



CPS CUMBRIA

HM CROWN PROSECUTION SERVICE INSPECTORATE

A REPORT ON THE AREA EFFECTIVENESS INSPECTION
OF CPS CUMBRIA

EXECUTIVE SUMMARY

JANUARY 2007

Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPPI) inspection about CPS Cumbria (the Area).

There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on HMCPPI's overall performance assessment (OPA) and other key data.

The overall performance assessment of CPS Cumbria, which was undertaken in August 2005, assessed the Area as "Poor" and as a result of this it was determined that the inspection should be a full one.

HMCPPI's OPA report identified a total of 72 aspects for improvement and, in the course of this inspection, inspectors have assessed the extent to which these have been addressed.

Overview

CPS Cumbria serves the area covered by the Cumbria Constabulary. It has five offices at Carlisle, Workington, Kendal (two) and Barrow-in-Furness. The Area Headquarters (Secretariat) is based at the Carlisle office.

Area business is divided on functional and geographical lines. The offices at Carlisle and Workington deal with the conduct of all cases dealt with in the Carlisle, West Allerdale (Workington) and Whitehaven Magistrates' Courts, and Carlisle Crown Court. Kendal and Barrow-in-Furness offices currently deal with cases at Kendal, Penrith, and Furness and District (Barrow) Magistrates' Courts. A separate Trials Unit based in Kendal which dealt with cases committed to Carlisle, Barrow, Preston and Lancaster, was being re-structured at the time of our visit to create combined units at Kendal and Barrow, dealing with both magistrates' courts and Crown Court work.

At the time of the inspection in September 2006, the Area employed the equivalent of 70.74 full-time staff.

The OPA carried out in 2005 rated Cumbria's performance as Poor and highlighted many aspects as requiring improvement. Since then, there have been significant changes. A new Chief Crown Prosecutor (CCP) was appointed in November 2005 who introduced a number of changes to processes and re-organised the Area structure along divisional lines. An anomaly in the south of the county where one committal unit comprised solely caseworkers is being addressed. Cumbria now has a clearer vision and sense of purpose and has developed a clear sense of direction for the immediate future, which is set out in its Business Plan. There is a greater degree of corporacy among senior managers.

The quality of casework is generally good in terms of decision-making and review. Most of the benefits of statutory charging are being realised and successful outcomes are increasing, although there are some aspects which require attention, particularly in respect of the magistrates' courts' acquittal rate and the Crown Court effective and cracked trial rates. The Area also needs to improve its procedures for learning casework lessons.

The quality of all in-house advocacy is good. Although dependence on agents is reduced, the management of agents in the magistrates' courts needs urgent action to improve the quality of case presentation. Improved systems and processes have led to a better approach to financial management and action has been taken to improve value for money.

The Area has strengthened its profile within the local criminal justice system and is a driving force in implementing local initiatives. There are a number of internal and external influences which require it to consider further organisational change.

Although the scheduled amalgamation of the Cumbria and Lancashire police forces is no longer going ahead, the Courts Service and the CPS are developing stronger ties with neighbouring Lancashire. The large geographical size of the Area and current structure of four divisional offices do not give the economies of scale which would assist in management of some resources. These issues are contributing to uncertainties among staff which impact upon morale.

Inspectors' detailed comments on the specific aspects of performance are contained in the following paragraphs.

Pre-charge advice and decisions

The OPA highlighted concerns about the Area's preparedness for statutory charging, because of a lack of pro-active planning and management of the scheme. In some respects those concerns were overcome and Cumbria migrated to statutory charging in December 2005. Stricter interpretation of the Director of Public Prosecution's (DPP's) Guidance has led to a reduction in referrals and consequent reduction in the provision of cover. This led to some tensions between the CPS and the police. Current arrangements were to be revised in October 2006, after our inspection had finished.

The standard of pre-charge decisions is good. Although prosecutors are generally pro-active in seeking further evidence to remedy deficiencies, they are not always as pro-active in considering ancillary issues such as witness needs. This should improve following duty prosecutors' attendance on the national Pro-active Prosecutor Training Programme and more formal monitoring by Divisional Crown Prosecutors (DCPs).

Most of the benefits of statutory charging are being realised and performance is generally improving.

Casework in the magistrates' courts

Prosecutors review cases in accordance with the *Code for Crown Prosecutors'* tests and the standard of decision-making is good. Late submission of papers from the police can impact on timeliness. Successful outcomes are improving, with the exception of cases dismissed after trial. Improved arrangements for case progression mean that trials are considered in advance to identify issues likely to affect their progress. The Simple, Speedy, Summary Justice pilot (CJSSS) at Workington and Whitehaven has reduced adjournments significantly.

Although the cracked trial rate is above the national average, effective and ineffective trial rates show better performance. The data on cracked and ineffective trials is discussed in a number of internal and joint fora, but the system for learning lessons from casework needs to be more structured.

Casework in the Crown Court

The standard of review and decision-making in Crown Court cases is good, although frequent minor amendments to indictments indicate a lack of attention to detail and quality control. Instructions to counsel are generally comprehensive, with a summary and analysis of the case and instructions on acceptable pleas in appropriate cases.

Casework performance in the Crown Court is mixed. The rates for judge ordered acquittals and overall convictions are better than the national averages, but performance is worse in respect of judge directed acquittals and acquittals after trial. Effective and ineffective trial rates are improving, though the cracked trial rate has worsened.

The system for learning lessons, as with magistrates' courts' casework, needs to be formalised. Performance on achieving the target for confiscation orders in Proceeds of Crime Act (POCA) cases is improving.

Presenting and progressing cases at court

The standard of in-house advocacy was the subject of favourable comment from all court users. Although the use of agents in the magistrates' courts has been reduced, the quality of agents is often less than acceptable. There is no training provided for them, nor is performance formally monitored. Prosecutors' timely attendance at court is mixed although, in the west of the county where the CJSS pilot is being operated, the requirement of attendance at court by 9.15am is adhered to. Prosecutors are willing to engage with witnesses at court.

Sensitive cases and hate crime

The Area has appointed specialists and Champions in all required specialist and sensitive cases. However, resources mean that some staff have more than one special responsibility, which may reduce overall effectiveness in this respect. Some specialists had not received appropriate training.

The generally good standard of decision-making in Cumbria's casework is particularly reflected in respect of sensitive cases. Even so, specialist cases dealt with at charging centres are not always dealt with by a specialist. There are no specific monitoring systems for specialist cases other than assessment under the recently re-instated Casework Quality Assurance (CQA) scheme, although any hate crime case which is to be dropped or reduced is referred to a DCP for decision.

The Area was pro-active in pushing forward proposals for a specialist domestic violence court in Carlisle which will open in February 2007.

Disclosure of unused material

Performance in respect of disclosure of unused material continues to be good in substance, but with a need for better recording and marshalling of material. Joint training has improved the standard of police schedules and prosecutors display a good knowledge of the law and principles of the Disclosure Manual. There are four Disclosure Champions who provide training and advice to other lawyers and caseworkers and continue to be involved in joint training with the police. Prosecutors do not always record details of their decision on the disclosure schedules and Disclosure Record Sheets are rarely properly completed. Some important documents are difficult to locate within the file.

Custody time limits

The custody time limit (CTL) system is comprehensive and accords with national guidance and the monitoring system was well maintained. Staff awareness of the system was not consistent and training on a revised system was not due until some six months after its introduction. Although CTLs

are generally well managed, inconsistencies in monitoring were apparent on files. Court hearing endorsements do not assist in monitoring CTLs. Expiry dates are not agreed with the court in magistrates' courts' cases, although the Crown Court is more pro-active in referring to expiry dates at court hearings.

Applications to extend CTLs are generally timely, however decisions to apply to extend in Crown Court cases are not routinely considered by a lawyer.

Senior managers are not routinely involved in monitoring arrangements. Administrative managers carry out quarterly audits of the system which are discussed with the Performance and Resources Manager and considered in the Area's quarterly performance meetings.

The service to victims and witnesses

Sensitive cases with vulnerable witnesses are not always dealt with by a specialist lawyer. Prosecutors do not routinely consider witness needs at point of charge, although applications for Special Measures are made in appropriate cases, some of which are made out-of-time.

Performance in respect of letters sent to victims under the Direct Communication with Victims (DCV) initiative is improving in terms of the numbers of letters sent and timeliness. The quality of the letters is generally good.

The Witness Care Unit (WCU) based in Kendal has provided coverage for the whole county since the beginning of 2006. Information about case progress is sometimes not sent to witnesses or may be sent late. The WCU Manager provides a monthly performance report to the No Witness No Justice (NWNJ) project board. The WCU has not yet met the minimum standards and full needs assessments are only done for victims, who represent only a small proportion of all witnesses. There are issues over resourcing the unit when national funding is due to cease in 2007.

Delivering change

The Area has just undergone re-organisation to a divisionally-based structure. Although the planned police mergers have been abandoned, future re-structuring of some kind is likely and staff uncertainty is leading to low morale.

The Area Business Plan sets out a clear vision for the future and there is an increase in emphasis on planning with partners. Management of key joint projects is improving. There has been some success in managing locally and nationally-driven change, but more attention should be paid to risk management.

Progress is being made to improve and focus the training and development programme, but training for administrative staff has been less structured and many managers new to their posts would benefit from management training.

Managing resources

There have been significant improvements in the systems and processes used to account for and manage Area resources since our OPA and action has been taken to improve value for money. Whilst re-structuring, and some re-allocation of staff and responsibilities, are helping to ensure better use and distribution of resources, with relatively small offices it is difficult to achieve real economies of scale and it is acknowledged that further change is needed. Continuing high sickness absence levels are putting some plans at risk.

Managing performance to improve

There has been very good progress since our OPA in establishing a robust performance management regime and a developing culture of performance improvement is apparent. There is scope for further development and refinement as the new systems and processes become embedded within the organisation, for instance in the provision of analyses and narrative to accompany performance reports. Performance is improving in some important aspects, such as financial management, Higher Court Advocate (HCA) savings, designated caseworker (DCW) usage and the Compass case management system (CMS) usage. Cumbria demonstrates clear commitment to managing performance jointly with CJS partners.

Leadership

The new senior management team (SMT) has developed a clear vision for the immediate future, which has been shared with staff, and a good level of corporacy is now evident. Senior managers are visible and generally approachable. However, despite good efforts to improve internal communication, some messages about the future are not welcomed by all staff and plans for the longer-term future of the Area are yet to be developed, creating a high level of uncertainty. Within this context, staff morale, while mixed, is generally low and action is needed to address this. Clear action has been taken to address some inappropriate behaviour within the Area and the approach to equality and diversity is being developed, although there is scope for further improvement.

Community confidence

Public confidence in the Cumbria criminal justice system is among the highest levels nationally. Community confidence is a priority in the Area Business Plan and community activities are now based more on consultation rather than providing information. Nevertheless, engagement is generally with groups more easily targeted and less senior staff are not as much involved. Community activity is logged but there is no procedure for monitoring the impact of community engagement.

The newly revised system for complaints handling is working well, but not all staff are aware of it.

Added value of the CPS locally

The Area adds value to the local criminal justice system and has increased its profile amongst its partners. Prosecutors make appropriate casework decisions in accordance with the *Code* at all stages of case progress. Managers have been instrumental in improving arrangements for case progression and prosecutors are pro-active in ensuring cases proceed promptly. The quality of in-house advocates is good and they are deployed effectively. There is now a clear vision for the future and appropriate systems and processes to deliver that vision are in place.

There is, however, further scope for adding value. Prosecutors should be more pro-active in identifying some casework issues at the pre-charge stage and the quality of the agents prosecuting in the magistrates' courts needs to be addressed urgently.

Equality and diversity

The Area is gradually increasing the extent and context of its engagement with the community and is also addressing internal issues revealed following the latest staff survey and the failure to achieve Investors in People (IIP) re-accreditation. Steps are being taken to ensure that its workforce becomes more representative of the county's population.

The public confidence level in the Cumbria criminal justice system is high, although the Area needs to look at how the impact of its own activity within the community can be assessed.

Recommendations and aspects for improvement

Inspectors made ten recommendations about the steps necessary to address significant issues relevant to important aspects of performance, which they considered to merit the highest priority.

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- 1 The Area should review its arrangements for the provision of pre-charge decisions in specialist and sensitive cases to ensure that all decisions are made by, or referred to, an appropriate specialist at the time of charging (paragraph 3.15).

 - 2 The Area should introduce a more structured system for communicating lessons learned from casework to all lawyers and caseworkers as soon as possible (paragraph 4.7).

 - 3 The Area should review its systems for using agents in the magistrates' courts to ensure that they are properly trained and prepared to undertake prosecutions effectively (paragraph 6.10).

 - 4 The Area should take immediate action to introduce a formal structured system of monitoring the quality of advocacy of agents in the magistrates' courts and counsel in the Crown Court (paragraph 6.14).

 - 5 The Area should review its approach to specialists and Champions with a view to rationalising the system and ensure that they receive appropriate training (paragraph 7.6).

 - 6 All files in which there is an application to extend the custody time limit in Crown Court cases should be reviewed by a lawyer to ensure that an application is appropriate (paragraph 9.4).

 - 7 The Area should take steps to ensure compliance with its written custody time limit system through staff training and continued compliance checks (paragraph 9.6).

 - 8 The Area should take action to agree its future plans for any further re-organisation and change and communicate these plans to staff (paragraph 11.4).

9 The Area should take action to address issues raised in the staff survey and Investors in People assessment through the immediate implementation of its newly developed People Plan. As part of this, it should re-invigorate the People's Group to restore confidence in the Group and to ensure it plays an appropriate role in taking forward developments (paragraph 14.8).

10 The Area should establish a system for measuring the success of its community engagement activity (paragraph 15.3).

Inspectors additionally identified 23 aspects for improvement within the Area's performance:

1 Duty prosecutors need to consider ancillary issues likely to affect the case, such as the disclosure of unused material, Proceeds of Crime Act and the needs of witnesses, as part of the pre-charge consultation process (paragraph 3.3).

2 The Area should take steps with the police to ensure improvement in the timeliness of submission of files and case papers (paragraph 4.13).

3 Action should be taken to improve the standard of endorsements of court hearings (paragraph 6.6).

4 The Area should introduce a system for monitoring and analysing casework issues in specific types of sensitive cases (paragraph 7.8).

5 Prosecutors should record their decisions on the disclosure schedules indicating how items of material are to be dealt with. Disclosure Record Sheets must be completed showing all actions and discussions in respect of unused material (paragraph 8.5).

6 The storing of unused material and disclosure schedules should ensure that any material and schedule can be easily located (paragraph 8.7).

7 Senior managers should actively assure themselves of the effective monitoring of custody time limit cases (paragraph 9.11).

8 Managers should ensure that witness needs are taken into account at the pre-charge decision stage (paragraph 10.1).

9 Greater attention should be paid to the needs of victims and witnesses at an earlier stage in the case to ensure that needs are met and applications for Special Measures are timely (paragraph 10.5).

10 The Area Business Plan review process should be further developed and refined (paragraph 11.7).

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- 11 The Area should introduce regular Risk Register review and revision and training in risk management for all project leads (paragraph 11.16).
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- 12 The Area should ensure that appropriate development training is provided for managers, particularly those new to management roles (paragraph 11.23).
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- 13 All new staff in post who have not yet received equality and diversity training should be required to complete the equality and diversity e-learning module, and the diversity training needs of existing staff evaluated with a view to arranging appropriate refresher training (paragraph 11.23).
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- 14 The Area should further refine and develop the monthly budget reports provided to senior managers to provide clearer updates and analyses in key areas of expenditure (paragraph 12.6).
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- 15 The Area needs to take further action to better manage the prosecution budget and improve the timeliness of graduated fees scheme payments (paragraph 12.13).
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- 16 The Area should improve its actions to manage its sickness absence better (paragraph 12.23).
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- 17 The Area should continue to develop its quarterly performance review information pack (paragraph 13.10).
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- 18 The Area should take action to improve staff confidence in the performance appraisal process and ensure it becomes an integral part of the performance management system (paragraph 13.10).
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- 19 Further work should be done to develop the Prosecution Team Performance Management data pack, in particular the accompanying narrative and explanation to assist participants interpret the data (paragraph 13.17).
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- 20 Systems to share issues and good practice should be developed (paragraph 13.17).
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- 21 Consistent feedback of issues arising from Casework Quality Assurance should be given to lawyers covering both where improvement is required and positive aspects, and consideration of Area-wide trends and issues (paragraph 13.25).
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- 22 The Area should address its internal communication of the Workforce Representation Plan and Race Equality Scheme, including clarification of roles and responsibilities. Reviews of progress against these should be incorporated within the Business Plan review process (paragraph 14.21).

- 23 The Area should make efforts to improve its links with those community groups at the greatest risk of exclusion and discrimination (paragraph 15.5).
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Strengths

Inspectors also identified nine strengths within the Area's performance:

- 1 The quality of Area decision-making is good (paragraph 4.3).

- 2 The referral to Divisional Crown Prosecutors of all pre-charge decision cases which are the subject of subsequent proposals for discontinuance before the final decision is made (paragraph 4.11).

- 3 The Area deals expeditiously with cases involving persistent young offenders (paragraph 4.15).

- 4 The Simple, Speedy, Summary Justice (CJSSS) pilot has improved the timeliness and quality of police files and reduced adjournments (paragraph 4.20).

- 5 Crown Court case progression meetings have been effective in identifying in advance issues likely to affect the effectiveness of trials in the Crown Court (paragraph 5.11).

- 6 The standard of instructions to counsel is good with most cases containing a summary of the evidence and analysis of the relevant issues (paragraph 5.14).

- 7 Applications to extend the custody time limit are served in good time (paragraph 9.3).

- 8 Administrative managers carry out quarterly audits of custody time limit cases and the system (paragraph 9.11).

- 9 Cumbria actively seeks examples of good practice in other CPS Areas and is willing to learn from others (paragraph 13.10).

The full text of the report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available online at www.hmcpsi.gov.uk.

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