Supplementary written submission from Police Scotland

Thank you for giving me the opportunity to provide you with an update on Digital Triage Devices. Further to my letter dated 4th October 2018, I am writing to provide the additional information you requested via the Clerks.

Documentation to support Kiosk Use

The draft Toolkit, Principles of Use Document, Public Information Leaflet, Data Protection Impact Assessment (DPIA) and EqHRIA have been amended and updated following significant consultation and contribution. This includes internal and external feedback received, having been circulated to The National Independent Strategic Advisory Group (NISAG), External Reference Group and Stakeholder Group for consideration on 23rd October 2018. It is anticipated that with broad agreement following the conclusion of both the External Reference Group and Stakeholder Group meetings being held through 30th October 2018 that the document set will be in an advanced stage which will support the commencement of training evaluation.

Legal Framework

In order to provide some independent assurance of the legal basis in which we rely upon our police powers to take, seize and examine digital devices, we wrote to Crown Office (Crown Counsel) on the 12th October 2018 asking them to provide an assurance and considered view on the case law which supports the current position. In particular we made specific reference to our understanding of case law relating to actions before undertaking any examination of a digital device. Police have always relied upon the following position; where evidence seized by a public authority acting under a power of search conferred by common law or by statute or by order of the court (warrant) then that is sufficient justification to render lawful what might otherwise be unlawful acts (JL & EI v HMA). In addition, where that power of search requires officers to retain evidence from a digital device then we have looked to case law; HM Advocate v Rollo 1997 JC 23 to describe the legal basis under which we retrieve information which is stored digitally.

The request is currently with Crown Office who are members of the Stakeholder Group and in particular their SOCU, Policy and Cybercrime leads within COPFS for consideration.

Training Evaluation and Equipment Roll Out

While recognising that we have set ourselves an ambitious timeline in which to deliver Digital Triage Devices training to frontline officers, Police Scotland remains committed to the successful delivery of this training to allow the Digital Triage facility to be available within local policing areas thus improving our service to the public. It is our intention to commence a number of comprehensive training evaluation sessions beginning in November 2018. These two day sessions will initially be
delivered to officers based in E, C, J and P Divisions within the Police Scotland East local policing areas. These sessions will be delivered throughout November and December 2018 and on completion will see 110 officers trained to operate 11 Kiosks in their respective policing areas. These sessions will be subject to continuous review to address any findings and recommendations, including document set evaluation, ensuring continuous improvement in all aspects prior to the second phase delivery of training evaluation sessions in early 2019. The second phase will see a further 300 officers trained in the Police Scotland North and West areas giving them the ability to operate the remaining 30 kiosks within these local divisions. It is anticipated that following the commencement of the training evaluation sessions the initial roll out of equipment to the East divisions will be scheduled for December 2018 with subsequent roll out to North and West divisions in early 2019.

If I can be of any further assistance please do not hesitate to contact me.

Nicola Burnett
Detective Superintendent
Organised Crime and Counter Terrorism
30 October 2018