



Meeting	Forensic Services Committee
Date	28 October 2024
Location	Via MS Teams
Title of Paper	Drug Driving Update
Presented By	Paul Stewart, Head of Function
Recommendation to Members	For discussion
Appendix Attached	No

PURPOSE

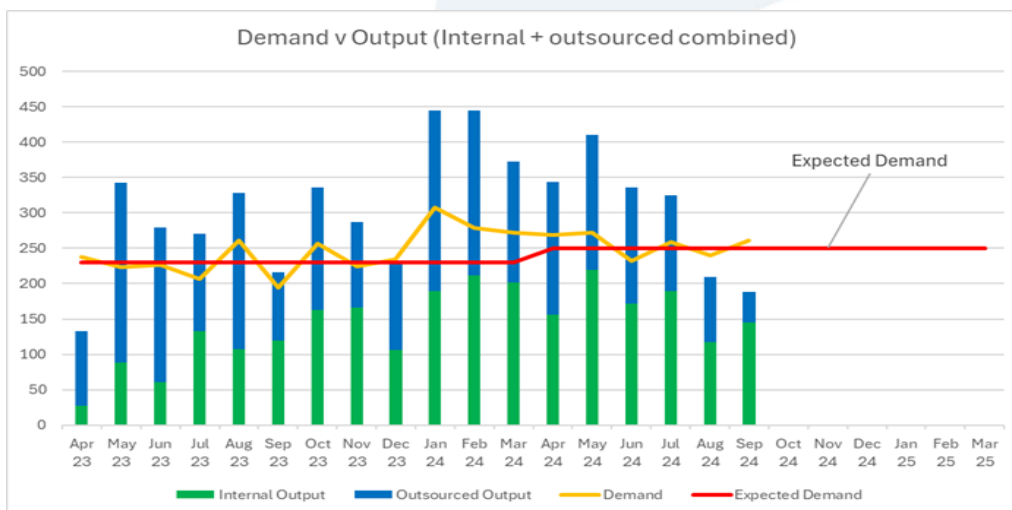
To provide members with an update on progress on the Drug Driving Toxicology performance and turnaround times.

The paper is submitted for discussion.

1. BACKGROUND

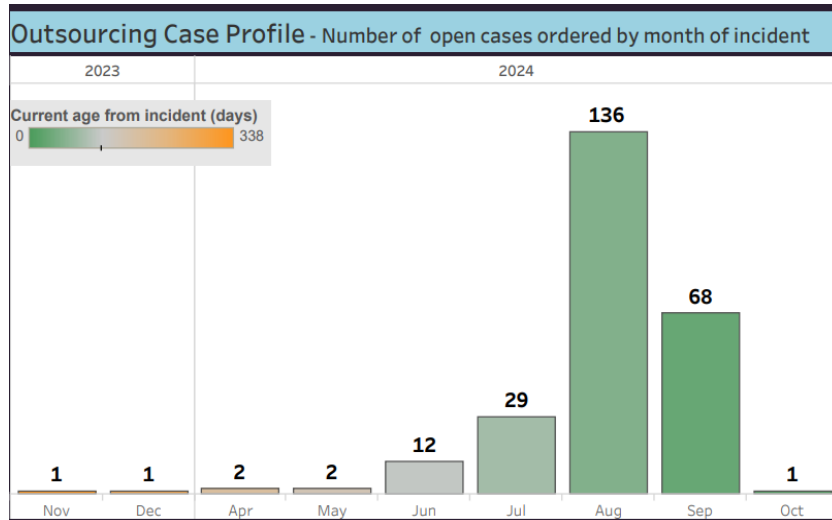
- 1.1 In October 2019, Section 5A of the Road Traffic Act 1988 came into force in Scotland. This legislation set out a specific offence of driving with a specified controlled drug above a prescribed limit. In addition, Section 4 of the Road Traffic Act sets out an offence of driving while impaired or 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 is due to return to the pre pandemic time limit of six months at the end of November 2024. This is following the introduction of a Statutory Instrument which, is due to complete the process through Scottish Parliament in mid-November 2024.
- 1.3 Following the Forensic Services Committee meeting held on 06 August 2024, additional information was requested in relation to how Forensic Services are performing in relation to Drug Driving Cases. This paper seeks to provide information and assurance in that regard.

2. CRIMINAL TOXICOLOGY - DEMAND, CAPACITY AND PERFORMANCE

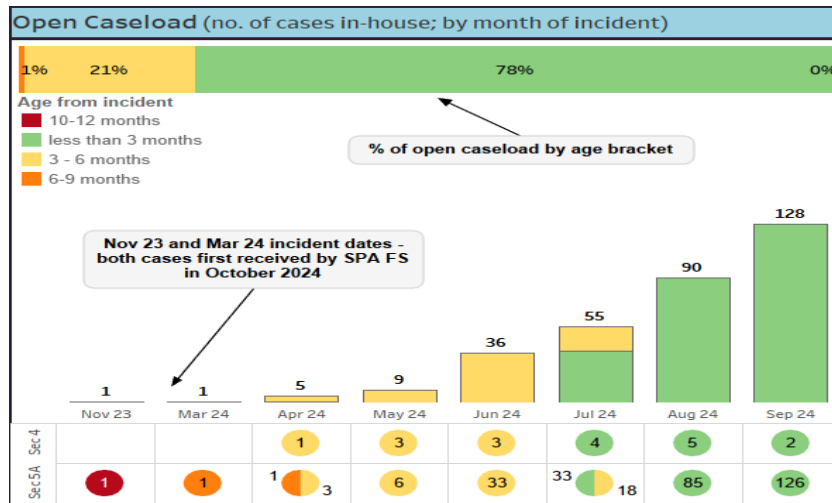


- 2.1 The Demand v Output Chart above highlights that the combined output consistently exceeds demand. This has contributed to reducing the back log of cases from a total of c.1800 drug driving cases in September 2021 to the current total drug driving caseload of c.580 in October 2024.

2.2 Technical issues in July and August resulted in additional outsourcing over August and September. The issues have now been rectified and will result in higher [outsourced] output showing in October and November performance reporting. The graph below highlights the benefit of continuing to maintain an ability to outsource, particularly when development work remains ongoing or technical issues are experienced when new methods are introduced.



- 2.3 The outsourcing annual budget (£255k) remains largely on track with some negative impact expected due to the additional outsourcing requirement across August and September. Therefore, the final year budget position is likely to see a slight overspend.
- 2.4 With regard to open cases, the graph below highlights the open caseload (by month of incident) and the positive direction of travel relative to moving towards a 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 all cases (2) within the 10-12 month timeline were not submitted to Forensic Services until October 2024.



2.5 Challenges remain in relation to the late submission of samples from Police Scotland. On returning to the six-month timeline (likely 30 November 2024), Forensic Services will move to a more fixed process in managing late submissions. On a sliding scale, samples will be categorised in a way that will result in either limited or restricted analysis being undertaken, or in extreme cases, samples will be rejected. Police Scotland and COPFS have been engaged and are fully aware of the implications relative to the provision of late samples.

Capacity

2.6 Internal capacity has increased through 2023/24 due to planned recruitment, training, and development activities. This has resulted in a shift from an average of 109 drug driving cases being reported internally per month in 2023 to an average of 190 in 2024 (prior to technical issues in August).

2.7 Combining these figures with outsourced cases has resulted in a shift in the total average output of 270 drug driving cases per month in 2023 to a total average of 380 cases in 2024.

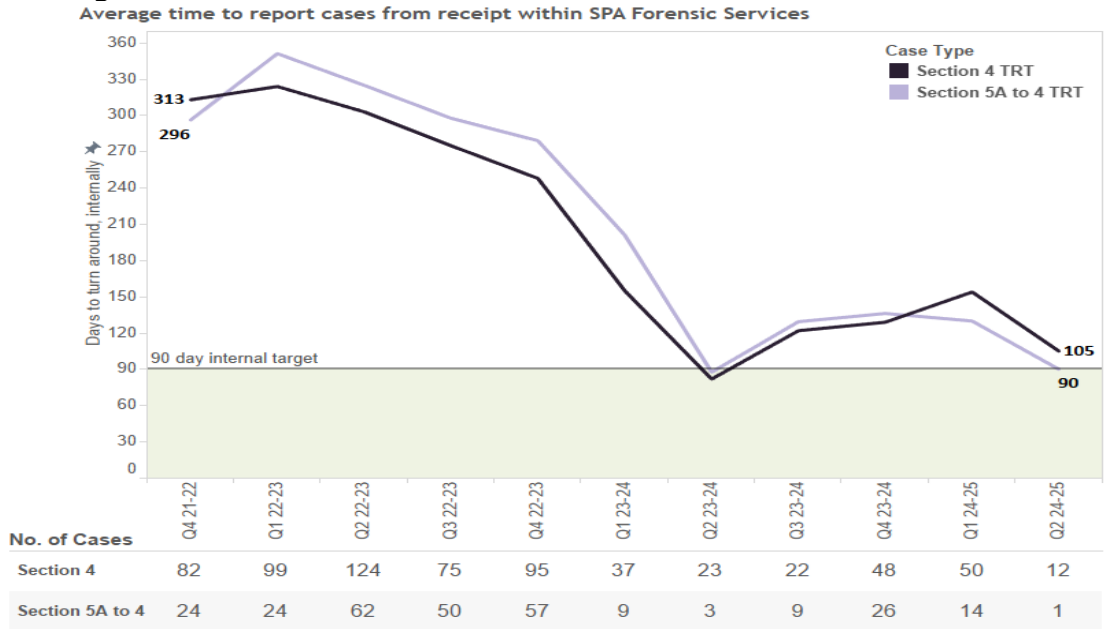
Performance

2.8 Internal performance, on average, for Section 5a cases remains on target with the rolling average meeting the 95% target, excluding August and September (technical issues).

2.9 Internal performance for Section 4 cases has seen steady progress since Q4 2022, when the TrT was averaging around 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.

2.10 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.



2.11 A smaller proportion of the drug driving caseload is submitted under Section 5a then, subsequently transfers to our Section 4 caseload as detailed in the graph above.

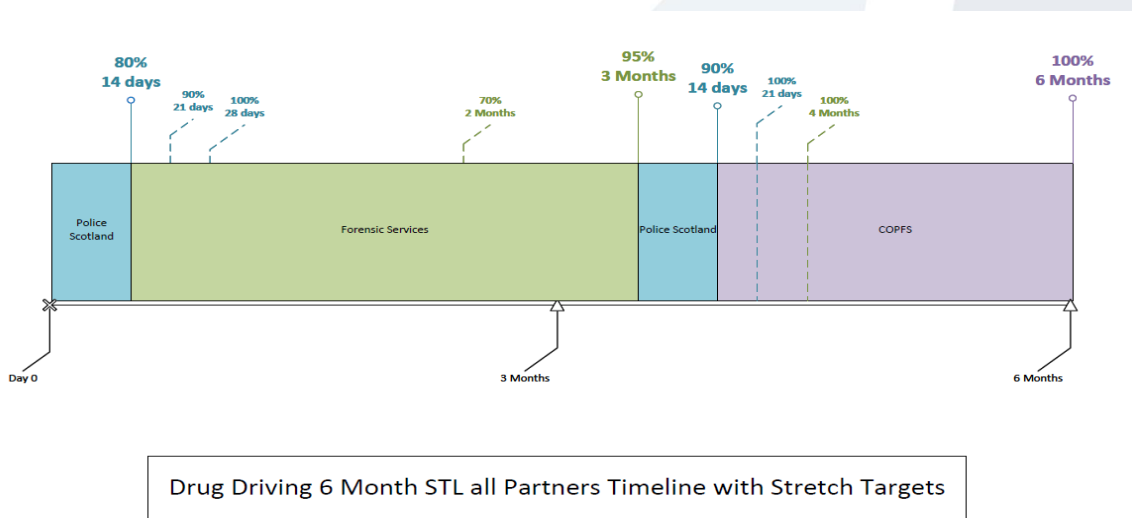
2.12 Internal performance for the Section 5a to Section 4 work has improved from an average of around 296 days TrT in Q4 2022 to the current 90 days from submission to report.

2.13 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.

Six-Month Timeline

2.14 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. This work has revolved around the requirement to build a mutually agreed timeline which provides individual organisations the ability to introduce an element of flex along the timeline.

- 2.15 As a result, a draft timeline has been agreed (see below) in principle, however, requires some additional input and agreement prior to final sign off by all relevant stakeholders. It is provided within this paper to highlight the progress being made to the Committee.
- 2.16 The timeline is designed to provide collective flexibility thereby improving performance across the timeline. 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.
- 2.17 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.



2.18 Work is currently under way to establish suitable and sufficient performance management arrangements which, will accurately monitor and report on performance across all targets.

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 progress and improvements made in reducing the backlog of cases while managing existing demand is documented. Challenges associated with meeting the forthcoming six-month timeline remain.

However, ongoing development work, training and recruitment activities 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 existing demands.

- 3.3 Lastly, this report references the progress made in relation to improving the TrT associated with the forthcoming move towards the return of a six-month timeline and, the partnership working arrangements in place to manage this on a collective basis.

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.

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.