



HM Crown Prosecution
Service Inspectorate

CPS Surrey

Follow-up report

The inspectorate's report on CPS Surrey

Undertaken June 2010

November 2010



Contents

Introduction	1
What did we find?	2
Some information about CPS Surrey	3
Overview and conclusion	3
Implementation of the recommendations – our judgements	5
Recommendation 1	5
Recommendation 2	6
Recommendation 3	8
Recommendation 4	8
Recommendation 5	9
Recommendation 6	9
Recommendation 7	10
Recommendation 8	11
Recommendation 9	11
Recommendation 10	12
Recommendation 11	12
Prosecution costs	13
A Aspects for improvement	15
B Strengths	17
C Methodology	18
D Local representatives of criminal justice agencies and organisations who assisted in our inspection	19

Introduction

This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) arising from the follow-up progress visit to CPS Surrey between 2-7 June 2010.

The inspectorate carried out a full Area effectiveness inspection (AEI) of CPS Surrey in March 2009 with a report of their findings published in July that year. Although this report recognised improvements and rated the Area as fair, a number of key weaknesses remained both in casework handling and in management's ability to engage effectively with staff.

The AEI report made a total of 11 recommendations designed to assist the Area to address those weaknesses in performance. In addition the inspection identified two strengths and 14 aspects for improvement (AFIs).

The purpose of the inspectorate's recent visit was to assess the Area's progress against the recommendations and AFIs contained in the 2009 report. We also evaluated whether the strengths in performance remained.

It must be stressed that in this follow-up review the inspectorate has not carried out an inspection of the Area against the full range of aspects of performance. In terms of performance measured by outcomes, the steady progress noted in the 2009 report has continued.

We have rated the Area's response to 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 done something to address the recommendation.
- **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- **No longer applicable** – where for instance the Area has restructured or some national initiative has completely changed the situation.

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 underneath sets out the recommendations in brief and what progress the Area has made in our judgement. A more detailed explanation of our findings can be found later in this report.

Details of how the Area has responded to the 14 aspects for improvement are set out in a further table at annex A and comments on the two strengths identified in 2009 are also included at annex B.

Recommendation	Rating as at June 2010
1 Improve MG3 quality and monitor regularly	Limited progress
2 Supervise legal work in the optimum business model	Not progressed
3 Devise and support strategy to boost performance in asset recovery	Limited progress
4 Strengthen analysis of adverse outcomes in Crown Court cases	Substantial progress
5 Ensure compliance with CPS policy in handling road traffic fatality cases	Substantial progress
6 Prosecutors to view all child witness video interviews and record their assessment	Limited progress
7 Improve performance in the disclosure of unused material	Not progressed
8 Ensure compliance with CPS direct communication with victims scheme	Substantial progress
9 Ensure robust and targeted casework quality assurance takes place	Not progressed
10 Train and develop staff to support them in their new roles in combined unit structure	Limited progress
11 Improve communications between management and staff and address low morale amongst lawyers	Limited progress

Some information about CPS Surrey

At the time of our previous inspection, the Area had recently moved to new premises and was preparing for a restructure creating two combined units dealing with both Crown and magistrates' court work. This restructure went ahead in April 2009 and also created a smaller unit of senior crown advocates managed by the senior district crown prosecutor (SDCP) which was called "Jury Chambers" responsible for Crown Court trials and related advocacy.

Soon after this change was effected, Surrey Police carried out a major reappraisal of their criminal justice operation that saw a centralisation of charging and prosecution functions in the same building as the CPS Area office.

As a result of agreed changes to committal pathways, casework committed by Staines Magistrates' Court ceased to go to Kingston Crown Court so now almost all CPS Surrey cases are committed or sent to Guildford.

In March 2010 the CPS South East Group began to operate a new daytime direct access telephony system for providing pre-charge decisions to the police on weekdays. CPS Surrey has made a contribution to this new scheme.

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 recommendations. They had also achieved two aspects for improvement and made substantial progress towards meeting three others. Credit should be given to CPS Surrey for its achievements but some issues had not been tackled with sufficient speed or vigour since we published our 2009 report and much more needs to be done if the Area is to achieve its potential.

Areas of weakness remain and these include case progression, disclosure of unused material, high prosecution costs and performance management of legal work. Communications between managers and staff remain an area for improvement with some members still perceiving a lack of communication and a distance between themselves and managers. Although managers had invested time and energy in various strategies to improve communications and drive up morale, the prevailing view of most of the staff we spoke to was that they still felt excluded and reluctant to raise issues openly that affected them. Managers at Surrey are aware of these relationship difficulties and have taken steps to build better links with staff but there are no signs at present of those succeeding.



Implementation of the recommendations – our judgements

Recommendation 1

The Area managers should take action to improve the quality of records of charging decisions (MG3s) and undertake regular monitoring to ensure in particular that:

- the correct charge is selected at pre-charge decision stage;
- there is appropriate consideration of ancillary issues;
- instructions to associate prosecutors are endorsed on MG3s;
- action plans are clearly set in the appropriate place on the MG3s with target dates.

LIMITED PROGRESS: The Area’s response to this recommendation was a commitment to draft new guidance and templates for duty prosecutors reminding them of the key points that a good quality MG3 should contain.

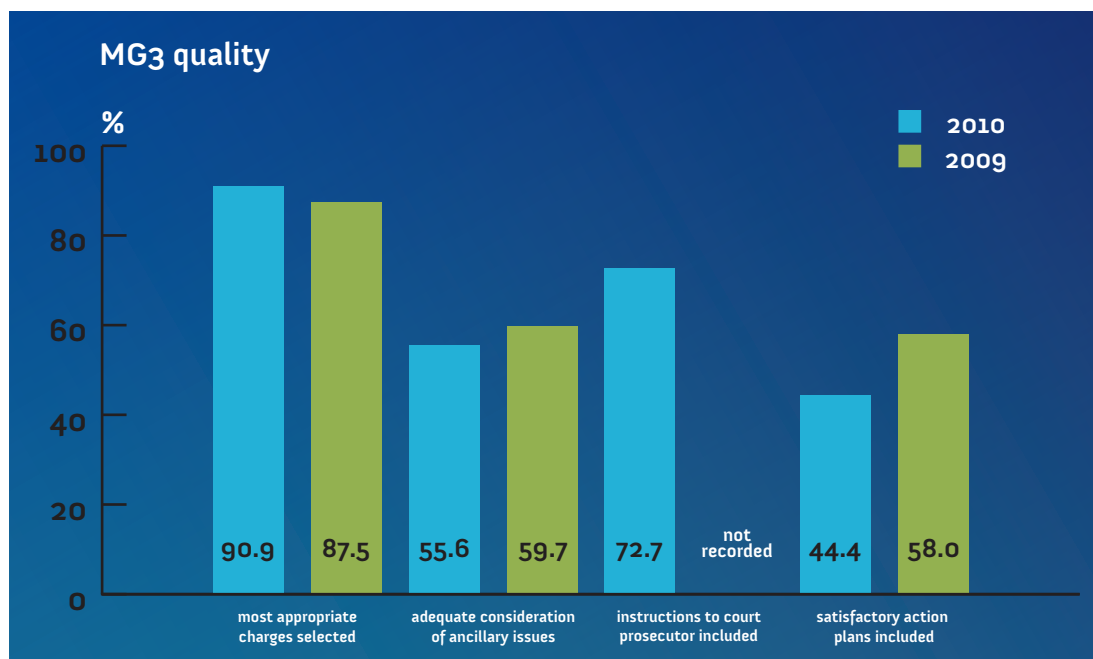
We were shown one half-page guidance document but no other template or instructions have been issued. As revealed by our file examination (see table below), there has

been a slight improvement in charge selection and most MG3s have instructions to court prosecutors, there has also been a fall in performance in respect of ancillary matters being covered and in the quality of action plans.

There was scant evidence of any systematic monitoring or evaluation of MG3 quality by dip-sampling or by other methods although we were shown one example of a specific communication by a manager to a duty prosecutor that clearly set out significant weaknesses in one charging decision raised by the police.

It is fair to report however that the police at senior management level have noticed a steady improvement in charging decision quality since our last visit.

We examined a total of 17 Surrey files of which 14 had been the subject of pre-charge decisions. CPS Surrey lawyers made the decisions in 11 cases and the remainder were made by CPS Direct. We found that:



It must be added that during the intervening period since our visit to the Area in 2009, CPS Surrey has amalgamated its charging provision from four divisional centres to one centralised charging site at the CPS Area headquarters in Guildford. In addition to the existing rape clinic where more serious and complex cases requiring face to face consultations with the police are directed, a fraud clinic has now been set up on similar lines.

More recently, in furtherance of the CPS modernising charging project, the CPS South East Group (which includes Surrey) has launched a daytime telephony service to provide charging decisions in all non-specialist cases between the hours of 9am and 5pm on weekdays.

Recommendation 2

Area managers should undertake regular checks of the quality and timeliness of legal work undertaken on the optimum business model (OBM) case preparation unit (pod), and where necessary ensure that appropriate mentoring or training is delivered.

NOT PROGRESSED: At the time of our last inspection, we found that deployment of lawyers to the magistrates' court OBM team or "pod"¹ had been erratic and that timely preparation and review of cases listed for trial was not happening routinely. We also commented on the lack of supervision of legal decision-making within the pod that was contributing to weaknesses in building of prosecution cases. Since that time, the Area has told us that a national team has approved their systems as satisfactory and that some internal monitoring arrangements have been put in place.

It is disappointing to report that we found the situation unchanged. Lawyers were allocated to the pod but were frequently abstracted to cover court commitments and this allowed backlogs to develop which militated against timely trial preparation. We were told that a recent directive

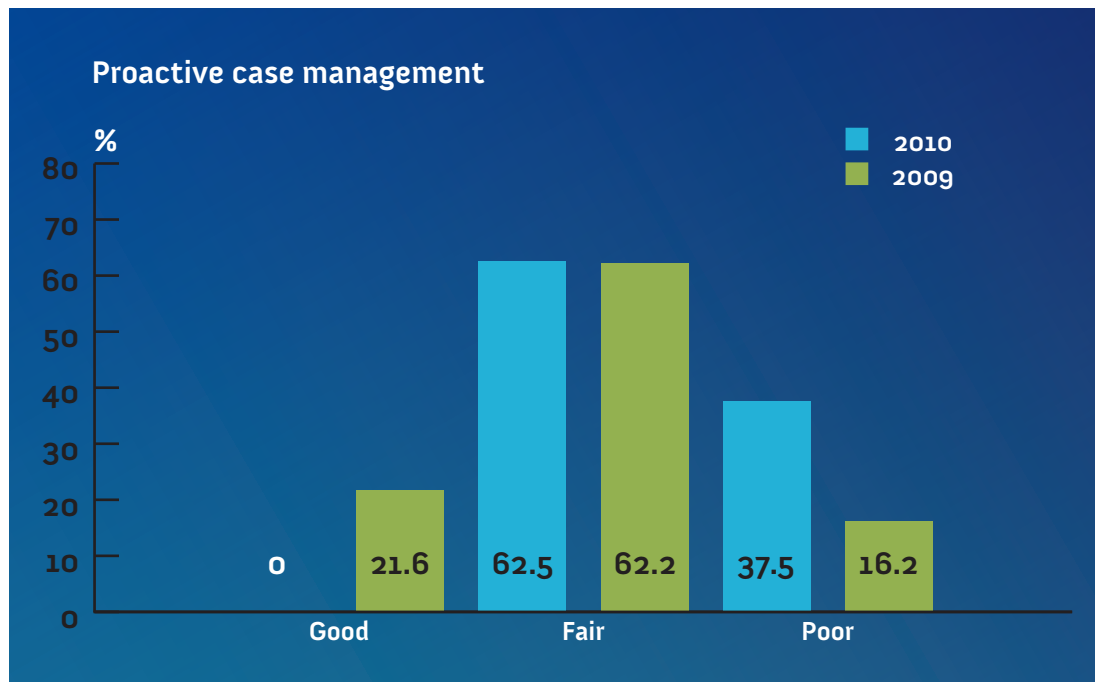
¹ The optimum business model is a framework of structures, key roles and processes to manage case progression in the magistrates' court. Through the OBM, volume cases are assigned to a team for preparation, rather than being the responsibility of any one individual. That team is generally made up of a case progression manager, a case progression lawyer, a case progression administrator and an "optional" case progression associate prosecutor, who are rotated onto the OBM team for days or weeks at a time. The team are collectively responsible for case preparation and therefore, effective case preparation is dependant on the appropriate resources being allocated to work on the OBM team or pod.

not to deploy agents in magistrates' court cases had made the situation worse. Administrative staff working on the pod were doing their best to cope with large volumes of files requiring trial preparation and when lawyers were able to work on files it was often to rescue weak cases rather than build strong ones.

Dip-sampling of legal work in the pod was not evidenced to us nor was there any clear system for ensuring that cases that required allocation to individual lawyers were excluded from the pod.

Of the files we examined, ten were dealt with in the magistrates' court. We found that there was timely completion of all directions between first hearing and trial in four of seven relevant cases (57.1%). The equivalent figure in 2009 was 48.4%. We rated the proactive case management of the eight relevant cases as shown in the table below.

As part of a national CPS initiative the Area has decided to launch an OBM or pod in Crown Court casework in July 2010 and must be ready to learn lessons from the magistrates' court pod if similar performance issues are to be avoided.



Recommendation 3

The Area Strategy Board should ensure that the strategies devised to improve performance in asset recovery are fully supported and progressed.

LIMITED PROGRESS: Area managers acknowledge that this recommendation is being treated as a medium to long-term objective. Targets set by the Office for Criminal Justice Reform (OCJR) for 2009-10 in terms of numbers and value of confiscation orders made against convicted defendants have not been achieved. The Proceeds of Crime Act (POCA) conversion rate of 6.15% for the year to date at the end of March 2010 was well below the target rate of 17% although two significant orders late in the year allowed the Area to improve its performance in terms of value significantly on that achieved in 2008-09.

A number of initiatives have been implemented during the period since our visit in 2009 and these include greater use by police officers of the MG17 form (which alert lawyers to potential POCA orders) on files submitted for charging decisions, joint training with the police and the establishment of a specialist charging facility for fraud cases. These latter initiatives have only taken place in April 2010 and so it is too early to see any measurable impact on performance.

The Joint Agency POCA Working Group has met throughout the year and provides a forum for review of performance and forward planning. This group has been working to agree a revised service level agreement between the agencies although this was still outstanding at the time of our visit.

Recommendation 4

Area managers should ensure that there is a more robust and systematic approach to the analysis of adverse outcomes in Crown Court cases. Issues identified should be the basis for more detailed feedback both within the organisation and to partner agencies to ensure lessons are learnt.

SUBSTANTIAL PROGRESS: The SDCP reviews carefully all adverse outcomes in Crown Court cases and produces regular reports for the use of prosecutors in the Area, local managers and partner agencies. The police reported that they found these reports helpful and a number of lawyers recognised the value of the feedback received. They also informed occasional meetings between the SDCP and the Resident Judge. It is hoped that this analysis may help to explain why the Area's unsuccessful outcomes in the final quarter of 2009-10 have dipped.

Recommendation 5

Area managers should examine the handling of road traffic fatality cases to ensure compliance with CPS policy.

SUBSTANTIAL PROGRESS: The Area has taken significant steps to implement this recommendation including a detailed report prepared by the SDCP advising the Area Strategic Board what needed to be done to ensure compliance. The chief crown prosecutor (CCP) has taken a keen interest in these cases and now reviews all charging decisions and ensures that cases are handled only by experienced lawyers. The Area had intended to appoint a lawyer as Area co-ordinator but has not done so due to resource issues and the CCP has yet to organise a liaison meeting with the Coroner. Both these measures were recommended by HMCPSI as part of its second thematic review of road traffic offences involving fatalities published in 2008.

Recommendation 6

Prosecutors should always view the video recorded interviews with child witnesses, assess the quality of evidence and record this.

LIMITED PROGRESS: Area managers issued instructions to all prosecutors to ensure that this recommendation was complied with. There was no targeted exercise undertaken to measure compliance thereafter. We examined three cases where child witnesses' evidence had been video recorded although in two of these the witnesses were now adults reporting historic allegations of abuse. Prosecutors had not endorsed the file to confirm that they had watched the video in one of these "historic" cases.

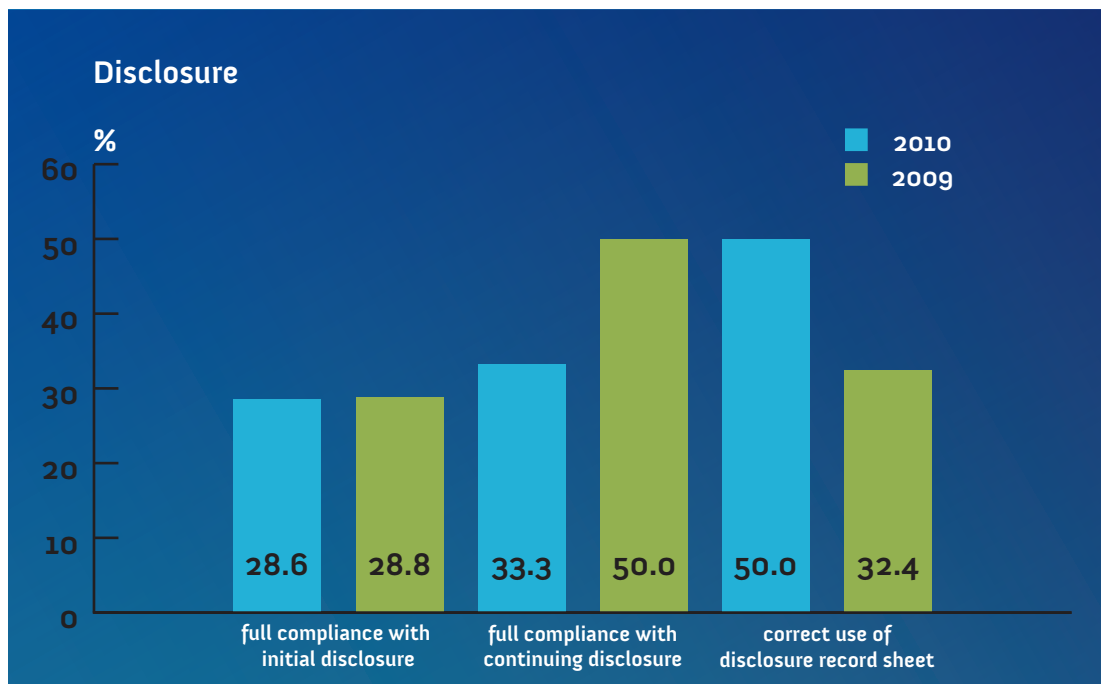
Recommendation 7

The Area Strategy Board should implement the Area action plan for disclosure, and ensure that systematic and robust monitoring is carried out, and that the disclosure record sheet is used in all cases to record the decisions and actions in relation to disclosure.

NOT PROGRESSED: At the time of our last visit in March 2009, performance in discharging the prosecution’s duties of disclosure of unused

material was rated as poor. Our file examination included 14 files where at least the duty of initial disclosure was engaged and performance remains poor. The Area had produced its own action plan and a performance report has been completed by CPS headquarters both designed to drive up performance but they appear to have had little impact.

Our examination of the Area’s files showed:



Although we saw four files where sensitive unused material had been revealed to the prosecutor, the separate storage arrangements prevented a true assessment of how it was handled.

Managers were aware that progress towards improved performance was negligible but expressed the view that the imminent launch of the Crown Court OBM system would have a positive effect on those cases.

Recommendation 8

The Area Strategy Board should:

- undertake a further review of the quality and timeliness of direct communication with victims (DCV) letters and Victims' Code letters;
- ensure that the witness care unit are provided with copies of all letters;
- ensure letters are recorded on the case management system (CMS);
- ensure that where appropriate meetings with victims are offered.

SUBSTANTIAL PROGRESS: There has been a lot of activity in the Area to improve its compliance with the DCV scheme and to improve generally its service to victims. In February 2010, a DCV quality group has begun to review the standard of letters and to revise templates previously in use. Although there are currently no targets for the volume of letters sent, the Area is performing well against timeliness targets and has appointed a co-ordinator to monitor both compliance and quality.

All DCV letters are entered into a dedicated mail box to which the witness care officers have access and also appear on CMS.

We examined a total of six files before visiting the Area and a further ten letters on-site. We considered that in all but two of these examples the performance of the Area in respect of its obligations under the DCV scheme was either good or fair. There is an acceptance by the Area that some cases are missed where charges are substantially altered or reduced and work is underway to capture them.

Recommendation 9

Unit heads should ensure that casework quality assurance (CQA) assessments are robust, that feedback is given quickly in appropriate cases, and that a more targeted approach is adopted.

NOT PROGRESSED: We were not provided with any evidence that the CQA system of assessment had been used in any more robust or targeted way. Lawyers remained largely unaware of the outcome of CQA monitoring except when individual feedback was deployed. This feedback did not seem to originate from CQA forms but from other monitoring work. In common with the CPS nationally, the CQA system was terminated at the end of January 2010 and its successor scheme is due to be implemented in July 2010. The new core quality standards monitoring scheme is designed to deliver performance data across a range of quality measures but is not specifically aimed at individual performance.

Recommendation 10

The Area Strategy Board should ensure that training, development, coaching and mentoring is provided to assist staff in their new roles under the restructure, and to improve skills particularly in casework handling.

LIMITED PROGRESS: At the time of the full inspection in 2009 the Area was about to restructure into two combined units where staff would be allocated work on both Crown and magistrates' court cases. Although some training has clearly been delivered to broaden the skills of lawyers and paralegal officers, much of this has been delivered many months after the combined units became operational. Indeed, recent training delivered by the SDCP has been targeted at paralegal officers in advance of the launch of the Crown Court OBM. We were told by managers that a number of mentoring arrangements had been put in place to equip less experienced lawyers to deal with rape and fraud cases. There remained at the time of our visit a clear sense that most staff had continued to deal predominantly with either Crown or magistrates' court casework. We considered that more urgent attention to our recommendation might have helped to engender a more joined up approach to combined unit work from the outset.

Recommendation 11

The Area Strategy Board needs to take swift action to address communication issues between management and some staff by:

- ensuring that staff have the opportunity to raise and resolve issues with management openly;
- ensuring that management regularly communicate with staff on a face to face basis and not rely too heavily on email, especially in relation to changes that have a significant impact on staff;
- addressing the low morale amongst lawyers and issues around dignity and respect.

LIMITED PROGRESS: We were in no doubt that senior managers had fully understood the need to improve communications between staff and management urgently. There were many examples of meetings and face to face announcements being delivered by managers to all staff groups or to smaller teams. In many cases these were instead of email communication. This approach had been used, for example, when the South East Group had made decisions with regard to deployment of charging lawyers from Surrey and in the development of the Area business plan. The CCP and area business manager now regularly attend and/or chair lawyer and paralegal meetings respectively.

The consistent view of managers throughout the Area was that morale amongst lawyers had risen after our last inspection but had fallen again more recently as a result of anxiety caused by external factors such as budgetary constraints and changes to the prosecutor structure.

Conversely, many staff members did not share the management view. Whilst they acknowledged that some efforts had been made to improve communications within the Area, they still identified a remoteness between the leaders and the “led”. Some line management relationships remain difficult and this has prevented constructive dialogue taking place. At a time of shrinking resource, this presents an obvious threat to the maintenance or improvement of performance.

There is still a view by some staff that they are not able to speak up and challenge things, which was reflected in the results of the staff survey conducted in November 2009. Managers were not all fully aware of staff concerns or of the cause of continuing low morale. This may be contributing to the limited progress made in achieving this recommendation.

It is recognised by the inspectorate that the Area had a difficult task in dealing with longstanding issues of staff engagement and low morale and that many actions had been taken by managers to improve the situation. However management now need to recognise the significance of these problems and focus on strategies that are most likely to have a positive impact upon rebuilding constructive working relationships.

Prosecution costs

The inspectorate’s findings against the 14 AFIs are set out in annex A, however, the Inspection team were particularly concerned with the Area’s limited progress against AFI 11, as work in this area provides an opportunity for significant financial savings in a time of reducing budgets.

Aspect for improvement 11

Controls on prosecution costs should be reviewed.

NOT PROGRESSED: At the time of the full inspection in 2009, the inspectorate reported that unit costs for Crown Court cases and the proportion of fees paid in two counsel cases in Surrey were higher than most other Areas and controls around prosecution costs should be reviewed.

The Area has undertaken some analysis of its prosecution costs, and identified a number of factors that are likely to be contributing to the very high unit costs in the Area, including higher evidence page counts and a greater use of senior counsel. However, the Area has now to undertake further detailed analysis to confirm that these factors are the cause of the very high costs.

At the time of our visit in June 2010 some remedial action had been taken, for example a new process had recently been introduced to ensure senior management approve all counsel instructed but it was too early to tell whether this had made any impact. Further measures are required since at the end of the fourth quarter of 2009-10, Surrey had the highest unit cost per Crown Court case in the country, at £1,437 per case compared to the national average of £886 per case.



A Aspects for improvement

Aspect for improvement	Position as at June 2010
1 The optimum business model folder system for magistrates' courts cases should be implemented.	Achieved.
2 A system should be developed to improve case progression and ensure compliance with court directions.	Not progressed. The Area was still failing to comply with Crown Court directions and had yet to implement any system.
3 Adequate cover must be provided for cases heard at Kingston Crown Court and if necessary the Area Strategy Board should negotiate a service level agreement with CPS London for court cover.	No longer applicable.
4 Advocates should complete court endorsements as soon as practicable and they should be clear, legible and completed on the appropriate part of the file jacket.	Limited progress. Magistrates' court endorsements were improved but Crown Court endorsements were often not easily accessible or clear.
5 There is a need to: <ul style="list-style-type: none"> • fully define the role and responsibilities of the specialist crime champions/co-ordinators; • allocate time to them to monitor sensitive and hate crime cases, and analyse unsuccessful outcomes. 	Substantial progress. A list of specialists was available but there was little evidence of clear roles being disseminated or of their participation in performance analysis.
6 Steps should be taken to agree a protocol with Surrey Social Services for the disclosure of third party material.	Achieved.
7 Managers should remind all relevant staff that custody time limit expiry dates apply to each charge. Endorsements on the file should indicate which expiry date applies to which charge. Applications to extend custody time limits should comprehensively set out the reasons why such an extension is justified.	Substantial progress.
8 Prosecutors should ensure they request police to seek a victim personal statement if one is not present in appropriate cases.	Not progressed.

Aspect for improvement	Position as at June 2010
9 When feedback is given to staff it should be handled in the most appropriate and constructive manner.	Limited progress. We were shown some examples of written feedback that were constructive but some staff continued to feel that managers were too remote or detached.
10 There needs to be greater clarity over the role (if any) of the local prosecution team performance management meetings.	Limited progress. These meetings had become more structured but their frequency had diminished during 2010 creating the risk of drift.
11 Controls on prosecution costs should be reviewed. ²	Not progressed. See main report text.
12 The business plan should set out how priorities will be achieved and the timescales for completion, and progress against priorities should be reviewed regularly and remedial action implemented where required.	Limited progress. The 2009-10 plan had not been adequately reviewed but the 2010-11 plan is more targeted and benefited from some staff involvement.
13 The risk register should be reviewed regularly and the scope of risks expanded to include those involving staff engagement and change management issues and interdependencies between projects.	Not progressed.
14 The community engagement strategy should be developed to consult with the local community and broaden the base of community groups the Area engages with.	Substantial progress.

² The Area should undertake an investigation to determine the causes of the very high unit costs for Crown Court cases in Surrey and, once identified, work to reduce unit costs to a level in line with other CPS Areas.

B Strengths

Strength	Position as at June 2010
1 Over the last 12 months the Area rape co-ordinator has been proactive in engaging other agencies and implementing new initiatives to address the low conviction rate for rape offences.	Not maintained. The Area's unsuccessful outcomes rate as a proportion of rape completed cases had risen to 46.4% for 2009-10 which placed Surrey 40th out of the 42 CPS Areas.
2 The management of sickness absence has been very effective.	Maintained. Although the sickness absence rate has increased slightly from 4.6 days in 2008 to 6.2 in 2009, it is still significantly below the CPS national average of 8.9.

C Methodology

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 Surrey had made. Included within these documents was the Area's action plan prepared to address the report's recommendations and AFIs.

As at least six of the 11 recommendations concerned the handling of casework, we examined 17 files representing a range of outcome types disposed of in both Crown Court and magistrates' court. In addition we examined a further five live files on-site to assess compliance with custody time limits procedures. We also reviewed ten DCV letters explaining the reasons for discontinuances to charges.

During our visit we interviewed the chief crown prosecutor, area business manager, senior district crown prosecutor, both district crown prosecutors, senior casework manager, paralegal business manager and representative groups of prosecuting lawyers and paralegal/administrative staff.

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

We observed the presentation of Surrey casework in both Guildford Crown Court and Guildford Magistrates' Court for a total of three sessions on three separate days during our visit.

D Local representatives of criminal justice agencies and organisations who assisted in our inspection

Crown Court

HH Judge Critchlow, Resident Judge, Guildford
Crown Court

Magistrates' courts

Mrs C Lemon, JP (by telephone), Chair of South
East Surrey Bench

Mr J Baker, Deputy Justices' Clerk

Police

Mr J Kirkby, Assistant Chief Constable
(Operations), Surrey Police

Mr R Blythe, Temporary Detective
Superintendent, Investigative Support and
Criminal Justice, Surrey Police

Ms J Smith, Witness Care Unit Manager

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

HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1186

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

© Crown copyright 2010

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the

Information Policy Team, The National Archives, Kew, London TW9 4DU, or
e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at www.hmcpsi.gov.uk