

Equality Impact Assessment Initial Screening - Relevance to Equality Duties

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

Consultation on the proposal to give legal effect to the administrative merger of the Crown Prosecution Service (CPS) and the Revenue and Customs Prosecutions Office (RCPO).

The merger of the CPS and RCPO has already been achieved administratively. This took place with effect from 1 January 2010. The two organisations, however, still remain legally distinct. It is desirable for them to be one organisation legally as well as operationally. The policy objective now is to put that merger on a statutory basis. An order under the Public Bodies Act 2011 is intended to achieve this objective.

An equality impact assessment initial screening was undertaken prior to the administrative merger of the CPS and RCPO. This considered in detail the possibility of equality impacts of the transfer of staff from RCPO to CPS. It did not find any negative impacts on any groups of people with protected characteristics.

The aim of this equality impact assessment initial screening is to explore whether giving legal effect to the administrative merger gives rise to any impacts on groups of people with protected characteristics. It does not revisit the issues addressed in the equality impact assessment of the administrative merger.

The CPS and RCPO are currently governed by two separate legal regimes. In the main the CPS is governed by the Prosecution of Offences Act 1985 and the RCPO by the Commissioners for Revenue and Customs Act 2005 (specifically sections 34 to 42 of, and Schedule 3 to, that Act). The main elements of the proposed order are set out below:

- transfer the current functions of the Director Revenue and Customs Prosecutions (RCPO) to the Director of Public Prosecutions (DPP);
- abolish the DRCP and RCPO;
- transfer to the DPP some powers of the DRCP in other legislation where those powers are not currently available to the DPP;
- repeal or delete unnecessary references to the DRCP in other legislation;
- establish a gateway for the transfer of information held by HM Revenue and Customs (HMRC) to the CPS;
- extend the existing offence of unlawful disclosure so that it covers HMRC information received by all CPS staff via the new gateway;

- clarify that the purposes for which HMRC may disclose information include enabling the DPP to “take over and have conduct of” HMRC prosecutions;
- make provision so that designated non-legal staff can appear in cash forfeiture proceedings in relation to HMRC investigations; and
- provide transitional arrangements for proceedings commenced by DRCP but not yet completed at the date the legal merger takes effect.

The groups considered as part of this process are:

1. Staff of the CPS (who were originally RCPO staff and became CPS staff on 1 January 2010);
2. Staff of the CPS (who are not former RCPO staff);
3. Anyone who would previously have come into contact with the RCPO but would now come into contact with the CPS; and
4. Anyone whose information would be shared through the new gateway either because they are victims of an offence, are subject to investigation or are being prosecuted.

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Louisa Carrad, Justice Policy Group (Judicial Policy and Criminal Trials)

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
To give legal effect to the administrative merger of the CPS and RCPO.	The intended outcomes are to: <ul style="list-style-type: none"> • 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

4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).

The CPS have data on the protected characteristics of its staff. Data as at 31 December 2011 indicates

that:

- 67% of CPS staff are female and 33% are male. The assumption we make for the purposes of this analysis is therefore that CPS staff are more likely to be female when compared with the general population of England and Wales (which is 50% women in the 16 to 69 age range according to an Office for National Statistics (ONS) population estimate).
- 73% of CPS staff are white and 15% are from black and minority ethnic groups (ethnicity is unknown for 12% of staff) which appears to be quite close to the composition of the general population of England and Wales (about 10% of the population of England and Wales aged 16 or over is estimated to be from black and minority ethnic groups by ONS, with 1% of the population being of mixed race).
- The age profile for CPS staff is as follows:

Age range	CPS staff in age range as percentage of total staff	Estimated general population of England and Wales in age range as percentage of total in age range 16-69 (ONS data)
16-24	1.4%	17.3%
25-29	7.6%	9.8%
30-34	12.8%	9.0%
35-39	14%	9.8%
40-44	18.5%	10.7%
45-49	19.8%	10.5%
50-54	13.9%	9.1%
55-59	8.1%	8.2%
60-64	3.3%	8.7%
65-69	0.7%	6.8%

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so what are the gaps in the information and how and when do you plan to collect additional information?

We do not currently have information on the customers likely to be affected. However, the department will consider any comments made during the consultation process and review this initial screening in the light of those comments.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of which benefits from the positive impacts and the evidence and analysis used to identify them.

There is no evidence the proposed changes would have a positive impact on any groups with protected

characteristics. The department will consider any comments made during the consultation process and review the initial screening in light of those comments.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

There is no evidence that additional work could be done to promote equality of opportunity. However, the department will consider any comments made during the consultation process and review the initial screening in light of those comments.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

The order would establish a gateway for the transfer of information held by HMRC to the CPS; this would replicate an existing gateway which allows disclosure of HMRC information to the RCPO. As a safeguard to counterbalance the extension of the gateway, the order would extend the existing offence of unlawful disclosure, which is currently applicable to RCPO staff only, so that it covers HMRC information received by any CPS staff via the new gateway. The order would make provision so that CPS staff would be prohibited from disclosing any information given to it by HMRC where that information relates to a person whose identity is specified in the disclosure or can be deduced from it and that anyone who does disclose such information would be guilty of a criminal offence. As is currently the case, there would be exceptions to the bar on disclosure of such material. The order would also provide for statutory defences. The maximum penalty is two year's imprisonment.

The offence is currently applicable to about 600 staff. No charges under the existing offence have been brought to date.

We have considered whether the proposal to extend this offence to all CPS staff (increasing the number of people subject to this provision from around 600 staff to just under 7,800 people) would have an adverse impact on any group with protected characteristics. We acknowledge that the protected characteristics of CPS staff are not always in line with the general population of England and Wales (see response to question 4). For example, the CPS employ a higher than average number of women. Any impact on them is not for a reason related to their protected characteristic, and the policy of extending the offence of unlawful disclosure of personal information to all staff is considered to be a proportionate means of achieving the legitimate aim of protection of personal data. This provision would apply to those staff with protected characteristics as much as those without.

We have considered whether the abolition of the RCPO would have an impact on any group with protected characteristics from within the people who would have previously come into contact with the RCPO. This change would apply to people with protected characteristics as much as those without. However, we do not have information on the protected characteristics of RCPO users so it is difficult to assess the equality impacts.

We have also considered whether the proposals relating to the gateway would have an adverse impact on any group with protected characteristics from within the people whose information would be

transferred via the gateway. There is a slightly increased risk that this information could be disclosed simply because it would potentially be available to a wider range of people (just under 7,800 CPS staff compared to some 600 RCPO staff). The gateway applies to all information, we are satisfied that this provision would apply to people with protected characteristics as much as those without. However, we do not have information on the protected characteristics on the people whose information would be transferred by the gateway so are unable to identify potential equality impacts.

The department will consider any comments made during the consultation process and review the initial screening in light of those comments.

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

See the responses to questions 7 and 8.

However, the department will consider any comments made during the consultation process and review the initial screening in light of those comments.

10. Is a full Equality Impact Assessment Required? Yes No

If you answered 'No', please explain below why not?

A full Equality Impact Assessment is not necessary at this stage. The CPS will undertake a further review of equality impacts in due course including consideration of any responses to the consultation raising equality issues. That review will consider both the administrative merger and any other issues which might arise following the implementation of an order under the Public Bodies Act 2011.

11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

The CPS will undertake a further review of equality impacts. That review will consider both the administrative merger and any other issues which might arise following the implementation of an order under the Public Bodies Act 2011.

12. Name of Senior Manager and date approved

Name (must be grade 5 or above): **SOPHIE LANGDALE**

(The relevant senior analyst has advised that the analysis of equality impacts provided is fair and reasonable given the limited data available.)

Department: **Judicial Policy and Criminal Trials, Justice Police Group**

Date **6 February 2012**

Note: The EIA should be sent by email to analyticalservices@justice.gsi.gov.uk of the Equality Analytical Programme for publication.

