

Title: Giving legal effect to the administrative merger of the Crown Prosecution Service and the Revenue and Customs Prosecutions Office IA No: MoJ228 Lead department or agency: Ministry of Justice Other departments or agencies: AGO, CPS, HMRC	Impact Assessment (IA)		
	Date: 5 December 2013		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Richard Chown, MoJ, 020 3334 6077			
Summary: Intervention and Options			RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£m	£m	£m	Yes/No	In/Out/zero net cost

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. Since 1 January 2010, the Director of Public Prosecutions (DPP) has also been Director of Revenue and Customs Prosecutions (DRCP) and 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 nearly four 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, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Option 0: Do nothing.
 2. 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.

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

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: /N/A					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ **Damian Green** _____ Date: 5/12/2013

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	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	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate					
Description and scale of key monetised costs by 'main affected groups'					
None.					
Other key non-monetised costs by 'main affected groups'					
An administrative merger has already taken place, and no further costs are expected in giving legal effect to this administrative merger, other than the negligible costs of making the order.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate					
Description and scale of key monetised benefits by 'main affected groups'					
None.					
Other key non-monetised benefits by 'main affected groups'					
An administrative merger has already taken place. It is not expected that the legal merger will yield further financial benefits, although it will allow greater flexibility in the allocation of resources. It would also 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					Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

Evidence Base (for summary sheets)

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 then DPP was also appointed DRCP. There is now a single management structure. 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 two offices is provided for in schedule 2 to the Act.

Cost and Benefits

Base Case / Option 0

This administrative merger of the CPS and RCPO took place over three 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 likely to be negligible, 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. 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 running the organisation to ensure maximum efficiency in the allocation of the resources available. The Minister has considered the tests in section 8 of the Public Bodies Act 2011 and is satisfied they are met.

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. The maximum penalty for this offence is two years' imprisonment.

This offence is currently applicable to about 600 staff. Once the order is in force, the offence will apply to just under 6,500 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.

Equalities Statement

Under section 149 of the Equality Act 2010, the Department has a duty to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited under the Act; to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between people who share a protected characteristic and those who do not. The 'protected characteristics' under the Equality Act 2010 are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage and civil partnership.

An Equality Impact Assessment was undertaken in 2009 on the administrative merger and it found that there were unlikely to be any adverse equality impacts for staff. A further initial Equality Impact Assessment screening was provided alongside the consultation paper on the legal merger, which included a specific equalities question. None of the responses identified any negative equalities impacts.

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.

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];

We do not propose to have a formal review of the order giving legal effect to the administrative merger of the CPS and RCPO.

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?]

N/A

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]

N/A

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

N/A

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]

N/A

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

N/A

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

The administrative merger of the CPS and the RCPO that took place nearly four years ago was subsequently reviewed, and the merger is estimated to have saved over £6 million annually by 2012/13, rising to almost £10 million by 2014/15.

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.