

# CPS London Borough Performance Assessments

## Hammersmith & Fulham Borough

### Executive Summary





This is the executive summary of the report of Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) on the performance assessment of the Crown Prosecution Service (CPS) London, Hammersmith and Fulham borough. It should be read in conjunction with the London-wide report also published today.

This is one of a planned series of borough performance assessments of the units in CPS London.

The overall performance assessment of CPS London, Hammersmith and Fulham borough was **POOR**.

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

<b>Aspect</b>	<b>Score</b>	<b>Assessment</b>
Pre-charge advice and decisions	<b>2</b>	<b>Fair</b>
Decision-making, preparation and progression in magistrates' court cases	<b>0</b>	<b>Poor</b>
Decision-making, preparation and progression in Crown Court cases	<b>0</b>	<b>Poor</b>
The prosecution of cases at court	<b>0</b>	<b>Poor</b>
Serious violent and sexual offences, and hate crimes	<b>0</b>	<b>Poor</b>
Disclosure	<b>2</b>	<b>Fair</b>
Custody time limits	<b>2</b>	<b>Fair</b>
The service to victims and witnesses	<b>0</b>	<b>Poor</b>
Managing performance to improve	<b>0</b>	<b>Poor</b>
Managing resources	<b>Not scored</b>	
Management and partnership working	<b>2</b>	<b>Fair</b>
<b>OVERALL ASSESSMENT</b>	<b>8</b>	<b>Poor</b>

### **Description and caseload**

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

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

Hammersmith and Fulham borough has one office, at Ludgate Hill, CPS Headquarters. It is part of the CPS London Isleworth and Kingston district and is aligned to the Crown Court sitting at Kingston. At the time of our inspection, the borough was not due to co-locate with the police as an integrated prosecution team (IPT) until January 2010. Borough business consists of both magistrates' court work and Crown Court work; staff of appropriate skills and experience may deal with both types.

As of November 2009 the borough had an average of 17 full-time equivalent staff in post, and a budget of £1,083,530<sup>1</sup>.

<b>Staff</b>	<b>Numbers at November 2009</b>
Borough crown prosecutor	1
Business managers	1
Crown prosecutors	4.4
Associate prosecutors	1
Caseworkers	5
Administrative support staff	4.6
<b>Total (full-time equivalent)</b>	<b>17</b>

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

	<b>2007</b>	<b>2008</b>	<b>Percentage change</b>
<b>Pre-charge work</b> (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	1,137	1,356	+19.3%
Decisions not resulting in a charge <sup>2</sup>	799	1,040	+30.2%
Total pre-charge decision cases	1,936	2,396	+23.8%
<b>Magistrates' court proceedings<sup>3</sup></b>			
Magistrates' court prosecutions	2,587	3,013	+16.5%
Other proceedings	6	13	+116.7%
Total magistrates' court proceedings	2,593	3,026	+16.7%
<b>Crown Court proceedings<sup>4</sup></b>			
Cases sent or committed to the Crown Court for determination	429	381	-11.2%
Committals for sentence <sup>5</sup>	95	87	-8.4%
Appeals from the magistrates' court <sup>5</sup>	46	36	-21.7%
Total Crown Court proceedings	570	504	-11.6%

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

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

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

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

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

### **The inspection team**

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

### **Summary of judgements**

#### *Contextual factors and background*

The London Borough of Hammersmith and Fulham is situated in West London. It has a very mixed population in terms of age and ethnicity. Despite the outward appearance of affluence it is the 68th most deprived borough in England, facing many social needs and problems and containing a number of pockets of intense deprivation. The borough has a fairly standard crime profile for a Metropolitan borough with a mixture of residential and commercial areas.

Hammersmith and Fulham became a separate unit in March 2009; it had previously formed a team with the adjoining borough of Kensington and Chelsea, which has moved to become an IPT co-located with the police. At the time of the assessment Hammersmith and Fulham had yet to co-locate to Hammersmith police station and is the last remaining borough unit to be located at the CPS Headquarters. It was proposed that the borough should become an IPT site towards the end of January 2010, although the date has already been put back.

Since becoming a standalone unit the borough has struggled to have any sense of stability. Over the past year the borough has had seven BCPs in varying capacities and for differing periods of time. This continual change at BCP level over a sustained period and the absence of an empowered manager able to address issues has impacted on all aspects of borough performance, both internally and externally.

The borough has also seen a significant reduction in lawyers and at the time of this assessment lawyer numbers were about to be reduced further. The CPS London staff commitment model, which is used to determine staff numbers, has meant the borough is unable to cover a number of its commitments, a situation that has been exacerbated by long-term sickness. As a small standalone unit there is a lack of resilience at all grades.

The pathway for cases committed or sent was previously to Blackfriars Crown Court, this has now changed to Kingston Crown Court. This has implications for travel arrangements of staff with the borough office remaining at Ludgate Hill and to a slightly lesser extent with the move to Hammersmith police station.

There are backlogs in the listing of trials at West London Magistrates' Court and trials are now also transferred to four courts in adjoining boroughs for hearing. These additional courts are covered by resources from other boroughs in the district; however, this strategy has implications for the optimum business model (OBM) and proper case management since the preparation for extra trial courts adds an even greater burden to a system that is already not effective.

#### *Summary*

The quality of legal decision-making is sound at the pre-charge decision stage and in reality this is the high point of borough performance, after which weaknesses in casework handling manifest themselves steadily throughout the process to trial or discontinuance. This may go some way to explain the poor performance in terms of successful outcomes in the magistrates' court and the Crown Court. Performance in both continues to decline.

The overall proportion of magistrates' court cases resulting in a conviction in the 12 months to September 2009 has declined to 82.8% and remains worse than the national (87.1%) and London (86.1%) averages. Crown Court outcomes at 74.2% have also declined and are well below the national average (80.7%) although better than the London average (72.7%).

The correctness of the initial decision and the pro-activity demonstrated at the outset is vital because the borough does not get the opportunity to review the decisions, build stronger cases and add value afterwards.

Case progression systems are not effective despite the introduction of new processes to address shortcomings, designed to ensure efficient preparation of magistrates' court trials. The OBM is not effective and has yet to be signed off. There is considerable duplication of work because the Director's Guidance on the Streamlined Process, whereby the amount of documentation provided by the police in expected non-contested cases is reduced to a minimum, is also not working effectively. The police are now asked to prepare full evidence files at a later stage which are then sent to the borough late or incomplete to be processed by a system which is currently overwhelmed with backlogs. In magistrates' court cases the files are prepared for trial a day or two in advance leaving little opportunity to remedy defects, comply with court directions or with the prosecution's obligations to disclose unused material. As a consequence wasted cost orders against the borough are being considered increasingly by the court.

Despite the frequent late service of documentation to the defence on the day of trial, and the problems with case preparation and progression, the borough has an effective trial rate which is better than the national average (the proportion of cases fixed for a contested hearing which actually proceed on the appointed day). This is due in part to the advocates at court working hard to rescue cases at the last minute and also the defence co-operating to ensure the trial proceeds on the listed date after a short delay, although this wastes court time and has implications for listing with more trials adjourned part-heard.

In Crown Court casework, files are not prepared and progressed to the standard that it is reasonable to expect, due in part to the late arrival of files from the police and the competing priorities of lawyers between allocated Crown Court casework and commitments to the OBM that deals with magistrates' court cases. The result is often preparation of committal papers at the last moment resulting in service of papers at court or the service of a courtesy bundle only for committal. Post-committal case progression and service of the case in sent cases fares little better and was confirmed by inspectors' observations at court; a number of cases were without papers at the plea and case management hearing, and compliance with directions is not timely.

The case progression difficulties have permeated all aspects of casework including the handling of unused material. Whilst the borough complies in the main with the prosecution's duties of initial and continuing disclosure of unused material, the timeliness is less good. As a result, lawyers sometimes only have time to do the minimum necessary and serve items late and on the day of trial.

Case progression has also impacted on the handling of cases involving custody time limits (CTLs). The borough has not had any failures between 2006 and mid-2009, but since July 2009 there have been two. In both cases the CTL was not extended on application to the court because the prosecution had failed to act with due diligence. Poor case progression means that the borough is at risk of further CTL failures.

The quality of advocacy at court is generally sound but the advocates are hampered by the absence of papers, missing files and the need to work to address deficiencies in order to ensure cases can progress at hearings. In addition, the borough does not instruct agents in advance of the day which carries considerable risks on the more complex cases listed for trial.

The remedying of cases in the magistrates' court on the day of trial and the delays incurred at the start of a trial has consequences for witness care; victims and witnesses can remain at court for longer periods than necessary whilst waiting for trials to start. The late applications for special measures can result in such applications being refused. In contrast, feedback suggests there is a good relationship with the Witness Service, and advocates make every effort to speak to witnesses at court. In the Crown Court, witness care is adversely affected by the absence of caseworkers at court.

Witness care in domestic violence cases is better. Victims are informed of progress on their case and support is given at trials by the Independent Domestic Violence Advocates; these are linked to the specialist court at West London Magistrates' Court. Despite the specialist court, the good work undertaken by the borough and Standing Together, the voluntary agency on domestic violence, and the positive work undertaken on rape cases, performance in terms of the violence against women indicator has slumped during the current year. In contrast, hate crime outcomes have improved and performance is better than the London average.

The impact of many changes of BCP over the past year and the need to manage some issues relating to sickness and individual performance has, not unexpectedly, resulted in little internal performance management being undertaken and little sharing of performance with staff. There are few key processes to provide assurance. Our assessment found that cases are being finalised incorrectly and this may be giving a misleading picture in terms of overall outcomes. However, some work has been undertaken to improve performance in the handling of unused material and CTLs.

Similarly the lack of a stable management has impacted on the ability to manage performance jointly with partners. Meetings have not taken place with the police to discuss performance and as yet there is no formal mechanism with the court in relation to case progression. Despite the absence of formal structures with partners, relationships remain good. Some community engagement has been undertaken by the BCP but this is limited and the borough has more pressing priorities that need addressing first.

The borough has some committed professional staff who demonstrate goodwill through working additional hours and remedying defects in casework at the last minute where they are able. Spirits remain good amongst most of the staff in circumstances that could be demoralising.

Many of the issues impacting on the performance of Hammersmith and Fulham are outside the control of the borough or are the result of decisions made by CPS London. A further proposed reduction in staff can only have an adverse impact on an already stretched borough.

Strong stable leadership is essential for internal performance management of staff and managing sickness and improvements to processes. It is also vital that criminal justice partners have a consistent point of contact empowered to act on joint issues that need addressing within the borough. However, this alone will not be sufficient to address performance in the borough; the area needs to consider where it can act to drive improvements on a practical level rather than through strategic guidance or imposed policy. The move to become an IPT co-located with the police in January 2010 may be an opportunity for the area to re-launch a number of initiatives, re-examine systems and processes to improve service delivery and build on the sound decision-making that is present in the borough.

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

Inspectors identified 13 aspects for improvement:

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- 1 The borough needs to ensure that all charging decisions are recorded and captured on the case management system and a hard copy attached on the paper file (aspect 1).
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- 2 In magistrates' courts casework the borough needs to ensure:
- that all cases are subjected to timely review on receipt of the trial file;
  - all police charged cases are subject to a full code test review; and
  - adverse outcome reports are completed on all relevant cases and lessons learned disseminated (aspect 2).
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- 3 In magistrates' courts casework the borough needs to:
- remedy the deficiencies of the optimum business model (OBM) to improve case progression by ensuring that all necessary actions are identified at the earliest opportunity and cases are prepared in a timely manner;
  - work with partners to improve the timeliness of trial file delivery and ensure case progression is undertaken jointly; and
  - improve the use of the case management system for case preparation and the correct finalisation of cases (aspect 2).
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- 4 In Crown Court casework the borough needs to ensure:
- prosecutors are proactive to build stronger cases and subject all casework to a full review after charge;
  - prosecutors conduct timely continuing review on all cases; and
  - adverse case reports are completed on all relevant cases and that lessons learned are disseminated to staff (aspect 3).
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- 5 In Crown Court casework the borough needs to improve:
- the timely preparation of papers through joint improvement work with the police and early allocation of cases;
  - case management pro-activity and the management of case progression with its criminal justice partners;
  - the quality of instructions to advocates;
  - the level of borough input into selection of advocates;
  - the attendance of borough in-house crown advocates at court; and
  - the correct use of the case management system in case preparation and finalisation (aspect 3).
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- 6 The borough needs to:
- ensure agents are instructed early enough to undertake effective and timely preparation of magistrates' courts cases, particularly in the more complex cases; and
  - ensure advocates are present in court to speak to the defence and the legal advisor prior to the court sitting in accordance with the agreement with the West London Magistrates' Court (aspect 4).
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- 7 The borough needs to improve:
- the flagging of sensitive cases; and
  - case preparation and progression of sensitive and specialist cases (aspect 5).
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- 8 The borough needs to ensure:
- that schedules of unused material are provided in good time following a plea of not guilty in the magistrates' courts or case committed or sent to the Crown Court;
  - timely compliance with the prosecution obligations of continuing disclosure; and
  - the disclosure record sheet captures the full audit trail of disclosure in individual cases (aspect 6).
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- 9 The borough needs to:
- work with Her Majesty's Courts Service to ensure that all CTL expiry dates are agreed in magistrates' courts cases; and
  - ensure custody cases in the magistrates' courts are allocated and progressed expeditiously (aspect 7).
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- 10 The borough needs to develop a clear strategy for victim and witness service delivery in line with the national strategy and ensures that its performance framework and discussion at all levels includes victim and witness matters (aspect 8).
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- 11 The borough needs to ensure that:
- managers are trained on how the systems can be used to assist in quality assurance so that better use is made of the management information system (MIS) and the case management system (CMS) to assist in performance management;
  - quality assurance is undertaken on systems and processes to ensure the accuracy of data entry, particularly on finalisations; and
  - more meaningful discussion on performance is undertaken and the prosecution team performance management (PTPM) meetings are reinstated, accurate data is used and all relevant topics are discussed to drive service improvement (aspect 9).
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- 12 The borough needs to ensure that:
- concerns with regard to staffing issues are formally raised with CPS London supported by evidence of what is required to ensure improved service delivery; and
  - sickness issues are resolved (aspect 10).
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- 13 The borough needs to ensure that team meetings are held regularly and include good performance (which should be celebrated) and lessons learned (aspect 11).
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### **Background to London borough assessments**

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

### **Assessments**

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

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

The inspectorate uses a points based model for assessment, with a borough's overall assessment determined by the cumulative total of points for all of the ten aspects that are scored. There are two limiters within the model. A borough cannot be rated Good or Excellent unless it is assessed as Good in at least two of the first four aspects. This is designed to give pre-eminence to the ratings for the core aspects of the borough's work. Similarly, if a borough is scored as Poor in three or more aspects its final assessment will be reduced by one grade from that which the overall points indicate.

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

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