

CPS London Borough Performance Assessments

Brent 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, Brent 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, Brent borough was **POOR**.

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

Aspect	Score	Assessment
Pre-charge advice and decisions	0	Poor
Decision-making, preparation and progression in magistrates' court cases	0	Poor
Decision-making, preparation and progression in Crown Court cases	0	Poor
The prosecution of cases at court	2	Fair
Serious violent and sexual offences, and hate crimes	0	Poor
Disclosure	0	Poor
Custody time limits	2	Fair
The service to victims and witnesses	0	Poor
Managing performance to improve	2	Fair
Managing resources	Not scored	
Management and partnership working	2	Fair
OVERALL ASSESSMENT	8	Poor

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.

Brent borough has one office at Wembley Police Station. It is part of the CPS London district which is aligned to the Crown Court sitting at Harrow and Wood Green although Brent's cases are all committed to Harrow. The office is an integrated prosecution team site (IPT) where police and CPS staff work closely together in shared accommodation and the CPS undertake case building functions that were previously the responsibility of police staff.

Borough business is divided on functional lines between magistrates' court and Crown Court work in respect of administrative staff but lawyers deal with both types of work.

As of October 2009 the borough had an average of 27.4 full-time equivalent staff in post, and a budget of £1,455,514¹. (Current position.)

Staff	Numbers at November 2009
Borough crown prosecutor	1
Business managers	1
Crown prosecutors	9 ²
Associate prosecutors	2.9
Caseworkers	6.5
Administrative support staff	7
Total (full-time equivalent)	27.4

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

	2007	2008	Percentage change
Pre-charge work (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	1401	1104	-21.2%
Decisions not resulting in a charge ³	836	735	-12.1%
Total pre-charge decision cases	2237	1839	-17.8%
Magistrates' court proceedings⁴			
Magistrates' court prosecutions	3633	3571	-1.7%
Other proceedings	3	0	-100.0%
Total magistrates' court proceedings	3636	3571	-1.8%
Crown Court proceedings⁵			
Cases sent or committed to the Crown Court for determination	677	732	8.1%
Committals for sentence ⁶	91	96	5.5%
Appeals from the magistrates' court ⁶	59	59	—
Total Crown Court proceedings	827	887	7.3%

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

2 Includes one legal trainee.

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

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

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

6 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 Mal Reston was the lay inspector. His views and findings have been included in the report as a whole. His time was given on a purely voluntary basis and the Chief Inspector is grateful for his effort and assistance.

Summary of judgements

Contextual factors and background

The London borough of Brent has a wide and varied economic, environmental, racial, cultural, linguistic and social make-up. There exists within it a sharp divide between the relative affluence of the northern wards to the high levels of socio-economic deprivation south of the North Circular Road. It is the most densely populated borough in the West London sub-region and borders Harrow to the north and Westminster to the south.

Despite this, the borough is an area of great opportunity and potential. Wembley is the focus for one of the largest regeneration projects in London. Brent is one of only two local authorities serving a population where the majority of people are from ethnic minorities. The population is relatively young with almost a quarter of all residents aged 19 years or under.

The borough is prey to high levels of serious crime and common offence types include street robberies, commercial drug dealing and both residential and commercial burglary. Gang related violence also leads to challenging prosecutions and associated anti-social behaviour.

The current BCP was appointed in December 2008 and in May 2009 all staff accommodation was moved to new site within Wembley Police Station as part of the implementation of the IPT programme across CPS London. The changes in working practices and environment have not been the panacea for performance improvement that some anticipated and it is clear that there remain a number of unresolved issues around relationships and getting the right people doing the right jobs. For much of this period there has been no DCP in post.

Any major change of this nature needs time and goodwill to settle down before judgment is passed on its success or otherwise, but borough staff are firm in the view that most of their difficulties in progression and management of casework stem from the implementation of IPT. Efforts to introduce the optimum business model (OBM) approach to magistrates' court work have not been consistently successful especially during 2009. Nevertheless, the BCP is determined to see improvements with OBM and equally as importantly with Crown Court casework which has been an area of weakness for the borough for some time.

Despite some early signs of improvement, many formidable challenges lie ahead if the borough is to achieve lasting improvements in all aspects of its casework and raise its profile with key local partner agencies. Support and encouragement from senior management will be crucial over the next 12 months if the borough is to advance with confidence.

Summary

Borough prosecutors provide charging advice at Wembley Police Station between 9am and 5pm on Mondays, Wednesdays and Fridays. Daily cover was reduced in mid-August 2009 following the introduction in May 2009 of CPS London Direct, a daytime telephone service providing charging decisions to the police in volume crime cases during normal office hours. For the more serious and

complex cases, especially allegations of rape and child abuse, prosecutors will see officers by appointment. It is too soon to judge whether the level and method of providing charging decisions is the most appropriate for the police and the prosecutors. Decision-making at this stage could be improved as in three of 29 cases (10.4%) the decisions did not comply with the evidential stage of the Code for Crown Prosecutors (the Code) test. There is a clear distinction between the charging benefits measures achieved in Crown Court and magistrates' court cases. All Crown Court measures have been poor for some time, but the proportion of pre-charge decision cases discontinued in the magistrates' court has been pleasingly low during 2008-09 and in the current year. Overall the proportion of successful outcomes for pre-charge decision cases is below the national and CPS London figures.

Successful outcome (conviction) rates for all magistrates' court casework in the 12 months to September 2009 at 86.6% are similar to national performance (87.1%) and better than CPS London (86.1%). These outcomes are reflected in the low rate of discontinuance. Levels of other adverse outcomes such as discharged committals and acquittals after trial are higher than national and London comparators. Any significant strides towards implementing reliable case progression systems were undermined by the move to IPT and a lack of cover for an emerging OBM unit. This has created a culture of late and reactive case management that is often left to the courtroom to be resolved but countered by robust judicial intervention. The result is that effective trial rates (i.e. contested cases which proceed to trial on the day fixed) in the magistrates' court have remained at levels that compare favourably with national and CPS London rates.

Successful outcomes in Crown Court casework in the 12 months to September 2009 at 66.6% are significantly below national (80.7%) and CPS London (72.7%) rates. The Code test failures were all Crown Court cases and the lack of proactive case management was apparent from the outset. Timely full reviews were frequently missing from case files and the quality of both indictments and instructions to counsel needs improvement. The temporary arrangements for the borough's cases to be heard at Inner London Crown Court has increased the likelihood of cases failing. The new Crown Court Advocacy Unit based at Harrow has begun to take an important buffer role between the court officers and borough management.

The quality of the presentation of cases in the magistrates' court at Brent and at Harrow Crown Court was variable with late and poorly prepared files being a substantial factor. High levels of agent usage at Brent Magistrates' Court had been in place for some time when we visited in November 2009. The borough's sole crown advocate presents some cases at Harrow but all other crown advocates are part of the district team.

Allegations of serious violence, sexual offences and other hate crimes are identified appropriately and allocated to specialist prosecutors. However, the three cases where the charging decision did not comply with the evidential stage of the Code test were all in this category and it was not possible to discern any significant uplift in the active supervision by prosecutors of these cases as opposed to the other cases in their care. Successful outcomes in rape cases are poor whilst those in domestic violence and other hate crimes were better in 2008-09 but have dipped in the 12 months to September 2009.

The borough's performance in relation to the discharge of its duties of disclosure of unused material to the defence is poor. Timeliness is a significant weakness in the service of initial disclosure particularly in magistrates' court cases. Defence case statements are relatively unusual even in more serious prosecutions so that continuing disclosure can often be overlooked. More focus is required on compliance with the guidance contained in the Association of Chief Police Officers (ACPO)/CPS Disclosure Manual.

The borough had two custody time limits systems failures in 2008-09 and thereafter systems were strengthened. Although custody time limits are now monitored appropriately, the case progression difficulties outlined above have exposed the borough to the risk that the court will refuse an application even though it is properly made because the prosecution cannot show that the case has been progressed with due diligence. There have been two such instances in 2009-10. More robust management supervision will help to minimise this risk.

Prosecutors who meet victims and witnesses at court are presenting a positive face of the borough and working well with Witness Service volunteers. However, the compliance with the borough's obligations to notify victims of cases which are discontinued or where charges are materially reduced has deteriorated in 2009-10. Applications to trial courts for special measures to assist vulnerable witnesses are often late or lack sufficient detail. Communications with the witness care unit (WCU) are adequate but response rates by prosecution staff to WCU queries need to be improved.

Performance management at borough level has been limited and has concentrated more on feedback to individuals than the organisational problems. Managers have now given a higher priority to the performance development review process, but more analysis of trends and outcomes in particular categories of case would assist the borough to identify targets for improvement and opportunities for joint working that are likely to be most fruitful. Where joint meetings have been held, actions have not always been completed and partner agencies have lost some confidence in the collaborative approach.

Financial management is controlled at district level, but the borough has operated within its non-ring fenced administration costs budget in 2008-09. Staffing levels have fluctuated in the recent past and it is clear that the borough does not yet have the right numbers of staff in the right grades to deliver all its priorities. Agent usage has been much higher in 2009-10 than in previous years; but the aim of devoting more prosecutor time to case preparation has yet to show lasting benefits in performance.

Following the strains suffered by the borough in the wake of the implementation of IPT, an Area Delivery Action Plan was devised in September 2009; until then there had been little business planning or risk management. During challenging times it is not surprising that relations between staff and with external partners have become strained. Borough managers are aware of the need to monitor the situation closely. If casework processes can be brought under control and staff and partners become convinced of the borough's determination to raise standards then many of these irritants will fall away.

Inspectors identified 16 aspects for improvement:

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- 1 Managers need to establish systems to ensure that full Code test reviews are carried out on cases charged under the threshold test within a reasonable period of time (aspect 1).
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- 2 The borough crown prosecutor should carry out systematic and regular monitoring of prosecutors' records of decisions and advice (MG3s) to improve the standard of PCD records (aspect 1).
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- 3 Urgent action should be taken in conjunction with police partners to reduce the backlogs on CMS of PCD cases awaiting finalisation (aspect 1).
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- 4 The borough's managers should set clear objectives and performance targets for the OBM linked to improvements in magistrates' court case preparation (aspect 2).
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5 The borough crown prosecutor should take urgent steps to ensure that Crown Court case preparation is undertaken to a satisfactory standard (aspect 3).

6 Borough managers should put in place measures designed to improve the quality of indictments and instructions to prosecuting advocates (aspect 3).

7 The borough should issue clear guidance to prosecutors dealing with the retraction policy in domestic violence cases to ensure greater consistency of approach (aspect 5).

8 The borough crown prosecutor should use the process compliance guidance for disclosure issued by CPS HQ to drive up performance in relation to the handling of unused material (aspect 6).

9 The borough crown prosecutor should increase the pool of staff experienced in all aspects of CTL management, to ensure that risk is minimised in the absence of managers and that there is a greater understanding of CTLs in more complex cases (aspect 7).

10 The borough crown prosecutor needs to establish systems to improve the timeliness and quality of applications for special measures in appropriate cases and communicate the results of applications to the Witness Care Unit (aspect 8).

11 Borough managers should ensure that adequate time and resource is allocated to DCV compliance so that timeliness is improved and to monitoring the quality of letters sent especially in serious and/or sensitive cases (aspect 8).

12 The borough crown prosecutor should establish how the CPS can optimise its contribution to joint performance meetings by:

- agreeing priorities with partners and the best forum/means to deal with such issues; and
- delegating responsibility for some meetings to other staff (aspect 9).

13 The borough crown prosecutor should approach the police with a view to supplementing the basic training already provided to CPS staff in relation to their new responsibilities with additional desk-side support (aspect 9).

14 The borough crown prosecutor should work with district and area managers to ascertain whether the current level of associate prosecutor resources is sustainable, particularly in light of the shortage in some other boroughs. Alternative roles may be more helpful to the borough in dealing with their caseload and priorities (aspect 10).

15 The borough crown prosecutor should provide regular updates to partner agencies on progress against the action plan and also ensure they are kept in touch with other developments that should lead to improved delivery (aspect 11).

16 The CPS should work with the police to ensure that only appropriate cases are processed via the Director's guidance on the streamlined process (aspect 11).

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.

The full text of the report may be obtained from the Corporate and Operations Support Group at HMCPsi Inspectorate (telephone 020 7210 1197) and is also available on line at www.hmcp.si.gov.uk.