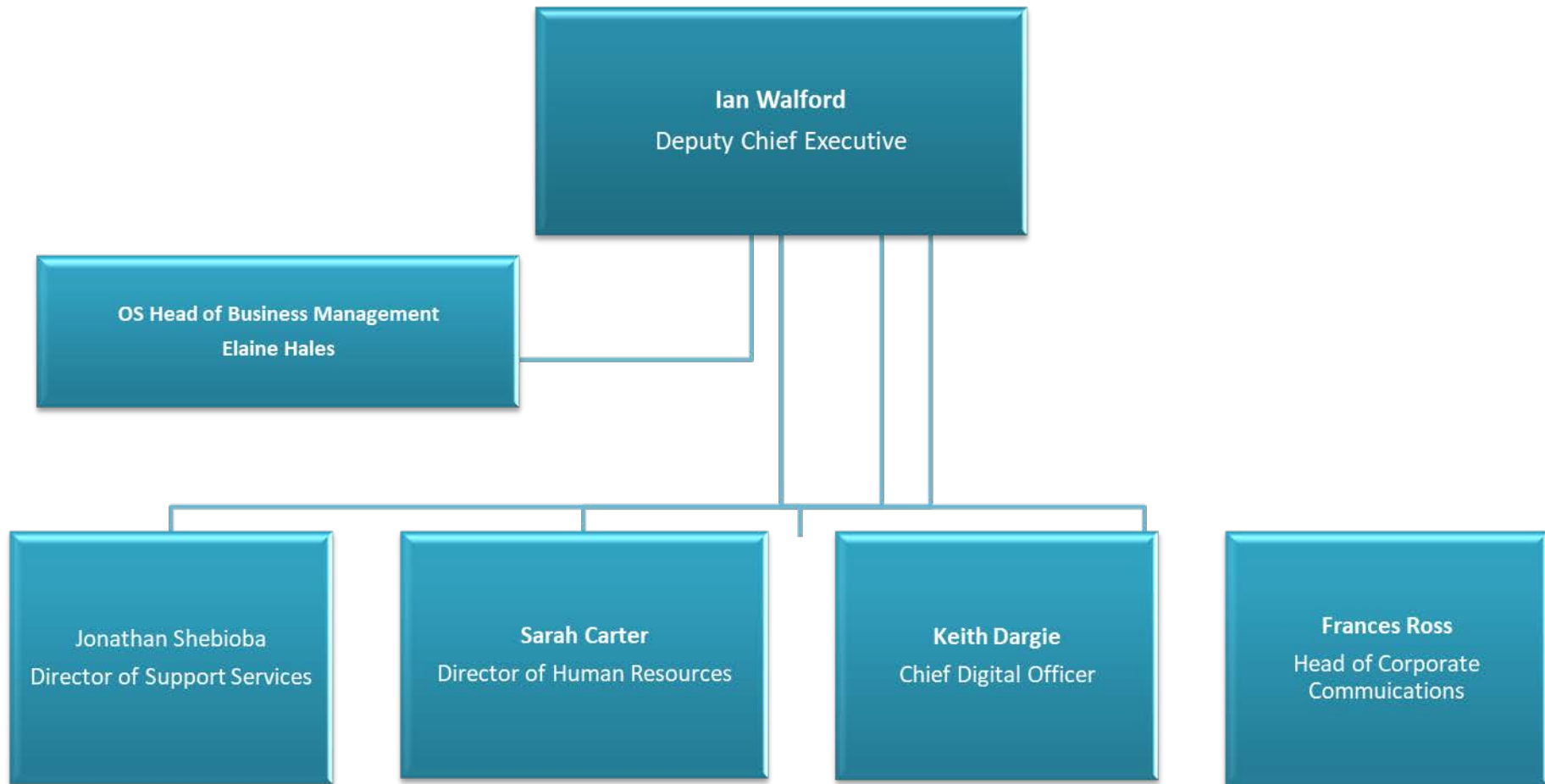
Measuring Progress

The Business Services Heads will individually and collectively:

- monitor progress with delivering the priorities set out in the response and recovery phases and the impact on COPFS, and consider detailed priorities for the renewal phase depending on progress with the easing of restrictions and the evolution of public health guidance
- review performance against the current key performance indicators
- monitor sick absence levels, quarterly conversation completion rates, skills portfolio completion rates, annual leave take up, and the results of the annual Civil Service People Survey and other ad hoc surveys
- monitor financial performance against budget.

ANNEX A

Business Services Structure



Collated Business Services KPI's 2020-21

ID	Key Performance Indicator	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
ISD¹													
ISD 01	COPFS IT Digital Production Systems Availability (99.5%)	100.00%	100.00%	98.48%	100.00%	100.00%	100.00%						
ISD 02	FOS Availability (99.5%)²	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%						
ISD 03	Other Case Management Systems Availability (99.5%)³	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%						
ISD 04	COPFS Network Availability (99.5%)	99.98%	99.98%	99.67%	99.95%	99.74%	99.90%						
ISD 05	COPFS Desktop Availability (99.5%)	99.49%	98.47%	100.00%	100.00%	100.00%	100.00%						
ISD 06	Total number of Incidents	2462	2705	2647	2167	2165	2131						
ISD 07	Incidents where SLA's met	2373 (96.38%)	2581 (95.41%)	2488(93.99%)	2020(93.21%)	2064 (95.33%)	1951(91.55%)						
ISD 08	Total number of Requests	1332	1273	1760	1722	1514	1638						
ISD 09	Requests where SLA's met	1264 (94.9%)	1236 (97.09)%	1680(95.45%)	1616(93.84%)	1394 (92.07%)	1524(93.04%)						
Finance													
F 01	95% of invoices paid within 10 day aspirational payment	97.0%	97.8%	96.5%	98.4%	99.0%	99.8%	99.9%					
F 02	100% of staff travel and subsistence claims paid within 10 days	100%	100%	100%	100%	100%	100%	100%					
F 03	98% of invoices processed within 30 days payment target	98.9%	98.8%	99.0%	99.4%	99.7%	100.0%	99.9%					
F 04	100% of witness claims paid within 10 days	100%	100%	100%	100%	100%	100%	100%					
HR 01	96% of all payroll transactions received and implemented accurately	99.9%	99.7%	99.8%	99.7%	99.7%							
HR 02	Journey time from advert to successful applicant notification to be completed in 6 weeks (30 working days) for 96% of internal campaigns excluding national boards (Internal)	100%	100%	75%	100%	100%	25%						
HR 03	Journey time from advert to successful applicant notification to be completed in 8 weeks (40 working days) of 96% external campaigns excluding national boards (inc. appointments from SG (external)	100%	100%	100%	100%	100%	100%						

ID	Key Performance Indicator	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Records Management/Central Printing													
RC/CP 01	NPU - 95% of case documents printed within 24 hours of receipt (excluding weekends and public holidays)	97%	96%	98%	97%	98%	99%	98%					
RC/CP 02	NPU - 95% of reply forms scanned within 24 hours of receipt (excluding weekends and public holidays)	98%	97%	99%	98%	97%	98%	99%					
RC/CP 03	NPU - 95% of service desk calls closed within 24 hours of assignment (excluding weekends and public holidays)	100%	100%	100%	100%	100%	100%	100%					
RC/CP 04	NPU - 90% of CKits printed, collated and ready for signature within 48 hours of receipt at print queue (signing dependent of resource from NICP and dispatch 3 weeks prior to court date)	97%	96%	98%	99%	98%	99%	98%					
RC/CP 05	NPU - 95% of reply forms scanned and sent to offices within 48 hours of receipt	98%	97%	98%	99%	97%	98%	97%					
S 01	Security incidents reported and acknowledged within 24 hours of receipt with initial advice and completely investigated within 4 weeks												
S 02	A minimum of 12 security visits to be undertaken each year in local offices												
Estates/Offices Services													
E/OM 02	Respond to Priority 1 office repairs within 2 hours of report on QFM; rectify faults within the same day if possible.	100.0%	100.0%	100.0%	100.0%	100.0%							
E/OM 03	Respond to Priority 2 office repairs within 6 hours of report on QFM; rectify faults within 5 working days.	90.9%	100.0%	97.0%	88.5%	96.6%							
E/OM 04	Respond to Priority 3 office repairs within 2 working days of report on QFM; rectify faults within 5 working days	100.0%	100.0%	95.0%	91.3%	93.8%							
E/OM 05*	Achieve annual sustainability target of reduction in KgCO2e by 2.5% per annum	N/A	N/A	N/A	N/A	N/A							
L&D													
LD1	Depute Accreditation – KPI of 80 % of deputs reaching accreditation at the 2 year stage	100%	100%	100%	100%	80%	80%	80%					
LD2	Induction – KPI of 90% of new staff undertaking Corporate Induction within 4 weeks of start date	100%	100%	90%	90%	90%	90%	90%					

ID	Key Performance Indicator	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
LD3	Trainees – KPI of 95% of Legal Trainees meeting the required standard of being a “fit and proper person to be a solicitor” on completion of their Traineeship	N/A	N/A	N/A	N/A	N/A	n/a	n/a					
LD4	MAAs - KPI of 90% MAs “on track” to complete MA programme	100%	100%	100%	100%	100%	100%	100%					
LD5	Course Withdrawals – KPI of 90% of applicants attending their booked training course	100%	100%	100%	100%	95%	95%	95%					
CC1	Achieve 9000 page views of Update blog per month (this represents a target 25% increase from 2019/20 average monthly views of 7,266)	9488	9658	12601	8997	6658	7379	8482					
CC2	Publish at least 10 stories per month on Update (linked to employee engagement objectives)	10	14	15	8	9	19	16					

** This is an annual figure and therefore will only feature in the March column when the target is known.*

¹ Service Desk Hours of Operation: 08:00 - 17:00hrs

² FOS/SOS-R/PROMIS

³ COPFS case management apps and internal information systems

EXECUTIVE BOARD

FUNCTION UPDATE: LOCAL COURT

Purpose

1. To provide the Executive Board with a short update on current performance and progress as we recover from the Covid-19 pandemic and look ahead to planned improvements and reform. Further details are provided in Annex A.

Priority

2. Routine.

Recommendation

3. The Executive Board is invited to note this report.

John Logue
Deputy Crown Agent
Local Court

November 2021

ANNEX A

1. Current Priorities

- Adopting Future Ways of Working (FWOW) as staff return to work in offices with the lifting of pandemic restrictions.
- Safe conclusion of the COP26 Conference.
- Preparing for the restart of the EPR summary reform pilots in Dundee, Hamilton and Paisley.
- Reduction of the pandemic backlog in the summary and solemn courts
- Business Planning for 2022-23.

2. Staffing

- We continue to recruit across all grades and all locations to ensure that we achieve and maintain our agreed staffing position of FTE of 1,117. We currently have over 130 vacancies but have 51 successful applicants going through pre-recruitment checks.
- We continue to struggle to attract the numbers of staff we require in existing locations given the current employment market, especially PFD's and junior managers. We are therefore adopting an agile approach to our recruitment and aligning that with our transformation programme in centralising a lot of what are current local tasks into virtual centralised teams. This will allow us to continue recruit the numbers we require, improve our service delivery, improve our processes and allow for more staff to take account of the Agile Working police (FWOW) as these virtual central teams would rotate with staff in offices allowing for greater use of the policy in our small and medium sized offices.

3. NICP

- Performance against the main KPI for 2020/21 (marking 75% of cases within 28 days of receipt) was 76%. The current performance this year is 71%.
- The number of unmarked cases as at 8 November was 15,328. This is within our KPI threshold of 5 weeks of reported cases.
- The work in progress has reduced in recent weeks due to our ability to temporarily transfer more staff into NICP as a consequence of the reduced court programme operating during COP26. This exercise has raised issues about case marking skills across Sheriffdoms and we intend at the conclusion of COP26 to re-evaluate how best to deploy prosecutors across Local Court to ensure that we have the requisite resilience in this core skill.

4. Solemn Casework

- Performance against the main solemn KPI (indicting 75% of cases within 8 months of first appearance) was 71% as at 17 October.
- The solemn workload has continued to increase as a result of a 14% increase in new petitions in 2020/21 compared with 2019/20 and the pandemic related closure of jury courts and delays in obtaining forensic evidence. The number of cases being prepared for indictment has increased by 77% since

ANNEX A

February 2020. The number of cases indicted to court but still to go to trial has increased by 166% since the beginning of the pandemic.

- Performance against the age profile KPI for cases being investigated (no more than 5% of the cases over 8 months old) is now at 17.4% due to the consequences of the pandemic. We have recently increased the number of investigative assistants in one sheriffdom to address particular age profile concerns and will consider what further steps are required to improve performance against this KPI.
- Sexual offences teams are working well in the preparation of cases for trial – performance exceeds the KPIs for initial decision making and we are seeing steady improvement in our reporting for indictment.
- Overall, our performance in respect of taking initial decisions in solemn level offending is strong - 86% within 28 days of receipt of report but the challenge is to progress this work with delays in obtaining cyber evidence presenting a particular concern.

5. Sheriff Summary Work

- Outstanding summary trials currently sitting just short of 40,323 which is a 142% increase on the February 2020 position.
- Domestic abuse journey time is well above the 10-week target in certain parts of the country due entirely to lockdown.

6. Information and Advice

- The backlog of cases has increased the number of cases in which we provide our information and advice service for victims and witnesses.
- Work is being undertaken to estimate the resource impact of introducing a right for children to have their evidence taken by commissioner in Sheriff and Jury trials.
- Work is also being undertaken to assess the resource impact of rolling out the High Court Victim Strategy to solemn sexual offences in Local Court following a pilot in Glasgow.
- Allocating additional victim information and advice resource to each Sheriffdom is an immediate priority following a recent recruitment exercise.

7. Conclusion

Local Court staff continue to attend offices and courts for essential duties on a rota basis. Local Court management remains in dialogue with SCTS about COVID safety measure in court. In respect of recovery, consideration is being given to additional steps which can be taken to address the backlog of outstanding trials.

John Logue
Deputy Crown Agent
Local Court

November 2021

EXECUTIVE BOARD FUNCTION UPDATE – SERIOUS CASEWORK

IMPACT OF COVID-19 ON HIGH COURT FUNCTION

Home Working

High Court staff are continuing to work from home where possible, with staff attending where necessary to complete essential tasks. The number of staff requiring to attend at offices continued to increase as the High Court escalated the return of the court programme, and will increase further with the introduction of four additional High Court trial courts with effect from 6 September 2021. Notwithstanding the public health restrictions, the High Court programme is continuing to run at full capacity. This has put pressure on our teams in terms of ensuring that all cases are fully prepared including the requirement that all productions are lodged and available for the court. The court will continue to use the remote jury centre model until at least 31 March 2022 and as such there remain limitations on the capability to deal with cases involving multiple accused and lengthy or complex trials.

The return of the High Court trial programme has been welcome, but a further plan was required to reduce the backlog of trials as the existing model was insufficient to dispose of all High Court trials pre-pandemic and under current circumstances each trial is expected to take longer than was previously the case especially when we start dealing more regularly with the multiple accused and complex cases. This in itself is placing an additional strain on the teams as the court is scheduling more trials than they can get through to take account of attrition as a result of the pandemic.

As I mentioned above, there have been four additional High Court trial courts with effect from 6 September 2021, which represents an increase of 25. This increase is necessary to address the growing backlog of trials and reduce overall journey times of High Court trials but it is challenging from a resourcing and process perspective. Further, the additional courts will also be utilising the remote jury centre model and will not improve the position in relation to multiple accused trials.

Whilst the staff responded incredibly well to the challenge of adapting to home working initially, we have seen a downturn in performance post-pandemic. Whilst there have been a number of contributory factors to that downturn in performance, the challenge of adjusting to home working is undoubtedly a factor. We are continuing to identify process improvements to support our staff in an effort to enable them to maintain the high levels of productivity required whilst working from home. We also continue to see signs of the personal impact that home working is having on some members of staff's well-being. This appears to be a combination of the impact of working from home, an ever-increasing workload at present due to high levels of new cases and lower levels of disposals. We have reminded our managers of the challenges some of our staff face and have had a series of virtual meetings with all our teams across the country where wellbeing has been a central theme.

Insofar as possible we have endeavoured to maintain "business as usual" in our High Court preparation work. As such, notwithstanding that the emergency Serious Casework (High Court) EB update November 2021

legislation provided a 6-month suspension of timebars, we continued to try to report and indict cases within existing time limits and target reporting dates. That has been largely successful but the reduced throughput of work has inevitably led to an increasing number of cases where we have not been able to indict within pre-coronavirus timebars. We are monitoring these cases closely to ensure that we will be able to cope with the additional workload when the suspension of timebar is no longer in place. The extension of the legislation until 31 March 2022, with the possibility of a further extension until 30 September 2022, will be helpful in our planning in this regard, but we need to plan for the fact that at some point we will need transition to cases in which the suspension will not apply.

• New Petitions

The volume of new High Court business has continued to increase year on year during the three financial years prior to 2020/21, rising by 46% over that period. The number of new petitions in the financial year 2020/21 decreased by 20 cases (2%) compared to the previous year. Whilst the reduction was welcome it is Homicide and Road Traffic Fatalities where there was a reduction, which are the areas of our business which are ordinarily most prone to fluctuations in the level of business. I am also reluctant to read too much into the apparent levelling in the volume of business last year in the context of changed public behaviours as a result of public Health restrictions.

I attach for information a table which sets out the volume of new High Court petitions for the first 6 months of the current financial year.

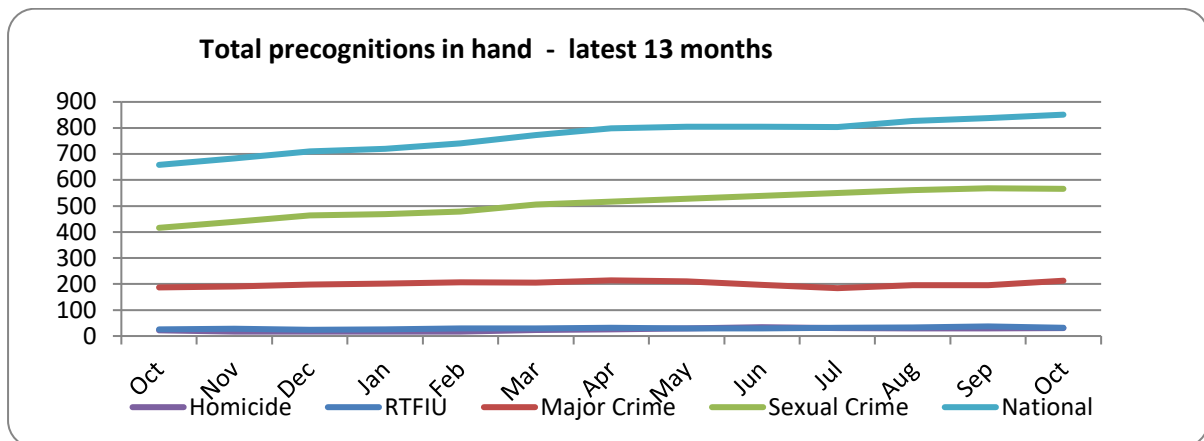
Discipline	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total number of cases
Homicide	6	8	5	7	4	7							37
RTFIU	3	2	1	7	4	3							20
Major Crime	36	33	16	25	38	41							189
Sexual Crime	63	61	58	53	58	45							338
Total High Court new petitions	108	104	80	92	104	96							584

Base on the input figures to date, number of new petitions has decreased across High Court by 6% compared to last year with reductions in both Sexual Offences (8%) and Major Crime (10%), but rises in Homicide (35%) and RTFIU (11%). Whilst a reduction in new business is welcome I remain cautious about reading too much into this projection at this stage as there has been no discernible pattern to the figures over the last 18 months. We will continue to monitor the input figures closely in coming months.

• Precognition Work in Progress

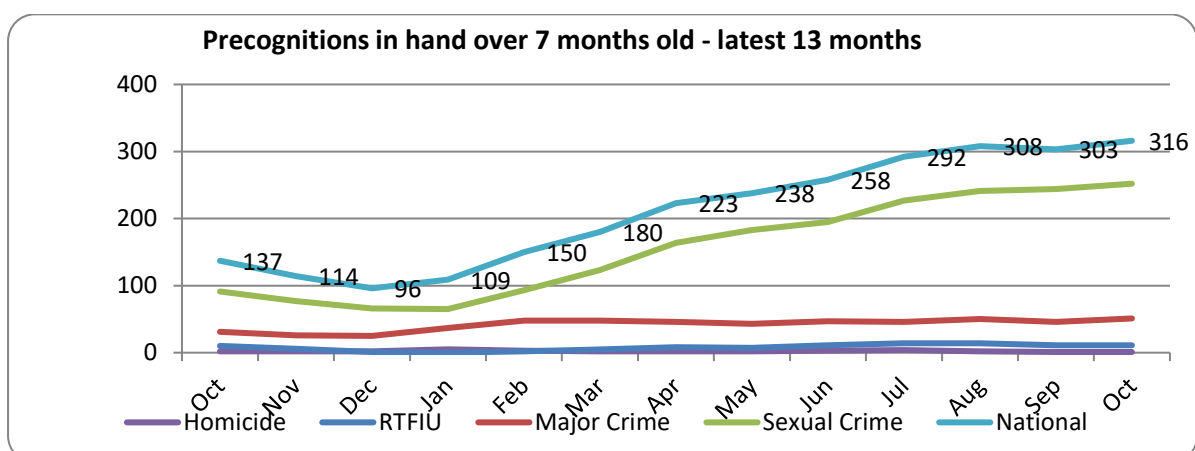
Precognition Work in Progress ("PWIP") is the phrase we use to describe cases in which the accused has appeared on petition or in which Crown Counsel have instructed a pre-petition investigation but which have not yet been reported for Crown Counsel's instructions. The PWIP table from the most recent National High Court Healthcheck document is reproduced here for ease of reference.

Serious Casework (High Court) EB update November 2021



The current PWIP (as of 17 October 2021) of 851 cases is an increase of 193 cases (29%) compared to October last year. Whilst we had been making progress in reducing PWIP in the early part of 2020, with reductions in each of our disciplines, there has been an upturn in PWIP cases since June 2020 which broadly coincided with an increase in new petitions at that time and a reduction in the throughput of work post-pandemic. This also reflects the increasing pressures on our case preparation teams due to the increasing number of High Court cases (see below for data on increase in High Court business). On a positive note the increase in PWIP appears to be levelling off somewhat in recent months with relatively modest rises. However, we shall continue to strive to reduce this workload as we work towards earlier service of indictments in all High Court cases and in looking at alternative ways to manage the post-indictment workload.

The following chart shows the age profile of our PWIP from the date of first appearance on petition. This is another area where we had been making good progress last year but in which there has been a sharp increase since December 2020. The current figure of 316 such cases represents an increase of 179 cases (131%) compared to the same time last year. We continue to monitor the progress of these older cases. This also to some extent reflects the impact on reporting of the spike in new petitions during summer 2020 and the reduction in the numbers of cases reported and indicted.



- **Indicted awaiting trial**

This category includes all cases in which we have served a High Court indictment but in which a trial has not started or a plea of guilty has not been tendered. It should be borne in mind that SCTS employ a different methodology in calculating the volume of outstanding trials, but the trends should be similar.

The volume of business in this category was of significant concern prior to the coronavirus situation, and even more so now that we have a larger backlog of trial post-pandemic. There has been a clear and obvious upward trend in this area of our business which has increased from a low point of 279 cases in August 2017 to 563 cases as of 15 March 2020 (i.e. the week prior to the suspension of trials), an increase of 102% in a little over 2 and a half years. That figure has now risen to 837 as of 30 September 2021. This represents an increase of 200% since August 2017 and increase of 49% from the 563 cases immediately prior to the suspension of trials.

The current figure of 837 such cases indicted awaiting trial is considered to be artificially low for two reasons. Firstly, the court has until relatively recently only been dealing with the more straightforward cases and not the lengthy, complex, and multiple accused cases which tend to take up significant court time and as a result delay the throughput of other trials. Secondly, due to resourcing and other issues in our reporting and indicting teams we have been reporting and indicting fewer cases than normal in recent months so there are a growing number of cases waiting to be reported and indicted which will add to this figure when we improve our throughput of work.

On 6 September 2021 The High Court programme was altered to increase the number of High Court trial courts sitting each day from 16 to 20. Whilst the increase in the High Court trial programme is welcome, it remains to be seen whether it will reduce the backlog of trials. The 16-court model was insufficient to dispose of all High Court trials pre-pandemic and under current circumstances (i.e. remote jury centre) each trial is expected to take slightly longer than was previously the case having regard to the first day of each trial being taken up entirely with remote balloting of the jury.

- **Total High Court Caseload**

The total High Court caseload reflects the total number of cases in which the accused has appeared on petition in a case which has been identified as a High Court case, including those cases which are indicted awaiting trial, but which have not yet reached a verdict.

The following table shows the increase in the total High Court caseload since the pandemic. The comparison is between our most recent data as of 30 September 2021 and the position at around the time when lockdown measures were introduced as of 1 April 2020.

Team	Total Post Petition Caseload 30/09/21	Total Post Petition Caseload 01/04/20	Additional number of cases	Percentage increase
Homicide	95	66	29	44%
RTFIU	69	39	30	43%
Major Crime	480	323	157	49%
Sexual Crime	1290	823	467	57%
Total	1934	1251	683	55%

Whilst our teams initially responded particularly well to the new environment and processes required as a result of the pandemic, the throughput of our work has reduced over the course of the 18 months or so since lockdown. In particular our case preparation teams reported 20% fewer cases for Crown Counsel's instructions and we have served indictments in 21% fewer cases in the last financial year (2020/21) compared to the previous one (2019/20). In the current financial year that throughput has dropped further in both the number of cases reported (down 9% on last year) and indicted (down 16%).

It is on this basis that the current number of cases indicted awaiting trial, although significantly higher than we would want it to be, is considered to be artificially low.

There are a number of factors contributing to the downturns in output including the adjustment to the challenges of home working and most notably the additional work required in managing the increased number of cases that are indicted awaiting trial. Urgent work is underway to review all of our processes to identify efficiencies, including digital solutions, which may assist our recovery plans, with a particular focus on identifying potential new processes for managing the indicted caseload with a view to freeing up capacity for case preparers to focus more time to the earlier cases. We are also in the process of reviewing and reprioritising our High Court Improvement Plan which is necessary to reflect the changing nature of how we do our work following the pandemic. We are also working actively to fill existing and additional budgeted vacancies across all grades and roles through external recruitment and managed moves.

Kenny Donnelly
PF High Court
11 November 2021

REPORT FROM SPECIALIST CASEWORK FOR EXECUTIVE BOARD MEETING**1. Serious and Organised Crime Unit**

The unit covers a diverse range of work including Serious and Organised Crime; Counter Terrorism; Major Economic Crime; Money Laundering; Solicitors cases; Election offences; Bribery and Corruption and Miscellaneous specialist casework. All significant SOCU cases are intimated to PCC and HCU to allow early allocation of ADs and to provide an oversight of cases within the unit. This has dovetailed with the Practice Note relating to Lengthy and Complex criminal trials in the High Court. Of the **98** live SOCU cases (spanning 120 SPRS), there are currently **21** operations (comprising **31** SPRs) on the lengthy and complex case list.

There have been **70** upon-conviction Serious Crime Prevention Orders (SCPOs) granted in Scotland, chiefly for SOC cases and **1** 'stand-alone' SCPO.

There are now **20** live SCPO orders (including 4 granted in England) and **5** cases relating to breach of SCPOs (three for the same accused). 3 cases relate to the same accused and the accused has now been indicted on several charges of breaching his SCPO, with a First Diet scheduled for 16.11.21 at Tain Sheriff Court. A 4th case, involving a different accused, is being prepared within SOCU as a likely Sheriff and Jury case. A 5th case is currently being considered.

There have been **8** Trafficking and Exploitation Prevention Orders (TEPOs) granted in Scotland to date.

i) Notable Convictions

*Details of notable convictions are contained in the **Annex** to this report.*

ii) Ongoing cases:

SOCU continues to work on a significant number of live cases:

- **34** cases (spanning **43** SPRs) are being prepared as pre-petition
- **33** cases (spanning **36** SPRs) where the accused have appeared on petition
- **1** case (spanning **1** SPRs) where a petition invite has been arranged
- **1** case (spanning **1** SPRs) where a petition warrant is out for execution and **1** case (spanning **1** SPR) where a petition warrant has been granted but not yet executed pending the outcome of an associated case
- **1** case (spanning **1** SPRs) where a marking decision is pending
- **18** cases (spanning **28** SPRs) have been indicted for High Court proceedings
- **10** cases (spanning **10** SPRs) have been indicted for Sheriff and Jury proceedings, **9** of which will be prosecuted by SOCU depute
- **1** summary case (spanning **1** SPR) with a deferred sentence fixed for 15.11.21

Additionally, the Unit has oversight of **27** large/complex cases being worked on by reporting agencies and not yet formally reported to COPFS.

Report from Specialist Casework for Executive Board Meeting in November 2021

SOCU is also providing SLM and case preparer assistance to MCT in relation to a petition case where further charges were added to the indictment arising out of Venetic material.

Details of the ongoing noteworthy cases are contained in the Annex to this report.

iii) Sheriff & Jury prosecutions

the Unit currently has **10** cases indicted for Sheriff and Jury proceedings, and a further **9** on petition where Sheriff & Jury proceedings are anticipated. Many are long and complex cases, and they are spread across the country. SOCU trial deputes have been assigned to most of them. The Local Court function is also providing a depute to conduct a trial at Inverness where the case is not particularly long or complex.

iv) Other Matters of Interest:

Expedited Referrals –To date, **5** applications from Police Scotland and **1** application from DWP have been considered and referred to the CRU. SOCU recently contributed to joint training for Police Scotland, with CRU, to raise awareness of the new processes in place for Expedited Referrals. It is anticipated that this will lead to an increase in referrals.

Independent Reviewer of Terrorism Legislation – in 2020, SOCU provided input to the 2019 annual report by the Independent Reviewer of Terrorism Legislation (IRTL), Jonathan Hall QC. The report was published in March 2020 and included a chapter on the position in Scotland. The IRTL recommended that the Lord Advocate issues a Code of Practice, under the Criminal Justice (Scotland) Act 2016, on the detention of individuals under s41 and Schedule 8 of the Terrorism Act 2000. The LA confirmed that he accepted this recommendation and instructed that work commence to draft the code of practice. SOCU is now leading a multi-agency Short-Life Working Group to produce the code of practice and it is anticipated the Code of Practice will be published in late-2021. SOCU is also now liaising with the IRTL regarding the forthcoming 2020 annual report, which is being drafted.

2. Proceeds of Crime Unit (POCU)

i) Confiscation and restraint

In the financial year 1.4.2020 to 31.3.2021, 130 confiscation orders were secured to a total value of £1, 603,971.09. In the 21/22 financial year to 3.11.2021, 121 orders totalling £3,071,815.24 have been secured.

In the financial year 1.4.20 to 31.3.21 a total of 24 restraints were secured totalling £2,477,410.96. In the current 21/22 year to date, 8 restraint orders have been obtained restraining £1,257,557.76 of assets. Temporary restraint by moratorium extension has been secured on 67 occasions suspending access to assets of £9,444,815.99 pending further investigation with a view to full restraint.

Report from Specialist Casework for Executive Board Meeting in November 2021

ii) Operational casework

Details of operational casework are contained in the Annex to this report

iii) Additional Applications

Applications for extensions continue to be made in Glasgow, Edinburgh, Aberdeen and Dumbarton. Deputes are increasingly, being required to attend courts to cover hearings with others being dealt with successfully by Webex or phone.

iv) Notable cases

Details of notable cases are contained in the Annex to this report

v) Impact of Covid19

All staff are working from home when able to do so with a member of admin staff attending the POCU unit on a regular basis.

Cases are now routinely calling in court and deutes are attending courts as and when required to do so. Confiscation work is currently considered by SCTS to be of the same importance as solemn work, irrespective of the forum used for the predicate case and proof hearings are being fixed and are being conducted by deutes as required.

3. Appeals

i) Courts

All conviction and sentence appeals for High Court and Sheriff Appeal Court continue to proceed by WebEx platform but with reduced capacity per court given the special technical arrangements required for virtual hearings. Staff continue to submit written submissions and other documents electronically.

ii) Notable cases and forthcoming issues

The details of notable cases and forthcoming issues are contained in the Annex to this report

iii) Impact of Covid19

All staff continue to work from home. Hard copy mail is checked on a regular basis by a member of staff attending once a week at the unit. The system continues to work well.

4. International Cooperation Unit (ICU)

i) Brexit

The Trade and Cooperation Agreement (TCA) was ratified by the European Parliament on 27.4.21. Whilst the TCA was meant to have direct effect in EU

Report from Specialist Casework for Executive Board Meeting in November 2021

Member States from 1.1.21, there remained issues with Netherlands and Portugal who required domestic legislative changes to bring aspects of the TCA into effect. In respect of Netherlands, on 13.7.21, the Dutch Senate passed legislation to allow extradition cooperation to resume with UK. In respect of Portugal, Baroness Williams has now had an assurance from the Portuguese Minister for Justice that Portugal would pass required legislation, to allow extradition cooperation on UK warrants to resume. It was anticipated that this would have been resolved by end of September 2021 but there has been delay to this timescale. Domestic legislation in Portugal is not yet in place and it is understood that an imminent General election will further delay parliamentary passage of any such legislation. There are no current intelligence links to Portugal in respect of fugitives from Scotland but this is being closely monitored given historic OCG footprints there and the relaxation of travel restrictions. There is also an outstanding issue with Ireland. In July 2021 the Irish Supreme Court made a reference to the Court of Justice of Europe (CJEU) to ascertain, as a consequence of there having been no "opt-in" by Ireland to the EAW system, to what extent either or both the Withdrawal Agreement and the TCA can bind Ireland. The CJEU will consider whether the TCA provides for the continuance of the EAW regime in respect of the UK after the transition period. Meantime both outgoing and incoming extradition cases to Ireland have been deferred while awaiting an outcome of the reference to CJEU. It is understood that the Advocate General, appointed by the CJEU to consider the matter, will issue an initial opinion on 9.11.21.

The first meeting of the Specialised Committee on Law Enforcement and Judicial Cooperation, which will be the body overseeing implementation of the TCA and resolution of issues arising, was held on 19.10.21. Scottish interests were represented by Head of the Justice EU Unit, Scottish Government. The agenda included review of TCA implementation to date and aspects of work that had been mandated under the TCA, including consideration of the EU-UK MLA template form (that in, due course will require sign off by the Specialised Committee), the ex-ante evaluation of the use of PRUM by the UK and the arrangements for UK access to Passenger Name Records (PNR). The meeting also involved a forward look to future meeting agendas. The Head of Justice EU Unit, SG provided an update confirming that the meeting was positive and constructive and that no significant matters of contention arose. Further work has been commissioned with regards finalising the EU-UK MLA template form prior to approval and use.

Nationality Bar

Ten countries (Croatia, Finland, France, Germany, Greece, Latvia, Poland, Slovakia, Slovenia, Sweden) have declared an absolute nationality bar with Czechia and Austria confirming they will only extradite their nationals if the requested person consents to extradition which, in essence, is tantamount to an absolute bar. Belgium, Ireland, Spain and Italy have declared no bar to surrender. The remaining eleven have asserted conditional bars, a combination of reciprocity and return to serve any sentence. However, Portugal have also imposed a high offence threshold confirming that they will only extradite for offences of terrorism or serious organised crime.

Report from Specialist Casework for Executive Board Meeting in November 2021

A few cases domestic involving extradition requests for Polish nationals have already been adversely impacted.

The details of cases impacted by the nationality bar issue are contained in the Annex to this report.

Poland has now initiated the process to amend their domestic legislation to enable the extradition of own nationals, albeit the legislative timeframe remains unclear. The Home Office have a meeting with Poland in November 2021 in the hope of obtaining an update on implementation/likely timescales. It is likely a conditional bar will replace the current absolute bar.

Separately Home Office continue to work with the Polish Ministry of Justice to finalise a draft MoU on Cooperation in Criminal Matters covering extradition, mutual legal assistance, criminal records exchange and transfer of sentenced persons to complement the TCA and better support effective bilateral cooperation. The Head of ICU has contributed to the draft MoU which contains a joint commitment to resolve the surrender of Polish nationals to the UK.

There is an issue with Czechia whereby, following application of the Czechian nationality bar, it is anticipated that the UK will routinely seek to consider transfer of proceedings to Czechia. However, Czechia are refusing to take transfer of proceedings, citing the UK's reservation on Art 21 of the Convention on MLA in Criminal Matters as being the reason.

Ministerial engagement continues with Latvia, Greece and Croatia to make representations that they too should consider legislative amendments to remove the bar to extradition of own nationals (as these three countries unexpectedly introduced nationality bar under TCA). No substantive progress to date.

The following contingency measures are in progress:

- The former Head of ICU worked closely with the CPS on the comprehensive list of questions on domestic law, procedure and provision of support for victims and witnesses, for EUMS who have notified a nationality bar, to inform decision making around potential transfer of proceedings in individual cases. Completed readouts are still awaited for France, Greece and Germany but these are anticipated shortly. ICU is in the process of translating of all the country information captured in a standardised table for each country for ease of reference in decision making.
- ICU is working with PSoS to update intelligence for all outstanding warrants impacted by these notifications, with meetings occurring regularly.
- ICU received a capture from MIU of all indicted cases where the case data records the nationality of the accused. Unfortunately, nationality is not recorded in all cases and work is being undertaken with PSoS to explore whether they can provide better MI.
- The former Head of ICU had been in discussion with Policy/DCA about recommendations on whether the bail manual requires to be amended to

Report from Specialist Casework for Executive Board Meeting in November 2021

highlight nationality bar considerations and ensure special conditions of bail are sought on first appearance in appropriate cases. The former Head of ICU has drafted a revised paragraph for DCA SCG and the Deputy Head of Policy for consideration in advance of Bail Manual revision proposals being sent to SET. The CPS have recently updated their bail guidance along similar lines to the revision proposed.

- ICU has captured historical surrender data from EU countries from 2018 onwards to provide a comparative analysis of the anticipated number of cases that may be now impacted. An updated comparative analysis of pre and post Brexit trends for MLA and extradition cases has now been undertaken but it is still too early to determine any definite trends given the relatively short period since Brexit and the fact that the data will have been skewed by a lack of international travel for a significant period over the last year due to Covid restrictions.
- The former Head of ICU liaised with Deputy Head of Policy concerning the need to develop policy and guidance on consideration of transfer of proceedings. The former Head of ICU has produced a draft for consideration by the Deputy Head of Policy. The draft contains the full history and legal position regarding nationality bar and transfer of proceedings and the recommended process for, and approach to, decision making. The draft will be submitted to SET/Law Officers for consideration.
- The International Victim Strategy Subgroup has now finalised, revised process guidance, templates letters, and a VIA script for dealing with nationality bar/transfer of proceedings cases. This will be published on PF Eye shortly. ICU delivered inputs to both the High Court and Local Court VIA workshops and High Court and Local Court International VIA SPOCs are now in place to provide support and guidance on international cases.

Data Adequacy Decision on the Law Enforcement Directive

The Law Enforcement Directive (LED) data adequacy decision is now ratified. The UK issued a Ministerial Statement on 1.7.21 welcoming the decision.

ICU is represented at the Data Protection Law Enforcement Group which relates to the UKG's plan to reform the DPA 2018. A specific concern for ICU will be to ensure that any proposed reform is likely to maintain consistency with compliance with EU data adequacy standards.

PRUM ex ante evaluation

The TCA allows for exchange of data between the EU and UK via PRUM automated data exchange process (DNA, fingerprints and Vehicle registration data) subject to the UK meeting certain technical and procedural specifications as laid down by TCA. A relevant Working Group of the Council of the European Union will take into account the results of certain evaluation procedures in assessing UK compliance.

International Criminality Cooperation Board (ICCB)

The Home Office led Internal Security Delivery Board (ISDB) has been replaced by ICCB with the broader scope of strategic oversight of the UK's approach to international law enforcement and criminal justice cooperation. There is

Report from Specialist Casework for Executive Board Meeting in November 2021

restricted operational representation on the Board but the Head of ICU is a member. A meeting took place on 14.10.21 and the next meeting is scheduled for 4.11.21.

Visit to Crown Office by the US Attaché to the UK

The new incoming US Attaché to the UK visited Crown Office on 16.9.21 (along with the outgoing Attaché and the Head of US Extradition in Europe). The US visitors met with the Head of ICU, the Head of Extradition and the Head of MLA and inputs were delivered by the Head of International for PSoS, the Scottish Government representative in Brussels and the Lockerbie Team. The visitors also met with the Law Officers. The meeting was positive: the visitors were extremely complimentary of the service provided by ICU, Crown Office and a range of issues were discussed, including the future direction of the Lockerbie investigation and the operation of the recently commenced forum bar provisions in Scotland (and the likely impact on future US extradition requests).

Visit to Crown Office by lawyers from the Liaison Judge Service, French Embassy

French in-country liaison lawyers based at the French Embassy, London will visit Crown Office on 20.11.21 to meet with members of the ICU. The Head of ICU, Head of Extradition and Head of MLA will all attend the meeting. It is anticipated that, following relaxation of the Covid restrictions and a return to international travel, there will be many similar requests for resumption of liaison meetings in the coming months.

Ministerial Deep Dive on Post Brexit Impact

A ministerial deep dive meeting on Brexit with Scottish Government, COPFS and PSoS officials has been for later in 2021/early 2022. There have been 2 previous deep dive meetings and these have been attended by the Law Officers, CA, a range of Scottish Government ministers and ACC Campbell. The Head of ICU has provided updated briefing to Head of EU Justice, Scottish Government in preparation for the meeting. This briefing included a range of statistics and this can be updated in advance of any rescheduled meeting.

ii) Extradition

Since the beginning of January 2021, ICU have received 62 new extradition requests of which 54 were from EUMS and 8 rest of world. 34 arrests have been made since 1.1.21: 25 on retained EAWs, 7 on new TACA warrants, and 2 on part 2 warrants. There has only been one arrest thus far in October 2021. 11 incoming TACA warrants have been received to date. There have been 19 surrenders made from Scotland, 17 on legacy EAWs and 2 on TACA warrants.

Since January 2021, 22 requests have been received from operational teams. Of the requests received, 17 accused are thought to be in EUMS and 2 rest of world, with the remaining 3 being unclear at present.

To date the Unit has issued 9 TACA warrants. There have been arrests on 3 out of these 9 thus far. 13 arrests abroad have been made since 1st January 2021 (10 EAW, 3 TACA) and 14 returned to Scotland to face trial (including returns arising from arrests prior to 2021). There are 12 cases with ongoing proceedings in foreign courts, 5 of which derive from arrests this year.

High Profile Extradition casework

Report from Specialist Casework for Executive Board Meeting in November 2021

Details of the high profile extradition cases are contained in the Annex to this report.

iii) Mutual Legal Assistance

Since January 2021, ICU has received 346 requests for assistance from other jurisdictions ("Incomings"), of which 282 were from EU Member States and 64 from rest of world.

ICU has received 193 requests for assistance in obtaining evidence abroad from operational teams ("Outgoings") and have issued 107 requests, of which 44 were to the EU and 63 to rest of world.

Compared to the first half of 2021, the level of new cases arriving with ICU has fallen away significantly. Because of the volume received at the beginning of the year, this will still be one of the busiest on record. Outgoings are still on track to surpass the historical peak in 2013; Incomings in aggregate will be of a similar level to 2020. Recent changes in legislation on extra-territoriality are expected to inflate the MLA caseload in future, but the impact of this change has not yet manifested. There continues to be a much higher number of outgoing TV link requests compared to pre-pandemic figures.

The Eurojust trainee continues to be located in the Hague.

High Profile MLA casework

Details of the high profile MLA cases are contained in the Annex to this report.

5. Criminal Allegations Against the Police Division (CAAPD)

All CAAPD staff continue to routinely work from home.

The key CAAPD target is to complete investigation of complaints of criminal conduct by police officers and advise complainer of the outcome within 6 months of the report to the Procurator Fiscal in at least 75% of cases. In October 2021, 88% of CAAPD cases were completed within 6 months of receipt.

A small number of virtual meetings with CAAPD complainers are now also taking place via Microsoft Teams; with complainers joining meetings as an external invitee.

CAAPD is liaising with Serious Casework Group business managers to inform development of the ongoing FWOW project.

i) Professional Standards Department (PSD) and Police Information & Review Commissioner (PIRC)

Both Police Scotland PSD and PIRC maintain an effective service to CAAPD despite the covid restrictions.

CAAPD continues to receive a steady number of referrals each month.

Report from Specialist Casework for Executive Board Meeting in November 2021

It is understood that both organisations are working flexibly with personnel routinely working from home but also attending at places of business, from time to time, as the need arises.

Bespoke arrangements have been put in place with PSD/PIRC for the receipt and lodging by CAAPD of copy productions/case related material.

Effective communication has been maintained with the regular liaison meetings still taking place by MS Teams.

ii) Casework Highlights

Details of cases are contained in the Annex to this report

Update

iii) Other matters of interest

CAAPD continues to be significantly involved in the further consideration, and implementation, of many of the recommendations of Dame Elish's Report in order to ensure that any changes to the system of investigation of criminal complaints made against on duty police officers continues to take account of the Crown's central role in the process and the constitutional position of the Lord Advocate.

The Head of CAAPD continues to explore the implications arising from Dame Elish's recommendations and has been involved in discussions in respect of suitable arrangements for governance, reporting on progress, categorisation/prioritisation and next steps. She continues to represent COPFS at the monthly Practitioners Working Group (PWG) meeting.

The unit remains involved in the ongoing triage of "excessive force" complaints, categorised by the police as 'non-criminal', to provide reassurance that all cases involving an inference of criminality are being reported to CAAPD.

A COPFS audit of all assault/excessive force categorised complaints received by PSD took place during August 2021. The audit considered all assault and excessive force allegations received by Police Scotland during August 2021 in order to assess (1) whether the PSD categorisation of the complaint as either assault or excessive force was the correct categorisation and (2) whether the proposal for the subsequent investigation of the complaint was the most appropriate investigative option. In 54 out of 55 complaints CAAPD considered that the initial PSD categorisation of the complaint had been correct and that in respect of all complaints CAAPD agreed with the PSD recommendation for how the complaint should be subsequently investigated (while in a small number of cases issuing additional specific instruction). In the one case where CAAPD issued an instruction for the complaint to be dealt with as assault was based on a cautious approach of the evidence, and is subject to review once additional details had been obtained from the complainer.

Finally, HM Inspectorate of Prosecution in Scotland published their Inspection of the Management by COPFS of criminal allegations against the police on 9 September 2021.

Report from Specialist Casework for Executive Board Meeting in November 2021

In summary, the HMIPS made eighteen recommendations relating to the work of COPFS/CAAPD centring around complainer engagement, internal and external guidance, information management, procedures and processes and expert witnesses. Despite the recommendations made, HMIPS concluded that whilst improvements could be made, the quality of decision making by CAAPD, and more widely COPFS, is good and the public should be reassured by the robust scrutiny which is applied to on duty criminal allegations against the police.

Advice has been provided to the Law Officer's following publication. CAAPD will now commence working on a formal COPFS response to the report.

6. Scottish Fatalities Investigation Unit (SFIU)

i) Staffing

There are currently 5 roles in SFIU that are being filled by TRS. A temporary admin Team has been established to process final post-mortem reports. The team lead is managing a team of agency staff who joined the team in November 2021.

ii) New Deaths

Details of the total numbers of deaths received as at 31 October 2021 can be found in the table below.

SFIU WEEKLY SNAPSHOT OF WORKLOAD / PERFORMANCE
Full Reporting Year 2019/2020 – 10,896 Full Reporting Year 2020/2021 – 15,712 April 2021 – 1340 May 2021 – 1335 June 2021 – 1364 July 2021 – 1242 August 2021 – 1163 September 2021 – 1341 October 2021 - 1215 Reporting Year to Date from 01 April 2021 – 9001

iii) Active Death Investigations

As at 11 October 2021, there were **9039** active death investigations across COPFS. This is up from **8727** the previous month.

iv) Fatal Accident Inquiries

SFIU continue to progress all ongoing death investigations including mandatory and discretionary fatal accident inquiries.

As at 1 November 2021:

- There were 31 FAIs (27 mandatory and 4 discretionary) with scheduled court dates.

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There is ongoing liaison with SCTS following the direction of the Lord President that all FAI hearings will be heard remotely until further notice. This has been very successful and we continue to closely monitor.

There has been in a recent increase in the number of cases where Crown Counsel has instructed discretionary FAIs, both in cases where a discretionary FAI was recommended in the report to Crown Office and, for 3 cases, where it was recommended that the circumstances did not engage the threshold for a discretionary FAI.

v) SFIU Continuous Improvement

Progress has been made on many of the workstreams. Guidance was recently issued in relation to Deaths of Foreign Nationals, Initial Death Investigation – post-mortem and toxicological examinations, Body Release, Jurisdiction, Article 2 and Deaths in Legal Custody.

During COP 26 SFIU is providing an on-call service. A comprehensive guidance pack has been produced and a training presentation was delivered to support staff who are undertaking this role.

SFIU has provided a number of recent briefings for the Law Officers in relation to FAIs, deaths in custody and organ retention.

vi) Pathology

Post Mortem Reports

There are no longer delays in the part of GU toxicology and with the exception of NHS Lothian, pathology service providers are clearing their backlogs of cases. There is now a large volume of cases which require to be cleared by March 2022. A new temporary admin team is now in place to process post-mortem reports and overtime has been made available to legal staff to mark - post mortem reports.

As at 28.10.21, there were **1941** PM reports with SFIU to process.

The Unit has engaged with NRS and have reached agreement as regards regular monthly meetings and reconciliation of data in relation to the 2021 deaths. These arrangements will take place from October 2021- April 2022. This will allow for COPFS and NRS to discuss progress and identify any issues at an early stage.

vii) Case Management Panels

As at 3.11.21, there were **83** cases over 2 years old and **73** deaths in custody..

viii) Death Investigations

All high-profile death investigations have been added to the LOB. This includes all cases over 5 years old and deaths for which Crown Counsel has instructed that there should be a discretionary FAI.

There has been a series of ministerial correspondence and Parliamentary Questions from a number of MSPs on the themes of:

- time taken to conclude FAI inquiries,
- the number of outstanding toxicology reports,
- toxicology backlogs, the time taken to conclude analyses and the measures to improve throughput.

Report from Specialist Casework for Executive Board Meeting in November 2021

Details of sensitive casework are contained in the Annex to this report .

7. COVID Deaths Investigation Team (CDIT)

i) Case load

COVID DEATHS INVESTIGATION TEAM STATS								
Stats as at Mon 01 November 2021		New Care Home Deaths	New Worker Deaths	Retrospective Care Home Deaths (pre 21/05/2020)	Retrospective Worker Deaths (pre 21/05/2020)	Deaths in Custody	Other Deaths	Total
	Overall total number of deaths now with the COVID Team	1893 (up from 1862 last week)	20 (same as last week)	1701 (up from 1686 last week)	10 (same as last week)	10 (same as last week)	880 (up from 869 last week)	4514 (up from 4457 last week)

CDIT is working closely with Police Scotland to receive sudden death reports and care home briefing papers in respect of all deaths pre and post 21 May 2020. Latest figures from Police Scotland (as at 29.10.21) in relation to care home resident deaths indicate there have been **3857** resident Covid deaths over **521** care homes.

The Team has now received a total of **3204** sudden death reports from the police (**129** relate to "other" Hospital acquired deaths) and **401** briefing papers (we will eventually get 1 for each care home).

In addition to the reports already received, we have been requesting death reports in respect of all the retrospective care home resident and worker deaths.

In total we have **322** complete packages in respect of care home deaths, where we have all of the individual death reports and the associated briefing paper. Around **172** packages have been allocated out to the team to review (with a total of **1615** care home deaths included in those allocations). A further **28** out of **30** worker deaths have been allocated and all **10** death in custody cases have been allocated to the team to review.

Four cases have been reported for CCI.

Minutes for the Law Officers' consideration have been submitted seeking clarification in respect of the investigative strategy and hospital deaths.

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8. Health and Safety Investigation Unit (HSIU)

HSIU oversees all health and safety related investigations, including deaths, and leads the investigation and prosecution of health and safety cases (including Corporate Homicide) across Scotland. The Unit works closely with dedicated Senior Crown Counsel.

The Unit conducts all health and safety prosecutions in Scotland and is also responsible for the preparation and conduct of Fatal Accident Inquiries arising from an accident in the course of employment or at a workplace which are deemed to require specialist input.

There are currently 170 live reported cases and 49 death cases under investigation but not yet reported being considered and directed by HSIU. These include complicated multiple accused health and safety cases.

HSIU is currently engaged with police and reporting agencies for death, injured party or regulatory cases, providing advice and input on 15 cases.

The number of unallocated cases currently sits at 39. Principal Depute work to allocate cases is on-going.

The CMP process continues to expedite cases more than 2 years old. There are currently 79 cases for CMP (59 involving a fatality, 20 with injured parties or regulatory offences).

i) Staffing

There are legal and administrative staff vacancies within the Unit.

ii) Casework Highlights

HSIU is continuing to report cases for CCI, agree pleas and identify dates for court. First notices are being prepared and Deputes are liaising with SCTS to progress cases for FAIs. HSIU is engaging with SCTS to progress FAIs, including use of WebEx.

iii) HSIU Fatal Accident Inquiries

Pending (no First Notice lodged) – 30

Pending (cases where we expected to lodge First Notice by 31.12.21) – 8 (1 draft notice with Court)

Scheduled Dates – 5

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19 Aug 2021 CPH Stornoway w/c Mon 06 Sept & w/c Mon 13 Sept FAI Court 2, Court of Session (parties are to discuss and identify dates for the remaining 2 weeks and let Sheriff Principal Pyle know)	SW16000128/SW16000129 SW16000157 Martin Johnstone, Christopher Morrison & Paul Alliston (The Louisa) (WebEx) (DoD: 09 April 2016)
25 Aug 2021 CPH Aberdeen w/c Mon 15 Nov & Mon 22 Nov FAI Aberdeen	AB14002298 George Bartlett (CPH WebEx, FAI TBC likely to be WebEx) (DoD: 27 February 2014)
24 Sep 2021 Submissions Hearing Oban	DU18000152/DU18000153 Duncan MacDougall & Prezemek Krawczyk (The Nancy Glen) (in court) (Found dead: 13 May 2018)
Wed 06-Thu 07 Oct (reserving Wed 13 Oct) 2021 FAI Aberdeen Wed 01 Dec Submission Hearing Aberdeen	AB20000500 Pjero Kurida (WebEx) (DoD: 10 June 2012)

- iv) *HSIU performance in terms of lodging First Notices, and conducting PH / CPH / FAI proceedings, for the full reporting year 01 April 2020 to 31 March 2021.*

HSIU lodged 12 First Notices to commence Fatal Accident Inquiries last year. By way of comparison, in the 3 previous reporting years HSIU lodged:

01 April 2017 – 31 March 2018 = 6 First Notices

01 April 2018 – 31 March 2019 = 1 First Notice

01 April 2019 – 31 March 2020 = 5 First Notices

Between 01 April 2020 and 31 March 2021, in a year working from home, HSIU have prepared and conducted:

11 Preliminary Hearings (8 of which were conducted virtually)

15 Continued Preliminary Hearings (all 15 of which were conducted virtually)

8 Fatal Accident Inquiries (4 of which were conducted virtually)

- v) Convictions since the last report to the Executive Board:

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5 August 2021 Summary Aberdeen Sheriff Court	HS20000027 Neil David Beattie	<u>Charge 1:</u> CON Work at Height Regs 2005 4(1)(a)&(c) and HASAWA1974 s33(1)(c) £2,650 (reduced from £4,000)
2 Sept 2021 Summary Kirkwall Sheriff Court	HS17000076 Orkney Dived Scallops Ltd	Charge (1): Diving at Work Regs 1997 R6(3)(a) and Charge (4): Management of H & S at Work Regs 1999 R19(1) £5,000 (reduced from (£7,500) Charge (6): Diving at Work Regs 1997 R6 £10,000 (reduced from £15,000)
6 Sept 2021 Deferred Indictment Dumbarton Sheriff Court	HS18000011 Chivas Brothers Ltd + Fire Protection Group Limited (FPG)	<u>Charge 1:</u> a) Failed to ensure suitable/sufficient risk assessment, b) fail to train or instruct on hazardous machinery CONTRARY to the Health and Safety at Work etc Act 1974, Section 2(1), 2(2)(a) and (c) and 33(1)(a). £50,000 (reduced from £75,000) <u>Charge 002:</u> Fail to exchange appropriate Health & Safety at work with another employer affecting an employee CONTRARY to Sections 31 and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974. £50,000 (reduced from £75,000)
14 Sept 2021 Sentence Deferred Edinburgh Sheriff Court	HS18000076 Ashley Roberts	<u>Charge 1:</u> CONTRARY to Section 3(1) and Section 37(1) of the Health and Safety at Work etc. Act 1974 £2,300 (reduced from £3,500)
21 Sept 2021 Sentence Deferred Falkirk Sheriff Court	HS19000038 United Closures	<u>Charge 1:</u> The Provision and Use of Work Equipment Regulations 1998, Regulations 11(1) and (2) and the Health and Safety at Work etc. Act 1974, Section 33(1)(c) <u>Charge 2:</u> The Management of Health and Safety at Work Regulations 1999,

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		Regulation 3(1) and the Health and Safety at Work Etc. Act 1974 Sections 15 & 33(1)(c) £20,000 (reduced from £30,000)
2 Sept 2021 S76 Edinburgh Sheriff Court	HS20000013 The Action Group Limited	<u>Charge 1:</u> Regulation 3(1)(a) of The Management of Health and Safety at Work Regulations 1999, and Section 2(1) and 33(1)(c) of The Health and Safety at Work etc Act 1974 £20,000 (reduced from £30,000)
22 Sept 2021 Summary Complaint Banf Sheriff Court	HS19000097 Harbro Ltd	<u>Charge 1:</u> CONTRARY to Regulation 11(1) of The Provision and Use of Work Equipment Regulations and 33(1)(c) of The Health and Safety at Work etc Act 1974 £12,000 (reduced from £18,000)
28 Sept 2021 S76 Dumfries Sheriff Court	HS18000081 BSW Sawmills Ltd	<u>Charge 1:</u> Contravention of sections 2(1),2(2)(d) and 33(1)(a) of the Health and Safety at Work etc.Act 1974 <u>Charge 2:</u> Contravention of sections 3(1) and 33(1)(a) of the Health and Safety at Work etc.Act 1974 £300,000 (reduced from £400,000)
4 Oct 2021 Summary Complaint Wick Sheriff Court	HS20000051 William Swanson t/a LTS Construction	<u>Charge 1:</u> CONTRARY to the Work at Height Regulations 2005, Regulation 4(1)(a) and (c) and the Health and Safety at Work etc. Act 1974, Section 33(1)(c) £2,000 (reduced from £3,000)
22 Oct 2021 Section 76 Edinburgh Sheriff Court	HS19000096 B & Gs Landa Ltd trading as Scottish Experience	<u>Charge 1:</u> CONTRARY to Sections 3(1) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974 <u>Charge 2:</u> CONTRARY to the Health and Safety at Work etc. Act 1974, Section 2(3) and 33(1)(a) £60,000 (reduced from £75,000)
26 Oct 2021 S76	HS18000066 Leiths (Scotland) Ltd	<u>Charge 1:</u> Contravention of sections 2(1),2(2)(a) and(c) and 33(1)(a) of the Health and Safety at Work etc. Act 1974

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Inverness Sheriff Court		£130,000 (reduced from £195,000)
28 October 2021 Section 76 (Deferred sentence) Dundee Sheriff Court	HS18000013 HMA v Burghill Farms and Piers Le Cheminant	<u>Charge 1:</u> (Burghill Farms): CON Reg 36(2)(a) of The Gas Safety (Installation and Use) Regulations 1998 and Section 33(1)(c) of the Health and Safety at Work Etc. Act 1974 Fined £120,000 , reduced from £180,000. <u>Charge 2:</u> (Piers Le Cheminant): CON Reg 35 of The Gas Safety (Installation and Use) Regulations 1998 and Section 33(1)(c) of the Health and Safety at Work Etc. Act 1974 Fined £2,000 , reduced from £3,000.
3 Nov 2021 Sentence Deferred Wick Sheriff Court	HS19000034 Restore Digital Ltd	<u>Charge 1:</u> Health and Safety at work Act 1974, section 2 <u>Charge 2:</u> Health and Safety at Work Act 1974, section 3 Cumulative fine, £5300 reduced from £8000.

- vi) Death investigations where HSIU is providing is providing support and advice are contained in the Annex to this report.

Details of death investigations where HSIU is providing is providing support and advice are contained in the Annex to this report.

9. Wildlife and Environmental Crime Unit (WECU)

The Wildlife and Environmental Crime Unit (WECU) is responsible for the prosecution of all wildlife and environmental crime reports (with a few minor exceptions). WECU also marks case reports principally involving allegations of animal cruelty and neglect (animal welfare cases).

WECU liaises with the Scottish Government (including policy and legal queries, contributing to parliamentary questions, ministerial briefings, FOI requests); and with external stakeholders, Police Scotland, and other reporting agencies including local authorities, SEPA and the SSPCA.

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i) WECU Cases Overview

Between September 2021 and 19 October 2021, there were 13 new case reports received and 19 cases were finally marked. 56 cases were at the case investigation and preparation stage and 37 cases were live in Court. 2 cases were finally disposed of in Court.

WECU has a total of 101 cases. Of these, 49 cases related to wildlife offences, 10 cases were reported principally by the Scottish Environment Protection Agency (SEPA), 9 other environmental cases were reported by Police Scotland/ Local Authorities, and there were 33 animal welfare cases. It is likely that 7 cases will proceed at solemn level.

ii) Significant Ongoing cases:

The details of the significant ongoing WECU cases are contained in the Annex to this report.

iii) Additional Current Priorities

Wildlife Crime Report – The Crown has provided input to the Scottish Government annual wildlife crime report, which is due to be published by the end of the year. A Minute to the Lord Advocate will be prepared, on receipt of the final draft report.

SEPA Guidance – A Minute to the Lord Advocate was submitted advising the Lord Advocate of the changes to SEPA's Enforcement Guidance in relation to Variable Monetary Penalties (VMPs). The amended guidance is now published on SEPA's website.

Fly Tipping meeting– The Head of WECU to meet John Mills, Head of Housing, Fife Council and Councillor Vettraino to discuss concerns regarding the number of fly tipping cases proceeded with. Given WECU only deals with commercial fly tipping cases, this is a joint meeting with NICP and Local Court.

Meeting with Science & Advice for Scottish Agriculture (SASA)- The WECU team will meet with SASA to inform WECU staff of the role of SASA and discuss improvements in relation to forensic wildlife reports produced by SASA.

Meeting with SEPA – The Head of WECU continues to meet with SEPA every 6 weeks to advise SEPA of the update in their cases and provide any feedback in relation to the presentation of reports or the evidence.

UK Wildlife Enforcers Conference – WECU is to be represented at the national wildlife enforcers conference on 3 to 5 December 2021.

Forestry Crime – A review is being undertaken to assess whether WECU should also be responsible for the prosecution of forestry crime. This is not currently under the remit of WECU. This would enable WECU to take forward the recommendations from UK Wildlife Toolkit, which was instructed by DEFRA.

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10. Civil Recovery Unit (CRU)**i) Sheriff Court Team (SCT)**

The SCT continues to support local fiscals and law enforcement partners in cash cases. A large number of teleconferences/Webex hearings take place each week to manage court business, although some sheriffs are disposing of cases on written submissions in chambers.

The Unit has 18 account forfeiture cases (shared between the SCT and asset recovery team); and 48 listed asset cases. The SCT have been working with the NCA in one of our account forfeiture cases

Details of noteworthy case are contained in the Annex to this report.

ii) Asset Recovery Team (ART)

The ART has 10 cases with active Prohibitory Property Orders (freezing orders) and 1 case at recovery order stage. During COVID-19 all of the cases have been determined by the Court of Session on the papers or following a teleconference/Webex hearing.

Some delay is being experienced in obtaining information from third parties in response to Disclosure and Production Orders. It is difficult to conduct disclosure order interviews as a consequence of the social distancing guidelines, but we have identified workarounds in some cases where appropriate, by issuing questionnaires to parties meantime.

iii) Unexplained Wealth Orders (UWO)

A judicial review petition was served on Scottish Ministers by Avaaz Foundation, a non-profit organisation based in the USA, with the Lord Advocate being named as one of the interested persons, on 24.05.21. The petition seeks to challenge the Scottish Ministers' policy for Unexplained Wealth Orders (UWO), including the Lord Advocate's role as both ministerial head of COPFS and as a Scottish Minister exercising functions in relation to POCA, which involves CRU. It has attracted media interest as Avaaz are calling on SMs to seek a UWO against former president of the USA, Donald Trump. CRU has engaged with SGLD and SG policy colleagues in the preparation of this case. A hearing on the petition and answers took place on 26 and 27.10.21 before Lord Sandison and the case is at avizandum.

iv) New Proceeds of Crime Act (POCA2)

The Unit provided comments to NECC on provisions for POCA2. CRU participated in a joint meeting with SG policy, Police Scotland and COPFS on 06.10.2021 to discuss possible legislative amendments to deal, primarily, with cryptocurrency.

v) Expedited referral and Account Forfeiture Order training with Police Scotland

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Head of SOCU and members of the CRU participated in a joint training event in September 2021 for Police Scotland to raise awareness of these processes and encourage referrals.

vi) Remittances to Scottish Consolidation Fund

The sum remitted to the SCF up to week ending 31.10.21 amounted to £1,561,870. We have recovered an additional £43,694 which is being repaid to victims; and are due to receive £2m in March 2022 as a result of the WGPSN (Holdings) Limited self-report bribery settlement.