

CPS London Borough Performance Assessments

Hammersmith & Fulham Borough

Undertaken November 2009





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ABBREVIATIONS

Common abbreviations used in this report are set out below. Local abbreviations are explained in the report.

AP	Associate prosecutor
BCP	Borough crown prosecutor
BCU	Borough Command Unit (police)
CA	Crown advocate
CJSSS	Criminal Justice: Simple, Speedy, Summary
CJU	Criminal Justice Unit (police)
CMS	CPS computerised case management system
CPS	Crown Prosecution Service
CPSD	CPS Direct
CPSLD	CPS London Direct
CQA	Casework quality assurance
CTL	Custody time limit
DBM	District business manager
DCP	District crown prosecutor
DCV	Direct communication with victims
DGSP	Director's guidance on the streamlined process
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
IPT	Integrated prosecution team
JDA	Judge directed acquittal
JOA	Judge ordered acquittal
MG3/3A	Forms sent by police on which the prosecutor records the charging decision and action points
NRFAC	Non-ring fenced administration costs
NWNJ	No Witness No Justice
OBM	Optimum business model
PCD	Pre-charge decision
PCMH	Plea and case management hearing
PTPM	Prosecution team performance management
WCU	Witness care unit
WMS	Witness management system

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A INTRODUCTION TO THE PERFORMANCE ASSESSMENT PROCESS

This report is the outcome of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) assessment of the performance of the Crown Prosecution Service (CPS) London in Hammersmith and Fulham borough unit. It represents a more in-depth local assessment than the overall performance assessment of the West Sector of CPS London published in 2008.

Assessments

Assessments and judgements have been made by HMCPIS based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPIS 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.

Inspection teams comprise legal and business management inspectors working closely together. HMCPIS 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.

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 (see annex C).

Whilst we comment on the borough's performance in managing its resources, this aspect has not been scored.

The table at page 10 shows the unit's performance in each category.

Whilst borough performance assessments are not full inspections, significantly more evidence is collected and analysed than in area overall performance assessments. This enables HMCPIS to give a more discerning picture of CPS London overall which recognises the substantial variations within the area. This assessment is designed to set out comprehensively the positive aspects of performance and those requiring improvement.

Our original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which we expected across an area as diverse as London. This approach was endorsed by senior managers in CPS London. In the event, the 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 management level. CPS London senior management team confirmed that the boroughs that had been assessed were fairly representative of London as a whole and that to undertake further assessments would be unlikely to add significantly to our findings. We therefore decided to confine the exercise to 20 borough performance assessments (including the pilot assessment of CPS Croydon borough), drawn from five of the six CPS London districts, together with an assessment of the London traffic unit.

The findings from the borough performance assessments undertaken will be drawn together in a pan-CPS London report which will contribute to providing an overall picture of the performance of the area. The pan-London report will also address 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.

It is important to bear in mind that, despite the title of the report, this is a report about the performance of the CPS in Hammersmith and Fulham borough. That performance is influenced by a range of factors including matters which are responsibility of managers at district and area level. It should not be regarded purely as a critique of the borough unit and the staff who work in it. Both the credit and the responsibility for what we find in the boroughs – good and bad alike – must be shared with those middle and senior managers whose decisions and behaviours influence what happens on the front line of prosecutions.

Direction of travel

Where feasible we will indicate any changes in the unit performance from the year 2007-08 to date if this is ascertainable.

We have identified any strengths or aspects for improvement in performance within the text.

B DESCRIPTION AND CASELOAD OF CPS HAMMERSMITH AND FULHAM BOROUGH

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 level D 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 level E 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 including 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 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 £1,083,530¹. (Current position)

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

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.

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

	2007	2008	Percentage change
Pre-charge work (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	1,137	1,356	+19.3%
Decisions not resulting in a charge ²	799	1,040	+30.2%
Total pre-charge decision cases	1,936	2,396	+23.8%
Magistrates' court proceedings³			
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%
Crown Court proceedings⁴			
Cases sent or committed to the Crown Court for determination	429	381	-11.2%
Committals for sentence ⁵	95	87	-8.4%
Appeals from the magistrates' court ⁵	46	36	-21.7%
Total Crown Court proceedings	570	504	-11.6%

Inspectors visited the area between 23 November and 2 December 2009. The lay inspector was Michelle Lesbirel-Jones who is from the Citysafe Strategy Unit at Liverpool City Council. The role of the lay inspector is described in the introduction. She examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. She also visited West London Magistrates' Court although she did not get the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately. Her time was given on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.

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.

C 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 integrated prosecution team (IPT) co-located with the police. Hammersmith and Fulham has yet to co-locate to Hammersmith police station and is the last remaining borough unit to be located at the CPS Headquarters. It is currently proposed that the borough will become an IPT site towards the end of January 2010, although the date has already been put back.

Since the split the borough has struggled to have any sense of stability. The new substantive borough crown prosecutor (BCP) came to the post from another borough in June 2009 but was only in post for a month before starting a period deputising as district crown prosecutor, returning to the borough in December 2009. 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 and the absence of an empowered manager able to address issues over a sustained period 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. Based on the most recent commitment model used by the area the borough is unable to cover a number of its commitments. This is exacerbated by long-term sickness at lawyer grade, which has a significant impact with small numbers of staff. The borough has the correct proportionate share at caseworker grade but long-term sickness has meant that in practice the borough has been operating at 50% of its allocation. 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 (WLMC) 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 case progression. 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' courts and the Crown Court. Performance in both continues to decline.

The correctness of the initial decision and the proactivity demonstrated at the outset to build stronger cases 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; the borough is fire-fighting on casework at all levels. 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 files at a later stage, which are then sent to the borough late or incomplete to be processed by a system that is currently overwhelmed with backlogs. In magistrates' courts cases the files are prepared for trial a day or two in advance leaving little opportunity to remedy defects, comply with court directions and comply with the prosecution's obligations to disclose unused material. As a consequence wasted costs are being considered increasingly by the court.

Despite the frequent late service of documentation on the defence on the day of trial, and the problems around case preparation and progression, the borough has an effective trial rate which is better than the national average. This is due in part to the advocates at court working hard to rescue cases at the last minute and also the defence cooperating 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 optimum business model. 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 our 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 its 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 upon the handling of custody time limits (CTLs). The borough has not had any failures between 2006 and mid-2009, but since July there have been two. In both cases the CTL was not extended on application because the prosecution had failed to act with due diligence. Poor case progression remains a risk to 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' courts on the day of trial and the delays incurred to the start of 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 in terms of victims being informed of progress on a case and the support given at trials by the Independent Domestic Violence Advocates; these are linked to the specialist court at WLMC. Despite the specialist court and much of 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 so many changes of BCP over the past year and the need to manage some issues relating to sickness and individual performance have, 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 on the borough and our findings show finalisations are not correct; 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 custody time limits.

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 far more pressing priorities that need addressing first.

The borough has some committed professional staff who demonstrate goodwill though 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 should be demoralising.

However, many of the issues impacting on the performance of Hammersmith and Fulham are outside the control of the borough or have been imposed by CPS London centrally. The 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 integrated prosecution team 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 borough's performance assessment is **POOR**.

Aspects for improvement

We 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).

 - 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).

 - 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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Summary of judgements

BOROUGH PERFORMANCE ASSESSMENT 2009	
Pre-charge advice and decisions	2 – Fair
Decision-making, preparation and progression in magistrates' court cases	0 – Poor
Decision-making, preparation and progression in Crown Court cases	0 – Poor
The prosecution of cases at court	0 – Poor
Serious violent and sexual offences, and hate crimes	0 – Poor
Disclosure	2 – Fair
Custody time limits	2 – Fair
The service to victims and witnesses	0 – Poor
Managing performance to improve	0 – Poor
Managing resources	Not scored
Management and partnership working	2 – Fair
OVERALL ASSESSMENT	8 – Poor

D DEFINING ASPECTS

1 PRE-CHARGE ADVICE AND DECISIONS

Assessment
2 – Fair

1A The quality of decision-making contributes to improving casework outcomes

- Inspectors examined 29 finalised cases which had been subject to a pre-charge decision (PCD), and where the advice was to charge the suspect. The decision to authorise charge was correct in 28 cases. The evidential stage of the full code test was used in 26 out of the 29 cases (89.7%), and the threshold test was applied in the remaining three. In a further case, which was charged by the police, it was not subject to any lawyer review that may have stopped the case at an early stage, rather than running the case to trial when there was not a realistic prospect of conviction.
- There were sound reasons for refusing police bail in all cases where the decision to charge was by application of the threshold test. In a further case the CPS Direct (CPSD) lawyer correctly refused to apply the threshold test when requested; advice was given to bail the suspect and supply an evidential report before seeking a decision on the full code test. The reasons for applying the threshold test were fully noted in the three relevant cases; however, in one of these, the file was not subject to any further review after charge.
- The most appropriate charge was selected in 23 out of 28 cases; in three cases the charges were wrong at the outset and in two further cases the absence of the MG3 made it difficult to assess.
- There were ten cases where CPSD lawyers completed the charging decision, seven of these involved the application of the full code test; in all the cases the decision and choice of charge were correct. There was an additional case where CPSD had provided early investigative advice. CPS London Direct (CPSLD) did not advise or charge on any borough cases in the file sample.
- Matters ancillary to the charging decision (such as the need to apply for special measures, or for bad character or hearsay evidence to be admitted), were properly considered in only 14 out of 20 relevant cases (70%), in four cases they were not considered and in two it was unrecorded due to the absence of the decision on the paper file or the case management system (CMS).
- There were no cases of acquisitive crime in the file sample. The borough lead on proceeds of crime is the point of contact for the police and the financial investigation officers if advice is required on aspects pertaining to proceeds of crime.
- The quality of the written charging advice in the file sample, and case analysis in particular, was variable overall; in one case it was 'excellent', in 11 cases it was 'good', 'fair' in a further 11 but in six it was 'poor', and two of the poor were due to the absence of documentation. Action plans were of the required standard in all 20 relevant cases.
- Sufficient instructions to the advocate were only given in 21 out of 29 cases (72.4%), again in two of the cases the absence of documentation made it impossible to assess. Thus in over a quarter of cases the effectiveness of the associate prosecutor is hampered, because of the absence of full and accurate instructions for the first hearing.
- Performance across all measures is declining, through 2008-09 to the end of quarter two of 2009-10. For all magistrates' courts indicators the borough falls into the lower half of performance across CPS London. In contrast the borough remains in the top half for Crown Court measures when compared to the other London boroughs. The proportion of pre-charge cases which ended in conviction in

the magistrates' court came within the 'poor' range of performance overall during the same period. In the Crown Court performance was in the 'fair' range during 2008-09 but has declined during the current year.

- Inspectors have significant concerns about the reliability of the results entered onto the case management system, which form the finalisation data; performance may be better or worse than the statistics depict.
- Our assessment of performance seeks to balance the soundness of much of the decision-making and most of the instructions provided to advocates, against the poor outcomes finally achieved.

Aspect for improvement

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.

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough*
Pre-charge decision cases						
Conviction rate	80.8%	76.2%	77.0%	80.1%	74.9%	73.4%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	16.0%	13.7%	14.7%	18.9%
Guilty plea rate	74.4%	69.8%	69.7%	73.6%	67.5%	65.5%
Attrition rate	19.2%	22.1%	23.1%	20.0%	23.8%	26.5%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	13.2%	11.7%	15.0%	16.2%
Guilty plea rate	72.9%	60.8%	67.4%	73.1%	61.0%	61.6%
Attrition rate	19.4%	27.3%	22.8%	19.5%	27.6%	26.7%

* Charging decisions made by CPS London Direct are included in the borough's performance data and reflected in the performance figures.

1B Pre-charge decision-making processes are effective and efficient

- In general pre-charge advice is timely, and there has been some joint work in the last year to reduce the average length of delay at the pre-charge stage to an acceptable level. In the last few months the number of appointments required per case has reduced, which in turn has improved timeliness.
- Over the last twelve months the borough has tried to ensure that the provision of charging advice at a local level has adapted to the capabilities of CPSLD (established in March 2009) and the needs of the police. In June 2009 there was a suspension of all Hammersmith and Fulham referrals to CPSLD due to backlogs and the borough returned to the provision of face-to-face charging every day on all cases. However, this caused some confusion for the police. Once CPSLD was in a position to resume providing decisions on Hammersmith and Fulham cases, the borough was able to reduce its commitment to charging to two days, and is now dealing only with cases that do not meet the referral criteria to CPSLD. Appointments are confirmed the previous week for the following Tuesday and Thursday, on occasion this enables a lawyer to be released to other work if appointment slots are not taken.

- The borough has introduced a service level agreement with the police, which underpins the memorandum of understanding in place between CPSLD and the police. This clarifies the cases that should remain within the borough for a charging decision. Under the agreements cases are vetted by managers to ensure they comply and for the most part are adhered to. Once the borough moves to the integrated prosecution team, based at Hammersmith Police Station, the provision of charging will be re-examined to consider if there are opportunities for more flexibility to meet the police and borough needs, replacing the fixed calendar days. At the time of our inspection the borough provided charging lawyers of significant experience who are capable of dealing with the majority of cases.
- There is also a rape surgery that is held fortnightly at Hammersmith police station. This is shared with the adjoining borough of Kensington and Chelsea with each borough providing resource on an alternate basis. The surgery deals with early and ongoing advice with the more complex cases submitted to the office for written advice. Although only recently established, the surgery is effective, providing advice from experienced specialists.
- The arrangements ensure that cases referred to CPSLD and the borough are vetted by either of the two managers, the borough has a point of contact with CPSLD should any issues arise. Equally there is a similar point of contact with CPSD.
- A charging centre manager ensured the smooth running of the appointments system and follow up of pre-charge advice. Since their departure in July the appointment slots of one hour are fixed by the evidential review officers. The borough crown prosecutor (BCP) has met them to clarify the criteria for referrals and any inappropriate cases are dealt with on an individual basis with police managers. There are no significant delays in appointments; however, there are a large number of cases that are finalised administratively. This suggests that there was over-reliance on the charging centre manager who was responsible for any follow up of police officers on action plans and return appointments, and has not been undertaken effectively since their departure. The borough needs to take some responsibility in tackling this issue.
- Prosecution team performance management meetings have not been held consistently on a monthly basis; the borough has not been able to provide any continuity having had a number of different BCPs over a short space of time. Despite this, the relationship with the police remains good and the substantive BCP is now in a position to re-establish the meetings and examine performance and joint issues that need addressing.
- In bail cases, the police generally supply sufficient material for the charging lawyer to make a sound decision against the full code test when possible to do so, and only a small proportion require further work before a decision can be made. Problems in relation to file preparation, whether to do with timeliness or content, are usually fed back to police managers who in turn convey this to the evidential review officers.
- Borough charging lawyers generally show a combination of realism and robustness in pressing cases forward, sometimes without waiting for all the evidence to become available, and there is also a strong element of pro-activity at the pre-charge stage. The performance of the borough at charging is currently the high point in casework; the absence of effective case progression and management of cases means that after charge cases churn through the system with duplicated work and little added value, with considerable drift on compliance and timeliness of court orders and of statutory applications.
- The case management system (CMS) is used for the creation of almost all charging advice by borough lawyers, with all but two of the 29 relevant cases having the charging advice recorded on CMS. In the two cases where it was absent, the documentation was also not available on the paper file.

2 DECISION-MAKING, PREPARATION AND PROGRESSION IN MAGISTRATES' COURT CASES

Assessment
0 – Poor

2A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

Case outcomes in the magistrates' court

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Discontinuance and bindovers	8.7%	8.0%	10.4%	8.8%	8.1%	11.6%
No case to answer	0.2%	0.3%	0.6%	0.2%	0.3%	0.6%
Dismissed after trial	2.0%	2.4%	1.7%	2.1%	2.6%	1.5%
Discharged committals	0.2%	0.3%	0.4%	0.3%	0.4%	0.5%
Warrants	1.6%	3.0%	2.2%	1.5%	2.7%	3.1%
Overall conviction rate	87.3%	86.0%	84.7%	87.1%	86.1%	82.8%

- Timely full file reviews were carried out on only nine of the relevant 16 magistrates' courts cases in the file sample. The evidential stage of the full code test was applied correctly in eight out of ten relevant cases (80%), on receipt of the full evidential file from the police in the course of preparing the case for summary trial. In one case the review did not correct the wrong application of the code test from the charging decision and in the other, which was charged by the police, the case was not reviewed at all and wrongly allowed to proceed to trial.
- The required standard of review was met in only six out of 17 cases (35.3%). There was proactive case management to a 'good' standard in only one case, in nine it was 'fair' and in six it was 'poor'. In general, the lawyer has not applied their mind afresh to the individual characteristics of the case. Additional ad hoc reviews were required in eight cases and undertaken in five. When it was noticed that many reviews were being overlooked by the team under the optimum business model (OBM), the borough crown prosecutor (BCP) issued an instruction that the review should be cut and pasted from the charging decision to show that the file has at least been considered.
- The absence of an effective review means that the borough is not able to work pro-actively with the police to build stronger cases and add value. In one case where the threshold test was applied correctly and the defendant remanded in custody, there was no further review, which should have highlighted the difficulties and action needed to overcome these. As a consequence the case resulted in a successful application by the defence of no case to answer.
- All cases where the defendant is on bail should be reviewed prior to the first court appearance and many are undertaken by the associate prosecutor who has access to the BCP and lawyers in the borough. However, one of the three police charged cases was not reviewed before the first hearing or any time prior to trial.
- In the file sample 11 cases proceeded to summary trial on the appropriate charges, although one case did not. There were no cases where alternative pleas were accepted.
- There were no cases in the file sample where linkages between cases involving the same defendant needed to be identified and addressed. There did not appear to be a borough system to ensure that cases were linked, instead the court or the defence identify such cases when they appear in the court list.

- There were three cases that were discontinued; all were timely although in one case more could have been done to save the case with better case preparation. There were four cases that resulted in an outcome of no case to answer; three of these cases were wrongly finalised as acquittals after trial instead of adverse outcomes. There were no adverse cases reports in any of the seven cases to enable lessons to be learned for future casework, and ensure that work is undertaken on cases that can be saved by prosecution action.
- Borough outcomes in 2008-2009 were worse than the national and the London averages. Performance has declined in the year to September 2009 and remains worse than the national and London averages for all types of outcome except acquittals after trial. We identified a trend for adverse outcomes to be registered incorrectly on the case management system (CMS); therefore, borough performance may be even worse than recorded.
- Much of the decision-making is sound, but the lack of timely full reviews and poor preparation leads to cases not being ready for trial or their not being as strong as possible. This is a substantial cause of the low level of successful outcomes.
- The rate of discharged committals for 2008-09 at 0.4% is higher than the London and national averages (0.3% and 0.2% respectively). There were 12 discharged committals in the borough representing 2.6% of all cases prepared for committal. Performance for the 12 months to the end of September 2009 shows some decline within the borough and the position remains worse than the London and national averages. The borough rate of 0.5% comprises 16 cases that represent 2.9% of all cases prepared for committal in the period.

Aspect for improvement

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.
-

2B Cases are prepared and progressed effectively

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	45.7%
Cracked	38.0%	34.8%	36.1%
Ineffective	18.6%	17.9%	18.2%
Vacated	21.5%	16.3%	10.9%

- The OBM system is not working and cases are processed within the unit without the ability to manage them pro-actively. There is considerable duplication of work because the Director's Guidance on the Streamlined Process, whereby the amount of documentation produced by the police is reduced in expected non-contested cases, is also not effective. The police are now asked to prepare full files at a later stage, which are then sent to the borough late or incomplete to be processed by a system that is currently overwhelmed with backlogs.
- The OBM team is now resourced with one or two lawyers on a daily basis; however, backlogs in Crown Court preparation often result in lawyers being drawn away from the OBM team to progress their allocated casework. There is a case progression manager but little administrative resilience in support of the role.

- Cases are invariably prepared for trial a day or two ahead of the listing date, leaving little opportunity to remedy defects and build stronger cases. Directions cannot be complied with in a timely manner. Trials are now sent to four additional magistrates' courts as well as to West London Magistrates' Court in an attempt to clear trial backlogs; this has placed an even greater strain on the OBM team. This was confirmed during observations and feedback from partners. Not surprisingly OBM has yet to be signed off and the date has been put back repeatedly. The borough cannot currently address these deficiencies and needs assistance from the area to resolve them.
- The borough relies on proactive decision-making at the charging stage to ensure appropriate issues are identified and stronger cases are built at the outset, as there is little opportunity for remedial action afterwards. In the file sample, there was timely completion of all directions between first hearing and trial in only one of seven relevant cases; none of the four cases where applications were made, complied with the statutory time limits. There was timely case preparation in only seven (43.8%) of the 16 relevant cases.
- There is limited joint case progression; this needs addressing now the substantive BCP has returned to the post. The borough needs to make sure that the meetings with the police are more effective in dealing with case progression issues. At present there is no formal case progression structure with the court with reliance on the court case progression officer to communicate to all parties on individual cases. The proposal to hold telephone conferences with the court on future trials has yet to come to fruition.
- Cases generally proceed at the first hearing, although the lack of relevant papers in some cases makes the giving of directions somewhat academic; the cases have been accepted by the borough on the basis of the limited papers provided under the streamlined process arrangements. Few cases are listed formally for case management hearing, unless an issue is raised by either party; however, the number of additional hearings to monitor case progression and compliance with directions is on the rise and there is discussion about the re-introduction of case management hearings for specific types of case. Wasted costs are being considered increasingly by the court.
- Despite the frequent late service of documentation on the defence on the day of trial, and the problems around case preparation and progression, the borough has an effective trial rate which is better than the national average and similar better performance in terms of the ineffective trial rate, although both rates are not as good as the London averages. The file examination, observations and feedback showed that advocates at court work hard to rescue cases at the last minute and the defence are willing to proceed on the listed trial date after a short delay, although this wastes court time and has implications for listing with more trials adjourned part-heard.
- The use of CMS in magistrates' courts cases needs improvement to provide a proper audit trail by ensuring template letters are captured on the system and out of court action is recorded. CMS usage was rated as 'fair' in ten cases in the file sample and 'poor' in the remaining eight cases. Seven (38.9%) out of the 18 cases were incorrectly finalised; this is a training issue rather than the quality of file endorsement.

Aspect for improvement

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;
 - to 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 (CMS) for case preparation and the correct finalisation of cases.
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3 DECISION-MAKING, PREPARATION AND PROGRESSION IN CROWN COURT CASES

Assessment
0 – Poor

3A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

Case outcomes in the Crown Court

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Judge ordered acquittals	11.6%	15.7%	12.6%	11.7%	15.3%	16.0%
Judge directed acquittals	1.0%	1.1%	1.6%	0.9%	1.3%	1.0%
Acquittals after trial	5.5%	8.5%	6.0%	5.6%	9.0%	8.4%
Warrants	1.1%	1.6%	1.1%	1.1%	1.7%	0.5%
Overall conviction rate	80.8%	73.1%	78.7%	80.7%	72.7%	74.2%

- The application of the evidential stage of the full code test at committal or service of prosecution case was correct in all 14 cases in the file sample. The public interest stage was applied correctly in all relevant cases. Much of this is based on the quality of the charging decision; this is because the quality of review is not good and often comprises of a cut and paste exercise from the charging decision with not even an additional note confirming that there has been no change in circumstance. Full file reviews were of the required standard in only five of the 14 cases. There were ad hoc reviews, following a significant change in circumstance or following receipt of further material, in seven out of ten relevant cases. Overall, the reviews were of the required standard in only three of the 14 cases and these tended to be the more specialist cases.
- The reliance on the charging decision means that work to build stronger cases is not always undertaken if it has been overlooked at the outset, so it is a considerable benefit that the decision-making is strong at an early stage. Although there are examples of pro-activity, prosecutors do not always add value to Crown Court cases. Twelve of the 14 of the Crown Court cases (85.7%) were either committed or sent on the correct charges and in all cases the charges were correctly amended by the date of trial.
- The procedure for referring cases to CPS London Complex Casework Centre (CCC) is made available to all London staff via an electronic folder. Prosecutors and caseworkers are aware of the procedures for referring cases to the CCC, and the borough crown prosecutor (BCP) is responsible for authorising such referrals. Currently, the borough has no cases that have been referred to the unit.
- The borough relies on the BCP at allocation to ensure that all linked cases are handled properly: however, there have been seven BCPs in the past year, which interrupts consistency, and there is no particular system to ensure appropriate linking when one of the cases is being handled outside the borough. There were no linked cases in the file sample.
- In 12 out of 14 relevant cases (85.7%) in the sample the indictment was drafted correctly. In the five cases where the indictment was subsequently amended, it was done appropriately, in some to reflect changes in the cases, and in four of these the amendment was timely. Observations at court suggest performance is weaker; the indictment was out of time in three cases and required amendment in two cases from a single plea and case management (PCMH) list of borough cases.

- There were three cases in the file sample where alternative pleas were offered and accepted; in all instances the acceptance was realistic.
- CPS London collates its restraint and confiscation orders centrally and the volume and value targets are set at area level. For 2008-09, London obtained a total of 491 confiscation orders, with a combined value of £38,513,344, exceeding the value target figure by £18,868,344; in the same period, 352 restraint orders were achieved against a target of 98 orders. The borough has a Proceeds of Crime Act lead who is able to advise colleagues and acts as the point of contact with local police financial investigators.
- None of the cases in the file sample included consideration of issues ancillary to sentence, although there were several files where the plea and sentence document had been completed to a reasonable quality and placed on the file to assist the advocate at the sentencing hearing.
- Of the five relevant cases that were discontinued, there was only one case where all appropriate action was not taken to save the case and the outcome could have been avoided by better case preparation. In all cases the discontinuance was timely taking into account the individual circumstances. However, none of the cases had an adverse case report detailing the reason for outcome and enabling lessons to be learned and applied to future casework. An adverse case log is maintained by the BCP, but it is fairly limited. The absence of a caseworker at court and the lack of lawyer input into the reasons for adverse outcomes means that an opportunity is missed to learn lessons from adverse case outcomes. There is also no mechanism to feed back Crown Court outcomes to the charging lawyer to improve the tactical approach to the more serious casework at the outset.
- The borough's performance on successful outcomes (convictions) in the year to 30 September 2009 was within the 'poor' range of performance and has declined from the previous 2008-09 year data. However, it has remained better than London overall. The decline in overall performance is primarily explained by an increase in the proportion of cases that were discontinued and to a lesser extent cases that ended in acquittal after full trial. The borough needs to ensure the standard of decision-making is maintained at the outset, learning lessons from finalised casework and ensuring current cases are subject to continuing review to prevent any further decline in performance.

Aspect for improvement

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.
-

3B Cases are prepared and progressed effectively

Trial rates

	Performance 2008-09		
	National	CPS London	All Kingston Crown Court cases ⁶
Effective	47.1%	54.7%	51.7%
Cracked	40.8%	30.0%	32.7%
Ineffective	12.1%	15.2%	15.7%

- Following the decision to send a case to the Crown Court, or to adjourn for committal, a system is in place to request the file from the police in order to ensure cases are prepared in good time for the next hearing. During 2009 it was apparent that this was not happening on the Crown Court casework so a new system was established in June by the BCP to try to overcome the late arrival of files from the police, preparation the day before committal, late service of papers and the pressure on the limited availability of caseworkers. There continues to be the late arrival of files and also the competing priorities for lawyers between their allocated Crown Court casework and commitments to the optimum business model. In reality cases are allocated and prepared by whoever is in the office once the file is received from the police. This is usually at the last minute resulting in late service of papers at court or the service of a courtesy committal bundle only. Despite this there was action to progress the case at the PCMH in ten of the 14 cases in the file sample, although compliance with pre-PCMH directions was timely in only in six cases.
- Post committal case progression and service of the case in sent cases is weak and was confirmed by our observations at court; a number of cases were without papers at the plea and case management hearing. The borough has four Crown Court caseworkers but no dedicated case progression officer; this has impacted on timeliness of case progression functions and the effectiveness of dealing with defence correspondence. Communication with the police and the Crown Court is on a case-by-case basis rather than a formal structure. Whilst the quality of communications with partner agencies is generally satisfactory, timeliness could be improved. The borough struggles to comply with directions at the PCMH with only two of the relevant nine cases demonstrating timely compliance and only two of the relevant twelve cases where applications were made complied with the statutory time limits.
- The borough currently has no cases that fall within the relevant criteria for the case management panel, although the BCP who allocates all cases is aware of the referral criteria.
- Cases are generally sent to the crown advocate unit at Kingston Crown Court for allocation to advocates and sent to counsel if the unit is unable to cover the cases. The borough also has in-house crown advocates who are not able to appear in court due to other borough commitments and the need to ensure that the unit at court is sufficiently busy.
- The quality of instructions to counsel is weak. In the file sample eight were of 'fair' quality, and six were 'poor'. The case analysis was generally a cut and paste from the charging decision with little or no amendment, and where it was relevant there were no instructions about the acceptability of pleas.

⁶ Crown Court trial data is not disaggregated to borough level, therefore this table reflects the composite performance of all those CPS London boroughs that commit cases to that Crown Court.

- The cracked and ineffective trial Crown Court data is not disaggregated to borough level. Although the ineffective trial rate (15.7%) at Kingston Crown Court was higher and therefore worse than the national and London averages in 2008-09, the effective trial rate (51.7%) was at a better rate than the national average due to the lower number of cracked trials. The cracked trial rate, at 32.7%, is worse than that for CPS London overall (30%) but better than the national average of 40.8%.
- The use of the case management system was 'fair' in nine cases and 'poor' in five in the file sample. The borough could use the system far more effectively; many of the actions and out of court work are not recorded, and copies of template letters are not saved in the electronic case file; this could be improved through additional training. Ten cases were finalised correctly out of the 14 in the file sample, again this needs remedying through additional training and management checks of performance.
- As with magistrates' courts casework our assessment has to balance sound decision-making and sound selection of charges, and fairly proactive case management at the outset against poor timeliness and quality of case preparation that has led to criticism at the Crown Court and relatively poor case outcomes.

Aspect for improvement

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.
-

4 THE PROSECUTION OF CASES AT COURT

Assessment

0 – Poor**4A Advocates are active at court in ensuring cases progress and hearings are effective; advocacy and case presentation are of a high standard**

- The advocates observed by inspectors were suitably skilled and experienced, and properly versed in CPS policy. Feedback confirmed that most borough advocates are sufficiently experienced for the types of hearings they conduct. As the in-house coverage has declined the agent usage has increased and those instructed are selected by the borough crown prosecutor (BCP). However, no agent is provided with the file or a brief in advance, no matter how complex the matter or the nature of the evidence; there is an expectation that agents will be at court early to collect and prepare lists and trials. This can be unrealistic in the more complex case and can delay the start of trials significantly, it can also lead to victims and witnesses remaining at court for a longer period than desirable and to trials being adjourned part heard with disruption to future listing. The borough needs to assess when it is appropriate to instruct counsel earlier than the appearance in court, especially when case progression is weak and many matters have to be resolved at court.
- There is an agreement with the West London Magistrates' Court (WLMC) that advocates will be in court at 9.30am in order to speak to the defence and legal advisors before the court sits. Feedback and observations confirm that this is not the case, which can delay the start of the court. There have also been complaints from the Crown Court that advocates are not always in court, that they have not taken the opportunity to speak to their opponent beforehand and have no case papers. Our observations confirmed that the absence of papers was not uncommon.
- Advocates try to progress cases at the first hearing, despite the hurdles presented by a lack of relevant information, particularly in cases that are subject to the streamlined process. The court also expects case progression where reasonably practicable. Cases progressed at the first hearing in 18 magistrates' courts cases in the file sample; however, they then encountered problems as they passed to the optimum business model team (OBM).
- In the Crown Court ten (71.4%) of the 14 relevant cases progressed at the plea and case management hearing. However, as noted above, our observations showed that case papers were not always at court hampering effective progress on a case at a given hearing. There were three unnecessary adjournments in the Crown Court, all attributable to the prosecution and eight in the magistrates' court where the prosecution was responsible for four of these. There were also very few unnecessary adjournments in our court observations; matters were put back or the officer had attended court in an effort to ensure progress was made without the need for a substantial adjournment; the court took the lead in this.
- Court file endorsements are variable, half in the file sample were good but 22% were poor where some were missing from files and some failed to reflect all relevant matters considered in complex hearings. The absence of caseworker support explains why this is the case in the Crown Court, which hampers subsequent case progression and compliance. There were also some issues of legibility. In a small borough, advocates and other staff can sometimes clarify matters later, but this is not always possible and the OBM system is particularly dependant on accurate endorsement.

- The standard of in-house advocacy generally meets the national advocacy standards, with all three observed in the magistrates' court being at least fully competent or better. The three crown advocates and counsel in the Crown Court were also fully competent. There is limited monitoring of in-house advocates, although this has been undertaken in the Crown Court by the area. Partners do not tend to feed back negative aspects that are apparent, although good performance has been noted and delivered to the individual concerned. The standard of preparation by the advocates is limited to the quality of the file and case papers available.
- The care of victims and witnesses at WLMC is generally sound, with the Witness Service and court rooms all being in close proximity and easily accessible. The expectation that prosecutors will meet and speak to witnesses is adhered to, and in trials involving allegations of domestic violence there is additional support from the Independent Domestic Violence Advocates (IDVAs). In the Crown Court witness care is undermined by the absence of caseworker presence at court.
- There has been significant administrative support in the magistrates' court but this has been pulled back to the boroughs where resources were stretched. This has left limited administrative support at court, which also covers cases from the adjoining borough of Kensington and Chelsea. Finalisations are completed at court but tasks such as service of judge's papers and chasing of missing files can be overlooked.
- The borough does not provide any caseworker support at court; this is mainly arising out of issues beyond the control of the borough. This absence of any support in the Crown Court can result in directions and orders not being recorded, which in turn can exacerbate the backlogs in preparation and mean that it is unlikely the borough can improve performance in terms of compliance and timeliness. In addition, this limits the contact with victims and witnesses; the borough must rely on crown advocates and counsel to undertake this with no oversight from the instructing borough.
- The previous large administrative support unit at court brought its own difficulties with the reasonable resources available in terms of desk space, IT and office equipment being insufficient for the number of users. This has improved significantly since the administrative unit pulled out, but the practices employed then have impacted adversely on the operational relationships with some criminal justice partners and need to be resolved.

Aspect for improvement

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.
-

5 SERIOUS VIOLENT AND SEXUAL OFFENCES, AND HATE CRIMESAssessment
0 – Poor**5A The borough ensures that serious violent and sexual offences, and hate crime cases are dealt with to a high standard***Violence against women: successful outcomes (convictions) as a percentage of completed cases*

Performance 2008-09			Performance 12 months to September 2009		
National	CPS London	Borough	National	CPS London	Borough
71.9%	62.0%	62.8%	71.7%	60.5%	54.6%

Hate crime: successful outcomes (convictions) as a percentage of completed cases

Performance 2008-09			Performance 12 months to September 2009		
National	CPS London	Borough	National	CPS London	Borough
82.0%	77.2%	76.4%	81.7%	75.4%	79.4%

- The file jacket and case management system were flagged appropriately in only 12 out of 16 relevant cases (75%); this could hamper the borough's ability to deal with sensitive cases appropriately. A flag was missed on a racially aggravated case and on three domestic violence cases; the latter is surprising in view of the well established domestic violence court at West London Magistrates' Court (WLMC) and the fact that in all three cases the domestic violence policy had been considered in the pre-charge decision and the case correctly identified.
- The borough has specialists for rape, child abuse and youth cases as well as co-ordinators for rape and domestic violence. Fatal road traffic cases are referred to the traffic unit. All Crown Court cases involving serious violence, sexual offences and hate crime are allocated to a reviewing lawyer with relevant experience and skills, although pressure of work means that not all cases receive the attention they deserve in terms of case progression. In magistrates' courts cases all charging lawyers have the relevant experience and training for sensitive and specialist cases but the majority are dealt with by the optimum business model (OBM) system, unless the defendant is in custody, but due to backlogs this is not always happening and cases remain with the OBM team.
- The overall picture in relation to legal decision-making is sound. The evidential and public interest stages of the full code test were correctly applied in all 15 relevant cases in the file sample at the pre-charge stage and in all 17 cases at the review stage; however, there was one case involving an allegation of domestic violence that was correctly charged under the threshold test but was not subject to further review before trial due to the deficiencies in case progression across all casework. An earlier review would have resulted in a timely discontinuance. There were no concerns in terms of the quality of decision-making in cases that were discontinued. The charging decisions are generally informed by the relevant policy considerations. The policy requirements for dealing with sensitive cases at the pre-charge stage were met in 15 of the 17 relevant cases (88.2%).
- Prosecutors generally analyse cases well and provide useful advice on investigation and case building. In 14 out of the 16 relevant cases (87.5%), the pre-charge action plan was sufficient, and some added real value by identifying evidential issues early. The quality of the charging decision was graded as 'good' in ten cases, 'fair' in six and 'poor' in four. However, as with the rest of the borough casework, the high point is the quality of decision-making at the outset and then the case management is in steady decline. The borough has to rely on the correctness of the

charging decision and that all necessary work is identified in the action plan because there is little opportunity to be proactive afterwards to build stronger cases due to backlogs in case progression. In only six out of 21 cases (28.6%) was the review of sufficient quality; many cases are not subject to a further review following charge, with the level of pro-activity employed graded as 'good' in five cases, 'fair' in seven cases" and 'poor' in eight.

- The rape co-ordinator undertakes monitoring in line with the national specification for the role. Other leads and co-ordinators do not currently have the time to assist in formal performance management, although they all try to ensure that skills and experience are shared in the borough. The domestic violence lead also attends the quarterly specialist domestic violence court (SDVC) management meetings where performance is discussed and actions considered to drive improvement. There is also informal liaison on a weekly basis when the court sits.
- The appropriate charges were pursued in all cases involving domestic violence, racial or religiously motivated offences and serious violence. In rape and sexual offences two cases did not proceed on the correct charges at the outset but this was remedied following review for the subsequent Crown Court trial.
- The decision to discontinue was correct and timely in all relevant cases in the file sample. However, more could have been done in five of the seven to save the case reflecting the impact of the current state of casework handling and progression. The borough crown prosecutor (BCP) is confident that policy is complied with in rape cases but not completely assured that discontinuance complies with policy in other cases where authority is required.
- One of the longest standing SDVCs is well established at WLMC, which also serves the borough of Kensington and Chelsea. A protocol is in place with the main support agency, Standing Together, who take the lead at meetings and in trying to deliver joint improvements. It is expected that all cases will comply with an agreed domestic violence checklist. Feedback about the borough is generally positive although it was commented that performance is affected by inadequate staffing levels. The court is prosecuted primarily by specialists but due to the number of cases, trials are no longer listed in the specialist court but heard in other courtrooms when trial listings are available. It is not yet known whether this has impacted on performance.
- The borough has also established a rape surgery; again this is a collaboration with the adjoining borough of Kensington and Chelsea. The surgery is held every two weeks and monthly meetings are held with the specialist police Sapphire teams. It has been a positive start for this initiative.
- Despite elements of good work in domestic violence and rape this has not translated into successful outcomes. The violence against women indicator was ahead of performance for CPS London during 2008-09 but slumped dramatically during the first half of 2009-10 to 54.6%. In contrast, the unsuccessful outcomes for hate crime have improved during 2009-10, and the borough is currently better than CPS London although still below target at 20.6% and worse than the average national performance.
- The BCP has contact with the local safeguarding children panel chair, receiving minutes of meetings but does not attend in any formal capacity. There are no plans to formalise links.

Aspect for improvement

The borough needs to improve:

- the flagging of sensitive cases; and
 - case preparation and progression of sensitive and specialist cases.
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6 DISCLOSURE

Assessment

2 – Fair**6A There is compliance with the prosecution's duties of disclosure**

- The file sample showed compliance with the initial duty of disclosure in 19 out of 25 relevant cases (76%); there were two further cases where the audit trail was insufficient to assess whether there had been compliance, although no disclosure issues were raised by the defence. Failures included the poor endorsement of the schedules, marking items as disclosable that were in fact evidence and the absence of MG6E (the disclosure officer's report) that was not chased by the borough. There was one failure to serve material.
- Initial disclosure was timely in 18 out of 25 (72%) relevant cases, in that it was served in time for the defence to respond before the trial date if appropriate, even if this was in breach of the standard local court direction to serve within 14 days of first hearing. Again there were two cases where the audit trail was deficient. Inspectors noted during court observations and from feedback that it was not uncommon for initial disclosure to be served on the day of trial, although the schedule of unused material was supplied to the CPS some time earlier.
- This appears to be a common problem due to the poor progression of cases, with backlogs in the optimum business model team in magistrates' court cases and late preparation and service of papers in Crown Court cases.
- Continuing disclosure was a relevant issue in 11 cases; full compliance was apparent in eight. There were no failures to serve material, but failures to pursue the police effectively after receipt of the defence statement in time to comply with deadlines, and again, the issue of the absence of further MG6Es.
- Continuing disclosure was timely in only three of the 11 cases, in seven cases it was not timely and in one the audit trail was so deficient it was not possible to discern when disclosure was served. In cases for trial in the magistrates' court where continuing disclosure was relevant, again it was not uncommon that this was served on the trial date. This causes delay at the start of trials impacting on treatment of victims and witnesses and wasted court time, and the likelihood of a trial being adjourned part-heard requiring other trials to be vacated from future lists to ensure a case is concluded in a reasonable time.
- There were no cases where the disclosure record sheet was completed properly, many were blank and in seven cases there was no record sheet at all on file. The reasoning behind any decision is rarely noted and the audit trail of disclosure on individual cases is severely lacking.
- Sensitive material was handled correctly in two cases; however, there were three cases where it was not. In two cases the MG6D sensitive material schedule was absent, and in two further cases inappropriate material was on the schedule and only transferred to the correct schedule in one. There were five additional cases where the MG6D was not signed to show that it had been viewed and considered. There are facilities within the borough to ensure sensitive material is stored securely.
- There were no public interest immunity issues in the file sample. These are dealt with at district level with support from the region in the temporary absence of a district crown prosecutor (DCP), and all lawyers are aware of the need to refer them, through the borough crown prosecutor (BCP), as appropriate.
- Third party disclosure issues were correctly handled in all three relevant cases.

- In the past year two of the lawyers have undertaken advanced disclosure training with the police at the Metropolitan Police training facilities at Hendon and one of the acting BCPs has provided disclosure training within the borough to the police case progression unit.
- Following the introduction of the area minimum standards guidance for unused material there was a review of borough processes. It was hoped that action to bring borough processes into line would be completed by November 2009 but the absence of a consistent lead at BCP level has hampered completion and also meant that not all compliance checks have been completed. However, casework quality assurance has been undertaken by all acting BCPs and the substantive DCP undertook the half yearly internal audit in June 2009; this identified many of the issues which were found during our file examination.

Aspect for improvement

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.
-

7 CUSTODY TIME LIMITS

Assessment

2 – Fair**7A The borough ensures that all cases with a custody time limit are dealt with appropriately and time limits adhered to**

- In September 2008, CPS London issued a notice to all staff to ensure that the national custody time limits (CTL) guidance was adopted in all boroughs. This was done in the light of the high number of CTL failures in London and HMCPSI's impending assessments of London boroughs. The London Management Team then instructed all boroughs to adopt the London CTL system. This is compliant, for the most part, with the national standard. However, managers need to be aware of the disparity and ensure that national requirements are also met.
- The borough supplements the area system, for example, in allocating all custody cases to lawyers, so that there is a level of personal responsibility and accountability. However, the current backlog of magistrates' courts cases has meant that many custody cases are remaining in the optimum business model team rather than being allocated to individual lawyers.
- In general terms, the borough operates the system well. In the file sample the expiry dates in all 11 relevant cases were calculated correctly, ten of the 11 were recorded correctly for each defendant and charge, and the three extension applications were all made in good time. There was evidence that expiry dates were double-checked and the files endorsed to provide a measure of assurance. Six live files were also examined by inspectors; again all expiry dates were calculated correctly however, not all review dates were marked in the manual diaries and when the defendant was bailed it was not always written next to each recorded review date. In the file sample and the live files when a defendant was bailed the bail date was correctly recorded although the number of days served was not calculated and marked on the file. Apart from the issues highlighted in the file sample, the diaries used to record current CTL cases were for the most part up to date and accurate. The two managers responsible for the system clearly understand it and comply with it diligently.
- The borough had no failures between 2006 and mid 2009 however, there have been two failures since July. In both cases the CTL was not extended on application because the prosecution had failed to act with due diligence, in one to serve the bad character application and supporting documentation in time, and in the latter case to serve the identification evidence in time. In the latter the defendant remained in custody on other matters. Both cases were reported to the area for onward transmission to CPS headquarters. Poor case progression remains a risk to further CTL failures based on a failure to act with due diligence.
- Following the CTL failures the borough conducted a review; this resulted in the development of a process to reinforce procedures for monitoring case progression, to prompt escalation where necessary and provide an audit trail. This process has been shared with the regional management team and the other boroughs in the district, and is currently under review by the area CTL champion. A peer review was undertaken in February 2009 and an action plan was drawn up to address the deficiencies. A further review was conducted in July 2009 and showed there had been some improvements in complying with standards and further recommendations were made for action that required improvement. There is also a district CTL champion to provide any legal updates and to provide any guidance and mentoring.

- There is no local protocol with the West London Magistrates' Court to ensure that expiry dates are agreed and mentioned at each hearing where a defendant is remanded in custody. There was only one magistrates' court file in the sample that was endorsed stating the agreed dates with the court at one hearing. Ready reckoners are available at court but are not used to calculate expiry dates; this is undertaken by the case progression manager when the files return from court. Our observations confirmed that this was the case. In the Crown Court the CTL is included in the instructions and CTL expiry dates are agreed in court.

Aspect for improvement

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.
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8 THE SERVICE TO VICTIMS AND WITNESSES

Assessment

0 – Poor**8A The borough ensures timely and effective consideration and progression of victim and witness needs, and the service to victims and witnesses is improving**

- The borough has adopted the CPS London area-wide instructions for complying with the direct communications with victims initiative (DCV) and has incorporated these into staff objectives.
- The borough met its 2008-09 proxy target of 204 DCV letters, sending out 254 (124.5%) over the year. However, further improvement is needed since other inspection work has found that the DCV proxy targets understate the requirement for DCV letters in order to comply with the scheme. This is born out by the fact that only just over 50% of relevant cases in our sample had DCV letters sent. As a result, the CPS suspended the proxy target in October 2009 pending a re-evaluation of how it should be assessed.
- We examined nine cases for timeliness and quality where the DCV scheme applied. Borough performance in the five cases where letters were sent was considered to be 'good' in two, 'fair' in two and 'poor' in one. In a further four cases there was no indication that the need for a letter had been identified. The quality of letters was variable and in most cases only adequate; many lacked clarity, there was an overuse of standard paragraphs, and some spelling errors. Most letters ought to have been given more thought. Victims were offered meetings in appropriate cases, but no victims had taken up the invitation. The borough crown prosecutor (BCP) recognised that not all cases where DCV was applicable were identified, which is confirmed by the file sample above, and has now taken steps to ensure that these cases are captured at the review stage by the optimum business model team and passed to the BCP to prepare the letter. Letters to victims ought to be the responsibility of the reviewing lawyer, but the BCP has recently taken the decision to undertake this work himself due to resource issues and to ensure that performance improves together with some consistency in the quality of the letters.
- The table below shows performance against target in respect of DCV compliance.

	Performance 2008-09		Performance second quarter 2009-10	
	Borough	CPS London	Borough	CPS London
DCV compliance (volume target 100%)	124.5%	91.1%	24.0%	90.4%
Vulnerable and intimidated victims (timeliness target 95%)	100.0%	65.9%	100.0%	78.9%
Other victims (timeliness target 95%)	94.1%	83.1%	100.0%	87.0%

- Needs assessments are not routinely carried out by the officer in the case and there was limited evidence that prosecutors are proactive in ensuring that the needs of victims and witnesses are considered at the charging stage. Victim personal impact statements (VPS) that record the impact of the crime on the victim were relevant in 16 of the cases examined. In 13 of these a VPS had not been obtained, even though in most cases the lawyer had indicated that a VPS should be sought.
- In the majority of cases victim and witnesses needs were not considered until the review; this has led to applications for special measures being made at a late stage. The witness care unit (WCU) is frequently chasing information from the CPS and courts about whether applications have been

granted. The WCU is told to email the CPS with their requests for information, but the email is attached to the paper file and not dealt with until the case is reviewed. On a number of occasions the WCU has not been able to confirm to victims and witnesses that applications have been successful. There are instances where applications are made on the day of hearing, which have been refused, unfairly penalising the victim or witness.

- There is a good relationship between the borough and the Witness Service at court but there are some inconsistencies in how victims and witnesses are dealt with whilst at court. In most cases lawyers try to speak to victims and witnesses, and they are particularly good at keeping victims in matters such as specialist domestic violence cases informed of progress on their case. Unfortunately, delays at the start of trials mean victims and witnesses are often kept at court longer than necessary.
- Good use is made of the CPS computerised case management system (CMS) to record witness care actions, although a check of CMS indicates that there are a number of outstanding tasks in relation to the notification of witnesses for trial, for example warning, de-warning and re-warning of witnesses. Despite this, the borough receives good witness attendance, 91.5% against a target of 90% for 2008-09.
- The WCU is managed by the police and based at Hammersmith and Fulham police station, which is a number of miles away from the current CPS office. The unit is open from 7am to 7pm to ensure that it is able to provide an extended service to victims and witnesses. There should be a CPS witness care officer in the unit but the position has now been vacant for over three years. The WCU staff try to maintain daily contact with the CPS by telephone, but calls often go unanswered and when they are answered, the WCU is told to communicate their requests by email. Communication is ineffective and it is hoped by both agencies that this will be resolved when the borough moves to Hammersmith and Fulham police station in January 2010.
- There is little performance data produced on progress against the No Witness No Justice (NWNJ) measures; the only data available detailing witness attendance is provided by the CPS to the WCU. There was no knowledge across the agencies about the performance of Hammersmith and Fulham against NWNJ primary or secondary measures, and limited understanding on whether witness issues contributed to ineffective or cracked trials in the borough.
- There has been limited discussion on victim and witness matters or performance, a key performance indicator for the CPS, at the prosecution team performance management (PTPM) meeting. The WCU manager attends the meetings, although they have not been held recently; the police and CPS confirm that this meeting will be re-established now there is stability at BCP level. There has been no recent discussion of victims and witness matters at the borough criminal justice group (BCJG), there is no sub-group for such matters, nor is there any CPS or police champion. There is a CPS case progression manager for magistrates' courts casework, although there have been no case progression meetings for some time where victim and witness matters could have been discussed and there is no mechanism in Crown Court casework. Discussion on victim and witnesses service delivery is ad hoc and there is no indication that victim and witnesses are part of the joint strategy in terms of planning or performance.

Aspect for improvement

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.

9 MANAGING PERFORMANCE TO IMPROVE

Assessment

0 – Poor**9A There is an effective and proportionate approach to managing performance locally at individual, unit and borough level**

- Casework quality assurance (CQA) has only been undertaken for one month during the last year, although this is hardly surprising as the borough has had seven borough crown prosecutors (BCPs) during this time. It was completed by the most recent temporary BCP. Compliance with the scheme in terms of the number of checks carried out was 44.4% in 2008-09 but none were carried out in the last two quarters of 2009-10. Checks of the completed forms showed that assessments were reasonably robust and issues had been fed back to lawyers individually. The absence of assurance checks has prevented the identification of any trends or lessons to be learned which could have been shared at team meetings.
- The BCP undertakes some limited monitoring and dip sampling of some unsuccessful cases to determine what happened in them; however, the acting BCP accepts that this does not constitute a full adverse case report which would benefit the borough and the police. The substantive BCP returns to the post in December 2009 and has indicated that more in-depth monitoring will be one of the actions to be re-instated. Full adverse case reports need to be undertaken so that lessons can be shared with individual lawyers, the team and, where appropriate, other agencies.
- Performance monitoring of in-house advocates is undertaken on an ad hoc basis with a reliance of specific issues of performance being raised by external sources. The borough mainly relies of feedback from the courts on lawyer performance, although in the main this has tended to be only feedback on good performance. Some monitoring of the associate prosecutor has been undertaken. There is no evidence of any recent feedback to advocates on their performance and no monitoring forms have been completed.
- There are few key processes and systems in place to provide assurance that the borough is operating effectively. Due to various staffing issues concentration tends to be on day-to-day tasks and there is no-one in the borough who can use the computerised management information system (MIS). The borough has a number of outstanding tasks and cases are finalised incorrectly on the case management system (CMS). During 2008-09 and for the rolling 12 months to September 2009 over 23% of cases were 'finalised administratively'⁷; this figure should be under 5%. Cases finalised incorrectly can impact on the accuracy of performance data and budget calculations. Work is required by the borough to determine where the system failures are originating and appropriate training needs to be provided. Monthly checks are undertaken by the disclosure champion and reviews have been undertaken on the custody time limits systems with results and actions shared with appropriate staff.
- The BCP has access to performance data on a monthly basis at borough, district and London area level; the information available corresponds with CPS performance indicators. Very little of this information is shared with staff, there is little discussion on outcomes at team meetings and generally staff are unaware of the specifics of borough performance. There is no comparison made with national data and no trending is undertaken by the borough.

⁷ The administrative finalisation outcome code was created for those cases where there might have been potential for an offence to be brought to justice, but this had been lost due to the fact the investigation was not completed. The use of the code should be practically zero and never above 5%.

- The performance development review (PDR) system is used to set objectives in line with the London area business plan. There has been a recent review of individual objectives with all staff and at the time of this assessment only three required finalising. The system is effective and has identified some training requirements.

9B The borough is committed to managing performance jointly with criminal justice system partners

- Working relationships with partner agencies are good; however, there is little joint performance management. There is a joint integrated prosecution team (IPT) meeting with the police although discussion centres primarily on the CPS move into police premises. Some limited analysis takes place at the borough criminal justice board meeting but there needs to be more interchange on joint performance management at the operational level. The borough recognises that the prosecution team performance meeting (PTPM) meeting is the forum for most performance discussion, although there has been a hiatus in these meetings recently. When they did take place discussion on performance was superficial with little consideration of victim and witness issues and there were some doubts about the accuracy of the data provided to the meeting. When the PTPM meetings are re-established some work is required to ensure that data is accurate, that it is fully understood by all parties involved and that discussion encompasses all performance topics.
- A quarterly ineffective trials meeting is held by the West London Magistrates' Court but there has been little input from the borough, due in part to the absence of a permanent BCP. The current acting BCP was not invited to the last meeting. When the substantive BCP returns to the borough this matter needs to be followed up. There is limited borough involvement with the Crown Court and little feedback from discussion that does take place between the court and the district or the advocacy unit based at the court.

Aspects for improvement

- 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.
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10 MANAGING RESOURCES

Assessment

Not scored**10A The borough deploys its resources efficiently and operates within budget**

- Financial management of the non-ring fenced administrative costs (NRFAC) budget, comprising mainly staffing and general costs, and the programme costs budget, which is largely prosecution costs, rests at regional and district level. There is limited responsibility for financial management of these budgets within the borough. For accounting purposes, spend is forecast and expenditure allocated to cost centres at borough level, although in reality these are monitored at the district level and overseen and authorised by the region. Financial delegation within the region is limited, spend is authorised at that level and strict controls are exercised.
- The borough under-spent both its NRFAC and prosecutions costs allocations in 2008-09, with an outturn of 83.7% and 25.7% respectively. Current spend is at 74.8% and 64.6% respectively for the first two quarters of 2009-10.
- Responsibility for movement of staff across the boroughs lies at the district level. The acting district crown prosecutor (DCP) and district business manager (DBM) have moved a number of staff in line with the organisational change programme currently under way within the district, in order to introduce integrated prosecution teams (IPT) to the boroughs. Hammersmith and Fulham is one of the last boroughs to move to an IPT site, whereby staff are co-located in a police station within the borough. This followed a preference exercise with staff, which is the second such exercise in the past year.
- Current staffing was predicted on the activity based costing model. There have been no further calculations to ascertain whether staffing numbers are sufficient to provide a good level of service with the introduction of a number of initiatives such as the Director's Guidance on the Streamlined Process; the move to become an integrated prosecution team; the introduction of the optimum business model; the community prosecutor; and others. Current staffing in November 2009 equates to 17 full time posts, although the BCP has been informed that this will be reduced by one or two lawyers and a similar number of administrative staff. At the time of the assessment the temporary BCP was coming to the end of a period of acting up and the borough has seen seven incumbents during the last year. Lawyer numbers in the borough have reduced since April 2009 from 7.9 to 4.4, although overall caseload rose in 2008-09 and again in 2009-10. There is no community prosecutor or CPS witness care officer in the borough and current staffing is extremely unlikely to allow for these.
- Staffing in the borough is inadequate to meet the needs of the business. Whilst the centre may assume that the borough is 'managing' with current staffing, this is now impacting on case preparation, timeliness, and the absence of quality assurance, and errors are being made. The picture is further distorted by the fact that many staff are already carrying a large number of hours on their flexible working arrangements and some are working during the weekends without claiming the additional hours.
- There is only limited discussion of and little control on resources at borough and district levels. All boroughs in the Isleworth and Kingston district have to submit a weekly commitments paper to the DBM to indicate which advocates are rostered for court coverage and this has to be agreed by the DBM who will then approach the London centre to authorise agent usage for any outstanding advocacy. In theory this model ought to work but it does not cater for any unforeseen events such as emergency leave and sickness, which have to be managed locally. In response to poor performance the BCP has allocated one or two lawyers permanently to the OBM team to ensure that magistrates' court work is reviewed and backlogs are addressed; this is having a detrimental impact on Crown Court preparation. Any further staff reductions are likely to cause further adverse impact to performance.

- The advocacy strategy is set at district level within two dedicated local advocacy units (LAU); these units undertake all advocacy at Isleworth and Kingston Crown Court centres although the majority of the Crown Court preparation work is undertaken by the lawyers in the boroughs. None of the crown advocates (CAs) in the Kingston LAU are allocated to Hammersmith and Fulham's budget and the crown advocates in the borough are discouraged from attending court and no longer do so.
- In respect of magistrates' court sessions, 92.5% of court sessions were covered in house during 2008-09; this has reduced to 83.3% for the 12 months to September 2009. There are currently on average 4.7 sessions per day that need to be covered in the borough. Full-time lawyers are expected to cover four sessions of court per week, one day on the OBM pod and the remaining time on Crown Court preparation and charging work. BCPs have been told by the centre that 20% of lawyer time in the borough is supposed to be allocated to Crown Court work. Other work such as co-ordinator and specialist lead responsibilities, liaison, keeping up to date on policy and law, general administration and training are not included in the expectations. Not surprisingly agent usage has increased from 7.5% in 2008-09 to 16.7% in 2009-10 (to quarter two), due to the reduction of in-house coverage.
- Expectations for associate prosecutors (AP) are based on six sessions per week. There is only one full-time AP in the borough who undertook 27.8% (339) of all court sessions in 2008-09; this has reduced to 18.9% in the first two quarters of 2009-10 although the AP is fully utilised in court or preparation for court and covers work from the adjoining boroughs.
- Sickness in the borough was an average of 5.1 days per person during 2008-09; this is significantly better than London and national performance of 9.3 days and 8.7 days respectively. Unfortunately this has risen in the first two quarters of 2009-10 to 9.0 days. The main reason for the increase is due to staff movement as part of the implementation of the integrated prosecution teams across the boroughs. There are procedures in place to manage sickness absence and appropriate triggers are generated and raised by the DBM to the BCP. No current trending takes place to identify common themes about why sickness is occurring. There are some long-term sickness issues that are being addressed but these need to be resolved as they are impacting on the delivery of core business.
- There are some staff on flexible working patterns, this seems to work well in the borough and none are causing any detrimental impact to delivery of core business. All requests for flexible working are considered in line with business needs.

Aspects for improvement

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.
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11 MANAGEMENT AND PARTNERSHIP WORKING

Assessment

2 – Fair**11A Borough management has a clear understanding of what needs to be delivered to meet London, national and criminal justice system priorities, underpinned by effective planning and management**

- There has been considerable instability at the management level in Hammersmith and Fulham, with seven borough crown prosecutors (BCP) in the last year. Such a degree of change at management level is completely unacceptable in any public service, and even more so in one which relies heavily on close co-operation with partner agencies, and has had a detrimental effect on the ability of the borough to perform properly. The situation did not arise, however, because of any action by the borough itself. The substantive BCP was acting up as district crown prosecutor (DCP) and is due to return to his borough in December 2009. The current temporary BCP has been in the post almost three months.
- The borough has no business plan or risk log as strategic direction is set and managed by CPS London centrally. Team objectives are also provided by the centre and are fed into the personal development review plans at borough level.
- The borough has been subject to a number of national and London initiatives, such as the Optimum Business Model (OBM), the integrated prosecution team (IPT), the Director's Guidance on the Streamlined Process (DGSP) and CPS London Direct (CPSLD). The OBM model has still not been signed off in the borough and there is pressure on the BCP to provide sufficient lawyers to the team at the expense of other priority work. A number of process models have also been introduced into the borough in a bid to ensure that the borough works corporately with CPS London as a whole; however, this has left the BCP with limited control on the running of the borough and little decision-making ability. There is evidence that although the current BCP is temporary and has only been acting up for a short time, he is respected both internally and externally. The DCP is similarly respected in both his role as acting DCP and his substantive role of BCP.
- The management team comprises the BCP, a substantive paralegal manager and an acting business manager, who has been taking on the additional role of case progression manager to the OBM. All managers are aware of the need for a corporate approach, which was evident from our site visit. There are a number of professional and committed staff in the borough and staff morale is generally high, despite the numerous difficulties faced by the borough. All staff confirmed that managers are approachable and inclusive. Most staff are concerned about how the staffing moves for IPT are being handled by CPS London. CPS London needs to be aware that this issue together with the rise in sickness is likely to lead to a decline in staff morale.
- There are some issues in the borough which need to be resolved urgently such as the amount of time managers need to spend dealing with such matters as sickness and performance issues, leaving little time for the day to day matters to be dealt with. We were also informed from several sources that it is not uncommon for phones to remain unanswered and for enquiries, particularly from external agencies, to be dealt with several weeks later, if at all.
- Team meetings should take place on a monthly basis although due to the instability at management level these have been ad hoc. When meetings actually take place there is little discussion on performance, despite this staff knew performance was not good. There was little evidence of discussion of the current issues impacting on borough performance such as the problems with case progression, incorrect finalisations and late reviews. Key matters arising out of the current initiatives such as the OBM and IPT and the limited borough reviews undertaken, for example on custody time limits, featured as part of the meetings and emails circulated by the BCP. There was some feedback to

individuals on specific matters in the form of emails; however, the BCP needs to ensure that where issues have been identified, that lessons are being learned across the team and that the same errors are not replicated by the same individuals.

- Dialogue with district managers takes place on an ad hoc basis, but most matters that need resolution have to be raised to the area level for a decision. The borough has a quarterly review with regional managers; this is primarily a discussion about borough performance data. There is limited discussion on resources other than the area informing the borough that resources are limited. Discussion tends to be one way, with the area indicating to the borough how business will be conducted.
- Risk logs are managed by the district. Any key risks identified by the borough are highlighted to the district business manager who then determines whether they should be included in the district risk log.
- The borough has no local training plan and some staff are concerned about taking time out of the working day to apply for and attend training. Managers indicate that no member of staff has ever been asked to cancel a course. The DCP and paralegal manager have attended management courses in the past year although other staff felt that there was little choice of courses in the London training package.

11B The borough is committed to engaging with partners and jointly improving levels of service

- Relationships with the police are good, although partners are concerned that despite both the BCP and DCP being very approachable, their effectiveness is being hampered by regional management. The police and courts both state that the current and substantive BCPs are always willing to listen to their concerns and will work with them to address any problems within the scope of their responsibility.
- Joint initiatives for the IPT and the specialist domestic violence court (SDVC) have been implemented; however, partners expressed concern about the number of national and area initiatives being imposed on the borough, and many being presented as 'fait accompli' albeit some of these are agreed London Criminal Justice Board initiatives. The BCP attends the borough criminal justice group (BCJG) meeting; the meeting is attended by all the criminal justice agencies and other non-statutory partners. Ongoing initiatives and performance are common items discussed; however, there is little discussion on No Witness No Justice measures and improvements, and this has become devalued as a CPS priority. Governance of the witness care unit falls primarily under the remit of the police and the service to victims and witnesses is not seen, as it should be, as a key CPS performance indicator.
- There is an SDVC management meeting, which is chaired by the manager of the Standing Together project, and this is attended by the borough lead for domestic violence. Performance is discussed and analysed, and actions taken to drive improvements, although performance in terms of successful outcomes could be far better. The introduction of the SDVC was one initiative implemented through the group; all agencies speak well of this group and feel the initiative has been a great success for the area.
- The BCP attends the meeting with the Resident Judge, which is rotated with the DCP; any matters relating to Crown Court issues are passed to the DCP for these meetings. These exchanges are generally seen as being effective, although most discussion seems more relevant to the local advocacy unit manager than the borough. Meetings with the magistrates' court take place on a quarterly basis, but the acting BCP was not invited to the most recent gathering.
- At the operational level the BCP attends the prosecution team performance management (PTPM) meeting; however, this meeting has not been held recently and seems to have been superseded by the IPT meeting with the police. When held, the PTPM meeting is attended by the police Chief Inspector (Head of Criminal Justice Unit) and the witness care manager. The substantive BCP has indicated that on his return this meeting will resume. When it does reform the borough needs to

ensure that accuracy of the data used for the meeting; we have concerns that the data may be inaccurate due to some incorrect finalisations. The BCP should consider including the results of adverse cases and examples of where police performance might have caused issues to progression of cases in the meetings; the police have indicated that they would welcome any constructive feedback. There should also be more discussion on victim and witness issues at this operational level to address some of the concerns. Addressing these issues will ensure that meaningful discussion can take place.

- There is little community engagement activity taking place at present although some work has been undertaken by the BCP. The borough does not have a community prosecutor; a member of staff attended the course, but then declined the position afterwards. This has in the end been of benefit, to the borough, in the light of current staffing issues and the need to concentrate on other priorities.

11C Managers act as role models for the ethics, values and aims of the London-wide service and the CPS, and demonstrate a commitment to equality and diversity polices

- Staff performance was generally recognised either verbally or through emails to individuals. Almost all staff confirmed they had been thanked for good work; however, team meetings, when they occurred had not been used to share and celebrate good performance, nor any lessons learned. Bonus schemes had not been used in the borough.
- The majority of staff stated that they felt respected and there was no evidence to the contrary amongst the managers on the borough. There was evidence of good morale with staff working together over and above additional hours as necessary, and there was no evidence of any formal complaints from staff or other agencies.
- The make up of the staff reflects the community served; at the district level as part of the moves to IPT sites, part of the work has included trying where possible to ensure a diversity of staff in ethnicity, skills and a spread of those working flexible hours. Recruitment and selection is undertaken by CPS London centrally.

Aspects for improvement

The borough needs to ensure that team meetings are held regularly and include good performance (which should be celebrated) and lessons learned.

ANNEXES

A PERFORMANCE DATA

Aspect 1: Pre-charge decision-making

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Pre-charge decision cases	80.8%	76.2%	77.0%	80.1%	74.9%	73.4%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	16.0%	13.7%	14.7%	18.9%
Guilty plea rate	74.4%	69.8%	69.7%	73.6%	67.5%	65.5%
Attrition rate	19.2%	22.1%	23.1%	20.0%	23.8%	26.5%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	13.2%	11.7%	15.0%	16.2%
Guilty plea rate	72.9%	60.8%	67.4%	73.1%	61.0%	61.6%
Attrition rate	19.4%	27.3%	22.8%	19.5%	27.6%	26.7%

Aspect 2: Ensuring successful outcomes in the magistrates' court

Successful outcomes (convictions) as a percentage of completed magistrates' court cases

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	87.3%	86.0%	84.7%	87.1%	86.1%	82.8%

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	45.7%
Cracked	38.0%	34.8%	36.1%
Ineffective	18.6%	17.9%	18.2%
Vacated	21.5%	16.3%	10.9%

Aspect 3: Ensuring successful outcomes in the Crown Court*Successful outcomes (convictions) as a percentage of completed Crown Court cases*

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	80.8%	73.1%	78.7%	80.7%	72.7%	74.2%

Trial rates

	Performance 2008-09		
	National	CPS London	All Kingston Crown Court cases
Effective	47.1%	54.7%	51.7%
Cracked	40.8%	30.0%	32.7%
Ineffective	12.1%	15.2%	15.7%

Aspect 5: Serious violent and sexual offences, and hate crimes*Violence against women: successful outcomes (convictions) as a percentage of completed cases*

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	71.9%	62.0%	62.8%	71.7%	60.5%	54.6%

Hate crime: successful outcomes (convictions) as a percentage of completed cases

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	82.0%	77.2%	76.4%	81.7%	75.4%	79.4%

Aspect 10: Managing resources*Non-ring fenced administration costs budget outturn performance (end of year ranges)*

	CPS London outturn 2008-09	Borough outturn 2008-09
	99.1%	83.7%

Staff deployment

	National performance 2008-09	CPS London target 2008-09	CPS London performance 2008-09	Borough performance 2008-09
In-house deployment in magistrates' court	85.3%	90.0%	87.9%	92.5%
Associate prosecutor deployment (as % of magistrates' court sessions)	24.5%	23.0%	20.5%	27.8%
Crown advocates. Counsel fee savings against target	110.0%	£4,200,000	99.3%	73.8% (district performance)
Sickness absence (per employee per year)	8.7 days	N/A	9.3 days	5.1 days

B INDIVIDUALS AND REPRESENTATIVES OF LOCAL CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED US

Police

Chief Inspector M Tate, Head of Criminal Justice Unit, Hammersmith Police Station
Ms E Garner, Witness Care Unit Manager, Hammersmith Police Station

HM Courts Service

Crown Court

His Honour Judge Price QC
Mr S O'Brien, Court Manager, Kingston Crown Court

Magistrates' court

District Judge Clark
District Judge Sweet
District Judge Philips
Dr H Freeman JP, Chair of West London LJA Bench
Mr J Vantghem, Clerk to the Justices, North and West London
Mr A Nicholson, Deputy Justices' Clerk, West London Magistrates' Court
Mr C Cooper, Legal Team Manager, West London Magistrates' Court

Community Groups

Standing Together

C LONDON BOROUGH SCORING MODEL

London borough assessments will be scored using the following model. Points will be allocated to each aspect on the basis of:

Aspect rating	Points to be allocated
Excellent	4
Good	3
Fair	2
Poor	0

They will then be added and assessed against the following ranges:

Excellent	32 points and above
Good	24 to 31 points
Fair	16 to 23 points
Poor	15 points and below

Additional limiters

There will also be two overriding limiters applied to the model ensuring that quality and outcomes are weighted within the model.

- Any borough with three or more Poor aspect ratings will automatically be reduced to the next range e.g. a borough scoring 22 points, but with three Poor aspect scores, will automatically be reduced to Poor.
- A borough will need to achieve at least two Good ratings in the first four aspects⁸ of the framework to be scored as Good overall e.g. one scoring 25 points, but with only one Good aspect in the first four, will be reduced to Fair.

⁸ Pre-charge advice and decisions; Decision-making, preparation and progression in magistrates' court cases; Decision-making, preparation and progression in Crown Court cases; and The prosecution of cases at court.

If you ask us, we can provide a synopsis or complete version of this booklet in Braille, large print or in languages other than English.

For information or for more copies of this booklet, please contact our publications team on 020 7210 1197, or go to our website: www.hmcpai.gov.uk



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