





## **Background**

The Organised Crime Division (OCD) was formed in 2005 specifically to deal with cases emanating from the newly created Serious Organised Crime Agency (SOCA). It is one of the three CPS Headquarters Central Casework divisions which replaced the Casework Directorate, the other two being Special Crime and Counter Terrorism. The divisions provide centres of excellence and deal with those complex, serious and sensitive cases that for operational or resource reasons are better dealt with by Headquarters rather than individual areas. OCD operates from London and three regional centres in York, Manchester and Birmingham. The head of OCD reports to the Director of Public Prosecutions.

In addition to its criminal casework the division also comprises the Central Confiscation Unit which deals with asset recovery and civil jurisdiction matters and five liaison magistrates, a cadre of overseas prosecutors with foreign jurisdiction expertise in their respective host countries.

OCD is the largest of the three divisions and the majority of its casework is generated by SOCA which principally focuses upon:

- drugs offences;
- human trafficking;
- immigration;
- counterfeiting;
- non-fiscal fraud;
- money laundering; and
- asset recovery.

Most of the cases are referred directly from dedicated investigators and allocated to lawyers with high levels of expertise. There is then close liaison that includes determining potential courses of action and evidence gathering. This means that the division is very much at the forefront in combating organised crime, bringing offenders to justice and recovering the proceeds of crime and criminal assets.

SOCA work was shared with the Revenue and Customs Prosecutions Office (RCPO) in accordance with a service level agreement based on the nature of cases. On 2 April 2009 the Attorney General announced a merger between the CPS and RCPO. It is envisaged that this will take place during 2009-10 with further consolidation in 2010-11. The announcement of the merger came after the inspection process for OCD had begun and our recommendations and areas for improvement highlighted in this report remain focussed on the issues as they were originally identified. It is recognised however that combining the CPS and RCPO is likely to have the greatest impact on OCD and such a change represents a considerable challenge to both organisations. This report, together with the inspection of RCPO, will prove a valuable tool to support and drive forward the anticipated performance improvements and benefits the merger is expected to deliver.

## **Casework**

The overall quality of decision-making is very good. The best examples of review notes are excellent and contain a detailed, logical exposition of the relevant facts and law together with the reasons for the decision and follow the division's minimum review standards. This standard however was not universally applied in all cases for each and every review. Review decisions are monitored and assessed by the division's unit heads at the point of charge and through the monthly lawyer reporting process.

Post-charge case preparation and management is generally good. A high level of successful outcomes (convictions) is achieved. It is discernible from the division's effective trial rate that both lawyers and caseworkers retain a firm grip on case preparation and progression and were alive to matters which routinely have the potential for delay, such as the late submission of documents and material. Following a custody time limit failure, which did not result in a release from custody, OCD has revised and tightened its custody time limit procedures which are now sound.

The duties of the disclosure of unused material are complied with well. A record of disclosure actions is retained in the case and a disclosure champion has been appointed. Lawyers adopt a fair and transparent approach with the defence when detailing their disclosure decisions.

Use of the electronic case management system (xCMS) was poor even allowing for the fact that it is considered, with some justification, to be unsuitable. This impacts upon a clear audit trail of actions and reduces the ability to analyse and manage performance.

### **Case presentation**

OCD retains a proportion of its trial advocacy in-house employing five principal crown advocates who are experienced in conducting larger and more complex cases in the Crown Court. Although some of the casework lawyers can also appear in the Crown Court opportunities to do so are restricted by the complexity of cases and the focus on casework quality.

Where self employed counsel is selected to prosecute on behalf of the division a set of instructions is produced to accompany the case papers. Although the quality of instructions varies, most are satisfactory and the prosecution papers sent along with them generally set out the case in full and deal with the principal issues involved.

Either the caseworker, lawyer, or both will attend court hearings. Where a matter is listed for trial in the Crown Court the caseworker attends as part of the prosecution team, dealing with essential administrative functions as well as liaising with and assisting prosecution witnesses whilst at court.

### **Criminal asset recovery**

The specialist Central Confiscation Unit (CCU) deals with an eclectic mix of work including asset recovery; civil litigation; overseas requests for legal assistance; and criminal confiscation in all OCD charged cases. The level of expertise available on the unit is high and the quality of casework preparation and presentation is excellent. Good results have been achieved in the obtaining of confiscation orders and their enforcement. The CCU was responsible for securing 125 restraint orders in 2008-09 representing assets to a value of £111,735,563 and 187 confiscation orders intended to recover assets worth £43,469,509, of which £18,682,645 was enforced. These outcomes amount to a significant proportion of the total recovered by the CPS nationally. Overall the case preparation and presentation of CCU cases was of an excellent standard.

### **Other specialist work**

In addition to other SOCA cases OCD also receives referrals from the Child Exploitation and Online Protection Centre (CEOP). This is a multi-agency organisation committed to combating child exploitation both at home and abroad. OCD lawyers provide the agency with tactical, strategic and practical investigative advice and assist in helping CEOP to produce an evidential package which can either be passed onto local police and CPS areas to prosecute within the UK, or assist with an overseas prosecution.

OCD manages a cadre of five overseas lawyers generically referred to as liaison magistrates or liaison prosecutors. Based overseas they have a wide ranging international criminal justice portfolio from facilitating specific case related enquiries to promoting international cooperation generally.

The division also advises upon investigations undertaken by SOCA's professional standards department into allegations made against SOCA officers. These cases are handled well but it is important that such cases are not only handled properly, but also seen to be so handled by a detached unit of the CPS outside the division.

### **Victims and witnesses**

OCD shares the witness care unit (WCU) with its two Central Casework counterparts, Special Crime and Counter Terrorism Divisions. The WCU is located within the Secretariat and is relatively small, having between two and four witness care officers (WCOs) operating on a part-time basis. Because of the nature of the work only a small percentage of OCD's cases will have civilian witnesses and most aspects of witness care are dealt with directly by SOCA officers in conjunction with the reviewing lawyer and caseworker. Notwithstanding this in appropriate cases the WCU has a significant role to play in the process, especially for prosecutions involving with vulnerable victims such as human trafficking. Although they have received a basic level of training there is scope for WCOs to be developed further and perform a more central role, which would enhance their contribution to witness care.

### **Resource management**

Since its inception the division has been subject to fluctuating caseloads from SOCA which has made an accurate assessment of resource requirements difficult. More recently work flows have stabilised to a degree and this should assist the division in its financial forecasting and succession planning. More however needs to be done to refine the process, particularly with respect to work that does not lead to a prosecution. The division would also benefit from placing greater emphasis and focus upon progress made relative to its business plan so as to inform future direction and strategy. The nature of casework means that unit costs are inevitably high but these are carefully monitored and managers have put in place a number of steps to secure value for money.

Staff have a high degree of specialist expertise and maintain a professional approach to their cases. This can involve having to work long and sometimes unsocial hours due to their size and complexity. Despite this the level of sickness absence across the division, at 6.4 working days lost per person per year, is well below the CPS national average of 8.7 working days.

### **Performance management**

In contrast to the average CPS area the number of cases on OCD is small by comparison and many of them are larger and more complex than area cases would be. The division is not subject to any of the national CPS volume targets and collects and analyses data in relation to only a few of the national key performance indicators, for example the percentage of cases which result in a successful outcome. Instead OCD considers performance on a specific case by case basis, relying on monthly ongoing casework meetings between the lawyer and unit head and specific case reviews conducted jointly with SOCA on an ad hoc basis when required, together with a system of post-conclusion reviews held in respect of all cases.

The consideration of performance on a case by case basis is both important and necessary. Notwithstanding the relatively low volume of cases there are merits in the gathering and analysis of statistical information beyond the overall successful outcomes percentage. This has a valuable part to play in a number of aspects, not least in the identification of potential trends; permitting comparison to and benchmarking against similar prosecuting authorities; assessing the division's 'direction of travel'; and providing support for informed joint performance improvement programmes with criminal justice partners. Additionally the lack of collated statistical data means that there is less information to feedback to staff about their performance.

Lack of xCMS use by staff, with one or two notable exceptions, negates any benefits that could be gained. Appropriate levels of usage would automatically provide improved management performance data through interrogating the xCMS database.

### **Leadership and community engagement**

OCD is highly regarded by its criminal justice partners and stakeholders both nationally and internationally and effective partnerships have been developed by its managers and specialists. A strong 'case ownership' ethos has developed and staff are very committed to the work in general, taking pride in the quality of their casework. Managers meet regularly with key partners to address concerns and influence strategies within government agencies.

Internally there is some further work to be done to develop a greater degree of cohesion and synergy across the units. Information sharing, best practice and lessons learned could all be improved along with clarity and consistency between the individual units' systems, processes and general way of working. This would help boost the divisional corporate identity.

The last year has seen a greater focus from OCD on community engagement which was a major theme of the all staff conference day. The unit heads have been given themed engagement topics relevant to the division's work such as fraud, drugs and human trafficking. This approach is still at an early stage of development and has a potential to expand in both direction and community outreach as well as becoming more inclusive of all staff across all grades in the division.

### **The future**

The planned merger of RCPO and the CPS provides a unique opportunity to evaluate and combine best practice with value for money identified by each organisation across the range of casework, systems and processes and we are certain that the findings set out in this report will assist in the process of managing that transition and the challenges involved.

It is difficult to equate the level and nature of OCD's caseload and resources with other units or areas of the CPS. The division undertakes its role to a high standard and it will be difficult for generalist units to aspire to this, although there is much in the report which should commend itself to them.

When identifying good practice inspectors have sought to commend those aspects of the division's work which they consider could be of particular benefit to other specialist units within the CPS, for instance the other Central Casework divisions and group complex casework units.

### **Recommendations, aspects for improvement, strengths and good practice**

Inspectors make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance which they consider to merit the highest priority. The report makes seven to help improve the division's performance.

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- 1 Prosecutors should comply with the division's review standard and complete a full and complete record of pre-charge advice and key stage review decisions in all cases (paragraph 3.13).

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  - 2 OCD managers should:
    - ensure that staff comply with the minimum standards for the use of the division's case management system (xCMS); and
    - work with Business Information Systems Directorate to improve the functionality of xCMS so that it is fit for purpose (paragraph 4.30).

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  - 3 OCD managers should consider whether responsibility for restraint and confiscation proceedings should remain with the reviewing lawyer and prosecution team, except in the most complex cases where the expertise of a CCU lawyer is required (paragraph 6.24).

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  - 4 Cases involving a SOCA professional standards investigation into its own officers should be dealt with outside the OCD (paragraph 6.27).

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  - 5 OCD, in conjunction with Counter Terrorism Division and Special Crime Division should:
    - set out definitive guidelines as to the role and responsibilities of the witness care unit and ensure all staff are familiar with them;
    - ensure all witness care officers receive appropriate training as soon as practicable to enable them to perform their functions effectively; and
    - develop systems to enable the divisions to undertake analysis of No Witness No Justice measures and compliance with the Victims' Code (paragraph 7.4).

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  - 6 OCD will wish to introduce a broader assessment and analysis of principal crown advocate deployment in order to ensure value for money is maximised (paragraph 8.10).

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  - 7 OCD should develop a mechanism to quality assure and score files received from SOCA to enable it to measure the effectiveness of training and identify joint performance issues for continuous improvement (paragraph 9.14).

Inspectors additionally identified 11 aspects for improvement.

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- 1 The approval of charging decisions by unit heads should be formally recorded and a copy kept with the case papers together with the review decision (paragraph 3.22).

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  - 2 Crown advocates need to ensure that when considering unused material deficient schedules are challenged and returned to the disclosure officer for amendment (paragraph 4.11).
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- 3 Lessons learned from the case evaluation process should be circulated across all divisional units (paragraph 4.23).

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  - 4 OCD should be clear about its advocacy strategy for crown advocates and implement a structured advocacy monitoring system (paragraph 5.12).

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  - 5 The division should take steps to improve the accuracy of its predictive analysis in respect of its budget and costs (paragraph 8.2).

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  - 6 OCD should develop a system to capture consistently and accurately the work expended upon cases, including those without a criminal justice outcome (paragraph 8.16).

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  - 7 The CCU should have an induction and initial training programme for new staff and specific training should be given to individuals dealing with civil claims against the CPS (paragraph 8.23).

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  - 8 OCD should ensure that its business plan is updated regularly and that objectives and measurements are consistently captured and reviewed at meetings (paragraph 10.7).

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  - 9 OCD should ensure that the minutes of senior management team meetings are circulated to all staff. All unit and divisional team meetings should have common set agenda items which include progress on the business plan and regular performance updates. Minutes should be drafted so as to give a clear indication of progress on, or achievement of, the actions raised in the meetings (paragraph 10.8).

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  - 10 OCD should adopt a strategy and communication policy to promote a collective, cohesive and corporate approach by all staff, at all grades, across all units (paragraph 10.11).

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  - 11 OCD should develop wider community engagement to include all its staff, undertake a greater proportion of engagement with community groups directly and introduce an evaluation system to measure the impact of engagement (paragraph 11.3).
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Inspectors found four strengths.

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- 1 High quality case preparation and a strong ethos of case ownership across all grades of staff in the division (paragraph 3.9).

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  - 2 The availability of OCD prosecutors at all times to provide investigative and evidential advice to SOCA pre-charge (paragraph 3.14).

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  - 3 The high quality of decision-making and the quality of the review notes in larger and more complex cases (paragraph 3.23).

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  - 4 Early preparation and service of high quality summaries that clarify the basis of the prosecution case (paragraph 5.4).
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We have also identified four aspects of good practice.

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- 1 The division's file management system and use of a 'core documents' bundle containing important and commonly required documents, allowing for speedy access and reference (paragraph 4.2).

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  - 2 The division's practice of serving a disclosure policy document with the unused material schedules to ensure disclosure decisions are open and transparent (paragraph 4.16).

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  - 3 The division's use of electronically presented evidence helps explain issues in the trial to the court and jury and saves court time (paragraph 5.15).

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  - 4 The use of joint reviews held by the prosecution team at the conclusion of the case to evaluate strengths and aspects for improvement highlighted by it (paragraph 9.12).

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The full text of the report may be obtained from the Corporate and Operations Support Group at HMCPsi Inspectorate (telephone 020 7210 1197) and is also available on line at [www.hmcp.si.gov.uk](http://www.hmcp.si.gov.uk).