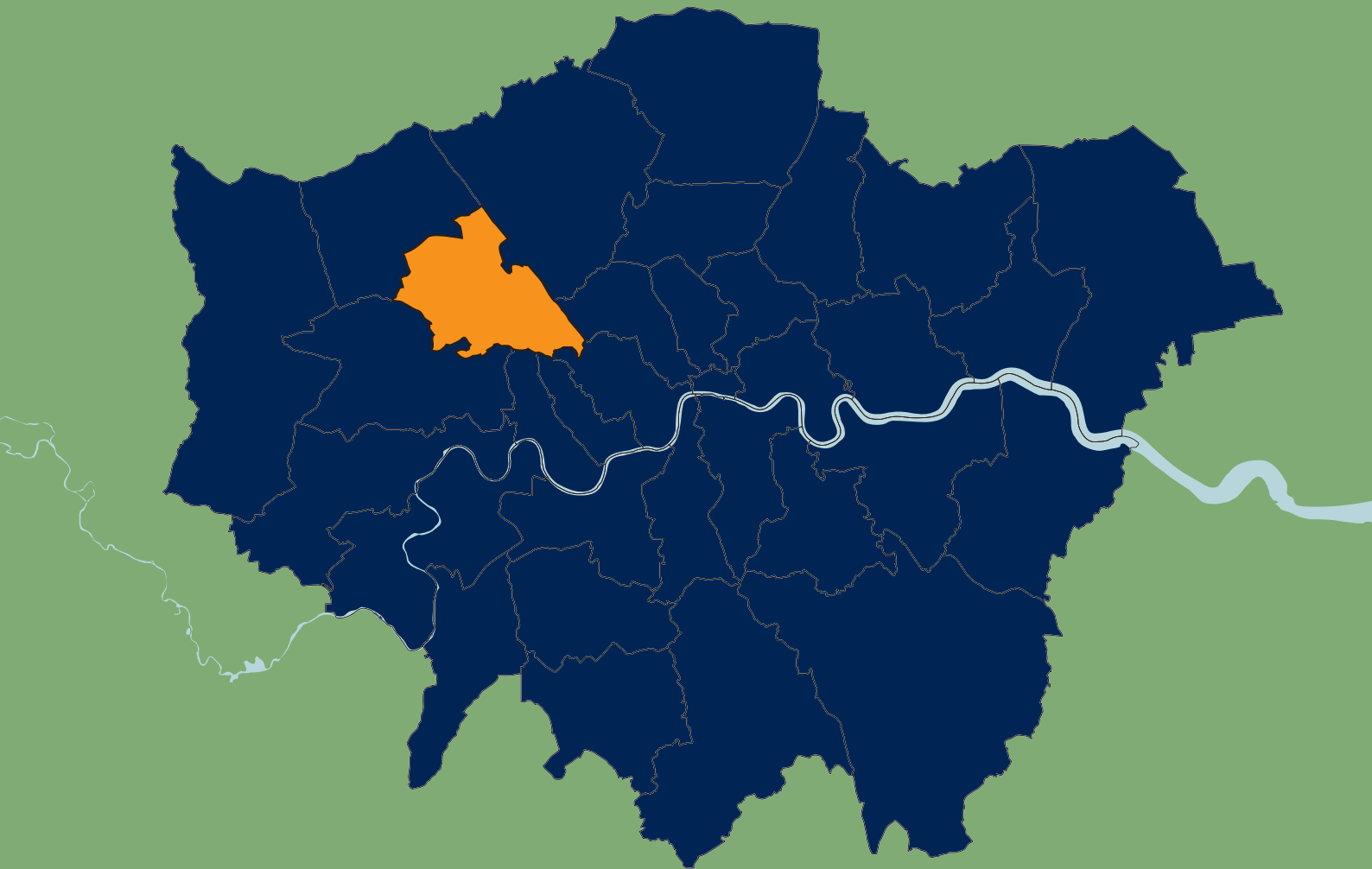


CPS London Borough Performance Assessments

Brent Borough

Undertaken November 2009





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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

CONTENTS

A	Introduction to the performance assessment process	2
B	Description and caseload of CPS Brent borough	4
C	Summary of judgements	6
D	Defining aspects	10
1	Pre-charge advice and decisions	10
2	Decision-making, preparation and progression in magistrates' court cases	13
3	Decision-making, preparation and progression in Crown Court cases	16
4	The prosecution of cases at court	19
5	Serious violent and sexual offences, and hate crimes	21
6	Disclosure	23
7	Custody time limits	25
8	The service to victims and witnesses	26
9	Managing performance to improve	28
10	Managing resources	31
11	Management and partnership working	33

ANNEXES

A	Performance data	35
B	Individuals and representatives of local criminal justice agencies and organisations who assisted us	37
C	London borough scoring model	38

A INTRODUCTION TO THE PERFORMANCE ASSESSMENT PROCESS

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

Assessments

Assessments and judgements have been made by HMCPPI based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCPPI 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. HMCPPI 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 9 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 HMCPPI 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 Brent 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 BRENT 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 level D lawyer. Local borough units are then grouped together to form a larger district based upon a common Crown Court centre (or centres). Responsibility for a district lies with a district crown prosecutor (DCP), a level E lawyer who line manages the BCPs. The interface between CPS London's senior management and area staff is through the district, with the DCP ensuring that the area's vision and strategy is implemented by the BCPs at borough level. CPS London is divided into two regions (North and South) which comprise a number of districts. There is also a complex casework centre which handles serious and complex cases including those at the Central Criminal Court (Old Bailey).

The CPS London senior management team consists of the Chief Crown Prosecutor, three legal directors and two regional business managers.

Brent borough has one office at Wembley Police Station. It is part of the CPS London district which is aligned to the Crown Court sitting at Harrow and Wood Green although Brent's cases are all committed to Harrow. The office is an integrated prosecution team site where police and CPS staff work closely together in shared accommodation and the CPS undertake case building functions that were previously the responsibility of police staff.

Borough business is divided on functional lines between magistrates' courts and Crown Court work in respect of administrative staff but lawyers deal with both types of work.

As of October 2009 the borough had an average of 27.4 full-time equivalent staff in post, and a budget of £1,455,514¹ (current position).

Staff	Numbers at September 2009
Borough crown prosecutor	1
Business manager	1
Crown prosecutors	9 ²
Associate prosecutors	2.9
Caseworkers	6.5
Administrative support staff	7
Total (full-time equivalent)	27.4

1 The non-ring fenced administration costs budget contains payroll costs (including superannuation and allowances) as well as budget for travel and subsistence. Things like training are included in the London-wide budget and are not allocated at the borough level.

2 Includes one legal trainee

Details of Brent 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	1401	1104	-21.2%
Decisions not resulting in a charge ³	836	735	-12.1%
Total pre-charge decision cases	2237	1839	-17.8%
Magistrates' court proceedings⁴			
Magistrates' court prosecutions	3633	3571	-1.7%
Other proceedings	3	0	-100.0%
Total magistrates' court proceedings	3636	3571	-1.8%
Crown Court proceedings⁵			
Cases sent or committed to the Crown Court for determination	677	732	8.1%
Committals for sentence ⁶	91	96	5.5%
Appeals from the magistrates' court ⁶	59	59	—
Total Crown Court proceedings	827	887	7.3%

Inspectors visited the borough in November 2009. The lay inspector was Mal Reston. The role of the lay inspector is described in the introduction. He examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. He 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 inspector have been included in the report as a whole, rather than separately. His time was given on a purely voluntary basis and the Chief Inspector is grateful for his effort and assistance.

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

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

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

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

C SUMMARY OF JUDGEMENTS

Contextual factors and background

The London borough of Brent has a wide and varied economic, environmental, racial, cultural, linguistic and social make-up. There exists within it a sharp divide between the relative affluence of the northern wards to the high levels of socioeconomic deprivation south of the North Circular Road. It is the most densely populated borough in the West London sub-region and borders Harrow to the north and Westminster to the south.

Despite this, the borough is an area of great opportunity and potential. Wembley is the focus for one of the largest regeneration projects in London. Brent is one of only two local authorities serving a population where the majority of people are from ethnic minorities. The population is relatively young with almost a quarter of all residents aged 19 years or under.

The borough is prey to high levels of serious crime and common offence types include street robberies, commercial drug dealing and both residential and commercial burglary. Gang related violence also leads to challenging prosecutions and associated anti-social behaviour.

The current borough crown prosecutor (BCP) was appointed in December 2008 and in May 2009 all staff accommodation was moved to new site within Wembley Police Station as part of the implementation of the integrated prosecution team (IPT) programme across CPS London. The changes in working practices and environment have not been the panacea for performance improvement that some anticipated and it is clear that there remain a number of unresolved issues around relationships and getting the right people doing the right jobs. For much of this period there has been no district crown prosecutor (DCP) in post.

Any major change of this nature needs time and goodwill to settle down before judgement is passed on its success or otherwise but borough staff are firm in the view that most of their difficulties in progression and management of casework stem from the implementation of IPT. Efforts to introduce the optimum business model (OBM) approach to magistrates' court work have not been consistently successful, especially during 2009 although the BCP is determined to see improvements with OBM and equally as importantly with Crown Court casework which has been an area of weakness for the borough for some time.

Despite some early signs of improvement, many formidable challenges lie ahead if the borough is to achieve lasting improvements in all aspects of its casework and raise its profile with key local partner agencies. Support and encouragement from senior management will be crucial over the next 12 months if the borough is to advance with confidence.

Summary

Borough prosecutors provide charging advice at Wembley Police Station between 9am and 5pm on Mondays, Wednesdays and Fridays. Daily cover was reduced in mid-August 2009 following the introduction in May 2009 of CPS London Direct, a daytime telephone service providing charging decisions to the police in volume crime cases. For the more serious and complex cases especially allegations of rape and child abuse, prosecutors will see officers by appointment. It is too soon to judge whether the level and method of providing charging decisions is the most appropriate for the police and the prosecutors. Decision-making at this stage could be improved as in three of 29 cases (10.4 %) the decisions did not comply with the evidential stage of the Code test. There is a clear distinction between the charging benefits measures achieved in Crown Court and magistrates' court cases. All Crown Court measures have been poor for some time but the proportion of pre-charge decision cases discontinued in the magistrates' court has been pleasingly low during 2008-09 and in the current year. Overall the proportion of successful outcomes for pre-charge decision cases is below the national and CPS London figures.

Successful outcome rates for all magistrates' court casework are similar to national performance and better than CPS London. These outcomes are reflected in the low rate of discontinuance. Levels of other adverse outcomes such as discharged committals and acquittals after trial are higher than national and

London comparators. Any significant strides towards implementing reliable case progression systems were undermined by the move to IPT and a lack of cover for an emerging OBM unit. This has created a culture of late and reactive case management that is often left to the courtroom to be resolved by robust judicial intervention. Thus effective trial rates in the magistrates' court have remained at levels that compare favourably with national and CPS London rates.

Successful outcomes in Crown Court casework are significantly below national and CPS London rates. The Code test failures were all Crown Court cases and the lack of proactive case management was apparent from the outset. Timely full reviews were frequently missing from case files and the quality of both indictments and instructions to counsel needs improvement. The temporary listing of the borough's cases at Inner London Crown Court has increased their exposure to attrition. The new Crown Court Advocacy unit based at Harrow has begun to take an important buffer role between the court officers and borough management.

The quality of the presentation of cases in the magistrates' court at Brent and at Harrow Crown Court was variable with late and poorly prepared files being a substantial factor. High levels of agent usage at Brent Magistrates' Court had been in place for some time when we visited in November 2009. The borough's sole Crown Advocate presents some cases at Harrow but all other Crown Advocates are part of the district team.

Allegations of serious violence, sexual offences and other hate crimes are identified appropriately and allocated to specialist prosecutors. However the three cases where the charging decision did not comply with the evidential stage of the Code test were all in this category and it was not possible to discern any significant uplift in the active supervision by prosecutors of these cases as opposed to the other cases in their care. Successful outcomes in rape cases are poor whilst those in domestic violence and other hate crimes were better in 2008-09 but have dipped in the 12 months to September 2009.

The borough's performance in relation to the discharge of its duties of disclosure of unused material is poor. Timeliness is a significant weakness in the service of initial disclosure particularly in magistrates' court cases. Defence case statements are relatively unusual even in more serious prosecutions so that continuing disclosure can often be overlooked. More focus is required on compliance with the guidance contained in the ACPO/CPS Disclosure Manual.

The borough had two custody time limits systems failures in 2008-09 and thereafter systems were strengthened. Although custody time limits are now monitored appropriately, the case progression difficulties outlined above have exposed the borough to the risk that the court will refuse an application even though it is properly made because the prosecution cannot show that the case has been progressed with due diligence. There have been two such instances in 2009-10. More robust management supervision will help to minimise this risk.

Prosecutors who meet victims and witnesses at court are presenting a positive face of the borough and working well with witness service volunteers. However the compliance with the borough's obligations to notify victims of cases which are discontinued or where charges are materially reduced has deteriorated in 2009-10. Applications to trial courts for special measures to assist vulnerable witnesses are often late or lack sufficient detail. Communications with the Witness Care Unit (WCU) are adequate but response rates by prosecution staff to WCU queries need to be improved.

Performance management at borough level has been limited and has concentrated more on feedback to individuals than the organisational problems. Managers have now given a higher priority to the performance development review process but more analysis of trends and outcomes in particular categories of case would assist the borough to identify targets for improvement and opportunities for joint working that are likely to be most fruitful. Where joint meetings have been held, actions have not always been completed and partner agencies have lost some confidence in the collaborative approach.

Financial management is controlled at district level but the borough has operated within its non-ring fenced administrative costs budget in 2008-09. Staffing levels have fluctuated in the recent past and it

is clear that the borough does not yet have the right numbers of staff in the right grades to deliver all its priorities. Agent usage has been much higher in 2009-10 than in previous years but the aim of devoting more prosecutor time to case preparation has yet to show lasting benefits in performance.

Following the strains suffered by the borough in the wake of the implementation of IPT, an area delivery action plan was devised in September 2009 but until then there had been little business planning or risk management. During challenging times it is not surprising if relations between staff and with external partners become strained. They have in Brent and borough managers are aware of the need to monitor the situation closely. If casework processes can be brought under control and staff and partners become convinced of the borough's determination to raise standards then many of these irritants will fall away.

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

Aspects for improvement

We identified 16 aspects for improvement:

-
- 1 Managers need to establish systems to ensure that full Code test reviews are carried out on cases charged under the threshold test within a reasonable period of time (aspect 1).

 - 2 The borough crown prosecutor should carry out systematic and regular monitoring of prosecutors' records of decisions and advice (MG3s) to improve the standard of PCD records (aspect 1).

 - 3 Urgent action should be taken in conjunction with police partners to reduce the backlogs on CMS of PCD cases awaiting finalisation (aspect 1).

 - 4 The borough's managers should set clear objectives and performance targets for the OBM linked to improvements in magistrates' court case preparation (aspect 2).

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

 - 6 Borough managers should put in place measures designed to improve the quality of indictments and instructions to prosecuting advocates (aspect 3).

 - 7 The borough should issue clear guidance to prosecutors dealing with the retraction policy in domestic violence cases to ensure greater consistency of approach (aspect 5).

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

 - 9 The borough crown prosecutor should increase the pool of staff experienced in all aspects of CTL management, to ensure that risk is minimised in the absence of managers and that there is a greater understanding of CTLs in more complex cases (aspect 7).

 - 10 The borough crown prosecutor needs to establish systems to improve the timeliness and quality of applications for special measures in appropriate cases and communicate the results of applications to the Witness Care Unit (aspect 8).
-

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- 11 Borough managers should ensure that adequate time and resource is allocated to DCV compliance so that timeliness is improved and to monitoring the quality of letters sent especially in serious and/or sensitive cases (aspect 8).
-
- 12 The borough crown prosecutor should establish how the CPS can optimise its contribution to joint performance meetings by:
- agreeing priorities with partners and the best forum/means to deal with such issues; and
 - delegating responsibility for some meetings to other staff (aspect 9).
-
- 13 The borough crown prosecutor should approach the police with a view to supplementing the basic training already provided to CPS staff in relation to their new responsibilities with additional desk-side support (aspect 9).
-
- 14 The borough crown prosecutor should work with district and area managers to ascertain whether the current level of associate prosecutor resources is sustainable, particularly in light of the shortage in some other boroughs. Alternative roles may be more helpful to the borough in dealing with their caseload and priorities (aspect 10).
-
- 15 The borough crown prosecutor should provide regular updates to partner agencies on progress against the action plan and also ensure they are kept in touch with other developments that should lead to improved delivery (aspect 11).
-
- 16 The CPS should work with the police to ensure that only appropriate cases are processed via the Director's guidance on the streamlined process (aspect 11).
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Summary of judgements

BOROUGH PERFORMANCE ASSESSMENT 2009	
Pre-charge advice and decisions	0 – Poor
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	0 – Poor
Disclosure	0 – Poor
Custody time limits	2 – Fair
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	8 – Poor

D DEFINING ASPECTS

1 PRE-CHARGE ADVICE AND DECISIONS

Assessment
0 – Poor

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

- We examined 29 files which had been subject to a pre-charge decision (PCD). Brent borough prosecutors were responsible for the PCD in 19 cases with eight completed by CPS Direct (CPSD) and two by CPS London Direct (CPSLD). In 12 of the 29 cases (41.4%) the threshold test had been applied at the PCD stage; six of the cases were borough decisions. In three of the six borough PCD cases the prosecutor had no need to use the threshold test as there was sufficient evidence available for the full code test to be applied.
- Where the threshold test had been applied there were no systems in place to ensure that the completion of action plans were being monitored or that the full code test was being applied within a reasonable period of time or the time set down in the MG3 (record of charging decision) document.

Aspect for improvement

Managers need to establish systems to ensure that full Code test reviews are carried out on cases charged under the threshold test within a reasonable period of time.

- In 26 of the 29 cases (89.6%) the decisions were compliant with both stages of the Code test. Of the three decisions that did not meet the evidential stage of the Code test, two were made by borough prosecutors and one by CPSD. All these cases were later to result in unsuccessful outcomes at the Crown Court.
- In seven of the 14 relevant borough PCD decisions (50%) the record of advice and decisions adequately covered all relevant ancillary matters such as the need to apply for special measures to assist vulnerable witnesses and whether notice to adduce evidence of a defendant's bad character should be served. Of the eight CPSD cases, five covered all ancillary matters (62.5%) while one of the two CPSLD cases did so.
- There were no cases in our file sample that generated the consideration of Proceeds of Crime Act issues at PCD stage.
- Clear and robust action plans requiring the collection by police of additional evidential material were included in the MG3 document in two out of 12 relevant cases (14.3%). Often the plans contained unrealistic timescales or omitted to deal with clear evidential lacunae that would later impede the progression of the case to trial.
- Overall the quality of MG3s completed by borough prosecutors was poor in 12 cases (63.2%), fair in five (26.3%) and good in only two cases (10.5%). By contrast, of the advices produced by CPSD or CPSLD, three were good (30%), five were fair (50%) and two were poor (20%). Full instructions to court prosecutors were present in 24 of the 29 cases (82.8%). The most frequent omissions concerned appropriate representations on bail or custody.

Aspect for improvement

The borough crown prosecutor should carry out systematic and regular monitoring of prosecutors' records of decisions and advice (MG3s) to improve the standard of PCD records.

- The most appropriate charges were selected by borough prosecutors in 16 of the 19 cases (84.2%). One case was charged as attempted robbery when there was evidence that the full offence had been completed. Another example involved a serious sexual assault where one important aspect of the victim's complaint had not been reflected in a separate charge although this was added to the indictment at the Crown Court.
- Borough performance in respect of the three Crown Court charging measures during 2008-09 was worse than both national and CPS London results. During the 12 months to the end of September 2009, the discontinuance rate has improved slightly but is still worse than national and London figures while rates of attrition and guilty pleas have deteriorated still further.
- On the other hand the magistrates' court discontinuance rate in 2008-09 was significantly better than both national and CPS London rates and has remained so during the 12 months to the end of September 2009. The rate of guilty pleas was worse than both national and CPS London figures in 2008-09 and for the 12 months to the end of September 2009. Rates of attrition were slightly worse than national performance but better than that of CPS London and this pattern has been repeated in the rolling year to the end of September 2009.
- Overall the proportion of successful outcomes in PCD cases in 2008-09 at 73.7% was worse than that achieved nationally (80.8%) and that of London as a whole (76.2%). For the 12 months to September 2009 there has been little change with the borough achieving a 73.0% figure compared to 80.1% nationally and 74.9% in London. These results are regarded as poor.

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough*
Pre-charge decision cases						
Conviction rate	80.8%	76.2%	73.7%	80.1%	74.9%	73.0%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	10.2%	13.7%	14.7%	9.7%
Guilty plea rate	74.4%	69.8%	66.3%	73.6%	67.5%	62.3%
Attrition rate	19.2%	22.1%	21.3%	20.0%	23.8%	21.3%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	19.6%	11.7%	15.0%	17.8%
Guilty plea rate	72.9%	60.8%	58.9%	73.1%	61.0%	53.2%
Attrition rate	19.4%	27.3%	34.7%	19.5%	27.6%	35.9%

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

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

- Until the launch of CPSLD which has removed some of the burden of charging less serious and complex cases from the borough, Brent prosecutors were providing cover from Monday to Friday between 9 am and 5 pm at their charging centre in Wembley Police Station. Since mid-August 2009 the coverage has been reduced to one duty prosecutor on three days every week.
- Providing adequate cover for this responsibility has been near the top of the borough's list of priorities but there have been one or two instances where operational reasons have closed the centre for half a day which has led to appointments being postponed.

- Cases suitable for face to face consultations at the charging centre are allocated a time slot of up to one hour but more serious sensitive or complex cases are dealt with by specific appointment or “surgeries” with named prosecutors in the CPS office. These cases are typically allegations of rape or child abuse which require the viewing of video recorded testimony from vulnerable witnesses.
- These surgeries are booked by the BCP who allocates cases to appropriate prosecutors who have the opportunity of analysing the case papers before meeting with the officer in the case. The BCP would like to have the advice provided to the police within 14 days but often that target is missed so the PCD may be provided after 28 days or more in some cases.
- Of the eight prosecutors deployed in the borough, all but one is eligible to provide charging advice. The eighth is undergoing training to equip him to assume the duty prosecutor function. The surgeries are staffed by specialist prosecutors who have the experience and expertise to handle these cases.
- Since the implementation of the integrated prosecution team (IPT) police evidential review officers (ERO) have assumed the responsibility for making all appointments at the charging centre. There were some concerns expressed to us during our visit that EROs needed to be more robust with officers seeking appointments, to ensure that full use of CPSLD was achieved, and that appointments of the appropriate length were made.
- Prior to IPT the borough had a specific post of charging centre manager but now those duties are included in another administrative role. Since that individual’s role changed, the numbers of outstanding or “inactive” PCD cases has increased so that at the time of our visit there were approximately 200 still listed on the case management system (CMS). Until these are cleared the true caseload of the borough remains uncertain. Indeed the projected PCD caseload figure for the current year (if maintained at year’s end) would demonstrate a drop in the order of 30%.

Aspect for improvement

Urgent action should be taken in conjunction with police partners to reduce the backlogs on CMS of PCD cases awaiting finalisation.

- The BCP was one of the first borough managers to forge effective links with the management of CPSLD and relations remain good. It was plain that police locally retained reservations about the effectiveness of the system and were reluctant to submit cases for a charging decision to CPSLD. In addition there was a lack of confidence on the part of local police managers in the procedure governing the resolution of PCD cases with which they disagree.
- In six of the 29 cases examined (21.7%) the police provided inadequate material for PCD to be effective and informed. Despite this, prosecutors nevertheless made charging decisions in four of them and deferred the remaining two cases for additional information to be provided. Two other cases were identified where the PCD was unnecessarily deferred for information that was incidental or peripheral only.
- The use of CMS to record charging decisions was embedded and electronic MG3s were available in all cases.

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 Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Discontinuance and bindovers	8.7%	8.0%	5.9%	8.8%	8.1%	6.3%
No case to answer	0.2%	0.3%	0.4%	0.2%	0.3%	0.4%
Dismissed after trial	2.0%	2.4%	3.0%	2.1%	2.6%	2.9%
Discharged committals	0.2%	0.3%	0.6%	0.3%	0.4%	0.9%
Warrants	1.6%	3.0%	2.6%	1.5%	2.7%	2.9%
Overall conviction rate	87.3%	86.0%	87.5%	87.1%	86.1%	86.6%

- We examined 18 files which were dealt with in the magistrates' court and in all the decisions to proceed with or terminate the prosecution were compliant with both stages of the Code test.
- However we found scant evidence of a collaborative approach by prosecutors with police aimed at strengthening cases in readiness for trial or to ensure all available information was available to the court when it determined sentence. The initial file provided by police at the pre-charge decision (PCD) stage or first hearing under the Director's guidance on the streamlined process (DGSP) was frequently not upgraded until shortly before trial. In some cases action plans at PCD had identified additional lines of enquiry but these had not been addressed promptly by police or followed up by borough staff in a timely manner if at all.
- Reviews undertaken by prosecutors met the required standard in only seven of the 18 cases (38.9%) and a full file review was completed on the case management system (CMS) in just five of the 17 relevant cases (29.4%). There were eight cases where significant changes in the strength or scope of the prosecution case had occurred after initial or full file review but none had an ad hoc review added to CMS.
- The most appropriate charges were selected in 13 of the 16 relevant cases (81.3%) that were set down for summary trial. An example of inappropriate charge selection was the failure to lay a basic public order offence to stand alongside a racially aggravated charge as required by CPS policy on racially and religiously aggravated crime.
- There was only one instance of pleas being offered and accepted by the prosecution in our sample and the decision to accept the plea was realistic and appropriate.
- The borough staff were slow to establish linkages between cases involving the same defendants and also between co-defendants involved in the same set of proceedings. We found two cases where clear links had not been made on CMS, and in one case earlier consideration of all outstanding matters against a defendant might well have concluded the case without the need for a trial.
- We looked at three cases that had been discontinued by prosecutors. Two of these were allegations of domestic violence where victims were not prepared to support the prosecution at trial but there were measures that could have been taken to strengthen the case which might have provided a prospect of conviction. All three cases were dropped on the day of the trial.

- There were two cases where the justices dismissed the charge against the defendant at the end of the prosecution case. In one case the witnesses gave contradictory evidence which could not have been foreseen before the trial but in the second case the prosecution were unable to adduce evidence of identification of the offenders. Had proper applications been made to the court in advance of the hearing, this adverse outcome could have been avoided.
- The rate of discharged committals for 2008-09 at 0.6% is higher than the London and national averages (0.3% and 0.2% respectively). There were 23 discharged committals in the borough representing 3.1% of all cases prepared for committal. Performance for the 12 months to September 2009 worsened and the position remains worse than the London and national averages. The borough rate of 1.5% comprises 24 cases which represent 5.7% of all cases prepared for committal in the period.
- This substantial increase in discharged committals arose mostly in one month during the summer holiday period where a number of cases that relied upon forensic evidence were not prepared by the prosecution. Discussions have since been held with the police borough forensic manager to try to prevent further instances and a "duty" prosecutor has recently been assigned to the preparation of committals. The outcomes in the last two months have shown signs of improvement.
- In spite of the findings from our file sample the borough's performance overall in terms of successful outcomes is much more encouraging. During 2008-09 the proportion of discontinuances and bindovers was 5.9% compared with national figures of 8.7% and CPS London of 8.0%. For the 12 months to September 2009 the borough's discontinuance rate had risen slightly to 6.3% but this was still well below both national and London results.
- The proportion of borough cases dismissed following a submission of no case to answer was higher in 2008-09 than national and CPS London results at 0.4% compared with 0.2% and 0.3% respectively. The 12 months to September 2009 has shown no change.
- Overall in 2008-09 the borough's successful outcome rate in magistrates' court cases was 87.5% which was better than both the national average of 87.3% and that of CPS London of 86.0%. There has been a slight fall in this rate in the 12 months to September 2009 to 86.6% which is now below the national figure of 87.1% and CPS London of 86.1%. This performance rate is now considered fair.

2B Cases are prepared and progressed effectively

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	48.8%
Cracked	38.0%	34.8%	32.8%
Ineffective	18.6%	17.9%	18.4%
Vacated	21.5%	16.3%	13.0%

- Although the borough implemented the optimum business model (OBM) approach to the progression of magistrates' courts cases during 2008 the potential benefits were not consistently realised. This appears to have been caused to a significant extent by the borough's inability to devote sufficient lawyer and management resource on a regular basis to cases set down for trial. We found that not all staff were familiar with the clear guidance documents available on line, known as the OBM "toolkit" which deals with regular administrative or procedural tasks such as the linking of correspondence to case files.

- The introduction of DGSP and Criminal Justice: Simple Speedy and Summary (CJSSS) in 2008 reduced the time available to the prosecution to strengthen cases once charged and listed in the magistrates' court. At a time when the borough had yet to adapt its processes fully to meet this challenge, the implementation of the move to an integrated prosecution team and the re-allocation of case building tasks from police to diminishing numbers of CPS staff, severely affected the borough's capacity to progress and manage its casework.
- All but one of the 18 cases in our file sample (94.1%) were progressed at first hearing with a trial date being set where appropriate. It must be stated however that the CJSSS programme was fully embraced by all court users so that inadequacies in prosecution files were not allowed to prevent progress being made. Prosecutors, at the first hearing, compile a "case build form" which is sent to the police officer in the case when the file is returned to the CPS office. The lack of suitable IT facilities at the magistrates' court site introduces a further delay at this stage.
- From this point onwards the absence of robust and effective case management functions becomes increasingly obvious. Of the 17 cases which were not resolved at first hearing three (17.6%) had the benefit of fair proactive case management but the remaining 14 (82.4%) were characterised by poor inactive case management. In most cases the progression or management of the case was left until a few days before the trial when an advocate was assigned to the case for the court hearing. This is far too late to address any evidential deficiencies or to ensure that necessary applications are served on time.
- The absence of full file reviews, late service of initial disclosure and the failure to serve necessary pre-trial notices or applications to adduce important evidence all contributed to a general tendency to allow a case to drift from first hearing to trial with minimum supervision. There was timely completion of all directions before trial in four of the 17 relevant cases (23.5%). In only one of 14 relevant cases (7.1%) were all necessary applications made and served within statutory time limits.

Aspect for improvement

The borough's managers should set clear objectives and performance targets for the OBM linked to improvements in magistrates' court case preparation.

- The proportion of effective trials at Brent Magistrates' Court at 48.8% during 2008-09, represents a notable achievement for all court users when set against the background of poor case management described above. So far this proportion has not been consistently maintained in 2009-10 with evidence of some volatility in rates from month to month. We saw one case where a defendant was accused of theft from his employer. This was set down for trial in January 2009 but was ineffective due to defence representations but a second trial in March 2009 was also ineffective as the prosecution had not, even at this late stage, served important notices to admit evidence of the defendant's bad character. The case was not concluded until July 2009.
- The prosecution were responsible for 33% of all ineffective trials in 2008-09 but this proportion has risen to 50% during 2009-10. The proportion of cracked trials attributable to the prosecution was 44% in 2008-09 and this has not changed significantly in 2009-10.
- The use of CMS by borough staff to maintain an audit trail of decision-making and to add relevant documents is fair in 14 of the 18 relevant cases (77.8%), good in two (11.1%) and poor in two (11.1%). Prosecutors need to become more confident in the use of CMS to record their actions on case files.
- In assessing the borough's performance in magistrates' court cases we have tried to reconcile a number of positive outcomes and some evidence of improving rates of trial effectiveness with the lack of adequate case management or preparation for trial. Overall the serious deficiencies in aspects of case progression that were the responsibility of the prosecution and were evident from our file examination and on site observations mean that taken as a whole current performance in this aspect is poor.

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 Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Judge ordered acquittals	11.6%	15.7%	18.5%	11.7%	15.3%	16.5%
Judge directed acquittals	1.0%	1.1%	1.2%	0.9%	1.3%	1.3%
Acquittals after trial	5.5%	8.5%	11.7%	5.6%	9.0%	14.0%
Warrants	1.1%	1.6%	1.4%	1.1%	1.7%	1.6%
Overall conviction rate	80.8%	73.1%	67.2%	80.7%	72.7%	66.6%

- We examined 14 cases that were concluded in the Crown Court and 11 were found to be compliant with both stages of the Code test (78.6%). In respect of the three cases that did not meet the evidential stage of the Code test, the further review at the committal stage or service of the prosecution case failed to rectify the flawed decision taken when charges were authorised. There was one example of a case of serious assault where, at the pre-charge decision stage, CPS Direct had advised that the suspect be bailed until further evidence was secured, but without additional evidence being provided a borough prosecutor subsequently authorised charges. This case was stopped by prosecuting counsel, but only during the course of the trial.
- We found little evidence of prosecutors working closely with police investigators to build stronger cases. The impression gained from several files was that events dictated the course of the prosecution rather than a deliberate strategy. For example an important witness in a rape case was the former partner of the victim in whom the victim had confided shortly after the offence. Only the most cursory attention was paid to the role of this witness and the likely impact of his testimony on a jury and prosecuting counsel noted that the subsequent acquittal of the defendant may have been due to some extent to the poor impression made by this witness when he was called to give evidence at short notice.
- We were told by prosecutors that two cases had been referred to the Complex Casework Centre but had been passed back to the borough to handle. Police partners expressed the view that prosecutors provided a good service in the most complex cases.
- In four of the 14 cases (28.6%) the charges selected at committal or sending stage inadequately or inappropriately reflected the basis of the prosecution case although these were all amended at or subsequent to the plea and case management hearing (PCMH). As a result, all cases that proceeded to Crown Court trial did so on the most appropriate charges.
- In only one case was a plea accepted by the prosecution and the decision was considered to have been realistic.
- Indictments were correctly drafted in eight out of 14 cases (57.1%). Of those that were incorrect, five out of six were amended in a timely fashion with the other amendment dealt with only on the day of trial.
- As in the magistrates' court, linked cases were generally not considered by borough staff and in one case this led to a late application to join two indictments for trial where a victim had been subjected to intimidation by the same defendant.

- CPS London collates its restraint and confiscation orders centrally and the volume and value targets are set 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. Whilst the police Financial Investigation Unit consult the borough Proceeds of Crime Act champion in major cases, there is no locally kept performance data.
- Three cases in our sample were discontinued resulting in judge ordered acquittals (JOA). In two of these the prosecution could have done more to try to strengthen the case but ultimately this would not in itself have avoided the outcome. The discontinuance was not timely in any.
- We examined three cases which had resulted in a judge directed acquittal (JDA). In one case prosecuting counsel invited the judge to direct an acquittal after cross-examination by the defence of the key prosecution witnesses. The other cases were the subject of applications to dismiss the prosecution case as disclosed on the papers served under the provisions of s51 of the Crime and Disorder Act 1998. Earlier discontinuance would have avoided these outcomes. None was adequately reviewed in the form of an adverse outcome report after the cases were finalised.
- In 2008-09 the rate of JOAs recorded in Brent was 18.5% which was higher than the national figure of 11.6% and that for CPS London (15.7%). For the 12 months to September 2009 the borough rate has fallen to 16.5% but is still much higher than the national figure of 11.7% and slightly higher than London at 15.3%. The rate of JDAs was 1.2% in 2008-09 which was higher than both national performance of 1.0% and CPS London of 1.1%. In the 12 months to September 2009 the borough's performance has worsened slightly to 1.3% compared to 0.9% nationally and 1.2% in London as a whole.
- The rate of jury acquittals both in 2008-09 and in the 12 months to September 2009 is particularly high at 11.7% and 14.0% respectively. The comparable figures for the CPS nationally are 5.5% and 5.6% while those for London are 8.5% and 9.0%. It seems likely that the findings described earlier of late discontinuances are indicative of weak cases being allowed to proceed to trial. Overall successful outcomes in Crown Court cases during 2008-09 were 67.2% falling slightly to 66.6% in the 12 months to September 2009. National performance was much higher at 80.8% and 80.7% respectively whilst that of CPS London was 73.1% and 72.7%. The borough's performance in this respect is regarded as poor.

3B Cases are prepared and progressed effectively

Trial rates

	Performance 2008-09		
	National	CPS London	All Harrow Crown Court cases ⁷
Effective	47.1%	54.7%	54.3%
Cracked	40.8%	30.0%	32.7%
Ineffective	12.1%	15.2%	13.0%

- The borough has a high proportion of serious casework that has to be dealt with at the Crown Court and its cases account for three quarters of the work of Harrow Crown Court. For a four month period in late 2008 most of the borough's cases were committed instead to Inner London Crown Court. This was an unwelcome development, which arose due to a backlog of Crown Court cases from another borough. Communications inevitably became stretched and caseworkers were often unable to cover their local cases.

⁷ 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.

- Apart from specialist cases such as child abuse or rape, cases destined for Crown Court trial are not allocated to individual lawyers. The same delays in case preparation that have characterised the magistrates' court performance are equally apparent in committal work. As we discuss in aspect 2, increasing levels of discharged committals resulted in recent changes that have introduced a duty prosecutor who prepares urgent committal bundles. This lawyer does not assume the role of reviewing lawyer for all these cases which will therefore not necessarily benefit from individual attention.
- All necessary actions to progress cases at the plea and case management hearings (PCMH) were taken in eight of the 14 cases (57.1%) and pre-PCMH directions were carried out in a timely fashion in six out of 13 relevant cases (46.2%). After PCMH the rate of compliance with pre-trial directions is poor with just two of nine (22.2%) applications being made within statutory time limits. In 12 cases directions were issued by the judge at PCMH but in only three (25%) were these complied with by the prosecution. Case management was poor in 12 of 14 cases (85.7%) and fair in two (14.3%).
- Although full file reviews were carried out and were on the case management system (CMS) in 13 of the 14 cases (92.9%), they were often of poor quality amounting to little more than rewriting the initial or pre-charge decision review. Although ad hoc reviews would have assisted the reading of the case after significant events such as the withdrawal by a victim of his or her support for the prosecution, they were often missing. Of 11 cases where an ad hoc review was necessary only three were undertaken (27.3%).
- Case progression meetings have been held regularly with other agency staff and in respect of cases heard at Harrow Crown Court, they have been moderately successful in maintaining an effective trial rate of 54.3% in 2008-09. In respect of the period of time when borough cases were being heard at Inner London Crown Court no effective case progression arrangements were in place. One case that fell foul of these temporary vicissitudes was a prosecution for robbery, kidnapping and possession of a firearm. The trial judge at Inner London declined to extend a custody time limit when the prosecution, by failing to comply with directions for the service of expert evidence in a timely fashion, had not acted with due diligence.

Aspect for improvement

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

- Instructions to counsel were found to be poor in nine of 14 cases (64.3%), fair in four (20.6%) and good in one (7.1%). Those rated as poor were often no more than a copy of the prosecution papers and a backing sheet.

Aspect for improvement

Borough managers should put in place measures designed to improve the quality of indictments and instructions to prosecuting advocates.

- 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 borough prosecutors and caseworkers need to make better use of CMS to add reviews and communications to the file so that clear decision-making processes can be discerned from case papers.

4 THE PROSECUTION OF CASES AT COURTAssessment
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 borough's magistrates' court work is dealt with at Brent which is some three miles from the office at Wembley Police Station. At the time of our visit there were three associate prosecutors available to prosecute the remand courts which were held daily with a mixture of cases involving defendants in custody and on bail. There is also a legal trainee who has been designated as an associate prosecutor but owing to other training commitments, the contribution to court coverage by this individual has so far been modest.
- The borough's crown prosecutors are deployed to cover the trial courts and sittings of the youth court and Specialist Domestic Violence Court (SDVC). Youth specialists are regularly deployed to the youth court and where possible the borough's domestic violence coordinator has covered the weekly SDVC. For a significant part of 2009-10 the borough increased its use of agents to cover trial courts so that its lawyers could focus on charging advice and case preparation tasks.
- Crown Advocate (CA) deployment to the Crown Court is on a district rather than a borough basis. A Crown Court Advocacy Unit manager was appointed in 2009 to be responsible for the prosecution of cases at Harrow Crown Court. The borough has one CA who attends that court one day per week but because of operational needs of the advocacy team, she presents cases mainly from the neighbouring borough of Harrow. Brent cases are often prepared at a fairly late stage so that the CA has little time to prepare the cases for plea and case management hearings and most trials are sent to counsel. Two borough caseworkers attend court daily.
- Selection of counsel has been the responsibility of the paralegal business manager (PBM) but some prosecutors nominate preferred counsel in specialist or complex cases. Monitoring of counsel in the Crown Court is undertaken by the Advocacy Unit Manager who intends to assume responsibility for their selection from the PBM and his comments are fed back via the caseworkers to borough managers.
- We observed four borough advocates and one agent in the magistrates' court and considered that they met the national standards of advocacy. However their lack of detailed knowledge of cases and inability to deal proactively with ancillary matters in case management hearings reflected the commonly held views of the local judiciary that they seldom controlled the court with confidence. Our observations of borough prosecutions at Harrow Crown Court resulted in a broadly similar picture with late or inadequate preparation of cases between hearings adversely affecting the advocates' performance.
- In respect of contested hearings we were told by court users that pre-trial applications for significant evidence to be adduced were almost always late and often advanced at the hearing of the trial itself. In some cases, such applications were simply not made at all which was consistent with the findings of our file examination. We were also told about trial advocates not always being instructed to attend hearings which led to significant delays or ineffective trials.
- Criminal Justice: Simple Speedy and Summary (CJSSS) is well established in the magistrates' court and prosecutors progressed all but one of the 17 cases (94.1%) we examined at the first hearing. It must be added that the local justices were seen to take a firm line in ensuring progress wherever possible and defence advocates were supportive of CJSSS principles. Between December 2008 and June 2009 the average number of hearings per case at Brent Magistrates' Court fell from 2.7 to 2.0.

- The quality of file endorsements indicating the outcome of court hearings was mixed with nine files rated as good (29.0%), 16 as fair (51.6%) and six as poor (19.4%). Communications or documents that might affect the progress of a case were endorsed on the file in 14 of 28 relevant cases (50.0%). Omissions included the withdrawal of support for a prosecution by the victim and the agreement of witness requirements for trial with the defence. It was also not possible to determine accurately the reasons for certain trial outcomes from the written endorsement by the advocate.
- During our observations at court we saw no civilian witnesses but Witness Service volunteers were appreciative of the efforts of borough prosecutors to engage with victims and witnesses and especially those deemed to be vulnerable. They made efforts to introduce themselves and explain their role but sometimes were not able to deal with queries over expense claims. On the other hand police staff felt that officers attending court as witnesses were not always kept informed of the progress of cases or whether their presence was actually necessary.

5 SERIOUS VIOLENT AND SEXUAL OFFENCES, AND HATE CRIMES

Assessment

0 – Poor**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 Sept. 2009		
National	CPS London	Borough	National	CPS London	Borough
71.9%	62.0%	62.5%	71.7%	60.5%	57.4%

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

Performance 2008-09			Performance 12 months to Sept. 2009		
National	CPS London	Borough	National	CPS London	Borough
82.0%	77.2%	81.7%	81.7%	75.4%	69.5%

- We examined 21 cases involving allegations of serious violence, sexual offences or other hate crimes. All were appropriately flagged in their respective categories, although one case flagged as domestic violence was not within the agreed definition as it involved an assault by the defendant upon an acquaintance with whom she was not, nor had been, involved in any relationship.
- The borough has four rape specialist prosecutors and two other lawyers are currently working towards achieving the necessary steps to acquire specialist status. There are adequate numbers of child abuse and youth specialists to deal with the casework arising locally. Another lawyer performs the role of domestic violence coordinator and has started attending the Specialist Domestic Violence Court on a more regular basis. Specialists have also been appointed in the categories of hate crime and proceeds of crime. Not all staff were familiar with these roles as clear descriptions are not available.
- Of the 21 cases in our sample, 18 were charged in accordance with both stages of the Code test. The three cases that were not in accordance with the evidential stage of the test were not discontinued until after the defendants had been sent to the Crown Court for trial. One matter was dropped after a successful application by the defence to have the charges dismissed whilst another was dropped by counsel after cross-examination of the prosecution witnesses had revealed significant weaknesses in the case. In the third example the case was discontinued because the victim died before the trial was started.
- We examined three rape cases and two involving allegations of child abuse, one of which came into both categories. Although there was continuity of prosecutor in each of these cases, the borough's susceptibility to poor unsuccessful outcomes caused by weak case management was equally apparent in these cases as in many others. We found three occasions where thorough and well reasoned advice by counsel instructed by the prosecution, designed to strengthen the case, was ignored for many weeks so that it became impractical or sometimes inappropriate for the police to act upon it.

- We examined six cases involving allegations of domestic violence and in three of these the attitude of the victim to giving evidence against the accused at trial was clear from the pre-charge decision stage. However the approach of prosecutors appeared confined to seeking to compel the attendance of the victim by use of the witness summons procedure. Should this prove ineffective then the case was dropped at trial. More use should be made of the provisions of the Criminal Justice Act 2003 allowing the court to admit hearsay evidence either on notice or on application during the trial itself.

Aspect for improvement

The borough should issue clear guidance to prosecutors dealing with the retraction policy in domestic violence cases to ensure greater consistency of approach.

- We considered that the most appropriate charges were pursued to summary trial or to committal or sending to the Crown Court in 15 of the 21 cases (71.4%) examined. One allegation of rape was discontinued before trial and there was evidence of a second specialist prosecutor being consulted but there were no clear procedures setting out levels of authority for terminating other hate crimes.
- The borough crown prosecutor has attended meetings with senior officers from the police Sapphire Units dealing with allegations of rape and although police managers from the Child Abuse Investigation Team had attended these meetings earlier in the year; this was no longer the case at the time of our visit.
- The borough's performance in respect of successful outcomes in all sensitive cases and hate crime has been mixed. In 2008-09 the borough achieved a successful outcome in 36.7% of rape cases, which was worse than CPS London as a whole (47%). In the 12 months to September 2009 the rate for Brent improved slightly to 41.9%.
- Successful outcomes in domestic violence cases in 2008-09 were 63.4% which was better than CPS London at 61.9%. In the 12 months to September 2009 this rate fell slightly to 58.8% for the borough and is now worse than CPS London (60%). In respect of all hate crimes the successful outcome rate for the borough in 2008-09 was 81.7% compared with 78.2% for CPS London. In the 12 months to September 2009 their performance has fallen to 69.5% compared with 75.4% for CPS London.
- The BCP has established contact with the local Safeguarding Children Board and has attended a meeting of the board in October 2009.

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 of unused material by the borough is poor. There were 31 cases where the duty arose and we considered that it had been fully complied with in only eight cases (25.8%). Frequent failings were the absence on police schedules of incident reports and previous convictions of witnesses. Conversely items that could not conceivably be unused material such as previous convictions of the accused were included almost routinely. Inaccurate schedules were not challenged by prosecutors.
- A consequence of the Director's guidance on the streamlined process seems to have been the late revelation of unused schedules and accompanying forms to the prosecutor, although the officer in the case will have prepared the documents at the point of charge. This has contributed to a timeliness issue for the borough in the service of initial disclosure on the defence. We considered that service was timely in 16 of 29 cases (55.2%). Of those that were not considered timely, many examples were found where the appropriate schedules were not served until the day of the summary trial.
- In three of the 23 cases (13.0%) where the duty of initial disclosure was not complied with, material likely to undermine the prosecution case or to assist the defence was not disclosed. In two of the cases the relevant material included significant antecedent history of the victim, and in the other case documents setting out exculpatory explanations by the accused, in answer to the allegations, consistent with his defence were not disclosed (although he had repeated the explanation in interview with the police and therefore the substance of the material was before the court). In the first two cases the defendants were acquitted, in the other he was convicted.
- The duty of continuing disclosure arose in seven cases and was complied with fully in three (42.9%). Compliance was timely in only one of the seven cases (14.3%). In several cases no defence case statement had been served but no action had been taken by the prosecution to invite the court to enforce compliance with directions made at the plea and case management hearing.
- We found limited awareness of the guidance in the CPS/ACPO disclosure manual. The number of instances where unnecessary disclosure took place and where obvious omissions from police schedules had been allowed to pass without challenge provides strong evidence that adherence to the manual's guidance is lax.
- We noted an increase in more recent cases in the use of a disclosure record sheet but overall it was only completed adequately in 11 out of 31 cases (35.5%).
- We found no examples of applications for public interest immunity certificates being made although we were told that these had historically been handled by the district crown prosecutor. In one case the existence of material held by a third party had been raised at the pre-charge decision stage by the charging prosecutor. However this had not been pursued after charge nor was such material included on police schedules. There is a protocol in force agreed by the Resident Judge at Harrow Crown Court, the Social Services and Education departments of the London Borough of Brent and the CPS covering the disclosure of third party material and borough prosecutors adhere to this protocol. This is based upon the nationally agreed protocol.

- We saw four cases where the police had listed items of unused material on a sensitive unused material schedule (MG6D). The material was not dealt with appropriately in any of these cases. In two of them, the items listed on the MG6D did not pass the test for sensitive material but had been allowed to remain on it. In the others we could see no record that the prosecutor had examined the schedules.
- Although prosecutors had received disclosure training, this was not recent. There had been no joint training with police officers or civilian staff for some time. Awareness on the part of borough staff of the recommendations of the HMCPSI thematic review of disclosure⁸ was minimal. Not all staff were aware of recently promulgated CPS London guidance on disclosure assurance arrangements although it had been raised at a team meeting held during our visit to the borough's office.

Aspect for improvement

The borough crown prosecutor should use the process compliance guidance for disclosure issued by CPS HQ to drive up performance in relation to the handling of unused material.

8 A thematic review of the duties of disclosure of unused material undertaken by the CPS (May 2008)

7 CUSTODY TIME LIMITSAssessment
2 – Fair**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 HMCPSI'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. As the borough has not had a substantive B1 manager in post for some time, adaptations have been made to ensure that there are dual controls on CTL checks.
- The borough had two CTL failures in 2008-09. Thorough assessments of the underlying causes were undertaken and learning points were identified and communicated. There have been no further reported CTL system failures in 2009-10, although there have been two cases where the court has refused to extend custody time limits on the grounds that the prosecution had not acted with all due diligence. These were attributable to failings in the case progression systems as in each case an application to extend the CTL had been lodged appropriately.
- Inspectors assessed six files involving CTLs and in each case the time limits and review dates had been calculated correctly and noted on the file and in the relevant diary. In one case CTLs were still being monitored even though time limits no longer applied and in another, a hearing had not been included in the case management system. Endorsements were such that it was comparatively simple to follow the custody status of defendants in five of the six cases. Correct and timely applications to extend time limits were made in all relevant cases in our sample. In the wider sample of cases examined to assess the quality of casework overall, there were two cases where changes to custody status had not been calculated/recorded properly.
- Discussions on the London CTL protocol have been held with representatives of both the magistrates' courts and the Crown Court. Feedback suggests that there is still inconsistency in application of the protocol by all parties and this was confirmed during our court observations. A number of trials have been held in Inner London Crown Court (ILCC), following a decision to reduce waiting times in late 2008. The lack of a protocol with ILCC, reduced caseworker coverage and delays in the movement of files adds to the risk of CTL compliance in such cases; one of the two system failures was an ILCC case. The previous district crown prosecutor had worked with HM Courts Service to improve the provision of bail forms to the CPS in appropriate cases.
- Borough managers have raised the profile of CTLs which are often discussed at team meetings. A number of e-mails have been circulated to remind staff of various aspects of managing CTLs. As a result, awareness of the importance of CTLs has improved as has the general understanding of time limits generally, particularly in more straight forward cases. Regular compliance checks are conducted by the paralegal business manager (PBM) and the borough has been the subject of two peer reviews. Where weaknesses have been identified, they have been communicated to all staff and in one instance this resulted in some remedial training. Despite the increased focus on CTLs, there is still some risk in the borough, particularly if case progression systems do not improve. There is limited experienced back up when the PBM is absent and forthcoming staffing changes could weaken the borough's capability further.

Aspect for improvement

The borough crown prosecutor should increase the pool of staff experienced in all aspects of CTL management, to ensure that risk is minimised in the absence of managers and that there is a greater understanding of CTLs in more complex cases.

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 missed its 2008–09 proxy target of 261 Direct Communication with Victims letters, sending out 221 (84.7%) over the year. However, further improvement is needed since other inspection work has found that DCV proxy targets do understate the requirement for DCV letters in order to comply with the scheme. As a result of that inspection work the CPS suspended the proxy target in October 2009 pending a re-evaluation of how it should be assessed. There were seven cases in our file sample where letters should have been sent to victims but only three were actually sent (42.9%). This tends to confirm that the compliance rate suggested by the proxy target is generous.
- Performance in the second quarter of 2009–10 has deteriorated in that only 37 letters out of a proxy target of 57 (64.9%) were sent by the borough.
- The CPS sets a target in respect of timeliness of letters sent to vulnerable and/or intimidated victims that 95% should be sent within one day of the decision being taken to drop or substantially alter the charge. In 2008–09 the borough sent 84.7% of letters on time within this category. The target for other victims is that 95% of letters should be sent within five days of the decision. In 2008–09 the borough sent 68.8% of letters on time in this category. Performance in the second quarter of 2009–10 has deteriorated further to 59.5% in respect of letters sent to other victims but there were no letters sent to vulnerable and intimidated victims during this period.
- The table below shows performance against target in respect of DCV compliance.

	Performance 2008–09		Performance second quarter 2009–10	
	Borough	CPS London	Borough	CPS London
DCV compliance (volume target 100%)	84.7%	91.1%	64.9%	90.4%
Vulnerable and intimidated victims (timeliness target 95%)	82.4%	65.9%	n/a	78.9%
Other victims (timeliness target 95%)	68.8%	83.1%	59.5%	87.0%

- The borough has had a DCV coordinator in post for some time at administrator level but other commitments have limited the amount of time available for that individual to monitor compliance and chase up outstanding letters. In addition, the lack of access to the CPS case management system at the magistrates' court is cited by the borough as a factor leading to poor timeliness figures.
- The quality of the letters sent to victims was found to be inconsistent particularly where the victim was young or otherwise vulnerable. Examples included letters containing standard wording that had not been adapted to meet individual victims' circumstances and some lacked empathy or understanding bearing in mind the nature of the case. In our file examination we considered that two of the four letters that were sent were poor and two were fair.

Aspect for improvement

Borough managers should ensure that adequate time and resource is allocated to DCV compliance so that timeliness is improved and to monitoring the quality of letters sent especially in serious and/or sensitive cases.

- Our file examination showed that the needs of victims and witnesses were often overlooked at pre-charge decision stage. Nine of the 11 cases (81.8%) where the MG3 failed to address all ancillary issues were specifically allegations relying upon the evidence of vulnerable or intimidated witnesses.

- Thereafter applications to the court for special measures directions to assist such witnesses to give evidence were frequently served late and in a few cases within days of the trial date. One application made in the youth court was refused because it was not supported by adequate information concerning the needs of the witness. We also found examples of cases where investigating police officers had not, until prompted by prosecutors, secured the views of victims or witnesses likely to benefit from special measures, which contributed to delays.

Aspect for improvement

The borough crown prosecutor needs to establish systems to improve the timeliness and quality of applications for special measures in appropriate cases and communicate the results of applications to the Witness Care Unit.

- Dates to avoid for civilian witnesses in contested cases were not always readily available at the first hearing of many cases in the magistrates' court but the justices have adopted a firm line by insisting that cases are put back in the court list until availability is ascertained. Some unnecessary attendance of witnesses (police and civilian) has occurred due to the difficulties in case progression and delays in responding to defence correspondence.
- There is a well established witness care unit (WCU) situated in the same building as the CPS office so that effective links can be maintained. Although the manager of the WCU and all other staff are police employees there is an experienced witness care officer (WCO) who is a CPS member of staff. Needs assessments for witnesses are generally carried out once not guilty pleas are entered but there have been delays in responses from CPS prosecutors and caseworkers to proper queries from the WCU concerning witness issues for trials listed in future weeks.
- Witnesses are warned in a timely fashion but the WCU issue warning letters based upon case building forms completed in court by prosecutors conducting the first hearing of the case. It is usually only a few days before the trial itself that formal witness warning forms are sent to the WCU by the CPS. However witness attendance rates for the borough's cases in 2008-09 were 90.9% meeting the 90% target and better than CPS London which achieved only 83.1%. This good performance has not however been maintained in 2009-10 so far in that a witness attendance rate of 81.9% was achieved by the borough for the second quarter but this still exceeds the rate for London(81.4%).
- The Prosecutors' Pledge requires prosecutors to take into account the impact of crime upon the victim and their family when making a charging decision. Our file sample indicates that victim personal statements are not taken by police investigators nor requested by prosecutors to assist sentencing tribunals. We examined 14 cases where a victim personal statement might have been deemed appropriate but none was obtained.
- Victims and witnesses at court have the benefit and support of Witness Service volunteers. In discussion with volunteers at local court centres, a positive view of the borough's prosecutors was evident in the way in which they engage with witnesses in individual cases especially those deemed to be vulnerable. The Witness Service would be assisted by earlier and more informed referrals directly from the CPS, who have the accurate data detailing the witness' needs and their relevance to the case so that pre-court visits and other measures to support them are more clearly focussed.
- With the exception of DCV there are no formal procedures in place for monitoring compliance with CPS responsibilities under the Victims' Code on a formal or regular basis or indeed WCU performance against the minimum requirements of the No Witness No Justice initiative. There was one case in our file sample involving the death of a child as a result of a road traffic collision but the CPS had not invoked the requirements of the Victim Focus Scheme to keep the deceased's family informed of the progress of the case.

9 MANAGING PERFORMANCE TO IMPROVEAssessment
2 – Fair**9A There is an effective and proportionate approach to managing performance locally at individual, unit and borough level**

- A variety of systems are used to assure the quality of casework including the analysis of specific adverse case reports and use of the national casework quality assurance system. The robustness of checks was variable with some more detailed and analytical than others. There was limited documented evidence of any trend analysis or learning from experience, although this may be partly attributable to weak record keeping. There is some targeting of the type of cases that are selected for assessment. Currently most of the work focuses on finalised cases; greater benefit could be achieved by looking at more live cases, although it is recognised that this can present some challenges.
- The level of successful outcomes in the magistrates' courts improved steadily over the previous three years and was generally better than the London average. In 2008-09 the borough achieved a successful outcome rate of 87.5% although there has been some deterioration in the current financial year (85.4%). Crown Court outcomes have been consistently weak, although during the first half of 2009-10 they have been at the best level for four years.
- The borough crown prosecutor (BCP) has undertaken only a limited amount of advocacy monitoring and relies mainly on feedback from third parties to inform her of performance. The Crown Court Advocacy Unit manager based at Harrow Crown Court has done some advocacy monitoring and feeds back to the borough in appropriate circumstances; he also has regular contact with judges who provide helpful feedback. He is due to assist the borough with monitoring of advocacy in the magistrates' courts in the near future. At the present time there is only a limited assurance of the quality of advocacy.
- The borough recognises that many of its systems and processes are not currently operating at the required level with any degree of consistency. The implementation of the integrated prosecution team (IPT) approach is deemed to have been the primary factor in the current level of service. The paralegal business manager (PBM) has an objective to monitor and improve processes where required. An action plan to improve performance was drawn up in September 2009 in consultation with district and area representatives and this has led to some improvements. The preparation of committals and case progression generally in magistrates' courts cases show some signs of improvement in recent weeks although more remains to be done. Case progression in the Crown Court remains problematic. Some processes lack resilience and performance drops off when designated resources are not available.
- Analysis of performance data is variable; for example, analysis is sometimes quite good at an individual case level, but less so in terms of identifying trends or the root cause of some other results. Analysis is not assisted by the fact that backlogs have developed at certain points throughout the year, contributing to fluctuations in outcomes. Borough managers have some appreciation of performance relative to other boroughs but there is limited evidence of this driving improvement work or sharing of good practice. The borough does not take advantage of the CPS management information system to assist in the analysis of information.
- The quarterly performance reviews with district managers have not been fully effective, in that the boroughs have only been required to provide 'commentary' on results. A more analytical and action oriented approach is required. This is a district wide issue and plans are in place to strengthen this process. The BCP sees the meeting as an opportunity to share ideas and good practice and has recently adopted the post linkage system used in Barnet.

- Most performance data is provided by the London performance unit or the courts. Whilst some basic checks are in place, there is concern over the accuracy of some performance information. The integrity of witness attendance data, which is generated from borough entries in the IT systems, is highly questionable and five of the 32 files examined in our file sample were finalised incorrectly; a planned action to implement spot checks had yet to be implemented. Whereas in the past, performance was rarely discussed with staff, there is now a more open approach with discussion on strengths and weaknesses during team meetings.
- The use of the performance development and review process has been weak in previous years. There is a stronger focus on the process this year paving the way for more effective management of individual performance and development in the future. Progress has been made but more work is still required.

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

- There are a number of joint performance groups in the borough although the effectiveness of some needs to be improved; there is also some overlap between various groups. The borough criminal justice group focuses on the targets of the London Criminal Justice Board. As many of these can not be influenced strongly by the prosecution, CPS input tends to be peripheral to the meeting. Whilst the borough can contribute to analysis of cracked and ineffective trials this is covered in more detail in separate processes and joint performance meetings.
- The BCP is finding it difficult to attend all of the meetings held which has caused some frustration to partners. The absence of a district crown prosecutor has not helped in this respect. As the borough is making a concerted effort to improve case progression, the BCP is reluctant to delegate responsibility for attending meetings to more 'front line' staff, as she wants them working on cases. The CPS should work with partners to establish whether the current range of meetings is the most appropriate, taking account of where the CPS can make an effective contribution.

Aspect for improvement

The borough crown prosecutor should establish how the CPS can optimise its contribution to joint performance meetings by:

- agreeing priorities with partners and the best forum/means to deal with such issues; and
 - delegating responsibility for some meetings to other staff.
-

- Most key performance data is shared between agencies and is usually available in time to enable preparation for meetings.
- Prosecution team performance management meetings (PTPM) are not held as regularly now as they have been in the past. Data is available to the police and CPS and there is evidence of some analysis and sharing of information. The focus of the PTPM group is narrow, targeting primarily the six key performance indicators (attrition, discontinuance and guilty plea rates for both Crown Court and magistrates' courts cases) that were established when the charging centres were originally set up. More could be done to address issues such as the quality of MG3s, outstanding cases and full file reviews on threshold test cases.
- The agencies work well together in monitoring cracked and ineffective trials, although the contribution of the CPS is not always evident. Ineffective trial rates were within target in 2008-09, but have been less consistent in the current year, particularly in the magistrates' courts. The introduction of the IPT project with the consequent difficulties in building and progressing cases has been a significant contributory factor in the recent decline in performance. The number of adjournments per contested case has improved slightly in 2009-10, but at 4.4 is still just outside the target.

- Joint working has not been as effective in recent times as it has in the past. This is not because of a lack of desire on the part of any one agency, but the CPS is struggling to deliver the quality of service to which they aspire. To that end, the BCP is trying very hard with borough staff to improve case progression as they believe that this will have a positive knock-on effect on many other aspects of work. Most of their energy is being devoted to this goal and this is having a short term knock on impact on other aspects of work. There are signs of some progress since the introduction of ring fenced resources for case progression duties, although more remains to be done.
- The training available at the time of the implementation of IPT was not particularly effective and there are still some indicators that the CPS staff do not fully understand their role in case building and progression, albeit they are trying very hard to improve. Staff would welcome greater clarity as to the role and guidance on how to work effectively in liaison with police officers in ensuring that the right evidence is gathered.

Aspect for improvement

The borough crown prosecutor should approach the police with a view to supplementing the basic training already provided to CPS staff in relation to their new responsibilities with additional desk-side support.

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 (comprising 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, Brent operated within its NRFAC budget spending 98.9% of its allocation of £1,521,938. For 2009-10 their allocation has been reduced by approximately £100,000, but despite a fairly high spend on agents to prosecute in the magistrates' courts, the borough is currently on schedule to remain within its revised budget. Changes to take account of staff movements have yet to be completed and may affect the final outcome.
- Staffing levels have fluctuated in recent years as has the caseload of the borough. The level of lawyers increased from late 2008 until mid 2009 with the addition of crown advocates (CAs) to assist in implementing the Area advocacy strategy (two of these have subsequently transferred to the Crown Court Advocacy Unit). Current lawyer levels are similar to those in place in 2007 and early 2008. During the same timeframe the caseload has reduced gradually in the magistrates' courts, but has risen sharply in the Crown Court in 2008-09 and the current year (some of this may be attributable to backlogs in the past).
- Headcount has historically been calculated and allocated by the Area management team using the activity based costing (ABC) model. In the past insufficient account has been taken of the type and volume of work that each borough needs to undertake. Factors such as the number and days of court sessions and the match with staff availability have not been considered fully. Revised models are being worked on with a view to a more sophisticated means of matching supply and demand. Full time lawyers are generally allocated one day per week in the office to work on their own cases.
- Borough managers have limited control over the staffing levels in their teams, although representations have occasionally been made that have resulted in changes. Agreement has been reached to provide some additional administrative staff to Brent in the next few months. This should assist the borough as they are currently operating below their 'authorised' complement of administrative staff. On the other hand the borough has more prosecutors than the current model suggests should be required. However, the findings of this assessment do not suggest that the borough is over-resourced, and the provision of short-term funding for additional agent resources, which we discuss below, supports this finding.
- Most of the CA work is handled by the advocacy unit based at Harrow Crown Court. All briefs are sent to the unit where the manager selects which cases they will cover; if they are unable through ability or circumstances to cover a case then it is 'returned' to the borough to be sent to counsel.
- The borough has its own CA, although at the present time most of the work undertaken at court is on behalf of Harrow borough. This is primarily done to assist the specialist CA unit who have limited resources available on a Friday. Whilst this is laudable in terms of a corporate approach it is less than ideal both in terms of quality and cost effectiveness (Thursday is given over to preparing for

the Friday hearings). The borough based CA focuses almost entirely on plea and case management hearings and hopes to cover approximately six in a day. She has not as yet taken the second part of the CA training and as such is unable to undertake any trial work.

- In 2007-08 agents covered 14.8% of all magistrates' courts sessions, and in 2008-09 the position had improved to 8.7%. Despite a reduction in the provision of formal charging centre sessions, the borough has struggled to meet all its other obligations without a big increase in the use of agents in this financial year. In the first half of 2009-10 agent usage stood at 38.7%.
- Short term additional agent funding has been made available on the understanding that the freed up lawyer resource will be used to improve case progression. In the past, case progression duties were only allocated if someone was deemed to be available; they are now a ring fenced resource that is treated as a priority when drawing up the rosters. While there is still occasional abstraction, the increased focus on case progression is beginning to have some positive effects such as the interval between trial date and preparation of the case increasing from three days to two weeks at the time of our visit.
- Associate prosecutors (APs) have been used extensively in the past. In the previous two financial years APs have covered in excess of 23% of magistrates' courts sessions. For the most part this was achieved with 2 APs and represents effective use of resources. The borough currently has three APs but has not been able to use them as effectively as in the past; in the first half of 2009-10 APs have covered 15.9% of sessions. This is partly due to some absence, but also because there are insufficient AP compatible courts to support a complement of three (the borough also has a legal trainee who does some AP courts). Unless changes to listing are achieved, that deliver more appropriate courts (without just spreading the work out), then supply will outstrip demand.

Aspect for improvement

The borough crown prosecutor should work with district and area managers to ascertain whether the current level of AP resources is sustainable, particularly in light of the shortage in some other boroughs. Alternative roles may be more helpful to the borough in dealing with their caseload and priorities.

- Borough managers, in conjunction with district managers, make every effort to monitor and manage sickness levels. As at the end of September 2009 the annual rate of sickness absence stood at 8 days per person. This is close to the national target and better than the district average. There is evidence that meetings with individuals and medical referrals are taking place in appropriate circumstances.
- The majority of staff in Brent work full time which has some benefits to the borough in planning deployment. Sensible controls are in place to manage annual leave.

11 MANAGEMENT AND PARTNERSHIP WORKINGAssessment
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**

- Strategy and priorities are primarily set at district and area level. Boroughs do not produce business plans but rely on updates against the Area Delivery Action Plan to demonstrate progress against key objectives. This gives a low level of assurance other than whether an objective has been achieved or not. Because it was recognised that Brent was experiencing difficulties following the implementation of the integrated prosecution team (IPT) project, an action/recovery plan was drafted in September 2009. The plan laid out a number of steps that needed to be taken to improve performance and outcomes. It has been decided that the overriding problem relates to case progression systems and significant efforts have been made to improve those processes. The plan was reviewed at the end of October 2009 and shows that some progress has been made.
- Despite some frustrations, borough managers have demonstrated a corporate approach in their decision-making. For example the borough based crown advocate often attends the Crown Court on Friday when almost all the cases emanate from Harrow borough. Area and district decisions are explained to staff in team meetings. It is clear that the difficulties being encountered by the borough are having an impact on staff morale, and this occasionally manifests itself in non-corporate behaviour. Managers are aware of this and are trying to discourage any such lapses.
- The lack of a district crown prosecutor (DCP) has not helped the borough, either in terms of supporting messages delivered by the borough crown prosecutor (BCP) or in assisting with communication with partner agencies. Across the district, boroughs have tended to miss some deadlines for actions agreed at district meetings.
- There are regular team meetings at which there is a full and frank discussion on issues of concern as well as dealing with any agenda items. The tone of some communication has become somewhat terse by both managers and staff and care needs to be taken to prevent this from slipping to inappropriate levels. The BCP is fighting hard to build confidence and trust among staff that things will improve but it is proving to be an uphill battle at the moment. The arrival of proposed additional staff members may help.
- There is no requirement for boroughs to maintain formal risk management systems. In Brent, the action plan drawn up in September 2009 is based on process issues considered to be high risk and therefore there is some formality to the management of risk. More could be done to manage non-process risks such as staffing, communication and relationships. The BCP has tried to make it clear to staff that they should consider risk in prioritising work, although the style in which the message is delivered could be misinterpreted.
- There is a consensus that the training provided in respect of the changes brought about by IPT was not fit for purpose. Planned additional desk side support did not take place at the time of IPT implementation for reasons outside the control of local CPS managers, resulting in CPS staff not fully understanding their new responsibilities. We have commented in aspect 9 on the need to liaise further with the police over training/support. Borough managers are committed to providing training to staff as and when the requirement is identified. There is no formal training needs analysis and new requirements are generally picked up during the appraisal process or by means of ad hoc requests based on the London training programme.

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

- Relationships with partner agencies have been generally positive in the past but were a little strained at the time of the assessment. Much of this surrounds concerns over the impact on partners of the 'failings' of CPS case progression systems, and the decision by the CPS to try and prioritise commitments, leading to non-attendance at some meetings. This was particularly noticeable with police staff where frustration is mounting. The lack of a DCP has not helped the borough.

- For the most part, partners are more worried over the lack of delivery by the CPS than by any perceived lack of openness or collaboration. It is clear that through the summer months, CPS case progression systems were a weak point in the criminal justice system. Work is underway to improve the situation although partners did not appear to be fully aware of the efforts being made.

Aspect for improvement

The borough crown prosecutor should provide regular updates to partner agencies on progress against the action plan and also ensure they are kept in touch with other developments that should lead to improved delivery.

- There was general agreement that the Criminal Justice: Simple Speedy Summary initiative had been implemented well by all concerned and that it had been successful in reducing ineffective trials and speeding up justice. The subsequent introduction of the Director's guidance on the streamlined process (DGSP), followed by the implementation of IPT is deemed to have caused significant problems for the CPS. This has resulted in relatively untrained staff taking on lots of new responsibilities and additional work with static or reducing headcount. It is perhaps not totally surprising that when combined with the timing of the IPT move and the absence of a DCP that the borough has struggled. They are however now getting to grips with some of the problems and our on site spot checks showed that some improvements are being made. However, progress is not yet to the point where one would be confident that either the optimum business model or IPT projects should be signed off as successful.
- There were some indications in our file examination and data analysis that suggested that the DGSP process was not necessarily being implemented exactly as envisaged.

Aspect for improvement

The CPS should work with the police to ensure that only appropriate cases are processed via DGSP.

- There has been a small amount of wider engagement with other agencies, for example, the local Safeguarding Children Board. However, as with other engagement activity, borough managers need to prioritise how their time is spent and the volume of time devoted to this is comparatively low at the moment. The borough does not yet have a community prosecutor and there is little appetite among staff for such a role at the present time. Even if one were appointed it is questionable whether engagement should be afforded a high priority in the short term having regard to the other priorities faced by the borough.

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

- Where good performance is identified it is usually acknowledged either individually or occasionally at team level. Examples seen included praise for an associate prosecutor for the quality of their review work and to a crown advocate for staying late to assist with a difficult charging advice. District meetings include a section on good news stories. Performance data is now shared more with staff so there is greater awareness of issues; the fact that there has been quite a lot of negative news in the recent past is unfortunate.
- Staff are well aware of the importance of treating colleagues and partners with respect. There have been isolated examples of late where there have been some lapses and reminders have been issued to everyone over the importance of dignity at work. Managers will need to keep a careful eye on this and ensure that any inappropriate behaviour is challenged.
- Inspectors were not made aware of any concerns over fairness or equality. Some staff commented that flexitime has been 'lost' although their commitment was such that this had been accepted. There had been no substantiated complaints against managers over the treatment of staff.
- The make up of borough staff is representative of the local community.

ANNEXES

A PERFORMANCE DATA

Aspect 1: Pre-charge decision-making

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
Pre-charge decision cases						
	80.8%	76.2%	73.7%	80.1%	74.9%	73.0%
Magistrates' court cases						
Discontinuance rate	13.1%	13.6%	10.2%	13.7%	14.7%	9.7%
Guilty plea rate	74.4%	69.8%	66.3%	73.6%	67.5%	62.3%
Attrition rate	19.2%	22.1%	21.3%	20.0%	23.8%	21.3%
Crown Court cases						
Discontinuance rate	11.7%	15.6%	19.6%	11.7%	15.0%	17.8%
Guilty plea rate	72.9%	60.8%	58.9%	73.1%	61.0%	53.2%
Attrition rate	19.4%	27.3%	34.7%	19.5%	27.6%	35.9%

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 Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	87.3%	86.0%	87.5%	87.1%	86.1%	86.6%

Trial rates

	Performance 2008-09		
	National	CPS London	Borough
Effective	43.4%	47.3%	48.8%
Cracked	38.0%	34.8%	32.8%
Ineffective	18.6%	17.9%	18.4%
Vacated	21.5%	16.3%	13.0%

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 Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	80.8%	73.1%	67.2%	80.7%	72.7%	66.6%

Trial rates

	Performance 2008-09		
	National	CPS London	All Harrow Crown Court cases
Effective	47.1%	54.7%	54.3%
Cracked	40.8%	30.0%	32.7%
Ineffective	12.1%	15.2%	13.0%

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 Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	71.9%	62.0%	62.5%	71.7%	60.5%	57.4%

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

	Performance 2008-09			Performance 12 months to Sept. 2009		
	National	CPS London	Borough	National	CPS London	Borough
	82.0%	77.2%	81.7%	81.7%	75.4%	69.5%

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%	98.9%

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%	91.3%
Associate prosecutor deployment (as % of magistrates' court sessions)	24.5%	23.0%	20.5%	23.8%
Crown advocates. Counsel fee savings against target	110.0%	£4,200,000	99.3%	82.6% (district performance)
Sickness absence (per employee per year)	8.7 days	N/A	9.3 days	7.3 days

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

Police

Chief Superintendent M. Toland, Brent Police
Detective Superintendent S. Renshaw, Brent Police
Chief Inspector T. Thomas, Brent Police
Ms A Ferguson, Witness Care Unit manager, Brent Police

HM Courts Service

Crown Court

His Honour Judge Greenwood, Senior Resident Judge, Harrow Crown Court
His Honour Judge Arran, Harrow Crown Court
Ms H Mascurine, Court Manager, Harrow Crown Court

Magistrates' court

District Judge Coleman, Brent Magistrates' Court
Mrs D Wolfin JP, Chair of the Bench, Brent Magistrates Court
Mrs J Summers JP, Deputy Chair of the Bench, Brent Magistrates Court
Mrs C Lynch JP, Chair of the Youth Panel, Brent Magistrates Court
Mr J Vantighem, Clerk to the Justices' North and West London
Mr R Allan, Deputy Justices' Clerk, Brent and Barnet Boroughs
Ms B Johnson, Legal Team Manager, Brent Magistrates Court

Victim Support

Ms M Thomas, Witness Service Manager, Harrow Crown Court
Ms L Ridge, Witness Service Manager, Brent Magistrates Court

Community Groups

Ms G Renard, Head of Community Safety Partnership Unit, London Borough of Brent

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 aspects⁹ 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.

⁹ 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.hmcpai.gov.uk



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