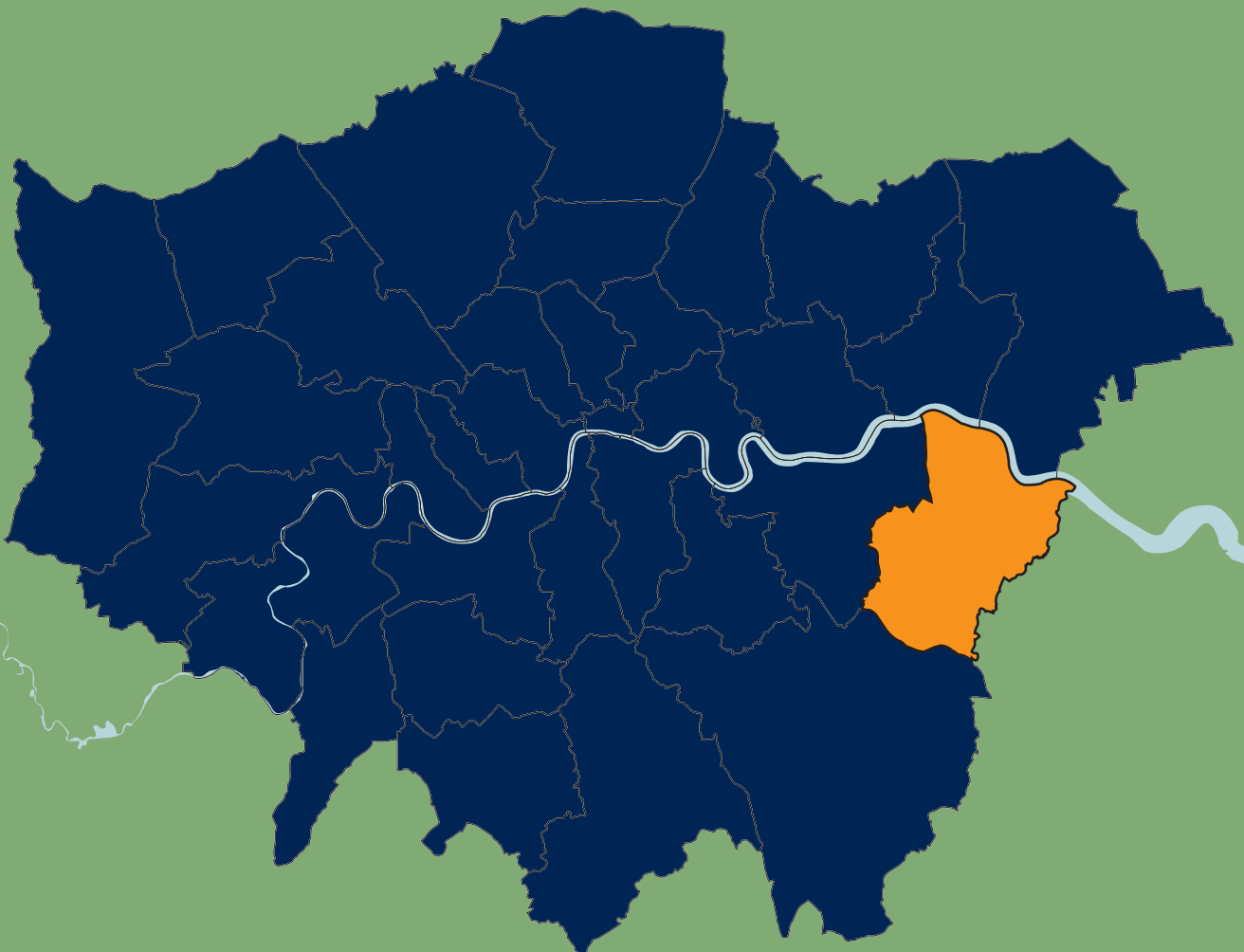


# CPS London Borough Performance Assessments

## **Bexley Borough**

Undertaken September 2009





# CPS London Borough Performance Assessments

## **Bexley Borough**

Undertaken September 2009



## ABBREVIATIONS

Common abbreviations used in this report are set out below. Local abbreviations are explained in the report.

AP	Associate prosecutor
BCP	Borough crown prosecutor
BCU	Borough Command Unit (police)
CA	Crown advocate
CJSSS	Criminal Justice: Simple, Speedy, Summary
CJU	Criminal Justice Unit (police)
CMS	CPS computerised case management system
CPS	Crown Prosecution Service
CPSD	CPS Direct
CPSLD	CPS London Direct
CQA	Casework quality assurance
CTL	Custody time limit
DBM	District business manager
DCP	District crown prosecutor
DCV	Direct communication with victims
DGSP	Director's guidance on the streamlined process
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
IPT	Integrated prosecution team
JDA	Judge directed acquittal
JOA	Judge ordered acquittal
MG3/3A	Forms sent by police on which the prosecutor records the charging decision and action points
NRFAC	Non-ring fenced administration costs
NWNJ	No Witness No Justice
OBM	Optimum business model
PCD	Pre-charge decision
PCMH	Plea and case management hearing
PTPM	Prosecution team performance management
WCU	Witness care unit
WMS	Witness management system

## CONTENTS

<b>A</b>	<b>Introduction to the performance assessment process</b> .....	<b>2</b>
<b>B</b>	<b>Description and caseload of CPS Bexley borough</b> .....	<b>4</b>
<b>C</b>	<b>Summary of judgements</b> .....	<b>6</b>
<b>D</b>	<b>Defining aspects</b> .....	<b>10</b>
1	Pre-charge advice and decisions .....	10
2	Decision-making, preparation and progression in magistrates' court cases.....	13
3	Decision-making, preparation and progression in Crown Court cases .....	16
4	The prosecution of cases at court .....	19
5	Serious violent and sexual offences, and hate crimes.....	20
6	Disclosure .....	22
7	Custody time limits.....	24
8	The service to victims and witnesses.....	25
9	Managing performance to improve.....	27
10	Managing resources.....	29
11	Management and partnership working .....	31

## ANNEXES

<b>A</b>	<b>Performance data</b> .....	<b>33</b>
<b>B</b>	<b>Individuals and representatives of local criminal justice agencies and organisations who assisted us</b> ...	<b>35</b>
<b>C</b>	<b>London borough scoring model</b> .....	<b>36</b>

## **A INTRODUCTION TO THE PERFORMANCE ASSESSMENT PROCESS**

This report is the outcome of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPPI) assessment of the performance of the Crown Prosecution Service (CPS) London area's Bexley borough unit. It represents a more in-depth local assessment than the overall performance assessment of the South Sector of CPS London published in 2008.

### **Assessments**

Assessments and judgements have been made by HMCPPI based on absolute and comparative assessments of performance. These came from national data; CPS self assessment; HMCPPI assessments; and by assessment under the criteria and indicators of good performance set out in the Performance Assessment (PA) 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.

Inspection teams comprise legal and business management inspectors working closely together. HMCPPI also invites suitably informed members of the public, nominated by national organisations, 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 witness and victims; 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.

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 (see annex C).

Whilst we comment on the borough's performance in managing its resources, this aspect has not been scored.

The table at page 9 shows the unit performance in each category.

Whilst borough performance assessment are not full inspections, significantly more evidence is collected and analysed than in area overall performance assessments. This enables HMCPPI to give a more discerning picture of CPS London overall which recognises the substantial variations within the area. This assessment is designed to set out comprehensively the positive aspects of performance and those requiring improvement.

Our original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which we expected across an area as diverse as London. This approach was endorsed by senior managers in CPS London. In the event, the 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 management level. CPS London senior management team confirmed that the boroughs that had been assessed were fairly representative of London as a whole and that to undertake further assessments

would be unlikely to add significantly to our findings. We therefore decided to confine the exercise to 20 borough performance assessments (including the pilot assessment of CPS Croydon Borough), drawn from five of the six CPS London districts, together with an assessment of the London Traffic Unit.

The findings from the borough performance assessments undertaken will be drawn together in a pan-CPS London report which will contribute to providing an overall picture of the performance of the area. The pan-London report will also address 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 important to bear in mind that, despite the title of the report, this is a report about the performance of the CPS in Bexley borough. That performance is influenced by a range of factors including matters which are responsibility of managers at district and area level. It should not be regarded purely as a critique of the borough unit and the staff who work in it. Both the credit and the responsibility for what we find in the boroughs – good and bad alike – must be shared with those middle and senior managers whose decisions and behaviours influence what happens on the front line of prosecutions.

**Direction of travel**

Where feasible we will indicate any changes in the unit performance from the year 2007-08 to date if this is ascertainable.

We have identified any strengths or aspects for improvement in performance within the text.

## B DESCRIPTION AND CASELOAD OF CPS BEXLEY BOROUGH

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 level D 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 level E 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 (CCP), three legal directors and two regional business managers.

Bexley borough is part of the CPS London district, which is aligned to the Crown Court sitting at Woolwich. The unit is based at Bexleyheath police station. The prosecutors and caseworkers are part of an 'integrated prosecution team' in that police officers and police support staff are based with the unit and both files and administrative tasks are shared.

Borough business consists of both magistrates' courts and Crown Court work, and staff of appropriate skills and experience may deal with both types of case.

For year 2008-09 the borough budget was £1,077,541, the allocated budget for 2009-10 is currently £1,188,082.00<sup>1</sup>. As of September 2009 the borough had 18.1 full time equivalent staff in post.

<b>Staff</b>	<b>Numbers at September 2009</b>
Borough crown prosecutor	1
Business manager	1
Crown advocates	2
Crown prosecutors	2.8
Associate prosecutors	0.7
B2 Paralegal manager	1
B1 Case progression manager	1
Caseworkers	3.6
Administrative support staff	5
<b>Total (full time equivalent)</b>	<b>18.1</b>

<sup>1</sup> 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.



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

	2007	2008	Percentage change
<b>Pre-charge work (all cases referred to the CPS by police for a decision as to charge)</b>			
Decisions resulting in a charge	706	838	+18.7%
Decisions not resulting in a charge <sup>2</sup>	583	404	-30.7%
Total pre-charge decision cases	1289	1242	-3.6%
<b>Magistrates' court proceedings<sup>3</sup></b>			
Magistrates' court prosecutions	1948	1767	-9.3%
Other proceedings	0	1	—
Total magistrates' court proceedings	1948	1768	-9.2%
<b>Crown Court proceedings<sup>4</sup></b>			
Cases sent or committed to the Crown Court for determination	287	283	-1.4%
Committals for sentence <sup>5</sup>	48	56	+16.7%
Appeals from the magistrates' court <sup>5</sup>	43	34	-20.9%
Total Crown Court proceedings	378	373	-1.4%

Inspectors visited the borough in September 2009. The lay inspector was Joan Kostenko. The role of the lay inspector is described in the introduction. She examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. She also visited some courts and assisted in interviews with Witness Service representatives. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately. Her time was given on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.

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

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

<sup>4</sup> Including cases that have previously been subject to a pre-charge decision.

<sup>5</sup> Also included in the magistrates' court figures, where the substantive hearing occurred.

## **C SUMMARY OF JUDGEMENTS**

### **Contextual factors and background**

The borough, co-located at Bexleyheath police station, has undergone several key changes during 2008-09, not least of which has been the move to becoming a 'live' integrated prosecution team (IPT) site. This has proved to be a significant challenge for the staff in terms of adjusting to new roles and job descriptions, adopting different systems and processes, and the use of a 'single' prosecution file. Other initiatives, such as the optimum business model (OBM) designed to manage its summary trial cases, have also had to be accommodated. The incidence of individual working patterns within the borough has impacted upon its ability to adapt to these changes. A lawyer in the unit has been acting as the borough crown prosecutor; a recruitment exercise has recently been held to fill the position permanently. Taking account of this background, coupled with changes at district crown prosecutor level, has meant the borough has found it difficult to deliver some key performance targets.

### **Summary**

The processes for delivering pre-charge decisions have changed since the introduction of CPS London Direct, which provides advice and charging decisions to police over the telephone from a central unit. Now only the more serious or complex cases are advised upon by the borough. There is a marked distinction between outcomes in the magistrates' court, where targets were met for 2008-09 and performance was above CPS London average, and in the Crown Court, where the reverse was true. Performance in the 12 months to June 2009 has seen that trend continue.

Borough prosecutors have established a harmonious working relationship with police evidential review officers (EROs) in delivering pre-charge advice, but the high ratio of charged to 'no further action' (NFA) cases suggests that they are not being sufficiently robust and this subsequently translates into the unsuccessful outcomes figure for Crown Court cases.

The magistrates' court conviction rate for 2008-09 was better than both national and CPS London performance and has improved slightly in the 12 months to June 2009. This reflects the borough's concentration on its summary work and recent improvements to the operation of its OBM processes, which have improved timeliness. Similarly, the borough's effective trial rate in the magistrates' court for the same period was also above national and CPS London performance. The ability to join linked cases together relies heavily on the police.

By contrast, the borough performed less well in the Crown Court during 2008-09, where the overall conviction rate was below both national and CPS London figures and has dipped further during the 12 months to June 2009. An over-reliance on the initial review, and systems which do not permit sufficient time for serious case preparation has resulted in poor outcomes. The effective trial rate at Woolwich Crown Court was better than national and CPS London performance during 2008-09, despite a lack of effective case progression systems in the borough.

In the magistrates' court, case presentation varied and some advocates were not always fully prepared, although overall, it was found to comply with national standards of advocacy. The borough's associate prosecutors were generally well regarded. There is little in-house advocacy in the Crown Court and a coherent strategy needs to be embedded. Instructions to advocates are not sufficiently tailored to the individual case, lacking comprehensive expositions of the most important aspects and many are delivered too late to allow the advocate sufficient time to prepare for the hearing. The quality of advocacy is variable and advocacy monitoring should be instigated in the borough to assess and improve performance.

The borough has two lawyers who act as champions for cases involving serious violence, sexual offences and hate crimes generally. Successful outcomes for cases involving violence against women (which includes domestic violence and serious sexual offences) were significantly worse than national averages.

Although this is understood by the borough, more work needs to be done to find ways to improve performance. A greater clarity around roles and responsibilities of specialists would help in this regard.

Compliance with the prosecution's duties of disclosure of unused material is poor and weaknesses were evident across a range of aspects, including: inadequately compiled and annotated schedules; failure to endorse and record disclosure decisions; and late completion of both initial and continuing disclosure. Archive storage of disclosure documents once a case has concluded needs to be improved.

The systems for managing custody time limits are satisfactory, although the CTL champion and staff in general would benefit from refresher training. There were no reported failures recorded in 2007-08, 2008-09 or so far this year.

The borough has met its target for the number of letters sent to victims to explain why a charge has been dropped or significantly altered, but not in respect of the timeliness of letters. It enjoys a good working relationship with its partner Witness Care Unit, which has strengthened since operating jointly from the same location. The borough needs to improve its processes for monitoring its performance against the minimum requirements of the No Witness No Justice scheme.

The borough has limited responsibility for managing prosecution costs and non-ring fenced administration costs, as these are set by CPS London and then managed at district level. However, the borough overspent against its allocated budget in 2008-09. Deployment of advocates in the magistrates' courts is high, achieving a rate of 99.2% of sessions covered in-house during 2008-09. The borough, along with the district as a whole, has struggled to implement the CPS advocacy strategy in the Crown Court.

Overall, the quality of performance management is satisfactory, but it requires a more focused analysis and understanding of those aspects that adversely affect the borough's performance across a range of key indicators in order to reveal areas of weakness and performance trends.

The management of resources by the unit is difficult to assess. It has used only a small percentage of agents, but has overspent its allocated budget substantially. Its caseload has fallen significantly, but it has not been able to maintain the quality of Crown Court work. Its lawyer complement has reduced, and its associate prosecutor complement of one appears insufficient. Sickness absence has been substantial.

Managers have understood and introduced the national and London initiatives such as Criminal Justice: Simple, Speedy, Summary (CJSSS), the Director's guidance on the streamlined process (DGSP), the optimum business model for case preparation, and is now an integrated prosecution team. However, this has led to an over-concentration on day-to-day operational issues at the expense of developing fully effective borough partnerships. Relationships with staff are generally positive and there is effective informal communication between managers and staff but a need for regular team meetings to be held to ensure all staff are kept informed of key issues within the borough.

In the light of our findings the Borough's performance is **FAIR**.

### Aspects for improvement

We identified 13 aspects for improvement:

- 
- 1 The borough crown prosecutor should monitor the quality of the charging decisions and any action plans produced as part of a charging consultation (aspect 1).

---

  - 2 The borough crown prosecutor should take steps to ensure that where defendants face more than one set of proceedings, they are linked from the outset (aspect 2).

---

  - 3 The borough crown prosecutor should ensure that Crown Court case preparation is undertaken to a satisfactory standard (aspect 3).

---

  - 4 There is a need for systematic monitoring of all advocates to take place and be recorded, and for feedback to be provided (aspect 4).

---

  - 5 The district crown prosecutor should take steps to agree and implement an effective crown advocate strategy (aspect 4).

---

  - 6 The borough needs to:
    - a. identify the reasons for the low levels of successful outcomes rate in cases involving violence against women; and
    - b. ensure that the roles of specialists and champions are distributed more evenly and that the individuals are given specific expectations of their roles (aspect 5).

---

  - 7 The borough should ensure that the police do not remove CPS documentation and disclosure material from the files before they are sent for storage. The borough should remove all unnecessary material from files prior to sending the file back to the police (aspect 6).

---

  - 8 The borough needs to take urgent steps to complete local CTL training for all staff (aspect 7).

---

  - 9 The borough needs to develop a clear strategy for victim and witness service in line with the national strategy and ensure its performance framework includes performance against NWNJ primary and secondary measures and the Victims' Code (aspect 8).

---

  - 10 The borough needs to keep formal records of advocacy monitoring undertaken, so this can be used to drive service improvement (aspect 9).

---

  - 11 The borough needs to make better use of CMS to assist in performance monitoring (aspect 9).

---

  - 12 The borough needs to develop further their performance framework to ensure that it covers all aspects of the business, to enable trending to be undertaken, comparisons made and themes identified to drive performance improvement (aspect 9).

---

  - 13 The borough crown prosecutor needs to consider the balance of resources and its impact upon Crown Court casework in particular (aspect 10).
-

**Summary of judgements**

<b>BOROUGH PERFORMANCE ASSESSMENT 2009</b>	
Pre-charge advice and decisions	<b>2 Fair</b>
Decision-making, preparation and progression in magistrates' court cases	<b>2 Fair</b>
Decision-making, preparation and progression in Crown Court cases	<b>0 Poor</b>
The prosecution of cases at court	<b>0 Poor</b>
Serious violent and sexual offences, and hate crimes	<b>2 Fair</b>
Disclosure	<b>2 Fair</b>
Custody time limits	<b>2 Fair</b>
The service to victims and witnesses	<b>2 Fair</b>
Managing performance to improve	<b>2 Fair</b>
Managing resources	<b>Not scored</b>
Management and partnership working	<b>2 Fair</b>
<b>OVERALL ASSESSMENT</b>	<b>16 FAIR</b>

## D DEFINING ASPECTS

### 1 PRE-CHARGE ADVICE AND DECISIONS

Assessment  
**Fair**

#### 1A The quality of decision-making contributes to improving casework outcomes

- Overall, the quality of decision-making at the pre-charge stage is fair. We examined 27 finalised cases that had been subject to a pre-charge decision (PCD) where the decision was to authorise charge. In eight of the 27 cases (29.6%) the threshold test was applied initially, and this was appropriate in six of the eight cases.
- The application of the evidential stage of the full code test accorded with the Code for Crown Prosecutors (the Code) at the time of the charging decision in all 19 relevant cases and the public interest stage was applied in accordance with the Code in each case. The most appropriate charge was selected in 24 of the 27 cases (88.9%).
- Overall, the quality of the MG3s in the finalised file sample was good, with 17 rated as good, eight as fair and two as poor. Action plans, where completed, met the required standard in nine of the 13 relevant cases (69.2%). Three did not set out clearly what further material or evidence was required for a charging decision and the target date for the submission of the material and one was missing from the file and CMS. Generally the MG3s set out clearly what information was needed and target dates for obtaining the information, but were often insufficiently focussed on the trial issues and lacked clarity on the requirements from the police. Lawyers were not requesting information unnecessarily before making a charging decision.
- Ancillary issues, including whether a bad character, hearsay or special measures application should be made, were considered appropriately in 24 of the 27 relevant cases (88.9%).
- Lawyers were aware of the need to consider restraint and confiscation issues at charging. There were no cases in the file sample where it was appropriate to consider whether there should be restraint proceedings and confiscation applications.
- The outcomes for Crown Court cases subject to a PCD were worse in all respects than those for CPS London overall and national performance in the financial year ending 2008-09. Figures for the 12 months to June 2009 show a marked decline in Crown Court performance, with the discontinuance rate deteriorating to 17.9%, the guilty plea rate falling to 60.8% and the attrition rate increasing to 32.1%.
- Magistrates court cases had a lower discontinuance rate than those for CPS London overall and the national performance in the financial year ending 2008-09 and in the 12 months to June 2009 performance has improved slightly to 12.4%. The guilty plea rate was similar to the London overall performance in 2008-09 but worse than the national performance. The guilty plea rate has improved slightly in the 12 months to June 2009 (70.9%), but is still below the national average albeit above the London overall performance. The attrition rate in 2008-09 was better than the London overall figure, but worse than the national performance. In the 12 months to June 2009 this has improved to 19.7%, which is better than the London average (23%) but worse than the national figures (19.5%).

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough*
<b>Pre-charge decision cases</b>						
Conviction rate	80.8%	76.2%	77.7%	80.5%	75.5%	77.2%
<b>Magistrates' court cases</b>						
Discontinuance rate	13.1%	13.6%	12.8%	13.3%	14.1%	12.4%
Guilty plea rate	74.4%	69.8%	70.0%	74.2%	68.8%	70.9%
Attrition rate	19.2%	22.1%	20.3%	19.5%	23.0%	19.7%
<b>Crown Court cases</b>						
Discontinuance rate	11.7%	15.6%	16.0%	11.8%	15.7%	17.9%
Guilty plea rate	72.9%	60.8%	65.0%	73.0%	61.1%	60.8%
Attrition rate	19.4%	27.3%	28.3%	19.5%	27.6%	32.1%

\* Charging decisions made by CPS London Direct are included in the boroughs performance data and reflected in the performance figures.

### 1B Pre-charge decision-making processes are effective and efficient

- The borough provides face-to-face duty prosecutor coverage at Bexley Police Station on a Thursday and Friday. Outside of this time, CPS London Direct (CPSLD) makes charging decisions. In order to increase available resources for case preparation and advocacy, the borough originally reduced its commitment to one day a week, but that was deemed to be insufficient to meet police needs and cover was increased to two days per week. There is a protocol covering the cases referred to CPSLD. If urgent charging decisions are required on cases not covered by the protocol, then the borough will provide an additional lawyer to cover this need.
- Pre-charge decision cases involving allegations of child abuse or serious sexual offences dealt with by the Metropolitan Police Sapphire Unit are advised on at the borough office by a rape or sexual offences specialist lawyer in a surgery one day per month. The duty prosecutor may either provide face-to-face charging advice at the surgery, or if there is extensive evidence to consider retain the file and provide written advice at a later date.
- Other types of case which, because of their size or complexity, cannot be dealt with at the charging centre are identified by the police evidential review officers (ERO) when an appointment is requested and arrangements are made for the investigator to see a duty prosecutor at the CPS office. This process works well.
- All cases must go via the police ERO before an appointment can be made to see a lawyer. The EROs manage the PCD charging diary and provide a copy to the CPS charging manager. Neither the duty prosecutor nor charging centre manager is proactive in identifying at the start of the day the likely impact of custody cases. However, there is sufficient flexibility within the appointments system to enable consultations cancelled due to an incoming priority case be rescheduled quickly or referred to CPSLD. The police provide electronic copies of the MG3 form in advance of the appointment.
- All cases requiring a charging decision either from the borough lawyers or from CPSLD are reviewed by a police ERO before an appointment is made for a charging decision. The quality of police files for charging decisions is discussed at the monthly PTPM meetings. In 23 of the 27 cases (85.2%) in our finalised file sample the police provided enough material to enable the prosecutor to

make a charging decision. The proportion of cases dealt with at first consultation in 2008-09 (84.9%) is above both the London and national averages. This suggests that the documentation supplied by the police is generally complete.

- The combined successful outcomes rate of 77.7 % for cases that have received a CPS charging decision is below the national average of 80.8%. The ratio of charged cases to NFA cases at 2.78:1 in 2008-09 is significantly above the London average of 2.08:1. The two sets of data indicate that lawyers at the charging stage may not be robust enough and are charging cases that are later discontinued or result in unsuccessful outcomes.
- CMS is used appropriately to record charging decisions.

---

**Aspect for improvement**

The borough crown prosecutor should monitor the quality of the charging decisions and any action plans produced as part of a charging consultation.

---



## 2 DECISION-MAKING, PREPARATION AND PROGRESSION IN MAGISTRATES' COURT CASES

Assessment  
**Fair**

### 2A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

*Case outcomes in the magistrates' court*

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough
Discontinuance and bindovers	8.7%	8.0%	6.7%	8.7%	8.0%	6.2%
No case to answer	0.2%	0.3%	0.2%	0.2%	0.3%	0.3%
Dismissed after trial	2.0%	2.4%	2.7%	2.1%	2.5%	2.8%
Discharged committals	0.2%	0.3%	0.5%	0.2%	0.3%	0.4%
Warrants	1.6%	3.0%	1.7%	1.6%	2.9%	1.4%
Overall conviction rate	87.3%	86.0%	88.2%	87.3%	85.9%	88.9%

- The application of the evidential stage of the full code test accorded with the Code in 16 of the 17 cases (94.1%) in our finalised file sample. The public interest stage was applied correctly in all cases. In the remaining case there was no review recorded on the file or on CMS. Case preparation was timely in only 9 out of 17 cases (52.9%). There has been an improvement in the timeliness of summary trial reviews following action taken to ensure the efficient operation of the optimum business model (OBM) system of case preparation.
- Prosecutors at the pre-charge stage, or at the initial review stage in cases where the police have charged, look to add value by identifying further enquiries and evidence needed. Bexley is now an integrated prosecution team (IPT) site and prosecutors communicate directly with individual police officers rather than simply with the police CJU. This takes more of the lawyers' time and therefore has resource implications for the borough. Local arrangements have been agreed with the police to ensure that CPS requests for additional actions or information are completed.
- Cases proceeded to summary trial on the appropriate charges in 14 of the 15 relevant cases (93.3%). In one case, which resulted in an acquittal, the prosecutor did not include an appropriate alternative charge in a racially aggravated case, contrary to CPS guidance. Borough prosecutors did not accept pleas to alternative charges in any cases and were robust in not reducing charges unnecessarily. Feedback indicated that generally the level of charges proceeded upon were appropriate.
- Prosecutors are expected to identify linkages between cases for defendants initially at the charging stage. It is accepted that this does not always happen and the prosecutors rely on the police to advise them of such links. Feedback from partner agencies indicates that cases are often only linked at court when the defence advise the CPS of related cases.
- We examined three finalised magistrates' court cases where the proceedings were discontinued, all of which had been subject to a PCD. In each case the decision accorded with the full Code test when determining that it should be discontinued, due to a material change in circumstances since the decision to charge. The decision to discontinue was timely in each case.
- The police are notified, where appropriate, of the proposed discontinuance of a case. Their representations are considered by the BCP who makes the final decision on all discontinuance

decisions. In the three cases we examined, the police had been notified and their representations were considered before the case was discontinued. In all three cases the discontinuance could not have been avoided by better case preparation.

- During 2008-09, the borough had eight cases that were discharged at the committal stage. This figure amounts to a discharged committal rate of 0.5% of overall caseload, compared with national performance at 0.2% and 0.3% for CPS London overall. It represents 2.75% of the cases listed for committal in that period (national average 1.84%).
- The BCP analyses all adverse outcomes and provides feedback individually to lawyers where appropriate. These analyses are discussed with the police at prosecution team performance management meetings. However, despite this, the borough has been unable to identify any trends in the adverse outcomes.
- Overall the proportion of the borough's magistrates' court cases that result in a successful conviction is improving. In 2007-08, and 2008-09 the borough conviction rate was better than the London and national averages and the 12 months to June 2009 shows a slight further improvement to 88.9% compared with 85.9% for CPS London and 87.3% nationally.

---

**Aspect for improvement**

The borough crown prosecutor should take steps to ensure that where defendants face more than one set of proceedings, they are linked from the outset.

---

**2B Cases are prepared and progressed effectively**

*Trial rates*

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	48.6%
Cracked	38.0%	34.8%	30.8%
Ineffective	18.6%	17.9%	20.6%
Vacated	21.5%	16.3%	19.1%

- The Optimum Business Model (OBM) process for the handling of contested magistrates' court cases did not work effectively in 2008-09 and its implementation on the borough has only recently been signed off by CPS London. Staff shortages meant initially that the borough was unable to keep the OBM unit fully staffed. The introduction of CPSLD and the resultant reduction in borough charging sessions helped the situation.
- Cases that are to be committed to the Crown Court or involve a defendant in custody are not dealt with as part of the OBM but are allocated to a specific lawyer.
- The OBM unit is staffed daily by a prosecutor and a caseworker. The range of work includes dealing with initial disclosure, preparing applications to the court and ensuring the relevant witnesses are warned to attend court. The complexity of the cases varies. Whilst some require extensive consideration, others can be dealt with more speedily. At the time of our inspection, cases were being reviewed and prepared approximately six weeks before the trial date.

- Criminal Justice: Simple, Speedy, Summary (CJSSS) has been implemented in the borough for some time now. Cases progressed at the first hearing in all 19 magistrates' court cases in our file sample. There was timely completion of all directions between first hearing and trial in 14 out of 16 relevant cases (87.5%). In one of the other two cases, the CPS was made the subject of a wasted costs order after repeatedly failing to view and serve CCTV evidence that was important to the case. In the other case, the CPS did not review or serve the unused material schedules on the defence in advance of the hearing and trial proceeded without this important step in the process taking place. There are no formal case progression arrangements at Bexley Magistrates' Court.
- The borough's effective trial rate of 48.6% in the year to 2008-09 is better than London at 47.3% and the national average of 43.4%. The effective trial rate has improved in the first quarter of 2009-10 to 51.3%
- Conversely, the ineffective trial rate at Bexley Magistrates' Court of 20.6% was worse than that for CPS London overall (17.9%) and nationally (18.6%) and performance has deteriorated in the first quarter of 2009-10 to 22.3%, although not for reasons attributable to the prosecution.
- The cracked trial rate in 2008-09 was 30.8%, which was lower (better) than CPS London (34.8%) and nationally (38.0%), but this worsened to 34.9% in the first quarter of 2009-10. Cracked trials due to the prosecution ending the case on the day had improved from 14.7% to 11.7% in the same period. In the same period in London overall performance deteriorated from 16.4% to 17.3%.
- CMS usage to record hearing outcomes and case finalisations is fair at 77.6% in 2008-09 although it is significantly above the London overall average of 59.9%. This has improved in the first quarter of 2008-09 to 81.3% (London 66.0%).

### 3 DECISION-MAKING, PREPARATION AND PROGRESSION IN CROWN COURT CASES

Assessment  
**Poor**

#### 3A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

##### *Case outcomes in the Crown Court*

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough
Judge ordered acquittals	11.6%	15.7%	15.9%	11.8%	15.9%	17.8%
Judge directed acquittals	1.0%	1.1%	1.8%	1.0%	1.3%	4.0%
Acquittals after trial	5.5%	8.5%	11.1%	5.5%	8.6%	8.3%
Warrants	1.1%	1.6%	0.7%	1.1%	1.6%	1.1%
Overall conviction rate	80.8%	73.1%	72.6%	80.6%	72.7%	68.8%

- The application of the evidential stage of the full code test at the committal review stage or service of the prosecution case accorded with the Code in 10 of the 12 Crown Court cases (83.3%) in the file sample. The application of the public interest stage accorded with the Code in each case. In one case, although it had correctly passed an initial threshold test review, the full code test was not correctly applied at the committal stage, with the consequence that the case had to be discontinued after it had already reached the Crown Court.
- The requirement to undertake continuous review following a significant change of circumstances or the receipt of relevant additional material arose in eleven of the cases examined from the finalised file sample. In eight (72.7%) of them, however, there was no record that the necessary review had taken place.
- Proactive case management, overall, was fair. Some cases were managed to a good standard, but prioritisation was intermittent and lacked sufficient focus on the most serious work. A heavy reliance was placed on pre-charge advice with little of significant value added subsequently. Potential further lines of enquiry or specialist evidence overlooked at the charging stage were not routinely pursued thereafter and case preparation was timely in only four (50%) of eight cases examined.
- The charges selected at the committal review stage were correct in 11 of the 12 cases (91.7%). Two indictments required altering subsequently; in one, this was a substantial amendment before pleas were entered to enable the prosecution to put its case properly. In the other, the amendment took place at trial, but altered neither the prosecution case nor the sentencing options available on conviction.
- Pleas were offered in two of the cases in the finalised file sample. Acceptance in both was correct, but the details were insufficiently recorded on the file. The system for accepting pleas at court is not robust; instructions to prosecutors do not contain guidance on pleas and there is no individual based at the Crown Court with that responsibility. Advocates are expected to contact the allocated lawyer or their manager by telephone, but both are often not available at the precise moment a decision is required.
- CPS London collates its restraint and confiscation orders centrally and the volume and value targets are set an area level. For 2008-09, London obtained a total of 491 confiscation orders, with a combined value of £38,513,344, exceeding the value target figure by £18,868,344; in the same

period, 352 restraint orders were achieved against a target of 98 orders. Overall, caseworkers on the borough liaise effectively with local financial investigation officers and have contributed to the area achieving its confiscation and restraint targets.

- The proportion of cases resulting in a judge ordered acquittal (JOA) is worse than both the national and London average. In 2008-09, 15.9% of cases resulted in a JOA compared with 11.6% nationally and 15.7% for London, whilst performance during the twelve months to June 2009 has declined further, reaching 17.8% of cases. Borough managers have not been able to explain this.
- We examined three cases that had resulted in a JOA; in each, a material change had occurred since the decision to charge. In one case the outcome had been reasonably foreseeable at the outset and, in another; the decision to discontinue was incorrect. In all three, the decision to discontinue was timely.
- In 2008-09, the borough achieved a successful outcome in 72.6% of cases, against a target of 77.0%. Although representing an improvement over the previous year, this was below the national figure of 80.8% and marginally worse than CPS London overall. However, the twelve months to June 2009 saw the proportion of successful outcomes decline to only 68.8%. The primary cause for this drop in performance was a rise in judge ordered and judge directed acquittals.

### 3B Cases are prepared and progressed effectively

#### *Trial rates*

	Performance 2008-09		
	National	CPS London	All Woolwich Crown Court cases <sup>6</sup>
Effective	47.1%	54.7%	62.3%
Cracked	40.8%	30.0%	26.4%
Ineffective	12.1%	15.2%	11.3%

- It is common for the committal papers to lack important supporting evidence, such as forensic evidence, as well as including some handwritten statements. Indictable-only cases sent directly to the Crown Court are similarly affected, as the borough processes do not prioritise serious casework. Preparation has to be completed in an uncoordinated fashion with insufficient care and attention or monitoring.
- The agencies and individuals to whom we spoke expressed particular concern over the timeliness and quality of the borough's casework preparation, and our court observation, in particular, noted that deficiencies in the process existed. It was apparent from our inspection that the balance between the borough's competing commitments had left insufficient resources available to concentrate adequately on its Crown Court work.
- No formal case progression meetings take place with the court, these having ceased in June 2008. Issues are raised directly between the court case progression officer and individual caseworkers, who manage their own allocated cases, or with the B2 casework manager, responsible for ensuring court directions and time limits are complied with. Orders and actions are processed by the caseworker at court directly onto the electronic case management system and dispatched by email. However, these were not always copied onto the paper file and in only four out of the twelve

<sup>6</sup> These figures include: cases dealt with by Lewisham and Greenwich CPS borough units who also commit to Woolwich Crown Court; cases transferred in from other Crown Courts; cases handled by some London-wide police squads; and those prosecuted by CPS Headquarters divisions, such as Counter Terrorism.

cases (33.3%) in the file sample was there an appropriate endorsement on the case file. Court observations revealed that deficiencies in case preparation were apparent and subject to adverse comment by the court

- Timeliness results obtained from the sample file examination were mixed: compliance with directions and applications was timely in eight out of ten cases (80%); initial disclosure was timely in eight out of eleven cases (72.7%) and continuing disclosure in five out of nine cases (55.6%). Overall we found that the timeliness of communications in Crown Court cases was good in seven of the twelve cases (58.3%), fair in four (33.3%) and poor in one (8.3%).
- The borough had no major cases expected to last over 40 days or involve more than three trial counsel that were subject to a case management panel.
- The quality of the instructions to the advocate was poor in all cases in our file sample, containing little or no reference to the facts, strengths or weaknesses of the case. Outstanding evidence was not highlighted and no guidance was given in relation to acceptable pleas. The position was the same regardless of whether a crown advocate (CA) or self-employed counsel was instructed for the hearing. Advocates had to work out the prosecution position from the bundle of documents provided with the papers without specific guidance.
- CA deployment is on a district, rather than a borough, basis. At the time of the inspection, only two district CAs were operating permanently at the Crown Court presenting mainly PCMH cases. None of the borough's CAs prosecute in the Crown Court. The CAs lack effective management, direction or a coherent strategy and urgent steps need to be taken to rectify this situation. The CAs invariably receive their cases at court on the morning, giving them little opportunity to prepare properly for court. Self-employed counsel conducting PCMHs are usually instructed and receive the prosecution papers late on the day before the hearing.
- The overall effective trial rate at Woolwich Crown Court for 2008-09, at 62.3%, was better than both the national and London figures, at 47.1% and 54.7% respectively. However, although cracked and ineffective data is made available, the borough does not use the information to drive performance improvement and the principal contributor to the effective outcomes rate is the court through its use of pre-trial review hearings.
- In our file sample there were two cracked trials, in one of which proceedings were discontinued by the prosecution; and two ineffective trials, one of which could have been avoided by the prosecution taking more timely action.
- The Crown Court file examination sample revealed that the borough's use of CMS to record actions and events was mixed. Full file reviews were completed in ten of the twelve (83.3%), but ad hoc reviews were conducted in only three out of eleven cases (27.3%) that required one. Crown Court finalisations were correct in eleven out of twelve cases (91.7%), the one error being a wrongly recorded judge directed acquittal, which was in fact a judge ordered acquittal. Overall, use of CMS was assessed as being good in 16.7% of cases, fair in 75.0% and poor in 8.3%.

---

#### **Aspect for improvement**

The borough crown prosecutor should ensure that Crown Court case preparation is undertaken to a satisfactory standard.

---

**4 THE PROSECUTION OF CASES AT COURT**

Assessment

**Poor****4A Advocates are active at court in ensuring cases progress and hearings are effective; advocacy and case presentation are of a high standard**

- The borough currently has six lawyers and one associate prosecutor (AP). The view of criminal justice partners was that prosecutors in the magistrates' court were generally in a position to progress cases at each hearing, but preparedness and the standard of advocacy varied from very good to very poor. In our observations, we noted that some advocates in the magistrates' court were not always fully prepared or able to address issues raised by the court quickly and comprehensively. Poor levels of detailed case awareness and issues around timeliness of attendance have prompted the court to bring matters formally to the borough crown prosecutor's attention.
- Progress in 16 of the 31 cases (51.6%) in our file sample was good and there were no unnecessary adjournments. In the other 15 cases, there was a total of 25 unnecessary adjournments, of which only five (20.0%) were attributable to the prosecution, although three of those five adjournments were due to the prosecution having failed to serve material on the defence in time.
- In guilty plea cases in the magistrates' court for 2008-09, the average number of hearings per case at 2.4 was above the London average of 2.2, but progress is being made with the number in the first quarter of 2009-10 falling to 2.2 (London 2.1). In contested cases in the magistrates' court, the average number of hearings per case at 4.9 was above the London average of 4.3, but again progress is being made with the number in the first quarter of 2009-10 falling to 4.5 (London 4.3).
- The quality of file endorsements was good in 10 out of the 31 cases (32.3%) in our file sample. In these cases, there was an accurate and complete record of each court hearing, including what further action was necessary and by when. The quality was fair in 15 cases (48.4%) and poor in six (19.4%). The poor cases all failed to record essential pieces of information relevant to the case either on the paper file or on CMS.
- The level of compliance with the Prosecutors' Pledge, Victims' Code of Practice and Witness Charter was satisfactory. The CPS and Witness Service work together well to ensure that victims and witnesses are kept informed at court.
- The district has not had a structured process in place to develop the skills of crown advocates (CAs) and deployment is on a district, rather than a borough, basis in any event. At the time of the inspection, only two district CAs were operating permanently at the Crown Court presenting mainly plea and case management hearings (PCMHs). None of borough CAs is released to prosecute regularly in the Crown Court, being deployed to cover charging or magistrates' court sessions. There is no district Crown Court advocacy manager in place and the CAs lack any coherent direction. The new DCP has drafted an advocacy strategy and is in the process of taking steps to rectify the position.

**Aspect for improvement**

There is a need for systematic monitoring of all advocates to take place and for feedback to be provided.

**Aspect for improvement**

The district crown prosecutor should take steps to agree and implement an effective crown advocate strategy.

**5 SERIOUS VIOLENT AND SEXUAL OFFENCES, AND HATE CRIMES**Assessment  
**Fair****5A The borough ensures that serious violent and sexual offences, and hate crime cases are dealt with to a high standard***Violence against women: successful outcomes (convictions) as a percentage of completed cases*

Performance 2008-09			Performance 12 months to June 2009		
National	CPS London	Borough	National	CPS London	Borough
71.9%	62%	59.1%	71.8%	61%	51.0%

*Hate crime: successful outcomes (convictions) as a percentage of completed cases*

Performance 2008-09			Performance 12 months to June 2009		
National	CPS London	Borough	National	CPS London	Borough
82%	77.2%	79.5%	81.9%	75.5%	80.0%

- There were 16 cases in our file sample involving allegations of serious violence, sexual offences and hate crime. All were correctly identified and flagged on CMS, but the process was over-elaborate, involving up to four different checks at various stages, completed by four different individuals.
- Cases involving allegations of domestic violence are dealt with through the OBM process but all prosecutors have received domestic violence training. Cases are currently allocated by the BCP on the basis of current workload, experience and developmental needs.
- In six out of seven (85.7%) cases the police had provided sufficient background information at the pre-charge decision stage. There was compliance with the CPS policy on retraction in five out of six cases (83.3%), where the reluctance of the witness to continue in support of the prosecution was considered.
- In rape cases, counsel instructed at the outset is expected to conduct the case throughout its life; there have been instances of late changes of counsel. These have occurred on occasions without notice being given to the reviewing lawyer.
- We examined 16 finalised cases involving allegations of sexual offences and hate crimes. In each case the application of evidential and public interest stages of the full code test accorded with the Code at the pre-charge decision stage, or at a subsequent full file review in threshold test cases. In all three of the cases that were discontinued, the full code test decision to discontinue the proceedings accorded with the Code.
- The borough has designated champions in all required aspects of casework, although two lawyers cover the majority of aspects. With the requirements of case preparation and case presentation they have been unable to devote much time to their roles. The borough has not developed role profiles for the individual specialists and a more even distribution of roles would help.
- The charges proceeded with reflected the seriousness and nature of the offending and gave the court adequate sentencing powers in 16 of the 17 relevant cases (94.1%).
- The decision to discontinue or reduce the level of charge was made in accordance with the relevant CPS policy in each appropriate case in the finalised file sample.



- The level of successful outcomes at 59.1% in violence against women (VAW) cases is below the London average of 62% and the national average of 71.9%. It is also well below the borough's target of 71%. Borough performance for the twelve months to June 2009 has fallen even further to 51% against the new target of 74%. Whilst prosecutors are properly continuing some cases where the victim is reluctant to proceed, in others they are doing so without taking sufficient account of the particular circumstances and merits relevant to each individual case.
- The borough's performance in increasing the level of successful outcomes in serious violent and sexual offences and hate crimes is improving but remains below the national average both in 2008-09 and in the twelve months to June 2009. The borough did not meet any of the nationally set targets in 2008-09, or in the twelve months to June 2009.
- The BCP has only recently made contact with the Local Safeguarding Children Board and is due to attend their next meeting for the first time.

---

### **Aspects for improvement**

The borough needs to:

- a. identify the reasons for the low levels of successful outcomes rate in cases involving violence against women; and
  - b. ensure that the roles of specialists and champions are distributed more evenly and that the individuals are given specific expectations of their roles.
-

**6 DISCLOSURE**Assessment  
**Fair****6A There is compliance with the prosecution's duties of disclosure**

- Compliance with the duty to provide initial disclosure was poor. The prosecutor's duty was fully discharged in 18 of the 27 cases (66.7%) in our file sample. In three magistrates' court and one Crown Court case there was no record of any provision of initial disclosure. Initial disclosure was provided in a timely manner in nine of the 16 magistrates' court cases (56.3%) and in eight out of 11 Crown Court cases (72.7%).
- We noticed during the file examination that a number of the disclosure schedules and correspondence relating to them were not apparent on the file. The borough advised us that, as part of the integrated prosecution team process, archiving was completed by police administrative staff who may not have fully appreciated the significance of retaining all case documentation before placing them into storage.
- The duty of continuing disclosure was complied with in only one of the three relevant magistrates' court cases (33.3%). Consideration of a defence case statement was timely in four out of five cases (80%). Overall, the duty of continuing disclosure was complied with in six of the ten relevant cases (60%) in the Crown Court and was timely in five of them. Overall there is a need for a much better grip on this aspect of case preparation.
- A dip sampling exercise was carried out by the then district disclosure champion, who examined one file per prosecutor and provided individual commentary on each case and compiled a robust composite report which identified the same failings as revealed in this inspection. The individual feedback was not supplied to prosecutors and although some of the issues were raised with them, improvements have not been forthcoming. At present there is no plan to repeat the dip sampling exercises and quality assurance now takes place monthly through the casework quality assurance scheme.
- The borough has worked together with the police to ensure that disclosure is handled in accordance with the CPS- ACPO Disclosure Manual, especially following the introduction of the Director's guidance on the streamlined process (DGSP). The borough and the police have not provided joint training. There has been no specific training provided on disclosure for Bexley CPS staff for some time. We saw one example in our sample of the CPS returning an incorrectly completed schedule to the police to be corrected.
- The district disclosure champion moved from the district recently, although it is intended to replace him.
- In 2008-09, 3.9% of ineffective magistrates' court trials were attributable to prosecution failures on disclosure. This is higher than the London average of 2.6%, but represents only seven cases. In the Crown Court, figures are not available at borough level.
- The use of disclosure record sheets (DRS) to record the chronology of disclosure decisions was only seen on one out of 27 relevant files. Although as stated above, this may be in part due to the archiving of files by the police. The CMS DRS form was not used on any of the 27 files we examined. The BCP states that DRS forms are used in all cases and this forms part of the CQA checks.

- Decisions on whether to make a public interest immunity application are referred to the district crown prosecutor. The public interest immunity log is maintained at District level. Whilst there were no cases involving public interest immunity applications in our file sample we are satisfied that the referral process is applied correctly.
- Inappropriate material was listed on sensitive material schedules in only one case on our file sample. This was transferred appropriately to the nonsensitive schedule by the police at the CPS request.

---

**Aspect for improvement**

The borough should ensure that the police do not remove CPS documentation and disclosure material from the files before they are sent for storage. The borough should remove all unnecessary material from files prior to sending the file back to the police.

---

**7 CUSTODY TIME LIMITS**Assessment  
**Fair****7A The borough ensures that all cases with a custody time limit are dealt with appropriately and time limits adhered to**

- In September 2008, CPS London issued a notice to all staff to ensure that the national custody time limits (CTL) guidance was adopted in all boroughs. This was done in the light of the high number of CTL failures in London and HMCPSP's impending assessments of London boroughs. The London Management Team then instructed all boroughs to adopt the London CTL system. This is compliant, for the most part, with the national standard. However, managers need to be aware of the disparity and ensure that national requirements are also met.
- There have been no reported CTL failures in Bexley in 2007-08, 2008-09 or 2009-10 to date. Cases examined revealed that the CTL date had been incorrectly calculated in two cases out of 13 and that in 11 cases review dates were not recorded on the file. Extensions to CTLs, where applicable, were all recorded in good time and all new dates were endorsed on the files. All entries in the CTL diary were in line with the calculations on the file, but again review dates had not been recorded.
- On CMS, all live CTL cases had been allocated to a lawyer. CPS guidance clearly states that the reviewing lawyer is responsible for the overall conduct of the case and ensuring that CTLs are properly managed. It was apparent from the checks made that heavy reliance was placed upon the B1 administrative manager (the CTL champion) to calculate the CTL date in the first instance to remind lawyers of their CTL responsibilities.
- Although a protocol with the magistrates' court and Crown court has been developed at area level, a number of staff at borough level are unaware of these protocols. Our court observations and the courts themselves confirmed that CTL expiry dates were announced and agreed in court, but there was a lack of endorsements on the files to confirm when this had taken place. Copies of the courts protocols need to be circulated to all staff
- The CTL champion was responsible for a fortnightly quality assurance check for the subsequent month's expiry dates on CTLs. All checks were made in accordance with national guidance. A recent audit has been undertaken in line with the London guidance and the findings of this audit have been circulated to all staff.
- The CTL champion keeps staff up to date in changes to the CTL procedures and delivers any local training. No member of staff, including the CTL champion, has received the national CTL training.

---

**Aspect for improvement**

The borough needs to take urgent steps to complete local CTL training for all staff.

---

**8 THE SERVICE TO VICTIMS AND WITNESSES**

Assessment

**Fair****8A The borough ensures timely and effective consideration and progression of victim and witness needs, and the service to victims and witnesses is improving**

- In May 2009 CPS London issued area-wide instructions for complying with the direct communication with victims initiative (DCV) under which the CPS informs the victim why a charge has been dropped or changed significantly. These have been introduced into the borough and staff objectives incorporate DCV.
- The borough exceeded its 2008-09 proxy target of 150 DCV letters, sending out 92 (61.3%) over the year. The proxy target is calculated on a formula that should indicate the proportion of discontinued and altered charges with identifiable victims. In some of our other inspection activity we have found some targets to be unrealistically low, allowing units to substantially exceed targets even where we find there have been omissions.
- We examined 14 cases where DCV applied. Borough performance in compliance with the initiative was considered to be good in nine of them (64.3%), fair in two (14.3%) and poor in three (21.4%). The quality of letters was either good or fair in all files examined and letters offered meetings in appropriate cases, but no victims had taken up the invitation.
- Only two letters were sent in 2008-09 to victims who were identified as either vulnerable or intimidated victims, although both of these were dispatched within the one day time limit; the CPS London average being 65.9%. Letters to all other victims were sent within the five day time limit in 65.6% of cases, compared with a national figure of 88.6% and CPS London's overall performance of 83.1%.
- The needs of victims and witnesses were not always considered at the charging stage and at initial review. There was a general feeling from all agencies that OBM, the Director's guidance on the streamlined process (DGSP) and the introduction of CPSLD had meant that cases were now less likely to receive any depth of review. As the file was not being prepared at the early stage, this resulted in a lack of timely initial needs assessments being made and these were regularly being carried out by the witness care unit (WCU) instead of the officer in the case.
- File checks confirm that special measures applications had been considered in the majority of cases but these were being applied for at a later stage in the process, sometimes as late as the day of the hearing. Communication of application results was often not made by the CPS to the victim or witness, leaving the WCU to chase the issue. When special measures were applied for, almost all requests were granted.
- There is a dedicated WCU at Bexley police station, staffed by police administrators and one CPS officer. Liaison and relationships between the WCU, police and CPS are good and being sited in the same building means that day-to-day issues can be resolved more quickly. Lists of witnesses attending court and updates on the CMS were provided to the WCU and were generally timely and accurate; however there were no checks undertaken in the CPS office with regard to victims and witnesses. At the time of this inspection there were 164 outstanding tasks in relation to witnesses. These include initial witness warnings, re-warning of witnesses and witness status. Of these tasks, 42 were overdue and 122 had become escalated.

- Some scope for raising awareness about victim and witnesses occurs at the PTPM meeting, which are attended by the WCU manager. However, the monthly case progression meetings held between the CPS, police and the magistrates' court have not taken place for a number of months, although they are due to be reinstated. Similar case progression meetings with the Crown Court stopped some time ago and were replaced with pre-trial review hearings held in open court.
- The majority of prosecutors take time to introduce themselves to the witnesses before their case is called and keep them updated wherever possible and feedback from witnesses who attended court during our observations was positive.
- The WCU manager no longer produces data on progress against No Witness No Justice (NWNJ) minimum requirements or the Victims' Code of Practice, so it cannot be considered at any of the joint agency meetings. There was no knowledge across any of the agencies of how Bexley was performing against NWNJ primary or secondary requirements.
- Ineffective and cracked trial data is displayed in the CPS office and mentioned at team meetings. Ineffective trials data due to witness absence is considered at the PTPM meeting and all agencies were aware that witness absence was a significant contributor to the ineffective trial rate. Witness absence accounted for 30% of ineffective trials for the last rolling 12 months. In 2009 to the end of July the witness absence rate was 42%.
- Borough managers do consider some aspects of the service to victims, but this is not an integral part of borough business in terms of either planning or performance. Most meetings only consider small elements of the victim and witness strategy and limited data. There has been a police and CPS joint training day to consider witness care, but the outcomes of that day have not been promulgated or implemented.

---

**Aspect for improvement**

The borough needs to develop a clear strategy for victim and witness service in line with the national strategy and ensure its performance framework includes performance against NWNJ primary and secondary measures and the Victims' Code.

---

**9 MANAGING PERFORMANCE TO IMPROVE**

Assessment

**Fair****9A There is an effective and proportionate approach to managing performance locally at individual, unit and borough level**

- Casework quality assurance (CQA) is undertaken monthly by the BCP, who checks one file for each lawyer and marks it against the standard CPS monitoring forms. Compliance with the scheme in 2008-09 was 99% in terms of the number of checks carried out. Assessments were reasonably robust and issues are fed back to lawyers individually and some trends are identified across the forms and discussed at team meetings. The introduction of the Optimum Business Model to Bexley means that there is often no case ownership of files for magistrates' court cases, so it is important for there to be good audit trails in such cases and for the borough to identify common themes to be shared amongst all staff.
- Performance monitoring of in-house advocates, where it occurs, is undertaken on a risk assessment basis and current performance is being monitored particularly in light of a recent complaint on advocacy received on the borough. An independent advocacy assessor is due to undertake some monitoring. Currently, there is no system in place for formally recording advocacy performance.

**Aspect for improvement**

The borough needs to keep formal records of advocacy monitoring undertaken, so this can be used to drive service improvement.

- The BCP completes other forms of monitoring in addition to the CQA system, such as adverse case reviews, DCV review and receives the results of other monitoring, such as the CTL quality assurance. Adverse case reviews were introduced in February 2009 and now take place on a monthly basis. Feedback is given to lawyers through email, which is their preferred method.
- The borough identified that some finalisation codes were incorrect on the CMS system and feedback was given to all appropriate staff along with additional training for administrative staff. Our file examination confirmed that three out of 27 (11.1%) cases had been incorrectly finalised.
- Little use is made of CMS checks and task lists and a number of overdue and escalated tasks remain outstanding on CMS.

**Aspect for improvement**

The borough needs to make better use of CMS to assist in performance monitoring

- Staff have access to some performance data and were aware of general matters, for example, that they are performing better in the magistrates' court and poorer in Crown Court. There is a lack of awareness in respect of trends and comparison against other boroughs, including those in their own district, and with London and national performance figures. However, the borough has only recently been provided with in-depth information by the district, and the recently appointed District Crown Prosecutor (DCP) and District Business Manager (DBM) are presently working actively with the BCP on trending performance.

- Borough performance is displayed on a board outside the BCP's office and discussed at team meetings. Monthly meetings are now set to take place involving the BCP, DCP and DBM with performance becoming a set agenda item. Quarterly reviews take place with the DCP, DBM, regional business manager and regional director.

---

**Aspect for improvement**

The borough needs to develop further their performance framework to ensure that it covers all aspects of the business, to enable trending to be undertaken, comparisons made and themes identified to drive performance improvement.

---

- The performance and development review system is used to set meaningful objectives and identify training needs. Whilst all staff confirmed that the reviews were undertaken most felt this to be a tick box exercise and that objectives were set in line with CPS guidance and could not be altered. The majority of staff confirmed that they were able to ask for developmental training if required. The majority of training for the role was undertaken locally, although induction, management training and Higher Court Advocate training were through national courses.

**9B The borough is committed to managing performance jointly with CJS partners**

- The BCP regularly attends multi-agency meetings, such as the borough criminal justice group (BCJG), where performance is discussed and chairs PTPM and Sapphire meetings held with the police.
- Good working relationships exist between the partner agencies. Sharing of information in relation to the borough is generally good; relevant performance packs are produced for the PTPM and BCJG meetings, including data around ineffective trials, PTPM, violence against women and rape. CPS adverse case reports are also made available to the police for incorporation into their domestic performance regime. However, whilst there is a clear awareness of some of the issues in the borough, more proactive work needs to be undertaken.
- No local initiatives are being instigated through analysis of performance data and a more proactive approach needs to be taken by the CPS with partner agencies to resolve local performance issues. The borough considers that the implementation of national and London initiatives, such as OBM and IPT, reduced its ability to focus upon local issues and managers now need to analyse casework standards being achieved, together with workloads of individuals and sickness levels in the unit.



**10 MANAGING RESOURCES**

Assessment

**Not scored****10A The borough deploys its resources efficiently and operates within budget**

- Although the borough's budget and resource profile is managed at district level, it is set by CPS London and the district is expected to operate within it. The borough's main financial responsibility is the accurate recording and notification to regional management of upcoming fee payments. Overall spend against the budget for prosecution costs and non-ring fenced administration costs is reported and reviewed at the district level. The borough overspent its budget in both administrative costs and prosecution costs in 2008-09, with outturns of 122.4% and 112.9% respectively; and the district has a projected overspend for 2009-10.
- The District Crown Prosecutor (DCP) and District Business Manager (DBM) consider moving resources between boroughs to address budget anomalies at borough level and keep control over the borough's use of agents. Monthly meetings are held to look at staffing profiles, sick leave, and budget and identify any opportunities to share resources between the boroughs to fill gaps. The move to IPT affects the ability for resources to be shared amongst the district, as the boroughs operate from different sites.
- Staffing numbers for the borough were roughly predicated upon the activity based costing model used to distribute resources across London in accordance with the area's previous structural composition. However, since the introduction of the Director's guidance on the streamlined process (DGSP) and the borough IPT structure, there has been no further calculation to ascertain whether current staffing numbers are adequate. An independent assessment made by consultants on IPT and DGSP has confirmed that the concurrent introduction of both these schemes, temporarily leads to additional work.
- Staff numbers in the borough have been reduced in an effort to balance current resources in line with workloads in the unit and across the district. The borough caseload fell in 2008-09 in relation to charging referrals, magistrates' court cases, and Crown Court cases. Staffing on the borough equates to 21.8 full time staff, as at June 2009. Of the two lawyers that have left the borough this year, one has not been replaced at all and the other only temporarily for three months. A lawyer from the unit has been acting as BCP without any back-fill for the vacated position. A member of the administrative staff has also left the borough and will not be replaced.
- There is little evidence of any in-depth discussion at either borough or district level over how resources should be aligned to ensure they are deployed to priority areas. Whilst the BCP has ensured that resources have been made available to run the OBM, charging and magistrates' court work, this has had a detrimental effect on the borough's Crown Court work, as the outcomes testify.
- There has been no clear advocacy strategy and the present DCP is currently working on a more effective approach. The borough's two crown advocates (CAs) have not been deployed in the Crown Court because of the need to cover other commitments, such as magistrates' court sessions, charging and the OBM.
- In respect of magistrates' court sessions, 96.2% of court sessions were covered in-house. Full-time lawyers are expected to cover eight court sessions per week, including charging and Optimum Business Model (OBM) work. During 2009-10 lawyers had undertaken on average just under six court sessions per week, 20 days per year on charging and 50 days per year working in the OBM unit - leaving around half a day a week available for them to complete all other work. Deployment of agents has been minimal, with only 3.8% agent usage.

**Aspect for improvement**

The borough crown prosecutor needs to consider the balance of resources and its impact upon Crown Court casework in particular.

---

- Expectations for associate prosecutors (AP) are based on six court sessions per week. The borough's sole AP works part-time, three days per week, so cannot fulfil this, but nevertheless on occasions the AP has been able to assist the OBM unit. The part-time AP undertook 20.7% of the magistrates' court sessions in 2008-09 but this has reduced to 15.4% for the first quarter of 2009-10. Managers need to determine whether this is due to the restricted work time of the AP, or the reduction in apparently suitable sessions for an AP to undertake.
- There are high levels of sickness within the borough. There was an average of 18.4 days per person in 2008-09, which was significantly worse than London (9.3 days) and national (9.0 days). Sickness has reduced to 16.4 days for the first quarter of 2009-10. There are procedures in place to manage absence and appropriate triggers are generated and raised from district level, but there is no current trending taking place to identify common themes that might be addressed. There is some long-term sickness, which is being managed in conjunction with CPS London's human resources unit; however, work needs to be undertaken to address the remaining very high levels of sickness that are impacting on delivery of core business.
- In the past, a number of staff from the borough have been granted flexible working patterns. This has left the borough in a difficult position and unable to harmonise its resource profile efficiently to its business needs and some staff on the borough feel strongly that insufficient account was taken of this in preparing for the move to IPT. There are no procedures in place allowing for annual review with those staff currently undertaking flexible working patterns. Approaches have been made to try and resolve some matters; however, managers to date have received little support from headquarters on this matter.

**11 MANAGEMENT AND PARTNERSHIP WORKING**

Assessment

**Fair****11A Borough management has a clear understanding of what needs to be delivered to meet London, national and CJS priorities, underpinned by effective planning and management**

- The acting Borough Crown Prosecutor (BCP) has been in post for a year, and the District Crown Prosecutor (DCP) is new to the district. The borough has had little stability at leadership and management level, having had five DCPs within the last four years. There has been no detailed planning at borough or district level and no risk logs produced. The borough has mainly focused on day-to-day activity, taking its direction from the centre adopting the area plans and initiatives promulgated by CPS London.
- Within the last two years the borough has seen the introduction of a number of national and London initiatives, such as the Optimum Business Model (OBM), the integrated prosecution team (IPT), the Director's guidance on the streamlined process (DGSP) and CPS London Direct (CPSLD). Whilst this ensures that managers are working corporately at both borough and district level, there has been a lack of any local work to look at process improvement. There has been little time to ensure that processes are efficient and to identify and remove any unnecessary tasks whilst implementing all these initiatives. Introduction of the initiatives and the required London models as instructed resulted in duplication of tasks such as the over-elaborate monitoring system that can involve up to four different people checking a case is correctly flagged on CMS, as mentioned in aspect 5.
- Separate team meetings are held for lawyers, caseworkers and administrative staff, chaired by the BCP, paralegal manager and administrative manager respectively. Discussion at the meetings covers key points including successes, some performance information and areas for improvement; there was evidence of two-way communications at these meetings. Some of the meetings have not taken place recently and need to be reinstated.
- There is no formal consideration of risks to the business. The borough does not produced any risk logs, so no effective risk management has taken place at borough or district level (we are informed that work on plans and risk logs is to take place at district level).
- There is no training log kept at borough level although managers do keep their own records of the courses staff attend. The majority of staff confirmed that they were given access to training for both work and personal development and felt comfortable requesting training. There were some matters where appropriate training had not yet taken place, such as on CTLs and joint disclosure training. Induction training was provided on a London-wide basis. Training was normally identified as part of the appraisal system and all staff confirmed that personal development reviews were undertaken. Examination of personal development forms confirmed that objectives were in line with London priorities.

**11B The borough is committed to engaging with partners and jointly improving levels of service**

- Managers demonstrate an open and constructive approach with their criminal justice partners. The BCP chairs the PTPM meeting and is a member of the borough criminal justice group and holds regular meetings with both the police and magistrates' court. Whilst actions are formulated at the meetings, there are no strategic plans or milestones set and no action plans are developed. As outlined in aspect nine, performance is only considered at borough level with no comparators or trending undertaken.

- Whilst joint initiatives for IPT and virtual courts have been implemented, partners expressed concern at the number of national and area initiatives being required of the borough. Little in the way of local consultation with partners has taken place prior to implementation and often new processes are presented as a 'fait accompli' albeit some of these are London Criminal Justice Board agreed initiatives. On some occasions partners had been obliged to change their systems and processes in order to meet the CPS initiatives. No Witness No Justice and improvements to victim service delivery were introduced some time ago, but has become devalued as a CPS priority. Governance of the witness care unit falls primarily under the remit of the police and the service to victims and witnesses is not a key CPS performance indicator.
- There is little indication that the borough is engaging with partner agencies in response to the needs of the community. The CPS community engagement log is maintained at the district level. Community engagement work in the borough has declined; the most recent Criminal Justice Week took place without any local CPS contribution.

**11C Managers act as role models for the ethics, values and aims of the London-wide service and the CPS, and demonstrate a commitment to equality and diversity polices**

- Staff performance in the main was recognised and celebrated by all levels of management and staff. Bonus schemes have not been used in the borough. Minutes of team meetings, emails and the views of staff confirmed that most but not all felt they had not been thanked for good performance face-to-face.
- Generally managers and staff in the borough treat each other with respect. Staff morale is fairly low, with a feeling of not enough staff and vacancies not being filled and some additional work through the introduction of OBM and IPT. This needs to be addressed.
- The make up of the staff is not reflective of the borough, with the office being predominantly female. There are a large number of staff on flexible working patterns in comparison with other boroughs. Information on workforce planning is maintained at district level. District managers are trying where possible to resolve some of the imbalance through planned moves and recruitment.

## ANNEXES

### A PERFORMANCE DATA

#### Aspect 1: Pre-charge decision-making

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough
<b>Pre-charge decision cases</b>						
	80.8%	76.2%	77.7%	80.5%	75.5%	77.2%
<b>Magistrates' court cases</b>						
Discontinuance rate	13.1%	13.6%	12.8%	13.3%	14.1%	12.4%
Guilty plea rate	74.4%	69.8%	70.0%	74.2%	68.8%	70.9%
Attrition rate	19.2%	22.1%	20.3%	19.5%	23.0%	19.7%
<b>Crown Court cases</b>						
Discontinuance rate	11.7%	15.6%	16.0%	11.8%	15.7%	17.9%
Guilty plea rate	72.9%	60.8%	65.0%	73.0%	61.1%	60.8%
Attrition rate	19.4%	27.3%	28.3%	19.5%	27.6%	32.1%

#### Aspect 2: Ensuring successful outcomes in the magistrates' court

*Successful outcomes (convictions) as a percentage of completed magistrates' court cases*

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough
	87.3%	86.0%	88.2%	87.3%	85.9%	88.9%

*Trial rates*

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	48.6%
Cracked	38.0%	34.8%	30.8%
Ineffective	18.6%	17.9%	20.6%
Vacated	21.5%	16.3%	19.1%

#### Aspect 3: Ensuring successful outcomes in the Crown Court

*Successful outcomes (convictions) as a percentage of completed Crown Court cases*

	Performance 2008-09			Performance 12 months to June 2009		
	National	CPS London	Borough	National	CPS London	Borough
	80.8%	73.1%	72.6%	80.6%	72.7%	68.8%

*Trial rates*

	<b>Performance 2008-09</b>		
	National	CPS London	Borough
Effective	47.1%	54.7%	62.3%
Cracked	40.8%	30.0%	26.4%
Ineffective	12.1%	15.2%	11.3%

**Aspect 5: Serious violent and sexual offences, and hate crimes***Violence against women: successful outcomes (convictions) as a percentage of completed cases*

	<b>Performance 2008-09</b>			<b>Performance 12 months to June 2009</b>		
	National	CPS London	Borough	National	CPS London	Borough
	71.9%	62.0%	59.1%	71.8%	61.0%	51.0%

*Hate crime: successful outcomes (convictions) as a percentage of completed cases*

	<b>Performance 2008-09</b>			<b>Performance 12 months to June 2009</b>		
	National	CPS London	Borough	National	CPS London	Borough
	82.0%	77.2%	79.5%	81.9%	75.5%	80.0%

**Aspect 10: Managing resources***Non-ring fenced administration costs budget outturn performance (end of year ranges)*

	<b>CPS London outturn 2008-09</b>	<b>Borough outturn 2008-09</b>
	99.1%	122.4%

*Staff deployment*

	<b>National performance 2008-09</b>	<b>CPS London target 2008-09</b>	<b>CPS London performance 2008-09</b>	<b>Borough performance 2008-09</b>
In-house deployment in magistrates' court	85.5%	90.0%	87.9%	96.2%
Associate prosecutor deployment (as % of magistrates' court sessions)	24.8%	23%	20.5%	20.7%
Crown advocates. Counsel fee savings against target	110%	£4,200,000	99.3%	n/a
Sickness absence (per employee per year)	8.7 days	–	9.3 days	18.4 days

## **B INDIVIDUALS AND REPRESENTATIVES OF LOCAL CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED US**

### **Police**

Chief Superintendant Dawson, Bexley Police  
Superintendent Jones, Bexley Police  
Ms W Hawkins, Witness Care Unit Manager

### **HM Courts Service**

#### *Crown Court*

His Honour Judge Byers, Senior Resident Judge, Woolwich Crown Court  
Ms M Filby, Crown Court Manager, Woolwich

#### *Magistrates' court*

Mr D Ely JP  
District Judge Carr  
Mr E Hall, Branch Legal Manager, Bexley Magistrates Court

### **Victim Support**

Ms C Lefty, Witness Service Coordinator, Woolwich Crown Court  
Mrs J Denby, Witness Service Manager

## C LONDON BOROUGH SCORING MODEL

London borough assessments will be scored using the following model. Points will be allocated to each aspect on the basis of:

Aspect rating	Points to be allocated
Excellent	4
Good	3
Fair	2
Poor	0

They will then be added and assessed against the following ranges:

Excellent	32 points and above
Good	24 to 31 points
Fair	16 to 23 points
Poor	15 points and below

### Additional limiters

There will also be two overriding limiters applied to the model ensuring that quality and outcomes are weighted within the model.

- Any borough with three or more Poor aspect ratings will automatically be reduced to the next range e.g. a borough scoring 22 points, but with three Poor aspect scores, will automatically be reduced to Poor.
- A borough will need to achieve at least two Good ratings in the first four aspects<sup>7</sup> of the framework to be scored as Good overall e.g. one scoring 25 points, but with only one Good aspect in the first four, will be reduced to Fair.

<sup>7</sup> Pre-charge advice and decisions; Decision-making, preparation and progression in magistrates' court cases; Decision-making, preparation and progression in Crown Court cases; and The prosecution of cases at court.





**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](http://www.hmcpai.gov.uk)**



HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1186

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

Website:

[www.hmcp.si.gov.uk](http://www.hmcp.si.gov.uk)

© Crown copyright 2010