

**OPERATIONAL PERFORMANCE COMMITTEE**

**MINUTES OF THE MEETING HELD ON 28 NOVEMBER 2018  
CROWN OFFICE, EDINBURGH**

**Present:**

Lindsey Miller	Deputy Crown Agent Serious Casework (Chair) (DCA)
Kenny Donnelly	PF, High Court
Jennifer Harrower	PF, Specialist Casework
Fiona Roberts	Head of Management Information Unit
Sharon Duffy	Serious Casework Compliance & Resource Manager
Gioia Ezzi	Secretariat

**By VC:**

Anthony McGeehan	PF, Policy and Engagement
Ruth McQuaid	PF, Local Court West
Fiona MacLean	Non-Executive Director

**Apologies:**

Helen Nisbet	Assistant PF, Specialist Casework
Graham Kerr	Head of Business Management, Operational Support

**1. Welcome & Apologies**

DCA welcomed everyone to the meeting, apologies were noted.

**2. Minutes of previous meeting**

Previous minutes agreed.

**3. Outstanding Actions**

Action 25: Tripartite meeting still to be scheduled. Some of the work is being done generally on movement of productions. **Action: closed**

Action 31: Now a substantive item on agenda. **Action: closed**

Action 39: Tayside figure for serving of indictments is low and no reason for this. Breakdown by sheriffdom is irrelevant, pressures of indicting team is by priority, not prioritisation by geography. No real basis for concern, ties into nature of cases and priority. **Action: closed**

Action 40: Most of the live Complaints Against Police (CAPs) cases which were pre establishment CAP Division have now been closed with phased closing of remaining cases. **Action: closed**

#### **4. Monthly stats/indicators**

##### **High Court (HC)**

Figure of new petitions last year up markedly in Sexual Offences (SO) with Major Crime & Homicide static. Projection of new petitions this year in SO has increased markedly by 5% but Major Crime (MC) has seen a massive increase of 53% on last year. Analysis is being done to see where this is coming from, anecdotally crimes of violence and robbery is being noted. This presents a major resource challenge; 2 additional case preparers will help but probably will have to look across the business to resource MC. The additional problem for MC is the volume of custodies; the current caseload of custody business is 64.5%, this consists of 62 petitions 40 of which are custodies. HC new petitions at end of October was sitting at 140 which is extremely high.

Implementation of Key Performance Indicators (KPIs) requires resource to transform what we are doing. At the moment housekeeping is making things better prior to proper implementation of KPIs but it is difficult at this stage to manage until resource is in place. Uncertainty round staffing due to recruitment in legal and PO posts.

DCA asked if there was a requirement to look at some of the serious and organised crime cases which MC take on. This requires looking at issues around decision making on who takes cases and where best place is for them to go.

Homicide has peaks and troughs but is under control. If there is another surge looking at spreading it across the business. Absence of a Band G is being absorbed but is a challenge.

Note: Email to all Band Gs to submit notes of interest on lateral movement was distributed this morning with notes to be submitted by 7 December with decisions being communicated by 21 December.

##### **Local Court (LC)**

LC are seeing similar increase in Sheriff and Jury (S&J) major crime. DCA has asked if there could be some work done on breakdown of crime types.

Largest increase is in sexual offences and fraud. Issue is ability to deal with large frauds with regard to skill set. There is going to be mandatory e-learning for money laundering for legal and case preparers.

**ACTION: MIU to assist with breakdown of crime types.**

National Initial Case Processing Unit (NICP)

Increase from 14,600 to 15,000 in unmarked cases which is 4.6 weeks of work. There is only 19 deputies where optimum is 25. Expecting 12 more people. There is 2 permanent vacancies, 2 on maternity leave and one off sick.

Moving forward will look at an implementation plan.

End March projection is that there will not be 25, the projection is 24.5 being in a seat by March. Implementation plan to transfer custodies to NICP and transfer all undertakings.

Not getting numbers and quality in from resourcing. Requires further conversation at Local Court Leadership Board tomorrow.

Sheriff & Jury (S&J)

Meeting KPI - 75% service of indictments and meeting KPI in terms of age profile.

Sexual offences not tending to meet target and there is a detailed implementation plan being progressed but still not quite there in terms of monitoring of business. It is quite complex due to initial marking, interim marking and then reporting and indicting. There has been a lot of progress regarding training of staff which is well in hand and hope to have all staff trained by end of the year. By next January will be in a position to start monitoring KPIs.

There was a helpful meeting with High Court regarding monitoring of KPIs which ironed out some of the issues with sexual offences. Issue is outstanding petition warrants and where they fit into the journey time.

With regard to Victim Information & Advice (VIA) there is an issue in that there is no apparent clarity on Inspectorate's expectation from review when VIA get in touch with sexual offence victims.

This was raised at Victims Forum which led to bigger conversation on VIA remit. Victim strategy requires cooperation of police.

**Action: PF LC to provide paper to OPC by Jan.**

Summary

Continue to make good progress, outstanding sheriff court trials down from 15,000 to 10,000.

DCA informed board that there is a meeting scheduled on 12 December with Audit Scotland re court performance.

### **Specialist Casework**

Scottish Fatalities Investigation Unit (SFIU) – over last 4 weeks there has been intense media scrutiny regarding Fatal Accident Inquiry (FAI) backlog particularly relating to deaths in custody and SFIU have been able to show an improving picture. With injection of resource into SFIU they were able to respond to those criticisms that journey times will reduce and tackling backlog.

Helicopters Incidents Investigation Unit (HIIT) – Have 2 major cases and are very close to final decision on Sumburgh case.

Criminal Allegations Against Police Division (CAAPD) – KPIs look like strong performance.

Serious & Organised Crime Unit (SOCU) – there has been some staff movement and now fewer people in Unit, 2 having been appointed as ADs and will join cadre soon. Process of Case Management Panels (CMPs) has been adopted for the largest and most complex cases which will monitor performance of cases.

Resources - awaiting legal and case preparers which will assist in ability to reduce journey times and tackle backlog. The resource also impacts on ability to prosecute large, complex S&J cases as there are only 2 deputes. Grateful for potential assistance from LC perhaps to do one of largest trials.

It was noted by Non-XD from stats that were produced that S&J key target first diet time bar was sitting with one having missed time bar. This was explained as a data integrity issue. It may have been an extension of legal time bar and data does not get updated to reflect new date.

DCA advised that they are inviting Inspectorate to do an independent review on cases which have missed time bar both in LC and Serious Casework HC function.

### **Policy and Engagement**

A review of the published Victim’s Right to Review rules has been submitted to the Law Officers (LOs) with recommendations, reflecting Counsel’s Opinion, that the categories of decision that can be reviewed should be extended. It is anticipated that the recommendations will be accepted by the LOs. Greater spectrum of our decisions may therefore be subject to review but it should be remembered that the experience to date is of only a minority of decisions overturned.

Publication yesterday of Inspectorate of Prosecution’s report on the prosecution of young people in the Justice of the Peace and Sheriff Court. The report focussed on procedures, process and performance with the Inspectorate making 4 thematic findings:

1. Identifying a systemic disconnect between an increasing understanding of childhood being up to age of 18 and the legal framework which treats 16 & 17 year old as adults;

2. Recognising a COPFS desire to revisit prosecution policy in relation to 16 & 17 year olds;
3. Timeliness of decisions to prosecute 16 & 17 year olds;
4. Effectiveness of communication of those decisions with young people who have different communication needs.

LOs have formally accepted the recommendations and a cross functional working group is to be set up. Report not directed at HC business but HC will have an interest.

## 5. KPIs

LC has made some progress on implementation plans. There remains the concern due to lack of resources and recruitment across various grades and IT restrictions.

Issue with IT on how easy it is to record. Significant pressure on MIU to deliver needs some investment in IT as well as lack of resources.

Realistically looking at the start of financial year to start pushing the HC KPIs. This requires communication to all staff regarding what is happening. This is all subject to resourcing plans.

DCA – canvassed committee members re reporting in a different format. HC not as big as journey as first thought. Compliance Manager to work with appointed business managers in LC.

LC seeking to count things in different ways which is not always straightforward and has added layer of complexity. Another big concern is ability of suppliers eg quality of police reporting.

PF HC had hoped to do paper on HC petition warrants. There are issues with start date from SPR or petition warrant and expectation for case preparation when warrant outstanding. There are a number of things that require a policy steer. Will have paper in advance in next meeting in January.

HC hoping to apply PROMIS codes to cases now to start to track new KPIs. Hopefully be able to run some MIU on current status.

It was mentioned that some HC KPIs will also apply to Specialist Casework. Agreed it would be better as cross over process requires to be standard.

## 6. Remit

Remit of OPC was discussed.



Operational  
Performance Committ

Membership requires to be updated to include change of personnel.

Concern is OPC looking to drive performance improvement which is all tied into IT, functions are having to do lot of manual input. IT is imperative.

Discussion whether OPC actually implements projects or monitors them. DCA to change 'implement' to 'monitor' on remit.

Is monitoring and driving performance captured?

Do we have a role on how we drive best practice?

OPC has initial oversight of projects going through Business Process Improvement Committee (BPIC).

Do we engage with key stakeholders? - Audit Scotland

Reflecting back on minutes over course last 2 years and ask how many bullet points minutes would capture, suggest 40% of bullet points at most and that we spend core of our time looking at performance and measurement of performance and may or may not be impacting on performance. Disconnect between ambition of bullet points and reality.

Management of risks was questioned. Chair of OPC is risk owner.

KPI compliance is not actually captured in responsibilities.

We flag issues to other committees and which are then pushed down list.

Separate agenda items – focus on those elements.

Legitimate to have focus just now due to transformation in service.

Monitoring but also reporting.

## **6. AOB**

Child Abuse Inquiry – cranking up so that people have awareness. Latest chapter of case study had COPFS staff giving evidence which was a positive experience and opportunity to present a positive message. No doubt there will be other colleagues past and present who will require to give evidence which will put additional pressure on the support to give them. Started to get some of new case reports submitted. This presents a challenge, discussed briefly with LC as majority thus far unlikely to be HC level. First case study focussed on Daughters of Charity and received 17 standard police reports with 61 witnesses and looking to put process in place and victim strategy as this starts to progress. May have to look top change in practice, PF HC to keep committee updated.

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

## **7. Date of Next Meeting**

No meeting in December, next meeting in January.