



Meeting	Forensic Services Committee
Date	10 August 2023
Location	Via MS Teams
Title of Paper	HMICS Assurance Review of Forensic Toxicology Provision – Improvement Plan
Presented By	Fiona Douglas, Director of Forensic Services.
Recommendation to Members	For discussion
Appendix Attached	Yes – HMICS Drug Driving Action Plan v0.6

PURPOSE

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

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 13th 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 [report](#) on their findings on 25th 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 21st 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 developed an action plan to address the recommendations where Forensic Services were the agreed Action Lead.
- 2.6 Following detailed consideration, the Forensic Services Action Plan was submitted to HMICS on 21st July 2023. The action plan is included as an appendix.
- 2.7 Good progress is being made in terms of Forensic Services addressing the recommendations.

3. FINANCIAL IMPLICATIONS

- 3.1 There are 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 are 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 are legal implications associated with this paper, specifically the cases which could not be pursued to prosecution.

6. REPUTATIONAL IMPLICATIONS

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

7. SOCIAL IMPLICATIONS

- 7.1 There are 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 are 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 are no 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.

HMICS No.	Recommendation	Actions identified	Action Lead	Timescales for delivery	RAG / date
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	Mechanism to be developed in consultation with PS; COPFS; SG; FS, to be implemented by Q4 2023/24	SPA - Deputy Chief Executive Sillers	Q4 2023/24	
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 support drug driving justice provision.	<ol style="list-style-type: none"> Engage with Police Scotland and COPFS regarding HMICS recommendation. Agree actions necessary to facilitate a 'stand down' of outstanding interim and exceptional measures to support drug driving provision. Communicate end date for 'stand down' Communicate final position to Op HITCH. <p>NOTE: exceptional measures are defined as being those measures which were implemented as a result of the issue about time-barred cases being highlighted in March 2022.</p>	Op HITCH (FS Director of Forensic Science)	<p>Estimated completion date Q3 23/24 (for in-house cases and outsourced cases, from a Forensic Services perspective)</p> <p>NOTE: this is dependent on the market for outsourcing and the level of customer demand during this time.</p>	
4	SPA and SPA Forensic Services should review the drug driving analytical and reporting process and seek ways to reduce costs.	<ol style="list-style-type: none"> Engage with SPA re HMICS recommendation Review existing documentation (process maps) and technological developments regarding process improvements in analytical process to identify cost reductions. Review existing documentation (process maps) and technological developments regarding process improvements in reporting process to identify cost reductions. 	FS Tox Improvement Group (FS Head of Function)	<p>Estimated completion date Q3 23/24</p>	
5	SPA and SPA Forensic Services should review current and future procurement of drug driving analysis outsourcing to ensure best value.	<ol style="list-style-type: none"> Engage with SPA regarding HMICS recommendation. Engage with Procurement regarding HMICS recommendation re the current procurement contract for outsourcing. Explore opportunities with Procurement to improve provision of best value in current and future contracts, as part of the annual contract review process. 	FS Tox Improvement Group (FS Head of Function)	<p>Estimated completion Q3 23/24 (following formal review of contract)</p>	

HMICS No.	Recommendation	Actions identified	Action Lead	Timescales for delivery	RAG / date
6	SPA and SPA Forensics Services should consider the available evidence in other jurisdictions to assess the opportunities to reclaim forensic service costs and then work with Crown Office and Procurator Fiscal Service and Scottish Government to establish if this is possible in Scottish criminal trials.	<ol style="list-style-type: none"> 1. Engage with HMICS about potential jurisdictions to explore initially regarding opportunities to explore cost recovery. 2. Create Short Life Working Group (involving SPA, Police Scotland and SPA Forensic Services) to explore the issue in detail. 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 COPFS and SG regarding the potential to establish this within Scottish criminal trials. 	SPA - Deputy Chief Executive Sillers	Estimated completion date Q1 24/25 (if the proposals are to be approved legally)	
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.	<ol style="list-style-type: none"> 1. Map current processes within Police Scotland and Forensic Services 2. Identify opportunities for improvements (with existing and new solutions) 3. Implement improvements (with the available technology) 	Op HITCH (FS Director of Forensic Science)	Estimated completion date Q1 25/26 (for the identification of improvements i.e. phase 1). The implementation of improvements (e.g. introduction of Core Operating System) is unlikely to be completed within the next 2 - 3 years, i.e. phase 2.	
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.	<ol style="list-style-type: none"> 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). 3. Update the Memorandum of Understanding for Drug Driving to include these categories and indicative timescales. 	Op HITCH (FS Director of Forensic Science)	Estimated completion date Q2 23/24	

HMICS No.	Recommendation	Actions identified	Action Lead	Timescales for delivery	RAG / date
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.	<ol style="list-style-type: none"> 1. Present Interim Business Case to SPA Resources Committee 2. Develop Full Business Case 3. Present Full Business Case to SPA Resources Committee 4. Depending on decision regarding business case, the roll out of the new Core Operating System 	FS Change Programme (FS Head of Change and Development)	Estimated completion date Q1 24/25 (to take the Full Business Case to SPA Resources Committee i.e. phase 1). Timescale for Phase 2 (i.e. implementation of the Core Operating System) is dependent on available finances, so timescale is uncertain (but is estimated to be at least Q1 27/28)	
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.	<ol style="list-style-type: none"> 1. Engage with Police Scotland re the HMICS recommendation. 2. Document processes for storage and movement of drug driving samples end-to-end. 3. Consider efficiencies, sample degradation risks, forensic integrity and health and safety matters. 4. Implement improvements 	Op HITCH (FS Director of Forensic Science)	Estimated completion date Q1 24/25 (for completion of the review i.e. phase 1). Phase 2, the implementation of technological solutions, if required, will take longer to implement, due to the dependencies). For example, implementation of Core Operating System is unlikely to be before Q1 27/28	
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.	<ol style="list-style-type: none"> 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 	FS Tox Improvement Group (FS Head of Function)	Estimated completion date Q2 23/24	

HMICS No.	Recommendation	Actions identified	Action Lead	Timescales for delivery	RAG / date
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.	<ol style="list-style-type: none"> 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). 	FS Performance Board (FS Chief Operating Officer)	Estimated completion date Q4 23/24 (to take into account transition to New Operating Model)	
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 witnesses and opportunities for remote evidence provision.	<ol style="list-style-type: none"> 1. Engage with COPFS and SCTS regarding the HMICS recommendation. 2. Identify current position and potential improvements. 3. Implement potential improvements 	FS Tox Improvement Group (FS Head of Function)	Estimated completion date Q1 24/25 (phase 1 - review of current position and potential improvements). The implementation of any recommendations would depend on the extent, costs etc	
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 1988.	<ol style="list-style-type: none"> 1. Engage with Police Scotland regarding the HMICS recommendation. 2. Identify current position and potential improvements regarding data retention, data processing and production management. 3. Implement potential improvements. 	Op HITCH (FS Director of Forensic Science)	Estimated completion date Q1 24/25	
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	<ol style="list-style-type: none"> 1. Proposals are under development. 2. Following engagement, review proposals will be presented to the Authority 24 August 2023, for implementation October 2023. 	SPA Chief Executive Lynn Brown	Q3 2023/24	
18	SPA Forensic Services must urgently address drug driving analysis and reporting turnaround times, cognisant of six-month statutory timescales.	<ol style="list-style-type: none"> 1. Continue to outsource cases aggressively (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. 	FS Tox Improvement Group (FS Head of Function)	Estimated completion date Q2 23/24 (but is subject to partner approval, so it outwith FS control)	

HMICS No.	Recommendation	Actions identified	Action Lead	Timescales for delivery	RAG / date
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.	<ol style="list-style-type: none"> Recruitment of staff (4 x FA, 1 x CTM) has been prioritised and is being finalised. Reassigned one member of staff from the Drugs team to Toxicology in June 23 to increase internal capacity for Drug Driving. 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) 	FS Tox Improvement Group (FS Head of Function)	Estimated completion date Q3 23/24	
21	SPA Forensic Services should review its Estates Strategy in respect of toxicology provision and consider the development of a dedicated road traffic facility	<ol style="list-style-type: none"> Explore existing models for a dedicated road traffic facility. Consider long-term strategy for Toxicology, considering the separate business units of PM Toxicology and Criminal Toxicology, which are now both within Forensic Services. Consider Estates strategy taking cognisance of the long-term strategy for Toxicology services within FS. 	Strategic Group (Co-chair ACC Operational Support and Director FS)	Estimated completion date Q3 23-24 (excluding implementation of long term sustainable model, which will take 18-24 months to implement).	
22	SPA and SPA Forensic Services must, as a matter of urgency, articulate the delivery of forensic service provision (as laid out in section 31 of the Police and Fire Reform (Scotland) Act 2012) to manage expectations of agencies and to ensure understanding of what is required by those in SPA Forensic Services	<ol style="list-style-type: none"> Decide which staff members will be involved in this review. Review the terms of the Police and Fire Reform (Scotland) Act 2012 Agree what the delivery of forensic science provision entails, in terms of additional clarity (e.g. reference to MOU) Paper to be provided to articulate the delivery of forensic science provision to meet the recommendation. 	Op HITCH (FS Director of Forensic Science)	Estimated completion date Q2 23-24	

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