

Agenda Item 4

Meeting	Forensic Services Committee
Date	30 October 2023
Location	Via MS Teams
Title of Paper	HMICS Assurance Review of
-	Forensic Toxicology Provision -
	Improvement Plan and timeline.
Presented By	Fiona Douglas, Director of Forensic
-	Services
<b>Recommendation to Members</b>	For discussion
Appendix Attached	Yes – action plan summary

#### **PURPOSE**

To provide members with an update on progress on the HMICS Assurance Review of Forensic Toxicology Improvement Plan and timeline for delivery.

The paper is submitted for discussion.

#### 1. BACKGROUND

- 1.1 In June 2022, the Chair of the Scottish Police Authority requested HMICS conduct an Assurance Review of SPA Forensic Services Toxicology Section.
- 1.2 This following the disclosure that a number of drug driving cases had been marked as 'no proceedings' by the Crown Office and Procurator Fiscal Services (COPFS).

#### 2. FURTHER DETAIL ON REPORT TOPIC

- 2.1 On 13<sup>th</sup> July 2022, HM Chief Inspector of Constabulary Scotland (HMICS) published the Terms of Reference for their Assurance Review with the aim to 'assess the state, efficiency and effectiveness of the arrangements in relation to the processes which are in place for obtaining, analysing and reporting toxicology samples obtained for Section 4 and Section 5A Road Traffic Act 1988 cases'.
- 2.2 HMICS has concluded their detailed Assurance Review and published their <u>report</u> on their findings on 25<sup>th</sup> April 2023. HMICS made 25 recommendations for improvement, highlighting a number of key areas including strategy, planning, process, management, reporting, scrutiny and prevention in relation to drugs driving.
- 2.3 The HMICS report was presented to the Scottish Police Authority meeting on 21<sup>st</sup> June 2023 by His Majesty's Inspectorate of Constabulary.
- 2.4 Partners were required to develop action plans associated with the recommendations across the range of areas identified.
- 2.5 In response to the publication of the HMICS report, Forensic Services, SPA and Police Scotland developed action plans to address the recommendations where the organisations were the identified Action Leads.
- 2.6 Good progress is being made in terms of Forensic Services, SPA and Police Scotland addressing the recommendations.
- 2.7 The appendix provides a summary of progress in relation to the recommendations where Forensic Services, SPA and Police Scotland are Action Leads. This report does not cover the remaining recommendations, such as those owned by the Scottish Government.

#### 3. FINANCIAL IMPLICATIONS

3.1 There <u>are</u> financial implications in this report, specifically the additional staff associated with the Forensic Services Operating Model, the review of the processes with a view to reducing / reclaiming costs and the review of current and future procurement of drug driving analysis outsourcing to ensure best value.

#### 4. PERSONNEL IMPLICATIONS

4.1 There <u>are</u> personnel implications associated with this paper, specifically the recruitment of staff associated with the Forensic Services Operating Model and the review of workload and work allocation with Criminal Toxicology team.

#### 5. LEGAL IMPLICATIONS

5.1 There <u>are</u> legal implications associated with this paper, specifically the cases which could not be pursued to prosecution.

#### 6. REPUTATIONAL IMPLICATIONS

6.1 There <u>are</u> reputational implications associated with this paper, specifically the drug-driving cases which could not be pursued to prosecution.

#### 7. SOCIAL IMPLICATIONS

7.1 There <u>are</u> social implications associated with this paper, specifically the impact from drug-driving cases not being pursued, and gaining a better understanding of the scale and nature of drug driving in Scotland (also in combination with drink driving).

#### 8. COMMUNITY IMPACT

8.1 There <u>are</u> community implications associated with this paper, specifically the impact on communities from drug-driving cases not being pursued and gaining a better understanding of the scale and nature of drug driving across Scotland (also in combination with drink driving).

#### 9. EQUALITIES IMPLICATIONS

9.1 There <u>are no</u> equality implications associated with this paper.

#### 10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

#### **RECOMMENDATION**

Members are requested to discuss the information contained in this report.



# **Appendix A** – Improvement Plan Summary and Timeline

No	Recommendation	Action Lead	Actions	RAG	Target	Narrative
1	Police Scotland, SPA Forensic Services and Crown Office and Procurator Fiscal Service should work with Scottish Government to collate and produce data to facilitate an assessment of the scale and nature of drug driving in Scotland. This should include a review of combination drink and drug driving behaviour.	Police Scotland	1. Engage with SIPR, Police Scotland, COPFS and Scottish Government regarding HMICS recommendation.  2. Agree baseline for data analysis collaboratively.  3. Task APU to collate data re nature and scale of drug driving in Scotland (with ref to baseline criteria). Including a combination of drink drug driving behaviour.  4. Further engagement with external organisations regarding additional data and research.		Q3 24/25	Dialogue with academia to understand if any research has been carried out in relation to this issue – none identified at this time.  Dialogue ongoing between PSoS and SG colleagues regarding availability of data which would inform this recommendation.

2	SPA and Police Scotland should consider an auditable mechanism to assess impact of new legislation in terms of resource, budget, policy and public confidence	SPA	Review current mechanism and identify potential changes.      Implement agreed changes.	Q4 23/24	There is now a robust process in place, to identify emerging strategic drivers and legislative changes for forensics and wider policing system implications through SPA's Horizon Scanning Programme. The programme is overseen and guided by the Joint Evidence and Research Forum.  This is co-chaired by Tom Halpin and DCC Taylor and coordinates the horizon scanning of SPA, SPA Forensics, SG, SIPR, College of Policing and Police Scotland. In September, SPA Corporate submitted the last Joint Research and Evidence Forum information as evidence for submission to HMICS. Scottish Government have agreed that
					they will bring potential future legislation for horizon scanning.
3	SPA Forensic Services, Police Scotland and Crown Office and Procurator Fiscal Service must work together and identify solutions and timelines to 'stand down' outstanding interim and exceptional measures, still in place, to	FS	1. Engage with Police Scotland and COPFS regarding HMICS recommendation.  2. Agree actions necessary to facilitate a 'stand down' of	Q3 24/25 from FS perspective(b ut closure may need agreement of long term sustainable model)	FS is analysing and reporting Drug Driving cases in a much more timely fashion (as per the FS Q2 Performance Report), which means that the exceptional measures are not (generally speaking) required for cases that are analysed in- house.

	support drug driving justice provision.		outstanding interim and exceptional measures to support drug driving provision.  3. Communicate end date for 'stand down'.  4. Communicate final position to Op HITCH.		Outsourced casework is being completed in a less timely fashion currently, but there is ongoing dialogue with provider in this regard.  Engagement ongoing with PSoS and COPFS regarding the timescale for 'standing down' the outstanding and exceptional measures, although this may rely on a long-term sustainable model for drug driving.
4	SPA and SPA Forensic Services should review the drug driving analytical and reporting process and seek ways to reduce costs.	FS	1. Engage with SPA re HMICS recommendation. 2. Review existing documentation (process maps) and technological developments regarding process improvements in analytical process to identify cost reductions.  3. Review existing documentation (process maps) and technological developments regarding process	Q3 23/24	Process mapping activities are ongoing within Criminal Toxicology.  Toxicology Development activities are proceeding according to plan – this will realise an increase in capacity throughout 23/24 and into 24/25.  Various improvements have been identified in existing operating model and processes, some of which have been implemented and some of which are in the process of being implemented.  Some cost reduction measures will need capital investment,

			improvements in reporting process to identify cost reductions.		which is likely to extend beyond the stated timescale for completion of this activity.  A cross-functional Short Life Working Group has been set up and is due to have their first meeting during October '23.
5	SPA and SPA Forensic Services should review current and future procurement of drug driving analysis outsourcing to ensure best value.	FS	1. Engage with SPA regarding HMICS recommendation.  2. Engage with Procurement regarding HMICS recommendation re the current procurement contract for outsourcing.  3. Explore opportunities with Procurement to improve provision of best value in current and future contracts, as part of the annual contract review process.	Q3 23/24	FS has engaged with PSoS Procurement to explore opportunities for improvement for current and future procurement of drug driving analysis outsourcing (some learning may also be relevant to other contracts).  Further dialogue will take place later in Q3 to finalise the activity.  A cross-functional Short Life Working Group has been set up and is due to have their first meeting during October '23.
6	SPA and SPA Forensics Services should consider the available evidence in other jurisdictions to	SPA	Engage with     HMICS about     potential     jurisdictions to	Q1 24/25	Significant research has been undertaken in relation to evidence in other jurisdictions, in order to assess the

assess the opportunities to	explore initially	opportunities to reclaim
reclaim forensic service	regarding	forensic services costs.
costs and then work with	opportunities to	
Crown Office and	explore cost	Dialogue has taken place with
Procurator Fiscal Service	recovery.	SG colleagues to explore the
and Scottish Government	,	potential for this to be
to establish if this is	2. Create Short Life	introduced in Scottish Criminal
possible in Scottish	Working Group	Trials.
criminal trials.	(involving SPA,	
	Police Scotland and	There is no plan, at this time,
	SPA Forensic	for SG to initiate this change in
	Services) to	Scottish Criminal Trials.
	explore the issue in	
	detail.	
	actaii.	
	3. Engage with	
	other forensic	
	science	
	organisations (or	
	criminal justice	
	systems) which	
	may have this	
	model (or	
	considered this	
	model) for service	
	•	
	delivery.	
	4 Engage with	
	4. Engage with COPFS and SG	
	regarding the	
	potential to	
	establish this within	
	Scottish criminal	
	trials.	

7	Police Scotland and SPA Forensic Services should improve how drug driving samples are tracked and managed, including the consideration of technological methods such as barcoding, networking and automation of processes and instruments.	FS	<ol> <li>Map current processes within Police Scotland and Forensic Services.</li> <li>Identify opportunities for improvements (with existing and new solutions).</li> </ol>	Q1 25/26 (for identification of improvements in phase 1).	Process mapping activities are being undertaken within FS in terms of the current processes.  Various opportunities for improvement exist, including bar-coding, RFID tagging and automation of processes and networking of instruments.
			3. Implement improvements (with the available technology).		However, many of these will require investment in infrastructure, which will extend beyond the deadline for completion of the improvements in phase 1).
8	SPA Forensic Services, Police Scotland and Crown Office and Procurator Fiscal Service should consider opportunities for the Joint National Forensic Gateway to effectively manage all forensic submissions, including drug driving.	PSoS	1. Short Life Working Group to be considered to explore this recommendation.	Q3 23/24	Dialogue ongoing between the partners regarding the Joint National Forensic Gateway and the opportunity to manage all forensic science submissions, including drug driving samples which is being progressed through the Gateway review.  Opportunities to increase Gateway capacity have been identified which could be used to support this additional work.  SLWG ongoing to improve
					production submission process and benefits of a change from direct submission.

9	Police Scotland and SPA Forensic Services should create a priority forensic analysis protocol that would establish high and standard risk categories for analysis and associated timescales for drug driving cases.	FS	1. Request breakdown of high and standard risk categories from Police Scotland and COPFS.  2. Draft timescales for completion of these risk categories (within the overall timescale permitted by the prevailing statutory time limit).	Q2 23/24	Priorities for Drug Driving have been discussed and agreed with PSoS and COPFS.  The priorities and timescales for analysis of drug driving cases have been included in the MOU for drug driving, which is with partners for consideration.
			3. Update the Memorandum of Understanding for Drug Driving to include these categories and indicative timescales.		
10	SPA Forensic Services must immediately progress the core operating solution plans and explore opportunities to interface with Police Scotland and Crown Office and Procurator Fiscal Service.	FS	<ol> <li>Present Interim Business Case to SPA Resources Committee.</li> <li>Develop Full Business Case.</li> <li>Present Full Business Case to</li> </ol>	Q1 24/25	Interim Business Case for Core Operating System was presented to the SPA Resources Committee in June 2023, and agreement was obtained to progress to Full Business Case.  It is anticipated that the Full Business Case will be

			SPA Resources Committee.  4. Depending on decision regarding business case, the roll out of the new Core Operating System.		submitted to SPA Resources Committee for consideration in Spring 2024.
11	SPA Forensic Services should work with Police Scotland and review the storage and movement of drug driving samples end to end, to ensure that all efficiencies, sample degradation risks, forensic integrity and health and safety matters have been considered and implemented.	FS	<ol> <li>Engage with Police Scotland re the HMICS recommendation.</li> <li>Document processes for storage and movement of drug driving samples end-to-end.</li> <li>Consider efficiencies, sample degradation risks, forensic integrity and health and safety matters.</li> <li>Implement improvements.</li> </ol>	Q1 24/25 (for phase 1)	Process mapping activities are being undertaken within FS to identify potential improvements in the internal end-to-end process.  Likewise, PSoS colleagues are reviewing current processes.  The timescale for analysis and reporting of drug driving cases internally has been improved significantly (this reduces risk).  Guidance on sample storage has been provided to PSoS.  Guidance on the criteria for acceptance of drug driving samples is being prepared.
12	SPA, SPA Forensic Services, Police Scotland and the Health Boards of Scotland must collectively consider the service	PSoS	1. Engage with SPA, Police Scotland and Health Boards re the HMICS	Q3 24/25	Dialogue ongoing regarding the mechanism for incorporating this activity into the overarching MOU between

	provision for drug driving within the scope of the Memorandum of Understanding between Police Scotland and all geographic Health Boards, regarding custody healthcare and forensic medical services in police custody.		recommendation.  2. Short Life Working Group to consider implications on MOU regarding custody healthcare and forensic medical services in police custody.  3. Position Paper to		PSoS and the geographic Health Boards.
			be presented to Op		
13	SPA Forensic Services should, as a matter of urgency, review current working practices including workload and work allocation for all staff involved in the delivery of drug driving forensic service provision.	FS	1. Review working practices, workload and work allocation for all staff involved in the delivery of drug driving service provision.  2. Consider potential improvements.  3. Implement improvements.	Q2 23/24	Existing working practices have been reviewed and streamlined, where possible (based on existing equipment).  Outsourcing has continued to ensure manageable FS workloads whilst development activities are being undertaken. Development activities are progressing according to plan, which will improve capacity.  One additional post has been realigned to Criminal Toxicology from another operational area, in order to boost capacity.

					Additional management support has been provided at first line manager level.  A cross-functional Short Life Working Group has been set up and is due to have their first meeting during October '23.
14	SPA Forensic Service managers must ensure they have effective management structures and performance management information in place to ensure proactive oversight and scrutiny in terms of work allocation, demand and capacity assessment, as well as performance.	FS	1. Highlight HMICS recommendation at FS Performance Board.  2. HoFs to consider whether this recommendation would be met within their area/s of responsibility.  3. For any area/s where there may be gaps in governance and oversight, necessary changes to be implemented (this will require consideration of the changes implemented as a result of the move to the Target Operating Model).	Q4 23/24	HMICS recommendation has been highlighted to operational managers via FS Performance Board.  The organisational structure within FS is changing to align with the structure within the Target Operating Model – this includes a management structure more aligned to the future demands on the service.  FS is developing enhanced capability for performance monitoring and management (aligning with the FS Performance Framework), using granular management information reports.  Operational performance is being scrutinised at FS level, team level and individual level to ensure appropriate oversight and scrutiny. Demand and

					capacity are routinely assessed and reported.  Demand, capacity and performance are reported
					routinely to the FS Committee.
15	SPA Forensic Services should work with Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunal Service to establish a pragmatic and realistic approach to report and evidence submission for drug driving, and consider criteria for SPA Forensic Services professional	FS	<ol> <li>Engage with COPFS and SCTS regarding the HMICS recommendation.</li> <li>Identify current position and potential improvements.</li> <li>Implement</li> </ol>	Q1 24/25 (for phase 1)	Dialogue has been ongoing for some time with COPFS and SCTS regarding the provision of evidence remotely.  Opportunities for improvement in the processes for reporting also exist, and are aligned to improvements in the wider Criminal Justice System.  A cross-functional Short Life
	witnesses and opportunities for remote evidence provision.		potential improvements.		Working Group has been set up and is due to have their first meeting during October '23.
16	SPA Forensic Services and Police Scotland should assure that data retention, data processing and production management guidance is cognisant of the handling and management of blood samples and associated data obtained for the purposes of sections 4 and 5A of the Road Traffic Act	FS	<ol> <li>Engage with Police Scotland regarding the HMICS recommendation.</li> <li>Identify current position and potential improvements regarding data retention, data</li> </ol>	Q1 24/25	Dialogue is ongoing between partners regarding this recommendation.  Service delivery has improved significantly from the historical position, with casework being completed in a much more timely fashion, so results are available to PSoS and COPFS more quickly.
	1988.		processing and production		Data retention is in line with guidance; this is one of the

			management.  3. Implement potential improvements.		items assessed through internal audit programme.  Guidance has been provided to PSoS re production storage.  Sample handling guidance is documented in the FS Quality Management System, accredited by United Kingdom
17	SPA should review the functionality and membership of the Forensic Services Committee to provide effective and robust governance, providing an effective platform for Police Scotland, Crown Office and Procurator Fiscal Service and the Police Investigations and Review Commissioner to hold SPA Forensic Services to account in terms of the quality and delivery of service provision.	SPA	1. Proposals are under development.  2. Following engagement, review proposals will be presented to the Authority 24 August 2023, for implementation October 2023.	Q3 22/24	Accreditation Service.  A review of the functionality and membership of the Forensic Services Committee has been undertaken by SPA.  An update was provided to SPA Authority meeting in August '23 by CEO, which included amendments to the FS Committee Terms of Reference. The proposals were approved by the Board at this meeting.  At the same meeting, SPA Chair provided an update in relation to changes in the membership of the Forensic Services Committee. The changes were noted by the Board at this meeting.
18	SPA Forensic Services must urgently address drug driving analysis and	FS	Continue to     outsource cases     aggressively	Q2 23/24 (for in-house casework)	Significant work has been undertaken internally in relation to timeliness of service

	reporting turnaround times, cognisant of sixmonth statutory timescales.		(within agreed finances), in order to mitigate against pressure on FS staff and to improve in-house TRTs.  2. Review and report progress regularly, taking cognisance of a return to 6-month statutory timescale in due course.  3. Create/update the MOU for Drug Driving detailing the expectations for end-to-end process timeliness.		delivery, including equipment validation, method development, recruitment of staff, staff training and continued outsourcing. As such, the timeliness of service delivery for drug driving casework is significantly improved from historical position, taking into cognisance the return to six-month statutory timescale in due course.  A cross-functional Short Life Working Group has been set up and is due to have their first meeting during October '23.
19	SPA Forensic Services must prioritise the recruitment of toxicology staff – as outlined in the Forensic Services Operating Model – to ensure current drug driving demand levels can be met in the short term.	FS	<ol> <li>Recruitment of staff (4 x FA, 1 x CTM) has been prioritised and is being finalised.</li> <li>Reassigned one member of staff from the Drugs team to Toxicology in June 23 to increase internal</li> </ol>	Q3 23/24	Recruitment of funded staff as outlined in the Target Operating Model has been completed.  Staff promotions have led to consequential vacancies which are also being filled.  One additional post has been realigned to Criminal Toxicology from another team,

			capacity for Drug Driving.  3. SFA staff being trained to report Section 5A cases, thus freeing up Senior Forensic Scientists to report more complex cases (e.g. Section 4 cases).		to boost capacity and to better align with demand levels.  Responsibilities of operational staff are being realigned, which will optimise capacity based on the complexity of the casework being undertaken.
20	SPA and Police Scotland should develop a drug driving Enforcement Model that incorporates incremental growth and investment for innovation and technology with an adjoining public communication plan.	PSoS	1. Assess nature and scale of drug driving.  2. Review potential for development of enforcement model.  3. Consider revision of longer-term strategy in light of nature and scale of drug driving and development of the enforcement model.	Q3 24/25 for understanding nature and scale of drug driving.  Development of the enforcement model can be undertaken in the intervening period, through pilots, for example.	Work ongoing to establish existing nature and scale of drug driving (see recommendation 1) will support this work.  A review of training required for development of the current model / enforcement model is being carried out (pilot being considered)  The longer-term strategy for Toxicology is being refined in line of PM Toxicology Team also being within FS. However, this longer term strategy is dependent on the demand created by the Enforcement Model.
21	SPA Forensic Services should review its Estates Strategy in respect of	FS	Explore existing models for a dedicated road	Q3 23/24 (for review)	Research has been undertaken into existing models for

	toxicology provision and consider the development		traffic facility.		dedicated road traffic facility within the UK and Ireland.
	of a dedicated road traffic		2. Consider long-		Within the ox and freight.
	facility.		term strategy for		The longer-term strategy for
			Toxicology,		Toxicology is being refined in
			considering the		line of PM Toxicology Team also
			separate business units of PM		being within FS.
			Toxicology and		The Estates Strategy will be
			Criminal		reviewed in light of these
			Toxicology, which		developments.
			are now both within		developments:
			Forensic Services.		Consideration will be given to
					the potential for a dedicated
			3. Consider Estates		road traffic facility within
			strategy taking		Scotland.
			cognisance of the		
			long-term strategy		
			for Toxicology		
22	SPA and SPA Forensic	FS	services within FS.  1. Decide which	Q2 23/24	The terms of Police and Fire
22	Services must, as a matter	F5	staff members will	Q2 23/24	Reform (Scotland) Act 2012
	of urgency, articulate the		be involved in this		has been reviewed.
	delivery of forensic service		review.		nas been reviewed.
	provision (as laid out in		. cv.cv.		Additional clarity around the
	section 31 of the Police and		2. Review the		practical delivery of forensic
	Fire Reform (Scotland) Act		terms of the Police		science has been discussed and
	2012) to manage		and Fire Reform		captured within the overarching
	expectations of agencies		(Scotland) Act		MOU between FS, PSoS and
	and to ensure		2012.		COPFS.
	understanding of what is		2 Agree what the		A tri partito convico chocific
	required by those in SPA Forensic Services		3. Agree what the delivery of forensic		A tri-partite service-specific MOU is close to being finalised
	TOTETISIC SETVICES		science provision		for drug driving services.
			entails, in terms of		To alag arring services.

			additional clarity (e.g. reference to MOU)			
23	Police Scotland should include drug driving prevention activity within its current road safety prevention activity.	PSoS	1. Evidence current prevention activity including Road Safety Scotland material and other campaign/preventa tive comms.  2. Plan for 2024 campaign with recognition of HMIC recommendations and partner activity.		Q3 24/25	Dialogue is ongoing between Road Safety Scotland and PSoS on marketing material to support forthcoming campaign.  Engagement ongoing with a Road Safety Charity to explore the potential to share preventive messaging.  Other avenues to raise awareness being exploited with media trained officers.
24	Scottish Government should consider refreshing its Road Safety Framework to 2030 to include drug driving, given the growing prevalence in Scotland.	Scottish Government	To be confirmed by Action Lead	TBC	TBC	N/K
25	Police Scotland should work with Transport Scotland and other organisations to establish long-term co-ordinated engagement and education campaigns and programmes aimed at raising awareness of the drug driving law.	PSoS	Cross refer to action 23  1. Evidence current prevention activity including Road Safety Scotland material and other campaign/preventa tive comms.  2. Plan for 2024		Q3 24/25	Dialogue is ongoing between Road Safety Scotland and PSoS on marketing material to support forthcoming campaign.  Engagement ongoing with a Road Safety Charity to explore the potential to share preventive messaging.

	campaign with		
	recognition of HMIC		
	recommendations		
	and partner		
	activity.		

#### Key:

Complete or submitted with recommendation for closure

Good progress towards completion

On target and under management control

At risk or late – but under management control

At risk or late – not under management control, remedial action required

Abbreviation	Entity
PSoS	Police Service of Scotland
FS	Forensic Services
SPA	Corporate SPA
SG	Scottish Government