

PRESS RELEASE
Embargoed until 00:01 Hrs
Thursday 27 November 2008



HM CPSI review of the operation of the Revenue and Customs Prosecutions Office charging scheme

Her Majesty's Crown Prosecution Service Inspectorate (HM CPSI) has today published its review of the effectiveness of the operation of the Revenue and Customs Prosecutions Office (RCPO) charging scheme.

The RCPO scheme broadly equates to the arrangements provided for by the Criminal Justice Act 2003 in relation to the police and the Crown Prosecution Service. Under the scheme all prosecution decisions are now taken by prosecutors rather than investigators. Operating fully for less than a year at the time of the review, the scheme covers all offences submitted to RCPO by Her Majesty's Revenue and Customs (HMRC) investigators. However this review focussed on those cases where the investigator sought an immediate charging decision, usually following arrest and continuing detention, for example people caught importing illegal drugs. Pre-existing arrangements meant that all other cases were already considered by prosecutors before charge.

Inspectors found that the planning and delivery of the project to implement the scheme was effective. Prosecutors are supportive of the scheme and it is managed efficiently.

The review also found that:

- the quality of decision-making is good;
- the quality and comprehensiveness of reports provided by investigators is good; and
- HMRC investigators find that the scheme works well and they are able to secure ready access to a RCPO prosecutor. The right cases are being taken forward without delay.

Inspectors found room for improvement in some aspects of the scheme. Whilst the quality of decision-making is good there is a need to improve the quality of the recording of the review and decision-making process in some cases. There is a need to clarify aspects of the RCPO Director's Guidance, in particular on what basis and material the full Code for Crown Prosecutors' (the Code) test should be applied, as opposed to the threshold test. Inspectors found that there was an inconsistent approach by prosecutors.

Some aspects of the performance management of the scheme could also be improved.

Inspectors identified the implementation of the charging scheme project as a strength. They made two recommendations and highlighted five aspects for improvement in order to address weaknesses and improve the scheme further.

Following finalisation of the report the Director of RCPO initiated a number of actions to address most of the issues raised.

Stephen Wooler CB, HM Chief Inspector, HMCPSI said:

"I am pleased to find that the scheme has been implemented effectively and well received by both prosecutors and investigators. RCPO acknowledges that aspects of the scheme need to be clarified and quality assurance and performance management need some strengthening. The actions proposed by RCPO in the light of this review should enable these improvements to be made."

This press release should be read in conjunction with the report itself.

The report is now available on an embargoed basis from the Inspectorate's website: www.hmcp.si.gov.uk using the following details:

Username: MEDIA

Password: S37PACE

For further information please contact Andreas Harding, HMCPSI Publications Manager, on 020 7210 1143 or 07901 856 346.

Notes to Editors

HMCPSI was established as an independent statutory body on 1 October 2000 by the Crown Prosecution Service Inspectorate Act 2000. The Chief Inspector is appointed by, and reports to, the Attorney General.

HMCPSI is given a statutory power of inspection of RCPO by virtue of section 42 of The Commissioner for Revenue and Customs Act 2005. Under the provisions of sections 34-42 of the Act RCPO came into existence in April 2005. This brought together HM Customs and Excise Prosecutions Office and the Inland Revenue Crime Group as one independent prosecution office.

This review was undertaken in parallel with a joint review by HMCPSI and HM Inspectorate of Constabulary of the new CPS/police charging arrangements and an HMCPSI inspection of CPS Direct, which provides out-of-hours charging decisions across England and Wales. They are the subject of separate reports and press releases. The three reports provide an overall picture of the operation of the statutory charging scheme in England and Wales.

The RCPO scheme was only introduced in April 2007; it had not been subject to a full evaluation by RCPO and our review is intended to assist in informing any such future assessment. An evaluation planned for April 2008 by RCPO was deferred pending the findings of our inspection.

RCPO prosecutors are involved fully in major investigations and give advice and charging decisions in these as a matter of course. The charging scheme was devised to implement the Director's Guidance issued under section 37, Police and Criminal Evidence Act 1984 as amended, whereby RCPO prosecutors took over the responsibility to determine whether to charge alleged offenders.

Most such cases relate to instances in which the alleged offender has been arrested and is to be detained in custody, but some may be on bail.

RCPO prosecutors apply the test in the Code whereby they must be satisfied that there is enough evidence to provide a realistic prospect of conviction and that the prosecution is in the public interest.

HMRC investigators provide information and evidential material to the prosecutor via email and in discussion on the telephone. If this is comprehensive and sufficient then the prosecutor may apply the full Code test and the case can proceed, frequently at court the following day. If the evidential material is not yet available and it would not be appropriate for the person to be released on bail, the prosecutor should apply the Code threshold test whereby they consider only whether there is at least reasonable suspicion that the suspect has committed an offence and, if there is, whether it is in the public interest to prosecute. The case must be kept under continuing review with the expectation that the evidential material will be supplied expeditiously.