



HM Crown Prosecution  
Service Inspectorate

# Equalities Driving Justice

## *Follow-up Report*

A report on the thematic review of equality and diversity  
in employment practice in the Crown Prosecution Service

**December 2010**





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## Chief Inspector's foreword

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I am pleased to be able to report progress has been made against most of the recommendations we made in 2006.

Central to equality and diversity is a diverse workforce and the CPS has continued to make good progress overall in this respect, particularly in relation to women and black and minority ethnic (BME) staff. The proportion of women at senior grades has increased significantly since our earlier report, and the proportion of BME staff has increased by nearly a fifth. The level of women and BME staff at senior grades is well above that across the civil service as a whole.

I am pleased to see that confidence in the staff complaints procedure has improved, although continued work is needed especially with those minority staff groups reporting the lowest confidence levels. The CPS will need to be mindful of the growing number of complaints and employment tribunal cases alleging discrimination on the grounds of disability and ensure that wherever possible action is taken to prevent such complaints arising in the first place and resolving quickly those that do. Our role during this follow-up inspection has not been to look at the way individual complaints have been handled.

The Service's flexible working policies have been instrumental in encouraging and supporting a more diverse workforce. Whilst many alternative working arrangements work for both the individual and the CPS, many others do not fit with the business needs. The challenge for the CPS will be to draw back from arrangements that are no longer viable whilst ensuring this does not cut across its diverse workforce.

As other organisations in the public sector, the CPS faces unprecedented financial challenges. In making the difficult financial decisions ahead the Service will need to ensure that it puts fairness and transparency at the heart of these. Not only will this enable the Service to meet its legal obligations to assess the equality impact of its decisions, but it will ensure that those it makes will stand up to external scrutiny. New guidance by the Equality and Human Rights Commission to help managers make fair financial decisions, which was published in September 2010, should assist the CPS in this.



## Introduction

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This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) arising from a follow-up progress review conducted between May and July 2010.

The inspectorate carried out a review of equality and diversity in employment practice in the Crown Prosecution Service (CPS) in 2006 with a report of findings published in November. This is available on HMCPsi's website [www.hmcp.si.gov.uk](http://www.hmcp.si.gov.uk).

In the late 1990s, following a number of high profile employment tribunal cases brought by black and minority ethnic (BME) staff and community concerns about prosecution decision-making the then Commission for Racial Equality (CRE) threatened a formal investigation. The CPS responded with an independent inquiry, led by Sylvia Denman, that reported in July 2001. In 2003, in view of progress made in addressing issues raised by the Inquiry, the CRE lifted its threat and instead entered into a monitoring partnership with the CPS which continued until 2007.

Our review in 2006 found that both the essential commitment to change which was necessary following the threat of formal investigation by the CRE and the recommendations of the Denman Inquiry, and the strength of leadership to bring it about was in place at the highest levels of the CPS. Commitment had been backed up by changes to CPS governance structures and the development of a strong Equality and Diversity Unit (EDU). The CPS was found to have made significant progress in developing a more diverse workforce and addressing the recommendations of the Denman Inquiry. It had also broadened its approach to equality and diversity to embrace other aspects of diversity including gender, disability and sexuality.

Whilst acknowledging significant progress had been made, the review identified some important aspects where improvement was necessary. Inspectors made seven recommendations designed to assist the CPS improve performance and identified ten aspects for improvement.

The purpose of the current review was to assess progress made by the CPS against the recommendations and aspects for improvement contained in the 2006 report. In doing this we also assessed the effectiveness of the Service's equality and diversity strategy and policies in relation to employment and the extent to which the CPS has achieved a diverse workforce.

Our methodology included interviews with the lead representatives of the various staff diversity networks and focus groups of network members. We also met with representatives of the trade unions and external stakeholders namely the Cabinet Office and the Equality and Human Rights Commission. This research phase was followed by fieldwork in five CPS Areas where we met with focus groups of staff and managers, surveyed the views of all staff via a confidential survey and interviewed senior managers. Finally relevant senior managers at CPS headquarters were interviewed. A more detailed account of the methodology we used to gather our evidence and data is provided in annex A. Results from our survey of staff views in the fieldwork Areas are set out in annex B.

We are most grateful for the time and enthusiastic input of the many staff and managers who contributed to this review and in particular to the considerable assistance and advice provided to us by Mrs Marlene Oates-Hind from the CPS Equality and Diversity Unit, who acted as our liaison point for this review.

We have rated the Service's response to each recommendation and aspect for improvement according to the following:

- **Achieved** – The CPS has accomplished what was required.
- **Substantial progress** – The CPS has made real headway in taking forward its planned actions in relation to the recommendation.
- **Limited progress** – The CPS has taken limited action to address the recommendation.
- **Not progressed** – The CPS has not demonstrated progress against the recommendation.
- **No longer applicable** – The recommendation is no longer applicable due to changes having taken place, for instance a restructure.

During this review, fieldwork Areas were asked to identify good practice and helpful approaches to developing equality and diversity in relation to employment. Examples relevant to the recommendations or aspects for improvement are highlighted in the text and others are summarised in annex E.



## Executive summary: overview and key findings

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The strong and visible leadership at the highest levels in relation to equality and diversity that we found in 2006, has continued. Central to equality and diversity in employment is a diverse workforce. The CPS has continued to tackle the under-representation of women, black and minority ethnic staff and disabled staff making very good progress overall, particularly for women and BME staff. The proportion of women in higher grades has increased significantly since our earlier report and is higher than in the civil service overall. The proportion of BME staff employed has increased by nearly a fifth to 17.2% overall, significantly higher than the civil service as a whole and higher than the BME proportion of the overall workforce in England and Wales. There is a good level of BME representation at senior grades.

Having made such good progress in relation to workforce diversity, the CPS results from the 2009 civil service people survey around employee perceptions of fairness in the workplace were disappointing. The CPS overall had the second lowest employee engagement score across the 20 government departments which participated. On breaking this down there is significant variation across some minority ethnic groups which scored very low on this index as did disabled staff. The CPS needs to do more to investigate and address the reasons for those differences.

Around a third of staff we surveyed considered that the commitment of the CPS to equality and diversity in the workplace has increased in recent years with the majority considering it has not changed and a small proportion that it had declined. The major focus on community engagement in recent years has perhaps been at the expense of continuing to address internal equality issues.

### **Commitment and skills of operational managers**

In 2006 we found that commitment and leadership evident at senior levels did not always filter down to the front line. Whilst good progress has been made, with more management training available now and better human resources (HR) support available to managers, just over 10% of managers we surveyed still felt they had not received sufficient training. There is still a core of managers who do not feel confident in tackling the more sensitive equality and diversity issues in the workplace.

### **Equality and diversity policies**

The organisation continues to have an impressive array of human resources policies and procedures, in which equality and diversity considerations are integrated, backed up with helpful guidance material. It is in the implementation of these policies where some difficulties were found in 2006, and this is still the position today.

The CPS has set out clear standards of behaviour for staff in its dignity at work policy and whilst the majority abide by these there are still instances where they do not. In the 2009 staff survey, 13% considered they had been discriminated against at work in the previous 12 months and 11% that they had personally experienced bullying or harassment at work, higher than the civil service benchmark of 10% in both cases. While it is not possible to quantify the extent and seriousness of the experiences referred to by respondents, there are notable differences in scores across certain minority staff groups which need to be explored and addressed.

In 2006 there was a low level of confidence in the Service's staff complaints procedure and monitoring and reporting needed to be improved. Since then a new grievance procedure has been introduced and it is encouraging that confidence levels have increased with around two thirds of staff in the 2009 staff survey stating that they would feel confident to report bullying or harassment. However, this still leaves a sizeable proportion who lack confidence and continued work is needed especially with those minority staff groups reporting the lowest confidence levels.

Although there is a perception that staff complaints are increasing, no such trend is apparent in overall numbers for 2006-10. One very notable trend, is an increase in the number of complaints alleging discrimination on the grounds of disability. Less than a quarter of overall staff complaints during this period were upheld in part or in full. As economic necessity forces the CPS to cut back on staffing, reduce absence and manage poorer performers more effectively, staff complaints are expected to rise.

The volume of employment tribunal cases started to rise in 2009-10 and is expected to rise again this year. In particular the number of cases citing disability discrimination is increasing. Of cases commencing during the past four years, half were withdrawn or struck out and half settled. No cases were found against the CPS. One case that originated before this period was found against the CPS in 2006, and is continuing. The high rate of settlement tends to refute the strong perception on the part of staff that the CPS pursues cases at any cost.

Systems for recording and reviewing the outcomes of complaints and employment tribunals to ensure that lessons are learnt are developing.

The CPS has been slow to respond to our recommendation about its flexible working policy. Whilst the CPS published a revised flexible working policy in 2008 and many alternative working arrangements work for both the individual and the business, many do not meet today's business needs and impact adversely on the Service's delivery of essential functions, for example court coverage. It is only in the last year that the Service has really started to address the problem of less viable alternative working arrangements agreed in the past, driven largely by economic necessity. CPS Areas have generally got to the stage of identifying arrangements that do not fit well with business needs and are starting to re-negotiate these. This will not be an easy task. Some staff tend to view such arrangements more as a right than a benefit and will not wish to relinquish them.

### **Staff networks**

The CPS has taken some action to achieve parity across the three funded staff networks.

While the National Black Crown Prosecution Association and Lesbian Gay Bisexual and Transgender networks appeared to be thriving, the CPS should continue to look for practical ways to support the Disability Staff Network. Given the lower engagement scores of disabled staff and the higher levels of discrimination these staff report experiencing, it would be a loss to both staff and the CPS if the network was unable to continue.

The CPS has established a Religion and Belief Forum, which aims to give staff of all religions and beliefs the opportunity to engage with the CPS on business-based religion and belief issues.

## What we found

A summary of our assessments of progress against recommendations made and the aspects for improvement identified in 2006 is set out below.

Recommendation	Rating as at July 2010
<p>1 As part of its review of staff diversity networks, the CPS:</p> <ul style="list-style-type: none"> <li>• examines the role of faith-based networks and ensures that their role in supporting the business is clear;</li> <li>• takes actions on the findings of the network review to achieve appropriate parity across networks and ensure their contribution to core business is maximised; and</li> <li>• strengthens the Enable network so it can realise its full potential.</li> </ul>	<b>Limited progress</b>
<p>2 The CPS takes further action to increase the commitment and ownership of operational managers and staff in respect of actions being taken to improve equality and diversity in the workplace and to counter any negative perceptions.</p>	<b>Substantial progress</b>
<p>3 The CPS reviews its Annual Equalities in Employment Report with a view to improving the accuracy and presentation of the data, and accompanying text, and so provide a fuller picture of progress.</p>	<b>Not progressed</b>
<p>4 The CPS, as part of the implementation of its new performance development review process, provides further guidance and support on how to set appropriate equality and diversity objectives which relate to employment.</p>	<b>Substantial progress</b>
<p>5 The CPS:</p> <ul style="list-style-type: none"> <li>• reviews the equality and diversity e-learning module and its approach of mainstreaming equality and diversity training to ensure that equality and diversity learning needs are being fully met;</li> <li>• ensures that new starters receive a timely induction which incorporates relevant equality and diversity issues. If an e-learning module is to be retained, this should be completed by starters as soon as possible after joining and followed-up by line managers; and</li> <li>• takes action to ensure that all operational managers are provided with the skills and confidence to deal effectively with equality and diversity issues faced in the workplace.</li> </ul>	<b>Substantial progress</b>

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6	The CPS reviews how effectively alternative working arrangements are working in practice, in particular whether they meet current and future business needs, and provides further guidance, support and training for managers to ensure they are able to balance properly the implementation of alternative working arrangements with business needs.	<b>Limited progress</b>
7	The CPS ensures that the fairness at work procedure is carefully implemented and monitored in a manner which secures the confidence of staff. In doing this it should ensure that: <ul style="list-style-type: none"><li>• stakeholders are appropriately involved;</li><li>• guidance for staff and managers is developed that clearly differentiates between the fairness at work and grievance procedures;</li><li>• managers are appropriately trained and supported in the application of the new procedure; and</li><li>• systems are put in place to monitor and report on informal complaints and grievances.</li></ul>	<b>Limited progress</b>

Aspects for improvement	Rating as at July 2010
1 Clarification and communication of roles and responsibilities of Projects and Performance Advisers and their relationship with Area responsibilities.	<b>No longer applicable</b>
2 Completion of outstanding impact assessments, in particular of e-learning and the Prosecution College originally planned for 2005-06.	<b>Substantial progress</b>
3 Further consideration to be given to communicating equality and diversity policy and guidance materials to ensure that all staff and particularly managers, are aware of the implications for their roles and that equality and diversity is fully integrated within management practice.	<b>Substantial progress</b>
4 Further development of Area workforce representation plans, in particular to ensure they incorporate quantifiable outcomes for actions and are broadened out to address equality and diversity in the workplace more generally as well as workforce representation.	<b>No longer applicable</b>
5 Clarification to Areas of the purpose of local Race Equality Schemes and how they will fit with the Single Equality Scheme due to be produced in late 2006.	<b>No longer applicable</b>
6 Further communication to staff to address any misunderstandings around staff survey confidentiality to encourage higher response rates and provide a fuller picture of staff opinions.	<b>Achieved</b>
7 Exploration of the reasons for any differences in satisfaction between demographic groups and action taken to reduce these, particularly in relation to disabled staff.	<b>Limited progress</b>
8 Incorporation of less serious misconduct cases and dismissals within monitoring data collected to provide a more complete picture of disciplinary action taken against staff.	<b>Achieved</b>
9 Investigation of the under-representation of disabled staff in learning and development activities with a view to taking action to address the imbalance, and monitoring of the participation of staff to include alternative working patterns.	<b>Substantial progress</b>
10 Continued action to improve further the representation of women at senior levels within the organisation and to improve the proportion of disabled people employed.	<b>Substantial progress</b>



## Contextual factors and background

### The changing environment

Since our initial review in 2006 there have been a number of major internal and external changes relevant to equality and diversity in employment. There have been significant changes in personnel at the highest levels within the CPS including a change in Director of Public Prosecutions (DPP) and new Directors of both Equality and Diversity and of Human Resources. A new CPS group based structure has been introduced with 13 groups each comprising a number of CPS Areas. This has resulted in some equality and diversity resources moving from headquarters to provide a group based resource to CPS Areas.

Externally there has been a major change to equality and diversity legislation with the introduction of the Equality Act 2010 which replaced existing anti-discrimination laws. It

includes a new public sector equality duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender re-assignment more fully. The new legislation applies to both service delivery and employment.

### Diversity of the CPS Workforce

Central to equality and diversity in employment is a diverse workforce. The CPS has continued to tackle the under-representation of women, BME staff and disabled staff at senior levels with very good results overall.

### Gender composition of the workforce

At March 2010, women made up 66.6% of the CPS workforce, higher than the proportion of women in the civil service (53.2%) and the working population of England and Wales (47.8%).

Numbers of women in the CPS and civil service by grade					
Grade	CPS at 31 Mar 2007		CPS at 31 Mar 2010		Civil service overall at 31 March 2009
	Number	%	Number	%	%
A**	2,207	76.5	1,924	75.0	58.0
B**	2,024	72.4	1,798	72.7	50.6
Legal trainee and associate prosecutor	38	76.0	353	69.8	no equivalent
C1*	139	72.4	-	-	no equivalent
C2*	1,345	57.3	-	-	no equivalent
Crown prosecutor*	-	-	60	72.3	no equivalent
Senior crown prosecutor*	-	-	1,040	62.1	no equivalent
Crown advocate*	-	-	445	50.2	no equivalent
Senior crown advocate*	-	-	13	31.0	no equivalent
Principal crown advocate*	-	-	1	10.0	no equivalent
D	230	45.3	237	51.7	40.7
E	56	32.0	84	41.8	35.4
Chief crown prosecutor/ Senior civil service	27	33.3	32	37.2	32.9
<b>Total</b>	<b>6,066</b>	<b>67.2%</b>	<b>5,987</b>	<b>66.6%</b>	<b>53.2%</b>

\* New legal grades introduced after 2007 are not directly comparable with the previous grades C1 and C2.

\*\* Grade A includes paralegal officers and grade B includes paralegal officers and paralegal business managers.  
Source: HRMI-10-290 & HRMI-10-350

Women are over-represented at lower grades from A1 to B3. They are fairly represented at grade D level but under-represented at grade E and above. However the proportion of women in the higher grades has increased significantly since our earlier report and the proportion of women in senior grades at March 2010 was higher than within the civil service overall. The most marked increase is in the chief crown prosecutor grade, where the proportion of women increased from 24.5% in 2005 to 40.0% in March 2010. Fuller details regarding the progression of women at senior levels are given under aspect for improvement 10 (see page 43).

A similar pattern is seen in the prosecutor grades. Women are over-represented in the associate prosecutor and crown prosecutor grades but the proportions fall at the higher grades of senior crown prosecutor and crown advocate. At March 2010, only 31.0% of senior crown advocates and 10.0% of principal crown advocates were women. As most legal grades have undergone recent changes (some roles are new and others have been combined with other grades) it is difficult to identify specific trends. The CPS conducted an equality impact assessment of its advocacy strategy in 2007, which is published on its website, and is mindful of the lower proportions of women in more senior grades. Continued work is needed to address this aspect.

There is considerable variation between CPS Areas in the proportion of women employed, with CPS Wiltshire having a workforce that comprises 83.8% women and Avon and Somerset 59.0%. CPS Direct employs the lowest proportion of women at 57.5%. However there is very little variation between the proportion of women in the local working populations in England and Wales, which for most areas is slightly under 50%. These patterns have hardly changed since our review in 2006.



### Ethnicity of the workforce

At March 2010, 17.2% of the 87.1% of CPS staff who declared their ethnicity were from a BME background. This is significantly higher than the BME proportion of civil service employees as a

whole when at March 2009, 8.9% of the 78.8% of staff who declared their ethnicity were BME. It is also higher than the BME proportion of the total workforce in England and Wales which in 2009 was 12.3%.

Ethnicity of CPS and civil service staff by grade					
Grade	BME CPS at 31 Mar 2007 (based on declaration rate of 77.1%)		BME CPS at 31 Mar 2010 (based on declaration rate of 87.1%)		BME civil service overall at 31 March 2009 (based on declaration rate of 78.8%)
	Number	%	Number	%	%
A**	348	15.6	424	18.7	9.3
B**	314	14.3	377	17.3	9.0
Legal trainee and associate prosecutor	10	23.3	64	14.7	no equivalent
C1*	49	34.8	–	–	no equivalent
C2*	240	13.8	–	–	no equivalent
Crown prosecutor*	–	–	13	17.8	no equivalent
Senior crown prosecutor*	–	–	258	18.2	no equivalent
Crown advocate*	–	–	107	14.1	no equivalent
Senior crown advocate*	–	–	1	2.9	no equivalent
Principal crown advocate*	–	–	1	16.7	no equivalent
D	44	11.1	62	15.7	6.9
E	13	9.2	24	18.6	5.4
Chief crown prosecutor/ Senior civil service	8	12.3	12	14.6	4.5
<b>Total</b>	<b>1,026</b>	<b>14.7%</b>	<b>1,343</b>	<b>17.2%</b>	<b>8.9%</b>

\* New legal grades introduced after 2007 are not directly comparable with the previous grades C1 and C2.

\*\* Grade A includes paralegal officers and grade B includes paralegal officers and paralegal business managers.

Source: HRMI-10-290 & HRMI-10-350

The proportion of BME staff has increased in all civil service grades since our report in 2006 and at March 2010 was higher than the civil service average across all comparable grades. The BME proportion in all but three grades now exceeds that of the total workforce. The exceptions are at paralegal officer grade (8.0% - included in grade B staff), senior crown advocate (2.9%) and senior civil service (SCS) grade (3.0%), although in the case of the latter if chief crown prosecutor (CCP) roles are included within the SCS grade the BME proportion is 14.6%, well

above that of the civil service as a whole and the working population. The developments above represent very good progress overall.

There is some scope for improvement in terms of representation of BME men at senior grades. At present BME men make up 10% of men at D and E grades and just 8.7% of those at CCP and SCS grades. This is despite men overall making up 53% of grade D and E jobs and 62.5% of CCP and SCS jobs. This is an aspect that the CPS could usefully explore.

At March 2010, 28 Areas employed a higher proportion of BME staff than that of the local workforce, compared to 26 Areas when we conducted our original review. A number of Areas employed a proportion of BME staff well in excess of the local working population for example 20.3% of staff in CPS Northamptonshire were BME compared with 6.9% in the local workforce and in CPS Hertfordshire 19.0% of staff were BME compared with a local workforce of 8.7%. In the majority of these 28 Areas however, the proportion of BME staff was more balanced with that locally. In 11 CPS Areas the proportion of BME staff employed was below that of the local working population, although in no instances was there more than three percentage points difference. Three CPS Areas had no BME staff namely CPS Cumbria, Dyfed Powys and Wiltshire. This compares with five Areas at the time of our original review.

#### Disability within the workforce

When our original review was carried out in 2006, only around a third of CPS employees had completed a declaration as to whether they considered themselves disabled or not. Disability figures were based on those who stated they had a disability as a percentage of total staff with employees who had not completed a declaration assumed not to be disabled which was clearly not accurate. The CPS has worked hard since to improve declaration levels which have increased from 37.8% in 2005 to 88.9% in 2010. Hence it is now possible to say that as at March 2010, 6.4% of those in the CPS who have made a declaration say they are disabled. This compares to 7.1% in the civil service overall, where the declaration rate is 72.6%. The disabled proportion of the working population of England and Wales is substantially higher at 18.2%.

Number of disabled CPS and civil service staff by grade					
Grade	CPS at 31 Mar 2007 (based on declaration rate of 81.6%)		CPS at 31 Mar 2010 (based on declaration rate of 90.0%)		Civil service overall at 31 March 2009 (based on declaration rate of 72.6%)
	Number	%	Number	%	%
A**	108	4.5	163	7.0	7.9
B**	113	4.7	138	6.0	6.7
Legal trainee and associate prosecutor	1	2.4	22	5.1	no equivalent
C1*	1	0.7	-	-	no equivalent
C2*	100	5.7	-	-	no equivalent
Crown prosecutor*	-	-	7	9.3	no equivalent
Senior crown prosecutor*	-	-	102	7.2	no equivalent
Crown advocate*	-	-	43	5.5	no equivalent
Senior crown advocate*	-	-	0	0.0	no equivalent
Principal crown advocate*	-	-	0	0.0	no equivalent
D	27	6.4	31	7.8	4.6
E	5	3.3	9	5.1	4.1
Chief crown prosecutor/ Senior civil service	5	7.5	6	8.0	4.4
<b>Total</b>	<b>360</b>	<b>4.9%</b>	<b>521</b>	<b>6.4%</b>	<b>7.1%</b>

\* New legal grades introduced after 2007 are not directly comparable with the previous grades C1 and C2.  
 \*\* Grade A includes paralegal officers and grade B includes paralegal officers and paralegal business managers.  
 Source: HRMI-10-290 & HRMI-10-350

Due to the inaccuracy of early data on disability it is not possible to identify the extent to which the higher proportion of disabled staff shown as employed now is due to more accurate data or an actual increase in the proportion of disabled staff employed. However by March 2010, disabled staff were represented reasonably evenly over grades, although there were three grades in which no staff had declared themselves as having a disability. These were the legal trainee, senior crown advocate and principle crown advocate grades. Although numbers in these grades are small they are important grades and ones in which disabled staff should be represented.

Fuller details regarding the progression of disabled staff at senior levels are given under aspect for improvement 10 (see page 44).

The disability declaration rate varies across Areas from 81.5% in CPS Avon and Somerset to 97.8% in CPS Norfolk at March 2010. The proportion of disabled staff likewise varies from none in CPS Warwickshire (the only Area to employ no disabled staff) to 13.6% in CPS Direct. In three Areas (CPS Avon and Somerset, Derbyshire and Durham) disabled staff comprised over 10% of the workforce and in 15 Areas less than 5% of the workforce.

#### **Age composition of the workforce**

At March 2010 the majority of the CPS staff were aged between 31 and 50. The spread of ages across grades follows what would be expected as careers develop – the lower the grade, the higher the proportion of younger staff in that grade; the higher the grade, the higher the proportion of older staff in that grade.

Similar patterns can be seen in the civil service figures but overall the age composition of the civil service is older than that of the CPS. More people that work in the civil service are in the 40-49 age range than any other. The greatest difference compared with the CPS trends is that there are some 21-30 year olds in the civil service at the high grades which is not the case in the CPS.

#### **Sexuality and religion and belief**

The CPS engaged with the Cabinet Office in a pilot exercise about recording data on the sexuality and religion and belief of employees, and has started to collect data on these aspects. However, this is insufficiently developed at this stage to provide an accurate picture.

#### **Looking ahead**

Given the current economic position and in the certain knowledge of staff cuts and reorganisation ahead, the CPS will need to carefully plan its procedures for implementing such changes and be mindful to avoid cutting across its good work in this aspect. Aspects where further focus is desirable will inevitably be hampered by limited recruitment.

#### **Fairness in the workplace**

Having made such good progress in relation to workforce diversity, the CPS results from the 2009 civil service people survey around employee perceptions of fairness in the workplace were disappointing for the CPS. This was the first time that the CPS had participated in the civil service wide people survey which enabled direct comparisons with scores for the civil service as a whole.

Scores from a number of key questions in the survey contribute to what is termed the employee engagement index. Engaged staff are found to drive organisational success and proven to help an organisation overall deliver higher performance. In 2009 the CPS employee engagement score was 56%. Whilst this was

an improvement on its score of 52% in 2008 (calculated on the basis of the Service’s own staff survey), it was two percentage points behind the overall civil service score and seven percentage points behind the civil service high performance benchmark.

**CPS staff survey 2009 – summary of responses to the main fair treatment questions**

	<b>CPS positive responses</b>	<b>Difference from civil service</b>	<b>Difference from high performance benchmark</b>
I am treated fairly at work	71%	-7	-12
I am treated with respect by the people I work with	79%	-6	-9
I feel valued for the work I do	51%	-11	-17
I think that the CPS respects individual differences (e.g. cultures, working styles, backgrounds, ideas etc)	67%	-4	-10

In each of the questions on fair treatment that contribute to the employee engagement index, scores were behind those for the civil service as a whole. The Cabinet Office collated key questions from the staff survey to formulate a behaviour and culture index, which could be compared across the civil service. The CPS’s result was unusual because despite having a more diverse workforce than most, its behaviour and culture index score was comparatively low – the CPS scored 55%, the second lowest score of the 20 departments which participate in the survey. The reasons for this are not clear and

need to be explored and addressed by the CPS. The CPS believes that a major factor is that CPS London, representing around 20% of the CPS workforce, was undergoing considerable change at the time of the survey. However, while the London engagement index score was low at 50%, less than a quarter of London staff completed the survey so there must be other reasons for this. In view of the outcome of the 2009 survey, the Cabinet Office downgraded its performance rating for the CPS on behaviour and culture from amber/green to amber.

CPS staff survey 2009 - employee engagement index broken down by diversity of respondents (overall score 56%)			
Gender	Men 55%	Women 58%	
Ethnicity	White 57% <i>Mixed 51%</i> Asian or Asian British 60%	Black or Black British 60% <i>Chinese or other 46%</i>	
Disability	<i>Disabled 49%</i>	Non-disabled 57%	
Sexuality	Heterosexual 57% Gay or lesbian 58%	<i>Bisexual 53%</i> <i>Other 46%</i>	
Religion	No religion 55% Christian 58% Muslim 59%	Hindu 61% Jewish 58% Buddhist 65%	Sikh 67% <i>Other 48%</i>
Age	16-19 65% 20-24 62% 25-29 59% 30-34 57%	35-39 56% 40-44 57% 45-49 55% 50-54 56%	55-59 57% 60-64 56% 65+ 57%

Responses from groups shaded green (bold) are 5% more positive than overall and those shaded red (italic) 5% less positive than overall.

On breaking down the engagement score by diversity factor there is significant variation across some diversity groups. There are notable differences across the various ethnic groups and disabled staff are notably less engaged than non-disabled. There is little difference between the engagement level of heterosexual and gay or lesbian staff.

A similar pattern is found in the responses to the CPS staff survey question “I am fairly treated at work”. Overall:

- there is limited variation in scores by gender although responses from women are generally slightly more favourable;
- in terms of ethnicity the “mixed” and “Chinese or other” groups are generally less positive in their responses;
- disabled staff are significantly less positive in their responses;
- heterosexual and gay and lesbian staff are generally more positive than bisexual and those of other sexuality in their responses;
- there are no clear trends in relation to religion and belief groups; and
- a higher proportion of younger staff consider they are treated fairly at work and younger staff have a higher engagement score.

Responses to the CPS staff survey question ‘I am treated fairly at work’ broken down by diversity of respondent (overall score 71% positive)			
Gender	Men 72%	Women 72%	
Ethnicity	White 73%	Black or	
	<i>Mixed 63%</i>	Black British 70%	
	Asian or Asian British 69%	<i>Chinese or other 43%</i>	
Disability	<i>Disabled 55%</i>	Non-disabled 73%	
Sexuality	Heterosexual 73%	<i>Bisexual 66%</i>	
	<b>Gay or lesbian 78%</b>	<i>Other 54%</i>	
Religion	No religion 72%	<i>Hindu 63%</i>	<b>Sikh 77%</b>
	Christian 73%	<b>Jewish 78%</b>	<i>Other 52%</i>
	<i>Muslim 65%</i>	Buddhist 73%	
Age	<b>16-19 82%</b>	35-39 72%	<b>55-59 75%</b>
	<b>20-24 79%</b>	40-44 69%	60-64 73%
	<b>25-29 76%</b>	45-49 69%	<b>65+ 75%</b>
	<b>30-34 75%</b>	50-54 69%	

Responses from groups shaded green (bold) are 5% more positive than overall and those shaded red (italic) 5% less positive than overall.

### Direction of travel

In our own survey of CPS staff as part of this follow-up, we found 71.4% believed that staff are treated in a fair and objective way by managers and other staff. Although the question asked was slightly different to that asked in the 2009 survey, this result would indicate

little change since then. When we asked staff about the commitment of the CPS to equality and diversity in the workplace, around one third (35.4%) considered it had increased, with the majority (57.6%) considering it has not changed in the last couple of years, and a small proportion (6.9%) that it had declined.

# Section One: Recommendations and aspects for improvement: what we found

## Recommendations

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### Recommendation 1

*As part of its review of staff diversity networks, the CPS:*

- *examines the role of faith-based networks and ensures that their role in supporting the business is clear;*
- *takes actions on the findings of the network review to achieve appropriate parity across networks and ensure their contribution to core business is maximised; and*
- *strengthens the Enable network so it can realise its full potential.*

**Assessment: limited progress.**

### The role of faith-based staff networks

1.1 The Christian Prosecution Fellowship and the Muslim Staff Network have operated as unofficial faith-based staff networks in the CPS over recent years. Both are largely London-based and although these faith networks are not funded by the CPS, it provides accommodation for members to meet and conduct their activities. The CPS has also promoted network events and provided some one-off funding for faith-based celebrations such as Eid and Christmas carol concerts. Both of these faith networks have pushed to be officially recognised by the CPS and receive an annual budget to widen the scope of their activities and events.

1.2 The CPS undertook a review of staff networks in 2007, which considered whether faith-based networks should be officially recognised alongside the three other staff networks. This recommended that the faith networks receive funding, although the rationale for this was not made clear. However, the CPS made the decision instead to establish and fund

a multi-faith Religion and Belief Forum because, as a secular organisation, the CPS could not be seen to support any one religion or faith in particular.

1.3 Guidance from the Cabinet Office is that departments need to be able to justify any financial support for staff networks on the basis that they contribute to departmental or corporate objectives. The new forum aims to give staff of all religions and beliefs the opportunity to engage and consult with the CPS on business-based religion or belief issues, such as helping to shape religious hate crime policies. A further aim is to promote inclusiveness across staff of all faiths in the CPS through the dissemination of relevant information and the organising of relevant events on religion and belief grounds.

1.4 At the time of our review, the forum was in the process of being established and its contribution to the business was yet to be fully realised. The proposed forum does not yet seem to have the buy in of staff from the existing faith-based networks. This may be because these staff were not consulted fully in its design. Additionally, the activities that members of the separate faith networks said they valued most, including group prayer meetings and events to celebrate religious festivals, may be difficult to co-ordinate and run in a multi-faith environment. Since this review was carried out the forum has held its first meeting and has received support from both the Christian Prosecution Fellowship and the Muslim Staff Network. The CPS anticipates that the current faith-based networks will continue to meet for religious observance and support needs, alongside the new forum.

1.5 It is unclear at this stage how the forum will ensure fair representation across all of the interested faiths. Its terms of reference do not set out any guidelines which would prevent the forum from being composed entirely of staff of one or two religions, which would defeat the purpose of a multi-faith forum. The CPS should reconsider the terms of reference to address this.

**Working towards parity and maximising the contribution of networks**

1.6 The CPS recognises and funds three staff networks; the National Black Crown Prosecution Association (NBCPA), the Disabled Staff Network (DSN) and the Lesbian, Gay, Bisexual and Transgender Staff Network (LGBT). These networks provide support for staff from historically under-represented groups, who have traditionally and disproportionately experienced discrimination.

1.7 The CPS has considered ways to achieve greater parity across its staff networks as well as maximise the contributions the networks made to the core business of the CPS. The

review referred to above, recommended that network funding be increased to achieve parity and also that part of the funding for networks be used to provide all networks with administrative support and back-up over the year.

1.8 In keeping with Cabinet Office guidance, the CPS has asked each network to submit a business plan at the beginning of each year to outline the activities it will undertake, how they will contribute to CPS objectives and the budget required to do this. Both the DSN and LGBT network budgets have increased since the time of the last inspection. However, there remains a disparity between the funding and facility time provided to these two networks and the NBCPA. Staff consider that there is inequality in the treatment of the networks, in part because of this budgetary difference.

1.9 The following table outlines the time and funding allocated to the three staff networks in 2010-11:

Staff network funding 2010-11			
Network	Budget	Committee size	Allocated committee time
National Black Crown Prosecution Association	£75,000	12 members	27.0 days per month
Lesbian, Gay, Bisexual and Transgender Staff Network	£26,000	7 members	27.0 days per month
Disabled Staff Network	£26,000	7 members (although one has left the CPS)	11.7 days per month

Source: Time off for Networks – March 2010.



1.10 In these challenging times, it is unrealistic to expect that the budgets of LGBT and DSN could be raised to the level of that of NBCPA. Instead, the CPS may need to re-examine the total funds and time available for staff networks and consider the best way to allocate the total so as to achieve greater parity and transparency. This should include deciding how to support Areas that may employ several network committee members who need some work time to undertake network duties. At the present time, CPS Areas are bearing the cost of this staff abstraction although the CPS has started to look at this issue. In determining the funding and time to be allocated to staff networks, consideration should be given to the size of each network and the relative needs of their members.

1.11 Efficiencies could be made. A substantial part of the NBCPA budget is used for providing training for members. While this training is very well regarded, it overlaps with training run by the CPS Leadership and Learning Team. The NBCPA and the Leadership and Learning Team should work more closely to ensure that the needs of NBCPA members are where feasible met within the central training programme. There is also scope for reducing the budget for network events and conferences by sharing facilities between the different networks and making better use of government premises available at lower cost.

1.12 Other government departments have used information technology to achieve significant cost savings in the running of staff networks. HM Revenue and Customs for instance operate a closed online forum for LGBT staff, which allows people to sign up

anonymously and participate in virtual meetings reducing the amount of time staff need to be away from their workplace.

1.13 Despite scope for efficiencies, the CPS should be commended for continuing to support staff networks. Many staff involved spoke very positively about the benefits they received from being a member, such as increased confidence, networking opportunities and support and solidarity with like-minded people. This seemed particularly important for staff in rural Areas. Additionally, those staff that had taken on network committee roles said that they had developed new skills as a result of their committee responsibilities.

1.14 The CPS also benefits from supporting staff networks. Through them they are able to consult with members of different minority groups on relevant policy issues. For example, the DSN assisted in the development of guidelines for managers on implementing reasonable adjustments and all networks contributed to the development of the Service's hate crime policy and Single Equality Scheme for 2010-11. They are also able to gain valuable insights about the issues facing particular staff groups.

#### **Progress in developing the Enable network**

1.15 The Disabled Staff Network (formerly called Enable) was set up over 10 years ago to support disabled staff within the CPS and improve their working experience through the provision of a forum in which to talk about their experiences and help resolve some of the difficulties they face. The DSN also aims to enable disabled staff to contribute to policy development on disability issues and increase awareness amongst all staff, through CPS wide

events and information. At the time of the last review the inspectorate found that the network was delivering a positive service for disabled staff in the CPS but it was in need of strengthening if it was to fulfil its objectives.

**1.16** Four years on, the DSN appears to be in a weaker position. While funding for the network has increased since 2006, there has been a lack of committee members and administrative support to organise the events and co-ordinate activities. Those on the DSN committee do not all have the same seniority as some of the other network chairs and therefore cannot be as autonomous in managing their daily work around committee commitments. In some cases committee members have not been able to secure the commitment of their Areas to allowing them time for committee duties. The DSN has also had a number of committee members away from work for significant periods due to disability related leave. This has meant that a majority of the work in organising events has fallen on one or two individuals, who are finding it difficult to cope. Despite the significant efforts of these committee members, the network appears to be close to collapse.

**1.17** The demise of the DSN would be significant, both for disabled staff, who seem to gain an enormous amount from it, and for the CPS. DSN members said that disabled staff have additional burdens in their work life because they have to cope with their work responsibilities, while managing their disability and dealing with a general lack of understanding from people

about disability, whether within or outside of employment. Results from the 2009 civil service people survey show that disabled staff within the CPS have one of the lowest employee engagement scores of any diversity group across the CPS. They are also more likely to have experienced discrimination or harassment than many other staff groups. The proportion of staff grievances made on the basis of disability discrimination has increased over the last few years. The CPS would benefit greatly from continuing to have a voice for disabled staff in the form of the DSN. It should continue to look at practical ways to support the DSN committee, whether through administrative support or some other means, in continuing the important work that they are doing.

**1.18** Networks would benefit from more regular formal dialogue with the CPS. Each network had had at least one formal meeting with the new Director of the EDU but ideally these meetings should be on a regular basis. An update on progress against the Diversity Development Plan in March 2010 indicated that quarterly meetings are in place with all networks to inform and consult on training proposed by HR, but these meetings do not appear to be taking place. The terms of reference for networks dated December 2009 state that there will be bi-annual meetings of all networks with the EDU and HR Directorate, and annual joint meetings with the DPP and Chief Executive as well as individual meetings between each network and the DPP and Chief Executive. Not all these meetings have yet commenced.

## **Recommendation 2**

*The CPS takes further action to increase the commitment and ownership of operational managers and staff in respect of actions being taken to improve equality and diversity in the workplace and to counter any negative perceptions.*

**Assessment: substantial progress.**

**2.1** At the time of our original review, we found that whilst the commitment to the equality and diversity agenda from the leadership at the highest levels in the CPS was strong, it had not filtered down to all managers at the operational level. This was a concern as these managers have the greatest ability to impact upon the day to day actions of their staff. The inspectorate recommended that the CPS take action to address this.

### **Increasing the commitment and ownership of managers**

**2.2** A greater proportion of managers than staff thought that the commitment of the CPS to equality and diversity in relation to employment had increased in recent years. Just over 60% of managers responding to our survey said that they thought commitment had increased, while 33% said it had remained unchanged.

**2.3** The staff survey indicates that there remain issues of bullying and harassment as well as discrimination in the workplace and the role of managers is therefore a critical one. These issues are set out in more detail under recommendation 7. The approach to equality and diversity training for managers has been to mainstream it in the various management development training programmes. A series of training programmes with an equality and diversity dimension have been developed for managers. The national CPS Leadership

and Learning Team have developed a suite of training sessions for managers on interpreting HR policies, managing issues around flexible working and a disability master class, all of which cover equality and diversity issues.

**2.4** Whilst the large majority of managers we surveyed (88%) felt that they had had sufficient training to deal with equality and diversity issues in the workplace, some we spoke to in focus groups still seemed to lack confidence in managing some of the more sensitive equality and diversity aspects. Comments from the survey included:

*“There should better training for managers to help them deal with staff who claim discrimination whenever disciplinary action is taken against them.”*

*“As a manager I find it difficult to explain to members of the team who complain about other team members especially if the member they are complaining about has an unseen disability.”*

*“A member of my team has X (a mental health condition) – I have received no formal training as to how this affects his work and how I am to deal with this individual.”*

**2.5** A number said that they did not feel confident enough to handle an equality and diversity complaint or incident without worrying that they may become the subject of a grievance. Perhaps as a result of this, there was a perception by some senior managers that issues were escalated too quickly to avoid operational managers having to take ownership. Such comments indicate a need for better support and training for some. Managers understand the rationale for more e-based learning, but many would prefer face to face training to help them tackle the more difficult aspects of managing

people. As resources contract further, the CPS will need to balance carefully the economies of e-learning with its effectiveness in tackling more sensitive skills training.

**2.6** In 2009, the CPS commissioned and piloted an equality and diversity master class designed to develop the confidence of managers in dealing with the diversity of their teams and understanding of how to mainstream equality and diversity in the day to day work of their teams. A group of trainers has been trained to deliver the programme and it is available for CPS Areas. However, this has yet to be taken up. CPS Areas did not appear to be aware of the availability of this programme which could be better promoted especially on a group basis.

**2.7** Good work to increase the confidence of managers is being undertaken in some Areas. CPS West Midlands, in particular, have done some commendable work on developing the people skills of their managers and have invested in a programme of management training including monthly coaching sessions for lawyer managers, focusing on the practical application of the HR policies, including the equality and diversity aspects. The Area believes that this training has increased managers' confidence and reduced the number of complaints and grievances in the Area. This appeared borne out in our conversations with managers. This training is now being replicated for administrative managers. CPS London has recently started to run training for managers that includes input on reasonable adjustments, managing difficult conversations and building a high performance team. The training has been conducted face to face, so that managers can practice applying skills to typical situations they face in the workplace.

**2.8** HR advisers (HRAs) have been very helpful in providing advice on equality issues in employment. In the Areas we inspected, some managers have been using their HRA as a resource and have generally found the advice provided to be valuable.

### **Management accountability for equality and diversity**

**2.9** Whilst managers have been given access to training in equality and diversity, there are currently no specific measures to hold them to account for the implementation of those policies. The removal of compulsory equality and diversity objectives for managers and staff, and the absence of a mention of equality and diversity in relation to employment within the new CPS Core Quality Standards mean that managers may not see themselves as accountable directly for equality and diversity behaviours. There is a view by some managers that if it is not being measured, it is not a priority. To assist mainstream equality and diversity more effectively in the workplace, the CPS may find value in drawing up an equality standard that sets out concisely what mainstreaming looks like in practice and its expectations of managers. This might include for instance an expectation that new policies and practices are assessed for their impact on equality and the expectation that equality and diversity is a standing item on team meeting agendas. This would encourage better accountability and assist the CPS stand up to external challenge. The Equality and Diversity Unit has put forward a proposal to introduce a performance measure on equality and diversity in the workplace, which may measure things like grievances, complaints and staff survey results, but this has not yet been implemented. If adopted this may also help to promote better accountability.

**2.10** There is a perception amongst some staff that managers are not held to account over valid grievances or employment tribunals involving their staff, and that no action is taken against managers who are found to have been at fault. While action to re-train managers involved in grievances may well be being carried out confidentially, a lack of visible action does add weight to the view of some staff that managers who had been the subject of equality and diversity complaints were not held accountable in any way. It was not apparent that the lessons from these grievances and tribunals were being systematically collected and communicated back to CPS Areas or to other managers to prevent the same practices continuing. This would be one way which the CPS could show that they were taking positive action in relation to any findings against them.

#### **The commitment to equality and diversity**

**2.11** When we asked staff about equality and diversity training in our staff survey, the great majority (81%) of staff considered that they had had sufficient training to deal with equality and diversity issues in the workplace.

**2.12** We also asked staff whether they thought that the organisation's commitment to equality and diversity had changed over the last few years. Just over a third of the staff that responded to our survey (35%) thought that the CPS had increased their commitment to equality and diversity in employment in the last few years. Approximately 60% thought it had remained at the same level, with 7% stating that it had declined. The numbers were almost identical when we asked staff about whether their Area's commitment to equality and diversity had increased or declined.

**2.13** Overall, the CPS has undertaken considerable work to increase the understanding and commitment of operational managers and staff to equality and diversity since our review in 2006. There is now far greater acceptance on the part of staff and managers of the importance of equality and diversity. The CPS has in particular put a great deal of effort into external equality and diversity initiatives to reach out to local communities. While this can be seen as positive, some staff thought the work had to some extent taken the focus off equality and diversity internally. The CPS has perhaps relied overly on its very good and improving workforce representation performance in this respect.

**2.14** There remain important equality and diversity issues in the workplace that need to be improved. During our fieldwork we were told about a small number of very concerning cases involving discriminatory behaviour between colleagues. These were not reported formally as the individuals did not wish to draw attention to themselves or damage their job or career prospects. Whilst there is more management training available now and a better level of HR support, there is still a core of managers who do not feel confident in tackling issues in the workplace. They by and large are familiar with the HR policies but need more support in the practical application of them.

**2.15** Whilst we have assessed progress against this recommendation as "substantial" we are conscious that much of work underway has yet to result in the necessary changes in the workplace. Continued work is needed.

### **Recommendation 3**

*The CPS reviews its Annual Equalities in Employment Report with a view to improving the accuracy and presentation of the data, and accompanying text, and so provide a fuller picture of progress.*

**Assessment: not progressed.**

**3.1** When we conducted our review in 2006, the Annual Equalities in Employment Report for 2005-06 was in the process of being drafted. However, this was not published, and no further reports have been produced since. Instead the CPS produces some statistical data on its website. At the time of our review this comprised annual data showing staff in post, applicants, and leavers, delegates for training, disciplinary cases and senior civil service (SCS) performance bonus data. With one exception data was provided by grade and by gender, ethnicity and disability. In the case of delegates for training this did not include a breakdown by disability.

**3.2** Whilst this data is referred to as a report, it is rather a series of annual statistical tables. The CPS continues to refer to the Annual Equalities in Employment Report as if it is still being published. For instance in its Diversity Delivery Plan for 2008-11, it states “...We will further develop the assessment, monitoring and public reporting of our performance on equality in employment through our Annual Equalities in Employment Report”. The most recent annual review of progress against the Service’s Single Equality Scheme published in June 2009 refers to the Annual Equalities in Employment Report continuing “to highlight outcomes across equality strands for which data is available”. This is also to an extent misleading as annual statistics published with no trend data,

benchmarks or accompanying narrative do not highlight outcomes in the way implied.

**3.3** The CPS has a statutory duty to publish certain workforce monitoring data which it meets with one exception. It is required to monitor the number of employees by racial group who benefit or suffer disadvantage as a result of performance assessment. At present it publishes a breakdown of its SCS staff who received a performance bonus by gender, ethnicity and disability. It does not publish any information on the diversity of the majority of staff in relation to performance assessment markings, any action taken in response to poor assessments or any performance bonuses at other levels.

**3.4** The drawbacks of current arrangements include:

- the statistical tables are difficult to locate on the website;
- the latest data displayed at the time of our review was for 2007-08 which is out of date;
- annual figures are provided with no trend data which makes establishing progress and direction of travel difficult;
- no benchmarking figures are provided, for example comparable figures for the civil service or other criminal justice agencies to help readers put the figures in context;
- the data which makes up the statutory minimum does not always give the full picture, for instance data on the diversity of job applicants should ideally be supplemented by data on the success rates of the various diversity groups; and
- there is no narrative to highlight aspects where good progress has been made or where improvements are needed.

**3.5** Inspectors were told that the rationale for not continuing to publish the Annual Equalities in Employment Report was that the (then) Commission for Racial Equality (CRE), when it agreed to stop its close monitoring of the CPS due to the necessary progress having been made, had indicated that this was no longer necessary. Examination of the correspondence between the CRE and CPS indicates that this was not the case and the CRE expected the reports to continue. The CPS is strongly urged to reconstitute the Annual Equalities in Employment Report. In view of current pressures on resourcing non-front line posts it is suggested that this is published electronically in shortened form with narrative to highlight progress and key issues. It might usefully form a part of the annual report on the Single Equality Scheme. Ideally the report should also include data in relation to staff grievances and complaints. As set out under recommendation 7 below, greater transparency of complaints data may well contribute to better levels of confidence.

#### **Recommendation 4**

*The CPS, as part of the implementation of its new performance development review process, provides further guidance and support on how to set appropriate equality and diversity objectives which relate to employment.*

**Assessment: substantial progress.**

**4.1** In our original review we found that equality and diversity objectives set for managers and staff tended to be too general and difficult to measure to be meaningful. Managers were uncertain about how to capture employment related issues when setting staff objectives.

**4.2** In April 2007, shortly after our review, the CPS produced a guide for setting appropriate equality and diversity objectives in staff performance development plans. The guidelines contained a definition of what an equality and diversity objective is as well as the rationale behind including these objectives in staff appraisal. The guidelines included a useful list of aspects that managers and staff can take into consideration when setting appropriate equality and diversity objectives. Some specific examples of good equality and diversity objectives in relation to employment would have also been helpful.

**4.3** In previous years, all staff have been required to have a personal objective relating to equality and diversity in their performance and development plans. This requirement has been removed for the 2010-11 performance appraisal process; however, it was positive to see that two of the five Areas we visited were continuing to include specific equality and diversity objectives although there was no longer a requirement to.

**4.4** While some would argue that a specific objective around equality and diversity is somewhat meaningless if equality and diversity practices have been mainstreamed in the organisation, it is not clear whether the CPS is yet at this stage of maturity. A small number of worrying instances of what appeared to be discriminatory behaviours between colleagues were described to us in staff focus groups, which suggests that the organisation needs to continue to remind staff about the standards it expects around the treatment of others. Current plans to re-launch the dignity at work policy in 2010-11 are timely.

**4.5** A number of staff in Areas with specific equality and diversity related objectives said that they appreciated having such an objective as it served as a reminder that equality and diversity was an important part of working for the CPS. In the current financial environment, a specific objective is also important for managers who may well have to make difficult choices to achieve financial or other efficiencies. An explicit objective around equality and diversity reminds all managers that they are accountable for upholding the CPS equality and diversity policy and will help to ensure that new generations of managers are made aware of the importance of considering equality and diversity in all of their decisions.

**4.6** The Equality and Diversity Unit have recently put forward a proposal to include a number of measures on equality and diversity in the Service's 'people' performance measures. This includes measuring whether equality impact assessments are completed in relation to new policies and collecting and monitoring equality data about aspects such as training and complaints and grievances.

## **Recommendation 5**

*The CPS*

- *reviews the equality and diversity e-learning module and its approach of mainstreaming equality and diversity training to ensure that equality and diversity learning needs are being fully met;*
- *ensures that new starters receive a timely induction which incorporates relevant equality and diversity issues. If an e-learning module is to be retained, this should be completed by starters as soon as possible after joining and followed-up by line managers; and*
- *takes action to ensure that all operational managers are provided with the skills and confidence to deal effectively with equality and diversity issues faced in the workplace.*

**Assessment: substantial progress.**

### **Equality and diversity e-learning**

**5.1** In our earlier review we found many staff including new staff had not completed the equality and diversity e-learning module and of those that had opinions varied as to the value of the training. The module was evaluated shortly afterwards and external expertise from the Cabinet Office was brought in to help design a new module, which also incorporated input from a series of focus groups, front line managers and HR personnel. While the new module still covers the relevant legislation, learning centres on a series of scenarios based on real cases and incidents in the CPS. As a result the module is more relevant and engaging.

**5.2** The new module was launched in early 2010. Despite wide promotion of the new module as yet relatively few staff have completed it (140 by the beginning of August). However, feedback is generally very positive.



5.3 At present the module is mandatory for new staff and new managers, and part of the future management development training programme currently being developed. The CPS is also planning to develop guidance for managers to help them assist their staff get the best out of the training. This should ideally have been available when the module was launched.

#### **Mainstreaming equality and diversity training**

5.4 The vast majority of long standing staff we spoke to had not received any specific equality and diversity training since the mandatory training for all CPS staff in 2001, and many other staff had received no dedicated training at all whether face to face or via e-learning. The CPS approach in recent years has been to mainstream equality and diversity training within all relevant training as opposed to providing separate training. The CPS has yet to review the effectiveness of this approach which is likely to be sufficient for some staff but not for others. In our survey 83% of respondents overall considered that they had had sufficient training to deal with equality and diversity issues in the workplace, but that still leaves almost one in five who consider they need more.

5.5 A small minority of those who had not received training considered that equality and diversity training was not necessary one for instance saying they would feel “insulted” if made to attend training and another that they “resent the insinuation that I am in some way bigoted”.

#### **Induction training**

5.6 The CPS has developed a series of induction checklists for all job grades and these are easily accessible on the CPS inonet. These include completion of the equality and diversity e-learning module. Corporate induction programmes run at CPS headquarters incorporate an input on equality and diversity and the Director of Equality and Diversity participates in all senior staff inductions. Completion of induction is included as a ‘people’ performance measure reported to the centre which has helped increase its profile and ensure it is completed promptly.

5.7 An aspect where more attention is needed is where people are promoted to new roles especially when moving into line management positions for the first time. Whilst promoted staff are required to receive an induction, in practice this does not always happen. A number of the new managers we spoke to had not received an induction and any further equality and diversity training to equip them for their new role.

#### **Equality and diversity training for operational managers**

5.8 Equality and diversity training for operational managers is considered under recommendation 2.

## **Recommendation 6**

*The CPS reviews how effectively alternative working arrangements are working in practice, in particular whether they meet current and future business needs, and provides further guidance, support and training for managers to ensure they are able to balance properly the implementation of alternative working arrangements with business needs.*

**Assessment: limited progress.**

### **Reviewing alternative working arrangements**

**6.1** In our original review, we commended the CPS for providing staff with a number of different flexible working arrangements. However many CPS Areas did not have a clear understanding about the types and extent of flexible working arrangements in place within the Area and this was hampering their ability to plan effectively and in some cases deliver essential services. Overall, nearly half the CPS Areas were not satisfied that flexible working arrangements harmonised with business need and in some, managers had difficulty staffing courts on certain days of the week because of the number of staff on compressed or part-time arrangements. Further, once flexible work patterns were agreed they were rarely reassessed at a later time to see whether they were still viable. As a result, we recommended that the CPS review the effectiveness of alternative working arrangements to ensure that all arrangements fit with the business need and that flexibility for staff was not achieved at the expense of the core needs of the business.

**6.2** Since then, the CPS has continued to provide opportunities for staff to alter their working patterns and the Service's flexible working policy is a good example of its

commitment to equality and diversity, as flexible working has allowed staff with different needs and circumstances (working parents, staff with caring responsibilities etc) to work for the CPS and meet their responsibilities outside of work. The policy has also, no doubt, contributed to the increasing diversity of the CPS workforce.

**6.3** However, while many alternative working arrangements work for both the individual and the business, it is only in the last year that the Service has really started to address the problem of less viable alternative working arrangements agreed in the past, largely as a result of the general tightening of resources. CPS Areas have generally got to the stage whereby they have a clear picture of the alternative arrangements in place and have identified those that do not fit well with business needs. However, comments made by managers and staff in focus groups and our survey indicate that there is much more to be done to redress the balance. Typical comments included:

*"There appears to be no consideration as to how flexible working impacts on other members of the team for example in school holiday time."*

*"The arrangements were historically granted to a number of employees without a review date. Hence, the situation now is that young mothers returning to work are being refused flexible working arrangements because others have been granted them, and they cannot be reviewed."*

*"There is too much flexibility given to staff sometimes, leaving the teams short at holiday periods."*

*"Too many people are allowed not to work on a Friday against the needs of the business."*

6.4 One of the issues for the CPS in relation to addressing flexible working arrangements is the sheer number of arrangements in place. In

accordance with the estimate of HR, we found 30% of the staff in the five Areas we visited in 2010 had alternative working arrangement in place.

Numbers of staff in the five fieldwork CPS Areas with alternative working arrangements							
Grade	Alternative working pattern				Staff with alternative working patterns		Total staff
	Compressed working	Part-time	Term-time only	Other	Number	%	
A	30	180	6	4	220	33	663
B	36	87	4	3	130	32	412
Legal trainee and associate prosecutor	30	69	2	1	102	30	338
Crown prosecutor	0	4	1	0	5	16	31
Senior crown prosecutor	30	121	3	4	158	33	473
Crown advocate	14	37	2	0	53	25	215
Senior crown advocate	0	1	0	0	1	6	17
D	7	10	0	0	17	16	105
E	2	2	0	0	4	13	30
Chief crown prosecutor/ Senior civil service	0	0	0	0	0	0	10
<b>Total</b>	<b>149</b>	<b>511</b>	<b>18</b>	<b>12</b>	<b>690</b>	<b>30%</b>	<b>2,294</b>

There were no members of staff with job sharing arrangements. CPS London has six staff at CCP/SCS grade.

6.5 Whilst the above data may not provide an accurate picture of the CPS as a whole, it does reveal trends in working patterns across five diverse CPS Areas. We found approximately a third of staff in the administrative grades (A and B graded staff) in the five Areas visited had an alternative working arrangement along with a similar proportion at the senior crown prosecutor and crown advocate grades (33% and 25% respectively). There were a smaller proportion of staff at higher grades with such arrangements, including grade D and E management positions.

6.6 Flexible working seems to be available to nearly all staff, but some roles are more suited to flexible working than others. We came across examples of managers having great difficulty staffing courts because the work patterns of a number of their prosecutors or advocates were 7am-2pm for example, when staff are needed in court between the hours of 10am and 4pm. More work needs to be done to ensure that arrangements that are found to not fit with the business needs are modified or where necessary removed.

6.7 The extent and types of alternative working arrangements in place also differed across the five Areas.

Numbers of staff in each CPS Area with alternative working arrangements (headcount not full time equivalent)										
Grade	Devon and Cornwall		Essex		Lancashire		London		West Midlands	
	Number	%	Number	%	Number	%	Number	%	Number	%
A1/A2	7	24	16	27	30	38	117	33	50	34
B1/B2	10	37	12	26	9	16	62	32	37	43
B3*	2	25	6	40	2	18	89	33	3	10
Crown prosecutor	0	0	0	0	0	0	3	17	2	22
Senior crown prosecutor	3	14	8	28	20	32	89	36	38	34
Crown advocate	1	7	8	30	3	19	34	27	7	23
Senior crown advocate	0	0	0	0	0	0	1	14	0	0
D	0	0	0	0	1	13	14	20	2	11
E	0	0	0	0	0	0	4	19	0	0
CCP/SCS	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>23</b>	<b>21%</b>	<b>50</b>	<b>26%</b>	<b>65</b>	<b>27%</b>	<b>413</b>	<b>31%</b>	<b>139</b>	<b>31%</b>

\* Includes legal trainees and associate prosecutors.

**6.8** CPS London and CPS West Midlands, the two most populous Areas, had the greatest proportion of staff with a flexible working arrangement in place at 31%. London was the only Area of the five to have staff at all grades (except CCP level) with alternative arrangements in place. CPS Devon and Cornwall, the smallest Area visited in terms of staff but the largest geographically, had the smallest proportion of staff on flexible working arrangements (21%). This came as little surprise, as in certain roles the more staff an Area has in a particular office, the more flexible it can be with staff hours.

**6.9** The CPS faces a difficult task in taking action to modify and in some cases remove alternative working arrangements that no longer suit the business need. In interviewing staff for this review we found that there was a view amongst some staff that flexible working is a 'right', which the CPS was not entitled to take away. A large proportion of the staff we interviewed cited the availability of flexible working arrangements as a major benefit of the CPS as an employer and, in some cases, one of

the key reasons they joined the organisation. These staff may well feel let down if flexible working arrangements are curtailed significantly. As one employee stated in our staff survey "we are supposed to be a family friendly organisation but the management are resistant and complain about those who have been previously granted flexible arrangements as being a waste of time". In certain instances where changes are necessary, an employee may have difficulties in continuing to work for the CPS.

**6.10** A further issue is that a number of these flexible working agreements are set out contractually. This is a constraint on the CPS in terms of how they can modify arrangements. The approach of CPS management is to negotiate with staff first so as to try and avoid grievances and potential litigation. This requires managers to have the skills and confidence to have some potentially difficult conversations with staff and make changes where necessary. At the time of the 2006 review, many managers were lacking the confidence to do this.

**6.11** In the last year in particular, the CPS has worked to improve the confidence of managers in this aspect. In 2010, a series of workshops entitled “Managing a flexible workforce” was run for managers nation wide. The training has been designed to allow managers to role-play difficult conversations that they may need to have with staff in order to re-negotiate working arrangements. The majority of senior managers we interviewed had already participated in this training or were scheduled to do so. Those that had had the training thought it had been helpful but they were still reluctant to be the first to have such a conversation with a staff member because of the concern that it may lead to grievances against them. At the time of our fieldwork there had been no CPS employment tribunal test cases involving the modification of long standing agreements, which would help identify the extent and limits of the Service’s ability to make modifications to existing agreements.

**6.12** In addition to training for managers, the flexible working policy was being fundamentally reviewed at the time of our inspection. The re-writing of the policy is being carried out in conjunction with the business and in consultation with the trade union side.

**6.13** These actions demonstrate progress against this recommendation but in light of the current financial climate, more fundamental change is needed. The inspectorate acknowledges that this will be a difficult balancing act.

## **Recommendation 7**

*The CPS ensures that the fairness at work procedure is carefully implemented and monitored in a manner which secures the confidence of staff. In doing this it should ensure that:*

- *stakeholders are appropriately involved;*
- *guidance for staff and managers is developed that clearly differentiates between the fairness at work and grievance procedures;*
- *managers are appropriately trained and supported in the application of the new procedure; and*
- *systems are put in place to monitor and report on informal complaints and grievances.*

**Assessment: limited progress.**

**7.1** At the time of our original review there was a general lack of confidence in the staff complaints and grievances systems and the confidence of managers to deal with complaints and grievances varied. Adding to this both a grievance procedure and an equality and diversity complaints procedure (called the fairness at work policy) were in place, which was the source of some confusion as managers and staff were not clear as to the differences between them. The CPS now has a single grievance procedure for all staff complaints which makes matters clearer.

## **Involvement of stakeholders**

**7.2** Staff networks and the trade unions were consulted in the development of the new grievance policy and are generally content with its content. Any concerns they have focus on the implementation of the policy at local level. The grievance procedure has also been subject to an equality impact assessment.

### **Staff confidence in the grievance/complaints procedure**

**7.3** Most staff were aware of the existence of the grievance policy, or were confident that they could find out what to do if they wished to make a complaint. However, many said that they would not be confident to raise a grievance especially if it were about their line manager.

**7.4** In the 2006 CPS staff survey, only 19% of staff considered if they reported a complaint that it would be dealt with fairly. Not surprisingly, just 28% of those who considered they had been discriminated against raised the issue formally. Two years on, just over half of survey respondents (52%) felt confident to report bullying or harassment. In total 21% of staff who considered they were unfairly treated reported this formally and 54% reported it informally.

**7.5** In 2009, the CPS adopted the civil service people survey. Whilst this provides the CPS with comparators, the changing questions continue to make it difficult to establish a clear picture of trends. Overall, 64% of staff considered that they would feel confident to report bullying/harassment, which despite slight changes in the wording of the question, appears an improvement. However, there is considerable variation in confidence when the diversity of respondents is considered. Whilst the confidence levels of men and women are broadly similar, the confidence of disabled staff in particular is very low (43%) as well as that of some other minority groups.

**7.6** Limited concerted action had been taken to analyse the reasons for differences and more work is needed to identify and address the underlying factors that contribute to low confidence levels. The people survey does not provide a facility to ask staff why they do or do not have confidence in the system. In our own survey around one third of respondents considered the grievance procedure to be unfair, the most common reasons being given for this were:

- complaints not being taken seriously;
- fear of complaining because of potential repercussions;
- the protracted and time-consuming nature of the procedure;
- favouritism on the part of managers; and
- confidentiality not being assured.

**7.7** Work is needed with the staff groups which have the lowest confidence levels. Staff networks have a potentially valuable role to play in this respect. This work could well be supported by further analysis of available data and greater transparency in the publication of the results of monitoring data. In some instances this should help to counter inaccurate perceptions, for example the view on the part of some that BME staff are less likely to have their complaints upheld, is not substantiated by the figures (see annex C).

### **Guidance for staff and managers**

**7.8** With the move to a single grievance procedure there is no longer a need for guidance that differentiates between the previous fairness at work and separate grievance procedure.

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<sup>1</sup> The terms grievance and complaint are used interchangeably.

### **Training and support for managers**

**7.9** The grievance procedure has been widely distributed and a copy can easily be located. Training on HR policies for managers includes input on this procedure. However, not all managers had received this training and some expressed nervousness about dealing with complaints particularly if they were made by a member of staff from a minority group or alleged discrimination. Continued work is needed to ensure that all managers are equipped with the necessary skills. A positive finding was that managers generally considered that, provided they followed the procedure, they would be supported by senior managers.

**7.10** Other specific concerns raised by a number of managers included:

- a view that when a manager is the subject of a complaint he or she can be viewed as the guilty party even where later in the process the complaint was not upheld. This could be stressful especially when a complaint took a long period to resolve. Some form of independent support would be helpful;
- some staff are seen to make complaints as a tactic to counter managers' attempts to performance manage staff. With greater emphasis on managing performance this is becoming more of an issue and can be compounded by an individual making a series of complaints; and
- the procedure can be protracted and time-consuming to deal with.

### **Systems for monitoring and reporting on informal complaints and grievances**

#### *Recording grievances*

**7.11** The equality and diversity complaints procedure in place at the time of our original review required informal as well as formal complaints to be recorded, but the CPS was only recording formal complaints. This remains the case. While it would not be possible to record accurately all informal complaints, the CPS should consider how to record the more serious of these, for instance those brought to the attention of area business managers and/or advisers. This would help provide a fuller picture.

**7.12** The number of formally reported grievances is low. Given the proportion of staff in the 2009 staff survey who considered they had experienced discrimination or bullying/harassment at work in the previous 12 months (13% and 11% respectively) it is not clear to what extent the low level of formal complaints is an indication of effective informal resolution or of significant under reporting.

**7.13** The CPS publishes the numbers of formal staff grievances broken down by gender, ethnicity and disability. However, it does not include the outcomes and data can also be out of date. At the time of our fieldwork the latest data on the CPS website was for 2007-08. No data is published in respect of employment tribunal cases and outcomes. Better reporting would help counter some of the negative perceptions we found in the workplace that were not borne by further analysis.

**7.14** A detailed summary of staff complaints/ grievances and employment tribunal cases is set out in annexes C and D. Our role in this follow-up inspection was not to examine the handling of individual complaints.

*Monitoring grievances*

**7.15** In some grievance and employment tribunal cases there may be lessons to be learned. We found limited mechanisms for systematically reviewing grievance cases and disseminating any learning from these although systems and structures to enable this have been developed in 2009-10. The HR Directorate introduced a casework management system in 2009 and formal grievances are entered into this. It took some months to load data onto the new system but a monthly report is now available to HR advisers and business partners. Under the new HR structure there are monthly meetings at which details of current cases are discussed. This should be built upon and means to disseminate key messages to operational managers should be developed.

**7.16** Employment tribunal case details are maintained by a dedicated litigation team. There is some review of cases and we were provided with some good examples of where policy has been changed as a result. During the course of our fieldwork this was put on a more formal footing with a written review of each completed case identifying any potential learning from the case. There is scope for more regular and wider dissemination of learning as this system develops.

**7.17** There was a strong view from staff, particularly BME staff, that the organisation does not learn from cases and the type of incidences that lead to complaints can happen again and again. The CPS should consider how to develop more transparency in the system and better communicate what it is doing in response to some of the grievance and employment tribunal cases where lessons could be learned without compromising confidentiality. This is an example of information which might usefully be contained within an Annual Equalities in Employment Report (see recommendation 3).

**7.18** There was also a view that managers against whom complaints are brought and those found to be at fault are not always held accountable and are often promoted. In practice the majority of managers against whom complaints are made are found not to be at fault. In cases where managers are found to be at fault, the CPS confirmed that training was given and the future progress of those managers was monitored. This did not preclude managers from future promotion.

**7.19** In cases where a complaint has been brought against a manager and the case is under investigation the CPS might well consider delaying confirmation of any promotion attained until a complaint has been resolved, although this would only be fair if the system for resolving complaints was quicker.



## Aspects for improvement

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### Aspect for improvement 1

*Clarification and communication of roles and responsibilities of projects and performance advisers and their relationship with Area responsibilities.*

**Assessment: no longer applicable.**

1.1 Since the time of the last inspection, the role of project and performance adviser in the Equality and Diversity Unit has been discontinued and the aspect for improvement is thus no longer applicable.

### Aspect for improvement 2

*Completion of outstanding impact assessments, in particular of e-learning and the Prosecution College originally planned for 2005-06.*

**Assessment: substantial progress.**

2.1 The CPS has not undertaken an equality impact assessment (EIA) of its Prosecution College originally planned for 2005-06 and outstanding at the time of our visit. However, testing has been undertaken to ensure that training delivered through the Prosecution College is accessible to all staff. Smaller EIAs have been undertaken in relation to individual training modules, such as the new equality and diversity e-learning module.

2.2 Since 2006, the CPS has built up the use of EIAs in their policy development but still need to ensure that the results of any EIAs of employment policies and service delivery are published. On the CPS website, while nine service delivery EIAs were included there were only two employment policy EIAs – one of staff performance ratings dated 2005 and the other of its advocacy strategy dated 2007.

2.3 There is evidence that EIAs are acted upon, for instance recent changes to the Service's recruitment policy have been made as a result of the EIAs.

2.4 More recently, a training course was held for area business managers and equality and diversity and community engagement managers on undertaking EIAs.

### **Aspect for improvement 3**

*Further consideration to be given to communicating equality and diversity policy and guidance materials to ensure that all staff and particularly managers, are aware of the implications for their roles and that equality and diversity is fully integrated within management practice.*

#### **Assessment: substantial progress.**

**3.1** The CPS has a comprehensive suite of policies around equality and diversity that are updated on a regular basis. During the course of our inspection, we saw a number of updates issued to staff on equality and diversity related topics, including guidelines for managers about managing reasonable adjustments and non-visible disabilities, information for staff about Ramadan and information on staff networks events, for example Gay Pride. Most information is communicated through emails and gateway notices to staff, not all of which are read, especially by managers who receive a large amount of information daily. But managers were content as long as they could find the material at a later point when they needed it. The Leadership Link newsletter for managers seemed to be one of the more effective tools for communicating to managers including equality and diversity related matters.

**3.2** However, equality and diversity related material is often difficult to find and much material was out of date, for example the most up to date equality and diversity policy was for 2005-08. The equality and diversity CPS infonet page needs general updating, for instance the events listing was still advertising events for September and October 2009. The external web page on equality and diversity appears more current and the internal EDU page should be brought in line with this. Overall, CPS infonet references to equality and diversity could be better co-ordinated so that staff and managers are more readily able to locate the policies and guidance available.

**Aspect for improvement 4**

*Further development of Area workforce representation plans, in particular to ensure they incorporate quantifiable outcomes for actions and are broadened out to address equality and diversity in the workplace more generally as well as workforce representation.*

**Assessment: no longer applicable.**

4.1 Since 2006-07 CPS Areas have not been required to have workforce representation plans and in view of current very limited recruitment are no longer appropriate. The broader actions to address equality and diversity in the workplace more generally are now contained within the Service's Single Equality Scheme and individual Area's staff survey action plans.

**Aspect for improvement 5**

*Clarification to Areas of the purpose of local Race Equality Schemes and how they will fit with the Single Equality Scheme due to be produced in late 2006.*

**Assessment: no longer applicable.**

5.1 This aspect for improvement is no longer applicable. Local Equality Schemes are no longer required. A CPS wide Single Equality Scheme has now been in place since 2007.

### **Aspect for improvement 6**

*Further communication to staff to address any misunderstandings around staff survey confidentiality to encourage higher response rates and provide a fuller picture of staff opinions.*

**Assessment: achieved.**

**6.1** Since our last review in 2006, the CPS has made great efforts to increase staff awareness about the staff survey and encourage greater participation. The CPS has used articles in the staff magazine, gateways and a survey page on the CPS infonet to explain the purpose of the surveys and outline the personal and organisational benefits of gathering this information. Information has also been given to staff about the confidential way in which responses are handled and an explanation of what the personal information requested is used for, particularly sensitive information about race, religion, disability, sexuality and age.

**6.2** The CPS had a 52% response rate to the civil service people survey in 2009 compared to a 60% response rate in 2006. While the response rate has declined, it is difficult to attribute this to the organisation as the efforts they have made to promote the survey and assure staff of its confidentiality has been substantial.

**6.3** There has been a significant improvement in staff diversity declaration rates. In 2005, only 38% of CPS staff declared their disability status, which made the data collected about disabled staff virtually meaningless. In 2010, the declaration rate had increased to 90%. In March 2010, 87.1% of staff had also declared their ethnicity compared to 79.3% in 2005. These rates are higher than for the civil service overall, which most recently had a declaration rate of 72.6% for disability and 78.8% for ethnicity (last measured in March 2009).

### **Aspect for improvement 7**

*Exploration of the reasons for any differences in satisfaction between demographic groups and action taken to reduce these, particularly in relation to disabled staff.*

**Assessment: limited progress.**

**7.1** The 2006 staff survey results revealed differences in satisfaction with the CPS as an employer between diversity groups, particularly disabled staff, who had lower levels of job satisfaction than non-disabled staff. More work is needed to address the causes of differing satisfaction levels which persist.

**7.2** The CPS has acknowledged that disabled staff are a less satisfied group and have undertaken some work with the Disabled Staff Network to look at the reasons behind this. We found that a member of staff's experience was often greatly influenced by their manager's own skills and awareness in handling disability issues. A common concern was the amount of time it took for reasonable adjustments to be put in place. At present there is no data kept in this respect so it is not possible to identify whether this is getting better or not.

**7.3** Disabled staff said that they felt unfairly disadvantaged in relation to the application of some policies, such as the managing attendance policy. Both disabled staff and managers did not always have a clear understanding of the policy around disability special leave, which could mean some special leave is incorrectly recorded as sick leave. In 2009-10, 23% of attendance improvement notices issued to staff in the CPS were to staff with a declared disability. The CPS should monitor these statistics to ensure that there is no inequality in the application of the policy.

**7.4** Some of these concerns have been documented and actions formulated as part of the Service's Single Equality Scheme. However the latest staff survey results and a rise in the number of grievances by disabled staff suggests that action taken so far has not been effective.

**7.5** The Cabinet Office has reported that disabled staff across the civil service generally have lower engagement index scores and levels of job satisfaction than other staff. A Disability Task Force Group has been set up to look at the reasons for disengagement amongst disabled staff, with representatives drawn from across the civil service. As set out under recommendation 1, the CPS Disability Staff Network is a valuable support for disabled staff within the organisation. In light of the continuing low engagement scores for disabled staff the CPS should continue to support this network as it provides an important vehicle through which disabled staff can raise their concerns.

### **Aspect for improvement 8**

*Incorporation of less serious misconduct cases and dismissals within monitoring data collected to provide a more complete picture of disciplinary action taken against staff.*

**Assessment: achieved.**

**8.1** In early 2009, a HR case management system (HRCMS) was introduced. Prior to this data was collated manually. Following a period of refinement and uploading of ongoing case data the system is now fully operational with HR Team Monthly Reports available from May 2010. All disciplinary action is now recorded on HRCMS and this includes the gender, ethnicity and disability status of the individual subject to the disciplinary procedure.

### **Aspect for improvement 9**

*Investigation of the under-representation of disabled staff in learning and development activities with a view to taking action to address the imbalance, and monitoring of the participation of staff to include alternative working patterns.*

#### **Assessment: substantial progress.**

**9.1** In our original review, we reported that of 6,500 staff participating in training sessions in the CPS in 2004-05, only two had declared themselves as disabled. It was not clear if this was due to a low level of staff having declared their disability status or a low level of disabled staff accessing training opportunities. In view of this we suggested that the CPS investigate the participation rate of disabled staff in training.

**9.2** The Leadership and Learning Team collects statistics on delegates attending training, including their disability status and working pattern, although these have not been published since our report in 2006. The latest training data shows a much more balanced picture for disabled staff. Of the 11,175 CPS delegates attending training in 2009-10, 587 (5.3%) were staff who declared themselves as disabled. This is still slightly below the percentage of disabled staff in the CPS as a whole, (6.4% as at the end of March 2010). It should also be noted that declaration rates have improved considerably since that time so the increase may be due to increased declaration of disability rather than an increase in disabled staff attending training.

**9.3** The CPS has made concerted efforts to ensure training is accessible to disabled staff. The Leadership and Learning Team have consulted with the staff networks on the development of new training courses and the new equality and diversity e-learning module was specifically tested and adapted by the Service's IT provider, to be accessible for staff with visual impairments and other specific conditions. Training materials have been made available in Braille for two legal trainees. It was also evident that the CPS had made significant efforts to ensure that disabled staff could attend the Disabled Staff Network meetings and events if they chose to.

## Aspect for improvement 10

*Continued action to improve further the representation of women at senior levels within the organisation and to improve the proportion of disabled people employed.*

**Assessment: substantial progress.**

### Improving the representation of women

**10.1** The CPS has continued to take action to improve further the representation of women at senior levels with excellent results. Action taken includes active encouragement of women to apply for senior posts supported by mentoring and coaching.

**10.2** The proportion of women at grade D and above has increased markedly since 2005 as illustrated in the table below. At the most senior level significant progress in representation has been made at chief crown prosecutor (CCP) grade, and at all grades women are better represented than in the civil service as a whole.

**10.3** In 2005, the Cabinet Office set a target for 37% of the senior civil service (SCS) to be women and 30% of top management posts, defined as director level posts, to be held by women by 2008. At the end of 2007-08, 35.4% of CCP and SCS posts were held by women ahead of the civil service as a whole (32.9%) and more recently in March 2010 exceeded this target. At the time of our follow-up, 31.3% of director posts in the CPS were held by women. However, because numbers are low the movement of just one or two can have a significant impact on the figures. The civil service wide targets have since been raised to 39% and 34% respectively by 2013.

**10.4** The implications of the current cut backs and restructuring in response to the economic situation have yet to emerge. However, women are well represented in the feeder grades D and E which bodes well for the future.

Representation of women at senior levels in the CPS and civil service					
Grade	March 2005		March 2010		Civil service as at March 2009
	Number	%	Number	%	%
D	183	42.5	237	51.7	40.7
E	46	30.9	84	41.8	35.4
Chief crown prosecutor	12	24.5	20	40.0	no equivalent
Senior civil service	9	33.3	12	33.3	32.9
Chief crown prosecutor/ Senior civil service	21	27.9	32	37.2	no equivalent

Source: HRMI-10-350

### Increasing the proportion of disabled staff

**10.5** The CPS has done a lot of work to improve the proportion of staff that declare whether or not they have a disability, in order that workforce statistics show a fuller picture.

Declaration levels have improved from just 38% of staff declaring their disability status in 2005 to 94% in 2010. As a result the data used to assess progress provides a far more accurate picture.

Numbers of disabled staff in the CPS by grade					
Grade	March 2005*		March 2010**		Civil service as at March 2009
	Number	%	Number	%	%
A, B and equivalent	228	4.5	301	6.9	7.3
Legal staff	89	3.8	174	6.5	no equivalent
D and E	25	4.3	40	7.0	4.5
Chief crown prosecutor/ Senior civil service	5	6.6	6	8.0	4.4
<b>Total</b>	<b>347</b>	<b>4.3</b>	<b>521</b>	<b>6.4</b>	<b>7.1</b>

\* Based on declaration rate of 38% and assumption that those not declared were not disabled.

\*\* Based on proportion of the 89% of staff who declared their disability status.

Source: HRMI-10-350

**10.6** In 2005 the Cabinet Office set a target for 3.2% of the senior civil service to comprise disabled people by 2008 and more recently raised this to 5% by 2013. The CPS has done well to meet both the 2008 and 2013 targets albeit the figures are based on small numbers which means that small numbers of staff changes can impact disproportionately on the figures.

**10.7** In terms of direct action the CPS has continued to operate the disability 'two ticks' scheme backed up with a commitment to provide 'reasonable adjustments' where feasible.



# Section two: Annexes

## A Review methodology

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In preparation for this follow-up review a self-assessment of progress against the recommendations made and aspects for improvement identified in 2006 was requested from the CPS together with a number of documents and data to provide evidence of progress made.

Inspectors met individually with the chair/s of each staff network and also focus groups of members of each staff network namely the:

- Disability Staff Network.
- Lesbian Gay Bisexual and Transgender Network.
- Muslim Staff Network.
- National Black Crown Prosecution Association.
- Prosecution Christian Fellowship.

Inspectors also met with an official from each of the trade unions, the First Division Association and the Public and Commercial Services Union.

Fieldwork was undertaken in five Areas namely CPS Devon and Cornwall, CPS Essex, CPS Lancashire, CPS London\* and CPS West Midlands. This involved:

- Interviews with the chief crown prosecutor, area business manager, lead for equality and diversity and HR business partner.
- A focus group of managers and a focus group of other staff.
- A confidential questionnaire sent to a sample of staff in these Areas.

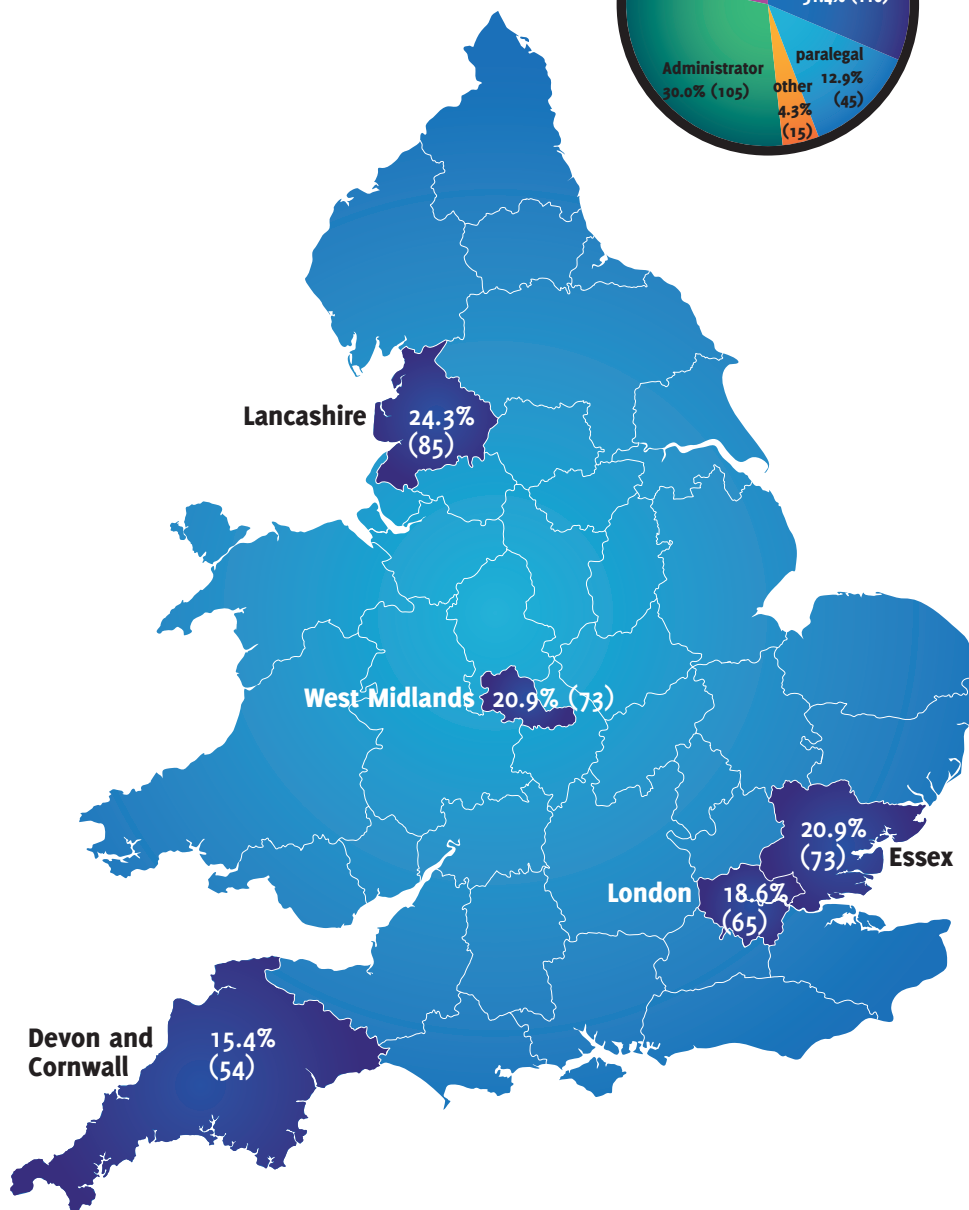
\* senior staff interviews in CPS London were reduced due to the high level of recent inspection activity in the Area.

Meetings were held with representatives of the Cabinet Office and the Equality and Human Rights Commission.

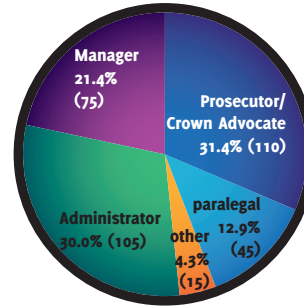
Finally interviews were held with senior managers at CPS headquarters including the Directors of Equality and Diversity and of Human Resources.

## B HMCPSI survey of staff views in fieldwork CPS Areas

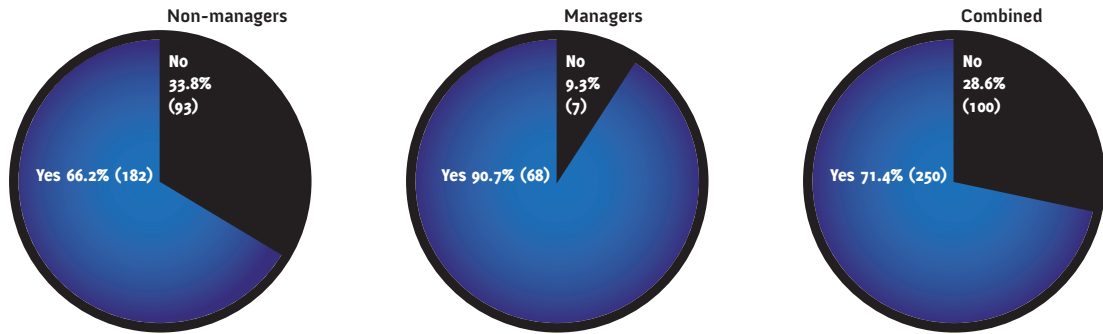
### 1 CPS Areas respondents work for



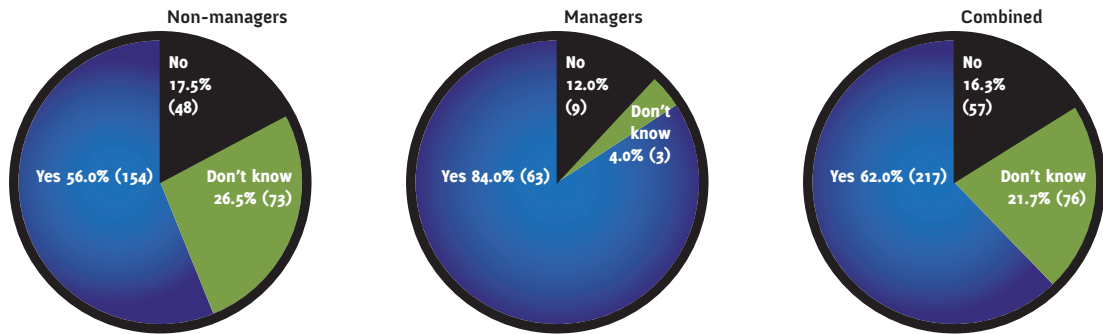
### 2 Survey respondents' role



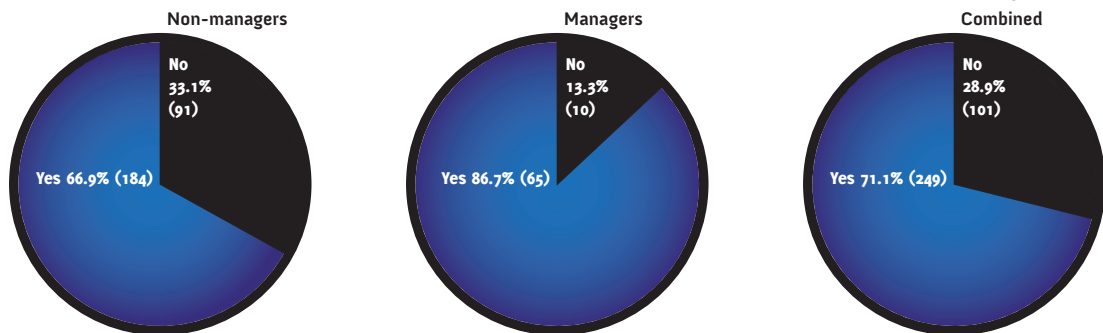
**1 Do you believe that staff in your Area are treated in a fair and objective way by managers and other staff**



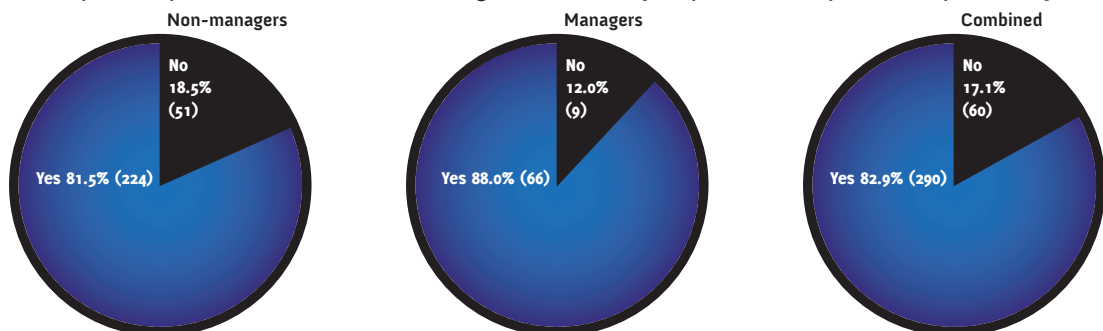
**2 Are flexible working arrangements administered fairly in your Area**



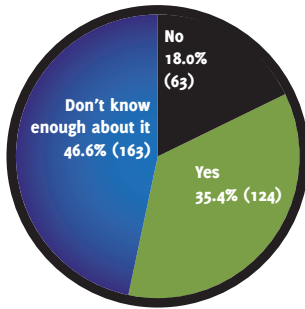
**3 Do you feel that your Area has fair policies in relation to temporary promotion and acting up**



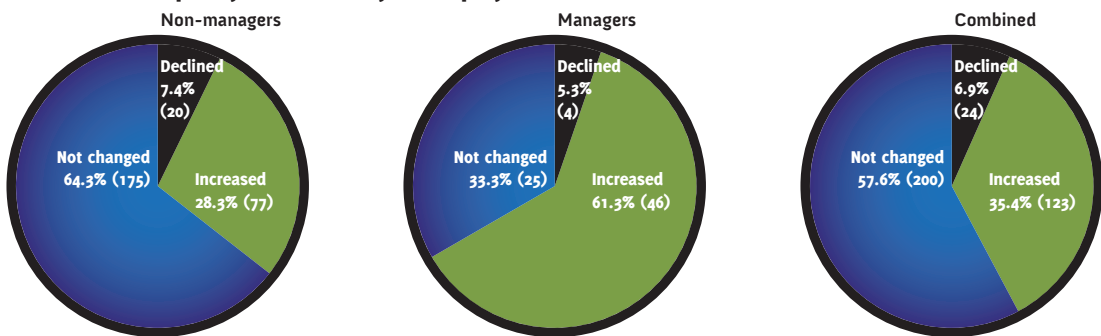
**4 Do you feel you have had sufficient training to deal with equality and diversity issues in your workplace**



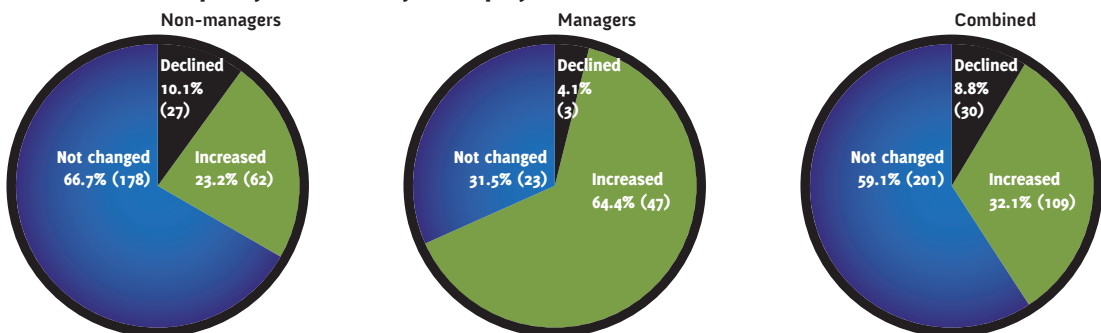
**5 Do you think the staff grievances and complaints procedure is fair and effective**



**6 In the last couple of years (or since you joined the CPS) do you think that the commitment of the CPS to equality and diversity in employment has**

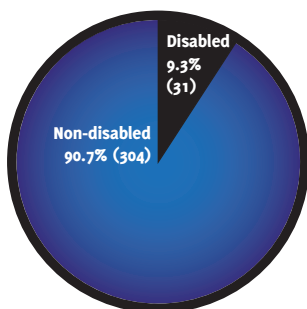
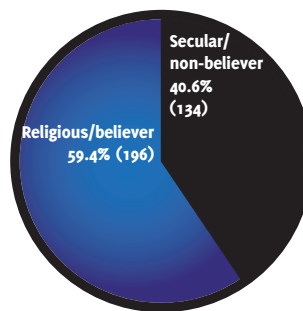
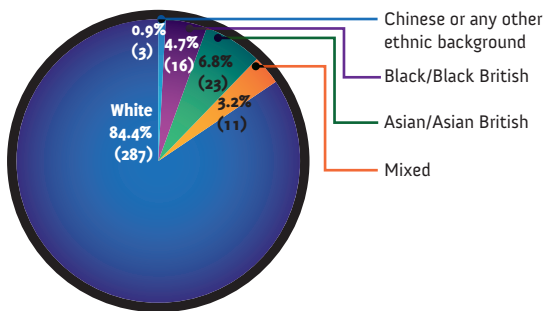
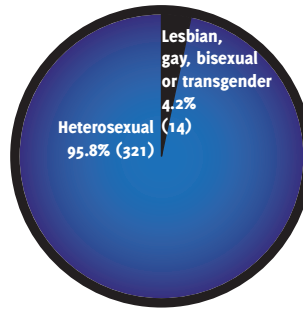
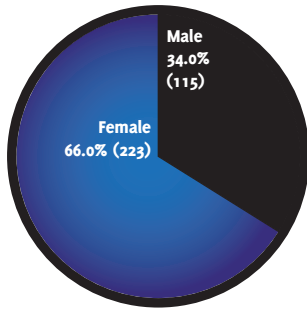


**7 In the last couple of years (or since you joined your Area) do you think that your Area's commitment to equality and diversity in employment has**



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### Diversity of survey respondents



## C Analysis of staff complaints/grievances

The numbers of formal staff grievances/complaints are relatively few. Of those initiated during the last four years a quarter were

withdrawn or not pursued, and over half not upheld. Just under a fifth were upheld in part or in full.

Volume of staff grievances/complaints with an equality or diversity dimension					
	2006-07	2007-08	2008-09	2009-10	Total 2006-10
<b>Number</b>					
Total complaints	25	30	39 (36 concluded)	27 (15 concluded)	121 (106 concluded)
Withdrawn or not pursued	7	6	9	5	27 (25%)
Not upheld	11	20	21	8	60 (57%)
Part upheld	4	3	4	1	12 (11%)
Upheld	3	1	2	1	7 (7%)
Still ongoing	0	0	3	12	15
<b>Origin</b>					
CPS London	11 (44%)	4 (13%)	15 (38%)	11 (41%)	41 (34%)
CPS headquarters	4 (16%)	3 (10%)	5 (13%)	0	12 (10%)
<b>Ethnicity of complainants</b>					
White	9	17	18	11	55 (57%)
BME	7	8	14	12	41 (43%)
Not known	9	5	7	4	25
<b>Basis of complaint (more than one basis may be cited)</b>					
Bullying, harassment or breach of dignity at work	9	19	16	14	58 (47%)
Race discrimination	3	7	7	9	26 (21%)
Sex discrimination	4	3	2	2	11 (9%)
Disability discrimination	4	2	4	9	19 (15%)
Age discrimination	0	0	3	0	3 (2%)
Religion & belief discrimination	0	1	0	0	1 (1%)
Sexuality discrimination	0	0	0	0	0 (0%)
Other	1	1	4	0	5 (4%)

There is no clear trend of increasing complaints. However, numbers of complaints in the first quarter of 2010-11, indicate that the number is likely to be higher this year.

Legal staff are more likely to make complaints than administrators and managers. In 2009-10, 46% of complaints were brought by legal staff who represent 35% of all CPS staff. Nearly half of the grievances originated from CPS London or CPS headquarters.

During the period 2006-10, BME staff brought proportionately more complaints than white staff and are slightly more likely to have their cases upheld in part or full than white staff. Overall 43% of complainants where ethnicity was known were from BME staff compared with a BME workforce proportion of 17%. In total 34% of complaints originate from staff in CPS London and 10% from CPS headquarters, where the proportion of BME staff is far higher than in other Areas (44% in CPS London). Overall 67% of complainants from CPS London and headquarters, where ethnicity was known, were from BME members of staff.

<b>Breakdown of complaint outcomes 2006-10 by ethnicity of the complainant</b>				
	<b>Cases brought</b>	<b>Cases withdrawn /not pursued</b>	<b>Cases not upheld</b>	<b>Cases part or upheld in full</b>
White	55 (57%)	15 (79%)	26 (55%)	9 (53%)
BME	41 (43%)	4 (21%)	21 (45%)	8 (47%)
Total where ethnicity known	96 (100%)	19 (100%)	47 (100%)	17 (100%)
Ethnicity not known	25	8	13	2
<b>Total</b>	<b>121</b> (106 concluded)	<b>27</b>	<b>60</b>	<b>19</b>

### Time taken to resolve complaints

More work is needed to ensure that complaints are investigated promptly enabling more speedy decisions. In particular the availability of investigators should to be improved.

Analysis of time taken to resolve complaints 2006-10					
Complaints made in	2006-07	2007-08	2008-09	2009-10	
Complaints taken forward i.e. excl those withdrawn	18 (a)	22 (b)	29 (c)	22 (d)	
Average time from start to final resolution	12 months	4.1 months	6.7 months	4.5 months for 10 resolved and 7.4 months for 12 ongoing at Jun 2010	
Shortest	3 months	1 month	1 month	2 months	
Longest	41 months	10 months	24 months and still unresolved	16 and still unresolved	
Months to resolve				Resolved	Outstanding
1	0	1	5	0	0
2	0	2	5	1	0
3	1	3	4	3	0
4	3	6	2	0	2
5	3	3	1	3	0
6	1	1	0	2	0
7	0	1	1	1	1
8	3	1	3	0	3
9	0	0	0	0	0
10	0	0	0	0	1
11	0	0	1	0	1
12	1	0	2	0	1
13+	6	0	5	0	3

(a) Two complaints of 40 and 41 months duration appear to have been made by the same person.

(b) Two cases where the resolution date is not known are excluded.

(c) Includes three still unresolved calculated at June 2010 and excludes one where resolution date is unknown.

(d) Includes 12 cases still ongoing.



## D Numbers and outcomes of employment tribunal cases

<b>Number and basis of CPS employment tribunal cases 2006-10</b>					
	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>Total 2006-10</b>
<b>Cases commenced</b>					
Total cases	28	23	23	33	107
Withdrawn	12 (43%)	5 (24%)	6 (26%)	6 (43%)	29 (34%)
Struck out/dismissed	5 (18%)	5 (24%)	3 (13%)	1 (7%)	14 (16%)
Settled	11 (39%)	11 (48%)	14 (61%)	7 (50%)	43 (50%)
Found against CPS	0	0	0	0	0
Still ongoing	0	2	0	19	21
<b>Origin</b>					
CPS London cases	12 (42.9%)	3 (13%)	5 (22%)	8 (24%)	28 (26%)
CPS headquarters	0	2 (9%)	2 (9%)	2 (6%)	6 (6%)
Other CPS Areas	16	18	16	23	73 (68%)
<b>Race of complainants</b>					
White	11	9	10	19	49 (59%)
BME	9	8	7	10	34 (41%)
Not known	8	6	6	4	24
<b>Basis of discrimination cited (more than one basis may be cited)</b>					
Race	10	7	6	9	32 (34%)
Sex	6	5	5	6	22 (24%)
Disability	7	3	10	13	33 (35%)
Age	0	1	1	1	3 (3%)
Religion & belief	0	0	0	3	3 (3%)
Sexuality	0	0	0	0	0 (0%)

The CPS considers that the level of employment tribunals is reasonable for the size of organisation, but in the absence of any available benchmarking data a judgement is difficult. The volume of cases fell in 2007-08, but started to rise again in 2009-10 and is expected to rise again this year. The number of cases citing disability discrimination is increasing.

Over the last four years there are no new trends in the outcomes of tribunal cases. Overall 50% of cases initiated in this period have been withdrawn or struck out and 50% settled, the latter usually being an acceptance that the claimant has a strong case. During the period there has been one case found against the CPS in 2006 (not shown in the table above because the case originated in 2001). This involves an appeal court ruling which the CPS is currently seeking to have overturned.

Analysis of employment tribunal outcomes 2006-10 by ethnicity of complainant				
	Cases brought	Cases withdrawn	Cases struck out /dismissed	Cases settled
White	49 (59%)	8 (38%)	5 (45%)	28 (80%)
BME	34 (41%)	13 (62%)	6 (55%)	7 (20%)
Total where ethnicity known	83 (100%)	21 (100%)	11 (100%)	35 (100%)
Ethnicity not known	24	8	3	8
<b>Total</b>	<b>107*</b>	<b>29</b>	<b>14</b>	<b>43</b>

\* includes 21 cases which are ongoing and outcomes therefore no yet known.

BME staff are proportionately more likely to bring cases, withdraw their case or have their cases struck out or dismissed by a tribunal, which contributes to the higher rate of settlement in cases brought by white staff.

There was a strong perception on the part of staff that the CPS pursues cases at any cost. However the level of settlement, at 50%, tends to refute this.

As with internal complaints, employment tribunal cases can take a long time to resolve. They can also be costly. Greater emphasis is needed on ensuring that cases in which settlement is appropriate and possible are resolved at the earliest opportunity to minimise both reputational damage and costs.

## E Examples of good practice

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In CPS Devon and Cornwall, a placement was offered to a disabled person from the community who was looking to gain some work experience. The individual worked one day a week over 16 weeks on project work for the Area. Her work was very positive but her disability benefits stop her from taking on paid work which may well have been an option. However, she has written an article for the Area about how good the experience was for her. For the Area, the placement has raised staff awareness of disability and the needs of disabled workers.

The chief crown prosecutor in CPS Devon and Cornwall is currently undertaking work on improving staff engagement. She has devised some short surveys on topics such as leadership and Core Quality Standards. Each topic is looked at over a three week period and the results of the staff survey are used to identify themes around the topic to be discussed by a focus group of staff. The focus group is made up of volunteers and is limited to non-managers. Equality and diversity is a topic planned for later on this year.

In CPS Essex, the Area hosted a blind work experience student for two weeks in 2007-08. The Area was approached by the student's school and worked with the school and the student to set up the placement and ensure that the student could get the most out of the experience. The student was hoping to study law. This was a benefit to staff in the office because it raised awareness of disabilities.

The area business manager in CPS Lancashire mentored a BME student for six weeks. The student carried out a research project to look at the issue of why there was a low proportion of BME applicants for administrative roles in the Area. The student prepared a presentation on her findings which were that the Area appeared to be losing people at the application stage. As a result, changes have been made to the application form and changes have been made to the competences that have to be demonstrated on the form.

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