

Title: Giving legal effect to the administrative merger of the Crown Prosecution Service and the Revenue and Customs Prosecutions Office Lead department or agency: MoJ Other departments or agencies: AGO, CPS, HMRC	Impact Assessment (IA)
	IA No: MoJ136
	Date: 06/02/2012
	Stage: Consultation
	Source intervention: Domestic
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The Crown Prosecution Service (CPS) and the Revenue and Customs Prosecutions Office (RCPO) were merged administratively on 1 January 2010. The two organisations, however, remain legally distinct. The Director of Public Prosecutions (DPP) has, since 1 January 2010, also been the Director Revenue and Customs Prosecutions (DRCP). He has in effect been running two offices under one umbrella. Government intervention to give legal effect to this administrative merger is required to strengthen the identity of the merged organisation, clarify the role of the CPS, provide a simpler legal landscape and encourage greater flexibility to further improve efficiency and effectiveness.

What are the policy objectives and the intended effects?

The administrative merger was implemented over two years ago and has proved to be effective. The policy objective now is to put that merger on a statutory basis. This is in line with the coalition Government's overarching reform policy for Arm's Length Bodies. It will also ensure greater clarity and transparency in relation to the role of the CPS.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The policy options which have been considered in this Impact Assessment are:

- Option 0: Do nothing.
- Option 1: Give legal effect to the administrative merger of the CPS and RCPO. This can be achieved with an order under sections 2 and 6 of the Public Bodies Act 2011.

The preferred option is option 1 (give legal effect to the administrative merger). The effects of this will be clarify the role of the CPS and provide for a simpler legal landscape. The financial costs related to this proposal are nugatory; relating only to the costs associated with introducing an order under the Public Bodies Act 2011.

When will the policy be reviewed to establish the actual cost and benefits and the achievements of the policy objectives?	It will not be reviewed
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	No

Ministerial Sign-off for consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:..... Date:.....

Summary: Analysis and Evidence

Policy Option 1

Description:

Giving legal effect to the administrative merger of the CPS and RCPO

Price Base Year 2012/13	PV Base Year 2012/13	Time Period Years 10 yrs	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Nil	Nil	Nil
High	Nil	Nil	Nil
Best Estimate	Nil	Nil	Nil

Description and scale of key monetised costs by 'main affected groups'

An administrative merger has already taken place. No further costs are anticipated in giving legal effect to this administrative merger. Costs in bringing forward the order are considered nugatory. The costs to the justice system of extending the offence of unlawful disclosure of HMRC information are negligible (see the Justice Impact Test for further information).

Other key non-monetised costs by 'main affected groups'

N/A. See above.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Nil	Nil	Nil
High	Nil	Nil	Nil
Best Estimate	Nil	Nil	Nil

Description and scale of key monetised benefits by 'main affected groups'

An administrative merger has already taken place. It is not possible at this stage to identify further financial benefits. However the proposal will allow greater flexibility in the allocation of resources.

Other key non-monetised benefits by 'main affected groups'

It would strengthen the identity of the merged organisation, clarify the role of the CPS, and provide for a simpler legal landscape now and in the future.

Key assumptions/sensitivities/risks

N/A.

Impact on admin burden (£m):			Impact on policy costs (£m):			In scope
Costs: Nil	Benefit: Nil	Net: Nil	Costs: Nil	Benefits: Nil	Net: Nil	No

Enforcement, Implementation and Wider Impact

What is the geographic coverage of the policy/option?		England and Wales			
From what date will the policy be implemented?		Autumn 2012			
Which organisation(s) will enforce the policy?		N/A			
What is the total annual cost (£m) of enforcement for these organisations?		Nil			
Does enforcement comply with Hampton principles?		N/A			
Does implementation go beyond minimum EU requirements?		N/A			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: Nil		Non-traded: Nil	
Does the proposal have an impact on competition?		No			
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A	N/A

Specific Impact Tests: Checklist

	Impact	Page ref within IA
Statutory equality duties¹?	Yes	6
Economic impacts		
Competition?	No	
Small firms?	No	
Environmental impacts		
Carbon emissions?	No	
Wider environmental issues?	No	
Social impacts		
Health and well-being?	No	
Human rights?	No	
Justice? http://www.justice.gov.uk/guidance/justice-impact-test.htm	Yes	6
Rural proofing?	No	
Sustainability?	No	

¹ Public bodies are required to consider the impact of their policies and measures on age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation under the Equalities Act 2011.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Implementation).

No.	Legislation or publication
1	Public Bodies Act 2011
2	Prosecution of Offences Act 1985
3	Commissioners for Customs and Revenue Act 2005

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains a saving emissions table that you will need to fill in if your measure has an impact on Carbon emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

1. Introduction

The CPS was established by Part 1 of the Prosecution of Offences Act 1985 as an independent prosecution service for police forces in England and Wales, headed by the Director of Public Prosecutions (DPP).

The Commissioners for Revenue and Customs Act 2005 created the RCPO, headed by a Director, to provide a separate independent prosecution function for HM Revenue and Customs investigations and, subsequently for Serious Organised Crime Agency (SOCA) investigations, in England and Wales. The UK Border Agency (UKBA) took over investigation of all non-fiscal smuggling offences in December 2009 and the ability to prosecute such cases in England and Wales was assigned to both the DPP and the DRCP at the same time.

The merger of the CPS and RCPO was announced on 2 April 2009 by the then Attorney General, Baroness Scotland. The merger was implemented on 1 January 2010, when the present DPP was also appointed DRCP. There is now a single management structure and all members of RCPO staff have become CPS employees. Cases investigated by HMRC are now prosecuted by a specialist casework division within CPS.

The administrative merger took place against a background of criminals operating increasingly across both functional and national boundaries, with a consequent need for prosecutors to be able to operate more collaboratively and more internationally. The aim was to provide an enhanced international capability, a specialist tax prosecution service and a joint prosecution approach to cross-border crime, together with efficiencies achieved by minimising duplication and driving economies of scale.

The Public Bodies Act 2011 provides a legislative framework for the reform of public bodies, giving government ministers powers to enact changes by order to abolish, merge or transfer the functions of the public bodies listed in the appropriate schedules to the Act. The merger of the CPS and RCPO is listed in schedule 2 to the Act.

2. Cost and Benefits

Base Case / Option 0

This administrative merger of the CPS and RCPO took place over two years ago. The new arrangements have been working effectively realising considerable savings. It would be possible for the DPP to continue to run two bodies under one umbrella.

Option 1

Give legal effect to the administrative merger of the CPS and RCPO. This can be achieved with an order under section 2 of the Public Bodies Act 2011.

Costs and benefits of option 1

The financial costs related to this proposal are nugatory; relating only to the costs associated with introducing an order under the Public Bodies Act 2011. However, the legal landscape is complicated; with two separate, parallel, legal regimes which govern CPS and RCPO activity. Any new legislation will need to take account of this, further complicating the landscape, unless the merger is given legal effect.

Financial savings are already being realised following the administrative merger of the two organisations. It is possible that further savings may be realised following the implementation of the order, but it is not possible to quantify these. The decision to give legal effect to the administrative merger is about ensuring clarity and transparency about the role of the CPS. It is also about ensuring that the DPP has

full flexibility in the way that he runs the organisation to ensuring maximum efficiency in the allocation of the resources he has available to him.

The financial costs in extending the offence of unlawful disclosure of HM Customs and Revenue information to all CPS staff (it currently applies only to RCPO staff) are negligible (see Justice Impact Test below).

3. Specific Impact Tests

Justice Impact Test

The order will provide that the existing offence of unlawful disclosure which applies to RCPO staff (under section 40(3) of the Commissioners for Revenue and Customs Act 2005) covers HMRC information received by any CPS staff via the new gateway for the transfer of information. The maximum penalty for this offence is two year's imprisonment.

This offence is currently applicable to about 600 staff. Once the order is in force, the offence will apply to just under 7,800 staff. However, no charges under section 40(3) of the 2005 Act have been brought to date. Extending the offence to all CPS staff is expected to have a negligible impact on the justice sector.

Equality Impact Assessment

An Equality Impact Assessment initial screening has been completed and is attached.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>We do not propose to have a formal review of the order giving legal effect to the administrative merger of the CPS and RCPO</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>N/A</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>N/A</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>N/A</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>N/A</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>N/A</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p> <p>The administrative merger of the CPS and the RCPO took place over two years ago. A review process was established as part of the plans for the administrative merger. In addition Her Majesty's Crown Prosecution Service Inspectorate conducts independent inspection and assessment of prosecution services and is well placed to ensure that CPS continues to deliver an effective service.</p>