

CPS Bedfordshire

Follow-up report

The inspectorate's report on CPS Bedfordshire

December 2011



Contents

| | |
|---|-----------|
| Chief Inspector’s foreword | 1 |
| Introduction | 3 |
| Findings | 4 |
| Overview | 5 |
| Conclusion | 6 |
| Action taken to address the priority recommendations | 7 |
| Annexes | 9 |
| A Secondary recommendations and compliance issues | 9 |
| B Strengths | 15 |
| C Methodology | 16 |

Chief Inspector's foreword

HMCPsi is committed to promoting improvement, and this principle is embedded in all our work. I am particularly aware that follow-up inspection has a key role in helping the CPS focus on our recommendations, and I am pleased that CPS Bedfordshire has responded to this approach.

In April 2011 CPS Bedfordshire was subsumed within the new CPS Thames and Chiltern Area, as part of the national re-structure; this in turn resulted in alterations to the local management team and unit structures. I am very pleased to note that the Area has continued to apply itself to most of the issues we identified, throughout this period of change.

At the time of the inspection in 2010 the Area was rated as Good and had already demonstrated improvement since the Overall Performance Assessment in 2007. Nevertheless there remained aspects of work that needed addressing. I am pleased to report that action has been taken not only to address the majority of our specific recommendations, but also subsidiary issues. This has resulted in improvements to aspects of case handling and management, and an improvement in the service to victims and witnesses. The Area's approach has demonstrated a real commitment to improving the service it delivers.



Michael Fuller
HM Chief Inspector



Introduction

1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) arising from the follow-up inspection of the Crown Prosecution Service (CPS) in Bedfordshire on 3 and 4 October 2011.

2 The Inspectorate carried out an Overall Performance Assessment of CPS Bedfordshire in June 2007; at that time the Area was rated as Fair. An Area Effectiveness Inspection of CPS Bedfordshire was undertaken in May 2010 with a report of the findings published in October 2010; the Area had improved and was rated as Good.

3 The report in 2010 recognised that there had been improvements generally across the board; however, it identified a decline in performance in relation to pre-charge decisions and the management of resources. Four priority and nine secondary recommendations were made to address weaknesses and assist the Area in improving performance. Four further compliance issues were identified where action was necessary to improve casework processes. The inspection also identified five strengths.

4 The purpose of the follow-up inspection was to assess the progress against the priority and secondary recommendations and the compliance issues contained in the 2010 report. We also evaluated whether the strengths in performance remained.

5 We have rated the Area's response to each recommendation as follows, and the results appear in the table below:

- **Achieved** – the Area has accomplished what was required.
- **Substantial progress** – the Area has made real headway in taking forward its planned actions in relation to the recommendation.
- **Limited progress** – the Area has done something to address the recommendation.
- **Not progressed** – the Area cannot demonstrate any progress.
- **No longer applicable** – where there has been a change in circumstance such as Area restructuring or the implementation of a national initiative.

6 A detailed account of the methodology used to gather evidence and data can be found at Annex C.

Findings

7 The table below sets out the priority recommendations in brief and the progress the Area has made against each. A more detailed explanation of our findings can be found at paragraphs 13-16. Details of how the Area has

responded to nine secondary recommendations and four compliance issues are set out in the table at Annex A and comments on the five strengths identified in 2009 can be found at Annex B.

| Priority recommendation | Rating as at October 2011 |
|---|---------------------------|
| 1 The Group Senior Responsible Officer, in conjunction with the Area Management Team, should within six months of the implementation of Daytime Direct review the Area's current resource provision to determine whether it is at the correct level when compared with resource provision across the Group. | Achieved. |
| 2 The Chief Crown Prosecutor and Area Business Manager should meet regularly with the Group Finance Manager to review the Area's budget, to enable any remedial actions to be taken promptly. | No longer applicable. |
| 3 The Area should: <ul style="list-style-type: none"> • review its overall structure and produce costed proposals to make substantive savings to achieve a balanced budget; • work with the Group to produce an agreed budget reduction plan; and • only backfill essential vacant administrative posts. | No longer applicable. |
| 4 The Area should reduce its spend on special fee trials by using in-house prosecutors save in exceptional circumstances. | Achieved. |

Overview

8 CPS Bedfordshire was inspected in May 2010 and the report was published in October 2010. At that time CPS Bedfordshire was part of the Thames and Chiltern Group. An action plan was developed by the Area but required input at Group level, where some of the recommendations also had an impact, and required Group action to address them.

9 In April 2011, as part of a national reorganisation of the Crown Prosecution Service, CPS Bedfordshire was subsumed within the new CPS Thames and Chiltern Area and so ceased to exist as a separate entity. Therefore some of the recommendations directed at Area level, for example resource management, ceased to be applicable.

10 Since the 2010 inspection there have also been significant changes in the roles of a number of the Area Management Team. The former Chief Crown Prosecutor (CCP) for CPS Bedfordshire is now in post as Area Deputy CCP with lead responsibility for thematic work and no longer has operational responsibility for Bedfordshire; the former Area Business Manager (ABM) for Bedfordshire undertakes change projects across the new Area and two of the three District Crown Prosecutors (DCPs) have left the Service. In addition, the Luton and Bedford Magistrates' Courts Teams (MCTs) have been amalgamated at Luton Police Station since August 2011. These changes have impacted on the ability of Bedfordshire to progress actions for improvement and in a few instances the recommendations have been made obsolete by the restructure and are no longer applicable.

Conclusion

11 We found that the former Area (CPS Bedfordshire) achieved two of the priority recommendations; two others are no longer applicable due to the changes brought about by the recent restructure. In addition the former Area achieved three secondary recommendations - one of which is no longer applicable - and three compliance issues, made substantial progress on a further three recommendations and limited progress on two. Only one recommendation has not been progressed. There was a further compliance issue where progress was made but which is now no longer applicable due to the Area restructure.

12 The Area also took action to address aspects of performance detailed in the text of the inspection report where it was clear that improvement was required. Fourteen additional matters were identified by the Area to be incorporated into the action plan; this shows an impressive commitment by the Area to address weaknesses and drive improvement. Action has been taken to address 12 of these issues, albeit not all have progressed as much as the Area would have liked. The remaining two are no longer applicable due to the Area restructure.

Action taken to address the priority recommendations

Priority recommendation 1

13 The Group Senior Responsible Officer, in conjunction with the Area Management Team, should within six months of the implementation of Daytime Direct review the Area's current resource provision to determine whether it is at the correct level when compared with resource provision across the Group.

ACHIEVED: A report was produced analysing the resource commitment to Daytime Direct Charging of CPS Bedfordshire and other Areas within the Group. This highlighted that Bedfordshire was providing more resources than was appropriate for the demand from the police; however, there was a high level of rejection of cases submitted by the Bedfordshire Police and a substantially lower proportion of positive disposals where an MG3 (documentation for recording pre-charge decisions) was produced. Since the inspection in 2010 Bedfordshire Police have improved their performance and positive disposals are now on a par with the other two police forces in the Area. Following the report it was decided to keep resources at the same level but this was subject to regular review. Since the Area restructure in April 2011 a commitments model is used to balance staff resources across the units; resources and commitments are analysed on a monthly basis. To ensure best use of resources the Area reallocates charging work across the Area rather than moving staff across a large geographical area.

Priority recommendation 2

14 The Chief Crown Prosecutor and Area Business Manager should meet regularly with the Group Finance Manager to review the Area's budget, to enable any remedial actions to be taken promptly.

NO LONGER APPLICABLE: The Area restructure has removed the control of budgets at county level; it rests with the CCP and ABM for CPS Thames and Chiltern. Adjustments were made to the numbers of staff in post and the location of staff within the new Area. Action was also taken to reduce the amount spent on agents. This has resulted in a reduction in the unit cost of cases and assisted in reducing overall expenditure. However, crown advocate savings have fallen short of what was anticipated.

Priority recommendation 3

15 The Area should:

- review its overall structure and produce costed proposals to make substantive savings to achieve a balanced budget;
- work with the Group to produce an agreed budget reduction plan; and
- only backfill essential vacant administrative posts.

NO LONGER APPLICABLE: Savings were gained by CPS Bedfordshire through a variety of staff movements and changes:

- some staff became Group resources;
- secondments were made to the adjoining Area in the Group;
- the amalgamation of the two MCTs led to a reduction of managers, assisted by the voluntary early release scheme and resignation;
- agency staff were released; and
- vacant posts were not filled.

Adjustments have continued to be made following the restructuring of CPS Thames and Chiltern. However, no budget reduction plan has been produced. Whilst we understand the short term need for the DCP responsible for Area Daytime Direct Charging to also have responsibility for the Luton MCT, the Area recognises that this is not sustainable for the longer term.

Priority recommendation 4

16 The Area should reduce its spend on special fee trials by using in-house prosecutors save in exceptional circumstances.

ACHIEVED: Commitments in terms of court coverage have lessened due to a reduction in the number of trial courts listed; this has reduced the burden on Area resources. In-house advocates are undertaking the majority of trials. Bedfordshire is assisted in covering the trial courts at Luton and Bedford Magistrates' Courts by lawyers from the adjoining county of Hertfordshire; this reflects the Courts and Tribunals Service approach which also clusters a number of its functions across the two counties. Agent usage is less than half, in terms of sessions covered, than at the time of the inspection and as a result the overall costs have reduced significantly. Use of agents has to be approved by the CCP and ABM for CPS Thames and Chiltern.

Annexes

A Secondary recommendations and compliance issues

| Secondary recommendation | Position as at October 2011 |
|---|---|
| <p>1 The Group District Crown Prosecutor responsible for Daytime Direct Charging should:</p> <ul style="list-style-type: none"> • bring to the attention of police supervisors those cases where the prosecutor is rubber stamping decisions the police should have taken; and • discuss with individual prosecutors any case where they appear to have been unnecessarily risk averse. | <p>Substantial progress.</p> <p>Training was provided to police gatekeepers and custody sergeants in the Bedfordshire Police force.</p> <p>Police targets were set with a view to reducing police no further action (NFA) cases.</p> <p>There is liaison with the police and feedback is provided on issues and themes arising from the cases submitted for pre-charge advice.</p> <p>There have been reminders to the police of the procedure for escalation where there is disagreement over a case where no further action is advised, although some lack of awareness of the procedure by the police is still apparent.</p> <p>Dip sampling of MG3s is undertaken, and charge to NFA ratios for individual prosecutors are monitored and individual feedback is provided.</p> <p>The NFA rate for CPS Thames and Chiltern has improved; Bedfordshire has contributed to this improvement in performance.</p> |
| <p>2 The CJU Unit Heads should:</p> <ul style="list-style-type: none"> • analyse the reasons for cracked and ineffective trials; and • report issues of concern to the CCP. | <p>Achieved but now no longer applicable.</p> <p>CPS Bedfordshire implemented a process to provide analysis of the reasons behind cracked and ineffective trials.</p> <p>Since restructuring to CPS Thames and Chiltern that process has ceased with a view to implementing a uniform performance management regime across the Area.</p> <p>There is now an expectation that DCPs will examine the data and analyse cracked trials where there was insufficient evidence, to examine review failures. Guidance is being developed.</p> |

| Secondary recommendation | Position as at October 2011 |
|---|--|
| <p>3 The Trial Unit Head should:</p> <ul style="list-style-type: none"> • review each case where the plea and case management feedback form indicated that the indictment had to be amended; • identify and disseminate to prosecutors and paralegal officers any learning points; and • demonstrate that performance is improving against our findings. | <p>Substantial progress.</p> <p>The plea and case management feedback form captures any amendment to the indictment which is analysed by the DCP and reported on. Performance is also monitored through Core Quality Standards Monitoring (CQSM). Performance has improved; few indictments require amendment.</p> <p>In only one file examined by inspectors for the CQSM inspection, did the indictment require amendment, this was due to typographical errors on the indictment.</p> |
| <p>4 The Area Unit Heads should undertake an audit of the level of compliance with the sensitive material procedures and provide written assurance to the CCP either that there is now full compliance or that further steps have been taken to secure full compliance.</p> | <p>Not progressed.</p> <p>No audit was undertaken by CPS Bedfordshire. While an audit was undertaken by CPS Thames Valley, when it was a separate Area, the lessons learned have yet to be disseminated to staff across the new Area.</p> <p>Additional training was provided on the handling of unused material to Bedfordshire staff.</p> <p>A disclosure checklist is now used when preparing cases and performance is monitored using CQSM.</p> <p>There has been some improvement in performance although there is still room for further improvement.</p> <p>MG6Ds (the schedule for recording sensitive unused material) were endorsed by the lawyer in nine of the ten cases examined, in the other case there was no MG6D on file although it was clear that it existed and had been considered. A separate disclosure record sheet (DRS) is completed for MG6D in the Crown Court files and the DRSs are being completed.</p> |

| Secondary recommendation | Position as at October 2011 |
|--|--|
| <p>5 In cases where victims and witnesses are entitled to the protection of special measures when giving evidence, prosecutors should ensure they make an informed decision as to what measures the victim or witness requires.</p> | <p>Limited progress.</p> <p>A generic charging objective encompassing victim and witness care has been introduced and charging lawyers have been instructed to obtain as much information as possible from the police at charging.</p> <p>An Area notice relating to the use of intermediaries has been published.</p> <p>Performance is monitored through CQSM.</p> <p>File examination of 14 cases highlighted that consideration had not been given to special measures in three (21.4%).</p> |
| <p>6 The Luton CJU Head should:</p> <ul style="list-style-type: none"> • liaise with the Witness Service and request the detail of all future cases where there has not been timely provision of the necessary information to the Witness Service; • identify the reasons for any late provision and take any necessary remedial action; and • demonstrate performance improvement. | <p>Achieved.</p> <p>There was liaison with the Witness Service to identify the issues and remedial action was taken.</p> <p>A new system was introduced to ensure all witness information in all cases is sent to the Witness Service which is monitored as part of the case progression checks.</p> |
| <p>7 The Area should ensure that all Direct Communication with Victim letters to the victims of domestic violence include details of the National Domestic Violence Helpline.</p> | <p>Limited progress.</p> <p>The template letter for cases involving an allegation of domestic violence does not include the national helpline telephone number. An earlier template containing the details was subsequently lost when the case management system was upgraded.</p> <p>However, there is a template for Direct Communication with Victim (DCV) letters in cases of domestic violence which includes the local number for the Victim Support co-ordinator. In six of the ten cases examined where correspondence was sent in cases involving an allegation of domestic violence the template with the additional phone details was sent. In the remaining four letters the standard DCV letter template was used.</p> |

| Secondary recommendation | Position as at October 2011 |
|--|---|
| <p>8 The Area should:</p> <ul style="list-style-type: none"> • clarify with the Group Operations Centre (GOC) why the Area requires additional performance data and agree jointly with the GOC what proportion of this additional data is essential for its business needs; and • develop regular meetings with the Group Performance Officer. | <p>Achieved.</p> <p>The amount of performance data and the production of reports by the Group Performance Officer have been rationalised across CPS Thames and Chiltern with a view to achieving a uniform performance management regime.</p> |
| <p>9 The Area should undertake a comparative review of the control checks used in the Trial Unit, and the Bedford and Luton CJUs to ensure that good practice is adopted across all units.</p> | <p>Substantial progress.</p> <p>Some work was undertaken by CPS Bedfordshire across the units to improve performance. Following the Area restructure the two MCTs amalgamated at Luton, some good practice identified in the Bedford MCT has already been adopted although further work needs to be undertaken in the new joint unit to ensure best practice is adopted.</p> <p>The system in the Trial Unit is operated throughout CPS Thames and Chiltern.</p> |

| Compliance issue | Position as at October 2011 |
|--|--|
| <p>1 With immediate effect:</p> <ul style="list-style-type: none"> • duty prosecutors should include in the MG3 for youth offenders their view on mode of trial representations in grave crime cases having regard to the age of the defendant, the relevant Sentence Counsel Guidelines and pertinent case law; and • Unit Heads should monitor compliance as part of the Core Quality Standards Monitoring regime. | <p>Achieved.</p> <p>Instructions were issued to ensure compliance; this was reinforced through the legal briefings.</p> <p>Feedback on quality is provided by the associate prosecutors.</p> <p>The DCP for Area Daytime Direct Charging is the lead Bedfordshire youth specialist and has the opportunity to feedback effectively to charging duty prosecutors.</p> <p>Performance is also monitored through CQSM.</p> |
| <p>2 CJU Heads should ensure that a pre-charge failed case report, to the required standard, is compiled in every case where proceedings are discontinued.</p> | <p>Limited progress but no longer applicable.</p> <p>The reports continued to be produced to a high standard by the Trial Unit (TU) in all failed cases; these also detailed some MCT issues.</p> <p>The MCTs implemented the system prior to Area restructuring. Following restructuring this did not continue and it was replaced with a new system.</p> <p>All TU cases where there is a judge directed acquittal, a discharged committal or wasted costs ordered are analysed and the results are presented in tabular form. This system has yet to be implemented in the MCT where cases of no case to answer will also be captured.</p> |

| Compliance issue | Position as at October 2011 |
|--|---|
| <p>3 With immediate effect the Trial Unit Head should instruct trial counsel to provide a report in all rape cases which result in an acquittal.</p> | <p>Achieved.</p> <p>A standard paragraph is now inserted into all briefs with standard additional instructions in cases involving allegations of rape; this includes the requirement for the advocate to produce a report where there has been a jury acquittal.</p> <p>The Heads of Chambers were written to detailing the expectation for trial counsel.</p> <p>Awareness was raised amongst the paralegal cadre.</p> <p>A template of the jury acquittal form is produced in all cases.</p> <p>The practice of completing a form has been extended to all cases involving a sexual assault.</p> |
| <p>4 The OBM (Optimum Business Model) checklist should be used correctly at Luton CJU.</p> | <p>Achieved.</p> <p>Instructions were given to ensure the checklist was completed at the time the action was undertaken by the lawyer rather than subsequently by the case progression officer.</p> <p>Following Area restructure the two MCTs amalgamated at Luton, the former DCP for the Bedford MCT is now DCP for the new joint unit. The form continues to be used appropriately.</p> |

B Strengths

1 The quality of the Area's pre-charge reports.

The production of the pre-charge reports has ceased. This has been replaced by a new system in the TU where detail is provided in tabular form in all cases where there is a judge directed acquittal, a discharged committal or wasted costs ordered. The system has yet to be implemented in the MCT where cases of no case to answer will also be captured.

2 The very quick notification to the Witness Care Unit of Crown Court results, including where defendants are released on bail.

This remains a strength.

3 The Area system for ensuring there are timely applications to extend custody time limits.

Since the inspection there have been five custody time limit failures, all of which were failures of 'due diligence'. Significant action has been taken to tighten procedures and improve performance. Area notices were published and a 'List of Actions' was produced which was subsequently added to after lessons learnt from the latest two failures. Messages were reinforced at staff meetings and additional mandatory training was undertaken. There is now a protocol with Bedfordshire Police in relation to timescales for the preparation of cases and greater oversight of processes within the custody time limit system by the DCPs. Our on-site checks confirmed that more stringent processes and checks are in place.

4 Keeping staff informed about matters that affect them.

In the 2010 staff survey, 61% of Area respondents considered that the CPS kept them informed about matters that affected them. Although this is a decline of 7% from the previous year it is 23% higher than the CPS average. The Area has restructured to become part of CPS Thames and Chiltern in April 2011, the impact of this should be captured in the staff survey for 2011 which is currently underway.

5 The management of sick absences.

Sickness absence has increased slightly from 3 days in 2009-10 to 4.9 days in 2010-11. This is due in part to the rise in long term absences, from 9.7% to 26%, although performance remains significantly better than the national average.

C Methodology

Before visiting the Area we requested management information and performance data that would provide evidence of the progress that CPS Bedfordshire had made. Included in this documentation was the Area's action plan which was prepared to address the recommendations, compliance issues and other aspects of performance within the text of the report where improvement was required. In addition the Area submitted a narrative of action taken and documentation in support.

A number of the secondary recommendations and compliance issues related to the handling of casework. Inspectors examined a sample of 63 cases on the case management system, a significant number being examined in advance of our visit. In addition, 20 Crown Court cases which formed part of the file sample for the Core Quality Standards Monitoring inspection were used to inform this follow-up inspection as well as ten live files from the TU and the MCT which were examined whilst on-site.

Interviews were conducted with:

- the TU head (who was to retire from the Service prior to the visit);
- the Deputy CCP (thematics) who was formerly the CCP for CPS Bedfordshire;
- the DCP responsible for Daytime Direct Charging and the new amalgamated MCT in Luton; and
- the CCP and ABM of CPS Thames and Chiltern (by telephone).



If you ask us, we can provide a synopsis or complete version of this booklet in Braille, large print or in languages other than English.

For information or for more copies of this booklet, please contact our publications team on 020 7210 1197, or go to our website: www.hmcpai.gov.uk

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