

CROWN AND COUNTY COURT ANNUAL REPORTS:

INTRODUCTION

The reports from the Crown Court and the civil jurisdiction of the County Court are in broadly the same format as in previous years, though attempts are always being made to improve the quality of the information:

- The reports from each of the Crown Court centres in England and Wales are written jointly by the Resident Judge and the Court Manager, and include, in graphic form, statistics relating to the business of that court.
- The reports from each of the groups of courts under the supervision of the Designated Civil Judge are written jointly by the Designated Civil Judge and the Regional Director within whose Region the group lies.

Each has been asked to set out a true and fair view of the business of the court over the year ended 31 March 2007.

This year's report, in conjunction with what I have learnt on my circuit visits, highlights budgetary and resource restrictions, the increased workload and consequent backlogs and delays, shortage of judicial manpower and the effect of pressures resulting from the loss of experienced staff and sickness levels. Taken together with the significant structural change that has taken place as a consequence of the reorganisation of the HMCS Areas, it has been a difficult year for many courts. I am concerned that, unless addressed, these problems will become worse and have a detrimental effect on the proper administration of justice.

I am also aware both from my visits and from these reports that there are many examples of good performance and some real success stories which reflect the way that staff and judiciary are working together to improve the administration of justice. I also note that, despite resource constraints, performance has largely been maintained; this is a great credit to the staff in HMCS. My concern for the future, however, is real and remains.

ISSUES ACROSS THE CRIMINAL AND CIVIL JURISDICTION

Judicial Appointments

Sufficient judicial resources are a pre-requisite for the efficient administration of justice. Many areas, in particular in London and the South East, have identified shortages in judicial manpower which, as a consequence of the delay in appointments, have affected court performance. For example Snaresbrook Crown Court has been awaiting six appointments. In Maidstone, the lack of full-time, ticketed judges has caused performance to deteriorate. The court has been forced to reduce its sittings by 100 days, the listing of serious or longer cases is often delayed and more than 100 cases were

transferred out to Canterbury Crown Court. Pressure on existing judges has been exacerbated, and has particularly affected those with tickets to deal with Class 1 and Class 2 work. In the County Courts there are also shortages of or delays in the appointment of both District Judges and Circuit Judges in several areas.

Resources and staffing

Many areas stated that their courts were running under tight budgetary constraints; real problems in relation to insufficient resources and understaffing have been reported. In many areas, particularly in the County Court, there is a high staff turnover which is symptomatic of the pressure placed on staff as a result of reduced headcount, the remuneration received and the wage differentials between government departments and the private sector. Further, the rate of recruitment is a significant cause for concern since many vacancies are not being promptly filled. Taken together with the high staff turnover, there are increased workload pressures on existing court staff and especially those at line-management grades. Examples of this can be seen in Surrey where the County Courts have been operating 20% under-strength or at Wandsworth County Court which has a remarkable 60.6% staff turnover. Many courts are relying on agency staff or the temporary use of staff from other court centres.

Despite this strain, staff continue to work with extremely impressive determination and dedication, but it cannot be denied that morale is becoming increasingly dented. Further, although such effort can be maintained in the short term, it cannot be expected to be capable of being sustained in the long term.

Estate

Several court centres expressed their concern with the lack of adequate accommodation, or the effects of the long-term deterioration in the fabric of the court accommodation without adequate remedy. In some cases, this has prevented the court from undertaking its necessary responsibilities and duties, most notably in Winchester, Gloucester[shire], Bournemouth and Aylesbury. Having said that, I appreciate that there are a number of competing Estates priorities across England and Wales and I do not wish to push any particular one to the forefront of the repair programme in place of another of which I am perhaps not aware. The overall problem, however, has been chronic under funding of the repair programme: although I welcome the additional resources promised for this area, I remain concerned that, on present forecasts, the maintenance backlog will continue for years to come.

A common feature in the South East is the temporary addition of extra court rooms at a site such as a County Court in order to assist another area of business such as a Magistrates' Court. Although ad-hoc additions can be made in response to immediate individual pressures, these do not provide long term solutions.

Improvements to the Quality of Statistical Information

Real problems in relation to the accuracy of statistical information have been reported, particularly in cases where managerial restructuring had taken place. This is something that requires the most urgent consideration and I know that HMCS are taking steps to improve data quality. Thus, at Central London County Court, accurate details in relation to multi-track trials were in error by as much as a factor of three in comparison to the figures held locally. What is particularly worrying is that the error demonstrated a reduction in workload, whereas the local checked data showed quite the reverse. Many courts expressed the concern that the errors were the result of current funding and resource pressures and that incorrect statistics may adversely impact upon the allocation of resources and thus compound the problems.

Courts and the Community

It is very pleasing to report the extensive interaction that takes place between the courts and the community. This is an important aspect of the business of the courts because it is essential to improve and then maintain the confidence of the public in the justice system. Increasing understanding of and participation in the system across all the diverse sections of the population is key to achieving this aim.

Visits by local schools, as well as work experience placements are regular features of court working life. There appears to be greater participation in open days as well as 'Inside Justice' week programmes, charity events, police officer training and 'You be the judge' events (which in Manchester have been particularly valuable to increase public confidence). A notable example is that of the open day that was held for special needs students in Mold Crown Court.

Court Staff

The members of staff of HMCS are its most valuable resource and, at all levels, they have continued to work hard and to the best of their ability, especially during times when circumstances have been difficult. They deserve our deep gratitude and the reports reflect their true professionalism. The following comments exemplify this shared characteristic:

"Everyone associated with this court sees themselves as, and works as, part of a team. It is this team ethos which leads to the successful running of this court. Great credit is due to all court and judiciary for their hard work and commitment achieved against a background of another challenging year in terms of resource allocation." (Manchester Minshull St)

"I conclude by thanking all staff for their unswerving loyalty, hard work and unfailing cheerfulness sometimes in the face of difficult circumstances. Without their efforts this creditable performance would not have been achieved" (Newcastle-upon-Tyne)

THE CROWN COURT

The statistical record

The work of the Crown Court varies considerably, but each court has the task of administering justice in varying circumstances not all of which are truly comparable. In managing the business of the court, it is necessary for the Resident Judge, with the assistance of the Court Manager, to deal with a wide variety of issues:

- The volume of work received (receipts). The charts show the split between trials for the more serious crimes (class 1, 2 and 3) and other crimes, cases sent for sentence by the Magistrates' Courts and appeals from the Magistrates' Courts; there has been added in bar chart form information as to the type of case.
- The need to see that justice is not adversely affected through delays. This is reflected in the figures for "outstanding trials" and for "stale cases."
- The number of trials that are not heard when they are listed (known colloquially as "ineffective trials"), and those where the defendant pleads guilty on the day of the trial, or where the prosecution accepts a plea to a lesser charge ("cracked trials").
- The length of time each case takes. This is partly reflected in the average trial hearing time and the disposal rate.
- The extent to which witnesses are called to give evidence but not ultimately required and the time that those who do give evidence have to wait before being called. The aim is to ensure that witnesses are heard without unreasonable delay.
- Jury utilisation rates: this is directed to ensuring that the time given by members of the public summoned for jury service is properly used.

Workload, capacity and time taken for cases to come to trial

The trend in statistics with respect to workload across England and Wales is somewhat varied. The South Eastern, London and North Eastern regions have experienced increases in their workload. If the capacity of the courts is not sufficient to deal with the work with many courts suffering from backlogs. Some of the factors identified as contributing to this situation are longer trials (in part a consequence of legislative and other developments such as those in the Criminal Justice Act 2003 relating to bad character and hearsay) but also the transfers of cases from other courts. The latter is an issue which greatly depends on the court estate. In the South East, for example, many instances are reported where more than one court will transfer cases they are unable to deal with, to another court with a greater capacity. However, once the limit of that court has been exceeded, cases have to be moved elsewhere, causing a further alteration to the flow of business. The closure of Middlesex Guildhall in

March has also contributed to the complicated distribution of the workload in London and the South East.

Some courts have identified (and I certainly endorse) the key role that Listing Officers and Case Progression Officers play in case management and in maintaining performance to alleviate some of this pressure on the courts.

Ineffective and Cracked Trials

There was a predominant concern that reducing the ineffective trial rate (for example by limiting the number of floating trials) would have the effect of increasing the problems of timeliness. This is being resolved.

The main factors contributing to the level of ineffective trials has been the non-attendance of prosecution witnesses or of defendants. In most courts, the level of ineffective trials appears to be stable, with many performing better in comparison to the average figures for England and Wales. Courts that had significantly low ineffective trial rates accredited their good performance to the contribution of Case Progression Officers in particular.

Moving on to cracked trials, however, figures show that there is still much work to be done to lower these rates. There are many areas with cracked trial rates above average, particularly in the North West and this is undeniably a cause for concern not least because victims and witnesses attend court unnecessarily and other trials are delayed because time allotted to a cracked trial cannot easily be reallocated. It is axiomatic that the main reason for a trial 'cracking' is that the defendant enters a late guilty plea. It is not surprising that some courts have commented that the reality is that many defendants plea guilty under the pressure of the day of the trial (no doubt at least in part because they have seen that the prosecution witnesses have attended and putting off the inevitable is no longer an available option), but further progress needs to be achieved in identifying those cases which are likely to crack and managing them as effectively as possible thereby minimising the enormous waste that a cracked trial causes.

Another pattern that should be highlighted is that increases in the ineffective trial rate have been noted alongside decreases in the cracked trial rate but it was not clear why this should be so.

The court user meetings and Joint Performance Management Committees attended by CPO, CPS, Police, Witness Care Unit and defence solicitors provide a forum for analysing and agreeing steps to improve ineffective and cracked trial rate figures. Joint consideration of these issues is essential and it is important to maintain this (and any other formal or informal) regular communication in order to identify and tackle problems at an early stage thereby improving the overall efficiency of the system for all.

Compliance with Court Orders

In most courts, there are still frequent failures on the part of one or more of the parties to comply with court orders for serving evidence, disclosure and ensuring availability of witnesses. In Isleworth for example, problems about the service of evidence or disclosure have been highlighted as a major factor behind adjourned PCMHs and the cause of having to vacate trial dates (albeit in advance).. Case Progression Officers have been effective at reducing the number of mention hearings at Blackfriars, Harrow and Peterborough and generally have been a valuable mechanism for persuading the parties to do what is required of them and thereby to maximise the efficient use of court time. Nevertheless, although extremely valuable, the presence (and need) for Case Progression Officers constitutes a drain on HMCS resources which should not have to be utilised simply to encourage, and exhort those conducting criminal litigation to comply with the Criminal Procedure Rules. I am discussing the concerns raised in these reports, and with me more generally about the inconsistent performance of the Crown Prosecution Service with the Chief Executive.

The Criminal Procedure Rules and Innovation

A number of courts commented that the rules are rarely referred to by practitioners. The rules are kept up to date centrally and, since the beginning of 2007, have been posted on the internet. One judge questioned their sufficient accessibility. Many areas reported that the effect of the CPR have yet to be seen, on the basis that it is still too early to tell.

Witnesses and Jurors

There have been more than a small number of instances where witnesses have had to attend court unnecessarily, in the sense that they have not been called. One court notes that their poor performance in this area could be due to the high cracked trial rate.

Facilities for witnesses and jurors are constantly being improved and developed to accommodate their particular (albeit different) needs. This is particularly so for witnesses who are vulnerable and several courts detailed arrangements they have in place for such witnesses, including pre-court visits (where, in advance, the Child Liaison Officer takes the witnesses around the court to familiarise them with the surroundings and the procedure for the day of trial).

Further, the Victims' Advocate scheme is in operation at the pilot sites and both resource and time have been committed to its success. The Central Criminal Crown Court reports a very low take up, however, of the independent advocate and the approach that the responsibility for representing the views of victims should fall on the prosecutor seems to be more widespread.

The Magistracy

It is pleasing to see examples of good practice among some courts in terms of engagement with magistrates. In Isleworth and Gloucestershire, for example, Circuit Judges meet with Bench Chairmen regularly, and Justices' training days are held for magistrates. Both of these initiatives (and many other Circuit Judges) contribute to the implementation of CJSSS.

Information Technology

In most areas the introduction of XHIBIT has been welcomed, is operating successfully and is providing a prompt and informative service to court users albeit without leading to any savings for HMCS; indeed, on days with long plea or other lists, many courts find the need to have two members of staff in court to ensure that the court maintains an appropriate pace while appropriate orders are recorded. This is not universal experience: in some courts many problems have been reported, including lack of speed or a failure of the system entirely. In any event, it is clear that additional burdens on staff have resulted. I do hope that the new IT contracts issued under the DISC Project will provide the necessary effective and timely day-to-day support and will also ensure that upgrades are implemented properly.

The Prison Escort Contract

The improvement in the management of the Prison Escort Contract experienced in recent years has continued. Unfortunately, many courts commented that such progress has been undermined by the stresses caused by the current prison population level. Prisoners have thus been delivered late to the court and pressures on van crews have also led to an absence of dock staff. Some court buildings have had to stay open till late in the evening in order to deal with late pick ups such as at Snaresbrook or Croydon.

In Bradford, the court staff arranged a visit to HMP Doncaster and learnt about the roles of the prison staff. The visit has facilitated a better working relationship and helped to resolve some outstanding issues.

THE CIVIL JURISDICTION OF THE COUNTY COURT

Target-Setting

On the whole, despite the restrictions on resources, performance is being maintained. Nevertheless, the issue of targets for the staff of HMCS is particularly difficult because the ability to meet them, despite the best efforts of staff, is not always dependent on matters within their control. This is not

least because of the principle that no judicial decision is or should ever be affected simply because of one or more HMCS targets which, in a particular case, may not be met in the interests of justice: by way of example, the Designated Civil Judge in Central London underlines that it is for the judges, not HMCS, to decide listing priorities. In Surrey, for example, it is suggested that further updated medical reports are often required in personal injury cases. This can make the 50 week target therefore somewhat difficult to achieve.

ADR

The reports suggest that, on the whole, more work is required to encourage the public to take up alternative dispute resolution (ADR). Nevertheless, HMCS staff are doing much to raise awareness of this service.

IT

Problems in IT are recurrent in civil courts. PCOL has suffered from slow connection speeds, a measure of inflexibility and system failures. It is hoped that the proposed reduction in fees for possession claims input directly by landlords onto PCOL will encourage more to do so; most serve claims in paper form thereby creating extra work at LINK courts which presently have to transfer the claims onto PCOL. Further, the inflexible 8 week fixed date generated by the system may also affect the disposal of other business of the county court. As for e-diary, in many courts, it has been found to take longer to input information than the manual diary or bespoke systems that it has replaced. Both of these schemes have contributed to delays and backlogs at some courts. Having said that, I am aware that HMCS are seeking to address these issues. Finally, there is still the need for upgrades in basic technology in some courts (lack of internet access, computer network or e-mail) since the LINK network has not been rolled out to all County Courts. Courts in this position not only cannot implement new working practices but also cannot so easily contribute to any redistribution of the workload across the circuit.

Finally ...

I cannot conclude this introduction without extending my profound gratitude to all members of the judiciary (but particularly those who undertake management responsibilities which greatly add to their workload) and, once more, to members of HMCS staff all of whom make an essential contribution to the running of the Crown and County Courts, and all of whom work so diligently to deliver justice to all sections of our society.

Lord Justice Leveson
Senior Presiding Judge for England & Wales