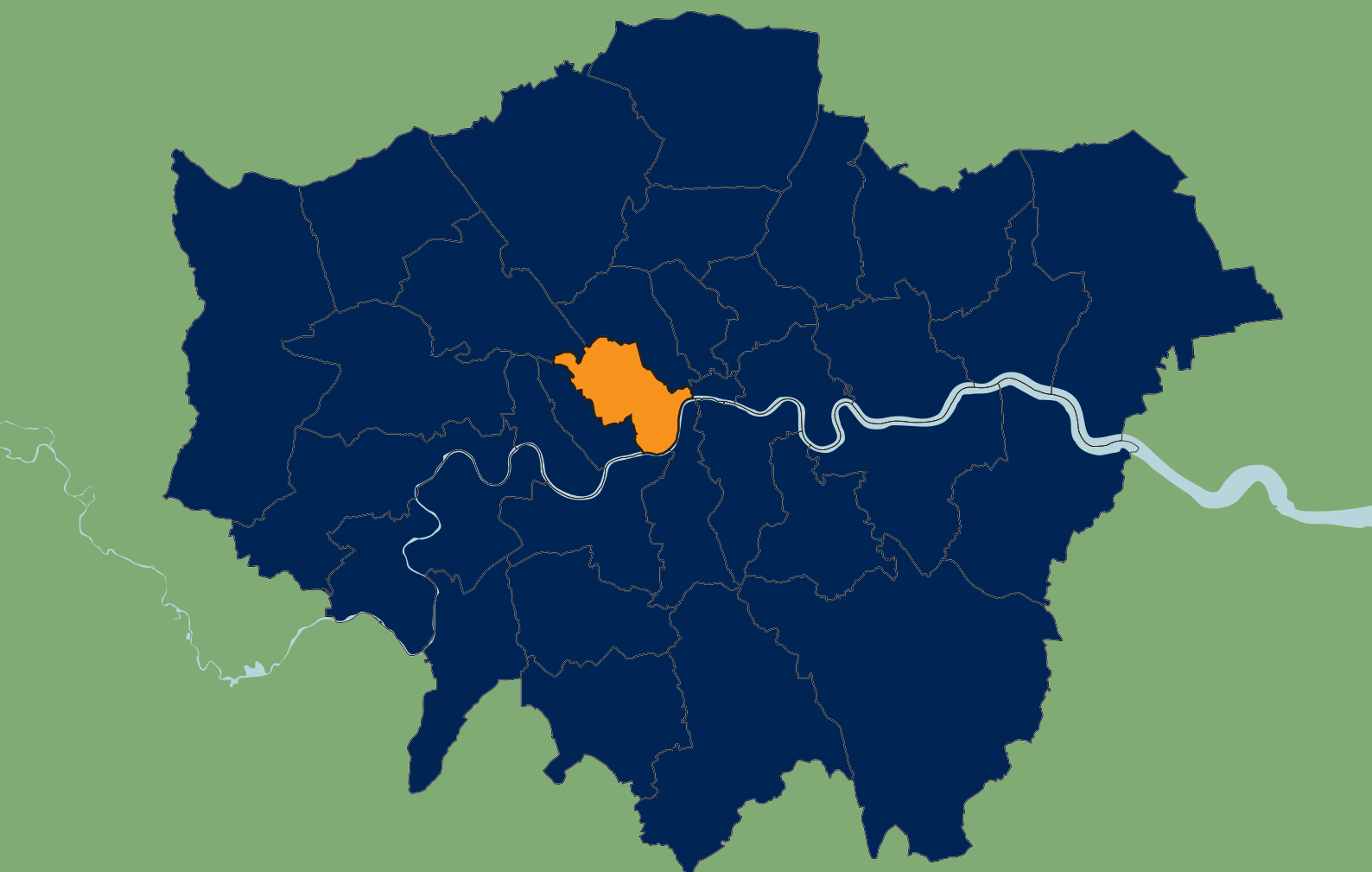


CPS London Borough Performance Assessments

Westminster Borough

Undertaken January 2010



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ABBREVIATIONS

Common abbreviations used in this report are set out below. Local abbreviations are explained in the report.

AP	Associate prosecutor
BCP	Borough crown prosecutor
BCU	Borough Command Unit (police)
CA	Crown advocate
CJSSS	Criminal Justice: Simple, Speedy, Summary
CJU	Criminal Justice Unit (police)
CMS	CPS computerised case management system
CPS	Crown Prosecution Service
CPSD	CPS Direct
CPSLD	CPS London Direct
CQA	Casework quality assurance
CTL	Custody time limit
DBM	District business manager
DCP	District crown prosecutor
DCV	Direct communication with victims
DGSP	Director's guidance on the streamlined process
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
IPT	Integrated prosecution team
JDA	Judge directed acquittal
JOA	Judge ordered acquittal
MG3/3A	Forms sent by police on which the prosecutor records the charging decision and action points
NRFAC	Non-ring fenced administration costs
NWNJ	No Witness No Justice
OBM	Optimum business model
PCD	Pre-charge decision
PCMH	Plea and case management hearing
PTPM	Prosecution team performance management
WCU	Witness care unit
WMS	Witness management system

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A INTRODUCTION TO THE PERFORMANCE ASSESSMENT PROCESS

This report is the outcome of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPSI) assessment of the performance of the Crown Prosecution Service (CPS) London in Westminster borough unit. It represents a more in-depth local assessment than the overall performance assessment of the South Sector of CPS London published in 2008.

Assessments

Assessments and judgements have been made by HMCPSI based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPSI 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.

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.

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 (see annex C).

Whilst we comment on the borough's performance in managing its resources, this aspect has not been scored.

The table at page 10 shows the unit's performance in each category.

Whilst borough performance assessments are not full inspections, significantly more evidence is collected and analysed than in area overall performance assessments. This enables HMCPSI to give a more discerning picture of CPS London overall which recognises the substantial variations within the area. This assessment is designed to set out comprehensively the positive aspects of performance and those requiring improvement.

Our original intention had been to assess all 33 boroughs (including the City of London) in order to reflect the variations in performance which we expected across an area as diverse as London. This approach was endorsed by senior managers in CPS London. In the event, the 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 management level. CPS London senior management team confirmed that the boroughs that had been assessed were fairly representative of London as a whole and that to undertake further assessments would be unlikely to add significantly to our findings. We therefore decided to confine the exercise to 20 borough performance assessments (including the pilot assessment of CPS Croydon borough), drawn from five of the six CPS London districts, together with an assessment of the London traffic unit.

The findings from the borough performance assessments undertaken will be drawn together in a pan-CPS London report which will contribute to providing an overall picture of the performance of the area. The pan-London report will also address 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 important to bear in mind that, despite the title of the report, this is a report about the performance of the CPS in Westminster borough. That performance is influenced by a range of factors including matters which are responsibility of managers at district and area level. It should not be regarded purely as a critique of the borough unit and the staff who work in it. Both the credit and the responsibility for what we find in the boroughs – good and bad alike – must be shared with those middle and senior managers whose decisions and behaviours influence what happens on the front line of prosecutions.

Direction of travel

Where feasible we will indicate any changes in the unit performance from the year 2007-08 to date if this is ascertainable.

We have identified any strengths or aspects for improvement in performance within the text.

B DESCRIPTION AND CASELOAD OF CPS WESTMINSTER BOROUGH

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, other than Westminster borough which has two BCPs because of its size. 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.

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 its 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 (IPT) in August. 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

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.

Details of Westminster borough 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	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%

The figures relating to pre-charge work need some explanation and we deal with this in aspect 1.

Inspectors visited the borough in January 2010. The lay inspectors were Davina James-Hanman, of the Greater London Domestic Violence Project, and Mal Reston. The role of the lay inspector is described in the introduction. They considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. They also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspectors have been included in the report as a whole, rather than separately. Their time was given on a purely voluntary basis and the Chief Inspector is grateful for their effort and assistance.

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.

C 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 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 (CPSLD). 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 for the most part is satisfactory. The decisions in the 56 cases in our 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 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 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 authorises the charge 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 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, become more consistently embedded and be 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. 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 now have to undergo careful appraisal.

Staff shortages have meant that the focus of borough managers 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.

In the light of our findings, the unit's performance assessment is **POOR**.

Aspects for improvement

We identified 11 aspects for improvement:

-
- 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).

 - 11 Borough managers should develop a clear community engagement strategy to ensure appropriate community and partnership engagement (aspect 11).

Summary of judgements

BOROUGH PERFORMANCE ASSESSMENT 2009	
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

D DEFINING ASPECTS

1 PRE-CHARGE ADVICE AND DECISIONS

Assessment
2 - Fair

1A The quality of decision-making contributes to improving casework outcomes

- The quality of decision-making at the pre-charge stage is generally sound. We examined 56 cases which had been the subject of a pre-charge decision (PCD) where the advice was to authorise charge. The borough made the decision in 34 cases, CPS Direct (CPSD) in 19 and CPSLD in three.
- The evidential and public interest stages of the Code for Crown Prosecutors (the Code) test were applied correctly in 54 cases (96.4%). The evidential stage was not applied correctly in two cases. In one case a borough lawyer made the decision to charge and the case continued to trial in the magistrates' court where there was a finding of no case to answer. In the second case CPSD had made the charging decision and the case was ultimately discontinued. The threshold test was applied in 11 cases. It was applied correctly in six cases and the reasons for applying it were correctly recorded. In the remaining five cases, the full Code test could have been applied.
- Ancillary issues, including whether bad character, hearsay or special measures applications should be made, were considered appropriately in 23 out of 54 relevant cases (42.6%). The borough's performance in this respect was not as good as that of CPSD or CPSLD. Ancillary issues were dealt with in only 37.5% of cases in the sample handled by borough lawyers. It is important that ancillary issues are identified early and, where the information provided by the police is insufficient, duty prosecutors need to be more proactive in making further enquiries.
- There were no cases in the sample where it was appropriate to consider restraint and confiscation proceedings at the pre-charge stage. The borough has a Proceeds of Crime Act (POCA) champion and duty prosecutors are reminded regularly of the need to consider POCA issues at the PCD stage.
- The quality of the MG3s (record of charging decisions) prepared by the borough is variable. Of the 34 cases where borough prosecutors made the decision, five MG3s were good (14.7%), 15 fair (44.1%) and 14 poor (41.2%). Of the 28 borough charged cases where an action plan was necessary, only eight (28.6%) were completed and met the required standard compared with CPSD's provision in 13 out of 17 cases (76.5%).

Aspect for improvement

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.

- The most appropriate charge was selected at the PCD stage in 49 out of 56 cases (87.5%).
- During 2008-09 borough performance in respect of all six of the measures of the anticipated benefits of the charging scheme was better than those for CPS London and was better than the national average for two of the measures. Of particular note is the excellent performance in respect of the discontinuance rate in magistrates' court cases: this performance was maintained in the 12 months to December 2009. Performance in relation to five of the measures declined in this period, however, and was worse than the national average in four of the six measures and equal in one. The borough continued to perform better in all respects than CPS London in the 12 months to December 2009.

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough*	National	CPS London	Borough*
Pre-charge decision cases						
Conviction rate	80.8%	76.2%	79.9%	79.8%	74.0%	78.3%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	9.3%	14.1%	15.8%	9.9%
Guilty plea rate	74.4%	69.8%	71.7%	72.9%	66.0%	68.1%
Attrition rate	19.2%	22.1%	18.6%	20.5%	25.1%	20.5%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	12.8%	11.6%	15.3%	15.1%
Guilty plea rate	72.9%	60.8%	61.8%	73.1%	60.5%	63.8%
Attrition rate	19.4%	27.3%	23.6%	19.5%	27.9%	24.1%

* Charging decisions made by CPS London Direct are included in the borough's performance data and reflected in the performance figures.

- The overall PCD conviction rate at 79.9% for 2008-09 is better than CPS London performance but worse than national performance. There was a decline to 78.3%, in the 12 months to December 2009, which was worse than the national average but remained above performance for CPS London.

1B Pre-charge decision-making processes are effective and efficient

- Until March 2009, when CPSLD took over the provision of PCDs in volume crime cases, the borough deployed two prosecutors at the charging centre at Charing Cross Police Station for four days a week between 9am and 5pm and one prosecutor for a fifth day. This has been reduced to the provision of one prosecutor five days a week, and a second prosecutor one day a week to deal with the work handled by the police Clubs and Vice Squad. In addition, a prosecutor is deployed one day a week at the charging centre at Paddington Police Station to deal with youth and domestic violence cases, specialist cover is provided once a fortnight to advise the National Paedophile and High Tech Crime Unit, and a fortnightly specialist clinic is held to advise on cases involving allegations of rape.
- All duty prosecutors are sufficiently experienced. Specialist prosecutors are responsible for making charging decisions in serious and sensitive cases and the borough has been able to deploy a specialist from another borough to advise in paedophile cases. The level of service provided to the Clubs and Vice Squad is particularly valued by the police.
- All cases are considered by a police evidential review officer (ERO) in order to ensure that cases are referred to the correct charging location. One of the BCPs also provided training (which included guidance on referral of cases) to the police following the introduction of CPSLD. Despite this, some cases (approximately 30%-40%) that should have been referred to CPSLD are referred to the borough. The police have some concerns about the service provided by CPSLD and borough managers consider that by undertaking this work it enables them to ensure that cases are being charged appropriately. Whilst this evidences the good working relationships, it runs contrary to the area's stated intention that 80% of cases should be dealt with by CPSLD. It also takes resources away from other aspects of the core business.
- The borough makes contact with CPSLD if the police are finding it difficult to make contact. Otherwise, liaison with CPSLD takes place through emails sent between managers.

- The EROs filter the cases being referred to the borough to ensure that there is a need for the decision to be made by the borough and that the files meet the required standard. The low rate of cases where the decision was to take no further action (18.3% in the 12 months to December 2009 compared to the national average of 26.2%) is one indicator that suggests that appropriate cases are being referred for PCD. Any issues that do occur are raised at the prosecution team meetings.
- MG3s do not always address all relevant considerations, including the provision of clear and detailed instructions for the advocate at court. Instructions were included in the MG3 in 20 of the 34 (58.8%) borough advised cases compared with CPSD cases where instructions were present in 17 out of 19.
- The police provided sufficient material for the prosecutor to make a charging decision (either initially or after compliance with an action plan) in 51 out of 56 cases in the sample.
- Use of the case management system (CMS) to record PCDs is good and the MG3 was completed on CMS in every case. The management of inactive cases requires improvement: in January 2010 there were 151 cases requiring updating.
- The figures relating to pre-charge work show a reduction of 39.4% in the proportion of cases not resulting in a charge from 2007-08 to 2008-09 (4,407 reducing to 2,670). Historically there was a significant backlog in the finalisation of cases in the borough and a drive to reduce this in the last quarter of 2007-08 resulted in 2,524 cases being administratively finalised, which was more than twice as many than there were in 2008-09. This backlog predated the current management team's involvement in the borough and the number of cases being administratively finalised has since been reduced from 17.5% in 2008-09 to 11.5% in the 12 months to December 2010. The proportion of cases resulting in a charge has shown a 21.5% increase from 2007-08 (when it was 3,352) to 2008-09 (4,074). A further drive to reduce finalisation backlogs in 2008-09 may explain some of the increase it does not appear to be a complete explanation, but the borough was not able to provide us with any other reason for the increase.

2 DECISION-MAKING, PREPARATION AND PROGRESSION IN MAGISTRATES' COURT CASES

Assessment
0 - Poor

2A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

Case outcomes in the magistrates' court

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Discontinuance and bindovers	8.7%	8.0%	7.4%	8.9%	8.3%	7.2%
No case to answer	0.2%	0.3%	0.3%	0.2%	0.3%	0.5%
Dismissed after trial	2.0%	2.4%	1.4%	1.7%	2.8%	2.2%
Discharged committals	0.2%	0.3%	0.3%	0.3%	0.4%	0.4%
Warrants	1.6%	3.0%	6.2%	1.5%	2.5%	6.1%
Overall conviction rate	87.3%	86.0%	84.4%	87.0%	85.8%	84.1%

- The application of the evidential and public interest stages of the full Code test was in accordance with the Code in 30 out of 32 magistrates' court cases examined (93.8%). In the remaining two cases the initial decision to charge was not in accordance with the Code: one was discontinued at a very late stage and the other resulted in a no case to answer. The decision to discontinue a further case shortly before trial was not in accordance with the Code.
- Full file reviews were carried out, and met the required standard, in 13 of the 23 relevant cases (56.5%). There is no effective system to ensure that they are completed in a timely fashion. They were invariably completed two to three weeks ahead of the trial date. There was also no effective system to ensure that cases that had been charged under the threshold test were subjected to a timely full Code review. There was a further ad hoc review in five out of eight relevant cases (62.5%).
- Prosecutors do not always identify at an early stage what is required to build cases to ensure a successful outcome. Nor do they take timely action to request further information or to chase outstanding material, even where the prosecutor at the pre-charge decision stage has set out what is required, with target dates for submission of the evidence or material by the police or where the prosecutor at court has endorsed the file with requests for action. Overall there was good proactive case management in only three out of 28 cases (10.7%). In the remaining cases, case management was fair in 12 cases (42.9%) and poor in 13 cases (46.4%). Communications from the defence routinely go without a response.
- Cases proceeded on the most appropriate charge in 28 out of 32 cases (87.5%). In two of the four cases where the most appropriate charge was not selected the defendant was acquitted after trial. In a third case the prosecutor offered no evidence prior to trial, and in the fourth the defendant pleaded guilty albeit to the wrong charge. There were no cases in the file sample where pleas had been accepted to different or fewer charges.
- There were no cases in the file sample where a defendant had a linked case but the borough managers are confident that there are appropriate systems in place to ensure that such cases are identified at an early stage.

- The proportion of cases where the proceedings were discontinued is better than that found nationally or across London as a whole. In 2008-09 7.4% of cases were discontinued compared to 8.0% in London and 8.7% nationally. There was a marginal improvement to 7.2% for the 12 months to December 2009. There were eight cases in our file sample which had been discontinued. The discontinuance was timely in two of the eight cases. In three cases (37.5%) the discontinuances could have been avoided by better case preparation.
- The BCPs authorise all discontinued cases unless circumstances make it impracticable. The BCP support officer enters the details of all adverse outcomes on a spreadsheet. Feedback to prosecutors is provided at team meetings or on a one-to-one basis. Specific cases where learning points arise are taken to the prosecution team performance management meetings.
- The rate of discharged committals for 2008-09 at 0.3% is the same as the London average but higher than the national average (0.3% and 0.2% respectively). 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 shows some decline within the borough, although the position is still the same as the London average and worse than the national average. The borough rate of 0.4% comprises 48 cases which represents 2.4% of all cases prepared for committal in the period. The BCP keeps a spreadsheet, and authorises any reinstitution of proceedings, but there is no system to keep track of allocated cases awaiting further evidence from the police. The borough reinstates about two cases per month. Criminal justice partners have reported an improvement in the number of cases ready for committal. There were no discharged committals in our file sample, but our file examination showed that committal papers are regularly received late from the police or are reviewed late by the prosecution.
- Overall, case outcomes in the magistrates' court are poor and showing some deterioration. The proportion of magistrates' court cases that resulted in a conviction in 2008-09 was 84.4%, which is worse than CPS London performance of 86.0% and the national performance of 87.3%. Performance shows a slight deterioration to 84.1% for the 12 months to December 2009, while the London and national averages have been stable.

2B Cases are prepared and progressed effectively

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	50.3%
Cracked	38.0%	34.8%	28.8%
Ineffective	18.6%	17.9%	20.9%
Vacated	21.5%	16.3%	3.8%

- Most of the borough's cases are dealt with at the City of Westminster Magistrates' Court. The borough has an administrative team of three based at the court, who update and finalise cases on CMS. They also write to the police in relation to witness requirements and missing evidence before files are returned to the office at The Cooperage. The requests should be sent at the end of the court day but there had been delays of up to several weeks in recent months due to administrative difficulties. The situation had just been rectified at the time of our assessment.

- The optimum business model (OBM) for the preparation of contested magistrates' court cases has been implemented on the borough, and had just been formally signed off by the National OBM Implementation and Delivery team. The OBM is managed by one of the BCPs and is staffed by a full-time case progression manager (CPM) and two full-time administrative assistants. Two lawyers per day are deployed to the OBM and are expected to progress fully at least eight cases each in the day. One associate prosecutor per day is deployed to the OBM for half a day to assist with witness and disclosure issues and correspondence. They refer any disclosure issues to one of the lawyers or the BCP.
- The OBM deals with 60-80 trials per week, a significant proportion of which are listed in magistrates' courts (four) other than the City of Westminster Magistrates' Court. The OBM is organised with clearly marked shelving and different coloured jackets for the different magistrates' courts, but the efficiency of the OBM is hampered by the volume of cases awaiting a full file from the police. Under the Director's Guidance on the Streamlined Process the police are not required to provide a full file until a not guilty plea is entered but the police have agreed to provide the disclosure material in anticipated not guilty pleas. The BCP is working closely with the criminal justice unit Detective Chief Inspector to ensure that officers send in the full file in a timely manner. They regularly send a list of cases which are due in court two weeks ahead where papers are missing, but there is no system to chase the police for the full file at an earlier stage.
- The CPM attends weekly case progression meetings with the case progression officer for the City of Westminster Magistrates' Court and the police criminal justice unit and witness care unit managers. They consider cases two to three weeks ahead of the trial date and a prosecutor checks the files the day before the meeting.
- Files are routinely reviewed for trial at a very late stage and case preparation has suffered as a result. There was timely compliance with court directions in four out of 15 cases (26.7%) and applications for bad character, special measures or hearsay were made on time in only one out of ten relevant cases. Overall, all aspects of case preparation were timely in only five out of 29 cases (17.2%). Whilst the late receipt of papers from the police can contribute to the borough's difficulty in timely case preparation, some aspects of delay were attributable to the ineffective operation of the OBM.

Aspect for improvement

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

- Criminal Justice: Simple, Speedy, Summary has been implemented in the borough and 30 out of 32 cases in our file sample were progressed at the first hearing. In one of the remaining two cases it was adjourned to link up with the co-defendant, and in the other the prosecution papers were missing. Until very recently, there has been a failure to send prompt requests to the police for additional papers and for witnesses to be warned to attend in cases adjourned for summary trial.
- The borough's effective trial rate of 50.3% in 2008-09 is better than CPS London at 47.3% and national performance at 43.4% and has improved marginally to 50.6% in the 12 months to December 2009. However the borough's ineffective trial rate of 20.9% is worse than London performance (17.9%) and national performance (18.6%) for the year 2008-09 and has risen further to 22.7% in the 12 months to December 2009. The view of criminal justice partners is that this is caused by a lack of timely preparation by the CPS and the late service of disclosure, often on the day of trial. This is confirmed by our findings. There were six ineffective trials in our file sample. Four cases were attributable to prosecution witness issues. The remaining two cases were attributable to lack of disclosure.

- The poor ineffective trial rate may be explained by the low vacated trial rate, which was 3.8% in 2008-09 compared with the national average of 21.5% and the London overall rate of 16.3%. 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, thus increasing the likelihood of a trial being ineffective.
- The cracked trial rate at 28.8% in 2008-09 is significantly better than CPS London (34.8%) and national performance (38.0%) and improved further to 27.3% for the 12 months to December 2009. The proportion of cracked trials attributable to the prosecution is 13.6%. In the 12 months to December 2009 that figure decreased to 12.6%. There were two cracked trials in our magistrates' court file sample, both of which were attributable to the prosecution.
- Use of CMS to provide an audit trail of actions completed is variable with 26 out of 32 (81.3%) of the files in our file sample rated as fair and five (15.6%) of the files rated poor. Only one file (3.1%) provided a good audit trail of actions completed. It is of concern that in nine (28.1%) files in our file sample, the outcome, disposal or other significant aspect of the case was finalised incorrectly on CMS.

Aspect for improvement

The borough crown prosecutor should institute regular monitoring of the case management system finalisation codes to ensure accuracy and completeness.

- Much of the decision-making is sound, but lack of timely full reviews and poor preparation leads to cases not being ready for trial or their not being as strong as possible. This, albeit in conjunction with the non-attendance of witnesses, is a substantial cause of the low rate of convictions.

3 DECISION-MAKING, PREPARATION AND PROGRESSION IN CROWN COURT CASES

Assessment
0 - Poor

3A Decision-making is of a high quality, and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case

Case outcomes in the Crown Court

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Judge ordered acquittals	11.6%	15.7%	12.8%	11.6%	15.4%	15.2%
Judge directed acquittals	1.0%	1.1%	0.4%	0.9%	1.4%	0.7%
Acquittals after trial	5.5%	8.5%	7.5%	5.8%	8.9%	6.1%
Warrants	1.1%	1.6%	2.4%	1.0%	1.7%	1.9%
Overall conviction rate	80.8%	73.1%	76.9%	80.6%	72.5%	76.1%

- We examined 27 cases that were concluded in the Crown Court and found all to have been compliant with both stages of the Code test at the point of charge and at subsequent review when the cases were either committed or sent for trial. However we concluded that the decisions to discontinue two cases before trial were not in accordance with the evidential stage of the Code test. In both of these cases there had been no material diminution of the strength of the evidence since the earlier positive reviews.
- No cases have been referred to the complex casework centre in spite of the prevalence of serious and important cases within Westminster. Assurances were given that prosecutors were familiar with the appropriate referral criteria.
- Except in the most serious or complex cases, the prosecutor who makes the pre-charge decision will not be identified as the reviewing lawyer. Until recently a case was not allocated to a lawyer until the police had provided an upgraded file for committal or sending (for indictable only offences). This approach has hindered the building of strong prosecutions and contributed to late and inadequate case preparation. We examined one case where a CPSD prosecutor authorised the charging of two offences but recommended that the local prosecutor consider adding a third serious charge at the full Code test review. However this was neglected by the borough until the plea and case management hearing (PCMH).
- A full file review by the allocated lawyer was present in only 14 of the 27 cases (51.9%). We considered that there were 13 cases where an ad hoc review ought to have been completed in order to update the file with important new information but this was undertaken in only three cases (23.1%). Overall we considered that all reviews met the required standard in 16 of the 27 cases (59.3%).
- The most appropriate charges were selected at the committal or sending stage in 23 out of 27 cases (85.2%) but, in each of the four cases where they were not, the correct charges were added either at PCMH or before trial.
- There were two cases where the prosecution accepted guilty pleas by the defendant to one or more counts on the indictment. In both cases the decision was considered to have been realistic although a written basis of plea was found in one case only.

- There were no examples in the file sample where the prosecution had successfully linked cases involving the same defendant. However inspectors noted one case where a defendant's trial was delayed because of a failure to link several outstanding cases in other boroughs.
- We examined 24 cases where indictments had been prepared by the prosecution and found that 20 were correct (83.3%). The four incorrectly drafted indictments were properly amended in a timely manner. There were three cases where the prosecution was terminated before any indictment had been drafted or lodged with the court.
- CPS London collates its restraint and confiscation orders centrally and the volume and value targets are set at an area level. For 2008-09, London obtained a total of 491 confiscation orders, with a combined value of £38,513,344, exceeding the value target figure by £18,868,344; in the same period, 352 restraint orders were achieved against a target of 98 orders. During this period, Westminster secured eight restraint orders and 51 confiscation orders representing a value of £836,390.
- Six cases were discontinued by the prosecution and so resulted in judge ordered acquittals (JOAs). We considered that two of these unsuccessful outcomes could have been avoided by better case management. Although convictions were by no means guaranteed, there was still a realistic prospect that a jury would bring in a guilty verdict.
- We examined a further three cases where the judge directed an acquittal of the defendant (JDA) and again we concluded that two of these could have been avoided by better case management by the prosecution. In both examples witness issues were not addressed by the prosecution at a sufficiently early stage and so affected the overall fairness of the proceedings, causing the judge to acquit the defendants.
- In 2008-09 the rate of JOAs recorded in Westminster was 12.8% which was worse than the national figure of 11.6% but better than that for CPS London of 15.7%. For the 12 months to December 2009 this rate had risen sharply to 15.2% compared with the unchanged national rate of 11.6% and CPS London at 15.4%.
- By contrast the rate of JDAs for the borough was 0.4% in 2008-09 and better than both national and London figures. Performance in the 12 months to December 2009 has declined so that the rate is now 0.7% but this is still better than national and London rates. Errors in finalisation codes have been identified in our file sample so these outcomes must be regarded with some caution.
- Overall successful outcomes in Crown Court cases during 2008-09 were 76.9% and have fallen slightly during the 12 months to December 2009 to 76.1%. The comparable national rate was 80.8% for both periods while CPS London's performance was 73.1% in 2008-09 and 72.5% in the current year. The borough's performance is thus regarded as poor although it was better than that of CPS London as a whole.

3B Cases are prepared and progressed effectively*Trial rates*

	Performance 2008-09		
	National	CPS London	All Southwark Crown Court cases ⁶
Effective	47.1%	54.7%	62.5%
Cracked	40.8%	30.0%	25.7%
Ineffective	12.1%	15.2%	11.8%

- The borough's Crown Court casework is committed or sent to Southwark Crown Court where cases from the neighbouring City of London unit are also heard, as well as complex casework conducted by CPS Central Casework divisions and other prosecuting agencies such as the Serious Fraud Office. Since 2007 there has been a small district local advocacy unit (LAU) established at Southwark Crown Court which deals with a proportion of Westminster's non-contested hearings and a lesser number of short trials.
- The timeliness of receipt of upgraded files from the police has caused difficulty for the borough's staff in meeting service dates for both committal papers and for the prosecution case in indictable only cases. Systems changes have led to improvements in discharged committal rates but in seven out of 16 cases (43.8%) that were sent to the Crown Court for trial under the Crime and Disorder Act the prosecution had failed to serve its case within the standard period or any other period directed at a preliminary hearing.
- All necessary actions to progress the case at PCMH were taken by the prosecution in 19 of the 25 cases (76.0%) (two cases were terminated before that stage). After the PCMH the rate of timely compliance with pre-trial directions reduced significantly: we found timely compliance in only two of the 19 cases (10.5%). Defence correspondence has not been regularly monitored so that cases have been listed at court to ensure compliance with directions and the incidence of wasted costs orders against the prosecution has increased.
- The borough had recognised its poor performance in this respect during the summer of 2009 and engaged in discussions with the DCP, resident judge and LAU manager at Southwark. As a result, new working practices have been devised to improve the response to judges' orders and defence correspondence but at the time of our visit these had still to be embedded.
- The borough has a dedicated case progression officer (CPO) who attends regular meetings at Southwark with the Crown Court manager and representatives from the witness care unit and Witness Service. A meeting with the police CPO is always scheduled in advance to identify issues that might affect readiness for trial. Whilst these meetings are considered useful, our examination of case files revealed that in only six out of 27 (22.2%) were all aspects of case preparation timely. Proactive case management was considered good in three cases (11.1%), fair in 16 (59.3%) and poor in eight (29.6%).
- The effective trial rate of 62.5% in 2008-09 in Southwark Crown Court is an impressive result and well exceeds the comparable national and London rates of 47.1% and 54.7% respectively. This figure has not been disaggregated and thus includes outcomes in cases prosecuted by other boroughs and agencies. It is also clear that the resident judge has adopted a robust approach to trial management that militates against ineffective hearings.

⁶ Crown Court trial data is not disaggregated to borough level, therefore this table reflects the composite performance of all those CPS London boroughs that commit cases to that Crown Court.

- There was one example of an ineffective trial in our file sample. The prosecution elected not to proceed in the defendant's absence when he failed to answer bail on the trial date. We considered that it would have been appropriate to proceed. Two cases resulted in cracked trials and the prosecution were responsible for both. In one case the prosecution accepted an alternative disposal resulting in the defendant being bound over to be of good behaviour and the charge was dropped. We considered that the prosecution were not justified in taking this course. In the other case the prosecution discontinued all charges when witnesses did not attend. Their likely absence was well known to the prosecution significantly before the trial date and earlier action could have avoided the cracked trial.
- Instructions to counsel were considered in 24 cases. We considered that they were good in four cases (16.7%), fair in 14 (58.3%) and poor in six (25%). As instructions to prosecution advocates are frequently delivered late to the LAU manager, who allocates them either to crown advocates or to independent counsel, the impact of poor quality instructions which lack any analysis of the case or guidance on acceptability of pleas is exacerbated.
- The borough had no cases during the period of the inspection that were subject to a case management panel. Panels are convened to oversee the most serious or complex casework, usually assessed as a trial expected to last over 40 days or involve more than three trial counsel.
- The usage of the case management system to finalise cases has demonstrated some confusion on the part of borough staff in identifying the correct code where a case has resulted in an unsuccessful outcome. Thus we saw examples of cases being wrongly resulted as JDAs and JOAs which can affect the borough's performance data.

Aspects for improvement

The borough crown prosecutor should take urgent steps to ensure that Crown Court case preparation is undertaken to a satisfactory and timely standard.

The borough crown prosecutor should institute regular monitoring of the case management system finalisation codes to ensure accuracy and completeness.

4 THE PROSECUTION OF CASES AT COURT

Assessment

2 - Fair**4A Advocates are active at court in ensuring cases progress and hearings are effective; advocacy and case presentation are of a high standard**

- The majority of the borough's cases are heard at the City of Westminster Magistrates' Court which uses up to eight court rooms a day. The borough has the largest volume of trials in London and, owing to a backlog of work, some categories of trials are being transferred to other courts. The borough retains conduct of these trials. Cases are routinely heard at West London and City of London Magistrates' Courts, and during February and March 2010 trials are also being sent to Hendon and South Western Magistrates' Courts. Youth cases go to West London Youth Court where the borough's cases are heard two or three days a week.
- The British Transport Police BCP is currently responsible for compiling the weekly rota which must accommodate sessions at the courts as well as in the charging centre and the OBM unit.
- All borough prosecutors in the magistrates' court are experienced advocates. The borough has 9.8 crown prosecutors and five associate prosecutors (APs) who present cases in the magistrates' court. Remand cases in the youth court are presented by the borough's youth specialist.
- There are insufficient prosecutors to cover all court sessions so the borough has to rely on using agents to make up the shortfall. The borough currently has three agents on short term contracts, and instructs additional agents as required. Agents are provided with a standard set of instructions which contain the BCP's contact details.
- Criminal justice partners have raised case preparation as an issue in both the magistrates' court and Crown Court. Case preparation impacts on case progression and presentation. When APs are undertaking case progression tasks in the office they have half a day to prepare cases for court for the next day, but otherwise they have limited time to prepare and also have to review the overnight custody cases on the morning of the hearing. No specific preparation time is allocated to crown prosecutors at the magistrates' court. Agents generally see their papers on the morning of court. Occasionally they receive the papers beforehand, for example, if there is a summary trial which is lengthy or complex. Prosecutors have limited time to prepare when cases are transferred between court rooms at short notice. There were ten wasted costs orders in 2008-09 and 19 in the first three quarters of 2009-10.
- Progress was made at the first hearing in 30 out of 32 cases (93.8%) in our sample of magistrates' court files. The prosecutor took steps to progress the case at the PCMH in 19 out of 25 relevant cases (76.0%) in our sample of Crown Court cases. In 17 out of 59 cases (28.8%) there were subsequent unnecessary adjournments, seven of which were attributable to the prosecution. In five of the seven cases the reason was late service of unused material. Criminal justice partners report that frequently magistrates' court files are missing or sent to the wrong court building. Four files were missing in one court during our court observations and one had been sent to the wrong magistrates' court.
- The quality of endorsements in the magistrates' court is variable. Most endorsements are legible and clear but sometimes they lacked sufficient detail of the outcome of the hearing. Crown Court endorsements are on minute sheets, and are generally of equal standard. In our file sample the quality of endorsements were good in 17 out of 59 cases (28.8%), fair in 34 cases (57.6%) and poor in eight cases (13.6%). It was clear from our court observations that endorsements were completed contemporaneously in the magistrates' court and included in bold print or highlighted required action for the next hearing or for the OBM unit.

- Our advocacy observations as part of this assessment indicate that most prosecution advocates meet the CPS national advocacy standards, although some are lacking in presence, lacklustre or less than competent in certain respects. Criminal justice partners considered that the standard of advocacy varies from very good to poor, with a few crown prosecutors lacking in certain basic skills, particularly in relation to the examination-in-chief and cross-examination of witnesses.
- Prosecution advocates arrive at court in a timely manner and generally comply with the Prosecutors' Pledge, Victims' Code of Practice and Witness Charter. The prosecutors work well with the Witness Service and routinely introduce themselves to victims and witnesses and ensure that they are kept informed of the progress of cases at court. During the course of our visits we observed appropriate care being provided to victims and witnesses by prosecutors apart from one case where the agent refused to see the witnesses prior to the trial.

5 SERIOUS VIOLENT AND SEXUAL OFFENCES, AND HATE CRIMESAssessment
2 - Fair**5A The borough ensures that serious violent and sexual offences, and hate crime cases are dealt with to a high standard***Violence against women: successful outcomes (convictions) as a percentage of completed cases*

Performance 2008-09			Performance 12 months to December 2009		
National	CPS London	Borough	National	CPS London	Borough
71.9%	62.0%	78.7%	71.7%	60.1%	71.4%

Hate crime: successful outcomes (convictions) as a percentage of completed cases

Performance 2008-09			Performance 12 months to December 2009		
National	CPS London	Borough	National	CPS London	Borough
82.0%	77.2%	84.6%	82.1%	74.4%	78.3%

- We examined 35 cases involving allegations of serious violence, sexual offences or other hate crimes. Where distinct categories of case required flagging on the case management system by staff, this was successfully achieved in 23 of 26 relevant cases (88.5%).
- The borough has suffered some loss of lawyers during the period covered by the inspection so that its complement of specialist prosecutors has been depleted to the extent that not all subjects are adequately covered by specialists. There are two rape specialist prosecutors but one of these is one of the BCPs, who will have limited opportunity to devote to regular casework duties.
- There is a domestic violence coordinator, a POCA specialist and two youth offender specialists but other aspects of hate crime and child abuse are not presently allocated to any individuals. The precise roles of the existing specialists is not clear but they do not currently play any part in the analysis of performance data or adverse outcomes, nor do they attend any inter-agency groups or deliver any form of training or information to colleagues in the borough.

Aspect for improvement

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.

- Of the 35 cases in our sample all but one (97.1%) were charged in accordance with the Code test. The case that inspectors considered had failed the evidential stage of the test was an allegation of domestic violence where the victim had not complained of assault nor was there sufficient evidence from any other source that an assault had occurred. The decision to charge was not attributable to a borough prosecutor.
- We examined four allegations of rape but a fifth case which we selected was not found by the borough. We also looked at three cases involving child abuse, 12 domestic violence, seven racially aggravated offences, one fatal road traffic collision and eight cases involving serious violence.

- The CPS has published policies and guidance in relation to all these types of case except serious violence. We considered that one rape case was not handled in accordance with policy in that it was discontinued without reference to a second specialist. One racially aggravated case was dealt with in the magistrates' court but the file endorsement did not record the sentence uplift to reflect the racial element of the offence as an aggravating feature.
- The quality of case review and preparation was mixed and tended to mirror that in most Crown Court cases as discussed in aspect 3. Of particular concern were two rape cases where insufficient attention appeared to have been paid to the likely outcome and scope of the prosecution at an early stage. In one example, a decision to delay the addition of a count of rape to an indictment containing grievous bodily harm and theft led to an avoidable abuse of process challenge by the defence. In the other case, the need to obtain expert evidence of the alcohol content of the victim's blood at the time of the offence was not pursued at an early stage and its absence may have weakened the prosecution's case at trial.
- Inspectors considered that in 29 of the 35 cases (82.9%) the charges selected by the prosecutor were the most appropriate. There was one case where the prosecution accepted guilty pleas by the defendant to five out of six counts on an indictment alleging offences involving child abuse. We considered that this was an appropriate and realistic decision.
- Nine cases in our sample were discontinued but we considered that only seven (77.8%) of these decisions were in accordance with the Code test. In two of the discontinued cases, both involving allegations of domestic violence, the victim retracted the complaint but we considered that the retraction policy had not been appropriately followed by the prosecutor. Only three of the nine cases involved timely decisions to discontinue.
- It was clear on the files that prosecutors had sought authority to discontinue from the BCPs, or other level D lawyer, in most cases and in one case from the DCP.
- The borough has not yet been able to make any concerted efforts in conjunction with partner agencies to deliver the Violence against Women strategy except through its prosecution of relevant offences with a view to securing successful outcomes. It is about to engage with other criminal justice agencies with a view to implementing the London mainstream model of standards for the management of domestic violence cases.
- In 2008-09 the borough achieved successful outcomes in 78.7% of cases involving allegations of violence against women. This was above the target of 74% set by the CPS and bettered the performance of the CPS nationally and across London. Throughout the current financial year the proportion of successful outcomes has fallen to 71.4% for the 12 months to December 2009, which is slightly below national performance of 71.7% but still well ahead of London at 60.1%.
- The decline in performance is more obvious when looking at successful outcomes in cases of rape where the rate has fallen from 50% in 2008-09 to 37.5% for the 12 months to December 2009. The proportion of successful outcomes in domestic violence cases has fallen from 74.6% in 2008-09 to 60.9% for the 12 months to December 2009.
- The proportion of successful outcomes in cases involving allegations of hate crime is more positive in that for 2008-09 the borough achieved a rate of 84.6% compared with the national rate of 82.0% and that for CPS London of 77.2%. For the 12 months to December 2009 the borough's successful outcome rate declined to 78.3% compared with the national rate of 82.1% and London of 74.4%. This shows a general downward trend which needs to be curtailed.
- One of the BCPs has contacted the Local Safeguarding Children Board but has yet to attend a meeting of the board or contribute directly to its agenda. At the time of the assessment the BCP was due to attend the next meeting.

6 DISCLOSURE

Assessment

0 - Poor**6A There is compliance with the prosecution's duties of disclosure**

- The level of compliance with the duty of initial disclosure by the borough is poor. The duty arose in 50 cases that we examined but full compliance was achieved in 23 (46.0%).
- There were many examples of poor or inadequate schedules of non-sensitive unused material provided by the police but these routinely went unchallenged by prosecutors. Other faults included disclosing material not within the statutory criteria, or allowing the defence to inspect them.
- By contrast, we considered that in four of the 27 cases (14.8%) the prosecution had not fully complied with its duty of initial disclosure, and material likely to undermine the prosecution case or to assist the defence case was not disclosed. In one case a victim's caution for a relevant offence was never disclosed while in another case, where the identity of the defendant was disputed, details of a second suspect arrested at the scene were not disclosed. Both these cases were dismissed by magistrates and a third case was discontinued before trial. In the fourth case there was no record on the case papers or on the case management system that any schedule or material had ever been served, although crime and incident reports had been copied to the prosecutor. In the event, the defence were aware of the information through their own enquiries.
- Timeliness of delivery by police of the disclosure schedules and any accompanying material was a major issue for borough staff, particularly since the implementation of the Director's Guidance on the Streamlined Process where contested cases and those to be committed to Crown Court do not include unused material at initial submission. Indeed, service of initial disclosure by the prosecutor on the defence was timely in only 19 of the 45 cases (42.2%) where material was served. The borough has now agreed with the police that disclosure schedules will be provided with the initial file in cases where a not guilty plea is anticipated.
- The duty of continuing disclosure arose in 16 cases following the service of a defence case statement. We considered that the duty had been complied with fully in six of these (37.5%). In some cases outdated forms or letters had been used to discharge the duty whilst in others there was no record that the need for any further disclosure had ever been addressed by the prosecutor.
- Timeliness continued to be a significant issue at this stage of the process. Compliance was timely in only two cases where the duty of continuing disclosure arose. In most cases, any defence case statement was sent to the police disclosure officer but there was no adequate system in place for ensuring that it was returned within a reasonable time.
- There was limited evidence of adherence to the guidance set out in the CPS/ACPO (Association of Chief Police Officers) Disclosure Manual. A properly completed disclosure record sheet was located in only 11 of the 50 cases (22.0%) despite repeated reminders to staff to ensure that these were added to the file. Managers reported that the CPS London guidance on disclosure assurance arrangements had now been promulgated on the borough and that the first monthly certificate of assurance had been completed.
- We saw no cases involving public interest immunity applications but we were told that these are handled at district level. There is no protocol with the local authority governing the disclosure of third party material but existing arrangements have worked well to date.
- We examined seven cases where there was sensitive material listed on a schedule prepared by the police. We considered that four of these (57.1%) had been handled correctly. Failings in the three exceptions included the absence of a signature by the prosecutor showing that the schedule had been inspected and no indication to show that action had been taken in relation to an item that needed to be discussed with the police.

- The need for further training of disclosure officers was recognised by police managers and there were joint discussions with the borough as to how this might be addressed. The training was delivered in January 2010. All prosecutors have received training within the last two years.
- There is no borough disclosure champion.

Aspect for improvement

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.

7 CUSTODY TIME LIMITS

Assessment

3 - Good**7A The borough ensures that all cases with a custody time limit are dealt with appropriately and time limits adhered to**

- In September 2008, CPS London issued a notice to all staff to ensure that the national custody time limits (CTL) guidance was adopted in all boroughs. This was done in the light of the high number of CTL failures in London and HMCPSP's impending assessments of London boroughs. The London Management Team then instructed all boroughs to adopt the London CTL system. This is compliant, for the most part, with the national standard. However, managers need to be aware of the disparity and ensure that national requirements are also met.
- The borough had a CTL failure in February 2008. The case, which was complex, attracted adverse judicial comment, and involved linked cases between the borough and the then Central Criminal Court Trials Unit. As a result a full investigation was completed by the BCP and sector director responsible at that time and internal actions were raised, including better liaison between both units and an agreement that one unit should have sole conduct of all related matters. No further failures have been recorded for nearly two years despite the borough's heavy caseload.
- The borough completed a peer review in August 2009 which highlighted a number of new measures introduced into the system and confirmed that the system was compliant with CPS London's minimum standards. Several files were also reviewed at this time and found to be accurate and compliant.
- A sample of magistrates' court and Crown Court CTL case files was examined, which indicated that compliance is working well. Expiry dates on all files were correctly calculated. In general, the endorsements on the files were understandable and the CTL status was clearly shown on the front cover. Only one file included an endorsement where it was not clear that it was a CTL case. All files gave a clear indication that they had been monitored. Several of the files examined required an application for an extension of the CTL at court. Whilst the chronology was good the letters included CTL template 'prompts', which should have been edited, and two letters were signed by a caseworker rather than a lawyer.
- The borough has an agreed system of CTL management with the magistrates' court. Interviews with lawyers and district judges indicated that the system appears to be working well, with CTL expiry dates being agreed in court at the time of hearing and lawyers marking files that dates had been agreed with the clerk of the court. However, none of the files we examined had endorsements indicating that this was being done, with one file showing that CTL dates needed to be calculated on the file's return to the CPS office. In the Crown Court, enquiries concerning CTLs tend to be made in open court by the judge. Crown Court observations of CTL cases confirmed that the custody status was mentioned when trial dates were being fixed.
- Magistrates' court CTL cases are managed by an administrative manager and Crown Court CTL cases are managed by the paralegal business manager (PBM). The PBM has general oversight of all CTL activity in both courts and is responsible for ensuring weekly compliance reports are produced for supervision by the BCP. Both the administrative manager and the PBM are experienced individuals and they have prepared and presented in-house training for all relevant borough staff. Relevant staff have also been given personal objectives to ensure that minimum CTL standards are applied.
- In accordance with London protocols, CTLs are managed and recorded on the case management system and in a written diary. Both these systems complied with guidelines. It is clear that CTL issues feature prominently in training, meetings and other communication between the BCP and borough staff.

8 THE SERVICE TO VICTIMS AND WITNESSES

Assessment

0 - Poor**8A The borough ensures timely and effective consideration and progression of victim and witness needs, and the service to victims and witnesses is improving**

- The borough adopted the pan-CPS London instructions for complying with the direct communication with victims (DCV) initiative in May 2009. A DCV coordinator has been appointed and identifies cases which fall within the initiative and monitors whether or not letters are sent. Reports are provided to the BCP. DCV letters are drafted either by the decision-maker or by the DCV coordinator in straightforward cases.
- The borough missed its 2008-09 proxy target of 1,050 DCV letters, sending out 495 (47.1%) over the year. In the six months to September 2009 there was an improvement with the borough sending 355 out of 408 letters (87.0%). As a result of our other inspection work the CPS has suspended the proxy target in October 2009 pending a re-evaluation of how it should be assessed. However, our file sample results would suggest that the borough is routinely sending DCV letters but timeliness is still an issue. The requirement to send a DCV letter was met in all 19 cases in our file sample where the scheme was engaged.
- The quality of the DCV letters in the file sample was variable. One out of 19 letters (5.3%) was rated as good, nine (47.4%) as fair, and nine (47.4%) were poor. Most letters gave an adequate explanation for the decision made but some letters did not convey empathy, were not clear and lacked detail, or were not tailored to the individual recipient. In a number of letters too much reliance was placed on template paragraphs. Some of the letters in our file sample did not include contact details for Victim Support, or local specialist support groups where appropriate, or any guidance on how to pursue other remedies outside of the criminal justice system. Such information would be helpful, particularly in sensitive cases. Some of the letters examined on-site were better and did include such details.
- Timeliness of communications sent by the borough in respect of vulnerable and intimidated victims is unsatisfactory. In 2008-09 only 40.0% of letters were sent within the one day time limit against the CPS London average of 65.9% and 78.9% nationally, although performance improved to 68.0% in the first six months of 2009-10. In respect of other victims 62.4% of letters were sent within the time limit for the same period compared with the CPS London average of 83.1% and 88.6% nationally. Performance improved marginally to 67.6% in the first six months of 2009-10. Letters which were sent late did not contain an apology or explanation for the lateness.
- The table below shows performance against target in respect of DCV compliance.

	Performance 2008-09		Performance first and second quarters 2009-10	
	Borough	CPS London	Borough	CPS London
DCV compliance (volume target 100%)	47.1%	91.1%	87.0%	96.3%
Vulnerable and intimidated victims (timeliness target 95%)	40.0%	65.9%	68.0%	81.2%
Other victims (timeliness target 95%)	62.4%	83.1%	67.6%	87.3%

- The needs of victims and witnesses are generally not considered at the pre-charge decision stage. In our file sample, ancillary issues, including any need for special measures, were considered appropriately in 23 out of 54 relevant cases (42.6%). It was not unusual for issues generally, including those related to victims and witnesses, to be identified very late in the process.

- Victim personal statements (VPSs), which record the impact of the crime on the victim, were only considered appropriately in two of the 28 relevant cases (7.1%) in our file sample. The witness care unit (WCU) send out leaflets to victims of crime but take the view that the drive needs to come from the police and CPS at the pre-charge stage. A more cohesive approach is required on the part of the police, CPS and the WCU to what is intended to be a joint responsibility.
- Special measures applications were not always timely even in those cases where the witness would automatically be eligible for enhanced levels of support. In cases without automatic eligibility it was not always apparent that individual needs had been considered with the police, and in cases where the police were tasked with undertaking a needs assessment prosecutors had not identified the need for further action in their full file reviews. The WCU and Witness Service sometimes identify witness needs when they make initial contact with a witness, which provides a useful opportunity to identify any cases that have been missed so that, where appropriate, applications for special measures can be made. Special measures are dealt with better in the Crown Court because it is a more structured process and it forms part of the case preparation for the PCMH.
- The WCU is based at Charing Cross Police Station and consists of three teams which are managed and staffed by the police. The WCU has one CPS member of staff. The relationship between the WCU and CPS is generally good. Witnesses have not always been warned in a timely manner following a not guilty plea (due to difficulties in the magistrates' court which have been commented upon in aspect 2). Witness care officers keep prosecutors informed of witness issues, as well as keeping victims and witnesses informed and notified of the outcomes of all hearings. Witness attendance is an issue for the borough: the rate was 76.4% against a target of 90% in 2008-09.
- The WCU has regular meetings with the Witness Service which provides an opportunity to deal with issues as they arise. One of the WCU managers and the Witness Service manager attend the prosecution team performance management (PTPM) and Borough Criminal Justice Group (BCJG) meetings. These meetings are considered to be constructive and an effective forum for identifying aspects of work that require attention.
- Although performance data on primary and secondary measures is provided on a London-wide basis there has been no attempt to undertake any analysis at a local level, even where data such as witness attendance rates is produced. The borough has identified witness difficulties as one of the main causes of cases not being able to proceed at trial, especially in domestic violence cases. The borough recognises that it needs to undertake more analysis of the reasons for victim or witness non-attendance at trial and to take steps to improve the service it provides.
- The borough does not have a nominated champion for victims and witnesses nor is there any strategy or plan in place to deliver the CPS business plan objective to champion the rights of victims and witnesses. The BCJG does not have a separate victims and witnesses sub group and issues tend to be discussed on an ad hoc basis through the forum of PTPM meetings and the effective trials sub groups. This is not ideal given that all the criminal justice agencies within the borough identify victims and witnesses issues as a significant cause of attrition.

Aspects for improvement

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.

Formal arrangements should be established to discuss borough victim and witness performance issues with the police and court service.

9 MANAGING PERFORMANCE TO IMPROVE

Assessment

2 - Fair**9A There is an effective and proportionate approach to managing performance locally at individual, unit and borough level**

- The assessment of qualitative casework issues is undertaken through the national casework quality assurance (CQA) scheme. The BCP with the majority of the management responsibilities assesses one file for each lawyer on a monthly basis. The BCP uses the information to elicit trends or particular issues of concern and raises these at meetings and through group emails. The introduction of the OBM has reduced levels of case ownership for magistrates' court work which has resulted in less one-to-one feedback to individual lawyers. In 2008-09 the borough achieved a 78.8% compliance rate for CQA volume compared to a London average of 84.8%. A sample of CQA forms was examined and it is clear that files were marked against the quality criteria and where they fell short improvements were identified and actions raised. Although the BCP checks MG3s (records of charging decisions) for quality control, we found that 41% of MG3s completed by borough staff were of poor quality. No scoring system in respect of the quality of MG3s is maintained and therefore it is not possible to measure whether the checks are improving the standard of MG3s.
- Casework quality standards are also monitored through adverse case reports for both the magistrates' court and Crown Court. Adverse cases are analysed by the BCP and any trends or issues circulated internally to lawyers, and externally to police where they are discussed as part of PTPM meetings. Witness attendance has been a main concern in respect of adverse cases and is potentially linked to the length of time trials are taking to be heard at the Crown Court, as well as Westminster's unique geographical and tourist location (which has disproportionately higher numbers of victims and witnesses who do not live locally). Both BCPs are aware of these issues and recognise that more analysis needs to be undertaken. These issues will be more effectively addressed as the borough moves to the IPT site and the borough's managerial responsibilities and structure becomes clearer (see aspect 10).
- Monitoring of prosecutors in the magistrates' court takes place formally at least once a year. Advocates are given written and, where necessary, verbal feedback by the BCP. Interviews with staff revealed that these assessments had taken place and were welcome. In addition, the BCPs receive feedback from the court about the standards of advocacy. Whilst the borough has had favourable feedback about its advocacy standards, inspectors received mixed views from external agencies on the advocacy of both CPS staff and agents. The borough does not capture the overall quality of standards in a measurable form so it is unable to demonstrate whether advocacy standards improve over time.
- Crown Court advocacy standards are monitored by the local advocacy unit manager (this includes all crown advocates and external counsel). Paralegal officers also monitor external counsel and feed back to the PBM, which helps to inform the choice of counsel where appropriate.
- Whilst some existing operational systems have been reviewed recently and changes made, including to the OBM and in reducing administrative finalisations, other monitoring and review remains inconsistent or weak. In particular, we found that the efficiency of the OBM is undermined by weak systems to chase the police for full files at an earlier stage, case management is weak, with no effective system to ensure that full file reviews and disclosure are carried out in a timely fashion, and the commitment to victims and witnesses is poor, with inadequate DCV letters and limited consideration of victim personal statements. We also found that in 28% of the files examined the case had been finalised incorrectly. Despite these findings the borough's outcomes have often been better than the national and/or London averages.

- Demands on all staff and managers often mean a 'fire fighting' approach has been adopted. The borough has consequently adopted a 'hands on' approach to dealing with matters as they arise, such as improving issues concerning pre-trial directions (see aspect 3), and as such managers respond to pressing issues rather than having a more proactive approach to reviewing the effectiveness of operational systems. The BCP with responsibility for the magistrates' court work will shortly conclude her other district responsibilities, which should enable both BCPs to review all key processes and systems more frequently. The borough has undergone some significant managerial and structural changes in the last year and its imminent move to IPT will mean further structural and cultural changes to working practices. It has therefore been very difficult for the borough to employ a consistent performance framework.
- Performance data which links into the CPS key performance indicators is provided to borough managers from the CPS London Performance Unit. Performance data is provided for all boroughs, districts, and other operational units within CPS London, and allows for data to be compared. Boroughs contribute to the quarterly report submitted by the district to CPS London. Performance is rated against the key performance indicators using a traffic light system. The data is reviewed at the district management and quarterly review meetings which are attended by the regional director and business manager. Whilst these meetings may provide an opportunity for identifying weaker performance and sharing best practice, lack of resources makes it difficult for the borough to implement improvements.
- The BCP has regular borough meetings where performance is discussed with staff. However, not all staff are familiar with the current performance of the borough, and no performance measures are displayed within the office environment. Most staff would welcome more information concerning the performance of the borough and more awareness of how their role and the role of others interact with performance overall.
- Most individuals believed that their performance appraisals contained pertinent objectives to their role and position although most were unaware of how they contributed to the district or area plan. Key performance measures are used to inform the objectives of appropriate staff. For example, personal objectives have been given to staff concerning CTL responsibilities and DCV compliance.

Aspect for improvement

Borough managers should develop a consistent performance framework and ensure key performance is disseminated to all staff.

9B The borough is committed to managing performance jointly with criminal justice system partners

- Both BCPs are committed to the effective joint management of performance with criminal justice system (CJS) partners. Regular IPT meetings have now been established to discuss operational and process issues for the borough's move into police premises in April 2010. The DCP attends quarterly meetings to discuss joint performance issues with the resident judge at Southwark Crown Court. The BCP meets with the police sexual offences unit (Sapphire Team) and other specialist units such as the Clubs and Vice Squad. The BCP and the DCP attend the BCJG where overall CJS performance is discussed. The BCP also attends the BCJG's newly formed Improving Effectiveness sub group, which reviews the reasons for ineffective trials and identifies remedies. As well as regular PTPM meetings, ad hoc meetings are also held with the police and other agencies in response to issues of concern or performance.
- High level data is exchanged between the criminal justice agencies, usually prior to meetings at which performance might be discussed. Data is provided at the BCJG meetings by the London Criminal Justice Board. PTPM meeting data is provided by the BCP and the adverse case report and ineffective trials report are circulated by the BCP and the court respectively.

- Monthly PTPM meetings are chaired by the BCP and include senior police representation, the WCU, Witness Service and police criminal justice unit liaison managers. The court ineffective trial report is analysed by the police for police issues, and the BCP analyses the CPS reasons, and the analysis is discussed with a view to improving performance.
- Court representatives (both the magistrates' court and Crown Court) tend to lead on case progression issues generally and, in particular, in relation to monitoring the effectiveness of trials. The borough contributes to joint meetings by examining the reasons for failed cases and by participating in regular case progression meetings. The ineffective trials reports produced by the court are analysed and commented on by the police and the borough. These are then discussed at the Improving Effectiveness meeting, which is also attended by courts representatives. Witness issues have been identified as the most significant prosecution reason for ineffective trials and the borough works with the WCU through the PTPM process to address these issues (although the Improving Effectiveness meeting also identified that the main reason for ineffective trials in November 2009 was insufficient court time).
- Various improvements in processes and performance have been made through the PTPM process and other partnership meetings including: reducing outstanding warrants and the number of cases carried forward each month awaiting compliance with action plans or further evidence; improving the accuracy of finalisations to more accurately address reasons for case attrition (although our file sample showed this aspect needs further improvement); addressing non-compliance with the streamlined process; implementing process improvements to assist witness attendance rates, including a local protocol with the court; and the recent agreement that the police will provide disclosure schedules from the start in cases where it is anticipated that there will be a not guilty plea.

10 MANAGING RESOURCES

Assessment

Not scored**10A The borough deploys its resources efficiently and operates within budget**

- Financial management of the non-ring fenced administrative costs (NRFAC) budget, (comprising mainly staffing and general costs), and programme costs budget, (largely prosecution costs), rests at regional and district level. At borough level there is limited responsibility for financial management of these budgets. For accounting purposes spend is forecast and expenditure allocated to borough level cost centres, but in reality these are monitored at the district level and overseen and authorised by the region. Financial delegation within the region is limited, spend is authorised at that level and strict controls are exercised.
- Although borough responsibility is limited, budgets are allocated to each and there is some monitoring of progress. In 2008-09, the borough underspent its NRFAC budget, spending 92.5% of its allocation of £3,764,891. In 2009-10, the borough's budget for NRFAC has decreased to £2,362,620 and spend at the time of the assessment was 95.3% of budget. Whilst this represents a significant decrease, some funding responsibilities have been taken away from the borough and the British Transport Police team have been funded separately from Westminster borough since April 2009. Fluctuations in casework and finalisations also add to the complexity of the allocation, which is adjusted accordingly throughout the financial year.
- In January 2010 the borough had 47.6 full-time equivalent (FTE) staff which is 7.6 FTE posts short of the borough activity based cost (ABC) allocation. Significantly, however, most of the disparity is due to a shortfall of lawyers. This has been as a result of the transfer of lawyers to CPSLD and to other boroughs as part of CPS London's move to IPTs. Whilst the shortfall has had a significant impact on the borough, it has been the transfer of experienced lawyers out of the borough that has had the greatest impact on performance.
- Borough managers endeavour to set clear expectations for the deployment of lawyers and associate prosecutors (APs), although this involves a good degree of flexibility and good will on the part of prosecutors. For lawyers, this includes delivering pre-charge decisions at police stations, magistrates' court advocacy and also deployment in the OBM unit. APs are expected to cover advocacy in the magistrates' court and assist on the OBM. All duties are assigned one week in advance.
- In 2008-09 the borough achieved 96.6% deployment of in-house prosecutors at the magistrates' court which was above the London target of 90% and the London average of 87.9%. The AP deployment in 2008-09 was 21.4%, slightly below the target of 23% but better than the London average of 20.5%. The 12 months to December 2009, shows a much improved AP deployment of 31.6% compared to a London average of 22.8%, but a declining situation in overall in-house court coverage to 80.5% (but this is still better than the London average of 78.1%). Significantly, the average agent usage for 2008-09 was just 3.5% whereas for 2009-10 it is currently 25%, which demonstrates the effect of the loss of available lawyers to deploy at the magistrates' court (as well as the additional court sessions the borough has had to cover).
- The deployment of crown advocates is controlled and managed at district level and a dedicated local advocacy unit has been established at Southwark Crown Court.
- The borough had an average of 9.4 days sickness absence per person in 2008-09, which was slightly worse than the London average of 9.3 days. Interviews revealed that managers have become more proactive around sickness issues and, despite the undoubted pressure from loss of staff, the sickness rate has significantly decreased during 2009-10 to 4.7 days compared to a London average of 9.5 days. Back to work interviews are conducted and appropriate occupational health

and wellbeing referrals are made. The district business manager also has a proactive involvement in analysing the level and types of sickness on borough and district level and will advise the BCP in consultation with CPS London Human Resources where appropriate to do so.

- Managers are sympathetic to requests for flexible working to enable staff to achieve their individual work/life balance although new requests for flexible working are now more rigorously examined to ensure the business need is met. Whilst a number of flexible working patterns exist, there is no evidence that it is disruptive to operational need.

11 MANAGEMENT AND PARTNERSHIP WORKING

Assessment

2 - Fair**11A Borough management has a clear understanding of what needs to be delivered to meet London, national and criminal justice system priorities, underpinned by effective planning and management**

- The borough does not have a borough business plan but contributes to the district business plan. District planning focuses on the CPS London Area Delivery Plan and identifies key priorities for the area, together with aspects which need to be improved at a district level. Whilst the borough activities contribute to the district plan, it does not have an action plan to deliver these and borough managers rely on an understanding of what needs to be delivered, and are focused on delivery of the day-to-day service, the best use of resources, and operational activities. Borough performance against common targets is discussed at borough and district level and adjustments and actions are raised accordingly. Formal business planning is therefore limited, and the borough focus for achieving its contribution to the area business plan and other local criminal justice agency plans is delivered through internal meetings, external meetings with its CJS partners and by performance management.
- The BCPs and other managers understand their responsibility for implementing policy and delivering targets set in the district plan. A useful guide to the year's objectives was circulated to all staff by the BCP. The key priorities for the BCPs are centred around addressing attrition rates, domestic violence and rape cases, and the successful implementation of the IPT.
- The IPT move has not been entirely within the control of the borough and its implementation is being handled centrally. Both the IPT move itself and the way this change programme has been managed have caused anxiety among staff. The IPT programme has also caused staff shortages on the borough because the initial programme gave all CPS London staff preferences as to where they wanted to work. As the IPT programme started to roll out across London, boroughs such as Westminster, which is one of the last boroughs to complete the IPT process, lost staff to the newly formed IPT boroughs. Staff were not replaced. The new CPS London Management Team has recognised that this process caused imbalances and that the whole process could have been handled in a more equitable way. However, the loss of staff numbers, and equally the experience of lawyers, has had a detrimental effect on the delivery of operational targets. The borough plans to move into police premises in April 2010 and to be fully operational by August 2010. Implementation meetings have been held and liaison with the police to ensure a smooth transition appears to be working well. IPT presents the borough with significant challenges to change processes and systems and the need to adapt to a new environments and working culture.
- Team meetings are frequent and, because not everyone can attend meetings at any one time, several meetings are held to capture most staff and ensure key messages are imparted. Meetings cover a wide range of issues, including performance, although actions raised are not consistently followed up at the next meeting. Staff have mixed views concerning whether meetings are productive, in that issues raised are not always addressed. The borough has undergone significant structural, geographical and staff changes within the last 12 months and consistent messages concerning the future of the borough have been difficult to give with accuracy. This has led to rumours and staff making assumptions. The borough should therefore develop a formal communication strategy for internal and external communication, particularly in view of the new structure of two BCPs for the borough and the move to the new IPT site.

Aspect for improvement

Borough managers should develop a formal communication strategy for internal and external communication.

- The CTL and DCV protocols, as well as the Sapphire protocol, are examples of ongoing quality assurance processes which contribute to the effective management of risk, although borough managers have not developed a formal planned approach to risk management as part of the daily management of services. Risks to business delivery are recognised and considered on a day-to-day operational basis. Overall, a more formal approach to risk management should be adopted, particularly as part of the planning around core business delivery.
- Borough managers believe that systems exist to allow staff to get the training they require; staff spoken to were less confident on this matter particularly in relation to career development. A good deal of self-training and desk side training occurs and there is a need for a more formalised training plan to reflect the needs of individuals and the business. Focussed training needs to be identified as a priority, as the borough moves to IPT, to ensure a seamless transition to new processes and practices.
- Complaints are dealt with at the district level.

11B The borough is committed to engaging with partners and jointly improving levels of service

- Both BCPs and other borough staff are developing an open and constructive approach with their criminal justice partners. Liaison is generally supportive with relationships being improved and strengthened, and goodwill demonstrated between the criminal justice agencies and other stakeholders. Where frustrations with the borough exist, many partners take a sympathetic approach in the belief that the borough's staffing levels are at the root of most problems.
- At the strategic level the borough actively participates in joint performance groups, court user groups and the BCJG, where CJS business and overarching public service agreement targets are discussed. PTPM meetings with the police are better at identifying weaknesses in order to address joint performance issues. At an operational level borough staff place particular emphasis on regular informal contact between key CJS partners to provide a sense of shared ownership for delivery of day-to-day criminal justice business.
- Many of the initiatives that the borough has implemented have been joint initiatives, such as Criminal Justice: Simple, Speedy, Summary and the Director's Guidance on the Streamlined Process, statutory charging and No Witness No Justice. Other CPS driven initiatives, such as the OBM and conditional cautioning, have been prescribed from the centre and adopted by the borough. As a consequence, borough based initiatives have been limited, considering the size and complexity of the borough, and tend to be initiatives involving retailers.
- The borough is the national focal point for demonstrations and these require planning with the local police and courts, as well as the City of London and British Transport Police. The planning meetings tend to be held between the DCP and district business manager and the head of the Metropolitan Police Service public order team.
- The borough should have two borough community prosecutors whose role it should be to proactively engage with the community and raise awareness of how the CPS works, and to provide an understanding to borough staff of the needs and key priorities from a community perspective. The development of the community prosecutor approach is a major new initiative for the CPS and brings with it new ideas of how modern prosecutors should engage with communities, although their full remit is being evolved. Unfortunately, the borough has not been given the resources to appoint its community prosecutors and has had to rely on the BCPs to attend most community events. Both BCPs recognise that the borough could increase its community engagement, particularly because of the size and

complexity of issues the borough has to deal with and because of the often high profile cases it deals with. One of the problems Westminster has, more than most London boroughs, is to identify 'the community' within the borough. This is made difficult due to the transient nature of the people that are attracted to the borough (that is, tourists and commuters). Along with police partners, the borough tends to focus more on business groups. Despite the lack of resources, the borough should develop a clear community engagement strategy as quickly as possible to ensure appropriate community and partnership engagement which is measurable and maximises the benefits to service delivery.

Aspect for improvement

Borough managers should develop a clear community engagement strategy to ensure appropriate community and partnership engagement.

11C Managers act as role models for the ethics, values and aims of the London-wide service and the CPS, and demonstrate a commitment to equality and diversity polices

- Good performance is recognised through CQA feedback, face-to-face discussions and in emails but, as with communication in general, staff on the borough would benefit from a more formal channel of feedback. Discussions with staff indicated that, in general, there was a lack of recognition of good performance.
- Although the borough has had resource issues which have led to backlogs and tensions, most staff display a good team spirit and treat each other with respect. No substantiated complaints have been made by staff about their treatment by managers. The reduction in sickness levels is also impressive.
- The makeup of staff in the borough office generally reflects the local community served, but there is no ability to control this aspect at borough level. Diversity and recruitment is managed at a London-wide level.

ANNEXES

A PERFORMANCE DATA

Aspect 1: Pre-charge decision-making

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Pre-charge decision cases						
	80.8%	76.2%	79.9%	79.8%	74.0%	78.3%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	9.3%	14.1%	15.8%	9.9%
Guilty plea rate	74.4%	69.8%	71.7%	72.9%	66.0%	68.1%
Attrition rate	19.2%	22.1%	18.6%	20.5%	25.1%	20.5%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	12.8%	11.6%	15.3%	15.1%
Guilty plea rate	72.9%	60.8%	61.8%	73.1%	60.5%	53.8%
Attrition rate	19.4%	27.3%	23.6%	19.5%	27.9%	24.1%

Aspect 2: Ensuring successful outcomes in the magistrates' court

Successful outcomes (convictions) as a percentage of completed magistrates' court cases

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	87.3%	86.0%	84.4%	87.0%	85.8%	84.1%

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	50.3%
Cracked	38.0%	34.8%	28.8%
Ineffective	18.6%	17.9%	20.9%
Vacated	21.5%	16.3%	3.8%

Aspect 3: Ensuring successful outcomes in the Crown Court

Successful outcomes (convictions) as a percentage of completed Crown Court cases

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	80.8%	73.1%	76.9%	80.6%	72.5%	76.1%

Trial rates

	Performance 2008-09		
	National	CPS London	All Southwark Crown Court cases
Effective	47.1%	54.7%	62.5%
Cracked	40.8%	30.0%	25.7%
Ineffective	12.1%	15.2%	11.8%

Aspect 5: Serious violent and sexual offences, and hate crimes*Violence against women: successful outcomes (convictions) as a percentage of completed cases*

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	71.9%	62.0%	78.7%	71.7%	60.1%	71.4%

Hate crime: successful outcomes (convictions) as a percentage of completed cases

	Performance 2008-09			Performance 12 months to Dec. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	82.0%	77.2%	84.6%	82.1%	74.4%	78.3%

Aspect 10: Managing resources*Non-ring fenced administration costs budget outturn performance (end of year ranges)*

	CPS London outturn 2008-09	Borough outturn 2008-09
	99.1%	92.5%

Staff deployment

	National performance 2008-09	CPS London target 2008-09	CPS London performance 2008-09	Borough performance 2008-09
In-house deployment in magistrates' court	85.3%	90.0%	87.9%	96.6%
Associate prosecutor deployment (as % of magistrates' court sessions)	24.5%	23.0%	20.5%	21.4%
Crown advocates. Counsel fee savings against target	110.0%	£4,200,000	99.3%	95.6% (district performance)
Sickness absence (per employee per year)	8.7 days	N/A	9.3 days	9.4 days

B INDIVIDUALS AND REPRESENTATIVES OF LOCAL CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED US

Police

Detective Chief Inspector Forteath, Head of Criminal Justice Unit, Charing Cross Police Station
Mr D Muggeridge, Witness Care Unit Manager

HM Courts Service

Crown Court

His Honour Judge Rivlin, QC, Honorary Recorder of Westminster, Southwark Crown Court
Mr M Leptos, Crown Court Manager, Southwark

Magistrates' court

District Judge Riddle, City of Westminster Magistrates' Court
District Judge Tubbs, City of Westminster Magistrates' Court
District Judge Snow, City of Westminster Magistrates' Court
District Judge Purdy, City of Westminster Magistrates' Court
District Judge Workman, City of Westminster Magistrates' Court
Mrs C Walker, Chair of the Bench, City of Westminster Magistrates' Court
Ms J Melnick, Deputy Justices' Clerk, City of Westminster Magistrates' Court

Victim Support

Ms A Thomas, Witness Service Manager, City of Westminster Magistrates' Court
Miss R Uddin, Witness Service Manager, Southwark Crown Court

C LONDON BOROUGH SCORING MODEL

London borough assessments will be scored using the following model. Points will be allocated to each aspect on the basis of:

Aspect rating	Points to be allocated
Excellent	4
Good	3
Fair	2
Poor	0

They will then be added and assessed against the following ranges:

Excellent	32 points and above
Good	24 to 31 points
Fair	16 to 23 points
Poor	15 points and below

Additional limiters

There will also be two overriding limiters applied to the model ensuring that quality and outcomes are weighted within the model.

- Any borough with three or more Poor aspect ratings will automatically be reduced to the next range e.g. a borough scoring 22 points, but with three Poor aspect scores, will automatically be reduced to Poor.
- A borough will need to achieve at least two Good ratings in the first four aspects⁷ of the framework to be scored as Good overall e.g. one scoring 25 points, but with only one Good aspect in the first four, will be reduced to Fair.

7 Pre-charge advice and decisions; Decision-making, preparation and progression in magistrates' court cases; Decision-making, preparation and progression in Crown Court cases; and The prosecution of cases at court.

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.hmcpsi.gov.uk

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