

Meeting	Forensic Services Committee
Date	25 April 2022
Location	MS Teams
Title of Paper	Drug Driving Update
Presented By	Alastair Patience
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

To provide members with an update on progress on the Drug Driving Toxicology Service.

The paper is submitted for discussion.

1. BACKGROUND

- 1.1 Changes to the Road Traffic Act 1988 (RTA) were enacted in Scotland on 21 October 2019. This legislation sets specific drug driving limits for 17 specified drugs. This legislative change was part of Scottish Government's Programme for Government in 2019/20.
- 1.2 The response to the new Drug Driving legislation was developed in partnership with Police Scotland and COPFS with oversight by Scottish Government. A working group enabled co-ordinated planning across all bodies to the new legislation.
- 1.3 Forensic Services support the delivery of the drug blood limit testing requirement for this Act prompted by a positive roadside test. This process is accredited to the recognised laboratory standard ISO 17025 by UKAS – the UK Accreditation Service.
- 1.4 Forensic Services analyse blood samples from those who have been accused of Drug Driving, having tested positive for a banned drug at the roadside.
- 1.5 The examination process to detect and quantify drugs subject to the S5A legislation has a high degree of complexity when compared with the more traditional drink driving samples. In drink-driving cases blood is examined for alcohol only. Examination times are longer for S5A drugs driving cases and as such the turnaround times are longer than more simple blood alcohol work.
- 1.6 Since the legislation was introduced in Scotland there has been a significantly higher demand for the service than initially forecast by Police Scotland. Initial casework was anticipated at circa 1,000 cases per year, however, the actual demand is currently in the region of 2,300 cases per annum and forecast to increase.
- 1.7 The Scottish Government provided additional capital funding to help enable this growing Forensic Services laboratory capacity with a one-off procurement of additional instrumentation necessary to increase service capacity.
- 1.8 Additional funding for the outsourcing of Section 5A cases was also identified and agreed.

- 1.9 The number of drug-driving cases is reported to the Scottish Police Authority Policing Performance Committee as part of the Police Scotland quarterly performance report.

2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 Demand for Section 5A drug driving analysis remains significantly higher than Forensic Services capacity, with the caseload remaining at an elevated level, although reducing steadily.
- 2.2 Outsourcing of Section 5A cases has continued since the last update to the Forensic Services Committee.
- 2.3 Additional funding was approved by the Scottish Government in November 2021 which will allow around 900 cases to be outsourced.
- 2.3 Marginal gains, with modest capacity increases have been implemented / are being taken forward, but these initiatives will not solve the underlying issue of demand outstripping available capacity.
- 2.4 The Forensic Services Target Operating Model project includes a potential increase in capacity for Toxicology services, however, there is likely to remain a significant shortfall in capacity based on ongoing forecasting work undertaken by Police Scotland and Forensic Services.
- 2.6 Building on workshop-based discussions with partners, mentioned in the previous update, further extensive dialogue with Police Scotland and COPFS has helped shape what options could be considered for the provision of a longer-term, sustainable, model.
- 2.7 Three options would include margins for growth of the drug driving service in excess of that of the Forensic Services Target Operating Model level of capacity, but would require a significant level of investment.
- 2.8 The dialogue continued following the last Forensic Services Committee meeting, so the draft tri-partite Position Paper has been updated and agreed. This paper has now submitted to the Scottish Government for consideration.
- 2.9 Consideration is being given to potential transition arrangements.

3. FINANCIAL IMPLICATIONS

- 3.1 There are financial implications associated with this report. There will be significant financial support required to deliver a long-term, sustainable, service going forward given the anticipated demand. However, the level of investment will depend on which option is developed for this new enhanced drug-driving toxicology service. The position paper has been submitted for consideration to the Scottish Government. There are also financial implications in terms of continued outsourcing whilst transitioning to a long-term, sustainable, model.

4. PERSONNEL IMPLICATIONS

- 4.1 There are personnel implications associated with this paper. As demand is in excess of the available Forensic Services capacity, additional administrative support has been provided to assist Toxicology staff.

5. LEGAL IMPLICATIONS

- 5.1 There are legal implications associated with this paper. Continued outsourcing relies on a legally binding contract with our outsourcing partner, and there are also legal implications if cases are not processed in a timely fashion.

6. REPUTATIONAL IMPLICATIONS

- 6.1 There are reputational implications associated with this paper. If the capacity of the Drug Driving Toxicology service is not managed sustainably to align with the high levels of demand, this could have implications for Forensic Services, Police Scotland, Crown Office and Procurator Fiscal Service and the Scottish Government.

7. SOCIAL IMPLICATIONS

- 7.1 There are social implications associated with this paper. If the capacity of the Drug Driving Toxicology service is not managed sustainably to align with the levels of demand, this could have implications for society.

8. COMMUNITY IMPACT

8.1 There are no community implications associated with this paper.

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.

RECOMMENDATIONS

Members are requested to note:

- The current position where marginal gains have been made / are being identified / are being taken forward, however, there is still a fundamental imbalance between demand and Forensic Services capacity.
- Funding for outsourcing has been approved by the Scottish Government and is being utilised.
- The Forensic Strategy Target Operating Model will potentially offer and increase in capacity, however this may not meet customer demand.
- A tri-partite position paper has been finalised and has been submitted to the Scottish Government. This paper details options which could be considered for the provision of a longer-term, sustainable, model for Drug Driving Toxicology service.
- Three options would include margins for growth of the drug driving service in excess of that of the Forensic Services Target Operating Model level of capacity, but would require a significant level of investment.
- The recognition that this is a partnership challenge requiring a strategic partnership solution.