



CPS DERBYSHIRE

THE INSPECTORATE'S REPORT ON
CPS DERBYSHIRE

EXECUTIVE SUMMARY

AUGUST 2007

Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) inspection of CPS Derbyshire (the Area), carried out in April 2007.

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 HMCPIS's overall performance assessment (OPA) and other key data.

The OPA of CPS Derbyshire, undertaken in December 2005, assessed the Area as "Fair" and as a result of this it was determined that the inspection should be a tailored one. In the light of that, the inspection did not include detailed consideration of the service to victims and witnesses, delivering change, managing performance to improve, and leadership.

The OPA report identified a total of 25 aspects for improvement. In the course of this inspection, inspectors assessed the extent to which these have been addressed.

Overview

Since the OPA, the Area has experienced relative stability, in that its management style and organisational structure have remained largely unchanged. This has allowed the management team to focus on the development of joint agency working, performance management, and community engagement.

Relationships with criminal justice partners and the Local Criminal Justice Board (LCJB) remain positive at all levels, while some progress has been made towards a joint prosecution team approach with the police. This has assisted the Area in the implementation of statutory charging, and in resolving some of the systemic and quality issues which have subsequently arisen.

CPS Derbyshire has focused on joint and internal performance management, with the recent recruitment of a temporary senior project manager and a performance analyst who works closely with the LCJB performance manager. Some aspects of casework performance have shown improvement. For example, the rates of successful outcomes in the magistrates' courts and convictions in the Crown Court are now above the national average. However, the variable quality of legal decision-making is still a cause for concern, and the timeliness of case preparation needs to be tackled effectively. These matters have yet to be robustly addressed. Some aspects of performance management are too narrowly focused, and the Area should consider the potential benefits of the development and documentation of an over-arching performance strategy to deal with them. Similarly, quality assurance systems are employed, but a more integrated approach might secure greater benefits in relation to improved legal decision-making and casework processes. The lack of case ownership in the Criminal Justice Units (CJUs) also has a significant impact on the ability to identify performance issues accurately and resolve them.

The Area management style involves retention of authority for staffing, budget control, and project management by the Chief Crown Prosecutor and Area Business Manager. Some authority is devolved to Unit Heads but demarcation is not always clear.

Since the statutory charging implementation project was completed in April 2007, the Area has taken a lead role in the multi-agency simulation modelling project which is being conducted in Derbyshire by the Office of Criminal Justice Reform (OCJR). The Area has also successfully implemented conditional cautioning in one Basic Command Unit and it is expected that Criminal Justice; Simple, Speedy, Summary (CJSSS) will be fully rolled-out throughout Derbyshire by the end of December 2007, in accordance with the timetable set down by OCJR. However, substantial concerns remain over the issue of delay in the magistrates' courts, and the Area will need to consider further robust action with its partners to reduce the risk that this poses to CJSSS.

Pre-charge advice and decisions

Statutory charging was formally implemented in June 2006. It has subsequently become absorbed into 'business as usual' and responsibility has now devolved from the project manager to the CJU Heads. The Prosecution Team Performance Management system is working well and the 'prosecution team' ethos has largely been adopted in charging. Performance against statutory charging target indicators appears to be improving as a result, although there is room for improvement.

The quality of charging advice and decisions needs urgent and substantial attention. The monitoring, analysis and training work that was started by the project manager in August 2006 should be developed, documented and embedded. Also, there is an urgent need to review, jointly with the police, the arrangements for case referral and access to the duty prosecutor which can impact on the quality of charging advice and decisions.

Casework in the magistrates' courts

There is work to be done on the standard of decision-making and the recording of reviews on files, although the level of charges and application of policy to decisions made on cases are good. There has been clear progress on the rate of successful outcomes, which is mainly due to a reduction in discontinuances. Lack of robustness in casework quality assurance checks and in the analysis of failed cases may be hampering improvement in the other categories of unsuccessful outcomes. The quality and timeliness of discontinuances in the file sample we examined showed some room for improvement.

Committal and trial preparation are significant causes for concern and are impacting on the Area's standing with partners. The lack of case 'ownership' in the CJUs impacts on trial preparation. The rate of ineffective trials is consistently worse than nationally, although the Area has performed slightly better than the national average on cracked trials for the first time in a number of years.

Casework in the Crown Court

There needs to be closer monitoring to ensure that improvements are made in the standard of decision-making and that decisions are evidenced fully on the file. Successful outcomes are better than the national average and improving, although attention needs to be paid to the rates for guilty pleas and acquittals after trial, which have both worsened over the last year. The analysis of adverse outcomes lacks robustness and could be used to drive forward improvements much more effectively.

Case preparation is more effective than in magistrates' courts' cases. There has been considerable improvement in the rate of ineffective trials which, although it still remains slightly worse than the national average, is better than both Area and national targets. There has been only marginal improvement in the rate of cracked trials. More systematic analysis of the reasons for both is needed to ensure that the progress that has been made is maintained and built on.

Presenting and progressing cases at court

Steps to ensure the effectiveness of court hearings have yet to become embedded and further work is necessary with partner agencies. The standard of advocacy is generally satisfactory but there is no systematic monitoring of advocacy standards of in-house or external advocates. There is scope to widen the range of work done by Higher Court Advocates (HCAs) and to increase the usage of designated caseworkers (DCWs).

Sensitive cases and hate crime

A number of sensitive cases in the file sample examined by inspectors failed to meet required standards for either the application of the Code for Crown Prosecutors' tests or steps taken to avoid foreseeable adverse outcomes. Two of the causes might be the lack of a formal system for ensuring that specialists see sensitive cases at charging and the lack of case ownership in the CJUs.

The proportion of such cases resulting in conviction has improved but is still behind national performance. Analysis of the outcomes for sensitive cases, particularly for racially and religiously aggravated offences, is still not embedded or effective. Champions are not set clear expectations and this allows inconsistency in their approaches to the role.

Disclosure of unused material

Disclosure performance has improved from the low base noted in the last full inspection, particularly in relation to initial disclosure in the Crown Court. However, continuing disclosure performance is poor across the Area. Compliance with procedures for dealing with sensitive material is better, but timeliness issues need to be addressed. There is a general need for further joint and internal training and improved casework quality assurance in all units. A more clearly defined role for the new Area Disclosure Champion would assist in strategic performance monitoring and training.

Custody time limits

The first custody time limit failure for two years occurred in the South CJU in January 2007. Like the previous failures in 2004-05, the cause was case-specific rather than a systemic failing. The subsequent enquiry identified the causes and appropriate remedial action has been taken. Area systems are compliant with national policy.

The service to victims and witnesses

Assessed as "Fair" in the OPA, this aspect was inspected on an exception basis. In accordance with this approach we noted that the Area is considering combining the jointly staffed and managed Witness Care Units into a single unit. This would assist CPS and police managers to work more efficiently and allow shared access to their IT systems.

Delivering change

Assessed as "Good" in the OPA, delivering change was inspected on an exception basis.

Managing resources

The Area is performing relatively well in relation to its overall budget, which is mainly due to a reduction in prosecution costs in 2006-07. HCA savings have improved substantially following a correction to the counting method employed. There are also sound plans to reduce agent usage by recruiting in-house lawyers. However, the Area should continue to review its DCW strategy to maximise efficiency. Some staffing issues need urgent attention. These include the management of staffing levels and work allocation, particularly in the CJUs. In addition, staff sickness levels are too high and the quality of sickness management needs to be improved.

Managing performance to improve

Assessed as “Good” in the OPA, this was inspected on an exception basis. In accordance with this approach we found that the casework quality assurance system is not always applied robustly or consistently between the units. We also identified an aspect for improvement relating to the format of the Area’s strategic performance information.

Leadership

Assessed as “Good” in the OPA, leadership was inspected on an exception basis. However, we identified one aspect for improvement relating to the clarification of the roles of unit managers.

Community confidence

The OPA rated performance as “Good”, finding that the Area had laid a sound foundation for future community engagement, and we therefore inspected this aspect of performance with a lighter touch. However, we found one aspect of improvement relating to the need to engage with black and minority ethnic community groups and certain victim interest groups.

Added value of the CPS locally

Some unit-based strategies such as the early ‘housekeeping’ conferences in homicide cases provide significant added value. The Area also works hard at engagement with some sections of the community and its profile has been raised as a result. There are some examples of good individual casework work being done, particularly in the charging stations, however, this should be viewed in the context of the generally variable quality of decision-making.

Equality and diversity issues

Derbyshire has demonstrated a commitment to serving the community as a whole, although more could be done to engage with organisations like Derbyshire Rape Crisis. Equality in recruitment is positively promoted and equality and diversity aims are met by management and staff alike.

Follow-up from previous report

There were 25 aspects for improvement (AFIs) identified at the time of the OPA, of which one is no longer relevant. None have been fully achieved, although substantial progress has been made in four. Whilst some action may have been taken on the others, this has resulted in limited or no progress being made against the aim of the individual AFIs. These have not been included in the text of the report but Area managers will need to continue to monitor their progress.

Recommendations and aspects for improvement

We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority, and made eight recommendations to help improve the Area’s performance.

1 The Area should develop a documented system for monitoring and improving the quality of pre-charge advice and decision-making. It should also ensure correct application of the threshold test and review its systems for ensuring prompt full Code for Crown Prosecutors’ test review of threshold test charging decisions (paragraph 3.8).

2 The Trials Unit Head needs to ensure that systems are in place to ensure the timely review and preparation of committals, and the accurate recording of data for discharged committals (paragraph 4.21).

- 3 The Area should re-evaluate the systems and processes for the effective and timely preparation for trial in the magistrates' courts. This should involve a review of the decision to remove case ownership, including an evaluation of the perceived benefits of that decision against the disadvantages to the smooth running of the Criminal Justice Units (paragraph 4.32).

- 4 Analysis of cracked and ineffective trials should be made more robust and effective so as to drive forward needed improvements, particularly in the rate of ineffective trials (paragraph 4.43).

- 5 The Area should ensure that all adverse outcomes are examined systematically and robustly, and in conjunction with the police, with a view to identifying where police or CPS action could have avoided the outcome, and so that any lessons that can be learned are identified and disseminated to all relevant staff (paragraph 5.11).

- 6 The Area should ensure that it plays its part in reducing the rate of cracked and ineffective trials, including more systematic analysis of the cases where prosecution action or inaction has led to the outcome (paragraph 5.29).

- 7 The Area should take urgent steps to improve disclosure performance by:
 - Improving the robustness of casework quality assurance analysis.
 - Dip-sampling sensitive cases to monitor compliance with sensitive disclosure procedures.
 - Preparing a strategic training plan on disclosure jointly with the police.
 - Providing the Area champion with the means to co-ordinate monitoring, training, and performance analysis across the units (paragraph 8.14).

- 8 The Area needs to ensure that managers deal with sickness issues relating to individuals in a systematic and appropriate manner (paragraph 12.18).

We additionally identified 11 aspects for improvement.

- 1 The Area should consider urgent improvements to its statutory charging system, including:
 - an Area-wide appointment system;
 - the monitoring and enforcement of the gate-keeping system and a forum for duty prosecutors to raise issues as they arise; and
 - a tailored escalation system (paragraph 3.17).

- 2 There is insufficient monitoring and feedback on the quality of police file building and compliance with action plans (paragraph 4.31).

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- 3 Measures to ensure that cases progress at each hearing are not embedded, nor is their effectiveness assessed by managers (paragraph 6.5).
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- 4 The Area should establish links with the local Safeguarding Children Board with a view to embedding protection within their systems and decision-making (paragraph 7.21).
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- 5 Disclosure performance in the magistrates' courts needs to be given higher priority. Continuing disclosure performance in the Crown Court needs attention (paragraph 8.7).
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- 6 The Area should ensure that an early request for sensitive third party material is always made where such material might have an impact on the outcome of the case (paragraph 8.11).
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- 7 The Area should consider granting overall responsibility for custody time limits to a member of the Senior Management Team to ensure accountability at the appropriate level (paragraph 9.7).
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- 8 The Area would benefit from establishing with its managers a system for raising matters relating to staffing and budget issues (paragraph 12.20).
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- 9 The Area should prepare a more structured and strategic performance framework and pack to include both local and national information, which would allow benchmarking between its units and other CPS Areas (paragraph 13.5).
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- 10 The Area needs to clarify the roles and responsibilities of its managers in relation to budgetary issues, prioritisation and project management (paragraph 14.2).
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- 11 The Area needs to make further efforts to engage black and minority ethnic representative groups (paragraph 15.3).
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Good practice and strengths

We have identified three aspects of good practice that might warrant adoption nationally.

- 1 In the North Criminal Justice Unit advocates complete a form after each ineffective trial which lists the reasons, along with the details of witnesses who failed to attend. The witnesses are then sent a questionnaire to find out why they did not attend (paragraph 4.42).
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- 2 In the Trials Unit, early 'housekeeping' conferences are held in murder cases. All interested parties are invited so that strategic and evidential issues can be considered from the outset (paragraph 5.12).
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- 3 In the Trials Unit, a useful resource pack is provided for staff setting out many areas of practice and law in Crown Court cases on, amongst other things, evidence, procedure, charging standards and unit systems (paragraph 5.24).
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We also found two strengths.

- 1 The Area provides a high level of face-to-face pre-charge advice (paragraph 3.17).
 - 2 The data pack provided by the Area's performance analyst provides a sound basis for the monthly Prosecution Team Performance Management meetings, which are well attended and effective as a forum for joint agency working (paragraph 3.19).
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The full text of the report may be obtained from the Corporate Services Group at HM Crown Prosecution Service Inspectorate (telephone 020 7210 1197) and is also available on line at www.hmcpsi.gov.uk.

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