



HM Crown Prosecution
Service Inspectorate

CPS Leicestershire & Rutland

Follow Up Report

The inspectorate's report on CPS Leicestershire & Rutland

Undertaken July 2010

September 2010



Introduction

1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate arising from the follow-up progress visit to CPS Leicestershire & Rutland between 12-14 July 2010.

2 The inspectorate's Overall Performance Assessment of CPS Leicestershire & Rutland in 2007 rated the Area as poor. A full Area Effectiveness Inspection followed in April 2009 with a report of findings published in July 2009. The inspection rated the Area as fair and revealed major improvements.

3 The 2009 report, whilst recognising those improvements, noted that a number of weaknesses still remained. Four recommendations designed to assist the Area to address those weaknesses in performance, and five aspects for improvement, were made. The recommendations mainly addressed the need for improvement in the handling of Crown Court casework, and in the performance of the witness care unit (WCU). The aspects for improvement related directly to processes, procedures and advocacy. In addition the inspection identified four strengths.

4 The purpose of the follow-up visit was to assess the progress against the recommendations and aspects for improvement contained in the 2009 report. We also evaluated whether the strengths in performance remained.

5 We have rated the Area's action in respect of each recommendation and the results appear in the table below. Each recommendation has been measured according to the following:

- **Achieved** – The Area has accomplished what was required
- **Substantial progress** – The Area has made real headway in taking forward its planned actions in relation to the recommendation
- **Limited progress** – The Area has taken some action to address the recommendation but improvement is not complete
- **Not progressed** – The Area cannot demonstrate any progress
- **No longer applicable** – Where for instance the Area has restructured or some national initiative has completely changed the situation

6 A detailed account of the methodology we used to gather our evidence and data is provided in Annex C.

What did we find?

The table below sets out the recommendations in brief and what progress the Area has made in relation to them. A more detailed explanation of our findings can be found later in this report at page 4. Details of how the Area has responded

to the five aspects for improvement are set out in a table at Annex A and comments on the four strengths identified in 2009 are also included at Annex B.

Recommendation	Rating as at July 2010
1 Area managers take the necessary action to ensure case progression in Crown Court cases is improved	Substantial progress
2 Area managers ensure the quality of instructions to advocates is improved	Substantial progress
3 Area managers ensure that the disclosure record sheet is completed in every case so that it provides a complete audit trail of all disclosure actions and events	Substantial progress
4 The Area, working with police partners, should ensure that WCU staff are trained to use WMS appropriately, understand their roles and why it is important to capture information	Achieved

General information about CPS Leicestershire & Rutland

1 At the time of our 2009 inspection, we found that the Area had used the poor rating from the 2007 overall performance assessment as a catalyst to drive change. The Area focused its efforts and energy on improving performance by concentrating on getting the core business right. It was evident in 2009 that staff were committed to the area vision of wanting to “do justice in every case”.

2 At the time of the 2009 inspection the Area had made changes to the arrangements for making pre-charge decisions and had implemented the optimum business model (OBM) for magistrates’ courts cases to improve case preparation and progression. These changes had significantly improved area performance. As a means to improve efficiency and resilience the Area merged its two criminal justice units (CJUs) in April 2010. This change also resulted in the merging of the case progression functions. Whilst well planned, the merger resulted in a backlog accruing as new processes were implemented. The Area has managed this effectively and at the time of this follow-up inspection the last of the backlog was being cleared.

3 Building on the success of the improvement to case progression in magistrates’ courts cases the Area decided to adopt the optimum business model approach for Crown Court case preparation. Planning took place from September 2009 and arrangements were due to be finalised shortly after the follow-up inspection.

4 The Chief Crown Prosecutor (CCP) retired in May 2010 and a new CCP will be taking up post in September. At the time of this follow-up inspection the head of the trials unit was acting as temporary CCP.

5 In May 2010 the East Midlands Group of CPS areas began to operate a new daytime direct access telephony system for providing pre-charge decisions to the police on weekdays. The Area allocates the equivalent of five full time lawyers each day to provide pre-charge decisions under this scheme.

An overview and conclusion

As a result of the evidence we collected and the conversations we had with managers, staff and others we found that the Area had made substantial progress towards implementing three out of the four recommendations and achieved the fourth. They had also achieved one aspect for improvement, made substantial progress in two and limited progress in two.

Implementation of the recommendations – our judgements

Recommendation 1 – Area managers take the necessary action to ensure case progression in Crown Court cases is improved.

Substantial progress:

The Area made a decision to implement OBM for Crown Court volume cases having seen the positive effect the process had had on the magistrates' courts cases. The implementation process started in September 2009 and was concluded in June 2010. The Area has split its Crown Court work into pre-committal, post-committal and registry. The change to area processes was well planned and supported by a significant training programme and process re-engineering which ensured a smooth transition. A staged approach to implementation meant that staff were able to consolidate and learn as the project was rolled-out.

Management have encouraged staff to provide ideas for improvement and acted upon them, which has encouraged buy-in from staff and led to better engagement with the implementation of the process. A number of successful revisions to plans have resulted from this approach.

File examination revealed:

- The indictment was drafted correctly in 6 out of 8 relevant cases (75.0%) (compared with 91.9% in 2009),
- There was timely compliance with all pre-PCMH directions in all 6 relevant cases (100%) (compared with 76.7% in 2009),
- All necessary applications were made and served in accordance with statutory time limits in 7 out of 8 cases (87.5%) (compared with 66.7% in 2009),
- There was timely completion of all directions between PCMH and trial in 6 out of 7 relevant cases (85.7%) (compared with 77.8% in 2009),
- The acceptance of pleas was realistic in all four relevant cases seen (100%).

File examination indicated that care needs to be taken when preparing indictments and the case papers to ensure accuracy and to avoid having to make applications to amend.

Since the inspection in 2009, area performance in Crown Court casework has improved.

Successful outcome rates for Crown Court cases are 4% better than national average, improving from 82.8% in 2008/09 to 84.4% in 2009/10.

There has been a comparable reduction in unsuccessful cases. The Area needs to ensure that the benefits of implementing the OBM for Crown Court work continue to be realised.

The Area's cracked trial rate at 47.3% is just over 5% worse than the national average (42.2%). Although all the evidence indicates that this is mainly due to the defendant pleading guilty on the day of trial to all or some of the charges offered for the first time, there would be some significant resource benefits if the Area could improve its effective trial rate by working in partnership with the courts to make case management more robust.

Recommendation 2 – Area managers ensure the quality of instructions to advocates is improved.

Substantial progress:

The Area has designed a new template for the production of instructions containing headings which serve as an aide-mémoire as to what is required. The use of this together with guidance circulated has seen an improvement in the standard of instructions.

All trials unit lawyers have an objective set with regard to the standard of their analysis for instructions for advocates. This is complemented by monthly monitoring using quality assurance checks. Feedback is given on the quality of their instructions and specific issues highlighted or trends discussed in team meetings.

Caseworkers and paralegal staff also complete instructions and have had specific training to enable them to do so proficiently. The instructions are then checked by lawyers before being sent out and it is vital that these are thorough to ensure quality and accuracy. It is important that if changes are made by lawyers the reasons are fed back. This feedback loop has yet to be fully embedded but managers are aware of this.

Instructions to advocates were required in eight out of ten files in our file sample. The standard of these instructions overall was good. In some cases there remains a tendency to just cut and paste previous file reviews from CMS rather than undertaking a detailed analysis of the issues. Whilst the previous reviews were often well written they do not cover all of the issues that would help an advocate in presenting the case.

The standard of instructions to the court advocate were rated as good in 62.5% and fair in 37.5% of cases seen. There were no poor or excellent instructions seen in our sample.

Recommendation 3 – Area managers ensure that the disclosure record sheet (DRS) is completed in every case so that it provides a complete audit trail of all disclosure actions and events.

Substantial progress:

The Area has worked hard to improve the completion rate and the quality of the disclosure record sheet since the 2009 inspection. All staff were fully aware of their duty in this regard and it is clear from evidence provided that this is an issue which is regularly raised at meetings and in feedback by managers.

After the 2009 inspection the Area adopted a new template for the DRS which was pre-populated with the likely entries that would be expected when dealing with disclosure, but which required handwritten additions. Following an internal review, a revised template was developed for full completion on CMS. The Area is working to ensure that this revised system offers a better audit trail and makes it easier for lawyers to comply with the duties of disclosure.

Despite these efforts, a recent internal audit, and ongoing quality assurance checks, confirm that whilst there has been significant improvement there is not yet adequate completion of the DRS across the Area.

Our file examination showed that the DRS had been completed and actions endorsed in all appropriate cases.

Recommendation 4 – The Area, working with police partners, should ensure that witness care unit (WCU) staff are trained to use the witness management system (WMS) appropriately, understand their roles and why it is important to capture information.

Achieved:

There is clear evidence that since the inspection in 2009 the Area has worked with the police to ensure that WCU staff have been trained and given appropriate support to improve their use of WMS. The national No Witness No Justice team visited the Area to explain how WMS influences performance monitoring results and this combined with floor-walking sessions by national trainers in all the WCUs has resulted in significant improvements. The police and area have reported an improvement in their relationship and this was also apparent with evidence of a significant amount of interaction between the WCU and CPS staff on individual cases.

WMS is being fully utilised and contact logs are being completed which allows all parties to benefit from the information contained therein. There has been an improvement in witness attendance rates, and a decline in cracked and ineffective trials due to witness issues.

Whilst there has been an improvement since 2009, planned changes to resources within witness care units are likely to impact upon the Area's ability to continue to operate the same levels of service. The Area needs to work with the police to identify process improvements that may mitigate any such impact.

The Inspectorate's findings against the five aspects for improvement are set out in Annex A below.

Annex A – Aspects for improvement

Aspect for Improvement	Position as at July 2010
<p>1 The dissemination of learning points effectively across the Area.</p>	<p>Substantial progress</p> <p>The focus of the legal forum has been altered to allow this to become a much more hands-on learning workshop. The fact that it is possible to bring the majority of area lawyers together regularly (on one Friday afternoon every month on which the magistrates’ courts do not sit) gives the Area a good opportunity to hold this forum.</p> <p>The legal forum is led by area lawyers to give practical advice and share legal updates in their field of expertise. Managers use the forum to impart general learning points which are also raised in unit team meetings as appropriate.</p> <p>A “lessons learned” log has also been developed for use at case progression meetings; this allows issues from trials to be examined in detail and to be shared across the Area and with partners.</p>
<p>2 The Area should further develop the sharing of lessons learned to help inform future charging decisions and enhance understanding of Crown Court practice.</p>	<p>Limited progress</p> <p>The Area has recently (June 2010) introduced a process whereby charging lawyers receive a link to the results of the cases in which they have provided charging advice once the case is concluded at Crown Court.</p> <p>There are general learning points shared at team meetings and specialist co-ordinators feed back from quarterly reviews.</p> <p>The group approach to daytime charging means that areas are no longer responsible for lawyers undertaking charging and the Area needs to work with the responsible group lawyer to ensure that this aspect for improvement can be further progressed.</p>
<p>3 The Area needs to ensure a consistent approach when checking standards across the Area.</p>	<p>Achieved</p> <p>The creation of one CJU has resulted in all management checks being carried out by one manager – this has resulted in consistency.</p>

Aspect for Improvement	Position as at July 2010
4 Controls on prosecution costs and graduated fee scheme payments should be improved.	<p>Limited progress</p> <p>An error in the forecasting of fees resulted in the Area having a significant (£138,000) overspend at the end of 2009-10. Revised processes have been established at the group level to ensure that clear responsibilities for forecasting are understood. Local checks by the Area Business Manager (ABM) and regular meetings with the trials unit head have been established to ensure that spending profiles are accurate.</p> <p>Work with one set of local chambers (where there had been significant problems) to improve billing processes has been undertaken. Steps have been taken to ensure that billing is now timely.</p>
5 The Area needs to ensure there are sufficient opportunities for crown prosecutors to undertake magistrates' courts trial advocacy.	<p>Substantial progress</p> <p>There has been a substantial reduction in agent usage by the Area. CPS lawyer in-house coverage of court sessions has increased from 40% in 2008-09 to 52% for the year to March 2010.</p> <p>Crown prosecutors felt that they had much more opportunity to undertake trial advocacy and that this was no longer an issue of concern.</p>

Annex B – Strengths

1 The use of the case management system (CMS) to record actions.

File examination indicated that CMS continues to be used effectively.

2 The effective communication of a clear vision and message that has been fully accepted and understood by staff.

Staff are still very positive about the Area despite the current financial uncertainties across the public sector. They are fully aware of the vision and continue to strive to achieve it. The new senior management team will need to ensure that this continues.

3 The approach to acknowledging good performance.

Staff clearly feel that good work is readily acknowledged by management and visible awards are displayed by recipients at their work stations demonstrating a sense of pride in their achievements. Positive feedback and good communication with staff has engendered a good team ethos.

4 The approach to community engagement and the way this has been prioritised and used to improve area processes and outcomes.

The Area has maintained this strength and a member of management received an external award for community engagement work. It is noted however, that the future of this approach may be affected by the impact of financial constraints.

Annex C – Methodology

1 Before visiting the Area we requested a number of documents relating to management information and performance data that would provide evidence of the progress that CPS Leicestershire & Rutland had made. Included within these documents was the Area's action plan prepared to address the report's recommendations and aspects for improvement.

2 Three of the four recommendations concerned the handling of Crown Court casework, so we examined 10 files representing a range of outcome types disposed of in both Crown Court and magistrates' court (one discharged committal file). In addition we examined a further five live files onsite to assess compliance with case progression and preparation and specifically the completion of the DRS and instructions to advocates.

3 During our visit we interviewed the Acting Chief Crown Prosecutor, Area Business Manager, District Crown Prosecutor, Paralegal Business Manager, Fees Clerk and representative groups of prosecuting lawyers and paralegal/administrative staff.

4 We also spoke to key personnel in other agencies to whom we are very grateful and whose details are listed below.

5 We observed the presentation of CPS Leicestershire & Rutland casework in Leicestershire Crown Court.

Crown Court

HH Judge Pert, Resident Judge, Leicestershire
Crown Court

Police

Ms Joanna Compton, Witness Care Unit Manager
Witness care unit staff