

CPS London Borough Performance Assessments

Ealing Borough

Executive Summary



This is the executive summary of the report by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) on the performance assessment of the Crown Prosecution Service (CPS) London, Ealing borough.

The borough performance assessment (BPA) process provides a benchmark for the performance of the CPS London borough units in ten key aspects of work. Each of the aspects is assessed as being Excellent, Good, Fair or Poor. The borough is then assessed on its overall performance in the light of these markings. The BPA also evaluates the management of resources at borough level.

The overall performance assessment of CPS London, Ealing borough was **FAIR**.

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

Aspect	Score	Assessment
Pre-charge advice and decisions	2	Fair
Decision-making, preparation and progression in magistrates' court cases	0	Poor
Decision-making, preparation and progression in Crown Court cases	0	Poor
The prosecution of cases at court	2	Fair
Serious violent and sexual offences, and hate crimes	2	Fair
Disclosure	2	Fair
Custody time limits	3	Good
The service to victims and witnesses	2	Fair
Managing performance to improve	3	Good
Managing resources	Not scored	
Management and partnership working	3	Good
OVERALL ASSESSMENT	19	FAIR

Description and caseload

CPS London (the area) is organised into operational teams along geographical boundaries. London boroughs and the City of Westminster are covered by the Metropolitan Police Service and the City of London by the City of London Police. The area's borough units are co-terminous with the Metropolitan Police Borough Command Units with each headed by a borough crown prosecutor (BCP), a CPS lawyer. Local borough units are then grouped together to form a larger district based upon a common Crown Court centre (or centres). Responsibility for a district lies with a district crown prosecutor (DCP), a more senior lawyer who line manages the BCPs. The interface between CPS London's senior management and area staff is through the district, with the DCP ensuring that the area's vision and strategy is implemented by the BCPs at borough level. CPS London is divided into two regions (North and South) which comprise a number of districts. There is also a complex casework centre which handles serious and complex cases and those at the Central Criminal Court (Old Bailey).

The CPS London senior management team consists of the Chief Crown Prosecutor, three legal directors and two regional business managers.

Ealing borough unit is co-located at Acton Police Station, and operates on the integrated prosecution team (IPT) model. It is part of the CPS London district which (since the restructure in 2009) is aligned to the Crown Court sitting at Isleworth and Kingston, and the London South Region.

Borough business comprises both magistrates' court and Crown Court work, and staff of appropriate skills and experience may deal with both types of casework.

As of December 2009 the borough had an average of 28.4 full-time equivalent staff in post, and a budget of £1,418,006¹.

Staff	Numbers at November 2009
Borough crown prosecutor	1
Business managers	1
Crown prosecutors	6.8
Associate prosecutors	4
Caseworkers	9
Administrative support staff	6.6
Total (full-time equivalent)	28.4

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

	2007	2008	Percentage change
Pre-charge work (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	1,587	1,580	-0.4%
Decisions not resulting in a charge ²	1,106	1,270	+14.8%
Total pre-charge decision cases	2,693	2,850	+5.8%
Magistrates' court proceedings³			
Magistrates' court prosecutions	3,601	3,699	+2.7%
Other proceedings	12	6	-50.0%
Total magistrates' court proceedings	3,613	3,705	+2.5%
Crown Court proceedings⁴			
Cases sent or committed to the Crown Court for determination	695	872	+25.5%
Committals for sentence ⁵	83	94	+13.3%
Appeals from the magistrates' court ⁵	45	21	-53.3%
Total Crown Court proceedings	823	987	+19.9%

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

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

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

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

5 Also included in the magistrates' court figures, where the substantive hearing occurred.

The inspection team

Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public to join the process as lay inspectors. They are unpaid volunteers who examine the way in which the CPS relates to the public through its dealings with victims and witnesses; engagement with the community, including minority groups; handling of complaints; and the application of the public interest test contained in the Code for Crown Prosecutors. In this assessment Sally Jackson, of the Hidden Violence and Abuse Team in the Community Safety Unit of Portsmouth City Council, was the lay inspector. Her views and findings have been included in the report as a whole. Her time was given on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.

Summary of judgements

Contextual factors and background

The Borough of Ealing, situated in West London is the third largest borough in London, by population. It has an ethnically diverse population with 41.3% of its residents being from a black or minority ethnic background, and many for whom English is not their first language. Some parts of the borough are relatively affluent with other areas suffering from deprivation.

During 2009, CPS Ealing underwent major upheaval due to the move to become an IPT and co-location with the police at Acton Police Station. There has been further disruption due to major reductions in staffing levels. This has been exacerbated by a staff preference exercise associated with the change programme across London, which was largely disadvantageous to the borough. As a result the borough has been unable to cover a significant number of commitments. The CPS London resourcing model does not seem to take into account the higher caseload Ealing has when compared with some neighbouring boroughs.

The cases selected for examination during the inspection were in the main completed during the transition to integration and co-location with the police. Although some of the problems in case handling and preparation referred to below, were still present on live cases examined on-site, inspectors were aware that significant changes in personnel, processes and procedures had been implemented very recently. Many of these potential improvements could not be effectively evaluated during the inspection period and had not had time to affect performance in any meaningful way.

Summary

The core issue for the CPS in the borough of Ealing is the very significant staff reduction, in the months prior to our inspection, both in terms of numbers and experience, in a borough which has a higher than average caseload. The borough has had no control over the recruitment and allocation of staff although the BCP has made representations for the imbalance to be addressed. Plans had been agreed at district level to make some changes but these were then stopped because of a change in CPS London policy. Many of the casework issues which give cause for concern are a consequence of under resourcing. The borough has to be reactive, continually working in a fire-fighting environment. Work is inevitably prioritised but sometimes this causes duplication, and a breakdown of systems in place to deal with casework preparation. This merely adds to the pressure.

It is a testament to both staff and managers that team spirit within the unit is noticeably very strong. Many staff are clearly dedicated and professional and work significantly in excess of their contractual hours, staying late and attending on days off in order to complete essential tasks rather than pass them to similarly hard pressed colleagues. Although sickness levels are high this is in part due to staff who are on long-term sick, whom the borough inherited as part of the preference exercise. Staff absence adversely affects the ability to address some performance issues. The reliance on goodwill to perform routine tasks severely tests the motivational skills of the BCP.

As fundamental changes in processes, IPT and co-location happened just before the inspection, our assessment of the direction of travel has been difficult to make. Moreover, the borough has of itself been proactive in identifying potential improvements in process and, where resources allow, has implemented changes which it feels meet particular challenges. Many of these innovations have not yet translated into improvements in outcomes although there are some grounds for cautious optimism.

The quality of decision-making at the pre-charge stage was variable. Decisions to charge the suspect did not accord with the evidential stage of the Code for Crown Prosecutors in three (10.3%) cases in the file sample. Decisions to charge and the selection of charges were appropriate in the remainder of cases. In the majority of cases prosecutors endeavoured to assist the building of a stronger case by identifying where further evidence needed to be gathered or other steps taken. Analysis of serious and sensitive casework at the charging stage is in the main detailed and thorough. The correctness of the initial decision, and proactivity in building strong cases pre-charge, are particularly important as the borough does not always review these decisions until very close to the trial. More emphasis on the details of ancillary orders which it may be necessary to seek would assist the handling of later stages of the case. The key performance indicators in relation to charged cases were consistently poor throughout the year ending September 2009, but have shown some improvement in recent months.

The overall proportion of magistrates' court cases resulting in a conviction in the 12 months to September 2009 was 84% compared to the national average 87.1% and London 86.1% averages. In the Crown Court performance in the 12 months to September 2009 was worse with 69.8% of cases resulting in a conviction compared with the London average (72.7%), which in turn is well below the national average (80.7%).

With limited exceptions the handling of routine casework is unsatisfactory despite the best endeavours of those working on the unit. In the magistrates' court, trial cases are progressed very effectively by the associate prosecutors (CPS staff who are not lawyers but who are authorised to conduct certain cases in the magistrates' court after special training) at the first hearing. The file then enters the optimum business model and in theory it should be prepared for trial in a systematic way. This does not happen as there are insufficient resources available to carry out necessary tasks. Late files or missing items of evidence from the police are not always chased. Defence and court queries are left and are sometimes duplicated unnecessarily. Disclosure and ancillary applications are not timely. Properly recorded written reviews are rare. There is liaison with the witness care unit three weeks before the trial but deficiencies often cannot be addressed until just before the trial. Where the evidence includes CCTV footage, it is frequently missing or not viewed until the day of the hearing.

The office commitments of in-house crown prosecutors mean they rarely attend court and are in danger of losing their advocacy skills. Associate prosecutors within the borough are rightly well regarded. High coverage of the court by agents is an inevitable consequence of having insufficient lawyers. Some are conscientious and highly competent whilst others seem unable to record proceedings accurately, and a few have attracted adverse criticism from other agencies. Late receipt of files hampers trial preparation by the advocate.

File preparation and progression in the Crown Court also suffers from a lack of individual attention. However, serious cases in the main receive proper care from an allocated lawyer and this emphasises the gulf between those and the "volume" casework. There are systems in place to ensure tasks are completed properly at appropriate intervals but the resources available make the process ineffective. As with the magistrates' court work, paperwork appears rushed and badly prepared as the appropriate follow-up action to the police may have been missed. Briefs to counsel, applications for ancillary orders (for example to admit bad character or hearsay evidence) and compliance with directions are late and sometimes deficient. Advocacy in the Crown Court is sound.

In general disclosure is completed properly and, where time permits, with good attention to detail; however timeliness is an issue. The borough's management of the custody time limit regime is good but the borough needs to ensure that contingencies are in place to cover any future staff absence.

Although overall the treatment of victims and witnesses is fair, in the Crown Court witnesses often have no contact with a CPS representative due to the lack of available caseworkers. This is unsatisfactory. In the magistrates' court it is better although the quality is very dependent on the individual advocate. The relationship with the witness care unit, rather like the liaison between the police specialist unit and the lawyers, is good. There is clearly a mutual respect. Likewise there is good liaison between the BCP and other criminal justice agencies. Feedback on adverse outcomes, both internally to staff and to the police is sound. Work on cracked and ineffective trials is effective. But these positive findings are tempered by continual feedback from partners that progress on a number of other issues has been held back because the borough lacks resources.

The borough is working hard in an attempt to improve its casework outcomes. Inspectors found that there had been a good focus on checks and reviews to try and strengthen the operation of casework processes although these had not all borne fruit at the time of our assessment. Management and partnership working was assessed overall as good with staff performance internally being recognised and relationships with criminal justice partners already constructive but being developed further. There had also been regular engagement with local communities.

Many of the issues impacting on Ealing are outside their control and the reasons will need to be explored in our scrutiny of higher level management. Performance needs to improve but it cannot do so if the environment is not conducive to good quality casework.

In the light of our findings, the unit's performance assessment is **FAIR**.

Inspectors identified ten aspects for improvement:

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- 1 Managers need to monitor a sample of completed MG3s to ensure that there is sufficient analysis of evidential matters and that ancillary issues are properly considered (aspect 1).

 - 2 The borough needs to improve case progression by ensuring that all necessary actions are identified and dealt with in a timely manner. Arrangements need to be made to ensure staff coverage for case progression is constant and appropriate (aspect 2).

 - 3 Managers must ensure that CCTV evidence is received and reviewed by a lawyer in sufficient time to provide guidance to the trial advocate; for it to be considered for disclosure purposes; and for timely discontinuance to take place if the evidence suggests that is appropriate (aspect 2).

 - 4 Managers must ensure that:
 - all reviews are completed on the case management system to provide a complete audit trail and enable identification of who has conducted the assessment of the evidence;
 - they undertake regular monitoring of case management system usage to assure the accurate and comprehensive recording of actions and finalisations (aspect 2).

 - 5 The borough crown prosecutor should ensure that case preparation is both timely and that documentation meets acceptable standards (aspect 3).

- 6 The borough must:
- endeavour to reduce the numbers of agents deployed;
 - ensure that advocacy standards including the recording of cases are consistently met; and
 - ensure that all advocates have sufficient time to prepare thoroughly (aspect 4).
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- 7 The borough crown prosecutor should:
- provide guidance to lawyers to ensure that instructions endorsed on disclosure schedules are clear and comply with the Disclosure Manual and that lawyers use the correct terms for the stages of disclosure; and
 - ensure that all disclosure actions are timely and comply with the prosecutors' obligations (aspect 6).
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- 8 The borough needs to ensure that they have sufficient contingency arrangements to enable custody time limit tasks to be completed properly even during times of staff absence (aspect 7).
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- 9 Borough processes need to ensure that in all relevant cases victim personal statements are requested and victims' views sought before cases are discontinued (aspect 8).
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- 10 The borough needs to ensure that sufficient detail is provided at the earliest stage to allow for the timely completion of special measures applications. The outcome of applications should be communicated to the witness care unit as soon as possible (aspect 8).
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Background to London borough assessments

HMCPSP's original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which were expected across an area as diverse as CPS London, and this approach was endorsed by the area's senior managers. In the event findings from the early assessments showed a relatively narrow range of performance and consistency in the themes emerging and the aspects for improvement. Some of these were of serious concern and needed to be tackled urgently at a senior level. London's senior management team confirmed that the boroughs which had been assessed were fairly representative of the area as a whole and that to undertake further assessments would be unlikely to add significantly to our findings. The inspectorate therefore decided to confine the exercise to 20 boroughs (including the pilot assessment of Croydon), drawn from five of the six districts, together with the traffic unit. The first nine borough reports were published on 19 January 2010.

Assessments

Assessments and judgements have been made by HMCPSP based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPSP assessments; and by assessment under the criteria and indicators of good performance set out in the performance assessment framework, which is available to CPS London. Evidence has also been taken from a number of sources, including the findings from the examination of a file sample, the view of staff, representatives of criminal justice partners and the judiciary. Inspectors have also conducted observations of the quality of case presentation in the magistrates' courts and the Crown Court.

The performance assessment has been arrived at by rating the unit's performance within each category as either Excellent, Good, Fair or Poor in accordance with the criteria outlined in the framework.

The inspectorate uses a points based model for assessment, with a borough's overall assessment determined by the cumulative total of points for all of the ten aspects that are scored. There are two limiters within the model. A borough cannot be rated Good or Excellent unless it is assessed as Good in at least two of the first four aspects. This is designed to give pre-eminence to the ratings for the core aspects of the

borough's work. Similarly, if a borough is scored as Poor in three or more aspects its final assessment will be reduced by one grade from that which the overall points indicate.

The findings from the borough performance assessments undertaken are drawn together in a pan-CPS London report which provides an overall picture of the performance of the area. The pan-London report addresses a number of significant issues that have emerged as the assessments have progressed including the effectiveness of CPS London headquarters operations, and CPS London Direct which now makes a significant proportion of the charging decisions in the area.

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