



Attorney
General's
Office



HMCPSI

HM Crown Prosecution
Service Inspectorate

Protocol between the Law Officers and Her Majesty's Chief Inspector of the Crown Prosecution Service

29 January 2020

Overview

1. This protocol is made between the Attorney General and Solicitor General (the Law Officers) and the Chief Inspector of HM Crown Prosecution Service Inspectorate (HMCPISI).
2. This protocol sets out the main points of the relationship which the Law Officers and the Chief Inspector expect to conduct, in the discharge of their respective functions in relation to HMCPISI. This relationship is an essential component of the governance and therefore of the standing and success of the HMCPISI. It is entered into in a spirit of mutual understanding, respect and support for the functions engaged on each part, and of commitment to the organisation, its work, and the contribution it is expected to make to justice, the rule of law, and economic wellbeing in the United Kingdom.
3. In particular this protocol sets out the understanding and expectations of the Law Officers and the Chief Inspector about:
 - their respective roles and responsibilities, and the relationship between them;
 - the governance arrangements supporting that relationship; and
 - the principles behind day-to-day ways of working they expect to see between officials in HMCPISI and the Attorney General's Office (AGO) in support of their relationship and functions.
4. This protocol is not intended to be an exhaustive statement of the relevant legal functions of the Law Officers and the Chief Inspector. Its operation will be regularly reviewed by the Law Officers and the Chief Inspector at intervals of not more than three years. It will also be reviewed following the appointment of any new Chief Inspector or Attorney General.

HM Crown Prosecution Service Inspectorate

5. The office of Chief Inspector was created and given its functions and powers by the Crown Prosecution Service Inspectorate Act 2000 (the Act)¹. These were extended by s. 30 of the Police and Justice Act 2006², the Public Bodies (Abolition of Her Majesty's Inspectorate of Court Administration and the Public Guardian Board) Order 2012³, and s. 149 of the Anti-social Behaviour, Crime and Policing Act 2014⁴. The Chief Inspector is the statutory holder of this office and is supported by an inspectorate. HMCPISI is not a legal or statutory entity. As such, it is treated as one of the 'Law Officers' Departments'⁵, and as a public arm's length body sponsored by the AGO.

¹ <http://www.legislation.gov.uk/ukpga/2000/10/contents>

² <http://www.legislation.gov.uk/ukpga/2006/48/section/30>

³ <https://www.legislation.gov.uk/uksi/2012/2401/contents/made>

⁴ <http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

⁵ The Crown Prosecution Service; the Serious Fraud Office; and the Government Legal Department.

6. The role of HMCPSI is to inspect the operation of the Crown Prosecution Service (CPS) and the Serious Fraud Office (SFO); and, by invitation, of other public prosecutors. The Chief Inspector also reports to the Law Officers on any matter connected with the operation of the CPS and SFO which they refer to him.

Independence

7. The independence of HMCPSI in the exercise of its inspection functions is of fundamental importance.
8. The Law Officers support the operational independence of the Chief Inspector in exercising inspection functions in accordance with this protocol.

Appointments

9. The Chief Inspector is appointed by the Attorney General as provided by s. 1(1) of the Act and the Public Appointments Order in Council. The Governance Code on Public Appointments sets out the procedures for recruiting to this role and the Commissioner for Public Appointments regulates this process. This is a Public Appointment for a fixed term, on terms and conditions agreed by the Attorney General. The Law Officers cannot terminate the appointment of a Chief Inspector otherwise than in accordance with those terms and conditions. The Chief Inspector is not subject to pay-related performance appraisals. The Chief Inspector is not a Civil Servant.
10. The AGO manages the recruitment of the Chief Inspector on behalf of the Attorney General. The recruitment falls within the remit of the Parliamentary Justice Committee for scrutiny before appointment. HMCPSI funds all costs in relation to the recruitment of the Chief Inspector.
11. The Chief Inspector is responsible for the appointment of HMCPSI staff. The Chief Inspector may appoint to the inspectorate in accordance with s. 1(2) of the Act.
12. Currently, there are no Non-Executive Directors (NEDs) appointed. The Chief Inspector may appoint NEDs. If the Chief Inspector is minded to make such an appointment, he will first consult the Law Officers.

Roles and Responsibilities

13. The Chief Inspector is a statutory office holder operating within the provisions of the Act, as amended. The Chief Inspector is subject to the ethical standards of the seven principles of public life, known as the Nolan Principles⁶. HMCPSI staff who are Civil Servants are subject to the Civil Service Code. Other HMCPSI staff are subject to the Nolan Principles.

⁶ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

14. The Law Officers, supported by the AGO, exercise their sponsorship functions as set out in this Protocol and in accordance with government guidance⁷. The Director-General of the AGO is the Senior AGO Sponsor for HMCPSI.
15. The Law Officers are accountable to Parliament for the exercise of their sponsorship functions. This includes answering Parliamentary Questions, correspondence from Members of Parliament and questions from Select Committees.
16. Upon receipt of a Parliamentary Question relating to HMCPSI, the AGO will determine which body is best placed to draft the reply. The body responsible for drafting the reply will seek input from the other body as appropriate. All answers to PQs will be returned under the name of the Law Officers.
17. Members of Parliament should be encouraged to write directly to HMCPSI about specific activities and the administration of the inspectorate. In this event, HMCPSI will respond directly, sighting the AGO of the reply as appropriate. When the Law Officers receive correspondence from Members of Parliament relating to HMCPSI, the AGO will determine which body is best placed to draft the reply. The body responsible for drafting the reply will seek input from the other body as appropriate. All correspondence from Members of Parliament directed to the Law Officers will be responded to under the name of the relevant Law Officer.
18. Where a Parliamentary Select Committee or other Parliamentary Group seeks evidence directly from the Chief Inspector, the Chief Inspector will notify the AGO of the request.
19. The Chief Inspector is an Accounting Officer for HMCPSI accountable to the Treasury Solicitor as Principal Accounting Officer, and also directly answerable to Parliament through the Public Accounts Committee for the expenditure of public funds.

Inspections

20. The purpose of HMCPSI inspections is to provide independently assessed evidence about the operation, efficiency and effectiveness of the CPS and SFO (and other public prosecution organisations by invitation), in order to:
 - assist the Law Officers in the exercise of their superintendence and sponsorship functions in relation to the public prosecutors;
 - assist the Directors of the CPS and SFO in the exercise of their functions; and
 - provide assurance to Parliament and the public about the operation of public prosecution organisations.

⁷ [Insert reference to NMD guidance here when published]

21. Other than as provided by this protocol, the Chief Inspector is responsible for deciding which inspections to undertake and how to undertake them, in accordance with paragraph 2 of the Schedule to the Act.
22. The Law Officers may request the Chief Inspector to carry out an inspection of any of the operational or corporate functions of the CPS or SFO. Before doing so, they consult the Chief Inspector.
23. The relevant Ministerial Strategic Board (MSB) maintains strategic oversight of the development of HMCPSP's inspection programme and of responses to HMCPSP reports. The Chief Inspector attends MSBs by invitation as required.
24. The Chief Inspector exercises independence as to the content of inspection reports. The Chief Inspector agrees with the AGO arrangements for ensuring that the Law Officers have appropriate advance sight of all inspection reports before publication.

Co-Operation and Joint Action Functions

25. In furtherance of the Chief Inspector's functions under the Schedule to the Act, HMCPSP is a member of the Criminal Justice Joint Inspectorate (CJJI). The CJJI is a non-statutory mechanism which exists to support all four criminal justice inspectorates (of Constabulary; Fire and Rescue Services; the Crown Prosecution Service; Prisons; and Probation) in the exercise of the co-operation functions introduced by ss. 28 - 33 of the Police and Justice Act 2006. The CJJI prepares, consults on and publishes an annual joint inspection programme. The Chair of the CJJI consults the Law Officers about the annual joint inspection programme. Where possible, the Chief Inspector provides an advance copy of all joint inspection reports relating to any prosecution function to the Law Officers before publication.

Governance and Accountability

26. The Chief Inspector submits an annual report to the Attorney General under s. 2(1)(c) of the Act. The Attorney General lays a copy before Parliament.
27. The Law Officers support and hold to account the Chief Inspector in the discharge of HMCPSP's functions in accordance with this protocol. The Chief Inspector:
 - keeps the AGO informed of all matters relevant to the exercise of the Law Officers' sponsorship functions, including providing information required for the discharge of this function; and
 - works with the AGO on the preparation for spending reviews.
28. The Law Officers meet regularly, at least twice a year, with the Chief Inspector to discuss issues affecting CPS and SFO and the management of the inspectorate.

29. The Deputy Director of Policy & Sponsorship (AGO) will meet the Head of Inspections (HMCPPI) for regular sponsorship meetings to consider: issues, risks, and organisational performance.
30. The Director-General (AGO) will meet with the Chief Inspector to consider strategic and operational issues arising from the sponsorship meetings, and any other pertinent issues. These meetings will consider progress against HMCPPI business planning documents and corporate updates.

HMCPPI Governance

31. The Chief Inspector determines internal HMCPPI governance arrangements, and keeps the AGO informed of them. The current HMCPPI governance arrangements are that the Chief Inspector is supported by a senior management team.

Financial Accountability and Audit

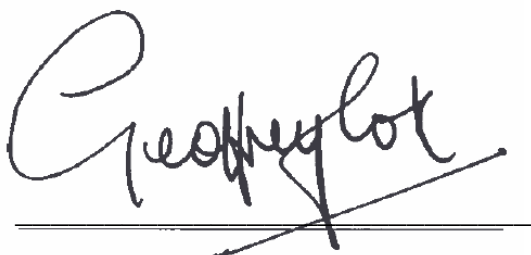
32. The AGO negotiates HMCPPI's budget with HM Treasury, in partnership with the Chief Inspector, as part of the Spending Review process.
33. HMCPPI's budget is subject to the oversight of the Government Legal Department (GLD) Audit and Risk Committee. GLD are responsible for producing the Annual Report and Accounts for HMCPPI, acting in accordance with Managing Public Money⁸ and other instructions and guidance issues from time to time by HM Treasury or the Cabinet Office relating to financial management.
34. As Accounting Officer, the Chief Inspector is personally responsible to the Treasury Solicitor, as Principal Accounting Officer, for safeguarding public funds and for ensuring regularity, propriety, value for money and feasibility in the handling of those public funds. The Chief Inspector ensures that HMCPPI governance is at all times in accordance with Managing Public Money guidance. In particular, the Chief Inspector must:
 - enable the Treasury Solicitor to sign the accounts, and ensure proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by HM Treasury;
 - prepare and sign a governance statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts; and
 - act in accordance with this agreement, Managing Public Money and other instructions and guidance issued from time to time by HM Treasury or the Cabinet Office relating to financial management.
35. The Chief Inspector is accountable to the parliamentary Public Accounts Committee for the HMCPPI's stewardship of public funds.

⁸ <https://www.gov.uk/government/publications/managing-public-money>

External Communications

36. AGO and HMCPsi share a Press Office. They agree arrangements for ensuring that:

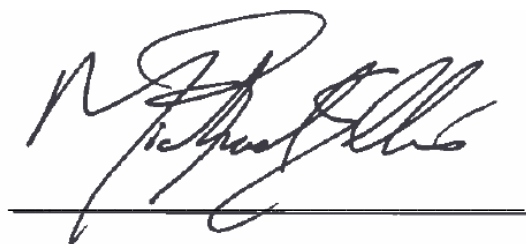
- each organisation determines its own media handling plans and public lines;
- HMCPsi is provided with independent media handling advice, which reflects its own specific interests;
- where appropriate HMCPsi issues a press notice for its reports; and
- the AGO and HMCPsi work together on media handling where appropriate.



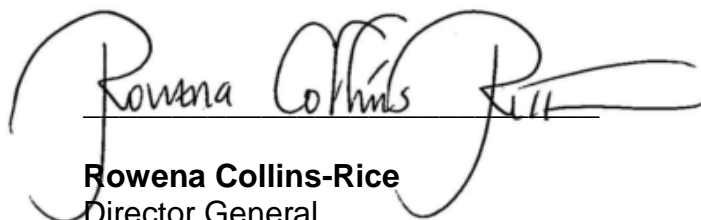
Rt Hon Geoffrey Cox QC MP
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