

Inspection of CPS West Midlands

follow-up Report

Introduction

1. This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) arising from the follow-up progress visit to CPS West Midlands on 25 and 26 October 2005.
2. The Inspectorate carried out a full inspection of CPS West Midlands in December 2003 and January 2004 and the report of that inspection was published in July 2004. The report made six recommendations, which set out the steps necessary to address significant weaknesses relevant to important aspects of performance. In addition, the inspection identified ten strengths and 27 aspects for improvement (AFIs).
3. The purpose of this visit was to assess the Area's progress against the recommendations and AFIs contained in the report. We also evaluate whether the strengths in performance are still present. We comment in detail on the progress made against our recommendations and summarise the steps taken by the Area to address AFIs. We also summarise the current position in relation to strengths.
4. The six recommendations in respect of which we assessed progress were:
 - R 1** The Chief Crown Prosecutor (CCP) addresses the continuing issue of discharged committals through joint work:
 - with the police to eliminate the lack of response to requests for further enquiries; and,
 - with the police and magistrates' courts to identify the underlying causes for the continuing problem (paragraph 4.18).
 - R 2** The Area Strategic Board (ASB) ensures that the new custody time limit (CTL) system is implemented throughout the Area with immediate effect, and should monitor compliance (paragraph 4.37).
 - R 3** The ASB should determine:
 - the key high level aspects of performance to be considered regularly by the ASB, and how that information is to be presented;
 - the lower level performance information that is needed to inform efficient operation of the units, and the regularity of reporting; and,
 - ensure that responsibility for managing administrative performance is clear (paragraph 7.9).

- R 4** The ASB:
- reviews the deployment of administrative staff and caseworkers;
 - sets expectations for, and monitors, lawyer deployment;
 - determines a strategy for the deployment of Higher Court Advocates (HCAs);
 - determines whether structures enable the Area to operate efficiently and represent a good use of resources;
 - develops a comprehensive human resource strategy based on future organisational structures; and
 - improves the efficiency of the recruitment process (paragraph 8.15).
- R 5** The ASB:
- develops Terms of Reference to govern its work;
 - defines the role of the Area Headquarters and its relationship with groups and units;
 - identifies senior management responsibility for the effectiveness of administrative processes; and
 - establishes links between operational units (paragraph 13.11).
- R 6** The ASB:
- strengthens business planning processes;
 - establishes clear plans which determine responsibilities and timescales for action; and
 - monitors progress regularly (paragraph 13.19).

Methodology

5. Before visiting the Area, we requested a number of documents relating to management information, performance data and the Area's governance that would provide evidence of the progress that the Area had made. We also looked at documents relating to the planning and implementation of the three main initiatives: charging, the Effective Trial management programme (ETMP) and the No Witness No Justice scheme (NWNJ). The Area provided its Action Plan to implement the report's recommendations and AFIs. We analysed the information that was received.

6. We examined ten files, selected across the units to look at the progress against the recommendations relevant to CTLs and 17 further files to assess progress with the disclosure regime which was the subject of two AFIs. These files were also used to assess some other AFIs relating to casework and to see whether the casework strengths had been maintained.
7. During our visit we interviewed the CCP, the Area Business Manager (ABM), the Sector Heads and the Area Performance Manager who was also the project manager for the No Witness No Justice initiative.
8. At the same time as this follow-up inspection, we conducted a separate Overall Performance Assessment (OPA) of the Area. The OPA report will be published as part of the second tranche of 20 CPS Areas, this is likely to be in early 2006. (The first tranche of OPA reports of 22 CPS Areas was published in December 2005). The outcome of the programme of OPAs will enable the Inspectorate to plan its future Area Effectiveness Inspections based on risk assessments, thus targeting those Areas with the greatest need. Information gathered from the OPA in the Area has informed our views on the progress that has been made and used in this follow-up report.

Background to the Area

9. The inspection in January 2004 found that casework was generally handled satisfactorily, which was particularly creditable given the size of the Area and the serious cases which it handles. The proportion of ineffective trials was around the national average, and the handling of persistent young offenders was particularly good.
10. Despite this, discontinuance levels were worse than the national average, there was a high proportion of cracked trials in the magistrates' courts and Crown Court. Committals which were discharged because the prosecution were not ready were reducing, but were still at too high a level.
11. The Area was moving towards full co-location with the police at a number of sites across the West Midlands, but the geographical groups of offices remained largely distinct entities with individual working practices. The Area found it difficult to recruit and retain lawyers, a factor which weighed heavily on it and affected its approach to a number of issues.
12. Since the inspection, the Area has moved forward in several respects. Almost full co-location with the police has been achieved, and statutory pre-charge decision-making is being delivered at 21 charging centres. Ten Witness Care Units (WCUs) have been established with the police, and are proving effective in increasing the proportion of witnesses who attend court and, supported by effective trial management, reducing the number of trials that are ineffective because of witness problems.

13. Further restructuring has occurred to allow more flexible deployment of staff, and the newly created Birmingham Central and Birmingham Outer Sectors now deal with cases from the pre-charge decision-making stage to disposal in the magistrates' courts and Crown Court. Recruitment processes have been revitalised resulting in a net increase in lawyer numbers. Overall the Area is displaying a more corporate approach to its work in a number of ways.

Overview

14. Good progress has been made in addressing some of the recommendations and AFIs identified in the previous inspection report, but others still require attention.
15. Satisfactory systems are now in place to handle cases involving CTLs, and specialist prosecutors now handle child abuse and rape cases, which are thoroughly prepared, as are hate crimes and other sensitive cases. Work has been done to improve the governance of the Area, and there is now more regular financial reporting to the ASB. The principles of CPS dignity at work policies have been reinforced.
16. Some work has been done to improve arrangements to monitor the performance of the individual sectors, but not to collate, manage and monitor the performance of the Area as a whole. In this the Area lags behind other CPS Areas and senior managers should take action quickly to address this shortcoming. The business planning process does not appear to have been strengthened significantly.
17. Some steps have been taken to improve staff deployment. Expectations have been set for lawyer and designated caseworker (DCW) deployment, and the Area is seeking to reduce agent usage. Although the percentage of magistrates' courts sessions undertaken by DCWs has increased, magistrates' courts sessions undertaken by prosecutors have not increased significantly.
18. Despite some work being undertaken there remain a significant number of committals which are discharged because the prosecution are not ready. Additionally, the prosecution's duties of disclosure are not being carried out in full accordance with the legislation or guidance.

Performance against PSA targets

19. Key performance results for the West Midlands Local Criminal Justice Board (LCJB) are contained in the table below. The performance against most PSA targets is improving. However, the criminal justice area did not meet its 2004-05 target for Offences Brought to Justice (OBTJ) by 18,854 cases, and performance was 13.4% below the 2001-02 baseline. (Reducing levels of crime and a change in policy which reduced the numbers of offences taken into consideration, were cited as causes). The OBTJ target is a shared one with criminal justice partners. The CPS contribution comes through managing cases to keep discontinuance and unsuccessful outcomes low. The

percentages of unsuccessful outcomes in both the magistrates' courts and Crown Court were not as good in the West Midlands as average national performance.

20. Ineffective trial rates had improved since the inspection and public confidence in the ability of criminal justice agencies to bring offenders to justice had risen significantly. The timeliness in handling persistent young offenders from arrest to sentence had extended, but remained within the Government's 71 day target.

PSA targets	Original inspection	Follow-up
OBTJ against baseline	+3.7% (Dec 2003)	-13.4% (2004-05)
Ineffective trial rate - magistrates' courts	30% (July-Sep 2003)	24.5% (2004-05)
Ineffective trial rate - Crown Court	22% (Sep-Nov 2003)	19.1% (2004-05)
Public confidence	32% (2003-2003)	40.2% (2004-05)
PYOs	62 days (Aug-Oct 2003)	68 days (May-July 2005)

* For ineffective trial rates, lower is better

Implementation of the recommendations

Recommendation 1 - The CCP addresses the continuing issue of discharged committals though joint work:

- **with the police to eliminate the lack of response to requests for further enquiries; and,**
- **with the police and magistrates' courts, to identify the underlying causes for the continuing problem.**

21. Limited progress. Since the last inspection the Area has implemented the statutory charging scheme. An agreement was reached with the police that full evidential files would be provided before the charge decision in all cases where there was a likely not guilty plea and all committal cases. This has gone some way to ensure that evidence is available at an early stage reducing the number of requests for further evidence.

22. This agreement does not cover those cases where the threshold test is applied and cases where CPS Direct lawyers have decided to charge. Area managers consider that there still remains an issue about the timely provision of further evidence in these cases, but this has not been tested.
23. In the early part of March 2005 the Area carried out a review which indicated that committals were being wrongly identified as discharged by the court because they were not ready, when in fact they should have been identified as being dropped upon the positive decision of the prosecution. The Area has therefore questioned the validity of its own data that records the number of committals that are discharged because the case is not ready. The high number of discharged committals, particularly in Birmingham, was raised in previous inspection reports. The issue of wrong identification was raised in the specific joint review of discharged committals in the West Midlands. It is surprising that if these fundamental errors remain the Area has not tackled them.
24. Each team produces a monthly schedule of all discharged committals, giving details of the reasons. The issues are frequently discussed at the ASB and with the police (although we have no evidence that issues are raised with the magistrates' courts). The number of such cases, however, remains high. In 2003-04 there were 300 and in 2004-05, 393. From April to September 2005 there have been 114. If a similar profile is maintained, the number will be considerably reduced compared to the previous year.
25. In April 2005 it was agreed that a joint police/Area team should be set up to monitor discharged committals. This joint approach is essential and urgent to get to the bottom of this long standing issue.

Recommendation 2 - The ASB ensures that the new CTL system is implemented throughout the Area with immediate effect, and should monitor compliance.

26. **Achieved.** Each unit has a slightly different system which is adapted for application to different structures and grades of staff. All four systems, however, comply in essence with the national guidance.
27. The systems are closely monitored and reviewed when necessary. The Area's CTL Champion checked the systems and made adjustments in the light of the recommendations of HMCPSP's thematic review of CTLs. Unit quarterly performance reports include a section on the application of the CTL system and its monitoring.
28. Senior managers require and receive assurance that the systems are correctly implemented but could do more by checking for themselves occasionally that the actions required are carried out. For example, on some of the files that we examined, there were no initials to show that there had been a double check of expiry dates, and the diary entries also appeared unchecked.

29. However, our examination of ten files showed generally good performance. The expiry and review dates were correctly calculated and shown on all but one file. The single mistake had been immediately corrected. However, on four of the files with more than one defendant, the bail/custody status of each defendant was not clearly shown for each hearing.

Recommendation 3 - The ASB should determine:

- **the key high level aspects of performance to be considered regularly by the ASB, and how that information is to be presented;**
 - **the lower level performance information that is needed to inform efficient operation of the units, and the regularity of reporting; and,**
 - **ensure that responsibility for managing administrative performance is clear**
30. **Limited progress.** At the time of the last inspection, the Area had recently appointed a Performance Manager, part of whose task was to co-ordinate its internal and joint performance management with criminal justice partners. The Performance Manager has so far been almost exclusively deployed as the project lead for the NWNJ and the setting up of WCUs, and no interim arrangements to deal with performance management were put in place.
31. The Area has developed a quarterly performance framework which identified a range of performance information on which sector managers should report. However, the quarterly reports from sectors present and analyse performance information differently. The disparity of reporting styles adopted by each sector makes comparison and consolidation difficult. Quarterly performance meetings were not always held on time. Performance information is not consolidated to provide an overall picture of Area performance and the ASB is not able to consider Area-wide performance against a dashboard of performance indicators.
32. Conversely, LCJB reporting was robust and was crucial to the Area's ability to monitor its performance against joint targets and initiatives effectively.
33. The Area has yet to develop a range of low level performance indicators to monitor aspects of operational performance. Whilst this was seen by the Area secretariat as a role for local Business Managers, there were differences in the expectations district heads had of their Business Managers.

Recommendation 4 - The ASB:

- **reviews the deployment of administrative staff and caseworkers;**
 - **sets expectations for, and monitors, lawyer deployment;**
 - **determines a strategy for the deployment of HCAs;**
 - **determines whether structures enable the Area to operate efficiently and represent a good use of resources;**
 - **develops a comprehensive human resource strategy based on future organisational structures; and**
 - **improves the efficiency of the recruitment process.**
34. **Limited progress.** There has yet to be a formal review of the deployment of administrative staff and caseworkers. The Area has recently undertaken a review of the deployment of Case Progression Officers and DCWs, and intends to review caseworker deployment shortly, and consider the deployment of the three groups of staff as a whole. There remain imbalances in the numbers of lawyers across the Area, with a significant excess in the numbers of administrative staff in comparison to the Area's profile. The Area has succeeded in employing additional lawyers since our last inspection, and has reduced its lawyer deficit.
35. Targets were set for the deployment of lawyers and DCWs during 2004-05, but deployment was not formally monitored until April 2005. Reporting by the various units is patchy, making it difficult to determine whether or not performance against these targets is being achieved. The Area hoped that setting lawyer targets would assist it in achieving its wish to reduce reliance on lawyer agents by 50%. First quarter performance for 2005-06 indicated a reduced trend in agent usage in comparison to the annual outturn for 2004-05, but a slight increase when compared to the final quarter of 2004-05.
36. The number of HCAs in the Area has increased substantially over the two-year period to March 2005. Whilst there has been an improvement in the number of HCA sessions, sessions are mainly achieved by HCAs in one part of the Area, and a strategy for HCA deployment is not yet in place.
37. The ASB has reviewed the structure of the Trial Unit (TU) and Criminal Justice Units (CJU) based in Birmingham, and structures have now changed. Teams now deal with cases from pre-charge decision to disposal in the magistrates' courts or Crown Court. Unit structures in the rest of the Area remain the same. Further change will not be considered until the new Birmingham structure has been reviewed.

Recommendation 5 - The ASB:

- **develops Terms of Reference to govern its work;**
 - **defines the role of the Area Headquarters and its relationship with groups and units;**
 - **identifies senior management responsibility for the effectiveness of administrative processes; and**
 - **establishes links between operational units.**
38. **Substantial progress.** Terms of reference have been agreed to govern the work of the ASB.
39. The Area is in the process of developing the role of Business Managers in each of its sectors, who are responsible for the effectiveness and efficiency of operational systems. Business Managers across the Area have begun to have regular meetings, chaired by the ABM. Links between operational units are therefore beginning to be established, and senior management responsibility for the effectiveness of processes is being reinforced. Statutory charging has been implemented uniformly across the Area, and this uniformity of approach is strengthened through the work of an Area-wide Champion.
40. The Area has undertaken a review of the structures of Area Headquarters and it is now providing services for the Area as a whole. The respective roles of sectors and the Area Headquarters need to be established in respect of performance management and monitoring.

Recommendation 6 - The ASB:

- **strengthens business planning processes;**
 - **establishes clear plans which determine responsibilities and timescales for action; and**
 - **monitors progress regularly.**
41. **Limited progress.** The business planning process does not appear to have been strengthened significantly. The Business Plan for 2005-2006 did not identify all the relevant objectives or include all relevant targets for the Area, and is not being regularly monitored.
42. Responsibilities and timescales for action have been established for some objectives, but not others, and responsibility for action is not identified beyond the general responsibility of the ASB. An action log was in place in 2004-05 which captured improvement activity, and allocated responsibilities, but it has not been maintained into 2005-06.

Aspects for improvement

43. The Area has taken action to address completely 13 of the 27 AFIs in the inspection report, and substantial progress has been made on four more. Limited progress has been made on others. There has been no progress in ensuring letters are sent to all victims where cases are dropped or substantially altered. We comment on each of these at Annex 1.

Strengths

44. The inspection report identified a number of strengths:
- Effective victim and witness care work at some CJUs leading to a reduction in the ineffective trial rate (paragraph 4.11)
 - Case progression/victim and witness work at Wolverhampton and Coventry TU is contributing to a reduction in the ineffective trial rate (paragraph 4.18)
 - Timeliness of instructions to counsel (paragraph 4.18)
 - Generally experienced and reliable agents (paragraph 5.5)
 - The work and impact of WCUs in Coventry and Wolverhampton (paragraph 6.3)
 - Good support for personal development (paragraph 8.18)
 - A clear commitment by senior managers to the principles of equality and diversity and opportunity (paragraph 8.33)
 - Comprehensive well presented budget reports (paragraph 9.6)
 - Positive communication with the media (paragraph 12.13)
45. The good work of the WCUs continues, both in terms of the level of support they offer to victims and witnesses and also in reducing ineffective trial rates. The percentage of trials that are ineffective due to witness absence steadily decreased throughout 2004-05 and into 2005-06. The Coventry and Wolverhampton Crown Court centres, in some months, have no ineffective trials due to witness problems. Witness attendance also improved from a baseline figure of 68% in June 2003 to almost 80% for the period January – June 2004. WCUs have been extended across the West Midlands.
46. The Area has maintained its good support for personal development, and its commitment to equality and diversity principles which it has reinforced since the inspection. Budget reports are well presented the Area continues to liaise well with the media.
47. The quality of agents was not reassessed as part of the follow-up inspection.

Conclusion

48. The Area has shown improvement since the last inspection, particularly in some aspects of governance. It has delivered all key initiatives, and almost complete co-location with the police, much of which is well planned to support the charging scheme. The Area has the potential to improve further, and it needs to strive to achieve consistency across all aspects of work. A systematic approach to performance management, planning, and to improving some long standing weaker aspects of work is needed to help it achieve this.

**CPS WEST MIDLANDS
PROGRESS AGAINST ASPECTS FOR IMPROVEMENT**

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
4.5	Provide the court with full background information at bail/custody hearings.	Achieved. Prosecutors have been reminded that this information is required. With statutory charging and co-location, the information is more readily available.
4.21	Joint work with police about disclosure standards and the revised joint operational instructions.	Limited progress. Disclosure schedules are slightly improved but there has been no joint training or structured discussion.
4.21	Compliance and demonstrating compliance with the CPIA disclosure tests.	Limited progress. Compliance remains poor on both the magistrates' courts and the Crown Court files. Items on the schedules were often not separately considered or decisions recorded; police response to the defence statements was not chased and secondary/continuing disclosure not made; and correspondence was frequently not answered. Disclosure documents were not filed separately on magistrates' courts files nor on four of the six Crown Court files. No disclosure record sheets were completed.
4.25	The use of specialists, and the thoroughness of review and preparation in cases of child abuse and rape.	Achieved. Specialists now handle these cases and our examination of files showed thorough preparation of these cases. Statutory charging has led to earlier involvement of lawyers, and the establishment of WCUs has increased the support available to victims.
4.48	Adverse case reports to be more realistic, and given wider consideration so that lessons can be learned.	Substantial progress. Reports still tend to merely rehearse the facts with little analysis or realistic consideration of lessons to be learned. Some still do not indicate whether police or CPS action could have prevented the failure. Trends in failed cases are analysed at Area level and actions agreed.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
5.9	Spot checking of the type of cases 'swept' to agents to deal with at short notice.	Achieved. Agreement has been gained with the court to prevent this and spot checks are made.
5.13	Lawyer presence in the Crown Court, particularly in Wolverhampton.	Substantial progress. A duty lawyer scheme has been established and, as more lawyers are recruited, HCA presence in the Crown Court is being increased.
6.3	Witness care and warning of witnesses in Birmingham.	Achieved. Satisfactory systems are in place to ensure victims and witnesses are kept informed of the progress of their case at all stages. The Area has worked with the police to establish a protocol to ensure victims and witnesses are kept aware of the investigation during the period between pre-charge advice being sought and charge. From the first court appearance to the end of the case witnesses are kept informed by WCU staff.
6.5	Sending letters to all victims where cases are dropped or charges changed substantially.	Not progressed. Work undertaken by CPS headquarters estimates that in 2004-05 51% of relevant cases were captured, less than national average of 56.3%. This figure masks substantial variations in performance across the Area, and performance is very weak in some sectors. Letters were sent to victims within the five day time target in only a small proportion of cases.
7.13	The integration of key risks into the Business Plan, and formal monitoring.	Limited progress. Risks are identified, but are not regularly reviewed.
7.16	The development of processes to support a culture of continuous improvement in all aspects of the Area's work.	Limited progress. This is beginning through the work of the sector business managers, although these roles have yet to be fully developed.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
7.16	The inclusion of performance monitoring, quality assurance and business improvement within the responsibilities of the Business Managers.	Substantial progress. Relevant responsibilities are captured within the job descriptions of Business Managers.
8.18	Consistent arrangements for induction across the Area;	Achieved. New arrangements are in place for induction and training. An 'Introduction to CPS' induction course is run every two months for new starters.
8.18	An induction programme for administrative staff supported by the development of written office procedures across the Area.	Not progressed. Although arrangements for induction have improved, the development of written office procedures has not been progressed.
8.33	Reinforce the principles of dignity at work, and ensure staff are able to report unfair treatment with confidence.	Achieved. The Equality and Diversity Complaints Procedure has been reissued; some complaints have subsequently been made, behaviour has been challenged and action has been taken where necessary.
8.35	A comprehensive risk assessment of hazards within Area offices.	Achieved. Health and safety risk assessments have been carried out in two of the Area's sectors, and at police premises where pre-charge decision-making occurs. Health and safety assessments in Birmingham are due to be carried out in November 2005
9.6	Financial reports to be considered regularly by the ASB	Achieved. Regular updates on the financial position are considered by the ASB.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
9.8	Review and establish efficient systems for the payment of graduated fees.	Achieved. Performance in respect of the timeliness of the payment of graduated fees improved during the course of the year, although work is ongoing to ensure further improvement.
9.8	Ensure arrangements are in place across the Area for monitoring the allocation of work to counsel and levels of returned briefs.	Limited progress. Gender and ethnicity monitoring of advocates has been implemented, but systems are not yet in place across the Area to monitor levels of returned briefs.
9.12	The setting of parameters for expenditure on agents.	Achieved. Budgets, including the budget for expenditure on agents are devolved to sector heads. Indicative targets have been set to reduce agent usage.
10.5	The effectiveness of joint performance management.	Achieved. Joint performance management has been improved through implementation of statutory charging.
10.10	The use of the Compass case management system (CMS) by staff and managers.	Limited progress. The use by administrative staff is good but lawyer use still needs improvement particularly for the use of CMS to record the full file review. Management reports are used but the high number of outstanding tasks in completed cases means that they cannot be used fully effectively.
10.12	Accommodation for co-location of the three remaining CJUs needs to be resolved. The use of current accommodation in Birmingham.	Achieved. The Birmingham sectors are now co-located with the police and firm plans are in place for co-location of the final unit in the Black Country sector. Accommodation difficulties at the Birmingham office have been resolved and the Area has now taken additional floors within the existing building.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
11.13	Continuing monitoring of recent initiatives to ensure their effectiveness	Substantial progress. Good systems have been put in place to review arrangements for the delivery of statutory charging and monitor the quality of decision-making.
12.4	The system dealing with complaints	Limited progress. A spreadsheet has been designed to ensure all complaints are captured centrally, but it is not yet in use.

