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| Contents may be seen by: | |
| Author: | DC Grant Wilson |
| Organisation: | OCCTU |
| Telephone: | 01236 818536 |
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**Digital Triage Device (Cyber Kiosk) Stakeholder Group**

**MINUTE OF THE MEETING**

**DATE:**             **1000 Hours Wednesday 12 September 2018**

**LOCATION:**      **JOC Conference Room, Scottish Crime Campus.**

**CHAIR:**           **DCS Gerry McLean**

**SECRETARIAT/
MINUTES:**        **DC Grant Wilson**


**MEMBERS IN ATTENDANCE:**

DCS Gerry McLean          Police Scotland **Chair**
CS Roddy Irvine          (**RI**) HMICS
DSU Nicola Burnett          (**NB**) Police Scotland, Head of Cybercrime
DI Michael McCullagh          (MM) Police Scotland, Cybercrime
Inspector Steven Tidy          (**ST**) HMICS
Craig Donnachie          (**CD**) Forensic Services SPA
Robert Hayes          (**RH**) SPA
Andrew Richardson          (**AR**)   COPFS
Peter Benson          (**PB**) Team Leader PSOS Cybercrime
Roslyn Rooney          (**RR**) PSOS Communications
Alice Stewart (VTC)          (**AS**) Information Management
DC Grant Wilson          (**GW**) Secretariat


1.  **INTRODUCTION AND WELCOME**

    **Chair** opened the meeting and thanked members for their attendance to this meeting of the stakeholders group.

    **Chair** introduced **AS** on conference call and conducted introductions round the members in attendance.

2.   **VALUES STATEMENT**

    **Chair** *stated the values of police Scotland to members namely; 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 submitted prior to the meeting by

DCI Brian Stuart
Tom Nelson SPA Forensics – Represented by Craig Donnachie
Insp Heather Macdonald – Scottish Police Federation

## 4. MINUTES

**Chair** proposed the minutes of the last meeting of the Cyber Kiosk Stakeholders group for consideration and any amendment.

**NB** updated that Mr Tom Nelson had submitted amendments prior to the meeting which had been updated and recirculate.

No further changes or issues were highlighted by the members in attendance or on VTC.

**Chair** highlighted that in order to be transparent and open in our approach to the roll out of cyber kiosks and the consultation process that has been undertaken the minutes of the previous meeting of the External Reference Group have been published on the Police Scotland public facing internet site and the minutes of this meeting, including previous, shall be uploaded to the page unless there are any objections to their publication.

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

## 5. GROUP DISCUSSION

**Chair** invited **NB** to provide an overview of the document sets, the work undertaken to date and observations raised by the External Reference Group.

**NB** provided members with an overview of the 3 documents proposed to accompany the roll out and use of the Cyber Kiosks namely;

- Toolkit;
- Principles of Use and;
- Public Information Leaflet.

**NB** updated members that he Toolkit was intended a guidance document for users and trainers.

**NB** highlighted that the Principles of Use document has been developed as a result of discussions and current challenges around a Code of Practice, as a Code of Practice is enshrined in legislation. Due to this the principles of use document has been developed to detail the Police Scotland commitment of how we will use the Kiosk going forward providing assurance around the standards and principles to be adhered to.

**NB** informed that the public information leaflet had been designed with a view to answering what the member of Public Needs to know if their device is subject to triage or full digital forensic examination.

**NB** highlighted that all the documents are currently draft and not ready for publication however consideration would be given to making all 3 documents public facing.

**NB** highlighted the work that had been undertaken by **PB** and **MM** in producing the documents to date. **NB** further informed that the documents had been shared with NISAG (National Independent Strategic Advisory Group) for comment and feedback.

**NB** updated on the External Reference Group that last sat on 5 September 2018. **NB** informed that attendees included;

- Scarlet Kim – Privacy International Legal representative
- Dr Megan O'Neil – Dundee University
- Prof Liz Aston – Edinburgh Napier University
- Dr Duncan Campbell – Independent Advisor Open Rights Group

**NB** added that apologies had been received by Aamer Anwar, however **Chair** had discussions with Mr Anwar prior to the meeting capturing views.

**NB** updated that the External Reference Group raised no issues in relation to the use of the kiosks. Highlighting that the members felt that the 3 document set was the correct way to go however fed back that they required reviewed.

**NB** informed that the group had provided helpful input on the documents content, highlighting the requirement to ensure there was enough information contained and published in relation to what could be expected, and also views on the development of an audit and governance process to ensure transparency.

**Chair** echoed **NB** comments and informed that the reference group, whilst providing a good challenge, were encouraged by Police Scotland's willingness to listen and adopt relevant views.

**Chair** highlighted that a lot of discussion had been undertaken at the reference group in relation to the legal basis and in particular the issue of informed consent for witnesses. **Chair** informed that it is not a legal status recognised in Policing and law enforcement however is utilised in academia.

**AR** informed that devices seized as productions are exactly the same as any other production.

**AR** stated there are two courses of action either seize under warrant or seizing as a production as evidence in a case. Highlighting that it is about proportionality in the use of power and understanding that.

**Chair** highlighted the example given in the Reference Group of a witness to a crime who has a device that contains footage can they give 'informed consent' and can they then remove that consent? What control do witnesses have, highlighting that there is a responsibility on the Police to provide enough information.

**AR** highlighted that the issue may arise if something is found on the device that is more serious than the original crime.

**Chair** highlighted the comments and views of Privacy international on the wording within the EqHRIA, highlighting the requirement for more work on the wording and content.

**AS** informed that the EqHRIA doesn't usually come to ICO for input but it can be looked at in context to the DPIA.

**AS** informed that when a device is seized or received for Law Enforcement purposes it sits more with the Data Protection Act 2018 rather that GDPR in general terms.

**Chair** thanked AS and highlighted that in the view of Privacy International the EqHRIA needs to

be fleshed out and they are willing and keen to work with us on developing that. For example the wording used in relation to Article 6 and Article 8.

**Chair** highlighted in relation to Article 6 Police are under an obligation in relation to management of evidence to be presented to court.

**AR** highlighted that there is currently a requirement to fully image the device as the technology doesn't currently exist. Adding it is a matter of policy in relation to other content and criminality that may be more challenging.

**Chair** informed members that the information Commissioner has been invited to the next External Reference Group. **Chair** informed that the Information Commissioner had been involved in the Demonstration day but at that time the understanding was they wanted to remain independent from the group at that time, following recent communication the Information Commissioner is now keen to be involved going forward.

**NB** informed of discussion with Mr David Freeland, Information Commissioner, who informed that the Information commissioner has received the complaint from Privacy international in relation to the use of Cyber Kiosks within the UK.

Mr Freeland informed that they are content that the kiosks are a triage for the betterment of the service provided to the public, but the main interest is if the device goes to the cyber hub for full examination and whether it is proportionate for that device to be fully imaged.

**NB** informed that due to the technology and ECHR the device needs to be fully imaged and there after select the items required, it is not necessarily the case that the full device is looked at.

**NB** updated that new software is currently being explored to allow for better analytics to allow for better targeting of information on the device. This will give assurances going forward that we will in the future be able to be more targeted and proportionate in search of the device however there will still be a requirement to complete a full image of the device to allow for any further search at a later date should the parameters and requirements change.

**Chair** enquired if **CD** could advise on the model utilised in digital Forensics.

**CD** informed that the Operational Management System in place supports 17025 standards, with the Dundee lab being continually accredited for 20 years.

**CD** explained that this was a comprehensive management system containing thousands of documents allowing the control of standardised procedures across forensic services. The system also provides quality assurance with non-compliance procedures in place should things go wrong.

**CD** highlighted that the non-compliance procedures are nothing to worry about as it's about capturing the learning; it's about challenging the gaps in the process not about the people. **CD** added that it is a continually changing live process.

**CD** added UCAS accreditation costs a lot of money and gives assurances that the processes and practices are fit for purpose. Providing Public assurances of the processes in place and that the staff are competent in the tasks. Ultimately it provides confidence to everyone involved in the process.

**RH** added that the writing ins on the wall that there is an expectation that a forensic process is in place whether it is everything or delivered incrementally, moving from kiosk to whole digital forensic process. It's going to keep going as technology changes need to be able to say processes are in place to support this. It will allow for broader strategic answers to questions rather than tactical level answers.

**Chair** informed that the direction for all England and Wales forces to meet 17025 standards had come from Forensic Regulator Gillian Tully through the National Police Chiefs Council. **Chair** highlighted that it is a long journey and few to date have achieved accreditation.

**Chair** informed that he had written to Gillian Tully, to seek the forensic regulators position in relation to these recommendations applying to Police Scotland. Highlighting that the Forensic Regulator highlighted they were not in a position to regulate police Scotland but couldn't see why Police Scotland would deviate.

**Chair** informed that as a result as part of the of the Cybercrime Capability transformation programme it is now built in to begin on the journey towards 17025 accreditation. Highlighting that the kiosks when implemented will assist in stripping down the volume and demand however a balance needs to be struck.

**Chair** added that the time is right to look at management system and continual improvement is something that we need to strive for.

**CD** highlighted that the beauty of the UCAS accreditation is it doesn't need to be a big bang approach. Areas can be added and removed from the schedule; it's a live process and live system, the culture changes with the accreditation process.

**NB** informed that a meeting had been held with East Midlands ROCU who have employed the services of a quality data scientist to achieve this and they have to date taken 18 months. **NB** added it's about prioritising the key areas and as a result they are now accredited for certain processes.

**Chair** confirmed that it had to be Police Scotland digital Forensics that undertook the journey and not SPA Forensics.

**CD** agreed that it needs to be Police Scotland that get accredited with the Chief Constable being the responsible person. **CD** added that he has offered support to Police Scotland in the accreditation process and is in a position to undertake a gap analysis audit to assist. Adding that he is happy to support.

**Chair** expressed his appreciation for the offer.

6. **DOCUMENT SET**

   **Chair** asked **NB** to provide an understanding of the purpose of each document in the set.

   **NB** provided an overview of each document set re-iterating to members that they are currently drafts and work is on-going with each document.

   **NB** started with the Public Information leaflet, seeking the opinion of the group in relation to anything further that should be included in the leaflet.

   **NB** informed that the external reference group members had highlighted that the language used is too police focused and not currently public focused.

   **NB** asked for any feedback following an opportunity to digest the contents asking for any submissions to be forwarded to secretariat.

   **NB** highlighted that the intention is once the document is agreed and correct to publish the leaflet in community languages.
   **RH** added that he is supportive of this document.

   **NB** next discussed the Toolkit, highlighting the responsibility placed on the supervisors based in

local policing areas stating there required to support the supervisors and as such this was not just a user's guide for the operators but also the supervisors.

**RH** asked if the Toolkit would not be public?

**NB** informed that consideration had been given that it may be however the document contains Images. **NB** added that conversations were on-going with Cellebrite and currently they are not raising concerns as they have videos of their devices on YouTube.

**NB** added that at some point there is a likelihood that he documents may end up in the Criminal Justice System even if redacted.

**RH** added that he would be interested in the view of the manufacturer and the other users in the UK, adding that if the documentation is not public elsewhere then it shouldn't be published here.

**RH** added that if this is made public then the questions shall be posed to see full public documents for other forensics, **RH** highlighted that he was not stating yes or no, just needs to be clear of where the equities process comes in and you say no due to sensitivities.

**NB** informed that the Principles of Use document was specifically for Kiosks just now but could be expanded to a Principles of use for Digital Forensics.

**CD** informed that they do not release any of the SOPs at all, certainly not the technical information.

**RH** highlighted the requirement for consistency in approach between Digital Forensics and SPA forensics and requires further thought in relation to wider principles.

**NB** provided an overview of the Principles of Use document, highlighting that the consideration and aspiration is to eventually move towards a Code of Practice, adding that consideration would have to be given as to whether this was a Code of Practice for Kiosks specifically or wider digital forensics, or indeed if this is delivered through 17025 accreditation. **NB** added it's not about cyber kiosks it's about how we do digital forensics; we need to agree how we articulate it going forward and stating her view at the moment is to consider the wider position.

**Chair** invited the view of HMICS representation in relation to Cyber.

**RI** agreed and highlighted that Cyber is an area that requires consideration however at this time it's a question of capacity.

**Chair** asked the group if this document set is right, explaining that the aim is to get to a position that the documents can also be shared with NPCC and the 43 forces in England and Wales allowing for consistency UK wide.

**AR** added that it may be better to start wider and work towards ISO Standard.

**AS** stated that they would look at each of the documents individually and compare to the DPIA, it they need to reflect what is said in the DPIA. **AS** further informed that work was continuing on the DPIA and they are currently working off of Version 0.9 not the 0.7 that has been circulated.

**AS** added that Supt Robert Kennedy was going to speak to **NB** in relation to the Data Quality Assurance Post.

**NB** updated that a meeting had taken place with Supt Kennedy, and these shall continue, to ensure consistency with PSOS structure.
**Chair** added it was a question of where the post is created.

**NB** indicated that brief discussions had been undertaken with Supt Kennedy in relation to audit

and governance around whether there is a public commitment to management information around Kiosks Annually for example, and look to build in dip samples and report to SPA audit and governance.

**Chair** asked if he can take **CD** up on his invite to assist the understanding of what is tested.

**RH** added it was best to sit on Police Scotland structure in the performance framework.

**Chair** stated this still required work and asked for feedback from the group.

**RH** asked if the EqHRIA is final.

**NB** updated that it is still in draft and we wanted to have this meeting for comments prior to moving towards sign off with a view to review.

**RH** timeline says 1 October; the EqHRIA needs to be in place first.

**Chair** stated that both impact assessments had been shared with both groups and work was continuing on them with the observations of this group and the External Reference Group.

**Chair** informed that discussion had been had with the External Reference highlighting we are keen to progress in terms of the service enhancement opportunities, highlighting the time taken to return the devices to the owners in the current procedures once they enter the Criminal Justice System, also the time taken to establish any relevance and inform the investigating officers to allow them to progress currently and until the roll out of the cyber kiosks we shall continue to require to take all the devices and subject to a full examination of each device.

**Chair** highlighted that trials across the UK had shown that less than 10% of the devices seized will required and relevant; we are currently seizing around 15,000 devices a year, with only around 1,500 of those being of any evidential value.

**Chair** informed that since the initial Justice Sub Committee appearance we have seized 4,564 devices and all have been subject to a full examination. Each download takes 2 hours so has so far taken 10,000 Hours to complete those examinations. Going by the trial figures 8,000 hours may not have been necessary. Which would equate to around £150,000 in staffing costs that was not necessary.

**Chair** highlighted that we have a responsibility in relation to storage, management and deletion of data.

**Chair** explained that the point had been raised at the External Reference Group that it's not just to a responsibility to the public purse it's also a responsibility to service improvement. Highlighting that members of the External Reference Group were happy with work continuing on the documentation to ensure it was in place to support the training and roll out.

**NB** highlighted that the intention would be to have an incremental approach with a view to picking 2 or 3 divisions to focus on initially and there after carry out a review capturing learning and gaps so these can be addressed and allow the national roll out, with assurances in place.

**NB** highlighted that the External Reference Group had been set a deadline of 28 September to digest and provide feedback on the 3 document set and the 2 impact assessments to allow for these to be progressed and amended accordingly.

**Members** agreed that this is an appropriate deadline.

**ACTION - MEMBERS TO REVIEW THE 3 DOCUMENT SET AND 2 IMPACT ASSESSMENTS AND PROVIDE FEEDBACK TO SECRETARIAT BY 28 SEPTEMBER 2018**

**NB** highlighted that in terms of the timeline the intention was to seek initial roll out in November with a review and national roll out to commence in the New Year. Adding that the next External Reference group has been set for 30thof October to review and progress the document set.

**NB** further highlighted that local policing areas are keen to start using the kiosks.

**Cahir** explained that following a demand analysis of the 13 Police Divisions, 41 Kiosks were purchased and a minimum of 2 were allocated to each division, ensuring close consultation with the divisions to ensure geographical coverage.

**Chair** asked **PB** to update on GDPR Training.

**PB** updated that the GDPR training was mandatory and everyone in Police Scotland would have to undertake it, if they haven't completed this, mandatory element then no access to the Kiosk training shall be provided.

**PB** updated that the Cyber Kiosk training shall be provided by the manufacturer and shall be a challenging two day course, providing an understanding to trainees on mobile phone networks and equipment. This shall be an assessed course with knowledge checks and exam along with a simulation of the triage process.

**PB** informed that the pass mark for the examination is 80%, should the student fail to make this mark they will be afforded 1 more opportunity to pass, should they fail again then they shall be removed from the course and not allowed to re-sit.

**PB** informed that once the kiosks had been rolled out there would be three trainers in each area to support along the delivery and any issues that arise. **PB** further highlighted that the delivery would be supported by an online version of the manual for operators which will sit on PNN.

**PB** further updated that Management Information capture would not take up a huge amount of data and would demonstrate who logged in, when, production number etc. and is a straight forward process.

**Chair** asked **AR** in terms of the Principles of Use draft, in page 3 point 5 it highlights circumstances where the kiosk would not be used, including sensitive cases, why would this not be used?

**AR** highlighted that this understanding was for the initial pilot phase in particular around the sensitivities involved in for example a rape case.

**RH** added that it doesn't add anything and the consideration of not to use the Kiosk would be case by case where required.

**Chair** highlighted that if the process is robust anything should be able to go through.

**Chair** highlighted that the dates and implantation plan detailed on the timeline were guides at that time.

## 7. TERMS OF REFERENCE

**Chair** highlighted that the terms of reference had been circulated for information and any feedback or alterations should be fed back to the secretariat.

## 8. COMMUNICATION PLAN

**Chair** welcomed **RR** to the group and highlighted the requirement for communications plan in relation to disclosure obligations, also selective examination and the obligations that the police are under, technology doesn't currently allow for selective examinations.

**AR** highlighted that he was unaware of anyone else doing selective examinations, highlighting the risk of evidence being lost if not fully imaged, currently there is no other option and it requires to be a full image.

**NB** explained that it's like filming a house during a search, you are not seizing everything but you still have the fully imaged DVD.

**AR** also gave the example of a surveillance operation and the court being presented the relevant sections of the information however if the requirement for further information arises then it can be provided.

**Chair** highlighted this needs to be reflected in the EqHRIA.

**RR** updated that he communication plan was currently in draft, and would cover certain areas of FAQ, with a view to adopting the plan as the roll out commences.

**RR** highlighted that most enquiries so far are from journalists and not a great public interest so far.

**RR** highlighted that the delivery plan was in place detailing how this shall be made public when the product is ready to go. **RR** highlighted that the roll out would be in a controlled region in November with a wider roll out in the new year. **RR** highlighted from a Local Policing point of view it would be a focus on local policing rather than national issues.

**RR** highlighted that she recognised the sensitivities and risks and would have media lines ready.

**RR** added that the key messages shall demonstrate the progressive project for Police Scotland that will only bring benefits.

**Chair** added that the external Reference Group were encouraging more communications, in terms of still at the engagement process just now but the closer to go live there requires more communication and reassurance with stakeholder support to reinforce. **Chair** highlighted that engagement with investigatory officers was just as important to provide a full understanding.

**Chair** added that we need to ensure the communications are in place for the Kiosk and the incremental roll out over the country.

**RR** highlighted that Communications are currently doing the same for the incremental roll out for mobile devices with a view to the message adapting to the feedback and the learning received at each stage of the roll out.

**Chair** thanked **RR**.

9. **REVIEW OF ACTION LOG**

   **Chair** provided an overview of the outstanding actions currently on the Action Log;

   **004/18 -** Information Management were invited and attendance provided by Alice Stewart. **ACTION COMPLETE**

   **005-18 -** Action addressed by the discussion during the meeting held. **ACTION COMPLETE**

   **006-18 –** Documentation sent to Supt Baber on 31 August 2018 – **ACTION COMPLETE.**

10. **AOCB**

    **Chair** afforded the opportunity to raise any areas of AOCB.

**Chair** sought feedback from members on whether this is the right direction of travel? Highlighting that a lot of work had been undertaken but recognised there was more to be done.

**CD** highlighted that the road to accreditation is interesting and challenging but this is a good basis for kiosk s and training.

**Chair** welcomed **CD's** experience.

No other areas of AOCB were raised by members.

## 11. DATE OF NEXT MEETING

**Chair** thanked the members for their attendance and participation in the meeting and informed that the next meeting of the External reference group has been set for 30 October 2018, **Chair** suggested that the next meeting of this group should also be held in that week.  **Chair** informed that suitable dates shall be circulated in due course and meeting date set.