

Note of the COVID Criminal Endurance Recovery Group**Date: 21 January 2021- 3pm Meeting Two****Attending:**

Amanda Millar, President, Chair (AM)

Lorna Jack, Chief Executive, Law Society (LJ)

Ken Dalling, Vice President (KD)

Gordon Williams, Criminal Law Committee (GW)

Kris Gilmartin, Criminal Law Committee (KG)

Ian Moir, Co-Convener Legal Aid Committee (IM)

Andrew Richardson, COPFS (AR)

Lisa Potter, Law Society communications team (LP)

Antony McFadyen, Professional Practice, Law Society (AMcF)

Philip Lafferty, Legal Aid Committee (PLa)

Liz Dougan, Criminal Law Committee (LD)

Peter Lockhart, Criminal Law Committee (PLo)

Debbie Wilson, Convener Criminal Law Committee (DW)

Mark O'Hanlon, criminal practitioner (MOH)

Julia McPartlin, Edinburgh Bar Association (JMcP)

Gillian Mawdsley, Secretary to Criminal Law Committee, Law Society (GM)

Apologies:

Stuart Munro, Criminal Law Committee

John Mulholland, Past President

Laura Sharp, Criminal Law Committee

Introduction to the Meeting

AM welcomed and thanked everyone for attending the second meeting. She reminded everyone of the purpose of these meetings which are being held weekly in view of the continuing and challenging criminal justice situation.

The Society is very appreciative of the feedback last week which was recorded in the note of the meeting ([14 January 2021](#)) that was circulated prior to this meeting. It was used to communicate at the weekly senior management meeting with criminal justice partners which is taking place while the COVID-19 pandemic continues.

AM also invited members to contribute to the meeting by means of a pro form which had been circulated as part of the papers if that was less time consuming for them and they were unable to attend the meeting. It highlighted the main points of information which were required for the background to the SCTS/COPFS meeting. These included:

- What are the current issues of interest in your court this week?
- Are there any issues of concern from a practitioner's safety perspective?
- How is the court business progressing – solemn and summary?

AM also acknowledged that the continuing situation has meant that there has been a huge volume of communication from various parties relevant to the ongoing criminal business court. These were included in a [comprehensive paper](#) distributed for this meeting.

AM repeated that SCTS had underlined that any local issues affecting the courts should be raised locally at first instance – and if not resolved then, it can be raised at the Senior Management level meetings, but resolution locally is the best approach.

AM also highlighted that there was a need to be pragmatic and whatever works is the best way to go forward in order to keep the court business running forward.

LJ confirmed that the transfer of sheriff & jury business from Dumfries to Ayr had been the focus on separate discussions with SCTS and was to be dealt with separately. A meeting will be arranged between the CEO and local members to discuss the position further and also to obtain further feedback.

AM confirmed that consideration would be given as to the best way of communicating the information shared from these meetings with the profession.

Feedback pro form: AM noted that one return has been received to date from DW. It reflected the position at Banff.

Banff

- Court cancelled - Most witnesses were advised but no further direct information was provided to witnesses, the accused or agents.

- The clerk is not using SCTS computer generated email re COVID - adjourned matters as the pro forma as it lacks clarity. Unambiguous emails are being sent to agents known to be involved. The pro forma may work well in the city courts but not the smaller courts.
- There have been no issues with local court COVID compliance.
- No solemn matters are being dealt with locally. The local PF office is discouraged from calling petitions although this happens occasionally.
- There has also been communication with SP Pyle locally and the ABA and are pleased that sheriff & juries will be proceeding. It would be good to work out what is to happen to summary business as a result.
- It would also be helpful to find out about more including the timetable for SCTS's roll out of WebX and when and who has been trained.

Ayr (PLo)

- Since last week, the summary business is working reasonably well.
- Ayr has also started sheriff & juries using the Odeon. This is operating for Ayr and Kilmarnock where there have been four trials run since last week. Ayr has had technical difficulties as the screen freezes that causes some difficulty and is running some way behind. These need resolved.
- There are some issues too over staffing from the SCTS perspective as some staff have gone home and are not working in the courts.
- An issue (SCTS/COPFS) has arisen over concerns of safety in the courts where a depute did not return to court after lunchtime. The accused was thereafter found not guilty and since then, COPFS is understood to have raised a Bill of Advocacy to be heard by the High Court in due course.

Falkirk (KD)

- There was a virtual custody court pilot being held today. It will be interesting to see how these are going to work in due course.
- The number of custodies is continuing to be low.
- Summary trials are going off.
- COPFS are trying to identify priorities though the courts have already selected the trials which merit priorities which relates to those accused who are in custody. To identify other priority cases – means that there is another complication in getting cases into court. What is a priority case?

COPFS (AR)

His remit mostly concerns what is taking place with the High Court.

With summary what they are trying to do is to avoid of the problems that arose in the last lockdown. There are a number from the COPFS Union perspective who are very concerned about safety issues in sheriff court but there is recognition that this is local issue as some courts are bigger than others with different measures required in different places. It was not about a one size fits all.

AM confirmed that SCTS were following the public health standards – but each court was separate so it was useful to be aware that issues were being expressed across the membership.

Not sure how many of the SCTS assessments have been seen by COPFS but there was a need for these to be refreshed as to the time when they were originally carried out and also to reflect the numbers in the court and also the impact of the infectious COVID strain.

For instance with regard to Aberdeen these are not necessarily big courtrooms for sheriff & jury. There may be a need to revisit these as when more come into court this becomes problematic.

Edinburgh (JMcP)

The court safety assessments differ from across the country. She was working with local interfaculty groups to see if there had seen some site-specific assessments as they were not necessarily consistent with what there was on the ground. To date there were 11 faculties signed up.

There was recognition that those who were meeting on the ground did not necessarily have the budget or the ability to enforce the making of changes. However if there are collective actions then it helps to enforce the various points to allow these to be made at national level

There was a will to help in that they were opening up some local courtrooms for agents who were waiting.

LJ reflected on the progress being made to open up room which was not available previously highlighting good working practices.

AP1: AM requested that the letter was copied to LSS once it had been sent.

Dumfries (LD)

PIDMs are not working well. They needed to be done by phone as the computer system was not working. Some issues which have arisen are as follows as it was confirmed that this was discussed at the meeting on Monday, but it would help to have more context as to why the system is not working.

- The booking slots were not working as the technology was clunky and not accessible.
- It was a difficult process to set up where if booking, the problem was that when booking it was hard to find a timeslot and there was no way of booking for another date. Information needs typed in twice.
- There may be updates in the pipeline to simplify this and sort this out.
- PLo advised that there were not reintroducing the pilot (summary management pilot) but if PIDMs work, the pilot will be obsolete. It should be possible by the end of March with the statistics to review this.
- PIDMs are trying to get a system up and running but it is slow burner which needs time, it would have been best to have piloted this first but there is to keep feeding in the problems to make it better.
- Generally, it is the app with which there are problems - the communication is between the agents as before which works without layers of technology

As an example of good practice, CJSWR were being emailed before remand courts so this was helpful as it saved time in court.

Dumbarton (PLa) by message

- There was a correction from last week's note in that there were existing Perspex screens in two interview rooms and not as a reaction to recent events.
- Regarding WebX technology, a demonstration at Clydebank Police Office was held as precursor to rolling out remote custodies and attended by resident Sheriffs and Sheriff Principal. It was a disaster and there has been no recent intimation of its introduction.
- There has been some greater success in booking PIDMs but there is agreement that the booking process is very cumbersome. It's also impossible to delegate the booking process as there is a need for the solicitor's phone to authenticate the login.
- There is a new Sheriff Clerk whom it is hoped to meet for one to one to discuss options

Dundee - KG

- The position is much the same as elsewhere but highlighted the issue with WiFi access with no direct access and firewall problems.
- Prisons and visits are causing a problem and will slow down business in the courts
- On Tuesday, solemn cases were called to extend time-bars where there was no more room. This was a worrying use of the court in view of the public health safety issues.
- Sheriff & juries are getting up and running with teething problems to be sorted out which should make a difference.

Hamilton – MOH

- PIDMs are a unique way of working but not working how COPFS want them to work
- Similar practices are arising with the Remand Court with CJSWR being emailed in advance
- With DTTOs and CPO reviews where reports are good the accused need not attend.

Summary - Identification/assessment of priorities/risks

Key issues in bold (from 14 January 2021):

- 1. The court business across the country have all adapted since the announcement made this week that only essential court business was to proceed.**

Update from the meeting on 21 January seemed positive in the courts were adapting to the new norm. There were positives such as:

A willingness to work together to find ways to make the court estate work such as:

- Use of additional court rooms which were not already being used.
 - Use of solutions to send CJSWR in advance to help the management of the Remand Courts.
 - Not requiring the accused to attend where reports from DTTO and CPOs are good which reduces the footfall.
- 2. Good practice is identified as being where the courts have started to outline what business and how business is going to run. (Hamilton)**

See above.

- 3. Safety is an ongoing concern for all.**

This remains a significant issue. There are calls to see the update risk assessments and ascertain what they say as it is recognised that each court is different and presents different challenges. This are also similar concerns expressed from COPFS.

Can SCTS update locally on the position as there is a need to reflect the current situation of who is going into the courts? This will be affected by factors such the infectious strain and the impact of the start of sheriff & jury business as it is rolled out across the country.

4. Technology exists. Creative use is required.

They are signalling and continued wi-fi issues.

There is a ned to find out more about the roll out of WebX where it is to be used and how far training has gone.

[Note – There was a meeting with the SCTS Director of Digital Services before Xmas where this was discussed. As well as highlighting the issue at this senior level it is worth the Criminal Law Committee trying to meet them again as they are the Director in charge.]

5. Flexibility of approach

This should be stressed that the impression is of better relationships across the members and SCTS/COPFS and being in this together to help make the criminal justice system work.

Being aware of plans and how matters are developing would help – such as the release of information on an embargoed nature to allow the Society a chance to comment.

6. PIDMs

These remain problematic. The note above illustrates some of the practical and detailed issues and this is consistent across the country where the app presents problem rather than the system itself.

[Note: At the time of roll out with COPFS these were all flagged as possible issues and it is why we suggested that there was a pilot.]

Key issues in red (from 21 January 2021):

7. Communication

As highlighted above there is a need to communicate with the profession the information being shared in these meetings. This needs to be discussed internally as to the best way to manage this information and to communicate.

The next meeting is Thursday 28 January 2021 at 3pm