POLICE SCOTLAND
Keeping people safe

Security Classification:	OFFICIAL
Contents may be seen by:	
Author:	DS JANE MCCOURT
Organisation:	OCCTU
Telephone:	01236 818140
Date Created:	31st October 2018

Digital Triage Device (Cyber Kiosk) Reference Group

MINUTE OF THE MEETING

DATE: Tuesday 30th October 2018

LOCATION: Nellis/ Collins Conference Room Scottish Crime Campus, Gartcosh

CHAIR: Richard Whetton (Head of Partnership and Collaboration, Police Scotland)

SECRETARIAT/ MINUTES: DS Jane McCourt

MEMBERS IN ATTENDANCE:

Richard Whetton	Chair
DCS Gerry McLean	(GM) Police Scotland, Head of Organised Crime and Counter Terrorism Unit
DSU Nicola Burnett	(NB) Police Scotland, Head of Cybercrime
DCI Brian Stuart	(BS) Police Scotland Cybercrime Unit
TDI Michael McCullagh	(MM) Cybercrime Capability and TS21C programmes
Dr Duncan Campbell	(DC) Advisor to Open Rights Group
Dr Megan O'Neill	(MO) Dundee University
Dr Liz Aston	(LA) Edinburgh Napier University, Director of SIPR (Scottish Institute for Policing
David Freeland	(DF) Information Commissioners Office
Peter Benson	(PB) Police Scotland Cybercrime Unit
DS Jane McCourt	(JM) Operational Development Unit

1. INTRODUCTION AND WELCOME

The Chair opened the meeting and thanked members for their attendance at this meeting of the Cyber Kiosk Reference Group.

The Chair initiated round the room introductions.

2. VALUES STATEMENT

The Chair reiterated the values of Police Scotland to the group stating, Integrity, Fairness and Respect are the values of Police Scotland. All decisions which we make must reflective our values and be able to withstand scrutiny when judged against them. Accordingly, our values will be the touchstones in all decisions we reach within this forum.

3. APOLOGIES

Apologies were received from the following members;

CI Iain Moffatt, Police Scotland, Strategy and Innovation
Mr Aamer Anwar, Aamer Anwar and Co
Ms Millie Wood, Privacy International
Ms Scarlet Kim Privacy International
Ms Ailidh Callander – Privacy International
Victim Support
Diego Quiroz- Scottish Human Rights Commission

4. MINUTES OF PREVIOUS MEETING

Chair proposed the minutes of the previous group allowing an opportunity to raise any amendments

LA highlighted minor amendments which have been rectified.

NB advised the Group minutes would be published on the public facing Police Scotland website.

No objections were raised to the publication of the minutes of this group.

5. ACTION LOG

Chair provided members with an overview of the current outstanding actions seeking and update from action holders.

Action 1/18, NB updated that in terms of Codes of Practice and publication of data, Stop Search assisted with regularly published data sets and published management information, Cyber Kiosks would look to replicate. NB highlighted there were on-going discussions with Governance and Assurance to provide guidance, NB confirmed prior to any finalisation of management information, data sets would be brought to the Group for information and consideration.

NB Suggested that Action 1/18 complete with a new action to circulate within the Group, data sets which are published with respect to Stop/Search and provide a link to Stop Search Codes of Practice.

Action 010/18 – Operational Development Unit to circulate data sets with respect to Stop/ Search and provide a link to Stop Search Codes of Practice

Chair asked who is guiding from Quality and Assurance.
.

NB confirmed Supt Bob Kennedy and Alice Stewart from Governance Assurance and Audit were providing guidance.

GM highlighted that Business Assurance will review data sets put forward, professional guidance will be sought in relation to who takes responsibility for reviewing on a long term basis.

The Chair stated it would provide an opportunity to review learning points from HMICs and lessons learned from the past.

The Chair suggested that Actions 3 and 4/18 were dealt with under the document set agenda item.

GM highlighted with respect to Action 5/18, COPFS are represented on the Cyber Kiosk Stakeholder Group. COPFS have been asked about legal basis and status concerns with regards to return of devices and powers to seize. Processes are to ensure proper governance and scrutiny, proportionality and necessity. When a device is seized the item becomes a production which will be returned with a PF release. There will have to be a degree of flexibility in relation to discretion that the police would have to return a device of it has no evidential value.

LA queried is there a way of creating a system whereby people can submit digital evidence without giving device by means of message or e-mail

DF asked is this process not available in England and Wales?

MO expressed her concerns with respect to the Human Rights Act and issues regarding personal security in the event of a domestic violence or stalking incident and the danger to a victim if a phone was seized from them

GM highlighted that other discussions are being held elsewhere with respect to rights of victims and accused persons and the constitutional aspect of law in Scotland versus England and Wales. There is a requirement to get a legal view as by not seizing a phone it could deny a defence team the opportunity to examine and may lead to a decision or a challenge against COPFS.

LA highlighted raising potential issues need to be challenged as we move forward as a discussion or recommendation with COPFS should be considered, the legal situation needs to catch up with the day to day and whilst it may not be in the gift of Police Scotland it should be raised as a concern.

The Chair recognised that there are on-going discussions bringing together a range of partners under the digital transformation piece.

MO queried if the SIM card for a device could be returned and the device kept allowing a SIM card to be used in another device to provide personal safety

GM confirmed with respect to domestic violence, other measures are put in place under the auspices of the care package to ensure safety of the victim and includes providing the victim with an alternative device or alarm. GM further commented that returning a SIM Card may have the same premise and could potentially compromise proceedings.

DC queried is it right that it would be anticipated that COPFS would have the expectation, if device taken and triaged and judged not to contain evidential value the device may still have to be retained

GM under revelation and disclosure, COPFS view would be to apply the relevance test at the front-end, if not relevant as a production

DC suggested that a strongly encouraged consensus would it be possible to work with one authorised certified copy, which already applies across a range of evidence, if technology is not mature, a clone should be re-constructed, if appropriate; would it be possible for the Stakeholder Group to take forward?

GM confirmed Police Scotland has written to COPFS for clarification and the response will be shared with the Reference Group.

NB suggested a letter could be drafted representing the views of the Group regarding the capture of digital evidence

DF suggested that the letter should be shared with the Parliamentary Committee and shared with the Information Commissioners Office as it will be asked for.

The Chair highlighted that action 7/18 will be dealt with under document set agenda item.

Action 8/18, the group members have been circulated and the action is closed.

GM updated the Group with respect to Action 9/18, Victim Support have been contacted but are having capacity issues with respect to sending representation to the Group, it would be a consideration to engage with Victim Support with regards to victim experience pre and post triage with a view to gaining knowledge on case studies.

LA expressed that if Victim Support may be experiencing capacity issues with respect to core business consideration may be given to signpost as a research topic. SIPR (Scottish Institute for Policing may be in a position to assist.

6. GROUP DISCUSSION - DOCUMENT SET

NB expressed thanks to TDI Michael McCullagh regarding on-going work in relation to the document set and engagement with partners.

NB provided the Group with an overview regarding the proposed time-line, on 4th October a written submission was presented to the Justice Sub Committee on Policing which outlined the document set, being Toolkit, Public Information Leaflet, Principles of Use, EqHRIA (Equality and Human Rights Impact Assessments and DPIA (Data Protection Impact Assessment.) and confirmed these had been shared with the Group for consultation.

NB thanked the Group for their engagement and taking the time to review the document set.

NB confirmed the letter contained information for the Committee with respect to Audit and Assurance, with an intimation to publish an agreed data set compliant with governance procedures. Taking on board advice from the Reference Group, management information would include

- Number of examinations undertaken during quarter broken down by location (North/East and West) and accused/victim/witness status;
- Quarterly summary of audit regime and issues identified for action (by location; East, West & North);
- Quarterly summary of remedial action taken as consequence of audit regime, detailed in categories for example, equipment issues, data input or training,
- An agreement has been established for PSOS Audit and Assurance Team to conduct compliance assessments including dip sampling and will monitor and review first line audit procedures implemented by Cybercrime ensuring compliance of use with toolkit and training.

The letter outlined the ambitions for accreditation not just for Cyber Kiosks but for the wider digital forensics piece. Police Scotland have produced a draft digital forensics strategy. Whilst Police Scotland are not compelled by the Forensic Regulator for England and Wales to sign up to ISO17025 Accreditation it would be remiss of Police Scotland not to consider meeting the same standards and are seeking to employ a Data and Quality Assurance Manager to progress this programme of work.

MO queried who the accrediting body would be

NB confirmed it is an International Standard accredited by United Kingdom Accreditation Service (UKAS)

GM update the Group that attainment of ISO 170925 would ensure consistency across system management and identify gaps and vulnerabilities. The employment of a Quality Manager to oversee implementation would provide confidence and provide a standard cross digital forensics.

NB highlighted there will be ten officers trained per kiosk. The devices were bought as a means to provide service improvement for the public; it is only right that Police Scotland engage to ensure we get implementation right. The plan for roll out of training is pencilled in for November/December initially only in the East of the country.

Police Scotland are satisfied through on-going discussions and engagement that the use of kiosks is within a legal framework, it is not new but have written to Crown Counsel, to provide assurance.

The Police Scotland Data Retention Policy was submitted for the information of the Justice Committee.

NB highlighted that she along with DCS McLean had met with Diego Quiroz on 4th October and provided a demonstration of the triage device, which he hadn't received before he attended at the Justice Committee.

DC queried whether ISO17025 was a settled matter within the Cyber Hubs

NB confirmed ISO17025 is accreditation which is available. Police Scotland have liaised with the Leverhulme Institute with regards to what other accreditation is available. One of the reasons to employ a specialist Data and Quality Assurance Manager is to review what standards colleagues elsewhere are adhering to, creating an opportunity to create something new if we do not go down the route of ISO17025, but to ensure we are adhering to the same standards as England and Wales.

DC advised that sub discussions taking place in England and Wales demonstrate an imbalance with respect to a disproportionate effort to gain accreditation, whilst it is an external decision we are aware that whilst certification and accreditation are a good thing it would appear to fall short of types of issues that the Reference Group bring to the table.

MM outlined to the group that several of the draft documents discussed and circulated prior to the meeting contained a summary of the legal framework and powers to seize and examine devices. He requested that these be considered by members and he be informed of any issues identified.

MM further thanked the Group for reviewing document sets within tight timescales.

MM provided a synopsis of the feedback received and highlighted consistent issues with respect to alternatives to seizure, legal framework, the Public Information Leaflet and engagement with the public.

MM confirmed there were no overwhelming issues or considerations identified.

MM addressed points raised in feedback

Only specially trained officers will use cyber Kiosks in terms of interpreting data, investigating officers may interpret the data but will not be involved in the operational triage. It is difficult to address specific points as documentation addresses issues overall

6.1 Public Information Leaflet

MO suggested for a member of the public with no previous knowledge of procedures a visual diagram of the process would be useful. It would also be useful to differentiate the process if a device was submitted to a cyber hub or a kiosk, giving an indication of time frame, whether that is days, weeks, months, to provide clarity

MM highlighted the challenge is not covering specifics of what could arise in individual cases, more information can be made available in the Frequently Asked Questions or a link to the public facing website rather than the leaflet.

MO highlighted the challenge of a member of the public accessing a public facing website if their phone was seized.

DF highlighted that the role of the police officer in imparting relevant information should not be overlooked, a point of contact within Police Scotland who could provide more detail in the absence of having access to the internet, should be incorporated.

LA suggested it would be useful if there was a space on the information leaflet for a point of contact or length of time the phone may be taken for.

BS confirmed the seizing officer may not have the specific knowledge with regards to the specifics such as likely time the phone may be seized for.

LA suggested that an infographic with key information for members of the public would be useful.

GM asked the Group to confirm that the documents set are at an advanced stage with the caveat being that the information provided could not cover all eventualities; if the information is too specific it could become misleading. The leaflet would signpost further information either through QR codes or public facing web site. GM asked if there was anything else that could be done to improve the leaflet

MO suggested that the public would want to know if their phone was seized and they received a call or text would the police answer it.

BS confirmed that phones which are seized are switched off, which is addressed in the Frequently Asked Questions and confirmed a raft of questions and answers have been drafted.

MM asked the Group if the Frequently Asked Questions drafted are the correct questions should there be other means to enhance the flavour of FAQs.

DC confirmed FAQs are a brilliant and easy vehicle for picking up and putting down answers. In terms of the leaflet, engagement with Victim Support could take away from Police Scotland and provide a view from the outside. There is perhaps a defensive feel; liaison with the Force Comms unit may provide simplified or plain language. The term "kiosk" should be considered, is it a term from the manufacturer, it may not mean anything to ordinary people or police officers.

DC further confirmed that he found the FAQs helpful and the Principles of Use Document helpful in that it is noticeably less defensive and written for the more informed.

NB highlighted that the overall purpose of the leaflet as we cannot answer every question is to seek to signpost the facts and the information has to be agile to allow it to develop as technology evolves.

The Chair reiterated the main issues are design, need for process diagram and use of language. What would Members say to the leaflet being road tested?

LA highlighted there are organisations available who will apply a plain English test

The Chair confirmed there are people within Police Scotland who can do this

LA queried do you need to use the term "production" it should be as simple as possible but there is a balance, where a term really has to be used, say at the first opportunity what the term means.

LA queried under the section form titled making a complaint, should this be kept changed to "feedback" to capture process for providing positive and negative feedback

LA also expressed an expectation of time should be addressed, so that members of the public are aware how long their phone may be taken for

BS updated the Group that there is a parallel Group looking at the retention of digital devices, TDI McCullagh is embedded within this Group, there is also a similar process being explored with regards to Criminal Justice and the experiences of victims of crime and accused persons. The use of kiosks will reduce the timeline of retention considerably, working with COPFS we could work towards returning devices much quicker.

DF queried what are the next stages of the process?

The Chair highlighted the Frequently Asked Questions and simplification of the Public Information Leaflet.

DF suggested that management information should shape FAQs

DC highlighted that difficulties need to be understood for front facing officers in order to state the estimated return time of the device, submission to kiosk is an advantage to facilitate early return although case dependent, but if COPFS may say to retain the device in any case.

LA suggested it is case by case but an indication and contact with the police for example write name on leaflet, set expectations by stating will be in touch with more information, therefore setting expectations, and a rough indication of time scales could be provided at a later stage when clearer.

The Chair suggested moving onto the Principles of Use Document

6.2 Principles of Use Document

MO Highlighted Digital Forensics at the top of Page 3 no mention of the word kiosk

MM put at top of page 4

MO suggested adding bullet points of triage process.

DC highlighted the Principles of Use is a good document, but suggested would drop "of use" from the title

The Chair highlighted to see Human Rights so prominent is good

GM updated the Group that he and DSU Burnett attended a recent meeting with Diego Quiroz from the Scottish Human Rights Commission who highlighted human rights should be reflected in the document set which was adopted

LA suggested "would not consider" on page 5 should be "or"

MM asked the Group regarding distribution

NB emphasised Police Scotland's public commitment and internal standards look for it to be public facing and incorporated into training, how those involved will be held to account

The Chair asked the Group for feedback in relation to Toolkit Document

6.2 Toolkit

MO confirmed she had no comment to make

NB highlighted the toolkit identifies overarching roles and responsibilities

LA queried where the toolkit goes next, does it have to be submitted to the Unions and Scottish Police Federation

MM confirmed the engagement with the Policy Unit incorporates engagement with the Unions and Scottish Police Federation

GM highlighted the toolkit is an internal document and therefore should not be public facing. Tradecraft could be identified and may lead to unintended consequences for other business areas, would it be of interest to the public in any case.

NB highlighted that regarding the information that is being shared it should be meaningful, realistic and about what the public would want to know.

DF suggested liaising with Information Management Department with respect to what is an internal document and what should be publically available.

MO suggested that Purpose and Use Document should be general in terms of digital forensics and Toolkit is Cyber Kiosk specific

GM suggested is the toolkit in the public interest and whilst there is nothing to hide there could be a precedent set which could impact on other areas of business

DC suggested with the underlying principles of openness and Freedom of Information could a redacted copy be published with no expose of tradecraft, as it can be underestimated the research people carry out on the internet from a technical or academic perspective. Go with the presumption of openness applying the same standards as Freedom of Information.

LA expressed her understanding would be if an internal document was to become public facing it could lead to it being written differently, would have to go through forensically what would not be released.

NB confirmed contact details and email addresses would have to be redacted

DF suggested the information is managed with the same principle of FOI, if an FOI request was received what would be published and what would be redacted?

LA suggested that any detailed information with regards to the kiosk should be included in Principals and Use and FAQs

6.4 DPIA

DF highlighted there should be further detail with regards to lawful basis from COPFS it is suitable for suspects but not witnesses or victims

DF highlighted that Information Commissioners Office is investigating a complaint from Privacy International with respect to forces down south

"Officers "should be dropped on page 24

Security of devices in station and security of data in transit should be highlighted

Residual risks should be scored not just mitigated /accepted.

DC suggested there should be a new appendix, regarding the Examination Request Form, not enough on how officers are trained or supervised in filling out a free form

MM confirmed the ERF process is an established process for all digital examination which requires evidence that the submission is justified and proportionate, it is not kiosk specific but applies to all submissions for digital forensics, it is touched on in the appendix but wanted to keep the DPIA focussed.

ACTION 011/18-   ERF Form to be circulated to the Group

GM highlighted that the form allows for categories of submission accused/victim and witness and whether statutory, warrant or common law.

6.5 Equality and Human Rights Impact Assessment (EqHRIA)

MO highlighted the risks associated with vulnerable people not having access to a phone and consideration of alternatives to seizure.

LA queried whether there was legal expertise provided from the Group members, Privacy International, Aamer Anwar, and Scottish Human Rights Commission.

MM confirmed he would engage with members who were not present.

GM confirmed there was intimation that the Justice Committee would like an update with regards a collective position regarding the document set.

MM asked the Group leaving the leaflet to the side are the other 4 documents in a place where they would support roll-out, are we close to final documentation with no significant issues.

GM confirmed he thought the toolkit was in an advanced state

LA confirmed what was missing is feedback from the people using the toolkit

GM confirmed there are proposed training dates scheduled and an evaluation of training planned.

The Chair highlighted that the document set was in a late stage of development having been reviewed three times.

DC suggested with the document set being in an advanced stage, training being the next step.

The Chair highlighted that the document set being in an advanced position should be communicated to the Justice Committee

BS reminded the Group they will be living documents which will continue to be reviewed and evolved as required.

NB highlighted that it would be beneficial if we had consensus from the Groups that the document set is in place prior to training and initial roll out which could be communicated to the Justice Committee

GM confirmed the position for the Justice Committee would be, whilst there is more work to be done, the Toolkit and Principles of Use documentation are in an advanced state and we would seek to train the users and incorporate user feedback and evaluation

6.6 Terms of Reference

The Chair highlighted there had been on-going discussion regarding the Chair of the Group regarding Members preference; it was decided by the Group this could be addressed as the Group continues.

6.7 Timeline

The Chair asked GM to confirm the proposed time line

GM confirmed the broad timeline is dependent on the work of the Groups, the advancement of the document, set taking cognisance that the public leaflet is critical. The time line at present, still remains as two training events scheduled for week commencing 12th November for 20 kiosk operators. As it has been confirmed by the Group that the document set is in an advanced stage there are no major impediments to commencing training, incorporating the evaluation of users we would look to continue rollout January- March

DC there would be no concerns for training to start as this is largely technical. Right to see a balance of benefit and triage qualified by COPFS

NB Internally we have to ensure officers are confident in the use of kiosks, if continually securing training for 20 officers for 2 days training this could impact operationally.

The Chair confirmed the position should be for the Justice Committee that we are almost there with the document set with training to start in November

GM confirmed the defined training packages are in a healthy place. Following the meeting with Diego Quiroz Scottish Human Rights Commission, advice regarding human rights had been adopted and there are no significant impediments to take to the Stakeholder Group, taking into consideration there are a few pieces to get over the line

DC queried do you have a window to "go live"

GM answered any issues identified post training will be brought to the Group by December by which time half of the 41 locations will have been trained. There is a risk to currency of training if go live is not considered before the end of the financial year.

NB suggests that if the rollout of training and go live dates are too far apart, this could impact on user confidence. Initial incremental training starting in the East in November with an evaluation carried out by Organisational Learning and Development scheduled for December the results of which will be brought back to the Group.

LA suggested officers need to feel part of the process as internal is as important as external,

evaluation could include their opinions regarding the public leaflet which could be incorporated into the final refinement in training.

DF highlighted the Information Commissioners Office are looking at use of all devices across the UK, may be publically facing next year and may have a small bearing on Police Scotland.

7. AOCB

Chair afforded the opportunity to raise any areas of AOCB.

No other areas of AOCB were raised by members.

8. DATE OF NEXT MEETING

Chair thanked the members for their attendance and participation in the meeting and informed that suitable dates shall be circulated in due course and meeting date set.