



HMCPSI

HM Crown Prosecution
Service Inspectorate

An inspection of the operation of CPS and SFO Proceeds of Crime Divisions

August 2021

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Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

Contents

1. Summary	5
Recommendations, strengths and good practice	11
2. Methodology	13
Background	14
Framework.....	17
Methodology	18
3. Referral and allocation of casework	20
CPS Proceeds of Crime Division	21
SFO Proceeds of Crime and International Assistance Division	23
Comparisons	24
4. Progression of casework and recording of decisions.....	25
CPS Proceeds of Crime Division	26
SFO Proceeds of Crime and International Assistance Division	29
Comparisons	31
5. Leadership	34
CPS Proceeds of Crime Division	35
SFO Proceeds of Crime and International Assistance Division	36
Comparisons	37
6. Training.....	38
CPS Proceeds of Crime Division	39
SFO Proceeds of Crime and International Assistance Division	39
Comparisons	40
7. Stakeholder engagement	41
CPS Proceeds of Crime Division	42
SFO Proceeds of Crime and International Assistance Division	43
Comparisons	44
Annexes	
Inspection framework.....	45
File examination question set	49

1. Summary

1.1. The term 'proceeds of crime' relates to the recovery of the benefit of criminal conduct from offenders; in other words, depriving criminals of their ill-gotten gains.

1.2. The Home Office estimates that serious organised crime costs the UK economy at least £37 billion each year. The National Crime Agency assesses that £12 billion in criminal cash is generated annually in the UK. Prosecuting agencies are able to apply to the court for restraint of assets belonging to suspected criminals to prevent them being disposed of or hidden, and their confiscation after conviction. Primarily, these applications are made under the Proceeds of Crime Act 2002.

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1.3. The Crown Prosecution Service (CPS) and the Serious Fraud Office (SFO) play a key role in recovering the proceeds of crime. They take their responsibilities seriously, to the extent that each organisation has a separate division dealing with this work. In the CPS, it is the Proceeds of Crime Division (CPS POC) and in the SFO, the Proceeds of Crime and International Assistance Division (SFO POC).

1.4. We found that the staff in both divisions were professional and very capable. The teams are rightly proud of their level of expertise in proceeds of crime matters and are highly motivated. They bring considerable skill, knowledge, and commitment to the work of their respective organisations. This translates into effective case progression: we found that the overwhelming majority of files we examined had been dealt with proactively and efficiently. We also found well-structured and thorough case analysis and case strategy in the majority of files we examined.

1.5. Before the Covid-19 pandemic, CPS Areas handled some of their own confiscation work, with the more complex work being referred to CPS POC. As a temporary measure during the pandemic, all confiscation work was sent to CPS POC. CPS POC has the expertise and the resources to manage restraint and confiscation cases well. Although removing confiscation from Areas may deskill prosecutors, we consider the likelihood of improved handling that comes from a dedicated team of experts to outweigh that risk.

1.6. It is also apparent that, before CPS POC took over, some opportunities for confiscation were being missed. We therefore recommend that the CPS should formally consider whether the current arrangement is made permanent post-pandemic and CPS POC keeps responsibility for all CPS confiscation casework, as well as the restraint casework that it handles across the CPS.

1.7. To manage casework, CPS POC mandates the use of restraint strategy documents and confiscation strategy documents. We found that these were completed thoroughly for the most part. Some of the information at the start of the document (such as when orders were made or varied) was not always kept up to date; they were, however, used effectively to record and develop the case strategy and maintain a chronology of actions and decisions.

1.8. The key advantages of using the strategy documents are that:

- they require the case strategy to be set out in written form, which crystallises thinking and ensures that key issues are considered
- they contain a clear case chronology and history, greatly helping anyone taking over the case to get to grips with it and enabling proper oversight of the case
- they assist significantly with any future audit into the case.

1.9. The SFO POC team does not use a single strategy document akin to those used in CPS POC. However, in discussion with SFO POC, we noted that there was considerable appetite for the development of a single document.

1.10. SFO cases are mostly larger than those dealt with by CPS POC, and the size and complexity of SFO cases mean that it can be very challenging and time consuming to establish a clear understanding of the history and current position of any individual file. Developing a single strategy document would reduce the risk to continuity and case management in the event of a transfer of case ownership. While we found that SFO POC staff were well acquainted with each other's cases, adopting a single strategy document in respect of each suspect/defendant on a case would be helpful.

1.11. The SFO operates the Roskill model across a criminal investigation, prosecution and any proceeds of crime work. The model involves investigators and prosecutors working together to build cases, and is a clear strength in SFO POC, where the financial investigators work within the same team as the lawyer and/or case controller. The collaborative approach engendered by the Roskill model was apparent from all the evidence we reviewed, and the input from financial investigators, lawyers and case controllers was readily accessible and seamlessly embedded within SFO POC files.

1.12. The CPS operates under a different model to the SFO, with independent police forces carrying out the investigative function. However, we consider there to be aspects of the Roskill model which the CPS could adopt to strengthen its proceeds of crime work further. In particular, the CPS should consider embedding financial investigators into CPS POC (in the same way senior police

investigators have been embedded into some rape and serious sexual offences units) and seconding CPS lawyers for short-term placements in local police forces to build expertise and a more collaborative partnership. Further co-operation would build on the work already being done to collaborate with the police, such as the CPS restraint clinics – where CPS POC lawyers make themselves available to offer advice and guidance to police teams – and the co-working done within Regional Asset Recovery Teams.

1.13. We found that SFO POC case progression officers, who support the investigation and carry out some financial analysis, make a real contribution to the casework and the SFO team. The role also offers a useful development opportunity. The CPS could consider whether CPS POC staff could become involved in similar financial analysis or other roles in the proceeds of crime work.

Further co-operation would build on the work already being done to collaborate with the police, such as the CPS restraint clinics

1.14. The CPS POC team includes three financial examiners, who review the products from police financial investigators and carry out financial analysis. Their expertise is invaluable to the rest of the team and provides assurance in the financial investigation aspects that would otherwise rest on individual police force capabilities.

1.15. The CPS has a case management system (CMS) which provides a repository for all the documents, correspondence and other material on a criminal case and where CPS staff set tasks, record actions or decisions, and carry out reviews of the case. CPS POC uses a secure part of CMS to deal with restraint and confiscation, and there were very few instances where we thought CMS had not been used effectively to support case review and case progression.

1.16. The SFO does not have a bespoke case management system, but there was a very clear desire among staff for one to be introduced. We are aware that the SFO has been considering this for some time. The creation of a bespoke case management system at the very least to allow for tasking cases and recording decisions and reviews would improve case management, as it is evident that the current SFO system does not provide effective tasking and relies on individuals to diarise and manage their own timelines. Without a bespoke system there is no formalised backup system to make sure tasks are not missed. A case management system would help alleviate that risk.

1.17. The CPS has Standard Operating Practices (SOPs) for all aspects of its work, including proceeds of crime. Detailed guidance has been developed

locally and provided by managers. Our assessment was that the SOPs in CPS POC are clear and helpful, especially when coupled with the detailed guidance documents, and ensure a standardised approach to case management.

1.18. The SFO provides an office-wide operational handbook for its staff, but it is not as detailed on the practicalities of SFO POC work, especially restraint and confiscation applications. Interviews with staff in SFO POC highlighted that they would like some more detailed guidance.

1.19. The quality and navigability of SFO POC files have improved significantly over the past two years (which ties in with the introduction of a mandatory new file structure). We found this to be the case for older files too, their quality having clearly improved over the same period even where they had not been retrospectively restructured. There is still some work to do, and there are inevitably overlaps between the different standard folders as to where some documents could be stored, but the new file structure, and the recent introduction of a comprehensive guide to folder management, have significantly improved the accessibility of SFO POC case files.

The CPS POC and SFO POC have good mechanisms for identifying high-risk cases

1.20. SFO POC staff conduct regular housekeeping exercises to keep the files in good order. This ensured that the cases we examined were generally free of duplicate or out of date documents.

1.21. On CPS POC confiscation cases, there was a notable lack of a brief, or instructions to counsel. Over half the cases we examined (54.1%) had no brief recorded on the case management system. A brief is necessary to make sure counsel can be properly instructed. Not including clear instructions is a risk to the effective management and handling of cases by agents acting on behalf of the CPS. The lack of briefs on cases is a cause for concern which needs to be addressed.

1.22. CPS POC and SFO POC have good mechanisms for identifying high-risk cases and operate effective quality assurance regimes for those and other cases. Both divisions hold regular review panels with senior leaders, which are effective and add value to restraint and confiscation casework. The panels have the advantage of both focusing the minds of the reviewing lawyers and supervising managers on the issues in the case, and bringing a wider overview to a case, which can stimulate a different approach or act as a catalyst to resolve difficulties.

1.23. CPS POC's structured approach to disseminating learning is a real strength. Introducing something similar in SFO POC would result in benefits. In particular, the monthly updates CPS POC produces are very good and help disseminate legal and operational changes in a simple and clear way to all staff. We recommend that SFO POC looks to adopt similar processes to share learning and good practice, especially given that remote working during the pandemic made it challenging to replicate its previous practice of informal office discussion.

1.24. CPS POC produces a bi-monthly caselaw update, written by one of its financial examiners. This is an impressive document which received very positive feedback from staff in the division. Inspectors found that this document was routinely distributed to other government agencies, ensuring that the CPS shares its knowledge and experience across government. This is a real strength.

1.25. CPS and SFO POCs have extensive and effective relationships with external stakeholders at a strategic and operational level. The SFO provides many opportunities for its POC staff to engage with stakeholders by attending various meetings, which is a good development opportunity. We recommend that the CPS considers whether it could provide similar opportunities.

Recommendations, strengths and good practice

Recommendations
The Crown Prosecution Service (CPS) should formally consider whether the CPS Proceeds of Crime Division continues to deal with all the CPS Areas' confiscation casework. (paragraph 3.5)
The Serious Fraud Office Proceeds of Crime and International Assistance Division should consider adopting a single strategy document for each suspect or defendant on a case. The document would include a case chronology, case reviews and the overview of the restraint or confiscation strategy in respect of that individual. (paragraph 4.26)

Issues to address
Senior managers in the Crown Prosecution Service Proceeds of Crime Division should make sure that instructions to counsel are prepared in all relevant confiscation cases. (paragraph 4.15)
The Serious Fraud Office Proceeds of Crime and International Assistance Division should consider introducing a structured approach to sharing learning and good practice. (paragraph 6.9)
The Crown Prosecution Service Proceeds of Crime Division should make sure that staff across the division can develop their skills by attending a range of stakeholder engagement meetings. (paragraph 7.15)

Strengths
The Crown Prosecution Service Proceeds of Crime Division's restraint strategy documents and confiscation strategy documents are used effectively to devise strategy, review and build cases, and maintain efficient case progression. (paragraph 4.3)
The Crown Prosecution Service Proceeds of Crime Division and the Serious Fraud Office Proceeds of Crime and International Assistance Division engage well with parties to proceedings, respond professionally, and proactively seek robust and appropriate solutions to issues between the prosecution and defence. (paragraph 4.31)

Good practice
Hyperlinks or file paths are embedded into the Serious Fraud Office Proceeds of Crime and International Assistance Division's strategy or navigation documents to make other key items easy to locate. (paragraph 4.17)
The Crown Prosecution Service's bi-monthly caselaw bulletin, which is circulated within and outside the Crown Prosecution Service Proceeds of Crime Division, is widely respected and a useful update on proceeds of crime matters. (paragraph 5.11)
Crown Prosecution Service Individual Learning Accounts enable staff to use their budgets for their own training or to pool budgets to obtain group training where is it needed. (paragraph 6.1)
The Crown Prosecution Service Proceeds of Crime Division's Pre-Enforcement South team holds daily clinics, with a duty lawyer available, for police forces to seek advice on restraint applications. This has improved operational relationships and built a better standard of police formal statements in support of applications. (paragraph 7.7)
The Serious Fraud Office Proceeds of Crime and International Assistance Division's managers encourage staff to attend a number of stakeholder meetings to aid career progression and help them build relationships. (paragraph 7.11)

2. Methodology

Background

2.1. Criminal conduct harms victims and wider society and can have a significant financial impact both on individuals and on the economy as a whole. The Home Office estimates that serious organised crime costs the UK economy at least £37 billion each year¹. The National Crime Agency assesses that £12 billion of criminal cash is generated annually in the UK.

2.2. Recovering the benefits of criminal conduct is a vital element of the criminal justice system. It deprives offenders of the assets they have accumulated from their crimes and prevents those assets from being used to fund further criminal enterprises. Since the spring of 2020, Operation Venetic – a targeted campaign against organised crime, co-ordinated across UK law enforcement agencies – has led to the seizure of more than £56 million of criminal cash².

2.3. The legislative framework underpinning the vast majority of the recovery of criminal assets is the Proceeds of Crime Act 2002 (POCA).

2.4. POCA sets out the regimes for:

- restraint of assets, where the prosecution obtain a court order to freeze suspected criminal assets and prevent their dissipation before they can be recovered
- confiscation, where the prosecution obtain a court order for a convicted defendant to pay a specified sum, depriving them of the financial benefit obtained through their crimes.

2.5. The ability to restrain assets is a powerful tool in the armoury of prosecution agencies. A restraint order is used to freeze assets so that they remain available to settle any confiscation or compensation order which may subsequently be made. It can be obtained against a person or company who either has been charged with a criminal offence or is under investigation for an offence, and in specific circumstances against other individuals.

¹ *Understanding organised crime 2015/16: Estimating the scale and the social and economic costs (second edition)*; Home Office; February 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782656/understanding-organised-crime-mar16-horr103-2nd.pdf

² *National strategic assessment of organised crime 2021*; National Crime Agency; May 2021
<https://www.nationalcrimeagency.gov.uk/who-we-are/publications/533-national-strategic-assessment-of-serious-and-organised-crime-2021/file>

2.6. The process of obtaining a restraint order requires the prosecution to apply to the court and demonstrate that certain conditions are met. They must always show that there is a risk of assets being dissipated. Any restraint order must make allowance for reasonable living expenses to be paid.

2.7. A witness statement from a financial investigator will always be required to support an application for a restraint order. In this report, we refer to these as Section 41 statements (after section 41 of POCA, which sets out the court's power to make restraint orders).

2.8. Confiscation of assets takes place after a criminal conviction has been obtained. Upon conviction, the prosecution will ask the court to set a POCA timetable.

2.9. The confiscation process entails the prosecution serving a 'Section 16 statement'. This sets out their case, in particular whether the prosecution allege a benefit from specific criminal conduct or that the defendant has a criminal lifestyle from which they have benefitted more generally. In response to this, the defendant will be required to serve a 'Section 17 statement' indicating whether or not the prosecution's allegations are agreed and what matters the defendant takes issue with. Following this, the prosecution are likely to make another Section 16 statement. A confiscation order will take account of what the defendant's total criminal benefit was and what assets are available.

2.10. Two of the organisations which play a critical role in recovering criminal assets are the Crown Prosecution Service (CPS) and the Serious Fraud Office (SFO).

Crown Prosecution Service structure

2.11. The CPS is the largest prosecuting agency in England and Wales. It prosecutes cases investigated by the police and has no investigative powers of its own. It has specialist divisions for particular types of work, such as organised crime and terrorism. The specialist division for proceeds of crime matters is the CPS Proceeds of Crime Division (CPS POC).

2.12. The CPS POC undertakes all restraint casework for the CPS and, before the COVID-19 pandemic, a significant proportion of the CPS's confiscation casework. Since October 2020, as a result of measures to reduce the pressure on the front-line CPS Areas, a decision was made to move all confiscation work to CPS POC.

2.13. CPS POC does not prosecute criminal cases. It deals with restraint as a standalone matter and takes the case after conviction to seek confiscation.

2.14. The CPS POC has two separate sub-divisions which deal with restraint and confiscation casework: Pre-Enforcement South (PES) and Pre-Enforcement North (PEN). As their names suggest, their work is generally split geographically, with cases from the CPS's southern regions (including London) going to PES and cases from CPS's northern and Midlands regions, as well as Wales, going to PEN. This is not always so, and cases may be allocated across the two from anywhere in England and Wales.

Serious Fraud Office structure

2.15. The SFO investigates and prosecutes serious or complex fraud, bribery and corruption. In the SFO, investigators and prosecutors work together from the very beginning of an investigation. This structure is known as the Roskill model, and is based on the structure suggested by the Fraud Trials Committee, chaired by Lord Roskill, whose 1986 report recommended setting up the SFO³.

2.16. The SFO has a specialist proceeds of crime division called the Proceeds of Crime and International Assistance Division (SFO POCIAD). This inspection focused on restraint and confiscation, so for ease of reference, we refer to this division as SFO POC in this report.

2.17. SFO POC is responsible for the entirety of the SFO's restraint and confiscation casework. It works with the SFO's criminal divisions, receives information from those divisions and advises on the proceeds of crime aspects of criminal cases. However, because of its specific powers, which enable it to compel suspects and defendants to provide detailed financial information, there is a limit on what SFO POC can communicate to the other SFO divisions. For this reason, there is an appropriate information barrier in place to prevent protected information passing from SFO POC to the rest of the SFO.

³ *The 'Roskill report' (Fraud Trials Committee report)*; Serious Fraud Office; October 2015
<https://www.sfo.gov.uk/download/the-roskill-report-fraud-trials-committee-report/>

This inspection

2.18. HMCSI has a statutory duty to inspect the CPS and the SFO. While we have reported separately about issues in both organisations, such as our recent reports into their responses to COVID-19, we have never before carried out an inspection of these organisations together, their criminal work and casework divisions being too distinct to allow for direct comparisons.

2.19. However, despite significant differences in structure and scale, both organisations' proceeds of crime divisions have notable similarities. Both are highly specialised, standalone divisions responsible for conducting criminal asset recovery work for their respective organisations.

2.20. Accordingly, we saw an opportunity to carry out a single inspection in which we would examine how effective and efficient both the CPS POC and the SFO POC teams are in identifying and progressing restraint and confiscation casework – and, in particular, whether it is possible to identify aspects of good practice in one organisation which are transferable to the other.

2.21. For the purposes of this inspection, we have examined the effectiveness of case progression in CPS POC and SFO POC in respect of domestic restraint and confiscation casework only.

Framework

2.22. The framework for this inspection consisted of an overarching inspection question and six underpinning questions. The overarching question was: “How effective and efficient are the Crown Prosecution Service (CPS) and Serious Fraud Office (SFO) central proceeds of crime teams (CPS POC and SFO POC) in identifying and progressing restraint and confiscation casework?”

2.23. To answer this question, our inspection framework consisted of six questions and a number of subsidiary questions, all of which can be found in annex A. The six questions were:

1. Are there differences in approach taken by CPS POC and SFO POC with restraint and confiscation casework and are there any areas of good practice within one organisation that may be transferable to the other?
2. Are there appropriate and effective arrangements in place for the timely referral and allocation of restraint and confiscation cases?

3. 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?
4. Is there effective leadership, management, quality assurance and oversight of restraint and confiscation casework?
5. Do staff have access to the necessary training to deliver restraint and confiscation casework to a high standard and is there effective support and guidance for the teams?
6. Are partnership arrangements and work with criminal justice partners and stakeholders effective in delivering high-quality restraint and confiscation casework?

Methodology

2.24. Owing to the changes to working practices in the Inspectorate, CPS and SFO brought about by the COVID-19 pandemic, all inspection activity was conducted virtually. We are grateful to the CPS and SFO and their staff for accommodating the necessary changes to our methodology, which included remote interviews with staff in their homes.

The inspection team

2.25. This inspection focused particularly on identifying areas of good practice which could be transferred from one organisation to the other.

2.26. We acknowledge that proceeds of crime is a particularly specialised area of legal practice. Accordingly, we recognised that there would be a significant benefit in having lawyers from the CPS and SFO POC teams join the inspection team to provide us with their expertise and give an alternative perspective on each organisation's work. We are grateful to both the CPS and the SFO for each providing two lawyers who were seconded to the inspection team for this purpose. Their contributions have been insightful and invaluable.

Document analysis

2.27. The inspection team reviewed documents provided by CPS POC and SFO POC that related to sections of the inspection framework. The documents requested included management reports, performance data, Standard Operating Practices, practitioner handbooks, meeting minutes and training packs.

File examination

2.28. We examined a mixture of live and finalised cases. The SFO's caseload is significantly lower than that of the CPS (a function of the SFO being smaller than the CPS, its cases being generally more complex, and its files not being split into separate defendants in the way that CPS POC files are).

2.29. We examined 80 CPS cases, consisting of 40 restraint files and 40 confiscation files. We examined 13 SFO cases, consisting of six restraint files and seven confiscation files.

2.30. The number of SFO cases we examined means that no statistical analysis is possible. We therefore do not quote any percentages related to the SFO file examination in this report.

2.31. We examined the files against a standard question set which can be found in annex B. Files were classified as either restraint cases or confiscation cases and assessed against that element of the question set only. The questions were designed to measure:

- the effectiveness and timeliness of applications for restraint or confiscation orders
- the clarity and completeness of documentation used to record decision making and case reviews
- whether advocates had been properly instructed
- the effectiveness and timeliness of communications with all parties.

Fieldwork

2.32. We carried out virtual interviews and focus groups with key staff from CPS POC and SFO POC. This included the heads of each organisation, other managers, lawyers, financial investigators (SFO POC), financial examiners (CPS POC) and paralegal officers.

3. Referral and allocation of casework

CPS Proceeds of Crime Division

3.1. The Crown Prosecution Service Proceeds of Crime Division (CPS POC) is responsible for handling all restraint cases from across the entire CPS. CPS POC is also currently taking all confiscation cases under a temporary measure because of the COVID-19 pandemic.

3.2. CPS Areas refer cases to CPS POC. Some restraint cases will also come directly to CPS POC from police forces (when their local CPS Area is not yet involved in a pre-charge case). We assessed all cases as having been correctly referred and 95% were referred in a timely manner.

3.3. The temporary referral measure was universally popular with those we interviewed in CPS POC, where there is a clear belief among staff, supported by some empirical evidence, that it leads to better outcomes. CPS POC has the expertise and the resources to manage restraint and confiscation cases well. Before the current temporary measure was in place, Areas could miss opportunities for confiscation.

3.4. There is a potential risk, in removing responsibility for proceeds of crime work from CPS Areas, that local prosecutors could become deskilled. However, there is little evidence that prosecutors in CPS Areas have the necessary expertise to manage restraint and confiscation cases as well as the CPS POC. In our *2020 charging inspection*⁴, we found that at the pre-charge stage, CPS prosecutors properly considered proceeds of crime in only 25% of relevant cases.

3.5. Our findings show that the quality of work in CPS POC is of a high standard, with the relevant expertise in place to deal with proceeds of crime cases effectively. We recommend, therefore, that the CPS formally considers whether to make the current arrangement to reduce pressure at the front-line permanent after the pandemic, giving CPS POC the responsibility for all CPS confiscation casework as well as all of the restraint casework it currently undertakes across the CPS.

⁴ *2020 charging inspection*; HMCPsi; September 2020
<https://www.justiceinspectors.gov.uk/hmcpai/wp-content/uploads/sites/3/2021/03/2020-09-25-2020-Charging-inspection.pdf>

Recommendation

The Crown Prosecution Service (CPS) should formally consider whether the CPS Proceeds of Crime Division continues to deal with all the CPS Areas' confiscation casework.

3.6. As set out in paragraph 2.14, CPS POC has two teams who deal with restraint and confiscation work: Pre-Enforcement North (PEN) and Pre-Enforcement South (PES). This is a geographical split and each team generally has a caseload from its own geographical area. New cases are allocated either to a Senior Crown Prosecutor or to a Specialist Prosecutor, depending on complexity. Both of these are lawyer roles, the latter being the more senior. We found no issues with case allocation during our file examination; in all cases it was done in a timely and effective manner.

3.7. CPS POC has a mechanism for evaluating each lawyer's caseload. Each lawyer should complete a case weighting form upon being allocated a new case, assessing the case as low, medium or high weight. Case weighting may change through the life of a case and the CPS POC keeps this under review. Senior Crown Prosecutors are not generally allocated high-weighted cases, although there is some flexibility within this to allow for development opportunities. Lawyers discuss case weighting at monthly meetings with their line managers.

3.8. The CPS has a formalised process for identifying high risk cases. Lawyers are required to provide a list of their ten highest risk cases to their line managers, with whom they have monthly meetings. During these meetings, lawyers discuss their caseloads and agree which of their cases should be entered onto the high-risk register. The heads of PEN and PES then review the high-risk register and meet with the Deputy Chief Crown Prosecutor (DCCP) to discuss cases on the register. The DCCP then chooses the top ten high risk cases for the Chief Crown Prosecutor to review. Case management panels take place within this process (and it is evident from the documentation supplied that these take place regularly).

3.9. We were satisfied from the interviews and focus groups that this was a robust process that all staff were invested in and adhered to. This process adds value and allows for a high degree of case overview within the division.

3.10. Unlike the rest of the CPS, CPS POC splits cases into separate files for each suspect/defendant. For example, a fraud case with five defendants would be a single file in a CPS Area but five separate CPS POC files. The CPS digital case management system (CMS) allows files to be linked using an 'associated case button'. Generally, this had been utilised correctly in the files we examined.

3.11. There are good arguments for dividing suspects into separate files, particularly because the issues for each can vary significantly and there can be substantial differences in both benefit and available assets between suspects/defendants. However, this does inevitably lead to some duplication between files, and means lawyers need to read multiple files to obtain a clear understanding of the case. The CPS does mitigate the risks by allocating linked suspects to the same lawyer where possible.

SFO Proceeds of Crime and International Assistance Division

3.12. The Serious Fraud Office (SFO) operates the Roskill model, which means it is both the investigating and prosecuting agency. All SFO cases are subject to a case evaluation board at an early stage. The Serious Fraud Office Proceeds of Crime and International Assistance Division (SFO POC) attends these meetings and this ensures that it is aware of proceeds of crime issues in all criminal cases. In some instances, it may have been consulted on the case by another SFO division before the case evaluation board. We assessed all SFO cases we examined as having been referred in a timely manner.

3.13. SFO cases will have a number of staff members allocated to them, including a financial investigator, a lawyer and a case controller. The number of live cases is such that the Head of Division will have personal knowledge of all cases. Files are allocated on a case by case basis, dependent on individual experience and workload. We found no issues with this model and were satisfied that the cases we examined had been allocated without delay and to the right person.

3.14. The SFO has no formal process for identifying high risk cases. It relies on the Head of Division and General Counsel of the SFO having personal knowledge of all cases. This is achievable because of the size of the SFO and the relatively low number of proceeds of crime cases. It was clear from our interviews and focus groups that staff at all levels are very alert to the risks associated with their cases and take them into account when making review decisions and exercising their powers.

3.15. Within the SFO, facilitated by the low case numbers, all staff, especially the lawyers, tend to have some awareness of each case. We found no issues with linked cases not being identified or dealt with appropriately. The SFO does not split its files into single suspects or defendants, but within its file structures, it does have folders for each suspect or defendant.

Comparisons

3.16. We assessed every case we examined from both the CPS and the SFO as having been correctly referred, most in a timely manner.

3.17. Both the CPS and the SFO have good procedures to make sure high-risk cases are appropriately identified. While the SFO's process is not formalised, it is no less effective for that. Given this, and taking into account its case numbers, there would be no benefit in the SFO adopting the CPS's approach to identifying high-risk cases.

3.18. CPS POC, given both its higher case numbers and its practice of splitting suspects or defendants into separate files, has more linked cases than SFO POC. It would not benefit the SFO to adopt this approach, particularly because of its lower case numbers.

4. Progression of casework and recording of decisions

CPS Proceeds of Crime Division

4.1. The Crown Prosecution Service (CPS) uses restraint strategy documents (RSDs) and confiscation strategy documents (CSDs) on all restraint and confiscation cases. These documents contain factual information, and all case reviews, decisions and occurrences; they provide a detailed overview of the case in a single document. Each time the document is updated it is dispatched on the CPS case management system (CMS) so that there is a full audit trail of all decision making.

4.2. In 84.6% of restraint cases and 87.2% of confiscation cases, we assessed the strategy devised to build the case as fully meeting the expected standard. In all those cases, this strategy was evident from the RSD or CSD.

4.3. There is still some progress to be made on lawyers fully completing and updating confiscation and restraint strategy documents, something that was recognised by the managers we spoke to and demonstrated by the file examination data (we assessed 66.7% of RSDs and 48.8% of CSDs as fully completed). Making sure the factual data fields in the documents are updated as the case progresses is an issue to address. That said, there is much to commend these documents, and we viewed the nature and quality of them as a strength.

Strength
The Crown Prosecution Service Proceeds of Crime Division's restraint strategy documents and confiscation strategy documents are used effectively to devise strategy, review and build cases, and maintain efficient case progression.

4.4. We found that reviews of files were timely and proactive, and demonstrated clear case strategy and a good 'grip' of cases. Moreover, as cases progressed, we noted that the RSDs and CSDs contained regular reviews and detailed updates. We assessed the strategy documents' contribution to the effective conduct of the case as fully meeting the expected standard in 84.6% of restraint cases and 85% of confiscation cases.

4.5. Our file examination showed that there is typically continuity of case ownership. Our interviews revealed a reluctance to reallocate cases because of the duplication of work it involves; generally the approach will be to stop allocating cases to an individual for a period of time rather than reallocate their cases. In the files we examined where there was a change in case ownership, the strategy documents indicated that the handover was conducted smoothly.

Case study

In a complex boiler room fraud with 80 victims and losses of £2.4 million, the Crown Prosecution Service obtained an appropriate restraint order and proactively managed the case. When the defendant breached the order, the Crown Prosecution Service commenced contempt proceedings and thereby recovered £150,000 which had been dissipated in cryptocurrency. The work on this file was strong, complex issues were dealt with well and the restraint strategy document was of high quality.

4.6. Our inspectors assessed communication as being timely and effective in 87.5% of the CPS cases we examined.

4.7. The CPS makes good use of CMS. All files we examined were recorded properly on CMS and, while there were some duplicate entries within the files, each had an adequate audit trail.

4.8. We found that 95% of restraint orders and 100% of confiscation orders had been sought as soon as reasonably practicable by CPS lawyers.

Case study

In a case in which hundreds of investors were defrauded of more than £6 million by being misled into investing in worthless 'carbon credits', the Crown Prosecution Service secured a proportionate and enforceable confiscation order. The confiscation strategy document in this case was excellent and provided the perfect amount of information to understand both the background to the case and its progress.

4.9. The CPS utilises Standard Operating Practices (SOPs) to manage both restraint and confiscation casework, for all levels of staff. There are separate SOPs for restraint and confiscation, and flow charts which set out each step of the restraint or confiscation process. For restraint, this process begins with the referral to the CPS POC, and for confiscation with the court setting a proceeds of crime timetable.

4.10. The CPS POC has also produced detailed guidance documents for each of the SOPs, setting out with precision the specific responsibilities for each role – for example, the lawyer and paralegal officer – at each stage of the process. This detailed guidance was introduced after feedback from staff, following the removal of a similar level of detail from the national SOPs by CPS Headquarters.

4.11. It is apparent that CPS POC staff had considerable input into the design of the SOPs. We found that staff were positive about them and described them as helpful.

4.12. Our file examination indicated that a standardised approach is indeed taken to the management of cases. There is effective assurance that the SOPs are being applied, with a number of monthly compliance assessments undertaken by CPS POC managers. To ensure objectivity, these assessments are done by managers of different units to those being assessed. They are recorded and circulated in the division's performance dashboard and demonstrate SOP compliance in excess of 90% in both CPS pre-enforcement teams across the first three quarters of 2020–21.

4.13. The CPS frequently needs to instruct an external self-employed barrister (counsel) to conduct confiscation hearings. When counsel is instructed, the CPS lawyer should prepare a brief: a document that tells counsel what the issues in the case are, what the aim of the hearing is and what the CPS's position is on any anticipated or known defence argument, along with relevant contact details for the lawyer and paralegal officer.

4.14. In CPS confiscation cases, there was a notable lack of briefs prepared. Inspectors found no brief in 54.1% of cases.

4.15. There seems to be reliance instead on the trial brief, which will have been prepared by the CPS Area for the criminal proceedings. In the cases we examined, the trial brief rarely set out issues relating to proceeds of crime. While it is certainly beneficial to have the same counsel who dealt with the criminal prosecution also deal with confiscation, because they will know the prosecution case well, it often means that counsel does not have the same insight into the confiscation case. The expectation of management is that a bespoke brief will be prepared, and this is an issue for the CPS to address in confiscation cases.

Issue to address

Senior managers in the Crown Prosecution Service Proceeds of Crime Division should make sure that instructions to counsel are prepared in all relevant confiscation cases.
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4.16. We did not encounter a lack of briefs on the same scale in restraint cases: only 7.1% of the cases we examined had no brief on file. This reflects that many restraint cases are dealt with on the papers, with no need to instruct counsel.

SFO Proceeds of Crime and International Assistance Division

4.17. The Serious Fraud Office (SFO) does not have a single document to address case strategies, like those we found in the CPS. While SFO files were not as easy to navigate as those of the CPS, it was evident that there was clear and coherent case strategy and that the Roskill model (a very clear strength) led to a collaborative approach to case building. It was notable that the quality of the Section 41 and Section 16 statements⁵ in all files was extremely high. The SFO Proceeds of Crime and International Assistance Division (SFO POC) uses file paths and hyperlinks embedded into key strategy or case navigation documents to assist with locating important items, and this is good practice.

Good practice

Hyperlinks or file paths are embedded into the Serious Fraud Office Proceeds of Crime and International Assistance Division's strategy or navigation documents to make other key items easy to locate.

4.18. Two years ago, the SFO recognised that its case files were difficult to navigate and introduced a new file structure. We found evidence from the files we examined that this new file structure is well utilised, and the quality and navigability of the files have noticeably improved since its introduction. In addition, the SFO POC carries out housekeeping on its cases to keep the files in good order, and we saw evidence that this made the files easier to work on.

4.19. However, some interviewees expressed doubts about how easy it would be for a case to be handed over and how long it would take someone unfamiliar with a case to understand its history and establish the latest position. The new file structure helps; and we also acknowledge that this risk is mitigated somewhat by the Roskill model, which means that there is always more than one person with good knowledge of a case. However, we conclude that an overall chronology on SFO POC cases, preferably in a document similar to CPS restraint and confiscation strategy documents, would assist considerably in obtaining a clear case overview.

⁵ A Section 41 statement is a prosecutor's statement to support a restraint order application. A Section 16 statement is the equivalent in support of a confiscation application.

Case study

The Serious Fraud Office commenced an investigation into a number of individuals as a result of a company issuing many millions of pounds' worth of bonds to thousands of investors. The case is extremely complex.

The Serious Fraud Office Proceeds of Crime and International Assistance Division (SFO POC) obtained all asset restraint orders against several individuals within one month of the investigation commencing. This file demonstrated that there is a very good working relationship between the SFO POC and the other Serious Fraud Office divisions, and that this leads to highly effective restraint casework.

The case file was comprehensive and of high quality, with a clear case strategy being discernible. It also showed sensible pragmatism in respect of variations to the restraint orders to preserve the value of assets to make sure any future confiscation order can be met.

This is one of the most recent Serious Fraud Office cases we examined, and the new file structure had clearly been adopted and provided considerable benefit.

4.20. We assessed communication as being timely and effective in all of the SFO cases we examined.

4.21. The SFO does not have a digital case management system. There was considerable appetite among staff for such a system and the SFO has been looking to introduce one for some time. While we identified no concerns in the case management of the files we examined, without a formal case management system, tasking and meeting court or other deadlines depends on the proactive approach of those involved in the case. It also makes it difficult for managers to supervise progress when key members of staff are absent or move to other duties. We suggest that the SFO considers whether a bespoke case management system for proceeds of crime cases would be helpful in terms of case management and mitigating some risks.

4.22. We observed that the Roskill model (see paragraph 2.15) led to the formulation of early and proactive case strategy in SFO cases. In all of the applicable files we examined, the restraint or confiscation order was sought as soon as reasonably practicable. In one case, it was laudable that restraint orders were obtained just one month after the SFO had accepted the criminal investigation.

4.23. We found the SFO handbook very clear and easy to understand. Views from staff during interviews were that the handbook is quite “high-level”, and there was a definite appetite among SFO lawyers for a more detailed guide to the practicalities of restraint and confiscation procedures.

Case study

We examined a case involving a complex Ponzi-type fraud⁶, in which a range of victims were induced to invest millions of pounds into the main defendant’s company. The defendant used the money to fund their own lavish lifestyle.

The Serious Fraud Office investigation and prosecution secured convictions in the case. There was a clear focus on confiscation proceedings and ultimately the Serious Fraud Office secured a confiscation order for more than £7 million (which will be used to compensate the victims). The lawyer and the financial investigator had clearly been proactive and worked as a team. The file contained evidence of excellent decision making, control and accountability and issues had been identified and resolved proactively. The Section 16 statements were of exceptional quality. The case demonstrates the very clear benefits of the Roskill model to the Serious Fraud Office.

4.24. We found the quality of briefs to counsel to be high. However, the file structure contains more than one location in which they can be stored, which made locating them more challenging than it needed to be.

Comparisons

4.25. SFO cases are larger than CPS ones and are not split into separate defendants or suspects as CPS cases are. However, the size and complexity of SFO cases means that it can be very challenging and time consuming to establish a clear understanding of the history and current position of any individual file. This presents a clear risk to continuity and case management, in the event of a transfer of case ownership (mitigated somewhat by the structure of SFO and the knowledge staff have of cases allocated to others), and to effective audit and quality assurance.

4.26. In our view, the CPS’s strategy documents are of such value that, notwithstanding the quality of the SFO files we examined, we recommend that the SFO considers adopting the concept in some form. If a separate chronology document containing an overview of the restraint or confiscation strategy were

⁶ A Ponzi scheme is a form of fraud that lures investors and pays profits to earlier investors with funds from more recent investors. The scheme leads victims to believe that profits are coming from legitimate business activity, and they remain unaware that other investors are the source of funds.

created for each suspect or defendant, this would be beneficial, not only in the event of a handover, but for the conduct of any appeal, judicial review or complaint. We found that there was considerable appetite in the SFO for such a document. It would aid the lawyers and financial investigators conduct the case by giving them a clear overview of the position in respect of each suspect or defendant in a single place.

Recommendation

The Serious Fraud Office Proceeds of Crime and International Assistance Division should consider adopting a single strategy document for each suspect or defendant on a case. The document would include a case chronology, case reviews and the overview of the restraint or confiscation strategy in respect of that individual.

4.27. The SFO's use of the Roskill model is a clear strength. The collaborative approach it engenders is apparent from the case files; the input from financial investigators, lawyers and case controllers is seamlessly embedded within SFO POC files.

4.28. We recognise that the CPS operates under a different model to the SFO, with independent police forces carrying out the investigative function. However, we consider there to be aspects of the Roskill model that the CPS could adopt to strengthen its proceeds of crime work further. In particular, the CPS should consider whether it would be possible to embed financial investigators into CPS POC (in the same way senior police investigators have been embedded into some rape and serious sexual offences units) or whether CPS POC lawyers could be seconded to police teams to build a more collaborative partnership. The CPS could also consider whether there is any scope for CPS staff to become involved in financial analysis in the way that SFO POC case progression officers are.

4.29. We are aware that there is collaborative working within the Regional Asset Recovery Teams of the CPS POC and that this has been referred to as good practice by the National Audit Office.

4.30. Correspondence handling is a strength across both organisations. Our file examination showed that both CPS and SFO lawyers engaged well and professionally with the defence.

4.31. The CPS POC and SFO POC teams proactively sought solutions in restraint cases – for example, when suspects or defendants needed access to funds for sound reasons. We saw examples of willingness in both the CPS and the SFO to propose sensible variations to ensure not only fairness to suspects

or defendants, but also the greatest chance of preserving the value of assets to meet future confiscation orders.

Strength

The Crown Prosecution Service Proceeds of Crime Division and the Serious Fraud Office Proceeds of Crime and International Assistance Division engage well with parties to proceedings, respond professionally and proactively seek robust and appropriate solutions to issues between the prosecution and defence.

4.32. It is evident that there is a small pool of specialist counsel for the conduct of restraint or confiscation work, which both CPS POC and SFO POC need to call on. Counsel are selected for both organisations by reference to their skills and experience, and we found no issues with the availability of counsel to act for either organisation. We also noted sensible measures to ensure that counsel handled linked cases wherever possible.

4.33. For Operation Venetic⁷ – an intensive international operation in which encrypted messages between organised crime gangs on a purpose-built messaging service were deciphered – the CPS set up a small pool of counsel to ensure that they built and maintained experience and skill in dealing with the particular issues arising from the operation, notably admissibility of evidence.

⁷ *NCA and police smash thousands of criminal conspiracies after infiltration of encrypted communication platform in UK's biggest ever law enforcement operation*; National Crime Agency; July 2020
<https://www.nationalcrimeagency.gov.uk/news/operation-venetic>

5. Leadership

CPS Proceeds of Crime Division

5.1. The Crown Prosecution Service Proceeds of Crime Division (CPS POC) has a strong governance structure and there are regular meetings across all levels of management. Our interviews demonstrated a universally positive view of the management structure and approach across the division. Staff felt supported and valued. Concern for the welfare of their staff was evident at all levels of management, particularly since the start of the Covid-19 pandemic.

5.2. Quality casework delivery is led effectively. CPS POC has a range of appropriate measures which it uses to determine performance and direction of travel, including the number of live restraint orders, the number of successful applications for confiscation orders, and the number of restraint and confiscation orders which need to be obtained, as well as a detailed breakdown of new and finalised restraint and confiscation cases.

5.3. Performance data is analysed and shared in a performance dashboard at senior management meetings. Managers acknowledged that they had yet to find a meaningful way to share this with staff now that they are no longer in an office environment. Previously, wall charts were used, showing key data and themes, and managers are considering how best to provide the same information in a remote setting.

5.4. CPS POC holds monthly case quality board and case quality group meetings. The minutes of these meetings demonstrate a real focus on learning from casework outcomes and quality assessments with a view to driving forward performance and improving training.

5.5. CPS POC convenes local case management panels regularly, which creates additional oversight of high-risk cases, identified via the mechanisms outlined in paragraph 3.8. These panels are chaired by the Chief Crown Prosecutor. The Area Business Manager also attends, which we were told can help to address any operational difficulties in a particular case.

5.6. There is also the capacity to hold a case management panel with the Director of Public Prosecutions, but these are very rarely needed.

5.7. CPS POC has a robust quality assurance process that includes legal managers completing regular individual quality assessments (IQAs) on the lawyers allocated to their team. The cases are selected at random.

5.8. It is apparent that IQAs provide part of the foundation for regular performance and management meetings between line managers and staff, and are used to drive improvements. For example, compliance with strategy

documents was approximately 40% when they were first introduced, but is now over 90% after the issue was identified in IQAs and raised directly with staff.

5.9. The CPS POC performance dashboard shows that both Pre-Enforcement South (PES) and Pre-Enforcement North (PEN) carry out the required number of IQAs and that a high number of these – more than is mandated by CPS Headquarters – are dip sampled by senior managers.

5.10. Managers carry out significant analysis of the IQA results in their quarterly Area Performance Reviews and identify themes to address. For example, in late 2019–20, IQA findings led to training being delivered to address the quality of strategy and reviews, with a particular emphasis on disclosure. CPS POC is in the process of reviewing its IQA questions to make sure they are still fit for purpose.

5.11. We found that there were clear processes in place within CPS POC to disseminate learning points. There are monthly updates to staff in relation to cases which demonstrate high-quality casework, which is also a means to celebrate success. The financial examiner’s bi-monthly caselaw update, which is shared with other law enforcement agencies throughout the UK, is good practice.

Good practice

The Crown Prosecution Service’s bi-monthly caselaw bulletin, which is circulated within and outside the Crown Prosecution Service Proceeds of Crime Division, is widely respected and a useful update on proceeds of crime matters.

SFO Proceeds of Crime and International Assistance Division

5.12. Morale is high in the Serious Fraud Office Proceeds of Crime and International Assistance Division (SFO POC), and it is evident that there has been a lot of recent work on cultural change. It is notable that many managers have a hybrid role, with both management responsibilities and an allocated caseload. This could potentially create tension between their priorities, but we found no evidence that this was the case or had had an impact on casework or staff.

5.13. SFO POC holds a number of regular meetings within the division: at a senior management level, with staff on a one to one basis, and with groups (for example, lawyers and financial investigators), as well as individual case meetings. It is evident that there is a considerable focus on case progression.

5.14. SFO POC holds case review panels, for which the Director's General Counsel selects the cases. Generally, panels include criminal cases and, where the nature of the case dictates it, SFO POC will be present. This process ensures that the impact on proceeds of crime is taken into account when deciding overarching case strategy.

5.15. SFO POC is implementing a new quality assurance process, which involves senior case controllers reviewing restraint and confiscation files. But in any event, and because SFO POC has a relatively small caseload, senior managers are able to oversee all the cases in the division through regular meetings, panels and ad hoc discussions.

5.16. In our interviews, we found that before the Covid-19 pandemic, SFO POC held regular informal training sessions where people could share learning and good practice. This has not been replicated while staff have been working remotely.

5.17. SFO POC has not yet established clear performance indicators, although it maintains data on the numbers of cases and the value of orders paid. It acknowledges that it needs to determine metrics to measure performance, but the low case numbers make this a particular challenge. Proposals are currently being developed to address this.

5.18. We found good examples of development opportunities for staff. Managers encourage staff to attend a number of stakeholder meetings to aid career progression and help them build relationships. This is a clear strength. There are opportunities for case progression officers to develop financial investigation skills and to be deployed to such work as an addition to their case progression role.

Comparisons

5.19. Proceeds of crime leaders in the CPS and SFO are fortunate to manage strong teams with capable, dedicated staff at all levels, who take pride in their work and are supportive of their colleagues. Both divisions are well managed by leaders who are respected, and staff across the divisions showed real enthusiasm for their work and understanding of its purpose and value.

5.20. Both the CPS and the SFO hold regular review panels with senior leaders, which add oversight and real value to restraint and confiscation casework. The panels have the advantages of both focusing the minds of the reviewing lawyers and supervising managers on the real issues in the cases, and bringing a wider overview to a case – which can stimulate a different approach or act as a catalyst to resolve difficulties.

6. Training

CPS Proceeds of Crime Division

6.1. We found that the approach to training in the Crown Prosecution Service Proceeds of Crime Division (CPS POC) was effective. All grades of staff were very positive about the training opportunities provided, with one describing them as “brilliant”. Staff are encouraged to use their Individual Learning Account⁸ budgets and in some instances have pooled it with others to acquire group training. This is cost effective and is good practice.

Good practice

Crown Prosecution Service Individual Learning Accounts enable staff to use their budgets for their own training or to pool budgets to obtain group training where it is needed.

6.2. From the interviews and focus groups we conducted, we found that lawyers felt there were opportunities to develop, that managers were flexible, that they encouraged junior staff to progress, and that they supported them in taking on more difficult or complex cases. Senior Crown Prosecutors are given the opportunity to handle high-risk cases with oversight from a Specialist Prosecutor or a line manager. The financial examiner role is bespoke to the CPS and there are opportunities for staff to progress into the role.

6.3. CPS POC produces monthly newsletters that include legal updates, details of successful cases and links to training courses. Each copy we examined also addressed staff wellbeing. They are an effective way of celebrating success, sharing learning and promoting the team ethos.

6.4. The CPS has an induction program for new starters. It is tailored to people’s specific needs, determined by their background and experience. Newer members of staff were very positive about the support they had received upon joining.

SFO Proceeds of Crime and International Assistance Division

6.5. Staff in the Serious Fraud Office Proceeds of Crime and International Assistance Division (SFO POC) are provided with both internal and external training courses. Inevitably, some scheduled training has not taken place

⁸ Each member of CPS staff has a personal allowance of £350 a year to spend on training.

because of the pandemic. The SFO also has a learning voucher scheme akin to CPS Individual Learning Accounts.⁹

6.6. SFO POC staff were positive about both the training and induction programmes they were provided with, and there was a clear consensus that development opportunities were available. This was evident from, for example, the potential for case progression officers to become involved in financial analysis or to progress to the financial investigator training programme.

Comparisons

6.7. Training in CPS POC is more formalised than in SFO POC. In addition, CPS staff have access to their own training budget, which gives a degree of autonomy and enables groups of staff to club together to fund training that benefits them all. SFO staff do not have this degree of control, but still have access to effective training to support them in their roles. The path for case progression officers to develop within the SFO's Roskill model provides clearer career choices than the CPS is able to offer, but in both proceeds of crime divisions, there is a clear focus on staff development and quality of training.

6.8. The CPS POC's bi-monthly caselaw extract, along with other guidance and updates, are effective in supporting quality casework. Not only do they cover the latest legal updates, but they also encompass both legal and CPS POC procedural guidance. This material is of considerable benefit to all staff, whether they are experienced or new starters.

6.9. The CPS's structured approach to disseminating learning is very positive, and something from which the SFO would benefit. In particular, the monthly updates the CPS produces are of great value. We recommend that the SFO adopts something similar to this, especially as it has been unable to replicate its previous informal office discussions and information-sharing remotely.

Issue to address
The Serious Fraud Office Proceeds of Crime and International Assistance Division should consider introducing a structured approach to sharing learning and good practice.

⁹ Each member of SFO staff can claim up to £100 per year to spend on training.

7. Stakeholder engagement

CPS Proceeds of Crime Division

7.1. The Crown Prosecution Service Proceeds of Crime Division (CPS POC) has a wide range of stakeholders. These include the rest of the CPS, police forces, HM Courts and Tribunals Service, HM Revenue and Customs, other government departments and many international partners.

7.2. The CPS is represented in a broad range of stakeholder groups. Many of these operate at a high strategic level, such as the Camden Asset Recovery Inter-Agency Network. This is an international platform for asset recovery practitioners from law enforcement and judicial authorities to discuss legal frameworks, operational challenges, and support in all aspects of asset forfeiture.

7.3. Assessing the exact impact of these high-level strategic partnerships on case progression can be difficult, but the interviews we conducted with senior leaders indicated that the progress of individual cases was often eased when engaging with other organisations or jurisdictions because of the strategic relationships that had been built.

7.4. We identified examples of CPS POC using its influence with stakeholders to drive better case progression, such as working with HM Courts and Tribunals Service to re-open courts during the Covid-19 pandemic so that confiscation orders could be enforced.

7.5. We also found considerable engagement with stakeholders at an operational level. The CPS's financial examiners carry out much valued work with others, especially producing a bi-monthly caselaw update (see paragraph 6.8). This is a strong example of stakeholder engagement.

7.6. One of the teams within the CPS POC, Pre-Enforcement South, runs restraint clinics with each of the police forces it works with. These involve a telephone rota, with a different lawyer allocated to the clinic daily. That lawyer is available to speak to the police and provide advice on what is needed to ensure a restraint application is granted.

7.7. These clinics give the police direct access to a lawyer to discuss restraint cases at a very early stage. They were set up as a result of feedback that CPS POC received from police about a need for early engagement. We were told that the clinics had received very positive feedback from the police and had led to a notable improvement in the quality of witness statements from financial investigators.

Good practice

The Crown Prosecution Service Proceeds of Crime Division's Pre-Enforcement South team holds daily clinics, with a duty lawyer available, for police forces to seek advice on restraint applications. This has improved operational relationships and built a better standard of police formal statements in support of applications.

7.8. It was unclear to our inspectors why the CPS POC's Pre-Enforcement North team does not also operate restraint clinics. We accept that there are more geographical challenges to running the clinics across multiple police forces. Still, we suggest the division considers whether these could be rolled out.

7.9. Before the Covid-19 pandemic, CPS POC ran an engagement project with CPS Areas. This was to help Areas understand which confiscation cases they ought to be referring to CPS POC. CPS POC is currently taking all confiscation cases, so this project is not presently required. As we are recommending that the CPS formally considers whether CPS POC retains all confiscation cases, we do not consider there to be a need to restart the engagement on confiscation specifically, although engagement with Areas on their cases should still take place.

SFO Proceeds of Crime and International Assistance Division

7.10. The Serious Fraud Office Proceeds of Crime and International Assistance Division (SFO POC) has as wide a range of stakeholders as CPS POC. These include the rest of the SFO, the National Crime Agency, HM Courts and Tribunals Service, HM Revenue and Customs, other government departments and varied international partners.

7.11. SFO POC attends 25 separate external meetings on a regular basis, despite being such a small organisation. This is because of the division's specialisms and because such meetings require the attendance of someone with the appropriate level of skill and knowledge. Many of these meetings are attended by staff across a variety of levels within the division, which is a useful development opportunity for them.

Good practice

The Serious Fraud Office Proceeds of Crime and International Assistance Division's managers encourage staff to attend a number of stakeholder meetings to aid career progression and help them build relationships.

7.12. We found examples of stakeholder engagement having a positive impact on case progression. For example, in one case, the SFO engaged collaboratively with the Financial Conduct Authority and was able thereby to secure extensive restraint orders within just one month of accepting the investigation.

7.13. The SFO has specific statutory powers. It is clear that its engagement with the Home Office on the Criminal Finance Bill was critical in ensuring that appropriate new SFO powers were introduced.

7.14. SFO lawyers have provided significant help to the Law Commission, particularly in relation to issues surrounding cryptocurrency. We found that the Law Commission provided very positive feedback on this assistance to the senior leadership of the SFO.

Comparisons

7.15. There are strengths in both organisations in this aspect of work. Both CPS POC and SFO POC have extensive and effective relationships with external stakeholders both at a strategic and operational level, and we have seen examples of how this has benefited the restraint and confiscation casework. The SFO also develops staff by engaging people at various levels in the division in stakeholder meetings, and we recommend that CPS POC adopts this practice.

Issue to address
The Crown Prosecution Service Proceeds of Crime Division should make sure that staff across the division can develop their skills by attending a range of stakeholder engagement meetings.

7.16. The restraint clinics that CPS POC runs are an example of good practice, but not one that is transferable to the SFO, because the Roskill model means that its lawyers are already working alongside the financial investigators.

Annex A

Inspection framework

Inspection framework

Inspection question

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

Supporting questions

- Are there differences in approach taken by CPS POC and SFO POC with restraint and confiscation casework and are there any areas of good practice within one organisation that may be transferable to the other?
 - Do CPS POC and SFO POC 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 POC?
 - Are areas of good practice in SFO POC capable of being transferred to CPS POC?
- 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/Director's 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?

An inspection of the operation of CPS and SFO Proceeds of Crime Divisions

- Are available digital systems used effectively to aid restraint and confiscation case allocation?
- Do the handbook/Standard Operating Practice (SOP) effectively support timely allocation of restraint and confiscation cases?
- 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?
- 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?

An inspection of the operation of CPS and SFO Proceeds of Crime Divisions

- Is there continuity of case ownership throughout the life of a restraint and confiscation case and are there 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?
- Do staff have access to the necessary training to deliver restraint and confiscation casework to a high standard and is there 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?
- 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?

Annex B

File examination question set

File examination question set

Question	Answer options
All cases – registration info	
1 Type of case	Restraint Confiscation
2 Serious Fraud Office (SFO) or Crown Prosecution Service (CPS) case	SFO CPS
3 Unit	CPS Pre-Enforcement South CPS Pre-Enforcement North CPS other SFO POC
4 File reference	[freetext]
5 Name of defendant or corporate body	[freetext]
6 Is any defendant a youth?	Yes No Not applicable (NA)
7 Case status	Live Finalised
Restraint application	
8 Was the case correctly referred to CPS POC/SFO POC?	Yes No NA
9 Was the case referred within timescales that allowed for appropriate action?	Yes No NA
10 Was an adequate Section 41 statement prepared?	Yes No NA
11 Was an action plan/strategy devised to build the case, with realistic timescales set for completion and review?	Standard fully met Partially met Not met NA
12 Was the restraint order sought as soon as reasonably practicable in the circumstances of the case?	Yes No NA

Question	Answer options
13 Was the restraint order properly served and a certificate of service lodged with the court?	Yes, served on defendant and all relevant bodies and lodged No, served on defendant and some or all relevant bodies but not lodged with court No, served on defendant and lodged but not served on some or all of the other relevant bodies No, lodged and served on some or all relevant bodies but not served on defendant No, lodged but not served on defendant or any of the relevant bodies No, neither served on all parties nor lodged NA
14 Was there effective and pro-active enforcement of breaches of the restraint order (i.e. contempt proceedings) if applicable?	Yes No NA
15 Were all directions or orders met in a timely manner?	Yes, met in a timely manner No, met but not timely No, timely but not met No, neither met nor timely NA
16 Where a restraint order was varied, was the decision to vary properly recorded and put into effect?	Fully met Partially met Not met NA
17 Where a restraint order was discharged, was the decision to discharge properly recorded and put into effect?	Fully met Partially met Not met NA
Restraint – recording decisions	
18 Were there one or more documents where relevant restraint case information, decisions and reviews could be found?	Yes, in one document Yes, across more than one document No NA

Question	Answer options
19 Were the document(s) referred to in Q18 completed in full, with all the information relevant to the case?	Fully met Partially met Not met NA
20 Were the document(s) referred to in Q18 clear and concise, and did it/they anticipate and seek to resolve likely issues?	Fully met Partially met Not met NA
21 Did the document(s) referred to in Q18 address the relevant legislation and procedural requirements?	Fully met Partially met Not met NA
22 Did the document(s) referred to in Q18 contribute to the effective conduct of the case?	Fully met Partially met Not met NA
23 Did the document(s) referred to in Q18 consider ongoing merits of maintaining a restraint order in light of defence/third party information/challenge?	Fully met Partially met Not met NA
24 Were the document(s) referred to in Q18 sufficient to enable an effective handover or allow others to get to grips with the case quickly if need be?	Yes No NA
Restraint – briefing advocates	
25 Were correct instructions to the advocate included in the brief, addressing all likely issues and post-hearing action?	Yes, in a brief Yes, in another document No, brief was inadequate No, no brief on file NA
26 Did the brief contain all relevant contact details, legislation, and caselaw?	Fully met Partially met Not met NA
27 Was the brief sent to the advocate in good time?	Yes No NA
Restraint – communications	
28 Was there effective communication with those involved in the restraint case?	Yes No NA

Question	Answer options
29 If Q28 is no, which agency/party was the main failing in communications in relation to?	Financial investigation officer (FIO) or investigation team SFO case team or CPS Area SFO or CPS senior management Counsel Court Defence Other NA
30 Was the communication timely, professional, in the right format, and did it address all that was required and progress case management?	Yes No NA
31 If Q30 is no, what was the most significant failing?	Late Unprofessional Missed out relevant information Poorly drafted Other NA
Confiscation application	
32 Was the case correctly referred to CPS POC/SFO POC?	Yes No NA
33 Was the case referred within timescales that allowed for appropriate action?	Yes No NA
34 Was an action plan/strategy devised to build the case, with realistic timescales set for completion and review?	Fully met Partially met Not met NA
35 Was the confiscation order sought as soon as reasonably practicable in the circumstances of the case?	Yes No NA
36 Was an adequate Section 16 statement prepared?	Fully met Partially met Not met NA

Question	Answer options
37 Was a late Section 17 statement by the defence chased and the court notified if appropriate?	Yes No NA
38 Was an adequate supplementary Section 16 statement served after the Section 17 statement was received, if needed?	Fully met Partially met Not met NA
39 Was a proportionate and enforceable confiscation order obtained?	Yes No NA
40 Were all directions or orders met in a timely manner?	Yes, met in a timely manner No, met but not timely No, timely but not met No, neither met nor timely NA
Confiscation – recording decisions	
41 Were there one or more documents where relevant confiscation case information, decisions and reviews could be found?	Yes, in one document Yes, across more than one document No NA
42 Were the document(s) referred to in Q41 completed in full, with all the information relevant to the case?	Fully met Partially met Not met NA
43 Were the document(s) referred to in Q41 clear and concise, and did it/they anticipate and seek to resolve likely issues?	Fully met Partially met Not met NA
44 Did the document(s) referred to in Q41 address the relevant legislation and procedural requirements?	Fully met Partially met Not met NA
45 Did the document(s) referred to in Q41 contribute to the effective conduct of the case?	Fully met Partially met Not met NA
46 Was the file reviewed and updated regularly?	Yes No NA

Question	Answer options
47 Were the document(s) referred to in Q41 sufficient to enable an effective handover or allow others to get to grips with the case quickly if need be?	Yes No NA
Confiscation – briefing advocates	
48 Were correct instructions to the advocate included in the brief, addressing all likely issues and post-hearing action?	Yes, in a brief Yes, in another document No, brief was inadequate No, no brief on file NA
49 Did the brief contain all relevant contact details, legislation, and case-law?	Fully met Partially met Not met NA
50 Was the brief sent to the advocate in good time?	Yes No NA
Confiscation – communications	
51 Was there effective communication with those involved in the confiscation case?	Yes No NA
52 If Q51 is no, which agency/party was the main failing in communications in relation to?	Financial investigation officer or investigation team SFO case team or CPS Area SFO or CPS senior management Counsel Court Defence Other NA
53 Was the communication timely, professional, in the right format, and did it address all that was required and progress case management?	Yes No NA

Question	Answer options
54 If Q53 is no, what was the most significant failing?	Late Unprofessional Missed out relevant information Poorly drafted Other NA

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