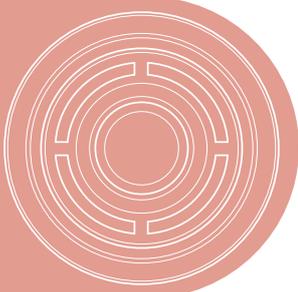


**A FOLLOW-UP REVIEW OF THE PUBLIC
PROSECUTION SERVICE FOR NORTHERN
IRELAND'S RESPONSE TO STRATEGIC
INSPECTION RECOMMENDATIONS MADE
BETWEEN 2013 AND 2015.**

February 2018





A follow-up review of the Public Prosecution Service for Northern Ireland's response to strategic inspection recommendations made between 2013 and 2015.

Review of Criminal Justice Inspection Northern Ireland's inspections on PPS Corporate Governance; Police Use of Discretion incorporating Penalty Notices; and the Report of the Independent Inquiry into Child Sexual Exploitation in Northern Ireland.

February 2018



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List of abbreviations

BIT	Business Improvement Team (within PPS)
BM	Business Manager (within PPS)
CJI	Criminal Justice Inspection Northern Ireland
CPS	Crown Prosecution Service (in England and Wales)
CRN	Community Resolution Notice
CSE	Child Sexual Exploitation
ISVA	Independent Sexual Violence Advisor
NICS	Northern Ireland Civil Service
PAMs	Performance and Accountability Meetings (within PPS)
PAS	Prosecutor Activity Sheet
PND	Penalty Notice for Disorder
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
SCU	Serious Crime Unit (within PPS)
TWG	Transformation Working Group (within PPS)
VES	Voluntary Exit Scheme



Chief Inspector's Foreword

The day to day work of the Public Prosecution Service for Northern Ireland (PPS) takes place largely unseen by the general public and its performance is often defined by media coverage of high profile/controversial cases or decisions that have to be made by prosecutors.

The recommendations of the original Corporate Governance report published in 2013 focussed on improving organisational and business performance. In addition, it was a timely opportunity in the life of the organisation to assess development and to identify the strengths and weaknesses of its performance.

The report could not have foreseen the changing financial environment, the reductions in reported crime and increased use by the police of alternatives to prosecution. For the most part, the responses to these influences by the PPS were appropriate and have led to a more robust performance framework and individual performance assessments. In addition, the organisation implemented structural changes including the creation of a Serious Crime Unit.

I welcome the progress that has been made in response to the original recommendations

but am acutely aware of the need for the organisation to constantly review and improve its performance in these uncertain times.

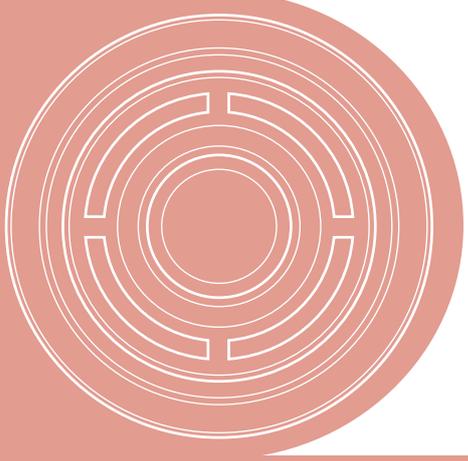
This review was conducted by Stephen Dolan, my sincere thanks to all who have contributed to this work.

Brendan McGuigan
Chief Inspector of Criminal Justice
in Northern Ireland

February 2018

Criminal Justice Inspection
Northern Ireland
a better justice system for all





Follow-Up Review



Introduction

Background to the follow-up review

Four inspections with relevance to the Public Prosecution Service (PPS) and to a lesser extent, the Police Service of Northern Ireland (PSNI) were completed by Criminal Justice Inspection Northern Ireland (CJI) during 2013 to 2015 which included a number of strategic recommendations.

They were: *A corporate governance inspection of the PPS*¹ (published April 2013) containing three recommendations; *An inspection of the Police Use of Discretion including Penalty Notices*² (published January 2015) containing one recommendation; and *An inspection of the quality and timeliness of police files (incorporating disclosure) submitted to the PPS*³ (published November 2015) containing six recommendations. In addition, the report of the *Independent Inquiry into Child Sexual Exploitation in Northern Ireland*⁴ (published November 2014) made two supporting recommendations for the PPS.

After an initial progress report from the PPS and the PSNI, this follow-up review focused on the recommendations arising from the reports on PPS Corporate Governance, Police use of Discretion and Child Sexual Exploitation. Although progress on the File Quality and Disclosure recommendations was encouraging, the programme of work was at pilot stage and subject to internal evaluation before the next phase was due.

In light of this, Inspectors decided to postpone review of these six recommendations to a later date. This gave a total of six recommendations with imminent dates for completion that were considered for follow-up review and inclusion in this report.

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- 1 Available from the CJI website or via <http://www.cjini.org/TheInspections/Inspection-Reports/2013/A/A-corporate-governance-inspection-of-the-Public-Pr>
 - 2 Available from the CJI website or via <http://www.cjini.org/TheInspections/Inspection-Reports/2015/January---March/Police-Use-of-Discretion-Incorporating-Penalty-Not>
 - 3 Available from the CJI website or via <http://www.cjini.org/TheInspections/Inspection-Reports/2015/October---December/File-Quality-and-Disclosure;>
 - 4 Available from the CJI website or via <http://www.cjini.org/TheInspections/Inspection-Reports/2014/October---December/Child-Sexual-Exploitationin-Northern-Ireland>

Changes since the primary inspection(s)

Since 2013 the PPS implemented a significant transformation programme. This saw the amalgamation of the four PPS regions into two regions and the closure of two regional offices. Over 80 members of staff also left the organisation under the terms of the Northern Ireland Civil Service Voluntary Exit Scheme (VES).

The PPS received a total of 43,914 files in 2015-16 (45,383 2014-15) representing a fall of 3.2% continuing a downward trend that was explained largely due to a drop in less complex summary cases. The PSNI dealt directly with many of these summary cases, such as motoring offences, minor offences of disorder and lower value retail theft by way of Penalty Notices for Disorder (PND) or police discretionary disposals – the use of which is reviewed in this report. While the overall number of files received by the PPS fell, the volume of the most serious case categories was sustained.

In 2015-16 the PPS received 3,962 cases categorised as most serious (including homicide, sexual offences and serious fraud/dishonesty). This compared with 3,921 in 2014-15; 3,529 in 2013-14; 3,926 in 2012-13; and 4,132 in 2011-12.

In line with other public bodies, the PPS faced a reduction in resources over this period (-8.7% from 2011 to 2016) and faced a further £1.9 million reduction in funding in the 2016-17 financial year. The resulting impact of this was that the PPS was managing a relatively constant caseload against a background of diminishing resources with the reduction in Senior Public Prosecutors presenting a challenge.

In parallel the PPS, in conjunction with other criminal justice system agencies, is working on committal reform and a new Indictable Cases Process. The PPS has also established a Serious Crime Unit (SCU) to deal with all sexual offences cases including cases involving child sexual exploitation.

The follow-up review

Inspectors reviewed documentation provided by the PPS relevant to the recommendations that covered the period December 2016 to September 2017.

This review was supported by interviews with senior personnel within the PPS.

Inspectors liaised with prosecution services in other jurisdictions to provide a basis to assess the level of progress that might be attainable.



Progress against recommendations

CJI Corporate Governance Report Strategic Recommendation 1

The PPS should establish a benchmarking framework using comparative measures of internal statistics and also comparative measures from most relevant neighbouring jurisdictions by end 2013.

Status: Achieved.

PPS response

The PPS has now established a framework of key performance measures which span the Service's four strategic objectives. This framework was established in 2014 and was the result of internal consultation (with Assistant Directors/Business Managers), as well as a benchmarking exercise looking at other jurisdictions. The new performance monitoring framework was one of a number of measures introduced as part of the PPS's performance action plan.

Other initiatives include:

- the establishment of Performance and Accountability meetings (PAMs) led by the Deputy Director [of the PPS] and the Senior Assistant Director for Serious Crime and Regional Prosecutions. These are now held on a quarterly basis and involve all Assistant Directors and their key personnel.*

Issues discussed during PAMs include:

- steps being taken to address any deficits in performance identified via the Service's key performance measures and other performance reports;*
- details of business plan objectives which are to be met or where there has been significant slippage;*
- matters which may impact on the future performance of the region/section (for example, resource changes or potential increases in workload);*
- key operational or legal matters, such as the conduct of high profile cases, case management strategy and legal quality assurance; and*
- updates on any action points agreed at previous meetings.*

Records of all meetings are maintained using an agreed template.

Inspectors' assessment

The PPS has introduced a comprehensive performance measurement process. There is specific guidance on the completion of Assurance Statements that form a major element of the corporate governance of the PPS. As part of the PPS's Annual Report and Accounts, the Assurance Statements give evidence that effective internal controls are in place. The PPS requires the production of quarterly Assurance Statements with the various sources of evidence identified. Examples of the Assurance Statements reviewed by Inspectors covered financial aspects, risk management and progress against business objectives. There was a section dedicated to the assurances centred on appropriate legal quality assurance arrangements.

The monthly performance statistics were comprehensive and provided details on the status of the regions' caseload, changes to the work queues, achievement of decision standards, achievement of timeliness targets, and compliance with the Prosecutors' Code through dip sampling. A total of 148 out of 149 cases were fully compliant in the period April 2016 to December 2016.

The summary of key performance data used a range of presentational arrays and the comparative data between the regions was more easily interpreted than previously. The PPS regularly looked at the Crown Prosecution Service in England and Wales (CPS) conviction rates as a benchmark for their performance at court. The PPS Crown Court conviction rate in 2015-16 was 86% (CPS 80%) and the PPS conviction rate in the Magistrates' Court was 79% (CPS 86%). These conviction rates represent an improvement in PPS performance in both courts. Due to differences in procedure across the jurisdictions, it is difficult to source like for like statistics (for example, decision timeliness/prosecution rates etc.) to use as specific comparators of performance although the PPS do review them in a more general sense.

The Performance and Accountability Meetings (PAMs) were well documented and showed an improvement over the previous accountability process. The range of issues discussed included an analysis of the risks to specific cases and other consideration of internal and external risk issues. Dip sampling arrangements - based upon new Prosecution Quality assurance standards - were introduced in April 2016 and reported on through the PAMs. A record of discussion and agreed action points was produced for each PAM and the sample inspected indicated a more structured approach to the discussion of and subsequent management of issues arising.

CJI Corporate Governance Report Strategic Recommendation 2

The PPS should review the capacity model with a view to updating it to include a wider range of management information and improved links to changes in the volume of cases by end 2013.

Status: Achieved.

PPS response

Capacity model

Following the publication of the [CJI] CG [Corporate Governance] Review, the Business Improvement Team (BIT) carried out a review programme which focused on a range of key PPS functions (for example, Fraud and Departmental, Crown Room, Case Preparation, the scoping of a new Assistant Public Prosecutor role etc.). Each review took into consideration the current business volumes, as well as any changes anticipated in the future working arrangements for the business areas (for example, ICT changes, new functions). Efforts were also made through the First Class Prosecution Service Programme to establish appropriate performance targets for prosecutors and administrative staff.

Much of this activity was used to inform the subsequent Transformation Programme. This was established by the PPS Management Board to take forward a fundamental review of the delivery of the Service's functions, in the light of the proposed budget settlements for 2015-16 and the next Spending Review period. This was to enable the PPS to identify actions that would minimise operational spend, while protecting front-line services and particularly those provided to victims and witnesses - and ultimately develop a new model for the PPS.

The Transformation Working Group (TWG) commenced in October 2014 in order to support the Board in the development of future operational structures and plans. Following consideration of a number of options, a new model for the Service was presented to the Board in June 2015. This was formally signed off by the Board in September 2015. The remit of the TWG was then extended in order to focus on the implementation of the new model. This covered all aspects of the implementation phase, including people, property and processes.

Key changes have included:

- the consolidation of operations across four office locations. The plan provided for the closure of Ballymena Chambers, Lisburn Chambers and Linum Chambers, as well as withdrawal from Northern Ireland Courts and Tribunals Service premises at Laganside Courts;
- the implementation of a two-region structure, reducing from the four regions in place previously;
- the creation of the new centralised Serious Crime Unit;
- a more streamlined senior management team, with the number of Senior Civil Service Grade 5 posts reducing from eight to six; and
- a reduction in PPS staff numbers from a complement of 565 to 483, to be delivered through the Northern Ireland Civil Service (NICS) Voluntary Exit Scheme.

Following the implementation of the new model, the BIT has published a new work programme which will involve a rolling review of all functions. This has commenced with an examination of our business processes - to identify potential efficiencies and ensure consistency across the regional offices. The impact of the new initiatives will also be considered - including committal reform and Working Together⁵. The TWG will continue in order to provide oversight of this work.

Inspectors' assessment

The original capacity model was based upon file volumes far in excess of those received in the last number of years, circa. 70,000 files predicted versus circa. 45,000 received. The PPS workforce and infrastructure reflected the predicted workflows even though analysis indicated that volumes of summary cases had fallen by 25% to 30% resulting in higher overall costs and also reduced productivity. The PPS Transformation Programme implemented a reduction in infrastructure and staffing levels giving significant cost savings. The mechanisms put in place to implement these changes also provided the PPS with a monitoring capability to continue improvements in resourcing arising from changes in the workload.

The performance statistics included an analysis of the volume of cases by caseweight and across the regions/departments. Although there was a drop in the number of summary cases, giving rise to a reduction in the number of prosecutors, there was an increase in demand for Senior Prosecutors with a specific demand in the SCU.

Revised guidance for the Prosecutor Activity Sheets (PAS) was issued in October 2016 with instructions to capture prosecutor activity against 10 separate areas. A new Policy and Information Unit was launched on 2 May 2017 with responsibility for a number of existing functions including policy development, policy liaison, quality assurance, statistics and research, the development and the production of performance monitoring data, as well as project management.

The review of the capacity model, as a result of the Transformation Programme has given rise to substantial efficiency improvements. In order to embed these improvements, and to ensure a more responsive approach to the identification of business pressures and the appropriate allocation of resources, the PPS has also established a new Resource Management Team (headed at NICS Grade 6 level). This team will be responsible for reviewing and assessing staffing requirements in line with the agreed targets across business areas, and also for putting in place strategic supports such as corporate training programmes and well-being initiatives. The Head of Resource Management is a member of the PPS' Performance and Delivery Committee, and will also attend the monthly Senior Management Group.

⁵ The Working Together Project was established to improve working relations between PSNI and PPS by scoping and delivering new protocols on a range of issues including:

- early prosecutorial advice (PSNI requests/PPS responses);
- PSNI decision-making and PPS pre-charge advice; and
- proportionate case-file building based on agreed evidential, technical and presentational standards.

CJI Corporate Governance Report

Strategic Recommendation 3

An effective and objective assessment of PPS Prosecutors, counsel (and future Associate Prosecutors) is established by the end of 2013. This should include stakeholder feedback, court observations and management information on Prosecutor performance. The process should complement the appointment of the new panel of Counsel.

Status: Partially achieved.

PPS response

Internal advocacy assessors were identified and in post for a period of time during 2014. They assessed PPS prosecutors at court. Following cuts to the PPS budget, the scheme was suspended as part of the savings delivery plan.

Currently efforts are being made to conduct assessments of Counsel, both in the Magistrates' and Crown Court:

- Junior counsel working in the Magistrates' Courts are being observed by experienced PPS Business Managers/Fees Managers to assess whether they meet the required standard. The assessments are being carried out on a rotational basis and it is hoped that all counsel will be observed at some point over this financial year. To date there have been no incidences of performance below the minimum requirement. In a few cases the barrister has been assessed as excellent.*
- An Advocacy Assessment Form is completed by our Business Managers in respect of Counsel in each indictable case. Judicial or victim/witness comments can be recorded by the clerk in court and the views of the Business Manager, Directing Officer and the relevant Assistant Director are also sought as necessary.*

Inspectors' assessment

Inspectors accept that the scheme the PPS designed could not be fully implemented due to financial restrictions. The Director [of Public Prosecutions] was supportive of the scheme but reluctantly agreed that the funding pressures on the PPS and the loss of staff following the VES programme meant the deployment of full-time resources was unsustainable. The PPS uses experienced Business Managers to observe Public Prosecutors and incorporates stakeholder feedback to assess both prosecutors and counsel. PPS Assistant Directors hold regular meetings with the judiciary to assist in the evaluation of both Prosecutors and Counsel. Accepting that the PPS is operating within the resources available, the recommendation is deemed partially achieved.

Report of the Independent Inquiry into Child Sexual Exploitation in Northern Ireland

Strategic Recommendation 9

The DoJ should establish an inter-agency forum drawn from across the criminal justice sector and third sector stakeholders to examine how changes to the criminal justice system can achieve more successful prosecutions of the perpetrators of child sexual exploitation. This must be informed by the experiences and needs of child victims.

Child Sexual Exploitation Supporting recommendation 43

The PSNI and criminal justice partners in the Prosecution Service and Court Service should continue to develop their approach to responding to victims of child sexual exploitation in a way that treats them fairly and sensitively and avoids blaming them for offending behaviour associated with their abuse. This involves attitude, not just policy or process.

Status: Partially achieved.

PPS response

The PPS has established a Serious Crime Unit (SCU) to deal with all sexual offences cases including cases involving child sexual exploitation. This unit became operational on 4 January 2016 and is staffed by 10 experienced Senior Public Prosecutors and is headed by an Assistant Director, who reports directly to the Senior Assistant Director. All Prosecutors in the SCU have received training on sexual offences, including sexual offences against children, as well as specific training on child sexual exploitation, which was provided by Barnardos, and included potential indicators of child sexual exploitation and the particular needs of children who have been subjected to or are experiencing child sexual exploitation. The PPS Victims and Witness Policy requires prosecutors to treat all victims fairly and sensitively.

The DoJ convened a multi-agency forum (the Marshall Delivery Group) in the wake of the Marshall report into child sexual exploitation. The PPS continues to be represented on the Marshall Delivery Group and contributes to this forum's meetings.

Inspectors' assessment

The creation of the SCU has concentrated the experience and expertise within the PPS into a centralised unit. The specific training delivered to the SCU staff has also raised awareness of the issues associated with sexual offences against children as well as specific training on child sexual exploitation. The increased level of engagement with victims of child sexual abuse was evident from discussions with the head of the SCU. Improvements in victim care, interaction with agencies that deal with victims of abuse and access to medical records that provide insight into issues that may affect a case have contributed to improvements in outcome rates. Overall, the SCU reported that the prosecution rate for rape increased from an average 16% (2011-15) to 21% (2016) and for sex offences (excluding rape), the prosecution rate increased from 32 to 35% (2011-15) to 42% (2016). Conviction rates rose from 68% in the five years prior to 2016 to 71% in 2016.

Supporting vulnerable witnesses - even with the input from other agencies - was intensive and the resources within the SCU were below the desired level. The increased use of measures of performance and successful outcomes was evident and recognition that further success lay in reducing the 41% of vulnerable victims that withdrew from the process showed a commitment over and above structural and processional changes. Engagement with the PSNI over trafficking cases demanded resource input and there was a risk that increased provision of advice to the PSNI over file quality and pre-prosecutorial advice, could further stretch resources, especially at Senior Public Prosecutor level.

The recommendation is partially achieved, although progress is significant, as there is progress to be made in one area. Inspectors found that children who were victims of sexual abuse and violence had different expectations of the outcome of the process, especially where family connections were involved, and this could lead to a reluctance to engage. The experience of interview by prosecutors was reported as daunting by some victims of child sexual exploitation. The efforts of the PPS in explaining the process to victims of child sexual exploitation was noted. Dealing with victims of child sexual exploitation to gain their trust and aid their understanding of the criminal justice process as well as the outcomes that may be achieved, could benefit from the use of additional support for victims. The possibility of using experienced voluntary and community organisations that already support victims/witnesses of child sexual exploitation by acting as intermediaries, could be an avenue for further development that the PPS could explore.

The introduction of two Independent Sexual Violence Advisor (ISVAs) as a pilot project by Victim Support Northern Ireland was promulgated as a means to supporting victims and keeping them engaged with the prosecution of the case. At the time of writing, it was however too early in the pilot to fully assess the impact and they only deal with adults. The PPS expressed its commitment to building cases around the credibility of the offence, rather than of the victim.

Report of the Independent Inquiry into Child Sexual Exploitation in Northern Ireland

Child Sexual Exploitation Supporting recommendation 46

Awareness-raising about the dynamics of child abuse and child sexual exploitation in particular, should be available for all legal personnel and should be mandatory for all legal professionals dealing with child abuse cases. This should be made the responsibility of the PPS for its own legal staff.

Status: Achieved.

PPS response

The PPS has established a SCU to deal with all sexual offences cases including cases involving child sexual abuse. This unit became operational on 4 January 2016 and is staffed by 10 experienced Senior Public Prosecutors. It is headed by an Assistant Director, who reports directly to the Senior Assistant Director.

All Prosecutors in the SCU have received training on sexual offences, including sexual offences against children, as well as specific training on child sexual exploitation, provided by Barnardos which included potential indicators of child sexual exploitation and the particular needs of children who have been subjected to or are experiencing child sexual exploitation.

The PPS Victims and Witness Policy requires prosecutors to treat all victims fairly and sensitively.

Inspectors' assessment

The significant progress in this area is the structural response through the creation of the SCU. Experienced Prosecutors are now handling all of these cases and this has contributed to increases in rates in prosecution and conviction rates. The relationship between the PPS and agencies that support victims of sexual offences has improved, with the caveat that support for child sexual exploitation victims could be developed. Training has been completed and PPS prosecutors are providing training to other agencies.

Police use of Discretion incorporating Penalty Notices Recommendation 1

The PSNI together with the PPS should review the governance and management of all non-PPS disposals. This must include improvements in its governance and quality assurance.

Status: Achieved.

PPS response

Dip sampling of police non-PPS disposals commenced in September 2016.

A total of 10 Penalty Notices for Disorder (PNDs) were sampled in September 2016 with a 100% rate of compliance.

Community Resolution Notices (CRNs)

Sample	Sample	Pass Rate (%)
September 2016	17	65%
October 2016	26	73%
November 2016	30	90%

Inspectors' assessment

The increase in pass rate and attainment of a 90% level of compliance in Community Resolution Notices and 100% compliance in Penalty Notices for Disorder indicates that the recommendation is being achieved. A further series of quality assurance sessions is planned and a Service Level Agreement between the PSNI and the PPS was being completed at the time of writing.



Conclusion

The PPS achieved four recommendations and partially achieved two of six that were reviewed as part of this follow-up. The structural improvements gave rise to increased efficiency and the outreach work of the newly created Serious Crime Unit to create a Joint Quality Assurance Group was welcomed. The potential for this group to examine reasons for withdrawal by victims, including victims of alleged child sexual exploitation should be fully exploited.

The benefits delivered by the Serious Crime Unit also included increased prosecution and conviction rates and improved relations with victim advocacy bodies. Arguably, the significant improvement was the adoption of performance measures that reflect the impact on victims rather than the traditional focus on process related metrics that was the previous norm.

The PPS has developed its performance management leading to more formalised, regular and recorded measures of individual and corporate performance. The establishment of the Policy and Information Unit brought together the legal and administrative elements of the PPS into one structure with responsibility for policy development/procedural guidance, the management of Criminal Justice System Northern Ireland initiatives, corporate governance and, importantly, the development and production of performance monitoring data. The review of and revisions to the capacity model has given rise to efficiency improvements.

The CJJ file quality and disclosure inspection recommendations will be subject to a further review in 2018.

Overview of Recommendations

Achieved	Partially Achieved	Not Achieved
4	2	0



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