

Executive Board meeting minutes

Meeting held on 22 March 2023 in Crown Office and by Microsoft Teams

Present:

John Logue (Chair)	Crown Agent
Stephen McGowan	Deputy Crown Agent, Serious Casework
Anthony McGeehan	Deputy Crown Agent, Operational Support
Jennifer Harrower	Deputy Crown Agent, Local Court
Kenny Donnelly	Deputy Crown Agent, Specialist Casework
Ruth McQuaid	Deputy Crown Agent, High Court
Keith Dargie	Head of Business Services
Sarah Carter	Director of Human Resources
Marlene Anderson	Director of Finance and Procurement
Annie Gunner Logan	Non-executive director
David Watt	Non-executive director
Vanessa Davies	Non-executive director

In attendance:

Ann Marie Henderson	Secretariat
Fiona Holligan	Secretariat

Apologies:

None.

Agenda Item 1 – Welcome and Apologies

1. The Crown Agent opened the meeting and welcomed all colleagues. The Crown Agent welcomed Ruth McQuaid, Deputy Crown Agent High Court and Kenny Donnelly, Deputy Crown Agent Specialist Casework to their first Executive Board meeting. The Crown Agent advised the Board of Stephen McGowan’s new role commencing in April, confirming that Stephen would remain on the Board.

Agenda Item 2 - Minutes of previous meeting

2. The minutes of the meeting held on 22 February were approved and can be published. There were no conflicts of interest were noted.

Agenda item 3 - Finance Update

Finance Update

3. The Head of Business Services set the context following the RSR and Path to Balance exercises and highlighted that there remains a shortfall despite COPFS getting more money.

4. The Director of Finance and Procurement introduced paper EB22/23(66). It was noted that because of the reported 2022/23 underspend, monies had been released for additional overtime in preparation for 2023/24 and the corresponding increased pressures. It is proposed that the 2022/23 accounts are signed in early September.

5. The Director of Finance and Procurement then outlined the 2023/24 position. As with other parts of the public sector, COPFS has not been funded for anticipated costs. Workshops have been held with relevant staff to balance the budget and identify where savings can be made. Each function has been allocated a savings target. Any savings from recruitment, maternity, and long-term sick leave etc will no longer be retained by functions to use for overtime and will now revert to the central pot. Consideration is being given to any potential savings from new ways of working, including the Summary Case Management pilot. Work continues to identify a balanced budget and thereafter advice will be provided to the Law Officers. The impact from the published Pay Strategy was highlighted to the Board.

6. The Crown Agent summarised the position for the Board. The Deputy Crown Agent for Operational Support confirmed that the proposed budget allocation outlined by the Director of Finance and Procurement had been discussed extensively by the Resources Committee and represents the unanimous consensus of the Committee that it is the approach we need to take.

7. The Board then discussed the proposed budget allocation in detail noting the potential risks. It was agreed that functions will provide the Resources Committee with detailed functional plans detailing the savings in advance of the meeting on 6 May. The Resources Committee will consider these and report to the Board on 24 May. The Board approved the allocation.

Overtime Update

8. The Board noted paper EB22/23(67). The Crown Agent indicated it was critical that functions realised that this paper would require to look very different in 2023/24. It was agreed that functions would look at what additional information could be added to measure performance from overtime.

Agenda Item 4 – VIA Modernisation Update

9. DCA Operational Support introduced paper EB22/23(68) and provided an update on the progress of the VIA Modernisation Programme (VMP). The Crown Agent noted that the project is making good progress despite changes to the criminal justice environment since it started.

Agenda Item 5 – Balanced Scorecard / Absence Figures

10. DCA Operational Support introduced paper EB22/23(69).

11. It was noted that the figures for complaints were down significantly, which is in part due to the way these are now processed.

Agenda Item 6 – DESC Pilot Update

12. Head of Business Services introduced Paper EB22/23(70). The Deputy Head of Local Court and the DESC lead for COPFS attended to discuss this item. The Board noted progress on the six-month pilot in Dundee City, which began on 24 January 2023 and focusses on summary cases. The Cabinet Secretary for Justice and Veterans officially launched the DESC Pilot in Dundee on 7 March. Updates covering the first 8 weeks of the pilot were provided, including an overview of the digital evidence processed via the new solution and on the benefits realised from new ways of working. The comprehensive stakeholder engagement and support provisions in place were noted. Feedback to date from stakeholders and users of the new DESC system has been positive. The DESC pilot will continue over the next few months with phase 2 planning (which involves expanding the use of DESC for solemn cases and the types of digital evidence that can be processed) and preparation for national implementation later in the year underway.

Agenda Item 7 – Risk Register

13. Head of Business Services introduced paper EB22/23(71). The Board noted the update provided.

Agenda Item 8 – Health & Wellbeing update

14. Director of HR introduced paper EB22/23(72). Particular reference was made to the work of a short life working group focussing on current absence trends, include contextual analysis using government and external absence data. The group's recommendations will be submitted to the corporate health and wellbeing committee for oversight, but initial observations include a requirement for improvement in management practice and focussed management training.

The Executive Board also noted the development of the Menopause, Carers and Gender Based Violence Policies and copies of these policies will be shared with non-executive directors.

Agenda Item 9 – Function Update – Local Court

15. DCA Local Court introduced paper EB22/23(73). The Board noted the update provided.

Agenda Item 10 – Function Update – Serious Casework

16. DCA Serious Casework introduced paper EB22/23(74). The Board noted the update provided.

Agenda Item 11 – Function Update – Operational Support

17. DCA Operational Support introduced paper EB22/23(75). The Board noted the update provided in the paper.

Agenda Item 12 – Committee Update – Resources Committee

18. The Board noted the update provided.

Agenda Item 13 – Committee Updates – Business Improvement

19. Head of Business Services introduced paper EB22/23(76). The Board noted the update provided in the paper.

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

Agenda Item 14 – Committee Updates – Operational Performance

20. DCA Operational Support introduced paper EB22/23(77). The Board noted the update provided in the paper.

Agenda Item 15 – Committee Updates – Audit & Risk

21. Chair of Audit & Risk Committee introduced paper EB22/23(78). The Board noted the update provided in the paper.

March 2023

EXECUTIVE BOARD
MARCH 2023 MEETING UPDATE
FINANCE UPDATE

Purpose

1. This paper provides the Executive Board with an update on:
 - Budget and forecast for 2022-23;
 - Budget for 2023-24

Budget and Forecast 2022-23

2. The latest forecast for 2022-23 has been completed (Appendix A). The forecast reflects a current residual underspend of £784k compared to £864k previously reported to the Board. The forecasts have been adjusted to reflect agreed actions and controls that have been implemented as well as known funding drawdown.
3. Non-Staffing core expenditure has moved to a projected overspend of £448k from a forecast overspend of £864k for the following reasons:
4. The following proactive measures implemented are:
 - There have been increases in non-staff budget lines as a result of inflation and increased demand. The better overall position reported is due to further Major Case non staffing costs reallocated [REDACTED]. The Finance Business Partners and HOBMs continue to scrutinise all non-staff costs for any options of savings to offset inflation driven pressures. Main areas of pressure are:
 - i. While court related costs were initially lower than pre-pandemic levels, the increase in court business as COVID restrictions have been lifted and court recovery work taking place is resulting in increased costs with NSE now being forecast to land overbudget;
 - ii. Pressures in Estates resulting from increased maintenance costs, technical support such as architects fees and mechanical and electrical consultation and Service Charge costs. These are partially but not fully offset by savings in rent and rates costs;
 - iii. Non recoverable VAT continues to be overspent due to increased non-staff spend and inflation in areas that do not attract VAT recoverability. This budget cannot be directly controlled;
 - Business process reviews are continuing to be carried out by the transformation teams and individual directorates and are continuing to be reflected within business and workforce plans;

- Overtime continues to be scrutinised. The recruitment gaps have increased demand on overtime which is included in the staffing forecast. Additional overtime was granted to the functions and these additional budgets are being monitored and managed to ensure there is no pressure to the overall COPFS budget in 2022/23.
5. Our budgeted FTE in 2021-22 was 2,397.33. The proposed baseline FTE at 1 October 2022 is 2,511 reflecting reconfiguration of posts and additional funding for CDIT. The above actions may result in a fluctuation in FTE to address redesign of processes.

Risks:

- Post Mortems and Toxicology budget is under pressure due to increase in non-SPA supplier inflationary costs including costs charged for an additional pathologist to tackle increased demand and additional mortuary requirements above capacity [REDACTED]. There is a risk of further pressure in this area due to increased demand and further currently unknown inflationary pressures emerging;
- Non staff cost increases continue to materialise out-with expectations.

2023-24 Budget Allocation

1. The budget for 2023-24 was announced on the 15th December. COPFS received an increase of £13m on Resource budget and £3m increase on Capital funding.
2. Whilst the increased funding is most welcome, Scottish Government were unable to support the full amount required for 2023-24. [REDACTED]
[REDACTED]
[REDACTED] COPFS will need to deliver improved outcomes with less.
[REDACTED]
[REDACTED]
[REDACTED]
3. We are developing detailed resource and business plans to help COPFS deliver on priorities in 2023-24. It is more important than ever that we continue to innovate, improve, and transform the way we work and deliver our services. We must also continue working with our partners to deliver system wide improvements.
4. The additional capital investment is to support our digital transformation programmes, including developing our next generation casework systems and processes. The planning for this important piece of work is due to start in the next few months.
5. All analysis on how the allocation below will be split between staffing, non-staffing and reviewing all contractual pressures has begun. The Management Accounting and Planning Team have reviewed all staffing forecasts and each account line to identify pressures. This was presented and discussed at the Resources

Committee for agreement to submit for Accountable Officer and Executive Board approval. Further information is at Appendix B.

	2022-2023 Allocation £m	2023-24 Allocation £m
Resource	169.80	181.80
Capital	5.30	8.30
Non-cash	5.80	6.50
Total	180.90	196.60

Conclusion

10. The Executive Board is invited to note, and if it wishes, comment on the update to the 2022-23 forecast position.

11. The Executive Board is invited to agree and comment on the 2023-24 budget allocation.

Finance Directorate

20 March 2023

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APPENDIX A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

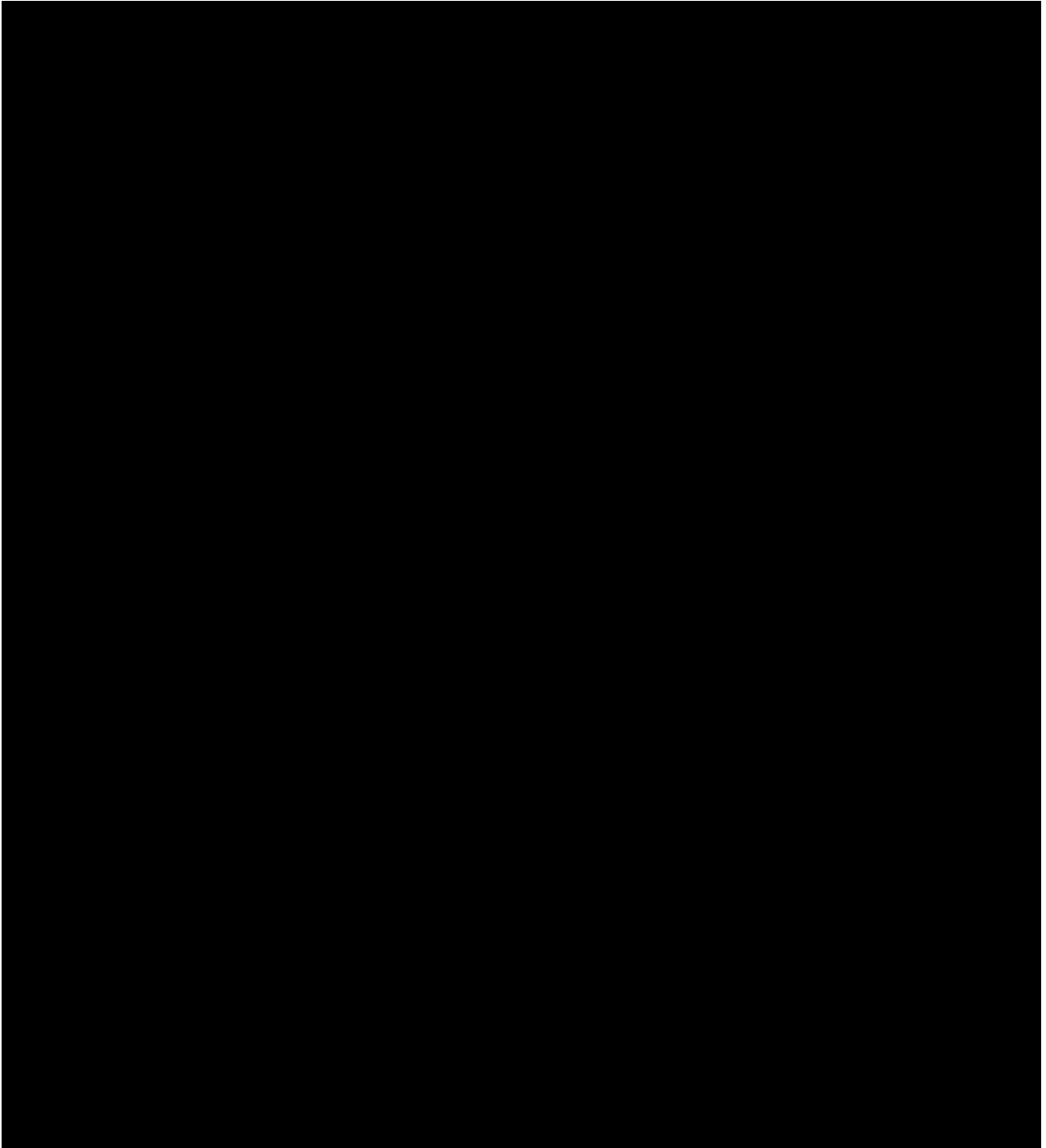
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EXECUTIVE BOARD
VIA MODERNISATION PROGRAMME
MARCH 2023 UPDATE

Purpose

1. To provide the Executive Board with an update on the progress of the VIA Modernisation Programme.

Programme Update

2. The programme continues to progress well, with all workstreams now mobilised, product descriptions drafted and development of a number of key products underway.
3. On-going engagement with VIA staff continues and volunteers have been identified and attached to each workstream to provide assistance, consultation and quality assurance of products as they are scoped and developed.
4. The programme and relevant workstreams will continue to consult with partner agencies throughout the scoping and development of products, for example where an improvement to business processes involving partners is identified, or where an external input to training/support material would be beneficial.
5. A revised summary of the workstreams and anticipated products/deliverables provided in the December update to Executive Board is attached at **Annex A**, now including target delivery dates, progress status and anticipated benefits/efficiencies. Full standard programme documentation sits behind this Board summary, is reviewed by the Programme Board and is available as required. As discussed with the Executive Board, the programme will seek to capture consequential resource savings. However, at this stage, the programme anticipates that modernisation will not primarily deliver resource savings but rather improved service through the more efficient application of current resource to better meet legitimate customer and colleague expectations.
6. The programme is striving for all products to be developed and delivered throughout the next 6 – 9 months, and in place by December 2023. A product launch plan (outlining a proposed phased delivery) is currently being developed for review by the Programme Board next month. We would plan to close the Programme by the end of the financial year 2023-24.
7. There are a number of Programme interdependencies. These interdependencies are both between workstreams and with non-programme initiatives. These initiatives include the launch of the Witness Gateway, Sexual Offences Review examination of the Victim Strategy, Next Generation Case

Management and work of the Victims Taskforce. The Witness Gateway, in particular, will make an exponential positive impact on both the service we offer to customers but also the nature of the demand upon VIA colleagues.

8. The digital solutions workstream is currently focussing on short-medium term 'quick wins' as well as working with the programme team and other workstreams to explore how existing applications and functionality could be adjusted to support wider use by VIA e.g., the current Pathway and Solemn Workload applications. This workstream is particularly cognisant of the planned Next Generation Case Management and the need for any improvements to be consistent with same.
9. The learning and development workstream is also focussing on short-term quick wins, signposting staff to existing relevant learning. In parallel, the workstream will undertake a learning needs analysis to identify key learning and support requirements. This needs analysis will explore both task specific learning and broader awareness raising or tool kit provision to enable VIA colleagues to recognise and respond to the breadth of needs most commonly demonstrated by our customers.
10. The programme's wider communications strategy continues to be delivered and monthly programme updates are now being issued to VIA staff. An introduction to the programme will also shortly be published and thereafter regularly updated, on COPFS external website.
11. We continue to work closely with Victim Support Scotland (VSS) who in February 2023, facilitated a reference group with families bereaved by crime, seeking specific feedback on the VIA service. Similar reference groups made up of cross sections of other service users will be taken forward by VSS in due course. The outcomes of these consultation exercises will be added to our wider library of resources to ensure all relevant thematic service issues are identified and have been captured by the current programme scope and workstream products. The reference groups will also provide an opportunity to quality assure relevant workstream products.
12. The programme team continues to engage with the Scottish Child Abuse Inquiry and have a session with their witness engagement and support team scheduled for the end of March to understand more about their business processes and strategies with a view to sharing learning and best practice.
13. The Executive Board should note that the programme is specifically liaising with the Chief Executive of VSS in her role as the chair of a Scottish Government's Victims Taskforce Workstream. The Workstream has engaged a contractor to design the proposed single point of contact model for victims. Both the Witness

Gateway and the programme should inform the design and direct liaison points have been established.

Decisions/Actions required by Executive Board

14. The Executive Board are invited to note progress and feedback as appropriate.

Anthony McGeehan

Deputy Crown Agent, Operational Support

13 March 2023

Annex A



VMP Workstream
Plan (EB Extract)_Mar

BALANCED SCORECARD – Quarter 3 – 2022/23					
PEOPLE	Current Quarter (Oct – Dec 2022)	Previous Quarter (Jul – Sep 2022)	Variance from last Quarter	Current FY to date (2022/23)	Previous FY (2021/22)
Staff Numbers (FTE)					
Permanent employees	2224.79	2216.77	0.4% Increase	2228.61	2061.01
Temporary employees	43	66.52	35.4% Decrease	49	63.07
Total Employees	2267.79	2283.29	0.7% Decrease	2277.61	2124.08
% Temporary employees	1.9%	2.9%		2.2%	3.0%
	As at 31/12/2022	As at 30/09/22		As at 31/01/23	As at 31/12/21
Staff Turnover Rate	1.2% (0.2% involuntary 1.0% voluntary)	1.2% (0.00% involuntary 1.2% voluntary)		6.1% (0.4% involuntary 5.7% voluntary)	1.26% (0.09% involuntary 1.17% voluntary)
	Oct-Dec 22	Jul-Sep 22		As at 31/01/23	Oct-Dec 21
Absence Rate	Average WDL = 11.0 Short Term = 4.2 Long Term = 6.8	Average WDL = 11.4 Short Term = 4.2 Long Term = 7.2			Average WDL = 9.7 Short Term = 3.0 Long Term = 6.7
Average working days lost	As at 31/12/2022	As at 30/09/2022			As at 31/12/2021
QUALITY	Current Quarter (Oct – Dec 2022)	Previous Quarter (Jul – Sep 2022)	Variance from last Quarter	Current FY to date (2022/23)	Previous FY (2021/22)
Right to Review	53 received 35 issued	58 received 39 issued	-5	178	175
Complaints	62 received 5 = upheld 10 = partially upheld (= 24%)	52 received 4 = upheld 5 = partially upheld (=17%)	+10	200	376
Payment Performance % paid in 10 working days					
Invoices	99.4%	99.9%	-0.5%	99.5%	
Witness Payments	100%	100%	-	100%	
Travel & Subsistence claims	100%	100%	-	100%	
DELIVERY	Current Quarter (Oct - Dec 2022)	Previous Quarter (Jul - Sep 2022)	Variance from last Quarter	Current FY to Date 2022/23)	Previous FY (2021/22)
Performance Targets					
% indictments served within statutory time limits	100%	100%		100%	100%
% Take and Implement Decision within 4 weeks (75%)	70%	79%		75%	73%
% CAAP cases closed within 6 months (75%)	81%	81%		84%	87%
% Deaths investigated within 12 weeks (80%)	72%	67%		67%	50%
Right to Review	88%	74%	+14%	80%	65%
Complaints	76%	59%	+17%	69%	59%
Freedom of Information	79%	86%	-7%	92%	95%
FINANCE	Actual spend to date	Current end year forecast	Full year budget	Variance	
Running Cost Expenditure (includes cash and non-cash)	£129.48m	£182.65m	£183.51m	£0.86m	
Capital expenditure	£2.11m	£6.80m	£6.80m	-	

Quarterly Data as at the end of the quarter unless otherwise noted.

Financial Year Data is shown at the end of the relevant period (year to date or full year).

EXECUTIVE BOARD
CORPORATE RISK REGISTER

March 2023 Update

Purpose

1. To provide the Executive Board with an update on the Corporate Risk Register.

Priority

2. Routine.

Update

Corporate Risk Register

3. Risk Management Group (RMG) last met on 25 January 2023 and reviewed the Corporate Risk Register (copied separately).
4. Corporate Risk 1 (Insufficient resource to enable COPFS to meet its statutory and policy obligations and meet public expectations) is a standing RMG agenda item to continue focus on budget and resources challenges. The Director of Finance and Procurement provided an overview of the current financial year positions. Details of the budget allocation received for 2023/24 from the Scottish Budget announced to Parliament in December 2022 was discussed. RMG noted the remaining funding pressures and the ongoing engagement with Scottish Government and the modelling being carried out on appropriate budget scenarios for the next financial year. The risk score remains 'Red' to reflect budget pressures for 2023/24.
5. Corporate Risk 4 (Insufficiently skilled or experienced COPFS staff available to meet current public expectations, and to strengthen our capacity to change and improve services) and Risk 8 (Ineffective stakeholder engagement) were the subject of deep dive discussions.
6. The Risk Owner attended to discuss Risk 4 and outlined the strategic and development plans detailed in the report provided to RMG. Phase 1 of the Learning Hub for Risk Management should be available to launch at end of March 2023. This Risk Management learning will be added to induction information for new staff.
7. RMG agreed that whilst the articulation of Risk 8 was correct that consideration should be given to defining the risk on operational and reputational stakeholder management risks components. This is being considered and an updated will be provided to RMG at its next meeting where this risk will be discussed in detail.
8. The Chief Digital Officer (CDO) reported on COPFS' resiliency and readiness in relation to cybersecurity threats and provided a presentation outlining current

cyber threat status, performance indicators and other related updates. This format will form the basis of a 'dashboard' status update provided at future RMG meetings. The CDO will also provide an update at the next meeting on the outcomes of the Scottish Government's internal audit on COPFS' Cyber Resilience. The CDO also advised that for Risk 6 (Inadequate digital resource and capital investment) will be restructured to more clearly define the component risk management issues and controls. The CDO will also consider the description of this risk and make recommendations to RMG on any proposed amendments.

9. RMG is next scheduled to meet on 5 April 2023. In addition to reviewing the Corporate Risk Register, Risk 1 and an update on cybersecurity threats, the Local Court Risk Register will be reviewed. Risk 2 (Inadequate leadership and management of COPFS staff) will be the subject of a deep dive discussion. A discussion on the alignment of the new Strategic Plan to the Corporate Risk Register will also be discussed.

Corporate Resilience Group Update

10. The Corporate Resilience Group (CRG) last met on 11 January 2023 with a particular focus on business resiliency planning and preparedness for the PCS industrial action on 1 February 2023. Further process enhancements were applied for the day of industrial action by PCS on 15 March 2023. Effective business resiliency was managed for both days of industrial action. CRG will plan for any future industrial action and other corporate business risks as appropriate.

Business Resiliency Simulation Exercise

11. A Business Continuity and Resiliency Simulation Exercise is being planned for early Q1 2023/24. The Head of Business Services will set out the scope and structure for this exercise later this month and provide an update to RMG at its next meeting on 5 April 2023.

Decisions/Actions required by Executive Board

12. The Executive Board are asked to note and comment as appropriate on the Corporate Risk Register and CRG updates provided in this paper.

Keith Dargie

Head of Business Services

17 March 2023

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner
Insufficient resource to enable COPFS to meet its statutory and policy obligations and meet public expectations	<ul style="list-style-type: none"> Insufficient Financial and Human Resource; Failure to reach all the diverse groups within society and therefore lack of diverse skills and experience; Unexpected costs arising from litigation including from loss of LA absolute immunity; Managing changing public expectations; Political responses – legislation and system changes e.g., Trailing a Victims Bill which generates additional demand on COPFS, Public Inquiry into COVID Deaths. 	<ul style="list-style-type: none"> May not be able to recruit sufficient employee numbers at a sufficient level to manage existing workload and clear the backlog arising from the Covid pandemic; Inability to retain skilled staff; COPFS do not remain within budget allocations; Key discretionary activities – e.g., VIA, some procurement, and some equality work - may be difficult to protect because services that are perceived as not being COPFS's core business may not be funded when difficult decisions must be made; Reputational risk and loss of public confidence if litigation cases increase from loss of LA absolute immunity. 	<ul style="list-style-type: none"> Workforce Planning Group manages and controls workforce planning - monthly meetings; Resources Committee meets monthly and reviews actual and forecast expenditure and exercises budget control as necessary; Close liaison with SG re annual spending reviews and on-going dialogue with SG Finance Business Partner; Business Services continually reviewing recruitment, development and succession planning issues to secure supply of specialist staff; Cases for additional funding are submitted to the Scottish Government when considered necessary; COPFS involved in Criminal Justice Board which continues to plan and monitor Covid recovery; Regular partnership meetings and Employee Relations Committee meetings with unions ensure ongoing dialogue with unions on industrial relations; 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓ 	4	4	16	<p>Short Term Actions</p> <ul style="list-style-type: none"> Workforce plans to be analysed assessing and determining risk following 2023-24 budget settlement ; Analysis of non-staffing expenditure for 2023-24 to identify savings opportunities to enable COPFS to live within budget allocation; Start pay negotiations for 2023-24; Allocation and approval of 2023-24 budget allocations to Budget Holders; Address challenges of recruitment and ensure transformation of business processes continue, ensuring the right work is placed at the right level; Monitoring of Court Recovery budgets to ensure spend is within budget and activity is progressed; Monitoring of CDIT funding utilisation and progress made; Engagement with SG on COPFS essential resource requirements and planning as part of the RSR and CSR planning processes; Ongoing discussions with SG Finance on notification of financial pressures and risks associated. <p>Actions required to achieve target score</p> <ul style="list-style-type: none"> Preparation for and implementation of pay coherence Year 3; Continue collaborative working with Scottish 	3	3	9	November 2023	March 2023	Director of Finance & Procurement	DCA Operational Support

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
								Government and Justice partners; • Continue work and engagement in Strategic Approach to Budgeting and RSR follow up meetings; • Keep SG informed on resourcing impact of changes in legislation and public inquiries.								
2	Inadequate leadership and management of COPFS staff	<ul style="list-style-type: none"> Managers not feeling sufficiently trained or equipped to lead and manage their staff; Challenges in leading people remotely; Low compliance with Performance Management System therefore performance and absences not being properly managed; Lack of clear direction from senior leaders through business planning and objective setting; Decision-making pushed to senior levels too quickly; Not acting on results of Civil Service Survey and Pulse survey; HR support sought too late or advice not acted upon; 	<ul style="list-style-type: none"> Higher levels of sick absences; Increased number of grievances and disputes leading to successful and expensive litigation; Poor staff survey results; Increased pressure on HR due to dealing with unnecessary work associated with grievances etc. Operational performance standards decline; Staff lose confidence in management to make good decisions; Staff and management well-being negatively impacted; 	<ul style="list-style-type: none"> Communications to staff on performance management and why they should engage; Senior leadership keeping a watching brief on MI and processes around performance management and training; Analysing, acting, and communicating with staff on actions taken on results of Civil Service survey and pulse surveys; Continually reviewing policies and processes to make sure they are fit for purpose; New intranet in place to improve two-way comms; Strategic plan in place up to 2023; Learning and Development Strategy to support remote management; Skilled, professionally qualified HR managers working alongside functions to provide support and advice; People Strategy 2021-23 launched May 2021. Career Movement and Development Policy launched June 2021 to facilitate staff moves 	✓	4	3	12	<p>Short Term Actions</p> <ul style="list-style-type: none"> Development of senior leader training programme – ongoing Development of Operational Management functional training – ongoing; Programme of SCG management workshops to lead cultural change and encourage partnership working SBMs 8.11.22 BMs 15.11.22 Band C 6.12.22 and 17.1.23 Progress People Survey Action Plans which are tied to strategic priorities; Monitoring and assessing effectiveness of the implementation of change on an ongoing basis; VIA modernisation; Restructure of HC VIA line management to improve liaison with case preparational teams; <p>Long Term Actions</p> <ul style="list-style-type: none"> CMD wider applications will depend on departmental tolerance; 	3	2	6	Nov 2022	Jan 2023	HoBM Local Court/ Serious Casework/ Operational Support	DCA Local Court

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
			<ul style="list-style-type: none"> and support clear career paths. Revised approach to induction devised and implemented. New Performance Management system launched; Functional attendance at SPC Steering Group; SCG Central Operations team providing enhanced communications, focus on people and process, performance management and analysis. Programme of Local Court management training on how to be a manager in Local Court at different levels; Implementation of new HR Performance Management system; 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓ 												
3	Poor wellbeing and low morale of COPFS staff	<ul style="list-style-type: none"> Lack of engagement by managers, especially quarterly wellbeing conversations; 	<ul style="list-style-type: none"> Mental health and increased workload could lead to increased sick leave; Inability to keep a balance between 	<ul style="list-style-type: none"> Wellbeing strategy being implemented, including targeted communications signposting help 	✓	4	3	12	<p>Short Term Actions</p> <ul style="list-style-type: none"> Assessment of costs crisis and impact/support available to staff – development of 	3	3	9	Nov 2023	April 2023	Director of HR	DCA Serious Casework

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner
	<ul style="list-style-type: none"> Managers don't adequately support staff in prioritising and managing workload Working remotely and dealing with harrowing cases in isolation; Continued homeworking and less time spent in person with colleagues resulting in feelings of isolation and lack of inclusion; Lack of collective support in offices impacting on ability to feel part of the team leading to lack of engagement; Conversely, potential stress and uncertainty as a result of return to office or hybrid home/office working arrangements; Workload pressures due to inadequate resource and pressure of backlog COPFS pay continues to lag behind comparator bodies; Impact of civil litigation and future inquiries (specifically on staff witnesses but also staff more generally); Buoyant job market means recruiting to fill vacancies may be more challenging 	<p>workload and health with operational performance suffering;</p> <ul style="list-style-type: none"> Increased number of staff requiring access to Vicarious Trauma support leading to longer waiting times; Increased pressure on HR due to dealing with additional work associated with attendance management etc; Disputes re mishandling of disability related absence cases leading to successful and expensive litigation (employment tribunal and/or personal injury); Failure to recruit means more pressure on teams to deliver with current resources; Increased scrutiny (i.e., as a result of civil litigation) has significant personal impact on individuals; The pace of change and volume of work means individuals and teams feel a lack of control. 	<p>available plus wellbeing portal on intranet;</p> <ul style="list-style-type: none"> Senior leadership keeping a watching brief on MI and processes around performance management and training; Analysing and acting on results of Civil Service survey and pulse surveys; Continually reviewing policies and processes to make sure they are fit for purpose; Corporate and Sherifdom Health and Wellbeing Committees meet regularly; Attendance Management Policy in place with e-learning available; Future Ways of Working Project looking at how to enable better work life balance; Wellbeing communications plan to support rollout of actions; Flexi and annual leave monitored centrally and locally; Regular meetings with trade unions to retain partnership approach to wellbeing actions; Dedicated team in HR leading on Wellbeing initiatives and to act as a central corporate resource. 	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>				<p>specific financial wellbeing action</p> <ul style="list-style-type: none"> Continuing messaging around agile working including further comms around home risk assessments and H&S learning modules Enhanced communications about importance of wellbeing discussion during PM quarterly conversations continuing, Functions including wellbeing actions in local risk registers. Recruitment activity paced to quickly fill urgent and essential vacancies Early trade union engagement for 23/24 pay discussions (dependant on resolution of current UK wide dispute) <ul style="list-style-type: none"> Short life working group set up to address underlying causes of sick absence rises <p>Actions required to achieve target score</p> <ul style="list-style-type: none"> Maintain staff numbers at new record level with appropriate induction and learning to support new entrants Link with Risk 4 actions below – delivery of leadership and management learning Workforce planning principles in place to allow agility of staff movement to priority posts/pressurised functions (workload. 							

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
								Review of career movement and development may be required <ul style="list-style-type: none"> • continue to develop well-being products in line with staff feedback; • Enhance line management support (taking account of remote working factors); • Improve take up of Vicarious Trauma support offering; • Continued monitoring of flexi and annual leave to make sure staff are taking regular leave/ breaks /not working excessive hours; • Review and update the support offering for those involved in civil litigation • Bespoke support for individuals directly impacted by civil litigation/public inquiries; • Continued communications and Function-led focus on quarterly conversations as a management tool for assessing and providing support for individual wellbeing; • Continue to proactively assess the recruitment market, individualising recruitment strategies to the vacancy need to ensure we are agile in our response to filling vacancies. Assessment of how to build resilience (financial, emotional, etc) in staff longer term and supports that 								

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
4	Insufficiently skilled or experienced COPFS staff available to meet current public expectations, and to strengthen our capacity to change and improve services	<ul style="list-style-type: none"> Lack of identifiable learning culture, curricula, or prospectus resulting in lack of clarity and poor perception/uptake. Sub-optimal operating model of Scottish Prosecution College, insufficient relevant expertise, advice and digital skills. Sub-optimal links between learning, PAR, and career movement and development. Training time not pervasive/protected Learning needs analysis not managed by those with educational expertise. Focus on lower priority areas/ diverting resources. Learning not evaluated against desired outcomes nor included within MI. Unstructured approach to selection of external courses. Lack of focus on quality during pandemic. Equality of access to learning opportunities is not best supported. COPFS does not meet Justice System commitments to trauma informed justice workforce knowledge and skill sets. 	<ul style="list-style-type: none"> Quality of service being impacted, leading to inequality of access to justice for all and reputational damage; Inexperienced legal staff making the incorrect decisions at the case marking stage; Managers not feeling equipped to lead and manage their staff; Insufficiently skilled workforce to meet the demands of their roles due to the changing complexity and sophistication of casework and working environment; Potential increase in litigation resulting in financial loss; Lack of overall resilience due to insufficiently skilled resources to perform routine and specialist tasks. 	<ul style="list-style-type: none"> Senior commitment to reposition Scottish Prosecution College with vision published. Curriculum approach to training being developed in line with role profiles, encouraging development and attendance on courses teaching skills and knowledge beyond role profiles. Senior leadership keeping a watching brief on training and supporting targets to support additional courts including allocating people to training. Communications to staff around the importance and requirements for training; Scottish Prosecution College producing online and blended training packages. Band H Head of College appointed to lead change programme. Upskilling of all College staff on EQIA. Scottish Government Victims' Task Force Working Group 2, contributing to the development of the national trauma informed justice workforce Framework. Pursuit of partly centralised/partly decentralised learning model for education. This means (a) College delivery as well as (b) functional delivery locally led and quality assured by College. 	!	4	3	12	could support improved resilience at work	3	2	6	March 2025	Jan 2023	Head of Scottish Prosecution College	DCA Operational Support

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner
								<p><u>Actions required to achieve target score (applying from FY 22/23)</u></p> <ul style="list-style-type: none"> • review of accreditation and lifelong learning learning funding policies to better focus on identifying and prioritising business needs and equality of access to relevant opportunities (commenced Q4 and practically risks mitigated by New Depute Foundation Programme and refined protocol respectively). • Set out strategic plan for College aligned with People and Digital Strategies for period from Apr 2023-March 2027 with clear success criteria and linking to new corporate strategy. (in progress) • Annual report to Executive Board. • Embed approved operating model • ensure fit for purpose website for learning design, and compliance/ monitoring (DPIA/security and Disclosure issues in wider HR project are impacting). • Leadership Framework to underpin learning and management programmes needed. • COPFS to respond to national trauma informed justice framework following its anticipated launch in early 2023. 							

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
								<ul style="list-style-type: none"> Introduce partly decentralised and QA'd model of learning provision. Quality improvement project to review all existing legal products and associated creation of SOPs around continuous improvement and QA of our portfolio to be implemented as BAU (from Q3). 								
5	Decline of organisational performance and service delivery	<ul style="list-style-type: none"> Capacity issues due to summary and solemn business backlog and churn; Increased journey times; Our ability to influence timely outcomes/prioritisation of cases; Increase in the nature, complexity and sophistication of crime and deaths investigations and our ability to deal with them; Insufficiently trained or relatively inexperienced staff; PTM reports being unavailable to enable cases to be processed timely; 	<ul style="list-style-type: none"> Reputational damage; Potential increase in litigation resulting in financial loss; Increase in errors or failing to meet time bars resulting in cases falling; Duplication of effort due to churn requiring more resources; Higher number of victims, witness and next-of-kin waiting longer for cases to be concluded which in turn increases the volume of work to keep them updated ultimately resulting in failure to meet required standards; Inequality of access to justice for all; 	<ul style="list-style-type: none"> Allocation of experienced staff to complex and high-profile cases; Relevant training provided to equip staff to carry out their role; Engagement with targeted CJ stakeholders and groups; Operational Performance Committee and Function management review MI regularly and decide whether resources need to be shifted to keep journey times at appropriate level; SCG Project Board working closely on renewing provision of toxicology, pathology and mortuary requirements; High Court KPIs refreshed and new suite of Management Information reports being provided; Case Management Panels and multi-agency de-briefs for large and complex cases; Introduction of new resourcing model reviewed monthly by 	✓	4	4	16	<p>Short Term Actions</p> <ul style="list-style-type: none"> Allocation of resources to top casework priorities on an ongoing basis; Reviewed resourcing for 22/23 and considering impact on future years; Continuing discussions about how to tackle trial backlog with SG and CJ partners in context of budget 22/23 and future years; Ongoing engagement with professions and government re capacity of professions to reduce backlogs more quickly; Continue to monitor, discuss performance and measures for tackling backlog of toxicology and PM reports with service providers; <p>Actions required to achieve target score</p> <ul style="list-style-type: none"> Budget settlements for 22/23 and future years that enables us to recruit and retain sufficient staff 	3	3	9	Nov 2022	January 2023	OPC	DCA Serious Casework

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
			SCG management team and consideration of LC position; • Introduction of SCG Central Operations team and Local Court Transformation Team to identify and implement efficiencies and service improvements;	✓				including recovery funding; • Completion of workforce plan activities for 22/23 and future years; • Agreement and resourcing of any additional court programmes; • Availability of sufficient suitably qualified professionals to staff additional courts (including judicial, courts and defence practitioners); • Review of PTM provisions; • Completion and implementation of VIA review; • Completion of Mental Health Session roll out for Managers; • Continue to review KPIs aligned to journey times to ensure sufficient resource allocation; • Implementation and regular review of service improvement action plan.								
6	Inadequate digital resource and capital investment	<ul style="list-style-type: none"> Restricted by pace of funding and the level of capital funding/investment available; Inability to deliver strategic business transformation or modernise critical digital systems and public facing services; CJ partners not moving at the same pace to enable best use of digital solutions; Inability to recruit or retain sufficiently 	<ul style="list-style-type: none"> Less business process and digital casework automation to assist in reducing workload, delivering efficiencies and improving services; Core staff protected but inability to retain specialist contractors to deliver improvements to free up time and improve service delivery; Inability to continue with transformation and replacing essential systems, e.g. case management system; 	<ul style="list-style-type: none"> Pay coherence work looking at grading and pay structures for Business Services and ISD in particular; [ongoing] Continued COPFS accreditation to the Cabinet Office PSN, Home Office PSNP and Scottish Government Cyber Essentials network security and information assurance schemes; Regular review of IT Security and information Assurance policies (via 	✓	5	3	15	Short Term Actions <ul style="list-style-type: none"> Delivery of ISD Portfolio and Digital Transformation Programme for 2022/23; Delivery of Digital Strategy Delivery Plan; Annual Cyberattack simulation exercise and testing of IT and business resiliency procedures; Recruitment, integration and retention of ISD people resources in line with COPFS 	3	2	6	End March 2023	Jan 2023	Chief Digital Officer	DCA Local Court

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
								secondary datacentres and enhanced IT resiliency capabilities; <ul style="list-style-type: none"> Comprehensive planning and resources to develop COPFS' next generation case management systems; Publication of new COPFS Digital Strategy: 2023 (aligning with new Corporate Strategy). 								
7	Inadequate contingency planning	<ul style="list-style-type: none"> Vulnerable to business continuity disruption and service delivery is more likely to fall over; Reputational damage; Impact on staff wellbeing of having to deal with consequences of business continuity disruption; Impact on financial resources of having to deal with consequences of business continuity disruption; 	<ul style="list-style-type: none"> CRG Meeting every 2 months Established emergency response procedure/governance Established digital structure and repository for all business continuity planning and material Established IT resilience processes to access electronic documentation and other lines of communication Function BCPs and Disaster Recovery Plans in place for COPFS buildings; Core skills matrix within functions to inform resilience/resource planning IT systems have been significantly enhanced; Maintaining resilience of our IT systems; Embedding of FWOV and access to Agile Working, including full digital capability to support remote working ICU Brexit Continuity Plan in place; Regular (annual) business continuity exercises; 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ! ! ✓ ✓ ✓ ✓ ✓ ✓ 	4	3	12	<p>Short Term Actions</p> <ul style="list-style-type: none"> On-going update of BCPs by functions/teams including development and on-going update of skills matrix Reconciliation of appropriate documentation saved and accessible within digital repository (MS Teams/Cloud) On-going liaison and engagement with stakeholders/partners at a corporate level to share best practice and maximise collaboration and responses to incidents. <p>Actions required to achieve target score</p> <ul style="list-style-type: none"> Confirmation of successful corporate and local approaches to BC planning, following completion of business resiliency testing/simulation exercise workshop (April 23) Baselined Business Continuity Plans across all functions including up to date skills matrices. 	4	2	8	Dec 2022	March/ April 2023	Head of Transformational Change	Head of Business Services	

Corporate Risk Register (January 2023)

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			<ul style="list-style-type: none"> Engagement with external stakeholders/partners to share best practice Documented COVID Lessons Learned Horizon scanning log capturing details of all threats including anticipated timelines and associated risks 	!				<ul style="list-style-type: none"> On-going learning and engagement with established network of justice partners (including third sector agencies) through SG business continuity subgroup. Applying lessons learned from COVID and regular resilience testing to further develop corporate resilience and preparedness 								
8	Ineffective stakeholder engagement	<ul style="list-style-type: none"> Absent or ineffective communication with criminal justice partners; Lack of stakeholder engagement and input to COPFS services both national and local e.g., Website, Witness Portal, response to local offending; Lack of stakeholder engagement and input to national and local prosecution policies; Increased stakeholder/partner demands on, or expectations of, COPFS that cannot reasonably be met; Absent or ineffective engagement with elected representatives at both national and local levels; Absent or ineffective engagement with UK and Scottish Governments; Absent or ineffective engagement with the media; Insufficient capacity 	<ul style="list-style-type: none"> Inequality of access to justice; Inequality of service provision; Reduced public confidence in COPFS and the criminal justice system (reputational damage); Increased demand upon COPFS; Decreased resource available to COPFS 	<ul style="list-style-type: none"> Crown Agent membership of the Justice Board COPFS membership of relevant sub-groups reporting to the Justice Board COPFS membership of the Youth Justice Board; COPFS membership of the Scottish Government SOC, Victims and Drugs Deaths Taskforces; Regular meetings between Law Officers and Justice Ministers, Meetings between Law Officers, Crown Agent and Head of Policy and Opposition Party leaders, Justice Committee office holders and Justice spokespersons; Functional strategic and operational liaison with criminal justice partners; Corporate liaison with criminal justice partners, Scottish Government and UK Government re national events e.g. COP26; Executive Board reviews all external inspection reports to learn lessons on improving the communication with stakeholders; 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ 	3	2	6	<p>Short Term Actions</p> <ul style="list-style-type: none"> Internal Audit of Strategic Stakeholder Engagement commissioned; Audit report received Audit report provides "reasonable" assurance and recommends some improvements Audit recommendations accepted <p>Actions required to achieve target score</p> <ul style="list-style-type: none"> Audit recommendations: <ol style="list-style-type: none"> To consider Media Relations capacity to deal with reputational challenges; To produce a Stakeholder Engagement Plan identifying, inter alia, key stakeholders and key messages; To develop a Media and Communications Strategy. <p><u>April 2022 update:</u></p>	3	2	6	Current	August 2022	Head of Policy & Engagement	CA

Corporate Risk Register (January 2023)

Risk Description	Potential causes	Potential Consequences	Key Controls	Status ✓ X !	Current Risk Impact	Current Risk Likelihood	Current Risk Score	Key Actions	Target Risk Impact	Target Risk Likelihood	Target Risk Score	Target Date	Review Date	Risk Manager	Risk Owner	
			<ul style="list-style-type: none"> Operational Support engagement with stakeholders during system improvement development and implementation; Policy consultation with 3rd sector stakeholders during policy development and implementation; Operational engagement with 3rd sector stakeholders; Action plans for implementation of relevant Inspectorate recommendations put in place and delivery monitored; Delivery of an Estate's shared service with SCTS along with procurement of common services; COPFS engagement with the UKG and SG during relevant legislative development; Complaints Handling Process and Service Improvement Board; Rape Crisis Feedback process implemented, and results monitored; Sheriffdom Equality Networks in place and progress monitored; Media Relations Team engagement with media representatives and stakeholder counterparts; Opportunities taken to promote understanding of the role of COPFS; 	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>				<p>Director of Communications post designed to lead a new Communications Directorate, responsible for both internal and external engagement. Allocated budget does not allow immediate progression. To be reviewed subject to budgetary position</p> <p>Media and Communications Strategy in place and implemented</p> <p>Stakeholder Engagement Plan to be developed reflecting Media and Comms Strategy</p>								

Corporate Risk Register (January 2023)

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Impact	Multiplier					
Very High	5	5	10	15	20	25
High	4	4	8	12	16	20
Medium	3	3	6	9	12	15
Low	2	2	4	6	8	10
Negligible	1	1	2	3	4	5
	Multiplier	1	2	3	4	5
Likelihood		Rare	Low	Medium	High	Very High

EXECUTIVE BOARD
HEALTH AND WELLBEING UPDATE

Purpose

1. To provide the Executive Board with an update on:
 - Wellbeing dashboard
 - Our approach to rising absence
 - Policy development

Wellbeing Dashboard – February 2023

2. The Wellbeing dashboard with data as at February 2023 was discussed at the March Corporate Health and Wellbeing Committee (CHWC) and is included below.

COPFS WELLBEING DASHBOARD – FEBRUARY 2023		
WELLBEING MEASURE	CURRENT (Provisional)	COMPARATOR
Overall Absence Rates (Average Working Days Lost)	Jan 2022 – Dec 2022 11.0 days (Difference +1.3 days)	Jan 2021 - Dec 2021 9.7 days
Working Days Lost	Jan 2022 – Dec 2022 24,766 days (Difference +5,825 days)	Jan 2021 - Dec 2021 18,941 days
FTE	2,199 As at December 2022 (Difference + 75, +3.5%)	2,124 As at December 2021
Of Overall Absence, % -- Mental Ill Health	Jan 2022 - Dec 2022 33.6% (Difference - 5.6%)	Jan 2021 - Dec 2021 39.2%
Of Mental Ill Health, % - Stress Related	Jan 2022 - Dec 2022 59.2% (Difference +13.7%)	Jan 2021 - Dec 2021 45.5%
Of Mental Ill Health, % - Work Related Stress	Jan 2022 - Dec 2022 27.3% (Difference -7.8%)	Jan 2021 - Dec 2021 35.1%
Of Mental Ill Health, % - Family / Situational	Jan 2022 - Dec 2022 13.6% (Difference -5.8%)	Jan 2021 - Dec 2021 19.4%
Turnover	Jan 2022 – Dec 2022 138 leavers 5.7% (Difference +0.5%)	Jan 2021 – Dec 2021 118 leavers 5.2%

Our approach to rising absence

3. As highlighted at the February meeting of Executive Board, COPFS has put in place a short life working group to analyse and better understand increasing rates of absence, including assessment of potential underlying reasons, current management responses and to recommend actions and approaches for improvement. The group comprises a range of operational managers, HR and trade union side members. It had the last of three meetings this week and a report will be submitted to the Corporate Health and Wellbeing Committee with findings and recommendations in May.
4. COPFS has an average of 11 working days lost (fluctuating slightly each month). Each business unit has seen an increase in their respective average working days lost except for Policy and Engagement. The most common reason provided for longer term absence relates to mental ill health.

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. When the Wellbeing Dashboard was introduced to the Executive Board in March 2022, the absence statistic was discussed as a prime measure of organisational morale. But individual, team and organisational morale can be delicately balanced and it is complex to understand what encourages one person and not another to attend work. Therefore, interpreting absence statistics is not always straightforward. Alongside engagement with our own workforce, as part of our work to improve absence we will be engaging with justice partners and other comparators to gather insight – for example, is this an issue which relates to a specific issue or issues within the justice sector which we are failing to address, our own management practices, a reflection of employee reaction to societal issues or, more likely, combinations of these factors and more.

Short life working group – analysis and conclusions so far

10. Initial analysis and conclusions arising from the short life working group are:

- a) That the introduction of homeworking and the ease of using technology such as MS Teams during and after the pandemic has transformed the organisation and COPFS as a workplace.
- b) COPFS has grown significantly over the last two years which provides its own challenges:
 - induction and training of new team members
 - integration of new recruits with existing employees
 - communications challenges
 - co-ordination of tasks and responsibilities; and
 - ensuring that support and guidance is provided to the team in addition to managing an increased workload.
- c) Managerial skill levels to deal with change and growth are varied – from a positive perspective it was recognised that there are areas where managers:
 - have engaged with new members of staff and held teams together well
 - have skills in approaching mental health deterioration and are able to make early interventions
 - are able to conduct suitable conversations and re-engage employees with their work responsibilities

- d) There are areas where management engagement and practice can be improved, including:
- How and when training takes place and is accounted for has not always been consistent across all Functions.
 - Not all managers have a strong understanding of using the Maximising Attendance policy, Mental Health policy or how to apply Agile Working and Homeworking policies.
 - Some managers may lack confidence in applying basic HR processes.
 - There is varied understanding of how to apply the Workplace Adjustment Passport and the crucial nature of working with occupational health specialists to ensure reasonable adjustments are prioritised for those defined as 'disabled' in terms of mental health.
- e) A core theme remains the importance of management training with a focus on the following issues:
- How do we ensure positive and consistent application of the Maximising Attendance policy, especially understanding the difference between short and long term absence approaches and how to make the most of meetings by its policy and procedures? How can we promote further and discuss as managerial teams, the Mental Health, Agile Working and Homeworking policies?
 - How can we integrate the management training programmes of Local Court with those of SCG and Operations Services through the Prosecution College better?
 - How can we provide managers with a better understanding of grievance processes and skills in coping with grievances one-to-one before they become formalised. How do we find a way to educate our managers in conducting challenging conversations and use active questioning and listening.

11. All of these initial findings and themes are also evidenced in the 2022 See Me Audit. It is intended that the recommendations from the short life working group will be reflected in the Wellbeing action plan, alongside the See Me delivery plan.

12. A report on the findings of the short life working group is tabled for discussion at Corporate Health and Wellbeing Committee in May 2023

Policy Development

13. The Menopause, Carers and Gender Based Violence policies were agreed at the March 2022 Equality Board following extensive consultation and ensuring that best practice across a variety of sectors was taken into account.

14. These policies will now be communicated to staff with relevant supporting documentation and guidance as needed.

Conclusion

15. Executive Board is invited to note and comment on the update provided.

Human Resources

March 2023

EXECUTIVE BOARD

FUNCTION UPDATE: LOCAL COURT

Purpose

1. To provide the Executive Board with a short update on current performance and progress as we continue recover from the Covid-19 pandemic and implement planned improvements and reform in 2022/23. Further details are provided in Annex A.

Priority

2. Routine.

Recommendation

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

**Jennifer Harrower
Deputy Crown Agent
Local Court**

Mar 2022

ANNEX A

1. Current Priorities

- We are continuing to implement our Business Plan for 2022-23. The Business Plan was intentionally ambitious and aspirational in its objectives. Our Implementation Plan, which supplements the LC Business Plan is allowing us to monitor progress. We have developed our Business Plan for 23/24 building on the foundations laid in the 22/23 plan. This plan will focus on the tangible measurable aims that are under the control of Local Court to improve our processes and service delivery, support our staff and transform the way we carry out our business
- We are continuing to monitor implementation of the agile working policy. We remain cognisant of the fact that the majority of staff in Local Court have to work in specific locations office/court as part of the long-established rota process. We are ensuring that the policy is being implemented fairly and consistently and are addressing issues such as staff in offices carrying out tasks for staff who are working at home.
- Summary Case Management pilots commenced on 5th September in Dundee, Hamilton, and Paisley. The pilots have provided the ability of the police to provide early disclosure of key evidence in DA cases, and targeted disclosure in other casework. This has proved to work very well with over 1000 productions being received electronically into the case management system [Egress] since the pilots commenced. Local Implementation Groups continue to be held with engagement from all parties. Initial engagement in the pilot from the defence has been lacking and patchy in areas but positive outcomes are being seen with those who are engaging with the pilot. Change to the practice note issued by the Sheriff Principal in February 2023 has allowed changes to legal aid which has hitherto caused defence agents not to participate. Early indication has also shown an overall decrease in witness citations being issued for the pilot sites summary trials.
- Reduction of the pandemic backlog in the summary and solemn courts.

2. Staffing

- We continue to recruit across all grades and all locations to ensure that we maintain our agreed staffing position of FTE of 1,117. As at 12th Mar 2023 there were 1,096 FTE in post in Local Court. Local Court continues to take on the majority of new legal staff to the department which requires us to continue the transfer of existing legal resource to SCG. We have completed the transfer of legacy PFD resource.
- We continue to adopt an agile approach to our resourcing aligning our recruitment with our transformation strategy which will increase our ability to undertake elements of our work from a neutral location. This will improve our service delivery and improve our processes. The location neutral staff will rotate with staff in local offices allowing for greater use of the policy in our small and medium sized offices.

ANNEX A

3. NICP

- Performance against the main KPI for 2021/22 (marking 75% of cases within 28 days of receipt) was 73.5%. The current performance this year is **72.6%**.
- The number of unmarked cases as at 7 March 2023 was **15,619**. This equates to 5.7 weeks' worth of work. The level at the last update in Nov 22 was 16,592.
- Priority is being given to reducing the age profile of cases awaiting marking.
- A review is currently being undertaken within local Court to assess the case marking business and how best to organise and resource within Local Court. LC continues to see the value in having specialist case marking service to provide consistency across Scotland and ensure that high quality decisions are being made.
- NICP has had a pivotal role in the successful implementation of the Summary Case Management pilots ensuring that additional evidence is considered and assessing which cases are suitable for resolution.
- During SCM pilots, NICP has taken on the role of marking undertakings for the three pilot areas. The intention is to migrate all summary undertakings to NICP during the course of the next business year.
- Local Court has seen new ways of working with some digital productions being available at case marking stages due to SCM and DESC pilots.

4. Solemn Casework

- Performance against the main solemn KPI (indicting 75% of cases within 8 months of first appearance) is currently sitting at **51%** 2022-2023.
- New petitions – the forecast for new petitions registered in 22-23 is **11,548**. This compares with 9,780 in pre covid year 19-20.
- Precognitions in hand – the figure at February 2023 was **6839**. The figure in Feb 22 was 6,325.
- Outstanding Trials – there are **2402** number of trials scheduled. This compares with 497 in the pre -pandemic year 19-20. The figure at the end of 21-22 was 2274.
- Additional S&J courts will commence in April 23 at the same time as the additional sheriff summary trial courts cease.

5. Sheriff Summary Work

- At end of FY 2021-22 there were 30,520 outstanding sheriff summary trials. There are currently **20,641** outstanding sheriff summary trials. This represents a reduction of approximately 10,000 trials since April 2022. The pre pandemic level was around 14,000.
- At FY 2021-22 there were 7569 outstanding JP trials. There are currently 4305. The pre pandemic level was around 4,000.
- The sheriff summary waiting period (13 weeks) is similar to pre pandemic value.
- The JP waiting period (15 weeks) is still higher than the pre pandemic level (13) but has reduced from pandemic high of 25 weeks.
- Summary Case Management has been supported by summary staff within Local Court.

ANNEX A

- There has been some improvement in the domestic abuse case journey time. Most courts are just over the 10-week target.

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.

7. Conclusion

Local Court staff continue to attend offices and courts as implementation of the agile working policy progresses. Local Court management remains in dialogue with SCTS about a revised recovery court model to address the increased number and age-profile of outstanding trials and to deliver a high-quality service. Following discussion with SCTS we have agreed a reduction in the number of summary trials courts and an increase of 6 additional sheriff & jury courts from 3 April 2023. This will allow for a greater focus on reducing the number of outstanding solemn cases with a projection of a return to pre-pandemic numbers by 2026.

**Jennifer Harrower
Deputy Crown Agent
Local Court**

Mar 2022

EXECUTIVE BOARD-HIGH COURT FUNCTION UPDATE

PEOPLE

The majority of our staff now work on a hybrid basis and spend a proportion of the week in offices with their teams. Productivity was clearly impacted by the pandemic with performance in FY 20/21 and 21/22 falling by 16-20% compared with levels in 18/19 and 19/20 but the last 10 months have seen an **11%** increase compared to the first 10 months of FY 21/22. Productivity would have been higher but for an unwelcome 12% increase in new petitions which reduced our ability to make the inroads we would have wished in our backlog. The increased level of office working has not brought the significant gains in individual performance that we might have hoped for and therefore the function has been focusing on addressing the other factors have inhibited productivity which include:

- The additional demands of servicing churning High Court trials and keeping victims and witnesses engaged in the process
- Balancing a backlog of unindicted cases over 10 months old with ongoing custody demands and the increased demands coming from the Scottish Child Abuse Inquiry(SCAI)
- The challenge of having to operate a hybrid electronic model of reporting which our system was not set up to support
- The increasing demands placed upon us to facilitate Evidence on Commission (EOC) and the complexities which this method of recording testimony has introduced for all our staff which require additional legal and logistical decisions to be taken which extend far beyond those required for a routine trial
- Ongoing unfilled vacancies and a lack of solemn case preparation or solemn prosecution background experience in recent recruits which has resulted in extensive training requirements.

To address these concerns, we prioritised the following in FY22/23:

- Strengthening our Sexual Offences senior management team and our SCAI resourcing complement
- The introduction, from August, of our Witness Assistance Team to improve our service on witness excusals and witness availability
- A review of HC VIA-their roles and responsibilities, their line management structure, their communications to victims which has led to an agreed new approach of allocating VIA officers directly to case preparation teams. This will be implemented by April 2023 and will increase VIA specialism and improve line management.
- New KPIs and objectives, introduced in August which focused primarily on clearing outstanding cases over 10 months old, quicker allocation of cases

- and improved compliance with KPIs on reporting dates for custodies and child witnesses (under 12 years) cases
- The introduction of a more user-friendly fully electronic model of reporting which began its pilot on 25 January before an anticipated national roll out.
- An end-to-end process review of EOC which is in the process of addressing the myriad of additional tasks associated with this format of eliciting testimony.
- Minimum standards for reporting of cases to the indicting team which was introduced in November for all High court reports.
- Responding to the Inspectorate report on s275 applications which we pro-actively anticipated by conducting an advanced review of our training and processes
- Improving our process for identifying and facilitating level transfers from Local Court to ensure vacancies are filled without unnecessary delay.

PERFORMANCE

HC Performance is measured across the disciplines of Homicide, RTFIU, Major Crime and Sexual Crime.

1. INITIAL DECISION MAKING

- Our KPI is to take 75% of initial decisions within 4 weeks (**87%**)
- Our KPI is to take 90% of initial decisions within 8 weeks (**93%**)
- Our KPI is to take 95% of initial decisions within 12 weeks (**96%**)

All current KPIs are being met and performance has improved on all categories from FY 21/22.

2. REPORTING PRODUCTIVITY

We reported **871** cases to Crown office for FY 20/21

We reported **874** cases to Crown Office for FY 21/22

This represented a **0.3%** increase in the level of reporting over the last reporting year. We are encouraged by an **11%** increase in productivity in the first ten months of 22/23 compared with the same period in 21/22 but recognise the need to significantly improve productivity, and this is an objective for the function. We had hoped for a greater increase by now however we were impacted by a delay in filling vacant legal and case preparer posts .The situation was exacerbated by maternity leave in small, specialist units which cannot easily absorb the impact especially when combined with the impact of training up

inexperienced staff and responding to the ongoing demands of an increased and aging caseload.

3. SERVICE OF INDICTMENTS

Our target is to serve 80% of indictments within 9 months of CFE

In FY20/21 SCG achieved **44%** collectively

In FY21/22 SCG achieved **40%** collectively

In FY22/23 SCG are currently achieving **39%** collectively

The current relevancy of this longstanding internal "target" is questionable when balanced against the imperative of indicting out of target cases to reduce our ageing profile of cases. For FY 22/23 a key objective has been to reduce the proportion of our petitions aged 10 months (from CFE) and 12 months (from receipt) which makes this target counterproductive.

4. INDICTING PRODUCTIVITY

We issued **759** indictments from April-Jan in 20/21

We issued **760** indictments from April-Jan 21/22

This represented a **0.13%** increase in the level of indicting. We have subsequently experienced a **34%** rise in productivity of indicting in the first 10 months of FY22/23. We recently filled the last vacant post in this unit but this has now been offset by a maternity leave vacancy and the forthcoming level transfer of another depute so the position remains unstable. There will certainly be a need for greater indicting capacity if we are to succeed in our aim to indict all cases over 10 months old whilst also concurrently indicting custodies and child witness cases however it is recognised that this would place increased pressure on our PH cycles.

5. s76 INDICTMENTS (including other SCG disciplines)

We issued **58** s76 indictments in FY 20/21

We issued **34** s76 indictments in FY 21/22

This represented a **39%** reduction in the level of accelerated pleas by s76. This was disappointing but given that 70% of our business is sexual offending which does not naturally result in early resolution, and levels of outstanding HC trials were 140 % higher than pre-pandemic levels it is perhaps not surprising that we

struggled to obtain early resolution. We have however seen a very positive increase of **112%** in this FY which is hopefully a sign of a turnaround.

Our level of outstanding trials is the highest it has been since the additional 4 trial courts were added in September 2021. We now have 979 outstanding compared with 390 pre-pandemic. This is a **15%** rise on our position this time last year and a **151%** rise since the onset of the pandemic.

6. INPUT

We received **1249** petitions across HC in FY 20/21

We received **1119** petitions across HC in FY 21/22

This was a reduction of **10.4 %** in the level of new petitions which was welcomed but figures from the first 10 months of FY22/23 shows a worrying increase of **12 %**.

7. AGE PROFILE

Age of casework is a particular concern when considering the profile of our victims, the age of some of the offences we are investigating (and the age of the accused) and our current reliance on time-bar extensions. Our objectives for 22/23 were to reduce the levels of petitions over 10 months from the 21/22 level of **20%** down to 5% and to reduce the overall age profile of unindicted SPRs over 1 year old which sat at **22%**, down to 10%. While we have managed to reduce the level of petitions over 10 months down to **17%** and the overall age profile down to **20%** we have not yet managed to achieve the level of progress we would have liked. The most significant pressure has been in Sexual Offences where we recognised the need for a strengthened senior legal management team and welcomed an additional Band G legal manager in the autumn.

8. KPIs

Our KPIs were reviewed and reissued in August. Only 19% of HC cases met their KPI for journey times in FY21/22 and we have been unable to either achieve or improve that performance in the first half of the year. We have however improved our performance and are meeting all KPIs for initial decision making and on the age profile of our unallocated petitions. We have also seen a welcome improvement in our interim marking where we have seen a reduction in the age of outstanding SPRs over 1 year old from **54%** to **16%** over the last 10 months.

HC had been operating a different standard from LC in terms of some of its measurements of journey times for sexual offences and it was recognised that this was not sustainable. As a consequence, the Sexual Offences Strategic Group was set up in March 22 to bring together both functions involved in this casework. We have reached a clear consensus around joint KPIs. It is acknowledged that reducing age profile has to take priority over reducing individual journey times albeit there is a clear desire to provide a focused improvement in journey times for young child witnesses.

One of the unique HC challenges over journey times is the indicting process. While LC can indict their own cases with a quick turnaround the HC indicting process adds an extra layer of quality assurance which requires the input of Crown Counsel. The aforementioned vacancies in the Indicting team, the challenge of maintaining the AD cohort at an effective level and the pressure not to overload PH sittings means the Indicting team face competing priorities and the reality is that they require to focus their resource on custodies and bail timebars. This reality required to be addressed in terms of HC objectives for 22/23 and our focus for 22/23 has therefore been on the following:

- Initial decision making within 4, 8 and 12 weeks (achieved)
- Significant reduction in interim marking over 10 months (achieved)
- Significant increase in pre-petition reporting (achieved)
- Increased productivity of case preparation teams and indicting teams(achieved)
- Improved performance on journey times for child witnesses under 12
- Reporting cases to agreed timescales and to agreed minimum standards
- Significant reduction in petitions over 10 months (CFE) 12 months (SPR)

Clearly much is still to be done in respect of some of these objectives and a priority for the coming year is to undertake urgent resource modelling to ensure that we have the right people and processes in place to provide us with a realistic prospect of reducing our age profile to allow us to comply with any changes to the current extensions on statutory time limits which will expire in 2025.

Ruth McQuaid 15.3.23

REPORT FROM SPECIALIST CASEWORK FOR EXECUTIVE BOARD MEETING
CONSOLIDATED PERFORMANCE INFORMATION

1. Serious and Organised Crime Unit

- 110** live cases (↑3) (spanning 144 SPRS) incl. 16 L&C cases (30 SPRS)
 - 34** cases pre-petition (↑1)
 - 35** cases accused appeared on petition (↑4)
 - 10** cases where there are petition warrants (-)
 - 17** cases (spanning 28 SPRS) indicted High Court (↓1)
 - 11** cases (spanning 15 SPRS) indicted Sheriff and Jury (-)
 - 2** case trial fixed in a summary court (-)
 - 1** case where a marking decision is pending (↑1)

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 **110** (↑3) live SOCU cases (spanning 144 (↑6) SPRS), there are currently **16** operations (comprising **30** SPRs) on the lengthy and complex case list.

There have been **90** Serious Crime Prevention Orders (SCPOs) granted in Scotland to date, **1** of which is a 'stand-alone' SCPO which was granted in terms of s1(1A) of the Serious Crime Act 2007.

There are now **31** live SCPOs being monitored by Police Scotland (the subjects having been released following the conclusion of custodial sentences), 4 of which are orders that were granted in England and Wales.

To date **12** SPRs have been submitted to COPFS in relation to breach of SCPOs. These relate to **7** accused. Proceedings are ongoing in relation to these cases.

There have been **12** Trafficking and Exploitation Prevention Orders (TEPOs) granted in Scotland to date.

1 TEPO is currently live (the subject having been released following the conclusion of a custodial sentence).

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:

- **9** (↑1) cases (spanning **11** SPRs) where a petition warrant is out for execution
- **1** (spanning **1** SPR) case where the petition warrant is being held pending the outcome of another case
- **34** (↑1) cases (spanning **39** SPRs) are being prepared as pre-petition
- **35** (↑4) cases (spanning **46** SPRs) where the accused have appeared on petition, **15** (↓2) of which are currently utilising the covid extensions.
- **17** (↓1) cases (spanning **28** SPRs) have been indicted for High Court proceedings
- **11** (-) cases (spanning **15** SPRs) have been indicted for Sheriff and Jury proceedings, all of which will be prosecuted by SOCU deputies
- **2** summary complaints (spanning **3** SPRs) where a trial has been fixed which will be prosecuted by SOCU deputies

Additionally, the Unit has oversight of **37** (-) large/complex cases being worked on by reporting agencies and not yet formally reported to COPFS.

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

iii) High Court prosecutions

SOCU has **17** (↓1) cases now indicted to the High Court, **7** of which are at PH stage, **4** whereby an Evidential Hearing has been fixed, **4** are awaiting trial, **1** whereby the trial is ongoing and **1** is awaiting sentence. A further **25** (↓1) on petition where High Court proceedings are anticipated.

iv) Sheriff & Jury prosecutions

The Unit currently has **11** (↑1) cases indicted for Sheriff and Jury proceedings, **5** of which are at FD stage, **2** whereby an Evidential Hearing has been fixed, and **4** continued to trial. SOCU trial deputies have been assigned to all of them.

There are a further **5** (-) on petition where Sheriff & Jury proceedings are anticipated. Many are long and complex cases, and they are spread across the country.

v) Other Matters of Interest:

Expedited Referrals – The number of referrals considered and referred to CRU in the last 3 years are as follows:

- 2020 4 applications referred
- 2021 2 applications referred
- 2022 4 applications referred

Independent Reviewer of Terrorism Legislation – SOCU has now commenced engagement with the IRTL in relation to his 2021 annual report, which will have a focus on the 'online' aspects of terrorism and law enforcement. SOCU is also assisting with the revision of the 'Letter of Rights' document which is issued by police to persons detained under the terrorism legislation.

2. Proceeds of Crime Unit (POCU)

2021-2022

197 confiscation orders totalling £4,856,156.49

19 restraint orders obtained £8,258,876.21

2022- To date

163(↑26) confiscation orders totalling £2,111,986.81 (↑748,840)

16 restraint orders obtained for £4,714,334.10 (↑56,720)

Confiscation and restraint

In the financial year 1.4.2021 to 31.3.2022, 197 confiscation orders were secured to a total value of £4,856,156.49. In the 22/23 financial year to 24.02.2023 163 orders totalling £2,111,956.81 have been secured.

In the financial year 1.4.21 to 31.3.22 a total of 19 restraints were secured totalling £8,258,876.21. In the current 22/23 year to date, 16 restraint orders have been obtained restraining £4,714,334.10 of assets. Temporary restraint by moratorium extension was secured last year on 116 occasions suspending access to assets of £15,526,801.70 pending further investigation with a view to full restraint. In 22/23 to date 48 extensions have been obtained securing £3,915,656.15

**Notable cases and ongoing restraint work
Contained in Annex attached**

3. Appeals

Courts

All appeal courts are now in person unless otherwise specified by Justiciary. Current arrangements appear to be going well. Problems in relation to

connectivity in Parliament House are in the process of being resolved. Data points have been installed in the appeal court rooms giving COPFS users access

to COPFS systems in court. Some teething problems have been experienced but progress has been made.

Senior AD/Appeals pilot

Following discussions with the Law Officers and PCC on 18.08.2022, a new approach to some appeals work has been agreed. PCC will ensure that early allocation to a Senior AD will permit early engagement with Appeals deputies and early discussion of the appeal issues in advance of preparation of draft written submissions for known hearing dates. This system cannot apply to all casework as often bills or appeals from preliminary hearings are fixed for hearings within short timescales leaving insufficient time for this to be applied. The pilot was evaluated in December and is now permanent practice.

Senior AD/Appeals liaison meetings

Commencing on 06.10.2022, monthly meetings are scheduled to discuss any trends or issues arising in appeals and for discussion of any information passed to PCC from the bench. Available senior ADs attend with DPF, APF and an appeals PD on rotation. Law Officer attendance is to be anticipated occasionally. These are now occurring each month and are considered beneficial to all.

Appeal Court update

At the request of CC arrangements were made to produce a monthly digest of cases including embargoed cases and notes of reasons. Although the original purpose of the update was to ensure that trial ADs could find the latest decisions in one place, this was rolled out to the service generally. The first update was circulated to ADs on 6.10.2022 and a hyperlinked version to all legal staff on 13.10.2022. The update is also published on Connect. This digest of recent appeal cases has been widely welcomed and continues to be produced each month

4. International Cooperation Unit (ICU)

International Criminality Cooperation Board (ICCB)

ICCB provides a broader scope of strategic oversight of the UK's approach to international law enforcement and criminal justice cooperation. There is restricted operational representation on the Board; the Head of MLA and the Head of Extradition are members in addition to the Head of ICU, the last meeting took place on 16th February 2023. Much of the focus in the February meeting was in relation to the progression of the bilateral agreements with France and Belgium in relation to law enforcement MLA to support & enhance the existing terms of the Trade and Co-operation Agreement with the EUMS.

There was also discussion centred on planned liaison for the year 23/24 with countries across the EUMS to strengthen ties post Brexit.

The Law Officers, Crown Agent and Head of ICU met in Edinburgh over a 2day period with the Dutch Liaison Prosecutor and her team.

The head of extradition is going to Malta in March to address international partners there on the specifics of Extradition in Scotland post Brexit.

Further liaison events together with an agreed strategy for international engagement going forward across Europe and beyond is now being considered by CA and Head of ICU.

5. Criminal Allegations Against the Police Division (CAAPD)

The CAAPD hybrid working model has been operational from w/c 9 May 2022. All CAAPD staff now divide their time between working from the Hamilton office and working from home each week. Arrangements have now been made so that there is a physical presence in the CAAPD office on every day of the working week.

During 2021 the Executive Board authorised the introduction of a revised CAAPD published target to operate retrospectively from 01 July 2021; that decision was reached following the cessation of the CAAPD practice of "freezing" targets pending the arrival of essential evidential material from investigative agencies.

The new 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.

As at the end of February 2023 the CAAPD Year to Date Performance for 2021-22 against the new target was 84%.

A rota remains in place for attendance of CAAPD administrative colleagues at Hamilton PF's Office to ensure that all essential operational tasks that cannot be undertaken from home are attended to. i.e. hard copy mail, disclosure of material via pen drive/DVD, etc.

The majority of CAAPD management meetings are continuing to routinely take place via Microsoft Teams but, following the introduction of the hybrid working model, there is now the capability of holding and increased number of in-person meetings. For example, all CAAPD team briefings are now, once again, being conducted as in-person meetings. Some liaison meetings with criminal justice partners (PSD and PIRC) have also been held in person.

On staffing: within CAAPD there is currently a Band D (Precognition Officer) vacancy.

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

Both Police Scotland PSD and PIRC maintain an effective service to CAAPD.

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

It is understood that both organisations are continuing to work 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 Microsoft Teams.

Details of the casework highlights are contained in the Annex to this Report.

i) Other matters of interest

Dame Elish Angiolini QC published her report on the system for dealing with complaints against the police on the 11 November 2020.

Advice was provided to the Law Officer's following publication.

In summary, while there are only four recommendations that directly relate to the work of COPFS/CAAPD – centring on issues of improved accessibility and suggestions for increased instructions to PIRC – there are many other recommendations that will significantly impact on the work of other criminal justice stakeholders.

The four recommendations directly related to the work of COPFS/CAAPD have all been successfully implemented.

CAAPD continues to be significantly involved in further consideration, and implementation, of many of the other recommendations 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 Cabinet Secretary for Justice (CSJV) and the Lord Advocate have published their formal response to the report and, since then, a Ministerial Group tasked with providing governance and assurance over the work of the Strategic Oversight Group and the Practitioners Working Group have met.

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. He continues to represent COPFS at the quarterly Practitioners Working Group (PWG) meeting.

The Scottish Government public consultation in respect of those recommendations that require legislative change recently commenced on 24 May 2022 and ran until 16 August 2022. A total of 56 responses were received. SG officials met with operational partners, diversity staff associations and staff associations throughout the consultation period to consider views and help inform policy proposals. SG

also hosted three events in August 2022 aimed at those with a wider interest in policing including organisations representing victims of crime, justice groups, voluntary sector organisations and community groups. An external contractor has now analysed the responses and the SG published a report detailing that analysis on 30 November 2022. The consultation will help inform how the changes that Dame Elish recommended can be implemented as preparations for legislation continue. The CSJV undertook to “carefully consider all of the consultation responses, to help us shape improvements to Scotland’s system of police complaints and misconduct handling”.

Separately, the fourth Thematic Progress Report on implementation of the recommendations was published by the SG on 13 December 2022.

The next Ministerial Group meeting, to be attended by the LO’s and the CA, is scheduled to take place in the second quarter of 2023.

CAAPD continues to offer advice and guidance to Police Scotland on the most appropriate categorisation of complaints. This often involves providing advice on “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 good number of inquiries from the police relate to whether the case should be referred to PIRC for further investigation at an early stage or whether the investigation, depending on the circumstances, should be treated as an on duty or off duty investigation. Going forward it is anticipated that PIRC will assume an enhanced audit function with regards the work of PSD in accordance with their statutory responsibilities. In addition, from October 2021 there has been a standing instruction that all assault allegations, appearing to engage Art 3 rights, are now automatically referred to PIRC for investigation (as recommended within the Dame Elish report).

There has been a recent marked increase in the number of advice and guidance requests from Police Scotland with regards sexual allegations against police officers.

Finally, HM Inspectorate of Prosecution in Scotland (HMIPS) has completed her review of how COPFS manages criminal complaints against the police. CAAPD fully engaged with the review as it progressed. The final version of the report was published on 9 September 2021. CAAPD/COPFS has now set out a detailed plan for managing implementation of the recommendations and confirming the arrangements for the governance and assurance of that process. All recommendations have been allocated to a nominated lead official for progression. The latest meeting of the COPFS “HMIPS strategic oversight group” took place on 23 February 2023 when a number of recommendations and suggestions for improvement were signed off as fully implemented. The next meeting of the COPFS “HMIPS working group” has been scheduled for 23 March 2023. Updates on progress are being routinely provided to the COPFS Audit and Risk Committee (ARC) and a meeting with HMIPS, to provide the Inspector with an update on progress, took place on 20 December 2022.

6. Scottish Fatalities Investigation Unit (SFIU)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

New Deaths

Details of the total numbers of deaths received as at 20 January 2023 (all deaths reported to COPFS) can be found in the table below:

SFIU WEEKLY SNAPSHOT OF WORKLOAD / PERFORMANCE	
<p>Death Cases Received as at 17 February 2023</p> <p><i>(including SFIU, HSIU, CDU, CDIT, HSIU, Homicide & RTFIU deaths – ie all deaths reported to COPFS)</i></p>	<p>Full Reporting Year 2019/2020 – 10,896</p> <p>Full Reporting Year 2020/2021 – 15,712</p> <p>Full Reporting Year 2021/2022 – 15,313</p> <p>February 2023 to date - 632</p> <p>Reporting Year to Date from 01 April 2022 – 12,494</p>

The current media reporting of ‘excess deaths’ in Scotland (and the UK as a whole) is acknowledged politically and also internally within COPFS, within SFIU. The figures above still suggest that we are on course to take receipt of a very similar number of death reports in the current reporting year (2022/2023) than we have seen the previous two years- being predominantly COVID-19 years. This is despite high levels of COVID vaccination status in the country leading to lower death rates from COVID-19 and the latest CMO letter, issued before Christmas 2022, which altered the reporting guidelines for COVID deaths.

SFIU senior managers are engaged with SG to monitor the developing issues and have devised plans internally to respond to the increase in deaths including looking at ways to ensure extra new death marking resources and considering the potential for a short term ‘on call’ facility to be established. The number of death reports being received will however have an impact on the number of active death investigations over the coming months, and potentially years.

Active Death Investigations

As at 10 February 2023, there were **8671** active death investigations across all death investigation units within COPFS.

This is up 23 from the last update in January 2023.

Fatal Accident Inquiries

As at 20 February 2023 there are:

- **26 FAIs** (19 mandatory and 7 discretionary) in SFIU with scheduled court dates.
- There are a further **14** deaths where an FAI has been instructed but there are currently no court dates set.

The same challenges that were described in last months update persist. Once again, there continues to be a visible emerging trend towards the increased instruction of discretionary FAI's. Combined with this is a further sub-trend emerging in terms of the conjoining of FAI's with similar trends/themes. The impact of both of these trends continues to be closely monitored as is the attitude of SCTS when the relevant First Notices are lodged.

The increasing numbers of large, conjoined, FAI's continues to pose challenges for both COPFS and SCTS in terms of access to the Inquiries by next of kin. Furthermore, the likely increased length of these inquiries places additional pressure on the court estate.

The profile of the FAI's currently being dealt with by SFIU is increasing in complexity, not least due to the increased number of conjoined FAI's being instructed. As a result, there are an increasing number of FAI's that now either have a dedicated Advocate Depute assigned to them for advice and instruction, or an Advocate Depute assigned to present the FAI in court.

Current high-profile cases, that the Law Officers have expressed an interest in and where it is likely that consideration will require to be given to conjoining FAI's include: additional conjoining of FAI's in unlawful killings or suicides where the deceased/accused have had recent contact with community mental health services; ambulance/SAS delay cases; child death 'overlay' cases.

Details of the discretionary FAI cases are referred to in the annex.

Improvements to the System for the Investigation of Deaths

Since the January 2023 update, the Head and Deputy Head of SFIU have met with Next of kin of Sophie Parkinson. Next of kin were at one stage, critical of COPFS and the handling of the investigation into Sophie's death, however, the Head of SFIU has spent a considerable length of time building the confidence of the family and establishing rapport. As a result, Sophie's mother has agreed to put SFIU in touch with contacts within Bereavement Support organisations who will provide valuable input in to the Bereaved Relatives Reference Group.

Pathology

Post Mortem Reports

Work continues to secure the personnel to staff the Final Post Mortem Team. This will become increasingly important as the end of the financial year approaches, followed shortly thereafter by the deadline for submission of data to the NRS at the end of April. This situation, and the number of outstanding 2022 post mortem reports is being closely monitored.

As at 23 February 2023 the details of the outstanding PM reports which had been received by COPFS and required to be processed were as follows:

2021: 4

2022: 336 480 (down 144 from the last update)

2023: 71

Total: 408 (down 83 from last update)

Toxicology

As advised in the previous OPC update, the transfer of the majority of COPFS toxicology services from Glasgow University to SPA, based at the new laboratory at Junction 24 Business Park, Govan will have an impact on the submission of final post-mortem reports to COPFS.

Full transition to the new SPA lab was completed on 1 December 2022.

It took a number of weeks for the lab to be fully operational with the required certification/accreditation approvals in place. During that time, cases that could be outsourced to external, private, labs were so processed. There was however still an impact on the number of toxicology reports that were able to be produced, and sent to pathologists for consideration and inclusion in Final Post-Mortem reports.

The new toxicology lab is now fully operational and has begun processing cases. Therefore work is now underway to catch up with the 'backlog' caused by the transition process and SFIU are monitoring the situation and have regular liaison with SPA regarding this.

In February 2023, an issue with the 'accreditation' of some of the equipment was identified and this has had an impact on some of the report target dates. COPFS is working closely with colleagues in SPA and pathology to monitor the situation. COPFS is still on track to provide the required data to NRS by the deadline at the end of April.

Case Management Panels

As at 23 January 2023, there were **208 cases** in SFIU over 2 years old (an increase of 24 from the previous month.)

It is still of note that SFIU experienced a significant increase in the number of death reports from 2019/2020 as compared with 2020/2021 and 2021/2022 also had significantly high number of death reports. This will have implications for the number of cases that may enter the CMP process at future points, particularly as the complexity of the cases being investigated continue to be of greater complexity and the number of discretionary FAI's, including conjoined FAI's continues to increase also.

Discussions are currently ongoing to discuss and agree efficiencies in respect of the operation of the CMP process.

7. COVID Deaths Investigation Team (CDIT)

Staffing

Work continues to increase CDIT's compliment in line with the resourcing bid to Scottish Government for additional funding for CDIT. Some staff have taken up appointment during December 2022, January 2023 and February 2023 and work continues to fill additional posts.

Case Load Update on CDIT (stats below up to date as at 16.01.23)

COVID DEATHS INVESTIGATION TEAM STATS								
		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
Stats as at Monday 13th of March 2023	Overall total number of deaths now with the COVID Team	2669 (same as last week)	29 (same as last week)	1800 (Same as last week)	10 (Same as last week)	15 (Same as last week)	1168 (Same as last week)	5688 (same as 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.

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.

Work continues to finalise some aspects of the allocation process and associated material but in the meantime all cases within CDIT have now been assigned to individual teams who are in the process of allocating and investigating those deaths in line with ordinary principles.

8. Health and Safety Investigation Unit (HSIU) Staffing

HSIU currently has 1 unfilled PFD post. An experience PFD is due to retire in May 2023 which will create another PFD post.

Criminal Cases

HSIU Criminal Cases with Scheduled Court Dates:

There are **4** solemn cases with scheduled court dates (1 sheriff and Jury trials, 2 debates (solemn) and a Section 76 indictment).

There is **1** summary case with a scheduled court date.

Criminal Convictions

The following convictions were obtained for the period 9 February 2023 and 14 February 2023:

At Solemn Level:

9 Feb 2023 S76 Kirkcaldy Sheriff Court	HS20000052 ARK Housing Association	<u>Charge 1:</u> CONTRARY to the Health and Safety at Work etc. Act 1974 sections 3 (1) & 33(1)(a) £100,00k
10th Feb 2023 – S76 Dundee Sheriff Court	HS19000065 St David's Care Forfar Limited	CONTRARY to the Health and Safety at Work etc. Act 1974 sections 31 & 33(1)(a) Fined £100,000 – reduced from £150,000.
14 February 2023 – S76 Inverness Sheriff Court	HS20000010 NHS Highland	CONTRARY to the Management of Health and Safety Regulations 1999 Regulation 5(1) and the Health and Safety at Work etc. Act 1974 sections 33(1)(c)

		Fined £180,000 – reduced from £270,000
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Media Relations was involved in the issue of press releases for the convictions.

HSIU Fatal Accident Inquiries (as at 19 December 2022).

Pending (no First Notice lodged) – 32 cases.

Scheduled Dates – 4 - (1 mandatory FAIs and 3 discretionary FAIs)

Dates awaited – 1

HSIU anticipated lodging 2 first notices in 2 mandatory FAIs by 31 March 2023.

Total – 41

The FAIs with scheduled dates include a discretionary FAI that is anticipated to last 9 weeks, a discretionary FAI that is anticipated to last 1 week and a discretionary FAI that is anticipated to last 4 weeks.

CASEWORK

There are caveats in relation to the statistical information below. There are issues with the accuracy of the HSIU data sets. There have been ongoing reconciliation exercises between various data sets that exist in HSIU – including spreadsheets and information contained on PROMIS. Various discrepancies in data have been identified and continue to be identified.

During the period of 03.10.2023 to 15.03.2023 the successive HSIU Senior Business Managers have been made aware of the issue in order this can be taken forward as a priority. Contact has also been made with the Central Operations Team to ascertain whether assistance can be provided to improve data integrity and the methods by which data is collected to ensure that there is an accurate data set which identifies the caseload that is being progressed by HSIU.

There are currently **158 cases** where the reporting agency has submitted a report for the consideration of prosecution (down 3 from last month).

There are additionally **53 deaths** that have been referred to HSIU which are currently under investigation by the reporting agency and a SPR is awaited. This includes cases where the investigation is being “front loaded” with significant involvement by HSIU staff eg the Queen Elizabeth University Hospital Deaths, Operation Snowpocket, Operation Brocket and Operation Lapel Pin.

There are additionally **102 cases** in respect of deaths that have been referred to HSIU by SFIU where the circumstances suggests failing on the part of the Scottish Ambulance Service which are being assessed as to whether or not health and

safety criminality is engaged. The cases require a full case review by HSIU in the first instance and for those that raise issues of health of safety failings, further investigation will require to be instructed of the police. HSIU has provided an assessment in respect of criminality for **9 cases** (none of which have been assessed as engaging criminality) which have then been reported to Crown Office by SFIU for instruction for FAI (with the inclusion of the HSIU within the report).

The number of unallocated cases is **39** (up 1 from last month). Principal Depute work to allocate cases is on-going. Overtime has been made available until the end of the 22/23 financial year. The outstanding allocations include some cases where some work was previously undertaken by a member of staff and the case requires to be reallocated and cases where work on the allocation pathway has been undertaken but the case requires to be allocated to a case preparer.

The oldest report date is 16/8/2019 and is a case that is being reallocated.

- 8 cases were reported in 2021 (5 of which relate to injured parties),
- 17 were reported in 2022 (14 of which relate to injured parties) and
- 10 in 2023 (5 of which relate to injured parties).

The CMP process continues to expedite cases more than 2 years old. There are currently **84** cases for CMP.

HSIU additionally considers cases referred to HSIU to identify whether there is associated health and safety offences. This includes a series of cases that raise potential failings by the Scottish Ambulance Service. HSIU has **102** ambulance failings cases.

HSIU continues to progress a number of large investigations including the Queen Elizabeth University Hospital Deaths which is a very significant investigation with a team of 1PD, 1 FT Depute and 1PT PD. The Law Officers continue to have a detailed interest in progress. Additionally there have been 4 recent large inquiries that have occurred in 2023 - that have required a "team approach" to investigation with dedicated Crown Counsel assigned.

The recent cases are:

Operation Snowpocket – Fatal fire at the New County Hotel in Perth – January 2023

Operation Brocket – Fatal fire at Jenners resulting in the loss of life of a firefighter – January 2023

Operation Lapel Pin – Capsizing of a tug boat near Greenock resulting in the loss of two lives – February 2023

Operation Mysterio – Fatal Fire at a Recycling Plant at Perth resulting in the loss of live of an employee – February 2023.

SPRs have not yet been reported in relation to the 4 cases noted above. Each have required significant initial COPFS input and a series of multi-agency meetings including briefing for Law Officers. "Stand alone" CMPs have been convened for Snowpocket and Brocket. A cadre of experts have been retained in respect of Snowpocket, Brocket and Mysterio to act arms-length to the police/agency

investigations and provide advice to the Crown and for the preparation of expert reports following the submission of the SPRs.

LAW OFFICER BRIEFING

HSIU continues to receive ongoing requests for briefing in respect of high profile cases.

Briefing was provided for a meeting of the LA with NOK in the Norbord trial in respect of the journey time of the case and official support provided at the subsequent meeting on 24 February 2023.

Briefing was provided on 10 March 2023 in relation to the Hospital Deaths and Briefing provided in March in relation to Operation Snowpocket.

CONTINUOUS IMPROVEMENT

Progress continues in relation to HSIU Modernisation.

On 7 March 2023 Lisa Hilton, Debbie Carroll and Gavin Callaghan delivered a well-received presentation at a Health and Safety Conference at the Hilton Hotel Glasgow. Presentations were delivered from experts across health and safety issues (advocates and solicitors) on a range of key areas. Three additional staff attended the Conference.

On 14 March 2023 a training session was delivered on Teams by Barry Baker on the work of the Health and Safety Executive and the circumstances in which HSE considers that its remit is engaged to investigate health and safety offences.

On 14 March 2023, a recorded awareness session (on Teams) was delivered in relation to HSIU Outputs and new processes for reporting case to Crown Office for CCIs. Guidance has been prepared and submitted for publication to support the new processes.

A case reconciliation process continues to be undertaken in HSIU. This process has taken longer than anticipated due to admin shortages and staff moving from HSIU for the purposes of TRS.

Work on other HSIU Modernisation products continues including the development of a formalised parallel proceedings protocol in respect of cases that are referred from SFIU to HSIU and case marking instructions in relation to identification of forum.

9. Wildlife and Environmental Crime Unit (WECU)

WECU has a total of 74 cases. Of these, 28 cases relate to wildlife offences, 14 cases were reported principally by the Scottish Environment Protection Agency (SEPA), 2 other environmental cases were reported by Police Scotland/ Local Authorities, and there are 30 animal welfare cases. (From Monthly Statistics 25.1.2023 to 21.2.2023).

Of WECU cases calling in Court during this period: 3 cases called for Pleading Diet, 1 case was continued without plea, 2 cases called for Intermediate Diet, 3 cases called for Trial Diet and 6 for sentence deferred.

WECU dealt with 5 Search warrant requests. An additional 7 cases were considered by WECU but were not taken by WECU due to the particular circumstances of the cases and advice and guidance provided in a further 9.

STAFFING

The PPF D WECU post is currently vacant following the transfer of the PPF D on 01.02.2023 to the Queen Elizabeth Hospital Inquiries Team following the retiral of the PPF D.

CASEWORK

WECU staff continue to prosecute Wildlife and Environmental Crime, and mark animal welfare cases.

There are a number of older solemn level case and these are currently being prioritised in the team.

ADDITIONAL WECU PRIORITIES

Current Priorities include:

WECU training – There are currently 3.6 Deputes dealing with specialist and highly technical wildlife crime offences.

- **Scottish Partnership Against Rural Crime 8.3.22** COPFS are represented at this quarterly interagency meeting which has received praise for tackling all aspects of rural crime including wildlife and environmental offences from the Minister who endorsed the new three year.
- **PAWS Legislation, Regulation and Guidance Group**– The Scottish Government is currently considering amending wildlife legislation to address inconsistencies and to provide additional wildlife powers to SSPCA. Consideration of highlighting specific legislation and associated issues will be undertaken and examined by this group including the Head of WECU. A report has been prepared following meetings with the head of the independent review and a minute for the LA.
- **PAW Raptor Persecution Delivery Group**– COPFS is represented at this Partnership Against Wildlife crime group.
- **Scottish Government National Litter and Fly tipping Strategy** WECU will contribute to the Consultation Process relating to fly tipping and enforcement issues.

- **Scottish Heritage Crime Group** COPFS is represented at this quarterly meeting
- **WECU/ SEPA**– WECU meet with SEPA Legal and Enforcement teams to discuss common offences, common issues and of reports to be submitted re breach of licences.
- **COPFS Climate Change Working Group:** WECU sits on this group, which focuses on reducing COPFS' carbon footprint.
- **Wildlife Investigators Course 27.1.23** WECU presented a talk about what WECU does and how cases are prepared and presented in court to the new Police Wildlife Officers.
- **Tackling Scotland's Litter Waste: 16.2.23** WECU presented a talk on their role in combatting environmental waste in this area.
- **Wildlife management and Muirburn (Scotland) Bill** In March 2023 a minute was prepared for the LA in relation to the proposed new offences in this bill relating to glue traps, spring traps and muirburn in line with the recommendations of the Werrity Report on grouse moor management.
- **Serious Crime Prevention Orders** – Work is being undertaken to identify potential WECU cases in which Serious Crime Prevention Orders would be appropriate to address Environmental crime. A meeting was held between WECU, SOCD, SEPA and Police Scotland to consider the principal aim of the use of the orders. The PD in WECU further met with SEPA to identify specific cases for consideration. A process for case referrals is being discussed.
- **Forestry Crime** – The UN Toolkit has been completed in relation to the enforcement and prosecution of Wildlife and Forest Crime in the UK and has made certain recommendations. DEFRA are due to publish this report. WECU are considering taking responsibility for the prosecution of Forestry crime, to enable these recommendations to be taken forward. WECU does not currently prosecute Forestry crime. A review of the previously reported Forestry cases is being undertaken, in order to consider the relevant charge codes and to assess the potential impact on WECU.
- **Scottish Government Snaring Review** - WECU has provided statistics from the last 5 years to contribute to the Scottish Government's Snaring Review.
- **Dog Fertility Clinics** – The WECU team has given consideration to general issues affecting a number of search warrants in relation to an emerging trend of offences surrounding dog fertility clinics and the use of needles to take

blood by lay persons. First case to be submitted for consideration after discussion with SOC fiscal. Several meetings have taken place with SSPCA and Scottish Government to discuss how this may be addressed. CC has been advised.

- A report is being prepared to examine the current structure and approach to the prosecution of Wildlife Crime and how resilience to prosecute cases throughout Scotland can be increased. Currently three team members travel to courts throughout Scotland to prosecute the cases. The paper will examine whether there is potential scope for some Wildlife offences to be prosecuted by the local office with support, guidance and advice from WECU who would continue to mark and prepare the case. It will also consider whether **Heritage Crime**, infrequently reported crime, which is currently dealt with by the Local Office, may be progressed by WECU due to the overlap with wildlife and environmental offending, that often accompanies such offences.
- **Monkey Torture** meetings taken place in advance of police operation relating to seizure of digital equipment used to facilitate international viewing for payment by request of monkeys being tortured on request in Asia. The issue is to be the subject of a BBC programme and has been reported to CC.
- **Smokies** multi agency meetings have taken place which have resulted in the successful apprehension and reporting of the first Scottish case relating to the illegal trade in the West African communities in Britain of illegally slaughtered and smoked goats and sheep meat.

10. Civil Recovery Unit (CRU)

i) Sheriff Court Team (SCT)

The Unit has 22 account forfeiture cases (shared between the SCT and asset recovery team) and 31 listed asset cases.

ii) Asset Recovery Team (ART)

The ART has 8 cases with active Prohibitory Property Orders (freezing orders) and one case where a recovery order has been granted.

Court business continues to be predominantly dealt with remotely by the sheriff courts and the Court of Session.

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

iii) Economic Crime Bill

A UK Government Economic Crime and Corporate Transparency Bill was introduced on 22.09.22 which includes provisions for search, seizure and realisation of crypto assets. CRU, other members of COPFS and Police Scotland are continuing to engage in providing comments on the provisions and proposed amendments to SG Justice policy colleagues and SGLD.

iv) Expedited referrals from SOCU and referrals from COPFS

CRU continues to receive referrals from SOCU, reported by Police Scotland and DWP, under the expedited referral process which is working well.

v) Remittances to Scottish Consolidation Fund

The sum remitted to the SCF up to week ending 12.03.23 amounted to £5,157,736.

vi) Training

CRU has received fewer referrals of asset cases recently and as a result has delivered training about civil recovery to POCU, SOCU and the Economic Crime

Team. Members of the SCT have given training at 2 sessions in January to local court deutes about cash seizures and listed asset detention. Solicitors intend to deliver training to the Advocate Deutes in March and the Major Crime Team in April.

The solicitors and FIs are also participating in several training opportunities with Police Scotland.

11. CUSTODY DEATHS UNIT

Staffing

1 PPF
5 PFDs
1 Case Preparer

The team continue to carry vacancies for a case preparer, but welcomed a Procurator Fiscal Depute on 9 March 2023. The new depute has brought with him Operation Strathenberg. This is a key LA priority and he will not be able to progress any CDU casework until the conclusion of case preparation which is expected to take some time.

Cases

77 Cases under investigation (↑1)

6 unallocated cases (oldest case reported 03.11.2022)

All CDU cases under investigation feature on the Case Management Panel to monitor progress of investigations.

The quarterly letters to the Sheriff Principals, which provide information on current and forthcoming FAIs, was sent by Deputy Head of Serious Casework Group on 12 January 2023. CDU has intimated that it expects to lodge **6 First Notices for FAIs** by 31 March 2023. Amongst these are 2 high profile deaths from HMP Polmont which are likely to receive significant media attention. A decision is awaited in terms of whether conjoined FAI will be held in respect of these 2 deaths. Steps are already in place to lodge 2 of the 6 cases and progress continues in relation to the others.

Scottish Government Working Group

Scottish Government have set up a working group: Prison Custody – Key Recommendation – working group. The Deputy PF Specialist Casework /Head of SFIU, and CDU PPFCD continue to represent COPFS in this group. The Head of HSIU joined to working group in October 2023 when she took up post. Briefing was provided on 22.02.2022 to Scottish Government. SG wish to progress a pilot in April 2023 of the key recommendation. The briefing addressed the necessary

steps that COPFS considered would require to be undertaken to enable a pilot to commence. Once the Terms of Reference and key documents that define the framework and scope of the pilot have been produced, COPFS will require to consider same and produce internal guidance and training of staff in connection with the operation of the pilot and the role of COPFS within the pilot.

Law Officer's Priority Cases

CDU carries a number of cases which are high profile and which fall into Law Officer's priority cases. These require a great deal of attention and time commitment in the unit which has an impact on the remaining CDU caseload. The cases are detailed in noteworthy cases.

Noteworthy Cases

See attached annex for details.

Function Update for Executive Board: Operational Support – March 2023

Operational Support brings together a range of central services which enable COPFS to deliver its objectives. The function currently has 398.32 FTE budgeted posts (including all 64 trainee solicitors and 20 FTE in Corporate Office) divided into two teams: Policy and Engagement and Business Services. Its budget for 2022-23 is £46.1m which includes £20.7m of centrally managed corporate expenditure and £5.3m 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 79.41FTE staff (of 94.07 budgeted FTE). This includes 31.34 FTE Enquiry Point staff (of 42.07 budgeted FTE). Within P&E there is a staff complement of 17.42FTE (of 20.35 budgeted FTE) legally qualified members of staff. Promotions and the need to fill Justice Recovery posts resulted in several PFDs transferring to Local Court and SCG. There continues to be difficulties in filling PFD vacancies and work continues with HoBMs in this regard.

Coronavirus Related Policy

The Coronavirus (Recovery and Reform) (Scotland) Act 2022 came into force on 1 October 2022 and continues relevant emergency Coronavirus provisions in relation to the following (with some amendments) to November 2023 (with provision for consideration of further extension).

- 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;
- Continuation of Undertaking conditions following a failure to appear at court – 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”);

Policy officials will engage with SG in relation to further extension (of the term) of the provisions and requirement for permanence.

Prosecution Policy has been published to enable the wider supply of naloxone – an opiate overdose remedy – in the context of the current public health situation. Policy officials are engaged with Police Scotland and SG in relation to a more permanent solution.

LEGISLATION

Age of Criminal Responsibility (Scotland) Act 2019

This Act raised the age of criminal responsibility to 12 years and was fully implemented as of 17 December 2021. An Advisory Group has been convened to report on implementation of the Act and consider whether the age of criminal responsibility should be further raised. Policy officials are the COPFS representatives to the group and members of a subgroup on the operational implications of any further increase. Policy officials are also members of the Data and Research Subgroup, working with key partners to collate information relevant to these considerations.

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. Scottish Government have not yet identified the planned date of implementation in Sheriff and Jury cases. COPFS have proposed that the next phase of implementation should only take place when the necessary infrastructure, e.g. venues in appropriate locations, has been put in place by SCTS.

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.

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 if required. 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. Policy Division are drafting guidance for prosecutors which will be published on implementation. Government officials have confirmed publicly that IT issues are preventing implementation of the Act and that justice partners are working towards a commencement date in early 2024.

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

The Scottish Parliament unanimously passed the United Nations Convention on the Rights of a Child (Incorporation) (Scotland) Bill (the Bill) to incorporate the United Nations Convention on the Rights of a Child (UNCRC) into Scots Law on 16 March 2021. The UK Supreme Court subsequently held that parts of the Bill fell outside the legislative competence of the Scottish Parliament. On 24 May 2022 the SG confirmed that the Bill will be brought back to Parliament via the reconsideration stage, to address the issues raised by the Supreme Court. The final form of the Bill and exact date of implementation are unknown.

The Bill as currently drafted places an obligation on public authorities not to act incompatibly with UNCRC.

It is envisaged that Court Rules similar to those in Chapter 40 of the Act of Adjournal (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. A working group comprising representatives from Policy, SFIU and other specialised operational divisions is overseeing the review of relevant policies and processes. A sub-group to examine policies and processes for engaging and communicating with child victims and witnesses has now completed its work and the Law Officers have approved changes to the policy on communication with children, developed by the group. That policy will be brought into effect following an exercise to commission the drafting of child –friendly letters by a specialist organisation. A second subgroup continues to examine business processes for prioritising the preparation of cases involving accused aged under 18. An e-learning module for all COPFS staff on the UNCRC principles with an introductory video by the Crown Agent was published on 21 September 2022 and Policy Division are monitoring staff completion of the module, through the Prosecution College.

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 Act 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. Scottish Government officials have advised that they still intended to implement the Act but there are a number of issues that need to be worked through. This includes the obtaining of court rules which it is anticipated may extend the period before implementation can take place. Policy officials attended a “walk through” of the Act at an in-person event on 3 November. This involved the police and SCTS going through each of the provisions of the act to try to identify all

of the potential issues, including what action to take in the event of a breach. Two further walkthrough meetings have been attended by policy officials and it is anticipated that further meetings will be held in the future. At the present time no date for implementation has been identified by Scottish Government.

FGM (Protection and Guidance) (Scotland) Act 2019

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. Policy Division has sought updates from Scottish Government regarding the planned implementation timetable but it is clear that there are no firm plans at this time.

Police, Crime, Sentencing and Courts Act 2022

Police Scotland, SCTS and DVLA require to implement technological updates to their IT systems before FPNs can be utilised and these updates will take some months therefore the introduction of Fixed Penalty Notices is likely to commence in the Spring (potentially June) 2023. Policy Division are in the process of drafting revised LAGs for Fixed Penalty Offences which will be published when FPNs become operative in Scotland.

The Act 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.

A statutory Code of Practice has been published in relation to these powers and Policy officials are working with Police Scotland to ensure compliance with the Code and clear messaging for COPFS staff.

It was anticipated that UKG would publish guidance in relation to road traffic diversionary courses (RTDC) by 31 October 2022. This guidance would form the basis of the guidance which would be carried forward into Scotland. On 26 October 2022 COPFS Policy officials were informed that UKG lawyers have raised issues surrounding the complexities of road traffic offences. It is now anticipated that draft guidance will be available in Spring 2023.

Armed Forces Act 2021

The Armed Forces Act 2021 received Royal Assent on 15 December 2021. The Act amends and updates the Armed Forces Act 2006. The Act creates a statutory responsibility on the Lord Advocate and the Director of Service Prosecutions to create a joint protocol in relation to cases which have concurrent jurisdiction. Policy officials continue to engage with officials from the Ministry of Defence, the Scottish Government and with the Service Prosecuting Authority and other prosecution authorities across the United Kingdom. A draft Protocol has been agreed with the Service Prosecution Authority and approved by the Law Officers. Prior to the Protocol being published, a consultation is required. This began in February 2023.

Bail and Release from Custody Bill

SG published a bill relating to bail and release from custody in June 2022. Policy officials have provided relevant advice to the Law Officers and are engaged with SG regarding the passage of the Bill. The Bill is at Stage 1.

The Procurator Fiscal, Policy and Engagement provided written evidence in support of Parliamentary consideration of the Bill at Stage 1 to the Criminal Justice Committee on 8 September 2022 and provided oral evidence to the Committee on 25 January 2023.

Children's Care and Justice Bill

The Scottish Government published the Children's Care and Justice Bill in December 2022. One of the key elements of the Bill is raising the maximum age of referral to SCRA, currently 16 years unless the child is subject to a compulsory supervision order, in which case children under 18 years may be referred. Policy officials are engaged with the Scottish Government and other justice partners to ensure that the consequences of raising the age to 18 years for all children are understood.

Policy officials are reviewing the impact of the Bill on the Lord Advocate's Guidelines in relation to offences committed by children, the Agreement with the SCRA, internal prosecution policy and the Framework on Early and Effective Intervention.

Policy officials are drafting written evidence for Scottish Parliament's Education, Children and Young People Committee on the Bill.

Policy officials are also drafting written submission on the financial implications of the Bill, in response to a separate call for views from the Scottish Parliament's Finance and Public Administration Committee on the Financial Memorandum.

Northern Ireland Troubles (Legacy and Reconciliation) Bill

The Bill has been published and received and is at Committee Stage in the House of Lords (UK Parliament).

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

- establish a new Independent Commission for Reconciliation and Information Recovery (ICRIR) to enable individuals and family members to seek and receive information about Troubles-related deaths and serious injuries, and to produce an historical record of what is known in relation to every death that occurred during the Troubles;
- introduce a model of conditional immunity from prosecution, for those who provide the ICRIR with a genuine account of their involvement in deaths and serious injuries arising from the Troubles in NI from 1 January 1966 to 10 April 1998; and
- provide for the delivery of an oral history and the memorialisation of the Troubles. This will involve securing the long-term preservation of existing oral history collections, with new physical and digital resources to maximise public engagement with different narratives and Troubles-related stories.

Policy officials are engaged with SG and Northern Ireland Office (UKG) in relation to the Bill and have provided relevant advice to the Law Officers.

Online Safety Bill

The UK Government introduced the Online Safety Bill to Parliament on 17 March 2022. It empowers Ofcom to regulate internet services. This includes the creation of a civil enforcement regime for Ofcom and a number of new criminal offences applicable to service providers for failing to respond to certain Notices served by Ofcom. The Bill also introduces new communication offences and Policy officials are engaging with UK Government and SG officials in connection with these offences. Policy will ensure that relevant guidance is updated. A date for implementation has not yet been fixed. The Bill is currently at Report Stage in the House of Commons but has been subject to timetabling pressures.

Abusive Behaviour and Sexual Harm (Scotland) Act 2016

Work has been on-going by Scottish Government to commence sections 10 to 40 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, this will introduce Sexual Harm Prevention Orders and Sexual Risk Orders in Scotland. The original intention by Scottish Government was that these would take effect in September/October 2022, however this timescale was not met and Policy Officials have been advised that the relevant sections of the 2016 Act will come into effect on 31 March 2023. Policy Officials have been liaising with Scottish Government officials on implementation and will undertake work to prepare the necessary information and guidance for COPFS staff in relation to the orders.

Economic Crime and Corporate Transparency Bill

The UK Government introduced the Economic Crime and Transparency Bill to Parliament on 22 September 2022. The Bill's principal objective is to strengthen powers to tackle "economic crime and corporate transparency; to make further provision about companies, limited partnerships and other kinds of corporate entity; and to make provision about the registration of overseas entities". It is wide ranging, covering reform of Companies House, reform of limited partnerships, including winding up Scottish Limited Partnerships and the register of corporate entities. The justice related elements include strengthening the Proceeds of Crime Act 2002 at Part 3 (criminal confiscation), Part 5 (civil recovery) and Part 8 (investigations). It provides law enforcement agencies with additional powers to search for, detain, seize and forfeit crypto assets and crypto assets-related items, that are the proceeds of criminal activity, or which are intended for use in such activity. It also seeks to strengthen Anti-Money Laundering (AML) powers to facilitate information sharing within the private sector and between the private sector and law enforcement, so reducing the regulatory burden on the AML sector when making Suspicious Activity Reporting (SARs). It is recognised that the 2002 Act is a complex mix of reserved and devolved matters. The SG are working closely with UK counterparts on these sections of the bill. SG have been in contact with Policy officials and working closely with colleagues in POCU about the proposed changes in the prosecution of economic crime. The Bill has had its third reading in the House of Commons and is now in the House of Lords at Committee stage having gone through 1st and 2nd reading.

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 formal reporting of cases from the pilot area to COPFS ended on 1 May 2022. Scottish Government has commenced an interim assessment of the recordings evaluated by COPFS to date and is currently at the stage of finalising the evaluation report. Significant work is in progress to ensure that appropriate evaluation takes place prior to potential national roll-out. Police Scotland are continuing to utilise visual recorded statements where appropriate in the former pilot areas and COPFS are in the process of evaluating the existing pilot cases as they proceed through the Criminal Justice system.

Simplified Notification Process

Section 6 of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 will, when implemented, facilitate a swifter, automated means of submitting Vulnerable Witness Notices for child and deemed vulnerable witnesses seeking only standard special measures to the courts. Policy Division has been working with VIA, ISD and SCTS to facilitate this new process. A pilot in Local Court has been completed and a High Court pilot is currently underway. If those are successful it is anticipated that section 6 can be implemented in 2023. Changes to the Act of Adjournal are necessary to facilitate the implementation of the automated process. SCTS are leading on that piece of work and have commenced work with the LPPO in the development of the required rules.

Review of Older Persons Policy

Witnesses aged 60 and older and automatically referred to VIA in terms of the COPFS Older Persons policy. Policy Division has been asked to review that threshold given feedback received by VIA that many of those referred do not require nor want VIA input. As part of this work Policy division is reviewing the Older Persons Policy as a whole to consider the threshold for qualification.

Guidance regarding Extra-Territorial Jurisdiction (ETJ)

In the past 5 years various pieces of legislation have created ETJ for the Scottish Courts in respect of various different offences, Policy Division is reviewing published guidance and also drafting new guidance for NICP in relation to summary cases which involve relevant offences committed outside of Scotland.

Information Commissioner's Opinion

On 31 May 2022 the IC published an opinion regarding the processing of victims' personal data in rape and serious sexual offences investigations. Policy Division have reviewed relevant policy to ensure that it is in line with the opinion and will then liaise with People and Learning Division regarding the creation of training for COPFS staff.

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 were three pilot

projects to test a new interviewing model. Policy has created an evaluation process to measure changes in quality of JIIs. The pilots took place in North Strathclyde, Lanarkshire and Glasgow. The submission of cases for evaluation from the pilot areas concluded in November 2022 and COPFS is undertaking the ongoing evaluation of the submitted cases. Separately Policy is working with the High Court Unit to implement an evaluation model for both JIIs and VRIs which will be used in all High Court cases where pre-recorded evidence is used. 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 Division are involved in work around the potential for a Barnahus (Children's House) in Scotland. The Scottish Government have a manifesto commitment to developing 'Bairns' Hoose' and they envisage that all eligible children who are victims or witnesses to abuse or violence will have access to a 'Bairns' Hoose' by 2028. Children below the age of criminal responsibility, whose behaviour has caused harm, will also have access to the services it will provide.

Health Improvement Scotland and the Care Inspectorate have been jointly commissioned by the Scottish Government to develop Bairns' Hoose Standards together with key agencies which includes COPFS. Policy Division are working with these bodies 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 'Bairns' Hoose' Standards by May 2023. Work on the standards commenced in February 2022 and COPFS are represented on the group. Consultation on the standards commenced on 15 August 2022 and closed on 4 November 2022. The group reconvened in late November 2022 to consider changes to the draft standards in light of feedback from the consultation. It is hoped that any changes to the draft standards will be finalised by March 2023. Thereafter, the Bairns' Hoose standards will be reviewed by an editorial panel prior to being considered and approved by the Law Officers before final publication.

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 were 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 Division is monitoring relevant cases to assess the viability of the role. The original two NSOEs have left their posts and the pilot project is currently paused. A cadre of nurses have undertaken 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. Scottish Government sought Law Officers approval for an expansion of the Pilot areas involved in the NSOE pilot and the Law Officers have confirmed that they are content with that proposal. The pilot has been extended into NHS Lothian and NHS Highland during October 2022 and this should result in further cases being reported to COPFS as part of the pilot in due course.

Scottish Government officials subsequently contacted COPFS seeking Law Officers approval to enable NSOE to undertake examinations in cases resulting from self-referral under the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 and the Law Officers approved this request. The pilots will run until 31st March 2023 in HNS Lothian and NHS Highland with the aim of sufficient examinations being undertaken by NSOEs to enable a full evaluation of the pilots to be undertaken.

NES Trauma Informed Knowledge and Skills Framework

Dr Caroline Bruce in NES has prepared a Scottish Government funded draft knowledge and skills framework for justice sector professionals to enable the recognition of trauma and how to address it. Policy officials met with Dr Bruce to discuss the development of the framework and provided the necessary input into this work. The draft framework was reviewed by the Prosecution College and a minute was submitted to the Senior Executive Team, with input from Policy officials. The Prosecution College submitted formal feedback on the framework to SG and NES and the Trauma Informed Workforce workstream of the Victims Taskforce has now approved the final version of the framework and it will be presented to the main Taskforce for sign off at the December meeting. Further, longer-term, work will be required to implement the framework and develop the necessary detailed training for COPFS staff. This will be taken forward by the Prosecution College.

Victim Impact Statements

Following a Scottish Government consultation on “widening the scope of the current victim statement scheme” policy officials met with Scottish Government colleagues in relation to the Scottish Government’s proposed “next steps”. As a consequence of these discussions the Senior Executive Team instructed the creation of an internal COPFS short life working group to explore the proposed changes to the scheme and provide Scottish Government with appropriate information on the necessary process changes and resource implications for COPFS in relation to the proposals. Policy Division is a member of this working group and are continuing to liaise with Scottish Government.

UK Data Protection and Digital Information Bill

The UKG introduced the Data Protection and Digital Information Bill to Parliament on 18 July 2022. The purpose of the Bill is to create “post-Brexit freedoms to create an independent data protection framework”. The Bill amends the Data Protection Act 2018 and simplifies the data protection regime in the UK.

A working group consisting of law enforcement agencies across the UK was established to consider the reforms to Law Enforcement Processing. Policy officials continue to participate in discussions and meetings. The Bill was de-prioritised by the UKG but is now to be progressed by Parliament.

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. It is anticipated that this working group will combine with a working group in relation to the use of mobile devices to capture initial evidence. A meeting of the combined group has not yet been scheduled.

Electronic Monitoring of Bail

The provisions of Part 1 of the Management of Offenders (Scotland) Act 2019 which facilitate electronic monitoring of bail are now in force and internal guidance has been published for COPFS staff. COPFS Policy officials will continue to engage with SG and other officials to monitor progress on the practical implementation of the provisions and ensure that accurate and up to date guidance is available to prosecutors.

Bail Supervision

Scottish Government officials are examining the landscape of bail supervision, including a review of the current Bail Supervision Guidance, which was published in May 2022. This work is ongoing and Policy officials are contributing to a SLWG recently formed by SG.

Restorative Justice

Scottish Government are leading on the development of policy in relation to Restorative Justice. Community Justice Scotland are responsible for implementation. Policy officials continue to work with both agencies, and Police Scotland in relation to the implementation of Restorative Justice in Scotland.

Joint Protocol between COPFS and HMRC regarding approach to criminal allegations against HMRC employees in the course of their duties

Policy officials are engaged with HMRC Internal Investigations in order to update the terms of the existing draft protocol (2009) to better reflect contemporary context and structures within both organisations. A proposed draft has been considered by CAAPD and shared with HMRC for further consideration.

Diversion from Prosecution

Policy officials are participating in a review of national guidelines on diversion from prosecution with external stakeholders. Internally, Policy officials are reviewing and revising internal guidance, processes and documentation used in relation to diversion from prosecution. Policy officials are working on the creation of a diversion toolkit to provide additional information to colleagues considering the use of diversion. The Joint Inspectorate's Review of Diversion report was published in February 2023 and will inform areas within the toolkit and potentially draft guidance.

Domestic Homicide Reviews

SG has a taskforce to lead the development of a national multi-agency Domestic Homicide Review model, with members including COPFS policy and operational

officials, Police, and representatives from justice agencies, Local Government, Health, academia, and victims organisations. The taskforce arises from a long-standing commitment through the Equally Safe Strategy to develop multi agency domestic homicide reviews, with the aim of working with relevant agencies where a victim and/ or perpetrator have come into contact with services, to learn from the circumstances of domestic abuse related homicides. It is intended that reviews will aim to identify and respond to the risks associated with abuse and homicide and find areas for improvement to prevent further deaths. The taskforce met for the first time on 8 December 2022, with an initial focus of agreeing the terms of reference and how best to engage and involve the range of organisations with an interest in this work, followed by a workshop event on 20 February. It will meet again on 30 March 2023.

National Enquiry Point (NEP)

The National Enquiry Point (NEP) changed its opening hours as of 1 February due to staffing issues. The new opening hours will be:

Monday – Thursday: 08:30 – 12:30 and 13:30 – 16:30

Fridays: 08:30 – 12:30 and 13:30 – 16:00

NEP are currently experiencing high call volumes, increasing pressure on the department.

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BUSINESS SERVICES UPDATE

At the end of February 2023, the number of staff in post (SIP) in Business Services was 202.24 FTE against 220.23 FTE staff complement.


The Business Plan for 2022-23 sets out the delivery priorities for each of the units which comprise Business Services.

Below are some of the main Business Services 2022-23 delivery activities to date. Detailed deliverables and schedules for 2022-23 are included in the published Business Plan:

- Annual audit and completion of COPFS' 2021-22 accounts;
- Management and monitoring of 2022-23 budgets and court recovery funding and capital investment;
- Supporting Resource Spending Review (RSR) and Capital Spending Review (CSR) processes;
- Working as part of a Pay & Grading Project to review and implement pay parity agreements;
- Managing 2022-23 pay negotiations;
- Leading and supporting Wellbeing, Inclusion and Diversity via working as part of a focussed team and chairing the Corporate Health and Wellbeing Committee; Launching the new COPFS and KLTR websites;
- Deploying a new version of the CMiC App for use in Sheriff and Jury cases;
- Case management legislative systems changes implemented (incl. COVID related legislation);
- Ongoing PV installation across sites including Airdrie, Falkirk, Hamilton, Glasgow, Paisley;
- Successfully bidding to Scottish Government for grant funding towards decarbonisation of COPFS' Elgin office to achieve Net Zero Carbon and the low carbon retrofit to Crown Office, supporting the Scottish Government's national 2038 target;
- Implementing a new HR digital system and services, with *MyHR* delivering a range of improved online services;
- Designing, planning and implementing the cross-Justice Digital Evidence Sharing Capability (DESC), supporting a pilot which commenced in Pilot in Dundee on 24 January as part of phased evaluation and national rollout from summer 2023;
- Implementation of the first of COPFS' new offsite datacentres to deliver improved resiliency and reduce COPFS' carbon footprint from its use of IT;
- Deployed integrated Teams telephony solutions for corporate and National Enquiry Point use, delivering cost, collaboration and innovation benefits;
- Upgrading the P2P system in December 2022 to introduce enhanced features and streamlined processes;
- Implementing and supporting new agile working policies and Digital Workplace facilities to facilitate Future Ways of Working strategic business aims;
- Management and renewal of corporate contracts for 2023/24;

- Launched the new ISD Service Desk Portal and Service Management customer solutions;
- Extended ISD's hours of Service Desk support from 06:00 - 22:00hrs Mon to Fri to support COPFS' extended flexible working hours;
- Launch of the Scottish Prosecution College Prospectus and continuing to work with stakeholders to plan and develop COPFS' learning and development curriculum; introduction of a 'Becoming Trauma Informed' mandatory e-learning course to support COPFS' commitment to being a 'trauma informed' organisation;
- Corporate App: Pay Claims digital application implemented to replace paper based and manual processes;
- Ongoing engagement with staff and stakeholders on Estates transformation and managing business case investment proposals;
- Implementation of Digital Meetings solutions in all offices to provide innovative and integrated Microsoft Teams meetings and collaboration facilities for staff working in the office, home or from any connected location;
- Successful independent SQA qualifications processes and procedures review;
- Holding a series of Senior Leaders events to support strategic planning and business delivery and for further developing leadership capabilities;
- Holding a series of Business Services Webinars to profile, communicate and update colleagues on BS corporate projects and initiatives;
- Working as part of the VIA Modernisation Programme and providing project management and support;
- Deployment of further Microsoft O365 products to aid colleagues in managing their workloads, accessing information (including VIVA Insights digital productivity and wellbeing facilities);
- Implementing the pilot of the new Electronic Reporting to Crown Counsel digital casework solution for Serious Casework Group on 25 January;
- Achieving accreditation to the mandatory Scottish Government Cyber Essentials and Cyber Essentials Plus assurance schemes for a further 12 months;
- Analysis of an Advocate Depute Rota and Capacity Management solution.

Business Services is committed to supporting colleagues across COPFS on a day-to-day basis and delivering business improvements and transformation projects and innovation. Progress in providing day to day support is monitored by the Business Services Heads at their monthly meeting using KPI trackers. While the tracker does not cover all Business Services activity it provides a picture of key service delivery.

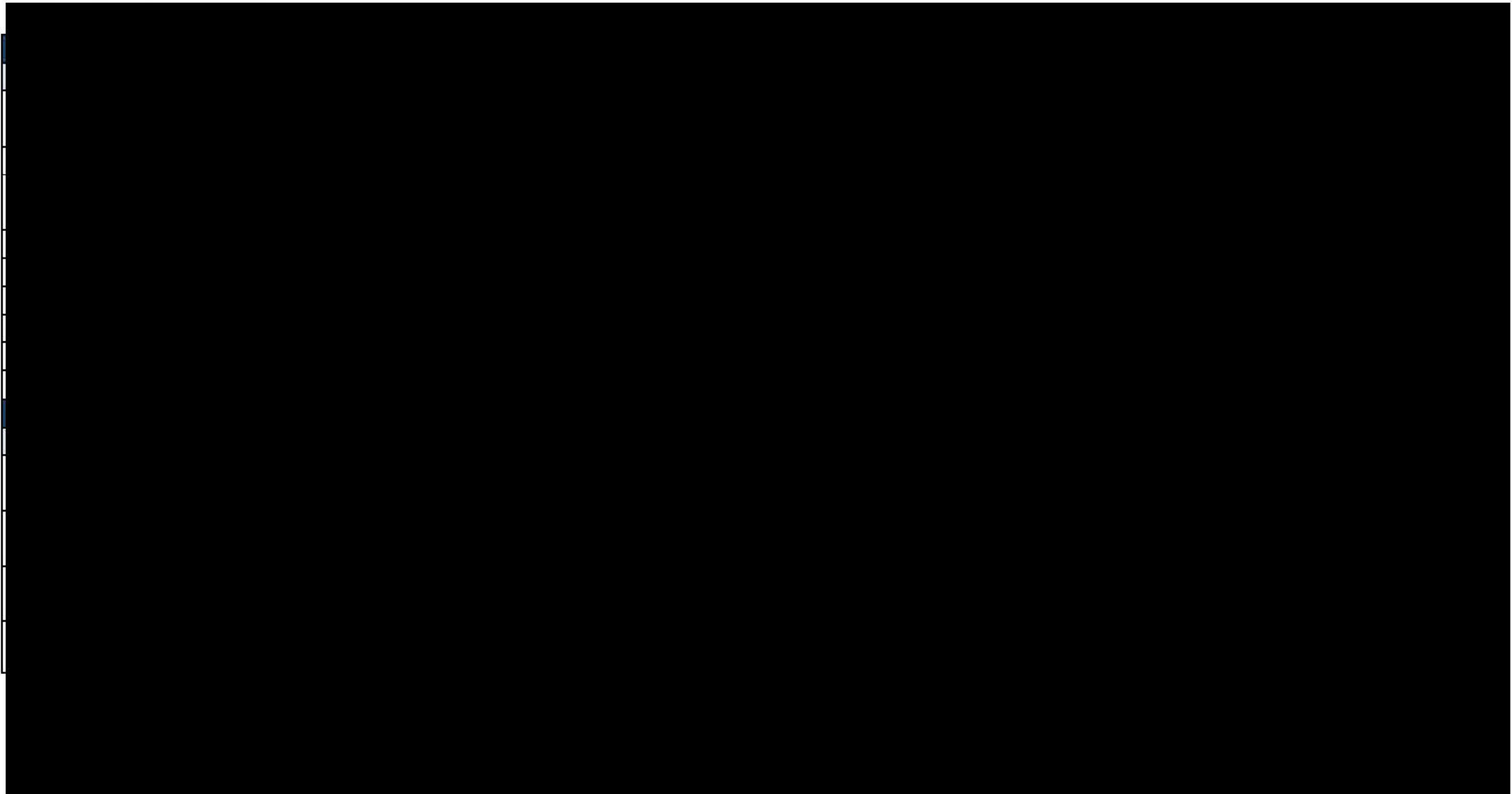


The detailed Business Services priorities for 2022-23 are published in the Business plan and delivery progress will be reported in line with corporate governance processes. Business Services delivery and transformation priorities for 2023-24 will be published in April 2023.

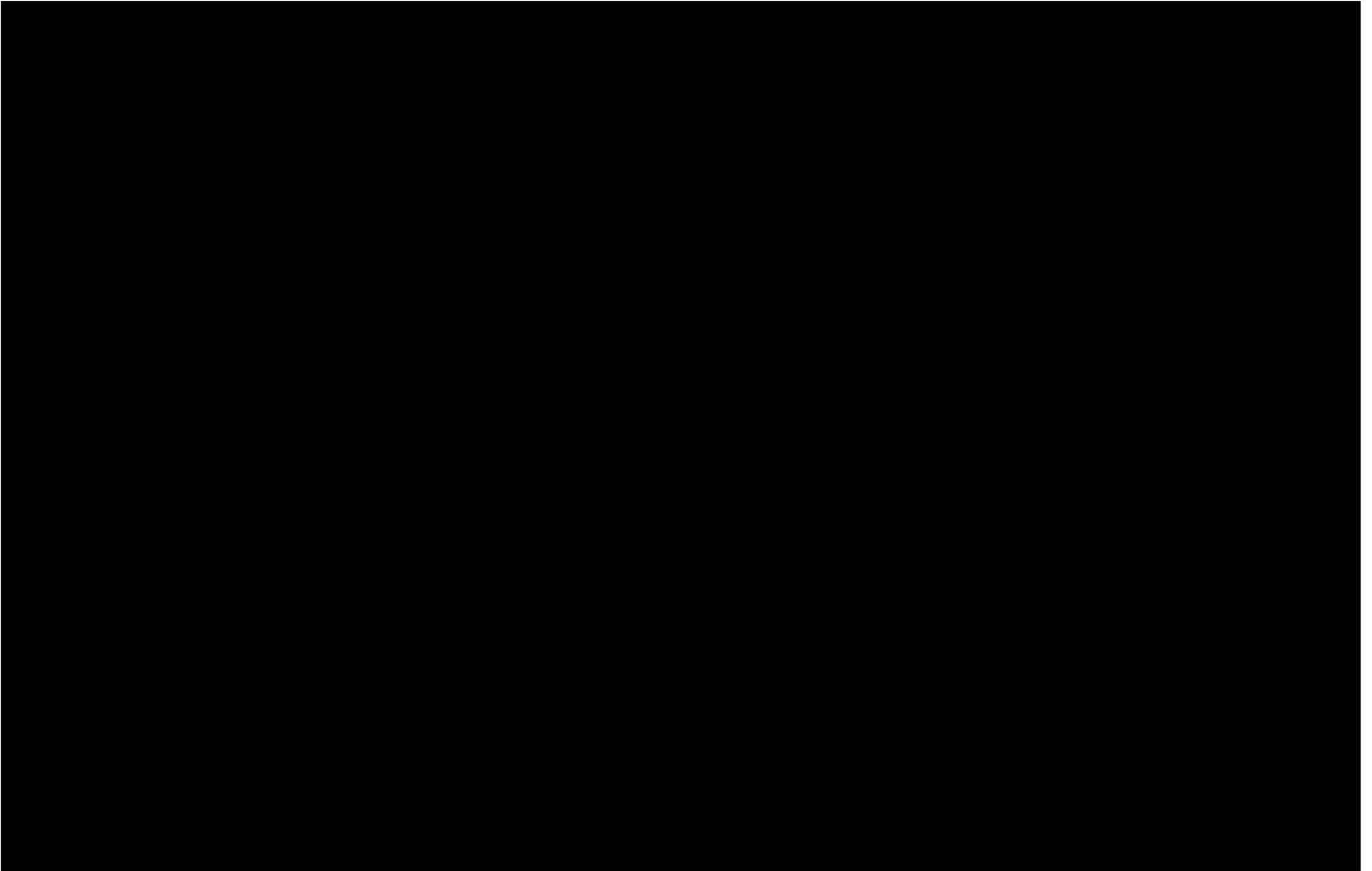
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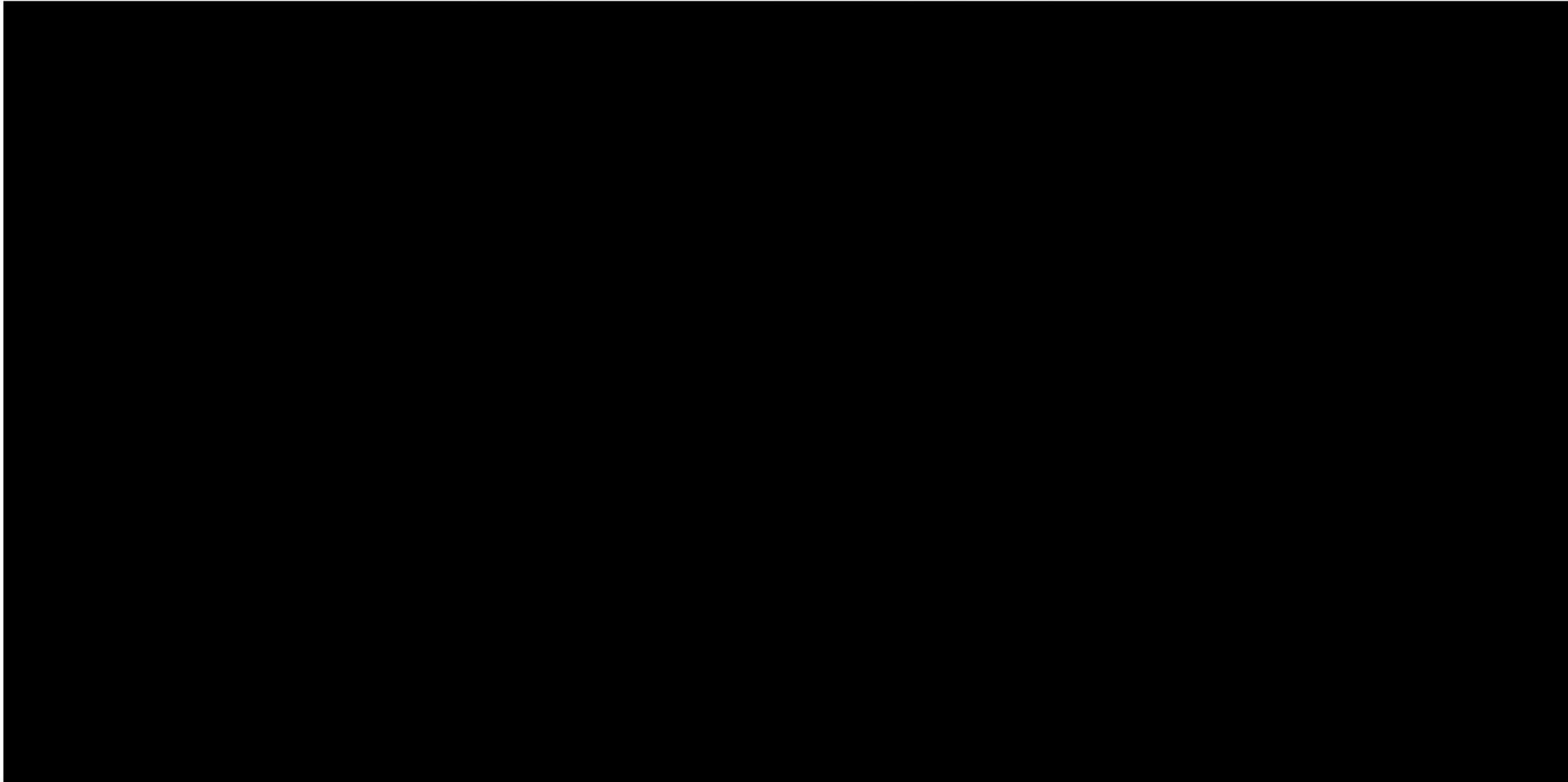
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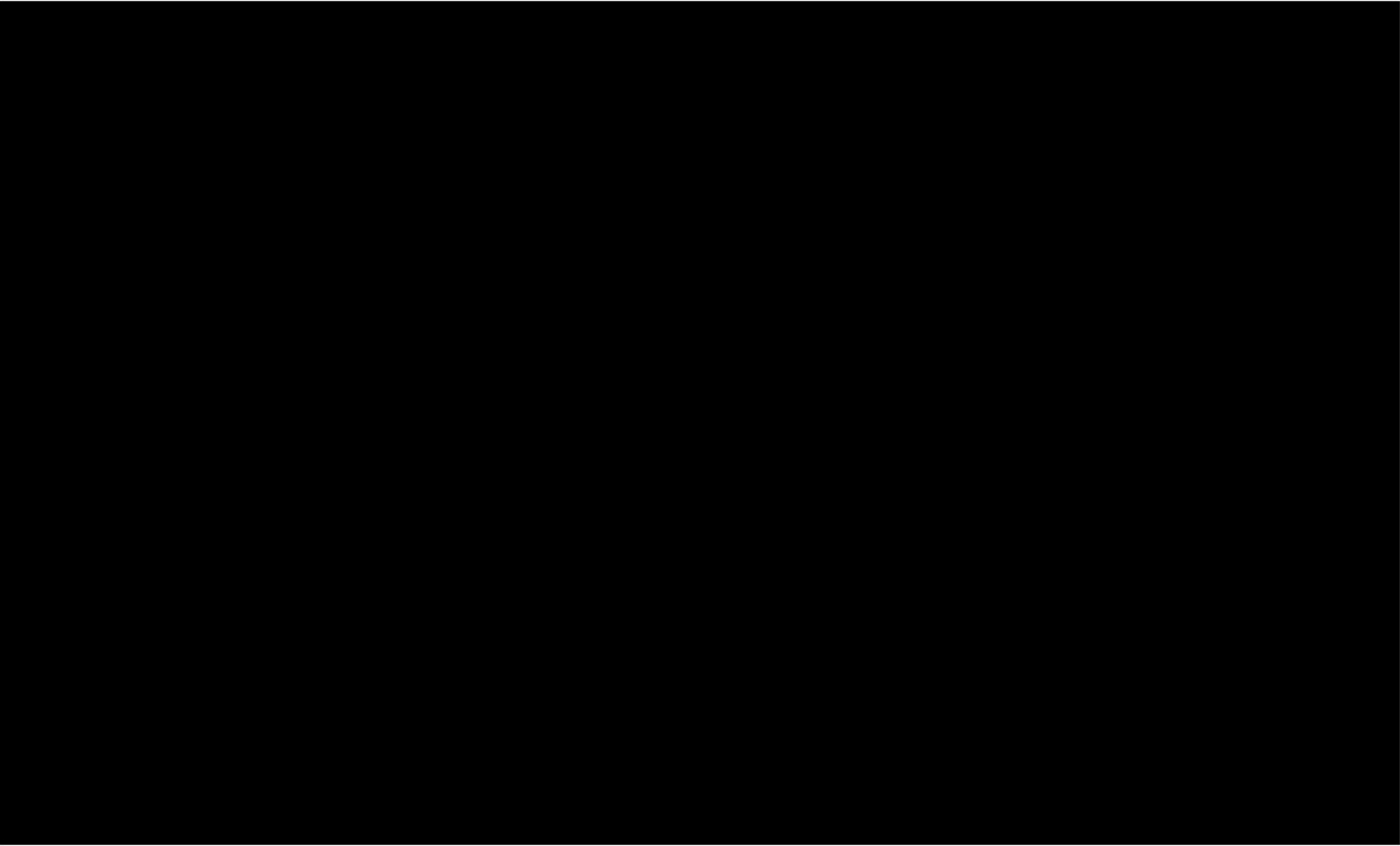
09 March 2023



Not Releasable - Freedom of Information (Scotland) Act 2002







EXECUTIVE BOARD
BUSINESS PROCESS IMPROVEMENT COMMITTEE
MARCH 2023 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 last met on 9 February 2023 and is next scheduled to meet on 27 April 2023. This update provides an overview on the delivered and planned business improvements and digital transformation priorities for 2022/23. It also provides a further progress update on the DESC Pilot.

Delivery Updates and Business improvements and digital transformation initiatives

4. Progress updates for key digital business solutions and improvements implemented over the corporate year to date or scheduled for the remainder of the year are outlined below (includes some ISD portfolio projects):

Complete/Implemented:

- New COPFS website launched;
- New KLTR website launched;
- Hate Crime Bill Aggravators – impact assessment and solutions agreed with Justice Partners;
- Vulnerable Witness Notices Pilot (automated sharing with SCTS and VSS);
- Implementation of the new HR digital system and products (with further releases planned);
- Corporate App: Pay Claims application deployed (Pilot in progress);
- Digital Workplace Exchange Online migrations;
- Digital Meeting Rooms technologies installed and available in all main offices to deliver the Digital Strategy vision and support new Agile working policies and ways of working;
- Deployment of a new version of the CMiC App for use in Sheriff and Jury cases;
- New ISD Service Desk solution and services launched;
- ISD hours of support extended to 06:00 – 22:00hrs Monday to Friday;
- Improved remote access IT infrastructure;
- Implementation of the first of the new offsite datacentres;
- Migration to Exchange Online (latest O365 email and collaboration solutions) completed for all users;
- Case management legislative changes implemented (incl. COVID related legislation);
- Deployment of further Microsoft O365 products to aid colleagues in managing their workloads, accessing information (including VIVA Insights digital facilities);

- Continuous application and infrastructure upgrades to continuously improve COPFS' digital systems and services;
- Implementation of the Microsoft Teams integrated corporate digital telephony solutions;
- Implementation of modernised Enquiry Point customer telephony solutions and services;
- Implemented a new digital casework system for Serious Casework Group to enable the electronic reporting of casework to Crown Counsel. This new digital casework system has been well received and ISD and Serious Casework Group colleagues are working to evaluate the pilot solution and to further develop and scale this for full release later in the year;
- Digital Evidence Sharing Capability (DESC) pilot launched in Dundee on 24 January 2023. The pilot initially focuses on summary cases and collecting public and private space digital evidence such as CCTV. The pilot is going extremely well with positive feedback from stakeholders and users on using the new digital solution and transformed ways of working. The pilot was formally launched on 7 March 2023 with a visit to Dundee by the Cabinet Secretary for Justice and Veterans. The ISD Digital Transformation and DESC project team colleagues continue providing comprehensive support to the pilot. As the pilot progresses it will expand and include other types of evidence and solemn cases. A detailed overview of the DESC pilot outcomes and planning for full implementation will be provided to the Executive Board at the meeting in May.

Being delivered or in advanced development over the remainder of Q4:

- Further development of DESC and readiness for full implementation on successful conclusion of the DESC pilot in the summer.
- Full implementation of the Electronic Reporting to Crown Counsel digital casework solution for Serious Casework Group;
- CMiC High Court application analysis completed with recommendations presented for development of a solution to expand the use of CMiC;
- Finalising development of the Witness Gateway for evaluation from spring 2023 (Initial release focussing on Witness Availability management, Witness Statements, Witness Expenses and information content);
- Defence Agent Service digital solution and platform (replacement for current Secure Disclosure Service and delivering integration with DESC and a new Defence Agents Appointment Booking App); for evaluation from Spring 2023;
- New Desk Booking Corporate App enabling staff to digitally book a desk to support agile working; pilot commencing mid-March in three sites (Kilmarnock, Inverness and Glasgow), starting with Kilmarnock;
- VIA Modernisation programme business analysis and implementation of relevant digital solutions;
- Hate Crime Bill Aggravator: collaborative solutions analysis with justice sector partners;
- Development of an Advocate Depute Rota (digital enabled transformation); completion of solutions options and recommendations to deliver solution;
- Enhancing the PIDM app reporting capabilities;
- Publishing an Information Strategy and implementation plan;

EB22/23(76)

- Consultation and planning for the development of COPFS' Next Generation Casework Systems, due to commence formally from Q1 2023/24 in line with availability of Scottish Government funding;
- 5. The BPIC business improvement portfolio summary RAG status for 2022/23 is available at **Annex A** (updates as at 14 March 2023).
- 6. An overview of the digital transformation programme for 2022/23 is available at **Annex B**.
- 7. BPIC will discuss and approve the business process improvement priorities and digital transformation projects for 2023-24 at its meeting in April 2023, making recommendations to the Executive Board.

Decisions/Actions required by Executive Board

- 8. The Executive Board are invited to note delivery progress and comment as appropriate on BPIC's portfolio priorities for 2022/23.

Jennifer Harrower

Deputy Crown Agent - Local Court

15 March 2023



COPFS Digital Improvements and Transformation Priorities

Key Projects Summary

Reporting Period: To 14 March 2023



Portfolio and Programme Summary: End of Jan 2023 to 14 Mar 2023

Project	Scope		Delivery Schedule		Resources		Overall Project Risk		Priority
	Previous	Current	Previous	Current	Previous	Current	Previous	Current	
Witness Gateway									High
Defence Agent Service						↓		↓	High
DESC				↔		↔		↔	High
Electronic Reporting to Crown Counsel									High
CMIC: Sherriff & Jury & High Court									Medium
Summary Case Management									High
Vulnerable Witness Notices									High
Corporate Apps: Desk Booking App				↔				↔	Medium
Corporate Apps: Pay Claims App									Medium
Teams Telephony									Medium
Enquiry Point Transformation (Customer digital enabled)services									Medium

Summary of RAG Movement

Defence Agent Service

Discussions held with the DAS working group on SDS requirements and refinements. A period of further development reflecting policy and legal requirements for COPFS and Defence Agents has been identified. There is a requirement for DAS to be rolled out to support full DESC rollout. Decisions on final product design, evaluation and delivery will be taken in next few weeks to finalise development plans and work. Engagement with DAS consultative stakeholders planned and communications will be issued this month. Short-term key ISD staff availability issues working on this project are being managed.

DESC/DAS Dependency

DESC has been marked as MED risk for full implementation schedule in the summer. This is due to the integration of DAS being a requirement for DESC full implementation and there are pending security statements from ISD's engagement with Axon UK (the DESC supplier) on API policy and platform management policies. These issues are being progressed and delivery plans and risk assessments will be updated as appropriate. As above, short-term key ISD staff availability issues working on this project are being managed.

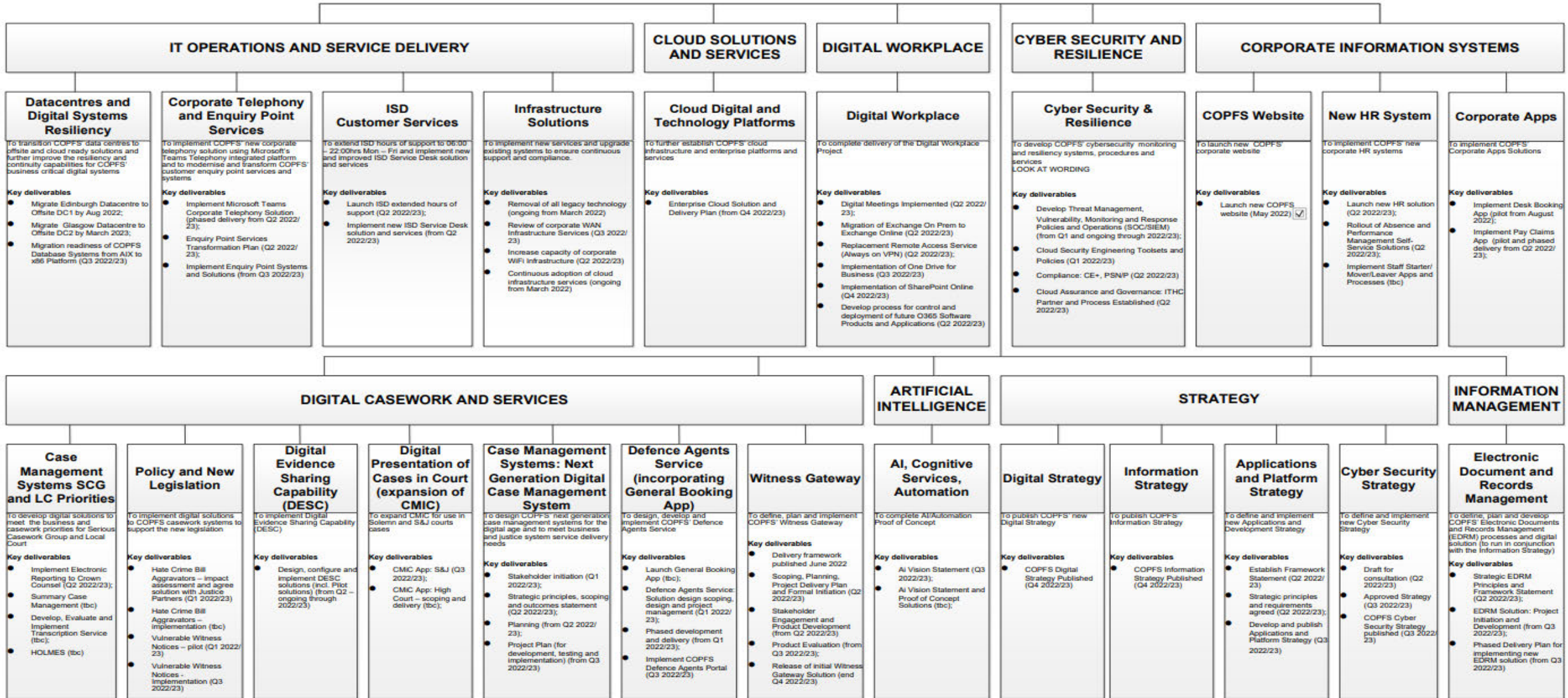
ANNEX B

Note: The above is not an exhaustive list of projects within the ISD digital transformation programme, but represents a cross section of priority inflight or ready to deliver solutions over Q3/4 2022/23



COPFS Digital Transformation Programme 2022/23

June 2022



Contact: Chief Digital Officer, Information Services Division

Operational Performance Committee

Minutes of meeting held on 9 March 2023 by Microsoft Teams

Present:

Stephen McGowan	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Laura Buchan	Procurator Fiscal, Specialist Casework (LB)
Kenny Donnelly	Procurator Fiscal, Policy and Engagement (KD)
Ruth McQuaid	Procurator Fiscal, Local Court (AL)
Andrew Laing	Procurator Fiscal, High Court (RMcQ)
Graham Kerr	Head of Business Management Local Court (GK)
Lana Thomas	PA DCA – Serious Casework (Secretariat) (LT)

Apologies:

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 6/22: Recovery Mapping – ongoing

Action 7/22. Progress of Stats/KPI's- ongoing

Action 8/22. Clearance of minutes for approval- on going Kenny to produce paper

Action 9/22 Personnel from LC & SC to be included in forensic network -Complete
Can be closed

Action 10/22 Risk Champion for Forensic Network- Complete- can be closed

Action 11/22 Terms of reference to be circulated-Complete-can be closed

Action 12/22 Group to submit views on Victim Impact Statement- Complete can be
closed

OPC
09/03/2023

Action 13/22 Group to streamline stats and data provided-Complete can be closed

4. Monthly Stats/Key Performance Indicators

High Court (HC)

RMcQ discussed the HC paper and points of interest were-

- Performance has improved in all of the initial decision making targets in 22/23 and this is important as it reduces the risks associated with unread and unactioned SPRs
- Currently monitoring the amount of additional/late domestic abuse referrals received.
- Petition Warrants/Extradition warrants, How much information we can give victims/witnesses when a warrant has been granted. Ruth working on a paper with recommendations for via.

Local Court

AL discussed the LC paper and points of interest were-

- NICP -volume of unmarked cases down from 19k to roughly just under 16k, there is a definite downward trend.
- Summary- 34k down to 21k again, heading in the right direction.
- Solemn- Not currently meeting targets although precs down and there is cautious optimism.
- SH & J Paper from Les Brown with suggested KPI will b circulated from Andrew to the group for approval.

Specialist Casework

LB Discussed the Specialist update and points of interest were-

- Increase in deaths continues to have significant pressures on the SFIU team

- Death Investigation Improvement Board up and running, going well having a positive impact on team.
- CDIT- a significant number of additional staff are in the process of being recruited into CDIT with a significant proportion of staff joining in the last few weeks. Seven care home teams have been established within CDIT to review all of the care home deaths (and any associated worker deaths) and those teams are working along side the Hospital Deaths Team, the Custody Deaths Team and the Worker Deaths Team to allocate and review all of the deaths within CDIT. The current compliment of CDIT is 48. The resourcing bid should increase the compliment of the team from 19 members of staff to approximately 90 when all posts are filled. Work continues to fill the remaining vacancies

Policy & Engagement

KD discussed the P&E Paper and points of interest were-

- Policy resources are currently directed to responding to the impact of COVID-19 on the justice system, alongside mainstream Policy work.
- KD recently visited Enquiry point and shared feedback with the group regarding compliance on answering calls. Stats to be produced regularly to address good and bad practise once new telephony system up and running.

5. Recovery Mapping

Rolled over to next meeting.

6. Minutes for OPC clearance

All 3 minutes below were discussed and cleared by the group. Kenny will advise Stephen Ferguson that all 3 can now be referred to the Law Officers for approval.

1. proposed revised Bail Manual

2. CMIs - section 1(1A) of the Restriction of Offensive Weapons Act 1959 (the 1959 Act) and section 141(1A) of the Criminal Justice Act 1988

3. extraction of data

7. A.o.b

Stephen discussed that the configuration of OPC requires to be looked at due to structural changes.

Stephen will discuss this with the Crown Agent and update the group individually on how we move forward with OPC.

Date of Next Meeting: 10 May 2023

COPFS and QLTR Audit and Risk Committee
Minutes of the meeting held on 8 February 2023
(via MS Teams)

Present:

Members

Vanessa Davies (Chair) Non-Executive Director
David Watt Non-Executive Director

In Attendance

John Logue Crown Agent (interim)
Robert Sandeman KLTR Accountable Officer
Keith Dargie COPFS Chief Digital Officer and Head of Business Services
Marlene Anderson COPFS Director of Finance and Procurement
Jim Montgomery Audit Manager, SG Internal Audit Directorate
William Wilkie Senior Auditor, SG Internal Audit Directorate
Zahra Mahmood Senior Audit Manager, Audit Scotland
Ishbel Christie COPFS Head of Financial Accounting and Systems

Secretariat

Ian Palmer COPFS Finance and Procurement Division

Apologies

Annie Gunner Logan Non-Executive Director
Brian Howarth Audit Director, Audit Scotland
Maggie Bruce Senior Audit Manager, Audit Scotland
Sharon Davies COPFS Head of Management Accounting and Planning

1.

Welcome / Declarations of Interest and Feedback on pre-meetings

VD (Chair) welcomed everyone.

This is the first meeting of the Committee attended by Ishbel Christie since joining COPFS on 1 February 2023.

DW reported that a previously reported interest at the University of Glasgow has now concluded. An updated Register of Interests has been provided to the Director of Finance and Procurement and the Crown Agent's office.

ARC members had held a brief discussion prior to the start of the meeting in relation to agenda management.

2.

Minutes of the Previous Meeting(s)

The minutes of the meetings of ARC held on 23 November 2022 were approved.

Secretariat will arrange for the approved minutes to be published on COPFS website.

3.

ARC Action Tracker

ARC Paper 3 (2023) (ARC Action Tracker) was noted and agreed.

Secretariat will update tracker accordingly.

Matters Arising

Keith Dargie presented **ARC Paper 3A (2023)** which was a requested update to the IT Assurance Mapping section of **ARC Paper 45 (2022)** presented in November 2022.

The Committee noted the update and said although it contained more detail, it still lacked sufficient clarity to enable them to provide the required level of assurance, as activity did not seem to be allocated to the correct lines of defence (see also Item 12 below).

Action

KD to review and resubmit ARC Paper 3 A (2023)

4.

Audit Trackers

Internal Audit Tracker

ARC Paper 4A (2023) was noted.

Implementation of Case Management in Court (CMiC) for Summary Cases

It was observed that the target for completion has been extended to October 2023. It was suggested that the next update could wait to the ARC Meeting in November rather than May 2023.

The Committee were of the view that as the original target date had been September 2021 they would still require an indicative progress report at the May 2023 meeting.

Action

KD to provide a progress update on Implementation of Case Management in Court (CMiC) for Summary Cases at the ARC meeting in May 2023.

External Audit Tracker

ARC Paper 4B (2023) was presented

The Committee noted the update in relation to Toxicology and COPFS Procurement of Mortuary, Pathology and Post-Mortem Services.

It was agreed that these issues can now be removed from the tracker and that ARC will be provided with any necessary updates as they arise including a lessons learned top level summary.

It was agreed that the external Audit tracker item could now be removed as the action is complete

Action

LM/SS to provide a lessons learned summary to the Committee at the next meeting.

5.

KLTR Update and Risk Register

BS gave an overview of **ARC Paper 5 A (2023)**

The Committee commended BS for his comprehensive and helpful report and welcomed the direction of travel it outlined.

DW queried whether it was still appropriate that the KLTR accounts were prepared on a cash accounting basis.

ARC Paper 5 B (2023) KLTR Risk Register was noted.

Action

BS to arrange for the KLTR Risk Register to be refreshed to update any references to QLTR.

BS to include consideration of the basis of accounting in the Governance Review being undertaken.

6.

COPFS Update

JL(CA) gave a general update. This included details of a proposed a senior management restructure to address current business priorities and expand capacity for internal assurance.

Covid court recovery work continues, and the focus will shift from summary courts to solemn trial courts in April 2023.

7.

Litigation Update

JL (CA) provided a general update on the litigation position and a discussion followed regarding the future reports on litigation to the Committee.

Action – JL (CA) to arrange for a summary table of litigation to be prepared for ARC .

8.

HMIPS Reviews - COPFS - Progress with implementing recommendations

ARC Paper 7 (A B C D) (2023) noted.

The Committee discussed the large volume and dated nature of a number of the documents supplied. They reaffirmed the reasons that the ARC received HMIPS reports and the committee's role in monitoring the implementation of recommendations. They discussed a proposed revised format for tracking this and noted that they also require sufficient supporting evidence where a recommendation has been reported as implemented.

ACTION

JL CA) / DCA Specialist Casework to develop an ARC update tracker showing a summarised version of all required aspects of progress with HMIPS Reviews.

9.

Finance Update

MA gave an overview of **ARC Paper 8A (2023)**

Forecast for 2022-23 has been completed. Indicates a current underspend of £864k where annual leave accrual is not yet factored into the forecasts.

Increased demand costs and inflation continue to impact on non – staff costs e.g. Post-Mortem and Pathology costs, electricity and security costs.

Finance Business Partners and Senior Business Management colleagues continue to liaise to identify efficiencies and counter-inflationary savings.

Staff Overtime working continues to be strictly controlled.

The budget for 2023-24 was announced on the 15th December. COPFS received an increase of £13m on Resource budget and £3m increase on Capital funding. Although welcomed this does not cover the full amount required for 2023-24 and COPFS continues to strive to deliver improvements against this background.

Liaison continues with Finance and Senior Business colleagues in relation to final internal budget allocations.

Work on implementing Path to Balance and Strategic Approach to Budgeting is being progressed.

ARC Papers 8 (B C D) (2023) were noted.

10.

Audit Scotland

ZM attended to give the Committee an update on behalf of Audit Scotland.

The Audit Scotland Annual Audit Plan has been slightly delayed and is now anticipated to be ready by the end of March 2023.

The Chair said that line with the ARC terms of reference, the Committee are required to approve the draft Audit Scotland Annual Audit Plan.

ACTION

ZM (on behalf Audit Scotland) by end of March 2023 to submit a copy of the draft Audit Scotland Annual Audit Plan to ARC for approval at a separate meeting, to be arranged prior to commencement of the Audit.

ARC Paper 9 (A B C D) (2023) in relation to Annual Audit Fees for COPFS/KLTR was presented.

After general discussion, the Committee approved the fees for 2022-23.

11

DIAA

ARC Paper 10 A and B (2023) were presented.

WW stated for clarification Paper 10 B should read as "Annual Plan" and not "Annual Report" as shown on agenda.

Paper 10 A (Progress update) was noted, and general discussion followed.

Paper 10 B (Annual Audit Plan 2023-4) was noted. There was a discussion over the allocation of the audit timetable and the days allocated between COPFS and KLTR. Noting the current resource constraints, the plan was accepted by the Committee.

ACTION

DIAA to have further discussion with ARC, COPFS and KLTR in relation to resource planning.

12

Assurance Mapping

ARC Paper 11 (2023) was presented.

4.1 HR

In relation to the “fourth line” control (External Recruitment) it is reported that the Civil Service Commission audit in July 2022 rated this element as “Fair”.

This control has been assessed by COPFS as “green”.

Given the CSC assessment, ARC questioned if COPFS had sufficient evidence to merit this positive RAG assessment.

General discussion followed in relation to completion of the Assurance Mapping Template.

It was agreed that there is nothing fundamentally wrong with the style of the template and the addition of the review date column last year has been useful and informative.

There are questions however over the consistency of how the template is being completed. It is acknowledged that certain stakeholders have changed over time and that perceptions of what is required would benefit from a refresh, so that all involved have a consistent understanding of the “four lines of defence” assurance model being used.

To that end it was suggested that an Assurance Mapping Template Workshop programme be explored.

ACTION

VD (Chair) and MA (DFP) to discuss Assurance Mapping Workshop

3

Risk Management

DW presented **ARC Papers 12 (A B C) (2023)** which were noted. It was noted that in light of the new Strategic Plan the risk register would require realignment.

14

ARC Terms of Reference

VD (Chair) reported that the annual review of the ARC Terms of Reference is due.

To that end, she has been having meetings with various stakeholders and work is ongoing to finalise her report.

ACTION

Secretariat to put ARC Terms of Reference on the agenda for May 2023 ARC.

WW to send VD (Chair) a link to the current version of the SG Audit Committee Handbook

15.

AOB

No new items raised

16.

Date of Next Meeting

3 May 2023 11 am

MS Teams or Room 1 Conference Room, Crown Office