

## HM Crown Prosecution Service Inspectorate

### Equalities Driving Justice - A Report on the Thematic Review of Equality and Diversity in Employment Practice in the Crown Prosecution Service

#### Executive Summary

##### Introduction

1. This is the report of the thematic review by Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) to assess progress made by the Crown Prosecution Service (CPS) in relation to equality and diversity in employment practice.
2. The decision to undertake the review at this particular time reflects the high profile that equality and diversity issues have in the criminal justice system and their importance within the CPS. It follows an earlier thematic review of *Casework Having a Minority Ethnic Dimension*, the report of which was published in 2002 and followed-up in 2004.
3. The CPS acknowledges that for some time it did not give sufficient management attention to equality and diversity. Concerted attention only focused on these issues in the late 1990's, with the threat of a formal investigation by the Commission for Racial Equality (CRE) following a number of high profile employment tribunal cases brought by black and minority ethnic (BME) staff, and community concerns about prosecution decision-making. The CPS responded with an independent inquiry, led by Sylvia Denman, that reported in July 2001<sup>1</sup>. In 2003, in view of progress made in addressing issues raised by the Inquiry, the CRE lifted its threat of formal investigation and instead entered into a monitoring partnership with the CPS which still continues today. However, this will be reviewed and is due to cease in 2007. The Chief Inspector of the CPS considered it was timely to assess progress being made in relation to employment issues.
4. In the five years since the Denman Inquiry 2001-06, the CPS has made significant progress in addressing the recommendations of the Inquiry and has broadened its approach to equality and diversity to embrace other aspects of diversity including gender, disability, age and sexuality.
5. The purpose of the inspection was to assess how effectively the Service's Equality and Diversity Strategy and Policies in relation to employment (including recruitment, retention and development) are working in practice to promote and achieve diversity within its workforce and equality within its employment practices, and in so doing support the Service's business aims.

6. The review took place between April and June 2006, with inspectors visiting CPS Headquarters and ten Areas and business units in late May and June to conduct interviews with senior managers. Focus groups of managers and staff were also held to explore the views of staff on equality and diversity issues. During the same period a range of internal and external stakeholders were interviewed.
7. This summary sets out our main findings followed by an overview of findings against each of the indicators set for the review. We also list the recommendations made, together with those issues where we seek improvement, and a summary of good practice found.

### **Main findings**

8. Commitment, together with strong and visible leadership, is vital in bringing about any change of attitude and practice within the workplace, and is particularly necessary in the field of equalities.
9. This thematic review has found that both the essential commitment to change, which was necessary following the concerns of the CRE in 1999 and the report of the Denman Inquiry in 2001, and the strength of leadership to bring it about, is in place at the highest levels within the CPS. Commitment has been backed up by changes to CPS governance structures, the development of a strong Equality and Diversity Unit (EDU), and a good level of engagement with both Government and internal stakeholders to support change in business units.
10. Equally, CPS Equality and Diversity Policy is clear, supported by a Strategy to 2008, and relevant to its business aims. Policies seek clearly to link equality in the workplace, including ensuring the CPS workforce is representative of the communities it serves, with improved approaches to prosecution, understanding public concerns and the overall service it delivers to the public.
11. The Service has taken a thorough and comprehensive approach to assessing the impact of its practices on equalities issues and is well prepared for new and emerging legislation. It has sought to be open and transparent about its progress through the publication of its Annual Equalities in Employment Report, which reviews the position in relation to gender, ethnicity and disability, and is the only criminal justice agency to do so in this way.
12. In adopting these approaches it has sought to address head-on the recommendations arising from the Denman Inquiry and wider public concerns, following the report of the Stephen Lawrence Inquiry. The CPS has also broadened its equalities agenda to include gender and disability and, more recently, sexuality, religion and belief, and age, in accordance with the requirements of new legislation.

13. In terms of representation, the CPS has successfully tackled the issue of under-representation of BME staff at more senior grades, and at the same time has also addressed the imbalance between men and women at senior level. At Chief Crown Prosecutor level there was a significant increase in representation, with the percentage of BME staff increasing from 8% in 2003 to 13% in 2005 and the proportion of women rising from 18% to 26% over the same period. The CPS has achieved these levels of representation by reviewing recruitment procedures, ensuring the requirements for senior roles reflect the competences currently required and stressing that appointments are made on merit. The CPS internal Law Scholarship Scheme has provided a route by which junior administrative grades can progress to the legal profession. The Scheme has been an important equalising measure for women and BME staff and has opened up the legal profession to those who previously might have felt excluded from it. Overall, the percentage of BME staff in the CPS in 2005 was almost 12%, higher than the Labour Force Survey benchmark figure and the Civil Service average.
14. The CPS has set out clearly standards of behaviour for staff and these are known and understood. Many new staff spontaneously mentioned that the approach to equality and diversity in the workplace adopted by the CPS was more comprehensive than that of their previous employers, including other Government Departments. The Service's own biennial staff survey indicates that the proportion of staff who feel they are treated with fairness and respect has increased since 2002 and is currently 10% higher than the external benchmark.
15. Overall formal equality and diversity complaints, after an initial rise following the introduction of a new procedure, have fallen. There is still, however, a relatively low level of confidence in the current arrangements and monitoring and reporting needs to be improved. Although a new Fairness at Work procedure is in the process of being established the CPS will have to work hard to ensure it has the confidence of staff.
16. Intensive equality and diversity training of all staff followed the Denman Inquiry, a significant undertaking which was comprehensively carried out and successfully raised the profile and embedded the concept of equality within the CPS. This review has found however that some managers, particularly operational managers, still struggle with the notion of equality and diversity issues in the workplace and what it does and does not mean for them as managers. They were nervous about, for example, tackling poor performance or requests for flexible working in case a complaint was brought against them. Managers and staff still need the skill and confidence to deal with such issues in the workplace and a re-assessment of the approach to training is needed.
17. The Denman Inquiry found significant variations in performance amongst CPS Areas in their approach to equality and diversity and that greater accountability was needed. Areas are now held accountable for ensuring equality of treatment within the prosecution process, and improving their performance in dealing with hate crime and in their engagement with the community. Recently they have been required to set targets for workforce representation, although work is still need to ensure their quality and that their purpose is understood by staff.

18. The Denman Inquiry in 2001 also found a growing backlash against equal opportunities on the part of white staff that needed to be carefully managed. While this review did not find anything of this scale, and indeed the need for equality was generally well accepted, a small minority of staff do not see the importance of the equality and diversity agenda. The successful delivery of equality is very much dependent on the organisation's ability to gain the commitment of its people. While it may be unrealistic for the Service to secure the commitment of each and every one of its staff, it needs to counter any negative perceptions. The CPS is seeking to manage this situation by making the link between equality in the workplace and good service delivery. This link is well understood at senior levels within the organisation but less so among middle managers and it is at this level particularly where concentration is needed.
19. A key issue for the CPS, which needs urgent attention, is its arrangements for managing flexible working. This review has found that flexible working arrangements are generally not being well managed, either to ensure the business needs of the CPS are being met or to ensure fairness of treatment to staff. Action needs to be taken to ensure that staff expectations about flexible working are realistic, that those expectations are managed and that managers have the confidence to control flexible working practices properly. It would be unfortunate if staff discontent about the handling of flexible working arrangements overshadowed otherwise good progress in developing equality and diversity in the workplace.
20. The CPS describes itself as being on a journey in respect of equalities. It sees itself as having successfully journeyed through its first phase, that of agenda setting and awareness raising and is now moving towards its second phase – the delivery of outcomes. This review has confirmed that this is the position and that significant progress is being made, despite the need for improvement in some aspects. Overall, the CPS has sought to address the recommendations of the Denman Inquiry systematically and move the Service forward into a position where there are no differences in employees' experiences that cannot be justified. It is working hard to achieve this objective.

## **Findings in relation to individual inspection indicators**

### *Leadership in equality and diversity in relation to employment practice*

21. Commitment, together with strong and visible leadership is vital in bringing about any change of attitude and practice within the workplace, and is particularly necessary in the case of equality.
22. This review has found the necessary commitment to change and leadership to be in place at the highest levels within the CPS. Commitment has been backed up by changes to governance structures, the development of a strong Equality and Diversity Unit and a good level of engagement with both internal and external stakeholders to support change.

23. However, the clear link made at the highest levels between equality and diversity in employment and the prosecution process is not always replicated at operational manager level.

*Equality and Diversity Policy and Strategy in relation to employment practice*

24. The CPS Equality and Diversity Policy is clear, supported by a Strategy to 2008, and relevant to business aims. The Service takes its responsibilities in the field of equality and diversity seriously, and has adopted a thorough and comprehensive approach to impact assessments of employment policies. It is well prepared for new and emerging legislation.
25. There has been good communication of the standards of behaviour expected in the workplace, which staff are well aware of and understand, although further work is necessary to ensure that some of the other policy and guidance materials are as effectively communicated.

*Implementation: planning for improvement and reviewing performance*

26. Equality and diversity issues are well integrated into the CPS's corporate business strategy: achieving equality in the workplace and a diverse workforce is a central theme. Generally, there has been an improvement in the way equality and diversity is reflected in the plans of the Service's business units and Areas, although there is scope for further improvement and more work is needed to improve the commitment and ownership of staff in respect of actions being taken to improve equality.
27. The CPS produces a comprehensive Annual Equalities in Employment Report which reviews the progress it has made in relation to gender, ethnicity and disability. However, the accuracy and presentation of some data needs to be improved. Good training is key to ensuring the strategy is understood and delivered. There has been no dedicated national programme of equality and diversity training for existing staff since 2001 as the Service has sought to integrate equality and diversity within training more generally. This approach needs to be revisited to ensure equality and diversity needs are being fully met.

*Implementation: achieving equality in working practices*

28. The CPS has established clear standards for behaviour in the workplace which are, both from the findings of this review and the staff survey, well embedded within the organisation and understood by staff.

29. The Service has put in place a range of flexible working arrangements both to attract staff and to enable a better balance between work and home commitments. However, they are generally not being well managed, either to ensure the business needs of the CPS are being met or the fairness of treatment of staff. Action needs to be taken to ensure that staff expectations about flexible working are realistic and that managers have the confidence to manage flexible working properly. It would be unfortunate if staff discontent about flexible working overshadowed otherwise good progress in developing equality and diversity in the workplace.
30. Action will also need to be taken to ensure that the Service's new complaints procedure secures the confidence of staff.

*Implementation: developing diversity within the workforce*

31. The CPS has made real progress in developing a more representative workforce in recent years, particularly in relation to the proportion of BME staff which it employs, which (at about 12%) is now higher than the Civil Service average and above that of other criminal justice agencies. The proportion of women at senior levels is also increasing.
32. To achieve this the Service has worked hard to challenge and change perceptions, particularly at senior levels, and recruitment and selection procedures have been overhauled to ensure they are transparent and fair. However, further work is needed to ensure staff have confidence in the new procedures and to counter some negative perceptions held by operational managers and staff.

### **Recommendations and aspects for improvement**

33. We have made seven recommendations to assist the CPS develop further:
  - (1) As part of its review of staff diversity networks, the CPS:
    - examines the role of faith-based networks and ensures that their role in supporting the business is clear;
    - takes action on the findings of the network review to achieve appropriate parity across networks and ensure their contribution to core business is maximised; and
    - strengthens the Enable network so it can realise its full potential (paragraph 4.23).

- (2) The CPS takes further action to increase the commitment and ownership of operational managers and staff in respect of actions being taken to improve equality and diversity in the workplace and to counter any negative perceptions (paragraph 6.9).
- (3) The CPS reviews its Annual Equalities in Employment Report with a view to improving the accuracy and presentation of the data, and accompanying text, and so provide a fuller picture of progress (paragraph 6.17).
- (4) The CPS, as part of the implementation of its new performance development review process, provides further guidance and support on how to set appropriate equality and diversity objectives which relate to employment (paragraph 6.19).
- (5) The CPS:
  - reviews the equality and diversity e-learning module and its approach of mainstreaming equality and diversity training to ensure that equality and diversity learning needs are being fully met;
  - ensures that new starters receive a timely induction which incorporates relevant equality and diversity issues. If an e-learning module is to be retained, this should be completed by starters as soon as possible after joining and followed-up by line managers; and
  - takes action to ensure that all operational managers are provided with the skills and confidence to deal effectively with equality and diversity issues faced in the workplace (paragraph 6.29).
- (6) The CPS reviews how effectively alternative working arrangements are working in practice, in particular whether they meet current and future business needs, and provides further guidance, support and training for managers to ensure they are able to balance properly the implementation of alternative working arrangements with business needs (paragraph 7.26).
- (7) The CPS ensures that the Fairness at Work procedure is carefully implemented and monitored in a manner which secures the confidence of staff. In doing this it should ensure that:
  - stakeholders are appropriately involved;
  - guidance for staff and managers is developed that clearly differentiates between the Fairness at Work and grievance procedures;
  - managers are appropriately trained and supported in the application of the new procedure; and
  - systems are put in place to monitor and report on informal complaints and grievances (paragraph 7.37).

34. We have also identified ten aspects for improvement. These are:

*Chapter 4: Leadership in equality and diversity*

- (1) Clarification and communication of roles and responsibilities of Projects and Performance Advisers and their relationship with Area responsibilities (paragraph 4.15).

*Chapter 5: Equality and diversity policy and strategy*

- (2) Completion of outstanding impact assessments, in particular of e-learning and the Prosecution College originally planned for 2005-06 (paragraph 5.8).
- (3) Further consideration to be given to communicating equality and diversity policy and guidance materials to ensure that all staff and particularly managers, are aware of the implications for their roles and that equality and diversity is fully integrated within management practice (paragraph 5.16).

*Chapter 6: Implementation: planning for improvement and reviewing performance*

- (4) Further development of Area workforce representation plans, in particular to ensure they incorporate quantifiable outcomes for actions and are broadened out to address equality and diversity in the workplace more generally as well as workforce representation (paragraph 6.7).
- (5) Clarification to Areas of the purpose of local Race Equality Schemes and how they will fit with the Single Equality Scheme due to be produced in late-2006 (paragraph 6.7)<sup>2</sup>.

*Chapter 7: Implementation: achieving equality in working practices*

- (6) Further communication to staff to address any misunderstandings around staff survey confidentiality to encourage higher response rates and provide a fuller picture of staff opinions (paragraph 7.14).
- (7) Exploration of the reasons for any differences in satisfaction between demographic groups and action taken to reduce these, particularly in relation to disabled staff (paragraph 7.14).
- (8) Incorporation of less serious misconduct cases and dismissals within monitoring data collected to provide a more complete picture of disciplinary action taken against staff (paragraph 7.45).

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2 Since completing the inspection the CPS has confirmed that this will be published on 4 December 2006.



- (9) Investigation of the under-representation of disabled staff in learning and development activities with a view to taking action to address the imbalance, and monitoring of the participation of staff to include alternative working patterns (paragraph 7.49).

*Chapter 8: Developing diversity within the workforce*

- (10) Continued action to improve further the representation of women at senior levels within the organisation and to improve the proportion of disabled people employed (paragraph 8.9).

### **Good practice**

35. During the review, Areas and business units were asked to identify good practice and helpful approaches to developing equality and diversity in employment. The following examples are highlighted in the body of the report and others are summarised in Annex J.
36. A number of Areas, including Dyfed-Powys, North Wales, Derbyshire and West Yorkshire, have introduced their own Area 'behaviours' documents, supplementary to the Service's Dignity at Work policy and expectations set out in the Equality and Diversity Policy. Generally, these are used to set local standards and drive Area vision and needs. In West Yorkshire's 'Behaviours we expect' document, a clear link with individual staff development was evident.
37. Leicestershire has adopted a local peer review process using the Chair of the local Race Equality Council to review all Area plans with an equality and diversity element, for instance Area workforce representation plans.
38. West Yorkshire continues to hold a number of diversity-based focus groups, some externally facilitated, including BME, hard of hearing and part-time workers, which have been successfully used to assist the development of action plans and drive improvement.
39. Durham is in the third year of assessing its performance against a Diversity Excellence Framework based on the European Excellence Model. The Framework provides a positive tool for focusing Area attention on equality and diversity performance and assessing its progress against a range of relevant measures.
40. In South London, managers attended an Advisory, Conciliation and Arbitration Service (ACAS) course to improve their understanding of the disciplinary investigation process and ensure appropriate management of situations according to CPS and statutory guidelines.

41. West Yorkshire has adopted a structured approach to management training including the adoption of a 'coaching management' style which facilitates improved management skills in addressing unacceptable behaviour and encourages a participative culture.
42. In Dorset, a high rate of staff demand for compressed hours led to the Area introducing a compressed hours pilot scheme. Both CPS Headquarters Human Resources Directorate (HRD) and the EDU were involved with the Area in developing a structured and fair approach, which included careful consideration of the number of staff requests the business could accommodate and how to allocate these opportunities fairly. The pilot was monitored and evaluated against business needs, and as a consequence, a compressed hours scheme was successfully introduced.
43. A number of Areas have undertaken clear consultation with staff and involved them in developing operational human resources-related guidance in potentially problematic aspects, for instance in relation to Area rotas and annual leave policy.
44. In a number of Areas, senior management team members have participated in staff networks which helps raise awareness and demonstrate commitment.
45. Northumbria and Hampshire and the Isle of Wight have worked with charitable disability employment groups, for instance the Shaw Trust, to assist them in identifying appropriate reasonable adjustments to accommodation and equipment for staff.
46. The CPS has established an additional place on its Law Scholarship Scheme dedicated to the memory of murder victim Anthony Walker, killed in a racially aggravated attack. The initiative, driven by CPS Merseyside working with the EDU and HRD was due to commence in autumn 2006.
47. A high proportion of Areas, generally through Chief Crown Prosecutors, offer mentoring to law students at universities and during the second stage of law qualification, including those from different diversity groups: hard of hearing, other disabled and BME students.

The full text of the report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available online at [www.hmcpsi.gov.uk](http://www.hmcpsi.gov.uk).

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