

HM CROWN PROSECUTION SERVICE INSPECTORATE

INSPECTION OF DYFED-POWYS

EXECUTIVE SUMMARY

Introduction

1. This is the report of Her Majesty's Crown Prosecution Service Inspectorate on CPS Dyfed-Powys. The CPS is a national service, but operates on a decentralised basis with each Area led by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy.
2. The report focuses mainly on the quality of casework decision making and casework handling but also deals with those matters which go to support the casework process. The Inspectorate examines all aspects of Area performance and has reported on a number of management and operational issues.
3. The CCP was appointed in April 1999 when CPS Wales was divided into a number of Areas mirroring local police forces, with the Dyfed-Powys Area being formed from the Dyfed Branch and the Newtown sub-Branch, which dealt with Powys cases. Neither of these has previously been reported upon. At the time of the inspection the Area had already made the changes resulting from the recommendations of the Glidewell Report and the Narey Report, and the Area was divided into two Criminal Justice Units (CJUs) at Carmarthen and Haverforwest, a Trials Unit (TU) at Carmarthen, and a joint CJU/TU at Newtown.

The Area

4. With its headquarters at Carmarthen, Dyfed-Powys is geographically one of the largest CPS Areas in the country. Its three offices cover 12 magistrates' courts. Most Crown Court cases are committed to the Crown Court sitting at Swansea, though a substantial minority are committed to Merthyr Tydfil, Chester, and Mold. The Crown Court also sits occasionally at Carmarthen, Haverfordwest and Welshpool. Almost all Crown Court cases are, therefore, heard outside the Area, though there are plans for further Crown Courts to be built at Haverfordwest and, possibly, Carmarthen.
5. In the year ending 30 June 2001 the Area dealt with 12,598 defendants in the magistrates' court and 741 in the Crown Court, of which 539 were committals for trial. In 698 further cases advice was given to the police before charge. The proportion of more serious cases (indictable-only) is similar to the national average, but a higher proportion of either-way cases is dealt with in the magistrates' court.
6. The Area is fortunate in having experienced staff at all levels, many of whom have worked locally for a long time and built up good working relationships with members of the other local criminal justice agencies and private practitioners.

Main findings of the Inspectorate

7. Inspectors found the Area to be providing an efficient, professional and well-regarded prosecution service, with a strong and effective presence, particularly in the magistrates' court.
8. Most cases were properly reviewed, although, in a substantial minority, this had to be deduced: the Area does not perform well in demonstrating the review process in writing. In some other cases it was not clear there had been any effective early review. This was particularly the case in either-way offences committed to the Crown Court, where some uncertainty seemed to exist as to which Unit had responsibility for review, and when it was to be discharged. It is to the Area's credit that this weakness was identified prior to the inspection and that steps have been taken to address it.
9. Case preparation was generally very efficient both in the magistrates' court and in the Crown Court, although there were specific shortcomings in relation to appeals, and in instructions to counsel. The Area's handling of primary and secondary disclosure of unused material also needs tightening up. These were all failings of legal rather than administrative input.
10. An important aspect of work in which the Area is setting an excellent example is in the deployment of its lawyers, including its Unit Heads, in the magistrates' court. There is in Dyfed-Powys a strong and healthy culture of CPS lawyers themselves prosecuting trials (rather than instructing agents). This has an important influence on the good standing that the CPS enjoys amongst other criminal justice agencies and practitioners. On the other hand, although the Area has five Higher Court Advocates (HCAs), they are not as yet fully deployed in the Crown Court. There is a clear need to develop further the types of work they presently undertake.
11. In the magistrates' court, all the prosecutors observed were found to be competent, and some very good. Counsel instructed in the Crown Court were generally competent, or better, but there were two who, in pre-trial hearings, were not as well prepared as they should have been.
12. The Area has striven hard to achieve "joined-up" working with its criminal justice partners. Staff at all levels have demonstrated a commendable willingness to get involved in local initiatives and take on representational roles. Outside agencies and practitioners find them approachable for the informal resolution of issues: this is to be expected in an Area which, though large geographically, has a relatively small legal community.
13. The quality of police files is a significant constraint on the performance and efficiency of any CPS Area. In Dyfed-Powys the police themselves recognise that there is a continuing problem with file quality, and have suggested further joint training with CPS lawyers to address it. Against that background the Area has done well to bring down the figures for persistent young offenders (PYOs), reduce the number of judge directed acquittals and to deliver a well above average performance on CPS national targets for the service of committal papers and briefs to counsel.

14. The Area is managing its operations soundly. The Area Management Team (AMT) has successfully restructured the Area into the teams described above. The AMT's commitment to the principles of self-assessment and self-improvement was shown by the setting up of an Internal Review in January 2001. The Review Team identified certain weaknesses in casework and devised means of addressing them, some of which were innovative. Not all these weaknesses have proved easy to eradicate, and will need to be tackled by more rigorous and structured performance management than has hitherto been exercised.
15. The report contains 14 recommendations and four suggestions designed to help the Area improve its performance. It has commended five aspects of the Area's performance and identified an example of good practice.

Specific findings

Advice

16. The 1996 agreement under which the Area provides pre-charge advice to the police is not very specific as to the type of case in which advice should or may be sought. This could be contributing to the relatively high rate of advice. Inspectors found some advice cases where the CPS were, effectively, being asked to assume responsibility for a decision the police had already taken, rather than assist in solving a legal problem.
17. The quality of advice was good. As to its timeliness there was a conflict of evidence. In the file sample, nine out of 10 advices had been given within the target of 14 days, whereas in both the Area's self-assessment (in its Internal Review) and in the view of the police, only about half of all advices were given within the target. The Area's own Internal Review recommended ways of addressing the issue of timeliness.

Review

18. Though clearly there was much good review work being done, overall this is an aspect of the Area's work which needs attention, particularly in the general run of cases destined for the Crown Court. In a substantial number of the files examined there was no written evidence of any review by the Criminal Justice Unit, and later review in the Trials Unit could often only be inferred by other work they had done on the case. In summary cases, on the other hand, there was almost always evidence of an effective early review. In the random sample of cases in both courts the minority of initial review decisions with which the Inspectors disagreed on the evidential test was, at 5.1%, somewhat higher than the overall average in Areas inspected to date (2.2%).
19. Given the deficiencies in initial review, the Inspectors were particularly concerned to find that, in many cases where the initial file had contained insufficient material for review, there was still no evidence of review when the full file became available. There were a significant number of other cases which had not been kept under review despite an important change in the circumstances of the case.

20. The Area's discontinuance rate is close to the national average (13.3%/13%). In the 25 cases examined in detail, Inspectors agreed with the decision to discontinue in all save one case. The timeliness of the decisions was good, with 87.5% being discontinued at the earliest opportunity.
21. Except in relation to judge ordered acquittals (JOAs), the Area's rate of adverse cases was a little higher than the national average. The figure for judge directed acquittals is, however, declining and there were none in the file sample. In two of the five cases examined where the magistrates found there was no case to answer, the acquittal was reasonably foreseeable, and this should have been apparent at first review. Of the 11 JOAs, the acquittal was foreseeable in five of them, though four of those were s.51 cases where there would have been less information at first review than in most either-way or summary matters. Nevertheless, Inspectors thought there was sufficient information at an early stage in those cases for the lawyers reasonably to foresee that the case would fail.
22. Although lawyers were well-versed in the special procedures for handling complaints of child abuse, there appeared to be a tendency to scrutinise the evidence less carefully in these cases, as if a lower evidential test was being applied to them. This impression was reinforced by the fact that, in three out of the four cases in the sample, there was no note on the file indicating that the reviewing lawyer had watched the disclosure video and evaluated the child's evidence.
23. The Internal Review, as an exercise in honest self-assessment and self-improvement, was a significant step towards developing a culture of learning from experience. There is still some way to go, however: Inspectors found many of the adverse case reports examined to be incomplete or perfunctory, with little attempt to identify learning points.

Preparing cases

24. This is one of the strengths of the Area. The culture of lawyers prosecuting their own trials has contributed to this in the magistrates' court. In the Crown Court, the fact that the courts are all outside the Area, and in relation to Powys cases, at some distance from CPS offices and beyond local caseworker coverage, has underlined the importance of careful case preparation. The Area's good performance against national targets for service of committal papers and briefs to counsel, as well as against Inspectorate measures such as Plea and Direction Hearing (PDH) compliance, demonstrates the efficiency of the caseworkers in both Units, which external interviewees confirmed.
25. There are, however, specific weaknesses which need to be addressed as a matter of urgency. Some of these were identified in the Internal Review. They are failings of legal rather than administrative input. In most appeals against conviction to the Crown Court the Area is currently failing to supply counsel with any information as to the hearing at first instance. Instructions to counsel generally are of an inadequate standard. In the file sample only 39.3% contained a summary that adequately addressed the issues in the case, and only 26.3% contained any instructions about the acceptability of partial or alternative pleas. The omission of any demonstration that the CPS lawyer is aware of the issues in the case, and has a clear view about pleas, sends the wrong message about CPS ownership and control of cases in the Crown Court.

26. More careful scrutiny needs to be made of unused material, both in relation to primary and secondary disclosure. In considering primary disclosure lawyers should be looking more closely at police schedules. In the Inspectors' view, secondary disclosure had been dealt with appropriately in only 40% of relevant cases.
27. Indictments were of a good standard and reflected the gravity of the offending in 29 of the 30 cases we examined. They were all lodged in time and did not call for any significant degree of amendment.
28. The Area's compliance with orders given at PDHs was excellent, 100% in the file sample; in all cases the Area had also taken reasonable steps to ensure timely compliance. This is assisted, for Swansea cases, by an e-mail link between the Court Office and CPS at Carmarthen. In cases committed by the Newtown office to Merthyr Tydfil, Chester and Mold, there is no such link and the Area is dependent on external caseworkers, who do not always make detailed notes of the hearings.

Presenting cases in court

29. The quality of the Area's case presentation in the magistrates' court is high: of the 15 CPS lawyers seen, seven were above average in some respects and two were very good.
30. It was pleasing to see that the CJU Heads attended regularly at court, on average for two days per week. The Area's commendable culture of lawyers prosecuting their own trials rather than instructing agents has already been noted. Both these practices impact favourably on the esteem in which the Area is held amongst other criminal practitioners and criminal justice agencies.
31. In the Crown Court the Area can draw on experienced and able counsel for the most serious and complex cases. However the Area has five Higher Court Advocates and they are currently underused in the Crown Court. The categories of work they do needs to be enlarged to embrace appeals against conviction, some PDHs, and some trials. Increased CPS presence is required, particularly at Merthyr, Chester, and Mold, when Dyfed-Powys cases are being heard.

Management and operational issues

32. Overall the Area has developed a work ethos characterised by self-examination and the desire for continuous improvement, and has developed processes and systems for reviewing activities, identifying problems or gaps in service, and finding practical solutions. An example of this was the Internal Review. The Area has also established a Service Excellence Team in order to adapt the EFQM European Excellence Model for implementation within the Area.
33. The Area now needs to improve the way in which it manages the performance of its staff, ensuring that individuals continue to receive positive feedback when they have done well, and also that unsatisfactory performance is identified and confronted.

34. The AMT is newly established but has managed to create a positive image within the Area. It meets monthly and deals with strategic issues and appropriate elements of operational and casework matters. The report suggests that the team would benefit from formal management development activities once the permanent Head of the joint CJU/TU in Newtown is identified.
35. The Area Business Plan (ABP) for 2001/2 contains a number of objectives which will take more than a year to achieve. In reality these are strategic objectives for a three to five year period. The Area needs to find a means of separating ongoing objectives into the component stages of activity to be achieved as priorities within any given year.
36. Inspectors were pleased to see that there had been widespread consultation on the framing of the ABP, with all staff encouraged to participate meaningfully.
37. The re-structuring into CJUs and TUs following the Glidewell Report has been successfully managed. It had been hoped that more use could be made of information technology to provide linkages with the police, but because of changes to the police structure and the proposed closures of some of the smaller magistrates' courts, the Area is now looking more towards collocation. The headquarters office in Carmarthen has recently been adapted to provide a joint TU.
38. There is a need for a coherent performance management framework, so that staff are clear about what is expected of them, how their work will be evaluated, and what actions will be taken if standards are not met.
39. The Area has established a clear Communication Strategy which recognises the importance of disseminating key messages to staff efficiently and effectively, as well as the need to gain informed views from staff.
40. Budgetary control systems within the Area were found to be generally well managed, despite an underspend of £20,000 in 2000/2001, the majority of which was outside the Area's control.
41. The Area had, in 2000, a somewhat higher level of sickness absence than the average nationally (11.6/10.6 days). Since then the procedures for managing absence have been reviewed to ensure appropriate responsibility is placed on line managers, reporting on this aspect to the ABM.
42. The Newtown office urgently requires both a further caseworker and an HCA to improve the Area's presence in and coverage of the Crown Court.
43. The published plan for Equality and Diversity follows the national template but is limited in terms of local needs and priorities. Following a visit by the Head of the CRE for Wales progress has been made in identifying practical and achievable solutions which will address the special needs of local minority ethnic communities, to be co-ordinated through an Area Equalities Committee.

44. The Welsh Language Scheme is implemented appropriately in all of the offices and staff are aware of the processes to be followed in support of it. If necessary, courts are conducted entirely in Welsh. There are a number of Welsh speakers amongst the Area's lawyers and there are established systems for obtaining Welsh interpreters.
45. The Area needs to adopt a formal register for the handling of complaints, which will permit analysis to indicate whether they were justified and how they were dealt with, and identify any trends. The standard of the replies to complaint letters was very good; if the CPS was at fault, the mistake was acknowledged and an apology offered. Parliamentary correspondence was always replied to in good time, though substantial replies to non-Parliamentary letters were not always within the CPS time-scale.
46. External relations are generally very good and can aptly be described as "joined up." The CCP takes the lead but is well supported by other staff, who have shown themselves prepared to get involved in local initiatives, and are thought to be approachable and helpful.
47. The Area deals considerately and conscientiously with witnesses. In readiness for the bringing into operation of the Victim Information Bureau, lawyers have recently received training in direct communication with victims.
48. The full text of the report can be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197).

HMCPS Inspectorate
March 2002