



HM Crown Prosecution
Service Inspectorate

Five Year Review and Annual Report 2014-2015

HM Chief Inspector of the Crown Prosecution Service

Executive summary



Overview of Inspectorate activity

Unlike previous annual reports, this one also reflects on developments over the five years that I have been Her Majesty's Chief Inspector of the Crown Prosecution Service. My term of office has coincided with the Government's initiatives to reduce the public sector deficit. This has led to major changes in the way the Crown Prosecution Service (CPS) operates. The Inspectorate has, in turn, had to respond to these changes.

The CPS is now a very different organisation from the one that I began to inspect in 2010. The number of prosecutors employed by CPS Areas and CPS Direct (CPSD) has fallen by 28.9 per cent and the number of administrative staff by 31.1 per cent. Responsibility for a significant proportion of charging decisions has been returned to the police. At the same time the CPS has extended the role of CPSD, which previously handled only cases that required charging decisions outside normal office hours. CPSD now deals with almost all the CPS's remaining responsibilities to authorise the police to charge suspects instead of using face-to-face consultations. The Service has also developed Standard Operating Practices in a reduced number of locations, sometimes in a neighbouring county, to prepare the great majority of cases. Almost all magistrates' courts work is now conducted electronically. Hearings, including trials, are now usually conducted from tablet computers. The number of contested cases handled by each lawyer has increased as staff numbers have fallen and the proportion of more challenging cases and those likely to be contested has risen.

The reduction in CPS Areas from 42 to 13 led me to move away from the previous overall performance assessments (OPAs), which had been conducted at the former 42 Area level. We continue, however, to undertake Area

effectiveness inspections (AEIs) of those Areas where our risk model indicates cause for concern. A programme of rigorous follow-up inspections tests their progress. In cases of particular concern, we work more closely with the Area to monitor progress and offer advice at more frequent intervals. To ensure that I could provide an assurance to the Attorney General and the Director of Public Prosecutions (DPP) about overall CPS performance, in 2012 I instituted a new Annual Casework Examination Programme (ACEP).

My time in office has also seen a renewed emphasis on joint working with other criminal justice inspectorates in response to Ministerial wishes that inspections should address issues that cut across departmental boundaries. The proportion of our resources devoted to joint work has increased from about 16 per cent in 2011-12 to about 30 per cent in 2012-13 with 50 per cent planned for 2014-15.

I am pleased to record that our ability to inspect the work of the Serious Fraud Office (SFO) has now been placed on a statutory footing. My successor will now be responsible for developing a full methodology for routine inspection of the SFO.

The Inspectorate's budget reduced by more than 19 per cent from 2009-10 to 2014-15. We made substantial savings on accommodation costs as a result of moving to shared premises with the Treasury Solicitor's Department and on administration costs. As a result, we were able to maintain expenditure on staff over most of the last five years, although delays in recruitment arising from Civil Service rules restricting external recruitment often resulted in shortfalls in staff in post.

Overview of CPS performance April 2010 to March 2015

The 2012 ACEP exercise provided a benchmark against which CPS performance in later years can be judged. There was a marked reduction in the appropriateness of charging decisions in the following two years. The proportion of CPS decisions that did not meet the Code for Crown Prosecutors (Code) test rose from 6.5 to 8.5 per cent. The proportion of cases in which police charging decisions did not meet the Code test reached 16.9 per cent in 2013, although the 2014 exercise indicates some improvement on this. The police failures would matter less if they were corrected promptly by the CPS. Inspectors found, however, that this often did not occur at all or for some time, resulting in cases spending more time than necessary in the court system. Of the cases that were dropped in the 12 months to 31 December 2014, 34.7 per cent were dropped after the third or subsequent hearing. This was, however, a marked improvement on the figure of 44.2 per cent in 2010-11.

Application of the Code test continues to be generally better in more serious cases. But in 'volume' cases some Code test failures related to very common offences, such as assaults, burglaries and robberies and a number arose from failure to apply the law properly to identification evidence, forensic evidence, self-defence and joint enterprise. These are offences and issues that lawyers deal with on a daily basis and should rarely result in errors.

Encouragingly, there is evidence that Area and CPS Direct managers are showing more determination to tackle the quality of charging decisions by lawyers. The quality of MG3s¹ has improved steadily since the introduction

of ACEP. The proportion assessed as poor has fallen from 18.3 per cent in 2012 to 14.5 per cent in 2014. I was pleased to see that the CPS's revised Core Quality Standards Monitoring (CQSM) framework places greater emphasis on assessing the performance of individuals under a new Individual Quality Assurance scheme.

The CPS continues to make progress in dealing with cases involving violence against women and girls (VAWG). The standard of Code compliance and MG3s is generally better in rape, serious sexual offences and other VAWG cases than for the generality of offences. Conviction rates have risen steadily in recent years from around 71.5 per cent in 2010-11 to more than 74 per cent in the last two years. There has, however, been some slippage recently in the conviction rates for rape, which is the most serious of these offences. My inspection of a selection of the CPS's Rape and Serious Sexual Offence (RASSO) units in early 2015 will consider the reasons for this and seek to identify good practice that can be applied throughout the country in order to improve national performance.

The CPS, together with police forces, has also made considerable progress in recent years in tackling racially and religiously aggravated, and homophobic offending. There has been a slight increase in successful outcomes, which are now close to those for the generality of offences. Performance in relation to disability hate crime (DHC), however, has been disappointing. A joint review with HM Inspectorate of Constabulary (HMIC) and HM Inspectorate of Probation on this topic in 2013² showed that all agencies needed to improve their performance quickly. Stakeholders

1 The form on which a prosecutor writes up his or her decision whether to charge a suspect.

2 *Living in a different world: Joint review of disability hate crime*, March 2013. www.justiceinspectorates.gov.uk/cjji/inspections/joint-inspection-of-disability-hate-crime/

who were consulted for the review sought assurances about the joint inspectorates' proposals for monitoring progress. A snapshot survey in early 2014 confirmed that it was necessary to proceed with a fuller joint follow-up inspection, which is due to report in spring 2015.

Effective trial rates have improved, particularly in the Crown Court where data from the Ministry of Justice shows that more than half of trials (51 per cent) went ahead on time in 2013 compared with only 44 per cent in 2010. Data for the first three quarters of 2014 indicates that this improvement has been sustained. More robust judicial management of contested cases is likely to have driven this, but the CPS's role in the Early Guilty Plea (EGP) scheme³ has also helped. The CPS has also improved its timely compliance with judges' orders, although there is still some way to go before compliance can be regarded as satisfactory.

In the magistrates' courts the introduction of Standard Operating Practices provided the opportunity to harmonise processes and enable the effective transfer of work across units in a digital environment. There is, however, still too much last minute preparation, even in cases where the file upgrade has been received from the police in good time. All three ACEP exercises indicate that 'grip' on case preparation in the magistrates' courts is weaker than in the Crown Court. The CPS's Standard Operating Practices need to embed a culture of firm case management so that unnecessary adjournments are avoided.

³ An initiative by the Senior Presiding Judge under which prosecutors identify Crown Court cases that appear to be suitable for an early guilty plea. If appropriate, the cases are then managed separately by the court to ensure their swift disposal.

Disclosure of unused material has long been a focus of concern. A full thematic review in 2008 and a follow-up report in 2009 identified some improvements compared with assessments from earlier years, but they also noted a number of shortcomings. Whilst our initial ACEP findings in 2012 and later AEIs pointed to significant improvements, the 2013 ACEP exercise revealed a substantial deterioration. Only 23.5 per cent of cases attracted an excellent or good rating with those rated poor more than doubling to 29.6 per cent. The 2014 ACEP exercise indicates some improvement, but performance is not yet back to the 2012 level.

AEIs and ACEP findings confirm that, in general, disclosure is handled better in more serious cases such as homicide, sexual offences and child abuse. Whilst this is reassuring, some very large and complex cases have given rise to public concern. A detailed review of the prosecution's handling of disclosure in *R v Mouncher and others* identified a number of failures by the CPS.⁴ As a result the Director of Public Prosecutions, in his published response to the review, made far reaching changes to the way in which disclosure is managed in large and complex cases. The Serious Fraud Office has also taken on board the review's findings.

⁴ *Review into the disclosure handling in the case of R v Mouncher and others*, May 2013. www.justiceinspectorates.gov.uk/hmcpsi/inspections/disclosure-handling-in-r-v-mouncher-and-others-south-wales/

Caseloads and outcomes

At the same time as CPS staff numbers have reduced, the volume of cases to be considered by the CPS has fallen sharply over the last five years, by 31.5 per cent in the magistrates' courts and by 17.2 per cent in the Crown Court. The return to the police of charging powers for a significant range of offence types has also had an impact on CPS workloads. The fall has, however, been mainly in less serious or complex cases resulting in a more challenging mix of cases to be handled by the CPS.

Overall CPS case outcomes have remained broadly stable for most of the last five years. In view of the resource reductions faced by the Service, which have resulted in the loss of many experienced staff and associated major changes in management structures and operating procedures, this is a commendable achievement. Indeed, in the Crown Court, successful outcomes showed a modest improvement for some years, reaching almost 81 per cent in 2013-14. Data for the 12 months to 31 December 2014, however, show that they have reverted to the 2010-11 rate of 79.6 per cent. In the magistrates' courts the position has also begun to deteriorate a little. Successful outcomes had remained comfortably above 86 per cent until last year when they dropped to 85.7 per cent. The figure for the 12 months to 31 December 2014 shows a further fall to 84.6 per cent. Similarly, after remaining between 9.6 and 9.8 per cent from 2010-11 to 2013-14, the magistrates' courts discontinuance rate has also increased. It reached 10.4 per cent in the 12 months to 31 December 2014.

The impact of inspection

Inspection is useful only if it provides robust assurance of the inspected organisation's performance and helps it to improve and deliver value for money. Inspections, reviews and audits have contributed to improved CPS performance and assisted it to provide better value for money in a number of areas. The Service now complies better with judges' orders, has improved its handling of custody time limits, made significant changes for the better in its management of disclosure in large and complex cases and amended the Graduated Fee Scheme for counsel's fees to improve value for money. At the Area level, close working with those Areas that adversely affected overall CPS performance has helped management teams to turn things around (Gwent and Surrey) and assisted the largest Area (London) to put itself on a more resilient footing. Follow-up inspections show that CPS Areas are generally implementing recommendations from our AEI reports well. We also hold six monthly meetings with CPS Headquarters to review CPS action plans prepared in response to our reports and to agree how outstanding actions will be followed up.

Conclusion

After holding up well for a number of years, there are signs that casework outcomes have begun to fall. The continuing reduction in resources has led to prosecutors handling increasing caseloads. This is undoubtedly making it more difficult to maintain effective oversight of cases as they progress to trial. However, there are some encouraging signs, such as the reduction in the number of dropped magistrates' court cases that have three or more hearings, and in the reversal of some of the decline in casework handling noted in the 2013 ACEP exercise. It is, however, important to continue to seek more effective and efficient ways of working. In this context, work to improve the electronic transfer of case material will be fundamental to future improvements. The variety of different electronic case preparation systems, each with its own range of functionality, used by police forces presents a challenge to this. Within the CPS, full realisation of the potential benefits of digitisation depends significantly on establishing Standard Operating Practices throughout its operations. It is not clear to me that this has yet occurred in spite of the determination of senior CPS managers that it should.