

CPS London Borough Performance Assessments

Traffic Unit

Executive Summary



This is the executive summary of the report of Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) on the performance assessment of the Crown Prosecution Service (CPS) London, traffic unit.

The performance assessment (PA) process provides a benchmark for the performance of the CPS London traffic unit in key aspects of work. Each of the assessed aspects is rated as being Excellent, Good, Fair or Poor. The unit is then assessed on its overall performance in the light of these markings. The PA also evaluates the management of resources at unit level.

The overall performance assessment of CPS London traffic unit was **FAIR**.

The table below provides a breakdown of the assessed level of performance against eight aspects:

Aspect	Score	Assessment
Pre-charge advice and decisions	3	Good
Decision-making, preparation and progression in magistrates' court cases	2	Fair
Decision-making, preparation and progression in Crown Court cases ¹	Not scored	
The prosecution of cases at court	2	Fair
Serious and sensitive traffic cases	3	Good
Disclosure	0	Poor
Custody time limits ¹	Not scored	
The service to victims and witnesses	2	Fair
Managing performance to improve	2	Fair
Managing resources ¹	Not scored	
Management and partnership working	3	Good
OVERALL ASSESSMENT	17¹	Fair

Description and caseload

Unlike most of CPS London, the London traffic unit (LTU) is not aligned to a single geographical area as it deals with traffic cases from across the capital. The LTU is headed by a CPS lawyer with the status of borough crown prosecutor (BCP). Due to its location, the LTU has been sited within the Woolwich district cluster, along with the Bexley, Greenwich and Lewisham borough units. District responsibility rests with the district crown prosecutor (DCP), a more senior CPS lawyer, who also line manages all the BCPs for boroughs within the district.

Communication between CPS London's senior management and area staff is through the district, with the DCP ensuring that the area's vision and strategy is implemented by the BCPs at borough level. CPS London is divided into two regions (North and South), which comprise a number of districts. There is also a complex casework centre which handles serious and complex cases including those at the Central Criminal Court (Old Bailey).

The CPS London senior management team consists of the Chief Crown Prosecutor, three legal directors, and two regional business managers.

¹ The scoring matrix for the London traffic unit has been adjusted so as to take account of the two additional aspects that were not scored.

The LTU was formed in 2003 and has, since its inception, been co-located with the Metropolitan Police traffic operational command unit (OCU) at Marlow House, Sidcup. LTU prosecutes all traffic cases heard in the magistrates' court within the Greater London area, as well as providing pre-charge advice in serious traffic cases usually destined for the Crown Court. Traffic prosecutions take place at designated magistrates' court centres, known as 'Gateway' courts, geographically situated within one of the five HM Courts Service (HMCS) administrative areas: the North East, North West, South East, South West and Central regions. Since the beginning of 2009, the LTU has taken on additional work at the lower level, volume end of the spectrum, such as 'camera' prosecutions for speeding offences, and this has increased the unit's total caseload and court coverage commitments.

The unit's casework profile is different to the CPS London boroughs. Cases are grouped into two distinct courts, according to the type of offence being prosecuted; these are referred to, respectively, as Gateway1 and Gateway2. Gateway1 courts take more serious traffic offences, some of which can be punishable with imprisonment, such as failing to stop and failing to report an accident; the latter venues deal with less serious summary matters, mainly the camera prosecutions and unpaid fixed penalty notices.

The LTU's staffing complement is also different to the borough units, with a greater requirement for associate prosecutors (APs) and less experienced lawyers still developing their prosecution skills. The LTU does not deal with Crown Court work, other than to provide the initial advice, so has no caseworkers or crown advocates dealing with serious casework preparation or advocacy. Presently, these cases revert to the local CPS London borough for prosecution, although this is set to change at some point in the near future and is being progressed jointly by the CPS, HMCS and police as the 'Gateway3 project'. The LTU uses its administrators and prosecutors as single resource, working collectively, whilst the case progression officers have designated responsibility for one of the five geographical regions.

As of October 2009, the LTU had an average of 31.5 full-time equivalent staff in post and a budget of £1,615,700².

Staff	Numbers at October 2009
Borough crown prosecutor	1
Business managers	1
Crown prosecutors	6
Associate prosecutors	9.7
Caseworkers	4.8
Administrative support staff	9
Total (full-time equivalent)	31.5

² The non-ring fenced administration costs budget contains payroll costs (including superannuation and allowances) as well as budget for travel and subsistence. Things like training are included in the London-wide budget and are not allocated at the borough level.

Details of London traffic unit caseload in 2007-08, and 2008-09 are as follows:

	2007	2008	Percentage change
Pre-charge work (all cases referred to the CPS by police for a decision as to charge)			
Decisions resulting in a charge	187	126	-32.6%
Decisions not resulting in a charge ³	397	314	-20.9%
Total pre-charge decision cases	584	440	-24.7%
Magistrates' court proceedings⁴			
Magistrates' court prosecutions	16,378	15,097	-7.8%
Other proceedings	0	0	-
Total magistrates' court proceedings	16,378	15,097	-7.8%

Summary of judgements

Contextual factors and background

There has been some increase in the unit's resources to accommodate the additional lower level work (for example camera speeding cases) taken on during the first quarter of 2009. The unit now receives approximately 3,000 new cases per month. Recruitment difficulties have prevented the unit being staffed to the level agreed as necessary with CPS London and the unit needs to instruct agents to prosecute magistrates' court sessions that cannot be covered in-house. Although co-located with the police traffic OCU, there are no plans for the unit to move to an integrated prosecution team (IPT) structure or implement the optimum business model (OBM) processes. The LTU, therefore, has not had to cope with the impact of the most recent initiatives to have affected the CPS London boroughs. The LTU's structure and positioning within a single district cluster makes it difficult to support the extent and nature of the unit's work and this is likely to become even more problematic once its work includes cases being dealt with across a number of Crown Court centres throughout London.

Summary

The processes for delivering pre-charge decisions have remained unaffected by the introduction of CPS London Direct and the overwhelming majority of charging decisions are taken by the most experienced lawyers on the unit. The quality of advice provided in the most serious and complex cases is good and valued by the police. The unit's discontinuance and attrition rates in 2008-09 were excellent and have improved slightly over the 12 month period to June 2009. The low rate of guilty pleas in traffic cases is a consequence of the high proportion that are required to be proved in absence.

Unit prosecutors have established a harmonious working relationship with police colleagues and the quality of files submitted in fatal collision cases is particularly high. Police criminal justice unit (CJU) managers at Marlow House ensure that cases receive a thorough evidential review before being submitted to the CPS and maintain a spreadsheet to ensure that they are effectively managed.

Decision-making for the most part is sound, but there is room for improvement. The wording of offences in summonses was not always checked thoroughly, and in a few cases in our sample the most appropriate charge was not selected. Case preparation was fair in the majority of cases, but timeliness needed to improve. The recording of reviews, decisions and actions needed to be more consistent.

³ Including decisions resulting in no further action, taken into considerations, cautions and other disposals.

⁴ Including cases that have previously been subject to a pre-charge decision.

The unit, at present, operates exclusively in the magistrates' court, where the conviction rate for the year to June 2009 was 91.3% which was better than both national (87.3%) and CPS London (85.9%) although both comparators relate to all cases in the magistrates' court and not just motoring offences. This unit organises its case progression in line with the regional structure of the police traffic OCU and Gateway courts. The LTU has been assessed by the national OBM team, which has approved of the systems already in place and concluded that OBM would not improve the unit processes, save for the addition of a duty prosecutor, which the unit has implemented.

Paralegal case progression officers are responsible for ensuring the cases are trial ready and the proportion which have to be discontinued is significantly lower, and the level of effective trials greater, than for CPS London or nationally in 2008-09. In respect of volume work, however, there is an element of cases sorting themselves out on the day at court and there is a lack of proactivity in respect of cases that have had to be returned to the police for further action to be taken.

The LTU does not prepare or present the most serious traffic cases which are dealt with in the Crown Court and the unit's specialist lawyers are currently under-utilised since they do not retain ownership of these cases beyond the pre-charge advice stage. This situation is currently under review and likely to change at some point during 2010 if and when the Gateway3 project is implemented.

The LTU prosecutors observed during the assessment all met the CPS national standards of advocacy, although the range of presentation skills required to conduct cases competently varied markedly; the majority of court sessions are undemanding, with only the more involved traffic trials requiring more developed advocacy skills. The London traffic unit is part of the CPS national associate prosecutor 'Pathfinder' initiative, which is piloting AP's extended powers to conduct summary trials for non-imprisonable offences. Whilst the unit's APs have benefited from prosecuting contested traffic cases, the limitations imposed upon them by concentrating exclusively on traffic cases risks a degree of de-skilling as the APs cannot undertake the full range of work available to APs on the boroughs. In general, prosecutors enjoy a positive and productive relationship with the courts in which they regularly appear.

The LTU has three senior 'specialist' lawyers experienced in dealing with serious and sensitive road traffic cases (often involving fatalities) who provide pre-charge advice to the police in all such cases. In addition to completing a written opinion, appropriate cases are identified by the police for face-to-face advice provided at monthly surgeries. These generally work well, although improvements need to be made in the monitoring of cases where prosecutors advise against further action. An accurate assessment of the unit performance in respect of serious and sensitive road traffic cases is not ascertainable since the proceedings are often conducted by the relevant borough and the outcomes for these cases are not disaggregated from the borough's results.

Compliance with the prosecution's duties of disclosure of unused material is poor, lacking openness and transparency. Weaknesses were evident across a range of aspects, from the lack of a proper explanation of the disclosure decision to a failure in recording that disclosure had taken place at all. This unsatisfactory position has not been assisted by the absence of unused material schedules on the majority of traffic cases. This is now set to change in early 2010 when, in addition to the most serious cases, Gateway1 cases destined for trial will also have the proper schedules completed by a disclosure officer.

The traffic unit does not normally prosecute cases involving custody time limits (CTLs) and any such cases are normally transferred to an appropriate borough. As such, the unit had handled only one case involving a CTL since its inception in 2003 and this was dealt with satisfactorily.

The unit vastly exceeded its target in terms of the number of letters sent to victims to explain why a charge had been dropped or significantly altered, although this reflects more upon the target, than overall performance. The unit met its 90% timeliness target for 2008-09, although this had deteriorated slightly during the first quarter of 2009-10. The unit does not operate a joint witness care unit, as envisaged under the No Witness No Justice scheme, as responsibility for communicating with victims and witnesses rests either with the police CJU court team or specially trained family liaison officers (FLOs) in traffic offence cases involving a fatality. The unit enjoys a good working relationship with both the CJU and FLOs and holds meetings with families and victims in appropriate cases, but needs to take greater care identifying those cases where an obligation to provide a written explanation exists. Systems need to be put in place with local Witness Service coordinators to identify cases where witness support is required at court.

The unit has a systematic approach to the monitoring of casework quality and advocacy. However, the monitoring of pre-charge decisions should be extended to include those decisions where no further action is directed. Management and staff have a good awareness of performance and the unit met or exceeded half of its performance targets in 2008-09. Management have taken steps to address areas of poor performance, including working proactively with partner agencies to address joint performance issues.

The unit's prosecution costs and non-ring fenced administration costs are set by CPS London but managed by the unit, with some oversight at the district level. In 2008-09, the unit was overspent against its budget despite achieving its target for in-house coverage in the magistrates' court and target for the deployment of APs. With the introduction of Gateway2 work in 2009, unit caseload has recently approximately doubled. The unit has had some increase in resources to cope with the increased workload, but is having to utilise more agents to cover the shortfall.

The management team have a good awareness of the priorities for the unit and undertake a significant degree of planning outside of normal London processes, particularly in relation to new initiatives. The introduction of Gateway2 work onto the unit has taken up significant management focus in the last year and required effective engagement with partner agencies to ensure its success.

While communication on the unit is generally effective, consultation with staff about new initiatives together with frequent updates would help staff to be better engaged when changes occur.

We identified one strength and ten aspects for improvement.

Strengths

- 1 The quality of the monthly face-to-face advice surgeries held with the police delivering guidance on serious and complex cases (aspect 1).
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Aspects for improvement

- 1 Unit managers should utilise the police pre-charge decision-making performance data to assist in analysing PCD outcomes (aspect 1).
 - 2 The unit should implement an effective system to monitor and progress cases that have been returned to the police for further action (aspect 2).
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- 3 The unit should put steps in place to ensure that associate prosecutors in the LTU maintain the full range of skills associated with that role and have the opportunity to progress and develop their career (aspect 4).

- 4 The London traffic unit should negotiate with HM Courts Service over Gateway listing arrangements to enable efficient resource deployment and maximise the number of sessions available for trial work (aspect 4).

- 5 The London traffic unit should work with CPS London senior management team and the relevant regional director to adopt a common memorandum of understanding with all appropriate CPS London boroughs, setting out the principles governing the transfer of work between traffic and borough courts (aspect 4).

- 6 Steps need to be taken to ensure compliance with the prosecution's disclosure obligations and to quality assure those disclosure decisions effectively, providing feedback, where necessary, to individual prosecutors (aspect 6).

- 7 The unit head should review compliance with the direct communication with victims scheme in fatal collision cases where pre-charge advice is for no further action and take steps to ensure that:
 - the correct method of providing pre-charge advice is noted on the MG3 form or advice note; and
 - a record is made on the file, CMS or decisions log stating that the reviewing lawyer has offered the family the option of a meeting (aspect 8).

- 8 Formal arrangements need to be established between the London traffic unit and Witness Service (aspect 8).

- 9 The unit's quality assurance process for pre-charge advice cases should include an appropriate proportion of no further action decisions so that these cases are properly monitored (aspect 9).

- 10 The unit management team should ensure that staff are adequately informed and consulted about new initiatives throughout the planning stages (aspect 11).

Background to CPS London borough assessments

HMCPSP's original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which were expected across an area as diverse as CPS London, and this approach was endorsed by the area's senior managers. In the event findings from the early assessments showed a relatively narrow range of performance and consistency in the themes emerging and the aspects for improvement. Some of these were of serious concern and needed to be tackled urgently at a senior level. London's senior management team confirmed that the boroughs which had been assessed were fairly representative of the area as a whole and that to undertake further assessments would be unlikely to add significantly to our findings. The inspectorate therefore decided to confine the exercise to 20 boroughs (including the pilot assessment of Croydon), drawn from five of the six districts, together with the traffic unit. The first nine borough reports were published on 19 January 2010.

Assessments

Assessments and judgements have been made by HMCPSP based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPSP assessments; and by assessment under the criteria and indicators of good performance set out in the performance

assessment framework, which is available to CPS London. Evidence has also been taken from a number of sources, including the findings from the examination of a file sample, the view of staff, representatives of criminal justice partners and the judiciary. Inspectors have also conducted observations of the quality of case presentation in the magistrates' courts and the Crown Court.

The performance assessment has been arrived at by rating the unit's performance within each category as either Excellent, Good, Fair or Poor in accordance with the criteria outlined in the framework.

The inspectorate uses a points based model for assessment, with a borough's overall assessment determined by the cumulative total of points for all of the aspects that are scored. The scoring matrix was adjusted for the traffic unit to take account of the additional aspects not scored. There are two limiters within the model. The unit cannot be rated Good or Excellent unless it is assessed as Good in at least two of the first four aspects scored. This is designed to give pre-eminence to the ratings for the core aspects of the unit's work. Similarly, if the unit is scored as Poor in two or more aspects its final assessment will be reduced by one grade from that which the overall points indicate.

The findings from the borough performance assessments undertaken are drawn together in a pan-CPS London report which provides an overall picture of the performance of the area. The pan-London report addresses a number of significant issues that have emerged as the assessments have progressed including the effectiveness of CPS London headquarters operations, and CPS London Direct which now makes a significant proportion of the charging decisions in the area. It is being published simultaneously with this report.

The full text of the report may be obtained from the Corporate and Operations Support Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available on line at www.hmcpai.gov.uk.