

# **London Criminal Justice Board meeting minutes - 16 December 2021**

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## **Board and advisors**

### **Present**

Louisa Rolfe - MPS (Chair) – AC Met Operations

Damon Williams- MPS – LCJB Business Manager

Sue Williams - MPS – CJ Commander

Suzanne Burke - MPS – LCJB Support (minutes)

Ali Hinchcliff - MPS – LCJB Support

Damian McCleave - HMCTS – Head of Crime

Helen Isaac - BTP

Dominic Daley - Youth Justice

Puri Hesham - LCCSA

Lionel Idan - CPS CCP – London South

Stephen Mcallister - HMCTS – Magistrates Court

Andrew Blight - Probation

Chloe Iliesa - MOPAC

Lisa Ramsarran - CPS D/CCP

## **Apologies**

Barbara Gray - MPS – DAC

Louise Capel-Cure - MOPAC

Mat Pickering - MOPAC

Barry Hughes - CPS CCP – London North

Mo Foster - Prisons

Gary Poole - Prisons

Susan Yeoman-Jones - BTP

Lisa Mylett - BTP

## **1. Welcome - introduction, minutes and actions**

The Board agreed the previous minutes without amendment.

The Board reviewed and discussed LCJB outstanding actions. Actions agreed for closure as per recommendations.

## **2. Performance overview (including discussion of future performance reporting at LCJB)**

## CJS Score Cards

The Board are introduced to the new CJS score cards which have been published.

**MoJ and LCJB Business Managers meeting** – the CJS scorecards were discussed at this meeting. The MoJ see the score cards as being split into 3 phases which aligns with which agency owns the data.

The City of London data may be challenging to separate out from the MPS data

**The data is owned depending on which stage of case progression the case is at:**

**Recorded offence to CPS referral stage** – Police are the data owner. The understanding is that the majority of that performance is owned by Policing. This is from the point of the first CPS referral from the police and the belief is that this includes early investigative advice. This data will be broken down by BCU in London and may be able to be drilled down further into if required.

**CPS referral to charge authorizes** – CPS are the data owner. This data will be broken down into CPS area level.

**Point of charge to point of completion in the court** – HMCTS are the data owner. This data will be broken down into HMCTS areas as well as individual courts.

The next iteration of the cards (end of January 2022) will include localized score cards, (the current cards are national) and will include Q3 data (July, August, September). This means the data will not be as current as the data that has been used previously. This will be discussed further at the LCJB Data and Analysis Working Group.

**Data layout** – the data is likely to be presented via a dashboard in a more familiar manner that The Board have seen previously.

The data available will be published, so the public will have access to it.

The Board are shown the CJS Scorecards and a performance pack is delivered using the data.

## 3. Cross CJ Recovery Plan

The Cross CJ Recovery Plan involves aligning plans to support recovery of Crown Court with all CJ partner agencies.

HMCTS took a presentation to their HMCTS Board which included a deep dive into Crown Court performance to promote discussions around how to reduce the backlogs. A paper will be disseminated to all Agencies, providing a framework of areas to focus on to reduce the backlog in the crown court.

**HMCTS Workshop** – in the New Year, HMCTS will hold a workshop, lead by the new head of crime for London, with all partner agencies to discuss the Cross CJ Recovery Plans and to identify what the priorities are and where the focus should be through the support of the LCJB.

The Board are aware of the need to establish what to focus on to assist in steering the direction of the plan:

**Driving up early guilty plea rate** – the key to this is disclosure at the earliest opportunity by OIC's. Supporting officers with investigations – the police consider what additional support can be offered to OIC's earlier to get things done expeditiously as soon as the offender is in custody.

**Funding** - Bellamy report states the CJS requires additional funding. The Board fully support the Bellamy report and the well thought through solutions contained within it. The Board needs to look at how to obtain further funding to support defence looking at material earlier and overall work into early guilty pleas.

**Defence lawyers review evidence early** – more experienced lawyers are proved to give the right advice earlier. There are issues around funding and retaining lawyers, experienced defence lawyers are moving to the CPS due to lack of funding for defence lawyers. MPS will consider how younger newer defence lawyers can be better supported when in custody suites.

**Victim attrition** – the longer the case goes on the more likely the victim will withdraw their support for the prosecution.

**Pleading Guilty on the first day of Crown Court trial** – offenders often elect for a CC trial and then plead guilty on the first day. It is identified that this is often the first opportunity that all the evidence (BWV etc.) is seen by the defence, and further demonstrates that early disclosure of evidence will speed up this guilty plea rate.

It is important that all evidence and disclosure is available at the point of charging. The court then can case manage in a way that will narrow down these issues; due to DG6 and defence having better engagement and this in turn will mean that the first hearing is more efficient and may lead to more early guilty pleas.

**Video Evidence played in interviews** – many consultations have found that playing video evidence (BWV etc.) in the interview results in more early admissions of guilt by the offender. The MPS have communicated this message in their CJ Comms and will continue to push this key message to ensure that more officers use BWV in interview. Defence Lawyers confirm that it is often the case that when offenders view compelling video evidence they tend to plead guilty. This video evidence is often disclosed at a very late point within the CJS, often just before the first hearing. However, if the BWV was disclosed at the earliest opportunity this could lead to more increased earlier guilty pleas.

**Triable Either Way Offences** – there are many offences that are triable either way but would be more appropriate to be heard in the Magistrates Court. Due to the triable either way status often the option to elect for a Crown Court trial is taken. The Board can consider whether there is any influence over legislative changes that keeps appropriate summary crimes in the Magistrates Courts where they are currently triable either way.

**Disclosure** – MPS is holding a number of regular strategic disclosure boards where the above issues will be discussed.

## **4. Agency updates on recovery (including impact of HMG 'Plan B')**

Board members were invited to raise issues, by exception in relation to recovery:

### **CPS**

Nothing raised

## **HMCTS**

Nothing raised

**Crown Court** – there has been ongoing work to obtain Judges from outside of London to sit in London courts to assist with the backlog. Advertisements have gone out and the first wave of visiting judges took place last month.

**Nightingale Courts** – there is a commitment for London to retain its Nightingale Courts. At least one site will have to be relocated due to commercial reasons. The funding has been agreed.

**Magistrates Court** – on the use of live links there is a lot of work within HMCTS on this. There is likely to be an increase in applications for video hearings. Magistrates Court are prepared and ready for this increase in the applications for

## **Prisons**

Written update provided by Prisons –

52 prisons with outbreaks mainly with the Delta variant, but they are expecting Omicron to enter into the prison system soon. Hospitalisations have taken place and there have been a number of staff cases in London with one prisoner fatality. Outbreaks confirmed in all London prisons

74 prisons in Stage 1 social distancing with considerations to take these back to stage 2. London prisons are offering a stage 1 regime of reverting to stage 2 social distancing. Have infections control measures in place.

Staff absences increased but hasn't impacted significantly on business as usual; such as accompanying prisoners to court and social visits from external visitors.

Face to face social visits are managed with well established infection control.

There has also been an increase capacity for visitors and extended operating hours. Demand for video consultations are high within the prisons.

CTL cases – raised with prisons, any interruption to that will impact the CJS.

PECS – subcontractors are having increasing COVID absences that impacts on the whole CJS as it impacts on their ability to produce prisoners.

## **Probation**

Nothing raised

## **London Victims and Witness Service (LVWS)**

Nothing raised

## **Defence Community (LCCSA)**

It is likely that by the end of the day, protocol 3 may be adopted – this is a return to remote interviews/meetings other than youths and vulnerable adults.

## Youth Justice

Nothing raised

## Metropolitan Police

Nothing raised

## City of London Police

Nothing raised

## British Transport Police

Nothing raised

# 5. Domestic abuse and hate crime

The Board received the previously circulated DA update paper in which an update was provided in relation to the monthly multi agency Domestic Abuse Delivery Board (DADB), chaired by the CPS.

Over the last 12 months and looking forwards, the key priorities of the are to increase the referral rate coming from police to the CPS for consideration for a charging decision. Analysis has shown that in the cases that are referred to the CPS, there is a relatively high charge rate compared to the national figures.

CPS have completed some historic working looking at no further action (NFA) and cautions taken what we can and fed it back in terms of lessons learned etc.

**Evidence led prosecutions** – CPS have been working closely with MPS on evidence led prosecutions, which relies on evidence other than from the complainant (BWV, 999 call, house to house etc.) This work is very important as we know that witness attrition accounts for half of unsuccessful outcomes. This involves by investigators and prosecutors so training has been delivered across the MPS and the CPS in regards to these cases.

**Conviction rates** – performance is embedded in the previously circulated paper, which shows that London is behind the national conviction rate.

**Guilty plea rate** – the delivery board is focusing on ways to improve the guilty plea rates. It is preferable for the defendant to plead guilty at the earliest opportunity as this prevents the victim needing to attend court to give evidence and prevents attrition. The key to the guilty plea at the earliest opportunity is to ensure the strongest case is built and from the outset and once at court, there is effective case management.

**Remote witness sites** – the Board discussed additional support that can be provided in terms of the work of the Domestic Abuse Delivery Board. Further work around providing remote witness sites, that would enable victims and witnesses to give evidence from remote locations meaning they don't have to travel to court and face the perpetrator. This would work with the roll out of the expansion of S28 and with recording of cross examination.

**Best practice framework** – one of the pieces of work that the DA Delivery Board is working on is to implement and embed the best practice framework across London. The Board discuss how far away implementation of this

is. At the end of 2020, work was done to ensure all the components of the framework were adopted across the LJAs into the agreed position. Due to a move away from reporting, the picture across the LJAs is quite varied. We need to focus now on regular updates to ensure that that framework is embedded as BAU across the LJAs.

The Board discussed how there is currently no representative from FLP that attends the Domestic Abuse Delivery Board.

If any actions are raised in relation to the work of the DA Delivery Board, they can be taken through MPS CJ Gold Group to prevent duplication.

**Action 2021/41 LR/DW: the MPS at the DADB** - The MPS are not currently being represented at the Domestic Abuse Delivery Board. It may be possible that they can. Louisa Rolfe to look into the possibility of some MPS attendance at the DADB. Damon Williams will liaise with Lisa Ramsarran and Matt Pilch to map out DA meeting structure and ensure appropriate MPS attendance.

**Effectiveness and attendance of LJAs** – The Board discussed how the attendance at LJAs can be bad. When the LJAs run, they are very effective as they incorporate all the CJ agencies within the Court areas. The Board agree that this is an area that needs to be looked at. These should report into the LCJB or the CJ Efficiency Board. The LJAs were providing quarterly updates that appears to have fallen away since COVID.

**Action 2021/40 SL/DW: LJA re-invigoration** - LJAs used to give updates back to the LCJB. These have stopped and should be brought back plus ensuring that the relevant framework is being used. Sara Lewis/Damon Williams will contact the LJA Chairs and them to provide updates for the next LCJB meeting.

Work overseen and monitored by the Domestic Abuse Delivery Board was discussed:

**MPS pilot** – 2 MPS BCUs are running a pilot in which a risk-based approach is used, where there is a STANDARD risk and the officers have the opportunity to arrest the defendant at an early stage and support the victim effectively. The work is in its early stages, the Delivery Board have provided the MPS with outcome data to set a benchmark for outcomes. The DADB are expecting an update from the MPS at their November board.

**Op Cara** – is where conditional cautions are being considered for DA offences. Members of the DADB have been involved with meetings with MPS which established that this is not for consideration at this time but will be considered at a later stage.

Domestic Abuse Deep Dives, key findings from Hampshire Police.

The work looked at DA cases as they progressed through the CJ system.

Methodology – selecting eight to 10 DA cases that had entered the CJS and ended in a conviction. Using an investigator and prosecutor that was not involved in the case, HMCTS reviewed their agency's input into that case. 75 cases were looked at across 8 police forces.

Looking at things such as DA Best Practice Framework and considerations around DA.

The key findings:

- agencies operating in isolation
- timeliness issues across the system – especially if the suspect was bailed
- victims get lost within the process – the longer the process, the higher likelihood of the victim withdrawing

- delays in court system and listing trials a contributing factor
- police prioritising front end demand, not secondary investigation
- inconsistent prioritization by CPS at point of charge
- variable use of BWV by police.

Some positives from the report:

Many forces adopting a DA gatekeeper role to expedite secondary enquiries that is very successful.

The main recommendation is that LCJBs commission a more joined up process. For example, prosecutors, investigators and court service staff in a room together, take them through cases and get them to perform a more system-based review by looking at the case together.

The Domestic Abuse Delivery Board does look at similar work, but on a smaller scale. This work will be remitted to the delivery board where the partners can be organized to look at cases together.

## **Hate crime**

This will be discussed at the next LCJB. There is work in progress and an action plan is in place. Marin Kerby, the MPS LRO will be invited to the next LCJB.

## **6. Agency updates**

### **CPS**

CPS are preparing for the trial blitz that is due to start. In the Crown Court the backlog remains the main issue. The CPS are continuing to recruit additional prosecutors as well as non legal staff.

### **HMCTS**

HMCTS are working in a number of areas to address the Crown Court backlog, including scrutinizing Crown Court disposals data to ensure HMCTS is always working at optimum operating levels.

### **Prisons**

Prisons are looking into available options for increasing capacity across the country, which may lead to additional pressures on police custody. The Police will struggle to find additional capacity in custodys in London and would need considerable warning to ensure planning is possible. In the meantime Prisons are considering other options within the estate. Higher amounts of prisoners together may increase crimes inside prisons.

### **Probation**

**Service delivery** – from 10/09/2021 every probation region has moved from the exceptional delivery model to the new operational model, which is in line with the national standard.

Some of the key changes that we will move to include:



- **Minimum monthly face to face appointments** to all people on probation, with the exception of unpaid work which is stand alone.
- **Home visits** – reintroduction of home visits in every case. If not complied with, this is recorded.
- **Initial appointments** – all carried out face to face. This includes people on probation with standalone unpaid work.

Different regions are at different stages of recovery and each region is able to apply to have some national standards suspended if they can't be delivered (for example, for recovery reasons) but also, for BAU reasons (such as low staffing).

London is recovering well 14 out of 18 of our delivery units are currently delivering national standards fully.

The four delivery units that are not delivering at the moment have suspended between one and four national standards – work continues to assist them achieving BAU.

### **Community Payback**

Currently operating at around 55 per cent of delivery. This is due to reduced groups (due to continued social distancing) as well as difficulties sourcing some of our unpaid work placement options in addition to a backlog that is being dealt with through a national piece of work. This involves bulk listing. Those cases that were affected by the lockdowns will be extended by the court passed the original time so that those unpaid work hours can be completed.

**Accredited programs** – is currently operating at around 25 per cent of delivery.

- Restricted group numbers.
- Not being able to get the numbers through the program as before.
- All the groups are up and running and we are exploring alternative ways to deliver those groups.

Pre-release services are currently working at 80 per cent of service delivery:

- Polygraph testing.
- Victims unit.
- Sex Offender program.
- Senior attendance centres.

### **Court report recovery**

Making progress with some courts that are very close to 50 per cent, Ealing Magistrates Court, Highbury Corner.

Croydon and City of London Courts are not improving at the ideal rate, but both have non COVID related performance issues that continue to be addressed, with improvement plans in place.

**Training bootcamp for legacy CRC staff** – this increases the amount of probation officers that are available and enables them to complete pre-sentence reports (PSRs).

Probation are confident that they will be able to provide the additional capacity to support the trial blitzes in the courts.

The chair discusses with probation the work that MPS has discussed with Probation where work for TSG teams doing some work around stop and search, particularly in areas of London where there is a high proportion of

black communities – sharing information in a constructive way, ie why we carry out stop and search and what it is all about. MPS are awaiting an update on this from probation.

### **London Victims and Witness Service (LVWS)**

The Agency are seeing volumes go back to pre covid and staying steady. Changes to the staffing structure are in progress and much more face to face working is taking place.

### **Defence Community (LCCSA)**

No one present.

### **Youth Justice**

Youth Justice are now working mostly face to face, with some hybrid working still in place. The number of cases being referred into YOTs are low which adds to the concern around the current level and nature of violence across London.

### **Police:**

#### **Metropolitan Police**

**Met Detention** - are operating back to normal levels.

**Witness Care Units (WCU)** – due to the court backlogs, the higher demand led to a higher workload for staff. More staff have been recruited.

**VRH** – a small number of VRH are used to support the courts where required. The MPS have a pilot for Breach of Bail VRHs working with HMCTS Magistrates Court. More information will be available to bring to The Board for the next meeting.

**PECS and SERCO** - HMCTS chairs a group, where it has been raised that PECS and SERCO have recruitment issues and will keep The Board informed. There is a plan in place to improve performance and the option for VRH remains if required.

**Out of Court Disposals (OCD)** – 2 tier structure will be adopted in London in 2023. The necessary work needed to ensure planning, training and delivery is in progress.

#### **City of London Police**

No update.

#### **British Transport Police**

BTP have found that they are holding onto cases for longer and that last minute adjournments causes issues. More finalisations have been recorded which is positive. BTP trials appear to be excluded from the trial blitzes which may prevent our backlogs reducing at the rate that other police forces are reducing. BTP are engaging in the right conversations to address this and working with our CPS colleagues but as we are a national force, this can make this slightly more complicated.

## **7. Hate Crime update**

This agenda item will be moved to the March LJCB.

## **8. Charging arrangements**

### **Charging transformation**

Red and Green arrangements are still being discussed.

What is a RED exception case:

- In custody, seeking a charge, anticipating a remand application

or

- On bail, remand application may be considered.

Discussions around local arrangements continue between CPS and the NPCC, that are looking at solutions in relation to focusing on gangs, high harm offenders, DA etc. Work needs to be done to identify why there are problems with charging when Police are ready to charge.

The Board agreed that this issue of charging decisions remains a work in progress between the CPS and Police.

## **9. Out of court disposals - Two Tier Framework Implementation**

Information was provided to the Board around what the implementation of the Two Tier framework will look like in April 2023. Diversionary cautions; will be on criminal record and community cautions; will not. Consideration will need to be given around a referral process (drug/alcohol worker) for each individual and it would be useful for there to be an App to use for the office to decide which was the best option. The schemes may differ dependent on area of London where subject lives.

Some data shows that the MPS currently issues 12,000 cautions; including FPN. These will all fall under the new Two Tier framework. Work is being undertaken to work out how and what impact this will have on FLP. All outcomes that are cautionable (simple / conditional) will fall under this framework; however it is yet to be decided how it will be categorized – Diversionary and Community. It is also unknown how CPS work will sit within this framework.

Main risk at this time is how the breaches will be dealt with (no central team) Risks are that we don't have a central team and how breaches will be dealt with – Diversionary could be deferred for prosecution and Community could result in a fine. This could be seen to reduce disproportionality. There could be a loss in sanction detections as a performance measure. A number of other impacts may occur which are yet to be identified.

Firstly, a Central team needs to be established. There will be a lot of training required to roll this out. It is not believed that anything will be provided by COP so this will need to be done locally. There is a question around a National referrals process and which team will look at the breaches.

It is unknown if the new framework will apply to DA. Currently Cautions for DA are the exception and whilst they are trying to drive up cases for DA; the introduction of the framework may have the opposite effect to this. However, a victim may be more helpful if there was a community caution involved rather than the victim not supporting due to length of time through Court.

Diversionsary cautions sound similar to conditional cautions and CPS will need to identify how they will be involved in this framework if they are referred to Court for non-compliance. CPS do sit on MoJ nationally for this framework. PNDs should become Community as with most of PNDs. Legislation requires admission and therefore this can pose a problem with D&D/D&I. Breaches will be challenging. It is unknown how many there will be but maybe another Force's data may given us some insight into this.

The Board asked the question around whether the cautions will be disclosable on a DBS. The Community Caution would be shown on an enhanced DBS and a Diversionsary Caution will be on a normal DBS. The new framework does not include youths.

## **10. Directors Guidance (Charging) Arrangements**

The DGA information will be placed in the new scorecard. This will be relevant to the Police and other agencies as well. There has been two sets of data and lots of work has been done. The MPS review the failures, take some back to CPS and then another challenge meeting takes place before finalisation. 846 failures in Oct (145 dups). The agreement around what the failures are is still be discussed and considered.

CPS are not sure the figures are correct - CPS believe it to be 56%; whilst it is currently recorded in the MPS as 44 per cent. The issues surrounding cases being referred back and forth between the Police and CPS continue and there is still a lot of work to be done to reduce this.

The Board has raised the importance of looking at quality good files rather than concentrating merely on the available data.

## **11. Common Platform**

HMCT is keen to work with partner agencies and will not be going ahead until Police are happy with the way forward.

## **12. Risk Register review and remissions to CJ Effectiveness Board**

The Board reviewed the below risks on the Risk Register.

### **Risks**

**Common Platform** – the challenge has moved on from the risk as it is currently shown. The update from HMCTS will be considered and the risk will be re-articulated. The risk has changed from originally reflected on

the risk register and is now focused around the software and how it performs within the Court setting. The Board agree to keep the risk rating as AMBER.

## **Issues**

**S28** – this issue has moved on since it was added and there is a further risk around the roll out of S17 and what this would encompass. The Board discussed whether the expansion and the demand this would generate could be added as a new risk/issue. In addition the availability of CPS Counsel could present further risks. The full understanding around what is needed to ensure the expansion of S28 is effective is where the risk would sit. This remains Amber but will have a high impact when the change happens.

**Governance structure** – agreed it should be taken off the risk register.

**Community Payback** – to remain on the register as although it is improving, there is still work to be done and this was delayed by COVID.

## **13. Agenda setting**

- Hate Crime – Supt Matt Kirby and Tracey Mesme / Toks Adeysan.
- S28 Expansion.
- Cracked trials.
- Cross CJS plans.

## **14. Any other business**

Thank you to Damian McCleave who is moving on from his current role.

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