**INSPECTION OF THE CROWN PROSECUTION SERVICE AND SERIOUS FRAUD OFFICE CENTRAL PROCEEDS OF CRIME UNITS**

**SCOPING PAPER & INSPECTION FRAMEWORK**

**Background**

**CPS POC Division**

CPS Proceeds of Crime (CPS POC) is a national Division currently led a Chief Crown Prosecutor, supported by a Deputy Chief Crown Prosecutor and Area Business Manager. The Division employs approximately 170 legal and operational delivery staff. It conducts all CPS restraint work, complex confiscation proceedings, all enforcement and incoming international asset recovery requests. The Division also conducts all civil litigation on behalf of the CPS.

Specialist lawyers and operational staff are based in CPS offices across England and Wales. CPS POC has lawyers embedded in police Regional Asset Recovery Teams (RARTs) and HMRC investigation offices. CPS POC provides a key resource across law enforcement and the criminal justice system in tackling cases involving proceeds of crime.

The Division also takes a national and strategic lead for aspects of POC. The Chief Crown Prosecutor co-chairs the Senior Operational Practitioners’ Group, brin**g**ing together senior officers from across the criminal justice system that have a stake in the implementation of the new Asset Recovery Action Plan, which sets out how steps can be taken to further enhance performance in accordance with the government’s ongoing commitment to combatting serious and organised crime. This group feeds directly into the Economic Crime Delivery Board, chaired by Permanent Secretaries from the Home Office and Treasury, and oversees a programme of cross-government work on asset recovery.

The Division has a budget of £11.3 million. The POC Division is funded from the CPS share of the Home Office funding returned to agencies following enforcement of confiscation orders (Asset Recovery Incentivisation Scheme ARIS) as well as grants from the Home Office, HMRC and DFID. In 2018-19 CPS obtained £138 million from criminals of which CPS POC acted as the Lead Enforcement Agency for nearly £98 million from which £26 million was returned to victims of crime. In the same year, CPS received ARIS receipts of £18.3 million.

**SFO – Proceeds of Crime and International Assistance Division (POC litigation only)**

The Serious Fraud Office (SFO) is a specialist law enforcement and prosecuting authority tackling the top level of serious or complex fraud, bribery and corruption. It is part of the UK criminal justice system and covers England, Wales and Northern Ireland, but not Scotland, the Isle of Man or the Channel Islands. The SFO only takes on a small number of cases but those they do take on are large and complex economic crime cases. The SFO also pursues the financial benefit acquired from crime and assists overseas jurisdictions with their investigations. It has the power to both investigate and prosecute cases. The SFO works with other law enforcement partners to tackle the challenges faced from serious and organised crime in line with the Government’s strategy. The SFO also works collaboratively with UK Government departments, and with overseas partners, such as the US Department of Justice, on matters where there is a common interest.

If the investigation results in enough evidence to support a realistic prospect of conviction, and if a prosecution is considered to be in the public interest, charges will be normally be brought. In addition to investigating and prosecuting criminal cases the SFO aims to recover the proceeds of crime and compensate victims wherever possible. It also investigates and prosecutes cases where money laundering has taken place and obtains restraint orders and enforces confiscation orders over assets in the UK. SFO has a central Division that deals with all its Proceeds of Crime work.

The SFO established a specialist Proceeds of Crime team in 2009. This team was significantly expanded early in 2012–13 to become the Proceeds of Crime Division. In April 2018 the International Assistance team joined the Proceeds of Crime Division forming what is now the Proceeds of Crime and International Assistance Division (POCIAD). Currently the unit has 37 staff led by a Head of Division and a budget of £2.7M (2019–2020). Within the POC team, there are 15 investigators and 10 lawyers. SFO no longer receives funding from the Asset Recovery Incentivisation Scheme (ARIS). Because of the difficulty in managing an income stream that consisted of infrequent and highly unpredictable sums the SFO agreed with HMT that from April 2014 all ARIS receipts from SFO cases would go to central funds and a fixed sum, approximate to the cost of running the team, was added to the SFO’s core budget.

The Proceeds of Crime team is responsible for delivering SFO’s strategic objective to recover the proceeds of crime. It investigates and prosecutes all the restraint, confiscation and enforcement work for the office, and investigates and litigates civil recovery and civil forfeiture cases. As an executing authority for Mutual Legal Assistance requests it also obtains the equivalent orders for overseas authorities. In 2018-19 the SFO obtained orders to the value of just over £8.5M with total recoveries against confiscation orders and civil orders made at any time (i.e. in year and previously) just under £8.5M. The approximate value of assets restrained, frozen or detained in 2018-19 was £58M.

Most of the SFO Proceeds of Crime teams work comes from the criminal investigation and prosecution work of Divisions A-C. Engagement starts when the case is being developed by the Intelligence Division so an early decision can be made on whether to open a confiscation investigation simultaneous with the criminal investigation. Where a confiscation investigation is opened the POC team collaborates closely with the criminal investigation team to ensure operational objectives are aligned. Where a confiscation investigation is not opened engagement is maintained through various means including allocated points of contact and participation in Case Review Panels.

**Inspection context**

HMCPSI last inspected CPS restraint and confiscation casework as part of a joint thematic review with HMIC in March 2010. This was before CPS POC Division had been established. SFO POCIAD has not previously examined by HMCPSI. SFO POCIAD conduct all proceeds of crime work for the organisation but CPS POC does not, and some POCA casework is retained by CPS Areas. CPS POC recently created referral criteria to ensure the Division receives the proportion of work it expects, ensuring that CPS geographical Areas and other internal units deal with POC work outside the agreed remit.

**The Inspection Question**

How effective and efficient are the Serious Fraud Office and Crown Prosecution Service central proceeds of crime teams (CPS POC and SFO POCIAD) in identifying and progressing restraint and confiscation casework?

**Aims**

The aims of the review are as follows:

* to examine the different approaches taken by CPS POC and SFO POCIAD with restraint and confiscation casework and whether any areas of good practice are transferable.
* to determine whether there are appropriate and effective arrangements in place for the timely referral and allocation of restraint and confiscation cases;
* to determine whether there are appropriate and effective arrangements in place for the timely progression of restraint and confiscation casework and to ensure that decisions are properly made, recorded and quality assured;
* to determine whether there is effective leadership, management, quality assurance and oversight of restraint and confiscation casework;
* to determine whether staff have access to the necessary training to deliver restraint and confiscation casework to a high standard and that there is effective support and guidance for the teams; and
* to determine whether partnership arrangements and work with criminal justice partners and stakeholders is effective in delivering high quality restraint and confiscation casework

The high-level inspection questions and criteria can be found at **Annex A.**

**Methodology**

This review will examine a representative sample of casework files and observe relevant processes such as case review panels, case conferences and court hearings. We will consider high level case management documentation such as the case strategy documents created at the outset and decision logs, with findings validated by reference to other documentation, such as minutes from the case review panel and the documentation set out in any checklists and handbook/SOPs, and interviews with casework staff, as appropriate. The sample size will need to be determined according to the caseload at the time of the inspection and to reflect a mix of offence types across the teams. The organisations being inspected will be asked to provide a list of live cases and cases finalised within the last year and the lead inspector will ascertain the appropriate number of cases to be examined, taking into account the inspection resources available.

The live and finalised files will be selected across all casework teams (SFO POCIAD, CPS POC.

It is also proposed that HMCPSI will seek the assistance of CPS POC lawyer and a SFO POC lawyer to answer any questions regarding cases that are not apparent from the case records. A further inspector or the lead inspector will need to moderate the file examination to ensure there is a consistent approach across the inspection team.

From the SFO perspective the fieldwork will involve consultation with relevant SFO staff and managers, and identified external stakeholders, including: defence solicitors and prosecution Counsel involved in the individual cases to be examined; the Judiciary (Southwark Crown Court); NCA; City of London Police (Economic Crime Directorate); National Fraud Intelligence Bureau; HM Revenue & Customs; the Financial Conduct Authority; the Department of BEIS; AGO; MOJ; HO (UKCA); HM Treasury; and Regional Organised Crime Units, Asset Recovery and Fraud Teams.

From the CPS perspective the fieldwork will involve consultation with relevant CPS staff and managers, and identified external stakeholders, including: defence solicitors and prosecution Counsel involved in the individual cases to be examined; FCA; DWP; Home Office; Immigration;

NCA, MOD Police; Trading Standards; HMRC; Insolvency Service; British Transport Police; Area, CCU, CCD-SFD; police forces and ROCU/RART in addition to regional serious and organised crime units.

Internal documentation will be examined in relation to the governance and assurance of casework, and any relevant provision of training. There will be examination of relevant supporting processes and systems, and performance data will be analysed for trends, as well as an assessment of how such data is shared and used, and the mechanisms for learning lessons.

Legal decision making on restraint and confiscation casework, Enforcement casework, International casework, Appeals, Civil Recovery and Civil Forfeiture will not be included in the scope. As the SFO operates the Roskill model but the CPS does not, the inspection will not assess the quality of the POC investigation save for feedback provided to the investigation team by the rest of the POC team with regards to restraint and confiscation. Case progression assessment is limited to progression of the restraint and confiscation applications and orders.

**Resources**

Once scoping has been completed there are four stages of this inspection each requiring a different level of resource.

Setting-Up Phase: Work to be undertaken by the lead inspector and administrator to identify national external interviewees detailed in the scope. The cases to be examined and internal documents required will also be identified by the lead inspector. Any necessary training of legal inspectors for Proceeds of Crime and the digital systems employed by the CPS/SFO and the casework processes utilised should be undertaken at this stage. Any arrangements to utilise resources from CPS/SFO as part of the fieldwork should be finalised and agreed at this stage.

Fieldwork: The lead inspector supported by legal inspectors (and subject specific lawyers attached to the inspection team from the CPS and SFO) will examine CPS/SFO files remotely and conduct interviews with staff and external stakeholders remotely. It is anticipated that the fieldwork will last a maximum of four weeks per organisation and will include the examination of files. Court observations will also be conducted during the fieldwork stage, subject to these being possible and practicable given Covid restrictions.

Analysis: Immediately following the completion of the fieldwork phase, it will be necessary for all members of the inspection team to reflect on the evidence gathered and collate their findings against the key criteria. This period can also be used to pursue issues that have arisen during fieldwork that have remained outstanding.

Report Writing: The Lead Inspector will be primarily responsible for writing any report. The Head of Inspections will assume the Quality Assurer role.

**Timescales (which will be agreed post any COVID impact)**

The table below sets out what are envisaged to be the broad timescales for the key stages of the inspection:

|  |  |  |
| --- | --- | --- |
| **Activity** | **Start Date** | **Length of Time** **Required** |
| Setting Up | 11 Jan 2021 | 4 weeks |
| Fieldwork | Feb March 2021 | 4 weeks + 4 weeks |
| Analysis | April 2021 | 3 weeks |
| Report Writing and QA | April May 2021 | 4 weeks |

**Publication**

The report will be published in late June or early July 2021.

**Annex A: High level questions and sub criteria**

1. Are there differences in approach taken by CPS POC and SFO POCIAD with restraint and confiscation casework and are any areas of good practice within one organisation that may be transferable to the other.
* Do CPS POC and SFO POCIAD approach restraint casework differently and does the approach enhance the effectiveness and efficiency of the standard of work?
* Are areas of good practice ascertainable and embedded within the organisations?
* Are areas of good practice in CPS POC capable of being transferred to SFO POCIAD?
* Are areas of good practice in SFO POCIAD capable of being transferred to CPS POC?
1. Are there appropriate and effective arrangements in place for the timely referral and allocation of restraint and confiscation cases?
* Are restraint and confiscation case acceptance processes effective and timely?
* Is case allocation timely and does it contribute to the effective progression of restraint and confiscation cases?
* Is there an effective mechanism in place to ensure that high risk cases in restraint and confiscation casework are identified early, and enter the register and that Local Case Management Panels/Directors Case Management Panels are arranged?
* Are there effective processes in place to ensure linked cases are identified and allocated to the appropriate staff member/team to reduce duplication?
* Are available digital systems used effectively to aid restraint and confiscation case allocation?
* Do the handbook/SOP effectively support timely and allocation of restraint and confiscation cases?
1. Are there appropriate and effective arrangements in place for the timely progression of restraint and confiscation casework and to ensure that decisions are properly made, recorded and quality assured.

* Are systems for file organisation, file endorsement, and data storage effective to enable the timely progression of cases?
* Are there adequate systems for dealing with correspondence?
* Are available digital systems used effectively to aid case progression?
* Are reviews of cases timely and proactive to enable early case strategy and to provide focus for successful applications?
* Are cases progressed using systems and processes in the handbook/SOP and are local measures in place for compliance?
* Is the selection of Counsel and other experts timely and robust, and does it contribute to effective progression of restraint and confiscation cases?
* Is there appropriate day to day supervision and line management of staff to monitor the progression of cases including dip sampling of cases?
1. Is there effective leadership, management, quality assurance and oversight of restraint and confiscation casework?
* Are the internal leadership structure and case progression governance system effective?
* Do leaders of the organisation have sufficient influence over stakeholders to aid effective case progression of restraint and confiscation casework?
* Are case management panels and other quality assurance mechanisms effective in providing oversight of restraint and confiscation case progression and risks ?
* Are there effective systems to ensure the identification, organisation and dissemination of learning points with respect to high quality casework?
* Is performance data used to monitor casework?
* Is there continuity of case ownership throughout the life of a restraint and confiscation case and mechanisms in place to minimise disruption when this is not possible?
* Are management satisfied that there are sufficient opportunities within the teams for staff to develop?
1. Do staff have access to the necessary training to deliver restraint and confiscation casework to a high standard and that there is effective support and guidance for the teams;
* Is appropriate training provided to staff to deal with effective progression of cases of restraint and confiscation casework?
* Are staff performance and casework reviews used to identify training needs?
* Do staff have access to training according to their specific training needs?
* Is there adequate guidance, policy and other documentation available to staff to deliver a consistent and effective approach to restraint and confiscation cases?
1. Are partnership arrangements and work with criminal justice partners and stakeholders effective in delivering high quality restraint and confiscation casework?
* Are relationships with external agencies effective and do they support the effective delivery of restraint and confiscation casework?
* Do leaders of the organisation have sufficient influence over stakeholders to promote effective restraint and confiscation casework?
* Are there mechanisms in place to share lessons learned with partner agencies to assist restraint and confiscation cases?
* Are relationships with internal divisions effective and do they support the effective delivery of restraint and confiscation casework?