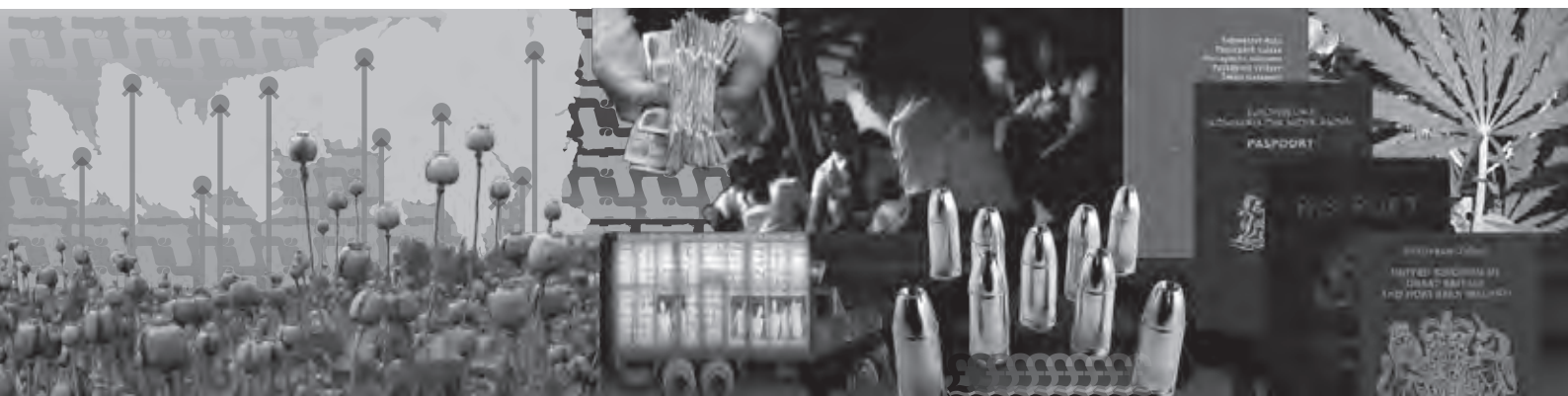




Report on the Inspection of the Organised Crime Division of CPS Headquarters

September 2009





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1 INTRODUCTION

Purpose of the inspection

- 1.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPSI) report about the Crown Prosecution Service's (CPS) Organised Crime Division (OCD). OCD is part of CPS Headquarters and has three operational units located in four offices across the country: London, Birmingham, York and Manchester. The Manchester office is a satellite of the York unit and together they are referred to as OCD North. The Central Confiscation Unit (CCU), which deals with asset restraint and recovery, is based exclusively in London. Work from the Serious Organised Crime Agency (SOCA) is divided between the offices mainly along geographical lines whilst work from other sources, such as that generated by the Child Exploitation and Online Protection Centre, is essentially dealt within London.
- 1.2 The purpose of the inspection was to:
- assess the quality of the decision-making, case preparation and performance of the OCD, including the effectiveness of management and operational arrangements to support the work of the division; and
 - assess progress against the recommendations and suggestions, in so far as they remain relevant, made in the inspection of Casework Directorate in November 2002.

Background

- 1.3 The Headquarters Casework Directorate was set up in 1998 in response to the review of the CPS by Sir Iain Glidewell in order to provide a centre of excellence to deal with serious crime. Following a CPS review of how it dealt with serious crime Casework Directorate was re-structured in 2005 to form the Central Casework divisions. The revised model was intended to meet the challenge introduced by developments around criminal justice, not least the establishment of a new national authority for combating serious, organised crime (SOCA) and the use of new prosecutor powers enacted by the Serious Organised Crime and Police Act 2005.
- 1.4 There are three separate divisions within Central Casework: Organised Crime, Special Crime and Counter Terrorism. As with the former Casework Directorate their purpose is to deal with complex, serious and sensitive cases which, for operational reasons, are better undertaken by Headquarters than individual areas. The divisions work in partnership with each other and share a common Secretariat, but responsibility for the specific types of cases and other work handled by each is defined. OCD is the largest of the three 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.
- 1.5 SOCA work is shared with the Revenue and Customs Prosecutions Office (RCPO) in accordance with a service level agreement which is based on the nature of the cases.

- 1.6 Casework Directorate was last inspected in November 2002. In that report we made 15 recommendations and five suggestions for improvement. In the course of this inspection we have assessed the extent to which these have been addressed, insofar as they are still applicable to OCD. A synopsis is included at annex A.

The Attorney General's strategic review

- 1.7 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.
- 1.8 A programme board has been established comprising the Director of Public Prosecutions (DPP), Director of RCPO, chief executive officers of the CPS and RCPO, a representative from the Attorney General's Office and non-executive directors from both RCPO and the CPS. The Attorney General's Strategic Board will continue to oversee the merger.
- 1.9 A joint transition team has also been created which is taking forward work streams to determine the implications for staff; delivery of prosecution services; approach to asset recovery; governance arrangements; existing change programmes; and how best to deliver savings and efficiencies. It is envisaged that a work programme will be published followed by a period of consultation with staff, investigators and other government departments such as HM Treasury and the National Audit Office.
- 1.10 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 faithful to the aims as they were originally scoped. We recognise however that combining CPS and RCPO is likely to have the greatest impact on the OCD and such a change represents a considerable challenge to both organisations. We trust that this report, together with our 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.

Scope of the inspection

- 1.11 The full scope of the inspection was to:
- assess the quality and timeliness of casework decisions in all categories of cases handled by OCD;
 - assess the arrangements for case 'ownership', quality of preparation and case handling;
 - assess the management of casework handled by OCD and levels of decision-making;
 - assess the standard of instructions to, and case presentation by, in-house advocates and external counsel;
 - assess the arrangements for the handling of confiscation and enforcement proceedings;
 - consider the impact of new initiatives for example statutory charging, Direct Communication with Victims, witness care units, the Prosecutors' Pledge, Victims' Code and the Victim Focus Scheme;
 - consider how resources are deployed within the division and how performance is monitored to effect improvement;
 - consider the effectiveness of community engagement in bringing about service improvements and the extent to which equality and diversity principles are embedded within the division;
 - review, insofar as they are still applicable, the progress against the recommendations in the 2002 report;
 - identify good practice; and
 - make recommendations for improvement.

Structure of the division

- 1.12 As at 1 April 2009 OCD employed the full-time equivalent of 107.8 staff. This included 49.7 lawyers split between the four offices. The shared Secretariat is based in London and comprises the Senior Business Manager (SBM) and full-time equivalent of 7.7 other staff.
- 1.13 Central Casework is staffed by 216.8 full-time equivalent employees¹, with OCD the largest of its three divisions. The split between the divisions is Organised Crime 49.7%, of which 18.8% are assigned to the CCU; Special Crime 27.5%; Counter Terrorism 18.8%; and Secretariat 4.0%.
- 1.14 The Head of Division (HOD) reports directly to the DPP and is supported by four level E legal managers who head the London, Birmingham and North units and the CCU (there is no Deputy HOD). The unit heads are responsible for the day to day supervision of the level E crown advocate and principal crown advocate (PCA) lawyers. Current plans include the recruitment of a PCA for the Birmingham office. The caseworkers are managed by a level B2 office manager who, in turn, reports to the relevant unit head. There is one casework lawyer at senior civil service (SCS) level. The bulk of the division's staff (70%), including the HOD and shared Secretariat, are located in London at the CPS Headquarters building. OCD also has line management responsibility for the CPS's overseas liaison magistrates' network, a cadre of lawyers located in five countries who are able to provide expertise and contact points for dealing with international aspects of prosecution work.

The London unit

- 1.15 The OCD London prosecution unit (32.2% of the division's staff) conducts criminal work and is headed by a level E unit head supported by a dedicated business manager.

The Central Confiscation Unit

- 1.16 The CCU has a level E unit head supported by a business manager. The unit deals with all aspects of the division's asset forfeiture in respect of its pre and post-charge cases as well as progressing foreign requests made to England and Wales for mutual legal assistance; overseas asset tracing; dealing with civil claims made against the CPS nationally; and serious crime prevention orders.

The Birmingham unit

- 1.17 OCD Birmingham comprises 14.6% of the division's staff and is collocated with SOCA. The unit was created by reducing Casework Directorate's 'gateway' division staff, who dealt with selected police National Crime Squad cases, to fit the anticipated profile for SOCA work. It is headed by a level E manager supported by a unit business manager. The current unit head, the third since its inception, has been in post since January 2008.

The North unit - York and Manchester

- 1.18 OCD North comprises 15.4% of staff who are divided between the two geographical locations. York is the main office and based in the CPS regional headquarters building. Manchester is a satellite station temporarily located in a non-operational SOCA building. The unit is headed by a level E staff member supported by a business manager. Both operate from the York office, although the unit head works from the Manchester site one day a week. The two PCAs are also based in York and are allocated cases from both offices.

¹ Staff in post figures for 1 April 2009 including four liaison magistrates, casual employees and staff on secondment.

1.19 A full breakdown of staff is set out in the table below. The London figures include four of the five liaison magistrates and associated staff and the percentage value indicates the proportion of the division's resources a unit has at that grade.

Staff in post	CCU	London	North	Birmingham	OCD overall
Head of Division	-	1.0 (100%)	-	-	1.0
SCS	-	1.0 (100%)	-	-	1.0
Level E	1.0 (12.5%)	4.0 ^a (50.0%)	1.0 (12.5%)	2.0 (25.0%)	8.0
PCA	-	3.0 (60.0%)	2.0 (40.0%)	-	5.0
CA	13.7 (38.4%)	12.0 ^b (33.6%)	6.0 (16.8%)	4.0 (11.2%)	35.7
SCP	2.0 (100%)	-	-	-	2.0
B2	4.0 (54.1%)	1.4 ^c (18.9%)	1.0 (13.5%)	1.0 (13.5%)	7.4
B1	12.0 (45.5%)	7.4 (28.0%)	2.0 (7.6%)	5.0 (18.9%)	26.4
A2/A1	7.0 (34.5%)	4.9 (24.2%)	4.6 (22.6%)	3.8 (18.7%)	20.3
Agency	1.0 (100%)	-	-	-	1.0
Total	40.7 (37.8%)	34.7 (32.2%^d)	16.6 (15.4%)	15.8 (14.7%)	107.8

a Includes one level E liaison magistrates' line manager.

b Includes four liaison magistrates. A fifth is not financed by OCD.

c Includes one B2 grade at 0.4 full-time equivalent allocated to the liaison magistrates.

d Includes four liaison magistrates, representing 3.7% of allocated staffing.

Methodology

1.20 OCD shares some common features with its counterpart divisions in Central Casework but is not readily comparable with the CPS at area level. It provides a national service, delivered regionally, and the majority of its work is provided by SOCA with whom it works closely and at an early operational stage. OCD devotes a significant proportion of its time to work that does not lead directly to a criminal prosecution. With the exception of forfeiture and confiscation proceedings arising out of the pre-Proceeds of Crime Act 2002 legislation OCD does not take case referrals from CPS areas and neither does it divest any of the serious, complex or sensitive cases to local areas.

1.21 Given the different operational parameters applicable to OCD it was necessary to devise a bespoke methodology and framework for this inspection, which was developed in consultation with the division's senior managers.

1.22 A significant proportion of the work undertaken by OCD falls under the category of advice. SOCA operations, by their nature, commonly involve lengthy investigations and can give rise to some complex national and international issues as well as dealing with policy considerations, differing strategic options and jurisdictional issues. Although operations are often referred to OCD at an early stage before a formal investigation has commenced (even when apparent that a criminal prosecution would be highly unlikely), the arrest and detention phase of an investigation can arise without notice, requiring OCD lawyers to provide further advice and the authority to charge at short notice.

- 1.23 Inspectors examined cases across the range of work undertaken by OCD including a proportion of active ones that had yet to be concluded. The file sample comprised operations that were not pursued to a criminal justice outcome or where the pre-charge decision advised no further action, as well as cases which resulted in charges being brought. Because of the nature of the offences all but one of the prosecutions were heard in the Crown Court. A breakdown of the number and categories of cases examined is at annex B.
- 1.24 Fifty four cases were examined against a database of questions specifically tailored for this inspection although many of the questions related to processes common to all criminal prosecutions. A significant proportion of the division's prosecutions generate large volumes of evidence, exhibits and unused material. Importantly we were able to discuss the issues in the case with the reviewing lawyer. This was valuable in enabling us to acquire a speedy understanding of the case and issues including the approach to disclosure handling.
- 1.25 In addition to finalised criminal cases we also examined six 'live' cases and a substantial civil proceedings file. Custody time limits applied in 26 of the cases. Overall this sample represented about 27.1% of OCD's criminal caseload registered on their electronic case management system just prior to the inspection commencing. Four court hearings were observed which enabled inspectors some opportunity to consider the performance of advocates and the delivery of service at court. Those observations are included within the findings of this report.
- 1.26 In cases which proceeded to prosecution we considered the quality of the pre-charge decision, application of the two stage test in the Code for Crown Prosecutors and the quality of casework processes. In others, such as providing foreign legal assistance, we considered the aspects of the case relevant to the particular category. We made a number of assessments about the quality of decision-making and case handling in the course of the file examination and key assessments are shown in the table at annex C.
- 1.27 Inspectors considered a self assessment provided by OCD together with supporting documents. We also conducted interviews with members of staff at all levels, criminal law practitioners and representatives of criminal justice agencies. Other stakeholders were consulted by questionnaire. A list of individuals inspectors met or from whom comments were received is at annex D.
- 1.28 An initial equality impact assessment was carried in compliance with the statutory requirements of the Race Relations (Amendment) Act 2000, Disability Discrimination Act 2005 and Equality Act 2006.

Structure of the report

- 1.29 Chapter 2 is an executive summary which includes an overview of findings together with a list of recommendations, aspects for improvement, strengths and good practice that the inspection team identified.
- 1.30 Chapters 3-5 cover the provision of advice, review and decision-making, case preparation and the case at court. Chapter 6 deals with those specialist and specific aspects OCD's work involves. Chapter 7 covers the service provided to victims and witnesses and 8-11 deal with management systems and performance.
- 1.31 There are a series of annexes which provide more detailed information and data to assist in reading the report.

Acknowledgements

1.32 The Chief Inspector and the inspection team would like to thank all those who gave their time to assist in this inspection.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

Introduction

- 2.1 The Organised Crime Division was formed specifically to deal with cases emanating from the newly created Serious Organised Crime Agency. It is one of the CPS Headquarters Central Casework divisions which replaced the Casework Directorate in 2005, the other two being Special Crime and Counter Terrorism. OCD operates from London and three regional centres in York, Manchester and Birmingham.
- 2.2 In addition to its criminal casework the division also comprises the Central Confiscation Unit, which deals with asset recovery and civil jurisdiction matters and the liaison magistrates, a cadre of overseas prosecutors with foreign jurisdiction expertise in their respective host countries.

Advice and decision-making

- 2.3 Cases are referred to OCD directly by SOCA and the division shares prosecuting responsibility with the Revenue and Customs Prosecutions Office. Cases are allocated between the agencies in accordance with a tri-partite agreement. OCD lawyers become involved in cases at the earliest stages and liaise closely with investigators to determine potential courses of action and evidence gathering, the impact of investigation decisions on potential prosecutions and unused material and case building issues. This approach has helped to develop the strong case ownership ethos evident within the division.
- 2.4 The overall quality of decision-making is very good. The best examples of review notes were excellent containing 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 is not universally applied in all cases for each and every review. Review decisions are monitored and assessed by unit heads at the point of charge and through the monthly lawyer reporting process.

Case management

- 2.5 Post-charge case preparation and management is generally good. A high level of successful outcomes (convictions) is achieved. It is discernible from the effective trial rate that both lawyers and caseworkers retain a firm grip on case preparation and progression and are 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, the division has revised and tightened its custody time limit procedures which are now sound.
- 2.6 The duties of disclosure of unused material are complied with well. A record of disclosure actions is retained in the case and the division has appointed a disclosure champion. Lawyers adopt a fair and transparent approach with the defence when detailing their disclosure decisions.
- 2.7 Use of the electronic case management system was poor even allowing for the fact that the system 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

- 2.8 OCD retains a proportion of its trial advocacy in-house employing five PCAs who are experienced in conducting larger and 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.
- 2.9 Where self employed counsel is selected to prosecute on behalf of OCD 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.
- 2.10 Either the caseworker, lawyer, or both will attend court hearings in the division's cases. 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

- 2.11 The CCU is a specialist unit dealing 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 unit 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 were enforced. These outcomes amount to a significant proportion of the total recovered by the CPS nationally. Overall the preparation and presentation of CCU cases was of an excellent standard.

Other specialist work

- 2.12 In addition to other SOCA cases OCD also receives referrals from the Child Exploitation and Online Protection Centre (CEOP), 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 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.
- 2.13 The division manage 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.
- 2.14 OCD also advise 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 they 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

- 2.15 OCD shares the witness care unit (WCU) with its two Central Casework counterparts, Special Crime and Counter Terrorism. The unit is located within the Secretariat and is relatively small having between two and four witness care officers operating on a part-time basis. Because of the nature of its 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 vulnerable victims such as human trafficking. Although they have received a basic level of training there is scope for witness care officers to be developed further and perform a more central role which would enhance their contribution to witness care.

Resource management

- 2.16 Since its inception OCD has been subject to fluctuating caseloads from SOCA which has made an accurate assessment of its 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. OCD 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 the 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.
- 2.17 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, at 6.4 working days lost per person per year, is well below the CPS national average of 8.7 days.

Performance management

- 2.18 In contrast to the average CPS area the number of cases in 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 its 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.
- 2.19 The consideration of performance on a case by case basis is both important and necessary. Notwithstanding the relatively low volume of cases in the division 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.

- 2.20 Little use is made of the electronic casework management system (xCMS) which is, with some justification, considered to be unsuitable for OCD's needs. However the lack of use by staff, with one or two notable exceptions, negates any benefits that could be gained. Appropriate levels of usage would automatically provide the division with improved management performance data through interrogating the xCMS database.

Leadership and community engagement

- 2.21 OCD is highly regarded by its criminal justice partners and stakeholders both nationally and internationally. Effective partnerships have been developed by managers and specialists within the division 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.
- 2.22 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.
- 2.23 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.

The future

- 2.24 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.

Recommendations

- 2.25 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority, and have made seven to help improve the division's performance.

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).

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).
-

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).

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

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).

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).

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).

2.26 We additionally identified 11 aspects for improvement.

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).

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).

3 Lessons learned from the case evaluation process should be circulated across all divisional units (paragraph 4.23).

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

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

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).

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).

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).

-
- 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).

 - 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).

 - 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).

2.27 We found four strengths.

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

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

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

 - 4 Early preparation and service of high quality summaries that clarify the basis of the prosecution case (paragraph 5.4).

2.28 We have also identified four aspects of good practice.

-
- 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).

 - 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).

 - 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).

 - 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).

3 ADVICE, REVIEW AND DECISION-MAKING

Introduction

- 3.1 In this chapter we discuss the quality of early advice provided by OCD during the investigative stage and of decision-making at the point of charge and thereafter. The CPS 2005 strategic review of serious crime had identified as strengths the approach by Casework Directorate to handling terrorist cases and those from the National Crime Squad. Both systems incorporated the provision of early advice to the investigating agency prior to the charging stage. This in turn helped to develop a prosecution team approach to gathering evidence, strategic decision-making, early control of unused material and the decision to charge. This approach pre-dates the statutory charging scheme whereby the CPS has taken over responsibility from the police for deciding whether or not a suspect should be charged in more serious cases.
- 3.2 We examined 54 cases handled by OCD. In 33 (61.1%) of them the division advised there was sufficient evidence to charge.

Referral of cases to OCD

- 3.3 OCD was established primarily as a dedicated CPS prosecution team for the newly formed SOCA network, a responsibility they share with RCPO, and the majority of the division's work emanates from SOCA. A tri-partite agreement between OCD, RCPO and SOCA governs the distribution of referrals taking account of the particular strengths, expertise and resources available in order to ensure an efficient distribution of work. The types of offence dealt with by OCD reflect the strategic approach taken by SOCA to tackling serious and organised crime and concentrate on offences involving drugs, money laundering, theft and fraud, human trafficking, counterfeiting, the use of false documents and firearms. Offences principally involving drugs, firearms and money laundering are shared between the division and RCPO in accordance with the Directors' Case Allocation Agreement.
- 3.4 SOCA tends to operate proactively and refers cases to OCD at a very early stage, so that both organisations come together at the earliest possible opportunity to create a complementary prosecution team that will see a case through to the end, regardless of whether it or not it generates a criminal prosecution. The amount of legal advice given and prosecution work needed during the early stages of an investigation depends upon the individual requirements of the case and can vary greatly, from little more than a watching brief to a full advice on evidence and procedure with accompanying letters of request and extradition proceedings.
- 3.5 OCD acts as the principal CPS point of contact for the Child Exploitation and Online Protection Centre. Part of SOCA, CEOP is a multi agency organisation focusing exclusively of the eradication of child exploitation. The CCU also takes the lead in progressing overseas requests for mutual legal assistance, dealing with civil complaints made against the CPS and assessing the suitability for taking civil asset recovery proceedings. OCD is also responsible for managing the work of the liaison magistrates cadre. These aspects are dealt with in more detail chapter 6.

Allocation of cases within the division

- 3.6 SOCA investigation teams are configured geographically and cases coming into OCD are mostly distributed between the units according to their regional alignment. Thereafter individual cases are allocated to a prosecutor by the relevant unit head who will take account of current commitments, expertise and workloads in order to ensure a balanced distribution of work. The casework manager performs the same exercise assigning a caseworker. Where a new case relates to a charge the CCU unit head will be notified and allocate a confiscation lawyer to deal with any asset recovery issues. In London a second prosecutor is also allocated in addition to the lead prosecutor in order to provide cover for absences. A reasonable degree of flexibility exists within the OCD allocation system to mitigate uneven caseloads, although some anomalies exist which still need addressing.
- 3.7 The allocation system endeavours to make best use of the available prosecutors' experience and expertise. Following the CPS restructuring of lawyer grading the majority of prosecutors employed by the division were re-classified as crown advocates, although they undertake little advocacy. There are four senior non-managing casework lawyers within OCD. The majority of its reviewing lawyers have been dealing with specialist prosecution work for some time and were previously part of Casework Directorate. In general staff did not feel that there was imbalance of work between individuals within the same unit and, although there was some regional variation in lawyer caseloads, this was less noticeable in relation to active post-charge cases than in respect of pre-charge advice files. In respect of available caseworker resources these are more problematic in the North team, where they are split between the York and Manchester units and the relatively small size of the teams means that there is little or no cover for absences.
- 3.8 Case lists are not indicative of how busy individual lawyers are at any given time as this will depend upon a number of factors, not least cases which are close to trial. Also a number of cases may be related to inactive investigation streams or awaiting specific evidence. Unit heads therefore use the monthly lawyer case reports as an indicator of capacity as well as speaking directly with individuals to assess their workload before allocating new work.
- 3.9 There is a strongly developed sense of case ownership so that the lawyer allocated at the outset will, save in exceptional circumstances, retain the case until its conclusion. This approach has established a good prosecution team ethos and one which is highly valued by SOCA. We found that there was continuity of lawyer and caseworker in the majority of files examined.

Strength

High quality case preparation and a strong ethos of case ownership across all grades of staff in the division.

The provision of early advice

- 3.10 A number of SOCA enquiries are brought to OCD's attention for the purpose of providing the division with a holistic overview rather than for specific investigative advice, and legal input into these cases is relatively limited. Investigations which are progressed with a view to conducting a prosecution invariably benefit from the early involvement of a prosecutor. The provision of advice at an early stage can ensure that essential evidential considerations are taken into account and provide a sharper focus to a criminal investigation. Early advice was given in 29 of the 47 cases (61.7%) we examined that were subject to the pre-charge decision process.

- 3.11 Close working relationships have been established between OCD prosecutors and SOCA investigators who systematically involve the division's lawyers in their investigations, typically through the medium of case conferences. At this point in the process legal advice will often include issues such as obtaining evidence from overseas; the admissibility of certain types of evidence; a need for expert evidence; restraint of assets; the suitability of using the extended prosecutor powers under Serious Organised Crime and Police Act 2005; and matters relating to unused material. In some cases the amount of work completed by the prosecutor early on in the investigation can be extensive. Early advice work may not result in a prosecution but where criminal charges are brought early prosecution involvement can provide valuable benefits later on, in terms of both quality and timeliness.
- 3.12 In 13 of the 54 cases (24.1%) in the file sample early advice was given but subsequently SOCA took the decision not to proceed further with them. The other 41 investigations had been sufficiently advanced to warrant consideration for charging and decisions in those cases were taken by OCD applying the Code for Crown Prosecutors² (the Code). In eight of the 54 (14.8%) the reviewing lawyer had determined that a case should not proceed to charge, either on account of the evidence being insufficient to provide a realistic prospect of conviction or that a prosecution was not required in the public interest. All decisions complied with the principles of the Code.
- 3.13 In 33 of the 54 (61.1%) the reviewing lawyer had determined that charges should be brought. There was not always complete clarity over whether the threshold test or the full Code test had been applied and the application of the Code to the key elements were not always consistently drawn out when completing the authority to charge document. In the longer running or more complex matters it was apparent that ongoing reviews had been conducted through the medium of case conferences held during the currency of the investigation. Copies of those decisions however were not always transferred across to the paper file. It is important not only that a written record is kept of all advice and review decisions but also that it is contained within the file, so that it is apparent to any lawyer or caseworker required to take over responsibility for the case. There should be a clear audit trail of the decision-making process retained on the case. Poor usage by the division of xCMS may be contributing to the situation as the system is not routinely used to record advice and review work. We comment further on the use of xCMS in chapter 4.

RECOMMENDATION

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.

- 3.14 OCD lawyers are available to provide advice to SOCA officers round the clock through an out of hours weekly rota, by which a prosecutor will remain on call outside of business hours. Given the nature of SOCA investigations matters can occur which require urgent guidance at any time, particularly the arrest stage of an investigation which may be effected without any advance warning. The on call prosecutor sometimes attends at a suspect's place of detention in order to be on hand to assist the investigation and make decisions on the case.

2 The Code for Crown Prosecutors is issued under section 10 of the Prosecution of Offences Act 1985. Each case must be reviewed in accordance with the Code to ensure that there is sufficient evidence for a realistic prospect of conviction and that a prosecution is required in the public interest.

Strength

The availability of OCD prosecutors at all times to provide investigative and evidential advice to SOCA pre-charge.

The involvement of counsel at the pre-charge stage

- 3.15 External counsel will be instructed at the pre-charge stage only in exceptional circumstances and there were no instances of this in our file sample. Responsibility for providing advice at this stage of an investigation rests firmly with the division's crown advocates. Where a specific case happens to involve issues of particular complexity or sensitivity they can be discussed with other experienced in-house lawyers within OCD, one of the PCAs or the HOD, who may also decide that the case should be allocated to one of the senior casework lawyers available.

Case building at the pre-charge stage

- 3.16 We noted that prosecutors were proactive in helping to build the case at an early stage in 16 cases in our file sample, compared to only three where we considered that more could have been done to progress the case before charge. The level of control is not consistent across all OCD units as methods of case building are dependant on the particular office practice favoured and may vary from the provision of a written advice to 'hands on' direction and control over building the prosecution file.
- 3.17 Consideration of issues which impact on the strength, admissibility or availability of evidence such as the use of experts, foreign jurisdiction material, covert material, hearsay and bad character applications, as well as specific witness requirements, are normally dealt with in conference with the investigation team during the currency of the investigation and a review note completed as a written record. Consequently when an authority to charge document is created it may seem relatively brief and uninformative unless read in conjunction with other documents, which may not always be located on the file itself.
- 3.18 Under the statutory charging scheme developed by the CPS and Association of Chief Police Officers (ACPO) prosecutors at area level make use of a template proforma (MG3) to set out their review under the Code. This contains an action plan section designed to identify any further investigation required, assist with case preparation and impose a timetable for the work to be completed. The MG3 action plan is not particularly well suited to OCD work as it is rather formulaic and not designed for very detailed instructions. Consequently it is rarely used by the division's lawyers who prefer instead to provide free text guidance on evidence and file building. In the majority of cases where the MG3 document is not used however prosecutors should remember to include a progression timetable for the investigator so that a clear completion date is given.
- 3.19 Some SOCA operations in their infancy have a tendency to change track or alter priorities depending upon the information being received. Where this happens cases submitted to OCD can have a tendency to 'drift'. Seven (13.0%) of the 54 files examined related to early or concluded investigation streams. These had remained registered as active cases on xCMS but had no updated entries or review notes. A more robust monitoring process of cases at the pre-charge stage is needed to tighten control over case progression and enable prosecutors to focus upon whether action should be taken to expedite matters or a speedier decision taken to finalise the case.

The timeliness and quality of review and decision-making

- 3.20 As with its counterpart divisions in Central Casework OCD promotes continuity of decision-making by adopting a strong case ownership ethos with review remaining a continuous process. Responsibility rests essentially with the allocated lawyer throughout the life of the case, albeit in conjunction with a PCA if instructed, once a case has progressed into the Crown Court.

- 3.21 From our file sample we found four cases where there had been some delay during the pre-charge process which the prosecutor could have done more to have avoided. In the remaining cases the lawyer had done as much as could reasonably be expected to expedite matters. In respect of the seven cases which had not been submitted to OCD for a charging decision a degree of drift was noticeable, with no regular updates from SOCA as to case progress. Performance information in respect of timeliness is not collated on the division and managers rely heavily on the monthly reports completed by lawyers to inform them how cases are progressing. This can be an effective system for addressing timeliness issues but it is not being applied across the division with sufficient robustness or consistency in relation to pre-charge cases.

- 3.22 Managers also use the monthly reporting regime as a check on the quality of continuous review and decision-making by the lawyers in the unit. Prior to this the unit head conducts an initial quality assurance assessment at the charging stage since all review notes and MG3s are required to be forwarded to them for that purpose. Whilst this is good practice the unit heads did not certify their approval of the review and charging decision on the case file. This could be achieved by them simply endorsing the relevant review note or MG3 completed by the lawyer.

Aspect for improvement

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.

- 3.23 The quality of decision-making is very good and well regarded by SOCA, with the division’s performance being highly regarded by external stakeholders. Decisions in all of the cases from the file sample where a Code review was applicable were in accordance with both the evidential and public interest stage tests. The level of decision-making was shown to be appropriate and the resolution procedure effective in respect of the one matter where the trial advocate and reviewing lawyer disagreed.

Strength

The high quality of decision-making and the quality of the review notes in larger and more complex cases.

- 3.24 Whilst the decisions taken by OCD lawyers were in accordance with the Code there was a greater degree of variation in the quality of the review notes setting out the prosecutor’s reasoning for the decision. We found it to be more likely than not that, in the larger and more complex cases, the lawyer had completed either an excellent or good review in that it explained the application of the Code to the case and provided important guidance to the investigator, making clear how the

case should proceed. Those reviews which scored less well tended to be in relation to the smaller and more straight forward cases. The division has promulgated a document setting out the standard expected in recording review decisions but this is not adhered to in every case.

- 3.25 Due to the nature of the investigation and evidence gathering procedures in cases received from SOCA the submission of prosecution material to the lawyer is often a staged process, since different types of evidence have greatly differing timescales of production, and OCD has adopted a continuous review policy to embrace this aspect. Consequently there is no set point in the prosecution cycle to trigger a full review, that is when a formal decision is taken to proceed to either a summary trial or the Crown Court. What is clear however is that OCD prosecutors maintain a tight grip on their cases post-charge and complete ad hoc key stage reviews on each occasion significant evidence or information is received.

4 CASE MANAGEMENT

Introduction

- 4.1 In this chapter we consider the way OCD manages cases once suspects have been charged and proceedings instituted. The number of prosecutions is relatively small compared to CPS areas and cases can range from the relatively straight forward to the extremely complex or sensitive. Irrespective of size the division enjoys an impressive rate of successful outcomes, which stands as testament to the level of professionalism maintained by its staff in concentrating on the task in hand.

File management and endorsement

- 4.2 Once a case has been charged all but the smallest files are now organised in accordance with a framework designed to manage complex cases and compliance with the standard is generally high. The adopted system has a number of useful features key amongst them being the 'core documents' bundle. This is usually a lever arch folder or ring binder which contains the most commonly required or useful documents in the case, allowing for speedy access and reference. Other important documents such as correspondence or unused material are stored separately in colour coded folders. Statements, exhibits, interview records and similar information are indexed and paginated and either retained in discrete binders or flagged within the prosecution bundle itself. Where additional evidence or further information is served in the case, which is often, these are also correctly indexed and properly paginated. Overall quality of file management was found to be very good.

Strength

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.

- 4.3 OCD does not use the magistrates' court file jacket to note down the outcome of hearings or record important information in the case prior to any Crown Court appearance. Instead an attendance note is completed by either the lawyer conducting the hearing, which is normally the reviewing lawyer, or sometimes a caseworker. In the Crown Court a written record of the proceedings should be completed including the key dates for service and any court directions and ought to be filed within a dedicated folder. From our file examination we found that the best examples also copied the court hearing information into the case log, a running chronology of key dates, events and actions in the case. In 22 out of 33 cases (66.7%) the court hearing endorsements were clear, concise, accurate and comprehensive. In 16 of 17 (94.1%) a clear, concise, accurate and comprehensive record had been made of all court orders.

Use of experts

- 4.4 A significant proportion of casework handled includes the use of expert or professional³ witness evidence as part of the prosecution case and this is routinely dealt with during the investigation stage prior to charge. Increasingly the investigating agency has recourse to its own in-house cadre of expert and professional witnesses and the principal decision-making tends to turn around whether such evidence is needed to strengthen the case, rather than in selecting whom

³ An expert witness is one who is permitted give an opinion about a matter within their field of expertise; a professional witness is one who is able, through their qualification or experience, to give evidence of a technical nature.

to instruct. In all the files we examined the use of experts was considered appropriately by the reviewing lawyer. Where clear and comprehensive instructions were required these were provided and in all relevant cases the expert evidence was served on the defence. In only six of 23 cases (26.1%) was the prosecution expert evidence challenged, requiring the witness's attendance court.

Case progression

- 4.5 After charge all cases will make their first appearance in a local magistrates' court which could be anywhere in England and Wales. Thereafter if the offences are destined for the Crown Court, which almost all of them are, they should be listed in accordance with the current protocol agreement (the management of cases from the Organised Crime Division of the Crown Prosecution Service - issued by the Senior Presiding Judge in December 2008). This was implemented in 2008 and has proved to be beneficial, establishing stronger links with those Crown Court centres regularly dealing with OCD cases and keeping a firm grip on case progression. In the vast majority (93.3%) of files we examined the prosecution were ready for the plea and case management hearings and any pre-trial reviews. Directions were either complied with or the case referred back to court in 87.1% of cases in the sample. It was noticeable that OCD staff played an active role to ensure cases were ready on time and 75.8% of those observed at court demonstrated good quality case progression.
- 4.6 We found that correspondence was acknowledged and dealt with appropriately in 93.3% of cases examined. All additional material received from the investigator had been correctly logged and considered by the lawyers, following which it was either served as evidence or disclosed to the defence.

Disclosure of unused material

- 4.7 The prosecution is under a continuing duty to disclose to the defence any material gathered during the course of an investigation which it does not intend to use as evidence, but which may either undermine its own case or assist the defence case. This ensures that a criminal prosecution is both fair and equitable and is as important a part of the prosecution process as presenting its case to the court. The procedure for dealing with unused material is largely contained in the Criminal Procedure and Investigations Act 1996 (CPIA; as amended by the Criminal Justice Act 2003) and guidance for its proper application is set out in the Attorney General's guidelines and by the House of Lords judgement in a leading case (*R v H & C [2004] 2 Cr.App.R. 179*). The overall process is known by the short hand term "disclosure".
- 4.8 SOCA investigations can generate very large volumes of unused material and a considerable number of OCD's cases not only have a great amount of evidence to marshal, but also greater amounts of unused material to consider. The nature of the process can be onerous but the prosecution has a fundamental duty to ensure that it acts fairly. Dealing with unused material can be very time consuming requiring the reviewing lawyer to travel to where it is physically located in order to inspect it. Once a defendant has been charged and appears at court a strict timetable applies within which disclosure is required to take place and this can put an added responsibility on the prosecution team to ensure that disclosure directions are complied with fully and expeditiously.

- 4.9 It is the custom and practice for OCD lawyers to consider unused material and disclosure as part of their pre-charge advice in the case thereby enabling early identification of relevant issues that will need to be kept under scrutiny. Early consideration of such matters pays dividends post-charge because of the time pressures imposed by the statutory framework for completing the disclosure process. SOCA and OCD adopt the same regime as the police and CPS areas and follow the agreed practice and principles set out in the joint ACPO/CPS Disclosure Manual. It is the duty of the SOCA disclosure officer to itemise any non-sensitive and sensitive material on a schedule (respectively the MG6C and MG6D) and to bring to the prosecutor's attention any items which may undermine the prosecution or assist the defence (MG6E). It is the reviewing lawyer's duty to consider those schedules, examine such items as is necessary and disclose to the defence any material which passes the disclosure test, together with a copy of the non-sensitive schedule and a declaration that the disclosure obligation has been complied with.
- 4.10 There were 30 files from our sample in which the duty of disclosure had been triggered and we were able to make an assessment of the process in 29 of those. In respect of initial disclosure this duty had been complied with in all 29 cases and in 27 out of the 28 (96.4%) where the continuing duty to disclose arose. This is a higher proportion than was achieved for the CPS nationally (56.6% and 71.3% respectively) at the time of our thematic review of the duties of disclosure undertaken by the Service (published May 2008). The Disclosure Manual requires a chronological record of activity to be kept summarising each disclosure action on a disclosure record sheet which should be placed within the unused material folder. We found a properly completed sheet on 24 out of 29 files (82.8%).
- 4.11 Because of the nature and complexity of the cases the disclosure process is often completed in stages with a number of schedules completed and updated by the disclosure officer over the life of the case. The standard of the MG6C, D and E schedules differed quite markedly and there was a degree of regional variation between the OCD units in the quality of the forms prepared. It is the responsibility of the prosecutor to return to the disclosure officer any schedules which are not satisfactory but we noted that this did not always happen in each and every case where one or other of the forms ought to have been challenged.

Aspect for improvement

Crown advocates need to ensure that when considering unused material deficient schedules are challenged and returned to the disclosure officer for amendment.

- 4.12 The division is acutely aware of how important disclosure is to the success of its cases and has taken steps in an effort to improve disclosure performance generally. OCD lawyers regularly take part in SOCA investigator disclosure training programmes and the case reviews held in the larger prosecutions consider disclosure decisions made as a matter of course. There is an effective escalation process which can be used where a particular impasse arises in a case and the HOD will communicate with SOCA's senior management over any disclosure concerns.

- 4.13 SOCA generates a great deal of sensitive material which, if it fell to be disclosed, would attract a claim of public interest immunity (PII)⁴. Sensitive material is that which would create a real risk of serious prejudice to an important public interest if it were disclosed and may include such aspects as the use of covert techniques, intelligence information, informants and undercover investigators. The division has a secure facility for storing all sensitive information although sensitive items themselves are rarely brought to the office. In three of the cases examined there was material which attracted PII. The procedure was dealt with correctly in each and a strategy put in place by the prosecution team should an adverse disclosure ruling be made by the court. In all three an appropriate application was made to the court and recorded in the relevant log. Despite the volume of material very few applications are made as the division applies the CPIA and the ruling in the case of *R v H & C* strictly. Comment from members of the judiciary confirms that OCD lawyers do not make unnecessary applications for court rulings in respect of sensitive material and that overall disclosure in OCD cases is handled appropriately.
- 4.14 Sometimes unused material may be in the hands of a third party, that is not in the possession of the investigating or prosecuting authority. This can often include material held privately overseas as well as by foreign investigators or intelligence services. Our file sample contained six cases where unused material was in the possession of a third party and in all of them the appropriate action was taken in relation to it. We noted in particular one case where considerable tenacity was demonstrated in dealing with overseas unused material, both by the reviewing lawyer and his line manager, which prevented a potential unsuccessful outcome.
- 4.15 OCD discharges its disclosure obligations with care and professionalism. Overall the quality of disclosure handling was high with 69.0% of cases (20 of 29) being assessed as good, 13.8% excellent and 17.2% satisfactory. In none of the 29 was disclosure completed poorly. The duty was never inappropriately delegated to external counsel and pitfalls avoided such as 'blanket' disclosure whereby copies of the unused material are simply handed over regardless of whether it undermines the prosecution case or assists the defence.
- 4.16 A senior lawyer takes the lead in respect of disclosure application and policy. The reviewing lawyer provides a precise explanation to the defence of the parameters used to confine disclosure to what the prosecution considers relevant to the investigation. Since any number of cases could easily result from the plethora of over arching SOCA operations it is an important point of fairness to inform the defence of that fact, so that any challenges to the disclosure decisions can be mounted on an informed basis.

Good practice

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

⁴ A public interest immunity application is the process by which the prosecution applies to the Court to withhold material from the defence that is disclosable but which the Crown asserts is subject to an overriding public interest not to disclose.

Effective, ineffective and cracked trials

4.17 In partnership with other criminal justice agencies the CPS seeks to reduce the incidence of cracked and ineffective trials⁵. A trial that does not go ahead causes inconvenience to all concerned and can lead to increased distress or inconvenience for victims and witnesses who have attended court unnecessarily, as well as delaying justice for the prosecution and defence alike. OCD's performance over the preceding two financial years is given in the table below.

	April 2007 – March 2008		April 2008 – March 2009	
Cracked	1	2.8%	3	7.5%
Ineffective	0	0%	3	7.5%
Effective	35	97.2%	34	85.0%
Total	36	100%	40	100%

Successful outcomes

4.18 Unlike the CPS nationally OCD does not have a target for successful outcomes. Notwithstanding this the division has a high successful outcomes rate, as can be seen from the table below, and uses this indicator as its principal measure of performance over the year.

	London	North	Birmingham	OCD overall
<i>Successful outcomes</i>				
2007-08	90%	96%	86%	90.7%
2008-09	84%	88%	89%	87.0%
<i>Guilty plea rate</i>				
2007-08	62%	85%	43%	63.3%
2008-09	52%	67%	77%	65.3%

4.19 OCD achieved a successful outcome rate of 90.7% in 2007-08 and 87.0% in 2008-09. Performance for 2007-08 was on a par with Counter Terrorism Division, which achieved an overall conviction rate of 92.0%, and better than Special Crime Division (63.6%), CPS Fraud Prosecution Service (82.0%) and the Serious Fraud Office (61.0%). Successful outcomes in the Crown Court across the CPS nationally were 79.3% for 2007-08 and 80.8% for 2008-09.

5 A case is 'cracked' if it is listed for a trial, but does not proceed as a contest either on account of the defendant changing his plea to guilty or the prosecution offering no evidence. A case is 'ineffective' if it is listed for a trial but is unable proceed as a contest, for whatever reason, and is adjourned to be re-listed as a trial on a later occasion.

Case outcomes*	April 2007 – March 2008		April 2008 – March 2009	
Judge ordered acquittals	0	0%	0	0%
Judge directed acquittals	0	0%	0	0%
Prosecution dropped	8	5%	11	6%
Acquittals after trial	9	5%	17	9%
Guilty pleas	110	62%	120	61%
Conviction after trial	50	28%	48	24%
Total	177	100%	196	100%
Overall conviction rate		90%		86%

* The table deals with cases rather than individual defendants, some of whom were the subject of judge ordered acquittals.

Discharged committals, discontinued cases and judge ordered acquittals

4.20 It is rare in the extreme for cases not to be ready to proceed at committal. In the one file from our sample that did not proceed at the committal stage, this was on account of a change in the law which meant that there was no alternative other than stop the prosecution altogether.

4.21 Discontinued cases are those formally discontinued in the magistrates' court under section 23, Prosecution of Offences Act 1985 and section 23A in the Crown Court. Judge ordered acquittals are where the prosecution offers no evidence in the Crown Court before a jury is sworn. It is not uncommon in cases with multiple defendants for them to offer pleas in a piecemeal fashion at different stages of the proceedings, including on the day of trial itself. When this happens the prosecution team have to review the strength of the case in light of those pleas, including any basis upon which they may be made. Very occasionally this can mean that there is no longer sufficient evidence or public interest to continue the prosecution of a particular defendant in relation to some, or all, of the charges.

4.22 In the file sample charges against two defendants were discontinued in the magistrates' court and there were six defendants against whom the prosecution did not proceed (judge ordered acquittals) in the Crown Court. In one of them we considered that the prosecution could have been more proactive at an earlier stage to have avoided unnecessary delay. In the remaining seven we considered that the prosecution had acted with all due diligence and expedition and had done as much as could reasonably be expected to have avoided such an outcome.

Learning lessons

4.23 OCD have a reporting procedure for all cases which result in an adverse outcome⁶ in the Crown Court. The reviewing lawyer is required to prepare a case evaluation form giving an overview and commentary on the reasons why the prosecution did not succeed. Conclusions drawn from this analysis are collated by one of the division's senior lawyers into a report for dissemination and are included in the monthly unit management reports. Aspects of case management and presentation are also dealt with in the regular team meetings held in each of the OCD offices.

⁶ Cases dropped by the prosecution, or stopped by the court, before they are adjudicated upon on their merits.

Because of the relatively compact size of the units outside London staff in each tended to be aware generally of each others' cases and knew about aspects which had gone particularly well or less well. We found however that there was less awareness and cross fertilisation of knowledge at staff level between the different regional offices and London.

Aspect for improvement

Lessons learned from the case evaluation process should be circulated across all divisional units.

Custody time limits

- 4.24 As a result of having custody time limit (CTL) problems in two cases OCD organised a comprehensive review of its monitoring systems and issued revised guidance to all staff in June 2008, when new desktop instructions were circulated. These make clear individual responsibility and accountability in relation to CTL monitoring for each case to which they apply. Awareness of the importance of compliance has been reinforced by managers in all units. Strictly adhered to and robustly monitored, the revised process appears to be sound and complies with CPS national CTL standards.
- 4.25 From our file examination we noted that in 21 of the 26 cases (80.8%) where CTLs applied the case had been monitored and handled in accordance with the division's systems. In the other five a mistake had been made in relation to an expiry date calculation and in four the CTL endorsement had not been stamped on the file jacket. In none did the error result in the release of a defendant. In highlighting this however it is noted that the cases examined had commenced prior to the introduction of the new system and that, in general, caseworkers and lawyers were alive to the issue of CTLs and most cases are listed comfortably within the statutory time limit. Had this not been so we would have made a recommendation to address the matter.

Use of the case management system

- 4.26 Nationally the CPS uses a bespoke IT case management system, CMS, to register cases and complete actions and activities electronically. CMS operates on three levels firstly as a database; secondly as an information recording, processing and retrieval system; and thirdly as a document generating, case building tool. It also provides management information by interrogating the system although this can only be accessed through its counterpart program, MIS, for which a licence is required. CMS is designed to store information up to and including "Restricted" level.
- 4.27 All three divisions of Central Casework have a secure version of the system, xCMS, as their standard case management IT which runs alongside the ordinary system for certain purposes such as email. The system can be frustratingly awkward at times and there is no expeditious way to transfer information or emails across from one system to the other. Unlike CMS, xCMS is not accessible from court or indeed any other non-OCD location such as an area CPS office, which severely limits its usefulness in the field.
- 4.28 Although the system has acknowledged shortcomings some features are more usable and more important than others and OCD has adopted a minimum standard for xCMS usage by its staff. Unit heads are responsible for ensuring that those standards are applied and both lawyers and caseworkers have xCMS objectives set as part of the performance appraisal mechanism. Despite this use of the system across OCD is poor and compliance with the division's standard is disappointingly low.

- 4.29 The Manchester office was established without access to any CPS IT systems, including xCMS, since occupancy was meant to be short term only. However it has lasted longer than originally envisaged and plans are now in place to provide staff with CPS IT later this year, although this will not include xCMS and all entries on that system will continue to have to be made from the York office.
- 4.30 Senior managers within Central Casework have been aware of the shortcomings of xCMS for some time and OCD acknowledges that compliance with the usage requirements is lower than it should be across the division. The under use also means that there is a paucity of usable performance information available to management from the data produced by xMIS.

RECOMMENDATION

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.
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5 THE CASE AT COURT

Introduction

- 5.1 We observed four cases in the Crown Court: a plea and case management hearing (PCMH) and legal argument both prosecuted by in-house advocates and a sentence hearing and trial prosecuted by external counsel. Although few in number we took these instances into account along with other evidence in drawing any general conclusions as to the quality of advocacy in the division.
- 5.2 OCD retains as much advocacy in-house as possible and has been proactive in bringing experienced trial counsel from the self employed Bar into the CPS as employed specialist advocates at the highest level of principal crown advocate. Presently the division employs five, three in London and two in York. One of the York PCAs has recently been appointed Queen's Counsel and both are available to cover appropriate cases from either the York or Manchester offices. A sixth PCA has been selected for the Birmingham office.
- 5.3 There are 16 crown advocates⁷ with either full or partial higher courts advocacy (HCA) rights⁸ authorising them to appear in the Crown Court on behalf of the CPS. They are located across all divisional offices, including two within the CCU, however few of them undertake advocacy for OCD.

Deployment of principal crown advocates

- 5.4 OCD employs the greatest concentration of PCAs within the CPS generally and Central Casework specifically. This enables it to keep a significant proportion of advocacy in-house whilst retaining a substantial requirement to instruct counsel from the Bar. Their workload is managed through a diary system and the division endeavours to instruct them, wherever possible, in the more complex and larger cases likely to involve a contested trial in order to use their expertise to best advantage and maximise value for money. PCAs are generally brought into the prosecution team at a point after charge and before the PCMH, giving them the opportunity to get to grips with important aspects at an early stage, refining the prosecution case and drafting a comprehensive summary that can influence the progress of the case from the outset. This establishes at an early stage the basis upon which the prosecution case is put and helps ensure high quality indictments that do not require subsequent significant amendment.

Strength

Early preparation and service of high quality summaries that clarify the basis of the prosecution case.

- 5.5 Caseworkers provide PCAs with their own set of prosecution papers from which to work but do not provide accompanying instructions, as would be the case where counsel was instructed from the Bar. Given the PCAs' proximity to the reviewing lawyer and their early involvement in the case the need for a detailed set of prosecution instructions is not strictly necessary. However where the PCA, for whatever reason, is unable to retain the case until it has concluded the requirement

7 Lawyers in Central Casework below level E were automatically placed within the crown advocate cadre when the new grading structure was introduced in 2007, but this did not confer HCA rights at the same time and they must complete the HCA course successfully before they can appear in the Crown Court.

8 Full HCA rights enable a crown advocate to conduct contested and trial hearings; partial rights are limited to non-contested work and specifically exclude trials.

to provide proper instructions to prosecute is re-imposed. From our file sample we found that out of 18 cases where a PCA had been originally instructed, in six (33.3%) the case had to be returned to another advocate at some stage before it was finalised.

Instructing counsel

- 5.6 Despite the relatively high incidence of in-house advocates there are, nevertheless, too few to cover all of OCD's cases and there is still a substantial requirement to instruct external counsel to present cases at court. The system for selecting advocates from the Bar varies slightly depending upon which OCD office has conduct of the case but in all instances selection must meet the approval of the relevant unit head. In determining whom to instruct OCD will select counsel of the appropriate grade for the complexity of the case. In doing so individual units will rely on the knowledge and experience of its lawyers, caseworkers and managers to identify the prosecution advocate from the list of those who have been approved to undertake prosecution work. The division does not operate a preferred counsel or chambers system or maintain a specific list of recommended advocates approved for particular types of cases.
- 5.7 Instructions to counsel are usually prepared by the caseworker in conjunction with the reviewing lawyer. The generic CPS instructions to prosecution advocates package for briefing counsel is used but caseworkers do not produce it from xCMS. The CPS instructions template is a standard form and not ideally suited to the more complex cases dealt with in the division. It is included more for the sake of completeness rather than being used as the principal document setting out the prosecution's full instructions. Instead instructions are discernible from the prosecution case summary, copies of the evidential review notes and correspondence, which are included within the papers. From our file examination we noted a degree of regional variation but overall the quality of instructions to external counsel was good and in eight out of 13 cases (61.5%) instructions were complete and dealt adequately with all relevant issues. In the remainder (38.5%) we considered that there was room for improvement in the quality of instructions provided.
- 5.8 In the last report we recommended that guidance should be provided to lawyers and caseworkers on the preparation of instructions to counsel to ensure they are detailed, informative and adequately reflect the case issues, and that their quality should be monitored to ensure consistency. There has been limited progress in respect of this recommendation since, whilst the majority of cases do contain proper instructions, there is no specific guidance in current use nor is there any monitoring in terms of quality.

Implementation of the CPS advocacy strategy

- 5.9 OCD has a limited a number of crown advocates it can call upon to undertake Crown Court work although all are able to, and do, appear to prosecute cases in the magistrates' courts. It is practice for the reviewing lawyer who advised on charging to attend the first court hearing. Apart from this opportunities for crown advocates to practice advocacy is restricted to a degree by their role within OCD which is principally to advise upon, review and manage cases.
- 5.10 A number of the crown advocates who do have higher rights of audience have expressed a keenness to exercise them to some degree whilst others, who do not, have indicated a desire to obtain them as part of their own continuing personal development. This creates something of a dilemma for OCD since the business need places a very high concentration on the casework side of the equation, whilst the nature of the court work demands an advocate with experience and honed skills. One or two of the more experienced crown advocates have acted as trial advocates

in some of the smaller, less complex SOCA cases and in addition some of the HCA accredited crown advocates will prosecute Crown Court interlocutory hearings, such as preliminary or PCMHs.

- 5.11 Although opportunities for crown advocates to develop their skills have been limited OCD management has put forward the option of undertaking area advocacy work, including a period of secondment, as a way for its crown advocates to gain valuable Crown Court experience. So far none has pursued this possibility.
- 5.12 Overall much of the advocacy conducted on behalf of the division was of a high standard and, in some cases, it was clear that the prosecutor was the more able advocate. In the last report we recommended that senior managers should devise a strategy to provide greater opportunities for lawyers to maintain and develop their advocacy skills. Since then the CPS national advocacy strategy has developed and provided for increased deployment of crown advocates in the Crown Court. For the reasons already highlighted there is a tension apparent between the desire to implement the advocacy strategy and the practical issues raised above. OCD needs to be clear about its advocacy strategy, what can realistically be achieved and ensure that its crown advocates have a firm idea about what they can reasonably expect in relation to individual advocacy aspirations.

Aspect for improvement

OCD should be clear about its advocacy strategy for crown advocates and implement a structured advocacy monitoring system.

Presentation of evidence

- 5.13 The division makes good use of evidence from experts in preparing and presenting its cases, with the expert evidence often provided by SOCA personnel. The types of evidence commonly encountered in OCD cases regularly include:
- search, probe and surveillance;
 - phone, email and cell site analysis;
 - computer, including internet searches;
 - forensic, including fingerprints and DNA;
 - foreign, including intercept; and
 - financial.
- 5.14 During our examination of the file sample we saw 19 cases where expert evidence was required as part of the prosecution case. Examples included the forensic analysis of drugs and firearms; mobile phone traffic; evidence from abroad; and business accounting records. Where more complex and expensive expertise is required the approval of the unit head is sought, for example cell site analysis in relation to telephone usage or mass spectrometry (chemical treatment of bank notes to detect drugs residue). One case involved counterfeiting offences where a senior Bank of England official prepared and presented a package of graphic images showing both genuine and counterfeit currency.

- 5.15 OCD makes use of electronic presentation methods where this would assist the court in understanding complex issues in the case and where the more traditional production of evidence on paper would be too onerous or cumbersome. Although the use of more innovative electronic techniques has been commended judicially and met with considerable approval from other criminal justice organisations, it can be extremely expensive to produce and make available in court. In order to ensure that it is only used in appropriate instances the approval of a senior manager is required to authorise its use.

Good practice

The division's use of electronically presented evidence helps explain issues in the trial to the court and jury and saves court time.

Attendance at court by the caseworker

- 5.16 Support at court is provided by an OCD caseworker, usually the one who has been allocated and prepared the case unless that is not possible. Where a case is listed for trial the caseworker will attend and remain for the duration of the prosecution evidence. In exceptional circumstances they may also stay throughout the defence case.
- 5.17 In the four OCD cases we observed at various locations caseworkers remained in attendance throughout the duration of our time at court and provided a good level of support to the prosecuting advocate.
- 5.18 Caseworkers' other duties include liaising directly with SOCA officers, dealing with the cares and concerns of any victims or witnesses and completing administrative tasks connected with case preparation such as the photocopying of witness statements and exhibits. In those courts where OCD cases are regularly prosecuted facilities have generally been installed in accommodation which the court has set aside for the use of CPS, if not OCD specifically. Feedback from external stakeholders in the form of interviews or responses to questionnaires shows that in all but one minor instance the professionalism and competence of staff at court has been highly valued.

The care and treatment of witnesses at court

- 5.19 Because of the lower volumes of victims and civilian witnesses (those who are not professional or expert) in the cases that OCD prosecutes the frequency with which staff meet them at court is much reduced in comparison with other CPS areas.
- 5.20 In October 2005 the Attorney General introduced the Prosecutors' Pledge which sets out the level of service that victims can expect to receive from prosecutors. The Pledge underpins the Attorney General's Guidelines on the acceptability of pleas and outlines the role that all prosecutors have to play in protecting victims' interests.
- 5.21 There is good compliance with the Prosecutors' Pledge by OCD. The witness care unit (WCU) are proactive in arranging pre-trial familiarisation visits for civilian witnesses and they are well supported when attending court to give evidence. 'Batting orders' (the order in which it is planned witnesses will give evidence including likely date and times) are routinely agreed prior to the court hearing to minimise witness waiting times.

6 THE CENTRAL CONFISCATION UNIT AND OTHER SPECIALIST WORK

Introduction

6.1 In this chapter we consider the operation of the Central Confiscation Unit together with aspects of OCD's work that are distinct from, or complementary to, criminal prosecution work. The majority of casework tends to be specialist in nature requiring different skills and expertise to those of the CPS nationally. Some areas of responsibility fall further outside that range and are unique within the Service.

The CCU's asset recovery work

6.2 The CCU was created primarily by incorporating and augmenting Casework Directorate's Central Confiscation Branch (CCB). The unit has retained CCB legacy work and receives a diminishing amount of area pre-Proceeds of Crime Act 2002 (POCA) asset recovery work. To some degree the CCU operates as a CPS civil litigation department functioning rather like a separate division, but 40% of its work is criminal restraint and confiscation proceedings for OCD's charged cases. The unit also deals with confiscation proceedings on behalf of Counter Terrorism and Special Crime Divisions and takes over some asset recovery work for the CPS Fraud Prosecution Service.

6.3 The CCU has the full-time equivalent of 17.7 legally qualified staff including the level E unit head and 23.0 staff supporting and managing the unit's work, representing 37.8% of OCD's available human resources⁹. In the past the unit has taken some lawyers from outside the CPS seconded on short term six month contracts. It has four very experienced senior lawyers to whom highly sensitive or complex cases are allocated.

6.4 The CCU receives a ring fenced proportion of OCD's budget which for 2008-09 amounted to £2.5 million. Because liability for civil costs applies to a significant proportion of CCU work the operational budget is much more difficult to estimate with accuracy. In 2007-08 there was an under spend of £300,000 on prosecution costs resulting from an overestimate of anticipated managing receiver indemnities and court costs. Additional pressure is put on the unit's budget because of the international travel that is sometimes required.

Referral and allocation of CCU cases

6.5 An increasing amount of CCU work comes from SOCA and a significant proportion does not relate directly to criminal prosecution asset recovery. SOCA has its own legal department and there is a degree of cross over between it and the CCU in relation to some of the work they do. It is unclear however when SOCA will decide to refer a matter externally since there is no apparent referral criterion in respect of this.

6.6 In OCD pre-charge cases a CCU lawyer will be allocated where this would add value to the prosecution team. Where a case proceeds to charge a confiscation lawyer will be appointed directly thereafter. There is little correlation between the size of file and complexity of cases common to OCD units and the CCU, especially with regard to pre-charge cases.

⁹ Staff in post figures for 01 April 2009, excluding the Secretariat, but including four liaison magistrates.

- 6.7 The unit has a registered casework database of over 900 files and its lawyers expect to have on average a workload of between 50-60 cases requiring attention at any one time. Because of their naturally long cycle it is not uncommon for individual cases to remain dormant over a period of time, although it is not always easy to predict when one may unexpectedly become active.
- 6.8 The head of the CCU has a good overview of the cases being dealt with in the unit. There is case weighting system with modified criteria so that it is more relevant to confiscation casework and a case review form is in the process of being developed, which will perform a similar function to the complex case log report considered by the unit head. In addition to conducting preliminary assessments high risk cases are reviewed on a quarterly basis and the unit head conducts ad hoc meetings regularly with lawyers to discuss various aspects of their casework.
- 6.9 The unit head has a high liaison portfolio which takes him away from the office for periods of time. Plans to appoint a CCU head at senior civil service level have been put on hold due to the recent announcement of the CPS merger with RCPO.

Review and case management of CCU work

- 6.10 In criminal matters the principal document upon which the court will rely to make a confiscation order is the prosecutor's statement. This is a comprehensive document which sets out the details of the case, gives a 'benefit from crime' figure and provides a detailed exposition of the assets available to satisfy any confiscation order. These statements are drafted by a SOCA financial investigator and checked for points of accuracy and to make sure that they comply with the legal framework and relevant case law by two specialist CCU caseworkers. Some financial investigators are less experienced than others and this can make the work a protracted exercise.
- 6.11 Associated work of a financial nature includes progressing foreign requests made to England and Wales for mutual legal assistance; making requests overseas for help in asset tracing; and restraint and enforcement abroad. In 2007-08 CCU received 15 foreign request cases and had 53 open at the end of the year. This has risen to 19 new foreign request cases and 72 cases originating from 24 different countries at the end of January 2009. There are presently 83 extant and pending matrimonial and third party claims on CCU cases.
- 6.12 In 12 cases in our file sample with confiscation issues CCU lawyers had been correctly allocated at the point of charge and appropriate confiscation orders obtained in eight out of nine (88.9%). In all relevant cases appropriate steps had been taken to enforce the confiscation orders obtained. In only one could more have been done to preserve assets for confiscation and the overwhelming majority of pre-enforcement actions, such as restraint orders, were dealt with by the CCU with due diligence and expedition.
- 6.13 In addition to the OCD file sample we examined a further six substantial CCU cases. The reviews were full and comprehensive going into considerable detail where required, explaining relevant case law and highlighting recent legal developments. Chronologies were kept up to date with good cross referencing to orders, judgements, affidavits and actions. Correspondence was completed in a timely fashion and dealt appropriately with the issues raised. Letters of request and draft orders were completed to a high standard. The files were well organised and set out in logical order, separating out the important documents. Endorsements and hearing notes were complete as were conference records. Overall case preparation and presentation in the CCU was adjudged to be of an excellent standard.

Instructions to prosecute and CCU advocacy

- 6.14 Instructions to prosecute are compiled by lawyers with the assistance of caseworkers and are bespoke to the individual case, although many share common features. We found the quality of instructions to be good in that they were complete, contained a detailed case summary and dealt adequately with the issues involved. In non-criminal cases a conference involving the reviewing lawyer and court advocate would normally take place before the hearing as part of the process of instruction.
- 6.15 Because a high proportion of cases are complex and need intensive work it can be difficult for CCU crown advocates to fit court coverage into their working. Additionally POCA asset recovery regime is regional, taking place in local court venues rather than at the High Court in London where the CCU is based. This means that it is rarely cost effective for the unit's crown advocates to cover POCA related hearings outside the capitol, although those who are HCA qualified do cover some hearings in and around London.
- 6.16 Civil applications made in the High Court frequently involve complex issues and legal arguments in relation to specialised areas such as bankruptcy and company law, property law and third party proceedings. Because of the high risk in respect of costs awarded against the CPS if these applications are not entirely successful the CCU instructs an experienced advocate to appear selected from the unit's log of approved counsel. Fees are approved in advance by the unit business manager and, where a case justifies the selection of Queen's Counsel, approval of the unit head is necessary.

CCU usage of xCMS

- 6.17 As with the whole of Central Casework lawyers and caseworkers in the CCU have been provided with xCMS as an IT package. The system is not suited for confiscation and civil work and two of the unit's crown advocates have developed a prototype alternative. Such creativity is commendable but the ultimate solution needs to be closely linked to the CPS Logica system for support purposes, take into account RCPO's commitments to IT support for its work and fit the needs of all Central Casework divisions. The CCU currently uses xCMS as a simple database only to register and finalise its cases so the unit is required to compile its performance data separately on spreadsheets, creating additional work for the staff and business manger to coordinate.

Training and development in the CCU

- 6.18 The CCU is made up of individuals drawn from a wide variety of backgrounds and not all have a general knowledge of or previous experience gained with the CPS elsewhere before they joined. There is no specific induction process for CCU lawyers on arrival and the package available electronically is in need of updating. Training in the skills and competencies needed tends to take place on the job with new recruits learning from more experienced colleagues, but without a formal mentoring role.

CCU involvement with civil asset recovery

- 6.19 Since April 2008 the CPS has been able to pursue asset recovery through civil recovery measures set out in Part 5 of the Proceeds of Crime Act 2002. The CCU has not yet exercised these powers during the 12 months they have been available and no applications for civil recovery have been made, although two cases were considered and rejected as not suitable. The cautious approach is born of a number of factors. First, the operation of the civil costs mechanism acts as a deterrent to litigation since the CCU is currently prohibited from charging a commercial rate for its work and must apply the lower criminal costs standard, which means that they recover less in costs

when their civil applications succeed, but are penalised at a much higher rate when they do not. Secondly, the lack of financial investigators available to the CCU to pursue civil recovery as these investigators are SOCA officers. Thirdly, the legislative framework which dictates how the confiscated assets are distributed across the justice agencies provides insufficient incentive for SOCA and the CCU to work together for mutual benefit.

CCU outcomes

6.20 The CCU's primary focus is asset recovery. Confiscating the proceeds of crime is a key contributor to the government's strategy for harm reduction. The national confiscation enforcement target for 2008-09 was to collect £132 million from the enforcement of confiscation orders. The primary measures of success are the asset recovery figures and the level of costs awarded against the unit. The national targets for 2008-09 were set at £109,013,000 confiscation orders by value, 4,437 confiscation orders by volume and 772 restraint orders. In the financial year 2008-09 the CPS overall secured in excess of 4,700 confiscation orders to a total value of £116.5 million and more than 1,300 restraint orders. A great deal of work on the CCU is of a highly specialised nature and much of it may take place over a considerable period of time before any tangible benefit is accrued. The CCU contribution to that overall figure is given in the table below.

Asset recovery	April 2007 – March 2008		April 2008 – March 2009	
	No of orders	£ Value	No of orders	£ Value
CCU restraint orders	120	74,364,237	125	111,735,563
CCU confiscation orders	176	27,740,140	187	43,469,509
Enforcement of orders	N/A	21,104,359	N/A	18,682,645

6.21 Another measure of success is the assistance given to foreign governments who request restraint and confiscation from the UK. Since its inception the CCU has frozen such assets on behalf of foreign jurisdictions to the value of £54 million. In addition the unit works closely with SOCA's Politically Exposed Persons Unit and other anti-corruption units to trace and freeze the proceeds of corruption.

Conclusions about asset recovery

6.22 CPS areas deal with POCA confiscation cases but the greatest concentration of CPS expertise in asset recovery lies within the CCU. Their participation in the most complex asset recovery cases has been successful in terms of identifying and maximising the value of assets so that confiscation orders made on conviction can be satisfied. Conversely not all of OCD's cases are complex in terms of confiscation. This automatic allocation is not the most effective use of resources since it routinely assigns work to a CCU lawyer which does not require that level of expertise and is not commensurate with the unit's degree of specialisation. It follows that OCD lawyers dealing with prosecutions are deprived of the opportunity to practice and develop their own asset recovery abilities and link these specifically to their important prosecution work.

6.23 We found that decoupling confiscation responsibility from the criminal case sacrificed an important element of cohesion and strategic integrity within the prosecution team. Because of CCU's location in London this was most noticeable in the regional OCD offices, where face to face communication between them and the CCU is not practicable. The system also created additional work for staff over the transmission of information between OCD offices and the CCU and around the arrangements for providing caseworker coverage at court.

- 6.24 Overall a proper balance needs to be struck between retaining confiscation as a core function of the prosecution team and the need in appropriate cases for greater expertise to be provided by an asset recovery specialist. A more sophisticated system should be considered so that responsibility for confiscation is transferred from reviewing lawyer to the CCU only when confiscation complexities are clearly beyond the reviewing prosecutor's ability and competence. This would enable the CCU to concentrate on work that is commensurate with its specialist expertise.

RECOMMENDATION

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.

Child exploitation and protection

- 6.25 The Child Exploitation and Online Protection Centre (CEOP) is a multi agency organisation bringing together individuals who have a wide expertise with the overall aim of protecting children from sexual abuse. It operates mainly as an intelligence driven service but may also become involved in the process of bringing offenders to account nationally and internationally. OCD acts as the lead CPS contact point for CEOP due to their expertise around international criminal casework and because CEOP is presently part of SOCA, although this is currently under review. CEOP no longer actively progresses cases to court but will provide an 'evidential package' for local police forces. Decisions on whether to prosecute or not are made by local CPS areas.
- 6.26 OCD assists CEOP by providing tactical, strategic or practical advice around an investigation or potential investigation. The division's lawyers will also take an active involvement in the creation of CEOP's evidential package which will be sent to the local CPS to consider when advising on whether a suspect should be charged.

SOCA professional standards cases

- 6.27 Complaints made about the conduct or behaviour of a SOCA officer are handled by the agency in a similar way to complaints made against the police. SOCA has its own professional standards division which is part of their counter corruption department. Staff from there will investigate a complaint before submitting an advice file to OCD for a charging decision. Given the close relationship that exists between the two organisations however it would be seen to be fairer if cases involving complaints made against SOCA officers were sent directly to another Central Casework division to deal with which has no direct involvement in SOCA work, such as the Special Crime Division.

RECOMMENDATION

Cases involving a SOCA professional standards investigation into its own officers should be dealt with outside the OCD.

Liaison magistrates

- 6.28 As part of its commitment to promoting international cooperation in combating crime the UK has developed a cadre of experienced prosecution lawyers who are based overseas, collectively termed liaison magistrates. The network presently consists of five posts located in the United States, France, Spain, Italy and Pakistan. Those based in the United States and Pakistan are referred to as liaison prosecutors, rather than magistrates, as this more accurately reflects their role and position when operating in a country with a common law legal system. The purpose of the role is essentially to act in a recognised capacity as representatives of the UK's law enforcement agencies in the country where they are based. They have a wide ranging portfolio within their host jurisdiction, from facilitating specific case related enquiries to promoting international assistance in the criminal justice sphere generally.
- 6.29 Although any official UK body including all intelligence, investigation and prosecution agencies, can access the services of a liaison magistrate directly they are line managed by one of the OCD's level E lawyers who will be the first port of call in dealing with both operational and personal issues, as well as managing their performance. OCD receives a budget allocation¹⁰ to cover their operational costs which is reviewed and adjusted where necessary. Liaison magistrates are seconded into OCD for between two to four years after which they will either return to their former department or apply to remain in post.
- 6.30 The liaison magistrates are required to provide a monthly activity report detailing the work they have undertaken. These are collated by the level E manager and circulated to all stakeholder agencies. Each of the post holders tend to operate slightly differently on a day to day basis largely due to the variations in the legal and political structures of the host country. Because their working environment is necessarily at arms length from the UK the role can feel distanced from the CPS as an organisation. To minimise this OCD makes sure that they are included in all the division's communication packages so as keep them informed. OCD also arranges for all liaison magistrates to return to the UK once a year to ensure that they remain in touch with the division's vision and values and to include them in some stakeholder training programmes. Communication is mainly via telephone or email and technical problems which had, until recently, prevented the email system from working securely have now been resolved.
- 6.31 Liaison magistrates are required to manage and organise their own work for the majority of the time. Some of their work can be extremely pressurised, such as with terrorist extradition cases, and may be especially sensitive as was the situation during the Princess Diana inquest. Due to the plethora of agencies that may call on their services this can lead to conflicting priorities which has caused some pockets of disappointment. Overall however the general consensus of those who made regular use of liaison magistrates was that their degree of personal knowledge and ability to contact key individuals was invaluable in terms of expediting foreign requests.

Civil claims against the CPS

- 6.32 Where a complaint against the CPS results in a civil claim the case is referred to the CCU by the Headquarters Correspondence Unit or directly from an area. This work was transferred to the CCU in September 2008 from Special Crime Division. There are about 40 claims per year and we consider that some specialised training is required for the staff now dealing with them.

¹⁰ Funding for the post in Pakistan is not included within OCD's liaison magistrate budget, as this is provided from elsewhere.

7 THE SERVICE TO VICTIMS AND WITNESSES

Introduction

7.1 Since we last reported on Casework Directorate in 2002 a number of initiatives have been introduced into the criminal justice system aimed at delivering an improved service to victims and witnesses. The CPS strategy for 2008-11 is to deliver excellent standards of victim and witness care and OCD's business plan has incorporated that vision as an operational commitment. Key elements include the No Witness No Justice scheme (NWNJ); Direct Communication with Victims; the Prosecutors' Pledge; Victims' Code; and the Witness Charter.

Witness care under the No Witness No Justice scheme

7.2 The three Central Casework divisions have a shared witness care unit (WCU) to deal with those cases which involve prosecution witnesses who are not part of the investigation team. In respect of OCD this effectively meant witnesses not linked directly to SOCA. Relatively few OCD prosecutions fall within this category but those that do can raise sensitive issues such as vulnerability and intimidation associated with human trafficking cases, as well as protection for informants and individuals who have participated in crime but then agree to give evidence for the prosecution. The shared WCU forms part of the Secretariat and has between two and four staff available on a part-time basis to act as witness care officers (WCOs). It is not a jointly operated unit and SOCA retains its witness care resources within the agency. WCOs communicate with the investigating team to progress issues.

7.3 The WCU provides a regular point of contact for civilian witnesses and WCO functions include conducting witness needs assessments; warning them to attend court; arranging for pre-trial familiarisation visits; and checking whether a victim has made a personal statement, as well as dealing with ancillary matters such as arranging transport and accommodation. Some training has been given to the WCOs through the national CPS e-learning module and they are familiar with the timescales and obligations under NWNJ and the Victims' Code. Nevertheless managers are aware of the need to develop the officers through court visits, observing the Witness Service and reserving places on the CPS witness care courses. Staff may also benefit from shadowing an established WCU within a CPS area. The WCOs demonstrate a high level of dedication to the work and take pride in what they do, but the lack of full-time witness care responsibilities can lead to competing priorities and make it more difficult for the unit to operate as effectively as it could do.

7.4 The WCU does not have access to the witness case management system (WMS), an electronic IT database and information management system that links directly with CMS. This makes it necessary for WCOs to record information and actions on a spreadsheet which is less efficient since WMS is configured to exchange information with CMS and automatically generate witness performance data for analysis. No statistical data is compiled from the spreadsheet information and this makes it difficult to monitor and assess performance around compliance with the set indicators and measures. Whilst only a small proportion of OCD cases involve civilian witnesses it remains important for performance in relation to those that do to be measured and analysed. To that end this report adopts the same recommendation as appears in our recent reports on the Counter Terrorism and Special Casework Divisions.

RECOMMENDATION

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.
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Responsibility for witness care

- 7.5 The majority of witnesses in OCD prosecutions are SOCA staff including some experts and professionals. In these cases responsibility for dealing with witnesses lies with the allocated caseworker. The division's case ownership ethos means that caseworkers are thoroughly conversant with their cases and tend to be well informed about witness needs and requirements. Witness needs are assessed in conjunction with SOCA which has a vulnerable persons team to look after witnesses who are deemed to be particularly at risk and consideration is given to practical solutions to problems such as adducing live evidence from abroad via satellite video link, making applications for witness anonymity and requesting a change of Crown Court venue.
- 7.6 At court a caseworker will be on hand during the prosecution case and can assist with witness needs. Because of the close working relationship that exists between SOCA investigators, caseworkers and lawyers, as well as the degree of preparation that goes into the majority of cases, the prosecution tends to present as a coherent and unified whole at court. Roles and responsibilities can become interchangeable and so communication and information sharing with the Witness Service and staff at court is vital.

Direct Communication with Victims

- 7.7 Few cases dealt with by OCD have identifiable victims and so it is rare that the obligation is triggered to write to the victim explaining why a charge is to be substantially altered, discontinued or not authorised. In none of the cases from the file sample was the obligation to communicate directly with the victim triggered.

Special measures

- 7.8 In certain circumstances witnesses due to give evidence in a trial may be eligible to be considered for one or more special measures intended to improve the quality of their evidence. These may range from giving evidence in court from behind a screen or via a video link, to having their evidence pre-recorded before the trial and played to the court, or simply having their statements read out to the court. None of files examined contained any special measures requirements but we noted examples of where they have been used effectively.

Witness anonymity

7.9 The common law provisions dealing with witnesses' ability to give evidence anonymously has recently been replaced by a statutory regime set out in the Criminal Evidence (Witness Anonymity) Act 2008. Given the nature and evidence gathering techniques applicable to SOCA cases OCD is likely to have greater recourse to these provisions than CPS areas are in general and the division's lawyers are familiar with the legal requirements for such applications. At the time of the inspection OCD had already applied successfully in two of its London cases for witness anonymity under the statutory framework, on both occasions in respect of under cover officers to be screened from public view. These witnesses' anonymity provisions were used appropriately. A more contentious case relating to civilian witnesses to have anonymity for family safety reasons was awaiting resolution.

8 MANAGING RESOURCES

Management of financial resources

- 8.1 The OCD budget is allocated at the beginning of the business year and is top sliced from the overall funding distributed to the CPS. The budget comprises the non-ring fenced administration costs (NRFAC) and prosecution costs and, unlike most CPS areas, the latter include high cost and very high cost cases. Unit estimates are collated by the Central Casework's shared Secretariat into a cohesive OCD estimate for the business year. In addition there is government funding which is ring fenced for the liaison magistrates.
- 8.2 Budget holders have several windows throughout the business year in which to make major re-adjustments to their budgetary profile. All budget holders are encouraged by the Senior Business Manager (SBM) and her Secretariat staff to ensure that budget requirements are as precise as possible. However most OCD units predict prosecution costs on the basis that each case expected to fall within the financial year will proceed to a full trial. Analysis shows that the division had an average 62% guilty plea rate over a period of two years (2007-09) which lead to substantial prosecution costs adjustments throughout the year. Although prosecution costs have some element of unpredictability OCD have developed good systems to more accurately identify likely costs and should therefore be able to forecast more accurately at the beginning of the financial year.

OCD budget and staffing	2006-07	2007-08	2008-09
NRFAC budget allocated at the beginning of year	£6,067,375	£6,761,909	£7,008,391
Uplift/re-profiling of budget	£6,454,375	£7,177,591	£7,760,168
NRFAC actual spend	£6,435,055	£7,111,305	£7,747,583
Prosecution costs	£4,815,000	£4,343,200	£2,330,000
Actual spend	£4,220,828	£4,275,808	£2,196,748
Number of full-time equivalent staff (inc Secretariat)	110.1	123.6	118.1
Cost of electronic presentation of evidence	£60,480	£53,696	£49,245

Aspect for improvement

The division should take steps to improve the accuracy of its predictive analysis in respect of its budget and costs.

- 8.3 As principal budget holder the head of division is accountable for the efficient use of resources and delegates responsibility to the unit heads, who will have specific responsibility for their own unit's expenditure in conjunction with the unit business manager. The SBM advises the HOD on managing resources within OCD, has oversight of all the budgets within the three Central

Casework divisions and oversees the way resources are managed in each of the OCD units. The SBM chairs a monthly financial meeting with each of the OCD units where all budget lines of consequence are discussed and actions raised to control spending and tighten accounting procedures where appropriate. Adjustments can be made by mutual agreement between the three divisions. Consequently where an under spend is identified it is matched with any corresponding over spend.

- 8.4 The high profile nature of OCD casework, which can include international elements, means that cases can be complex and expensive to prosecute. Because of this casework costs are scrutinised at the highest levels. The HOD discusses on a monthly basis with the SBM the status of fees, budget, travel and subsistence and other costs. The operation of a tri-partite divisional case management panel also helps the three divisional heads and the SBM to examine costs, fees, case progression and the most effective way of prosecuting cases. Quarterly review meetings are held with each unit head which form the basis for the division's quarterly performance and finance report to the DPP. The accounts for prosecution costs and allocation of counsel are discussed at the Director's case management panels.
- 8.5 OCD seeks value for money through the careful selection of counsel, retaining control over travel and subsistence claims and ensuring lawyers and caseworkers are appropriately deployed. Unit heads and business managers discuss the most efficient provision of court coverage around the country commensurate with the proceedings. The division also seeks to achieve value for money through effective use of its PCAs.
- 8.6 Management of training across the Central Casework divisions is expected to achieve economies of scale and more focussed training. Sharing of caseworkers and administrative staff in London across divisions has been limited thus far but has helped to alleviate busy periods on occasions.

The role of in-house advocates

- 8.7 OCD does not have a target for counsel fees saved through in-house advocacy in the Crown Court. The division has recorded just 49 hours advocacy for its crown advocates between April 08-March 09. This figure is sufficiently low to indicate that records are not accurate and that crown advocates are not capturing the full extent of their time spent in the Crown Court.
- 8.8 PCAs are specialist advocates who spend a significant amount of time in the Crown Court. The division calculates their contribution in terms of counsel fee savings. In 2008-09 for the PCAs alone counsel fee savings were calculated as £828,567 (£149,544 in very high cost cases and £679,023 in those covered by the graduated fee scheme), giving a net saving of £38,215 after salary costs.
- 8.9 Whilst that is the same measure as for other parts of the CPS, PCAs are a relatively expensive resource and our thematic review of advocacy and case presentation identified that the most substantial savings are to be expected in more serious cases. PCAs undertake a range of advocacy and non-advocacy work including some which has more intangible benefits such as mentoring. We believe that there is scope for greater analysis of their deployment to assess whether maximum benefits are being achieved.

RECOMMENDATION

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

- 8.10 The business plan for 2009-10 provides a clearer focus on advocacy strategy and has included a number of objectives such as the introduction of targeted training; mentoring of crown advocates by PCAs; developing a more effective model for crown advocate and PCA deployment; establishing a meaningful time recording system; and effective analysis of the data produced by the division. These will need to be implemented so as to include the important aspects of case ownership, timescales and measurable results.

Management of human resources

- 8.11 At the time of OCD's formation there was no precise formula available to determine the human resource requirement needed to service SOCA's predicted caseload and a degree of estimation was needed to arrive at the staffing model for the division. The level of legacy work retained from the National Crime Squad, new referrals from SOCA and developments in SOCA policy towards prosecution have meant considerable fluctuation in caseload for the division at the start of its operational life. Casework volume has begun to stabilise at a more consistent level and provide for greater predictability. Additionally the HOD attends SOCA's executive tasking board and is confident that OCD is capable of handling the volume of work that is likely to emanate from SOCA in the short to medium term.
- 8.12 OCD is now in its fifth year of operation but there remains a paucity of accurate and reliable activity and performance information sufficient for senior managers to be assured that the division has the correct resources assigned to the correct functions in accordance with business need. This compromises the ability to manage resources effectively which creates an operational risk and one which is exacerbated by the fact that OCD lawyers have an expertise and specialisation that takes a considerable time to acquire.
- 8.13 Matching resources to workload is difficult because of the variety and complexity of the division's casework. SOCA cases can be extremely large and complex, equally some can be quite simple and relatively straight forward. In the early stages of a case there may be few clues to identify into which category it might develop should it reach the stage where charges are brought. Others may remain dormant for many months or even longer.
- 8.14 Recently OCD have introduced record sheets for each case and a case weighting process to help define resource requirements and calculate costs. The sheets detail how much time is spent on particular cases and help to calculate how much a particular one is costing. The purpose is to enable the division over time to assess more accurately the cost and amount of resources needed for any particular category of case. Unfortunately staff do not fill out these record sheets consistently and, although information is collated by the Secretariat, it is not reliable and so little is done with it. A new and comparatively easier computerised system is currently being introduced which senior managers hope will increase compliance and accuracy across the division.

- 8.15 Presently the division does not record the resources expended on work in cases that do not subsequently result in a charge. A significant amount of SOCA work does not conclude with a prosecution. OCD involvement in these cases varies considerably but can include drafting an advice; attending SOCA coordinating and tasking meetings; making enquiries abroad; identifying particular lines of enquiry; and considering issues around disclosure. There was a wide disparity of opinion among caseworkers, lawyers and managers about the total amount of time spent on these types of cases ranging from between 10%-30% of their workload. The new time recording system being introduced should enable the division to capture the time spent on non-prosecution work as well as with charged cases. A monitoring system will need to be employed so that it can capture and address issues of compliance.

Aspect for improvement

OCD should develop a system to capture consistently and accurately the work expended upon cases including those without a criminal justice outcome.

- 8.16 The case weighting process requires completion of a form designed to score the resource requirements of SOCA casework, based on a set of criteria OCD has devised. There was little indication that case weighting considerations were used to determine resource allocation within the division or across the units, or that changes to cases which affected the weighting were consistently updated and monitored. Consequently units continue to rely heavily on the judgement and experience of unit heads to determine the allocation of work. Again the system needs to be consistent and to a standard to ensure the process is sound otherwise it will still rely upon personal assessment and judgement.
- 8.17 Unit managers hold monthly meetings with lawyers to assess their cases and are able to re-allocate work where necessary within the unit. If a unit as a whole is over burdened the HOD can shift caseload from one office to another.

Managing attendance

- 8.18 Sickness levels within OCD are 6.4 working days lost per person per year compared to the national CPS average of 8.7 days in 2008. Levels are collated, monitored and analysed by the Secretariat. The SBM and a senior member of the CPS Headquarters human resources department meet once a month to discuss staff who are on long term sick leave and handle cases individually according to CPS policy for sickness and well being. In appropriate instances an individual's line manager is also included and consulted regarding the return to health and work of the person concerned.

Flexible working

- 8.19 Although many staff work long hours and are often away from home most believed that they were compensated through a system of flexible working and time off in lieu. A wide range of flexible working patterns were operating within OCD. The staff survey revealed that only 14% believed they were unable to strike the right balance between work and home life.

Training

- 8.20 The training programme requires further development. The new appointment of a leadership and learning officer in October 2008 and the HOD's one to one meetings with staff in December 2008 highlighted some gaps in training, induction and development. However progress has been slow in developing a training programme to meet the needs of OCD and its staff and has also been hampered by the leadership and learning officer being unexpectedly seconded to another area for a significant period. Although a tri-partite divisional training group exists to examine common training and development across Central Casework it has not yet been effective.
- 8.21 The staff survey indicated differing levels of satisfaction with training and development. Some staff felt isolated from the CPS as a national service due of a lack of generic training while others believed that training should be OCD specific and focused on their specialism. Although only 26% of staff expressed satisfaction with the opportunities for personal development in the survey, nearly all those we interviewed believed that they would be supported if they requested development in preparation for another role or promotion. This disparity of opinion needs to be analysed and addressed.
- 8.22 The specialist nature of OCD work requires that much of the training is conducted in-house or on the job. Administrative training is relatively limited although a programme of training and induction is currently being developed. The business plan outlines a number of actions to be progressed throughout the year in order to address these concerns.

Aspect for improvement

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.

9 MANAGING PERFORMANCE TO IMPROVE

Performance information and analysis

- 9.1 Each of the OCD units has a business manager who collates management data and manages performance for that unit. Results across the division have been mixed in terms of performance and budget. Accountability for the individual units rests with the unit head. Overall there was very little performance benchmarking and unit managers did not have a firm idea about how well their unit was performing compared to others within OCD. Information concerning unit performance was generally not distributed to staff.
- 9.2 All performance information is collated by the Secretariat which provides the SBM and HOD with individual unit and divisional profiles in key aspects. These inform the quarterly report which is discussed with the DPP by the HOD and SBM. Information includes the position in respect of caseload; attrition; confiscation; use of xCMS; advocacy deployment; custody time limits; financial resources; victim and witness issues; community engagement; and people measures.
- 9.3 The division submits a performance report in a similar way to CPS areas. It does not have any specific targets to achieve but its primary measures of success are the conviction and guilty plea rates. Both measures indicate that the casework has been properly prepared and presented (see table at paragraph 4.18). This figure however does not include those cases received by OCD but which do not result in a prosecution. Of the 54 files we examined 21 (38.9%) resulted in no charges being brought. The particular way SOCA operates tends to make this likely to a degree but a comparative analysis ought to be conducted as this would assist to identify common themes, assure the division that its overall decision-making was not risk averse and provide a more informed basis for resource allocation between non-prosecution and prosecution work.
- 9.4 Issues around performance are discussed at a number of meetings including those for units, senior management team (SMT) and quarterly unit reviews held with the HOD, SBM, unit head and unit business manager. There is however a lack of regularity or consistency over what is discussed, what is measured and how it is presented.
- 9.5 xCMS and xMIS management information does not enable informed analysis around the quality and timeliness of key activities such as review, service of documents, compliance with directions and correspondence handling. Unit business managers therefore must to extract performance information from a variety of sources in order to complete unit reports submitted to the Secretariat. The SBM is continuing consultation with CPS Business Information Systems Directorate to develop a system that better suited for OCD's purpose.

Casework quality assurance

- 9.6 There are good mechanisms for assuring the quality and progress of casework. Unit heads hold a monthly meeting with each lawyer to discuss all aspects of their casework including the progress of post-charge and pre-charge operations. Actions are raised at the meeting and progress is reported on subsequently. The unit head will take away any items that need to be escalated to senior management either within OCD or SOCA.

- 9.7 Performance management of casework is regarded as an ongoing process and not overly prescriptive. Complex cases can be referred to the local case management panel where discussion and advice concerning the most efficient way to bring a successful prosecution takes place. Similarly cases can be selected for discussion at the Director's case management panels to assess all aspects including the selection of counsel, fees and strategy.
- 9.8 OCD have adapted the national CPS case quality assurance form to address quality standards. An experienced senior lawyer regularly dip samples casework and feeds back to the lawyer and unit manager any strengths or short comings.

Advocacy monitoring

- 9.9 The division does not operate a formal advocacy monitoring regime and performance is assessed mainly through informal feedback from judges, caseworkers, reviewing lawyers and the joint case reviews process. A rather more structured advocacy monitoring system would provide for two key requirements. Firstly crown advocates at all levels would benefit from regular assessment and feedback from line managers as part of the appraisal and development review process and secondly the performance of external counsel, especially in trials, would be appraised in order to ensure that casework is being presented to best advantage.

Continuous improvement and knowledge sharing

- 9.10 At the conclusion of each charged case lawyers are required to complete a post-case evaluation form. Details are collated by a senior lawyer who elicits trends and lessons learned before compiling the forms into a report which is then disseminated to the HOD and all unit managers. The circulation can cover a range of issues including identified good practice and jurisdictional and SOCA related issues. Unit heads in turn may also disseminate this information within their own sections.
- 9.11 The perception of many staff was that they received very little individual feedback on their cases and that best practice, knowledge sharing and performance was not widespread across the units and was generally limited to their own office. The staff survey also indicated that only 36% of staff received regular and constructive feedback about performance, which less than the other Central Casework divisions and the CPS nationally. In order to address some of these issues OCD has developed the functionality of its website which will be used to highlight management issues and legal developments as well as celebrating success. The division should accelerate the development of this site.

Joint performance management

- 9.12 OCD engage with many partners on a national and international basis where ideas and best practice are exchanged. Together with SOCA the division holds a number of meetings and reviews aimed at improving joint case preparation and service delivery. These include frequent ones between OCD lawyers and SOCA whilst a case is ongoing as well as post-case evaluation meetings in all major cases, which is particularly important when they have resulted in an unsuccessful outcome. The key determinants in the case and any discernible reasons for the outcome are discussed, with learning points to inform future or pending cases disseminated. Training needs for both organisations are also assessed. The division shares joint performance issues with SOCA on a case by case basis and where necessary through the SOCA's tasking and coordination process.

Good practice

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.

- 9.13 In 2008 SOCA established a high level Tasked Operations Process Review Group which had a wide remit to look at all SOCA activities end to end, with the aim of improving the management of its operational activity. The remit included a review of case preparation and a working group, which included an OCD and RCPO lawyer, took the lead on quality assurance during the prosecution process. A form was developed to capture prosecutor concerns regarding case preparation by SOCA.
- 9.14 It was clear that there are deep concerns in OCD about the quality of file preparation and issues around disclosure that regularly need to be resolved. In spite of a considerable amount of training given by OCD to SOCA around disclosure and case preparation issues quality still remains a major concern. When identified issues are only fed back on a case by case basis and, whilst these are captured by unit heads and discussed at the SMT meeting, trends and analysis are neither identified nor captured in a consistent and measurable way so as to provide a valid business case for improvement.

RECOMMENDATION

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.

- 9.15 On a more local level the SBM has begun to collate tri-partite divisional performance indicators into a performance matrix which compares attrition rates, budgets, sickness and caseload across the three casework divisions. The SBM intends to continue to refine performance measures so that benchmarking and sharing of resources can be made in a value for money way.

10 LEADERSHIP

- 10.1 The management team comprises the head of division, senior business manager and all unit heads and unit business managers. A senior management team meeting is held monthly and alternates between sites which helps to provide a visible presence of the SMT at all OCD offices. There is no fixed agenda for the SMT meeting although issues of budget, staffing and casework regularly feature. The way information is captured within minutes is inconsistent and a standard format would help regulate the meeting structure. There are action points raised but there is little evidence that these are followed up or addressed at subsequent meetings.
- 10.2 Whilst various aspects of performance are raised during the SMT meeting the minutes do not reflect a comprehensive review of performance, either on a unit by unit basis or OCD collectively. Reviewing the business plan or celebrating success within these meetings is also not documented regularly. Unit managers summarise issues from the meetings for their own unit team meetings but it would be useful for the SMT minutes to be circulated to all staff.

Business planning

- 10.3 OCD's business plan for 2008-09 set out its priorities and objectives for the year. It complemented as far as possible the CPS national objectives although the specialist nature of work meant that many of the aspects in the national plan were not applicable to the same degree. There was no formal OCD statement of purpose included in the plan. The business plan was drafted following consultation with the division's staff at their annual all day conference. Business planning was not subject to external consultation or comment by SOCA or any other agency.
- 10.4 In the main the 2008-09 business plan was unsophisticated. Much of OCD's core business was set as a divisional objective and stated outcomes were rarely measurable, with few milestones or achieve by dates included. Risks associated with the objectives lacked detail or exposition. There was no clarity that progress was regularly reviewed or that an end of year evaluation would take place to comment upon whether the stated objectives had been achieved.
- 10.5 Each unit developed its own 2008-09 business plan and risk register from the core OCD business plan. These included localised specific objectives and were more detailed, particularly the risk registers, although there was some inconsistency in approach with one unit identifying 11 risks whilst London (which takes about half of the division's cases) identified six. Unit plans and risk registers are updated quarterly.
- 10.6 There was no clear cohesion between the objectives set out in the business plan, what was measured and discussed at team and SMT meetings and the measures which appeared in the quarterly report for the DPP.
- 10.7 The draft plan and risk register for 2009-10 is much improved but has been delayed due to the need to take account of the RCPO merger. The requirement for units to have their own business plan has been replaced by an action plan which supports the divisional plan. A business continuity plan was at the time of the inspection currently being developed by the SBM on behalf of all the three casework divisions.

Aspect for improvement

OCD should ensure that its business plan is updated regularly and that objectives and measurements are consistently captured and reviewed at meetings.

Corporacy, cohesion and communication

- 10.8 OCD is located over four separate sites London, Birmingham, York and Manchester. Corporacy and cohesion across these locations is managed through the rotation of senior management meetings, ad hoc visits by the senior management team, and regular phone calls by the HOD to each unit and quarterly performance reviews. It is clear that management grades adopt a corporate approach and promulgate OCD's vision and values, but this was not embraced universally by all senior staff and was seen to attenuate markedly as seniority diminished. Most believed, in some cases passionately, in the work that they did but felt isolated from the rest of OCD, rarely having contact with other members of the division outside of their own unit. They only met with other colleagues at the one day OCD conference. In particular staff felt a degree of detachment from the CCU and believed that working practices could certainly be improved.
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Aspect for improvement

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.

- 10.9 The staff survey revealed that 51% of staff considered they had effective meetings but that only 36% considered they received regular and constructive feedback in respect of performance. A smaller proportion (14%) considered that their work went unrecognised and that OCD did not celebrate success enough. Most indicated that they were more likely to be praised by SOCA for a job well done rather than by OCD managers. Only 39% of staff believed that it was safe to speak up and challenge the way things are done and just 31% considered that change was managed effectively. In addition only 38% believed they were valued for the work they did which, although equivalent to the CPS national average, was significantly below the other casework divisions. Despite these concerns 63% of staff considered they were treated with respect compared with 58% nationally.
- 10.10 Our findings support the view that more needs to be done to promote cohesiveness and recognition through a more robust strategy. OCD have recently compiled a revised communication strategy but would benefit from addressing what the key measures of success are, how the strategy will be evaluated and what the timescales are. The business plan also makes a commitment to addressing one of the staff survey findings with the objective of increasing the number of staff who feel that it is safe to speak up from 39% to 50%. In addition the SBM has recently developed a tri-partite communication strategy across all three divisions which is better structured and focuses not only upon how they will address media issues but also issues of internal communications, many of which should be incorporated into an updated OCD communications strategy.

- 10.11 A tri-partite divisional newsletter has recently been produced based on a proposal generated within OCD and has been well received by most staff. The newsletter, although overdue, is a welcome development and includes articles in respect of staff awards, training and general news items about the different aspects of the casework divisions. It is doubtful however whether it will address the concerns regarding cohesiveness and OCD should therefore consider whether it is able to produce its own in-house newsletter.

Aspect for improvement

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.

Equality and diversity

- 10.12 The HOD and SBM are the equality and diversity champions for the division. Equality and diversity is not yet an integral part of OCD planning although there is an objective in the 2009-10 business plan to ensure that the ethnicity of defendants are recorded on xCMS. OCD is diverse in terms of its ethnic mix, gender and age. About 16% of staff are from black and minority ethnic backgrounds (compared to 12% of the CPS nationally) and 58% are female (compared to 67% nationally). Fewer than 3% of staff are declared disabled but disabled applicants are actively encouraged in recruitment campaigns.

11 COMMUNITY ENGAGEMENT AND INTERNATIONAL LIAISON

Community engagement

- 11.1 Each of the units keep a log of their own community engagement actions. Various activity is captured including lectures attended; hosting of visitors; training delivered or received by outside agencies; school visits; media activity; and other work involving outside groups and agencies. Managers will want to be more active in assessing community engagement and to consider carefully any need to change systems for delivery. Community engagement panels are to be set up by September 2009.
- 11.2 The nature of much of OCD's work means it can be difficult, although not impossible, to identify specific communities where engagement will make a meaningful impact. Recently OCD have taken a broader view of community engagement and each of the three unit heads has been given objectives to hold a community workshop for their areas of responsibility covering fraud (London), drugs (North) and people trafficking (Birmingham). Workshops have been held in two of the three aspects but as they are still in their infancy it is difficult to evaluate their long term impact at present. This work is encouraging and there is a need to expand and sustain activity by involving community groups in the process and encouraging all staff to participate.
- 11.3 Aspects of community engagement and how it applied to OCD was a major theme of the all staff conference. The CPS's Equality and Diversity Unit addressed the conference and there was also a presentation from an outside agency concerning issues in relation to illegal immigration.

Aspect for improvement

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.

National liaison

- 11.4 OCD's main criminal justice partner is SOCA. Liaison takes place regularly at all levels from individual casework to high level strategy meetings and relationships between the two organisations in the main are excellent. SOCA both appreciates and values the service provided by the division which has committed considerable resources to training SOCA officers, particularly around issues of disclosure and file building. The HOD ensures that OCD maintains a strong profile and that its priorities retain an appropriate focus with SOCA senior management. There is also regular and effective communication with RCPO at senior manager level.
- 11.5 In addition to SOCA and RCPO, the division is well respected by other national organisations with which it has a degree of liaison including the police, Attorney General's Office, Home Office, HM Courts Service, the Foreign and Commonwealth Office and the Department for International Development.

International liaison

- 11.6 The nature of organised crime will in most cases involve an international perspective. Liaison between jurisdictions is necessary to obtain vital evidence. Requests for assistance and/or the gathering of evidence can be quite different from one country to another and lawyers from OCD have to ensure that any evidence gathered during this process can be used in UK courts. The division has a wealth of experience and knowledge in dealing appropriately with foreign jurisdictions. As a consequence OCD lawyers travel extensively to assist SOCA in the gathering of evidence and/or dealing with third party disclosure issues which may require direct prosecutor to prosecutor contact to facilitate the process. In particular the CCU has a heavy commitment to both national and international partnership working and the unit head has recognised experience internationally in dealing with aspects of asset recovery.
- 11.7 Supporting the UK based international work is the cadre of liaison magistrates/prosecutors based in Italy, Spain, France, the United States and Pakistan who facilitate communication between jurisdictions and have a network of useful contacts.
- 11.8 The division has embedded a strong stakeholder liaison culture nationally and internationally. OCD is well respected by its international partners and stakeholders. It has provided valuable operational support and assistance to overseas law enforcement bodies and made significant contributions to the success in criminal cases prosecuted in other jurisdictions, including in Nigeria and Eastern European countries.
- 11.9 Because of OCD's commitments at an international level some engagement has extended beyond the casework level and has included an EU twinning project with Albania; attendance and delivery of a conference paper at the International Association of Prosecutors; and presenting various aspects of the division's work in China, the United States and Morocco. OCD also hosts overseas prosecutors visiting the UK. This area of international cooperation is now coordinated by the recently formed CPS International Division within the Headquarters Policy Directorate.

Media relations

- 11.10 SOCA in the past pursued a policy not to become involved with handling media interest in the outcome of its operations and so most of this communication and strategy has been handled by OCD. Recently SOCA has become more involved with OCD jointly in supporting aspects of media coverage. Media interest in cases is handled through a single point of contact in the CPS Press Office. Information about an ongoing trial is provided regularly to the press in accordance with the national CPS media handling protocol. The OCD communications strategy contains three objectives to ensure effective communication with the CPS Press Office. Due to the high profile nature of SOCA/OCD work there has been national and international media exposure. The HOD and level E lawyers have all been media trained and are called on regularly to represent OCD in high profile cases.

ANNEX A: PROGRESS AGAINST PREVIOUS RECOMMENDATIONS AND SUGGESTIONS FOR IMPROVEMENT

	Recommendations	Progress by 2009
1	The system of file allocation should be reviewed to ensure a more even distribution of work. BCPs should regularly monitor the caseloads of individual lawyers and caseworkers.	Substantial progress. All files allocated by divisional unit heads.
2	Guidance should be issued setting out the criteria determining the point at which a full file of evidence is to be treated as submitted, to ensure a consistent approach in monitoring the timeliness of review.	No longer applicable. In most cases the lawyer is involved in the case from a very early stage. However monitoring of timeliness could be stronger.
3	The directorate should review the level of detail supplied to the police when explaining decisions not to proceed, including references to the relevant evidential and public interest factors which have influenced the decision and which reflect the considerations of the reviewing lawyer.	Achieved. Review notes and pre-charge decisions to take no further action are detailed.
4	The caseworker and lawyer should prepare formal written reports in all adverse cases. The reports should be submitted to the BCP, analysed and the results of the analysis published to all directorate staff to ensure that appropriate lessons are learned from casework.	Substantial progress. Adverse case reports are submitted and post-trial debrief notes made available to all staff.
5	Guidance should be provided to lawyers and caseworkers on the preparation of instructions to counsel to ensure that they are detailed and informative and adequately reflect the case issues. BCPs should monitor briefs to ensure a consistent quality.	Limited progress. No specific guidance exists nor is there any monitoring. Nevertheless most instructions were found to be of good quality.
6	All calculations of custody time limits expiry dates should be checked and initialled by a senior caseworker. Cases should be checked periodically against the monitoring diary to ensure that details are entered correctly.	Achieved.

	Recommendations	Progress by 2009
7	The directorate should review its custody time limits system to ensure that monitoring procedures are effective. Training should be provided for all relevant staff in custody time limits procedures and the application of the Custody Time Limits Regulations.	Achieved.
8	Senior managers should devise a strategy which will provide greater opportunities for lawyers, who wish to do so, to maintain their advocacy skills and including the training and deployment of HCAs in the Crown Court.	Limited progress. All magistrates and some Crown Court hearings are dealt with by OCD prosecutors. There is significant trial advocacy by PCAs, but limited opportunities for crown advocates who have higher courts rights of audience.
9	The directorate should consider its role in fraud cases to determine whether its current involvement should continue and, if so, review the existing criteria for its handling of fraud cases to ensure that they represent the most efficient use of the expertise and resources of the directorate and CPS areas.	No longer relevant.
10	Senior managers should take steps to improve arrangements for the review of plans and become more focused on the delivery of actions.	Substantial progress. OCD business planning processes are clear for 2009-10.
11	Directorate senior managers should seek clarification of its role in relation to that of the Policy Directorate.	Achieved. A Memorandum of Understanding is in place.
12	The directorate should consider its needs in respect of performance information to establish a system of PIs which will best assist management of its casework performance.	Limited progress. Further recommendation made.
13	The directorate should revise its staffing strategy to create closer links between the forecasts as to the mix and volume of work received and the business planning and budgeting process.	Limited progress. Further recommendation made.
14	The directorate should review the work allocation arrangements at both branch and individual level.	Substantial progress. Unit heads allocate with care and judgement but the system of time recording needs to be undertaken and used more effectively.
15	The directorate should further develop its strategy for performance appraisal which ensures the best development of individual potential and that underperformance is effectively dealt with.	Achieved.

	Suggestions	Progress by 2009
1	The directorate should consider methods of promulgating the Casework Referral Guidelines to police forces to ensure that cases are referred promptly by the police, either to the directorate or to the local CPS office as appropriate, and that progress of cases is not delayed or otherwise prejudiced.	No longer relevant. OCD does not take casework referrals from areas.
2	Directorate lawyers should prepare in every extradition case a review note which sets out the factors taken into account in the decision and discusses the case issues, or makes reference to them when they can be found elsewhere within the file.	No longer relevant.
3	The directorate should further develop its communications strategy, including the use of IT.	Substantial progress in relation to communications. Limited progress in utilisation of the IT systems.
4	The directorate should review and restate its policy in relation to part-time working arrangements.	Achieved.
5	The directorate develop a uniform system for the handling of complaints drawing on guidelines issued recently by the Joint Standing Committee on Good Practice.	Achieved.

ANNEX B: CATEGORIES AND NUMBERS OF FILES EXAMINED

Case category	Number of files examined
Drugs	20
Money laundering	9
Theft and fraud	8
Human trafficking	5
Counterfeiting and false documents	5
Firearms	1
Child exploitation	1
Other offences	5
Total	54

ANNEX C: FILE EXAMINATION ENTRIES

	Y	N	NK	NA	%Y	%N
Pre-charge decision-making						
Was any informal advice given during the course of the investigation prior to any decision to charge or NFA?	16	34	0	4	32.0	68.0
Was any formal advice (written and with reference to specific evidential considerations) given during the course of the investigation prior to any decision to charge or NFA?	25	24	0	5	51.0	49.0
Was the case submitted by the investigating agency for a formal charging decision (MG3 procedure) to be made?	39	7	0	8	84.8	15.2
If the case was submitted by the investigating agency for a formal charging decision was the advice properly recorded on the MG3 or review note?	17	28	0	9	37.8	62.2
Was the charging/initial review decision taken applying the threshold test?	15	9	1	29	62.5	37.5
If so was the threshold test appropriate and properly applied?	17	0	0	37	100	0
If the threshold test was applied was a full Code test completed thereafter within a reasonable time?	26	11	0	17	70.3	29.7
Was the charging/initial review decision taken applying the full Code test?	23	12	1	18	65.7	34.3
If so was this in accordance with the evidential stage?	23	0	0	31	100	0
Was the charging/initial review decision in accordance with the public interest stage?	16	0	18	20	100	0
Where relevant was any specific OCD guidance adhered to?	7	20	0	26	25.9	74.1
Was the case sent to counsel to advise upon before the charging decision was taken?	4	26	0	24	13.3	86.7
Was the reviewer proactive in building the case prior to charge?	17	3	1	33	85.0	15.0
Were ancillary matters considered pre-charge: bad character, hearsay, POCA, special measures, disclosure, victim and witness issues etc?	9	29	0	16	23.7	76.3
Was there any avoidable delay in the progress of the case at the pre-charge stage attributable to the CPS?	4	19	0	31	17.4	82.6
If the advice was to take no further action was the decision taken applying the evidential stage of the Code test?	8	1	0	45	88.9	11.1
If so was the decision to NFA justified and in accordance with the evidential stage?	8	0	0	46	100	0
If the advice was to take no further action was the decision taken applying the public interest stage of the Code test?	1	3	0	50	25.0	75.0
If so was the decision to NFA justified and in accordance with the public interest stage?	1	0	0	53	100	0
Was the case allocated to CPS OCD in accordance with the allocation procedures agreed by RCPO?	6	6	14	27	50.0	50.0
Continuing review						
Were all key stage decisions post-charge to proceed with the case properly recorded?	20	12	0	22	62.5	37.5
Were all key stage decisions to proceed in accordance with the Code evidential stage?	33	0	0	21	100	0
Were all key stage decisions to proceed in accordance with the Code public interest stage?	33	0	0	21	100	0
Did all key stage review records comply with the required standard for review notes?	15	16	0	23	48.4	51.6
Was the case kept under continuous review?	31	2	0	21	93.9	6.1
Charges/indictments						
Did the charges/indictment reflect the seriousness of the case and provide adequate sentencing powers?	33	0	0	21	100	0
Did the case proceed on the charges/indictment determined by the reviewing lawyer without significant amendment?	24	7	0	23	77.4	22.6

	Y	N	NK	NA	%Y	%N
Disclosure of unused material						
Was the duty of initial disclosure properly complied with?	29	0	1	24	100	0
Was the duty of continuing disclosure properly complied with?	27	1	1	25	96.4	3.6
Was any sensitive material dealt with properly (including completion of schedules)?	24	2	3	25	92.3	7.7
Did any unused material give rise to questions of PII?	3	26	1	24	10.3	89.7
If so did the prosecutor devise a strategy to deal with any potential adverse ruling?	3	0	1	50	100	0
Was the appropriate type of PII application made?	3	0	1	50	100	0
Were there any issues which fell to be considered in accordance with RIPA?	16	9	2	27	64.0	36.0
Where relevant was the appropriate action taken in respect of third party material?	6	0	1	47	100	0
Was a proper review note made in respect of all disclosure decisions?	26	3	1	24	89.7	10.3
Was the disclosure record sheet used so there was a clear audit trail of decisions and actions?	24	5	1	24	82.8	17.2
Were any disclosure decisions inappropriately delegated to counsel?	0	29	1	24	0	100
Use of expert evidence						
Was the need for expert evidence considered?	22	0	0	32	100	0
Where expert evidence was required were instructions clear and comprehensive?	9	0	7	38	100	0
Was the prosecution expert evidence served on the defence?	19	0	0	35	100	0
Where relevant was any defence expert evidence sent to the prosecution expert?	1	0	0	53	100	0
Did the expert attend any conferences with counsel?	3	9	1	41	25.0	75.0
Was the expert required to give oral evidence at court?	6	12	1	35	33.3	66.7
Case progression						
Was the case listed in accordance with joint OCD/Crown Court agreement?	13	1	0	40	92.9	7.1
Was the prosecution ready for any PTR/PCMH?	28	2	0	24	93.3	6.7
Were all orders complied with on time or the case referred back to court?	26	4	1	23	86.7	13.3
Was correspondence from the defence acknowledged and dealt with appropriately?	28	2	0	24	93.3	6.7
Was additional material from the police correctly logged, reviewed and served/disclosed as appropriate?	30	0	1	23	100	0
Was overall post-charge case progression by the CPS expeditious?	28	5	0	21	84.8	15.2
Were subsequent review notes completed by prosecutors?	21	11	0	22	65.6	34.4
Were those subsequent review notes of a satisfactory quality?	19	3	0	32	86.4	13.6
Did case progression demonstrate a joint approach to effective case management?	23	3	5	23	88.5	11.5
Was any unnecessary delay attributable to the prosecution?	5	17	0	32	22.7	77.3
Where CTLs applied was the case monitored and handled in accordance with OCD systems?	20	6	0	28	76.9	23.1
Instructions to advocate						
Was an OCD PCA instructed to prosecute?	18	13	0	23	58.1	41.9
Was the case returned at any stage by counsel originally instructed?	7	23	1	23	23.3	76.7
Were instructions to counsel or advocate complete containing a case summary and dealing adequately with the issues, including acceptability of lesser or alternative pleas?	16	10	0	28	61.5	38.5
Where an OCD PCA had conduct of the case was this discharged in accordance with OCD guidance?	9	6	3	36	60.0	40.0

	Y	N	NK	NA	%Y	%N
Trial						
Was the case listed for trial?	21	19	0	14	52.5	47.5
Did the trial crack?	9	13	0	32	40.9	59.1
If so was it foreseeable that the trial would crack?	5	4	0	45	55.6	44.4
Were pleas accepted to lesser offences/charges or on a basis of plea which limited criminality?	7	12	0	35	36.8	63.2
If so was their acceptance justified?	7	0	0	47	100	0
If a basis of plea was agreed was this set out in accordance with the guidance?	10	0	0	44	100	0
If pleas were accepted was this at the earliest opportunity?	7	2	0	45	77.8	22.2
Was the trial ineffective?	1	20	0	33	4.8	95.2
If so was it foreseeable that the trial would be ineffective?	0	1	0	53	0	100
Could more have been done by the prosecution to avoid an ineffective trial?	0	1	0	53	0	100
Was the trial effective?	15	4	0	35	78.9	21.1
Attrition						
Was the case against any defendant discontinued in its entirety post-charge?	8	23	0	23	25.8	74.2
Where any defendant was discontinued post-charge was this as a result of a material alteration diminishing the strength of the prosecution case?	6	2	0	46	75.0	25.0
If any defendant was discontinued was there appropriate consultation and explanation to the police?	7	1	0	46	87.5	12.5
Was any decision to discontinue properly recorded?	5	3	0	46	62.5	37.5
Where a DCV letter or meeting was required was this dealt with appropriately in accordance with the scheme?	0	1	0	53	0	100
Did the case result in an unsuccessful outcome?	6	20	0	28	23.1	76.9
If so was there an effective analysis of the outcome and were lessons learned as a result?	0	2	2	50	0	100
Could more have been done by the OCD to avoid the unsuccessful outcome?	0	5	0	49	0	100
Casework preparation						
Was the case information completed on xCMS adequately?	1	10	25	13	9.1	90.9
Was there continuity of reviewing lawyer?	33	7	0	14	82.5	17.5
Was there continuity of reviewing caseworker?	25	1	4	24	96.2	3.8
Where required was there appropriate management involvement?	15	0	4	35	100	0
Was correspondence dealt with appropriately leaving adequate time for all parties to progress the case without unwarranted delay?	31	2	0	21	93.9	6.1
Did the casework preparation demonstrate effective team working?	28	1	2	23	96.6	3.4
Where a case management plan was required was this kept up to date and progressed satisfactorily?	2	0	0	52	100	0
Was the file organised in a clear and logical way?	32	1	0	21	97.0	3.0
Were file endorsements clear, concise, accurate and comprehensive?	19	14	0	21	57.6	42.4
Court hearings						
Were all magistrates' court hearings covered in-house by an OCD lawyer?	27	4	2	21	87.1	12.9
Were all Crown Court hearings covered in-house by an OCD lawyer?	14	18	0	22	43.8	56.3
Has a clear, concise, accurate and comprehensive record been made of all court hearings?	22	11	1	20	66.7	33.3
Has a clear, concise, accurate and comprehensive record been made of all court orders?	16	1	24	13	94.1	5.9

	Y	N	NK	NA	%Y	%N
Appeals						
Was there an appeal against conviction and/or sentence?	7	21	0	26	25.0	75.0
If so was the appeal progressed effectively?	5	0	2	47	100	0
Where relevant ought consideration have been given to an appeal on the basis that the sentence was unduly lenient?	3	6	0	45	33.3	66.7
Where appropriate was consideration given to an appeal against a terminatory ruling or a ruling substantially weakening the prosecution case?	0	0	0	54	0	0
If so was the appeal progressed expeditiously and in accordance with guidance?	0	0	0	54	0	0
Was the same advocate instructed on appeal as conducted the case at first instance?	4	0	2	48	100	0
Confiscation						
Was a CCU lawyer allocated to the case at the point of charge?	12	9	6	27	57.1	42.9
Where appropriate did OCD seek a restraining order pre-conviction?	5	3	1	45	62.5	37.5
Was a satisfactory confiscation order made at the conclusion of the case?	8	1	4	41	88.9	11.1
Could OCD have done more to secure a satisfactory confiscation order?	1	2	1	50	33.3	66.7
Have appropriate steps been taken to enforce the confiscation order?	4	0	2	48	100	0

ANNEX D: INDIVIDUALS AND REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED US

Crown Court

His Honour Judge Ashurst, Honorary Recorder of York
His Honour Judge Marron QC
His Honour Judge Russell QC, Honorary Recorder of Preston
Mrs P Bergin
Mr A Draper
Mrs P Gamble
Ms B Hemmingway
Mrs B Hymers
Mr S O'Brien
Miss D Starkey OBE
Mr A Thompson OBE
Mr S Tozer

Serious Organised Crime Agency (SOCA)

Mr P Evans
Mr Pearce

Home Office

Ms F Kennah

Revenue and Customs Prosecutions Office (RCPO)

Mr G McGill
Mr A Milford

Child Exploitation and Online Protection Centre (CEOP)

Mr J Gamble

UK liaison magistrates

Ms L Barrie
Ms S Cullen
Ms P Hudson
Mr N Vamos

Counsel

Mr J Bewsey
Mr S Farrell QC
Mr A Mitchell QC
Mr T Nicholson

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For information or for more copies of this booklet, please contact our Publications Team on 020 7210 1197, or go to our website: www.hmcpai.gov.uk

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