

Executive Board meeting minutes

Meeting held on 18 May 2022 by Microsoft Teams

Present:

David Harvie (Chair)	Crown Agent
John Logue	Deputy Crown Agent, Local Court
Anthony McGeehan	Deputy Crown Agent, Operational Support
Stephen McGowan	Deputy Crown Agent, Specialist Casework
Keith Dargie	Head of Business Services
David Watt	Non-executive director
Annie Gunner Logan	Non-executive director
Fiona McLean	Non-executive director
Rob Tinlin	Non-executive director

In attendance:

Marlene Anderson (Item 2)	Director of Finance and Procurement
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Apologies:

Vanessa Davies	Non-executive director
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Agenda Item 1 – Welcome and Apologies

1. The Crown Agent opened the meeting and welcomed all colleagues. Apologies were noted from Vanessa Davies.

Agenda Item 2 - Minutes of previous meeting

2. The minutes of the meeting held on 23 March 2022 were approved and can be published, subject to one minor amendment proposed by Annie Gunner Logan and agreed by the Board.

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

Action tracker

3. Item 1 – DCA Serious Casework will provide an update at the August meeting.
4. Item 2 – DCA Serious Casework advised that there had been good progress on addressing actions from the May 2021 meeting of the Audit and Risk Committee that are entirely within the control of COPFS. The DCA will provide a short paper on these for the June meeting. The DCA’s discussions with Police Scotland regarding shared learning are ongoing and positive. Lastly, HM Inspectorate of Prosecution in Scotland may have capacity later this year to review current practices.
5. Item 3 – DCA Operational Support will provide an update at the June meeting.

Agenda Item 3 - Finance Update

Finance Update

6. The Director of Finance and Procurement introduced paper EB22/23(01).
7. The Director of Finance and Procurement provided an overview of the 2021-22 accounts forecast. It is anticipated that there will be a balanced position once end of year adjustments and accruals are dealt with. There was some discussion about staffing levels, currently at 2220 FTE, subject to some adjustment for offers made in April and May.
8. The Crown Agent outlined COPFS participation in the Scottish Government multi-year Resource Spending Review, the results of which will be published on 31 May: the proposition made to SG based on coherent business planning and following discussions with justice partners; and implications for future years’ budgets, staffing levels and capital transformation projects.
9. The Crown Agent reminded the Board of the increase in the overall number of deaths reported to COPFS in the last two FYs due to the Covid pandemic, explained the consequences for resource and set out proposed next steps.

Agenda Item 4 – Future Ways of Working

10. Head of Business Services introduced paper EB22/23(02). He highlighted actions taken to implement hybrid/agile working policies. The Board agreed to ask for the paper to be reframed to bring greater clarity on measurable outcomes.

11. There was some discussion about the Edinburgh justice campus joint project with SCTS. The business plan sits with Scottish Government.

Action: Implementation of hybrid/agile working policies to be discussed further at June meeting. Head of Business Services to provide further report with measurable milestones on progress.

Action: Head of Business Services to report to the Board at the August meeting on contingency planning for estate in Edinburgh and Glasgow in the event that funding for the Edinburgh justice project is not granted.

Agenda Item 5 – Business Plan Update

12. Head of Business Services introduced this item and advised the Board that a corporate business plan, informed by Law Officer priorities and corporate priorities as set out in the Function business plans was nearing completion. The DCAs talked through the process of development of their function business plans; key themes; and how they will monitor compliance with plans. Themes include improving the service we offer to victims and witnesses; improvement of management information to monitor outcomes; and progress on reducing the backlog of cases in the system.

Action: DCAs to circulate by correspondence all function business plans.

Action: Head of Business Services to circulate by correspondence, as early as possible, the corporate business plan with a view to this being endorsed at the June meeting.

Agenda Item 6 – Function Update – Operational Support

13. DCA Operational Support introduced paper EB22/23(03). The Board noted his updates on the Coronavirus (Recovery and Reform) (Scotland) Bill and the Bail and Release from Custody Bill.

Agenda Item 7 – Function Update – Local Court

14. DCA Local Court introduced paper EB22/23(04) and gave an update on summary reform pilot courts, in particular that the start date of July 2022 is likely to move back to late summer. The Board noted this.

Action: DCA to update on summary reform pilot courts at the June meeting.

Agenda Item 8 – Function Update – Serious Casework

15. DCA Serious Casework introduced paper EB22/23(05). He highlighted the decision, taken following discussion at the Operational Performance Committee, to prioritise older cases in the system and the implications of this for timescales on bail cases; and thematic issues emerging in certain SFIU cases and communications about this. The Board noted this and asked for further detail on resources and the challenge of tackling the backlog of cases in the system post Covid. The DCA spoke of the additional funding secured and measures being taken to address the backlog but that nonetheless this had to be recognised as a generational challenge across the whole criminal justice system.

Agenda Item 9 – Committee Update - Resources

16. DCA Operational Support introduced paper EB22/23(06) which was noted by the Board.

Agenda Item 10 – Committee Update – Business Improvement

17. DCA Local Court introduced paper EB22/23(10) which was noted by the Board.

Agenda Item 11 – Committee Update – Operational Performance

18. DCA Serious Casework introduced paper EB22/23(08) which was noted by the Board.

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

Any other business

19. The Crown Agent thanked the Board for their swift responses to correspondence on inviting the Head of Finance and Procurement and Director of Human Resources to become members of the Board. The Crown Agent will advise them of the Board’s decision.

May 2022

EXECUTIVE BOARD

MAY 22 MEETING

FINANCE UPDATE

Purpose

1. This paper provides the Executive Board with an update on:
 - The Financial outturn for the annual accounts for 2021-22.
 - Resource Spending Review.
 - Budget considerations for 2022-23.

Finance update 2021-22

2. The outturn is showing an underspend of £2.134m on resource and capital excluding year-end adjustments such as annual leave, accruals to be confirmed and provisions.
3. Capital was forecast to be on budget following the transfers agreed in October 2021, however following agreed movement in spend from Revenue to Capital in February this remains adverse to budget by £0.7m which SG are comfortable with.
4. The progress in filling budgeted posts has reached 2220 FTE as at 31 March 2022 with recruitment continuing into the new financial year.
5. Year-end adjustments are continuing to take place and we are anticipating that this will bring us to an almost balanced position.

Court Recovery Programme

6. The court recovery budget of £5.7m is being monitored separately and showing an overspend of £353k. This overspend is managed within the total staffing budget and therefore offset by savings in core staffing due to recruitment delays and attrition.

A/c Description	Budget	Forecast	Variance	Actuals YTD 2021/011
Total Staffing Budget	4,212	5,225	(1,013)	4,349
Total Non-Staffing Budget	1,551	891	660	768
Total Revenue Budget	5,762	6,115	(353)	5,117
Total FTE	239	209	30	197

Resource Spending Review (RSR)

7. The RSR is considering multi-year budgets from 2023-24 to 2026-27. A lengthy exercise has taken place looking at opportunities for savings across all portfolios, how priority spend aligns to Scottish Government priorities and contractual spend.
8. COPFS areas of expenditure (as expected) did not fit neatly into the priority categories as all our activity is statutory/public services and is demand led.
9. The initial indicative allocations are imminent for consideration prior to being published towards the end of May and there have been no indications of likely outcomes. A verbal update will be provided at the meeting.

Budget 2022-23

10. 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	180.90

11. Executive Board approved the delegated budgets at the March meeting. This is currently being distributed and will form the basis of the forecasts due to begin at the end of June 2022.
12. Our budgeted FTE in 2021-22 was 2,397.33. The proposed baseline FTE is 2,434.05 due to reconfiguration of posts. While the FTE has increased, these changes in structure and FTE were affordable and within budget before the pressure to absorb the pay policy and increase in employers' NI.
13. A business case was presented previously for additional posts and it was deemed that not all posts were affordable. The current flexibilities and options we have in the workforce plan to remain in budget and approve additional posts were discussed at WPG and are as follows:
 - Staff turnover and attrition rate would indicate that the revised bid of 50.5 posts at a cost of £1.95m (full year cost and 45.1% of original ask) would be manageable. Given the time it will take to recruit the posts we would anticipate 8 months of the costs, being £1.3m, to allow for affordability in 2022-23. The RSR indicative allocations for the next 3 years will inform wider affordability.
 - Staffing budget management: Staffing requirements will be reviewed, whether through budget bilaterals, staffing restructure or savings generated from Transformational Change/digital enhancements to

allow WPG to monitor change and effects of the changes to remain within the 2022-23 and future allocated budgets. In order to manage the impact and affordability, WPG will set up in year control checkpoints for assessing recruitment positions against corporate budget and affordability taking into account any savings from restructures and Transformational Change projects.

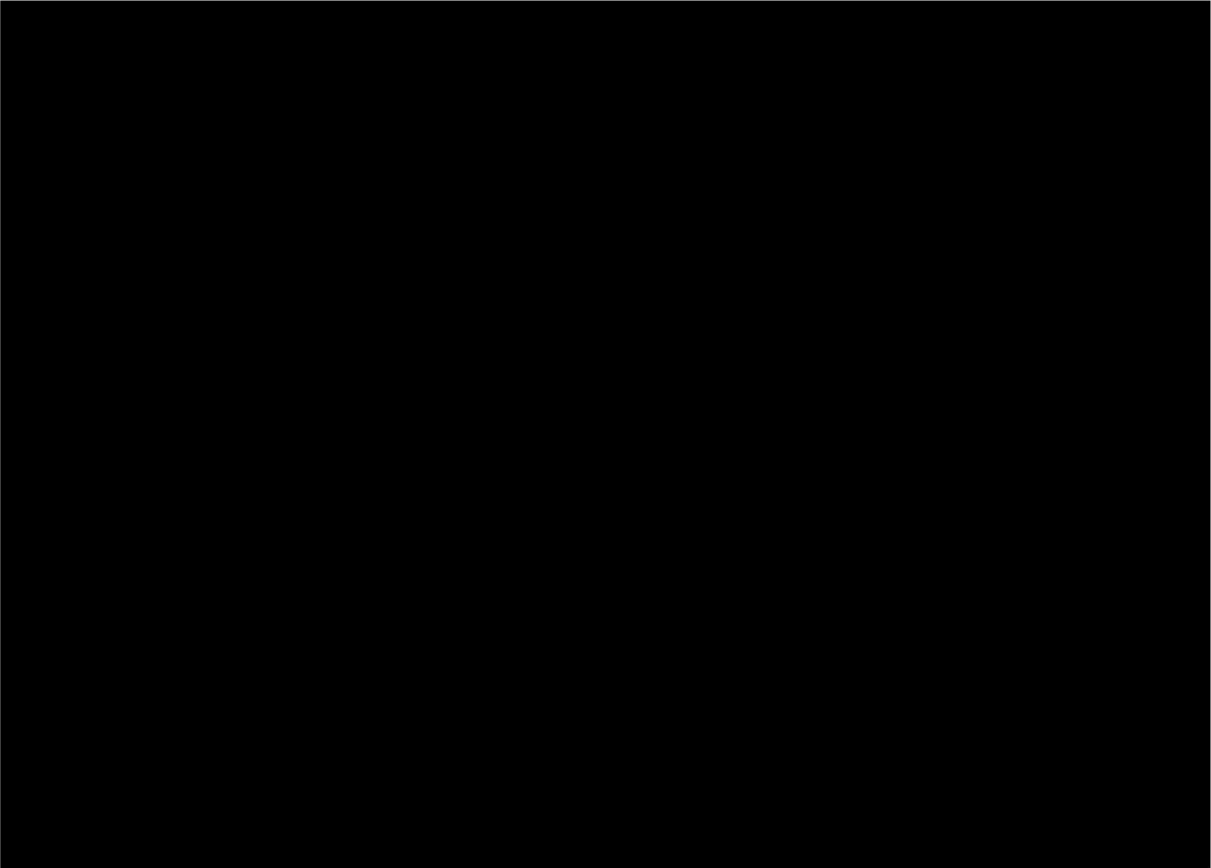
Conclusion

- 14. The Executive Board is asked to note the progress towards concluding the 2021-22 Annual Accounts.**
- 15. The Executive Board is invited to note, and if it wishes, comment on the 2022-23 budget.**

Finance Directorate

9 May 2022

APPENDIX A



Function Update for Executive Board: Operational Support 18 May 2022

Operational Support brings together a range of central services which enable COPFS to deliver its objectives. The function currently has 398.32 FTE staff (including all 64 trainee solicitors) divided into two broad teams: Policy and Engagement and Business Services. Its budget for 2022-23 is £47.2m which includes £20.8m of centrally managed expenditure (e.g. BSS, estates and ISD budgets) and £5.3m capital.

Policy and Engagement Update

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

P&E have a staffing complement of 94.07 FTE staff (this includes 43.07 FTE Enquiry Point staff). Within Policy there is a staff complement of 19.35 legally qualified members of staff. Promotions and the need to fill Justice Recovery posts resulted in several SPFDs and PFDs transferring to Local Court and SCG. While it has taken some time to fill the SPFD posts, there continues to be difficulties in filling PFD vacancies. Work continues with HoBMs and Workforce Planning Group to fill PFD vacancies across the whole of COPFS.

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

At the beginning of the pandemic, 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 current relevant legislative framework is:

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;

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 30 September 2022.

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 officials have contributed to scrutiny of the Bill, including providing written evidence to the Coronavirus Recovery Committee and oral evidence to the Criminal Justice Committee. The Bill is due for a Stage 1 Parliamentary debate in May 2022.

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. Policy officials are engaged with Police Scotland and SG in relation to a more permanent solution in this regard.

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. The Act is to come into effect on 1st April 2022.

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 of 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 NICE 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 April/May 2022. It is anticipated that 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

A Scottish Government has consultation on the provisions of a bill relating to bail and release from custody has concluded. 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.

Children's Care and Justice Bill

The Scottish Government have launched a consultation on their proposed Children's Care and Justice Bill. One of the key elements is the raising of the maximum age of referral to the children's reporter, currently 16 unless the individual is subject to a compulsory supervision order, in which case 16 and 17 year-olds may be referred. Policy officials are engaged with the Scottish Government to ensure that the consequences of raising the age to 18 is properly understood.

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.

The UK Government have announced that new communication offences will feature in the Bill and Policy officials are engaging on these with UK Government officials.

There is no date yet confirmed when this Bill will be introduced into Parliament.

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 2nd 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.

The guidance has been approved by the Law Officers and will be published alongside training and awareness raising events.

Guidance on sexual history evidence

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

Joint Investigative Interviews (JIIs)

Policy is working with Police Scotland and Social Work Scotland to improve the quality of JIIs capturing the evidence of child witnesses. There are 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 were identified and began performing supervised forensic medical examinations of complainers in cases involving rape/attempted rape/sexual assault at Archway Glasgow in February 2021. COPFS Policy and People and Learning Division provided training about the Scottish criminal justice system to the two successful candidates. Policy 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. Scottish Government are considering an expansion of the Pilot areas involved in the NSOE pilot and Policy Officials are to submit a minute to the Law Officers in relation to this possibility.

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 Taskforce is due to complete its work in summer 2022.

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

Chapter 4 Victims and Witnesses Manual

Policy officials have undertaken an extensive revision of Chapter 4 of the Victims and Witnesses manual which relates to Domestic Abuse. The revision reflects recent legislative changes and appeal court decisions and amends guidance in relation to authorisation levels for key decision making. Policy Division have completed the review of the chapter, in conjunction of review of compatibility with UNCRC requirements and submitted a minute to the Law Officers detailing the proposed revisions.

NES Trauma Informed Knowledge and Skills Framework

Dr Caroline Bruce in NES has prepared a Scottish Government funded draft a knowledge and skills framework for justice sector professionals to enable the recognition of trauma and how to address it. Policy officials met with Dr Bruce to discuss the development of the framework and provided the necessary input into this work. The draft framework has now been reviewed by the Prosecution College and a response provided to the SG.

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. It is anticipated that the Bill to amend the Data Protection Act 2018 will be introduced to Parliament in early Summer 2022.

Review of the Investigatory Powers Act 2016

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

Body Worn Cameras

Police Scotland are in the process of providing body worn video cameras to armed police officers across Scotland. Police Scotland is also progressing its plans to introduce body worn video (BWV) cameras to more police officers and staff across Scotland. This development has the potential to significantly impact on the way that evidence is gathered, and the processes involved in the revelation, disclosure and presentation of that evidence. Policy officials will be supporting the work of a new working group looking at the impact on COPFS and the criminal justice system. It is anticipated that this working group will combine with a working group in relation to the use of mobile devices to capture initial evidence. A meeting of the combined group has not yet been scheduled.

Electronic Monitoring of Bail

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. The provisions of Part 1 of the Management of Offenders (Scotland) Act 2019 which facilitate electronic monitoring of bail comes into force on 17 May 2022. COPFS Policy officials will continue to engage with SG and other officials in the lead-up to the implementation of the provisions and internal guidance has been drafted for COPFS staff.

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.

The Scottish Government has published its guidance on the Offensive Weapons legislation.

COPFS Policy officials will continue to engage with SG and Police Scotland officials in the lead-up to the surrender and compensation phase of the implementation of the Act, drafting internal guidance for COPFS staff.

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 engaged with the Service Prosecuting Authority with an introductory meeting taking place at the end of March 2022. COPFS Policy officials are now engaged with the Service Prosecution Authority to draft a Protocol between the Lord Advocate and the Director of Service Prosecutions.

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.

This has now been rolled out across Scotland.

National Enquiry Point (NEP)

The number of Enquiry Point operators working in the office increased following changes to health and safety guidance on social distancing. The increase in both telephone calls and email requests following the re-opening of courts has continued. Additional staff were recruited recently and are awaiting start dates.

BUSINESS SERVICES UPDATE

The Business Plan for 2022-23 will be published in June 2022 and will set out the main priorities for each of the units which comprise Business Services.

Below are some of the main BS delivery priorities for 2022-23. Confirmed deliverables and schedules for 2022-23 will be included in the published Business Plan:

- Annual audit and completion of 2021-22 accounts laid in Parliament;
- Management and monitoring of 2022-23 budgets and court recovery funding and capital investment;
- Negotiation and implementation of pay parity and salary settlements;
- Working as part of a Pay & Grading Project to progress pay parity review;
- Launching the new COPFS website;
- Implementing a new HR digital system and services;
- Designing, planning and implementing the cross-Justice Digital Evidence Sharing Capability (DESC), supporting a pilot commencing in Dundee as part of phased evaluation and national rollout in 2022 and 2023;
- Implementing new agile policy and Digital Workplace facilities to facilitate future ways of working;
- Launching new digital Corporate Applications, including a Desk Booking App to enable all staff to book a desk to support agile working and a new Overtime and On-call claims app replacing current paper and manual processes;
- Ongoing consultation and engagement with staff and stakeholders on Glasgow Estates Transformation and planning to support our new flagship FWOV office;
- Consultation and engagement with staff and stakeholders in relation to Edinburgh Estates Transformation defining requirements and planning options;
- Working in collaboration with SCTS on an Edinburgh Justice Campus (EJC) programme business case;
- Implementation of new Digital Meetings solutions in all offices to provide innovative and integrated Microsoft Teams meetings and collaboration facilities for staff working in the office, home or from any connected location;
- Launch of a new Digital Strategy setting out COPFS' next generation corporate and casework digital strategy vision and transformation aims through maximising the use of digital business technology;
- Accelerate pace of conversion of current fleet to fully electric car fleet;
- Compilation and submission to SG of 2022-23 to 2025-26 financial requirements to support COPFS' resource and capital budget needs;
- Testing and strengthening our cyber-security and business resiliency plans;
- Launch of the Scottish Prosecution College Prospectus and working with stakeholders to plan and develop COPFS' learning and development curriculum;
- Holding a series of Senior Leaders events to further develop leadership capabilities, awareness and to support business delivery;

- Leading and supporting Wellbeing, Inclusion and Diversity via working as part of a focussed team;
- Digital casework system solutions to deliver Criminal Justice Recover, Renew and Transform (RRT) priorities and supporting new criminal justice case management models;
- Develop a Pre-Intermediate Diet Meeting (PIDM) general booking app for defence agents to book and manage meetings digitally;
- Developing COPFS' new Witness Gateway and Defence Agent Service digital solutions to transform services to witnesses and defence agents;
- Engaging with stakeholders to define requirements and plan for the development of COPFS' next generation digital casework services (replacing and FOS and SOS-R and transforming digital casework systems and processes).

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

The confirmed Business Services priorities for 2022-23 will be published in the latest business plan in June, including a detailed delivery plan and updated KPI trackers.

Keith Dargie

Head of Business Services

May 2022

EXECUTIVE BOARD

FUNCTION UPDATE: LOCAL COURT

Purpose

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

May 2022

ANNEX A

1. Current Priorities

- Business Planning for 2022-23. The Business Plan is almost complete and will be shared with stakeholders imminently. An event with leaders is scheduled for 13.5.22 to prepare an implementation plan to supplement the LC Business Plan and to demonstrate how progress will be monitored.
- Work is underway to implement in June 2022 the agile working policy part of our Future Ways of Working (FWOW) as staff return to work in offices.
- Ongoing preparation for the restart of the Summary Case Management (formerly EPR) pilots in Dundee, Hamilton and Paisley. Pilots are currently scheduled to recommence in July 2022.
- Reduction of the pandemic backlog in the summary and solemn courts

2. Staffing

- We continue to recruit across all grades and all locations to ensure that we achieve and maintain our agreed staffing position of FTE of 1,117. We currently have 1,108 FTE in post in Local Court. We are continuing to recruit to ensure that we maintain the high level of FTE in post. Local Court continues to take on the majority of new legal staff to the department which requires us to continue the transfer of existing legal resource to SCG.
- We continue to adopt an agile approach to our resourcing aligning our recruitment with our transformation strategy which will increase our ability to undertake elements of our work from a neutral location. This will improve our service delivery and improve our processes. The location neutral staff will rotate with staff in local offices allowing for greater use of the policy in our small and medium sized offices.

3. NICP

- Performance against the main KPI for 2021/22 (marking 75% of cases within 28 days of receipt) was 73.5%. The current performance this year is 74.3%.
- The number of unmarked cases as at 8.5.22 was 16,274. This equates to 5.7 weeks' worth of work.
- The number of interim marked cases has reduced from 5001 in Jan 22 to 4279 (as at 8.5.22). Steps are being taken to build capacity and capability in NICP and priority is being given to reduce the age profile of cases. Second year trainees will undertake a period of secondment into NICP.
- NICP will have a significant role in the success of the Summary Case Management pilot.
- A half day NICP productivity workshop has been organised for 10.5.22 at the SPC.

ANNEX A

4. Solemn Casework

- Performance against the main solemn KPI (indicting 75% of cases within 8 months of first appearance) was 67% at the end of FY 2021-22.
- The solemn workload has continued to increase as a result of a further 6.01% increase in new petitions in 2021/22 (compared with 16.9% increase in 2020/21). The number of cases being prepared for indictment has increased by a further 25.15% since 1 April 2021, in part due to delays in obtaining forensic evidence. At 14 April 2022 the number of cases indicted to court but still to go to trial has increased by a further 5.6% since 1 April 2021 (compared to the 60.5% increase in 2020/2021).
- Performance against the age profile KPI for cases being investigated (no more than 5% of the cases over 8 months old) is now at 13.24% due to the consequences of the pandemic. We have recently increased the number of investigative assistants in one sheriffdom to address particular age profile concerns and will, as part of the business planning, consider what further steps are required to improve performance against this KPI.
- Sexual offences teams are working well in the preparation of cases for trial – performance exceeds the KPIs for initial decision making and we are seeing steady improvement in our reporting for indictment.
- Overall, our performance in respect of taking initial decisions in solemn level offending is strong - 89% 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

- At end of FY 2021-22 there were 38,089 outstanding summary trials. This represents a reduction of approx. 2k trials since November 2021, and back to the level as at end of FY 2020-21.
- There has been some improvement in the domestic abuse case journey time. Most courts are just over the 10 week target.

6. Information and Advice

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

7. Conclusion

ANNEX A

Local Court staff continue to attend offices and courts on a rotational basis. Local Court management remains in dialogue with SCTS about safety measures in court and a revised recovery court model to address the increased number and age-profile of outstanding trials and to deliver a high quality service.

**John Logue
Deputy Crown Agent
Local Court**

May 2022

EXECUTIVE BOARD

HIGH COURT FUNCTION UPDATE

PEOPLE

While some of our court facing staff have been coming to work throughout the pandemic the majority were able to work from home and over the past 3 months have been returning on a hybrid basis and spending a proportion of the week in offices with their teams. Productivity has clearly been impacted by the pandemic with performance in FY 20/21 and 21/22 falling by 16-20% compared with levels in 18/19 and 19/20. Home working is not however the only factor which has had an impact on productivity albeit analysis of experience levels shows that 34% of case preparers have less than 1 years' experience in post and have therefore been denied invaluable desk-based learning as part of a team.

Other factors which have inhibited performance include:

- The additional demands of servicing churning High Court trials and keeping victims and witnesses engaged in the process
- Balancing a backlog of unindicted cases over 10 months old with ongoing custody demands
- The challenge of having to operate a hybrid electronic model of reporting which our system was not originally designed up to support
- The increasing numbers of cases where there is Evidence on Commission (EOC) and the complexities which this method of recording testimony has introduced for all our staff which require additional legal and logistical decisions to be taken which extend far beyond those required for a routine trial
- Extensive training for new recruits.

To address these concerns, we are currently prioritising the following in FY22/23:

- A review of HC VIA-their roles and responsibilities, their line management structure, their communications to victims.
- New KPIs and objectives focused primarily on clearing outstanding cases over 10 months old, improving compliance with current KPIs journey for custodies and child witnesses (under 12 years) cases
- The introduction of a more user-friendly fully electronic model of reporting
- An end-to-end process review of EOC with the introduction, where appropriate, of centralised teams to address the myriad of additional tasks associated with this format of eliciting testimony.
- Improving our process for identifying and facilitating level transfers from Local Court to ensure vacancies are filled without unnecessary delay.

- Consideration of minimum standards for reporting of cases to the indicting team

PERFORMANCE

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

1. INITIAL DECISION MAKING (FY 21/22)

- Our target is to take 75% of initial decisions within 4 weeks (**79%**)
- Our target is to take 90% of initial decisions within 8 weeks (**88%**)
- In 22/23 we hope to take 95% of initial decisions within 12 weeks.

2. REPORTING PRODUCTIVITY

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

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

This represents a **0.3%** increase in the level of reporting. We recognise the need to significantly improve productivity, and this is an objective which will be introduced across the function.

3. SERVICE OF INDICTMENTS

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

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

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

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

4. INDICTING PRODUCTIVITY

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

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

. There will certainly be a need for greater indicting capacity if we are to succeed in our aim to indict all cases over 10 months old whilst also concurrently indicting custodies however it is recognised that this would place increased pressure on our PH cycles.

5. s76 INDICTMENTS (including other SCG disciplines)

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

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

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

Our level of outstanding trials is the highest it has been since the additional 4 trial courts were added in September 2021. We now have 932 outstanding as at 22 April compared with 390 pre-pandemic.

6. INPUT

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

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

This is a reduction of **10.4 %** in the level of new petitions which is welcome but figures from March 22 show an unwelcome monthly rise once more.

7. AGE PROFILE

We currently have **831** allocated HC precognitions collectively with **41%** over 8 months old from date of SPR (or **32%** from CFE date) and **25%** over 11 months from date of SPR (or **15%** from CFE date). In addition, there are **306** unallocated precognitions and **142** SOT pre-petition cases (of which **50%** are over 1 year old from date of SPR). We therefore have a total of **1279** active cases "in hand" and **18%** were reported over 1 year ago. Age of casework is a concern when considering the profile of our victims and the age of some of the offences we are investigating, and this is why we are focusing this year on reporting these cases.

8. KPIs

As indicated above our KPIs are currently under urgent review. Overall only 19% of HC cases met their KPI for journey times in FY22/23.

HC have also been operating a difference standard from LC in terms of some of its measurements of journey times for sexual offences and this is currently being considered by the Sexual Offences Strategic Group which was set up in March to bring together both functions involved in this casework. There is a clear consensus that joint KPIs around initial decision-making should continue but KPIs for reporting and indicting require further review by the group before it can report to DCAs and ultimately to OPC on any proposed changes. There is

however a clear desire to provide a focused improvement for young child witnesses.

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

- Initial decision making within 12 weeks
- Significant reduction in interim marking over 6 months
- Significant reduction in pre-petitions over 9 months
- Increased productivity of case preparation teams and indicting teams
- Improved performance on journey times for child witnesses under 12
- Reporting cases to agreed timescales and to agreed minimum standards
- Significant reduction in petitions over 10 months (CFE) 12 months (SPR)

Ruth McQuaid 11.5.22

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 **104** live SOCU cases (spanning 130 SPRs), there are currently **20** operations (comprising **32** SPRs) on the lengthy and complex case list with a **21st** currently under consideration.

There have been **86** upon-conviction Serious Crime Prevention Orders (SCPOs) granted in Scotland, chiefly for SOC cases and **1** 'stand-alone' SCPO.

There are now **25** 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, with a trial fixed for 08.09.22.
- 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 has an ID fixed for 06.06.22 and a TD on 04.07.22.

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:

- **31** cases (spanning **40** SPRs) are being prepared as pre-petition
- **36** cases (spanning **44** SPRs) where the accused have appeared on petition
- **1** case (spanning **1** SPR) where a petition invite has been arranged
- **2** cases (spanning **2** SPRs) where petition warrants are out for execution

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- **1** case (spanning **1** SPR) where a marking decision is pending
- **15** cases (spanning **26** SPRs) have been indicted for High Court proceedings
- **13** cases (spanning **13** SPRs) have been indicted for Sheriff and Jury proceedings, **12** of which will be prosecuted by SOCU deputies
- **1** summary case (spanning **1** SPR) where a trial has been fixed which will be prosecuted by a SOCU depute.

Additionally, the Unit has oversight of **23** 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 **13** cases indicted for Sheriff and Jury proceedings, and a further **4** on petition where Sheriff & Jury proceedings are anticipated. Many are long and complex cases, and they are spread across the country. SOCU trial deputies 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.

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 2021 and included a chapter on the position in Scotland. The IRTL recommended that the Lord Advocate issue a Code of Practice on the detention of persons under the terrorism legislation. SOCU led a multi-agency SLWG to produce the document, which was issued on 21.04.22 as Lord Advocate’s Guidelines. The LAGs have been issued to Police Scotland and published on the COPFS website. The LAGs will be a valuable resource for police officers and for detained persons/their families.

SOCU also provided input to the 2020 annual report by the IRTL, which was published on 28.04.22. SOCU has now commenced engagement with the IRTL in relation to his 2021 annual report, which will have a focus on the ‘online’ aspects of terrorism and law enforcement. Various information has been requested by the IRTL and there will be further consultation in due course. SOCU is also assisting

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with the revision of the 'Letter of Rights' document which is issued by police to persons detained under the terrorism legislation.

2. Proceeds of Crime Unit (POCU)

Confiscation and restraint

In the financial year 1.4.2021 to 31.3.2022, 197 confiscation orders were secured to a total value of £4,856,156.49. In the 22/23 financial year to 5.05.2022, 4 orders totalling £10,417.88 have been secured.

In the financial year 1.4.21 to 31.3.22 a total of 19 restraints were secured totalling £8,258,876.21. In the current 22/23 year to date, 4 restraint orders have been obtained restraining £3,760,944.69 of assets. Temporary restraint by moratorium extension was secured on 116 occasions suspending access to assets of £15,526,801.70 pending further investigation with a view to full restraint. In 22/23 to 5.05.2022, 7 extensions have been obtained securing £3,878,153.89

Notable cases and ongoing restraint work

Contained in Annex attached

Courts

The pre covid system of work in courts on proceeds of crime work has largely returned resulting in deputies requiring to travel to courts across the country for proof work or difficult procedural hearings. In relation to restraint and moratorium work each sheriffdom will deal with these in different ways, some content to deal with these virtually and others insisting on in person hearings. Thus far no significant problems have been experienced. Attempts are currently being made to set up a virtual proof for a court in the far north which would be the first of its kind.

Staffing

POCU continues to carry a legal vacancy. In relation to financial team vacancies, 2 financial analysts took up post in January 2022. Two recruitment exercises for a Band F chartered accountant in September and November were unsuccessful. After a further exercise a candidate has accepted and will take up post on 17 May 2022. An additional SPFD Mohammed Sarwar also joined the team on 10 January 2022 followed by Robert Freeland SSPFD and Asif Rashid PFD. Steps are being taken to facilitate return to office work in line with our optimum model commencing 1 June. The arrangements will be trialled from 16 May 2022

3. Appeals

Courts

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All conviction and sentence appeals for High Court are now in person and have been since the omicron restrictions were relaxed. Little notice was given to the unit by SCTS of resumption of in person hearings but suitable arrangements were made in time to support the ADs conducting the appeals. Procedural hearings continue to be conducted by WebEx platform. As a result of ongoing issues with wifi connectivity in court, it is rarely possible to have the same AD conducting all the day's business as it is not possible to do the virtual business from the court where the in-person hearings are to take place.

During the pandemic, most ADs were happy to use digital documents making provision of case papers a much easier task but due to the return to in person hearings and the lack of access to COPFS systems in court, Appeals staff have had to return to the formulation of hard copy papers. Also the lack of access to such tools as Westlaw means that Appeals staff cannot access these in court to assist the AD in addressing any ad hoc points arising. The issue has been raised by Appeals Band G with the head of COPFS IT. As the responsibility for the systems in court rests with SCTS there is a reluctance to take remedial action. The issue was raised at the Appeal Court Users Group in February and again at the end of April. Lord Mathews, the Administrative Judge, chairs this group and has expressed concern at the lack of facilities. Faculty are also similarly disadvantaged. The PCC has been tasked with providing a paper with recommendations on steps to be taken. Band G is assisting in this process.

The Sheriff Appeal Court continues to proceed by WebEx platform.

Staff continue to submit written submissions and other documents electronically

Notable casework

Contained within annex attached

Staffing

The unit is still carrying PFD vacancies. Discussions are ongoing in relation to these. Arrangements for staff return to Crown Office in line with our optimum business model are in progress with a view to commencement on 28 May 2022.

4. International Cooperation Unit (ICU)

A. Overview

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. 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. Whilst the full opinion of the CJEU is still awaited, Irish cases are now being dealt with, without challenge.

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. Portugal have also imposed a high offence threshold confirming that they will only extradite for offences of terrorism or serious organised crime.

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

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and transfer of sentenced persons to complement the TCA and better support effective bilateral cooperation. The previous Head of ICU contributed to the draft MoU which contains a joint commitment to resolve the surrender of Polish nationals to the UK.

Unfortunately, progress appears to have stalled both with the amendment of the Polish domestic legislation and the MOU. The Home Office continues to liaise with Poland in the hope of obtaining an update on implementation/likely timescales

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. Czechia's analysis is that the reservation has reciprocal effect and therefore applies to Czechia vis-a-vis UK (even although Czechia do not have a reservation in place). Home Office are considering an exchange of letters with Czechia on this specific point.

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

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.
- 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. This work has currently stalled but it is hoped that an agreement can be reached with Police Scotland on this topic.
- 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

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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 produced a draft for consideration by the Deputy Head of Policy. The draft has been updated by the current Head of Extradition and the process has now been approved by the Law Officers and published on Connect.
- 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

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Head of Extradition are members. The last meeting took place on 20 January 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 19.01.2022. The Head of Extradition and Head of MLA provided updated briefings to the Head of EU Justice, Scottish Government in preparation for the meeting and answered questions from Ministers. A range of statistics were prepared for the meeting by the ICU Business Manager.

C) Extradition

From beginning of January 2022, ICU have received **24** new extradition requests of which **22** were from EUMS and **2** from Turkey (duplicate requests for Anil Parlak). **25** arrests have been made since 1st January 2022: **17** on new TACA warrants, **7** on retained EAWs, and **1** Part 2 request. So far this year there have been surrenders made from Scotland on **14** warrants, all to EUMS (although 5 of these related to a single individual, Daniel Iordachescu). In total, **39** incoming TACA warrants have been received since the agreement came into force on 01/01/2021.

Since the beginning of January 2022, **12** requests have been received from operational teams. Of the requests received, **9** accused are thought to be in EUMS and **3** outwith.

Since the beginning of January 2022, we have issued **8** Outgoing requests – **4** TACA warrants to the EU and **4** Part 2 requests (Peru, UAE, Australia, Mexico). There have been **7** arrests abroad, 5 on TACA warrants and 2 Part. There has been **1** return from abroad to face trial in Scotland thus far in 2022, from Ireland (also 1 who was deported rather than surrendered). There are **14** cases with ongoing proceedings in foreign courts.

High Profile Extradition casework

See case sensitive annex.

D) Mutual Legal Assistance

From the beginning of January 2022, ICU have received **119** requests for assistance from other jurisdictions ("Incomings"), of which **100** were from EU Member States and **19** from rest of world.

ICU have received **62** requests for assistance in obtaining evidence abroad from operational teams ("Outgoings") and have issued **22** requests, of which **11** were to the EU and **11** to rest of world.

High Profile Mutual Legal Assistance casework

See case sensitive annex

5. Criminal Allegations Against the Police Division (CAAPD)

All CAAPD staff continue to routinely work from home. However, there has been some recent engagement with members of CAAPD with regards moving towards a hybrid working model. It is hoped that the hybrid working arrangements will be operational from w/c 9 May 2022.

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 March 2022 the CAAPD Year to Date Performance for 2021-22 against the new target was 87%.

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

The 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. Understandably, it will take some time for new additions to the team to become familiar with the very particular nature of CAAPD work, and the bespoke processes in place, whereby they are able to contribute at full capacity.

There are currently two legal staff vacancies within CAAPD at Procurator Fiscal Depute grade.

A long-term Band B Fiscal Officer vacancy has recently been filled from 19 April 2022.

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

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

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

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

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

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

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

i) Other matters of interest

Dame Elish Angiolini QC published her report on the system for dealing with complaints against the police on the 11.11.20.

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

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

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

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

The Cabinet Secretary for Justice and the Lord Advocate have published their formal response to the report and, since then, a Ministerial Group tasked with providing governance and assurance over the work of the Strategic Oversight Group and the Practitioners Working Group have met.

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

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

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during August 2021. The results indicate that in the vast majority of cases PSD has appropriately categorised the complaint and has correctly identified the optimal arrangements for future investigation/progression. In future it is anticipated that PIRC will assume an enhanced audit function with regards the work of PSD in accordance with their statutory responsibilities.

Finally, HM Inspectorate of Prosecution in Scotland has now completed her review of how COPFS manages criminal complaints against the police. CAAPD fully engaged with the review as it progressed. The final version of the report was published on 09.09.21. CAAPD/COPFS has now commenced work on formulating a formal response to HM Inspectorate, setting out a detailed plan for managing implementation of the recommendations and confirming the arrangements for the governance and assurance of that process. The first meeting of the COPFS "HMIPS working group" took place on 5 April 2022 and all recommendations have been allocated to a nominated lead official for progression.

6. Scottish Fatalities Investigation Unit (SFIU)

New Deaths

Details of the total numbers of deaths received as at 2 May 2022 (all deaths reported to COPFS) can be found in the table below:

SFIU WEEKLY SNAPSHOT OF WORKLOAD / PERFORMANCE	
Death Cases Received as at 2 May2022 <i>(including SFIU, CDIT, HSIU, Homicide & RTFIU deaths – ie all deaths reported to COPFS)</i>	Full Reporting Year 2019/2020 – 10,896 Full Reporting Year 2020/2021 – 15,712 Full Reporting Year 2021/2022 – 15,313 April 2022 – 1187 Reporting Year to Date from 01 April 2022 – 1214

Active Death Investigations

As at 11 April 2022, there were:

- **8494** active death investigations across COPFS. This is down from **9446** from January 2022.
- **254** cases under investigation where there is a potential discretionary FAI focus or under preparation for mandatory FAI in SFIU. This is up from **246** the previous month.

Fatal Accident Inquiries

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

As at 2 May 2022:

- There were 28 FAIs (22 mandatory and 6 discretionary) with scheduled court dates.

The quarterly letters to the Sheriff Principals, which provide information on current and forthcoming FAIs, were issued by the Head of SFIU on 22 April 2022. SFIU has intimated that it expects to lodge 12 First Notices for Mandatory FAIs by 30 June 2022.

SFIU anticipates an increase in the number of cases for which Crown Counsel will instruct a discretionary FAI. There are a number of complex and lengthy cases that SFIU anticipates will result in discretionary FAIs which are due to be reported by end June 2022 and have significant court time implications. The increase in the number of discretionary FAIs, and the resource implications for court, will be closely monitored.



SFIU Continuous Improvement

Progress has been made in a number of areas.

The 5 new case preparer posts (replacing legal posts) bring the number of case preparers in SFIU to 8. 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.

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A new case preparation model to support this change is being consulted on and a SFIU training programme has been developed and was delivered over 4 days between 21 and 28 February 2022 to dovetail with the arrival of some of the case preparers. The training was extended to colleagues in HSIU and CDIT and was very well received.

Work continues 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. SFIU guidance was published on 22 March 2022 on the "Criteria for Referring Deaths to SFIU Team 2" where the circumstances of the death require "further investigation".

Joint briefing (SFIU and HSIU) was provided to the Stephen McGowan DCA on 15 March 2022 in respect of the series of cases that have been received by SFIU where the response of the Scottish Ambulance Service is implicated as an issue in relation to the death. Draft guidance has been prepared which will be finalised in early course.

Pathology

Post Mortem Reports

The new temporary admin team continue to process post-mortem reports. Excellent progress has been made in providing F49 forms to the National Records of Scotland. The processing of the required 2021 PM reports is currently on track to enable the National Records of Scotland (NRS) to publish annual statistics, including the key political priority of the statistics in relation to drugs deaths.

Briefings on progress were provided to the Crown Agent on 6 April 2022, 20 April 2022 and 28 April 2022. SFIU has been meeting SG officials and NRS on a regular basis to review and update progress on the processing of the 2021 PM reports.

Case Management Panels

As at 8 April 2022, there were **141 cases** in SFIU over 2 years old (down from **224** March 2022) and **94** (down from **96** March 2022) deaths in custody (this incorporates SFIU and CDIT deaths in custody).

It is of note that SFIU experienced a significant increase in the number of death reports from 2019/2020 as compared with 2020/2021 and 2021/2022 also had significantly high number of death reports. This will have implications for the number of cases that may enter the CMP process at future points.

The Head of SFIU has produced CMP reports to the DCA in connection with the detail of the cases calling in CMP during March 2022 and April 2022.

Meeting with MSP

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On 28 April 2022, Debbie Carroll and Katrina Parkes met with Maggie Chapman MSP, Scottish Greens Party spokesperson for Equality, Human Rights and Justice to discuss the work of SFIU.

7. COVID Deaths Investigation Team (CDIT)

i) Case load.

COVID DEATHS INVESTIGATION TEAM STATS								
Stats as at Monday 09th May 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	2394 (up from 2387 last week)	28 (same as last week)	1765 (same as last week)	10 (same as last week)	15 (same as last week)	1124 (up from 1122 last week)	5336 (up from 5327 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 04.05.22) in relation to care home resident deaths indicate there have been **4759** resident Covid deaths over **669** care homes. Of those 4759 care home deaths CDIT has received **4159** death reports from Police Scotland or direct from medical practitioners.

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In addition CDIT has received reports in respect of **38** front-line workers where they may have contracted the virus during the course of their employment.

CDIT has also received reports of **15** 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.

There are currently 168 live reported cases and 34 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 34. 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 (62 involving a fatality, 23 with injured parties or regulatory offences).

Staffing

One PPFD moved to Local Court in April 2022.

One PPFD joined HSIU to lead the Deaths in Custody Pilot in April 2022.

i) Casework Highlights

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

ii) HSIU Fatal Accident Inquiries

Pending (no First Notice lodged) – 58

Pending (cases where we expected to lodge First Notice by 30.06.22) – 2

Scheduled Dates – 7

Total – 67 (includes 27 deaths with Deaths in Custody Pilot)

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- 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)

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

<p>Mon 7 Mar</p> <p>Summary Complaint (Deferred sentence)</p> <p>Selkirk Sheriff Court</p>	<p>HS20000053</p> <p>PF Selkirk v SC and AA Templeton</p>	<p><u>Charge 1 :</u> CON the Work at Height Regulations 2005, Regulation 4 and the Health and Safety at Work etc. Act 1974</p> <p>£10,000 (reduced from £15,000 £350 victim surcharge)</p>
<p>Wed 9 Mar</p> <p>Summary Pleading Diet</p> <p>Falkirk Sheriff Court</p>	<p>HS19000028</p> <p>Joint Venture Scaffolding Ltd (charge 1)</p> <p>Marshall Construction Ltd (charge 2)</p>	<p><u>Charge 1:</u> CONTRARY to The Construction (Design and Management) Regulations 2015, Regulation 15(2) and the Health and Safety at Work etc. Act 1974, Section 33(1)(c)</p> <p>£7,500 (reduced from £10,000)</p> <p><u>Charge 2:</u> Contrary to Sections 3(1) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974</p> <p>£9,000 (reduced from £12,000)</p>

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Wed 23 Mar	HS21000001	<u>Charge 1:</u> Regulation 7(1) of the Explosives Regulations 2014 and Section 33(1)(c) of the Health and Safety at Work etc. Act 1974
Summary deferred sentence	Amjad Javed	£540 (reduced from £600)
Glasgow Sheriff Court		<u>Charge 2:</u> Regulation 26(1)(a) of the Explosives Regulations 2014 and Section 33(1)(c) of the Health and Safety at Work etc. Act 1974
		£900 (reduced from £1000)

Deaths in Custody Pilot

HSIU PPF is leading on the pilot.
Two HSIU SPFDs are working on the pilot.
One case preparer has joined the team.

Both SPFDs and, the case preparer are carrying additional workloads from their former units. This is being assessed and reviewed to free up resourcing in the unit.

Following a new PPF taking up post on 4 April 2022, discussions have been ongoing in terms of the future planning in the unit. Resourcing has been discussed and steps are being taken to identify additional resources. One of the experienced SPFDs instrumental in the setting up of the pilot unit will commence a period of extended leave in June 2022 and is not expected to return until January 2023. A replacement will require to be identified.

A decision was reached that when the Pilot concludes, and the new Custody Deaths Unit (CDU) is formed that it will be a standalone unit sitting under the umbrella of HSIU. Discussions are underway in terms of the timing of the commencement of the new unit.

Cases

32 Accepted by pilot
23 Remain under consideration by pilot
21 Considered by pilot and returned to SFIU

Notwithstanding the difficulties in terms of resourcing, current priority is being given to the cases remaining under consideration to allow a decision to be taken

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in terms of where they will sit for FAI. These cases continue to be progressed by SFIU meantime. An exercise has commenced to consider these cases and prioritisation criteria have been applied to minimise delay in doing so.

Scottish Government Working Group

Scottish Government have set up a working group: Prison Custody – Key Recommendation – working group. The Deputy PF Specialist Casework /, Head of SFIU, and CDU PPF will sit on the working group which meets on 12 May 2022. A pre-meeting discussion to discuss roles and priorities will take place on 10 May 2022 and will be attended by both.

9. Wildlife and Environmental Crime Unit (WECU)

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

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

WECU CASES OVERVIEW

WECU has a total of 83 cases. Of these, 35 cases relate to wildlife offences, 14 cases were reported principally by the Scottish Environment Protection Agency (SEPA), 6 other environmental cases were reported by Police Scotland/ Local Authorities, and there are 28 animal welfare cases. (*From Monthly Statistics 16.2.2022 to 22.3.2022*).

Of WECU cases calling in Court during this period: 3 cases called for Pleading Diet, 3 were continued without plea, 7 cases called for Intermediate Diet, 5 cases called for Trial Diet and 2 for sentence deferred.

WECU dealt with 4 Search warrant requests. An additional 11 cases were considered by WECU but were not taken by WECU due to the particular circumstances of the cases and in 9 further cases advice and guidance was provided to reporting agencies.

WECU Policy work/ Liaison with SEPA/ Media

Current Priorities include:

Wildlife Crime Report – The Crown has provided statistical input to the Scottish Government annual wildlife crime report. Report published at the start of April 2022 shows a rise in wildlife crime between 2019 and 2020 of 13%.

WECU training – There are currently 2 SPFDs and 1 Depute dealing with specialist and highly technical wildlife crime offences.

- **Scottish Partnership Against Rural Crime 1.3.22** COPFS was represented for the first time at this meeting.
- **PAWS Legislation, Regulation and Guidance Group 2.3.22** – The Scottish Government is currently considering amending wildlife legislation to address inconsistencies. Consideration of highlighting specific legislation and associated issues will be undertaken and examined by this group including the Head of WECU.
- **PAW Raptor Persecution Delivery Group 3.2.2022**– COPFS was represented at this Partnership Against Wildlife crime group. This is the first time this group has met for 3 years.

Subsequently to this meeting, the PD in WECU met with DCS Laura McLuckie to discuss issues surrounding raptor persecution.

- **Scottish Government National Litter and Fly tipping Strategy 3.3.22** WECU will contribute to the Consultation Process relating to fly tipping and enforcement issues.
- **Meeting with Crown Prosecution Service 10.3.2022**– A meeting has been arranged to consider common issues relating to admissibility of video evidence in raptor persecution cases, given a recent successful prosecution in England using such evidence.
- **APHA (Animal Plant and Health Authority) Meeting 30.3.22** – Introductory meeting and opportunity to discuss where exactly APHA sit within the present Enforcement regime around Animal Welfare and a number of other areas including the impact of the introduction of the Scottish Veterinary Service.
- **International Wildlife Trust Awareness Event 12.4.22**- Bruce Ohr was a US federal prosecutor in Washington DC, specialising in organised crime cases. He now works for the US based NGO, [International Wildlife Trust](#). IWT's mission is to gather intelligence and information about transnational wildlife trafficking rings and present it in an actionable format to police authorities in both developed and developing countries, with the hope that law enforcement will be able to prosecute the traffickers. WECU staff and Police Scotland Wildlife

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Crime Officers will learn about the work of IWT and further understand the international illegal wildlife trade.

- **WECU/ SEPA Training Day 26.4.22** – WECU team met SEPA Legal and Enforcement teams to discuss common offences and common issues
- **COPFS Climate Change Working Group:** 27.4.22 The Head of WECU sits on this group, which focuses on reducing COPFS' carbon footprint.
- **Tackling SOC Involvement in Scotland's Waste Sector Seminar:** 29.4.22 WECU presented a talk on their role in combatting environmental waste in this area.
- **Fish and Fisheries Crime Awareness Day 29.6.22**– This training day between Fisheries Management Scotland, Police Scotland and WECU was arranged to improve WECU's fisheries crime knowledge. The legislation is complex.
- **Serious Crime Prevention Orders** – Work is being undertaken to identify potential WECU cases in which Serious Crime Prevention Orders would be appropriate to address Environmental crime. A meeting was held between WECU, SOCD, SEPA and Police Scotland to consider the principal aim of the use of the orders. The PD in WECU further met with SEPA to identify specific cases for consideration. A process for case referrals is being discussed.
- **Forestry Crime** – The UN Toolkit has been completed in relation to the enforcement and prosecution of Wildlife and Forest Crime in the UK and has made certain recommendations. DEFRA are due to publish this report. WECU are considering taking responsibility for the prosecution of Forestry crime, to enable these recommendations to be taken forward. WECU does not currently prosecute Forestry crime. A review of the previously reported Forestry cases is being undertaken, in order to consider the relevant charge codes and to assess the potential impact on WECU.
- **Meeting with SEPA** The PD in WECU continues to meet with SEPA every 6 weeks to discuss current casework and any relevant issues (Operational WECU/ SEPA Meeting). There is also a second WECU/ SEPA Executive meeting every 6 weeks to discuss wider WECU/ SEPA/ environmental issues.

WECU continues to contribute to SEPA's Productions Review.

The cyberattack and the effects of the pandemic continue to affect SEPA's ability to access information on their systems. WECU has provided support to SEPA by providing SEPA with case information, witness statements and Productions, while SEPA strives to overcome the difficulties.

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Update from SEPA re egress switch to allow productions and CCTV to reach COPFS electronically.

Discussion re whether River Engineering could be added to the fixed monetary penalties SEPA extend under LA guidelines.

- **Review of Hunting with Dogs draft Bill** - WECU, after liaison with COPFS Policy Unit, has provided comments to the Scottish Government in relation to the draft Bill.
- **Scottish Government Snaring Review** - WECU has provided statistics from the last 5 years to contribute to the Scottish Government's Snaring Review.
- **Dog Fertility Clinics** – The WECU team has given consideration to general issues affecting a number of search warrants in relation to an emerging trend of offences surrounding dog fertility clinics and the use of needles to take blood by lay persons. First case to be submitted for consideration after discussion with SOC fiscal.
- **Carcass Disposal Rollout** up to date statistics to be provided by police in anticipation of the disposal of stored carcasses as productions in WECU cases and introduction of new system to deal with this in future.
- **European Conference of Prosecutors:** preparation of a briefing for the Law Officers in advance of attendance at the event.

10. Civil Recovery Unit (CRU)

i) Sheriff Court Team (SCT)

The SCT continues to support local fiscals and law enforcement partners in cash cases. Court business is predominantly dealt with remotely by the sheriff courts. The Unit has 16 account forfeiture cases (shared between the SCT and asset recovery team) and 46 listed asset cases.

ii) Asset Recovery Team (ART)

The ART has 9 cases with active Prohibitory Property Orders (freezing orders) and 1 case at recovery order stage. The ART recently reached a settlement agreement for the sum of £380,000 in a case which was proceeding to a proof hearing in 05.22. All Court of Session procedural hearings continue to take place

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remotely. Financial investigators are starting to make arrangements to conduct disclosure order interviews again which had been difficult to arrange as a result of the social distancing guidelines.

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

iii) Economic Crime Bill and Act 2022

CRU, other members of COPFS and Police Scotland received papers from Scottish Government policy colleagues setting out Home Office proposals for provisions on seizure and realisation of crypto assets in a further UK Economic Crime Bill, and are currently considering these with a view to responding by the deadline of 6.5.22. CRU provided substantial input to SGLD and SG policy in respect of the amendments to UWO provisions now contained within the Economic Crime (Transparency and Enforcement) Act 2022.

iv) 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 is also rolling out a new process, led by the Depute HoU, for Financial Investigators to undertake individual detailed briefings with Police Scotland crime managers to raise awareness of civil recovery work, as the number of referrals the Unit are able to progress from other areas of COPFS is lower than in previous years. A presentation on civil recovery was also delivered to Trading Standards by one of the Financial Investigators.

v) Remittances to Scottish Consolidation Fund

The sum remitted to the SCF up to week ending 1.5.22 amounted to £135,902. For the financial year 2021/22 the total sum remitted to the SCF was £4,990,253 and in addition £231,016 was returned to victims, amounting to a total sum recovered of £5,221,269.



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

Resources Committee minutes

28th April 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

- Anthony McGeehan, Deputy Crown Agent (Operational Support) (Chair)
- Keith Dargie, Head of Business Services & Chief Digital Officer
- 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
- Marlene Anderson, Director of Finance and Procurement
- Sharon Davies, Head of Management Accounting and Planning
- Sarah Carter, HR Director
- Fiona McLean, Non-Executive Director

In attendance

- Ali Caddis, Secretariat

Apologies

No apologies noted

Welcome

The chair welcomed everyone to the meeting.

Minutes from meeting held on 31st March 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 6 and 12 can be closed

Finance Update 2021-22

The Director of Finance and Procurement (DoFP) provided an overview of the Finance Update paper for the financial outturn for the annual accounts for 2021-22, Resource Spending Review and budget considerations for 2022/23. The DoFP advised the outturn showed an underspend and noted the forecasts did not move however there are pre-payments, accruals and provisions to bring into the accounts. DoFP advised that the anticipated result is an almost break-even position and confirmed this is a good place to be in. DoFP advised progress has been made in filling budgeted posts and recruitment continues.

Resource Spending Review (RSR)

DoFP advised RSR is ongoing with SG considering multi-year budgets. SG notification of indicative allocations for 23-24 to 26-27 are due next week and will be published in May 2022. A short period of time will be allocated to respond to COPFS allocations. DoFP advised in the return itself, COPFS does not fit neatly within stated SG categories as all our activity is statutory/public and are demand led. More information will hopefully be available within the next few weeks.

Budget 2022-23

DoFP advised the budget has been signed off by Executive Board and allocated budgets will be forwarded to individual budget holders next week. DoFP further advised forecasting will commence from June.

Head of Management Accounting and Planning (HoBMP) advised a timetable for budget monitoring and forecasts will be issued for the year.

[Action] HoBMP to issue forecasting timetable for the year

DoFP provided an overview of the budgeted posts annex paper. DoFP advised that the bid for additional posts had been reduced following testing of the bid.

The Head of Business Services & Chief Digital Officer (HoBS/CDO) provided an update from Workforce Planning Group (WPG) noting that it is critical that robust monitoring control mechanisms are in place to manage the staffing budget. WPG discussed this and detailed analysis and controls around the affordability element will ensure that any additional posts recruited are being managed as carefully around the financial modelling as possible. WPG will list agreed criteria for distribution and will feed into the process of managing any posts agreed.

Resources Committee approved the proposed recruitment. The Chair advised that the paper will be forwarded to the Crown Agent for final confirmation .

[Action] The Chair & HoBS/CDO will take proposed posts to the Crown Agent for final approval and report back to RC

Any Other Business (AOB)

The Head of Management Accounting and Planning (HoMAP) raised the budget for Wellbeing Committee and tackling period poverty. HoMPA stated she believed the budget should sit within The Director of Support Services (DoSS) as opposed to the Wellbeing Committee.

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The Committee approved the relevant cost sitting with the DoSS budget with a caveat of revisiting that budget if required.

The DoFP requested the Finance Strategy review is moved from May to August meeting in the annual planner.

The Chair noted approval for this.

Date of the next meeting: 31 May 2022

EXECUTIVE BOARD
BUSINESS PROCESS IMPROVEMENT COMMITTEE
MAY 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 last met on 3 February and is next scheduled to meet on 23 May 2022.
4. This update provides an overview on the delivery of the BPIC improvement projects and the ISD portfolio and Digital Transformation Programme for 2021/22.
5. BPIC will review the delivery of the 2021/22 business process improvements and digital transformation programme at its meeting on 23 May and will provide a summary report to the Executive Board at the meeting in June 2022. BPIC will also discuss the business improvement priorities for 2022/23 and make recommendations to the Executive Board on the programme of work.

Delivery Updates

6. Key business improvement and ISD projects delivered or progressed over 2021/22:
 - DAS Enhanced PIDM Booking App released;
 - CMIC S&J App [Complete; deployment rescheduled for Q1 2022/23 to reflect recruitment of ISD iOS developer staff to replace leavers];
 - DESC: Procurement, Design and Planning (Ongoing in line with programme plan);
 - [NEW] Electronic Reporting to Crown Counsel digital casework solutions (Ongoing for summer 2022 release);
 - New COPFS Intranet launched;
 - New COPFS Website [Complete; May 2022 release];
 - ICU Solution;
 - Respond Solution;
 - Corporate Applications: Confidentiality App released;
 - Corporate Applications: Desk Booking App [Complete; May 2022 pilot release];
 - Corporate Applications: Claims App (Overtime and On-call claims) [Phased launch from May 2022 around HR resource timescales];
 - New HR Solution [Complete; From Q1 2022/23 phased implementation];
 - Cloud Strategy published;
 - Digital Meeting Rooms installed in all offices [For Q1 2022/23 formal release];

EB22/23(07)

- Digital Workplace: O365 Exchange Online migrations;
- Digital Systems and IT Infrastructure Resiliency (Implemented and validated);
- Cybersecurity Simulation Exercise completed;
- ISD Cybersecurity Security Operations Centre (SOC) and Security Information and Event Management (SIEM) systems and services live;
- Defence Agents Service: [Ongoing; development for 2022/23 launch];
- Defence Agents Service: General Booking App [Ongoing; development for 2022/23 release];
- Witness Gateway [Ongoing; development for 2022/23 launch];
- SCG: AI/Cognitive Services Transcription Service [Ongoing];
- COPFS Offsite Datacentres Procured [For May/June 2022 and Q4 2022/23 live implementation];
- Digital Workplace: Always on VPN [Ongoing; phased from Q4 2021/22 for change management reasons];
- UK/Scottish Government Cyber Essentials Accreditation;
- Cabinet Office PSN Accreditation;
- UK/Scottish Government PSNP Cyber Essentials Plus IT Security and Information Assurance Accreditation Submissions [In progress].

Decisions/Actions required by Executive Board

7. The Executive Board are invited to note progress and comment as appropriate on the delivery of BPIC's portfolio priorities for 2021/22 and its planning for 2022/23.

John Logue

Deputy Crown Agent - Local Court

09 May 2022

Operational Performance Committee

Minutes of meeting held on 4 May 2022 by Microsoft Teams

Present:

Stephen McGowan	Deputy Crown Agent – Serious Casework (Chair) (DCA)
Ruth McQuaid	Procurator Fiscal, High Court (RM)
Jennifer Harrower	Procurator Fiscal, Local Court (JH)
Laura Buchan	Procurator Fiscal, Specialist Casework (LB)
Fiona Roberts	Head of Management Information Unit (FR)
Robert Tinlin	Non-Executive Director (RT)
Gioia Ezzi	PA DCA – Serious Casework (Secretariat) (GE)

Apologies:

Kenny Donnelly	Procurator Fiscal, Policy and Engagement (KD)
Graham Kerr	Head of Business Management, Local Court

1. Welcome and Apologies

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

2. Minutes of previous meeting

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

3. Outstanding actions

Action 1/22: Take forward recovery mapping with Heads of Business Management and MIU. **Action to remain open**

Action 2/22 Feedback to be provided in respect of draft recovery mapping report. **New Action: Report to include and emphasise in bold number of cases relying upon emergency statutory extensions (Ralph Riach to speak to Graham Kerr to replicate for Sheriff and Jury)**

4. Monthly Stats/Key Performance Indicators

High Court (HC)

- HC Report circulated, Healthcheck will also be circulated monthly with the report. The Healthcheck is being amended effectively to change the focus on what is being measured. The way it is presently laid out is not helpful and misses key pieces of information which are required in the current context of recovery.
- Key focus going forward for 2022/23 is reducing significantly amount of cases over 10 months old.
- Will communicate with staff in coming weeks change in focus on Healthcheck, changing KPIs, what that means in post covid world and what objectives are for the coming year.
- Require to improve marking performance and cut down on unread cases, how long sits in interim marking and on how long sitting in pre petition, with obvious need to increase productivity.
- Over course of next few weeks business staff asked to assist legal staff for more accurate picture on productivity for coming year. Productivity was static last year, it used to be higher and that is achieved will be the challenge.
- There are 861 precognitions in progress, 316 not in progress, pre pandemic reports sitting at 1,089, post pandemic reporting was under 900.
- Business dealt with by section 76 has gone down by 40% in last year.
- Focus is on reducing the age profile of cases, in particular the cases reliant on the emergency timebar extension. Other than custodies, there will only be one fast track route to indictment which is for cases where there are children as witnesses under 12, expecting accelerated performance in respect of those cases. These require to be reported earlier and tracking in more refined way in coming year.
- OPC agreed that the focus should be on reducing the age profile, particularly for cases over 10 months relying on timebar extension, cases involving witnesses under 12 and custodies. It is agreed that this be our focus notwithstanding that it will necessarily mean not meeting the published indicting target. RMQ to communicate this to teams so that they are clear of our expectations. DCA to raise at EB

ACTION: RMQ TO COMMUNCIATE DECISION TO TEAMS DCA TO RAISE AT EB

Local Court

- Currently reviewing management information and healthchecks with work being done on making these more meaningful.

- In relation to National Initial Case Processing Unit (NICP) there has been a fairly significant change in resourcing with 6 trainees starting with NICP already seeing the benefit. These second year trainees are with NICP at any one time for period of 10 weeks and supplement NICP for a number of reasons, not least to reduce the age profile and backlog but also in preparation for summary case management pilots due to commence in July and also in relation for the movement of undertaking cases going back into NICP.
- In relation to recovery paper, will discuss with Graham Kerr.

Specialist Casework

- FR has extended invitation to discuss Management Information (MI). Looking at meaningful MI in respect of Serious & Organised Crime Unit (SOCU) and Health & Safety Investigation Unit (HSIU) on managing oversight of complex investigation, which can take significant part of senior legal time and is not recorded.
- Understandably strong focus on HC, but indicated at last OPC mindful of large and complex serious & organised crime cases and potentially large and complex Fatal Accident Inquiries (FAI) which have potential to impact on how to progress large cases.
- In relation to priority, have had to and establish specific teams across Scottish Fatalities Investigation Unit (SFIU) & HSIU in regard to the Stonehaven train derailment, custody deaths team, the Queen Elizabeth University Hospital deaths and business plan from Covid Deaths Investigation Team (CDIT) into expanding team in the coming months which feeds into the HSIU modernisation.
- SOCU progressing well in terms of ability to get through cases with a number of positive results in recent months.
- Working on teams returning to offices soon with planned approach and will monitor productivity in terms of that return.

Policy & Engagement

Paper circulated. Nothing was flagged.

5. Recovery Mapping

DCA invited views on how we could improve our analysis of workloads v available resources. There was a discussion as to how we improve our ability to do this and in particular whether we need we have skills to work out what resource we need to do

any particular task. There was general agreement that we should build resource internally, look at skills across organisation but could consider bringing in someone who could assist in empowering our own people to deliver.

6. AoB

FR advised that LC paper 2f is actually report on KPIs from last year. Will discuss with RMcQ HC Key Performance Indicators (KPIs) and Healthcheck and update in next couple of months. Likewise, meeting with LB to look at Specialist.

Date of Next Meeting: 8 June 2022