



# CPS LEICESTERSHIRE

THE INSPECTORATE'S REPORT ON  
CPS LEICESTERSHIRE

EXECUTIVE SUMMARY

AUGUST 2007

## Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) inspection of CPS Leicestershire (the Area), carried out in April 2007.

There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on HMCPIS's overall performance assessment (OPA) and other key data.

The OPA of CPS Leicestershire, undertaken in October 2005, assessed the Area as "Fair" and as a result of this it was determined that the inspection should be a tailored one. In the light of that, it did not include detailed consideration of a number of the aspects within the Framework (the handling of sensitive cases, custody time limits, delivering change, leadership and securing community confidence).

The OPA report identified a total of 32 aspects for improvement. In the course of this inspection, inspectors assessed the extent to which these have been addressed.

## Overview

After the OPA the Area concentrated some of its effort to improve performance on the concerns outlined in our report. In line with this prioritisation there has been a significant improvement in the usage of the electronic case management system (CMS) with performance across all measures exceeding national averages and being in the top quartile. Improvement is also marked in compliance with the Direct Communication with Victims scheme. There has been a commitment to ensure that the delivery and operation of statutory charging realised its potential benefits and delivered efficiencies. However, Area performance in its key targets has mainly deteriorated since the publication of the OPA.

The rate of cracked, ineffective and effective trials in both the magistrates' courts and the Crown Court are all worse than the national averages. Performance in meeting the persistent young offender (PYO) target pledge of 71 days has deteriorated from 72 days in 2005 to a current performance of 98. There are also poor discontinuance rates for cases going through the charging scheme.

Performance is contradictory when set against some of the positive action that has been taken to improve since the OPA. Our file examination identified a good standard of review and advice at both the pre-charge decision and magistrates' courts' stages and the effective handling and management of Crown Court cases. We also found that there were many staff in the Area who were extremely dedicated and worked hard to get the job done.

These findings present something of a conundrum, when set against others. It became apparent during the course of the inspection that there was a lack of clear expectations about the performance levels of staff at all grades, which was compounded by the absence of a performance management regime or culture that could be used to tackle under performance. There was evidence that managers had spent time outlining the vision of CPS Leicestershire and this was complemented with inclusive business planning sessions and senior management 'road-shows'. However, it seemed that some aspects of the Area's performance were suffering from a lack of pride and that some staff seemed comfortable, with certain aspects of under performance seeming to be accepted.

We comment in further detail on the specific aspects of performance in the following sections.

### **Pre-charge advice and decisions**

Statutory charging went 'live' in February 2006. A dedicated project manager has been funded by the Area to ensure that there has been a focus on delivering the scheme and this has helped in developing a strong 'prosecution team' ethos. Pre-charge decisions were sound in the majority of cases, although the quality of advice given varied. Greater care needs to be taken to record charging advice fully.

There are effective prosecution team performance management arrangements in place. However, a problem in providing unique reference numbers limits the accuracy and effectiveness of data. The Area needs to work with the police to establish an efficient method of providing consistent case reference numbers and to address the implications of changes to local police structures. Recently implemented changes are starting to improve the overall discontinuance rate, however more could be done to ensure that cases presented for charging are looked at more proactively.

### **Casework in the magistrates' courts**

The quality of review and handling in magistrates' courts' cases is sound. The use of CMS has significantly improved, although in a large number of cases a lack of file review on the paper copy was a cause for concern. Summary trial preparation has improved due to the introduction of a duty lawyer scheme to deal with pre-trial review preparation and a correspondence initiative; however, as a result file 'ownership' is now limited.

PYO performance is poor at 98 days, although the Area has begun to focus on improvement with a series of initiatives with its criminal justice system (CJS) partners. The discontinuance rate is high but is improving. The effective trial rate is poor as are the ineffective and cracked trial rates. An initiative aimed at improving the high cracked trial rate is laudable but raised issues of principle and inspectors concluded that the risks outweighed the benefits.

### **Casework in the Crown Court**

The quality of review and decision-making in the Crown Court is generally good. There is timely service of papers and effective monitoring of the progress of the case. Some monitoring and analysis is shared with criminal justice partners. The standard of instructions to counsel is variable and those on acceptable pleas show scope for improvement.

The ineffective trial rate, whilst achieving local targets, remains worse than the national average and the rate for cracked trials is 46.6%, which is poor compared to the national average of 39.5%. The effective trials rate remains significantly worse than national average. However, there are early indications that recent measures implemented by the Area are impacting positively on the level of discontinuance.

### **Presenting and progressing cases at court**

The standard of advocacy is variable; agents in the magistrates' courts and counsel in the Crown Court performed well, although junior members of the Bar lacked experience and presence. Advocacy monitoring needs to be more robust and systematic with face-to-face feedback. Some prosecutors could be more proactive in pushing case progression. The length of adjournments for trial in the magistrates' courts hampers progression and impacts adversely on witness care.

### **Sensitive cases and hate crime**

The standard of casework in sensitive and hate crime cases is high. The identification and management of cases and the quality of decision-making is good. The unsuccessful outcome rate for hate crime cases in both the magistrates' courts and the Crown Court is better than the national average and meets target. The Area has recently set up a dedicated domestic violence team in the City Criminal Justice Unit to concentrate efforts to handle these cases more consistently.

### **Disclosure of unused material**

Performance in respect of disclosure of unused material for cases in the magistrates' courts has declined since the last inspection, although it has remained constant for the Crown Court. Our file examination highlighted significant variation in the quality of disclosure decisions. Compliance with the prosecution duties of disclosure was inconsistent and non-compliance included failures to disclose material that undermined the prosecution or assisted the defence, poor file housekeeping and, in some instances, no evidence that the reviewing lawyer had considered the defence statement. Additionally the clerical processes were rarely completed properly, making the audit trail difficult to follow.

The Area Disclosure Champion has provided training to CPS and police staff, but systems for assuring the quality of disclosure handling and decision-making are not robust and need to be improved.

### **Custody time limits**

There were no reported custody time limit (CTL) failures in 2005-06 or 2006-07. The Area's documented systems complied with national guidance. Our file examination highlighted that there was a need for some file endorsements to be improved and the accuracy of recording CTLs on the electronic and manual systems needs attention. More thorough checks would highlight the weaknesses we identified.

### **The service to victims and witnesses**

The performance of the Witness Care Unit and a lack of clear expectations between the CPS and the unit has hampered performance. Processes surrounding special measures applications need to improve and the warning of witnesses needs to be clearer. The Area must outline its priorities and introduce a system to monitor performance around cases involving victims and witnesses. It is crucial that feedback is used to improve service and discuss problems as they arise.

The Area has implemented changes to process, to improve performance in writing to victims explaining why cases have been dropped or charges substantially reduced. More work needs to be undertaken to ensure that the scheme is consistently applied across all units and that letters are of good quality.

### **Delivering change**

The systems for planning and review largely remain sound. The Area Business Plan includes local and national priorities and highlights responsibility for delivery. Unit business plans are developed in consultation with staff and reflect overall Area priorities. CPS Leicestershire has resourced a charging project manager post to ensure that the benefits of the system can be realised and that there is an effective system of control. Working with CJS partners at a strategic level is improving and opportunities to work together to improve overall performance is evident.

### **Managing resources**

The budget was underspent in 2006-07 and more could have been done to consider whether monies could have been returned. The budget outturn and management processes indicate a need for more careful budgetary control. Staff deployment has improved and the use of designated caseworkers and Higher Court Advocates represents good value for money.

### **Managing performance to improve**

The performance management system is good on the elementary aspects of reporting performance data, but less effective at highlighting issues around under performance or as a tool for managers to drive systemic or individual improvement. Some aspects of performance have improved, sometimes from a very low base since the OPA. In other key aspects such as statutory charging benefits and overall case outcomes, improvements have been limited and sometimes at a slower rate than national performance. Senior managers are involved in a number of improvement initiatives within the Area as well as in joint work with other CJS partners, although the lack of effective analysis hampers demonstrable outcomes.

### **Leadership**

There is evidence of strong business planning arrangements and good top team communication through Area meetings. However, there was some concern that a number of staff were not clear about the Area's vision and priorities or understood what was expected of them. This lack of understanding may have been compounded by a lack of personal performance management. The Area needs to challenge under performance and ensure that there is clear understanding of management expectations. There was a staff perception that the visibility of senior management had decreased with the move of the Chief Crown Prosecutor and Area Business Manager away from the main office.

### **Community confidence**

Structures for the delivery of the community confidence agenda are effective. The Area Business Plan links community engagement activity with Area objectives and there was a wide understanding and involvement of staff from all levels in this. There has been a marked fall in the confidence of the local population in the effectiveness of criminal justice agencies in bringing offenders to justice (a performance measure shared by all local criminal justice agencies), although at 44% it remains 2% better than the national average.

### **Added value of the CPS locally**

At a local level CPS Leicestershire undoubtedly adds value. Our findings highlight the application of the Code for Crown Prosecutors' tests at key stages is generally good. Resources are being deployed effectively and the Area participates in joint CJS activity and in the local community.

However, further value still needs to be added at key stages. Prosecutors at the pre-charge decision-making stage could be more proactive. A stronger approach to personal performance would improve some basics and this in turn should ensure that case preparation and handling are more efficient. A more proactive approach to managing performance will also allow the Area to understand its results and challenge partner agencies for a stronger position.

### **Equality and diversity issues**

As well as undertaking a wide range of outward-facing activity with local interest groups and minority communities, with a view to increasing confidence in the criminal justice system, the Area has included equality and diversity aims in its Business Plan. The workforce is representative of the local community. The Investor in People assessment praised Leicestershire for the multi-ethnic approach and those interviewed for the assessment felt that the workplace was free from prejudice, which is consistent with the 2006 staff survey results.

### Follow-up from previous report

There were 32 aspects for improvement identified at the time of the OPA. Nine have been fully achieved with substantial progress made in another five. Whilst some action may have taken place on others, we consider that this is limited (or no progress in nine of them). We have not repeated these in the main body of the report, but Area managers will need to continue to monitor progress of those AFIs that remain outstanding (as highlighted in Annex E of the Report).

### Recommendations and aspects for improvement

We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority, and have made eight recommendations to help improve the Area's performance.

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- 1 The Area needs to ensure that it works with police to address the implication of basic command unit structures and that it increases its influence with the police to resolve the difficulties caused by the lack of consistent unique reference numbers (paragraph 3.21).

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  - 2 The Area needs to re-affirm to its staff the importance of good persistent young offender performance and to underline the relevant processes and timescales (paragraph 4.26).

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  - 3 The cracked trial initiative in the City Criminal Justice Unit ceases with immediate effect (paragraph 4.44).

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  - 4 The Area should analyse reasons and trends for ineffective trials and ensure that formalised action is taken to improve processes that may lead to improvement (paragraph 5.39).

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  - 5 The Area needs to ensure that:
    - it takes action to reduce the number of schedules it receives during the life of a case;
    - disclosure record sheets are completed showing all actions and discussions in respect of unused material;
    - it creates and maintains a public interest immunity log;
    - it expands the Disclosure Champion's role to assess the quality of disclosure, and findings are used to tailor training and offer mentoring;
    - lawyers comply with the duties of disclosure in all cases; and
    - Unit Heads should monitor this effectively and provide feedback to individuals (paragraph 8.16).
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- 6 That the Area:
- clearly outlines the expectations required of the Witness Care Unit to ensure that casework progresses effectively;
  - ensures that there is a better understanding of respective functions and responsibilities between the Witness Care Unit and the Area; and
  - that performance information is collected, analysed and used to drive performance improvement on victim and witness issues (paragraph 10.18).
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- 7 The Area ensures that:
- performance reports are analysed in order to improve the performance management regime and ensure that management decisions are informed and proportionate; and
  - that Unit Business Managers' objectives include provision of performance analysis support to Unit Heads and that they have the skills required to do so (paragraph 13.8).
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- 8 The Area needs to develop a culture of personal performance management that recognises good performance and challenges under performance. This culture needs to be complemented with clear expectations and a management regime of supervision (paragraph 14.4).
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We additionally identified 15 aspects for improvement.

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- 1 Greater care needs to be taken to record charging advice and ensure that a full audit trail is in place to ensure that subsequent action to be taken on the file is easily identified, and those working from the file are aware of actions and decisions already taken (paragraph 3.8).
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- 2 The Area should ensure that all reviews are apparent on the file itself as well as recorded on the case management system (paragraph 4.5).
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- 3 The Area should keep the 'no deal' policy under close review to ensure there is no adverse impact upon successful outcomes and that prosecutors are not dis-empowered (paragraph 4.17).
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- 4 The Area needs to continue negotiations with the courts and other agencies to ensure that the youth courts are of a more manageable size (paragraph 4.22).
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- 5 The Area needs to clearly define the Case Progression Officer role through the setting of appropriate objectives and the issuing of a comprehensive job description (paragraph 4.30).
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- 6 The Area needs to take steps to ensure that files are tidy and ordered (paragraph 4.33).
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- 7 The Area would benefit from more detailed analysis, information sharing and learning from experience in discontinued and judge ordered acquittal cases (paragraph 5.13).
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- 8 Quality of instructions to counsel particularly regarding pleas. The recording of file endorsements on receipt of correspondence and telephone calls (paragraph 5.35).
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- 9 The Area needs to continue negotiations with the courts to ensure that listing arrangements are compatible with the implementation of Criminal Justice: Simple, Speedy, Summary and continued increased designated caseworker deployment (paragraph 6.4).
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- 10 The Area should ensure that advocacy monitoring of all advocates is robust and systematic, with face-to-face feedback given (paragraph 6.12).
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- 11 Charging lawyers should be proactive in requesting victim personal statements in all appropriate cases (paragraph 10.3).
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- 12 Lawyers giving pre-charge advice should ascertain witness needs and ensure that applications are timely. The Area should ensure that awareness training is given to all Witness Care Unit staff to ensure that special measures are only offered in appropriate cases (paragraph 10.7).
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- 13 The service to victims and witnesses could be enhanced by better and more consistent communication between the CPS, Witness Care Unit, Witness Service and Victim Support (paragraph 10.10).
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- 14 The Area ensures that those cases which require Direct Communication with Victims letters are identified and that the quality of the letters is improved (paragraph 10.11).
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- 15 Ensuring that managers complete the required number of casework quality assurance forms to enable the Area derive optimum benefits of the scheme and assure standards of assessment (paragraph 13.19).
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### Strengths

We also identified eight strengths.

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- 1 The commitment of duty prosecutors to remain at charging centres to see cases through (paragraph 3.21).
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- 2 The strong prosecution team ethos (paragraph 3.21).

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  - 3 The quality of decision-making (paragraph 5.4).

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  - 4 The case management system is used effectively for Crown Court preparation (paragraph 5.41).

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  - 5 The systems for identifying and managing sensitive cases and hate crimes and the quality of decisions made are good (paragraph 7.7).

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  - 6 Disclosure compliance in serious and complex cases is handled well (paragraph 8.12).

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  - 7 CPS managers in active membership of key Local Criminal Justice Board groups (paragraph 13.12).

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  - 8 Good communication of performance information to staff through a variety of means (paragraph 13.16).
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The full text of the Report may be obtained from the Corporate Services Group at HM Crown Prosecution Service Inspectorate (telephone 020 7210 1197) and is also available on line at [www.hmcpsi.gov.uk](http://www.hmcpsi.gov.uk).

HMCPs Inspectorate  
August 2007