



Meeting	Policing Performance Committee
Date	6 December 2023
Location	Video Conference
Title of Paper	Policing Demand and Impact of Changes to the Courts and Criminal Justice System
Presented By	ACC Wendy Middleton
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to inform the SPA Policing Performance Committee of the impact of changes to the Courts and Criminal Justice System with respect to implementation of the Sheriff Principal’s Orders on Tuesday 19th September 2023.

Members are invited to discuss the content of this paper.

1. BACKGROUND

- 1.1 GeoAmey were awarded the Scottish Custody and Courts Prisoner Escort Contract (SCCPES) in 2018. Previous partner concerns regarding sub-optimal service delivery are well documented.
- 1.2 GeoAmey are required to ensure that police custodies arrive at court no later than 30 or 45 minutes before commencement of daily court business. Reduced staffing, owing to recruitment and retention issues, has impacted the efficiency of logistical processes, and the operating model required by GeoAmey to achieve this.
- 1.3 Competing demand for court cell space by vulnerable police custodies and HMP prisoners, an increase in non-court tasks, and the later start of custody courts, has resulted in regular late uplifts of Police custodies. This has led to custody courts, particularly Edinburgh, Glasgow and Hamilton Sheriff Courts, concluding business well beyond acceptable daytime hours. Similar issues have also contributed to delays in the attendance of HMP prisoners to court for procedural diets and trials.
- 1.4 On the 26th June 2023, Hamilton Custody Court concluded after 10pm, attracting widespread media criticism from defence agents and the Law Society of Scotland resulting in escalation of the issue to the Criminal Justice Board.
- 1.5 On Tuesday 19th September 2023, under Sections 27 and 28 of the Courts Reform (Scotland) Act 2014, the Sheriffs Principal implemented the Sheriff's Principal Orders (hereinafter referred to as the "orders") to regulate the sitting times of custody courts; reduce the number of HMP prisoners required to physically attend court for a first or procedural diet and in respect of warrant apprehensions; introduce streamlining and efficiencies for the hearing of warrant apprehensions for multiple matters; and Cross Border warrant arrests.
- 1.6 This paper provides an update on how these measures have impacted on GeoAmey service delivery and Criminal Justice Processes.

2. SHERIFF'S PRINCIPAL ORDERS

2.1 REGULATION OF THE SITTING TIMES OF CUSTODY COURTS

- 2.1.1 The "Orders" require custody courts to conclude no later than 7pm on a Monday and 6pm every other week day.
- 2.1.2 Police Scotland was initially concerned that this instruction would result in un-heard custodies being returned to Police Custody Units, creating a less than desirable situation for vulnerable custodies, whilst placing additional demand on custody units, NHS provision and potentially Local Policing if required to assist with additional escort duties or constant observations.
- 2.1.3 Police Scotland legal services identified that a person in custody at Court could not lawfully be returned to Police Custody in circumstances where the case had not yet called unless they were subject of a court order, or a warrant. This was adopted as a new legal position by Police Scotland, causing some initial concern amongst partners to identify available options if this situation was experienced, which did occur twice.
- 2.1.4 To support future decision making and maintain this legal position, a Joint Assessment Meeting was convened by Police Scotland. It has run regularly on a Monday and Friday afternoon, affording an opportunity for partners, including GeoAmey to discuss the remaining court business for the day, identify emerging issues, and work together to deliver pragmatic joint solutions. This has worked effectively, has been welcomed, and few related issues now arise.
- 2.1.5 From a Police Scotland perspective, the new court closure times still place pressures on partners as, for some courts, GeoAmey staffing issues still exist, resulting in late custody uplifts and a rush to ensure custodies are transported, and cases heard. In some instances, this has led to custody courts operating beyond those times, with some challenge from a small number of defence solicitors that they will not stay beyond 5.30pm unless the case papers and custody are both available.
- 2.1.6 Police Scotland is actively working to reduce custody court demand by ensuring the use of alternative disposal methods where appropriate, whilst applying appropriate scrutiny to escort levels for vulnerable custodies to improve opportunities for these custodies to be transferred to court first. In particular, work is ongoing between all partners at Hamilton Sheriff Court to streamline custody court

processes. On receipt of Service Review forms, additional escort hours are being tracked to convert to an FTE measurement.

2.1.7 In respect of the new legal position, the Scottish Prison Service has asked Police Scotland Legal Services to share this with the Scottish Government Legal Department (SGLD).

2.2. MULTIPLE MATTERS

2.2.1 Part 6 of the "orders" advises that where a person appears at court, having been apprehended on warrant, and has multiple matters due to call, these should all be heard at the same court. This was implemented to reduce the number of custody transfers completed by GeoAmey as prior to the orders, particularly if the matters related to different Sheriffdoms, the person in custody would remain apprehended and move from court back to custody on consecutive days.

2.2.2 Whilst GeoAmey have reported positively that this has caused a reduction in custody moves, in practice there are legal and procedural nuances, which means this arrangement cannot apply in every circumstance. Petition matters and Pre-Conviction Summary Warrants, where COPFS has raised an additional Fail to Appear complaint, must be heard at the originating court.

2.2.3 Given this protocol is new, there have been a few teething issues in the collective understanding of what is required and appropriate guidance has now been shared within Police Scotland. However, Local Policing warrants departments have reported that they are not always being informed as to what matters have or have not been heard. This creates a risk for Police Scotland in a warrant remaining live after execution, or an apprehension opportunity being missed.

2.2.4 SCTS has now provided guidance to GeoAmey and will update their protocol to ensure that Police Scotland is updated appropriately by regular liaison with warrants departments to prevent such issues being experienced.

2.3 USE OF DUMFRIES POLICE CUSTODY UNIT FOR CROSS BORDER VC'S

2.3.1 Part 5 of the Sheriff's Principal Orders advise that a person, who is in Police custody, is remanded, or is serving a prison sentence in England and Wales and requires to attend a custody court in Scotland for first appearance, may be taken to Dumfries Custody

Unit for the matter to be heard by VC if GeoAmey are unable to transport them to the originating court prior to 4pm.

- 2.3.2 Local discussions were made with internal and external partners, including V Division and Dumfries Social Work department. The Custody Operating model at Dumfries is such that it cannot accommodate the routine provision of VC services in the manner requested by these orders. In terms of post-appearance care and welfare, where a person in police custody has no funds to pay for travel home, the local Social Work Department would usually be called upon to assist. With Cross Border custodies or HMP prisoners, who may be liberated routinely appearing from Dumfries PCU under this arrangement, this would place an excessive financial burden on Dumfries Social Work Department.
- 2.3.3 The provision of VC services by GeoAmey is part of an MoU agreed during the Covid 19 pandemic. It is not part of the SCCPES contract. In May 2023, the Scottish Prison Service, as lead in the contract, gave GeoAmey permission to withdraw from staffing VC's. More recently, the Scottish Prison Service implemented a process to ensure a VC was only staffed by GeoAmey in exceptional circumstances if authorised by the Duty Prison Escort Monitor, as provision of this service attracts an additional payment by SPS to GeoAmey.
- 2.3.4 If GeoAmey were not authorised to provide this service where VC was still the favoured option, this would require Criminal Justice Police Custody Officers (CJPCSOs) to undertake it, placing additional demand on the current operating model at Dumfries.
- 2.3.5 As a result of all of the above, there is no widespread partner support for the Dumfries arrangement, and GeoAmey have been notified that this option should only be used on an infrequent and exceptional circumstances basis. For the few VC's that have been heard under the arrangement, no issues have been reported.

3. FINANCIAL IMPLICATIONS

- 3.1.1 There is significant financial implications for Police Scotland as a result of the ongoing limited capability of Geoamey and the requirement to have persons appear at court at the earliest opportunity. This is resulting in local policing officers conveying persons to court, generally late in the day, which inevitably results in overtime being incurred.

3.1.2 Given the vulnerability of the majority of people in custody, there is often a requirement for constant observations for the duration of their stay. This often relies upon additional resource from local policing, again with an associated overtime expense so as not to deplete the frontline capability. Therefore the longer people are in custody, the overtime spend increases accordingly.

3.1.3 There is also an associated soft facility expense with any persons in our care, this includes suitable and sufficient food and drink and the costs associated with ensuring that sufficient fresh laundered bedding and anti-ligature clothing is available.

4. PERSONNEL IMPLICATIONS

4.1.1 As detailed in section 3 above, there are significant personnel implications, affecting both CJSD and local policing. Any delay in the transport of persons to court results in a higher number of people being within the custody suites for a longer period of time. Creating an increased demand in relation to continuing care and welfare.

4.1.2 There is a significant impact on local policing personnel when officers are required to convey people to court at short notice and when supporting the requirement for constant observations of the most vulnerable. Both result in officers being diverted from frontline response duties and their personal operational workload.

5. LEGAL IMPLICATIONS

5.1 There are legal implications in this report in respect of the new position regarding Police Custody versus Legal Custody.

6. REPUTATIONAL IMPLICATIONS

6.1 There are reputational implications in this report in respect of ongoing media reporting regarding the current GeoAmey situation.

7. SOCIAL IMPLICATIONS

7.1 There are no social implications in this report.

8. COMMUNITY IMPACT

8.1 There are no community implications in this report.

9. EQUALITIES IMPLICATIONS

9.1 There are no equality implications in this report.

10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications in this report.

RECOMMENDATIONS

Members are invited to discuss the content of this paper.