



HM Crown Prosecution
Service Inspectorate

Equalities Driving Justice

Follow-up Report: Executive Summary

A report on the thematic review of equality and diversity
in employment practice in the Crown Prosecution Service

December 2010



Executive summary

Contextual factors and background

This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) arising from a follow-up review of equality and diversity in employment practice in the CPS (Crown Prosecution Service) conducted between May and July 2010.

The inspectorate carried out a review of equality and diversity in employment practice in the CPS in 2006. This is available on HMCPsi's website (www.hmcp.si.gov.uk).

Our review in 2006 found that, following the Denman Inquiry, both the essential commitment to change and the strength of leadership to bring it about, was in place at the highest levels of the CPS. Commitment had been backed up by changes to CPS governance structures and the development of a strong Equality and Diversity Unit. The CPS was found to have made significant progress in developing a more diverse workforce and addressing the Inquiry's recommendations. It had also broadened its approach to equality and diversity to embrace other aspects of diversity including gender, disability and sexuality.

Whilst acknowledging significant progress had been made, the review identified some important aspects where improvement was necessary. Inspectors made seven recommendations designed to assist the CPS improve performance and ten aspects for improvement. The purpose of the current review was to assess progress made by the CPS against the recommendations and aspects for improvement contained in the 2006 report.

Summary of findings

The strong and visible leadership at the highest levels in relation to equality and diversity that we found in 2006, has continued. Central to equality and diversity in employment is a diverse workforce. The CPS has continued to tackle the under-representation of women, black and minority ethnic (BME) staff and disabled staff making very good progress overall, particularly for women and BME staff. The proportion of women in higher grades has increased significantly since our earlier report and is higher than in the civil service overall. The proportion of BME staff employed has increased by nearly a fifth to 17.2% overall, significantly higher than the civil service as a whole and higher than the BME proportion of the overall workforce in England and Wales. There is a good level of BME representation at senior grades.

Having made such good progress in relation to workforce diversity, the CPS results from the 2009 civil service people survey around employee perceptions of fairness in the workplace were disappointing. The CPS overall had the second lowest employee engagement score across the 20 government departments which participated. On breaking this down there is significant variation across some minority ethnic groups which scored very low on this index as did disabled staff. The CPS needs to do more to investigate and address the reasons for those differences.

Around a third of staff we surveyed considered that the commitment of the CPS to equality and diversity in the workplace has increased in recent years with the majority considering it has not changed and a small proportion that it had declined. The major focus on community engagement in recent years has perhaps been at the expense of continuing to address internal equality issues.

Commitment and skills of operational managers

In 2006 we found that commitment and leadership evident at senior levels did not always filter down to the front line. Whilst good progress has been made, with more management training available now and better Human Resources (HR) support available to managers, just over 10% of managers we surveyed still felt they had not received sufficient training. There is still a core of managers who do not feel confident in tackling the more sensitive equality and diversity issues in the workplace.

Equality and diversity policies

The organisation continues to have an impressive array of HR policies and procedures, in which equality and diversity considerations are integrated, backed up with helpful guidance material. It is in the implementation of these policies where some difficulties were found in 2006, and this is still the position today.

The CPS has set out clear standards of behaviour for staff in its dignity at work policy and whilst the majority abide by these there are still instances where they do not. In the 2009 staff survey, 13% considered they had been discriminated against at work in the previous 12 months and 11% that they had personally experienced bullying or harassment at work, higher than the civil service benchmark of 10% in both cases. While it is not possible to quantify the extent and seriousness of the experiences referred to by respondents, there are notable differences in scores across certain minority staff groups which need to be explored and addressed.

In 2006 there was a low level of confidence in the Service's staff complaints procedure and monitoring and reporting needed to be improved. Since then a new grievance procedure has been introduced and it is encouraging that confidence levels have increased with around two thirds of staff in the 2009 staff survey stating that they would feel confident to report bullying or harassment. However, this still leaves a sizeable proportion who lack confidence and continued work is needed especially with those minority staff groups reporting the lowest confidence levels.

Although there is a perception that staff complaints are increasing, no such trend is apparent in overall numbers for 2006-10. One very notable trend, is an increase in the number of complaints alleging discrimination on the grounds of disability. Less than a quarter of overall staff complaints during this period were upheld in part or in full. As economic necessity forces the CPS to cut back on staffing, reduce absence and manage poorer performers more effectively, staff complaints are expected to rise.

The volume of employment tribunal cases started to rise in 2009-10 and is expected to rise again this year. In particular the number of cases citing disability discrimination is increasing. Of cases commencing during the past four years, half were withdrawn or struck out and half settled. No cases were found against the CPS. One case that originated before this period was found against the CPS in 2006, and is continuing. The high rate of settlement tends to refute the strong perception on the part of staff that the CPS pursues cases at any cost.

Systems for recording and reviewing the outcomes of complaints and employment tribunals to ensure lessons are learnt are developing.

As other organisations in the public sector, the CPS faces unprecedented financial challenges. In making the difficult decisions ahead the Service will need to ensure it puts fairness and transparency at the heart of these. Not only will this enable the Service to meet its legal obligations to assess the equality impact of its decisions, but it will ensure that those it makes stand up to external scrutiny.

The CPS has been slow to respond to our recommendation about its flexible working policy. Whilst the CPS published a revised flexible working policy in 2008 and many alternative working arrangements work for both the individual and the business, many do not meet today's business needs and impact adversely on the Service's delivery of essential functions, for example court coverage. It is only in the last year that the Service has really started to address the problem of less viable alternative working arrangements agreed in the past, driven largely by economic necessity. CPS Areas have generally got to the stage of identifying arrangements that do not fit well with business needs and are starting to re-negotiate these. This will not be an easy task. Some staff tend to view such arrangements more as a 'right' than a benefit and will not wish to relinquish them.

Staff networks

The CPS has taken some action to achieve parity across the three funded staff networks.

While the National Black Crown Prosecution Association and Lesbian Gay Bisexual and Transgender networks appeared to be thriving, the CPS should continue to look for practical ways to support the Disability Staff Network. Given the lower engagement scores of disabled staff and the higher levels of discrimination these staff report experiencing, it would be a loss to both staff and the CPS if the network was unable to continue.

The CPS has established a Religion and Belief Forum, which aims to give staff of all religions and beliefs the opportunity to engage with the CPS on business-based religion or belief issues.

What we found

A summary of our assessments of progress against recommendations made and the aspects for improvement identified in 2006 is set out below.

Recommendation	Rating as at July 2010
<p>1 As part of its review of staff diversity networks, the CPS:</p> <ul style="list-style-type: none"> • examines the role of faith-based networks and ensures that their role in supporting the business is clear; • takes actions on the findings of the network review to achieve appropriate parity across networks and ensure their contribution to core business is maximised; and • strengthens the Enable network so it can realise its full potential. 	<p>Limited progress</p>
<p>2 The CPS takes further action to increase the commitment and ownership of operational managers and staff in respect of actions being taken to improve equality and diversity in the workplace and to counter any negative perceptions.</p>	<p>Substantial progress</p>
<p>3 The CPS reviews its Annual Equalities in Employment Report with a view to improving the accuracy and presentation of the data, and accompanying text, and so provide a fuller picture of progress.</p>	<p>Not progressed</p>
<p>4 The CPS, as part of the implementation of its new performance development review process, provides further guidance and support on how to set appropriate equality and diversity objectives which relate to employment.</p>	<p>Substantial progress</p>
<p>5 The CPS:</p> <ul style="list-style-type: none"> • reviews the equality and diversity e-learning module and its approach of mainstreaming equality and diversity training to ensure that equality and diversity learning needs are being fully met; • ensures that new starters receive a timely induction which incorporates relevant equality and diversity issues. If an e-learning module is to be retained, this should be completed by starters as soon as possible after joining and followed-up by line managers; and • takes action to ensure that all operational managers are provided with the skills and confidence to deal effectively with equality and diversity issues faced in the workplace. 	<p>Substantial progress</p>

6	The CPS reviews how effectively alternative working arrangements are working in practice, in particular whether they meet current and future business needs, and provides further guidance, support and training for managers to ensure they are able to balance properly the implementation of alternative working arrangements with business needs.	Limited progress
7	The CPS ensures that the fairness at work procedure is carefully implemented and monitored in a manner which secures the confidence of staff. In doing this it should ensure that: <ul style="list-style-type: none"> • stakeholders are appropriately involved; • guidance for staff and managers is developed that clearly differentiates between the fairness at work and grievance procedures; • managers are appropriately trained and supported in the application of the new procedure; and • systems are put in place to monitor and report on informal complaints and grievances. 	Limited progress

Aspects for improvement		Rating as at July 2010
1	Clarification and communication of roles and responsibilities of Projects and Performance Advisers and their relationship with Area responsibilities.	No longer applicable
2	Completion of outstanding impact assessments, in particular of e-learning and the Prosecution College originally planned for 2005-06.	Substantial progress
3	Further consideration to be given to communicating equality and diversity policy and guidance materials to ensure that all staff and particularly managers, are aware of the implications for their roles and that equality and diversity is fully integrated within management practice.	Substantial progress
4	Further development of Area workforce representation plans, in particular to ensure they incorporate quantifiable outcomes for actions and are broadened out to address equality and diversity in the workplace more generally as well as workforce representation.	No longer applicable
5	Clarification to Areas of the purpose of local Race Equality Schemes and how they will fit with the Single Equality Scheme due to be produced in late 2006.	No longer applicable
6	Further communication to staff to address any misunderstandings around staff survey confidentiality to encourage higher response rates and provide a fuller picture of staff opinions.	Achieved

7	Exploration of the reasons for any differences in satisfaction between demographic groups and action taken to reduce these, particularly in relation to disabled staff.	Limited progress
8	Incorporation of less serious misconduct cases and dismissals within monitoring data collected to provide a more complete picture of disciplinary action taken against staff.	Achieved
9	Investigation of the under-representation of disabled staff in learning and development activities with a view to taking action to address the imbalance, and monitoring of the participation of staff to include alternative working patterns.	Substantial progress
10	Continued action to improve further the representation of women at senior levels within the organisation and to improve the proportion of disabled people employed.	Substantial progress