

THE INSPECTORATE'S REPORT
on
THE BRENT, HARROW AND
UXBRIDGE BRANCH
of
CPS LONDON

Brent, Harrow & Uxbridge Branch



BRANCH OFFICE

◆ Harrow

COURTS COVERED

Magistrates' Courts

Brent

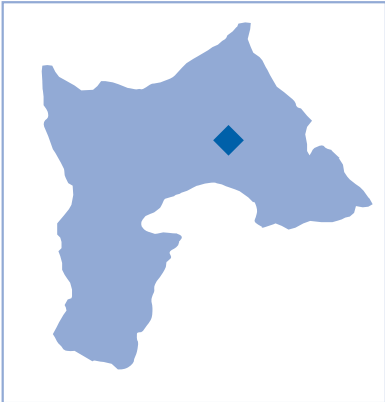
Harrow

Uxbridge

Crown Court

Harrow

Isleworth



REPORT ON THE INSPECTION OF THE CPS BRENT, HARROW AND UXBRIDGE BRANCH

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INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Brent, Harrow and Uxbridge Branch of CPS London.
- 1.2 A good casework decision is one which results in the right defendant being charged with the right offence in the right tier of court at the right time, thereby enabling the right decision to be taken by the court. The decision must also be taken at the right level within the Crown Prosecution Service (CPS) and be prosecuted by the right prosecutor.
- 1.3 The purpose and aims of the Inspectorate are set out on the inside back cover of this report. The inspection process focuses on the core business of the CPS: providing advice; reviewing cases; preparing cases; and presenting cases in court.
- 1.4 The Brent, Harrow and Uxbridge Branch is in CPS London and has its offices in Harrow. On 27 May 1998, it employed 55.7 staff (the Branch Crown Prosecutor (BCP) and 20.9 other prosecutors; and two senior caseworkers (formerly Higher Executive Officers) and 31.8 other caseworkers). It shares typing resources with another Branch in the same building.
- 1.5 The Branch comprises three teams. The Harrow/Wembley team (8 prosecutors and 12.8 caseworkers) is responsible for prosecutions in the magistrates' courts at Brent and Harrow. The Kilburn team (5.6 prosecutors and 9.6 caseworkers) is responsible for prosecutions in the magistrates' court at Brent. The Uxbridge team (7.3 prosecutors and 11.3 caseworkers) is responsible for prosecutions in the magistrates' court at Uxbridge. Each team is also responsible

for Crown Court cases originating from its magistrates' courts.

- 1.6 The team of three inspectors visited the Branch between 27 May and 12 June 1998. During this period, we observed nine CPS advocates in the magistrates' courts at Brent, Harrow and Uxbridge and in the youth court at Brent. We also observed CPS caseworkers and prosecuting counsel in the Crown Court sitting at Harrow.
- 1.7 The Branch was previously visited by a team of CPS inspectors in 1997, as part of an inspection of CPS London. A report on CPS London, containing 16 recommendations, was published in December 1997. We refer to the report as 'the CPS London report' at various points in the sections which follow. Although it contained a profile of each Branch, including Brent, Harrow and Uxbridge Branch, the conclusions and recommendations were addressed to CPS London as a whole.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 Although almost half the Branch's caseload consists of minor motoring offences, prosecutors and caseworkers handle a large number of serious and complex cases. They do so against a background of very tight timescales imposed by the magistrates' courts. In spite of this, the great majority of casework decisions are correct. The evidence in some contested cases and committals for trial needs to be analysed more carefully, however.
- 2.2 The Branch should also take steps to improve the timeliness of some aspects of case preparation, particularly in the Crown Court. The CPS London report made several recommendations

designed to assist the Area and its Branches to improve the quality of its decisions and case preparation. The Branch has incorporated many of these recommendations in its Branch Management Plan (BMP). Whilst it is too early to assess the impact of these aspects of the BMP, many staff were not fully aware of the recommendations, nor of the steps to be taken to implement them. Some recommendations are repeated, therefore, in this report.

2.3 To assist the Branch in improving its casework, we recommend that:

- i the BCP and Prosecution Team Leaders (PTLs) should reach formal agreements with the police about the submission of files for pre-charge advice, to ensure that only appropriate cases continue to be submitted (paragraph 4.3);
- ii the BCP should introduce an action-dating system to ensure that pre-charge advice is given to the police within 14 days (paragraph 4.9);
- iii the BCP should ensure that the Branch complies fully with its obligations under Joint Performance Management (JPM) regarding the timeliness and quality of files submitted by the police (paragraph 5.7);
- iv the BCP should take steps to ensure that cases that are contested or are awaiting committal to the Crown Court are further reviewed when the full file is received from the police, to assess whether prosecution remains appropriate (paragraph 5.17);
- v the BCP should ensure that prosecutors and administrative staff receive training on the recording of performance indicator (PI) information, to improve the quality of casework information (paragraph 5.19);

- vi the BCP should ensure that the whole Branch is able to learn from its cases, both successful and unsuccessful (paragraph 5.29);
- vii the BCP should ensure that custody time limit review dates are displayed on file jackets in all cases (paragraph 6.4);
- viii the BCP should ensure that details of initial remand hearings are transcribed onto the court hearings section of the file jacket when the case is registered, to assist in the checking of custody time limits (paragraph 6.6);
- ix the BCP should introduce a system of quality assurance to ensure that unused material is properly dealt with in all cases (paragraph 6.9);
- x prosecutors should consider carefully whether to seek agreement of evidence under section 9, Criminal Justice Act 1967 in all summary trials (paragraph 6.13);
- xi the BCP should ensure that the date of receipt of committal files from the police, and the date of service of the papers on the defence, are recorded on the file, to facilitate the accurate measurement of the Branch's own performance (paragraph 6.20);
- xii the BCP, in conjunction with Area management, should introduce quality assurance arrangements to ensure that:
 - prosecutors set out their views on the acceptability of pleas and any other relevant issues;
 - counsel's instructions contain properly prepared case summaries, instructions on the acceptability of pleas and any other relevant issues that need to be brought to counsel's attention; and

- prosecutors signify their approval of the committal papers by signing form CCCP1 (paragraph 6.23);
- xiii the BCP should introduce systems to ensure that instructions to counsel are delivered promptly, and that the timeliness of delivery is monitored (paragraph 6.25);
- xiv the BCP should introduce a system to ensure that indictments are lodged promptly, and to monitor compliance with the system (paragraph 6.28);
- xv the BCP should ensure that caseworkers diarise action dates for directions given at plea and directions hearings (PDHs) and other important milestones in case preparation, including the service of unused material, and that he should introduce a system for monitoring compliance with PDH directions (paragraph 6.33);
- xvi the BCP should introduce a system of quality assurance to ensure that:
- files are clearly and comprehensively endorsed; and
 - the correct adjournment and finalisation codes are used (paragraph 6.38);
- xvii the BCP should ensure that:
- there is an effective system in place for the provision of pre-sentence report packages to the Probation Service; and
 - there is an effective system for recording the provision of the package to the Probation Service to reflect the requirements of the national agreement (paragraph 8.4).

THE INSPECTION

- 3.1 In the year ending 31 March 1998, the Branch dealt with 18,278 defendants in the magistrates' courts and 1,460 defendants in the Crown Court. In a further 404 cases, advice was given to the police before charge.
- 3.2 The inspection team examined a total of 242 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated the proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff at the Branch and local representatives of the criminal justice agencies that directly affect, or are directly affected by, the quality of casework decisions taken in the Brent, Harrow and Uxbridge Branch. A list of the representatives from whom we received comments is at the end of this report.

PROVIDING ADVICE

Appropriateness of requests for advice

- 4.1 Although the number of cases in which the Branch gives advice to the police before charge (2.2%) is below the national average (3.8%), we were told that some cases were submitted because the police were reluctant to make obvious decisions in sensitive cases. We examined ten cases in which advice had been given. None had been inappropriately submitted.
- 4.2 As a result of a recommendation in the CPS London report, the Area Operations Group issued guidelines, setting out the circumstances in which it would be appropriate to give advice to the police. It was intended that

these guidelines should form the basis of local agreements, or protocols, with the police. The Branch has not yet reached a formal agreement with local police divisions on the submission of advice files, although the PTLs have each been asked to develop separate agreements.

4.3 We recommend that the BCP and PTLs should reach formal agreements with the police about the submission of files for pre-charge advice, to ensure that only appropriate cases continue to be submitted.

- 4.4 The Branch also provides advice to the police over the telephone. After giving telephone advice, the prosecutor records the advice on a form which is passed to the administrative staff and which is counted in the Branch's monthly PIs. The recording of telephone advices was recently introduced as a result of guidance from CPS London's Area Operation Group.
- 4.5 The Branch does not operate a formal system for providing advice at police stations. One PTL holds a fortnightly surgery at the police station, however, when he provides advice of a general nature. For example, he has recently discussed problems concerning unused material with operational officers. This has proved useful to both the police and the Branch. The remaining PTLs in the Branch may wish to consider whether to adopt this practice.

Quality and timeliness of advice

- 4.6 We agreed with the advice given in nine of the ten cases that we examined. Further enquiries should have been made in the tenth case, before advice was given. The police told us that the quality of advice was generally good, although, occasionally, they would welcome more detail, especially on the public interest factors in a case. The quality of advice given was satisfactory. In two cases, however, the advice was cursory and

should have contained a more reasoned explanation.

- 4.7 The PTLs allocate advice files. There is very little formal monitoring of the quality of the advice given. The PTLs rely on the prosecutors to approach them if there are problems, and they encourage discussion amongst the prosecutors about individual cases.
- 4.8 The advice given by the Branch is often provided outside the CPS target of 14 days. It was provided late in six of the ten cases that we examined; indeed, in two, the advice was given after nearly five weeks; and in one, the police had to remind the Branch to provide the advice. Some prosecutors accepted that they did not give priority to advice work, unless a bail date or statutory time limit was approaching. There is no formal system for monitoring the return dates for advices. We were told that the police frequently had to remind the CPS about outstanding requests for advice.
- 4.9 **We recommend that the BCP should introduce an action-dating system to ensure that pre-charge advice is given to the police within 14 days.**

Advice from counsel

- 4.10 Advice from counsel is rarely sought before charge. The BCP authorises such requests. We were told of two occasions when the Branch had sought such advice, but we did not see any examples in the files that we examined.

REVIEWING CASES

Quality of review decisions

- 5.1 Under the Prosecution of Offences Act 1985, the CPS is required to review every case it deals with in accordance with the Code for Crown Prosecutors. It must establish whether there is

sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to proceed.

- 5.2 Although the proportion of indictable only cases (23.4%) is only slightly above the national average (21.3%), the Branch deals with many serious cases. One of the teams deals with cases from the Metropolitan Police's Flying Squad, receiving about 60 armed robbery cases a year. Another team deals with some complex fraud cases from Heathrow Airport. Prosecutors also prepare about 20 letters of request in a typical year. These are formal legal documents, addressed to overseas judicial authorities, requesting assistance with police enquiries. They are time consuming to prepare. As well as this high number of serious cases, an unusually high proportion of all the cases that the Branch deals with are contested. This inevitably adds to the Branch's workload. On the other hand, a high proportion of the Branch's caseload consists of minor motoring offences (49.5%, compared with the national average of 37.8%).
- 5.3 The quality of decision-making is good. We specifically looked at the review decision in 80 files, covering cases in the magistrates' courts and the Crown Court. We agreed with the assessment of the evidence in 79 (98.8%), and with the application of the public interest test in all relevant cases. In the case in which we disagreed with the decision, the defendant was charged with supplying drugs to his co-defendant, who pleaded guilty to possession of drugs with intent to supply. The evidence against the first defendant was circumstantial. The file did not contain an analysis of the case against him, and he was acquitted. We also considered that some cases in which the magistrates found that there was no case to answer, or in which the judge ordered or directed an acquittal, should have

been more carefully reviewed (see paragraphs 5.10 – 5.16).

Timeliness of review

- 5.4 The Branch monitors the timeliness of its review decisions in accordance with the CPS' Corporate Performance Measures (CPMs). These show that, in the quarter ending 31 March 1998, prosecutors reviewed almost 52% of cases within seven days of receiving a file from the police. Some prosecutors review straightforward cases as part of their court preparation. We found, however, that some cases were adjourned at the first hearing, because they had not been reviewed. One case had to be adjourned at the third hearing, because it had still not been reviewed and mode of trial could not be considered. We also noted that a number of files, which were neither overnight custody cases nor cases with short bail dates, arrived at court from the police on the morning of the first hearing.
- 5.5 The timeliness and quality of files submitted by the police affects the ability of the Branch to review cases promptly. The Branch and police monitor the quality and timely submission of files through JPM. The reviewing prosecutor completes a form, referred to as a TQ1, which shows the date when the file was received, and the prosecutor's assessment of its quality. The form is then returned to the police, so that the results can be collated. The timeliness of submission of files varied from police division to police division. For the period ending 31 March 1998, we found that between 50% and 95% of all files were submitted within the time guidelines set down by the Pre-Trials Issues Steering Group. This was a senior inter-agency working group, established by ministers, to deal with matters affecting relationships between the police, the CPS and the courts. Its work has now been taken over by the Trials Issues Group (TIG).

Between 4.4% and 8.3% of all files submitted were insufficient to enable the case to proceed to the next stage.

5.6 It is important that the timeliness and the quality of police files are accurately measured, if the Branch is to seek improvements in the quality of its inputs. We found, however, that the Branch failed to return many forms for analysis. The rate of return varied between the teams from 53% to 77%. The JPM figures for the quarter ending 31 March 1998 suggest that committal papers were submitted by the police in only 42 cases. The Branch PIs indicate that over 300 defendants per quarter are committed for trial. The failure of the Branch to return adequate numbers of TQ1s means that the JPM system does not operate as it should, and that a key tool in seeking improvements is not being used properly.

5.7 We recommend that the BCP should ensure that the Branch complies fully with its obligations under JPM regarding the timeliness and quality of files submitted by the police.

Selection of the appropriate charge and charging standards

5.8 Police charges needed amendment in 25 of the 80 cases (31.3%) that we examined. The majority were amended at the first available opportunity. In four cases, the police charges were not supported by the evidence, and more appropriate charges were substituted. Six had to be amended to correct drafting errors. In four cases, the relevant charging standards had not been applied. In one, the police had charged an offence of causing actual bodily harm and the reviewing prosecutor substituted a charge of inflicting grievous bodily harm. The charges in the other three cases were correctly changed to common assault, either on the receipt of medical evidence, or because none was supplied.

5.9 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging. We found that the standard had been applied correctly in all relevant cases.

Judge ordered and judge directed acquittals

5.10 In the 12 months to 31 March 1998, 180 cases were stopped by the judge at the request of the prosecution before the trial had started (judge ordered acquittals). This represents 12.7% of the Branch's Crown Court cases, compared with a national average of 7.7%.

5.11 We examined 16 such cases. We disagreed with the decision to proceed in six (37.5%). In five, it was clear from an early stage that there was insufficient evidence to proceed, and that further evidence was unlikely to become available. In the sixth, a defendant was charged under the wrong section of the Child Abduction Act 1984. Neither the reviewing prosecutor nor counsel noticed the defect until the day of the trial, when counsel took the view that it was too late to amend the indictment. In any event, a thorough review at committal should have identified the problems in all six cases. In five of the remaining cases, witnesses refused to give evidence, or failed to attend court.

5.11 During the same period, the judge directed an acquittal in 14 cases after the trial had started. This represents 1.4% of the Branch's caseload, compared with a national average of 1.9%. We examined six such cases and agreed with the decision to proceed in four. In one case where we disagreed, the judge directed an acquittal because there were insufficient grounds for the police to stop and search the defendant. The second case concerned an assault. The incident took place at night. The victim identified the

defendant on an identification parade held five months after the incident. Other matters came to light at the trial, including the fact that the victim was drunk at the time and had told the police that he could not identify his assailant. Many of the identification problems were apparent from the outset, however, and had not been addressed by the reviewing prosecutor. Again, this is consistent with an absence of thorough review at committal.

- 5.13 One of the other cases also concerned identification evidence. The reviewing prosecutor had correctly considered the problems and had indicated that counsel should be asked to advise whether the evidence was likely to be excluded. Counsel's instructions did not refer to the need for advice, nor did they indicate the problems with the identification evidence.

Cases lost on a submission of no case to answer in the magistrates' courts

- 5.14 The Branch PIs show that, during the 12 months to 31 March 1998, the magistrates stopped 28 cases at the close of the prosecution case. We examined four such cases and agreed with the decision to proceed in three. In the case in which we disagreed, the defendant was charged with possessing an offensive weapon. A knife was found in the side pocket of his car. The Branch received independent evidence that the knife had been left in the car before it was sold to the defendant. Although this was sent to the police for comment, the matter was not pursued. The reviewing prosecutor did not consider whether the defendant knew that the knife was in the car. At trial, the prosecution offered no evidence with the agreement of the officer in the case.
- 5.15 In one of the other cases, police witnesses did not give evidence in accordance with their statements and, in another, civilian witnesses proved unreliable. The fourth case concerned

identification evidence, which the lawyer had unsuccessfully tried to strengthen.

- 5.16 Some of the decisions to proceed upon which we have commented in this and other sections of this report suggest to us that greater attention needs to be paid to contested cases, and to cases that are progressing to the Crown Court. Many of the deficiencies that we have commented on should have been addressed earlier, thereby allowing time for them to be corrected, or allowing other appropriate action to be taken.

- 5.17 We recommend that the BCP should take steps to ensure that cases that are contested or are awaiting committal to the Crown Court are further reviewed when the full file is received from the police, to assess whether prosecution remains appropriate.**

Discontinuance

- 5.18 The Branch's discontinuance rate (13.2%) is higher than the national average (12.1%). We found, however, that 48 of the 144 cases (33.3%) that we received in this category were wrongly recorded as discontinued in the Branch PIs. For example, in ten cases recorded as withdrawn, there had been guilty pleas to some charges. In another eleven, the case should have been recorded as written off, either because the summons or adjournment notice had not been served, or because the defendant could not be traced. We also found nine summonses for breach of the peace, where there had been a finding in respect of the alleged breach. The misrecording of these case results produces misleading casework information, and prevents the Branch from assessing accurately any trends in its casework performance.

- 5.19 We recommend that the BCP should ensure that prosecutors and administrative staff receive training on the recording of PI information, to improve the quality of casework information.**

- 5.20 We examined 96 cases that were stopped by the prosecution in the magistrates' courts during March 1998. Only 20 (20.8%) were discontinued by notice under section 23, Prosecution of Offences Act 1985. The remainder were either withdrawn at court (46.3%), or were cases in which the prosecution offered no evidence (32.6%).
- 5.21 Thirty-four cases (35.4%) were terminated on evidential grounds; twenty-one (21.9%) on public interest grounds; and ten (10.4%) because the defendant produced the necessary driving documents. Of the 21 dropped on public interest grounds, seven were because a nominal penalty was likely; four because a caution was considered more appropriate; and four because the harm done had been rectified.
- 5.22 The prosecution was unable to proceed in 25 cases (26%). In 15 of those cases, civilian witnesses either refused to give evidence, or failed to attend court. In seven cases, police witnesses failed to attend court. We could not ascertain the reason for termination in six further cases.
- 5.23 We were told that the CPS consults the police about proposed discontinuances. Most were discussed before they occurred, but, occasionally, the police were notified after the event. We found that the police were consulted about the decision to terminate in 61 of the cases that we examined (63.5%). They were not consulted in two cases (2.1%). We were unable to ascertain the position in 33 cases (34.4%), but 16 of these were dropped because of events at court.
- 5.24 We examined, in detail, the decision to terminate in ten cases. We agreed with the decision in all of them.

Mode of trial

- 5.25 We were told that Branch prosecutors made appropriate representations on mode of trial. The Lord Chief Justice's guidelines were followed in all 51 relevant cases that we examined. The relevant considerations were recorded on the file in 40 cases.

Bail

- 5.26 We were also told that prosecutors made appropriate decisions on whether to apply for remands in custody. In ten of the 11 relevant cases that we examined, there was sufficient information on the file to enable a decision about custody to be made, and the prosecutor made the appropriate decision in each. However, the file endorsements were poor. The grounds and reasons given by the prosecution for opposing bail were endorsed on the file in only five cases, and the courts' grounds and reasons for refusing bail in only three.

Review endorsements

- 5.27 The majority of review endorsements were satisfactory. The evidential factors were evaluated and recorded in 65 of the 80 cases that we examined (81.3%). The public interest factors were recorded in 46 (57.5%). We examined 30 magistrates' courts files where there had been a trial. There were evidential review endorsements in 25 cases and review endorsements of the public interest in 17. We examined 20 Crown Court cases where there had been a trial. There were evidential review endorsements in 18 and public interest review endorsements in nine.

Learning from review

- 5.28 Adverse case reports are completed in all cases that result in an acquittal in the Crown Court. The report is completed by the caseworker at court and passed to the reviewing prosecutor and

the PTL for comment. We found reports in all the relevant cases that we examined. The form is forwarded to the BCP, who also comments and identifies any learning points. Feedback on failed cases is given to prosecutors individually, but there is no general discussion of failed cases amongst members of the Branch, and information on failed cases does not appear to be circulated. The information is collated as part of the JPM initiative. The Branch is, therefore, losing an opportunity for its prosecutors and caseworkers to learn from failed cases. Apart from a commendations folder for letters praising individuals for particular pieces of good work, we did not see evidence of any mechanisms for sharing successful casework lessons.

5.29 We recommend that the BCP should ensure that the whole Branch is able to learn from its cases, both successful and unsuccessful.

5.30 It is apparent that the failure of witnesses to attend court is one of the main causes of judge ordered acquittals. The PIs for the quarter ending 31 March 1998 show that 13 cases were dropped for this reason, representing 34.2% of the Branch's judge ordered acquittals. One recommendation in the CPS London report was that Branches should ask the police to check before committal that key civilian witnesses still intend to go to court, especially in cases involving violence. Although this has been included in the Branch Management Plan (BMP), many prosecutors said that they did not ask the police to check with witnesses, unless they had reason to believe that they would not attend. The BCP may wish to remind prosecutors of the importance of taking steps to try to secure the attendance of witnesses at court, especially in cases where they are vulnerable.

5.31 More generally, we noted that many members of the Branch had not seen the BMP and were not

aware of much of its content. Some were also unaware of their Team Management Plans. As the BMP specifically deals with many of the recommendations from the CPS London report, the BCP will want to ensure that all staff are fully aware of its main elements.

5.32 The Branch accepts that it has provided little legal training recently. Some Branch staff have attended training courses at CPS London Headquarters on public order offences and on identification evidence, but the information obtained does not appear to have been shared with others in the Branch.

PREPARING CASES

Advance information

6.1 Branch caseworkers prepare advance information when papers are received from the police. A prosecutor checks it before it is given to the defence. It is supposed to be served within seven days of the defence solicitor being identified. However, most files are not reviewed until shortly before the first court date, so that advance information is rarely served before the first hearing. At some court centres, many files are not received from the police until just before, or on the morning of, the first hearing. Taking this into account, advance information was served promptly in 48 out of 60 relevant cases (80%).

6.2 The Branch receives requests for advance information in cases in which the law does not require the prosecution to provide it. The Branch does not have a policy on the voluntary provision of advance information in such cases; service is encouraged, however, if it will assist the progress of the case. As far as we could tell, prosecutors exercise their discretion on reasonable grounds. Although the current approach does not appear to cause any problems, the BCP will want to keep the situation under review.

Custody time limits

6.3 We examined ten custody time limit cases. The expiry dates were correctly calculated and clearly displayed on the front of the file in all ten. The review date, however, was not shown on five magistrates' court files, nor on either of the Crown Court files that we examined. Subject to this, we are satisfied with the systems in place to monitor cases in which custody time limits apply. The displaying of the review date on the file jacket would provide lawyers and caseworkers at court with a reminder of the imminence of an impending time limit.

6.4 We recommend that the BCP should ensure that custody time limit review dates are displayed on file jackets in all cases.

6.5 We were also concerned about some file endorsements relating to custody time limits. In two files that we examined, details of the initial custody remand had not been recorded on the jacket, so that, at first glance, the custody time limit expiry date appeared to be incorrect. Details of the first appearance were eventually found noted on the police file, and they confirmed that the expiry date recorded on the file was correct.

6.6 We recommend that the BCP should ensure that details of initial remand hearings are transcribed onto the court hearings section of the file jacket when the case is registered, to assist in the checking of custody time limits.

Unused and sensitive material

6.7 The supply of unused material was unsatisfactory, both in magistrates' courts trials and in Crown Court cases. The reviewing prosecutor had correctly completed and served the schedules of unused material in only 15 out of 24 relevant magistrates' courts cases (62.5%). Service was

timely in only eight (33.3%); indeed, some lawyers accepted that unused material issues were often not considered until the trial date.

6.8 The schedules were completed and served in only 18 out of 30 Crown Court cases (60%) that we examined; and service was timely in only 17 (56.7%). We were told that primary disclosure was not always dealt with before PDHs in the Crown Court, and that the court's standard practice directions in relation to secondary disclosure were sometimes overlooked.

6.9 We recommend that the BCP should introduce a system of quality assurance to ensure that unused material is properly dealt with in all cases.

6.10 Sensitive material is usually dealt with by the PTLs. They make decisions on sensitivity and materiality, and they also make most decisions on public interest immunity (PII) applications. They refer only the most serious cases to the BCP. We saw one case involving sensitive material. Although we were unable to tell if the schedule had been correctly completed, we found that the other procedures had been properly applied.

6.11 Each senior caseworker maintains a register of sensitive files. They and the BCP use it as a management check. The system is not used to its full potential, however, and is not kept up-to-date. This may help to explain why PII applications are often made at the last minute. The management of sensitive material was highlighted in the CPS London report, in which the implementation of a system of sensitive file registration used at the Kingston Branch was recommended. The BCP is aware of the Kingston model and Branch managers are considering whether to adopt it, or to improve their existing system. The BCP shares our concerns and will want to ensure that adequate interim arrangements are made.

Summary trials

6.12 The standard of summary trial preparation was generally satisfactory, apart from the treatment of unused material. In 29 of the 30 cases that we examined, the prosecution case consisted only of relevant material. The police were told promptly which witnesses to warn in 25 cases. We were concerned to note, however, that the statements of witnesses whose evidence was likely to be agreed were correctly identified and served under section 9, Criminal Justice Act 1967 in only 14 out of 22 relevant cases. In seven, police officers, whose evidence was likely to be agreed, were called to court. We could not tell the position in the remaining case.

6.13 We recommend that prosecutors should consider carefully whether to seek agreement of evidence under section 9, Criminal Justice Act 1967 in all summary trials.

6.14 Two of the three magistrates' courts covered by the Branch hold pre-trial reviews (PTRs) after a not guilty plea is entered. The purpose of these hearings is to ensure that the prosecution and defence are ready to proceed on the date fixed for trial. Although there were isolated problems, our overall impression was that cases were usually ready for PTR.

6.15 Prosecutors were aware of the procedure for agreeing admissions of facts under section 10, Criminal Justice Act 1967. We were told, however, that it was rarely used, although we saw a prosecutor unsuccessfully attempt to use it, to avoid obtaining evidence from abroad.

6.16 Prosecutors are familiar with the provisions of section 23, Criminal Justice Act 1988. Subject to certain conditions, this enables a witness' statement to be read if he or she is outside the United Kingdom, or is mentally or physically unfit

to attend court, or is too frightened to attend court. This section is rarely used, and we did not see any files where its use would have been appropriate. Whilst we were told that it is sometimes used for witnesses who are abroad, missing witnesses account for a significant number of dropped cases. Prosecutors should always consider using this provision when witnesses are reluctant to attend court.

Committal preparation

6.17 The majority of committals are prepared by caseworkers using the Crown Court Case Preparation Package. This is a pro-forma package which contains standard paragraphs to be included in the instructions to counsel, with free text options to incorporate specific instructions relevant to each case. The prosecutors are supposed to check the contents of the bundle and the indictment before the package is typed. We found evidence that committal bundles had been checked by a prosecutor in 25 of the 30 cases that we examined, although the prosecutor who signed the form was not necessarily the reviewing prosecutor. The committal papers contained the correct statements and documents in 28 cases, but we were told by counsel that simple continuity evidence was frequently missing.

6.18 Branch staff find it difficult to serve committal papers by the scheduled court date. The Manual of Guidance for the preparation, processing and submission of files (now issued by TIG) sets out various time guidelines within which certain stages in the creation and processing of files should be completed. The guideline for committals allows eight weeks from the date of mode of trial to the date of committal in cases where the defendant is on bail, and six weeks where the defendant is in custody. The police should submit committal papers to the CPS within four weeks in bail cases and three in

custody cases. None of the three magistrates' courts covered by the Branch grants the maximum period of time allowed under the guidelines for the preparation of committal cases. Two courts allow four weeks and one allows six weeks in bail cases. The police usually comply with the guidelines which apply to their part of the process, but this means that Branch staff usually receive committal papers shortly before, or on the day of, committal. The reviewing prosecutor does not have time, therefore, to review the files properly. Caseworkers prepare some cases without a review, but others are the subject of an application for an adjournment.

6.19 Although the CPM figures for March 1998 show that 91.7% of committal papers were served in time, we found that service was timely in only 11 of the 30 cases (36.7%) that we examined. It was late in seven. We were unable to tell the position in the remaining 12, because there was nothing on the file to indicate when the papers were received from the police, nor when they were served on the defence.

6.20 We recommend that the BCP should ensure that the date of receipt of committal files from the police, and the date of service of the papers on the defence, are recorded on the file to facilitate the accurate measurement of the Branch's own performance.

6.21 When the caseworkers prepare instructions to counsel, they are expected to draft a case summary and instructions on the acceptance of pleas, and deal with any other issues which need to be drawn to counsel's attention. A prosecutor should approve the papers. Some months ago, the Branch introduced new arrangements, which had been designed by Area management after consultation with representatives of various grades of staff from across the Area, to enhance

the contribution of prosecutors to this process. In spite of this, the instructions to counsel were unsatisfactory in 18 of the 30 cases (60%) that we examined. Only nine (30%) contained a CPS case summary. One case referred counsel to the police summary, which had been extensively amended in manuscript, and also referred to a number of other similar offences. None of the 12 relevant cases contained instructions about potential alternative pleas. We saw four cases in which the reviewing prosecutor had specifically endorsed the file about the acceptability of pleas and other issues, yet nothing appeared in counsel's instructions.

6.22 We commented in the CPS London report that the new arrangements for preparing committals would need vigorous management, as well as the commitment of prosecutors and caseworkers. We were told that the senior caseworkers should check counsel's instructions, to ensure that case summaries, instructions on the acceptability of pleas and other issues are included. This either does not occur, or is not achieving the desired result. In view of the fact that about half of the briefs are returned (that is, they are transferred to another counsel, usually at the last minute), it is even more important that the instructions are of a high standard.

6.23 We recommend that the BCP, in conjunction with Area management, should introduce quality assurance arrangements to ensure that:

- **prosecutors set out their views on the acceptability of pleas and any other relevant issues;**
- **counsel's instructions contain properly prepared case summaries, instructions on the acceptability of pleas and any other relevant issues that need to be brought to counsel's attention; and**

- **prosecutors signify their approval of the committal papers by signing form CCCP1.**

6.24 We found that in 25 of the 30 cases (83.3%) that we examined, counsel's instructions were delivered outside the agreed timescales set out in a CPS/Bar Standard. Although some instructions were only a few days outside the limits, we found examples of instructions that were delivered between four and six weeks after committal. The BCP accepts that instructions are late, especially in standard cases. Indeed, the CPM figures for the quarter ending 31 March 1998 indicate that only 19% of counsel's instructions were delivered within the timescales. There would appear to be a link between the late delivery of counsel's instructions and the late lodging of indictments (see paragraph 6.27).

6.25 We recommend that the BCP should introduce systems to ensure that instructions to counsel are delivered promptly, and that the timeliness of delivery is monitored.

Quality of indictments

6.26 Indictments are drafted by caseworkers in the majority of cases. Prosecutors see the indictment forms before they are typed, and the indictments are checked by the senior caseworkers for obvious errors after typing. However, there does not appear to be any formal monitoring of the quality of the indictments. Of the 30 cases that we examined, the indictment had to be amended at court in seven (23.3%). Two amendments were minor and one was to accommodate acceptable pleas. In another case, a count of handling stolen goods was amended, because it contained details of the wrong owner. In two cases, charges of assault occasioning actual bodily harm replaced a charge of assault with intent to resist arrest and a

charge of causing grievous bodily harm with intent. The seventh indictment was amended in order to make the case easier to present to the court.

6.27 We were told that indictments were sometimes lodged later than the 28 days allowed after committal, and that applications for extensions of time were common. The indictment was lodged late in two cases that we examined. We could not tell when they were lodged in three other cases. The files are sent to the senior caseworkers after committal, for counsel to be allocated and for the indictments to be lodged. We were told that backlogs sometimes develop, which lead to delays in lodging the indictments and the delivery of briefs to counsel (see paragraph 6.24). Further delay can be caused by the need to re-type the indictment, if it has to be amended after committal. The BCP and senior caseworkers should consider the advantages of delegating these responsibilities to caseworkers. Whether or not the responsibilities are delegated, the system for lodging indictments needs careful management, to ensure that they are lodged promptly.

6.28 We recommend that the BCP should introduce a system to ensure that indictments are lodged promptly, and to monitor compliance with the system.

The CPS in the Crown Court

6.29 The Branch's cases are committed to two Crown Court centres: Harrow and Isleworth. Caseworkers cover Harrow Crown Court every day and Isleworth Crown Court twice a week. On other days, caseworkers from another Branch look after the Branch's cases at Isleworth. Caseworkers generally cover more than one court room, although they usually cover the PDH courts individually.

6.30 Branch staff notify the police promptly of PDH directions. A copy of the PDH form is sent by facsimile from the Crown Court, and is followed by a minute from Branch staff. However, there is no system for monitoring compliance with directions, or other requests made to the police. Directions were not complied with in three of the 11 cases that we examined. In one case, the court directed that the defendant's custody record be served within seven days. The file was not sent back from the court for five days. In another case, the judge ordered the prosecution to reply to a letter from the defence within 14 days. The relevant prosecutor did not respond for six weeks, and the Listing Officer had to intervene. We saw one case at court where the judge ordered the prosecution to serve a video tape on a defendant within seven days. The prosecution did not comply, and several weeks later it transpired that the tape had been served on a co-defendant who had already pleaded guilty. In a further seven cases, we could not tell whether the PDH directions had been complied with.

6.31 We were also told that the court's standard directions, especially those concerning primary and secondary disclosure, were sometimes not complied with (see paragraph 6.8).

6.32 These failures to comply with court orders are clearly unacceptable.

6.33 We recommend that the BCP should ensure that caseworkers diarise action dates for directions given at PDHs and other important milestones in case preparation, including the service of unused material, and that he should introduce a system for monitoring compliance with PDH directions.

6.34 Branch prosecutors rarely attend the Crown Court. Representatives of other criminal justice agencies told us that they would appreciate more

involvement by prosecutors in Crown Court work. If pleas are offered at court, the caseworker has to contact the reviewing prosecutor, the PTL or the BCP. On occasions, a prosecutor from another Branch will help at Isleworth. Clear instructions on the acceptability of pleas in counsel's papers would help to alleviate this problem (see paragraph 6.22), but the BCP will wish to consider the feasibility of prosecutors attending some Crown Court hearings, especially PDHs.

File endorsements

6.35 Although the standard of review endorsements was satisfactory (see paragraph 5.27), the standard of file endorsements about events in the magistrates' courts needs improvement, especially in relation to the recording of bail objections, the service of committal papers and pre-sentence report packages. Endorsements about events in the magistrates' courts were satisfactory in only 46 of the 80 cases (57.5%) that we examined.

6.36 In the Crown Court, endorsements were better. They were satisfactory in 26 of the 30 cases (86.7%) that we examined. The contents of the Crown Court files, however, tended to be untidy, making them difficult to follow.

6.37 We were also told that some prosecutors' file endorsements were unclear, and that the incorrect adjournment or finalisation codes were being used. This makes it difficult for the administrative staff to update files and produces misleading casework information for Branch managers. We have already noted that 48 of the terminated cases (33.3%) that we examined were incorrectly categorised (paragraph 5.18).

6.38 We recommend that the BCP should introduce a system of quality assurance to ensure that:

- **files are clearly and comprehensively endorsed; and**
- **the correct adjournment and finalisation codes are used.**

PRESENTING CASES IN COURT

- 7.1 We observed nine Branch prosecutors presenting cases in the magistrates' courts and in one youth court. The overall standard was satisfactory and some advocacy was very good. Although we were told that some advocates were less effective than their colleagues, we did not see any examples of poor advocacy. However, the lists in the majority of courts that we observed were light, reflecting the courts' listing practices. We did not observe any trials. Only two prosecutors are on the CPS advocacy training programme.
- 7.2 All the prosecutors that we observed had prepared for their courts. They maintained an appropriate degree of eye contact with the magistrates. Any tendency to read from the file may be attributable to the fact that a number of cases were only received from the police on the morning of the court. Some advocates are also inclined to rely too much on their belief that they can properly deal with almost any case at short notice.
- 7.3 The PTLs monitor their advocates for performance appraisal purposes. The BCP formally monitors the PTLs, and observes the prosecutors on an ad hoc basis. Feedback is provided from the monitoring.
- 7.4 Branch prosecutors do not conduct judge in chambers bail applications and do not attend the Crown Court for PDH hearings, although the BCP tries to visit the Crown Court twice a week. We have already commented on the advantages of more prosecutor input at the Crown Court (see paragraph 6.34). Attendance at the Crown

Court is an important part of a prosecutor's development, and the BCP may wish to consider making prosecutors available to attend the Crown Court, especially when PDHs are listed, to assist counsel and caseworkers.

- 7.5 We saw two counsel in the Crown Court, dealing with PDHs. Both performed competently. The caseworkers monitor the performance of counsel on an informal basis.
- 7.6 Counsel originally instructed did not attend court in about half the cases, including 13 out of 24 contested cases (54.2%). There is a CPS/Bar standard, which has been agreed nationally, by which the number of returned briefs is monitored on a monthly basis. The BCP will wish to ensure that effective steps are taken to reduce the proportion of cases in which counsel originally instructed does not attend court.

THE BRANCH AND OTHER AGENCIES

- 8.1 Branch staff generally enjoy a satisfactory working relationship with the other criminal justice agencies, although there have been occasional differences with one magistrates' court and one Criminal Justice Unit (CJU). The BCP attends meetings with the Justices' Chief Executives and senior police officers as well as the court user group at Harrow Crown Court. The PTLs attend their local magistrates' courts user groups, and have regular meetings with their CJU staff. We were told that Branch managers were generally receptive to issues raised at the liaison meetings. Branch managers would benefit, however, from more frequent meetings with administrative staff at the Crown Court.

Providing information for pre-sentence reports

8.2 Branch staff often fail to provide the Probation Service with sufficient information about offences. This information is required to enable probation officers to assess the seriousness of the offence when they prepare pre-sentence reports to assist the courts in deciding how to sentence defendants. As a result, these reports are sometimes completed without all the relevant information concerning the seriousness of the offence. We could be sure that pre-sentence report packages were provided in only four of the 39 cases that we examined. We could not tell the position in the other cases.

8.3 We were told that, in committal cases, the package for the Probation Service is handed over at court, although details of service were often not endorsed on the file. In cases finalised in the magistrates' courts, the Probation Service should submit a written request for the pre-sentence report package, in accordance with a national agreement between the CPS and the Probation Service. We were told that, in practice, the Probation Service was given copies of spare statements and case summaries at court on the day when reports were ordered. We also saw probation officers borrowing prosecution files to copy at court. This is unacceptable. Branch staff do not have a record of the information supplied, nor when it was provided. The Probation Service, in turn, cannot be sure that it has all the information that it needs.

8.4 We recommend that the BCP should ensure that:

- **there is an effective system in place for the provision of pre-sentence report packages to the Probation Service; and**
- **there is an effective system for recording the provision of the package to the Probation Service to reflect the requirements of the national agreement.**

KEY STATISTICS

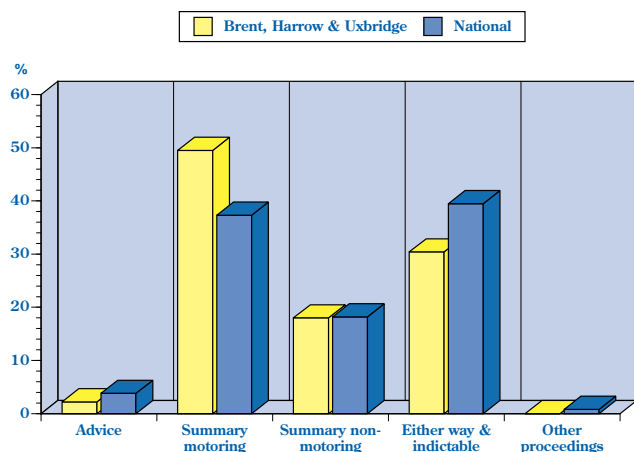
9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court.

EXTERNAL CONSULTATION

10.1 On page 20, there is a list of the local representatives of criminal justice agencies who assisted in our inspection.

MAGISTRATES' COURTS

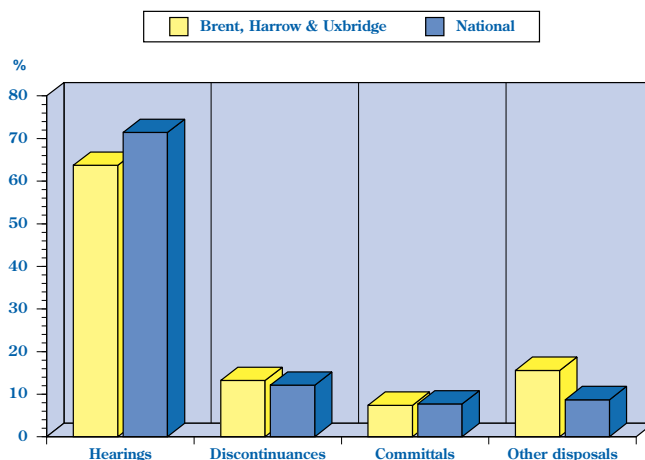
1 - Types of case



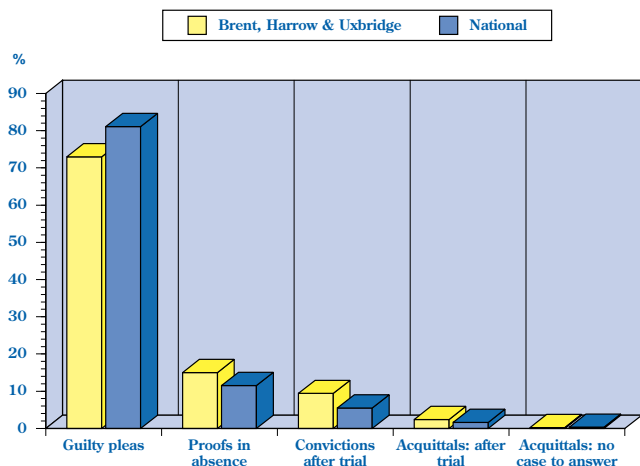
	Brent, Harrow & Uxbridge		National	
	No.	%	No.	%
Advice	404	2.2	53,233	3.8
Summary motoring	9,240	49.5	536,031	37.8
Summary non-motoring	3,362	18.0	258,410	18.2
Either way & indictable	5,676	30.4	559,749	39.5
Other proceedings	0	0	11,362	0.8
Total	18,682	100	1,418,785	100

2 - Completed cases

	Brent, Harrow & Uxbridge		National	
	No.	%	No.	%
Hearings	11,641	63.7	967,539	71.4
Discontinuances	2,420	13.2	164,438	12.1
Committals	1,358	7.4	104,784	7.7
Other disposals	2,859	15.6	117,447	8.7
Total	18,278	100	1,354,208	100



3 - Case results

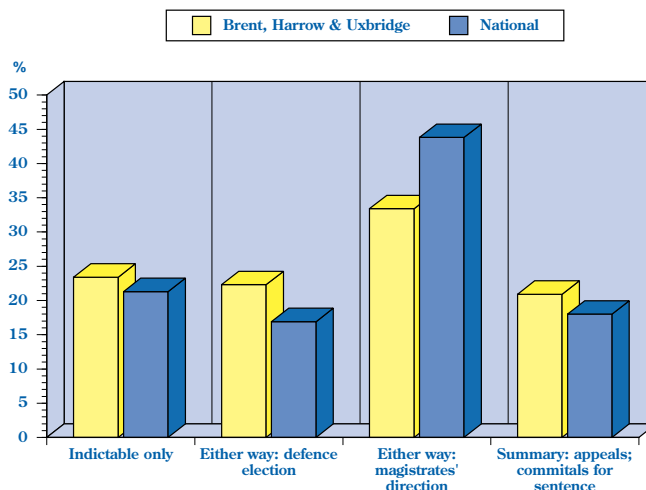


	Brent, Harrow & Uxbridge		National	
	No.	%	No.	%
Guilty pleas	8,533	73.0	788,364	81.1
Proofs in absence	1,753	15.0	111,687	11.5
Convictions after trial	1,099	9.4	53,702	5.5
Acquittals: after trial	277	2.4	15,708	1.6
Acquittals: no case to answer	28	0.2	2,699	0.3
Total	11,690	100	972,160	100

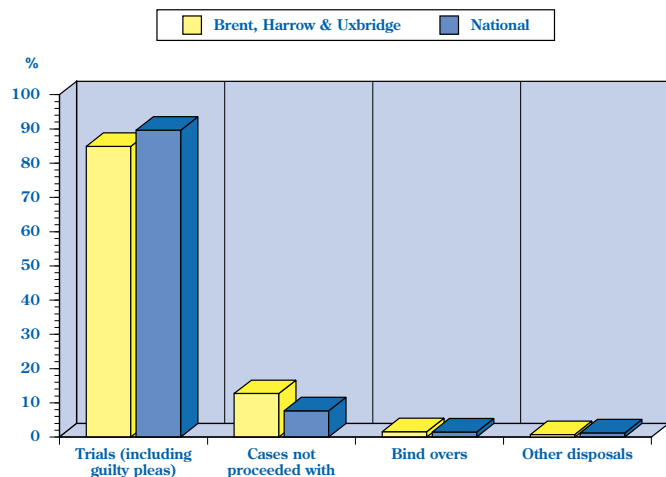
CROWN COURT

4 - Type of case

	Brent, Harrow & Uxbridge		National	
	No.	%	No.	%
Indictable only	342	23.4	27,341	21.3
Either way: defence election	325	22.3	21,653	16.9
Either way: magistrates' direction	488	33.4	56,069	43.8
Summary: appeals; committals for sentence	305	20.9	23,001	18.0
Total	1,460	100	128,064	100



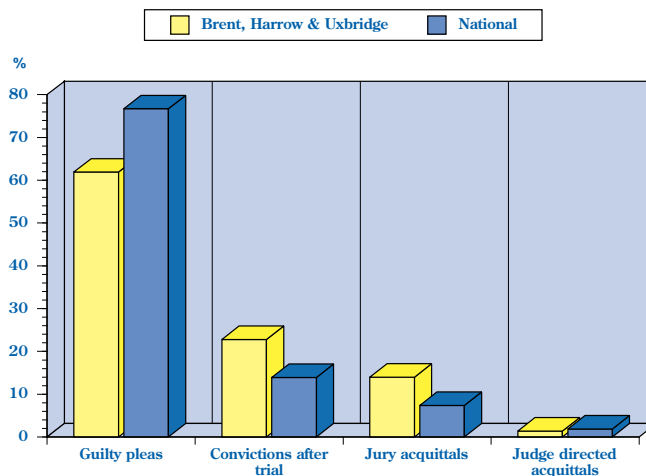
5 - Completed cases



	Brent, Harrow & Uxbridge		National	
	No.	%	No.	%
Trials (including guilty pleas)	981	84.9	94,180	89.6
Cases not proceeded with	147	12.7	8,130	7.7
Bind overs	19	1.6	1,541	1.5
Other disposals	8	0.7	1,232	1.2
Total	1,155	100	105,083	100

6 - Case Results

	Brent Harrow & Uxbridge		National	
	No.	%	No.	%
Guilty pleas	620	61.9	73,860	76.7
Convictions after trial	228	22.8	13,413	13.9
Jury acquittals	140	14.0	7,170	7.4
Judge directed acquittals	14	1.4	1,842	1.9
Total	1,002	100	96,285	100



LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES WHO ASSISTED IN OUR INSPECTION

Judges	<p>HHJ The Viscount Colville of Cilross QC, Senior Resident Judge, Harrow Crown Court</p> <p>HHJ Evans, Senior Resident Judge, Isleworth Crown Court</p> <p>HHJ Crocker</p> <p>HHJ Durrant</p> <p>HHJ Miller</p>
Magistrates' courts	<p>Mr S Day, Stipendiary Magistrate, Uxbridge Magistrates' Court</p> <p>Mr N McKittrick, Stipendiary Magistrate, Brent Magistrates' Court</p> <p>Mr D Best, Justice of the Peace and Chair of the Harrow Magistrates' Court Committee</p> <p>Mrs T Rabin, Justice of the Peace and Chair of the Brent Magistrates' Court Committee</p> <p>Mr A Blundell, Justice of the Peace and Vice-Chair of the Uxbridge Magistrates' Court Committee</p> <p>Mr D Seymour, Justice of the Peace and Chair of the Harrow Bench</p> <p>Mrs M Buckeldee, Justice of the Peace and Vice-Chair of the Uxbridge Bench</p> <p>Mr G Cropper, Justices' Chief Executive, Harrow Magistrates' Court</p> <p>Mr M Hamilton, Justices' Chief Executive, Uxbridge Magistrates' Court</p> <p>Mr P Lydiate, Justices' Chief Executive and Justices' Clerk, Brent Magistrates' Court</p> <p>Miss F Barry, Deputy Justices' Clerk, Brent Magistrates' Court</p>
Police	<p>Chief Superintendent P Green, Kilburn Division</p> <p>Superintendent R Aitchinson, Harrow Division</p> <p>Superintendent P Golding, Wembley Division</p> <p>Superintendent A Matthews, Hillingdon Division</p> <p>Superintendent K Trowbridge, Heathrow Division</p> <p>Chief Inspector J Hampson, Hillingdon Division</p>
Defence solicitors	<p>Mr P Cusack</p> <p>Mr R Hanson</p> <p>Mr K Sheraton</p> <p>Ms A Taylor</p>
Counsel	<p>Mr J Coffey, QC</p> <p>Ms D Connolly</p> <p>Mr N Hilliard</p> <p>Mr M Lahiffe</p> <p>Mr W Saunders</p>
Probation Service	<p>Mr N Joseph, Senior Probation Officer</p> <p>Mr D Walls, Senior Probation Officer</p>
Witness Service	<p>Mr J Hood</p>

CROWN PROSECUTION SERVICE INSPECTORATE

STATEMENT OF PURPOSE

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

AIMS

- 1** To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.
- 2** To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvements in the quality of that casework.
- 3** To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 4** To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service.
- 5** To recommend how to improve the quality of casework in the Crown Prosecution Service.
- 6** To identify and promote good practice.
- 7** To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 8** To promote people's awareness of us throughout the criminal justice system so they can trust our findings.



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