



<b>Meeting</b>	<b>Forensic Services Committee</b>
<b>Date</b>	<b>03 February 2025</b>
<b>Location</b>	<b>Via MS Teams</b>
<b>Title of Paper</b>	<b>Drug Driving Update</b>
<b>Presented By</b>	<b>Paul Stewart, Head of Function</b>
<b>Recommendation to Members</b>	<b>For discussion</b>
<b>Appendix Attached</b>	<b>No</b>

**PURPOSE**

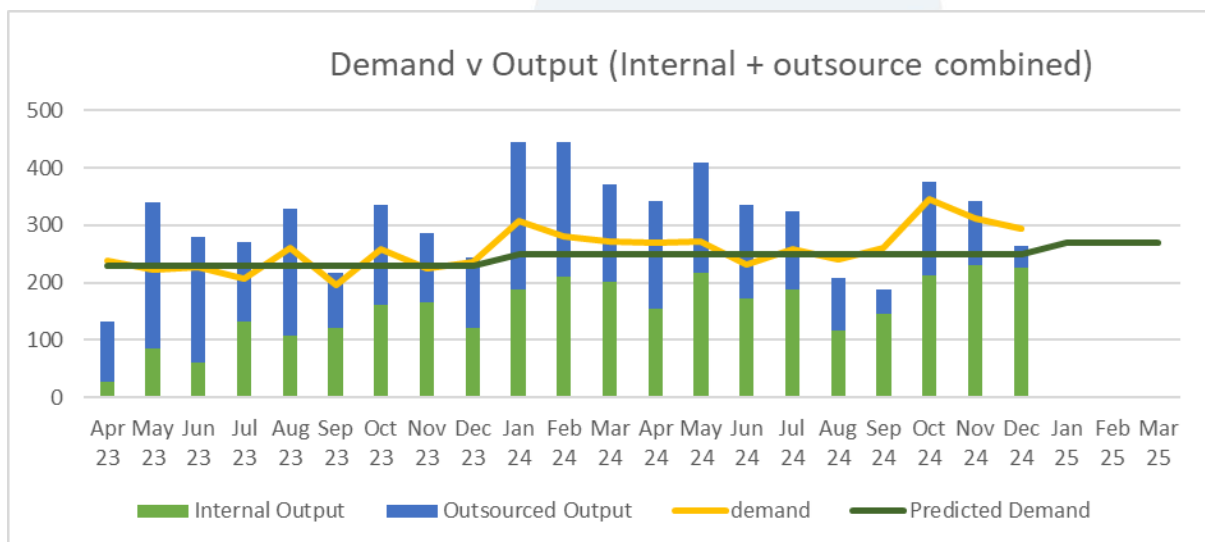
To provide members with an update on progress on the Criminal Toxicology, Drug Driving.

The paper is submitted for discussion.

## 1. BACKGROUND

- 1.1 In October 2019, Section 5A of the Road Traffic Act 1988 came into force in Scotland. This legislation set out a specific offence of driving with a specified controlled drug above a prescribed limit. In addition, Section 4 of the Road Traffic Act sets out an offence of driving while impaired or unfit to drive. Section 4 offences are significantly more difficult to prove in court for a range of reasons including the subjectivity of the roadside field impairment test.
- 1.2 Within legislation, and since the COVID Pandemic, a temporary statutory time limit of 12 Months was introduced. This legislative statutory time limit returned to six-months on 30 November 2024.
- 1.3 SPA Forensic Services (FS) and Police Scotland (PS) have, on a monthly basis, an agreed capacity for the submission of Drug driving samples which, forecasts a demand of 250 cases per month, stretching to 270 when required. **Note:** *additional planning is undertaken for the annual festive campaign with additional outsourcing arrangements in place to assist the management of increased demand during this period.*

## 2. CRIMINAL TOXICOLOGY - DEMAND, CAPACITY AND PERFORMANCE



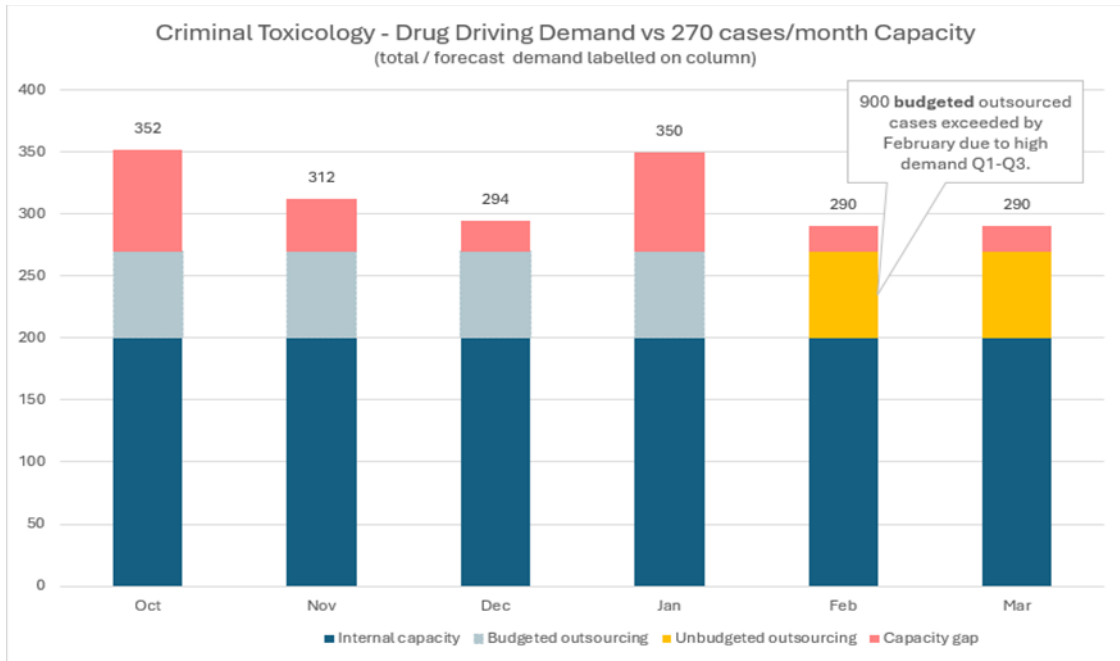
- 2.1 The Demand v Output Chart above highlights that the combined output consistently exceeds demand. The report, to the October Committee meeting, highlighted the long-term contribution this has made to reducing the back log of cases from a total of c.1800 drug

driving cases in September 2021 to the current total drug driving caseload of c.514 in December 2024.

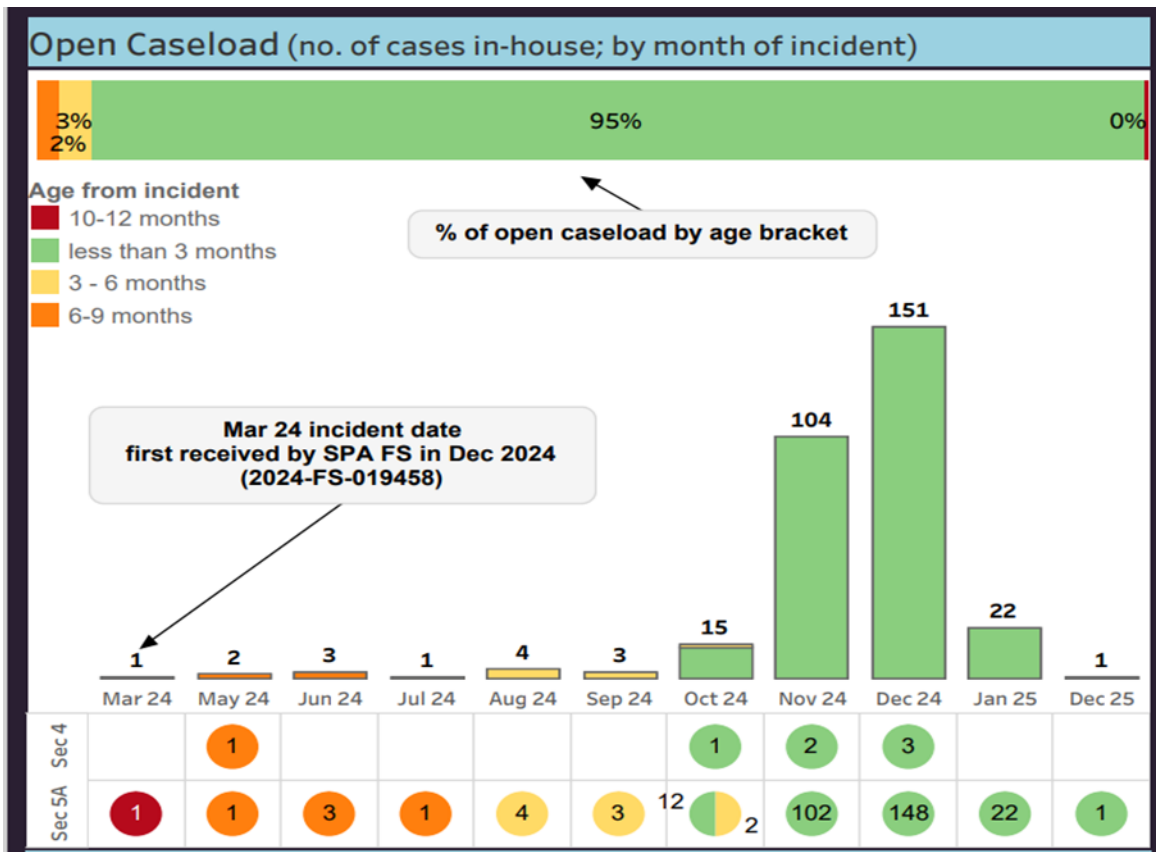
- 2.2 Data across Q3 has reported a substantial increase in demand. To provide context, FS received a total of 958 cases: 352 in October, 312 in November and 294 in December. The maximum monthly capacity within FS is capped at 810 (3 x 270). Therefore, within Q3 demand outstripped capacity by 148 cases resulting in a higher-than-normal use of outsourcing.

### **Capacity**

- 2.3 Internal capacity increased through 2023/24 due to planned recruitment, training, and development activities. This resulted in a shift from an average of 109 drug driving cases being reported internally per month in 2023 to an average of 185 in 2024.
- 2.4 The average internal output was tracking higher until significant technical issues arose in Q2. The presence of technical issues highlights the challenge in relation to internal resilience and, the need for Criminal Toxicology scientists to maintain a focus on development work (to realise efficiencies and continually improve output levels).
- 2.5 Combining average internal capacity with the average outsource capacity (75 cases per month) provides a 260 output per month.
- 2.6 That said, outsource partners have required to provide additional support over 2024, resulting in an average output of 124 (from 75). The requirement to increase the monthly case output was twofold, to meet existing levels of demand and, to reduce case backlogs (across Q1 and Q2 in 2024/25). Average combined output in 2024 was 309 cases per month.
- 2.7 For illustrative purposes the graph below is more generic in nature with internal capacity set at 200 and outsourcing capacity at 70, highlighting the total monthly forecast output as 270. The demand figures from Oct – Dec are 'actuals' with Jan – Mar estimated following engagement with PSoS.
- 2.8 Challenges are also evident as demand exceeds expected capacity in a service delivery context. In addition, fiscal challenges are identified and highlight planned outsourcing in February and March as being unbudgeted (due to consistently high demand across 2024/25). At the time of writing, the overspend for 2024/25 is estimated at £45k.



- 2.9 In relation to managing capacity and demand Forensic Services have, as per the MOU, moved to a more fixed process in managing late submissions. On a sliding [time] scale samples will be categorised in a way that will result in limited or restricted analysis being undertaken or in extreme cases, samples will be rejected.
- 2.10 With regard to open cases, the graph below highlights the open caseload (by month of incident) and the positive direction of travel relative to the six-month Statutory Time Limit. It should be noted there are a small number of cases (7 in total) out with a six-month timeline. These cases are unique in respect of the reasons for delayed reporting, for example the case within the 10-12 month timeline was not submitted to Forensic Services until December 2024 however, remains live under the 12-month STL.



**Note:** Cases received before 30 November 2024 have an STL of 12-Months

### Outsourcing

- 2.11 At the time of writing, a range of factors have resulted in the existing procurement framework reducing to a single [external] supplier option. Outsourcing is utilised when internal capacity requires augmented, and an annual budget is in place to manage the anticipated demand.
- 2.12 Recently, the external conditions have changed with, 'the market' being more unpredictable in relation to its ability to accommodate high numbers of cases. This remains the subject of ongoing engagement and has been registered as an increasing risk within Forensic Services.
- 2.13 The most recent engagement with the FS external supplier provides assurance in relation to outsourcing requirements up to 100 samples per month. Additional capacity is likely to be available however, this will require pro-active engagement on a month-to-month basis and is not fully guaranteed at this time.
- 2.14 External supplier engagement remains ongoing with short and medium term options subject to further discussions and, dependant on available budget.

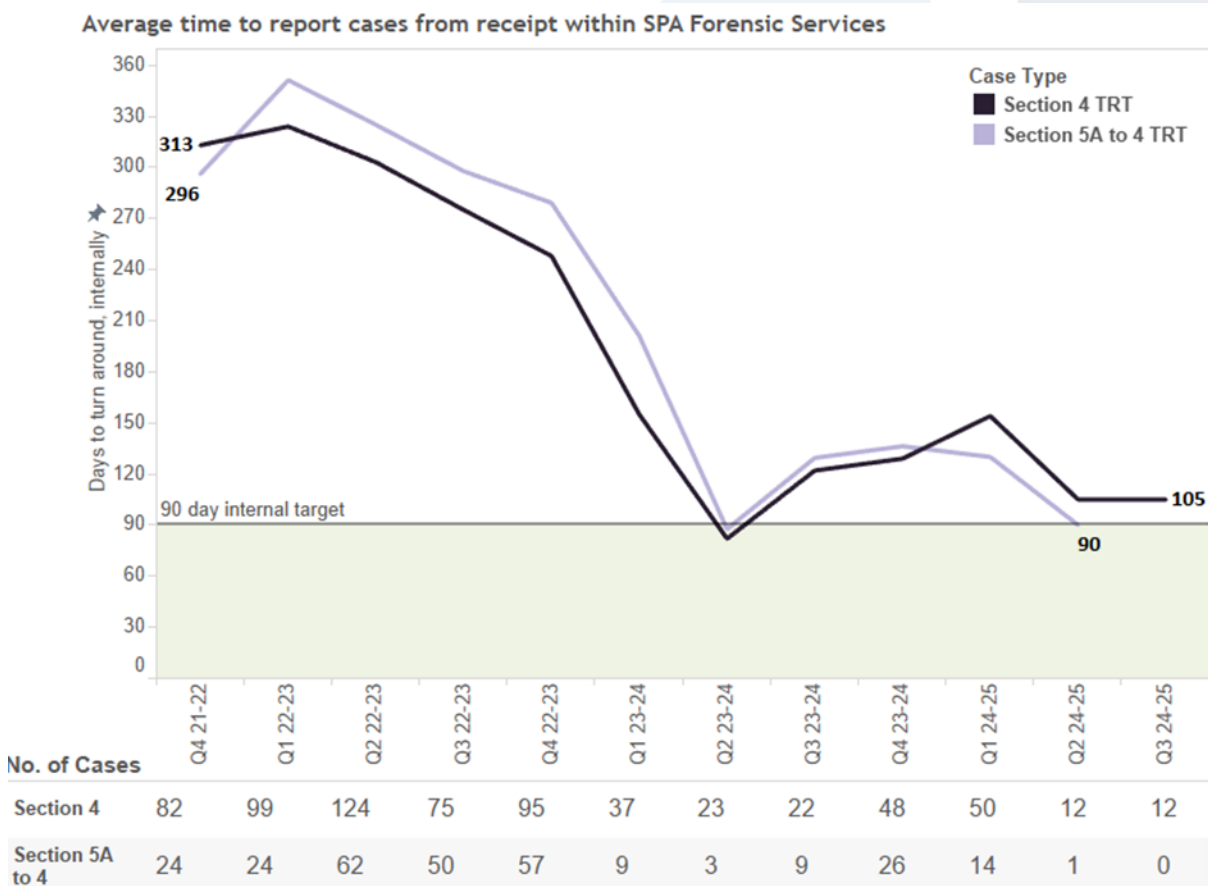
2.15 From a cost perspective, outsourcing a batch of 50 cases results in a financial committment of approximately £15k.

**Performance**

2.16 Internal performance, on average, for Section 5a cases remains on target with the rolling average meeting the 95% target.

2.17 Internal performance for Section 4 cases has seen steady progress since Q4 2022, when the turn round time (TrT) was averaging 313 days against the 90-day internal target line on the 'Average Time' graph. The current TrT for completion of section 4 cases averages at 105 days.

2.18 The proportion of Section 4 work remains at around 6% of our total drug driving caseload – a relatively low proportion of the total drug driving workload.



- 2.19 Internal performance for the Section 5a to Section 4 work has improved from an average of around 296 days TrT in Q4 2022 to the current 90 days from submission to report.
- 2.20 Work continues to progress and improve the Section 4 process to ensure this case category can be processed and continually reported within the 90-day target. Section 4 cases continue to be prioritised on receipt and follow a clearly defined schedule of work to aid continuous improvement in this area.

### **Toxicology Development Plan**

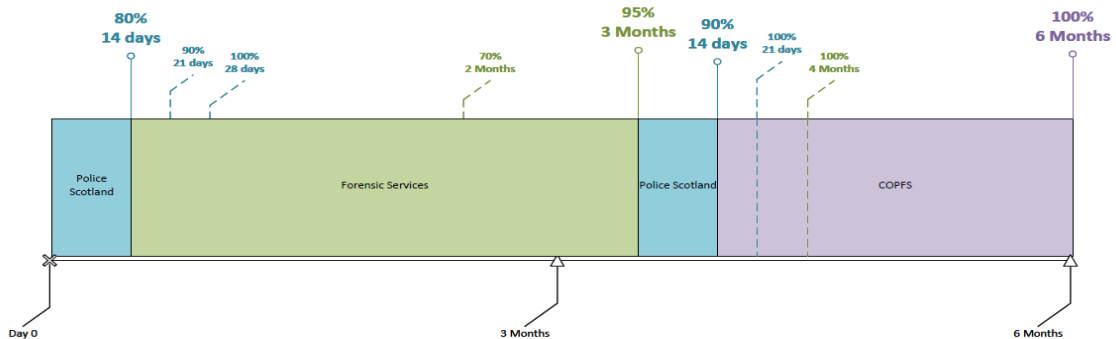
- 2.21 Version 3 of the Toxicology Development Plan commenced in April 2024 and concludes at the end of March 2025. The Plan focuses on three main areas:
- Section 5a method and instrumentation
  - Introduction of new drug panels
  - Staff training
- 2.22 Version 4 of the Toxicology Development Plan is in draft format and will commence in April 2025.

### **Six-Month Timeline**

- 2.23 As part of the work associated with the return to a six-month timeline, Forensic Services have actively engaged and worked in partnership with COPFS and Police Scotland. The timeline is agreed and forms part of the updated MOU, signed by all parties and published in January 2025.
- 2.24 The timeline is designed to provide collective flexibility thereby improving performance. Stretch targets are used, for example the previous [more rigid] timeline required Police Scotland to submit all samples within 14 days of the case. This performance indicator remains with the understanding that 80% will be submitted within 14 days, 90% by 21 days and 100% by day 28.
- 2.25 Conversely, Forensic Services will report 95% of cases within the three-month target, with it being accepted that a small number of cases, 5%, will extend beyond that time period.
- 2.26 Work is currently under way to establish suitable and sufficient performance management arrangements which, will accurately



monitor and report on performance across all targets identified within the newly introduced six-month timeline.



Drug Driving 6 Month STL all Partners Timeline with Stretch Targets

### LONG-TERM SUSTAINABLE MODEL

- 2.27 The Initial Business Case (IBC) for the Long-Term Sustainable Model (LTSM) was presented to the SPA Resource Committee (Private Session) on 18 December 2024. The IBC was approved.
- 2.28 FS will continue to work with partners to seek the funding required to progress to the Final Business Case (FBC) with a view to delivering a sustainable criminal toxicology service for the people of Scotland.
- 2.29 It is recognised that the development of the FBC, funding discussions and subsequent approval will take several years to materialise into tangible outputs for FS.

### 3. SUMMARY

- 3.1 This report highlights the current demand associated with Drug Driving and the methods employed by Forensic Services to meet that demand, through a hybrid model of internal and external resourcing.
- 3.2 The implications of increasing demand highlight the requirement for capacity and demand to be the subject of multi-agency planning to ensure close alignment.



- 3.3 The risks associated with insufficient planning include the potential for cases to be time barred and expected performance criteria against the six-month timeline not being met.
- 3.4 Ongoing development work and training, alongside the significant progress made in clearing the historical backlog, have provided a platform on which Criminal Toxicology are in a good position to meet agreed levels of demand.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are financial implications in this report, specifically the costs associated with outsourcing. The Forensic Services revenue budget for 2024/25 covers the planned outsourcing, however, members should note the risk relating to unplanned outsourcing due to higher-than-expected levels of demand which, currently estimates a £45k overspend.
- 4.2 There are additional financial considerations associated with potential budget requirements for 2025/26. The total spend in 2024 is estimated at £335k however, should demand increase in 2025 then the outsourcing spend will also increase beyond £335k. The 2025 budget for outsourcing has not yet been agreed.

#### **5. PERSONNEL IMPLICATIONS**

- 5.1 There are no current personnel implications associated with this paper, given the recruitment of staff is now complete at the time of writing this report.

#### **6. LEGAL IMPLICATIONS**

- 6.1 There are legal implications associated with this paper, specifically the risk of cases being unable to proceed to prosecution.

#### **7. REPUTATIONAL IMPLICATIONS**

- 7.1 There are reputational implications associated with this paper, specifically any cases which could not be pursued to prosecution.

#### **8. SOCIAL IMPLICATIONS**

- 8.1 There are social implications associated with this paper, specifically the impact from drug-driving on the roads in Scotland.

**9. COMMUNITY IMPACT**

9.1 There are community implications associated with this paper, specifically the impact on Scotland’s communities from drug-driving.

**10. EQUALITIES IMPLICATIONS**

10.1 There are no equality implications associated with this paper.

**11. ENVIRONMENT IMPLICATIONS**

11.1 There are no environmental implications associated with this paper.

**RECOMMENDATION**

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