

CPS London Borough Performance Assessments

Westminster Borough

Executive Summary



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

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

The overall performance assessment of CPS London, Westminster borough was **POOR**.

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

Aspect	Score	Assessment
Pre-charge advice and decisions	2	Fair
Decision-making, preparation and progression in magistrates' court cases	0	Poor
Decision-making, preparation and progression in Crown Court cases	0	Poor
The prosecution of cases at court	2	Fair
Serious violent and sexual offences, and hate crimes	2	Fair
Disclosure	0	Poor
Custody time limits	3	Good
The service to victims and witnesses	0	Poor
Managing performance to improve	2	Fair
Managing resources	Not scored	
Management and partnership working	2	Fair
OVERALL ASSESSMENT	13	Poor

Description and caseload

CPS London (the area) is organised into operational teams along geographical boundaries. London boroughs and the City of Westminster are covered by the Metropolitan Police Service and the City of London by the City of London Police. The area's borough units are co-terminous with the Metropolitan Police Borough Command Units with each headed by a borough crown prosecutor (BCP), a CPS lawyer. Local borough units are then grouped together to form a larger district based upon a common Crown Court centre (or centres). Responsibility for a district lies with a district crown prosecutor (DCP), a more senior lawyer who line manages the BCPs. The interface 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 and 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.

CPS London is divided into two regions (North and South), which comprise a number of districts. The area revised its divisional structure in 2009 and each district is now aligned to one or more Crown Court centres and is composed of boroughs whose casework is dealt with by those centres.

Westminster borough has one office, at The Cooperage London SE1, although three administrators are based at the City of Westminster Magistrates' Court. It is part of the CPS London Croydon and Southwark district, and the unit's cases are committed or sent to the Crown Court sitting at Southwark.

Borough business is divided on functional lines between magistrates' court and Crown Court work, which is handled by both administrators and prosecutors. There are also paralegal caseworkers covering only Crown Court work. There are plans for the borough to move to Charing Cross Police Station in April 2010 to form an integrated prosecution team. This will mean that most of the borough staff will be co-located with the police and they will deal directly with investigating officers rather than through the police criminal justice unit, and will also undertake case building functions that are currently the responsibility of police staff.

As of January 2010 the borough had an average of 47.6 full-time equivalent staff in post, and a budget of £2,362,620¹.

Staff	Numbers at January 2010
Borough crown prosecutors	2
Business managers	1
Crown prosecutors	9.8
Associate prosecutors	5
Caseworkers	13.7
Administrative support staff	16.1
Total (full-time equivalent)	47.6

Details of Westminster borough 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	3,352	4,074	+21.5%
Decisions not resulting in a charge ²	4,407	2,670	-39.4%
Total pre-charge decision cases	7,759	6,744	-13.1%
Magistrates' court proceedings³			
Magistrates' court prosecutions	11,657	13,423	+15.1%
Other proceedings	24	9	-62.5%
Total magistrates' court proceedings	11,681	13,432	+15.0%
Crown Court proceedings⁴			
Cases sent or committed to the Crown Court for determination	1,485	1,914	+28.9%
Committals for sentence ⁵	343	511	+49.0%
Appeals from the magistrates' court ⁵	172	340	+97.7%
Total Crown Court proceedings	2,000	2,765	+38.3%

1 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.

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

3 Including cases that have previously been subject to a pre-charge decision and those that go to the Crown Court.

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

5 Also included in the magistrates' court figures, where the substantive hearing occurred.

The inspection team

Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public to join the process as lay inspectors. They are unpaid volunteers who examine the way in which the CPS relates to the public through its dealings with victims and witnesses; engagement with the community, including minority groups; handling of complaints; and the application of the public interest test contained in the Code for Crown Prosecutors. In this assessment Davina James-Hanman, of the Greater London Domestic Violence Project, and Mal Reston were the lay inspectors. Their views and findings have been included in the report as a whole. Their time was given on a purely voluntary basis and the Chief Inspector is grateful for their effort and assistance.

Summary of judgements

Contextual factors and background

The City of Westminster has the largest borough unit in CPS London. It handles a significantly higher caseload than the other boroughs, particularly in the Crown Court. Its location in central London, and its proximity to Parliament, results in a caseload that includes high profile cases that are likely to attract media interest, for example cases involving allegations against groups of demonstrators outside Parliament. It also makes pre-charge decisions in cases handled by specialist police squads. As the location attracts a large number of tourists (from across the United Kingdom as well as from abroad), and includes commuters travelling to work, the borough has added difficulties in relation to securing the attendance of witnesses at trials.

The borough has seen significant change in the last 18 months. Until late 2008 the borough handled cases emanating from the British Transport Police but this work is now the responsibility of a separate unit. The borough has also moved offices and will move again when it becomes an integrated prosecution team (IPT) with the police.

There are two BCPs in view of its size and caseload. One BCP was appointed in April 2008 while the second joined in July 2009. The most recently appointed BCP has responsibility for the magistrates' court work and the optimum business model unit (as well as undertaking additional work in the absence of the DCP), while the second BCP is responsible for the Crown Court work and manages (directly or indirectly) the majority of staff.

The majority of the borough's cases commence in the City of Westminster Magistrates' Court. Due to a backlog at the court a significant number of trials are listed in other magistrates' courts. This has increased the number of magistrates' court sessions undertaken by agents, as well creating logistical difficulties in ensuring that cases are sent to the correct location for each hearing.

The borough has suffered over recent months from the loss of experienced lawyers to other boroughs as a result of CPS London's move to IPTs and to CPS London Direct. These lawyers have not been replaced which has had an effect on the borough's performance. It is a credit to the commitment and effort of the borough's staff and managers that the change in performance is not as marked as it could have been.

Summary

The quality of casework decision-making is for the most part satisfactory. The decisions in the 56 cases in the file sample where the CPS authorised charges was in accordance with the principles of the Code for Crown Prosecutors in all except two cases, one of which was made by CPS Direct. However, prosecutors did not routinely consider at the charging stage ancillary matters such as the need for special measures to enable witnesses to give their evidence effectively or to admit bad character or hearsay evidence. This contributes to the late applications to court for the necessary permissions as cases are not prepared for trial in a timely way.

The process for delivering pre-charge decisions has changed with the introduction of CPS London Direct (CPSLD) which provides telephone charging advice on volume crimes during normal working hours; out-of-hours coverage is by CPS Direct on a national basis. The establishment of CPSLD London Direct has not reduced the call on borough resources to the extent which it should have done. This is partially attributable to lack of confidence by police officers in the borough in CPSLD.

The conviction rate for cases commenced in Westminster in which the CPS authorised the charges was better in 2008-09 than the London average but still marginally lower than the national average. Performance against the CPS benefit realisation measures for the charging initiative fell back from 2008-09 (when the borough was better than London overall and was better than the national average in two of the six measures) to a position in the 12 months to December 2009 when the borough had declined in five measures, and was worse than the national average in four of the six measures and equal in one, although it remained better than London overall.

The conviction rate for all cases concluded in the magistrates' court (whether or not the charge required the authority of the CPS) was 84.1% for the 12 months to December 2009. This is lower than the national rate (87.0%) and London overall which is 85.8%. The conviction rate in the Crown Court for the same period was 76.1% which is lower than the national average (80.6%) but higher than the London average (72.5%).

The conviction rate is influenced by the limited attention which most cases receive after the charging stage. Full reviews were carried out and met the required standard in only 56.5% of relevant cases. There is no effective system to ensure that they are completed in a timely fashion and it was invariably only two or three weeks ahead of the trial date – leaving inadequate time for remedial action. Prosecutors had no opportunity to address witness requirements in the case, requests for further information or to chase up evidence or material requested of the police at the outset. Overall, all aspects of case preparation were timely in only 17.2% of cases in the sample. Whilst the late receipt of papers from the police contributes to the borough's difficulty in timely case preparation, some aspects of delay were attributable to the ineffective operation of its own systems.

One consequence of these difficulties was the rate of discharged committals for 2008-09. These are cases which should proceed to the Crown Court but do not because the prosecution is not ready. The committal discharge rate in Westminster is the same as the London average but higher than the national average. In 2008-09 there were 43 discharged committals in the borough representing 1.8% of all cases prepared for committal. Performance for the 12 months to the end of December 2009 showed some decline within the borough.

The pattern of sound charging decisions with outcomes affected by inadequate preparation is similar to that found in other boroughs in London in both the magistrates' court casework and the Crown Court casework.

The effective trial rate (contested cases which proceed to trial on the day fixed) in the magistrates' court in 2008-09 was better than the national and London rates and improved marginally in the 12 months to December 2009. However, the borough's ineffective trial rate was worse than both the national and London rates and deteriorated in the 12 months to December 2009. The poor ineffective trial rate may be explained by the low vacated trial rate (contested cases where an application is made in advance to vacate the day fixed), as the failure to consider trials sufficiently in advance reduces the opportunity to make applications in advance to the court to vacate a trial date where the case is not ready. The effective and ineffective trial rates in the Crown Court in 2008-09 were significantly better than the national and London rates (these rates include trials from other boroughs and CPS headquarters as well as the Serious Fraud Office). The rates do not in themselves indicate strong case preparation as the robust approach to trial management that the resident judge has adopted militates against ineffective hearings.

Instructions to advocates in the Crown Court are not tailored to the individual case and do not generally contain an analysis of the case or guidance on acceptability of pleas. The weaknesses in the instructions are aggravated by the late allocation of cases to advocates at the Crown Court.

The standard of advocacy is variable. Most advocates meet the national standards of advocacy but some advocates in the magistrates' court were lacklustre, lacked presence or were less than competent in certain respects. Although progress is generally made at the first hearing late case preparation has resulted in unnecessary hearings.

The borough's lawyer shortfall has reduced the number of specialists and so cases involving allegations of serious violence, sexual offences, domestic violence and hate crime are not always allocated to prosecutors with the appropriate experience or expertise. The borough has, however, endeavoured to ensure that specialists are available to make pre-charge decisions. Successful case outcomes in these cases will have declined in the 12 months to December 2009, particularly in relation to cases involving violence against women, but they are still better than the London average.

Compliance with the prosecution's duties of disclosure is poor. Weaknesses include disclosing items outside the statutory criteria and making decisions based on inadequate police schedules. Where the duty of continuing disclosure arises weaknesses include the use of outdated forms or letters and no endorsement to show that the duty has been considered and timeliness is also poor. There were a number of cases where disclosable material was not disclosed. However, only one case resulted in a conviction and the material was in any event known to the defence.

The borough had a custody time limit (CTL) failure in August 2008. As a result a full CTL audit was completed and internal actions were raised. The borough has also completed an audit of systems in 2009. A sample of magistrates' court and Crown Court CTL case files was examined, which indicated that CTL compliance is working well. CTL issues feature prominently in meetings and other communication between borough management and staff.

The borough did not meet its proxy target in 2008-09 for the number of letters sent to victims to explain why a charge has been dropped or significantly altered, although performance improved in the six months to September 2009. Timeliness is unsatisfactory and was below both the national and London averages although it also improved in the six months to September 2009. The relationship between the witness care unit (to which one member of CPS staff is attached) and the borough is generally good but witnesses are not always warned in a timely way. There is limited analysis or monitoring of performance against the minimum standards of the No Witness No Justice scheme.

Performance management on the borough needs to be strengthened substantially and become more consistently embedded and disseminated to staff. Performance analysis with partners, particularly at prosecution team performance management meetings has improved although many of the issues for concern re-occur. Monitoring of advocates takes place formally and appears to be appreciated by lawyers. Whilst some existing operational systems have been reviewed recently and changes made, demands on all staff and managers often mean a 'fire fighting' approach has been adopted.

The borough has limited responsibility for managing prosecution costs and non-ring fenced administration costs which are controlled at district level. In 2008-09 the borough did well in meeting targets for in-house lawyer deployment in the magistrates' court. Loss of experienced lawyers has meant that in-house lawyer coverage has decreased significantly, although associate prosecutor deployment has increased (CPS staff who are not lawyers but who are authorised to conduct certain cases in the magistrates' court after special training). The deployment of crown advocates is managed at district level where a local advocacy unit has been established at the Crown Court. Systems to monitor sickness are in place but in 2008-09 the borough had an above London average although this has been significantly reduced,

despite the workload pressures on staff. Existing flexible working arrangements do not impact on operational effectiveness and applications have to undergo careful appraisal.

Staff shortages have meant that the focus of borough management has been very much on day-to-day operational issues. It is clear that borough managers are committed to engaging with partners and the community, and although there is a lot more the borough could do around public confidence, resourcing issues have prevented the full development of engagement. Generally, however, partners are supportive. The borough has undergone significant structural, geographical and staff changes within 12 months and consistent messages concerning the future of the borough have been difficult to give with accuracy. The future move to IPT will also mean further changes and once these changes are made both BCPs will need a consolidation period to ensure a good communication strategy exists internally and externally.

Inspectors identified 11 aspects for improvement:

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- 1 The quality of MG3s (record of charging decision) should be improved and the regular monitoring should be used to ensure that:
 - there is appropriate consideration of ancillary issues; and
 - action plans are clearly set out with target dates (aspect 1).

 - 2 The borough crown prosecutor should establish arrangements to ensure that magistrates' court cases are reviewed and necessary preparation is undertaken in a timely way (aspect 2).

 - 3 The borough crown prosecutor should institute regular monitoring of the case management system finalisation codes to ensure accuracy and completeness (aspects 2 and 3).

 - 4 The borough crown prosecutor should take urgent steps to ensure that Crown Court case preparation is undertaken to a satisfactory and timely standard (aspect 3).

 - 5 The borough crown prosecutor should review the number of specialist prosecutors and:
 - ensure that there is adequate cover for the most serious cases; and
 - publish descriptions of their roles and responsibilities to all staff and partner agencies (aspect 5).

 - 6 The borough crown prosecutor should use the process compliance guidance for disclosure issued by CPS headquarters to drive up performance in relation to the handling of unused material (aspect 6).

 - 7 There is a need for systematic monitoring of the quality and timeliness of direct communication with victims letters to take place and for feedback to be provided (aspect 8).

 - 8 Formal arrangements should be established to discuss borough victim and witness performance issues with the police and court service (aspect 8).

 - 9 Borough managers should develop a consistent performance framework and ensure key performance is disseminated to all staff (aspect 9).

 - 10 Borough managers should develop a formal communication strategy for internal and external communication (aspect 11).

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- 11 Borough managers should develop a clear community engagement strategy to ensure appropriate community and partnership engagement (aspect 11).
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Background to 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 ten aspects that are scored. There are two limiters within the model. A borough cannot be rated Good or Excellent unless it is assessed as Good in at least two of the first four aspects. This is designed to give pre-eminence to the ratings for the core aspects of the borough's work. Similarly, if a borough is scored as Poor in three 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.

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