



Meeting	Forensic Services Committee
Date	6th August 2024
Location	Video Conference
Title of Paper	Drug Driving Update
Presented By	Paul Stewart, Head of Function
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.

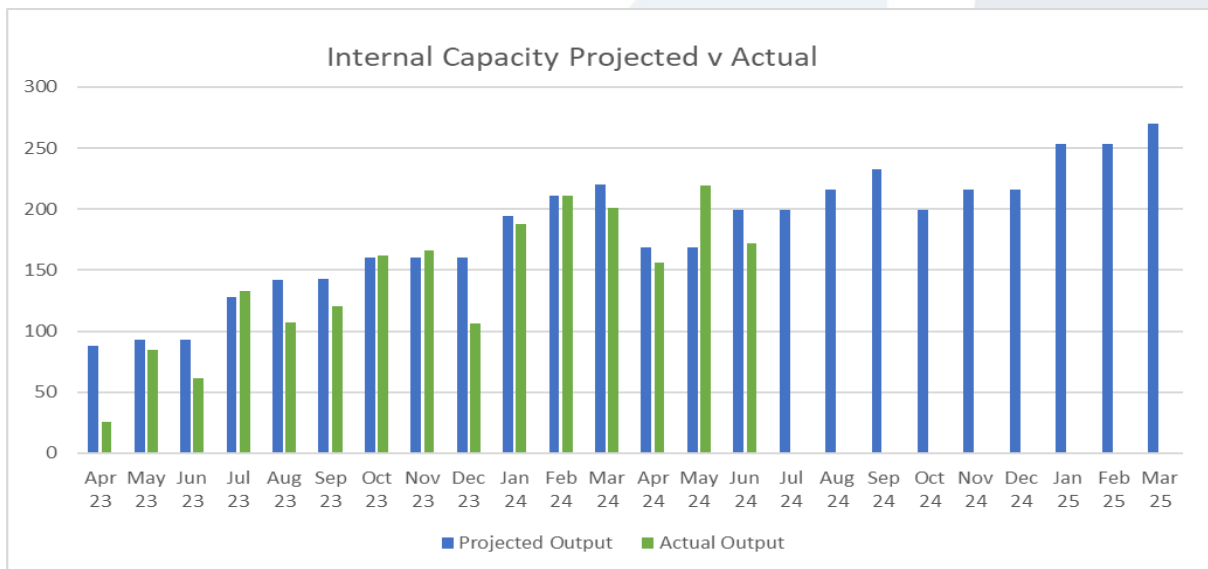
1. BACKGROUND

- 1.1 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. Police Scotland carry out roadside testing which can indicate the presence of certain drugs, if this is positive, blood samples or urine samples (in Section 4 cases) are taken and then passed to Forensic Services for evidential analysis.
- 1.2 Within legislation a statutory time limit is set out that requires any proceedings taken by COPFS to be started within six months of the incident date. During COVID additional legislation allowed for the increase of the statutory time limit to 12 months.
- 1.3 The statutory time limit extension has been reviewed annually since the pandemic by the Scottish Parliament to consider the appropriateness of continued extension; this was last undertaken in November 2023 where a further 12-month extension to the statutory time limit was agreed.
- 1.4 Forensic Services are working on an assumption that this extension will not be approved further in relation to Section 5A and Section 4 cases and as such any incidents recorded from 1st June 2024 will have a 6-month statutory time limit applied.
- 1.5 Forensic Services are accredited to the international standard ISO17025 for all analysis undertaken on Section 5A and Section 4 drug driving casework. This provides assurance that the toxicology results reported by Forensic Services in these drug driving cases meet required internationally recognised quality standards.
- 1.6 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.

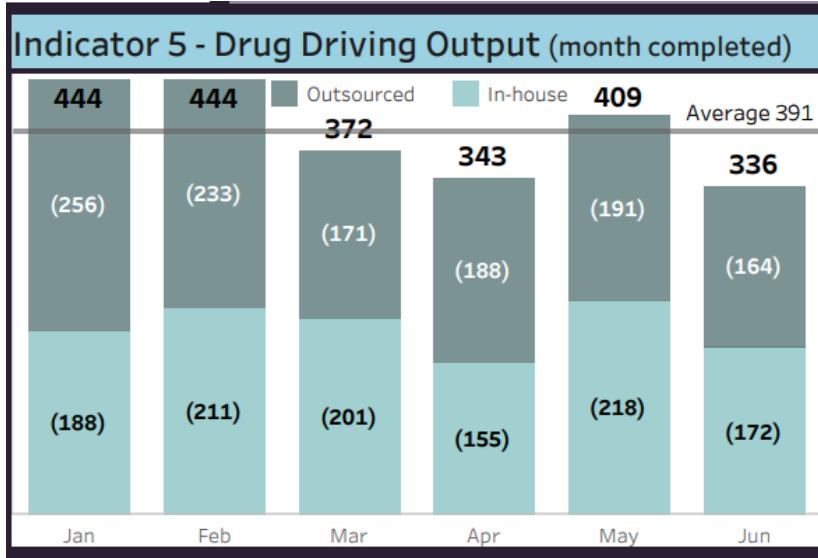
2. FURTHER DETAIL ON REPORT TOPIC

Criminal Toxicology – Drug Driving Performance

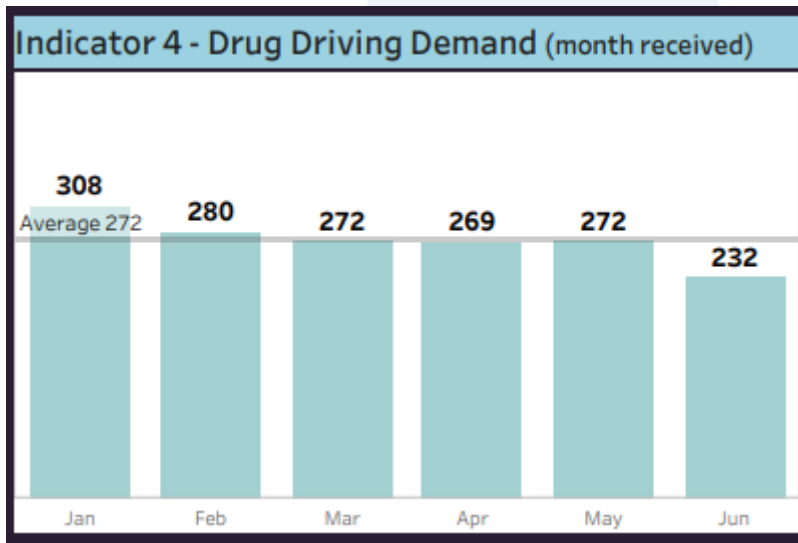
- 2.1 Internal performance for Section 5A case output within three months of receipt has remained high with the rolling average meeting the 95% target.
- 2.2 Internal performance for Section 4 case output within the three-month target remains low while aged cases are closed and removed from work in progress numbers. Work continues to prioritise all Section 4 cases submitted with process improvements being implemented to ensure Section 4 cases can be progressed within the required timescales prior to the return to a six-month Statutory Time Limit.
- 2.3 Output continues broadly on target with the rolling average number of cases meeting expected levels.



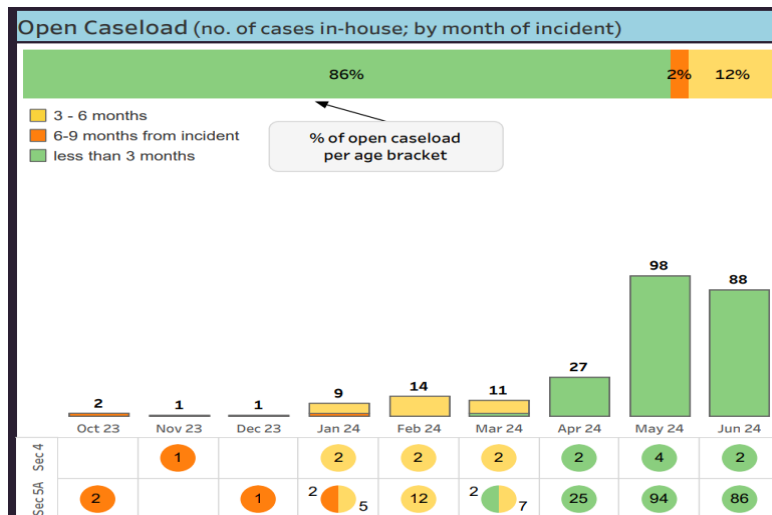
- 2.4 Internal capacity has increased through 2023/24 as a result of the planned recruitment, training, and development activities (391 cases per month vs previous average of 278). It is anticipated to improve further when the new Section 5a MultiQuant methods are implemented within Q2/3. Outsourcing is being used to mitigate the capacity gap to release staff to continue the required development work.



2.5 Demand remains higher than the 250 cases per month expected with a slight decrease experienced in June. Cases over the monthly expected levels are immediately outsourced to ensure timeous completion and no there are no risks of backlog.



2.6 The open caseload (by month of incident) graph illustrates that good progress has been made in relation to reporting cases in a much timelier fashion. A very small number of cases are now at the older end of caseload profile, and these are justifiable (due to late submission or complex additional analysis).



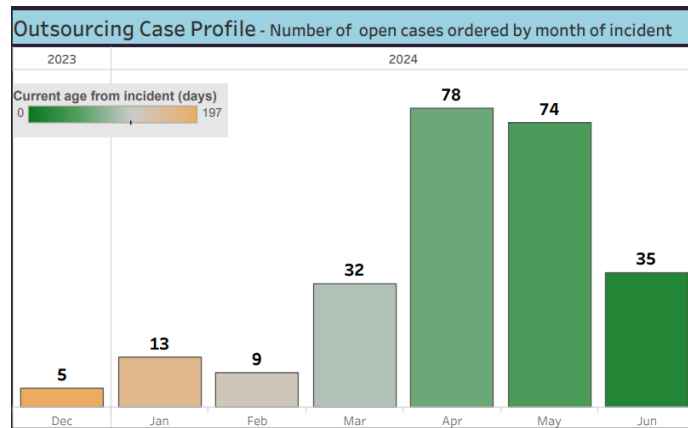
2.6 A total of 14% of Section 5a and Section 4 drug driving cases being progressed internally are out with the three-month reporting period. There are no risks of time-bar for these cases at present with all due to be completed prior to their 12-month limit or the end of November 2024. 2% (6) of cases are older than six months.

2.7 Drug Driving demand and output remain in balance through a combination of internal reporting and reduced but ongoing outsourcing provision.

Drug Driving Outsourcing

2.8 While the outsourcing of drug driving cases (using the allocated £255,000 funding for Financial Year 2024-2025) has continued since the last update to the Forensic Services Committee, the numbers of cases outsourced per month has decreased as the internal capacity within the Criminal Toxicology team increases. Outsourcing is currently being used to free staff resource to continue with the development work required to increase resilience and capacity and to deal with any additional demand over expected levels.

- 2.9 Outsourcing continues at the planned levels with additional provision scheduled for times of known high demand e.g. the festive drug driving campaign.
- 2.10 Forensic Services noted a deterioration in the timeliness of provision of drug driving reports from our outsource partner during the latter part of Q3 2023/24. Significant improvements in the outsourcing case profile have been seen within the last quarter. There are no cases at risk of time bar within the outsource provider caseload.



- 2.11 Current work in progress data illustrates our outsource provider is tracking ahead of projected return to contractual timescales with an 80% compliance in June which is expected to increase again within July 2024.
- 2.12 While there has been a requirement to outsource an additional 34 cases in Q1 due to an increased demand and an increase in court costs, the outsource budget remains broadly on target.

Criminal Toxicology – Improvement Plan

- 2.13 Anticipating the revision to the six-month statutory time limit later this year the refreshed Toxicology Improvement Plan (Version 3) has refocused a range of activity to deliver the following outcomes.
 - Optimisation of the Section 4 analysis process to enable delivery within 90 days in line with Section 5A timescale.
 - Increased internal capacity of 270 cases by year end.
- 2.14 This will be achieved by a range of work to further develop technical processes and to validate and utilise new instrumentation which is focused on building increased capacity within the laboratory and streamlining the analysis of Section 4 cases. In addition, a focused

plan of training and development for staff is under way which ensures that new staff joining the team are trained appropriately and swiftly as well as developing existing staff skills particularly to increase the capacity available to complete the complex reporting part of the process which has been a bottleneck.

- 2.15 The improvement plan is tracking to schedule with the internal capacity increasing as expected on a rolling average basis.

Building Future Toxicology Services – Delivering a Long-Term Sustainable model

- 2.16 Given the apparent prevalence of drug driving across the country Police Scotland have articulated their ambition to roll out the roadside testing to all local policing officers in Scotland. Currently this is mostly restricted to Roads Policing officers and rolling this out further will significantly increase the demand for subsequent analysis. Over the past few years an options paper has been developed and discussed by all partners and presented to Scottish Government setting out how this additional demand could be delivered with an indication of associated costs.
- 2.17 A business case is currently being compiled which sets out in more detail four options for a long-term sustainable model for drug driving. To develop this there are several enabling workstreams that are in progress including:
- Progressing the HMICS recommendations in relation to understanding the scale of drug driving in Scotland and also to consider the impact of greater education, awareness and prevention activity.
 - A revised long-term forecast of demand considering changes in the model of policing in Scotland and policing priorities.
 - Development of the toxicology strategic plan and associated technology roadmap within Forensic Services to maximise the benefit of joint working across criminal and postmortem toxicology services and to ensure the most efficient technology platform and methodology.
- 2.18 A further update on the progress to develop the business case will be provided to the October meeting of the Forensic Services Committee, work on all the above workstreams is under way currently.

3. FINANCIAL IMPLICATIONS

3.1 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. There are also potentially significant costs associated with the long-term sustainable model for future toxicology provision.

4. PERSONNEL IMPLICATIONS

4.1 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.

5. LEGAL IMPLICATIONS

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

6. REPUTATIONAL IMPLICATIONS

6.1 There are reputational implications associated with this paper, specifically any 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 on the roads in Scotland.

8. COMMUNITY IMPACT

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