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Lord Advocate's response to query from Justice Sub-Committee on policing followed by Annex listing COPFS services and engagement with migrant communities.

Thank you for your letter dated 7 November 2017 in which you ask for COPFS' view on conducting a review of how the Service and Police Scotland work with migrant communities across Scotland.

I welcome your letter. The effective, fair and independent prosecution of crime underpins the security of all Scotland's communities. COPFS has a strong record of tackling hate crime. It has policies and guidance on a number of legal provisions which affect migrant communities; and policies and processes in place to ensure that people from migrant communities can access and engage with the Service. It engages with migrant communities and organisations which support them. The attached Annex A sets out further information in that regard.

I would, nonetheless, be happy to work with justice partners and stakeholders to identify whether there are ways in which the Service's understanding of the issues facing migrant communities, and the service provided to them, could be further improved. I would suggest that, in the first instance, the Service meet with the Scottish Refugee Council and with Police Scotland, in order to explore the particular suggestions made by the Council in its submission to the Sub-Committee dated 25 October 2017, and to discuss how such a review might most appropriately be taken forward. I intend to take steps to set up such meetings in the near future.

You request information on any previous relevant reviews of COPFS and their outcomes. I draw your attention to the following reports published by HM Inspectorate of Prosecution:

Thematic report on COPFS Enquiry Point:
<http://www.gov.scot/Publications/2013/05/5233/8>



INVESTOR IN PEOPLE
The Scottish Government



Thematic report on COPFS Community Engagement:
<http://www.gov.scot/Publications/2011/06/14115144/2>

I hope this information is helpful to the Sub-Committee and I will ensure that you are updated as we take this forward.

W. JAMES WOLFFE QC





Annex A

COPFS' services and engagement with migrant communities

COPFS has a number of policies and processes in place to ensure that people from migrant communities can access our services. COPFS recognises the cultural and language differences of victims, witnesses and accused persons in all of its policies. An equality impact assessment, which includes race and language considerations, is carried out prior to processes or policies being approved.

Prosecution Guidance

COPFS has a number of policies and guidance documents relating to legal provisions which impact on migrant communities

- a. COPFS Guidance on the application of the Immigration and Asylum Act 1999 is available on the COPFS public web site. The key principle underpinning the policy is that those who are refugees or presumptive refugees who commit offences to attempt to gain entry to a country shall not be penalised by virtue of that fact.
- b. A general **COPFS Guidance Document on Asylum Seekers** is available on the COPFS internal web pages and provides an overview of the legal background for Asylum Seekers.
- c. Under the **Human Trafficking and Exploitation Act 2016**, the Lord Advocate has published written Instructions which outline the approach to be taken with victims of Human Trafficking when they are accused of a crime. These instructions include a presumption against prosecuting victims of human trafficking where they have committed an offence connected to the trafficking.
- d. Police Scotland and COPFS have published joint guidance on **Forced Marriage** which is available on the COPFS public web site. This guidance recognises the complexity of issues which surround forced marriage and the difficulties often faced by victims.
- e. General Information on **Female Genital Mutilation (FGM)** and specific guidance on the cultural sensitivities are both included in the FGM Case Marking Instructions on the COPFS internal web pages.
- f. Internal COPFS guidance is available on all forms of hate crime and guidance is externally available in the form of Lord Advocate's Guidelines in relation to Offensive Behaviour; the investigation of Racist Crime and football related offensive behaviour.





Staff Training

COPFS has the benefit of a bespoke training college and specialist training staff. The Scottish Prosecution College (SPC) supports the Service to achieve its business aims by ensuring that COPFS has the right people with the right skills who are engaged and high performing. Its core and developmental activities all contribute to achieving these aims. The SPC offers a number of courses and uses a variety of training media which have embedded race and cultural elements.

Relevant courses include:

- Valuing & Managing Difference.
- Victims and Witnesses course
- Advocacy Skills training
- Mandatory Equality and Diversity e-learning
- Additional e-learning packs on race awareness, with a focus on employee relations.

Interpreting and Translation Services

Once a language need of a victim, witness or an accused has been identified; all correspondence with that person will be in their chosen language. COPFS will also translate any document requested by a victim or witness in a case, in order to aid their understanding of proceedings.

COPFS goes beyond the requirements of the Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014, which requires the Crown to provide translations of essential documents to the accused, by also providing a translated copy of the Summary of Evidence and any other document as deemed necessary by legal staff.

COPFS also provides a number of translated versions of key public guidance documents on our public web site:





- Our Commitment to Victims and Prosecution Witnesses leaflet and translated versions
- How Can We Help You leaflet and translated versions
- Victims of Hate Crime and translated versions
- Advice for Victims of Domestic Abuse leaflet and translated version
- Advice for Victims of Sexual Crimes
- Information about Summary Trials leaflet and translated versions
- Information about the Petition Procedure leaflet and translated version
- Information about Sheriff and Jury Procedure leaflet and translated versions
- Information about High Court Procedure leaflet and translated versions
- Information about Sentences leaflet and translated versions
- Information about Appeals leaflet and translated versions
- Information About Giving your Statement (Precognition) leaflet and translated versions
- Human Trafficking leaflet and translated versions
- People with Learning Disability
- Scottish Government Victims and Witnesses booklets and leaflets with translated versions

International Co-Operation Unit

COPFS has an International Cooperation Unit (ICU) which liaises with other states in relation to extradition and mutual legal assistance. It can facilitate arrangements for Crown witnesses residing abroad to provide their evidence by video link rather than have to return to Scotland to give evidence in person. If an interpreter is required, this is arranged by ICU staff. The interpreter will be in the same room as ICU staff, to avoid any misunderstandings arising from Scottish accents and to ensure that our quality standards for interpreting are maintained.

Community Engagement

COPFS has appointed two race-related Equality Ambassadors whose role is to engage with external groups throughout Scotland, provide advice to COPFS staff when dealing with victims and witnesses from migrant communities and expert advice on issues relating to prosecution of those who belong to migrant communities.

As an example of the good work done within COPFS a member of our Glasgow Sheriffdom Equality Network does a huge amount of engagement work with refugee and migrant communities based in Glasgow.

Since 2014, this member of staff has been a volunteer with **UNiS** – Uniting Nation in Scotland. UNiS is supported by Police Scotland, the Scottish refugee Council and BEMIS and works in partnership with other refugee organisations, community groups and agencies.





Initially he attended as a representative of COPFS and provided information about Scottish criminal law and the Road Traffic Act, which were causing anxiety amongst the refugee communities. He now attends their weekly meetings in a personal capacity, providing advice and assistance to support the integration of refugee and asylum seekers into Glasgow life. He is considered a trusted figure by members of the group and provides real reassurance to the refugees and asylum seekers engaged with the group.

In response to a lack of awareness about Scots Law, COPFS worked in collaboration with New College Lanarkshire and Police Scotland to create **A Guide to Scots Law** (http://www.copfs.gov.uk/images/Documents/Publications/Publications%20from%20Other%20Organisations/A%20guide%20to%20Scots%20Law/a_guide_to_scots_law.pdf), to better inform those new to the country of our laws and our prosecution policies. COPFS also translated the booklet into the top 10 languages used by those wishing to make Scotland their home. The Guide was launched by the First Minister at the March 2016 Conference on Prejudice. COPFS and the Scottish Refugee Council continue to promote the Guide amongst their networks and it is also available on several Scottish university and college web sites.

COPFS works collaboratively with justice partners to develop effective responses to hate crimes, for example, meeting representatives from the Islamic community following offences committed at the Edinburgh Central Mosque and speaking at the AGM of the Glasgow Jewish Representative Council. The Lord Advocate has met with representatives of ScoJEC and has visited Edinburgh Central Mosque. COPFS also contributes to events such as Hate Crime week where we have worked with Police Scotland on certain aspects of their campaign such as a radio panel discussion on LGBTI hate crime which was broadcast in May 2016. We were also a core partner with the Edinburgh Chapter of the 16 Days of Activism, which seeks to raise awareness of gender based violence which includes crimes particularly liked to migrant communities such as honour based violence, human trafficking and Female Genital Mutilation.

Within COPFS Policy Division, Portfolio holders regularly meet with a wide range of stakeholders and also sit on groups which include representatives of migrant groups. COPFS endeavours to be accessible by all communities and adapt our working processes to meet the needs of people from migrant communities who enter the Scottish criminal justice system.

