

Agenda Item 4

Meeting	Forensic Services Committee
Date	8th August 2024
Location	Video Conference
Title of Paper	HMICS Assurance Review of Forensic Toxicology Provision – Improvement Plan and Timeline for Delivery
Presented By	Fiona Douglas, Director of Forensic Services
Recommendation to Members	For discussion
Appendix Attached	Yes – action plan summary

PURPOSE

To provide members with an update on progress on the HMICS Assurance Review of Forensic Toxicology provision and timeline for delivery.

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 <u>report</u> 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 In response to the publication of the HMICS report, Forensic Services, SPA and Police Scotland developed action plans to address the recommendations where the organisations were the identified Action Leads.
- 2.4 Good progress continues to be made in terms of Forensic Services, SPA and Police Scotland addressing the recommendations, with eight recommendations being closed by HMICS, to date.
- 2.5 Detailed updates were provided to the Forensic Services Committee on 30 October 2023, 5 February 2024 and 7 May 2024.
- 2.6 Since the last Forensic Services Committee meeting, significant progress has been made in relation to the recommendations, and further updates have been, and will be, provided to HMICS regularly.
- 2.7 The appendix provides a summary of updates regarding recommendations since the previous report to the Forensic Services Committee.

3. FINANCIAL IMPLICATIONS

3.1 There <u>are</u> 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, the review of current and future procurement of drug driving analysis outsourcing to ensure best value and the development of the business cases for Core Operating System and the Long-Term Sustainable Solution.

4. **PERSONNEL IMPLICATIONS**

4.1 There <u>are</u> personnel implications associated with this paper, specifically the recruitment of staff associated with the Forensic Services Operating Model, the review of workload and work allocation with Criminal Toxicology team and the development of the business case for the Long-Term Sustainable Solution.

5. LEGAL IMPLICATIONS

5.1 There <u>are</u> legal implications associated with this paper, specifically any cases which could not be pursued to prosecution, any potential change in the legislation to allow reclaiming of costs associated with drug driving activities and the development of the business cases for Core Operating System and the Long-Term Sustainable Solution.

6. **REPUTATIONAL IMPLICATIONS**

6.1 There <u>are</u> reputational implications associated with this paper, specifically any drug-driving cases which could not be pursued to prosecution.

7. SOCIAL IMPLICATIONS

7.1 There <u>are</u> social implications associated with this paper, specifically the impact from drug-driving and seeking to gain 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 <u>are</u> community implications associated with this paper, specifically the impact on communities from drug-driving and seeking to gain 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 <u>are no</u> equality implications associated with this paper.

10. ENVIRONMENT IMPLICATIONS

10.1 There <u>are no</u> environmental implications associated with this paper.

RECOMMENDATION

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

Appendix A -	- Improvement Pla	n Summary and	Timeline (Updates	since May 2024 report)
--------------	-------------------	---------------	-------------------	------------------------

No	Recommendation	Action Lead	Actions	RAG	Target	Narrative
1	Police Scotland, SPA Forensic Services and Crown Office and Procurator Fiscal Service should work with Scottish Government to collate and produce data to facilitate an assessment of the scale and nature of drug driving in Scotland. This should include a review of combination drink and drug driving behaviour.	Police Scotland	 Engage with SIPR, Police Scotland, COPFS and Scottish Government regarding HMICS recommendation. Agree baseline for data analysis collaboratively. Task Analysis & Performance Unit to collate data re nature and scale of drug driving in Scotland (with ref to baseline criteria). Including a combination of drink drug driving behaviour. Further engagement with external organisations regarding additional data and research. 		Q3 24/25	Good progress being made by PSoS Analyst undertaking in- depth work in relation to the nature and scale of drug driving in Scotland, which will support the research work being undertaken by SIPR. Collaborative work with Scottish Institute of Policing Research (SIPR) ongoing, with an outcome anticipated by target 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	SPA	 Review current mechanism and identify potential changes. Implement agreed changes. 	Q4 23/24	Further dialogue took place with HMICS since the last update. This recommendation has been closed by HMICS.
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.	FS	 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. 	Q3 23/24 from FS perspective (but closure may need agreement of long term sustainable model) Re-forecast completion date Q4 24/25	Good progress continues to be made in relation to in- house service delivery regarding drug driving cases, taking into cognisance the likely reduction of the statutory time limit during this financial year. Good progress is also being made by our outsource provider in relation to outsourcing service delivery (also taking cognisance of the likely reduction in statutory time limit). The overall position continues to be positive in relation to service delivery against the timescales. Dialogue is taking place with partners on an ongoing basis regarding the dialogue around formal agreement to 'stand down' remaining exceptional

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

					measures to support drug driving service provision. It has been agreed to delay formal review/stand-down in anticipation of the likely reduced statutory time limit being implemented in December 2024.
4	SPA and SPA Forensic Services should review the drug driving analytical and reporting process and seek ways to reduce costs.	FS	 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. 	Q3 23/24 Re-forecast estimated completion date Q2 24/25	The streamlined method of reporting (single witness) is being used routinely in drug driving cases. The second new drug driving analytical method has been accredited by UKAS at the end of Q1 24/25 and will be implemented during Q2 24/25. This will result in two more efficient methods being used for drug driving analysis. The Criminal Toxicology team continues to work closely with the Post-Mortem Toxicology team to improve resilience and to capture synergies from joint working. The draft overarching Toxicology strategic plan has been reviewed following feedback from stakeholders and is going through in-house

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

					governance. Once approved internally, it will be shared with partners and HMICS.
5	SPA and SPA Forensic Services should review current and future procurement of drug driving analysis outsourcing to ensure best value.	FS	 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. 	Q3 23/24 Re-forecast estimated completion date Q4 23/24 A further re- forecast of estimated completion date Q1 24/25 has been required as a result of further exploratory work being requested.	Further dialogue took place with HMICS since the last update. This recommendation has been closed by HMICS.
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	SPA	1. Engage with HMICS about potential jurisdictions to explore initially regarding opportunities to explore cost recovery.	Q1 24/25	Further dialogue took place with HMICS since the last update. This recommendation has been closed by HMICS.

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

	and Scottish Government to establish if this is possible in Scottish criminal trials.		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.		
7	Police Scotland and SPA Forensic Services should improve how drug driving samples are tracked and managed, including the consideration of	FS	 Map current processes within Police Scotland and Forensic Services. Identify 	Q1 25/26 (for identification of improvements in phase 1).	Dialogue with HMICS has continued since the last update. The new laboratory management system (more

	technological methods such as barcoding, networking and automation of processes and instruments.		opportunities for improvements (with existing and new solutions). 3. Implement improvements (with the available technology).	Introduction of further technological improvements are likely to be linked to the development of the long-term sustainable model.	suited to Criminal Toxicology) continues to be utilised within Criminal Toxicology to good effect. A summary of the functionality and benefits of the laboratory management system has been prepared and has been shared with partners and HMICS.
					Although outwith the scope of this recommendation, good progress is being made in relation to developing the business case for the long- term sustainable solution (which includes identification of technical solutions). The business case is scheduled to be completed during Q2 24/25.
8	SPA Forensic Services, Police Scotland and Crown Office and Procurator Fiscal Service should consider opportunities for the Joint National Forensic Gateway to effectively manage all forensic submissions, including drug driving.	PSoS	1. Short Life Working Group to be considered to explore this recommendation.	Q3 23/24 Re-forecast estimated completion date Q2 24/25	Dialogue with HMICS has continued during the period since the last update. A review of the function of the PSoS Gateway in relation to this recommendation has been ongoing. This work has now concluded and the outcome is being considered by PSoS Senior Management. Evidence will be submitted to

					HMICS re the outcome in due course. Work has continued within PSoS to ensure timely submission of samples to FS.
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.	FS	 Request breakdown of high and standard risk categories from Police Scotland and COPFS. Draft timescales for completion of these risk categories (within the overall timescale permitted by the prevailing statutory time limit). Update the Memorandum of Understanding for Drug Driving to include these categories and indicative timescales. 	Q2 23/24 Re-forecast estimated completion date Q2 24/25.	 Priority categories have been included within the Memorandum of Understanding (MOU). A review of the MOU will be undertaken shortly to ensure that it remains fit-for-purpose. Work is ongoing within FS to introduce the most appropriate mechanism to include the priority risk categories in the FS performance data, which is reported to various forums. Once the risk categories are included in FS performance data, evidence will be submitted to HMICS with recommendation for closure.
10	SPA Forensic Services must immediately progress the core operating solution plans and explore	FS	1. Present Interim Business Case to SPA Resources Committee.	Q1 24/25 (for FBC to be submitted to	The process associated with development of the Full Business Case for Core Operating System

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

	opportunities to interface with Police Scotland and Crown Office and Procurator Fiscal Service.		 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. 	SPA Resources Committee) Re-forecast estimated completion date Q1 26/27	necessitates a longer completion date (as detailed supplier engagement is required). It is anticipated that the Full Business Case will now be submitted to SPA Resources Committee for consideration in Q1 26/27.
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.	FS	 Engage with Police Scotland re the HMICS recommendation. Document processes for storage and movement of drug driving samples end-to-end. Consider efficiencies, sample degradation risks, forensic integrity and health and safety matters. 	Q1 24/25 (for phase 1) Re-forecast completion date Q2 24/25	Dialogue continues with NHS through the Short Life Working Group re the proposed new kit for taking samples (cross reference HMICS recommendation 12). PSoS and FS have been considering efficiencies, sample degradation risks, forensic integrity and health and safety matters (in conjunction with stakeholders) and making necessary improvements where possible.

			4. Implement		
			improvements.		
12	SPA, SPA Forensic Services, Police Scotland and the Health Boards of Scotland must collectively consider the service provision for drug driving within the scope of the Memorandum of Understanding between Police Scotland and all geographic Health Boards, regarding custody healthcare and forensic medical services in police custody.	PSoS	 Engage with SPA, Police Scotland and Health Boards re the HMICS recommendation. Short Life Working Group to consider implications on MOU regarding custody healthcare and forensic medical services in police custody. Position Paper to be presented to Op HITCH. 	Q3 24/25 Re-forecast completion date Q4 24/25	The Target Operating Model programme of work has commenced and is being led by the National Police Care Network (NHS). A specific focus group will be established re this HMICS activity. Dialogue continues with NHS through the Short Life Working Group re the proposed new kit for taking samples (cross reference HMICS recommendation 11).
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.	FS	 Review working practices, workload and work allocation for all staff involved in the delivery of drug driving service provision. Consider potential improvements. 	Q2 23/24 Re-forecast estimated completion date now Q1 24/25	Further dialogue took place with HMICS since the last update. This recommendation has been closed by HMICS.

			3. Implement improvements.		
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.	FS	 Highlight HMICS recommendation at FS Performance Board. HoFs to consider whether this recommendation would be met within their area/s of responsibility. 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). 	Q4 23/24 Re-forecast for Q1 24/25 due to a delay in implementation of one of the new drug driving analytical methods.	Where demand for drug driving work exceeds capacity, casework is outsourced to ensure a backlog does not develop. Evidence of staffing position (in line with that agreed re Operating Model) has been provided to HMICS during Q1 24/25 with a recommendation for closure. Awaiting feedback from HMICS.
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	FS	 Engage with COPFS and SCTS regarding the HMICS recommendation. Identify current 	Q1 24/25 (for phase 1) Re-forecasting completion date (for aspects within	A streamlined method of reporting (using a single witness) has been introduced in-house and by our outsource partner. Work is ongoing to estimate the timing saving the introduction

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

	approach to report and evidence submission for drug driving, and consider criteria for SPA Forensic Services professional witnesses and opportunities for remote evidence provision.		position and potential improvements.3. Implement potential improvements.	control of FS) Q2 24/25.	of this single witness report has realised – a summary will be submitted to HMICS as evidence. There are no current plans to roll-out the remote provision of evidence (RPE) in Scottish Courts further, however dialogue with stakeholders will continue to explore the possibilities (the roll-out of RPE is outwith the control of FS). Evidence of the current position has been provided to HMICS.
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.	FS	 Engage with Police Scotland regarding the HMICS recommendation. Identify current position and potential improvements regarding data retention, data processing and production management. 	Q1 24/25 Re-forecast completion date Q2 24/25	 PSoS continues to work closely with FS to ensure the robust application of data retention and appropriate timeliness of sampling, submission, processing and reporting of drug driving samples. FS Criminal Toxicology data retention, data processing and production management processes meet the requirements, however the introduction of a new Core Operating System (cross-

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

			3. Implement		reference HMICS
			potential		recommendation 10) in FS
			improvements.		will derive further benefits.
17	SPA should review the	SPA	1. Proposals are	Q3 23/24	Further dialogue took place
	functionality and		under		with HMICS since the last
	membership of the		development.	Re-forecast	update.
	Forensic Services			estimated	
	Committee to provide		2. Following	delivery date	This recommendation has
	effective and robust		engagement,	Q4 23/24	been closed by HMICS.
	governance, providing an		review proposals		
	effective platform for Police		will be presented to		
	Scotland, Crown Office and		the Authority 24		
	Procurator Fiscal Service		August 2023, for		
	and the Police		implementation		
	Investigations and Review		October 2023.		
	Commissioner to hold SPA				
	Forensic Services to				
	account in terms of the				
	quality and delivery of				
	service provision.				
18	SPA Forensic Services must	FS	1. Continue to	Q2 23/24 (for	Good progress is being
	urgently address drug		outsource cases	in-house	maintained in relation to the
	driving analysis and		(within agreed	casework)	in-house analysis and
	reporting turnaround		finance), in order		reporting turnaround times,
	times, cognisant of six-		to mitigate against	Re-forecast	cognisant of six-month
	month statutory		pressure on FS	estimated	statutory timescales.
	timescales.		staff and to	completion	
			improve in-house	date Q1 24/25	New drug driving analytical
			turnaround times.	(to take into	methods have been
				account	accredited by UKAS.
			2. Review and	improved	
			report progress	performance	The performance of service
			regularly, taking	regarding	delivery from outsource
			cognisance of a	outsourcing	partner has continued to
			return to 6-month	and	improve, with timeliness

			statutory timescale in due course.3. Create/update the MOU for Drug Driving detailing the expectations for end-to-end	overarching provision of evidence to HMICS)	remaining at contractual levels for new cases. A service-specific MOU has been agreed and signed by all parties (takes cognisance of 6-month statutory time limit) – this will be reviewed in the
			process timeliness.		near future to ensure it remains fit-for-purpose. Up-to-date performance information has been submitted to HMICS during Q1 24/25 with a suggestion for closure of the
					recommendation. Awaiting feedback from HMICS.
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.	FS	 Recruitment of staff (4 x Forensic Analyst, 1 x Capability Team Manager) has been prioritised. Reassigned one member of staff from the Drugs team to Criminal Toxicology in June 23 to increase internal capacity for Drug Driving. 	Q3 23/24 Re-forecast estimated completion date Q1 24/25	An update on the recruitment position (as detailed in the Forensic Services Operating Model) for Criminal Toxicology staff has been provided to HMICS, with the recommendation for closure. Awaiting feedback from HMICS.

			3. 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).		
20	SPA and Police Scotland should develop a drug driving Enforcement Model that incorporates incremental growth and investment for innovation and technology with an adjoining public communication plan.	PSoS	 Assess nature and scale of drug driving. Review potential for development of enforcement model. Consider revision of longer- term strategy in light of nature and scale of drug driving and development of the enforcement model. 	Q3 24/25 for understanding nature and scale of drug driving. Development of the enforcement model can be undertaken in the intervening period, through pilots, for example.	Good progress continues to be made understanding the nature and scale of drug driving (see recommendation 1), with a pilot within N Division being scheduled for the first half of 24/25, as planned. Research in this area (scale and nature of drug driving etc) is on-track to be concluded Q3 24/25. The overarching Forensic Services Toxicology strategic plan has been developed, stakeholder feedback has been incorporated and the updated plan is going through internal governance. Good progress is being made by FS in relation to the development of the business case for a long-term sustainable model for drug

					driving – scheduled to be delivered during Q2 24/25.
21	SPA Forensic Services should review its Estates Strategy in respect of toxicology provision and consider the development of a dedicated road traffic facility.	FS	 Explore existing models for a dedicated road traffic facility. Consider long- term strategy for Toxicology, considering the separate business units of Post Mortem Toxicology and Criminal Toxicology, which are now both within Forensic Services. Consider Estates strategy taking cognisance of the long-term strategy for Toxicology 	Q3 23/24 (for review) Re-forecast estimated completion date Q2 24/25 for overarching Toxicology Strategy (but will exclude timescale for implementation of long-term sustainable model)	The overarching draft Toxicology strategic plan, which includes synergies between Criminal Toxicology and Post-Morten Toxicology, has been updated in light of stakeholder feedback and is going through governance route within FS currently. Once approved, the document will be shared with stakeholders and will be submitted to HMICS will a recommendation for closure of this recommendation.
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	FS	 services within FS. Decide which staff members will be involved in this review. Review the terms of the Police and Fire Reform (Scotland) Act 2012. 	Q4 23/24	Further dialogue took place with HMICS since the last update. This recommendation has now been closed by HMICS.

	understanding of what is required by those in SPA Forensic Services		3. Agree what the delivery of forensic science provision entails, in terms of additional clarity (e.g. reference to MOU)		
23	Police Scotland should include drug driving prevention activity within its current road safety prevention activity.	PSoS	 Evidence current prevention activity including Road Safety Scotland material and other campaign/preventa tive comms. Plan for 2024 campaign with recognition of HMICS recommendations and partner activity. 	Q3 24/25	Partnership engagement activities have continued, with sharing of materials and campaign intentions across a range of road safety priorities. PSoS Officers actively promote the dangers of drink and drug driving during relevant interactions with the public. A summer campaign has been scheduled, which will provide for a range of educational and enforcement priorities and actions.
24	Scottish Government should consider refreshing its Road Safety Framework to 2030 to include drug driving, given the growing prevalence in Scotland.	Scottish Government	 Review recommendation. Provide Annual Delivery Plan 	Q2 24/25	Recommendation has been reviewed regarding the Road Safety Framework to 2030. Annual Delivery Plan is being finalised and will be submitted to HMICS in due course, with recommendation to close.
25	Police Scotland should work with Transport	PSoS	Cross refer to action 23	Q3 24/25	PSoS continuing to engage with partners regarding the

SPA Forensic Services Committee HMICS Assurance Review Update 06 August 2024

Scotland and other organisations to establish	1. Evidence current		campaign and programmes aimed at raising awareness of
long-term co-ordinated	prevention activity		the drug driving law.
engagement and education	including Road		
campaigns and	Safety Scotland		Dialogue has taken place with
programmes aimed at	material and other		other Forces regarding
raising awareness of the	campaign/preventa		campaigns, raising awareness
drug driving law.	tive comms.		and education.
	2. Plan for 2024		
	campaign with		
	recognition of		
	HMICS		
	recommendations		
	and partner		
	activity.		

Key:

Closed by HMICS
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

Abbreviation	Entity
PSoS	Police Service of Scotland
FS	Forensic Services
SPA	Corporate SPA
SG	Scottish Government