

Inspection of CPS Hertfordshire

follow-up Report

Introduction

1. This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) arising from the follow-up progress visit to CPS Hertfordshire on 24th and 25th October 2005.
2. The Inspectorate carried out a full inspection of CPS Hertfordshire in September and October 2004. The report of that inspection, published in March 2005, made five recommendations, which set out the steps necessary to address significant weaknesses relevant to important aspects of performance. In addition, the inspection identified four strengths and ten aspects for improvement (AFIs).
3. The purpose of this visit was to assess Area progress against recommendations contained in the report. Additionally, the Area was invited to share with the Inspectorate any evidence it had on progress made in addressing AFIs. Finally, we evaluated whether the strengths were still present since the inspection, ensuring there has been no slippage in performance whilst the Area concentrated on improving weaker areas. We comment in detail on the progress made against our recommendations and summarise the steps taken by the Area to AFIs. We also summarise the current position in relation to strengths.
4. The five recommendations, in respect of which we assessed progress were:
 - R1** The Area Management Team (AMT) should ensure that each unit complies with the joint operational instructions on handling unused material and, in particular, ensure that:
 - disclosure decisions and actions are properly recorded;
 - previous convictions for prosecution witnesses are obtained and considered for disclosure.
 - R2** The Unit Heads should ensure that Direct Communication with Victims (DCV) letters explaining the reason for the decision are sent in all cases within the scheme in a timely manner, and this should be extended to include discharged committals.
 - R3** The AMT should standardise and enhance its performance management regime.
 - R4** The Area should develop and implement a strategic framework to enable it to effectively engage with staff.
 - R5** The AMT should take action to improve effective engagement with Criminal Justice System partners at a strategic level.

Methodology

5. At the same time as this the follow-up inspection, we conducted a separate Overall Performance Assessment (OPA) of the Area. The OPA report will be published as part of the second tranche of 20 CPS Areas, this is likely to be in early 2006. (The first tranche of OPA reports of 22 CPS Areas were published in December 2005). The comprehensive information gathered during the OPA process has informed our views on the progress (or otherwise) that has been made since the last inspection.
6. We examined a number of documents containing management and performance information prior to and during our visit. These included the Area Business Plan (ABP); current performance data and minutes of meetings including those for the charging project, unit team meetings and AMT meetings. We were also provided with the Area Action Plan in response to the inspection report.
7. Meetings were carried out with the AMT, which included the Chief Crown Prosecutor (CCP), the Area Business Manager (ABM), the Heads of the Crown Court Unit (CCU) and the Criminal Justice Units (CJU), the Area Learning and Development Officer and other unit managers. Two staff focus groups were also held.
8. We examined 20 finalised case files in which there had been a trial – ten in the magistrates' courts and ten in the Crown Court. We also examined five custody time limit cases (CTL) dealt with in the magistrates' courts and five CTL cases dealt with in the Crown Court.

Overview

9. The Area produced a comprehensive Action Plan following the last inspection, to ensure that all of the recommendations and AFIs are addressed. The Action Plan was reviewed in September 2005.
10. Performance improvements have been achieved in the relatively short period since the inspection report was published, despite the constant requirement to implement change, although progress has been limited thus far with regard to addressing the recommendations about handling unused material and DCV.
11. The Area has been operating the shadow charging scheme at three sites, with the statutory scheme due for implementation in mid-November 2005. The Area has addressed some difficulties in maintaining coverage by recruiting and training new lawyers and establishing better contingency arrangements. It is implementing the Effective Trial Management Programme (ETMP) and No Witness No Justice (NWNJ). It was also one of two national pilots for the enhancement of the role of Higher Courts Advocates (HCAs).

12. There are clear expectations set for lawyer deployment and average agents use in 2004-05 was 31.1%, higher than the national average of 26.9%. Key contributing factors were a high level of secondments to CPS Direct and maternity leave cover. The Area has five designated caseworkers (DCWs) who covered 12.1% of all magistrates' courts sessions in 2004-05, considerably better than the national average of 8.3%. HCA usage increased significantly during 2004-05, from 57 sessions in the first quarter to 172 in the last and performance in the first quarter of 2005-06 was excellent with a total of 203 sessions.
13. The key performance results for the Local Criminal Justice Board (LCJB) show a good performance on all measures, and performance is generally improving.
14. The Area's target in relation to the overarching number of offences brought to justice for 2004-05 is a 21.9% increase on the baseline figure for 2001-02. As at March 2005 the Area had achieved a figure of 18,759 against a target of 16,595, 37.8% above baseline, with an upward trend.

PSA targets	Report	Current
Offences brought to justice	+33.7%	+37.8%
Crown Court ineffective trial rate	18.8%*	17.2%*
Magistrates' courts ineffective trial rate	26%*	24.2%*
Public confidence	48%	45%
Persistent young offenders	60 days	53 days

* For ineffective trials, lower is better

Progress against recommendations

Recommendation 1 - The AMT should ensure that each unit complies with the joint operational instructions on handling unused material and, in particular, ensure that:

- **disclosure decisions and actions are properly recorded;**
- **previous convictions for prosecution witnesses are obtained and considered for disclosure.**

15. **Limited progress.** Overall disclosure performance (as assessed through file examination during the inspection) was unsatisfactory and compliance with the disclosure regime was well below that seen nationally (50% compared to 70.3%). Some schedules were poorly endorsed and in some cases prosecutors had failed to apply their minds to sensitive unused material.

Little evidence of secondary disclosure was found in some Crown Court cases and records of disclosure actions taken were not always completed. There were also issues about the quality of file management and the securing of details of any previous convictions of prosecution witnesses from the police.

16. The Area has taken positive steps to improve its performance. Lawyers interviewed were aware of an increased managerial focus. The Area's Disclosure Champion has provided initial training on the disclosure provisions of the Criminal Justice Act 2003 to most prosecutors and will deliver the advanced training in the first quarter of 2006. The Area also ensured that all prosecutors received a copy of important national guidance appearing in CPS News. The CPS has also provided training for police crime investigators, disclosure officers and file preparers.
17. File management has also improved with better segregation of disclosure documents, in envelopes in magistrates' courts files and in a yellow folder in Crown Court files. Further guidance has been issued to staff about clearly recording disclosure actions on disclosure record sheets and the police now ensure that any previous convictions of prosecution witnesses are submitted.
18. Unit managers assess the quality of the handling of unused material as an aspect of the Casework Quality Assurance (CQA) scheme and provide individual and collective feedback. This monitoring has revealed the need to improve the proper and accurate recording of disclosure actions. However, there are other unsatisfactory aspects of disclosure performance that need to be recognised and addressed and the Area will need to ensure that its monitoring systems are sufficiently robust.
19. File examination carried out on-site at the time of our follow-up visit (ten magistrates' courts trials and ten Crown Court trials) suggests that the progress since the last inspection needs to be maintained and there remains room for improvement, in terms of ensuring that unused material schedules are properly endorsed and that a satisfactory audit trail of disclosure actions is compiled.
20. Inspectors observed good performance in some cases, with properly endorsed schedules and a full chronology of actions taken recorded clearly on the disclosure record sheets. However, there were also several cases in which schedules had not been endorsed correctly, for example, because they were only partially completed, and where the disclosure record sheet had not been endorsed at all.
21. CQA has been used to monitor performance but there has not, as yet, been a systematic examination of the Area's handling of disclosure. It is planned that the Crown Court Unit Head will shortly examine a cross section of files to assess the impact of recent training. This exercise, together with more focused CQA monitoring, should be used to ensure that the Area's performance continues to improve to match national levels.

Recommendation 2 - The Unit Heads should ensure that DCV letters explaining the reason for the decision are sent in all cases within the scheme in a timely manner, and this should be extended to include discharged committals.

22. **Limited progress.** The Area has consistently performed below the national target of sending 70% of DCV letters within five working days of the decision. File examination at the time of the inspection also revealed that DCV letters are not always sent in circumstances where they should. The Area was relying more upon post court sifts for identification of qualifying cases, which should have been the responsibility of the lawyers. The Area was also not informing victims when committals were discharged and advising them about what would happen.
23. In response to the recommendation, it was decided that lawyers should draft DCV letters at the same time as making the decision to discontinue or alter the charge and additional training was provided. The Area performance officer was tasked with compiling a list from the Management Information System (MIS) of all cases discontinued in the preceding month, so that it could be checked whether DCV cases were being properly identified and letters sent. All DCV letters should be prepared and recorded on the case management system (CMS).
24. Despite these measures, the Area continues to have difficulty complying with DCV. Letters are not sent in all cases in which it would be appropriate and performance in relation to timeliness is variable. The Area achieved only 48% performance against the proxy target, meaning letters were not sent to victims in over half of those cases in which it would have been expected.

Recommendation 3 - The AMT should standardise and enhance its performance management regime.

25. **Significant progress.** During the inspection it was found that the Area did not operate a unified system of file sampling for the purposes of CQA and that lawyers were largely unaware that the sampling undertaken was part of that scheme. Feedback to lawyers was variable between the units. Inspectors considered that there was a lack of depth and cohesion in the performance reports that were being provided by Unit Heads, without a consistent format linking objectives and targets. Awareness amongst staff of Area and unit performance was also relatively limited because they did not have access to these reports.
26. There was a low level of CQA compliance in 2004-05. The number of forms returned each month as a percentage of prosecutors in post between 1st April and 31st December 2004 was 39.2% and between 1st January and 30th March 2005 was 35.8%. An internal review revealed that two units did not submit any forms during the latter period. The Area has taken further steps to engage Unit Heads in CQA and improve compliance, which increased to 64.9% between 1st April and 30th June 2005. It will need to maintain this progress if it is to ensure that systems for assuring the quality of casework are sufficiently robust.

27. The Area is implementing a more standard approach to performance management by adopting the national template as a basis for performance review meetings between the CCP, ABM and individual Unit Heads, which the Area plans to make more regular. More recently the Area decided to focus unit reporting requirements on more specific issues (such as charging benefits realisation), so as not to overburden the Unit Heads who are heavily involved in implementing change. Managers are provided with a monthly data pack which is supplemented with consolidated data provided quarterly and the charging dashboard. The Area acknowledges that there is scope for improving its performance reports, possibly based on the style of reports produced by Headquarters, and is in the process of doing this.
28. Progress against Area targets is now displayed prominently on notice boards, although the degree to which performance is considered at team meetings varies. Presentations on performance are made to staff at Area and unit training days. Staff interviewed confirmed that they are now more aware of what the Area is trying to achieve in a wider sense and how it is performing against its targets and compared to other Areas.
29. Performance is a standing item at monthly AMT meetings, with specific aspects targeted for discussion and a full review of key performance indicators when quarterly Headquarters reports are available.

Recommendation 4 - The Area should develop and implement a strategic framework to enable it to effectively engage with staff.

30. **Significant progress.** The Area is spread over three sites and it was found at the time of the inspection that there was an increasing risk of staff identifying with their unit rather than the Area as a whole. One of the main findings in the 2004 Staff Survey was the low degree of confidence that staff had in Area management responding positively to their concerns. This was based less on the reality of the situation but was caused by weaknesses in communication and engagement that were inhibiting confidence. Some staff were also unhappy with the way that they were being treated by colleagues, which was contrary to the CPS dignity at work principles and were less confident than staff in the CPS generally about how to deal with it.
31. Positive action has been taken to improve general communication across the Area, for example the CCP and ABM have increased day-to-day contact with staff through more regular unit visits. A target has been set for the CCP and ABM to have contact with the staff of each unit at least twice a quarter. Managers have also sought to ensure that court closure days are used to engage more effectively with staff. The ABM has also introduced regular meetings with CJU business managers to share good practice.
32. Staff interviewed for the purposes of the follow-up confirmed that Area managers are approachable and that they are treated fairly. There has been better sharing of the Area's vision and increased awareness of strategic matters. The use of training days for this purpose is considered to have been a success. Managers express their appreciation to staff for good performance. Staff treat each other with respect and there is a good atmosphere in offices.

33. However, there continues to be some variance between the units in the quality and regulatory of communication and some members of staff said that they had not been aware of either the ABM or CCP visiting their office. Team meetings support the Area's dialogue with staff but they are not always regular or involve all team members.

Recommendation 5 - The AMT should take action to improve effective engagement with CJS partners at a strategic level.

34. **Significant progress.** There was a feeling amongst CJS partners at the time of the inspection that the CPS was reluctant to engage constructively on issues and did not share ownership of common problems requiring a co-operative solution. There was a perceived need for the Area to work closely with the LCJB at a strategic level to gain a better understanding of the issues and agree strategies to find solutions. The Area did not share this view, considering that it has always engaged as effectively as possible and so far as its resources would allow. Evidence gathered at the time of our follow-up suggests that the Area is generally working effectively with partners to meet the LCJB key headline targets.
35. Senior managers are playing an active role in the delivery of joint initiatives with criminal justice partners. One leads the NWNJ initiative and Witness Care Units have been rolled out successfully. Post implementation reviews have praised the Area for model working arrangements with the police. The CPS has also led several joint agency bids for funding. The Area's change programme is an amalgam of nationally and locally driven projects some of which are joint plans with criminal justice partners.
36. Senior managers chair, or participate in, each of the local criminal justice delivery groups which focus on developing unit level performance. Other performance working groups are established as required to address cross county concerns, for example, a senior manager chairs a joint CPS and police working group that monitors file quality and committal timeliness. A joint agency listings workshop was held to review the Area's policy and address concerns. A listing protocol has been established and the agencies are now working together on an initiative to reduce the backlog of trials in the magistrates' courts.

Aspects for improvement

37. The Area had made progress, albeit to varying degrees, on all of the AFIs. We comment in detail on progress made against all AFIs at Annex 1.

Strengths

38. We identified four strengths in the Area. They were:
- The high quality of advice in serious sexual offences

- The Area's consistently sound performance in dealing with persistent young offenders (PYOs) significantly inside the national target
 - The integration of CPS/police administrative processes in the East and West CJUs
 - The Area's strong commitment to support staff who wish to obtain external qualifications
39. We are satisfied that these strengths have been maintained. The Area has an experienced cadre of lawyers able providing consistently good quality advice in sensitive cases. Performance in finalising PYO cases expeditiously continues to be significantly better than the national average, with a most recent outcome of 53 days. Good practices have been shared beneficially between units. Staff from all grades interviewed confirmed that Area managers continue to encourage and support the development of their potential.

Conclusion

40. The Area Action Plan drawn up in response to the inspection not only addressed the recommendations and AFIs but also other critical or negative comments in the report. Clear improvements in performance have been achieved.
41. It is clear that progress is being made, although in some aspects the Area has not yet achieved the level of improvement that it would have wished for. The eight-month period since the inspection report was published has been particularly busy with the continued requirement to implement important CJS change and prepare for statutory charging. We are satisfied that the Area managers recognise the issues and are committed to addressing them. This provides a good foundation from which further improvement can be made.

**CPS HERTFORDSHIRE
PROGRESS AGAINST ASPECTS FOR IMPROVEMENT**

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
4.16	Prosecutors must make appropriate requests for further evidence or information at the earliest opportunity to assist in timely trial preparation	Limited progress. Additional training/ guidance has been provided and files are now being received earlier from the police giving more opportunity for earlier decisions and remedial action. Case progression has improved as a result of ETMP. A reality check examination of files however produced mixed results about prosecutors adding value by seeking to improve the case initially submitted by the police.
4.16	The Area should work with the magistrates' courts Service to reduce the number of trials of being relisted	Significant progress. Trial readiness checks have improved and ETMP is having a positive impact. The backlog of trials had not reduced significantly by the time of our follow-up visit but the Area is currently collaborating with the magistrates' courts in an intensive initiative to reduce it.
4.24	The Area has to review case progression processes in the CCU, so that roles and responsibilities are better understood, and that outstanding actions by the police are chased up	Significant progress. A Case Progression Team has been established with clearly defined responsibilities. Regular trial readiness checks take place and Case Progression Officers ensure that court orders and directions are addressed. There is good liaison with Crown Court counterparts. Communication with the police is better, although there remains room for further improvement. However, there remain concerns about the quality of case preparation and progression in light of the high proportion of discharged committals, which represented just under 1% of the Area's completed cases in the magistrates' courts - significantly worse than the national average (0.3%).

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
4.55	<p>Unit Heads must ensure that:</p> <ul style="list-style-type: none"> • adverse case reports are completed for all relevant cases; • adverse case reports contain a realistic appraisal of what, if anything, the CPS or the police could have done to avoid the outcome or to bring the proceedings to a close earlier; and • learning points from CQA and adverse case reporting are disseminated. 	<p>Significant progress. The quality of adverse case reporting has improved and some trends have been identified, which have been discussed with the police. The Unit Heads have been given responsibility for ensuring that lessons are shared.</p>
5.4	<p>There should be systematic and formal advocacy monitoring of all prosecutors.</p>	<p>Limited progress. Advocacy monitoring of in-house staff is undertaken by senior managers as part of the performance appraisal process. There has been no systematic, formal monitoring of advocates however. Senior managers attend court on a regular basis and may carry out informal monitoring, with any development issues being discussed shortly afterwards with individuals. Feedback is also received from other court users as to the performance of advocates.</p> <p>Counsel appearing in the Crown Court are monitored by caseworkers and by in-house lawyers, though not on a regular basis. Performance issues are raised at quarterly meetings with chambers.</p>

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
7.11	The Area develops and implements a unified system for continuous improvement.	Significant progress. The sharing of information about good practice and from casework monitoring has become more frequent and court closure days are used productively to discuss issues with staff. Standing agenda items have also been added to team meetings so that performance issues are discussed.
8.26	The AMT should enhance its Equality and Diversity strategies to ensure that they effectively promote race relations.	Limited progress. Some positive action has been taken. For example, the ABM is a member of an LCJB race group and has suggested joint initiatives to publicise hate crime policies in order to promote confidence in the Muslim community after the London bombings. CPS staff also took part in an LCJB Black, Minority and Ethnic recruitment campaign. The Area is waiting for further guidance from Headquarters on actions required at a local level to support the CPS Race Equality Scheme.
10.8	Action should be taken to encourage the use of CMS by all staff.	Achieved. Increased usage has been actively encouraged and lawyers have it as an objective in their Forward Job Plans. Usage is monitored and there is individual coaching. There has also been training on individual aspects and overall usage has increased considerably.

