

## Executive Board meeting minutes

Meeting held on 16 February 2022 by Microsoft Teams

### Present:

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

### In attendance:

Marlene Anderson (Item 3)	Head of Finance
Andy Shanks (Item 5)	Procurator Fiscal
Sarah Carter (Item 6)	Head of Human Resources
Ann Marie Henderson	Personal Assistant to Crown Agent (Secretariat)
Mairi Boyle	Legal Assistant to Crown Agent (Secretariat)

### Apologies:

No apologies.

## Agenda Item 1 – Welcome and Apologies

1. The Crown Agent opened the meeting and welcomed all colleagues. The Crown Agent updated the Board on the secondment of Lindsey Miller to the Home Office and the outcome of the recent, related SCS boards and congratulated the successful candidates.

## Agenda Item 2 - Minutes of previous meeting

2. The minutes of the meeting held on 15 December 2021 were approved and can be published. Members confirmed there were no conflicts of interest.

### Action tracker

3. Item 1, Business Plan is being considered.
4. Item 2 – DCA Operational Support presented the paper to the Board, and explained the genesis and aims of this work. Following discussion, the Board agreed that DCA OS will consider contributions from the Board and circulate an amended paper for agreement by correspondence with a view to publication of the policy before the March Board meeting.
5. Items 3 and 4 sit with DCA Serious Casework and are dependent on action by external agencies. DCA SC to seek clarity from the agencies on when they are likely to be able to engage with us. This may mean these actions can be closed off with the subjects brought back to the Board later in the year. DCA SC will provide an update at the March Board meeting.
6. Item 5 has been dealt with and can be closed.
7. Item 6 – DCA OS will provide an update to the Board for the March meeting (the DCA will retain responsibility for this item herself).
8. Item 7 is being reviewed and will come to the Board at the March meeting.
9. Item 8 will come to the Board at the May meeting.

## Agenda Item 3 - Finance Update

### Finance Update

10. The Director of Finance and Procurement introduced paper EB21/22(52).
11. The Board noted the position on resource underspend for the current financial year with funds being redirected to projects including estates and essential HR technology; and to cover capital overspend.
12. The Board noted the overtime overspend figure and the factors understood to contribute to the current overtime requirement. This reflects the fact that, notwithstanding the significant, recent increase in staff numbers, the organisation has been managing a backlog of casework that existed pre-pandemic and increased exponentially during the pandemic; continues to see an increase in reporting of serious and complex casework that requires more resource; and has secured increased funding to recruit staff to manage this but recruitment is an ongoing process. Overtime data will continue to be monitored by the Resources Committee. It was agreed there was potential for engagement

with staff about overtime in the coming FY; and for the preparation of graphic representations of overtime, workload, and workforce capacity to assist with monitoring and assessing spend in this area.

13. The Board were reminded of the resource budget secured for FY 2022-2023 and the particular implications for the staffing budget. This led to discussion of transformation work ongoing across all business areas to ensure that work is being done at the appropriate level. There was some discussion of longer-term budget planning and COPFS engagement in the SAB process to inform the forthcoming Spending Review and the potential for more work at organisational level on longer-term planning.

## Overtime Update

14. The Director of Finance and Procurement introduced paper EB21/22(53).
15. The Board was invited to submit any comments on this paper by correspondence.

## Agenda Item 4 – Future Ways of Working

16. DCE provided a verbal update to the Board. The agile working policy, approved at the Board meeting in November 2021, had not been implemented as a result of public health guidance but we are ready to move to agile over the next few months. There was discussion about the care being taken in moving to agile, with wellbeing, diversity and contingency considerations underpinning this.

## Agenda Item 5 – Service Improvement Update

17. DCA Local Court welcomed Andy Shanks to the meeting who introduced paper EB21/22(54) and reported on a positive first meeting of the reconstituted Service Improvement Board and on the ongoing work in formulating a service improvement strategy and measuring outcomes.
18. The Board thanked Andy for this very important work.

## Agenda Item 6 – Staff Survey

19. The Director of Human Resources attended for this item and gave a presentation to the Board on the key results from the Staff Survey, ongoing analysis of the results including comparison with data from similar organisations, and plans for future engagement with staff. There was some discussion of corporate ownership of actions arising from the Survey. It was agreed that there is scope for greater central oversight of this but that this should not detract from empowering local management to act on the results. There is scope for this to be reflected in performance management of managers but thought will have to be given to how this can be done in an empowering way.

## Agenda Item 7 – Function Update – Operational Support

20.DCA Operational Support introduced paper EB21/22(55) which was noted by the Board.

## Agenda Item 8 – Function Update – Local Court

21. DCA Local Court introduced paper EB21/22(56) which was noted by the Board.

## Agenda Item 9 – Function Update – Serious Casework

22.DCA Serious Casework introduced paper EB21/22(57) which was noted by the Board. There was some discussion around a recent appeal judgement which relates to historic policy and practice. It was noted that appropriate guidance is in place for current practice.

## Agenda Item 10 – Committee Update - Resources

23.DCA Operational Support introduced paper EB21/22(58) which was noted by the Board.

## Agenda Item 11 – Committee Update – Business Improvement

24.DCA Local Court introduced paper EB21/22(59) which was noted by the Board.

## Agenda Item 12 – Committee Update – Operational Performance

25.DCA Serious Casework introduced paper EB21/22(60) which was noted by the Board.

## Agenda Item 13 – AOB

26. The Crown Agent congratulated Marlene Anderson, now permanent Director of Finance following her success at a recent board.

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

February 2022

## **EXECUTIVE BOARD**

### **DECEMBER 2021 MEETING**

### **FINANCE UPDATE**

#### **Purpose**

1. This paper provides the Executive Board with an update on:
  - The Financial budget and considerations for 2021-22.
  - Update on 2022-23 budget.

#### **Finance update 2021-22**

2. The forecast to the end of March 2022 is currently showing an underspend of £2m on the resource budget and priorities are being reviewed.
3. The capital is forecasting to be almost on budget following the transfers agreed in October 2021.
4. Careful monitoring of non-staff expenditure is continuing and where pressures are identified without corresponding savings in other budget lines, allocation of contingency funds will continue to be taken to Resources Committee for approval to offset these pressures.
5. We are still continuing to press ahead with the recruitment of staff to fill all of the agreed budgeted posts. Work with the Management Accounting and Planning team Finance Business Partners and functions are continuing, to ensure posts are correctly forecast and allocated to a budgeted post.
6. The underspend will be diverted to bring forward maintenance in Estates by refurbishing selected offices, as well as pushing ahead with the Business Case for Ballater Street, at a total of £300k for the refurbishments. We will also purchase an essential module which has just been identified by HR as part of the new HR system which will store historical data from the previous system, as well as essential contractor time at a maximum total of £49k. The remaining underspend will be required to cover year end accounting adjustments. We have also identified an improved website service, but this will be cost neutral within the ISD budget.

#### **Risks and Uncertainties**

7. Ongoing recruitment and the slow speed of filling budgeted posts have resulted in a continued underspend on staff costs as the year progressed. Additional staff costs for Court Recovery will be monitored separately in order to keep the distinction between business as usual and additional posts. Finance and HR are working together on this.
8. Current areas of Non-Staffing Expenditure risk remain as:

- Information Systems licencing and maintenance costs – as staffing levels increase, licensing costs increase as these are now resource spend (on a subscription basis);
- Post mortems/toxicology is currently reporting an overspend of £66k due to additional work and new mortuaries storage facility to alleviate storage pressure [REDACTED];
- Witness costs – As court sittings have been lower than pre-pandemic, witness costs continue to be lower than budget. Finance Business Partners and Business Management Teams will continue to consider the speed and trajectory of the court recovery programme to determine whether the forecasts are realistic;
- Non-recoverable VAT is continuing to be forecast over budget by £65k due to increased spend on non-recoverable categories. Careful monitoring and scrutiny of recoverability is ongoing and if this trend continues, it will require attention and budget cover from the contingency funds. This will be taken to the Resources Committee for approval if required with a comprehensive review in February 2022;
- Pay settlement has now concluded and any additional costs that may arise from this will have to be covered from the underspend in addition to the items highlighted in para 6. It is to be noted that the agreement reached by SG in their pay negotiations will be required to be matched by COPFS to ensure that pay coherence is maintained.

## Overtime

- The table below shows the actual against budget for 2021-22. This budget needs to be carefully controlled by HoBMs with all pressures reported to Resources Committee. The Table below shows actual spend at the end of P9 with a total forecast overspend slightly increasing to £1.17m.
- LC are forecasting £780k over budget. This is down to the additional court sittings being held on public holidays, overtime for COP26 and recruitment gaps. There is increasing reported overspend in SCG and OS of £241k and £152k respectively which are being managed by HoBMs. The overspend in overtime is included in the overall underspend position and therefore currently being funded by savings in staffing from vacancy management.

Overtime & On-Call (£000)

Function	Annual Budget	Forecast	Actuals YTD 2021/009		2020/21 Accrual	Actuals YTD 2021/009	Proportion YTD Actual vs Annual Budget
			On Call	Over-time	Total	Total	
Local Court	318	1,098	127	821	(215)	732	231%
Serious Casework Group	245	470	109	329	(87)	351	143%
Operational Support	65	217	7	179	(32)	154	237%
Major Cases	-	15.7	5	13	(2)	16	-
<b>Total</b>	<b>627</b>	<b>1,802</b>	<b>249</b>	<b>1,341</b>	<b>(337)</b>	<b>1,253</b>	<b>200%</b>

## Court Recovery Programme

11. The court recovery budget of £7m has now reduced to £5.7m, with the revised amount embedding across the functions to be completed, phased from September 2021 to March 2022.

## Budget 2022-23

12. COPFS secured a resource budget settlement of £169.8m. Including non-cash and capital, the allocation is £180.9m as detailed below.

2022-23 Scottish Budget	Fiscal Resource	Non-Cash (Ringfenced)	Capital	Total
	£m	£m	£m	£m
Crown Office and Procurator Fiscal Service	169.80	5.80	5.30	<b>180.90</b>

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13. As a reminder, the budget settlement includes the following:

- The 12-month equivalent of the 9-month funding we received in 2021-22 for the additional posts we were granted;
- Continuation of the Court Recovery Programme with a £13m allocation specifically to address backlogs;
- Years 1 and 2 of pay parity has been baselined (in 2021-22 year 1 was granted via an in-year transfer);
- Inflation on non-staffing expenditure;

14. No portfolio was provided funding to meet the Public Sector Pay Policy and increased National Insurance burden on employer contributions (£6.1m for COPFS) which we will have to absorb within our allocation.

15. Pay negotiations for the final settlement in 2021-22 have now concluded and we have committed to keeping pace with SG. The majority of the additional settlement will be consolidated and we will need to factor this in to our 2022-23 budget (estimated at £800k).

16. The Scottish Government sets the public sector pay policy. For 2022-23, this will see pay rise by:

- £775 cash uplift for those earning under £25k



- £700 between £25k and £40k
  - £500 above £40k
17. We have agreed to begin pay negotiations on the pay settlement with trade unions in March and will keep you informed of our progress.
18. The total staffing budget for 2022-23 is approx. £132.8m. The staffing review has almost concluded and a verbal update will be provided at the meeting.
19. This budget allocation does not include funding for the additional new posts requested by Serious Casework and Operational Support. The posts included in the ask that were not funded were as follows:
20. SCG – 62.5 FTE at a cost of £2.59m.
21. OS – 33.9 FTE at a cost of £1.52m
22. At its meeting on 27<sup>th</sup> January Resources Committee considered detailed analysis from the two Functions of the risks of not recruiting to these posts. Both Functions believe that they have prioritised the posts correctly as essential.
23. Resources Committee agreed that COPFS collectively need to weigh the operational risks of not recruiting to the posts against the financial risks in 2022-23 and beyond of recruiting into them using money saved in 22-23 from vacancies. The options, broadly, are:
- Fill none of the posts: SC and OS Functions would need to consider restructuring within the current complement to fill these posts and leave other posts vacant and thus balancing various operational risks;
  - Fill all of the posts as quickly as possible: this would, obviously, minimise operational risks but carry maximum financial risk;
  - Spread recruitment throughout 22-23, thus balancing operational and financial risks on a month by month basis: this would enable COPFS to take into account the settlement for 23-24 before deciding whether to complete recruitment
24. Resources Committee decided, with the exception of one post (see below), to defer a decision until the analysis of the expected staffing budget for 22-23 had been completed and thus greater clarity was available about potential financial headroom. This will be considered at the February Resources Committee and a recommendation put to the Executive Board.
25. The exceptional post which it was agreed must be filled asap was a Band D to oversee the COPFS vehicle fleet. This is essential because SG will be withdrawing the support of their Motor Vehicle Unit from 1<sup>st</sup> April.

## Strategic Approach to Budgeting (SAB)

26. The Scottish Government have asked all portfolios to produce a rolling, high-level, five-year financial plan and submit a SAB return every 6 months. COPFS' initial plan was submitted last month.

27. This discipline will require COPFS' operational areas to take a longer-term view on impacts of decisions taken in year, how that translates to future years and also include horizon scanning for possible future pressures and opportunities for savings that can be realised.

## Conclusion

**28. The Executive Board is asked to note, and if it wishes, comment on the above.**

Finance Directorate

07 February 2022

**EXECUTIVE BOARD**  
**SERVICE IMPROVEMENT UPDATE**

**Purpose**

1. To provide Executive Board with an update on service improvement progress over the past 6 months.

**Priority**

2. Routine.

**Background**

3. At the meeting of 18 August 2021, Executive Board noted:
  - The progress COPFS had made on service improvement to that date; and,
  - The next steps we intend to take to increase our corporate commitment to service improvement going forward.
4. At that stage, the DCA Local Court also committed to providing Executive Board with progress updates every 6 months.

**Progress update**

*(a) A refreshed and refocussed Service Improvement Board*

5. Membership of the Service Improvement Board has been reviewed in order to ensure there is representation from all parts of COPFS with a key role in taking service improvement forward. In particular, the Board has now been expanded to include representation from Enquiry Point, Policy & Engagement and the Scottish Prosecution College. The new Board met for the first time on 19 January 2022.

*(b) A Service Improvement Strategy and Delivery Framework*

6. The Board is still in the process of developing a corporate Service Improvement Strategy and a Framework for Delivery of priority actions for the year ahead. It is considered essential that both the Strategy and Framework are fully informed by a baselining exercise that will include internal staffing and external customer surveys, both of which will be supported by the Institute of Customer Service (ICS).
7. The ICS provide standard internal and external survey formats, in order to facilitate comparison against industry standards and to assist in the process of accrediting the organisation. Although, therefore, ICS prefer adherence to this standard format, they also fully recognise the unique relationship that COPFS have with members of the public and the need to provide survey formats that are relevant to our needs and provide the best evidence to inform our future strategy.

8. We are currently finalising an amended version of the internal staffing survey, which will see an overall reduction in the number of questions to be completed from 84 to 67. The relevant terminology has been changed in order to maximise understanding and provide a more valuable output. We plan to run this survey for a two-week period in March 2022.

9. The external customer survey is also a challenging undertaking, requiring careful consideration of content, timing, format and target groups. The Service Improvement Board meeting last month considered an options paper on these key issues and has now provided a very clear steer on these matters. These requirements will now be taken forward with ICS in order that an updated version of the standard external survey can be provided that meets our needs. We plan to launch this survey later in 2022.

10. Meantime, as we await the outcome of these survey exercises, the Board have agreed it is appropriate to immediately start work to progress some of the planned activities we see forming part of the delivery framework in due course.

11. A Service Improvement Working Group will now take forward this work and report directly to the SI Board. The Group will be led by [REDACTED], Assistant Procurator Fiscal in Local Court, who has a strong service improvement background. The Working Group will initially focus on the training and guidance materials currently available to front-line operational staff.

*(c) Communications Plan*

12. In September 2021, the SI Board approved a Communications Plan, the aim of which was to reintroduce the topic of service improvement to COPFS staff, provide a basic overview for staff of the expected standard of customer service and the resources and training available.

13. Completed activities to date include:

- October PF Eye article – ‘Improving our service – a message from our new service improvement champion’ – achieved 800 unique views
- NCSW Update blog posts – For National Customer Service Week we posted a series of Update articles including advice for colleagues who receive a complaint and advice for dealing with unacceptable actions.
- Created new ‘customer service’ intranet area – The customer service section of Connect contains links to policies, blogs and resources for colleagues on this topic.

14. Planned activated for 2022 include:

- Explaining the basics: Promote standards of service and customer service best practice in a series of communications across our channels. We will continue to improve available guidance in our ‘customer service’ area of the new intranet in partnership with SIB members. This section will point to policies and resources on the topic of customer service and it will provide a one-stop shop for colleagues seeking to understand what is expected of them.

- 'Service Improvement Month': To coincide with the launch of our benchmarking survey the SIB is asked to consider whether we run a month-long customer service campaign
- Promote the internal survey: Encouraging at least 40% response rate, aiming for 60% in line with people survey.
- Promote the new service improvement strategy: All staff should be aware of the strategy and how it applies to them

**Conclusion**

15. Executive Board are invited to note the progress made to date, in particular:

- A refreshed and refocussed Service Improvement Board;
- Baselining work for Service Improvement Strategy and Delivery Framework; and
- A Communications Plan

Andy Shanks  
PF for Grampian, Highland & Islands  
9 February 2022

## **Function Update for Executive Board: Operational Support**

### **16 February 2022**

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

#### Policy and Engagement Update

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

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

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

#### COVID-19

##### Emergency Legislation and Prosecution Policy

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

The relevant legislative framework is:

##### Coronavirus Act 2020:

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

##### Coronavirus (Scotland) Act 2020:

- Electronic signatures and transmission of documents;
- Electronic search warrants & apprehension warrants;
- Attendance of parties by electronic means;
- Revalorisation of Fiscal Fines;
- Ability to call custody cases in any Sheriff Court;

- Extension of time limits;
- Extension of section 259 of the Criminal Procedure (Scotland) Act 1995 (this provision expired on 30 September 2021)

#### Coronavirus (Scotland) (No 2) Act 2020:

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

The abovementioned provisions of the Scottish Coronavirus Acts will remain in force until 24 September 2022, with the exception of the provision in relation to the extension of section 259 of the Criminal Procedure (Scotland) Act 1995, which expired on 30 September 2021.

In January 2022 the Scottish Government introduced the Coronavirus (Recovery and Reform) (Scotland) Bill to Parliament in recognition of the continuing impact of the pandemic and the continuing need for a number of the legislative provisions. Policy official will contribute to scrutiny of the Bill, including the preparation of written evidence.

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

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

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

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

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

### Other Coronavirus Related Policy

Lord Advocates Guidelines on Liberation during the pandemic are in place. Policy officials continue to engage with Police Scotland in this regard.

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

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

## **LEGISLATION**

### Age of Criminal Responsibility (Scotland) Act 2019

This Act raises the age of criminal responsibility to 12 and received Royal Assent on 11 June 2019 and was fully implemented as of 17 December 2021. An Advisory Group has been convened to report on implementation of the Act and possible raising of the age of criminal responsibility to above 12 years old. Policy officials are the COPFS representatives to the group and chair a subgroup on the operational implications of any further rises. Policy officials are also members of the Data and Research Subgroup, working with key partners to collate relevant information to consider a future age of criminal responsibility.

Separately, a criminal justice planning group was formed under the auspices of the Youth Justice Improvement Board YJIB. The remit of the group was to plan for possible extension of the Children's Hearing system to all under 18s. Policy officials contributed to the Group, which has issued its final report to YJIB. It is anticipated that extension of the Children's Hearing system will be progressed in a planned SG Youth Justice Bill.

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

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

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



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

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

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

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

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

Policy, through their position on the CMO Taskforce – National Self-referral subgroup, were involved in the drafting of a supporting national protocol. Policy have also delivered training at the NES “Implementation of the National Self-referral Protocol -Train the Trainers” session.

#### Hate Crime and Public Order (Scotland) Act 2021

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

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

An implementation date has yet to be confirmed. Policy Division are drafting guidance for prosecutors which will be published on implementation.

#### 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. Following the UK Supreme Court’s decision that parts of the Bill fall outside the legislative competence of the Scottish Parliament, the final form of the Bill and 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. Policy has begun that process. A working group has been set up involving members from Policy, SFIU and other specialised operational divisions and work is ongoing in relation to this. Sub-groups have been set up to (a) examine policies and process for engaging and communicating with child victims and witnesses, (b) examine business processes for prioritising the preparation of cases involving accused aged under 18 and (c) support the training of staff.

An e-learning module for all COPFS staff on the UNCRC principles has been developed and will have an introductory video by the Children and Young People's Commissioner for Scotland.

#### 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.

#### Domestic Abuse Act 2021

The UK government have sought to ratify the Istanbul Convention which seeks to create a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. The 2021 Act seeks to do this by extending the jurisdiction of the Crown in Scotland to prosecute some offences that occur in countries outside of the United Kingdom. The Scottish Government implemented the relevant legislative changes on 29 June 2021. An Operational Instruction outlining the legislative changes was issued following approval by the Law Officers. Policy Officials have reviewed and updated the relevant Case Marking Instructions in light of the legislative changes. Policy officials are undertaking further work in collaboration with NCP and ICU in relation to potential future guidance in ETJ cases.

#### FGM (Protection and Guidance) (Scotland) Act

The purpose of the Act is to strengthen statutory protections for women and girls at risk of female genital mutilation (FGM). The Bill creates a new FGM Protection Order, a form of civil order which can impose conditions or requirements upon a

person for the purpose of protecting a person or persons from FGM, safeguarding them from harm if FGM has already occurred, or for the general purpose of reducing the likelihood the FGM offences will occur. Breach of this order will be a criminal offence. The substantive provisions of the Act are not yet in force. In due course, Policy will work with SG on draft guidance.

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

The purpose of the legislation, passed on 11 March 2021, is to establish a financial redress scheme for survivors of abuse in care. Under the Act, survivors make an application to Redress Scotland. P&E are beginning to receive requests from survivors or their legal representatives for information to assist their applications.

#### Covert Human Intelligence Sources (Criminal Conduct) Act 2021

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

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

A Scottish CHIS Bill is being considered.

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

The Act was passed by the Scottish Parliament on 24 March 2021 and received Royal Assent on 5 May 2021. The Act commenced on 5 November 2021. The Act, inter alia, extends enforcement powers and increases penalties for the Protection of Livestock offence. The Act has increased the penalty for offending to a maximum of 12 months imprisonment, a fine not exceeding £40,000 or both. Policy will ensure that relevant guidance is updated.

The Police carried out a campaign on 11 January 2022 to make the public aware of the change in legislation, including the increased penalties.

#### Police, Crime, Sentencing and Courts Bill

UKG Bill which contains various provisions relating to the criminal justice system. The Bill contains provisions which aim to afford greater protection to the police when carrying out duties including provisions which would amend the definition of dangerous and careless driving for police officers driving in the course of work. There are various road traffic provisions including extending the ability to offer fixed penalty notices under s54 of the RTOA 1988 to Scotland, removal of the requirement to surrender driving licences to the court, the creation of an offence of causing serious injury by careless driving, higher penalties for various offences including causing death by dangerous driving and enabling police cost recovery for speed awareness courses. The Bill further includes provisions in relation to the extraction of

data from electronic devices (see “Draft Digital Device Guidance” below) and Policy officials are reviewing a code of practice on this area.

Policy officials are engaging with officials from the UKG, SG, and criminal justice partners on the provisions which extend to Scotland. The Bill is scheduled to receive Royal Assent in March 2022. The relevant road traffic provisions will be implemented in the summer of 2022. The data extraction provisions will not come into force until the statutory Code of Practice is ready for publication. The draft Code has been subject to public consultation and a final version has not yet been provided. SG officials have confirmed the Scottish Ministers will be consulted on it prior to publication and the provisions coming into force in Scotland.

#### Bail and Release from Custody Bill

The Scottish Government has launched a consultation on the provisions of a bill relating to bail and release from custody. Policy officials have provided relevant advice to the Law Officers and are engaged with SG in this regard.

#### Northern Ireland Legacy Bill

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

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

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

#### Fireworks (Scotland) Bill

The Scottish Government introduced the Fireworks and Pyrotechnic Articles (Scotland) Bill at the beginning of February 2022. The Bill sets out a number of new offences in relation to fireworks and pyrotechnics, including the offence of possessing a pyrotechnic at a sporting or other event and selling fireworks and pyrotechnics to children. Policy officials have provided input into the draft legislation and associated financial memorandum.

#### Online Safety Bill

The UK Government are preparing to introduce a Bill that 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. Policy officials are discussing these matters with UK and Scottish Government policy officials together with considerations of whether a statutory defence is necessary for Ofcom when handling child sexual abuse content in the course of carrying out their functions as regulator.

### Health and Care Bill

The UK government introduced this Bill to the House of Commons in July 2021 with the intention of reforming the delivery and organisation of health care in England. It is currently at the 2<sup>nd</sup> Reading stage in the House of Lords. The Bill is expected to receive Royal Assent in April 2022.

Part 5 of the Bill proposes the creation of a set of criminal offences relating to 'virginity testing'. Under the proposals it will be an offence to carry out, offer, aid or abet a person to carry out a virginity test in the UK. Policy Division is liaising with Scottish Government on their plans for a Legislative Consent Motion to introduce these offences into Scottish law.

### Other Significant Policy Work

#### Pilot on Visually Recording the Statements of Complainers in Rape Cases

The Lord Advocate approved the implementation of a pilot project to test the effectiveness of visually recording the statements of complainers in rape cases. The pilot is taking place in three Police Scotland Divisions – Edinburgh City, Dumfries and Highland and Islands and commenced on 1 November 2019. The pilot was originally due to run until 1 November 2021 but has now been extended for 6 months to 1 May 2022. Guidance has been issued to COPFS staff. Policy is monitoring the progress of the pilot.

#### Draft Digital Device Guidance

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

The guidance anticipates the position taken by the UK Government in their draft Code of Practice on extraction of data from digital devices.

#### Guidance on sexual history evidence

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

#### Joint Investigative Interviews (JIIs)

Policy is working with Police Scotland and Social Work Scotland to improve the quality of JIIs capturing the evidence of child witnesses. There are three pilot projects ongoing to test a new interviewing model. Policy has created an evaluation process to measure changes in quality of JIIs. The first two pilots are taking place in North Strathclyde and Lanarkshire a third pilot in Glasgow has commenced. Policy is working with the High Court Unit to implement an evaluation model for JIIs falling outside of the pilot projects. Policy is also working with operational staff in areas out

with the initial pilot areas to assist as the new model is rolled out nationally to ensure nationwide consistency of application.

### Barnahus

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

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

### Nurse Sexual Offence Examiners

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

### Drugs Death Taskforce

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

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

Policy are engaged with the work of the Taskforce which is relevant to COPFS.

### Chapter 4 Victims and Witnesses Manual

Policy officials are undertaking an extensive revision of Chapter 4 of the Victims and Witnesses manual which relates to Domestic Abuse. The revision will reflect recent legislative changes and appeal court decisions and will consider alterations to guidance in relation to authorisation levels for key decision making. Policy Division have completed the review of the chapter and will be submitting a minute to the Law Officers detailing the proposed revisions.

### NES Trauma Informed Knowledge and Skills Framework.

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

### Victim Impact Statements

Following a Scottish Government consultation on “widening the scope of the current victim statement scheme” policy officials have 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 have 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 Officials are members of this working group and are continuing to liaise with Scottish Government.

### Data Protection Act reforms

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

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

### Review of the Investigatory Powers Act 2016

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

### Body Worn Cameras

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

### Electronic Monitoring of Bail

An Operational Implementation Group, chaired by the Scottish Government, has been meeting since December 2020 to discuss the introduction of electronic monitoring of bail (EM Bail). Policy and NICP officials are the COPFS representatives of the Operational Implementation Group. Guidance for prosecutors

will be developed in due course once a final model for implementation has been agreed by justice partners.

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

#### Restorative Justice

Community Justice Scotland are leading on the drafting of national guidelines on the use of Restorative Justice. Policy officials are involved in this work.

#### Offensive Weapons Act 2019

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

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

#### Drones

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

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

#### Armed Forces Bill

The UK Government has introduced the Armed Forces Bill. The Bill will introduce inter alia 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 and the Scottish Government. Policy officials have also engaged with the Service Prosecuting Authority with a view to drafting a relevant protocol, however, have not yet received a response.

The Bill received Royal Assent on 15 December 2021 but has not yet commenced.

#### Bail Manual

The bail manual is being revised. A draft has been provided to SET for consideration and will be further updated to reflect feedback.

#### Police Assault – Impact Information

As a result of a commitment made by the Chief Constable of Police Scotland, Policy officials and Police Scotland have developed a process for providing the court with “impact information” relating to the impact of an assault on a police officer or a member of civilian police staff on (1) the victim, (2) the wider police force, and (3) the



local community. The insertion of impact information into Standard Prosecution Reports (SPR) began on 9 February 2022. Policy officials have engaged with the Judicial Institute to notify them of the new process.

### **National Enquiry Point (NEP)**

The number of Enquiry Point operators working in the office has increased, following changes to health and safety guidance on social distancing. There has been an increase in both telephone calls and email requests following the re-opening of courts. Additional staff have been identified following successful recruitment boards.

## BUSINESS SERVICES UPDATE

The business plan for 2021-22 set out the main priorities for each of the units which comprise Business Services.

We remain on track with all the priority areas of action highlighted in the plan

Among many other achievements across BS in 2021-22 to date (in no particular order of priority) are:

- Negotiation and implementation of the historic pay parity settlement – all staff paid by end-June and good progress with next stages;
- Good progress with procurement and development of the new HR Digital system and Learning Management system;
- Major steps forward in procuring and implementing the cross-Justice Digital Evidence Sharing Capability;
- Annual audit and completion of 2020-21 accounts completed and accounts laid in Parliament;
- Detailed consultation and engagement with staff and stakeholders on Glasgow Estates Transformation and drafting of initial design plans to support our new flagship FWOV office;
- Consultation and engagement with staff and stakeholders in relation to Edinburgh Estates Transformation capturing initial requirements to help inform options;
- Allocation of 21-22 budget and court recovery funding completed on time;
- Completion of withdrawal from Ayr office and upgrading of Kilmarnock office;
- Commencement of Fair Futures policies on 1<sup>st</sup> July and project closedown;
- Excellent progress with new corporate intranet and COPFS website: the intranet was launched in December, the website is due for launch in March;
- Tremendous collaborative work in preparing offices for staff returning
- Launch of new agile policy and Digital workplace facilities and a 'Working Safely' to facilitate future ways of working;
- Launch of new corporate strategies (People, Learning and Development, Estates, Procurement, and Finance)
- Compilation and submission to SG of 2022-23 financial requirements document helped to secure substantial increase in resource budget for 22-23
- Completion of review of trade union facility time
- Testing and strengthening our cyber-security and digital business resiliency plans
- Appointment of new head of Learning and Development and good progress with implementing new strategy and governance
- Preparation for and supporting COP-26
- Creation and appointment of a new Wellbeing, Inclusion and Diversity team
- Digital casework system solutions to deliver Criminal Justice Recover, Renew and Transform (RRT) priorities and supporting new criminal justice case management models

- Developed an enhanced Pre-Intermediate Diet Meeting (PIDM) booking app for defence agents to book and manage meetings digitally

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

IAN WALFORD

February 2022

## BUSINESS SERVICES: PLANNING AND PEOPLE PRIORITIES: 2021-22

### ENABLING COPFS AND SUPPORTING OUR PEOPLE

#### *Our Purpose*

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

The purpose of Business Services is:

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

#### *Our Overarching Priorities*

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Our overarching priorities in fulfilling this purpose are to:

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

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

#### *Our approach*

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

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

## *Specific Priorities for 2021-22*

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

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

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

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

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

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

ISD:

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

HR:

- Working with the trade unions on implementation of pay coherence in the current and next two financial years
- Working in partnership with L&D on the implementation of outstanding Fair Future products and ensuring that the benefits are realised

- Supporting the Future Ways of Working project, especially the development of an agile working policy
- Implementation of the new HR digital system and Learning Management System
- Implementation of a strengthened approach to HR diversity and inclusion practices, particularly in recruitment, retention, and career development

#### Support Services:

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

#### Finance and Procurement:

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

#### Corporate Communications:

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

#### OS Business Management

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

## *Our People*

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

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

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

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

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

Our other workforce planning priorities are as follows:

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

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

### *Communication*

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

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

### *Risk Management*

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The overall risk to COPFS if Business Services is not able to deliver its planning and workforce priorities is that the operational Functions will not be able to deliver services to the people of Scotland on a daily basis to an acceptable standard and/or they are not able to improve efficiency and effectiveness and quality as well as or as quickly as planned.

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

### *Measuring Progress*

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The Business Services Heads will individually and collectively:

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

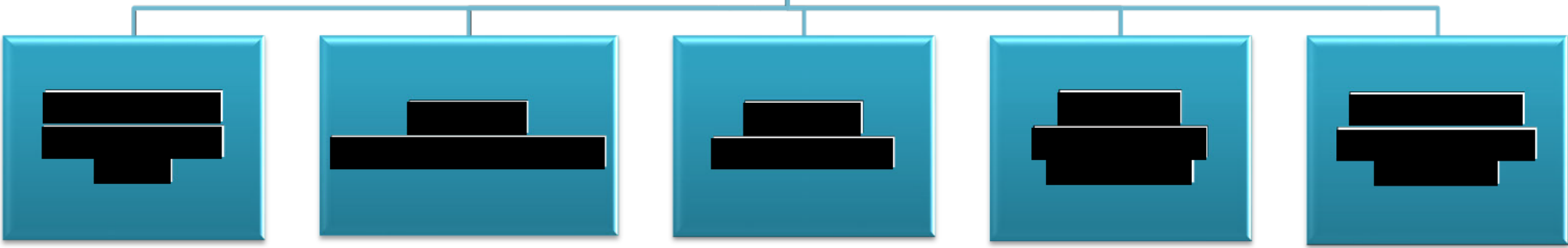


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**EXECUTIVE BOARD**

**FUNCTION UPDATE: LOCAL COURT**

**Purpose**

1. To provide the Executive Board with a short update on current performance and progress as we continue to recover from the Covid-19 pandemic and look ahead to our business planning for 2022-23. Further details are provided in Annex A.

**Priority**

2. Routine.

**Recommendation**

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

**John Logue  
Deputy Crown Agent  
Local Court**

**February 2022**

**ANNEX A**

**1. Current Priorities**

- Adopting Future Ways of Working (FWOW) as staff return to work in offices with the lifting of pandemic restrictions.
- Reduction of the pandemic backlog in the summary and solemn courts.
- Removal of Covid-19 court restrictions, including wider public access to courts and PF Offices and the return of juries to courts.
- Business Planning for 2022-23.
- Preparing for the restart of the summary reform pilot courts in Dundee, Hamilton and Paisley.
- Preparations for end-year performance appraisal reporting.
- Implementation of enhanced induction training in Local Court to supplement the corporate induction training for new staff.

**2. Staffing**

- We continue to recruit across all grades and all locations to ensure that we achieve and maintain our agreed staffing position of FTE of 1,117. We currently have just under 1,100 staff and 51 successful applicants are going through pre-recruitment checks.
- Recruitment remains challenging. We are therefore adopting an agile approach to our recruitment and aligning that with our transformation programme in centralising a lot of what are current local tasks into virtual centralised teams. This will allow us to continue recruit the numbers we require, perhaps in locations where recruitment is easier, improve our service delivery, improve our processes and allow for more staff to take account of the Agile Working police (FWOW) as these virtual central teams would rotate with staff in offices.

**3. NICP**

- Performance against the main KPI for 2020/21 (marking 75% of cases within 28 days of receipt) was 76%. The current performance this year is 72%.
- The number of unmarked cases as at 6 February was 14,795. This is within our KPI threshold of 5 weeks of reported cases.

**4. Solemn Casework**

- Performance against the main solemn KPI (indicting 75% of cases within 8 months of first appearance) was 70% as at 16 January.
- The solemn workload has continued to increase as a result of a 14% increase in new petitions in 2020/21 compared with 2019/20 with a further 3.8% rise this year.
- The number of cases indicted to court but still to go to trial has increased by 172% since the beginning of the pandemic.
- Performance against the age profile KPI for cases being investigated (no more than 5% of the cases over 8 months old) is now at 22% due to the consequences of the pandemic including staff absences and cyber/forensic delays. It was 3.2% pre-pandemic with the number of cases over 8 months

**ANNEX A**

increasing from 382 to 1,403. This is now the highest priority for our Performance Board.

- Sexual offences teams are working well in the preparation of cases for trial – performance exceeds the KPIs for initial decision making and we are seeing steady improvement in our reporting for indictment.
- Overall, our performance in respect of taking initial decisions in solemn sexual offences is strong – 88% within 28 days of receipt of report but the challenge is to progress this work with delays in obtaining cyber evidence presenting a particular concern.

**5. Sheriff Summary Work**

- Outstanding summary trials currently sitting just short of 41,068 which is a 148% increase on the February 2020 position.
- Domestic abuse journey time is well above the 10-week KPI in certain parts of the country due entirely to lockdown. The summary reform pilot courts will focus on early resolution of domestic abuse cases.

**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 has been 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 and this is now to proceed.
- Allocating additional victim information and advice resource to each Sheriffdom is an immediate priority following a recent recruitment exercise.

**7. Conclusion**

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

**John Logue**  
**Deputy Crown Agent, Local Court**  
**February 2022**

**EXECUTIVE BOARD  
FUNCTION UPDATE – SERIOUS CASEWORK****IMPACT OF COVID-19 ON HIGH COURT FUNCTION****Home Working**

High Court staff are continuing to work from home where possible, with staff attending where necessary to complete essential tasks. The number of staff requiring to attend at offices increased as the High Court escalated the return of the court programme, and increased further on 6 September 2021 with the introduction of four additional High Court trial courts, which represented an increase of 25%, as part of the court recovery programme. This increase is necessary to address the growing backlog of trials and reduce overall journey times of High Court cases but it will be challenging from a resourcing and process perspective.

The return of the full High Court programme post-lockdown put pressure on our teams in terms of ensuring that all cases are fully prepared including the requirement that all productions are lodged and available for the court, and that pressure will increase with the additional number of courts. This matter is further complicated as the additional courts require High Court staff in locations where we (High Court) were not previously located which presents ongoing estate and resourcing challenges. The court continues to use the remote jury centre model. SCTS advise that they now have the capability to conduct cases involving multiple accused and more complex cases but this has yet to be tested to any extent.

Whilst the increase in the High Court trial programme is welcome, it remains to be seen whether it will reduce the backlog of trials. The model was insufficient to dispose of all High Court trials pre-pandemic and under current circumstances each trial is expected to take slightly longer than was previously the case. This in itself is placing an additional strain on the teams as the court is scheduling more trials than they can get through to take account of attrition as a result of the pandemic.

Whilst the staff initially responded incredibly well to the challenge of adapting to home working, we have seen a marked downturn in throughput at all stages of case preparation. We also continue to see signs of the personal impact that home working is having on some members of staff's well-being. This appears to be a combination of the impact of working from home, an ever-increasing workload at present due in part to high levels of cases indicted awaiting trial. We have reminded our managers of the challenges some of our staff face and have had virtual meetings with all our teams across the country where wellbeing has been a central theme.

Insofar as possible we endeavoured to maintain "business as usual" in our High Court preparation work. As such, notwithstanding that the emergency legislation provided a 6-month suspension of timebars, our aspiration was to try to report and indict cases within existing time limits and target reporting dates. That was quite successful initially, in reporting if not indicting, but there has been an increasing number of cases where we have not been able to report or indict within pre-coronavirus timebars. Indeed about 20% of our Precognition Work in Progress is now older than the pre-COVID timebar. We are monitoring these cases closely

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to ensure that we will be able to cope with the additional workload when the suspension of timebar is no longer in place.

The High Court senior management team agreed that full time home working has been a major contributory factor to our downturn in throughput and that as part of our recovery programme we needed to ask staff to return to office working on a phased basis. We have had a couple of attempts to require all High Court staff to work in the office for one or two days per week as part of a phased reintroduction to office work but on each occasion we have had to change our plans due to changes in the public health advice. We are currently in the process of a third attempt to reintroduce office working to our teams following the recent reduction in public health restrictions.

### • New Petitions

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

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

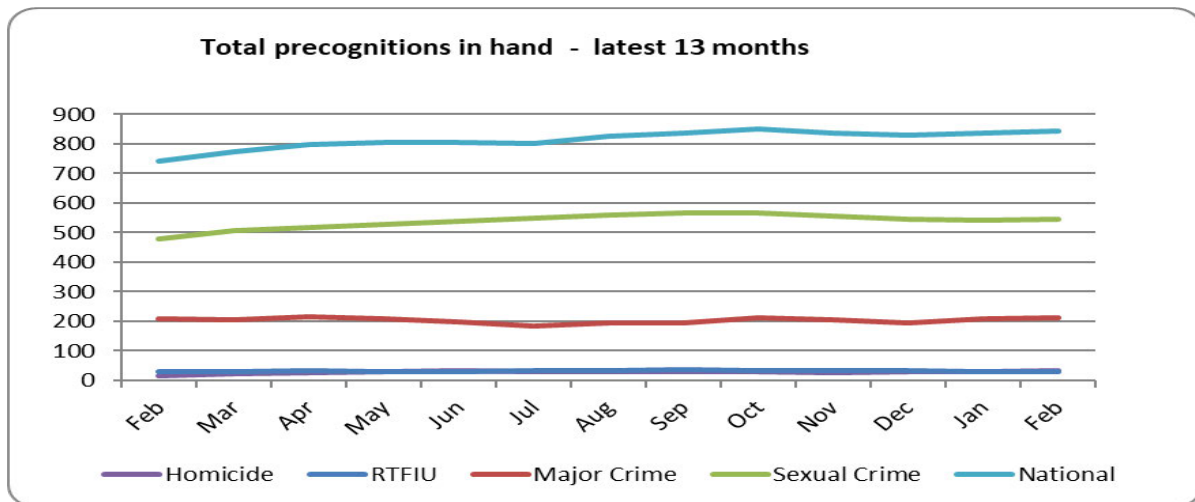
Discipline	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total number of cases
Homicide	6	8	5	7	4	7	4	6	5	6			58
RTFIU	3	2	1	7	4	3	2	0	3	1			26
Major Crime	36	33	16	25	38	41	35	20	35	23			302
Sexual Crime	63	61	58	53	58	45	47	50	42	50			527
Total High Court new petitions	108	104	80	92	104	96	88	76	85	80			913

On the basis of the new petitions received to date, it is projected that there will be a further reduction of 153 new petitions (12%) in the current financial year. This reduction in new business is most welcome having regard to the increased volume of live business we are currently carrying and the reduced throughput of our cases. The number of new petitions in Homicide is particularly high (up 27% on last year), and whilst the number of Homicide cases is relatively low, these cases have a greater tendency to be particularly resource intensive. All of the other three disciplines are showing a projected decrease of 14% in new petitions.

### • Precognition Work in Progress

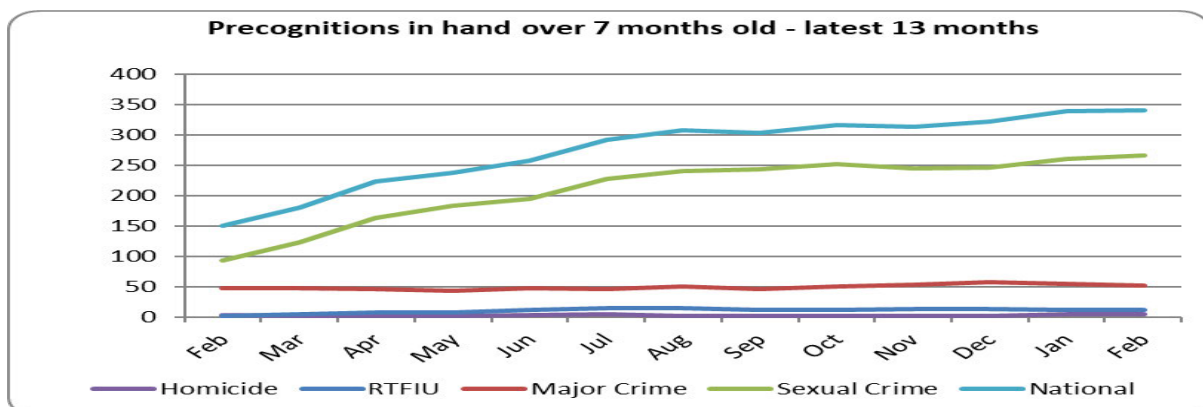
Precognition Work in Progress ("PWIP") is the phrase we use to describe cases in which the accused has appeared on petition or in which Crown Counsel have Serious Casework (High Court) EB update February 2022

instructed a pre-petition investigation but which have not yet been reported for Crown Counsel's instructions. The PWIP table from the most recent National High Court Healthcheck document is reproduced here for ease of reference.



The current PWIP (as of 6 February 2022) of 845 cases is an increase of 104 cases (14%) compared to February last year. Whilst we had been making progress in reducing PWIP in the early part of 2020, with reductions in each of our disciplines, there had been a marked upturn in PWIP cases since June 2020 which broadly coincided with an increase in new petitions at that time and a reduction in the throughput of work post-pandemic. This also reflects the increasing pressures on our case preparation teams due to the increasing number of High Court cases (see below for data on increase in High Court business). On a positive note the increase in PWIP appears to have levelled off somewhat in recent months.

The following chart shows the age profile of our PWIP from the date of first appearance on petition. This is another area where we had been making good progress last year but in which there has been a sharp increase since December 2020. The current figure of 341 such cases represents an increase of 191 cases (127%) compared to the same time last year. We continue to monitor the progress of these older cases. This also to some extent reflects the impact on reporting of the spike in new petitions during summer 2020 and the reduction in the numbers of cases reported and indicted.



We continue to strive to reduce this workload as we work towards earlier service of indictments in all High Court cases and in looking at alternative ways to manage the post-indictment workload. Each of our disciplines has an action plan for achieving this objective.

- **Indicted awaiting trial**

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

The volume of business in this category was of significant concern prior to the coronavirus situation, and even more so now that we have a larger backlog of trial post-pandemic. There has been a clear and obvious upward trend in this area of our business which has increased from a low point of 279 cases in August 2017 to 563 cases as of 15 March 2020 (i.e. the week prior to the suspension of trials), an increase of 102% in a little over 2 and a half years. That figure has now risen to 850 as of 31 December 2021. This represents an increase of 205% since August 2017 and increase of 51% from the 563 cases immediately prior to the suspension of trials.

The current figure of 850 such cases indicted awaiting trial is considered to be artificially low for two reasons. Firstly, the court has until relatively recently only been dealing with the more straightforward cases and not the lengthy, complex, and multiple accused cases which tend to take up significant court time and as a result delay the throughput of other trials. Secondly, due to resourcing and other issues in our reporting and indicting teams we have been reporting and indicting fewer cases than normal in recent months so there are a growing number of cases waiting to be reported and indicted which will add to this figure when we improve our throughput of work.

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

- **Total High Court Caseload**

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

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The following table shows the increase in the total High Court caseload since the pandemic. The comparison is between our most recent data as of 31 December 2021 and the position at around the time when lockdown measures were introduced as of 1 April 2020.

Team	Total Post Petition Caseload 31/12/21	Total Post Petition Caseload 01/04/20	Additional number of cases	Percentage increase
Homicide	95	66	29	44%
RTFIU	49	39	30	26%
Major Crime	501	323	178	55%
Sexual Crime	1289	823	466	57%
<b>Total</b>	<b>1934</b>	<b>1251</b>	<b>683</b>	<b>55%</b>

Whilst our teams initially responded particularly well to the new environment and processes required as a result of the pandemic, the throughput of our work has reduced over the course of the 18 months or so since lockdown. In particular our case preparation teams reported 20% fewer cases for Crown Counsel's instructions and we have served indictments in 21% fewer cases in the last financial year (2020/21) compared to the previous one (2019/20). In the current financial year that throughput has dropped further in both the number of cases reported (down 3% on last year) and indicted (down 8%). However, performance has increased somewhat in recent months

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

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

Kenny Donnelly  
PF High Court  
8 February 2022

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

The unit covers a diverse range of work including Serious and Organised Crime; Counter Terrorism; Major Economic Crime; Money Laundering; Solicitors cases; Election offences; Bribery and Corruption and Miscellaneous specialist casework. All significant SOCU cases are intimated to PCC and HCU to allow early allocation of ADs and to provide an oversight of cases within the unit. This has dovetailed with the Practice Note relating to Lengthy and Complex criminal trials in the High Court. Of the **106** live SOCU cases (spanning 127 SPRS), there are currently **21** operations (comprising **31** SPRs) on the lengthy and complex case list.

There have been **71** upon-conviction Serious Crime Prevention Orders (SCPOs) granted in Scotland, chiefly for SOC cases and **1** 'stand-alone' SCPO.

There are now **23** live SCPO orders (including 4 granted in England) and **6** cases relating to breach of SCPOs (three for the same accused):

- 3 cases relate to the same accused and the accused has now been indicted on several charges of breaching his SCPO..
- In one case, the accused appeared on petition on 20.09.21 and the case is now being prepared within SOCU as a likely Sheriff and Jury case.
- In another case, the accused appeared on petition on 10.12.21 and this case is now being prepared within LC as a likely Sheriff and Jury case.
- The final case is currently being considered and will be reported shortly for initial CCIs.

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

i) Notable Convictions

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

ii) Ongoing cases:

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

- **33** cases (spanning **42** SPRs) are being prepared as pre-petition
- **32** cases (spanning **34** SPRs) where the accused have appeared on petition
- **3** cases (spanning **3** SPRs) where a petition invite has been arranged or is being arranged
- **2** cases (spanning **2** SPRs) where a petition warrant is out for execution and **1** case (spanning **1** SPR) where a petition warrant has been granted but not yet executed pending the outcome of an associated case
- **4** cases (spanning **4** SPRs) where a marking decision is pending

Report from Specialist Casework for Executive Board Meeting in February 2022

- **19** cases (spanning **29** SPRs) have been indicted for High Court proceedings
- **11** cases (spanning **11** SPRs) have been indicted for Sheriff and Jury proceedings, **10** of which will be prosecuted by SOCU deputes
- **1** summary case (spanning **1** SPR) with a CWP on 17.02.22

Additionally, the Unit has oversight of **25** large/complex cases being worked on by reporting agencies and not yet formally reported to COPFS.

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

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

iii) Sheriff & Jury prosecutions

The Unit currently has **11** cases indicted for Sheriff and Jury proceedings, and a further **10** on petition where Sheriff & Jury proceedings are anticipated. Many are long and complex cases, and they are spread across the country. SOCU trial deputes have been assigned to most of them. The Local Court function is also providing a depute to conduct a trial at Inverness where the case is not particularly long or complex.

iv) Other Matters of Interest:

**Expedited Referrals** –To date, **7** applications from Police Scotland and **2** applications from DWP have been considered and referred to the CRU. SOCU recently contributed to joint training for Police Scotland, with CRU, to raise awareness of the new processes in place for Expedited Referrals. It is anticipated that this will lead to an increase in referrals.

**Independent Reviewer of Terrorism Legislation** – in 2020, SOCU provided input to the 2019 annual report by the Independent Reviewer of Terrorism Legislation (IRTL), Jonathan Hall QC. The report was published in March 2020 and included a chapter on the position in Scotland. The IRTL recommended that the Lord Advocate issues a Code of Practice, under the Criminal Justice (Scotland) Act 2016, on the detention of individuals under s41 and Schedule 8 of the Terrorism Act 2000. The then LA confirmed that he accepted this recommendation and instructed that work commence to draft the guidance. A SOCU-led multi-agency Short-Life Working Group has now produced draft guidance, in the form of Lord Advocate's Guidelines, which are to be submitted to the Lord Advocate for consideration. SOCU also contributed to the IRTL's 2020 annual report, which is now available in draft form and will be published shortly. This report is positive as regards Scotland, and there are no recommendations for COPFS/the Lord Advocate.

## Report from Specialist Casework for Executive Board Meeting in February 2022

**2. Proceeds of Crime Unit (POCU)**

## i) Confiscation and restraint

In the financial year 1.4.2020 to 31.3.2021, 130 confiscation orders were secured to a total value of £1, 603,971.09. In the 21/22 financial year to 3.02,2022, 173 orders totalling £4,429,054.44 have been secured.

In the financial year 1.4.20 to 31.3.21 a total of 24 restraints were secured totalling £2,477,410.96. In the current 21/22 year to date, 16 restraint orders have been obtained restraining £8,067,553.12 of assets. Temporary restraint by moratorium extension has been secured on 99 occasions suspending access to assets of £11,511,499.69 pending further investigation with a view to full restraint.

## ii) Operational casework

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

## iii) Notable cases

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

## iv) Impact of Covid19

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

Cases are now routinely calling in court and deputies are attending courts as and when required to do so. Confiscation work is currently considered by SCTS to be of the same importance as solemn work, irrespective of the forum used for the predicate case and proof hearings are being fixed and are being conducted by deputies as required. Moratorium extension hearings are conducted in accordance with the directions of each court and can be in person or by virtual means

**3. Appeals**

## i) Courts

All conviction and sentence appeals for High Court from 31 January 2022 are to be conducted in person. Procedural High Court and Sheriff Appeal Court hearings continue to proceed by WebEx platform. In this first week there have been technical problems which have caused some delays. Connectivity in the courts for COPFS staff is variable and this has been drawn to the attention of ISD. Staff continue to submit written submissions and other documents electronically.

## ii) Notable cases and forthcoming issues

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

## Report from Specialist Casework for Executive Board Meeting in February 2022

## iii) Impact of Covid19

All staff continue to work from home in the main but attend on a rota basis at Crown Office to prepare for and attend the in person courts.

#### **4. International Cooperation Unit (ICU)**

##### **A. Overview**

The first half of 2021 was very busy in terms of new ICU cases, but these numbers fell away substantially from July onwards, and only began to recover towards the end of the year. The number of Incoming Extradition cases in 2021 was the lowest number of any year for which ICU have records. The number of Outgoing Extradition cases was also low. The number of incoming MLA cases was within the expected range of 400-500, albeit towards the low end. Outgoing MLA is the exception in that ICU surpassed our record from 2013: 232 Outgoing MLA cases is the most ICU have ever opened in one year.

There continues to be a much higher number of outgoing TV link requests compared to pre-pandemic figures. Although numbers of new Extradition cases are down, our pre-existing extradition caseload has become more complex to manage as a result of Brexit and other international events; and because the TACA warrant provisions are as yet untested, we anticipate an increase in extradition appeals in 2022.

##### **B. Brexit**

###### *General*

The Trade and Cooperation Agreement (TCA) was ratified by the European Parliament on 27.04.2021. Whilst the TCA was meant to have direct effect in EU Member States from 01.01.2021, there remained issues with Netherlands and Portugal who required domestic legislative changes to bring aspects of the TCA into effect. Both have now introduced the necessary legislation allowing extradition to and from the UK to resume.

There was also an issue with Ireland. In July 2021 the Irish Supreme Court made a reference to the Court of Justice of Europe (CJEU) to ascertain, as there had been no "opt-in" by Ireland to the EAW system, to what extent either or both the Withdrawal Agreement and the TCA can bind Ireland. The CJEU will consider whether the TCA provides for the continuance of the EAW regime in respect of the UK after the transition period. On 09.11.2021 the Advocate General, appointed by the CJEU to consider the matter, issued a preliminary opinion which clearly states that the TCA arrangements are binding on Ireland. The full opinion of the CJEU is still awaited.

## Report from Specialist Casework for Executive Board Meeting in February 2022

It has recently been discovered that there also appears to be a legislative bar to arrests on a TACA warrant under the TAC Agreement in Cyprus. It is anticipated that enabling legislation will be required to resolve this issue.

The first meeting of the Specialised Committee on Law Enforcement and Judicial Cooperation, which is the body overseeing implementation of the TCA and resolution of issues arising, was held on 19.10.2021. Scottish interests were represented by Head of the Justice EU Unit, Scottish Government. The agenda included review of TCA implementation to date and aspects of work that had been mandated under the TCA, including consideration of the EU-UK MLA template form (that in, due course will require sign off by the Specialised Committee), the ex-ante evaluation of the use of PRUM by the UK and the arrangements for UK access to Passenger Name Records (PNR). The meeting also involved a forward look to future meeting agendas. The Head of Justice EU Unit, SG provided an update confirming that the meeting was positive and constructive and that no significant matters of contention arose. Further work has been commissioned with regards finalising the EU-UK MLA template form prior to approval and use.

#### *Nationality Bar*

Ten countries (Croatia, Finland, France, Germany, Greece, Latvia, Poland, Slovakia, Slovenia, Sweden) have declared an absolute nationality bar with Czechia and Austria confirming they will only extradite their nationals if the requested person consents to extradition which, in essence, is tantamount to an absolute bar.

Belgium, Ireland, Spain and Italy have declared no bar to surrender.

The remaining eleven have asserted conditional bars, a combination of reciprocity and return to serve any sentence.

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

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

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



## Report from Specialist Casework for Executive Board Meeting in February 2022

Ministerial engagement continues with Latvia, Greece and Croatia to make representations that they too should consider legislative amendments to remove the bar to extradition of own nationals.

The following contingency measures are in progress:

- ICU worked closely with the CPS on the comprehensive list of questions on domestic law, procedure and provision of support for victims and witnesses, for EUMS who have notified a nationality bar, to inform decision making around potential transfer of proceedings in individual cases. Completed readouts are still awaited from France, Greece and Germany but these are anticipated shortly. ICU is in the process of translating all the country information captured in a standardised table for each country for ease of reference in decision making.
- ICU is working with PSoS to update intelligence for all outstanding warrants impacted by these notifications, with meetings occurring regularly.
- ICU received a capture from MIU of all indicted cases where the case data records the nationality of the accused. Unfortunately, nationality is not recorded in all cases and work is being undertaken with PSoS to explore whether they can provide better MI.
- ICU had been in discussion with Policy/DCA about recommendations on whether the bail manual requires to be amended to highlight nationality bar considerations and ensure special conditions of bail are sought on first appearance in appropriate cases. The former Head of ICU drafted a revised paragraph for DCA for Serious Casework and the Deputy Head of Policy for consideration in advance of Bail Manual revision proposals being sent to SET. The CPS have recently updated their bail guidance along similar lines to the revision proposed.
- ICU has captured historical surrender data from EU countries from 2018 onwards to provide a comparative analysis of the anticipated number of cases that may be now impacted. An updated comparative analysis of pre and post Brexit trends for MLA and extradition cases has now been completed but it is still too early to determine any definite trends given the relatively short period since Brexit and the fact that the data will have been skewed by a lack of international travel for a significant period over the last year due to Covid restrictions.
- The former Head of ICU liaised with Deputy Head of Policy concerning the need to develop policy and guidance on consideration of transfer of proceedings. The former Head of ICU has produced a draft for consideration by the Deputy Head of Policy. The draft contains the full history and legal position regarding nationality bar and transfer of



## Report from Specialist Casework for Executive Board Meeting in February 2022

proceedings and the recommended process for, and approach to, decision making. The draft is not completely finalised, due to some information that is still awaited but should hopefully only require minor tinkering in due course before submission to SET/ Law Officers for consideration.

- The International Victim Strategy Subgroup has now finalised, revised process guidance, templates letters, and a VIA script for dealing with nationality bar/transfer of proceedings cases. This will be published on CONNECT shortly. ICU delivered inputs to both the High Court and Local Court VIA workshops and High Court and Local Court International VIA SPOCs are now in place to provide support and guidance on international cases.

### *Data Adequacy Decision on the Law Enforcement Directive*

The Law Enforcement Directive (LED) data adequacy decision is now ratified. The UK issued a Ministerial Statement on 1 July, welcoming the decision.

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

### *PRUM ex ante evaluation*

The TCA allows for exchange of data between the EU and UK via PRUM automated data exchange process (DNA, fingerprints and Vehicle registration data) subject to the UK meeting certain technical and procedural specifications as laid down by TCA. The UK considers that it is compliant with the technical and procedural specifications. An EU evaluation of the UK's Prüm biometrics exchange operations took place in London on 24 and 25 November 2021. The headline message is the EU was very content with what we presented and found no "non-conformities" (read: problems/issues) between the TCA and any part of the UK's operations. The EU will share the draft report with the UK before it goes to the relevant EU Council formation. Thereafter, the Council must approve continued Prüm access by the end of June 2022. The evaluation will continue to be discussed at the next Scottish PRUM evaluation sub-group meeting which will be attended by Joe McKenna, ICU.

### *International Criminality Cooperation Board (ICCB)*

The Home Office led Internal Security Delivery Board (ISDB) has been replaced by ICCB with the broader scope of strategic oversight of the UK's approach to international law enforcement and criminal justice cooperation. There is restricted operational representation on the Board but the Head of ICU and the Head of Extradition are members. The last meeting took place on 20 January 2022.

## Report from Specialist Casework for Executive Board Meeting in February 2022

*Ministerial Deep Dive on Post Brexit Impact*

A ministerial deep dive meeting on Brexit with Scottish Government, COPFS and PSoS officials took place on 19 January 2022. This was attended by the Law Officers, the then Head of ICU, the Head of Extradition, the Head of ICU, a range of Scottish Government ministers and an ACC of Police Scotland. The Head of Extradition and the Head of MLA provided input on behalf of COPFS.

## 2) Extradition

From beginning of January 2022, ICU have received **8** new extradition requests of which all were from EUMS. **6** arrests have been made since 1st January 2022: **5** on new TACA warrants and **1** on a retained EAW. So far this year there have been **2** surrenders made from Scotland on legacy EAWs. In total, **28** incoming TACA warrants have been received since the agreement came into force on 01 January 2021.

Since the beginning of January 2022, **3** requests have been received from operational teams. Of the requests received, all accused are thought to be in EUMS.

Since the beginning of January 2022, we have issued **one** Outgoing request – a Part 2 request. There has also been **one** Part 2 arrest abroad. There have been no returns from abroad to face trial in Scotland thus far in 2022. There are **10** cases with ongoing proceedings in foreign courts, including the arrest noted above.

8 new Incoming Extradition cases in January represents a slight fall from December's numbers but an increase compared to the equivalent period in 2021.

## 3) Mutual Legal Assistance

From the beginning of January 2022, ICU have received **26** requests for assistance from other jurisdictions ("Incomings"), of which **22** were from EU Member States and **4** from rest of world.

ICU have received **26** requests for assistance in obtaining evidence abroad from operational teams ("Outgoings") and have issued **4** requests, of which **1** was to the EU and **3** to rest of world.

It is notable that the number of Incoming MLA cases and Outgoing MLA cases for 2022 are thus far identical. In the past, Incoming MLA averaged 30-40 cases per month and Outgoing less than half of that. We are aware that UKCA are very busy with Incoming MLA work at the moment, and it is likely that there is a backlog of requests still to be forwarded to Scotland. TV links as a proportion of MLA work continue to grow – these comprised around a fifth of all Outgoing requests in 2020 and about a third in 2021.

Recent changes in legislation on extra-territoriality are expected to inflate our MLA caseload in future, but the impact of this change has not yet manifested.

Report from Specialist Casework for Executive Board Meeting in February 2022

There continues to be a much higher number of outgoing TV link requests compared to pre-pandemic figures.

***High Profile Extradition casework***

See case sensitive annex.

**5. Criminal Allegations Against the Police Division (CAAPD)**

All CAAPD staff continue to routinely work from home.

During 2021 the Executive Board authorised the introduction of a revised CAAPD published target to operate retrospectively from 01.07.2021; 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 December 2021 the CAAPD Year to Date Performance for 2021-22 against the new target is 85%.

The CAAPD management meetings and CAAPD team briefings are continuing to routinely take place via Microsoft Teams.

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

There has been some recent turnover of personnel within the division.

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

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

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

CAAPD continues to receive a steady number of referrals each month. It is understood that both organisations are working flexibly with personnel routinely working from home but also attending at places of business, from time to time, as the need arises.

## Report from Specialist Casework for Executive Board Meeting in February 2022

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 11.11.20.

Advice has been provided to the Law Officer's following publication. There is ongoing work to implement the recommendations.

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

Work is ongoing to formulate the response and detailed action plan to the HM Inspectorate of Prosecution in Scotland's review of how COPFS manages criminal complaints against the police.

## 6. Scottish Fatalities Investigation Unit (SFIU)

i) New Deaths

Details of the total numbers of deaths received as at 28 January 2022 (all deaths reported to COPFS) can be found in the table below.

SFIU WEEKLY SNAPSHOT OF WORKLOAD / PERFORMANCE	
Full Reporting Year 2019/2020 –	<b>10,896</b>
Full Reporting Year 2020/2021 –	<b>15,712</b>
April 2021 –	<b>1340</b>
May 2021 –	<b>1335</b>
June 2021 –	<b>1364</b>
July 2021 –	<b>1242</b>
August 2021 –	<b>1163</b>
September 2021 –	<b>1341</b>
October 2021 –	<b>1215</b>
November 2021 –	<b>1334</b>
December 2021 –	<b>1285</b>
January 2022 –	<b>1182</b>

## Report from Specialist Casework for Executive Board Meeting in February 2022

Reporting Year to Date from 01 April 2021 – <b>12,781</b>
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## ii) Active Death Investigations

As at 7 February 2022, there were **9140** active death investigations across COPFS. This is up from **9039** as at October 2021.

## iii) Fatal Accident Inquiries

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

As at 31 January 2022 there are 27 FAIs (23 mandatory and 4 discretionary) with scheduled court dates.

## iv) SFIU Continuous Improvement

The Discretionary FAI Policy and Discretionary FAI Guidance were published on the intranet in December 2021. The policy is supported by a new reporting template for Crown Counsel's instructions. A new form of Crown Counsel Instruction has been agreed, following engagement by SFIU with Senior Trial Counsel and Director of AD Training and PCC in response to learning from two recent FAIs. This will provide greater clarity in respect of CC's reasons in relation to discretionary FAIs and the scope and issues to be addressed during the FAI. On 18.1.22 SFIU delivered training to CC on the work of SFIU, the Discretionary FAI Policy and new processes and CCI.

The 5 new case preparer posts brings the number of case preparers to 9. As a consequence, the balance of work for legal staff will move towards an increase in the proportion of legal time focussed on court work and appearances in court.

A new case preparation model to support this change is being consulted on and training programme has been developed to dovetail with the arrival of the case preparers. All staff across SFIU will undergo training under this programme, attending the presentations that are relevant to their roles and thereby build collegiate understanding of the new guidance and processes across SFIU. The training includes such areas as the case preparation model, the Discretionary FAI Policy and Guidance, deaths in custody, the recently introduced national processes across COPFS for commissioning experts, a FAI workshop and a well-being and mental health session.

## Report from Specialist Casework for Executive Board Meeting in February 2022

In December 2021 training was delivered on deaths in custody and in January 2022 training was delivered on marking post-mortem reports and an external input was provided by the Death Certification Review Service. Work is ongoing to harmonise the individual processes of the North, East and West hubs to promote a consistent approach and facilitate the movement of work and/or resources, as may be required.

v) PathologyPost Mortem Reports

There is a large volume of cases which require to be processed by end April 2022 to allow the NRS to publish statistics in July 2022.

A new temporary admin team is in place to process post-mortem reports and overtime has been made available to legal staff to mark - post mortem reports.

SFIU continues to engage with the NRS and Scottish Government in relation to the processing of post-mortem reports.

As at 02.02.2022 there were **662** outstanding final post-mortem reports for deaths that occurred in 2021 with COPPS providers. This compares with **1302** at the same point last year. **5996** post-mortems (excluding non-invasive "view and grant" examinations) were instructed by COPFS during 2021. As at 27.01.2 **400** final post-mortem reports had been received by SFIU and were awaiting marking by legal staff.

## vi) Case Management Panels

As at 14.01.22, there were **204** cases over 2 years old and **78** deaths in custody.

## vii) HM Chief Inspector of Prisons Review of Deaths in Custody

The report by HM Chief Inspector of Prisons in Scotland was published on 30 November 2021. It made 26 recommendations and the key recommendation was to establish an independent body carry out an investigation, separate to the FAI process, into every death in prison custody. The Cabinet Secretary for Justice and Veterans announced acceptance in principle to the Scottish Parliament. Briefing has been provided to Law Officers at a number of stages and on 2 February 2022 a roundtable session was held by Scottish Government. It was attended by the Head of SFIU and the Crown Agent.

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



## Report from Specialist Casework for Executive Board Meeting in February 2022

**7. COVID Deaths Investigation Team (CDIT)**

- i) Case load.

COVID DEATHS INVESTIGATION TEAM STATS								
Stats as at 31 <sup>st</sup> January 2022		New Care Home Deaths	New Worker Deaths	Retrospective Care Home Deaths (pre 21/05/2020)	Retrospective Worker Deaths (pre 21/05/2020)	Deaths in Custody	Other Deaths	Total
	Overall total number of deaths now with the COVID Team	<b>2078</b> (up from 2050 last week)	<b>27</b> (same as last week)	<b>1739</b> (up from 1735 last week)	<b>10</b> (same as last week)	<b>14</b> (same as last week)	<b>1001</b> (up from 992 last week)	<b>4869</b> (up from 4828 last week)

CDIT is working closely with Police Scotland to receive sudden death reports and care home briefing papers in respect of all deaths pre and post 21 May 2020. Latest figures from Police Scotland (as at 28.01.22) in relation to care home resident deaths indicate there have been **4276** resident Covid deaths over **562** care homes. Of those 4276 care home deaths CDIT has received **3817** death reports from Police Scotland or direct from medical practitioners.

In addition CDIT has received reports in respect of **37** front-line workers where they may have contracted the virus during the course of their employment.

CDIT has also received reports of **14** COVID-19 related deaths in custody.

Work continues to ingather all of the relevant material and review the circumstances of the deaths.

**8. Health and Safety Investigation Unit (HSIU)**

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

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

Report from Specialist Casework for Executive Board Meeting in February 2022

There are currently 162 live reported cases and 51 death cases under investigation but not yet reported being considered and directed by HSIU. These include complicated multiple accused health and safety cases.

HSIU is currently engaged with police and reporting agencies for death, injured party or regulatory cases, providing advice and input on 17 cases.

The number of unallocated cases currently sits at 40. Principal Depute work to allocate cases is on-going.

The CMP process continues to expedite cases more than 2 years old. There are currently 85 cases for CMP (63 involving a fatality, 22 with injured parties or regulatory offences).

### **Deaths in Custody Pilot**

The DIC Pilot in HSIU is dealing with 60 cases to-date.

i) Casework Highlights

HSIU is continuing to report cases for CCI, agree pleas and identify dates for court. First notices are being prepared and Deputies are liaising with SCTS to progress cases for FAIs using WebEx and in person.

ii) HSIU Fatal Accident Inquiries

Pending (no First Notice lodged) – 42

Pending (cases where we expected to lodge First Notice by 31.03.21) – 6

Scheduled Dates – 6

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

HSIU lodged 12 First Notices to commence Fatal Accident Inquiries last year.

By way of comparison, in the 3 previous reporting years HSIU lodged:

01 April 2017 – 31 March 2018 = 6 First Notices

01 April 2018 – 31 March 2019 = 1 First Notice

01 April 2019 – 31 March 2020 = 5 First Notices

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

11 Preliminary Hearings (8 of which were conducted virtually)

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

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



## Report from Specialist Casework for Executive Board Meeting in February 2022

## iv) Convictions since the last report to the Executive Board:

<b>26 Nov 2021</b>  Summary Complaint  Stirling Sheriff Court	HS18000052  Grattan & Hynds Group Ltd	<u>Charge 1:</u>  CONTRARY to Sections 2(1), 2(2)(a) and (d) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974  <b>£8000</b> (reduced from £12000)
<b>13 Dec 2021</b>	HS18000025	<u>Charge 1:</u>
Intermediate diet  Selkirk Sheriff Court	Charles Horne	CONTRARY to The Provision and Use of Work Equipment Regulations 1998, Regulations 11(1) and (2) and the Health and Safety at Work etc. Act 1974, Section 33(1)(c)  <b>£9,000</b> (reduced from £12,000)
<b>22 Dec 2021</b>  Summary  Edinburgh Sheriff Court	HS19000008  Newtown Auto Centre Limited Trading As Hope Scott Garage	<u>Charge 1:</u> CONTRARY to the Work at Height Regulations 2005, Regulation 4 and the Health and Safety at Work etc. Act 1974, Section 33(1)(c)  <b>£8,000</b> (reduced from £12,000)
<b>12 January 2022</b>  Falkirk Sheriff Court  S76 Indictment	HS20000019  HC One Ltd	<u>Charge 1</u> CONTRARY to Section 3(1) and 33(1)(c) of The Health and Safety at Work etc Act 1974  <b>£640,000</b> (reduced from £800,000)
<b>18 Jan</b>  S76  Edinburgh Sheriff Court	ED19011695 HS20000038  Bright Horizons	<u>Charge 1:</u> Contravention of s3(1) and 33(1)(a) of the Health and Safety at Work etc. Act 1974

## Report from Specialist Casework for Executive Board Meeting in February 2022

9.

		<b>£800,000</b> (reduced from £1,000,000)
<b>18 Jan</b>  Sentence Deferred  Kilmarnock Sheriff Court	HS17000004  Stable Homes Limited Ravinder Singh Alder Developments Limited	<b>Community Pay Back Order:</b> 166 hours of unpaid work within 12 months & disqualified for two years from holding a directorship
<b>1 Feb</b>  Sentence Deferred  Edinburgh Sheriff Court	HS15000085  David Mackman	<b>Fine: £4500</b>
<b>3 February 2022</b>  Summary CWP & Pleading Diet  Kilmarnock Sheriff Court	HS20000025  IAN KENNETH GRANT, NEIL MCGHEE, ALEXANDER GILBERT BRUCE, GRAEME FRASER NIVEN, IAIN LINTON, CLAIRE MAITLAND, BARRY DOUGLAS,  ALL TRUSTEES OF THE KILMARNOCK LEISURE CENTRE TRUST	<b>Fine: £10,000</b>

**Wildlife and Environmental Crime Unit (WECU)**

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

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

**WECU Cases Overview**

Between 24 November 2021 and 14 December 2021, there were 8 new case reports received and 3 cases were finally marked. 43 cases were at the case investigation and preparation stage and 34 cases were live in Court.

## Report from Specialist Casework for Executive Board Meeting in February 2022

WECU has a total of 84 cases. Of these, 37 cases relate to wildlife offences, 12 cases were reported principally by the Scottish Environment Protection Agency (SEPA), 8 other environmental cases were reported by Police Scotland/ Local Authorities, and there are 27 animal welfare cases. It is likely that 7 cases will proceed at solemn level.

Additionally, 4 cases were considered by WECU but were deemed not WECU cases, recordable advice and assistance was provided to the police and other specialist reporting agencies in 4 cases and 1 search warrant application was processed.

### **WECU Policy work/ Liaison with SEPA/ Media**

- Review of Hunting with Dogs draft Bill
- Initial consideration of draft Ivory Act 2018 - Prohibitions (Civil Sanctions).
- Provision of WECU statistics for the Scottish Government Snaring Review.
- Liaison with SEPA to identify potential environmental cases, which may be suitable for consideration of Serious Crime Prevention Orders (SCPOs).
- Liaison with SEPA and media relations in relation to SEPA's engagement with the BBC for the production of the Disclosure Scotland program (aired on 31.1.2022).
- Draft response to Cabinet Secretary - on waste crime in advance of interview for the above program.
- Liaison with ICU to provide SEPA with advice on the possibility of seeking an international letter of request in relation to an Enforcement Undertaking.
- WECU team considerations of search warrants in relation to an emerging trend of issues surrounding dog fertility clinics.
- UK Wildlife Enforcers Conference – WECU was represented at the national wildlife enforcers conference on 3 to 5 December 2021.
- Forestry Crime – A review is being undertaken to assess whether WECU should also be responsible for the prosecution of forestry crime. This is not currently under the remit of WECU. This would enable WECU to take forward the recommendations from UK Wildlife Toolkit, which was instructed by DEFRA.

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

The SCT continues to support local fiscals and law enforcement partners in cash cases. A large number of teleconferences/Webex hearings take place each week to manage court business, although some sheriffs are disposing of cases on written submissions in chambers. The Unit has 14 account forfeiture cases (shared between the SCT and asset recovery team), and 40 listed asset cases. The SCT has been working with the NCA in one of our account forfeiture cases

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

**ii) Asset Recovery Team (ART)**

The ART has 9 cases with active Prohibitory Property Orders (freezing orders) and 1 case at recovery order stage. During COVID-19 all of the cases have been determined by the Court of Session on the papers or following a teleconference/Webex hearing.

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

**iii) Unexplained Wealth Orders (UWO)**

A judicial review petition was served on Scottish Ministers by Avaaz Foundation, a non-profit organisation based in the USA, with the Lord Advocate being named as one of the interested persons, on 24.05.21. The petition challenged the Scottish Ministers' policy for Unexplained Wealth Orders (UWO), including the Lord Advocate's role as both ministerial head of COPFS and as a Scottish Minister exercising civil recovery functions in relation to POCA. It attracted media interest as Avaaz were calling on SMs to seek a UWO against former president of the USA, Donald Trump. CRU engaged with SGLD and SG policy colleagues in the preparation of this case. A hearing on the petition and answers took place on 26 and 27.10.21 and Lord Sandison issued his Opinion finding in favour of Scottish Ministers on 25.11.21. No appeal has been lodged and the deadline for doing so was 16.12.21.

**iv) New Proceeds of Crime Act (POCA2)**

The Unit provided comments to NECC on provisions for POCA2; and participated in a joint meeting with SG policy, Police Scotland and COPFS on 6.10.2021 to discuss possible legislative amendments to deal, primarily, with cryptocurrency.

**v) Expedited referrals from SOCU and referrals from COPFS**

The CRU continues to receive a steady flow of referrals under the new expedited referral process where cases are referred from SOCU. The new system is working well.

The Unit also intends to roll out a new system for Financial Investigators to regularly liaise with Police Scotland to raise awareness of civil recovery work, as

Report from Specialist Casework for Executive Board Meeting in February 2022

the number of recent referrals the Unit are able to progress from other areas of COPFS is lower than in previous years.

vi) Remittances to Scottish Consolidation Fund

The sum remitted to the SCF up to week ending 30.01.22 amounted to £2,239,339. We are due to receive £2m in March 2022 as a result of the WGPSN (Holdings) Limited self-report bribery settlement.



CROWN OFFICE  
& PROCURATOR  
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

## Resources committee minutes

### **27<sup>th</sup> January 2022 meeting, held via Microsoft Teams**

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

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## Present

### Members

- Lindsey Miller, Deputy Crown Agent (Operational Support) (Chair)
- Graham Kerr, Head of Business Management (Local Court)
- Thomas Lindie, Head of Business Management (Serious Casework)
- Elaine Hales, Head of Business Management (Operational Support)
- Jonathan Shebioba, Director of Support Services
- Doreen Crawford, Head of Workforce Planning and Reward
- Sharon Davies, Head of Management Accounting and Planning
- Fiona McLean, Non-Executive Director

### In attendance

- Ali Caddis, Secretariat

### Apologies

- Sarah Carter, HR Director
- Ian Walford, Deputy Chief Executive
- Marlene Anderson, Director of Finance and Procurement

## Welcome

The Chair welcomed everyone to the meeting and briefed the committee on her secondment to The Home Office and confirmed she would chair the next Resources Committee meeting in February. The Chair advised that due to the HRD and DoFP being absent from this meeting no formal decisions or recommendations would be made around the additional posts that are being sought.

## Minutes from meeting held on 13 January 2022

The Committee confirmed that the minutes were an accurate reflection of the meeting.

### Action Log

The Committee agreed the following regarding the Action Log and noted progress with the remaining actions

Actions 1, 2, 4, 5, 6 and 7 would be continued. Action 6 was on the agenda for discussion.

### Finance Update

The Head of Management Accounting and Planning (HoMAP) provided an overview of the financial budget and considerations for 2021/22 which forecasts an underspend, excluding the final pay award. The HoMAP has contacted HoBMs, and DSS for initiatives or spending that can be brought forward.

The HoBM(OS) countered the essential upgrade of the HR system and the requirement for a data warehouse for storage of information. The HoMAP will liaise with the HoBM(OS) to resolve this and ensure funding is allocated.

A further discussion took place on other initiatives which the Chair will raise with Executive Board for discussion.

The HoBM(LC) raised accruals with the HoMAP. The HoMAP assured everyone that all accruals are in hand and will be taken into account of year end position.

**[Action]** All HoBMs to engage with finance for discussion and/or bids.

### Risks and Uncertainties

HoMAP advised risks have not changed since last month. Pay negotiations are now in their final conclusions with TUS balloting at present.

### Overtime

HoMAP requested all staff are advised that overtime claims are submitted as soon as possible. A detailed discussion took place regarding overtime and the need for overtime and it was suggested that we ensure the reason for overtime worked is captured going forward for better understanding and wellbeing.



## Court Recovery Programme

HoMAP provided an overview of the Court Recovery Programme and noted this is over budget at present due to the variance in budget allocation which is in overall underspend.

## Budget 2022-23

HoMAP noted that they were currently finalising the staffing budget which will dictate the vacancy factor to be applied.

## Additional Posts

The HoMAP provided an overview of the Workforce Planning Bid and it was agreed that no final decision would be reached during this meeting, but the intention is that staffing bids would be agreed as soon as possible..

## Estates Report

The Director of Support Services (DSS) summarised the Ballater Street Funding paper and commented on the development options available.

Following discussion, it was agreed in principle that Option 1 (Full decant from Ballater Street) is the most viable, subject to SG funding and additional information and data being provided to inform the Business Case being developed over the next 6 weeks.

**[Action]** Business Case to be presented at April Resources Committee meeting

## Parking Charges

HoMAP informed the meeting of the issue relating to parking charges being paid by COPFS as part of our Covid-19 response for various offices. The Committee discussed at length and it was agreed to bring the payment of parking charges in support of Covid-19 to an end at the end of the financial year with HR to update guidance relating to parking charges in the official guidance

**[Action]** Head of Workforce Planning and Reward (HoWPR) to liaise with HR and Corp Comms to update HR guidance

## Function Procurement Report

The Head of Business Management for Local Court (HoBM(LC)) presented the Function Procurement Report and acknowledged the value of strong procurement. He summarised the savings achieved by the Procurement Team and the functions. HoBM(LC) suggested this 'good news' story should be published on Connect.

## Any Other Business (AOB)

HoMAP briefed the Committee on issues relating to approval for supplier invoices and suggested that a volunteer from each function be appointed to look at supplier invoices to establish a solution.

**[Action] HoBMs to liaise with the HoMAP for volunteers to consider process**

**Date of the next meeting:** 24 February 2022

**EXECUTIVE BOARD  
BUSINESS PROCESS IMPROVEMENT COMMITTEE  
FEBRUARY 2022 UPDATE**

**Purpose**

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

**Priority**

2. Routine.

**Update**

3. BPIC met on 3 February and is next scheduled to meet on 27 April 2022.
4. BPIC membership is updated to reflect the rotation of non-executive directors on COPFS' governance committees. Annie Gunner Logan replaces Rob Tinlin on BPIC, with Rob now sitting on the Operational Performance Committee. BPIC will welcome Annie to her first meeting in April and acknowledged Rob's contributions to the work of the committee.
5. This update provides an overview of the BPIC improvement projects and ISD's delivery of the portfolio and Digital Transformation Programme for 2021/22.

**Delivery Updates**

6. The Chief Digital Officer (CDO) provided a position statement on the delivery of the corporate improvement projects and the Digital Transformation Programme for 2021/22. While ISD's flexible delivery and resourcing approaches continue being applied to enable significant delivery and progress of corporate projects, the latest delivery updates consider ISD resources, recruitment challenges, leave and required end-year staff management and corporate activities.
7. The CDO's paper to BPIC detailing the projects completed to date and end-year delivery positions is available at **Annex A**. New business improvements, projects underway with delivery schedules yet to be confirmed and projects realigned for resource planning or strategic alignment reasons are highlighted.
8. BPIC noted the delivery or completion of several projects since its last meeting in November, including:
  - Successful release of the enhanced PIDM Booking App via the new Defence Agent Service (DAS) digital portal;
  - Launch of the new Intranet (*Connect*) delivering a single corporate browser product for Intranet and Corporate Apps services;
  - Development of new Desk Booking and Claims (Overtime and On Call) Corporate Apps for deployment in April;
  - Implementation of new Digital Workplace meetings and collaboration solutions in all offices to support remote and hybrid working;
  - Completion of COPFS' Cloud Strategy;
  - Implementation and testing of enhanced digital systems and business resiliency processes (including for the first time the capability to operate full case management services from either Edinburgh or Glasgow (aligned with COP26);
  - CMiC Sherriff & Jury app developed and tested for deployment in Q4.

9. The delivery of key business improvements and digital transformation initiatives by the end-March 2022 were also noted.
10. BPIC acknowledged ISD's impressive delivery of an ambitious programme of work to improve or transform corporate, casework and public facing systems and services.
11. The CDO will set out plans for developing, evaluating and implementing DESC, DAS and the Witness Gateway over the coming months. A framework for evaluating the use of Artificial Intelligence and automation technologies to transform digital casework processes and enhance decision support and details of a series of stakeholder workshops to scope and plan the development of our next generation case management system will also be circulated shortly.
12. BPIC discussed the Cloud Strategy (presented to the Executive Board in December 2021) and noted the strategic principles, models and transition roadmap. BPIC emphasised the importance of communicating what this comprehensive and important business cloud strategy will mean for our people, stakeholders and users of our services.
13. A communications plan will be prepared to profile the improvements and transformation projects delivered over the current year and the digital business and casework services planned for implementation or evaluation over 2022/23. This will include the above services and Cloud and Digital Strategy delivery initiatives.
14. BPIC noted updates on ISD's latest staff recruitment positions, including temporary resources to support the delivery of DESC. BPIC will continue receiving ISD resource and recruitment updates at each meeting to enable it to monitor capacity to deliver and prioritise corporate business improvements.

**Decisions/Actions required by Executive Board**

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

**John Logue**

**Deputy Crown Agent - Local Court**

**7 February 2022**

**ANNEX A**

**FOR EXECUTIVE BOARD AWARENESS: BPIC PAPER [BPIC(22)02]**

**DELIVERY STATEMENT FOR BPIC CORPORATE IMPROVEMENT PRIORITIES 2021/22**

**Purpose**

1. To provide BPIC with a position statement on the delivery of the corporate portfolio business improvements and the Digital Transformation Programme for 2021/22, detailing the projects delivered to date and end-year delivery positions.

**Background**

2. BPIC noted at its meeting in November 2021 the key digital improvements and project deliverables over the remainder of Q3 and Q4 2021/22. BPIC acknowledged the scale of the programme of work and essential consideration of ISD's capacity to deliver projects over a busy period through to the end of the current corporate year. While ISD's flexible delivery and resourcing approaches are enabling significant delivery or progress for portfolio projects, planning considering ISD resources, recruitment issues, leave and required end-year staff management and corporate activities are reflected in the delivery statements set out in this paper.

3. The table at **Annex A** provides project summary information, including estimated/target dates and end-year delivery positions.

4. Not all projects in the portfolio or the Digital Transformation Programme were planned for completion by the end of the corporate year, with some involving project initiation, scoping or progression this year with work continuing over 2022/23. Some projects are realigned to 2022/23, which in addition to the above planning considerations also reflect the need for certain projects to be aligned with other projects, for example, the next-generation case management programme which will define scoping and approaches for other digital casework projects.

**Projects or improvements completed:**

5. Corporate and ISD Portfolio projects/improvements delivered:

- Cabinet Office PSN Security and Information Assurance Accreditation [May 2021];
- ICU Solution [August 2021];
- Offsite Datacentre: Configured and established [October 2021; aligned around COP26 full migration in Q4];
- Cyberattack and Resiliency Simulation Exercise: [July 2021];
- Digital Systems Resiliency solutions (incl. full case management systems) implemented and tested (aligned with COP26 preparedness) [October 2021];
- UK/Scottish Government Cyber Essentials Plus Accreditation [October 2021];
- CMIC Sherriff & Jury App [November 2021; scheduled for deployment in Q4];
- Cloud Strategic Principles and Framework [December 2021];

- Intranet (incorporating Corporate Apps) Launched [December 2021];
- Enhanced PIDM Booking App [December 2021];
- Digital Workplace: Digital Meetings: Implemented [December 2021, with formal launch in Q4 reflecting Omicron impact working arrangements];
- Corporate Applications: Confidentiality App [December 2021; launch to be confirmed by Departmental Security Group];
- DESC: Procurement, Design and Planning [Delivered in line with DESC Programme schedule];
- Witness Gateway: Witness Availability Product [Q3 2021/22; available for evaluation as part of formal project initiation; refer below];
- Respond Solution Upgrade [January 2022].

**Projects scheduled for delivery or completion by end-March 2022:**

6. Projects/Improvements scheduled for delivery or completion by 31 March 2022:

- COPFS Website [delivery date around IT Health Check completion];
- [New] Defence Agents Service: General Booking App [Indicative Q1 2022/23 launch];
- HR Solution [for April deployment];
- Deploy CMIC: S&J (tbc);
- Corporate Applications: Desk Booking App [for April deployment];
- Corporate Applications: Claims App (Overtime and On call claims) [for April deployment];
- SCG: AI/Cognitive Services Transcription Service [Q4 2021/22 – ongoing development and evaluation];
- Edinburgh Datacentre Migrated to offsite Datacentre;
- Second offsite Datacentre procured;
- Digital Workplace: Exchange Online [Phased from Q4 for change management reasons];
- Digital Workplace: Always on VPN [Phased from Q4 for change management reasons];
- Home Office PSNP IT Security and Information Assurance Accreditation;
- UK/Scottish Government Cyber Essentials Plus IT Security and Information Assurance Accreditation.

**Projects underway with delivery schedules to be confirmed**

7. A summary of the projects formally initiated or with ongoing analysis, scoping or project planning preparations over Q4 to confirm delivery plans:

- EPR Solutions;
- Defence Agents Service: New Secure Disclosure Service project and development commenced [from Feb/Mar for launch in Q2-3 2022/23];
- Witness Gateway: Formal Project Initiation and Evaluation/Development [from Q4 with staged evaluation and delivery process over 2022/23];
- AI, Cognitive Services and Automation [Vision Principles and Framework Document to support AI proof of concept and evaluation over 2022/23];
- Case Management Systems: Next Generation Case Management System [Vision, Principles and Framework Document Q4 to support stakeholder workshops and project initiation in Q1 2022/23];

- Vulnerable Witness Measures;
- CMIC PDF Library;
- ISD Cybersecurity Security Operations Centre (SOC) and Security Information and Event Management (SIEM) systems and services;
- DESC: Pilot [Q2 2022/23];
- CMIC: High Court.

### **Projects realigned to 2022/23**

8. The following projects or Digital Transformation Programme initiatives are realigned to 2022/23 for resource planning or project strategic alignment reasons:

- Digital Workplace: SharePoint Online [Q1/Q2 2022/23];
- Corporate Telephony [Q2/Q3 2022/23];
- ISD Service Desk and ITSM Solutions [Q1 2022/23 TBC];
- Information and Data Analytics [From Q1 2022/23 TBC] <sup>1</sup>
- Electronic Document and Records Management [From Q1 2022/23].

<sup>1</sup> Aligned with Next Generation Case Management System Project

### **New Projects or improvements**

9. The following new projects, system changes or essential upgrades are under consideration:

- Angular Software Upgrade (essential for compliance) [tbc];
- Police Scotland National Case Management System Changes [tbc];
- Aggravation Codes [tbc]
- Respond Upgrade [tbc].

### **Conclusion**

10. BPIC are invited to note delivery progress and to discuss the end-year delivery positions and planning.

**Keith Dargie**

Chief Digital Officer

Information Services Division

**1 February 2022**

## ANNEX A

## BPIC PORTFOLIO AND DIGITAL STRATEGY DELIVERY AND TRANSFORMATION PROGRAMME FOR 2021/22

## Delivery Position Statement

(Includes relevant ISD Portfolio Projects)

Digital Strategy, Business Transformation, or Improvement	Description	Delivery Aim Overview	Notes	Planned Delivery Date	Confirmed Delivery Date	Delivery Position at end March 2022
Transition to Offsite Datacentres	Migration of COPFS datacentres purpose-built facilities	To provide COPFS with greater systems resiliency	Edinburgh datacentre migration delayed reflecting COP26 plans	Q3 2021/22	Q4 2021/22	On Track
Digital Systems and IT Infrastructure Resiliency		To implement IT infrastructure resiliency solutions to enhance COPFS' business critical digital systems and services in the event of a major loss or impact of our systems	Resiliency and migration readiness delivered for COP26	October 2021	October 2021	Complete
Digital Systems Resiliency - X86 Migration	ISD plans to upgrade and optimise services for the new Datacentre facilities, ensuring maximum flexibility of the new facilities.	Migration readiness of COPFS Database Systems from AIX to X86 Platform	Whilst linked to datacentre migration this activity can be undertaken outside of the main datacentre project plan	Q4 2021/22	Q1/Q2 2022/23 (TBC)	In Progress
Cloud Digital Strategy and Platforms		To establish COPFS' long-term cloud infrastructure and information enterprise systems and platforms planning for delivering services in the digital age	Cloud Strategic Principles and Framework published;	July 2021	December 2021	Complete
Digital Workplace - Digital Meeting Rooms	Implementation of modernised Digital Meeting Room equipment across the COPFS estate.	Providing the ability for meetings and other events to be run and managed, and attended by those working from home, in person in the location or attending from another COPFS location.	Remaining locations scheduled for completion throughout January and into February. This includes the deployment of MS Surface Hubs into designated areas.	Q2 2021/22	From Q4 2021/22	In progress  Solutions implemented in Q3; formal launch re-aligned to factor Omicron onsite working arrangements
Digital Workplace – Exchange Online	Migration from on-premises email to O365.	Provides substantial benefits from a corporate perspective include rapid development of new cloud based solutions with workflow etc.	Mailbox migration, User Testing and Feedback, Phase migration planning, stakeholder engagement and training	Q2/Q3 2021/22	From Q4 2021/22  (Factoring COP26 and Change Management)	In Progress



Digital Workplace – Always on VPN	Removal of Direct Access to a resilient replacement.	Provides more robust and sustained access to COPFS networks and systems.	Development work complete, IT Health check remediation work underway for rapid completion.	Q2/Q3 2021/22	From Q4 2021/22 (Factoring COP26 and Change Management)	<b>In Progress</b>
Digital Workplace – SharePoint Online	COPFS Enterprise SharePoint Online solution as part of the O365 suite of collaboration applications.	Collaboration application for COPFS staff use as part of the collaboration tools being developed by the Digital Workplace Programme	All configuration and assurance activities are complete. A stakeholder engagement and planning programme is underway to capture each functions requirements.	Q4 2021/22	Realigned to Q1 – Q2 2022/23  (Factoring corporate and business area information management policy and actions to be applied)	<b>Realigned</b>
Cybersecurity and Resilience		To implement enhanced cyber protection and resiliency solutions to protect COPFS data and information systems	Carry out a corporate cybersecurity and business resiliency simulation exercise;	Q2 – Q4 2021	Q4 2021/22	<b>Delivered/In Progress</b>  Simulation exercise July 2021  MFA Introduced
Cyber – SOC/SIEM Implementation and Planning	Automatic Tools within Cloud and Azure Environment - Playbook	To provide COPFS with an enhanced cybersecurity capability by introducing a new approach for the detection and response to advanced Cybersecurity threats in real-time on a 24/7 basis	Establish Monitoring and Response Services; Cloud Security Systems and Policies.	Q4 2021/22	Q4 2021/22	<b>On Track</b>
Cyber – PSN/P and Cyber Essential Compliance	Accreditation	Planning and scheduling of remote scan, health checks, remediations and site visits is going	Q3 2021/22	Q4 2021/22	<b>On Track</b>	<b>In Progress</b>
Intranet (incorporating Corporate Apps) – Connect	The design, implementation and launch of a new corporate intranet.	Provision of a modernised and more user-friendly corporate intranet for all COPFS staff use.	Fully launched Q3 2021/22	September 2021	December 2021	<b>Complete</b>
COPFS Website	The design, implementation and launch of a new COPFS corporate website	Provision of a modernise COPFS corporate website.	Delivery complete, pending IT Health check to determine launch date	Q2 2021/22	Q4 2021/22 (Delivery date pending IT Health Check completion)	<b>In Progress</b>
New HR System	The implementation of a new software as a service solution to replace the current HR system.	The new solution provides greater flexibility, additional functionality and process transformation for COPFS	Core system design and data migration scheduled for completion before end Q4 2021/22	Q4 2021/22	Q4 2021/22 – Q1 2022/23  Launch date to be confirmed, after testing and dual running complete	<b>On Track</b>
Corporate Applications - Desk Booking App	A cloud-based corporate application solution for desk booking purposes.	Digital application to aid return to work from COVID working and also support COPFS FWOW aims.	ISD Develop or adapt off-the-shelf solution	August 2021	Q4 2021/22  (Subject to final design decisions and testing)	<b>In Progress</b>

Corporate Applications – Claims App (incl. On Call claims)	A new digital application for the online submission of overtime, on call and travel cost claims. Part of the Corporate Application suite.	The new solution is incorporated onto the corporate application suite of applications and will realise significant savings in processing time for COPFS colleagues, line managers, HR and Finance	Application development is complete with minor bug fixing being addressed. Schedule for application release to be agreed with key stakeholders.	Q3 2021/22	Q1 2022/23 (April 2022)	<b>In Progress</b>
Corporate Applications – Confidentiality App	An application for COPFS Departmental Security Group that enables staff to raise concerns/report behaviour in a completely confidential way.	The new solution allows any staff member to raise concerns by generating an anonymous email directed to the Departmental Security team.	Development complete.	Q4 2021/22	Launch date to be confirmed by Departmental Security Group	<b>Complete</b>
Corporate Applications – Angular Upgrade	Corp Application currently uses Angular JS for front end development. Support for this is currently coming to an end and we require to upgrade to the newer Angular 2 framework.	Apart from addressing the security and support aspects, the upgraded Angular benefits the ISD Enterprise Application in a development and build perspective with various benefits captured.	Being managed, developed and deployed in phased stages in line with other Corp Apps builds and enhancement roadmap.	Ongoing with completion in line with launch of the Claims App	Q1 2022/2023	<b>In Progress</b>
Corporate Telephony and Enquiry Point Systems	Modernised digital telephony solution to meet evolving COPFS business needs.	Provides greater flexibility for FWOV and a more resilient and configurable system to meet the evolving needs of the organisation as a whole and functions relying on call centre modernised technology.	Scoping, analysis, design and development. Implementation of digital application.	March 2022 (Pending transformation planning and stakeholder engagement)	2022/23 – Dates TBC	<b>Realigned</b>
AI/Automation/Cognitive Services - Electronic Reporting to Crown Counsel	The digitisation of Crown Counsel Blue Folder and amendments	Scoping, analysis, design and development. Implementation of digital application.	Full functionality and enterprise digital app solution	Q3 2021/22	Q2 2022/23  July 2022 delivery	<b>In Progress</b>  Pending initial sprint completion for defined project scope/delivery
AI/Automation/Cognitive Services – Transcription Service	A transcription Proof of Concept to assist with the transcription of Evidence by Commissioner	To provide a digital solution that transcribes voice and video evidence.	2 <sup>nd</sup> iteration of application, user testing, user feedback	Q3 2021/22	Ongoing development and evaluation	<b>In Progress</b>
DESC	Digital Evidence Sharing Capabilities	Digital disclosure and evidence, cross justice sector solution	Solution design workshops with justice sector partners and supplier throughout Q4 2021/22	Pilot scheduled for Q2 2022/23	2023/24  (two year implementation)	<b>On Track</b>  Completion of designs with supplier and justice partners and end to end process analysis  Solution development and sprint delivery underway

CMIC – Sherriff & Jury	Expansion of CMIC Application for the purposes of Sherriff and Jury cases.	Additional functionality to meet the needs of Sheriff and Jury	Development complete, user signoff received. Pending slot for application launch.	Q3 2021/22	Q4 2021/22	<b>In Progress</b>
CMIC – High Court	Expansion of CMIC Application for the purpose of High Court cases.	Bespoke app and functionality to meet the needs of High Court	Gap analysis between S&J and HC application needs. SCG review and decision on where to address gaps or deploy as interim measure whilst further application development and ERTCC become available.	Q3 2021/22	Q2/Q3 2022/23 (Pending Analysis and Planning)	<b>In Progress</b>
Case Management Systems: Next Generation Case Management System	Strategic Vision Statement and Lead Stakeholder Workshop	To design COPFS' next generation case management systems for the digital age and to meet business and justice system service delivery needs		October - March 2021/22	From Q4 2021/22 Project Initiation Q1 2022/23	<b>In Progress</b>  Stakeholder summit and workshops to confirm and align strategic principles, scoping and delivery with COPFS and Justice
Defence Agents Service – Main Products	Centralised portal consolidating all Defence Agents interactions with COPFS including Disclosure	Scope, design and plan the development, evaluation and implementation of new DAS digital solution	DAS incorporates PIDM App; Essential alignment with DESC Programme Planning	From August 2021 (Note: Required alignment with DESC)	From Q4 (Project Plan and Development from Feb 2022)	<b>In Progress</b>  DAS released (with PIDM) Dec 2021  Formal project initiated for launch of full DAS in Q3 2022/23
DAS - PIDM Booking App	Booking application to manage Pre Intermediate Diet Meetings	Implement enhanced PIDM Booking App	Full functionality and enterprise digital app solution	August 2021	December 2021	<b>Complete</b>
DAS - General Booking App (NEW)	Booking application to facilitate general discussions between Defence Agents and COPFS	Scoping and pre-initiation stage for decision making on whether to progress with solution or incorporate into the strategic delivery of DAS	Full functionality and enterprise digital app solution.	April 2022	TBC	<b>In Progress</b>  Indicative Q1 2022/23 launch
EPR – Including automatic routing of emails and tactical digital storage (NEW)	The new EPR model will apply to pilot location of Hamilton, Dundee and Paisley and will incorporate:  Witness Statements provided by Police following receipt of SPR  Images taken on Mobile Devices relating to	Scoping, Plan and Delivery Development Phase (agile approach) Evaluation and Release Plan Assurance and Acceptance Launch	Submission portal, automatic routing of email and storage of images (tactical)	Q1 2022/23	TBC	<b>In Progress</b>  Pending full analysis and engagement with stakeholders for solutions design and workflow. Systems analysis and design underway

	Domestic Abuse injuries and electronically receiving  CCTV to COPFS as soon as possible. Tactical solution					
Witness Gateway – Availability	Digitisation of the witness availability process, integrated with case management systems.	Witness Gateway Project (First Product) Witness Availability	Development complete	Q2 2021/22	2022/23 (TBC)	<b>In Progress</b>  Formal Project Initiation and Evaluation/Development From Q4 with staged evaluation and delivery process over 2022
Witness Gateway – Full Product	Centralised gateway for witness engagement with COPFS including availability, witness statements, case status, access to information etc.	Deliver Witness Gateway Project  (Full Service and Products)		Q4 2021/22	2022/23 (TBC)	<b>Realigned</b>  Formal Project Initiation and Evaluation/Development From Q4 with staged evaluation and delivery process over 2022/23
Vulnerable Witness Measures	Changes to COPFS case management systems to comply with legislative changes.	To automate intimation from COPFS to SCTS and from COPFS to Defence Agents, including Witness Support Services	Development progressed to run a Pilot, looking to confirm details with VSS and SCTS	TBC	TBC	<b>In Progress</b>
COPFS Business and Case Management Information and Data Analytics	Strategic vision and scoping statement; Project Initiation	To define, plan and develop COPFS' Business and Case Information and Data Analytics Strategy (including Electronic Document Records Management)		Q4 2021/22	2022/23 (Q1 TBC)	<b>Realigned</b>
Respond Upgrade	Version 3 to Version 8 upgrade was delivered in Jan 2021 – This is the final migration of historic case information to the upgraded Respond application.	Final phase of the project which involves migration of the historic case information, purge of information no longer required and de-commissioning of hardware.	Data Purge over weekend of the 4-7 Feb – subject to stakeholder sign-off	Q4 – 2021/22	Q4 – 2021/22	<b>In Progress</b>  Scheduled for completion February 2022 (TBC)
Police National Case Management Systems	Expansion of the new PNCM systems to other divisions.	Currently on hold pending further engagement with Police Scotland. Continuing to liaise and support Police Scotland and awaiting confirmation of date of next phase of the rollout.	Police Service of Scotland to confirm date for next phase of Pilot to N Division	Pending	Pending	<b>Pending</b>

# Operational Performance Committee

## Minutes of meeting held on 31 January 2022 by Microsoft Teams

### Present:

Stephen McGowan	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Kenny Donnelly	Procurator Fiscal, High Court (KD)
Ruth McQuaid	Procurator Fiscal, Local Court West (RM)
Jennifer Harrower	Procurator Fiscal, Specialist Casework
Anthony McGeehan	Procurator Fiscal, Policy and Engagement (AM)
Gioia Ezzi	PA DCA – Serious Casework (Secretariat) (GE)

### Apologies:

Graham Kerr	Head of Business Management, Local Court
Fiona Roberts	Head of Management Information Unit

### 1. Welcome and Apologies

The DCA welcomed everyone to the meeting, apologies were noted. Thanks were expressed to Fiona McLean who is being replaced by Rob Tinlin as Non Executive Director on committee.

### 2. Minutes of previous meeting

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

### 3. Outstanding actions

Action 4/21: Discussion on governance of committees with all DCAs. Due to structural change, **action now closed**

Action 5/21: Issue of covering public holidays to raise with Workforce Planning Group. Continue to have difficulties but with watching brief. **Action Closed**

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#### 4. Monthly stats

##### High Court

- Petitions down 11% year to date, Precognition Work in Progress increase of 16% on last year.
- Priority is the throughput of work.
- Impression that court programme seems to be running with higher degree of attrition post Omicron.
- Lost 5 courts in one week due to covid related issues.

##### Local Court

- National Initial Case Processing should be able to meet published target of 75%.
- Work in progress is sitting at just under 15,000 and that is about 5 weeks which is the Key Performance Indicator (KPI).
- Over half unmarked cases are over 10 weeks old, which is a priority.
- Solemn is a concern regarding age profile of old cases. Pre pandemic there were only 108 cases over 8 months, now there are 1,403.
- KPI for business over 8 months is 5%, now sitting at 22%. It was 3.2% pre-pandemic.
- Considerable variation across sheriffdoms in solemn performance. Sheriffdoms are meeting KPIs for sexual offences initial decision making but on journey times there is some variation in performance over country. 17% increase in legal staff but rises in business quite significant. Summary Trials 150% up on pre pandemic figures.
- Live indictments - 172% increase from pre pandemic figures.

##### Specialist Casework

Nothing on exceptional basis to add to paper which was submitted for the cancelled December meeting.

##### Policy & Engagement

Paper was noted.

#### 5. Recovery Mapping

Modelling on recovery funding was done before most recent shutdown on much of the summary business and slow down in relation to solemn work. What we do not have at the moment is information on whether or not we are on track to meet that and there appears to be a gap in the management information. What we are looking at is a suite of info on health of the casework which was fit for purpose in 2018/19 and would probably still be fit for purpose if there had not been a pandemic. There is a question

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as to whether or not we need something which tracks towards that recovery so we can be in a position to report on that at next budget negotiations. We need our own version and not rely on court statistics and would propose in the first instance to have a traffic light system on whether we are clearing our feet on a monthly basis then a more in depth piece of work on recovery tracking – in general an indication of health of system.

We need reduce outstanding work, back to where we were before lockdown would be ambition but not the only ambition. Productivity better, actually exposes how big problem elsewhere, such as court estate. Useful to show what we are resourced to do, important for use to demonstrate we have done what we can do. Opportunity if we get suite of stats correct that it gives opportunity to paint bigger picture. It is a whole system issue.

Committee agreed it has to be done on corporate rather than functional basis but with functional input.

Two things:-

- material on clearing our feet any given month; and
- material mapping onto recovery funding.

**Action 1/22: SMcG to meet Heads of Business Management Local Court and Serious Casework along with Fiona Roberts to take this forward with view to reporting to Executive Board.**

## 6. AoB

There was no AoB.

**Date of Next Meeting:** 2 March 2022