



CPS Gwent

The Inspectorate's report on CPS Gwent

Executive Summary

February 2010

Methodology

This is the report of Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) inspection of the Crown Prosecution Service (CPS) in Gwent (the area) carried out in September 2009.

CPS Gwent was last subject to a full inspection in May 2007. Subsequently in December 2007, it was rated as 'Fair' in HMCPPI's overall performance assessments (OPAs) of all CPS areas. Since this 'Fair' assessment area performance against many key outcomes has declined.

There are two types of inspection. A full one considers each aspect of area performance within the inspection framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. As CPS Gwent's performance appeared to have deteriorated since the OPA in December 2007 it was determined that the inspection should be a full one.

This summary provides an overview of the inspection findings as a whole.

Overview

CPS Gwent is now in a much weaker position than that reported in 2007. Area performance has failed to keep pace with the rest of the CPS. It is of great concern that an area which had been subject to serious management failings, as we identified in 2007, has not been subject to closer scrutiny by CPS headquarters.

It is also of serious concern that many of the issues which were identified in 2007 have remained unchecked, and in some cases have been amplified by further serious management failings. For staff working in the area, the events of the last two years have been demoralising and it is a real testament to them that the inspection team found many who remained committed, were working hard and retained enthusiasm to do a good job, in spite of the situation.

The appointment of an experienced permanent Chief Crown Prosecutor (CCP) should have been an impetus for real change. The area had been lacking a clear vision and real leadership since 2004, but the 2007 appointment did not have the desired effect. The area has continued to suffer from an absence of leadership, real and visible, and any vision about what it should achieve. We found that this lack of senior management direction had very serious consequences on working relationships with other criminal justice agencies, which were already strained.

However, it is all too easy to lay all the blame for poor performance at the door of the CPS. Whilst they are core to the process, much of what they do is influenced by other partners in the criminal justice system. Our file examination which allows us to examine the joined-up processes of the criminal justice system highlighted that far too often the quality of the files received by the CPS from the police is poor and frequently subject to unacceptable delay. This makes the job of the prosecutor very difficult, can add pressure, and increases workloads unnecessarily. It also has an impact on the cases coming to the magistrates' court. Far too often cases have not been fully prepared in line with expected timescales. This has resulted in the court losing patience and there is very little leeway given. As a result cases are being discontinued prematurely as the CPS is left with little other option; they cannot progress cases without the relevant papers.

The magistrates' courts take a consistent and robust line in the face of applications by the parties for an adjournment which is intended to impact on prosecution or defence but frequently has the ultimate effect of penalising the victim. The perception on the part of criminal justice practitioners is one of intransigence in response to a general criticism in an earlier HMCPPI report of an adjournment culture within Gwent. Whilst we applaud an approach which challenges applications for adjournments to be satisfied that they are justified, we would not wish to have been the authors of an approach which could lead to potential injustice for victims.

Poor case progression by the CPS and difficulties in serving the court and defence with timely papers has resulted in an extension of the blame culture that was developing in 2007. Many of the processes and systems that work in other areas of the country have been strained in Gwent. Blame was also readily attributed in open court, which is particularly unsatisfactory, and has the potential to affect further the public's confidence in the criminal justice system, which in Gwent is already low.

File quality and decision-making

The standard of file quality is something that has been discussed regularly with the police. There is an acceptance that as the gateway into the system file quality is crucial to the overall efficiency of the system. The police have recognised this and are substantially increasing resources to improve 'front-end' file building and file management. It is hoped that this may address some of the long-standing problems. However, much of the planning of this change has taken place in isolation. The area needs to work with the police as equal partners to ensure that this change is effectively managed to deliver agreed benefits.

File examination highlighted some serious deficiencies in the standards of decision-making across the area. The Code for Crown Prosecutors was applied incorrectly in over 10% of cases at the charging stage: decision-making was worse in serious cases destined for the Crown Court, than in magistrates' courts cases. Weaknesses in decision-making continue to affect cases as they progress through the system and are a real cause for concern. There is an absence of clear expectations and standards, which has had serious consequences. Some of the supporting processes are weak. However, even where the files have been received and there is sufficient evidence to proceed, wrong decisions are being made. Cases are being charged and then discontinued even though there is no material change in circumstances and cases are being lost due to unnecessary delays. Much of what is happening is not being identified by any internal performance management system. There is very little internal awareness of the current state and this means that there is a disconnect between what is happening in reality and what the area thinks is the reason behind many of the failings.

Decision-making, preparation and progression in Crown Court cases

The CCP adopted the approach previously planned by the area and developed a Crown Court advocacy unit, staffed by in-house crown advocates, who would present most Crown Court cases, instead of employing counsel. Whilst this national CPS strategy is fundamentally sound, the way it has been implemented in Gwent has had disastrous consequences. In particular, the strategy has drained resources from across the area, and Crown Court case preparation has suffered badly. Preparation and decision-making in Crown Court cases including serious violence, sexual offences and hate crime is poor. In some cases this lack of resource has meant that lawyers are unavailable to give pre-charge decisions and advice to the police in complex sensitive cases, delays occur and 'fire-fighting' to catch up has become the norm. The strategy placed a serious financial strain on the area. The area cannot continue to operate in a way that results in such a significant overspend.

The service to victims and witnesses

Many of the failings highlighted in the report have impacted on the service being offered to victims and witnesses and the quality of justice overall. Poor decisions are leading to cases being started but ultimately being discontinued. Ineffective relationships with others in the criminal justice system means that very often victims and witnesses are not at the heart of the system and are disadvantaged because of the impact of the blame culture. Many of the cases seen as part of the file examination highlight that victims' needs are not always paramount during decision-making and, despite some process improvement the service provided to victims and witnesses in Gwent has suffered.

Managing performance

The area must go back to basics. It needs to establish some very firm standards and expectations for case handling and the professional behaviour of its lawyers, and implement an effective performance management regime against which to assess actual, individual performance. Lawyers need to be managed and there has to be a shared understanding of what is expected. If the area is to improve the overall quality of justice delivered by the system it will have to focus its activity on ensuring that it improves its own business as well as working with partners to improve theirs.

The future

During the inspection the CCP resigned for reasons not connected to the inspection process. The CPS has since moved to appoint a new permanent CCP. This has been welcomed by criminal justice partners. The CCP has begun his analysis and is gaining a clear understanding of the issues that need to be addressed. Some urgently needed action, to improve the preparation of serious cases, has already begun. A summary of the approach being taken and the steps initiated has been incorporated into HMCPSI's report.

The necessary improvements will only be delivered if the area is given support from CPS headquarters and from partners. The new CCP will also need to be properly supported by a capable and committed team. A comprehensive review of structures and management arrangements in the area is recommended. CPS headquarters will need to ensure that they give the financial and other support to ensure the necessary changes to structure, culture and performance can be achieved.

Conclusions

It is of real concern that an area has been allowed to fail to this extent without some intervention. The findings in this inspection highlight such failings that we have serious concerns about the service offered to those who come into contact with the criminal justice system in Gwent. This concern extends further than the CPS and is a critical partnership issue. In light of overall findings, CPS Gwent is rated as **POOR**.

Summary of judgements

Critical aspects	OPA 2007	Inspection 2009	Direction of travel
Pre-charge advice and decisions	Fair	Poor	Declined
Decision-making, preparation and progression in magistrates' courts' cases	Fair	Poor	Declined
Decision-making, preparation and progression in Crown Court cases	Good	Poor	Declined
The service to victims and witnesses	Fair	Fair	Declined
Leadership, management and partnership working ¹	Fair	Poor	Declined
Overall critical assessment level	Fair	Poor	Declined
The prosecution of cases at court	Fair	Fair	Stable
Serious violent and sexual offences and hate crimes	Good	Poor	Declined
Disclosure	Fair	Fair	Improved
Custody time limits	Poor	Poor	Improved
Managing performance to improve	Fair	Poor	Declined
Managing resources	Fair	Poor	Declined
Community confidence	Good	Fair	Declined ²
Overall assessment	FAIR	POOR	DECLINED

1 Leadership and management now captures elements included formerly in 'Delivering Change' which has now been removed from the framework as a stand alone aspect.

2 No direct comparison possible as the framework against which the area is inspected has been changed. However, the area has been scored for community engagement and partnership working although the chapter on leadership captures the text due to the significant overlaps in this area.

Recommendations

We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority.

We have made 17 recommendations to help improve the area's performance:

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- 1 The area works with police partners to ensure pre-charge advice and decisions are delivered correctly and efficiently, on the right cases, in accordance with the Director's Guidance. Arrangements for effective joint monitoring need to be put in place (paragraph 3.24).

 - 2 Prosecutors are retrained in their charging responsibilities and actively managed to ensure that decision-making improves and that they are proactive in their case analysis and in the advice they give to the police (paragraph 3.24).

 - 3 Arrangements for the flow of information between the police and CPS are addressed by the area as a matter of urgency, through open and constructive dialogue (paragraph 4.22).

 - 4 Operation of the optimum business model is examined to ensure the necessary tasks and preparation for trial take place in good time (paragraph 4.22).

 - 5 Case progression meetings with the court are reinstated (paragraph 4.22).

 - 6 The area ensures it raises the priority of Crown Court casework and sets clear expectations and standards for lawyers to drive up the quality of decision-making and case handling. Standards should be underpinned by a sound quality assurance regime (paragraph 5.28).

 - 7 The area revisits its approach to the implementation of the advocacy strategy to ensure quality advocacy, undertaken by advocates with the right skills, and supported by sound casework (paragraph 6.18).

 - 8 The area takes steps to improve the quality of decision-making in all serious and sensitive cases, ensuring policies are adhered to (paragraph 7.26).

 - 9 The area considers the establishment of advice surgeries for rape and sexual offences (paragraph 7.26).

 - 10 Further training is provided for lawyers in dealing with third party and public interest immunity disclosure issues, and steps should be taken to agree a protocol for the disclosure of third party material with the police and social services (paragraph 8.9).

 - 11 The area works with partners to improve processes that support victims and witnesses (paragraph 10.28).
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- 12 The area ensures that the quality of direct communication with victims letters improves and that there are effective quality assurance processes in place (paragraph 10.28).
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- 13 The area articulates clearly the professional standards required and develops a robust performance management regime to ensure work is undertaken professionally and to a high standard (paragraph 11.5).
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- 14 The area works with partners and uses joint performance meetings as a means to driving up standards and improving the service it offers to the public (paragraph 11.14).
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- 15 The area reviews its current management and organisational structures to ensure that it is best placed to deliver the outcomes expected (paragraph 12.13).
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- 16 The area establishes a clear vision for CPS Gwent which is effectively communicated to staff and partners (paragraph 13.20).
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- 17 The area develops a clear set of standards for behaviours which should be implemented consistently (paragraph 13.20).
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Aspects for improvement

We additionally identified one aspect for improvement within the area's performance:

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- 1 The area needs to ensure that there is a regular feedback of learning points to individual lawyers from adverse case reports and any casework quality assurance system (paragraph 11.7).
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