

## **An inspection of the quality of legal casework in the Health & Safety Executive (HSE)**

### **Scoping document**

#### **Introduction**

1. The Crown Prosecution Service Inspectorate Act 2000 sets out the statutory basis for His Majesty's Crown Prosecution Service Inspectorate and its core role in inspecting the Crown Prosecution Service and the Serious Fraud Office<sup>1</sup>. The Act also permits HM Chief Inspector to provide assistance to other public authorities<sup>2</sup> for the purpose of the exercise by that authority of its functions. Where a public authority seeks HM CPSI's assistance this is in an inspection by invitation.
2. HM CPSI has been invited by the Health and Safety Executive (HSE) under the assistance provisions to inspect the quality of their Legal Services Division's prosecution casework.

#### **Background**

3. Traditionally legal services within HSE were provided by the Legal Advisers' Office (LAO). The LAO was small with approximately 14 members of staff (lawyers, paralegals and legal support). The LAO provided operational advice and performed a limited prosecution function.
4. The LAO's role was limited as the majority of HSE prosecutions were instituted and prosecuted in court by HSE inspectors. Those cases not suitable for an Inspector to prosecute (for example, owing to complexity or a Crown Court trial) were handled by either LAO or, more usually, Solicitor Agents acting on behalf of HSE.

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<sup>1</sup> Following amendment in 2014 to expand the remit to the SFO.

<sup>2</sup> Section 6(1) Crown Prosecution Service Inspectorate Act 2000 as amended by the Police and Justice Act 2006

5. In 2022 the HSE set up a new legal services division (LSD). The first and fundamental change was to move the decision to prosecute from the inspector conducting the investigation to an in-house HSE prosecutor. This provides a degree of separation between the investigation and the prosecution stages. It also provides an independent assessment by the LSD lawyer of the material gathered by the inspector during the course of the investigation.
6. The new approach required not only different processes to be developed and implemented but a cultural change of some significance with the role of inspector being fundamentally altered. It also required a much larger legal team to be put in place.
7. Since the introduction and implementation of LSD, systems, practices, guidance and approaches have developed but are yet to fully embed. The purpose of the invitation to inspect at this stage is to identify what is working well, assessing legal quality against HSE's standards where they are in place, and to bring our experience of inspecting CPS and SFO to identify where improvement can be made.

### **The Inspection question**

8. Does the Health and Safety Executive prosecute the right cases effectively and efficiently delivering high-quality casework?

### **Objective**

9. The objective of the inspection is to assess the quality of legal casework against the standards and expectations of HSE Legal Services Division. Where those standards and expectations do not currently exist, we will identify gaps and make recommendations to improve.

### **Inspection Criteria**

10. We will assess the following:
  - a. the quality of HSE LSD's charging reviews, including those where no further action is determined.

- b. the timeliness of decision making and the timeliness and effectiveness of case preparation up to and including the first court hearing.
- c. whether LSD properly deals with victim and witness issues in its casework, and whether there is effective communication with victims in accordance with the Code of Practice for Victims of Crime.
- d. the effectiveness of LSD's internal and external relationships to help it deliver high quality casework.
- e. the effectiveness of training within LSD and its impact on the quality of decision making.
- f. the assurance of decision making within LSD.

## **Methodology**

11. The inspection will involve a combination of file examination, document review and on-site activity including interviews. Interviews will take place where possible in person.

### File examination

12. HSE LSD prosecutes over 300 cases per year, with the vast majority resulting in early guilty pleas. We will examine a minimum of 10% of all guilty or anticipated guilty pleas which will equate to approximately 30 cases. HM CPSI will select a file sample which is representative of the casework handled by HSE LSD.

### Document review

13. We will examine documents relating to the following:
- casework including the enforcement policy statement
  - relevant guidance, standards, expectations and processes regarding the decision to prosecute
  - the approach to assurance across legal casework
  - Victims Right to Review

- letters sent to victims to explain charging decisions or a decision to stop or substantially alter charges in cases
- minutes of recent partnership meetings both internal and external training records and materials.

#### Onsite interviews and Focus Groups

14. The file analysis and document review will be completed and evaluated before the on-site stage.

15. The on-site stage will involve interviews with key personnel including:

- the Director of Legal Services Division
- the Deputy Directors of Legal Services Division
- Director of Regulation
- Director of Investigations
- Director of Inspections
- Director of Major Hazards
- Director of Specialists
- focus groups of HSE inspectors, lawyers, senior lawyer managers, paralegal managers, paralegals
- stakeholder interviews with the HMCTS, defence solicitors, relevant third sector organisations including victim groups.

#### **Resources**

16. The HM CPSI lead inspector, supported by a team of three legal inspectors, will conduct the case file examination, analyse the documents and conduct interviews with HSE staff.

#### **Timetable**

17. The Inspection will be formally commissioned in April 2025 with the setting up phase completed in the same month. File examination will take place during May and June 2025, with on-site interviews and focus groups being conducted in person during June and July 2025. The report will be published in late 2025.

## **Equality Impact Assessment**

18. HMCPSI is governed by the Public Sector Equality Duty. We must ensure due regard to how our functions as an Inspectorate may affect those with different protected characteristics. Having considered our duty in this Inspection, and in light of our methodology, we have determined that we do not need to carry out an assessment at this time but will keep this under review.