

# CPS London Borough Performance Assessments

## Barnet Borough

### Executive Summary





This is the executive summary of the report by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) on the performance assessment of the Crown Prosecution Service (CPS) London, Barnet borough.

The borough performance assessment (BPA) process provides a benchmark for the performance of the CPS London borough units in ten key aspects of work. Each of the aspects is assessed as being Excellent, Good, Fair or Poor. The borough is then assessed on its overall performance in the light of these markings. The BPA also evaluates the management of resources at borough level.

The overall performance assessment of CPS London, Barnet borough was **FAIR**.

The table below provides a breakdown of the assessed level of performance against the ten aspects:

<b>Aspect</b>	<b>Score</b>	<b>Assessment</b>
Pre-charge advice and decisions	<b>2</b>	<b>Fair</b>
Decision-making, preparation and progression in magistrates' court cases	<b>2</b>	<b>Fair</b>
Decision-making, preparation and progression in Crown Court cases	<b>0</b>	<b>Poor</b>
The prosecution of cases at court	<b>2</b>	<b>Fair</b>
Serious violent and sexual offences, and hate crimes	<b>2</b>	<b>Fair</b>
Disclosure	<b>2</b>	<b>Fair</b>
Custody time limits	<b>2</b>	<b>Fair</b>
The service to victims and witnesses	<b>2</b>	<b>Fair</b>
Managing performance to improve	<b>2</b>	<b>Fair</b>
Managing resources	<b>Not scored</b>	
Management and partnership working	<b>2</b>	<b>Fair</b>
<b>OVERALL ASSESSMENT</b>	<b>18</b>	<b>Fair</b>

### **Description and caseload**

CPS London (the area) is organised into operational teams along geographical boundaries. London boroughs and the City of Westminster are covered by the Metropolitan Police Service and the City of London by the City of London Police. The area's borough units are co-terminous with the Metropolitan Police Borough Command Units with each headed by a borough crown prosecutor (BCP), a CPS lawyer. Local borough units are then grouped together to form a larger district based upon a common Crown Court centre (or centres). Responsibility for a district lies with a district crown prosecutor (DCP), a more senior lawyer who line manages the BCPs. The interface between CPS London's senior management and area staff is through the district, with the DCP ensuring that the area's vision and strategy is implemented by the BCPs at borough level. CPS London is divided into two regions (North and South) which comprise a number of districts. There is also a complex casework centre which handles serious and complex cases and those at the Central Criminal Court (Old Bailey).

The CPS London senior management team consists of the Chief Crown Prosecutor, three legal directors and two regional business managers.

Barnet borough has one office, at Colindale Police Station. It is part of the CPS London Harrow and Wood Green district which is aligned to the Crown Court centres at Harrow and Wood Green.

The borough is an integrated prosecution team (IPT) site. This means that borough staff are co-located with the police, deal directly with investigating officers rather than through the police criminal justice unit, and undertake case building functions that were previously the responsibility of police staff. The borough divides most of its work on functional lines between magistrates' court and Crown Court work, but staff can generally be assigned to either type of case subject to their level of experience and expertise.

As of November 2009 the borough had an average of 23.3 full-time equivalent staff in post, and a budget of £1,109,388<sup>1</sup>.

<b>Staff</b>	<b>Numbers at November 2009</b>
Borough crown prosecutor	1.0
Business managers	1.0
Crown prosecutors	6.3
Associate prosecutors	1.0 *
Caseworkers	5.2
Administrative support staff	8.8
<b>Total (full-time equivalent)</b>	<b>23.3</b>

\* Does not include APs currently seconded to other units.

Details of Barnet borough caseload in 2007-08, and 2008-09 are as follows:

	<b>2007</b>	<b>2008</b>	<b>Percentage change</b>
<b>Pre-charge work</b> (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	1658	1647	-0.7%
Decisions not resulting in a charge <sup>2</sup>	721	836	16.0%
Total pre-charge decision cases	2379	2483	4.4%
<b>Magistrates' court proceedings<sup>3</sup></b>			
Magistrates' court prosecutions	3285	3442	4.8%
Other proceedings	10	3	-70.0%
Total magistrates' court proceedings	3295	3445	4.6%
<b>Crown Court proceedings<sup>4</sup></b>			
Cases sent or committed to the Crown Court for determination	609	560	-8.0%
Committals for sentence <sup>5</sup>	68	68	0.0%
Appeals from the magistrates' court <sup>5</sup>	55	59	7.3%
Total Crown Court proceedings	732	687	-6.1%

1 The non-ring fenced administration costs budget contains payroll costs (including superannuation and allowances) as well as budget for travel and subsistence. Things like training are included in the London-wide budget and are not allocated at the borough level.

2 Including decisions resulting in no further action, taken into considerations, cautions and other disposals.

3 Including cases that have previously been subject to a pre-charge decision and those that go to the Crown Court.

4 Including cases that have previously been subject to a pre-charge decision.

5 Also included in the magistrates' court figures, where the substantive hearing occurred.

### **The inspection team**

Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public to join the process as lay inspectors. They are unpaid volunteers who examine the way in which the CPS relates to the public through its dealings with victims and witnesses; engagement with the community, including minority groups; handling of complaints; and the application of the public interest test contained in the Code for Crown Prosecutors. In this assessment Davina James-Hanman of the London Domestic Violence Project, was the lay inspector. Her views and findings have been included in the report as a whole. Her time was given on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.

### **Summary of judgements**

#### *Contextual factors and background*

The CPS Barnet borough unit deals with a broad mix of casework in an ethnically diverse area. The borough has to deal with a substantial amount of domestic violence cases, which bring their own problems, particularly in securing the attendance of witnesses at court to give evidence. During 2008-09 the borough worked with other agencies to try to achieve Specialist Domestic Violence Court status, but the application failed, mainly because there was insufficient evidence of a shared strategic approach. This is being remedied and there is optimism about their prospects when the bid is re-submitted.

In 2008-09, HM Courts Service changed the arrangements for dealing with Crown Court cases arising in the borough. They are now heard at Wood Green instead of Harrow. At the same time, the borough was introducing new arrangements for case preparation in both the magistrates' court and the Crown Court, known as the optimum business model (OBM), as well as moving to CPS London's IPT arrangements with the police. The latter initiative ran smoothly in Barnet, partly because borough prosecutors had been co-located with their police colleagues for some years. OBM has considerable potential to improve case preparation but this is yet to be fully realised.

The borough has suffered in recent months from the secondment of a lawyer and two associate prosecutors to the CPS London traffic unit based in Sidcup and the City of London unit and the retirement of its most experienced lawyer. They have not been fully replaced, so that the majority of magistrates' court sessions in 2009-10 have been undertaken by agents.

#### *Summary*

The quality of decision-making is generally sound. The borough's lawyers applied the evidential stage in the Code for Crown Prosecutors correctly in all but one of the cases in which they made the decision whether to charge a suspect. They quickly corrected a decision by CPS Direct (CPSD) that did not comply with the Code and inspectors agreed with their decision in all the cases that they discontinued, although one should have been stopped sooner. One case should not have been charged, however, and had to be stopped by the judge part way through a trial.

The arrangements for making charging decisions have been changed with the introduction of CPS London Direct (CPSLD) which provides telephone charging advice on volume crime cases during normal working hours. Only three of the 31 cases in our file sample of completed cases were handled by CPSLD, but CPSLD is now estimated to decide whether to charge in about 80% of cases in which a charging decision is required during normal working hours. The borough deploys a lawyer to make charging decisions in the remainder on two days each week. It also makes specialist lawyers available to deal with sensitive case types, such as rape, when needed. Outcomes for cases in which CPS authority to charge was needed in 2008-09 were similar to the London average but worse than the national average. The outcomes in the 12 months to September 2009 show some deterioration, particularly in the Crown Court.

The overall proportion of magistrates' court cases resulting in a conviction in the 12 months to September 2009 at 86.0% was comparable with CPS London averages (86.1%) but a little below the national average (87.1%). But Crown Court outcomes have declined sharply so far in 2009-10 and in the 12 months to September 2009 stood at 70.9% and are now worse than the London average (72.7%), which in turn is well below the national average (80.7%).

Prosecutors making charging decisions do not routinely consider ancillary matters, such as the appropriateness of applications for special measures to enable witnesses to give their evidence effectively or to admit bad character or hearsay evidence. This contributes to late applications to court for the necessary permissions and creates an impression that cases are not reviewed between the entry of a not guilty plea and the trial, or are reviewed only at the last minute. Inspectors found evidence to support this impression in their file sample and during their observations at court.

In spite of clear evidence of weak case preparation, effective trial rates are close to the London average. In the magistrates' court, the number of hearings for a contested case was significantly better than London and national figures in 2008-09, although there has been some decline in the second quarter of 2009-10. The good performance is partly attributable to robust weekly case progression meetings, which normally consider cases about two weeks before the trials are due to start. They are attended by the borough's case progression officer, the court's case progression officer, a lawyer and the witness care unit manager. They identify problems that could delay the trial and task people with resolving them. This means that there is a lot of last minute activity, but without them more cases would have to be adjourned. There is a similar arrangement for Crown Court cases, but the court representative is available only by telephone.

Instructions to advocates in the Crown Court are poor. They are not tailored to the individual case and do not offer a useful briefing. The manager of the Crown Advocate Unit at Wood Green Crown Court now provides feedback with a view to improving the quality of instructions.

The standard of advocacy is variable. Most met the national standards of advocacy, but two in the magistrates' court (one of them an agent) did not. The associate prosecutor (CPS staff who are not lawyers but who are authorised to conduct certain cases in the magistrates' court after special training) is highly regarded as are some other in-house advocates and one regular agent.

The borough has appropriate specialist prosecutors to deal with sensitive or difficult cases. The courts welcome their presence, which helps to make progress in these cases and achieve just outcomes.

Compliance with the prosecution's duties of disclosure is fair, but often late even at the initial disclosure stage. There were no cases in which the borough failed to disclose material that might have undermined the prosecution case or assisted the defence case, but we could not always find evidence that prosecutors had kept disclosure under continuous review.

The borough had a custody time limit (CTL) failure in August 2007. As a result a full CTL audit was completed and internal actions were raised. The borough has completed two peer reviews of the borough CTL system in 2009. The first review identified a series of discrepancies with minimum standards but the second review found a much improved picture. A sample of Crown Court CTL case files and magistrates' court CTL case files were examined, which indicated that CTL compliance is working well. However, the borough has yet to adopt a prominent sticker system. CTL issues feature prominently in meetings and other communication between the BCP and borough staff.

The borough exceeded its proxy target in 2008-09 for the number of letters sent to victims to explain why a charge had been dropped or substantially altered, but failed to meet it in the first two quarters of 2009-10. Timeliness compared well with London and national averages, but there is considerable scope

for improvement in the quality of the letters. There are strong links with the witness care unit, but the borough needs to find a way of responding to witness queries more quickly so that witnesses can have their concerns answered promptly.

Performance management on the borough needs to be strengthened and become more consistently embedded alongside a regularised meeting structure. Performance analysis with partners, particularly at prosecution team performance management meetings, needs to evolve a clearer understanding of where performance can be improved. Improvements are needed in relation to conviction rates, the operation of the OBM unit (for preparation of cases in the magistrates' court) and in-house advocacy levels.

The level of inter-agency co-operation is improving. The BCP has recently secured invitations to join a number of groups which will enable her to have a greater input into their approach to a range of offence types including anti-social behaviour, and safeguarding children.

The borough has limited responsibility for managing prosecution costs and non-ring fenced administration costs which are controlled at district level. In 2008-09 the borough struggled to meet lawyer deployment targets in the magistrates' court. This further deteriorated dramatically in the first two quarters of 2009-10. Whilst there have been obvious difficulties regarding in-house deployment it remains difficult to fully reconcile such a significant deterioration in performance with the overall staffing position. The deployment of crown advocates is managed at district level where a dedicated advocacy unit has been established at the Crown Court. Systems to monitor sickness are in place and in 2008-09 the borough had one of the lowest sickness levels in London. The sickness levels have increased significantly in the first two quarters of 2009-10. Flexible working arrangements have not always aligned with the business need, particularly when unexpected absences occur and these arrangements are now affecting performance.

There have been unexpected staff shortages and higher than normal sickness levels which has meant that the focus of borough management has been very much on day-to-day operational issues. Whilst it is clear the borough is committed to engaging with partners the borough has struggled to evidence improvements in performance as a result of joint working. The borough also needs to build an effective communication strategy both internally and externally as an important vehicle for recognition, change and performance improvements.

Inspectors identified one strength and 14 aspects for improvement:

### **Strengths**

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- 1 The magistrates' court weekly case progression meetings (aspect 2).
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### **Aspects for improvement**

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- 1 The quality of MG3s prepared by borough lawyers should be improved and the BCP should assess them all for a period until she is satisfied about the standards achieved by each lawyer, particularly that:
    - there is appropriate consideration of ancillary issues; and
    - action plans set out clearly what further work is required and give realistic target dates (aspect 1).
  - 2 The BCP should take steps to clear the current backlog of OBM work and find a way of providing more settled deployment to OBM with clear expectations of daily throughput (aspect 2).
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- 3 The BCP should continue to work with the court and defence practitioners to improve case management hearings so that unnecessary work can be reduced further (aspect 2).

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- 4 The borough should ensure that the deployment of an administrative officer at court brings the timeliness of recording of hearing outcomes and finalising of cases on CMS to 95% no later than 31 March 2010 (aspect 2).

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- 5 The BCP should strengthen Crown Court case preparation processes to ensure all directions and necessary applications are completed within the timescales directed (aspect 3).

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- 6 The BCP should ensure that instructions to the advocate contain as a minimum an analysis of the issues in the case and the lawyer's view on the acceptability of pleas (aspect 3).

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- 7 The borough should work with CPS London senior managers to enable it to cover a larger proportion of magistrates' court sessions with in-house lawyers (aspect 4).

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- 8 In conjunction with the CPS London advocacy assessors, the BCP should introduce a system of structured advocacy monitoring in the magistrates' court, to include the performance of agents regularly used by the borough (aspect 4).

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- 9 The BCP should instruct all advocates to introduce themselves to prosecution witnesses before trials and monitor compliance in conjunction with the Witness Service (aspect 4).

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- 10 The BCP should delegate responsibility for analysing case outcomes and giving feedback to lawyers to the relevant specialists (aspect 5).

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- 11 The borough should arrange with the police, the WCU and the magistrates' court to collect management information on potential applications for witness summonses from the point that the WCU anticipates that one may be needed until the court's decision whether to grant it and to use the results to create a protocol designed to speed up the process substantially (aspect 8).

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- 12 The borough needs to develop a clear performance structure, in order to provide a focus on gaps in performance and evidence actions taken to improve performance (aspect 9).

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- 13 The borough should develop a communications strategy to formalise communication, internally and externally (aspect 11).

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- 14 The borough should develop a clear strategy on engagement to ensure appropriate community and partnership engagement which maximise the benefits to service delivery (aspect 11).

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### **Background to London borough assessments**

HMCPSI's original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which were expected across an area as diverse as CPS London, and this approach was endorsed by the area's senior managers. In the event findings from the early assessments showed a relatively narrow range of performance and consistency in the themes emerging and the aspects for improvement. Some of these were of serious concern and needed to be tackled



urgently at a senior level. London's senior management team confirmed that the boroughs which had been assessed were fairly representative of the area as a whole and that to undertake further assessments would be unlikely to add significantly to our findings. The inspectorate therefore decided to confine the exercise to 20 boroughs (including the pilot assessment of Croydon), drawn from five of the six districts, together with the traffic unit. The first nine borough reports were published on 19 January 2010.

### **Assessments**

Assessments and judgements have been made by HMCPSI based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPSI assessments; and by assessment under the criteria and indicators of good performance set out in the performance assessment framework, which is available to CPS London. Evidence has also been taken from a number of sources, including the findings from the examination of a file sample, the view of staff, representatives of criminal justice partners and the judiciary. Inspectors have also conducted observations of the quality of case presentation in the magistrates' courts and the Crown Court.

The performance assessment has been arrived at by rating the unit's performance within each category as either Excellent, Good, Fair or Poor in accordance with the criteria outlined in the framework.

The inspectorate uses a points based model for assessment, with a borough's overall assessment determined by the cumulative total of points for all of the ten aspects that are scored. There are two limiters within the model. A borough cannot be rated Good or Excellent unless it is assessed as Good in at least two of the first four aspects. This is designed to give pre-eminence to the ratings for the core aspects of the borough's work. Similarly, if a borough is scored as Poor in three or more aspects its final assessment will be reduced by one grade from that which the overall points indicate.

The findings from the borough performance assessments undertaken are drawn together in a pan-CPS London report which provides an overall picture of the performance of the area. The pan-London report addresses a number of significant issues that have emerged as the assessments have progressed including the effectiveness of CPS London headquarters operations, and CPS London Direct which now makes a significant proportion of the charging decisions in the area. It is being published simultaneously with this report.

The full text of the report may be obtained from the Corporate and Operations Support Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available on line at [www.hmcpsi.gov.uk](http://www.hmcpsi.gov.uk).