

# **HM CROWN PROSECUTION SERVICE INSPECTORATE**

## **INSPECTION OF CPS CASEWORK DIRECTORATE**

### **EXECUTIVE SUMMARY**

#### **Introduction**

1. This is the report of HM Crown Prosecution Service Inspectorate about CPS Casework Directorate. The Casework Directorate is part of CPS Headquarters and deals with the range of casework which, by virtue of its importance, sensitivity, complexity or specialist nature, is inappropriate for handling by CPS Areas.
2. The inspection was carried out during a period of extensive change for the CPS both nationally and within the Directorate. Casework Directorate has been largely unaffected by the restructuring of the CPS into functional rather than geographical Units to take forward the recommendations of the Glidewell Review. However, at the time of the inspection, it was preparing for the changes to its work and structure which will inevitably follow enactment of the Proceeds of Crime legislation and was also establishing a third office in Birmingham which, amongst other things, will pilot a scheme for determining who will handle National Crime Squad (NCS) cases.
3. The report focuses mainly on the quality of casework decision making and casework handling but also extends to all matters which go to support the casework process. The Inspectorate examines all aspects of Area performance and has reported on a number of management and operational issues.

#### **The Directorate**

4. The Directorate has its Headquarters in London. It also has offices in York and Birmingham. The Directorate takes its work from all CPS Areas and police forces in England and Wales. In the year ending 31 March 2002, it handled 2,313 cases, ranging from those in which advice was provided to the police to others which were the subject of prosecution in the magistrates' courts and the Crown Court, and including matters ancillary to the prosecution function which require special expertise. It has a varied caseload which can include relatively minor allegations (mostly in relation to senior police officers and other public officials), as well as serious and complex cases involving difficult aspects of law and a high volume of evidence and case material.

#### **The main findings of the Inspectorate**

5. The Directorate handles its casework, for the most part, very well. Its expertise in specialist areas of law has enabled it to achieve and maintain a high standing amongst its partners in the criminal justice system.
6. The Directorate's input into its casework often starts well before charge. Lawyers frequently advise the police on aspects of law and evidence from the very early stages of an investigation. The standard of review in all aspects of casework is sound and is generally well reflected in lawyers' review notes.

7. The volume of unused material in many cases raises particular issues. Although Directorate lawyers are aware of their responsibilities under the Criminal Procedure and Investigations Act, they do not always have time to review material themselves and often instruct junior counsel to consider it. As a result, formal disclosure often occurs late in the case. However, the Directorate's approach towards disclosure favours a broad interpretation of its obligations and this usually means that all unused material is made available to the defence in most cases. Lawyers have a great deal of experience of dealing with sensitive material, sometimes dealing with matters of national security.
8. The overall standard of case preparation is very good. The quality of instructions to counsel, however, varies and could be improved. Although counsel may have been involved with a particular case for some time and from a very early stage, inspectors felt that the Directorate should adopt a more professional approach in giving more detailed information in counsel's instructions.
9. The monitoring of custody time limits is an issue which needs to be addressed. The relatively few cases in which defendants are remanded in custody has led to a lack of familiarity with the requirements of the custody time limit regime. This should be addressed by appropriate training and guidance.
10. The Directorate carries out its specialist casework functions particularly well. Extradition cases are dealt with competently and professionally. The review of unduly lenient sentence cases by the Directorate is valued by the Legal Secretariat to the Law Officers (LSLO) and Directorate lawyers are very helpful to Areas and the police in checking and approving letters of request.
11. There is little advocacy undertaken by Directorate lawyers, apart from extradition proceedings at Bow Street Magistrates' Court. Very few cases are otherwise dealt with in the magistrates' court so there are few opportunities for lawyers to prosecute cases. Although the Directorate has its own Higher Court Advocates (HCAs), much of the work is unsuitable for them to handle. There are, however, some opportunities and the Directorate is looking at ways of deploying HCAs more effectively. Their use as advocates in carefully chosen cases could be a fitting complement to the specialist role of the Directorate.
12. The Directorate has a relatively new management team. It provides strategic direction, sets priorities and monitors progress. Planning processes have improved. There is a greater emphasis in prioritising key issues for action. Planning is subject to in-year review but this could be more robust in some instances. Uncertainty within the Central Confiscation Branch (CCB) over the implementation of the Proceeds of Crime Act appears to have been resolved, although this will mean some displacement of staff to other Departments or Areas and the expertise within the Directorate for confiscation work will be scaled down. The third site at Birmingham is well established, although not yet fully operational. Arrangements for the office to act as a pilot site for the NCS gateway took longer to develop in the initial stages than was anticipated.
13. Performance management could be improved, although the Directorate's work does not lend itself easily to a consistently structured system of performance indicators (PIs). Progress in individual cases is referred to in monthly reports to Branch Crown Prosecutors (BCPs) and Divisional Heads. There could be some improvement in the management of financial resources, although the Directorate was in a position to return money to CPS Headquarters at the end of the last financial year.

14. Staff morale has been mixed though the nature of the work and the reputation of the Directorate are significant positive factors. Grading issues in respect of lawyers and the recent uncertainty over the future of CCB have created tensions and insecurity but both issues are moving towards a resolution.
15. The Directorate generally enjoys good relationships with other CPS Headquarters' Departments, CPS Areas and other criminal justice agencies. Much of its liaison arrangements are informal and relate to contact in respect of individual cases. However, it has also identified those agencies with which more formal liaison is desirable and has already begun to establish appropriate arrangements.

### **Specific findings: Casework**

#### ***Review***

16. With CPS Area casework, advice to the police before charge and review of cases once the defendant has been charged are usually separate and distinct processes. In the Directorate's case, the distinction is often less marked. Proceedings sometimes represent a continuing process of joint consultation between the police and the Directorate (and often counsel), commencing at the very initial stage of the investigation. For this reason, inspectors did not distinguish between the two stages but considered review as one theme dealing with both aspects.
17. Inspectors examined 99 files to assess the quality of review. Seventy cases were advice cases, the remaining 29 relating to prosecutions. Inspectors agreed with the decision in 96 cases (97%). They disagreed with the decision on evidential grounds in one case and on public interest grounds in the remaining two.
18. Lawyers' decisions are recorded in a review note. These reflect the detailed consideration given to the issues in individual cases and are generally of a high quality.
19. The careful and detailed consideration of cases before charge, often in conjunction with counsel, means that cases proceed on appropriate charges and amendments are few. Only one police charge required amendment in the 29 prosecution cases inspectors examined. Only two out of 24 indictments required amendment.
20. The complex and serious nature of the Directorate's work, together with uncertainty about the law in some aspects of its casework, mean that many decisions are finely balanced and are taken appropriately but with the knowledge that there is a high risk of acquittal. Inspectors examined eight judge ordered and judge directed acquittals dealt with by the Directorate. They agreed with the initial decision in all but one. The reason for acquittal was foreseeable in three cases although inspectors felt that more could have been done to avoid acquittal in only one of them.
21. Visa cases (allegations of corruption against police officers) are handled by lawyers and caseworkers within London Branch 3. Cases are reviewed thoroughly and professionally managed.

#### ***Preparing cases***

22. Inspectors considered that primary disclosure was correctly handled in 21 out of the 29 prosecution cases considered. Secondary disclosure was dealt with correctly in 21 cases out of 24 in which it was relevant. The volume of unused material in many

cases imports particular problems. Material is often reviewed by counsel because lawyers have insufficient time to consider it in detail. Directorate lawyers have particular expertise in dealing with sensitive material. Cases can often involve especially complex issues which are dealt with competently and professionally by lawyers and caseworkers.

23. Committal bundles are well prepared. Some are prepared by caseworkers. The quality of instructions to counsel is generally above the average set by CPS Areas, although too many, in the view of inspectors, did not deal in sufficient detail with the case issues.
24. Lawyers have a greater involvement with their cases after committal than is the case in CPS Areas. Case management is very much a team effort from the inception, with caseworkers commonly being assigned to cases even before charge. Caseworkers cover individual cases in the Crown Court, a level of service which is highly regarded by counsel and judges. Their attendance at court can, however, lead to long periods of inactivity during some longer trials.
25. The Directorate has relatively few cases in which defendants are in custody, although it maintains a system for monitoring cases subject to a custody time limit. However, inspectors were concerned that the time limit in two out of ten custody cases examined had been incorrectly calculated. Confusing file endorsements and entries in the monitoring system aggravated matters which clearly need to be addressed.

### ***Special cases***

26. The Directorate handles its special casework well. Its work in preparing cases in which the sentence was considered unduly lenient for referral to the Attorney General is very much appreciated by the LSLO. There was particular praise for the way in which extradition cases are dealt with. Directorate lawyers are highly regarded at Bow Street Magistrates' Court (where all such cases are handled) and their advice to the UK Central Authority is particularly appreciated. There are concerns, however, that the expertise is concentrated in too few lawyers. Directorate lawyers, and caseworkers in some instances, give advice and assistance to Areas in drafting letters of request to foreign Governments in respect of criminal enquiries abroad. This assistance is valued, although inspectors felt that the level of expertise within the Directorate varies according to the experience of individual lawyers.

### ***Presenting cases***

27. Most of the Directorate's cases are dealt with in the Crown Court. There is little opportunity for lawyers to present cases in the magistrates' court with the exception of extradition cases at Bow Street Magistrates' Court. Some of the Directorate's lawyers have Higher Court Advocacy rights although they are rarely exercised.
28. Counsel who undertake Directorate cases are usually senior and well experienced. Many of them specialise in particular aspects of the Directorate's casework. Lawyers and caseworkers attending the Crown Court monitor counsel informally. A formal system of monitoring is being considered once agreement has been reached at national level between the CPS and the Bar.

29. The Directorate is becoming more directly involved in the treatment and care of victims and witnesses. Their assistance and co-operation in recent large-scale disaster cases has been the subject of external praise.

### ***Fraud***

30. There is a need for the Directorate to review the handling of fraud cases. Arrangements between the Directorate and Serious Fraud Office (SFO) for allocation of fraud cases are overseen by a joint vetting committee and work well. There has, however, been a recent decline in the number of fraud investigations, particularly that type of case not sufficiently serious or complex to warrant referral to the SFO. Inspectors felt that the volume of fraud work being undertaken within Casework Directorate might not be sufficient to sustain the level of specialist resources necessary to handle it properly. In addition, arrangements between the Directorate and CPS Areas aimed at ensuring that appropriate cases are transferred promptly to the Directorate need to be strengthened.

### ***Confiscation of the proceeds of crime***

31. The work of the Central Confiscation Branch is unique within CPS in that it is wholly civil in nature. Inspectors found that the work of CCB was generally sound, reflecting the level of special expertise of lawyers and caseworkers. Following implementation of the Proceeds of Crime Act, the relevant work, including advice to the police and applications to the Crown Court for restraint, confiscation and receivership orders, will be dealt with by Areas. The Casework Directorate will be responsible for advice to the police on restraint, confiscation and receivership orders in its own (ie Casework Directorate's) cases. The CCB will continue to handle its existing caseload, together with any applications to be made to the High Court under the Drug Trafficking Act 1994 and the Criminal Justice Act 1998. It will also be available to provide general advice and assistance to CPS Areas on casework issues in restraint, confiscation and receivership matters following implementation of the Proceeds of Crime Act.

### **Specific findings: management issues**

32. The Directorate Management Team (DMT) is responsible for strategic planning, approving the Business Plan, allocating budgets, setting targets and measuring performance. Inspectors noted improvements in business planning processes and a greater emphasis on prioritising key issues which need to be addressed. However, the review of planning is not as robust as it might be and some projects carry over into the next year.
33. Financial resources are generally well-managed and the Directorate was able to return a substantial sum to Headquarters at the end of the last financial year. Its approach to budgetary planning, however, may be too simple for its individual needs. The diversity and specialist nature of its casework calls for a more sophisticated strategy towards budgetary and staff planning. Although each Branch has its own budget, BCPs' authority is limited in this respect.

34. The Directorate has a diverse workforce with a high proportion of minority ethnic and female staff. There was an apparent inconsistency in the approach to part-time working which inspectors felt should be addressed. A number of recent staffing issues, including the uncertainty over the future of CCB and lawyer grading, have resulted in a mixed level of morale. Recruitment at Birmingham has led to an increase in staff numbers within the Directorate. Although casework figures show a decrease in numbers being handled, cases submitted to the Directorate increasingly involve more complex and serious issues, requiring greater resources in individual instances. The system of staff performance appraisal could be more positive in some instances and fails to address under-performance completely. The Directorate has its own sounding board, although some staff were critical of the effectiveness of internal communications generally.
35. The Directorate has its own system of performance indicators, although there are some doubts about the accuracy of the data which have not been properly addressed.
36. Complaints are generally dealt with appropriately and sensitively, although not all have them have been properly recorded and some responses have been less than prompt. There are some differences in Branch systems.
37. The national rather than local dimension to the work of the Directorate makes it difficult, if not impossible, to establish a relationship with some of the CPS' partners in the criminal justice system. Nevertheless The Directorate has done much in recent years to establish and strengthen contacts with those agencies it deals regularly with.

### **Commendations, recommendations and suggestions**

38. Inspectors commended three aspects of the Directorate's work:
  - \* The quality of lawyers' review notes;
  - \* The particular expertise shown in handling extradition cases;
  - \* The level of co-operation with the police in providing information and care to victims and their relatives in cases which involve a high incidence of fatalities.
39. Inspectors made 15 recommendations identifying those aspects of performance which they considered needed improvement. These were:
  - \* Reviewing the system of file allocation to ensure a fairer work distribution;
  - \* Issuing guidance setting out the criteria determining at what point a full file is received;
  - \* Reviewing the level of detail of information supplied to the police when giving reasons for decisions not to proceed;
  - \* Preparation of written reports in all adverse cases to be submitted to BCPs for analysis;
  - \* Provision of guidance on preparation of briefs to make them more detailed and reflect the case issues;

- \* Checking the accuracy of calculations of custody time limits and diary entries;
- \* Reviewing the Directorates' custody time limits system to ensure that procedures are effective and providing staff training;
- \* Devising a strategy for lawyers to maintain their advocacy skills;
- \* Reviewing the Directorate's role in respect of fraud cases;
- \* Improving arrangements for the review of plans;
- \* Clarification of the Directorate's role against that of Policy Directorate;
- \* Considering its need in respect of performance information to assist management of its casework;
- \* Revising its staffing strategy to link workload forecasts more closely with business planning;
- \* Reviewing the work allocation system at Branch and individual levels;
- \* Developing further its strategy for performance appraisal to ensure best development of individual's potential.

40. Inspectors also made the following suggestions:

- \* Considering methods of promulgating the Casework Referral Guidelines to police forces to ensure prompt referral of appropriate cases;
- \* Preparing comprehensive review notes in all extradition cases;
- \* Developing further its communications strategy;
- \* Reviewing and restating its policy in respect of part-time working;
- \* Developing a uniform system for handling complaints.

41. The full text of the report may be obtained from the Corporate Services Group at HM CPS Inspectorate (telephone 020 7210 1197).