



<b>Meeting</b>	<b>Forensic Services Committee</b>
<b>Date</b>	<b>10 August 2023</b>
<b>Location</b>	<b>Via MS Teams</b>
<b>Title of Paper</b>	<b>Drug Driving Update</b>
<b>Presented By</b>	<b>Alastair Patience, Head of Function</b>
<b>Recommendation to Members</b>	<b>For discussion</b>
<b>Appendix Attached</b>	<b>Yes – performance</b>

**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 Forensic Services support the delivery of the drug blood limit testing requirement, prompted by a positive roadside test. This process is accredited to the recognised laboratory standard ISO 17025 by UKAS – the United Kingdom Accreditation Service.
- 1.2 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 REPORT TOPIC**

- 2.1 UKAS visited Howden Hall in Edinburgh, for an assessment visit in relation to Criminal Toxicology during w/c 3<sup>rd</sup> July 2023. The assessment visit was concluded successfully with accreditation being maintained, with no findings raised. UKAS recognised the significant progress that has been made in relation to drug driving since the last visit.
- 2.2 On 13<sup>th</sup> July 2022, HM Chief Inspector of Constabulary Scotland (HMICS) published their 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'.
- 2.3 HMICS has concluded their detailed Assurance Review and published their report on their findings in April 2023. Good progress is being made in terms of Forensic Services addressing the recommendations.
- 2.4 A new outsourcing contract was implemented in September 2022. This new contract is being utilised fully to allow outsourcing of Section 4 cases, in addition to Section 5A cases, so offers additional flexibility to meet the current level of demand for Section 5A cases (c.200 cases per month). The outsourcing of these cases (using funding which has been agreed by the Scottish Government) has continued since the last update to the Forensic Services Committee.
- 2.5 Staff within the Criminal Toxicology team have been working at full capacity since the introduction of the legislation. The overall reduction in internal caseload, to a more manageable level, has had a positive impact on the staff within the team.

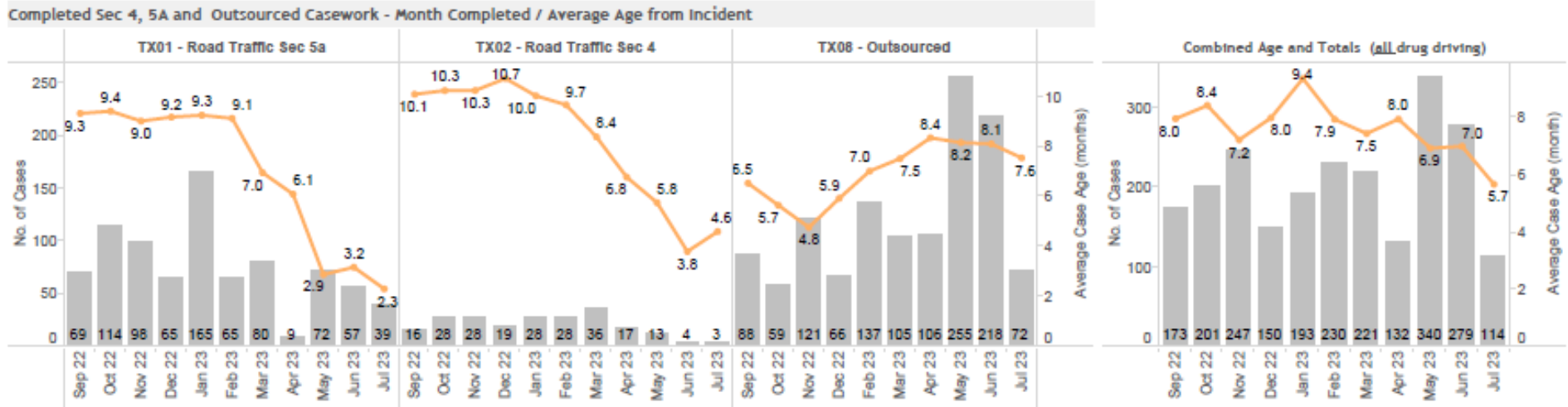
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- 2.6 With the reduction in internal caseload, and associated casework demands, the Criminal Toxicology team continues to progress the equipment validation, method development and staff training activities in order to increase in-house capacity.
- 2.8 The position regarding cases that could not be progressed to prosecution has improved significantly over the position from last year, however Forensic Services, Police Scotland and the COPFS are continuing to review the caseload to identify and prioritise further cases to mitigate against the risk of reaching the statutory time limit. A verbal update on the number of additional cases which could not be progressed to prosecution due to delays in laboratory testing was provided to the SPA Authority meeting in June 2023. Since that date, we have been notified about one further case which could not be progressed to prosecution due to delays in laboratory testing – this case was reported by Forensic Services in April 2022, so is not a recently completed case, although it was highlighted to us relatively recently.
- 2.9 The Forensic Services Operating Model Project makes provision for an increase in capacity for Toxicology services. Recruitment activity is ongoing in relation to this increase in capacity.
- 2.10 The Criminal Toxicology team continues to progress the training and development activities required to increase in-house capacity.
- 2.11 Consideration is being given to the required level of outsourcing required for 24/25, to allow further essential equipment validation, method development and staff training to be completed. In the absence of another mechanism to balance demand with capacity, a request for further funding for outsourcing will be required.
- 2.12 Criminal Toxicology staff continue to work tirelessly and remain committed to processing cases in a timely fashion. We continue to work closely with Police Scotland, COPFS and the Scottish Government to manage and minimise risks, and to make a decision on a long-term, sustainable, solution to meet future demand.
- 2.13 Dialogue is ongoing with partners and the Scottish Government regarding the potential implications if/when the statutory time limit returns to 6 months, from 12 months, in due course. It is important to note that if the statutory time limit reverts to 6 months at the first review date (believed to be November 2023) and the legislation impacts cases prior to that date, there could be significant implications for time-barring of several hundred Drug Driving cases.

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- 2.14 In Q1, 87% of internal Section 5A cases have been reported within 3 months of receipt of the case and 44% of internal Section 4 cases have been reported within 4 months of receipt of the case. Both figures represent a significant improvement on Q4 performance.
- 2.15 A more detailed performance update regarding the drug driving service is provided in the following pages.

## Drug Driving Case Ageing



As stated in the FS Q1 Performance Report, Drug Driving demand and output are broadly in balance through a combination of internal reporting and ongoing outsourcing provision. In addition, the reporting age of Section 5A cases (2.3 months from incident, as at W/c 17<sup>th</sup> July) and Section 4 cases (4.6 months from incident) continues to improve.

Internal capacity is being increased through 2023/24 through the recruitment, training and development activities. As anticipated, in-house output has been relatively low through Q1 (and will remain so through Q2), but is broadly in line with our plans. Outsourcing is being used to mitigate the capacity gap.

The number, and subsequent reported age, of completed outsourced cases is being managed closely, in collaboration with the contracted supplier (average 5.7 months in July 2023). We are working closely with the supplier, who is building additional capacity to meet our demand, to ensure the service meets our current and future needs.

### Drug Driving Outsourcing

Since October 2022, c.2400 drug driving cases have been outsourced to commercial providers, which is in line with outsourcing plan developed last year using funding provided by the Scottish Government.

Month	No. Sent
Oct-22	400
Nov-22	300
Dec-22	400
Jan-23	200
Feb-23	200
Mar-23	200
Apr-23	200
May-23	200
Jun-23	140
Jul-23	140

## Drug Driving In-House Analysis

Fig J: Open Cases (in-house analysis) - no. of cases open weekly

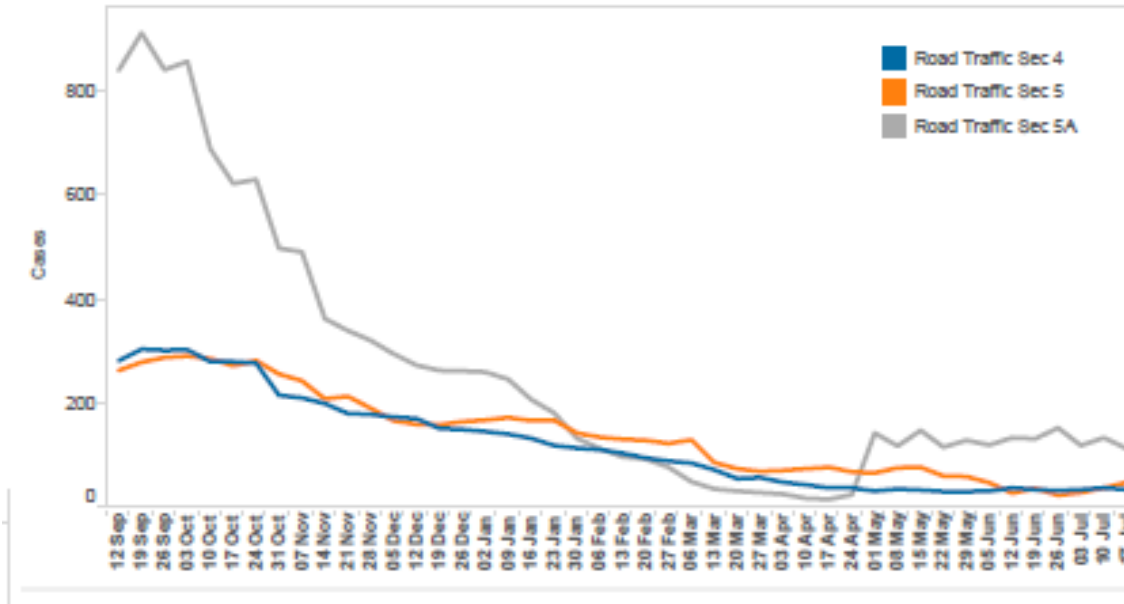
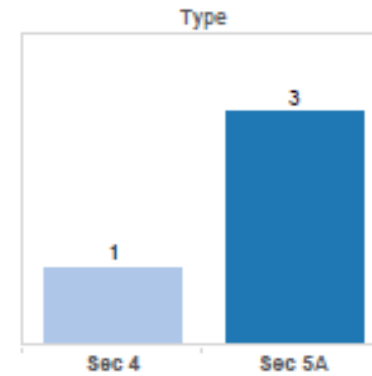


Fig G: Open Cases - Within 10 weeks of Time Bar



Volumes of internal outstanding drug driving casework (Section 4 and Section 5A) have decreased significantly since Autumn 2022 to the current steady and manageable position. As at w/c 17<sup>th</sup> July 2023, there are four open cases within 10 weeks of statutory time limit (i.e. currently one year from the date of incident). Of these, three are relatively recent submissions and one is a request from COPFS for a Court report.

2.16 Updates on the progress of the drug driving service will be reported to the Forensic Services Committee and Authority meetings.

### **3. FINANCIAL IMPLICATIONS**

3.1 There are financial implications in this report, specifically the costs associated with outsourcing and the additional staff associated with the Forensic Services Operating Model.

### **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.

### **5. LEGAL IMPLICATIONS**

5.1 There are legal implications associated with this paper, specifically the cases, as detailed above, 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 for Forensic Services and the wider justice sector.

### **7. SOCIAL IMPLICATIONS**

7.1 There are social implications associated with this paper, specifically the impact on communities from drug-driving cases not being pursued.

### **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.

### **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.

