Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from the BMA Scotland

Doctors, usually but not exclusively forensic physicians, come into contact with the Crown Office and Procurator Fiscal Service (COPFS) when providing reports for the courts or giving evidence within the criminal justice system.

For expert witnesses they need to understand their role through the whole court process and this can be difficult to navigate depending on how often you perform these type of duties. Additionally expert witnesses must cooperate with case management, making sure they meet the timescales of the court for producing reports, and going to conferences, meetings or court hearings.

Although there can be challenges for doctors dealing with court citations and managing requirements around giving evidence in court usually the system works reasonably well in Scotland.

That said, there are opportunities to improve the effectiveness and efficiency of COPFS and how well it works with other stakeholders particularly by making better use of technology. This could be used by COFPS to communicate information about courts services and their requirements for witnesses and to make the process as transparent as possible for those required to engage with the organisation.

Doctors provide an invaluable service when called upon to give professional evidence to assist the courts. But it is imperative that steps are taken to ensure that disruption to their clinical roles are kept to a minimum. This could be helped enormously with sufficient notice of the need to attend court (or not) so that appropriate arrangements can be made to secure locum cover.

At a time when the medical profession is facing very significant challenges dealing with increasing demands and a medical workforce with a growing number of unfilled vacancies this is particularly important.

Time wasted establishing whether there is a requirement to attend court is stressful for doctors who are already dealing with unprecedented pressures and this could have a knock on effect on that individual’s availability to provide patient care.

There is anecdotal evidence to suggest that some clinicians are deciding to discontinue their work as forensic medical examiners as a result of their frustrations which is concerning and must be addressed. Although we do recognise that doctors giving up working in the field of clinical forensic medicine may be due to a range of reasons and problems with courts are just one of them.

Where the system works well is when there are clear signposts including direct contact numbers and email addresses for getting in touch with the Procurator Fiscal Service. This allows doctors to telephone or email and once they have provided the
appropriate PF reference numbers the individual at COPFS will then get in touch with the appropriate PF and be able to provide an answer about the status of a case or an update on when that information will be available.

Other systems that work well include in the Fife area where they have a Police Liaison Officer who is very helpful in keeping doctors updated on cases. This is a useful system that could work effectively in other areas.

When a case is discharged/dismissed or witnesses are not required doctors often get a letter to inform them of this but an email would be a more efficient way of communicating this information and ensuring it was received by the right person as soon as possible.

It would be helpful if COPFS could look into whether it is possible to reduce the number of citations issued, perhaps with options which would allow the prosecution and defence to look at the medical evidence before deciding whether a citation is necessary or whether written evidence would suffice.

Whilst there are ongoing problems for medical witnesses going to court it is more difficult when a doctor is doing two jobs.

For those who are not practising exclusively as forensic physicians there are challenges for them attending court and ensuring that their primary duties can be covered by a locum although the courts will pay for this cover it can sometimes be hard to secure.

For High Court and jury trials usually every effort is made to ensure that doctors are kept informed of proceedings and their requirements for notice are accommodated most of the time.

Any steps that COPFS can take to improve how it communicates its requirements for witnesses in a clear and easily accessible way and that takes cognisance of the challenges facing doctors who are managing extensive workloads and significant time pressures will be welcomed. This would assist doctors to plan how they can accommodate these needs most effectively and to the benefit of the criminal justice system.

BMA Scotland
19 October 2016