

The Public Prosecution Service for Northern Ireland

A follow-up inspection of the 2007 baseline
inspection report recommendations

June 2009





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2007 baseline inspection report
recommendations**

Conducted by Her Majesty's Inspectorate
of the Crown Prosecution Service under
the delegated statutory authority of the
Chief Inspector of Criminal Justice in
Northern Ireland

June 2009

*HMcp*si**
HM Crown Prosecution Service Inspectorate

Criminal Justice Inspection
Northern Ireland
a better justice system for all

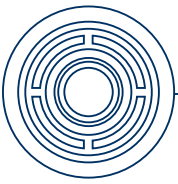




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List of abbreviations

AD	Assistant Director
ADF	Assistant Directors Forum
AG	Attorney General
BMF	Business Managers Forum (within the PPS)
Causeway DSM 1	Causeway Data Sharing Mechanism 1 (criminal justice system IT system)
CJB	Criminal Justice Board
CJI	Criminal Justice Inspection Northern Ireland
CJIG	Criminal Justice Issues Group
CJR	Criminal Justice Review
CJS	Criminal Justice System
CLT	Community Liaison Team (within the PPS)
CM	Capacity Model
CMS	Case Management System
CPS	Crown Prosecution Service (in England and Wales)
DAT	Delay Action Team
DCU	District Command Unit (in police)
DFP	Department of Finance and Personnel
DMG	Devolution Monitoring Group
DPP	The Director of Public Prosecution
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
KPI	Key Performance Indicator
ODPP	Office of the Director of Public Prosecution
MB	Management Board (within the PPS)
NIA	Northern Ireland Assembly
NiCHE	NiCHE Records Management System (in police)
NICS	Northern Ireland Civil Service
NICtS	Northern Ireland Court Service
NIO	Northern Ireland Office
NMD	Non-Ministerial Government Department
PE	Preliminary Enquiry
PP	Public Prosecutor
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
QA	Quality Assurance
RAD	Regional Assistant Director
RFI	Request for Further Information
RoI	Republic of Ireland
RP	Regional Prosecutor
SAD	Senior Assistant Director (within the PPS)
SCF	Staff Communications Forum
SMG	Senior Management Group (within the PPS)
SPP	Senior Public Prosecutor
The Code	The Public Prosecution Service Code for Public Prosecutors
VSNI	Victim Support Northern Ireland



Chief Inspectors' Foreword

The Public Prosecution Service (PPS) was formally established in June 2005. A baseline inspection of the PPS was undertaken in 2007 by Criminal Justice Inspection Northern Ireland and Her Majesty's Crown Prosecution Service Inspectorate. The inspection report made 17 recommendations and raised a series of issues designed to assist with the overall performance of the organisation. At the time of the inspection, the PPS was still a comparatively new organisation that had yet to be fully rolled out across Northern Ireland.

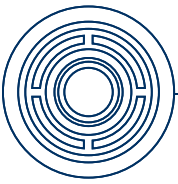
This report sets out the findings from a follow-up inspection conducted in January 2009. Its purpose was to establish the progress made against the recommendations and issues raised in the original inspection.

The PPS sits at the heart of the criminal justice system. A key role for the organisation in the future must be to influence change and contribute to the modernisation of the justice system. This is not only to ensure that it is able to operate effectively itself, but also to be a catalyst for improvement in the overall quality and timeliness of the service the justice system provides to the public. The process of moving towards devolution has also raised expectation in terms of greater transparency and accountability in how the criminal justice system in Northern Ireland works.

In general, most progress in implementing the recommendations of the baseline inspection had been made in those areas related directly to the core work of the PPS. For example, substantial progress has been made in relation to the quality of instructions given to counsel, the development of PPS policy on domestic violence, and on matters relating to the training and development of staff on the issue of disclosure. Core prosecutorial decision making remains sound.

There was scope, however, for considerably more progress in relation to the implementation of the recommendations relating to the management challenges facing the PPS. Of the seven major recommendations made in the 2007 baseline inspection, which relate to the management of the organisation, there was only one in which substantial progress had been made – that a decision should be taken on the PPS as a department in its own right with responsibility for its own budget. Only some progress has been made in relation to the development of case management, effective organisational structures and improved performance management.

In addition, further progress is required in relation to how the PPS communicates its reasons for directing no prosecution to victims or their representatives. While some progress has been achieved, there remains resistance from prosecutors to providing more



detailed reasons for decisions. This will need to be overcome by the direction and commitment of senior managers. There also remains challenges to be addressed in delivering a consistently high level of service to victims and witnesses across Northern Ireland.

The PPS is now a more mature organisation than at the time of the 2007 baseline inspection. Much good work has been done and significant further progress is achievable in the next year. It is still, however, an organisation in transition. There needs to be a continued focus on governance and management issues as well as in relation to the external dimensions of the organisation's work.

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Criminal Justice Inspection
Northern Ireland
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Section



Follow-up Inspection

Introduction and background

Introduction

The Public Prosecution Service (PPS) was formally established in June 2005, although work had been underway on developing the organisation since 2002 when the Justice (Northern Ireland) Act 2002 ratified the recommendations of the Criminal Justice Review.

A full inspection of the PPS was conducted in February and March 2007 to establish a baseline against which future developments could be judged. At the time of the inspection, the PPS was still a comparatively new organisation and had yet to be fully rolled out across Northern Ireland. It was also the first time the organisation had been subject to a comprehensive operational inspection.

This report sets out the findings from the follow-up inspection carried out by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) on behalf of Criminal Justice Inspection Northern Ireland (CJI) in January 2009, pursuant to a delegation under the 2002 Act. Its primary purpose was to establish the progress made against the recommendations and issues to address raised in the original inspection in 2007.

Context

Since the time of the baseline inspection, the PPS has been fully rolled out and handles all prosecutions from the Police Service of Northern Ireland (PSNI) and

other investigative bodies across Northern Ireland. A new office was opened in Omagh in late 2007, bringing to an end the difficulties faced by having administrative functions (in Belfast) separated from the legal team (in Omagh). It had been intended to open a new office in L'derry/Derry in 2008, but last minute issues with the premises caused a delay until the summer of 2009. When compounded with the closure of temporary premises in Coleraine, this has had a significant impact on staff in the Northern Region in recent months. Plans for an office in Newry have yet to come to fruition.

The senior managers of the PPS have spent much time and energy preparing for the devolution of criminal justice to the Northern Ireland Assembly (NIA). The PPS position in the devolved arrangements has recently become clearer.

The PPS is likely to become a Non-Ministerial Government Department (NMD), which is consistent with its status as an independent body in the exercise of its functions. This change will affect the governance of the organisation as it becomes responsible and accountable for financial and administrative matters. Many of these functions are currently undertaken on its behalf by the Northern Ireland Office (NIO) and new skills, systems and processes will be required to enable the PPS to assume these responsibilities.



Ensuring the senior structure of the organisation is right in readiness for, and post devolution, remains a major challenge for the organisation.

The process of moving towards devolution has also raised expectations in terms of greater transparency and accountability in how the criminal justice system in Northern Ireland works. Interest in how criminal cases are investigated, prosecuted and disposed of has increased among the public and the media. Examples include criticism of the PPS handling of high profile 'Troubles' related cases, and concerns about the need for better working relationships between the PPS and PSNI.

This changing environment has also strengthened the expectation that prosecutors will provide fuller explanations for their decisions – particularly when the result is no prosecution. The 2007 inspection report contained a recommendation to this effect. Moving in that direction would complement work being undertaken between the police and communities which have, in the past, been estranged for historical reasons. While some progress is being made, the PPS needs to move forward quickly to address this issue and to ensure that it has, and can maintain, the confidence of all the citizens of Northern Ireland.

The PPS also needs greater external support. The report published in 2007 highlighted several aspects of the wider criminal justice system, which caused administrative difficulty for the PPS, and other agencies, which we reported needed further attention to determine whether they were still necessary. Matters identified included; the need to connect a defendant to a charge; the requirement for

a summons to be signed by a magistrate (now known as a District Judge); the limited use of postal summonses; and the requirement for the police personally to serve committal papers on the defendant and the court. There are potential cost and time savings to be had if these procedures are amended or stopped altogether.

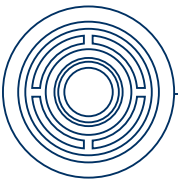
Such changes to its operating environment are not within the gift of the PPS and it can only seek to influence them. There has been little progress in addressing these issues so far, although the Criminal Justice Issues Group (CJIG) and the Delay Action Team (DAT) include senior representatives of the PPS, who will wish to make our disappointment known.

One of the key contributors to improvement and efficiency during 2008-09 should have been the implementation of the latest version of the criminal justice IT system (Causeway DSM1) and the related new version of the PPS case management system (CMS). Unfortunately, the project proved more complex than first envisaged and the roll-out was delayed from autumn 2008 to 2009. It is intended that the new system will deliver a number of efficiencies across the criminal justice agencies, including for the PPS.

We would have expected better progress against some recommendations and issues to address identified in the 2007 inspection had the new systems been implemented on schedule.

Overall there is scope for considerable improvement in the efficiency of the criminal justice system in Northern Ireland. This includes a review of the legal aid system to remove incentives to adjourn cases; joint work between the PPS and





police to improve the quality of police files; and ending the practice of requiring multiple court appearances before the PPS have even received the relevant file from the police.

The PPS sits at the heart of the criminal justice system. A key role for the organisation in the future must be to influence change and contribute to its modernisation, to ensure not only that it is able to operate efficiently itself, but also to be a catalyst for improvement in the overall quality and timeliness of the service the criminal justice system provides to the public.

Key Facts

In the year of the baseline inspection in 2007, the PPS received 38,091 files from investigating agencies. In 2008, they received 54,557 files across the regions and a further 2,013 files in central divisions. These figures are slightly lower (3.8%) than predicted by the Capacity Model (CM), (which, when the PPS was set up, predicted caseload and attendant staffing levels), but nevertheless represent a significant increase in workload.

During the same period, staffing levels have increased from 550 to 569, although this is below the levels forecasted by the CM (609).

In early 2008-09, the PPS had envisaged that it was likely to have severe pressures on its budget, mainly due to the level of expenditure on counsel fees and therefore placed a cap on recruitment of administrative staff.

Whilst the PPS has maintained a full complement of prosecutors, they are currently operating with approximately 40 administrative staff less than planned.

Progress against recommendations

The primary focus of this inspection was to assess progress against the recommendations and issues to address identified in the original inspection in 2007. To that end, the Action Plan developed by the PPS in response to the report was used as the framework for the follow-up inspection work.

We have utilised four categories to describe the level of progress made against each recommendation and issue to address:

Achieved: There is strong evidence to show that the necessary actions to achieve the recommendation/issue to address have been taken and the desired improvement in performance has been made or should be made within a reasonable timescale.

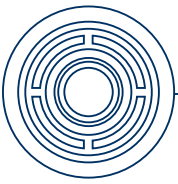
Substantial Progress: There is strong evidence to show that key actions to achieve the recommendation/issue to address have been taken, and there has been substantial improvement in performance. Work still needs to be undertaken to ensure full compliance, some of which may be planned but not yet

implemented. Allowances have been made for recent activity where Inspectors can be confident that timely improvements will follow.

Some progress: There is some evidence to show that aspects of the recommendation/issue to address have been taken forward, but there is limited improvement in performance so far. Further remedial action is required. There is insufficient evidence to show that recent or planned actions will be effective in delivering further improvements within a reasonable timescale.

No progress: There is little or no evidence to show that the recommendation/issue to address has been taken forward. Any action taken has not been fully effective.

Where a recommendation has a number of factors that need to be addressed, we have showed progress (*in italics*) against each bullet point and then given an overall assessment at the end of the relevant recommendation.



Recommendation 1

The PPS should become a department in its own right, responsible for its own budget and recruitment.

Status: Substantial progress

A significant amount of effort has been made in advancing this recommendation and progress has been made, particularly in recent months. It is now likely that the PPS will become a Non-Ministerial Department (NMD) when responsibility for criminal justice is devolved to the Northern Ireland Assembly (NIA), and such a change will make the organisation more accountable, particularly for financial matters.

A PPS devolution monitoring group has been established and meets regularly to monitor and progress outstanding issues, although it is accepted that the PPS does not have full control of its own destiny in progressing some matters. Managers were confident that the PPS would be able to meet the 12-week timetable for implementing the necessary changes once the date of devolution is agreed. There is still some uncertainty as to the detail, (especially in formalising the relationships between the Director of Public Prosecutions (DPP), the NIA and the Attorney General for England, Wales and Northern Ireland) and an early

resolution to these outstanding issues would be beneficial.

Uncertainties remain in some areas which present a potential risk to the organisation, in particular, uncertainty over IT systems for finance, and reliance on a very small group of staff with financial expertise. Some steps have been taken to mitigate these issues including training for senior managers on handling delegated budgets. The PPS remains heavily reliant on the Northern Ireland Office (NIO) for recruitment and, post devolution, will continue to participate in a 'shared services' arrangement utilising the *HR Connect* system for human resource issues.

There is a strong desire among managers that the PPS should remain part of the Northern Ireland Civil Service (NICS) as this affords staff a number of benefits. This also causes some challenges, and issues over recruitment raised at the time of the 2007 baseline inspection are still a concern. In particular, the use of civil service waiting lists to fill posts can lead to the appointment of staff with less relevant experience than potential internal candidates.



Recommendation 2

Directing lawyers should, save in exceptional circumstances set out clearly to the victim or personal representative, their reasoning for directing no prosecution or withdrawing proceedings.

Status: Some progress

In response to this recommendation the DPP has reiterated the policy set out in the Code for Public Prosecutors, (the Code) namely that the reasons for directing that there shall be no prosecution are only given in general terms, but may be given, on request, in more detail.

The PPS also initiated a pilot in the southern part of the Western and Southern Region in which a more detailed explanation is given, in the circumstances set out in the recommendation.

An interim evaluation of the scheme has taken place which has included feedback from victims and from Victim Support Northern Ireland (VSNI). The evaluation found that the letters, which were often drafted from standard paragraphs, were confusing for victims, and needed to be revised. Victims' understanding of the reasons behind the decision would also be helped by the use of more 'non standard' explanations.

The pilot is expected to continue until June 2009. It was not clear how the final evaluation is to be conducted, although it is likely that feedback from VSNI, staff and from the outcome of a review of the giving of reasons in the Republic of Ireland (RoI), will inform the decision.

There has remained some resistance from prosecutors to providing more detailed reasons for decisions. There is growing public interest in the work of the PPS, and it is important that the organisation meets expectations in terms of openness and transparency. Further progress is required and clearer direction and support from senior managers is essential in driving any change of approach forward.

Recommendation 3

Directing lawyers should explain fully their reasoning to the agency in cases where they direct no prosecution, or where their decision is different from that recommended by the investigator.

Status: Some progress

A Departmental Instruction was issued in early 2008 clarifying the need to give a detailed explanation when the prosecutor's direction differed from the recommendation of the police or relevant investigative body. However, it did not set out explicitly that a detailed explanation should be clear on the file in all cases where the decision was that there should be no prosecution.

A detailed explanation will be necessary where the investigator gives no reason for their recommendation that there should be no prosecution or, the prosecutor agrees with the recommendation but for different reasons.



A detailed explanation however may not be necessary where the investigating agency sets out clearly why it believes there should be no prosecution, and the prosecutor agrees with that reasoning. The findings from our file examination indicate that there is still some way to go before this recommendation is met fully.

We found that, in cases where the direction was that there should be no prosecution, an adequate explanation was given to the police in only eight of the 14 cases (57.1%) examined. Although based on a much smaller sample (which may reduce the significance of the apparent downturn in performance), this compared with 76.1% at the time of our full inspection in 2007.

The variable quality of the explanation was confirmed by PSNI representatives, who indicated that whilst some decisions were explained fully, others stated merely that the case did not pass either the evidential or public interest test of the Code.

Towards the end of 2008, the PPS sent questionnaires to police District Commanders asking for their views on the quality of the explanations provided. Responses seen as part of this follow-up inspection confirm the variable quality. The PPS had planned to evaluate all responses in December 2008, but there has been some slippage. The organisation will want to complete this exercise as soon as possible.

Prosecutors said that they would often speak with the officer in charge of the case, to discuss the issues and explain their reasoning. This is a sound approach but we found no record of these conversations endorsed on either the paper file, or the case management system (CMS).

Recommendation 4

The Management Board should:

- **review the case management processes and administrative support systems to reduce delays, improve efficiency and eliminate duplication (from receipt of the file to allocation, decision-making and issuing of the decision) (some progress); and**
- **monitor jointly with investigating agencies the use of the Request for Further Information (RFI) system and collate data to drive up performance in relation to timeliness (some progress).**

Status: Overall some progress

There has been some review of processes and administrative systems and this has led to some improvements in efficiency. This is also covered in recommendation 15. It was envisaged that a number of process improvements would be achieved following the implementation of the next version of the joint criminal justice IT system (Causeway DSM1) and the associated revision of the PPS CMS. Unfortunately, at the time this review was carried out, this had been delayed and the latest projected date for implementation was sometime after April 2009. Among the benefits expected are:

- efficiency gains due to the automation of some current processes;
- a reduction in tasks for PPS administrative staff,
- offering redeployment opportunities;
- improvements in the timeliness of some processes; and
- more accurately recorded information following reductions in the need for each agency to key in the same data.



There remain some inefficient processes across the criminal justice agencies that need to be tackled. For example, many cases are subject to multiple court hearings, leading to duplication of effort and additional costs as the cases 'churn' within the system.

There have been two more fundamental changes to systems with a view to speeding up criminal justice in Northern Ireland. A pilot has been conducted in the Northern Region to fast-track some straight forward cases suitable for summary trial. The system has been in place for some time and is due to be formally assessed later in 2009. An interim review showed mixed findings and work is ongoing to try to improve understanding and compliance with the scheme.

An immediate cautioning scheme has been implemented across the regions. There has been some variance in uptake, but there have been some good examples of its use, such as at large events and festivals, where a number of cautions have been able to be administered quickly.

Timeliness as measured in the PPS Key Performance Indicators (KPIs) has gradually improved and targets have generally been met. For example, the target for summary cases is that the PPS should make a decision within 20 days of receiving the file in at least 60% of cases.

At the end of December, the year-to-date performance was 74.4% across the regions compared to 62.2% in 2007-08. Results for other categories of cases show similar levels of improvement. Although starting from a low baseline, performance has nevertheless improved significantly.

Recent data suggests that the level of cases awaiting a decision has increased significantly which may have an impact on the future timeliness.

The Request for Further Information (RFI) scheme¹ continues to cause some concern. In some regions, approximately 80% of indictable cases are subject to a RFI and overall, 18% of cases are subject to this process. This is a drain on PPS and police resources. The volume also impacts on timeliness of responses.

A review conducted by the PPS internal quality assurance team indicated that the vast majority of RFIs are necessary. Some police staff accept that police file quality can be improved, and that the result would be a reduction in RFIs. A joint approach is needed by the police and PPS to improve the quality of information provided.

There is limited evidence of any effective analysis of the RFIs to identify shortcomings in the files provided. We understand that the DPP has established a joint working party involving the PPS and the PSNI to look at this issue. Similarly, the level of information provided to the police when the PPS direct a different decision to that recommended by the police, is too inconsistent to facilitate timely improvement of investigation and subsequent file quality.

¹ A RFI form is completed by prosecutors to request additional information or a full file from the police.





Recommendation 5

The Management Board should take action to improve the quality of instructions to counsel by ensuring prosecutors:

- **include an accurate summary of the case (*substantial progress*);**
- **identify and address the issues (including outstanding matters) (*substantial progress*);**
- **where applicable, address the acceptability of pleas (*a considered decision not to progress*); and**
- **summarise for counsel the steps already taken in relation to disclosure and identify any disclosure issues remaining to be addressed (*some progress*).**

Status: Overall substantial progress

In each of the cases in our file sample, the directing officer's instructions to the police, which are provided to counsel, set out the issues that needed to be addressed and the actions required to be taken. Where applicable they also flagged any outstanding issues in relation to disclosure. However, some would have benefited from more analysis of the strengths and weaknesses of the prosecution case.

Instructions to counsel do not address the acceptability of pleas, but the safeguards in place ensure that a senior prosecutor is consulted on their acceptability.

Recommendation 6:

The Management Board should ensure compliance with the PPS policy on domestic violence in all relevant cases.

Status: Substantial progress

There is now a much greater awareness by prosecutors of the requirements of the PPS policy on domestic violence. This includes the factors to be considered when the victim indicates that they no longer wish to give evidence. Where practicable, the prosecutor will ask for the case to be adjourned to enable the police to make the necessary enquiries of the victim. We also noted that in some cases the police, when submitting the file, were now providing the prosecutor with a report on any previously reported incidents of domestic violence.

In all but one of the cases examined which involved an allegation of domestic violence, the decision not to prosecute, prosecute, or withdraw the proceedings after an initial decision to prosecute, was correct.

There are some aspects of the policy that still need to be addressed before this recommendation is fully achieved. These include greater consistency in the use of witness summons to require the victim to attend court and give evidence, and better recording of the prosecutor's decision making.

The PPS has undertaken its own review of the application of its domestic violence policy. The review was robust and identified a number of issues where further improvement was needed. The findings of the review accorded in a number of respects with the findings of this follow-up inspection. The review also recommended

the introduction of PPS domestic violence champions in each region. This is a positive step. Where champions have been appointed for other aspects of casework, for example disclosure and youth work, Inspectors found that they added value, improving the provision of training and consistency of decision-making.

Recommendation 7

The Management Board should ensure that all prosecutors:

- **are trained appropriately in the disclosure provisions (*achieved*);**
- **endorse fully and sign all schedules to indicate they have reviewed all sensitive and non-sensitive unused material (*some progress*);**
- **maintain a comprehensive record of disclosure decisions on the file (*substantial progress*);**
- **keep separately on the file, all disclosure material (*substantial progress*); and**
- **challenge inadequate defence statements (*some progress*).**

Status: *Overall substantial progress*

The PPS has undertaken an extensive training programme for prosecutors on the disclosure of unused material. They have also addressed disclosure issues that have been raised by prosecutors during the course of this training, and provided further guidance. Further training on the changes to the content of defence statements is planned. Disclosure champions have also been appointed in each region. They have met regularly during the planning and implementation of training and have contributed significantly to its delivery.

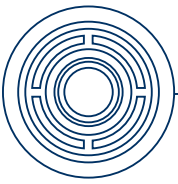
We would encourage the PPS to retain this forum so that specific issues can be raised and discussed. This should assist in developing a consistent approach across the regions.

The legislation governing the disclosure of unused material in Northern Ireland is materially the same as that in England and Wales. However, the environment in which PPS prosecutors work is more challenging than that of their Crown Prosecution Service (CPS) counterparts. There appears less willingness on the part of defence representatives to accept the prosecution's assertions that they have complied with the duty of disclosure.

This leads to a number of applications by the defence to the court to order disclosure. In one case in our file sample, an application was made before the defence had served their defence statement which would have triggered a further consideration by the prosecution of their duty of disclosure. It is to the credit of the PPS that, working in this environment, they have made substantial progress.

The requirement to disclose to the defence undermining or assisting material was met in each of the cases examined, although the timeliness of secondary disclosure could be improved further.

Sensitive and non-sensitive unused material schedules are reviewed and endorsed in Crown Court cases. However in magistrates' court cases, the schedules are provided electronically by the police and not printed. They are therefore not signed, but the prosecutor's decision is set out in the letter to the defendant informing them of the decision to prosecute. [Some of the material listed on the sensitive schedules should, suitably redacted, appear on the



non-sensitive schedules, in particular what is known as the NiCHE serial, which is a police document that contains personal details of victims and witnesses.]

Disclosure record sheets should now be used in all indictable cases although we found that the level of compliance with this requirement needs to be improved and, as a minimum, should be extended to contested magistrates' courts cases. Disclosure material is kept separately in Crown Court cases, although less so on magistrates' courts files.

There is a wide variance in the quality of defence statements received by the PPS, ranging from good to very poor. There is now more challenge by prosecutors of inadequate defence statements although this is more apparent in Crown Court cases.

A protocol sets out the procedure to be used when unused material is in the possession of a third party, for example Social Services files. The defence should be alerted to the existence of this material at the Preliminary Enquiry (PE) stage. However, this requirement is not always met, leading to delay at the Crown Court stage.

Recommendation 8

The Management Board should ensure that the effectiveness of Community Liaison Teams (CLTs) is improved, in particular that:

- **the roles and responsibilities of the CLTs are clarified, including their role in the handling of general telephone calls (*some progress*);**
- **CLT processes are set out clearly (*substantial progress*);**
- **all CLT staff are trained in all aspects of their role (*some progress*);**
- **standard form letters should be amended to ensure defendant queries are dealt with by the relevant casework team (*some progress*); and**
- **the provision of poor quality police witness information should be addressed through Criminal Justice Unit (CJU) liaison meetings (*no progress*).**

Status: Overall some progress

Whilst the commitment of Community Liaison Team (CLT) staff remains high, a number of the concerns raised at the time of the baseline inspection persist in some of the teams.

There is still a need for the quality of witness contact information provided by the police to be improved. The absence of relevant witness information is still a significant cause of unnecessary adjournments, and was highlighted as a source of frustration by the Northern Ireland Court Service (NICtS) and the judiciary.

Our file examination confirmed that this aspect of performance still needs to be improved substantially.

There is some evidence of discussion on this issue with police staff, but this has not yet resulted in consistent improvement. When combined with the fact that many witnesses do not confirm attendance, and the challenges in serving the required paperwork on individuals, CLT staff still spend a significant amount of time chasing matters up and duplicating effort. Staffing levels have fluctuated and some units have suffered from a high turnover of staff.

There has been some progress in producing desk top instructions and there is more clarity over key roles, although this varied from team to team. Some training on telephone techniques has been made available, although all staff have not yet been able to take advantage of it.

CLT staff continue to field a wide range of calls from the public which can cause some difficulties. The Newry team have done some good work to try to ensure calls are directed to the most appropriate people. Some standard letters to witnesses have also been amended to make them more easily understandable.

The proposed review of the operation of CLTs has been more limited than was suggested to Inspectors at the time of the baseline inspection. We recognise that work on policies, processes and documents has been undertaken as part of the remit of a wider Victim and Witness Working Group and includes a new facility for the PPS to refer victim details electronically to Victim Support Northern Ireland (VSNI).

A CLT review group was formed but has not met since spring 2008. A further meeting was scheduled for February 2009. Managers recognised that further development work is required to enable the CLTs to consistently deliver a high level of service to which staff aspire.

Recommendation 9

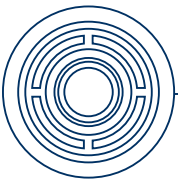
The Management Board should review management structures to ensure that:

- **there is an appropriate balance of legal and business management skills among senior managers (some progress);**
- **support is made available to Assistant Directors (ADs) to assist with management of people, processes, performance, finance and planning (some progress); and**
- **the work of the Business Managers' Forum (BMF) is reviewed to ensure that it becomes an effective group, focusing on the right issues (some progress).**

Status: Overall some progress

There has been little change in the management structure since the time of the 2007 baseline inspection. The Deputy Director of Public Prosecutions retired, and a new Deputy Director was appointed from existing staff in September 2008.

At the time of the follow-up inspection, an advertisement had only recently been placed for the ensuing vacant post and therefore, the management team has been one member under strength for some



time. The DPP will wish to work with *HR Connect* and the Civil Service Commissioners to ensure that succession planning minimises the risk of similar delays in the future. The view of most senior managers is that the current structure should remain in place in the short term, with a review being conducted post devolution.

Discussions have taken place about the possibility of appointing a Chief Executive Officer (CEO), although no firm decision has been taken on the way forward.

Whilst understanding that devolution is an important milestone, it should not be used as a reason to delay further a review of the management structure. This is particularly important as there is no certainty as to when devolution will occur and a number of management issues remain to be addressed. It is important this issue is progressed more urgently, particularly now that there is a firm understanding that the PPS will become a Non-Ministerial Government Department (NMD).

Training to improve management skills has been provided for current managers, but there is still a lack of expertise in non-legal matters. There is heavy reliance on a small number of individuals in the Corporate Services team which constitutes a risk to the PPS. The Board has recognised that more of managers' time is now devoted to non-legal matters and the Assistant Director (Corporate Services) is responsible for an increasing proportion of current business activity.

Consideration is being given to increasing the number of non-executive Board members to enhance financial expertise within PPS. It has been suggested via the Devolution Monitoring Group (DMG)

that the PPS governance structures should be benchmarked against another similar department. A proposal to compare with the Northern Ireland Audit Office does not appear to have progressed.

The PPS Management Board has recently self assessed its effectiveness. As a result, new sub-committee arrangements have been implemented to strengthen governance. Three new sub-committees have been formed with responsibility for:

- service delivery;
- quality and policy; and
- financial and corporate issues.

These are in addition to the existing Audit and Risk Committee.

Each sub-committee will be led by a Board member. The new arrangements are designed to increase the accountability of senior managers, particularly regional prosecutors, for organisational effectiveness.

Business managers have become the primary source of assistance to Regional Prosecutors (RP), particularly in financial matters, but there is still a need to develop business managers' all round management skills. Some training is underway through the *Pathway* and *Gateway* programmes.

The work of the Business Managers' Forum has become more focused and concentrates on more relevant issues than at the time of the baseline inspection. The group is now facilitated by the Business Improvement Team who carry out most of the administrative duties and follow-up work of the group. While the group is performing better than it was, further work is required to make it fully effective.



Recommendation 10

The PPS should review its regional operational structures to deliver:

- **a greater sense of case ownership (some progress);**
- **more efficient processing of cases with a reduction in duplication of work (some progress);**
- **a more flexible, multi-skilled work force in a less compartmentalised environment (substantial progress);**
- **an evaluation of the number and responsibilities of administrative managers to assure their deployment is optimised (no progress); and**
- **improved communication channels (some progress).**

Status: Overall some progress

There has been little in the way of structural changes within regional offices and work is still compartmentalised, particularly for administrative teams. This means that some of the inefficiencies and duplication identified in the baseline inspection are still occurring. There has, however, been a drive to train staff in the work of all teams to provide a more flexible workforce.

Inspectors found the number of staff trained and able to carry out a range of functions has increased considerably since the baseline inspection. This has undoubtedly led to some benefits and enabled staff to be deployed in a way that addresses, priorities and reduces backlogs. Some of the teams that were previously located in separate rooms now share space, enabling improvements in communication and an interchange of staff. However, there is still scope for business managers to manage the greater flexibility

available much more effectively.

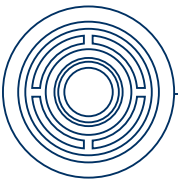
The PPS continues to have a high proportion of level C managers, reflecting the number of single function units. There has been no evaluation of either the number or the role although this has been affected to some extent by the delay in implementing Causeway DSM1.

It is the intention of the PPS to revisit the capacity model that drives staffing levels once the new system is in place, and the change and benefits that it has delivered is clearer. Whilst we accept that the IT system will have some impact, it is only one factor that might affect the administrative structures. The PPS should have been more proactive in reassessing its organisational structures to deliver effective and efficient administrative services.

As with the overall management structure referred to in recommendation 9, this matter has drifted and a more decisive approach is needed. Responsibility for organisational efficiency needs to be clear at a senior level.

Prosecutors across the PPS now undertake both casework decision making, and attend court – a change since the baseline inspection. This has led to a slight increase in case ownership as, in some cases, prosecutors are presenting cases on which they made the original decision. However, in some teams, prosecutors still tend to consider themselves primarily aligned to either the decision-making or court work team.

Some positive work in utilising champions to prosecute youth cases has delivered benefits in terms of timeliness and greater consistency.



Recommendation 11

The Management Board should:

- **take urgent steps to increase the use of PPS prosecutors in the magistrates' courts, and reduce reliance on counsel (*achieved*); and**
- **keep the policy of deploying administrative staff to court under ongoing review (*substantial progress*).**

Status: Overall achieved

Significant efforts have been made to increase the deployment of in-house prosecutors in the magistrates' courts. Whilst there has been variation in the speed of increased deployment, all regions have made progress, particularly in recent months.

This has contributed to considerable savings in counsel fees and reduced the administration involved in paying them. It is also positive in terms of staff development. Increased deployment of in-house staff has reduced the number of courts for which counsel are used, and there has been some sensible targeting of the types of cases for which counsel are now employed.

The size of some court lists still means that several PPS staff, (both prosecutors and administrators), attend a single court on occasion, simply to keep track of the volume of cases involved. Nevertheless, there is still some variance between regions in the approach to staff deployment, partly driven by the level of staff available. Examples were observed of two prosecutors and two administrative staff at court to handle lists of approximately 80 cases, whereas in another region, this would be done by a single prosecutor without administrative support.

Following implementation of Causeway DSM1, there will be automatic updating of hearing outcomes from the court system and this could reduce the need to deploy administrative staff to court.

The PPS will want to assure itself as to the timeliness and accuracy of court produced information before decisions are made to change deployment policies.

Recommendation 12

The Management Board should ensure that:

- **they regularly receive details of staff breakdown by community background, gender and other relevant equality categories (*no progress*); and**
- **all managers lead by example and take steps to reinforce the principles of equality throughout the organisation (*some progress*).**

Status: Overall some progress

The Justice (Northern Ireland) Act 2002 designated the PPS under section 75 (of the Northern Ireland Act 1998) in terms of employment, but not in respect of its functions relating to the prosecution of offences.

At the time of the baseline inspection, Inspectors were told by senior management that they were unaware of the make-up of their workforce because that information was collected and reported to the Equality Commission for Northern Ireland as part of the overall returns of the NIO. Inspectors requested and obtained figures related to the community background and gender profile



of the staff which were published in the 2007 baseline inspection report, and subsequently in the PPS Annual Report.

The situation in relation to the availability and breakdown of equality data has not changed in the intervening period. The Management Board does not have ready access to any data related to the designated groups.

The appointment of an Equality and Diversity Officer as well as the establishment of an internal Equality Steering Group are positive developments which will help to reinforce the principles of equality throughout the organisation. The role of the Equality and Diversity Officer however needs to be more clearly defined. As part of its Equality Scheme, the PPS has committed to carrying out equality screening of its relevant² policies. At the present time this has been overseen by a consultant and the PPS will want to take responsibility for these evaluations in-house in the future, even if an element of external quality assurance is retained.

A wide range of staff, including senior managers have received equality training since the last inspection. The findings of the recent staff survey indicate there is still some way to go to building the confidence of staff that all are treated equally and with respect.

Recommendation 13:

The Management Board should ensure that:

- **there is a significant improvement in the understanding of outstanding fees (*substantial progress*);**
- **a much higher proportion of fees are negotiated in advance of hearing/trials (*some progress*);**
- **criteria is established for cases which should be remunerated as a special fee case (*substantial progress*);**
- **the costs attached to specific cases can be easily identified (*substantial progress*); and**
- **senior counsel are only instructed where appropriate and payment of fees is timely (*substantial progress*).**

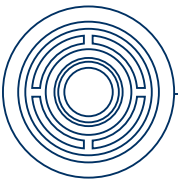
Status: Overall substantial progress

There has been a much greater focus on the importance of managing counsel fees, partly due to the tighter budgetary constraints currently in place. At mid-year the PPS was anticipating a budget overspend of approximately £2.5 million, much of which was attributable to counsel fees. A number of steps have been taken to reduce expenditure where possible and secure better value for money from the use of counsel. Responsibility for special fees in the Crown Court has been devolved to Regional Prosecutors (RPs) who maintain spreadsheets to monitor and control expenditure. It is recognised that RPs will have experienced a steep learning curve in assuming responsibility for fees and that the accuracy of projections will improve further with experience.

Controls have been put in place to restrict the cases for which either two counsel or a senior counsel are instructed. Whilst the

² Relevant policies are those which do not relate to the prosecution of offences; such policies are excluded from the operation of Section 75 Northern Ireland Act 1998.





number of cases subject to special fees is still high, it has reduced and individual cases are assessed more thoroughly before fees are agreed. There has been some improvement in the timeliness of submission of fees from counsel.

Further work is ongoing to benchmark the amount paid by the PPS in 250 cases against defence costs, and the comparable fees payable under the graduated fees scheme used in England and Wales. It is hoped that this will inform future strategies on fees.

There is now greater consideration of expenditure on fees at management meetings and improved data is available to inform considerations. The latest projection indicated a significant movement in the likely expenditure on special fees in 2008-09, and it is anticipated that the PPS will now remain within budget. This is attributed to real reductions in expenditure; more accurate projections on outstanding cases as RPs become more confident with accruals; and slippage of some significant cases into the next financial year.

Whilst overall this is good news, the impact of slippage in serious cases could result in considerable challenge in the next financial year. It will be crucial that RPs continue to develop their skills to project future spend more accurately as the current level of volatility constitutes a clear risk.

The PPS has clearly improved its management of counsel fees, but there is still a need for further work.

Recommendation 14

The Management Board should initiate a fundamental review of the manner in which fees are calculated and paid for sessional work in the magistrates' court.


Status: Achieved

The PPS approach to this recommendation has been driven by its intention to deploy in-house prosecutors rather than counsel. Considerable progress has been made in this respect, although high levels of absence amongst PPS staff in some regions have slowed the pace of deployment.

To put this in context, in the period Sept-Nov '08, the average spend on counsel to represent the PPS in the magistrates' courts was just over £7,000 per month. During 2007-08, the average spend was almost £32,000 per month. Where it has been deemed necessary to use counsel in the magistrates' courts, for the most part, they have been used to conduct trials which is more cost effective.

Whilst the specific recommendation has not been actioned, the actions that have been taken have substantially met our concerns about the very high cost of using counsel for routine work.

There are also wider reviews of legal aid funding underway that may address this issue in part through, amongst other things, structures for remuneration which discourage unnecessary adjournments (the 'churn' factor). Some work was undertaken in Belfast to utilise 'locum prosecutors' at a fixed daily rate and consideration is to be given to formalising such a scheme on a more widespread basis.



We consider the action taken by the PPS is appropriate to changing circumstances.

Recommendation 15

The Management Board should conduct a fundamental review of its processes to ensure that:

- **wherever practical, there is consistency across the regions (*some progress*);**
- **there is an effective means of identifying and implementing good practice (*some progress*);**
- **staff are properly trained in agreed processes (*some progress*);**
- **duplication and re-work is minimised (*some progress*); and**
- **backlogs are cleared as a matter of urgency and that appropriate systems are in place to prevent recurrence (*substantial progress*).**

Status: Overall some progress

There is some overlap between action taken to meet this recommendation and that taken to meet recommendations 4 and 10. Desk top instructions have been drafted for some roles and processes with the aim of improving consistency. For example, the basic key processes for advising witnesses that they are required to attend court are now documented. This has had some success, and working practices in some regions have changed to become consistent with others.

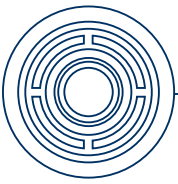
Staff have mixed views about the effectiveness of training across the regions, which has not been helped by the turnover of administrative staff, and the delay in rolling out Causeway DSM1. There has been limited CMS training for new joiners pending the new version (now expected in the near future).

Backlogs have decreased since the baseline inspection although they still exist in some teams. There is still scope for managers to make better use of the task management function on CMS to control and prioritise work.

There is a need to improve the process for re-issuing summonses if the current criminal justice-wide system remains in place. We have seen evidence of some reduction in duplication of work, for example, the excessive checking of the preparation of PE papers, but overall there is still a lot of energy wasted in a number of processes.

It is accepted that some of these will be assisted by improvements to be delivered following roll out of Causeway DSM1.

There is scope for the processes in place across the criminal justice system in Northern Ireland to be made significantly more efficient, which would substantially benefit the PPS and other agencies as well. In the meantime, there is still a need for better oversight of the existing processes to improve efficiency.



Recommendation 16

The Management Board develops a comprehensive quality assurance programme that defines clearly the roles of Regional Assistant Directors (RADs), Senior Public Prosecutors (SPPs) and the Quality Assurance section of the Policy Branch, to assure itself about the quality of work that is being undertaken and enable staff to learn from experience.

Status: Substantial progress

Since the baseline inspection, there has been a substantial increase in the range of work covered by the PPS Quality Assurance team. They have undertaken reviews of a range of topics, including application of the PPS domestic violence policy, the use of the Driver Improvement Scheme as a diversionary option, and the quality of bad character applications. The appointment of two permanent Senior Public Prosecutors (SPP) to the team, should assist in developing the programme of work.

At the time of the follow-up inspection, an important review of advocacy monitoring was about to be undertaken.

There is now a more structured approach to quality assurance by the SPPs, although compliance with the requirements of the quality assurance scheme remains patchy in some regions.

There is a lack of understanding amongst some prosecutors at both the Public Prosecutor (PP) and Senior Public Prosecutor (SPP) grades as to the exact requirements. For example, how many files should be examined per prosecutor each month. The volume of cases monitored is

included in monthly key performance statistics, although some concern was expressed over the accuracy of data for the Belfast Region.

Further consideration needs to be given to how the findings of the quality assurance scheme are used to assure senior managers about the quality of decision making across all aspects of casework.

Recommendation 17


The Management Board should strengthen arrangements for performance management by:

- **identifying the most appropriate measures to assess the performance of the PPS (some progress);**
- **analysing and evaluating data to determine performance levels and any aspects requiring remedial action (some progress); and**
- **ensuring performance information is disseminated widely to staff and other relevant criminal justice (CJ) agencies (some progress).**

Status: Overall some progress

Progress against the different aspects of this recommendation varies. Although some improvements have been made there remains a need to bolster key performance indicators and targets. In some instances, targets are not overly challenging, and others cover less critical aspects of performance.

Inspectors had concerns over the integrity of some data, for example, a number of cases in the file examination sample had not been finalised correctly on the case management system.



Many of the remedial actions in response to the inspection of 2007 need to be considered as work in progress as they are either in draft/proposal stage, or have been implemented too recently to be properly assessed.

Proposals are being considered for a new suite of measures to be used to monitor performance in 2009-10. These include a new set of reports to assist managers to monitor and improve individual performance as well as those set at regional and organisational level.

Managers are gradually learning how to analyse data and performance information, but further development work is required in this respect. As with the use of financial information, managers are likely to improve their analytical skills as their experience of using data grows.

Plans to make the business objects reporting tool available to a wider range of staff have progressed more slowly than desirable. In addition to regional scorecards, a new system of quarterly 'statements of assurance' has been introduced.

Some positive work has been done in making performance data available to staff over the intranet. Again, it is likely to take staff a little time to become familiar with the data and to understand how best to use it to drive improvements.

Following the implementation of the *HR Connect* system, sickness data is not routinely made available to the PPS. Alternative arrangements have been put in place for the PPS to collect the data, but clearly it would be better if it could be driven from IT systems.

Progress against issues to address

The table below gives a brief update on the issues to address raised in the inspection in 2007. Whilst they are considered a little less important or urgent than the recommendations, it is important that they should be progressed as soon as possible.

Issues	Findings from follow-up inspection
<p>Issue 1:</p> <p>Information about the process by which a review of prosecutorial decisions can be initiated should be made widely available to users of the criminal justice system (CJS) including victims.</p> <p>Priority: medium</p>	<p>The expanded letter to victims which is sent in the southern section of Western and Southern Region when there is a 'no prosecution' direction, contains information on how the decision can be reviewed, as does the PPS information leaflet on the role of the PPS. The leaflet is a standard document which is sent to victims and witnesses in all cases. There has also been some reference to the review process in an article published in a regional paper.</p> <p>However, there is scope for this information to be made more widely available at court centres for example.</p> <p>Status: Some progress</p>
<p>Issue 2:</p> <p>To provide evidence of the fair approach of the PPS, the Management Board should, once the necessary mechanisms are in place, produce casework outcomes for example by community background or ethnicity.</p> <p>Priority: medium</p>	<p>The 2007 inspection recognised that this issue could not be taken forward without the introduction of the necessary mechanisms within the criminal justice system overall. The PPS does not yet receive the necessary information from PSNI to enable them to produce casework outcomes by community background or ethnicity.</p> <p>Status: No progress</p>



Issues	Findings from follow-up inspection
<p>Issue 3:</p> <p>To develop the PPS profile and increase public confidence, the Management Board and Assistant Directors (ADs) should become more pro-active in their approach to media engagement.</p> <p>Priority: medium</p>	<p>The PPS has started to be more comfortable in dealing proactively with the media, albeit this change of approach, has only taken place very recently following the appointment of a dedicated Communications Officer in December 2008.</p> <p>Her primary objectives include the development of a media engagement strategy and this is to be welcomed. Most press coverage is purely factual or adverse to the PPS; there is very little evidence of the good work of the PPS finding its way into the media. Some recent discussions with television and radio executives are positive developments and may provide a platform from which to improve the public profile of the PPS.</p> <p>There have been opportunities for the PPS to take a more proactive approach to some high profile cases that have attracted media attention. The practice of providing minimal information in most press statements is not helpful in this respect. On the few occasions where more detail has been provided, this has not been supported by a proactive approach to ensure that the press coverage takes proper account of the issues from a PPS perspective.</p> <p>The Regional Assistant Director for the Western and Southern Region has had a series of articles, designed to increase public awareness of the PPS and legal issues, published in a local newspaper.</p> <p>An assessment at the end of last year would have showed very limited progress but, recent activity gives grounds for more optimism.</p> <p>Status: Some progress</p>



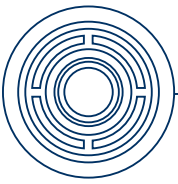


Issues	Findings from follow-up inspection
<p>Issue 4:</p> <p>The Management Board should ensure that counsel and the PPS prosecutors endorse fully the file with the reasons for the alteration or withdrawal of charges.</p> <p>Priority: medium</p>	<p>The reason for the withdrawal of charges was recorded adequately in 14 of the 20 relevant cases (70%) in the file sample. This compares with 81.6% of cases in our baseline inspection where the key decisions were recorded clearly on the file.</p> <p>In some cases, the file was silent as to the reason why the proceedings were withdrawn. The absence of any explanation makes it difficult to determine whether the decision to withdraw was correct, applying the tests in the Code. In two cases we could not determine that the decision was correct, as there was nothing to indicate any change in circumstances since the original correct decision to direct prosecution.</p> <p>The PPS has issued a Departmental Instruction that reiterates the need for accurate and complete endorsements. This instruction sets out clearly the requirements and, if followed, would improve compliance significantly.</p> <p>In the light of our findings (which are also reflected in the PPS thematic review of the application of the PPS domestic violence policy) managers should include a consideration of this issue as part of their quality assurance work.</p> <p>Status: No progress</p>



Issues	Findings from follow-up inspection
<p>Issue 5:</p> <p>The Management Board should agree with the Northern Ireland Court Service (NICtS) to collect and analyse reliable data relating to the proportion of magistrates' courts late vacated, cracked and ineffective trials, and take remedial action where necessary.</p> <p>Priority: medium</p>	<p>The Northern Ireland Courts Service (NICtS) now provides PPS regions with a monthly breakdown of the cracked and ineffective magistrates' court trials and the reason for either outcome (in Belfast this is broken down to individual court rooms).</p> <p>This NICtS data could be a useful tool for regional managers to assess where case preparation could be improved and whether proceedings are being withdrawn unnecessarily late in the day.</p> <p>Currently, the data is based on the courts' view as to where responsibility for the cracked/ineffective trial lies. It would be beneficial if the prosecution, defence and courts agreed the reasons prior to the production of the data.</p> <p>Despite the improvement in the quality of data provision since our full inspection, some PPS managers seem either unaware or unsure of what use to make of this information.</p> <p>File examination indicated that the reasons for ineffective trials were not always endorsed on the file.</p> <p>Status: Some progress</p>



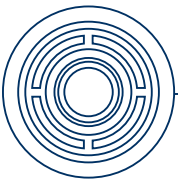


Issues	Findings from follow-up inspection
<p>Issue 6:</p> <p>The Management Board should ensure that:</p> <ul style="list-style-type: none">• there is regular and effective monitoring of the performance of prosecution advocates in the magistrates' courts; and• prompt feedback is given to the prosecutor and any training needs addressed. <p>Priority: high</p>	<p>The PPS has implemented the monitoring of Public Prosecutors (PP) by Senior Public Prosecutors (SPPs) in the magistrates' court. This should take place between two and four times a year for each PP, although it was apparent that there were differences in the levels of monitoring across the regions.</p> <p>We examined a selection of the monitoring reports. These were detailed and indicated that performance was satisfactory. There was some provision of immediate feedback, but in some instances, this was not delivered until the mid-year review. Inspectors observations at magistrates' courts indicated that performance of PPS staff in court is improving.</p> <p>PPs now have more of a presence in court, and were more actively involved in aspects of case progression, although they could still be more proactive in challenging defence applications to adjourn.</p> <p>The PPS is developing advocacy standards which should assist in improving the consistency of advocacy assessments, and further work is planned by the quality assurance section on the assessment of advocacy.</p> <p>Status: Substantial progress</p>



Issues	Findings from follow-up inspection
<p>Issue 7:</p> <p>To enable prosecutors to improve the quality of their decision-making, the Management Board should ensure:</p> <ul style="list-style-type: none">• that accurate and full case reports which identify the issues in the case are completed in all appropriate cases;• a cohesive system is in place to enable staff to learn from experience; and• lessons to be learned are shared between the regional offices and with the police. <p>Priority: high</p>	<p>There has been some improvement in the dissemination of key casework issues. The Policy Section issues guidance on matters of overarching concern, for example, the use of DNA evidence and witness anonymity.</p> <p>There has also been a specific piece of work undertaken between the PPS and PSNI on the analysis of unsuccessful outcomes in cases involving an allegation of rape.</p> <p>However, the PPS has not yet introduced a process to enable managers to assess the reasons for unsuccessful outcomes on a case by case basis.</p> <p>Whilst some prosecutors produce reports on why specific cases were unsuccessful, this is ad hoc, and does not form part of any structured monitoring arrangements.</p> <p>Status: Some progress</p>
<p>Issue 8:</p> <p>The Management Board should review the handling of correspondence to include the implementation of the recommendations of the Efficiency Report.</p> <p>Priority: high</p>	<p>The recommendations of the Efficiency Report have now been implemented and the handling of correspondence has improved as a result.</p> <p>Ongoing issues are being managed via the Business Managers' Forum. An examination of the systems for dealing with post indicated a significant reduction in the amount of outstanding correspondence.</p> <p>The lack of a security scanner at Linum House adds an additional 24 hours to post for some parts of the Western and Southern Region.</p> <p>Status: Substantial progress</p>





Issues	Findings from follow-up inspection
<p>Issue 9:</p> <p>The Management Board should agree with the Northern Ireland Court Service (NICtS) to collect and analyse reliable data relating to the proportion of late vacated, cracked and ineffective trials, and take remedial action where necessary.</p> <p>Priority: medium</p>	<p>This issue relates to cases heard in the Crown Court. Unlike the magistrates' courts, there is still no data collated or shared between NICtS and the PPS.</p> <p>Status: No progress</p>
<p>Issue 10:</p> <p>The Management Board should ensure that there is a structured system for monitoring the quality of Crown Court advocacy so that the PPS can be satisfied that they are obtaining objective and reliable information about the performance of counsel which is shared across the regional offices.</p> <p>Priority: high</p>	<p>Whilst counsel had to set out their competences for consideration by the PPS in the exercise to select counsel for the Counsel Panels, there is no structured monitoring of counsel on an on-going basis. This is particularly important with the inclusion of new counsel on the Junior Panel.</p> <p>Now that the advocacy standards are agreed, we would expect this issue to be taken forward promptly.</p> <p>Status: No progress</p>



Issues	Findings from follow-up inspection
<p>Issue 11:</p> <p>To assist in alerting prosecutors that a case comes within a sensitive category, the Management Board should ensure that its status is flagged on the paper file.</p> <p>Priority: high</p>	<p>A Departmental Instruction issued in 2008 states that in cases where the offence is aggravated by hostility, that fact should be marked on the front of the file.</p> <p>A proposal to use colour-coded paper front sheets was also considered. The file examination, which looked at cases finalised in the latter part of 2008, indicated that neither instruction had been implemented.</p> <p>Staff were aware of the proposed changes, but could not recall seeing files flagged in accordance with the instruction.</p> <p>The purpose of flagging is to alert prosecutors at court to the fact that the case requires particular care and attention. Managers should ensure that the Departmental Instruction is implemented.</p> <p>Status: Some progress</p>



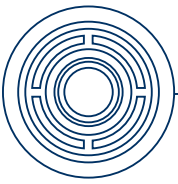


Issues	Findings from follow-up inspection
<p>Issue 12:</p> <p>The PPS should identify the categories of cases which engender the greatest public concern and put in place structures to publish specific outcome data in respect of those cases.</p> <p>Priority: medium</p>	<p>The PPS incorporated some questions into an Omnibus Survey (conducted in early 2008) to gain a better understanding of issues that are of concern to different demographic groups. Over 1200 surveys were completed and the findings illustrated that different groups have varying concerns. For example, older people are more concerned with burglary than other groups.</p> <p>The findings have been discussed by the PPS Board and a commitment to use the information to inform the Outreach and Communication strategies was made. There is limited evidence that the data collected has been used effectively yet, although this may be in part because the relevant strategy papers are not finalised.</p> <p>The Survey was to be repeated in January 2009, and consideration was being given to publishing data in respect of the outcome of specific categories of casework identified as concerns by stakeholders.</p> <p>Status: Some progress</p>
<p>Issue 13:</p> <p>Guidance should be issued to prosecutors on when pre-direction consultation with the victim should be considered.</p> <p>Priority: medium</p>	<p>The PPS has reissued the guidance on the procedures in respect of pre-decision consultation. This reiterates what the prosecutor should do and the general approach to the interview.</p> <p>It makes specific reference to child abuse cases and those involving forensic medical experts.</p> <p>There was one case in our file sample where consultation took place and this clearly assisted the prosecutor in determining whether to direct a prosecution.</p> <p>Status: Substantial progress</p>



Issues	Findings from follow-up inspection
<p>Issue 14:</p> <p>The PPS should implement processes whereby the Community Liaison Teams (CLT) and the victim/s and witnesses are informed of the granting of special measures by the court, together with the type of measure.</p> <p>Priority: high</p>	<p>Progress has been made, although more so in some regions/courts than others. In some cases, requests for special measures are still made late, and in others there are delays in the court agreeing/notifying the PPS that requests have been granted (or not as the case may be).</p> <p>Community Liaison Teams are generally alert to the benefits of special measures.</p> <p>Status: Some progress</p>
<p>Issue 15:</p> <p>All key PPS documents should be available in other languages/formats and other documentation on request.</p> <p>Priority: high</p>	<p>A few important documents, particularly those aimed at victims and witnesses, are now available in several languages. For most documents, the preferred option is to react to requests and provide a translation when required.</p> <p>Work is underway in finalising an agreement for a multi-agency contract for translation/interpreter services. It is accepted that budgetary issues are a consideration in determining the pace at which translated documents are readily available.</p> <p>Status: Some progress</p>



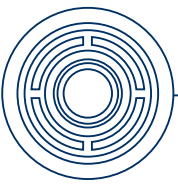


Issues	Findings from follow-up inspection
<p>Issue 16:</p> <p>Business planning needs to be strengthened so that management and staff at all levels have a clear understanding of:</p> <ul style="list-style-type: none"> • the regional and national priorities; • what needs to be done; • who is responsible for delivery; • the timescales involved; and • the measures of success. <p>Priority: high</p>	<p>Whilst planning is still primarily a ‘top-down’ process, there have been improvements in the level of consultation and dissemination of high level objectives.</p> <p>The Corporate Plan outlines key milestones to be delivered in each of the three years that it covers, and these give a good indication of the organisation’s priorities. The plan incorporates a number of issues raised during the 2007 baseline inspection.</p> <p>There is still limited documented evidence of how these high level aims will be delivered. In some instances, the milestones are sufficiently precise that this is not an issue, or separate ‘project’ plans exist. In others, it would be beneficial if the high level objectives were supported by more detailed Action Plans.</p> <p>There has been slippage in a number of planned outcomes (some beyond the control of the PPS) some of which have affected the timeframes in which improvements can be made.</p> <p>Dissemination of the priorities and aims has improved through a series of workshops and road-shows that were attended by a wide range of staff. When linked to refinements made to the performance management regime, staff are now generally more aware of priorities and progress against objectives.</p> <p>The preliminary findings of the most recent staff survey indicated improvements in staff understanding of objectives and performance, although in some categories, the ratings still show scope for considerable further improvement.</p> <p>Status: Some progress</p>



Issues	Findings from follow-up inspection
<p>Issue 17:</p> <p>The development of more systematic training for administrative staff.</p> <p>Priority: high</p>	<p>Training for administrative staff has been affected by the delayed implementation of the Causeway DSM1/Vision State CMS systems.</p> <p>Changes to processes and responsibilities that are likely to happen when the system is rolled out have not taken place, therefore some of the weaknesses that were apparent at the time of the baseline inspection persist.</p> <p>The situation has been exacerbated by staff turnover at level D and the recruitment 'freeze' that has been in place for some time.</p> <p>Some regions are managing to undertake more training than others, and all have provided some local cross-functional training to develop a more flexible workforce.</p> <p>Some administrative staff from Belfast Chambers have now been trained in the processes used by the PPS Office in the Laganside court complex. Mandatory training on issues such as equality and manual handling practices has been provided to relevant staff.</p> <p>Overall, there is still some way to go in developing administrative staff to their full potential. This is reflected in the latest staff survey results which indicate that less than one third of all respondents consider that their performance has improved as a result of training.</p> <p>Almost 40% of staff feel that workload does not enable them to devote sufficient time to training and development.</p> <p>Status: Some progress</p>





Issues	Findings from follow-up inspection
<p>Issue 18:</p> <p>Managers should take steps to improve the effectiveness of internal communication by:</p> <ul style="list-style-type: none"> • reviewing the role and effectiveness of team briefings and the Staff Communication Forum; • delivering an effective response to staff survey findings when completed; and • cascading information more consistently and effectively. <p>Priority: medium</p>	<p>The baseline inspection indicated that inadequate internal communication was inhibiting business development as staff felt that they were not adequately informed nor had a voice in influencing the development of the organisation.</p> <p>A number of steps have been taken by managers including the imminent introduction of a core team brief concept, to aid consistency of communication within the organisation.</p> <p>The Staff Communication Forum (SCF) has been reviewed in terms of membership, although its purpose still requires greater clarity. In the short term, the SCF's primary responsibility is to act as a sounding board for proposals generated by the Project C team in response to staff survey findings.</p> <p>The 'road shows' have continued with good attendance from staff in the regions.</p> <p>A Communications Officer was appointed in December 2008 with a role to improve communications. Her priority is to improve external communications, whilst not losing sight of internal matters.</p> <p>Progress against the first two parts of the recommendation has been made and the main challenge relates to the consistent and effective dissemination of information within the organisation.</p> <p>Inspectors were told of information bottlenecks and delays in relation to critical information, particularly in relation to new accommodation projects. This is reinforced by the findings of the recent staff survey that shows that only 41% of staff felt that they were well-informed on what is happening in the PPS (up from 39% in the previous year).</p> <p>It is anticipated that these concerns will be addressed by the communications scoping exercise as preparation for a new communications strategy.</p> <p>Status: Some progress</p>



Issues	Findings from follow-up inspection
<p>Issue 19:</p> <p>The Management Board needs to ensure that:</p> <ul style="list-style-type: none">• projected budgets take full account of all committed expenditure;• systems are sufficiently robust to enable the PPS to give independent assurance that the budget position is accurate;• budgets are devolved to Regions following appropriate training where required; and• business cases for additional expenditure are more thoroughly explained. <p>Priority: medium</p>	<p>Financial outcomes are viewed with greater importance now and managers are more aware of financial matters. Good progress has been made in respect of aspects of management and control of some counsel fees (see recommendation 13).</p> <p>However, limited progress has been made against other aspects of financial management, although this is in part aligned to the fact that the NIO continues to provide a significant proportion of the PPS financial management.</p> <p>There is a recognition that post devolution of criminal justice, the PPS will need to increase resources and expertise to manage its own finances. The department already has a long standing unfilled post.</p> <p>With the exception of counsel fees (previously mentioned) all other financial controls are managed centrally within Corporate Services.</p> <p>Some guidance on the drafting of business cases has been placed on the intranet site.</p> <p>Status: Some progress</p>





Issues	Findings from follow-up inspection
<p>Issue 20:</p> <p>The CMS change management process needs to be reinforced to harness the knowledge of users in identifying issues that need addressing.</p> <p>Priority: high</p>	<p>Two reminders of the 'Bright Ideas' initiative have been issued to staff during 2008 to try and encourage further use of the system by front end system users.</p> <p>The Change Management Group has been extended to include additional operational staff and will be expanded further following the launch of the new version of the Causeway DSM1/CMS systems scheduled for 2009.</p> <p>There was still reluctance from some staff, based on previous experience, to suggest improvements, and a perception that no changes were likely to be made because of the imminent roll out of the new system. A few examples of changes made during 2008 were provided to Inspectors.</p> <p>Status: Some progress</p>



Issues	Findings from follow-up inspection
<p data-bbox="188 383 312 416">Issue 21:</p> <p data-bbox="188 461 644 645">Delivery of training on CMS needs to be improved. Consideration should be given to reinvigoration of the IT super-user concept to deliver local support to users.</p> <p data-bbox="188 1189 368 1223">Priority: high</p>	<p data-bbox="676 461 1321 568">A comprehensive training programme had been developed in preparation for the proposed implementation of the new CMS system in 2008.</p> <p data-bbox="676 613 1369 763">Delays in the roll out of the system meant that the PPS did not go ahead with the training. This was sensible given the uncertainty over when the new system would be made available.</p> <p data-bbox="676 808 1396 958">The plan is still valid and can be reactivated once the date for the new system is finally agreed. One drawback of the delay to roll out has been the limited amount of CMS training available to new joiners.</p> <p data-bbox="676 1003 1396 1153">Part of the training strategy includes the development of 'super-users' who will receive additional training to enable them to provide desk side support, and to be a focal point for system developments.</p> <p data-bbox="676 1189 986 1223">Status: Some progress</p>



CHAPTER 4:

Summary, overview of key findings and conclusion



Overall, core prosecutorial decision making remains sound. The evidential and public interest tests in the Public Prosecution Service's (PPS) Code for Prosecutors were applied correctly in 56 of the 60 cases (93.3%) examined. In two cases, which were subsequently discontinued, the initial decision to prosecute was incorrect. In a further two discontinued cases, the initial decision to prosecute was correct, but there was nothing on either file indicating any reason why the proceedings were subsequently dropped. Generally, the recording of reasons needs to be improved.

There is some correlation between the recommendations on which most progress has been made and the strengths and current priorities of the PPS. Overall, the PPS has made most progress in relation to those areas of its operations that are related to the delivery of its core function. For example, substantial progress has been made in relation to:

- the quality of instructions given to counsel;
- the development of PPS policy on domestic violence; and
- on matters relating to training and development of staff on the issue of disclosure.

Recommendations relating to the use of PPS prosecutors in magistrates' courts and the need to review the calculation of fees

paid for sessional work in magistrates' courts have been achieved. The PPS has, additionally, strengthened its approach to quality assuring its casework with some good examples of themed reviews on specific topics, which have led to improvements in performance. These are aspects of work with which PPS managers are comfortable.

However, there is scope for considerably more progress in relation to the implementation of a more robust management agenda within the PPS. Of the seven major recommendations made in the 2007 baseline inspection (which relate to the management of the organisation,) there was only one on which substantial progress had been made – that a decision should be taken on the PPS as a department in its own right, with responsibility for its own budget and recruitment.

On the remainder – including work related to case management, organisational structures, business process change, and performance management – only some progress had been made. This is disappointing, although to some extent understandable, in the context of the debate around the overall governance structure. The PPS needs to give greater focus to this area to enable it to manage the changes devolution will bring.



Of the 17 recommendations in the baseline report the level of progress recorded in the follow-up inspection was:

- achieved 2
- substantial progress 6
- some progress 9
- no progress 0

Progress against the issues to address has been less impressive, although it is recognised that these were, by definition, of a lower priority. The outcomes were as follows:

- achieved 0
- substantial progress 3
- some progress 14
- no progress 4

Of the four instances where no progress has been made, two were heavily reliant on the co-operation of other agencies.

Some recommendations were always likely to take longer to achieve than others, particularly those that required a change of culture or the development of new management skills.

In particular, there is still an imbalance in the legal and more general business management skills of senior managers. The heavy reliance on a small group of Corporate Services staff constitutes a significant risk to the PPS, particularly in the run up to the devolution of criminal justice matters to the NIA. There is no clear decision as to what the ideal management structure might be in the future. Greater clarity over structures and governance, with associated succession planning, is required as a matter of urgency.

Progress is also required in relation to how the PPS communicates its reasons for directing no prosecution to victims or their representatives.

A pilot in the Southern Region had yet to be evaluated at the time of our follow-up inspection, but has now been completed. However, there is still resistance from prosecutors to providing more detailed reasons for decisions. This will need to be overcome by the direction and commitment of senior managers to build positively on the pilot.

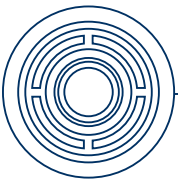
There remain challenges in delivering a consistently high level of service to victims and witnesses, although there are regional variations. The commitment of the staff in the Community Liaison Teams (CLT) is not in doubt, but staffing levels, training, timeliness and, the receipt of accurate information from the police remain to be addressed.

There have been some developments very recently which give cause for cautious optimism on matters on which, up till now, there has been limited progress. In particular, the appointment of a Communications Officer in December 2008 had already led to a more proactive approach to media engagement. The recent agreement of advocacy standards has opened the way to a more consistent formal monitoring scheme, and proposals for an improved set of key performance measures were being considered at the time of the follow-up inspection.

Conclusion

The PPS is now a more mature organisation than at the time of the 2007 baseline inspection. Much good work has been done, but progress against many recommendations has been slower than desirable. This must be seen in the context of the changing environment in which the PPS is operating.



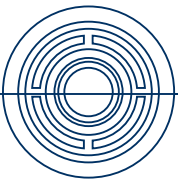


Overall the organisation is moving forward, and if recent proposals and activities develop as anticipated, significant further progress is achievable in the next year. Governance and management issues will need to be addressed urgently to ensure there are no significant risks to the organisation following devolution. In addition, the external facing dimensions of the organisation's work, (communication on decisions and community liaison) require further development.

Section



Appendices



Appendix 1: Methodology

The primary focus of this inspection was to assess progress against the recommendations and issues to address identified in the original inspection in 2007. To that end, the Action Plan developed by the PPS in response to the report was used as the framework for the follow-up inspection work.

The evidence on which the findings of this report are based is drawn from a number of sources. These include:

- an examination of PPS case files (including electronic files);
- management and performance information;
- observations at court;
- an examination of processes;
- the views of stakeholders; and,
- interviews with a range of PPS staff.


As this was a follow-up inspection, the number of files examined and interviews undertaken was less than during the original inspection.

Inspectors examined 60 PPS files, finalised in the three months to October 2008. The sample comprised a mix of cases and outcomes including those where the PPS directed no prosecution, and those concluded in the magistrates' courts and Crown Court. The sample included a range of sensitive files, for example, cases involving domestic violence.

The fieldwork was conducted in the week commencing 19 January 2009. Inspectors visited three of the four PPS regions, although representatives from the fourth (Eastern) were included in some interviews in Belfast. During these visits, a range of external stakeholders were seen, mostly targeted at representatives of the judiciary, the Police Service of Northern Ireland (PSNI) and the Northern Ireland Court Service (NICtS).

The inspection was led by Derek Gibbs, HM Inspector HMCPSI and comprised Jonathan Carver (HMCPSI) and James Corrigan (Inspector, CJI). The Chief Inspectors of both HMCPSI and CJI, Stephen Wooler CB and Dr Michael Maguire, together with a Deputy Chief Inspector from both organisations (Brendan McGuigan, CJI and Sally Hobbs, HMCPSI) also participated in some of the fieldwork. Administrative support was provided by Amanda Hannan, CJI.

The inspection was quality assured by Sally Hobbs, Deputy Chief Inspector, HMCPSI.



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