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The Service Prosecuting Authority

Executive Summary

The inspectorate's report on the Service Prosecuting Authority

Undertaken July 2010

December 2010



Executive summary

Contextual factors and background

The Service Prosecuting Authority (SPA) was created by the Armed Forces Act (AFA) 2006. It brought about the fusion of the three separate Army, Royal Navy and Royal Air Force prosecuting authorities into one single Service prosecuting authority. This inspection was undertaken less than a year after the SPA came into full operation, although the three single Service prosecuting authorities had been operating together under the management of the Director of Service Prosecutions (DSP) since January 2009. The inspection must be viewed in this context.

The AFA 2006 not only introduced the single authority but it made a number of fundamental changes to the way that Service justice is delivered. This required SPA managers to implement a comprehensive training programme for all levels of staff in the new Service justice system as well as the management and procedural changes required for the new authority to function. At the same time, the SPA was required to transfer its UK operations from its base at RAF Uxbridge to new premises at RAF Northolt. The change was managed well. Throughout the process, the SPA was able to carry out its core functions without disruption to the wider Service justice system.

The process of change continues although much has been achieved in a short time. New management processes and working practices have assisted in achieving a cohesive and consistent approach to Service prosecutions. A review of training has been undertaken which will produce a more flexible approach

to delivery. Legal guidance, which deals with law and policy matters, including the handling of victims and witnesses, has been published. An SPA intranet has been developed which will act as a source of information for all staff and includes access to the legal guidance and other relevant policy and legal materials. The intranet and the legal guidance represent continuing projects which will develop according to the requirements of the SPA.

Managers are concerned about the impact of proposed cuts in expenditure upon the progress and development of the SPA, but are working positively to identify areas where efficiency savings can be made.

Our findings recognise and reflect the current state of progress within the SPA. The recommendations we make take account of the still developing nature of the organisation and are intended to be a part of that process.

Summary of findings

The standard of decision-making within the SPA is sound. Decisions are well reasoned and clearly set out in a detailed case analysis. The Service police are seeking advice at an early stage of investigation in an increasing number of cases which assists case preparation. Decisions could, however, be made more quickly and although timeliness is monitored a more structured approach should be taken. There is a need for training of specialist prosecutors in the handling of offences of rape and other serious sexual offences, which is now being addressed, although the quality of decision-making is not a concern.

The standard of initial case preparation is such that cases are trial ready once the decision is made to direct trial at the Court Martial. Cases are listed straight to a plea and case management hearing and there is a high rate of compliance with court directions and orders. Concerns about the understanding among some prosecutors of the principles relating to disclosure of unused material are being addressed and the procedure is becoming more embedded within the SPA.

The advocacy experience of prosecuting officers varies especially amongst those undertaking a first tour of duty in the SPA. Prosecutors attend an advocacy training course but this may be some months after they arrive. Consequently experience of trial advocacy is delayed. The SPA and the three legal services should work together to co-ordinate where possible assignment of officers to the SPA so that the benefits of the improved induction arrangements can be maximised.

Although the Military Court Service (MCS) has the primary responsibility for witness care at court, the SPA notifies victims when a decision has been made whether to proceed against an accused, and keeps them informed of case progress and the result. Letters to victims are generally written to a high standard and show appropriate consideration and empathy. The level of engagement with witnesses at court could be improved upon in some instances although the SPA's assistant prosecuting officers are proactive in providing assistance. Communication with the MCS over witness arrangements could also be improved.

Change management has been handled very well. The restructuring of three separate prosecuting authorities into one SPA was followed by a move to new premises for the whole of the UK operations. Both were well managed. Business planning and management processes reflect the developing nature of the SPA and for the future there is a need to focus more on risk. Although much progress has already been made, the approach to management and monitoring progress against targets needs to be tightened.

The importance of training is recognised and a new more flexible training programme has been devised which will be implemented in autumn 2010 with the appointment of a new training manager. This should ensure a more consistent and timely approach to providing officers with the right level of prosecuting and advocacy skills. Communications within the SPA need to be more formalised to ensure that information, including casework lessons, is made available to all appropriate staff.

Relationships with other Service justice system organisations very much represent a continuation of the relationships established by the former individual prosecuting authorities. There is formal liaison at a more strategic level but, importantly, day-to-day liaison and relationships with partners ensure that business is generally efficiently managed.

Performance management processes and analysis in respect of casework quality and outcomes needs to be developed further to enable the SPA to have more informed discussions with partners. Staff performance is monitored formally for both Service and civilian staff and good performance is acknowledged informally on an individual basis where appropriate.

Finances are generally well managed and necessary savings have been made. The SPA finance manager produces monthly budget forecasts which are considered by the SPA management board. The SPA remained just within budget in its first full financial year, although a temporary accounting anomaly resulted in a large notional underspend.

The SPA needs to undertake an analysis of its changing caseload and the resource demands of the processes involved to assess whether or not these could be undertaken more efficiently and bring about savings in resources. Such an analysis, which should link directly to an assessment of staffing needs, may help to justify its case for at least minimising any reduction in budget provision and staffing levels in its response to the proposals for cuts in public spending. It also needs to be in a position to understand clearly the effect of any further proposed cuts in expenditure that might arise, so that it can make properly informed decisions for the future.

The arrangements for providing prosecutors to the SPA are problematic. The DSP is understandably concerned to ensure that the SPA is staffed by prosecutors who have the skills and experience to be able to handle the more serious and complex casework in a demanding environment. There are prosecutors within the SPA who have those abilities. However, there is also a constant stream of inexperienced prosecutors who need to be trained to the appropriate level. Training starts as soon as an officer's tour with the SPA commences. It takes time and is not always achievable in one tour. Many officers return but this may be after some years and they require

some re-training. The DSP's desire for a cadre of more experienced prosecutors undertaking longer tours sometimes conflicts with the legal services' need to develop legal officers across the wider range of Service law although is not an unreasonable expectation in the case of more senior officers. The situation needs to be resolved to ensure that the SPA continues to function as an effective prosecuting authority.

Recommendations and strengths

Priority recommendations

There are five key recommendations which need to be implemented within three months. These are:

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- 1 The SPA should identify prosecutors with the appropriate skills and experience to become rape specialists and ensure that their training is targeted to developing this specialist expertise including attendance on an appropriate course (paragraph 1.18).

 - 2 The SPA should take steps to reduce overall delay in the decision-making process by adopting a more robust approach to monitoring delay between referral to the SPA and the decision. Targets should be set in individual cases according to agreed timescales for offence types (paragraph 1.29).

 - 3 The SPA should make arrangements, where possible, for all first tour officers to spend their first month at SPA (UK) in order to enhance their induction which will include observation/participation in civilian court procedures and include mini-pupillages and CPS secondments where appropriate (paragraph 5.12).

4 The SPA should consider the performance information it needs to form a comprehensive suite of information to improve its performance and to inform its discussions with its Service justice partners (paragraph 6.4).

5 The SPA, as part of its proposals for efficiency savings in current expenditure, should devise a process for determining a staffing model which links prosecutor numbers to caseload and casework activities (paragraph 7.29).

Other recommendations

There are a number of other recommendations that relate to improving and tightening processes and systems. Whilst not immediate priorities, they need to be implemented to improve the service offered by the SPA. We would expect these secondary recommendations to be implemented within the next 12 months.

1 The SPA should devise a consistent approach to recording supervision and checking of the case analysis which indicates that the relevant factors in the decision-making process have been considered and properly evaluated (paragraph 1.22).

2 The SPA should develop a business plan with objectives for delivery that are measurable and time-bound. This should be underpinned by: a delivery plan which is monitored on a regular basis and milestones recorded; and a risk register, identifying risks to delivery and appropriate countermeasures (paragraph 5.3).

3 The SPA should take a more proactive approach to communication and develop a consistent strategy which ensures that information, including casework lessons, is disseminated to all appropriate staff (paragraph 5.20).

4 The SPA should establish a joint performance management structure to facilitate the sharing of performance data, discussion of lessons learned for continuous improvement and the identification of best practice with partners (paragraph 6.12).

Strengths

1 The quality of the initial case analysis provides a detailed record of the strengths and weaknesses of individual cases and is a valuable tool in the review process and management of the case (paragraph 1.23).

2 The standards of file housekeeping and correspondence handling are consistently good (paragraph 2.3).

3 Letters to victims at all stages of case progress are appropriately detailed and show an empathy which reflects a positive attitude to victim care (paragraph 3.6).

4 The proactivity of assistant prosecuting officers and the care they offer to victims and witnesses at court (paragraph 3.11).
