



CPS HERTFORDSHIRE

THE INSPECTORATE'S REPORT ON
CPS HERTFORDSHIRE

EXECUTIVE SUMMARY

AUGUST 2007

*Promoting Improvement
in Criminal Justice*

*HMcp*si**
HM Crown Prosecution Service Inspectorate

Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) inspection of CPS Hertfordshire (the Area), carried out in February 2007.

There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on HMCPIS's overall performance assessment (OPA) and other key data.

The OPA of CPS Hertfordshire, undertaken in November 2005, assessed the Area as "Fair" and as a result of this it was determined that the inspection should be a tailored one. Inspectors therefore undertook a full assessment of only eight of the 13 inspection standards.

The OPA report identified a total of 31 aspects for improvement. In the course of this inspection, inspectors assessed the extent to which these have been addressed.

Overview

Hertfordshire is a medium sized CPS Area. The county comprises a mix of both urban and rural communities. The annual caseload of prosecutions in court has fallen from 21,795 in September 2004 to 18,900 in December 2006, whilst staffing numbers have increased significantly. The Area has utilised cost savings and extra funding to increase its lawyer complement and investment has been made in recruiting members of the Bar to be full-time in-house Higher Court Advocates (HCAs).

The quality of decision-making and case preparation is mixed, but generally better in the Crown Court than in the magistrates' courts, particularly in handling sensitive and hate crimes. A more robust approach is required at the pre-charge stage, which should be followed by more timely case preparation once a trial date has been set. Monitoring and quality assurance of casework needs to be firmly embedded to drive up standards and deliver consistently good levels of service across the Area.

Casework performance in both the Crown Court and magistrates' courts has been assessed on a file sample that is significantly older than one would usually expect, which is due to the significant delays in cases coming to trial. These delays are having a negative impact on the Area's performance, hampering witness care, and contributing to cases taking longer to conclude than in other CPS Areas. Further work is required to engage with criminal justice partners to address this issue constructively.

Hertfordshire was a 'pathfinder' site for the enhancement of the role of HCAs in 2004-05 and has continued to place a heavy emphasis on delivering a high standard of advocacy in the Crown Court.

Morale amongst staff was generally high and inspectors were impressed by their commitment. Care needs to be taken to assess and compare workloads and to balance resources between units.

Pre-charge advice and decisions

Since moving to the statutory charging scheme in November 2005 some progress has been made. The quality of decision-making in pre-charge cases is variable. The choice of charge is not always appropriate and decisions to charge are sometimes premature or, conversely, deferred unnecessarily. Issues are not always identified and addressed. The 'prosecution team' ethos is developing, but needs to be extended to sensitive and complex cases advised upon in the office. The Area is not yet realising the benefits of statutory charging and has met only two of the six national benefits realisation targets.

Casework in the magistrates' courts

The quality of decision-making in magistrates' courts' cases is inconsistent and needs to be more thorough. Summary trial reviews often merely endorse the pre-charge decision without addressing outstanding issues or obvious weaknesses. Case preparation is not always sound in spite of the long average period between the date of fixing the trial and the trial itself, which is contributing to the high levels of not guilty pleas. The overall conviction rate is 82.9%.

The significant trial backlogs are having a negative impact on performance and the Area is doing worse than the national average on effective and ineffective trials; the latter's rate is 24.7% compared to 19.6% nationally. The number of discharged committals remains high. The average time taken to deal with persistent young offenders from arrest to sentence was significantly outside the 71 day target at 102 days in the three month period to December 2006, but had improved to 73 days in the three months to February 2007.

Casework in the Crown Court

The quality of review and decision-making in the Crown Court is generally good, with sensitive or complex cases usually allocated to specialists. The rate of convictions has improved to 71.1%, but is not as good as the national average of 77.3%, largely because of the comparatively high proportion of cases that the CPS drops. Monitoring and analysis of unsuccessful cases takes place with criminal justice partners. Instructions to counsel are poor, with only limited case analysis and consideration of alternative pleas, and are sometimes delivered late.

There are effective systems for case progression but orders are often not complied with on time. There is not enough court capacity and delay in cases coming to trial is a feature in Hertfordshire, with cases being transferred out of county to address this. Both issues can cause problems for victims and witnesses. Nevertheless, the rate of effective trials is good, although the ineffective trial rate of 14.8% is slightly worse than the national average of 12.5%.

Presenting and progressing cases at court

The standard of advocates observed in the magistrates' courts was mostly good and in the Crown Court it was good. There is a strong emphasis on HCA deployment and the range of work covered by them is increasing. The skills of designated caseworkers (DCWs) and HCAs were recognised and valued by court users. There is more effective monitoring of advocates in the Crown Court than in the magistrates' courts.

Sensitive cases and hate crime

Most sensitive cases are handled and prioritised appropriately and the quality of decision-making is good. Outcomes are improving and, although the Area has not met the national target for successful outcomes in hate crimes, the local target has been met.

Champions and specialists have been appointed for all categories of sensitive cases, but they do not undertake any specific monitoring or analysis of sensitive or hate crimes on a case-by-case basis. Cases are correctly flagged on the case management system to assist in prioritising.

Disclosure of unused material

There has been a significant improvement in the way the Area handles unused material, particularly in the Crown Court Unit where it is filed separately and the disclosure record is now routinely used. Nevertheless, schedules do not always contain a detailed record of disclosure decisions. Further improvements to file management are required in the magistrates' courts' units. There is a Disclosure Champion and a comprehensive training programme has been established.

Custody time limits

This topic was not inspected fully and in the OPA was assessed as "Fair". There is a customised custody time limit system, which has been updated this year and all staff have been given refresher training. The lack of court availability in the Crown Court and long delays in fixing trial dates means there is a substantial risk that applications to extend custody time limits will not be granted in Hertfordshire, particularly in the Crown Court.

The service to victims and witnesses

At the time of the OPA this aspect was rated as "Good" and so was not inspected fully. Since then the No Witness No Justice initiative has been fully embedded. Communications to victims and witnesses are timely and performance on Direct Communication with Victims has improved and is now well above the national average.

Delivering change

This topic was not inspected fully and at the time of the OPA was rated as "Fair". The Area has a clear sense of what it wants to achieve and has linked CPS targets to local objectives in its business planning. The OPA aspect for improvement on new staff induction has been implemented.

Managing resources

Budgets are centrally managed by the Secretariat, with limited devolution of responsibility to units on agent usage. In 2006-07, the Area came slightly under budget for non-ring fenced administrative costs with an outturn of 99.73%. Prosecution costs have reduced significantly in comparison with previous years, and Graduated Fee Scheme payments are prompt. Effective deployment of lawyers varies across the units. DCW and HCA usage continues to increase, however; high levels of ineffective trials have the potential to erode any savings made. The criminal justice agencies have had limited success in clearing backlogs of trials at the magistrates' and the Crown Court through arranging additional courts and the transfer of trials out of the area.

Managing performance to improve

The Area has improved its performance management systems since the OPA and produces clear comparative performance reports on each unit. Performance narrative is less consistent and trends are not easy to follow on the monthly presentations used. There is some evidence of the effective use of performance management and operational effectiveness reviews by staff and managers, such as in attaining improved performance against Area targets for Direct Communication with Victims. However, more remains to be done to improve case outcomes. Meetings take place with criminal justice partners at various levels, but the effectiveness of partnership with the courts is limited. Casework quality assessment volume targets are met, and there is some analysis and feedback of individual performance, albeit varying across units.

Leadership

This aspect was not inspected in full and was rated as "Good" in the OPA. The Area Management Team has a clear vision and members work well together; however the means for communicating the vision to staff is inconsistent.

Community confidence

This aspect was not inspected in full and in the OPA was rated as "Fair". The Area has a community engagement strategy but has had limited success in achieving its objectives. Nevertheless, public confidence in the ability of the criminal justice agencies to bring offenders to justice in Hertfordshire, at 43.6%, is higher than the national average.

Added value of the CPS locally

The Area needs to ensure that all its prosecutors add value to cases by fully identifying weaknesses, strengthening them where possible, considering alternative disposals and ancillary orders, and actively managing cases through the prosecution process. Although there were examples of very effective casework, particularly in relation to sensitive cases, currently prosecutors are not consistently adding value to the cases they handle.

HCA's are held in high regard and contribute to the smooth running of plea and case management hearing courts, however; further value could be added by more focussed case progression in the Crown Court. The use of HCA's to prosecute sensitive and complex cases, including trials, is noteworthy.

Equality and diversity issues

The 2005-06 Area Business Plan refers to equality and diversity being mainstreamed in other Area plans, although this was not evident from the documents seen as part of this inspection.

Hertfordshire produced a Workforce Representation Themed Review Response as part of the themed reviews under the CPS Area Performance Review System. This was rated "Red" which was of concern to the Area. A progress check against this plan will be conducted later in 2007-08 and into 2008-09, which should enable more recent progress to be identified and assessed.

Follow-up from previous report

Inspectors identified 31 aspects for improvement at the time of the OPA; one is no longer relevant, four have been fully achieved and there is substantial progress in another 11. There has been limited progress in 11, and no progress in the remaining four. There has, therefore, been progress in general terms against the OPA.

Recommendations and aspects for improvement

Inspectors make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority, and have made nine recommendations to help improve the Area's performance.

1 All prosecutors should:

- record decisions on MG3s fully, including analysis of potential issues and instructions to designated caseworkers;
- record action plans separately with target dates for completion; and

the Area Management Team should:

- develop the operation of the charging scheme in order to provide greater continuity of lawyer for second appointments prior to charge and thereafter through to finalisation

(paragraph 3.9).

2 Prosecutors should adopt a more positive and considered approach to summary trial review and set out the decision made and reasons behind it, with a comprehensive analysis of all relevant issues (paragraph 4.5).

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- 3 The Area should work in partnership with other agencies to identify and progress persistent young offender cases (paragraph 4.25).
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- 4 The Area Management Team should develop and implement an effective system for preparation of appeals and committals for sentence (paragraph 5.14).
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- 5 The Crown Court Unit Head ensures that:
- instructions to counsel provide an analysis of the case and guidance on acceptability of pleas; and
 - instructions are delivered to counsel in good time for the hearing (paragraph 5.29).
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- 6 The roles and duties of champions should be fully defined and form part of the individuals' forward job plans.
- Champions should monitor sensitive cases and hate crimes, to include analysis of unsuccessful outcomes (paragraph 7.12).
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- 7 Staff resource models need to be clear in identifying the basis on which deployment assumptions are made. The current form of presentation does not lend itself to scrutiny or internal challenge and is also prone to inaccuracies which are difficult to trace (paragraph 12.10).
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- 8 The Chief Crown Prosecutor, Area Business Manager and Unit Heads need to engage fully with HM Courts Service to address long standing issues in the magistrates' courts and Crown Court that affect the effective delivery of criminal justice in Hertfordshire (paragraph 13.14).
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- 9 In view of the high rate of unsuccessful outcomes, the Area Management Team should use casework quality assurance and other systematic management checks effectively to inform unit and individual performance (paragraph 13.18).
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We identified 19 aspects for improvement.

- 1 Unit Heads need to undertake regular monitoring of pre-charge decision cases, including those that result in no further action, and provide regular feedback to duty prosecutors (paragraph 3.9).
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- 2 Decisions in all complex and sensitive cases to be made by prosecutors of appropriate experience in consultation with the officer in the case, including face-to-face or telephone discussions (paragraph 3.21).
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- 3 All unit managers should participate fully in monthly Prosecution Team Performance Management meetings with police counterparts (paragraph 3.26).
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- 4 Detailed analysis of all unsuccessful outcomes to include discontinued cases, and feedback to staff (paragraph 4.10).
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- 5 Implementation of a joint action plan with the police to improve the timeliness and preparation of committal papers (paragraph 4.20).
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- 6 A consistent and joined up approach to case progression is required across the Area (paragraph 4.32).
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- 7 Compliance with court directions for trial (paragraph 4.32).
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- 8 The Crown Court Unit Head should analyse all adverse outcomes and provide feedback to prosecutors (paragraph 5.9).
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- 9 Timely compliance with Crown Court orders (paragraph 5.20).
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- 10 The role of the duty lawyer needs to be clearly defined (paragraph 5.29).
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- 11 The percentage of full file reviews on the case management system is below the national average (paragraph 5.35).
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- 12 Feedback and mentoring to advocates in the magistrates' courts does not take place (paragraph 6.16).
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- 13 Formal monitoring of counsel in the Crown Court does not take place (paragraph 6.16).
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- 14 Lack of instructions on acceptability of pleas in racially aggravated cases (paragraph 7.9).
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- 15 The handling of child abuse cases (paragraph 7.19).
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- 16 Inconsistent file management of unused material, non-completion of disclosure record sheets and schedules are not always fully endorsed in the Criminal Justice Units (paragraph 8.7).
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- 17 More detailed consideration of sensitive material schedules (paragraph 8.9).
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- 18 Better lawyer resource distribution to match caseloads, court and charging commitments and optimize effective deployment (paragraph 12.24).
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- 19 Wide variations in respect to the regularity and quality of unit meetings and performance feedback to staff (paragraph 13.9).
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Strengths

Inspectors also identified seven strengths.

- 1 The system for clearing undefined cases on the case management system (paragraph 3.21).
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- 2 The joint administrative teams in the co-located Criminal Justice Units are working well (paragraph 4.32).
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- 3 The case progression meetings with the Crown Court (paragraph 5.34).
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- 4 The use of Higher Court Advocates to prosecute sensitive and complex cases (paragraph 7.9).
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- 5 Prompt Graduated Fee Scheme payments and effective scheme operations (paragraph 12.10).
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- 6 Good levels of Higher Court Advocate savings, with the potential to yield surplus funding (paragraph 12.10).
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- 7 A performance management model showing comparative unit performance and national average benchmarks (paragraph 13.9).
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The full text of the report may be obtained from the Corporate Services Group at HM Crown Prosecution Service Inspectorate (telephone 020 7210 1197) and is also available on line at www.hmcpsi.gov.uk.

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