

OPERATIONAL PERFORMANCE COMMITTEE

MINUTES OF THE MEETING HELD ON 17 August 2017 CROWN OFFICE, EDINBURGH

Present:

Lindsey Miller	Deputy Crown Agent Serious Casework (Chair)
Helen Nisbet	Assistant PF Specialist Casework
Alistair McDermid	Trainee – Crown Counsel Desk
Billy Wilkie	Scottish Government Internal Audit
Duncan Scott	Scottish Government Internal Audit

By VC:

Liam Murphy	Procurator Fiscal Specialist Casework
Stephen McGowan	Procurator Fiscal High Court
Anthony McGeehan	Procurator Fiscal Policy and Engagement
Catriona Dalrymple	Procurator Fiscal Local Court East & North

1. Welcome & Apologies

Lindsey welcomed everyone to the meeting. Apologies were noted Graham Kerr Head of Business Management, Operational Support and Ruth McQuaid, PF Local Court West

2. Minutes of previous meeting

Unanimously agreed.

3. Action Tracker

Action 12: Links to action 28. It has been agreed with the Police that info will go to High Court and Local Court via identified and appropriately vetted Single Points of Contact (SPOCs) and committee members confirmed that the process was working well. It was confirmed that all relevant individuals from local court function are now going through the vetting process.

Action: ongoing.

Action 23: To be closed. It has been raised at Senior Executive Team (SET) that with the number of ongoing projects across the Service requiring Information Systems Division (ISD) support that there could be associated slippage in some projects which may have already been authorised by the Business Improvement Committee (BIC) to proceed to the second phase. This may for example impact on Specialist Casework and High Court management information projects. Additionally the Estates strategy and rollout of new phone system could have effect on this.

Action: closed.

Action 25: Tripartite meeting has not taken place yet. **Action: ongoing.**

Action 29: **Action: closed.**

4. Remit

Due to committee now being in place for a year the committee would like to revisit the Terms of Reference, conscious there has been change in personnel and Corporate Risk Register is now added to the Agenda. Terms of Reference for all three Committees to be circulated and to be discussed at the next meeting.

5. Monthly stats/indicators

High Court (Stephen McGowan)

60% indicting performance against the former target.

The homicide rate remains high, albeit slightly down on last year with 21 homicides this reporting year, as against 27 from the same time last year. The issue however is that many of the current homicide investigations are more complex requiring additional resources and support. There were 20 more homicides in the year 2015/16 than 2014/15. Several complex cases were outlined and there are also a number of child fatalities under investigation.

There remains an increase in sexual offences being reported, which are not historical cases, nor pre petition cases being instructed for proceedings, but new reports. This is on one view very encouraging as this would seem to demonstrate that the public has confidence in the criminal justice system; on the other hand it is creating additional pressure for COPFS and the police.

Significant progress has been made against the initial project plan to reduce the number of pre-petition sexual offence cases, but there is likely to be an increase going forward as resources are reallocated to form a review team as part of the overall COPFS response to the Scottish Child abuse Inquiry, with a Principal Depute (PD) and 2 Procurator Fiscal Deputes (PFD) forming part of review team.

There are likely to be a series of additional instructions to police regards investigating historical cases. An application will be made for extra funding as it is necessary to instruct junior and senior counsel.

The Major Crime team is dealing with a large Serious and Organised Crime investigation which is the subject of ongoing discussing with Specialist Casework about support to the investigation around telephony etc.

Local Court

National Initial Case Processing (NICP) (Cat Dalrymple in absence of Ruth McQuaid):

No difficulty reported in meeting current take and implement targets but over the summer leave period there has been an increase in overall unmarked cases. That number is now reducing due to work going on across local court but with a 50% vacancy rate across the band B grade in NICP, this creates a vulnerability and could affect tag team marking, and accordingly productivity.

The team looking only at cases 10 weeks old or more is partially in place and is making good progress.

There is however a vulnerability identified with older cases which when marked then run the risk of delay challenges. A full review and audit of the unmarked cases is being done to extract serious cases such as Firearms Act offences etc. The cases being assessed now are from late 2015 and early 2016.

Summary:

No exceptional reporting. Figures are healthy.

Sheriff and Jury (Catriona Dalrymple):

Stats from 6 July 2017 – cases showing at 9/10 months old will have been indicted. The implementation of the new legislation in relation to sheriff and jury cases has not had a deleterious effect on this and no risk was identified to any case throughout the implementation phase.

On behalf of local court function a paper was tabled highlighting anticipated performance issues as a result of staffing vacancies. OPC members agreed this should be raised with Executive Board (EB).

Local Court realised the anticipated savings of Case Management in Courts (CMiC) by reducing the complement of Band Bs by 6 but there will be no benefit seen from this for quite some time. There was a request for assistance from OPC members. 4 Band Bs have already been moved from Enquiry Point to assist.

Band B vacancies are especially pronounced in the north with centralisation of some common functions floated as a possible short to medium term solution –Teams in the north are smaller so even one absence makes a significant difference.

OPC members agreed that this risk should be escalated by the Committee to the Executive Board for discussion with a view to it being placed on the corporate risk register as significant risk.

A further paper may come from Local Court to OPC with recommendations on prioritisation of key processes within the function to ensure delivery of regular business.

Specialist Casework (Liam Murphy)

Published targets stated. Meeting target – Criminal Allegations Against the Police Division (CAAPD) 96%. Scottish Fatalities Investigation Unit (SFIU) – 91%.

At the last Specialist Casework leadership meeting there was extensive conversation about Key Performance Indicators (KPIs). Senior managers looked at KPIs post-meeting. A team lead by one of the Specialist Casework Assistant Business Managers will be in place by 01/09/17 to progress the work on management information and KPIs

Most units identify main risk to business as journey time. The current KPIs require an assessment for relevance and do not take hidden work and journey times into account.

Several ongoing cases are very work intensive. Operation Escalade 1 has resolved by way of plea in the High Court and Escalade 2 has been indicted with a trial to take place in November. It is assessed that Operation Escalade 3 will require a lot of resource and there is ongoing discussion with the police about timescales for report and parameters of the investigation.

Policy & Engagement (Anthony McGeehan)

Nothing exceptional stated other than Victims Right to Review (VRR).

There is significant pressure on resources for VRR as there has been a 50% increase in VRRs. Positively, only approximately 2% of VRR cases are upheld but the target of completing in 20 days is often not possible to meet. Review requests regularly provide additional information not previously known to COPFS, require further police investigation before any final decision can be made and often means that requests cannot properly be resolved within the 20 day target.

National Enquiry Point (NEP) performance discussed and committee members agreed it would be helpful to see NEP stats such as call waiting times and resolution of enquiries. First draft of stats will be provided for the next OPC.

6. Case management Panels (*Liam Murphy*)

A paper was tabled with proposals for the composition and remit of Case Management Panels (CMP) which are for live cases currently in preparation. Case review panels are most likely retrospective and for cases that have not been through the CMP process.

With regards to methodology, the proposal has taken into account reflections from the members of the previous case review group and there has been consultation with both the Crown Prosecution Service and Serious Fraud Office.

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

The proposal is that CMPs are case specific. For the sake of efficiency it may be that more than one CMP may take place on the same day whilst all members are in the same place. There are two levels: functional and national. The guidance is the same to ensure a consistent approach. Having a Functional model will allow any Functional Lead to apply to model to their part of the business.

With regards to national CMP, it is proposed that the DCA for Serious Casework should chair. The rationale is that the DCA is the chair of the OPC and the OPC could be a conduit for a CMP. It was suggested that CMP would operate on a quorum as it may not always be possible for all members to attend. Other attendees could be invited if there is an implication wider than just that case and this allows the issues to be taken from the confines of the CMP and developed, e.g. by policy. Dedicated Crown Counsel for each case would also be asked to attend in relevant cases.

Committee members discussed the proposals from the Judiciary for managing large and complex cases, where there is an indication that trials should be no longer than 3 months long which is an approach adopted by the SFO. If there are more than 6 accused then the SFO will consider splitting into separate trials. COPFS places priority on calling a witness only once whereas this is a consideration, but not the only consideration for SFO.

Going forward large and complex cases are likely to have allocated judges and it will be expected that they also have allocated Advocate Deputes (ADs).

It is desirable to create a culture whereby people want to refer cases to the CMP. The experience of the SFO is that this works well as it allows discussion of strategy and that this is desirable.

It is necessary to focus the CMP. It was often left to guess what the focus of the Case Review Group was previously. If more information is required then there is a mechanism for a discussion between the DCA and the Functional Lead which will help to focus and add value to the CMP.

There was discussion on the proposed CMP briefing sheet. There needs to be discussion with Crown Counsel on who exactly will do what in the context of proposals for managing large and complex cases from the Judiciary which will complement the CMP process.

There was discussion about the role of the Senior Legal Manager and a need from the beginning for there to be a focus on delivering throughout the precognition process, the case strategy and the allocated AD should have strategy input from start of case. The CMP is about developing best practice and is not about blame or fault finding.

The project management approach should be supplemented by CMP. This gives reassurance on strategy.

The relationship between the project board and the CMP was discussed. Whilst the guidance has been drafted to allow flexibility and for Functional Leads to decide

whether they want to have a Functional CMP even if a National CMP is anticipated at a later stage, it is envisaged that the Functional CMP will replace the project board which has been established in some cases. The DCA could attend functional in order to provide strategic oversight and increase efficiency. Sharing the plans with judiciary was discussed as this may further increase buy in to the process.

Action: Members to look and provide feedback to Liam within two weeks of meeting.

7. Corporate Risk Register (CRR)

Local Court staffing vacancies to be recommended at EB to go on CRR as per action for OPC Chair.

8. AOB

None

9. Date of Next Meeting

TBC