

Inspection of CPS Sussex

follow-up Report

Introduction

1. This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) arising from the follow-up progress visit to CPS Sussex between 3-6 October 2005.
2. The Inspectorate carried out a full inspection of CPS Sussex in July 2004 and the report of that inspection was published in November 2004. The report made five recommendations, which set out the steps necessary to address significant weaknesses relevant to important aspects of performance. In addition, the inspection identified seven strengths and 13 aspects for improvement (AFIs).
3. The purpose of this visit was to assess the Area's progress against the recommendations and AFIs contained in the report. We also evaluate whether the strengths in performance are still present. We comment in detail on the progress made against our recommendations and summarise the steps taken by the Area to address AFIs. We also summarise the current position in relation to strengths.
4. The five recommendations in respect of which we assessed progress were:
 - R 1** The Area Management Team (AMT) take action to improve the case management systems in the Criminal Justice Units, so that all trials are reviewed within a reasonable time after being listed for trial. They should then be subject to a pre-trial check a short period before the trial, to ensure that the prosecution is trial-ready (paragraph 4.14).
 - R 2** Trial Unit Heads review the case management systems in their respective units, so that the progress of outstanding work, in particular court orders, is monitored, and the work done to avoid unnecessary interlocutory hearings (paragraph 4.21).
 - R 3** The AMT ensures that adverse case reports are completed for all relevant cases, and that they provide an accurate and objective judgement on the cause of the failure (paragraph 4.56).
 - R 4** The AMT should build on its internal assessment on performance under the Direct Communication with Victims scheme (DCV) to identify and address barriers to:
 - the correct identification of cases that require a DCV letter;
 - the timely provision of DCV letters; and
 - the production of high quality DCV letters (paragraph 6.7).

- R 5** The AMT should discuss with the police a joint review of processes in the co-located units so that the further benefits from co-location can be realised. (paragraph 10.6).

Methodology

5. Before visiting the Area, we requested a number of documents relating to management information and performance data that would provide evidence of the progress that the Area had made. These included the Area Action Plan to implement the report's recommendations and AFIs. In the course of our follow-up visit we also looked at unit complaint logs.
6. We examined ten magistrates' courts files and six Crown Court files, selected across the units to look at the progress against the recommendations relevant to the effectiveness of summary trial preparation and the progressing of court orders. We also looked at these files in order to assess whether the strengths we had found in respect of the application of the Code for Crown Prosecutors' tests at initial review and decisions to discontinue were maintained.
7. During our visit we interviewed the Area's case progression officers from the Criminal Justice Units (CJUs) at Brighton, Chichester and Eastbourne. We also spoke informally with a number of staff who worked in the CJUs co-located with the police at Brighton and Crawley.
8. At the same time as this follow-up inspection, we conducted an Overall Performance Assessment (OPA) of the Area. The OPA report will be published once all 42 CPS Areas have been assessed; which is likely to be in early 2006. The outcome of the programme of OPAs will enable the Inspectorate to plan its future Area Effectiveness Inspections based on risk assessments and thus target those Areas with the greatest need. Information gathered from the OPA in the Area has also informed our views on the progress that has been made and is used in this follow-up report.

Background to the Area

9. At the time of our inspection we found that CPS Sussex staff were motivated and led by managers who were respected within the Area and by their criminal justice partners. Some aspects of casework were good, including the quality of decision-making at the initial review stage and the work done in cases involving persistent young offenders (PYOs). However, inspectors found that more needed to be done to improve the preparation of summary trials and some aspects of Crown Court cases.
10. Face to face pre-charge advice is being given at each of the six charging centres in the Area, with the facility for telephone advice when there is no prosecutor present at the charging centre. At the time of our follow-up visit the Area was about to move to full statutory charging to cover all cases to which the Director's guidance applies.

11. Since our inspection the Area has appointed Case Progression Officers (CPOs) to its units at Brighton, Chichester and Eastbourne. There are plans to appoint a CPO at Crawley and create an additional post at Eastbourne. There will then be CPOs for all the magistrates' court work in the county.
12. The appointment of CPOs has undoubtedly contributed to the improvement in the preparation of summary trials. Their work with their counterparts in the other criminal justice agencies has also assisted in almost halving the magistrates' courts ineffective trial rate.

Overview

13. Following our inspection the Area drew up a detailed Action Plan, which set out how it intended to achieve the desired outcomes from the recommendations and AFIs in the report. That Action Plan has recently been comprehensively reviewed. The review indicates clearly where progress has been made, but also flags up where more work needs to be done.
14. The Area has made very good progress and has achieved three of the five recommendations and made substantial progress in a further one. Performance stills needs to be improved, however, in respect of compliance with the DCV scheme. Overall progress to achieving the AFIs is also good, although we still had concerns about the quality of instructions to counsel and the monitoring of custody time limits (CTLs).
15. The Area had maintained almost all its strengths identified at the time of our inspection. The timeliness of the processing of PYOs had however declined significantly.

Performance against PSA targets

16. Key performance results for the Local Criminal Justice Board are contained in the table below.

PSA targets	Original inspection	Follow-up
OBTJ against baseline	+16.1%	+21.5%
Ineffective trial rate - magistrates' courts	33%	17.6% (Apr-Jun 05)
Ineffective trial rate - Crown Court	19%	14.2% (Apr-Jun 05)
Public confidence	40% (Apr-Jun 04)	43% (Oct-Dec 04)
PYOs	50 days (Jan-Mar 04)	98 days (May-Jul 05)

* For ineffective trial rates, lower is better

17. The Area has made continuous progress against all the Public Service Agreement targets, with the exception of that which relates to reducing delay in the processing of PYOs. Progress in reducing the ineffective trial rate in the magistrates' courts is particularly impressive. PYO performance has, however, declined dramatically since our inspection, and on the latest figures the Area is failing to meet the target of 71 days. Urgent remedial action needs to be taken in conjunction with the Area's criminal justice partners, although the Area believes the trend is now being reversed.

Implementation of the recommendations

Recommendation 1 - The AMT take action to improve the case management systems in the Criminal Justice Units, so that all trials are reviewed within a reasonable time after being listed for trial. They should then be subject to a pre-trial check a short period before the trial, to ensure that the prosecution is trial-ready.

18. **Achieved.** We inspected the Area in June 2004, and published our report in November 2004. This coincided with the appointment of CPOs in the CJUs at Brighton, Chichester and Eastbourne. At the time of our follow-up visit the Area was about to appoint a CPO for Crawley and create an additional post at Eastbourne. This will ensure that there are CPS CPOs for each of the magistrates' courts in the county.
19. The CPOs have undoubtedly made a significant difference to the quality of trial preparation. They have developed a spreadsheet to help them monitor the progress of summary trial preparation, and each carries out a pre-trial check three weeks before the hearing date. This alerts them to any outstanding work, which they either carry out themselves or draw to the attention of the relevant prosecutor.
20. Lawyers are required to endorse an internal form to indicate whether the case is trial ready, following which the CPO sends the court the formal certificate of readiness. We examined ten magistrates' court files where there had been contested hearings. In each case there was evidence of a pre-trial check and compliance with the certificate of readiness scheme.
21. In nine of the ten cases there was compliance with courts' directions as to when certain tasks should be carried out. In one case primary disclosure had not been carried out in accordance with the courts' directions, but nevertheless complied with the statutory time guidelines.
22. Perversely the improvement in summary trial preparation has resulted in the Area having a high vacated trial rate. This follows from the court's practice of only listing one effective trial per courtroom, although a number of potential trials may have been adjourned to that date. The other trial ready cases will be vacated and adjourned to another date. The decision about which cases to vacate is made in accordance with priority guidelines. We understand that HM Court Service is now reviewing this approach and may go back to listing more than one trial ready case per courtroom.

23. The CPOs have developed their own practices and procedures as their role has developed. We consider that the Area would benefit from these being set out formally, to assist in particular new members of staff who do not presently have any written form of reference.

Recommendation 2 - Trial Unit Heads review the case management systems in their respective units, so that the progress of outstanding work - in particular court orders - is monitored, and the work done to avoid unnecessary interlocutory hearings.

24. **Achieved.** Following our inspection the Area undertook a full review of its case management systems in its Trial Units (TUs). Whilst there are no CPOs in the TUs, our file examination showed that caseworkers worked closely with the HM Court Service CPOs to progress cases.
25. Caseworkers use a diary system to record the directions made at the case management hearings. This assists in monitoring compliance with court orders.
26. We examined six Crown Court cases, five of which were set down for a contested hearing. In each case there was a clear record of the orders made at the case management hearing. Compliance with the orders was timely in four of the five cases. In the one case there was a delay in supplying the defence with certain documentary evidence relating to mobile telephone records. We were, however, satisfied that the CPS had done all it could to progress the matter.

Recommendation 3 - The AMT ensures that adverse case reports are completed for all relevant cases, and that they provide an accurate and objective judgement on the cause of the failure.

27. **Achieved.** In our inspection report we identified concerns about the objectivity of the analysis of some adverse case reports. In particular we found that the analysis was not identifying where issues surrounding the attendance of victims and witnesses at court should have been identified at an earlier stage, with appropriate remedial action being taken.
28. As part of our follow-up visit we examined the Area systems for identifying adverse cases, and also looked at the quality of the analysis. We were satisfied that the relevant cases were being identified and an analysis undertaken on each.
29. The analyses were of a good quality and identified where more could have been done by either the CPS or the police to avoid the outcome. The findings from these analyses are now shared with the police in prosecution team performance meetings.

Recommendation 4 - The AMT should build on its internal assessment on performance under the DCV scheme to identify and address barriers to:

- **the correct identification of cases that require a DCV letter;**
 - **the timely provision of DCV letters; and**
 - **the production of high quality DCV letters.**
30. **Limited progress.** Whilst the Area is taking positive steps to address this recommendation, our findings indicate that there is still some way to go before it is achieved.
31. The quality of the internal assessment of performance has been maintained, and performance data is provided to unit managers and discussed at AMT meetings.
32. At the time of our follow-up visit the Area was in the process of recruiting five Witness Care Officers to be employed in the Witness Care Unit. They were considering allocating them responsibility for the tasks required under the DCV scheme.
33. We looked at ten cases on the Area's case management system (CMS) in which there would have been an identifiable victim, and where a letter was required to be sent to them. In eight of the ten cases, CMS was flagged appropriately to indicate that there was an identifiable victim. We found evidence of a letter being sent in six of the eight cases. Overall, therefore, the scheme was complied with in 60% of cases.
34. We also looked at a sample of magistrates' courts and Crown Court files whilst on-site. The case outcomes suggested that a letter was not required under the scheme in any of the 17 files examined. However, on examination it was clear that in two cases there was a need to send a letter, but this had not been picked up. In one case an offence of domestic violence had been withdrawn, although the defendant pleaded guilty to other unrelated matters. In the other case, also involving an allegation of violence, proceedings were stayed in the Crown Court following a successful abuse of process argument. Whilst technically, because of the outcome, this case did not fall within the ambit of the scheme, nevertheless the victim of the assault was not made aware of why the case did not proceed.
35. CPS Headquarters has recently produced proxy targets for Area's which indicate how many letters should be sent out each month. The CPS Sussex data, based on an analysis at national level indicates that only 47% of cases are being captured.

36. There is a significant variation in performance across the units. Performance at the Chichester and Crawley units is good, but there was significant delay in sending out letters from the Brighton Criminal Justice Unit. Data produced by this unit showed that of nine letters sent out in March 2005; only two were timely, with an average delay of 23.3 days. We also have concerns about the very low number of cases in which a letter was sent, relevant to the unit's workload.
37. The quality of the letters could still be improved. Some contained a number of grammatical errors and appeared to have been hastily written. Others appeared formulaic in their recitation of the duties of the CPS.

Recommendation 5 - The AMT should discuss with the police a joint review of processes in the co-located units so that the further benefits from co-location can be realised.

38. **Substantial progress.** The Area has collaborated with the Police, and conducted a thorough and detailed review of the co-location arrangements within both the CJUs and the TUs.
39. A report has been produced which makes 11 recommendations concerning improved integrated working, better logistical arrangements, common use of archival facilities and simplification of inter-agency procedures.
40. The recommendations were considered by the AMT in September 2005 and fully endorsed. The proposals were shared with the Area's Whitley Council who were supportive of the proposals, having been assured of job content quality for those roles affected. The Area is now formally engaging with the police with a view to implementing the proposals.
41. The report also highlighted two issues for consideration which were also accepted by the AMT but will not be progressed initially as there is further work to be done to ensure cost effectiveness.

Aspects for improvement

42. Overall the Area has achieved the majority of the AFIs set out in our report. Complaint logs are now detailed and set out clearly the chronology of correspondence. The responses were well written and identified where CPS performance could have been better. The proportion of committals discharged because the prosecution is not ready is improving, although some aspects of case management could be strengthened.
43. The quality of instructions to counsel still needs to be improved and we did not consider that this aspect of performance had been progressed. The Area does not use CMS to monitor custody limits, and there was still a lack of clarity about the local monitoring procedures.
44. We comment on the progress made against each of the AFIs at Annex 1.

Strengths

45. The Area has maintained the quality of its application of the Code tests at initial review and when deciding whether a case should be discontinued. The Code tests were applied correctly in each of the cases in our file sample. The Reward and Recognition scheme is still operated, and the high standard of Area newsletter has continued.
46. Engagement with local minority ethnic communities has been maintained wherever possible, although the change in the composition of some of the groups has hindered this aspect of the Area's work.
47. PYO performance declined significantly throughout the latter part of 2004-05 and continued into 2005-06. In the rolling quarter to July 2005, performance had declined to 98 days, against the national target of 71 days. The Area had identified a number of factors which had contributed to this, including an increase in Crown Court cases involving PYOs, more cases being adjourned to tie-in with other proceedings and the impact of deferred sentences.
48. An action plan has been drawn up to address some of these issues, although it had not been signed off with the Area's partner agencies at the time of our follow-up visit. It is imperative that urgent remedial action is carried out with the Area's criminal justice partners, as on current performance Sussex is the worst performing criminal justice area in this respect, although the Area believes the trend is now being reversed.

Conclusion

49. The Area has made significant progress since our inspection. There has been substantial improvement in almost all aspects of summary trial and Crown Court case preparation. Whilst it was disappointing to find that there were still issues to address in respect of the operation of the DCV scheme and the CTL system, overall the Area had addressed effectively the recommendations and AFIs made in the inspection report.
50. We found that there was a continuing commitment on the part of senior managers to improve performance further, and a good approach to performance management. This should put CPS Sussex in a strong position to deliver its major initiatives, namely the roll-out of statutory charging and increasing its Higher Court Advocate's presence in the Crown Court.

**CPS SUSSEX
PROGRESS AGAINST ASPECTS FOR IMPROVEMENT**

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
4.21	The contents of instructions to counsel, particularly in relation to case analysis and acceptability of pleas.	Not progressed. We looked at seven Crown Court files during our follow-up visit and found that the quality of instructions to counsel was poor in three. Whilst the salient facts were referred to in the other four, only one contained an analysis of quality, which indicated that the reviewing lawyer had grasped the issues. This is in contrast to the full file reviews on CMS which were detailed and highlighted evidential deficiencies. This indicates that the continuing poor performance may be connected more with the Area's processes, as opposed to indicating a lack of care and attention.
4.21	The phasing of witnesses in appropriate cases.	Achieved. We found that witness phasing had taken place in appropriate cases. There was evidence that caseworkers liaised with the Crown Court case progression officers when necessary.
4.24	The reduction in the number of discharged committals.	Achieved. At the time of our inspection just under 6% of cases listed for committal were being discharged because the prosecution was not ready. In 2003-04 this amounted to 73 cases. In 2004-05 the number of discharged committals had dropped to 24, which equated to 0.3% of the Area's case outcomes, and equal to the national average. The Area had maintained its monitoring of these cases and the timeliness of its notification to the police about whether the case should be reinstated. There is a need however to improve the monitoring in those cases where the advice is to reinstate, to ensure that this is done in a timely manner.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
6.3	The standard of victim and witness care in the Crown Court.	Achieved. Following our inspection, instructions were given to caseworkers on the level of witness care required, and the need for counsel to speak with witnesses was reinforced. The Area also sought feedback from the Witness Service to see if they had any concerns. Feedback from the Witness Service has been positive, indicating an improved level of care.
8.34	A review should be carried out of the policy for transportation of files to court to ensure all health and safety considerations have been addressed.	Substantial progress. File handling within units was reviewed as part of a major review of processes within the co-located units. That review made recommendations which would address the particular concerns for staff prosecuting courts in Brighton and Hastings. These recommendations were considered in September 2005, and therefore at the time of our follow-up had not been implemented fully.
11.3	The systematic evaluation of change initiatives	Substantial progress. The Area has improved its evaluation of change initiatives in 2005-06, and has undertaken reviews of the Effective Trial Management Programme, the No Witness No Justice initiative and progress on rolling out statutory charging. There was, however, a need to consider the strategic management of the roll-out of statutory charging.
12.2	The Area should review the operation of its complaints logging to ensure copies of all complaints are held in the log and that all useful information is captured.	Achieved. We looked at a sample of complaints and the level of detail endorsed in the logs. We found that they set out fully the chronology of the complaint and any actions required to ensure full responses were given. The level of detail given in the replies to the complainants was good.

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT OCTOBER 2005
12.4	The Area should provide an appropriate level of liaison with Area Child Protection Committees.	Limited progress. Significant structural changes are about to take place with the replacement of Area Child Protection Committees with Safeguarding Children Boards. The Area is waiting to make contact with the newly constituted Boards. The Area Champion attended a consultation exercise in October 2004.
13.1	Staff awareness of an Area perspective.	Achieved. The Area has undertaken a number of initiatives, including the creation of a legal forum for lawyers to discuss legal issues, the holding of staff lunches by the Chief Crown Prosecutor and a greater involvement of staff in the activities of the Sussex Criminal Justice Board. All these have helped increase staff awareness of the Area perspective.

