

HM CROWN PROSECUTION SERVICE INSPECTORATE

INSPECTION OF CPS WEST MIDLANDS (REPORT 9/04)

EXECUTIVE SUMMARY

Introduction

1. This is the Report of HM Crown Prosecution Service Inspectorate about CPS West Midlands. The CPS is a national service, but operates on a decentralised basis with each of its 42 Areas being led by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy. This was a full inspection. The Area was previously reported on in February 2001.

The Area

2. CPS West Midlands serves the area covered by the West Midlands Constabulary. It has nine offices, at Birmingham, Brierley Hill, Bournville Lane, Coventry, Halesowen, Solihull, Walsall, West Bromwich and Wolverhampton. The Area Headquarters (Secretariat) is based at the Birmingham office.
3. Area business is divided on functional lines between magistrates' courts and Crown Court work. There are 11 Criminal Justice Units (CJUs) which are responsible for the conduct of all cases dealt with in the magistrates' courts (and some youth cases in the Crown Court). Staff are co-located with the police at the Coventry and Wolverhampton offices, as well as at Brierley Hill, Bournville Lane, Halesowen, Solihull, Walsall and West Bromwich Police Stations. The remaining three CJUs, serving Birmingham, Sutton Coldfield and Warley are located in CPS premises in Birmingham and Wolverhampton, and are not co-located with the police. There are three Trial Units (TUs), based at the Birmingham, Coventry and Wolverhampton offices, and they review and handle cases dealt with in the Crown Court.
4. At the time of the inspection in December 2003, the Area employed the equivalent of 447.2 full-time staff. In the year to September 2003, it dealt with 87,758 cases in the magistrates' courts and 10,102 cases in the Crown Court. It gave pre-charge advice to the police in a further 3,352 cases.
5. CPS West Midlands is the second largest of the CPS Areas and handles a large caseload, weighted towards the more serious end of the scale. The Area is wide and varied in character, ranging from deprived inner city areas to leafy suburbs. The population is diverse, with quite distinct substantial minority ethnic communities.

Main findings of the Inspectorate

6. Casework outcomes in the Area are generally satisfactory. This is particularly creditable in the context of the size of the Area, the serious cases it handles, and the difficulty it has in recruiting lawyers. As a consequence, to some degree detailed analysis of individual cases in the file sample, and at court, revealed some in which more positive action should have been taken by the CPS at an early stage.

7. The extent to which the Area's formal advice to police complied with the principles of the Code for Crown Prosecution (the Code) fell below that found generally by the Inspectorate in the cycle of inspection to date, but face-to-face advice is valued by police and is doing much to start to improve the quality of police files. Initial review decisions are similar to the national average, and the Area takes an active stance in seeking additional evidence at that stage. At present, discontinuance levels remain above the national average. The number of committals which are discharged because the prosecution are not ready to proceed has reduced, but remain at too high a level. Cases proceeding to trial do so on the correct level of charge in a lower proportion than the national average to date, and this is reflected by a high number of cracked trials in both the magistrates' courts and Crown Court. However, the Area is doing well for its size in achieving roughly the national averages in relation to ineffective trials.
8. Adverse cases in both the magistrates' courts and Crown Court - in which the result was foreseeable and the CPS could have done more to avoid the outcome - are high, particularly in the Crown Court. This reflects a higher level of attention that is required in cases pre and post-committal by caseworkers and lawyers working together. The discharge of the prosecution's duty of disclosure is variable in the Area.
9. The handling of persistent young offenders is particularly good for an Area of this size, and inroads are being made in narrowing the justice gap and in improving the level of public confidence in the Area's ability to bring offenders to justice.
10. The Area provides a mixed picture across much of its work. It has undertaken a considerable amount of work to restructure itself. Much work has been done to draw the Area together as a single, cohesive unit, but each group – Birmingham, Wolverhampton and the Black Country, and Coventry, remain in part distinct entities, with individual working practices. Indeed, in some respects there have been concerted moves to adopt different models of working, as opposed to identifying good practice and moving towards single operating practices. Inspectors were impressed by the energy and enthusiasm of both managers and staff. Conversely, the Area retains a feeling that it should have greater resources - whilst not being able to recruit the lawyers to make use of such resources – and, in some respects, it remains in a fire fighting mode, albeit having received a substantial uplift in budget since the last inspection, and a 44% increase in staff overall.
11. Moves to achieve co-location with police have been much more positive and successful than in many CPS Areas, but attempts to achieve co-location in the busy central Birmingham areas have been protracted and are still ongoing. Good people management has been achieved in relation to induction and the development of staff, whilst some issues remain un-addressed in other aspects. Much valuable work has been undertaken to engage with the community and the Area espouses an open relationship with both the public and its partners in the criminal justice system (CJS).

Specific findings

Casework

12. Casework performance has improved in several respects since the last Report. In the magistrates' courts, cases are now almost always ready to proceed at the first hearing; and decision-making in cases tried summarily is generally good, although not always made in good time. Timeliness of decision-making in relation to committals varies across the Area,

and the number of committals discharged because they are not ready to proceed remains an issue. The discontinuance rate is still, overall, above the national average, but there is some evidence that this has considerably improved in centres currently operating the pre-charge advice scheme. In all these matters CPS performance is closely linked to that of the police.

13. In the Crown Court the quality of instructions to counsel has improved and is now above the national average. Performance on disclosure also shows some improvement. The Area's Crown Court caseworkers are generally dedicated and efficient and provide a good service. The quality of decision-making in advice cases is, however, below the national average and in sensitive cases varies considerably across the Area. In relation to adverse cases, the systems for learning from experience need to be made more rigorous and thorough.

Bringing offenders to justice

14. The Area is working positively with its CJS partners to raise the numbers of offenders brought to justice and, whilst not yet on target, had increased the level to 3.7% from the baseline figure.

Reducing ineffective trials

15. In the magistrates' courts for the rolling three-month period September to November 2003, the ineffective trial rate was 30% (the same as the national average) and in the Crown Court 22%, compared to a national average of 20%. There is some indication that the ineffective trial rate in the Crown Court across the Area has fallen since the inspection (particularly in Coventry), but rates within individual Crown Court centres are fluctuating, and the trends will need to be examined over a period of time. The Area is working positively with its partners to reduce the level of ineffective trials, in particular by improving witness warning and care in parts of the Area.

Advocacy and quality of service delivery at court

16. In the magistrates' courts there is a very variable mix between the use of CPS lawyers and agents in different parts of the Area, although in all units care is taken to see that agents cover only appropriate courts. The quality of advocacy is generally good, including - on the whole - that of agents. In the Crown Court advocacy is also of a satisfactory standard, but the Area's profile at court remains low. In some courts, virtually no work is carried out by Higher Court Advocates (HCAs), and only at Birmingham Crown Court is a duty lawyer present on a daily basis.

Victims and witnesses

17. The Area is currently in a transitional phase in its arrangements for dealing with victims and witnesses. Witness Care Units have been established in the outer parts of the Area and have been successful: they now need to be established at the centre. Direct Communication with Victims (DCV) has been fully implemented, albeit using varying models, and with variable quality of letters.

Performance management

18. The Area has recognised the need to improve the way it manages its performance and handles performance information, and that it needs to understand and control performance more. An Area Performance Manager had been appointed shortly before the inspection.

People management and results

19. Since the last inspection the Area has achieved a 44% increase in staff, made possible by increased funding. In addition, it has restructured into Criminal Justice and Trial Units, eight of which are co-located either in police stations or CPS offices.
20. Despite having been successful in increasing its lawyer complement by 32%, the Area remains short of lawyers, and this has been the position for some time. The challenge for the Area lies in managing - through its human resource strategies - a situation that is likely to be ongoing or, at the very least, not capable of resolution in the short term. To ensure that the effect of any lawyer shortage is mitigated as far as possible, the Area needs to examine the way all staff - including lawyers - are deployed, and it is in the process of carrying out a staffing review. Human resource strategies should be supported by aggressive and efficient recruitment campaigns. This Area's rapid expansion necessitates the review of structures and numbers within units to ensure they meet business needs.

Financial management

21. Overall, the Area has good systems in place for financial management, although greater controls need to be put on the expenditure on agents, and regular financial reporting needs to be introduced at Area Strategic Board (ASB) level. The Area needs to ensure that deployment of staff represents value for money.

Partnerships and resources

22. The effectiveness of the Area's relationship with other agencies is increasing, albeit that some rubbing points remain. The Area needs to determine its relationship with the Service Centre and finalise the Service Level Agreement.

Policy and strategy

23. The Area has made good progress on co-location, is responsive to the needs of the CJS reform agenda, and has shown a willingness to become involved in the early development of initiatives and pilot them. It has been particularly receptive to the need for improved communication and community engagement, which are being well pursued. There is scope for the Area to improve its own sense of what should be achieved and develop an appropriate strategy for delivery.

Public confidence

24. Engagement with the community is of particular importance in the West Midlands, which has substantial and diverse minority ethnic communities. The Area is rising to this challenge and there have been a number of valuable positive initiatives by senior managers. The promptness and thoroughness in dealing with complaints needs to be improved.

25. The Area had achieved a 5% improvement in its level of securing public confidence in the ability to bring offenders to justice according to the British Crime Survey, but the figures are not yet statistically significant. It has worked hard to increase the level of confidence of minority ethnic communities and has endeavoured to explain fully decisions to accept reduced levels of charge, or drop cases, in high profile instances.
26. The Area has worked extensively with minority ethnic groups in reaching out to the community and has a level of minority ethnic staff which, to a large degree, reflects the make-up of the working population. It has also worked hard in reaching out to potential employees with disabilities. The Area displays a clear commitment to equality and diversity, but needs to ensure that issues are addressed and that staff feel more able to use equality and diversity complaints procedures in the belief that issues will be addressed and resolved.

Leadership and governance

27. The Area has a number of enthusiastic managers, committed to its work. A corporate vision for the Area, both in terms of its future structure and behaviours, needs to be articulated. The role of the Area Headquarters and its relationship with the groups, along with the role of the Area Strategic Board, need to be reviewed and agreed.

Recommendations

28. Inspectors have made six recommendations to help improve the Area's performance:
 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 (paragraph 4.18).
 2. The ASB ensures that the new custody time limit system is implemented throughout the Area with immediate effect, and should monitor compliance (paragraph 4.37).
 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).

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 (paragraph 8.15).

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).

6. The ASB:
 - * strengthens business planning processes;
 - * establishes clear plans which determine responsibilities and timescales for action; and
 - * monitors progress regularly (paragraph 13.19).

The full text of the Report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available online at www.hmcpai.gov.uk.