

Equality and diversity impact assessment of the CPS Advocacy Strategy Programme

Report by Sue Scott February 2007

Actions taken since the impact assessment

Following the earlier impact assessment HRD and the Advocacy Strategy Programme Team with EDU inputs have introduced a number of changes which should impact positive on diversity in advocacy. The actions taken are as follows:

Black and minority ethnic staff less likely to meet the standard for HCA selection for training

- In November 2007, a Statement of Principles was issued by the CPS and the FDA setting out the revised process for the allocation of HCA training places. This new process removes the 'selection' element and guarantees all applicants a place on the Stage 1A HCA training course. Upon successful completion of Stage 1A, applicants then move to Stage 1B and upon the successful completion of Stage 1B applicants are moved to the Crown Advocate grade.
- This new process removes the potential for direct or indirect discrimination in the allocation of training places.

Disproportionate failure rates among Black and minority ethnic staff in passing the HCA training course

- The EIA highlighted disproportionate failure rates among Black and minority ethnic staff in passing the HCA training course, although it acknowledges that the overall failure rate was very low. Whilst the EIA didn't identify a particular reason for the disproportionate failure rate, Leadership and Learning have revised the Assessment policy, which has been assessed by the Equality and Diversity Unit as being compliant with equality policy. There will be continuing assessment of the policy to establish whether there is differential impact on different groups.

Increasing applications from under represented staff for HCA training

- Details of the range of HCA related training courses were provided to all Areas in the series of roadshows conducted in February 2008.
- In order to increase awareness of HCA training courses among staff from under-represented groups, Leadership and Learning have provided details of all advocacy training to all the staff networks to promote amongst their members.

Under representation of women as HCAs

- The EIA suggested that women may be under represented as HCAs because many will have come to the CPS because of the family friendly working environment. This may not have been viewed as compatible with the previous HCA training courses which have always been delivered in York and necessitating overnight stay away from home.
- To encourage staff who were previously unwilling or unable to apply for the HCA training course, the 2 day Stage 1A training course will be delivered regionally, subject to available resources and trainers. By moving to a regional Stage 1A course, the Service is seeking to increase the amount of training that can be delivered and address the equality and diversity issues that had previously been raised.
- Options are also being considered for regional delivery of the externally assessed 3 day Stage 1B training course.

Data Issues

- There were a number of data issues which hampered completion of the EIA, including the use of different databases by HR and Leadership and Learning and inconsistencies in those databases in terms of ethnicity data.
- These issues are being addressed by the HR Systems Development Team and Leadership and Learning as part of the further development of the Trent database and the planned migration of existing training data from the TIMMS database to Trent.

Ongoing / Further Monitoring

A further EIA is planned for summer 2009 by which time the new procedures for allocation of HCA training places and the new Stage 1A and Stage 1B courses will have bedded in.

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Executive Summary

Introduction

The remit of the impact assessment was for an equality impact assessment of the CPS Advocacy Strategy Programme, which aims to increase the use of internal staff to carry out advocacy work. The key roles are those of Higher Court Advocate, which requires a legal qualification, and Designated Case Worker, which does not. The assessment looked at ethnicity, gender and disability.

Main conclusions by equality strand

The main conclusions are set out in Section 12, summarised below:

Ethnicity

Ethnic minorities are under-represented as HCAs among those qualified to become HCAs. They appear less likely to be found to meet the standard required for selection for training, and to pass the final training assessment if they are selected. Factors such as age and length of service do not seem fully to explain the disparities. Ethnic minority trainees are also significantly more likely to fail at the end of HCA training, although the proportion of fails overall is very low.

Ethnic minorities are represented among DCWs in the proportions their representation in the B1 and B2 grades would suggest.

They seem to make more applications for DCW posts than do white staff and possibly to be less likely to be selected. Their representation in training fails is significantly higher than we would be expected based on their representation among DCWs or in the DCW pool.

Gender

Women are under-represented among legally qualified staff in the three grades where most HCAs are found, the difference being significant at two of these grades. Nature of legal qualification held, age and length of service contribute to the disparities but do not fully explain them.

Eligible women are less likely to apply for HCA training, the difference being statistically significant among barristers in the C2 grade. They are somewhat, but not significantly, more likely to 'meet the standard' when they do, and gender does not appear to be a significant predictor of whether an applicant is found to meet the standard.

Women are under-represented as DCWs in relation to their proportion in the B1 grade, but not in relation to the DCW pool if this is taken to include B2 staff as well. If the DCW feeder pool is regarded as being confined to B1, women are under-represented among applicants, but this is not the case if the pool is regarded as staff in B1 and B2 grades. Female DCW applicants are (not significantly) less likely to be interviewed,

but when interviewed significantly more likely to be appointed. Overall they are more likely to be appointed but not significantly so. The training fail rates for men and women are consistent with their grade and DCW representation.

Disability

There was no evidence of any disparities by disability status in relation to either HCA or DCW representation or selection at any stage.

The proportion shown in the CPS workforce as being disabled, is 4%, much lower than the estimated proportions of working-age people and of the public sector workforce who are disabled. This may mean under-representation of disabled people in the CPS, under-reporting of disability, or a mixture of the two. Either could affect the true picture in relation to the representation of disabled people as HCAs or DCWs.

Data issues

Data problems are discussed in Section 11, summarised below:

The impact assessment was hampered throughout by problems with accessing necessary statistical data, despite the fact that the main (PIMMS) staff data base includes diversity data and a host of other variables potentially valuable for equality impact assessment purposes.

Problems included inconsistencies between PIMMS and other data sets supplied; internal inconsistencies within the PIMMS data; limited availability of data about DCW and HCA selection exercises; delays in accessing such information as was available; and absence in some data sets of diversity data together with absence of pay number, something that would have made possible a 'merge' with PIMMS data in order to pick up diversity and other relevant data relating to applicants.

Recommendations

The main recommendations relate to the further investigation of underlying causes for observed patterns and disparities, and to improved data management and monitoring arrangements.

1 Introduction

1.1 *CPS Advocacy Strategy Programme*

1.1.1 The Advocacy Strategy Programme aims to increase the amount of court work undertaken by CPS staff rather than by external agents, while ensuring high quality through effective staff training and development. Key to the strategy is the selection and training of more Designated Case Workers (DCWs) to review and present simple cases in the magistrates' courts, and of prosecutors at all levels to act as Higher Court Advocates (HCAs).

1.1.2 Eligible staff in the relevant grades apply for and are appointed to DCW posts, which can be in any region, not necessarily the one in which they are currently based. The role of Higher Court Advocate does not require appointment to a specified post: a legally qualified prosecutor at any level who passes the HCA training (or is granted an exemption from it) can attain HCA status and thereby be eligible to act as an advocate in the higher courts. HCAs can only apply for HCA training within their own region, and each region bids for a certain number of training places. The amount of HCA work undertaken by HCAs varies. The HCA role currently attracts a small salary enhancement. The introduction of a new pay framework will link additional pay more to the actual work carried out by a prosecutor.

1.1.3 Before being eligible to practise as HCAs, staff need to have obtained the necessary audience rights from their relevant professional body. For barristers, it is relatively simple to obtain authorisation from the Bar Council, but for solicitors the process can be onerous. The development route requires a lengthy process of mentoring, job experience, and formal training and assessment. At the time of the impact assessment, the two alternatives - accreditation and exemption - were due to be terminated at the end of 2006, but the deadline has now been extended for a year. The CPS have been making every effort to encourage solicitors to apply for the exemption route before the deadline. Solicitors who have applied for exemption are eligible to apply for an HCA training place, but would have to have obtained the exemption before taking up a training place.

1.2 *Remit of the impact assessment*

1.2.1 The initial remit was set out in the CPS's specification, and in the tender submitted for the assessment. In brief, the intention was that the assessment should look at:

a) HCAs

- applications for HCA training, acceptances and training outcomes
- exemptions from training
- deployed HCAs following training
- case allocation to HCAs
- consultation with diverse groups of applicants, non-applicants, and appointees

b) DCWs

- applications and appointments

- current diversity profile

1.2.2 In each case, the analyses were to cover ethnicity, gender and disability.

1.2.3 See Section 11 below for a discussion of data issues and their impact on the remit of the assessment.

1.3 Data used & data analyses

1.3.1 The report uses data from the internal 'PIMMS' staff data base, as supplied at the end of May 2006, together with selection data on all cases for which it was available, on DCW and HCA selection.

1.3.2 The diversity distribution of HCAs will clearly be affected by external recruitment into those grades at which it is possible to become an HCA. While the impact assessment is essentially an analysis only of internal appointments, it would be incomplete without some reference to external recruitment. A copy of the "Annual Equalities in Employment Report 2004-2005" was supplied. This shows that CPS analyses external recruitment grade by grade, consistent with good monitoring practice, and relevant analyses were considered as part of the assessment.

1.3.3 All statistical tables and analyses are contained within two appendices, one relating to HCAs and one to DCWs. In each of these the table numbering corresponds to the numbering of the relevant section of this report, so, for example, tables 2.1a to 2.1.j in the HCA appendix relate to section 2.1 of the report. References are made throughout the report to whether identified differences are 'statistically significant' or not. This refers to whether observed differences are the result of genuine differences between the groups in question, or arise because of chance variations. A 5% probability of an observed difference arising by chance when there is no real difference is generally taken as indicating 'statistical significance'. Where the probability level is 1% or less, findings are often described as "highly significant", but in this report this distinction is not drawn. The level of significance can be found in the relevant tables in the appendix, shown as "Pr". For example where Pr is .006, this indicates a 0.6% probability of chance results. While "over-testing" (carrying out a large number of significance tests) can mean that some apparently "significant" findings arise by chance, it is not likely that any of the significant results in this report are so caused. The findings tend all to point in the same direction, often with a low "Pr" figure.

1.3.4 Where a variable category is designated " . ", this relates to those individuals for whom data on that variable is missing.

2 HCAs - Distribution data

2.1 HCA Distribution data - general

2.1.1 For the majority (497) of the 745 HCAs (PIMMS data) the 'substantive level' is C2, but there are also high numbers who are substantively Grade D (164) and E (63), a total of 20 at the three CCP grades, and one at SCS1. The picture in relation to 'present level' is broadly similar, with 478 of the 745 HCAs shown as having a 'present level' of C2.

2.1.2 Approximately two thirds of HCAs are solicitors, one third barristers. One HCA is shown as having no legal qualification, nine as both solicitors and barristers. Although there are more solicitor HCAs than barrister HCAs, you are significantly more likely (35%) in the CPS to be an HCA if a barrister than a solicitor (21%).

However, this pattern varies from grade to grade. At C2 it is significant, at grade D it does not obtain at all, and at grade E the pattern is reversed.

2.1.3 Two, probably linked, variables (apart from type of qualification held) that are obvious candidates for potentially affecting the probability of being an HCA are age and length of service. Variables for age and length of service at 1 January 2006 were therefore computed and analysed. (Some staff's length of service is shown as negative because they joined after that date.)

2.1.4 Among legally qualified staff at Grade C2, HCAs are significantly older than non-HCAs (mean ages 44.9 and 42.6 respectively). They also have on average significantly higher length of service (12.7 vs 9.4).

2.1.5 The age and length of service variables were grouped into categories. The simplest way of doing this was to set the upper limit of each category at a specific whole number. That upper limit defines the upper boundary of the category in question and the lower limit of the next category. So in the case of age, the category shown as '25' includes everyone under the age of 25, the category shown as '35' includes everyone of 25 or over but under 35, and so forth. (Those who have a 25th birthday on 1 January will be included in the '25' category, but all other 25-year-olds in the '35' category. To all intents and purposes, the categories are 25-34 ('35'), 35-44 ('45') etc.

2.1.6 Age patterns for the different diversity groups are considered in the relevant sections on ethnicity, gender and disability, below.

2.2 HCA distribution - ethnicity

2.2.1 Overall, 8.5% of all staff are HCAs. The figures for individual sub-groups vary: for example, none (0%) of the 44 Bangladeshi staff is an HCA, but 9.2% of White staff and 10.17% of 'Asian Other' staff are HCAs.

2.2.2 Looking just at the figures comparing white and ethnic minority staff, ethnic minorities are 6.9% of all HCAs and 8.1% of HCAs of known ethnicity, whereas they are 12.9% of all staff and 15.2% of staff of known ethnicity. 9.2% of all white staff are HCAs and 4.5% of all ethnic minority staff.

2.2.3 A perhaps more meaningful analysis is of those staff eligible to be HCAs in the main grades (C2, D and E) at which HCAs are found. Here the group with the highest proportion of HCAs (29%) is white staff, but some other sub-groups (including some where numbers are small so percentages likely to be unstable) also show quite high proportions.

2.2.4 Among legally qualified C2-grade staff, whites again have the highest proportion of HCAs, again with high proportions showing in some other sub-categories.

2.2.5 Looking only at a simplified distribution by main ethnic group, it appears that for the three main HCA grades combined, and for C2 only, whites have the highest proportion (29%) of HCAs, with the other main groups (Black, Asian, Mixed and Chinese) showing broadly similar proportions of HCAs, between 14% and 17%.

2.2.6 Where the comparison is simply between staff of known ethnic minority origin and staff of known white origin (ie excluding "other" and "unknown"), white staff at each of the three main HCA grades are found to be more likely to be HCAs than their ethnic minority counterparts. The difference is statistically significant at Grades C2 and D but not at Grade E.

2.2.7 The observed under-representation of ethnic minorities as HCAs does not seem to be explained by the nature of the legal qualification held. At Grade C2,

legally qualified ethnic minority staff are significantly more likely than white staff to be barristers, and, as noted earlier, barristers are significantly more likely than solicitors to be HCAs. In addition, the ethnic difference persists even when data for barristers and solicitors are analysed separately. Among barristers and among solicitors, white C2s are significantly more likely than ethnic minority C2s to be HCAs.

2.2.8 The distribution data then clearly show ethnic differences among legally qualified staff in likelihood of being an HCA.

2.2.9 Analyses in relation to legally qualified staff at C2 show that ethnic minorities (mean age 39.7) are significantly younger than white staff and have significantly lower length of service, so these factors may contribute to observed differences in HCA proportions.

2.2.10 Age and length of service were each grouped into categories, to try to obtain a clearer picture of their relationship with ethnicity and HCA status. For each age and length of service category the proportions of HCAs and non HCAs among white and ethnic minority legally qualified staff at C2 were compared. For each age category and each length of service category, the proportion of whites who are HCAs is higher than the corresponding figure for ethnic minority staff.

2.2.11 Significance tests were carried out comparing proportions of white and ethnic minority staff in each age and length of service category separately for solicitors and barristers. These show that for most age category and qualification type combinations, the difference in the proportions of ethnic minorities and whites is not statistically significant (although in most cases it favours white staff). However, some significant differences were found. Among solicitors in the age range 35 - 44 (the largest age category for C2 solicitors), white staff are significantly more likely to be HCAs. Among barristers, the difference is significant in the age range 25-34.

2.2.12 No significant ethnic differences are found among solicitors in any length of service category, and in the largest category (up to five years), the proportions are virtually identical. Among barristers, a significant difference is found in the shortest length of service category (up to five years), where 45% of white barristers are HCAs but only 14% of ethnic minorities.

2.2.13 Further exploration of the various factors that may determine HCA status is described in Section 2.5 on multivariate analysis, below.

2.3 HCA distribution - gender

2.3.1 The proportion of HCAs who are women is 41%. For each of the three main HCA grades, women are under-represented in proportion to their representation among legally qualified staff. The difference is statistically significant for grades C2 and D.

2.3.2 Nature of legal qualification held may partly explain women's under-representation as HCAs. Women are significantly more likely than men to be solicitors, overall and at Grade C2. And, as already noted (Para 2.1.2), barristers are more likely than solicitors to be HCAs. However, the gender disparity holds when C2 solicitors and barristers are analysed separately and is statistically significant in the case of solicitors.

2.3.3 As with ethnicity, there were gender differences in age and length of service. Legally qualified female C2s are significantly younger (39.7 vs 43.3) than their male counterparts, and have significantly shorter length of service (7.0 vs 10.2 yrs).

2.3.4 For each age and length of service category in each legal qualification type, the gender composition of HCAs and non-HCAs was compared. Among barristers, men in the age category 35 - 44 were significantly more likely than women to be HCAs, and the difference in the 25-34 category bordered on statistical significance. However, within the length of service categories, no significant differences were found in proportions of men and women who were HCAs. For solicitors, there were significant gender differences in the age category 45-54, and in the length of service category between 10 and 15 years.

2.4 HCA distribution - disability

2.4.1 The PIMMS data has four categories in the 'disability status' variable: disabled; formerly disabled; none; and undisclosed. For purposes of the impact assessment, this was simplified to a two way distribution between those known to be disabled now - the "disabled" category, and everyone else - ie combining the other three categories.

2.4.2 The proportion of disabled staff in the CPS overall is 4.18%, and there is very little difference between the proportions in the main HCA grades (C2, D and E) and all other grades, the figures being 4.43% and 4.06% respectively.

2.4.3 In general the proportion of disabled staff increases for the older age groups, being less than 2% in the under 25 category, and over 6% for the two categories up to 55 and up to 65. This pattern also applies in the main HCA grades.

2.4.4 For each age category of legally qualified C2 staff, no significant difference is found in the proportions of disabled and other staff who are HCAs.

2.5 HCA distribution - multivariate analysis

2.5.1 Multivariate analyses make it possible to examine the relationship between different predictor variables and the 'dependent' variable (in this case whether or not HCA).

2.5.2 In this case, the technique used is 'logistic regression analysis'. This makes it possible to look at whether, for example, ethnicity contributes independently to the likelihood of being an HCA, once age and other factors have been taken into account.

2.5.3 Where no predictor variables are fed into the model, a good prediction of HCA/non-HCA outcomes for legally qualified C2 staff is achieved simply by guessing that a given person will not be an HCA (since this will be correct in 78% of cases).

2.5.4 Where age, length of service, legal qualification type, gender, ethnicity and disability status are included in the model, the overall prediction rate is slightly lowered, but the balance between false positives and false negatives shifts.

2.5.5 The logistic regression model suggests that both ethnicity and gender contribute independently, and significantly, to the prediction of HCA status among legally qualified C2s even after qualification type, age and length of service have been taken into account. Interestingly, it appears that age is negatively related to HCA outcome once the positive impact of length of service is taken into account. This serves as a useful warning about the impact of variables not included in a analysis. Were length of service not included among the 'predictor' variables for consideration, the resultant model would show age to be positively related to HCA

status, simply because of the positive relationship between age and length of service. So it must be remembered that there may be factors not included in the analysis that make it more likely for a man or a white person to be an HCA. Such factors might include prior educational attainment/background, or nature/extent of previous work experience, which might be related to both the diversity variable and to HCA status. Such factors can not be extracted from the available data, and would in any case require careful coding for inclusion in any statistical analysis, and might require qualitative investigation. (The existence of such an 'explanation' for ethnic or gender differences in HCA status would not of course necessarily constitute a justification for these differences, without evidence that the relevant educational and experience factors were useful predictors of HCA performance.)

2.5.6 In summary, it appears that the relationship of HCA status to gender and ethnicity may in part be explained by age, length of service and qualification factors, but these do not account in full for observed sex and ethnic differences.

3 Application and selection for HCA training

3.1 *General*

3.1.1 The main selection process for HCAs is selection of qualified staff for HCA training. The process originally involved a paper sift followed by an assessment involving interview and advocacy exercise. The revised process relies on a purely paper-based application exercise, requiring applicants to supply evidence of three required competencies, which are: commitment to self-development; sound legal knowledge and judgement; and strong advocacy skills.

3.1.2 It proved very difficult to obtain comprehensive data on applications for HCA places, as discussed further in Section 11. In the end data were provided on 20 selection exercises, all run between July 2005 and December 2006 (but not necessarily relating to all selection exercises run during that period). These included a total of 99 applications for a total of 59 training places. In 17 of the exercises there were more applicants than places, in three the numbers were the same. Some of the exercises used the old process, some the new, but it was not possible to ascertain which process was used for any given exercise.

3.1.3 The data for the separate exercises were combined. Pay number had been included at the request of the researcher, so it was possible to merge the recruitment data with the PIMMS data in order to pick up other relevant variables, including diversity ones, included in the latter.

3.1.4 Clearly the data available represent only a small proportion of applications and decisions made since the start of the HCA programme, given that the PIMMS data showed a total of 747 HCAs, and the number of past applicants will have exceeded the number of current HCAs. Findings need to be looked at in the light of small numbers (particularly of ethnic minority applicants) and the fact that they may not be representative of all applicants over the life of the HCA programme.

3.1.5 Fifty-seven of the 99 applicants was found to 'meet the standard' for HCA training, but because of the imbalance between places and applicants, only 48 of these were actually selected for training.

3.1.6 A variable of 'unlucky' was created to identify those applicants who applied in exercises where applicants outnumbered places, and one of 'very unlucky' to

identify those who 'met the standard' but were not chosen for training because of this.

3.1.7 Ninety-two of the 99 applicants were C2s, 6 at D, 1 at CCP2. Seventy-six applications were from solicitors, 22 from barristers, and one from someone recorded as being both solicitor and barrister.

3.1.8 In this sample, solicitors seemed more likely than barristers to be found to meet the standard, but the difference just misses statistical significance. (It is in contrast to the finding that barristers are more likely than solicitors to be HCAs, and may reflect a change in the patterns of the two pools.)

3.1.9 Age and length of service at time of the recruitment exercise were computed. The average age at application (43.0) of those meeting the standard is higher than those not meeting it (41.7), but the difference is not statistically significant. Those meeting the standard have slightly *shorter* length of service at time of application than those not meeting it (10.9 vs 9.3), but again the difference is not statistically significant.

3.2 HCA training application & selection - ethnicity

Missing ethnicity data

3.2.1 For seventeen of the 99 applications, there was no ethnic origin information. None of these had a name that suggested obvious Asian or African origin, although it is not impossible that they may have been of black Caribbean, mixed, or other non-white ethnic background. But other analyses suggest that the unknown group closely resembles the white group.

3.2.2 For the purposes of analysis, a further variable was created, according to whether applicants were known to be of ethnic minority origin or not. For some analyses, particularly where significance levels are borderline, findings in relation to white and ethnic minority applicants are tabulated separately for known ethnicity, excluding missing data cases ("knowne") and for the recoded ethnicity variable, comparing known ethnic minority applicants with all other applicants ("EM_vs_notknownEM").

Application rates

3.2.3 The first analysis looked at the proportions of eligible white and ethnic minority staff who had sought HCA status. The analysis was confined to C2s as numbers at other grades were too small for meaningful analysis. Taking as the comparator pool all legally qualified C2s (ie including some already shown in the May 2006 PIMMS data as HCAs), no significant difference is found in the proportions of white and ethnic minority staff who apply. This is true also where solicitors and barristers are analysed separately.

Whether found to meet the HCA standard

3.2.4 Among those who did apply, whites were significantly more likely to be found to meet the standard. This is true for all applications, and for C2 applications.

3.2.5 Where applications from solicitors and barristers are analysed separately, the ethnic difference in meeting the standard was significant for solicitors (where 64% of 53 white applicants was found to meet the standard, but only one - 17% - of 6 ethnic minority applicants), but not for barristers.

3.2.6 Again an attempt was made to determine the impact of age and length of service on the likelihood of being found to meet the standard. The average age at

time of application is higher for white (42.9) than ethnic minority (35.3) applicants. Average length of service at time of application for the two groups is 10.8 and 5.2 respectively. Both these differences are statistically significant.

3.2.7 The factors contributing to the 'met/not met' outcome are considered again in Section below, on multivariate analysis.

Outcomes for those who did meet the standard

3.2.8 None of the ethnic minority applicants was among the 'unlucky' ones, ie none applied in an exercise where the number of applicants outnumbered available places. None of the nine 'very unlucky' applicants (found to meet the standard but not offered a training place) was of known ethnic minority origin, 8 being white and one of unknown ethnic background.

3.3 HCA training application & selection - gender

Application rates

3.3.1 In this sample women seemed less likely than men to apply for HCA training (in relation to their representation as legally qualified C2s). The difference is not statistically significant overall but is statistically significant in the case of barristers.

Whether found to meet the HCA standard

3.3.2 Among those who do apply, however, women seem more likely to be found to 'meet the standard', but the difference is not statistically significant.

Outcomes for those who did meet the standard

3.3.3 There was no difference in the proportions of men and women who were 'unlucky' in the sense of applying in an exercise where applicants outnumbered available places.

3.3.4 Women applicants were more likely than men to be solicitors but the difference is not statistically significant.

3.4 HCA training application & selection - disability

Application rates

3.4.1 The application rates for disabled and non-disabled legally qualified C2 staff were virtually identical.

Whether found to meet the HCA standard

3.4.2 A smaller proportion of disabled applicants was found to meet the standard, but the difference is not statistically significant (and the number of disabled applicants so small that a difference in one person meeting or not meeting would hugely change the met/not met balance).

Outcomes for those who did meet the standard

3.4.3 The one disabled person who met the standard, and this person was selected for training.

3.5 HCA training application & selection - multivariate analysis

3.5.1 Logistic regression analyses show that inclusion of age, length of service, gender, legal qualification type and known ethnicity in the analysis improves the prediction rate for 'meeting the standard' achieved by simply guessing all applicants

to have met the standard, from a correct prediction rate of 57.6% to one of 65.4%. None of the variables on its own makes a statistically significant contribution. Where the analysis is rerun with the 'ethnic minority/not known ethnic minority' variable instead of the 'known ethnicity' variable, this is shown to make a statistically significant contribution to outcome, and the prediction rate increases to 72.1%, dropping to 65.3% when the ethnicity variable is dropped from the analysis but the others left in.

3.5.2 In short it appears that ethnicity (whether known ethnic minority) contributes to the met/not met outcome, independently of age, length of service, legal qualification type, and gender. Again, this does not mean that ethnicity itself contributes to the outcome. Ethnicity or another variable, not included in the analysis and linked to ethnicity, or a combination of the two could be influencing outcomes.

3.5.3 The analysis suggests that gender does not contribute significantly to whether an applicant is found to meet the standard or not.

4 HCAs - Training outcomes

4.1 *General*

4.1.1 Attendance at/completion of training does not guarantee HCA status. Trainees have to pass assessment at the end of training. Initially, there was a single period of training. The training system, like the selection system, changed during the course of the impact assessment, such that from June 2006, successful applicants would have to undertake and pass two separate training modules, the Non-Jury Stage, with a period of practical deployment carrying out non-jury cases in the Crown Court required before trainees proceed to the Jury Stage. The data supplied in relation to outcomes of training assessment all relate to the old one-stage system.

4.1.2 A list of everyone who had passed or failed HCA training was supplied. Unfortunately the list did not include pay number, so it was not possible to conduct a merge with the PIMMS data by using this variable. An attempt was made to merge by name (converting two PIMMS variables into a single 'name' variable to match that in the training data), but there were many cases where a match could not be made, owing to variations in the way names were spelled or recorded (eg the use of diminutives). An attempt was then made to match remaining cases manually, but proved too time-consuming to be worthwhile. It was clear that the vast majority of all trainees passed the end-of-training assessment. The focus was therefore on the minority (14 out of 764) who failed.

4.2 *Ethnicity*

4.2.1 There is a clear ethnic imbalance in failure rates, with five each of known white and known ethnic minority trainees failing, compared to 431 and 52 respectively who passed. This difference is statistically significant. It should be noted that name data suggest that at least two of the 'unknown' fails were likely to be of ethnic minority origin, so the disparity may be even higher than observed (although of course the ethnic composition of the 'unknown' passes is not known).

4.3 Gender

4.3.1 There is no significant difference in the proportions of men and women who fail training.

4.4 Disability

4.4.1 Nor is there any difference according to disability status. None of the 19 disabled HCA trainees failed training.

5 HCAs - Selection for exemption from training

5.1 General

5.1.1 In addition to the process of seeking and undertaking HCA training, there is also a process whereby staff can seek an exemption from training. These applications are considered by the HCA Exemption Committee.

5.1.2 It is important to remember that those who gain exemption from HCA training do not show in the HCA training application statistics, so diversity analyses need to be carried out on each route, although at present the numbers applying for and obtaining exemption for training are relatively small.

5.1.3 A record of training exemption applications submitted since the inception of the HCA Exemption Committee. The list did not include diversity data (although it was possible to establish the sex of all applicants). Only 19 of the 46 people on the list were also in the PIMMS data from late May 2006. Some will have joined the CPS since then and some may have left during the period, but many of the people whose applications were submitted before May 2006 and who are known still to be with the Service were not in the PIMMS data.

5.1.4 The very limited data available make it unlikely that the results of any analyses undertaken could be relied upon as a guide to the wider data set of exemption applicants, which is in any case a relatively small proportion of legally qualified CPS staff. The only clear finding seems to be that most exemption applications come from barristers, who were 12 out of 13 applicants shown as being one or the other. (The other six applicants were shown in PIMMS as neither barrister nor solicitor, adding to concerns about the accuracy/completeness of the PIMMS data.) The only diversity analysis attempted is of gender, below.

5.1.5 It should be noted that in every application on which a decision had been made, the outcome was a positive one, although it is understood that some might have been referred back to the applicants prior to decision, so that they could resolve issues that might have led to a refusal.

5.1.6 The system is in the process of being changed, in line with the change in HCA training, such that people can apply for full or partial exemption (partial exemption relating to exemption from the first - non-jury - stage of training. However, there is no reason to believe that this will necessarily change the pattern of positive outcomes, so it is likely that monitoring of those who apply will yield more information than monitoring of outcomes (although this should also be done).

5.2 Gender

5.2.1 It was possible to establish the sex of all of the applicants for exemption from training. Twenty-two (48%) of the 46 were female, a proportion that is likely to

be higher than what the pool might be expected to be, given that most applicants appeared to be barristers (where legal qualification was known).

6 External selection to potential HCA posts

6.1 General

6.1.1 As already noted, the diversity distribution of HCAs will clearly be affected by external recruitment into those grades at which it is possible to become an HCA. This may become a more important determinant of HCA diversity composition if the CPS looks more to external recruitment for employees who can quickly meet any need for increased HCA capacity.

6.2 Ethnicity

6.2.1 The Equalities in Employment 2004-5 report shows that ethnic minorities represented 46% applicants for C2 posts and 47% of interviewees, suggesting the CPS is being very successful in attracting applications from ethnic minorities, and apparently interviewing them in proportion to their application rate. However, they are only 33% of new appointees.

6.2.2 Without knowing the overall figures, it is not possible to gauge the statistical significance of this difference, but there does seem to be a possibility that ethnic minority interviewees for C2 posts may be less successful than white interviewees (even though C2 is the grade at which the ethnic minority proportion of appointees is highest).

6.2.3 (The information presented concerning 'success rates' by ethnicity for external recruitment, are confusing and seem to reflect the proportion of each group appointed, rather than the success rates of each group.)

6.3 Gender

6.3.1 The Equalities in Employment 2004-5 report shows that women represented 57.4% of applicants for C2 posts, men 30.2%. It is not clear who the other 12.4% of applicants were! Men and women were each 50% of interviewees for C2 posts. Women end up as 52.9% of appointees. Overall, this **may** mean women are under-represented (relative to application rates) among appointees, but this depends on the meaning of the applicant percentages, and on the numbers of applicants overall (which will determine the statistical significance of any disparity there may be). [In passing, it is noted that the text on page 32 of the report seems misleading, stating that at grades A1 - B2, twice as many men as women are interviewed, something that the figures do not appear to support.]

6.4 Disability

6.4.1 The Equalities in Employment 2004-5 report shows no disabled people appointed at grade C2, but the application rate was very low, probably representing only one or two people.

7 HCAs - qualitative data

7.1 General

7.1.1 The qualitative work consisted of meetings with five legally qualified staff from a single region, in two separate groups, one of two HCAs (both barristers) and the other of three non-HCAs, all of whom were solicitors working towards HCA status. Four of the five were women, and two were Asian.

7.1.2 The two HCAs reported that they did different amounts of HCA work, one being a full-time HCA, the other part-time. The full time HCA spent four days in the County Court, one doing police station work; the part-time HCA did one day in the County Court, two days doing police station work and one day in the office.

7.1.3 They also noted that the CPS was moving more towards having HCAs carry out trial work, as opposed to the 'PCMH - pleas etc' work that the majority of HCA time currently went to.

7.1.4 Some participants felt that there were not enough HCAs to do all the HCA work that arose, others that there was not actually enough HCA work to go round.

7.2 Deployment/allocation

7.2.1 The 'allocation' by line managers seemed to be more a matter of allocating days to type of work than to particular cases. Both HCAs said that when working in the Crown Court they would select trials that they felt competent/ wanted to prosecute in, and flagged this on the paperwork that went back to the office ("I'll do this one.").

7.3 Reasons for HCAs not doing HCA work & non-HCAs not seeking HCA status

7.3.1 Asked about the people who currently had HCA status but did no HCA work, the participants generally felt that this was not the result of a cynical decision made in advance of HCA training, simply to obtain the status and the (relatively small) amount of extra money associated with it. It was felt that some people, after experiencing the advocacy role, felt that they just were not suited to it, and the participants pointed out the importance of having and valuing the people who were better at the 'paper' end of prosecuting work.

7.3.2 The same point - about just not being suited or attracted to HCA work was made in relation to non-applicants. It was also believed that people who'd been in the CPS as prosecutors for many years might just not want the extra hassle that might go with HCA work, and were quite comfortable in their current roles.

7.4 HCA Selection (for training)

7.4.1 There were concerns generally about the HCA selection process. It was felt that the process could actually measure people's capacity to 'play the game' in 'spinning' one's experience and skills to sell oneself and demonstrate required competencies, rather than the competencies themselves. There were anecdotes of very well qualified people who had been turned down for HCA training apparently because they had not succeeded in demonstrating on paper the competencies they very clearly possessed.

7.4.2 One person expressed a concern that the appraisal process played no part in the decision, commenting that the appraisal process therefore seemed to have no impact on anything and to be pointless. It was acknowledged however that if

appraisals were to be used as part of HCA selection, the appraisal system needed to be fair and good.

7.4.3 No-one seemed to feel that line managers were likely to 'scupper' applications unfairly (or even fairly!). One person suggested that the CPS was in a sense "putting the burden on Nottingham Trent" - to screen out in training those not suitable for HCA work (although the low failure rate for trainees tends not to support this view).

7.5 Diversity issues

7.5.1 None of the participants expressed any concern about diversity issues in relation to HCAs. Pressed about a possible conflict between caring responsibilities and HCA work, the non-HCAs felt that the pressure of work as a prosecutor was in any case high and that being an HCA would not add significantly to the amount of out-of-hours work required. The HCAs felt that the HCA role did add to the load, but still did not feel that this would necessarily be a deterrent to those with family responsibilities. As already indicated, their experience was that the process of case allocation, trial work in particular, was largely a matter of self-allocation, and that it would be perfectly possible for people to select trial work at times consistent with family responsibilities. It was possible to have flexibility. There was no strong view that women might be particularly deterred from applying for the HCA role, although when pressed participants acknowledged that it was possible (but not considered a serious problem).

7.5.2 None of the participants referred to any concerns about unfairness on ethnic grounds, or to ethnic imbalances.

7.5.3 Despite criticisms of the selection process, none of the participants suggested that it was systematically unfair for any particular group.

7.6 Law Society exemption

7.6.1 The non-HCAs/solicitors expressed concern about the arduous process they had to go through to meet the requirements of the Law Society exemption route to higher court audience rights. Even the completion of the form would require considerable effort, probably entailing setting aside a weekend to do it. It was felt that the CPS did not do enough to support people in obtaining the necessary experience, so aspiring HCAs were left to try to obtain the experience themselves, in the very limited amount of work time not dictated by day to day pressures, while still carrying the full load of their routine work. A reference was made to 'discriminating' against solicitors.

7.6.2 One person also expressed the view that the CPS just wanted to process solicitors to become HCAs quickly and cheaply, and that the development route might produce better rounded advocates among solicitors.

7.6.3 There seemed to be some uncertainty as to whether one could apply for an HCA training place before having submitted the Law Society application, one person reporting that s/he had done this, and been offered a training place, while still in the process of putting together the Law Society application. Others had not realised that they could do this, believing that the Law Society application had at least to have been submitted, if not yet decided.

7.6.4 (The concern about the difficulties solicitors may face in becoming HCAs is not of itself a diversity issue, but could be seen as one in relation to gender, given the balance of male and female solicitors and barristers. On the other hand, any

'favouring' of barristers will benefit the legally qualified ethnic minorities, who are more likely to be barristers.)

7.7 Likely response to possible questionnaire

7.7.1 All the participants commented on the high pressure of work for prosecutors (whether HCA or not) and the difficulty of keeping on top of email correspondence. They indicated that while in principle they would be happy to respond to possible questionnaires about the HCA programme, pressure of work could easily lead to email requests - particularly 'round robin' ones - for questionnaire responses being disregarded or deleted. Requests to include pay number would be a deterrent, as people tended not to know these.

8 DCW - distribution data

8.1 General

8.1.1 The present grade of all 279 DCWs shown in the PIMMS data is B2, which is also the substantive grade of all but 12 B2s, two of these exceptions being at A2, and 10 at B1.

8.2 Ethnicity

8.2.1 (Known) ethnic minorities are represented as DCWs in proportion to their representation among staff, being 12.9% of staff and 12.2% of DCWs. Among staff of known ethnicity, ethnic minorities are 13.9% of DCWs and 15.2% of staff.

8.2.2 Taking the 'DCW pool' as grades B1 and B2, ethnic minority representation is the same in both grades. Overall, they are 14.7% of those of known ethnicity. This does not differ significantly from their 13.9% representation among DCWs. The proportion of ethnic minority staff in Grade B1 (the main feeder grade for promotion to DCW) is 14.5% is again slightly larger than, but not significantly different from, their representation among DCWs.

8.3 Gender

8.3.1 Women are represented among DCWs in accordance with their representation among staff, being 66.8% of staff, and 68.8% of DCWs.

8.3.2 Within the DCW pool, women are significantly more likely than men to be found at grade B1. Their representation in the DCW pool is 72.4%, not significantly higher than their representation as DCWs. However, their representation in the main feeder grade B1, at 74.5%, is significantly higher than their representation as DCWs.

8.4 Disability

8.4.1 Disabled staff are 3.9% of DCWs and 4.2% of all staff. Within the DCW pool, disabled staff representation is higher at B2 than B1 but not significantly so. Their representation among B1s is 3.9%, the same as among DCWs.

9 DCWs - selection data

9.1 *General*

9.1.1 Data on 311 applications, representing 218 applicants, were made available. The applications were for 17 exercises, taking place in late 2005 and early/mid 2006. The number of applications made by each applicant ranged from 1 to 10.

9.1.2 The diversity data was supplied direct in the spreadsheet, rather than being obtained from a merge with PIMMS data.

9.1.3 The problem of multiple applications makes analysis more difficult, especially as some applicants are shown as having different ethnic backgrounds for different selection exercises.

9.1.4 As with HCAs, the data supplied can cover only a minority of all applications made since the inception of the DCW role, since the exercises covered resulted in only 54 appointments, compared to the total of 279 current DCWs shown in the PIMMS data.

9.1.5 There was no way of knowing the grade of the applicants at time of application.

9.1.6 The outcome variable provided related to 'appointment', so it was not possible to distinguish those who may have been 'appointed' in one exercise but may also have been regarded as worthy of appointment in others, meaning that not being appointed is not necessarily the same as not being considered suitable (although one person was apparently appointed in two different areas.) However, it is still possible to identify those considered to be unsuitable at the sifting stage, since there was also a variable "interviewee" to show whether an applicant had been interviewed or not. (It is not clear whether there may have been some people who were not interviewed simply because they had already been appointed elsewhere, but it is assumed that not being interviewed normally means not having been selected for interview. The majority of interviewees and appointments are of people who applied only once.)

9.2 *Ethnicity*

9.2.1 It appears that ethnic minorities are more likely than white candidates to make more than one application. It is not possible, without making manual changes to the data for individual applicants, to make an exact estimation, since the tabulation generated relates to applications rather than applicants and, as already noted, one applicant might show with different ethnic backgrounds for different exercises. However, what is clear is that only ethnic minority applicants made more than five applications.

9.2.2 Applications from ethnic minority applicants are less likely to result in appointment; the difference is not statistically significant, but just falls short of statistical significance when it is assumed that those of 'other' ethnic background are of ethnic minority origin (rather than 'unknown').

9.2.3 However, the difference in the proportions of white and ethnic minority applications 'sifted in', ie resulting in interview is statistically significant, irrespective of whether those of 'other' ethnic background are treated as of minority or unknown ethnic background. There is no statistically significant difference in the probability of being appointed once selected for interview.

9.2.4 The multiple applications situation may mean that the shortlisting failure rate for ethnic minority applicants is exaggerated, since a 'no hoper' from an ethnic

minority background may be failed repeatedly. It is also true that many successful applicants (predominantly white) may also have been successful more than once in terms of meeting the required standard, but 'appointed' only once - but this is more likely to affect the appointment outcome than the 'interviewee' outcome.

9.3 Gender

9.3.1 For gender, it is possible to make a precise calculation of the number of applicants (as well as applications) for each gender. Women represented 66.2% of applications and 67.1% of applicants, suggesting on average both sexes made the same number of applications.

9.3.2 The proportion of women applicants is not significantly different from the proportion (72.4%) of women in the "DCW pool" (grades B1 and B2), but is significantly different from the proportion (74.5%) of women at B1, the grade from which DCW applications are most likely to come.

9.3.3 Applications from women are slightly (but not significantly) less likely to result in an interview. Applications from women are more likely to result in appointment than those from men, but not significantly so. However, women interviewees are more likely to be appointed than their male counterparts, and this difference is statistically significant.

9.4 Disability

9.4.1 Eight (2.6%) of the applications came from applicants shown as having declared a disability. These applications came from two people who had applied once, one person who had applied three times, and two people who had applied twice, one of whom had declared a disability on only one of the applications. This person is shown as disabled on the PIMMS database, so it is probably safe to say that nine (2.9%) of applications were from disabled people, and that five (2.4%) of the 208 applicants was disabled. These figures are slightly lower than the percentages in the DCW pool and at B1, but the differences are not statistically significant.

10 DCWs - passing/failing training

10.1 General

10.1.1 Data were provided separately on those (439) who had passed and failed (14) training. Ethnicity data were supplied in relation to the latter but not the former. Neither included pay number. Given the difficulties encountered when trying to merge HCA training data with PIMMS data by name, no attempt was made to do this for the DCW data, and as with HCAs, the focus was on the small minority who failed training.

10.2 Ethnicity

10.2.1 Twelve of the 14 fails were of known ethnicity, and five of these were of ethnic minority background. This proportion is significantly higher than would be expected based on proportions of ethnic minorities currently DCWs or currently on grades B1 or B2.

10.3 Gender

10.3.1 Eleven (78.6%) of the 14 training fails were women, not significantly different from their representation among DCWs or in the DCW pool grades.

10.4 Disability

10.4.1 None of the 14 fails was shown as disabled.

11 Data issues

11.1.1 The impact assessment was hampered throughout by problems with accessing necessary statistical data. This not only caused delays but resulted in a lot of working time being wasted, in trying to establish what was and was not available, attempting to access it, devising templates for data collection, and analysing data sets that eventually proved incomplete or inaccurate.

11.1.2 The PIMMS data base is set up to include relevant diversity fields, and also includes a whole range of useful other variables - such as start date, birth date, legal qualifications held, giving it the potential to be an invaluable source of information on impact assessments that relate largely or exclusively to existing staff (as this one did). At the start of the assessment, an exercise was underway to top up diversity data, making it desirable to wait for the completion of the exercise before proceeding with some analyses. However, even the analyses that could be carried out before cleansing revealed inconsistencies, for example between those showing as HCAs in the PIMMS data set and those shown on the two separately supplied lists of HCAs, one for Wave 10 and one for 'previous waves', the latter lists showing slight variations in the variables and variable names they used, making it harder to combine them into a single list.

11.1.3 The PIMMS data received after cleansing was sufficiently complete and accurate for purposes of distribution analyses, but there are still some question marks over inconsistencies in data exports at different times, and the completeness of the data (for example in the light of the apparent non-inclusion of some of the people shown on the HCA training exemption list either did not show on the PIMMS data at all (although many must have been staff at the time the PIMMS export was supplied), or were shown in PIMMS, but not as being barristers or solicitors. Clearly, a large data set, with thousands of cases and tens of variables is unlikely to be fully accurate and complete at any given time, but there may be scope for improving the accuracy and timely entry of data.

11.1.4 Some data sets, such as the information about people who had gone through DCW and HCA training (the source of the DCW and HCA data sets provided early on) seemed to be complete and up to date, in terms of recording who had gone through a process, and the outcome. The difficulty here lay in the unavailability of diversity and other possibly relevant data. The absence of pay number in these data sets meant that it was not possible to use this 'unique identifier' to merge the data with the PIMMS data set, which would have allowed analysis according to any or all of the PIMMS data variables. Merging by name is far from easy, since misspellings, a change of name, and variations in the way names are recorded (Sue vs Susan etc) mean that matched cases will not actually be identified as such. In addition, there are some duplications of whole first name/surname combinations.

11.1.5 A possible alternative to the inclusion of pay number in all data sets might be to seek diversity data at the point where someone enters a particular process or system. This has the advantage of making it easy to conduct diversity analyses without the need to go through the process of a merge with PIMMS data, something that may not be justified where a data set is small. The disadvantages are that variables such as length of service, which may need to be looked at in particular impact assessments, can not be captured, nor can the data set be compared with baseline data; and that staff may eventually start resenting being asked repeatedly to supply the same diversity information. There can also be

inconsistencies in the information recorded for different processes. As already noted, some people were recorded as having different ethnic backgrounds for different selection exercises. It is not clear whether this is due to variations in the way they answered the question, possibly because of shifting identities, or for 'strategic' reasons (particularly fear of discrimination), or as a result of clerical error in inputting. There was the occasional case where people were recorded as male for one exercise, female for another.

11.1.6 Clearly where diversity data is held in a single data base and analysed through a unique identifier, it is essential that the data be kept up to date, given that there will be genuine changes in people's disability status over time, and changes in ethnic identities or occasionally even of gender.

11.1.7 It may in some cases be helpful to ask for both diversity information, to facilitate the immediate carrying out of simple diversity analyses (for example on training exemption applicants) and pay number, to allow for more complex PIMMS-linked analyses if necessary, although this will not of course overcome the possible problem of people possibly resenting the repeated seeking of diversity information.

11.1.8 Data availability in relation to DCW selection and selection for HCA training can only be described as unsatisfactory. The number of applications available for analysis in each case can represent only a small proportion of all cases, such that generalising from the findings may be suspect.

11.1.9 For HCAs, only summary data for a few exercises was supplied initially, an insufficient basis for data analysis. 'Case by case' data are necessary for detailed analysis, particularly where there is a range of variables that may affect outcomes. Eventually, the new National Recruitment Business Centre were able to track down, extract and supply relevant data on 19 recruitment exercises, but these represented a small proportion of all HCA recruitment.

11.1.10 The selection data initially submitted in the case of DCW applicants was case by case, but did not include information about application outcome, without which analysis is likely to be fairly meaningless. The data were provided for individual exercises, necessitating complicated cutting and pasting of different chunks of the data (complex formatting meant that the spreadsheets could not be copied in toto) into new spreadsheets before the 'full' data set could be read into the statistical analysis package. Diversity information was included, but ethnicity data recorded by way of 14 different variables coded 0 or 1, rather than as a single variable with fourteen different options.

11.1.11 Outcome data and pay number were eventually provided in respect of the applicants on whom initial data had been supplied, making it possible to merge with PIMMS data and to look at outcome as well as application rates, albeit again on only a minority of DCW applications.

11.1.12 A remaining difficulty was that it was not possible to distinguish those to whom an offer had been made in exercises where they were not recorded as 'appointed', although one person was shown as having been 'appointed' more than once. It is as important (if not more so) to be able to know who is judged to have met the standard for a particular post as to know whether or not someone was appointed to that post, especially when, as with DCW posts, individuals might apply for posts across many regions. It was also not possible to be certain of the assumption made that the reason for a person not being interviewed was that they were not chosen for interview, rather than that they had been offered an interview but declined because of interview or appointment offers elsewhere. In an ideal world, there would be variables for chosen for interview, interviewed, offered appointment, and accepted appointment.

11.1.13 For both DCWs and HCAs, the absence - whether through loss or destruction - of all but relatively recent data considerably reduced the volume of cases that could be analysed.

11.1.14 It is understood that the reorganising of recruitment centres into a single National Recruitment Business Centre is expected to reduce or eliminate some of the problems experienced, and that data collection and retention will be carried out more systematically in the future.

11.1.15 Finally, and perhaps beyond the scope of the assessment, it was noted that the 2004-5 Annual Equalities and Employment Report provides some valuable data and analyses, marred occasionally by confusing terminology (eg re 'success rates') and apparent inconsistency between text and graphic information. The report seems such a useful initiative that it would be a pity for future versions not to attend to these issues. (And it may be that this has already been done, if a 2005-6 version has been produced.)

11.1.16 The data problems meant that far more time than anticipated was spent obtaining or attempting to obtain, and analysing or attempting to analyse, the relevant statistical data about distributions and applications. As a result the investigation of case allocation and consultation with HCAs and non-HCAs had to be sacrificed. In addition, the limited consultation that *could* be carried out suggested that data about case allocation would not in any case be easy to obtain and analyse.

12 Main conclusions - by strand

12.1 Ethnicity

HCAs

12.1.1 Ethnic minorities are under-represented as HCAs among those qualified to become HCAs, among both barristers and solicitors. Their application rate for HCA training is similar to that of whites. They appear less likely to be found to meet the standard required for selection for training, and to pass the final training assessment if they are selected. Factors such as age and length of service do not seem fully to explain the disparities, although there could be other factors not captured in analyses undertaken that do.

12.1.2 Ethnic minority trainees are also significantly more likely to fail at the end of HCA training, although the proportion of fails overall is very low.

DCWs

12.1.3 Ethnic minorities are represented among DCWs in the proportions their representation in the B1 and B2 grades would suggest.

12.1.4 They seem to make more applications for DCW posts than do white staff (though it is not possible to assess the significance of this finding) and possibly to be less likely to be selected (the observed difference approaching but not reaching statistical significance).

12.1.5 Their representation in training fails is significantly higher than would be expected based on their representation among DCWs or in the DCW pool.

12.2 Gender

HCAs

12.2.1 Women are under-represented among legally qualified staff in the three grades where most HCAs are found, the difference being significant at grades C2 and D. Nature of legal qualification held, age and length of service contribute

to the disparities but do not fully explain them, gender remaining a significant predictor of HCA status when these other factors are held constant.

12.2.2 Eligible women are less likely to apply for HCA training, the difference being statistically significant among C2 barristers, but not solicitors. They are somewhat, but not significantly, more likely to 'meet the standard' when they do, and gender does not appear to be a significant predictor of 'met/not met' outcomes.

DCWs

12.2.3 Women are under-represented as DCWs in relation to their proportion in the B1 grade, but not in relation to the DCW pool if this is taken to include B2 staff as well.

12.2.4 If the DCW feeder pool is regarded as being confined to B1, women are under-represented among applicants, but this is not the case if the pool is regarded as staff in B1 and B2 grades.

12.2.5 Female applicants are (not significantly) less likely to be interviewed, but when interviewed significantly more likely to be appointed. Overall they are more likely to be appointed but not significantly so. The training fail rates for men and women are consistent with their grade and DCW representation.

12.3 Disability

12.3.1 There was no evidence of any disparities by disability status in relation to either HCA or DCW representation or selection at any stage.

12.3.2 The only caveat is the relatively small proportion shown in the CPS workforce as being disabled, which at around 4% is much lower than the estimated proportions of working-age people and the public sector workforce who are disabled. This may mean under-representation of disabled people in the CPS, under-reporting of disability, or a mixture of the two. Either could affect the true picture in relation to the representation of disabled people as HCAs or DCWs.

13 Recommendations

13.1 Exploration of causes of observed patterns

Ethnicity

13.1.1 The under-representation of ethnic minorities among HCAs, and in particular the disproportionate failure rate in selection and in training, needs to be investigated further. The main purpose would be to ensure that it does not result, in part or in full, from some form of direct and/or indirect discrimination, but findings might make it possible to identify and undertake suitable outreach or other remedial work to rectify imbalances. Some possible options are considered below.

13.1.2 An analysis of samples of applications from white and ethnic minority staff could throw some light on why the selection disparities are arising. Analysis of competency ratings, if available, might highlight whether differences could be attributed to assessments of particular competencies. It might also highlight whether assessed competency levels for different groups was a fair reflection of true competencies and if not, why not.

13.1.3 Analysis of feedback to trainees by Nottingham Trent University (or other HCA training provider) might help to identify reasons for disproportionate failure rates, and general patterns of assessed skill in different groups. However, such an analysis would clearly require the permission of the trainees to whom it was given in confidence. The CPS should also share and discuss the finding about patterns of training failures with Nottingham Trent, and there should be continued monitoring of pass/fail rates for different groups.

13.1.4 Continuing monitoring of HCA training application and selection rates will help to identify whether patterns persist over time, or were peculiar to the sample analysed (unlikely in the light of overall HCA representation disparities.)

13.1.5 Qualitative data obtained in discussion with staff networks and/or focus groups might help to identify perceived reasons for disparities prior to or in conjunction with the kind of analyses suggested above.

13.1.6 Further monitoring is required to assess whether the apparent patterns of ethnic minorities making more applications for DCW posts, and of possible ethnic disparities in selection rates, are maintained. Should patterns be found to hold, there should be an examination of underlying causes. Training failure rates for different groups should continue to be monitored. As with HCAs, a qualitative examination of reasons for currently observed ethnic minority over-representation among training fails should be considered.

Gender

13.1.7 Women's under-representation among HCAs seems to arise more from disparate application rates (particularly among barristers) rather than from selection patterns. One suggestion made is that many women barristers have come to the CPS in the first place because they valued the opportunity it offered for a more family-friendly working pattern than work as a self-employed barrister in Chambers. Another possibility is that women may need to be more satisfied themselves about their capacity to take on a particular role before making an application, and men more likely to 'have a go'.

13.1.8 Focus groups and/or questionnaire surveys could help to throw light on possible reasons for gender differences in application rates. Any such qualitative work would require careful planning and piloting to ensure that it tapped into the right issues, and that a reasonable response rate (if questionnaires) is obtained.

13.1.9 If the evidence does suggest that the work pattern/time demands of the HCA role are disproportionately deterring women applicants, the CPS needs to review the extent to which it genuinely does require all HCAs to be able to drop everything at any time for a trial. At present some HCAs do no HCA work at all, and there was a perception among some of the qualitative research participants that a reasonable amount of flexibility could be afforded to meet the family needs of HCAs while still meeting the needs of the CPS. There were also reports of there being not enough HCA work to go round! On the other hand it has also been reported that if the CPS is to make optimum use of its investment in HCAs, it will eventually need to be able to make greater calls on their time in HCA work, particularly trial work.

13.1.10 The assessment found some evidence that the pattern of lower female application rates is also found in relation to DCWs. Again it is not clear why this is, and the CPS may wish to investigate further (perhaps following further monitoring to establish whether the pattern continues to be found in a larger sample).

Disability

13.1.11 There are no findings in relation to disability which currently appear to require further investigation, the main possible need being for a higher declaration and/or a higher overall representation rate for disabled people in the CPS.

13.1.12 Consultation with disabled staff may help to establish their perception of the disability impact of the advocacy strategy, and of any further work that may be required to assess this.

13.2 Data management and monitoring

PIMMS data

13.2.1 The PIMMS data should be an invaluable resource for the monitoring of all internal processes, containing as it does a whole range of variables over and above the diversity ones. As noted earlier, however, it appeared that the data base is not necessarily as complete or up to date as it might be, although it is possible that part of the problem arose from the exporting of PIMMS data to Excel, for purposes of forwarding and enabling data to be read into the statistical package.

13.2.2 Again, it is recognised that a large database such as PIMMS is going to be difficult to keep fully up to date, but its usefulness for diversity monitoring is compromised to the extent that its accuracy at any given time is in question. There may be a need to review mechanisms for getting information to those responsible for maintaining the data base and/or of data entry arrangements.

13.2.3 It is understood that the DCW and HCA variables were created and populated for purposes of the assessment, something that proved invaluable, and it is to be hoped that the variables will continue to be used and appropriate entries made.

Recruitment and other monitoring re HCAs and DCWs

13.2.4 Firstly, it is essential to ensure that all avenues - and all stages of each avenue - into these roles, particularly HCA, are monitored. While selection for HCA training is the main route at present, it is not impossible that this could change. It appears that, although only internal staff can apply for HCA training or exemption, external recruitment of prosecutors may increasingly be carried out with an eye to, or the specific objective of, attracting potential HCAs. All the processes covered in this assessment report should be capable of full diversity monitoring.

13.2.5 It is recommended that pay number be included as a matter of routine in all paperwork in relation to internal processes. This makes possible a merge with PIMMS data and the huge range of information that is contained therein. It should reduce the requirement to enter other data and the associated risk of error, though of course there is a potential for erroneous entry of pay number. Suitable checks should be established, but erroneous entry of pay number should be relatively easy to identify at the time of a merge with PIMMS by means of cross checks with other variables.

13.2.6 It is suggested that templates should be established as standard formats for the recording of internal selection and other procedures. These should allow as far as possible for the recording of each stage of a process, so that it is possible to tell who applied, whether they were shortlisted (and any relevant competency scores associated with shortlisting), whether they were interviewed, whether offered an appointment after interview, and whether appointed. Associated ratings, such as the merit ranking for those judged suitable for HCA training, should also be captured, as well as basic information about the selection

exercise of the kind sought in the template prepared for the NRBC to record DCW and HCA selection data they managed to obtain.

13.2.7 Data should be collected and retained in a way that makes it possible to aggregate data sets as necessary, while still being able to identify the sub-sets.

13.2.8 Data should be retained for as long as may be necessary to conduct adequate diversity analyses. This may mean several years if patterns and changes in them are to be examined fully. Where possible, data can be anonymised, but should still be capable of being linked to other aspects of the individual to whom they relate.

13.2.9 Data on training outcomes seem to be comprehensively kept, but need to be capable of being linked to diversity data (again via PIMMS).

13.2.10 There should be regular reviews of all the data collected, along the lines of this assessment.

13.2.11 The CPS wanted the assessment to look at HCA deployment and casework allocation. This was not possible because of the extra time spent accessing and analysing distribution and selection data, but in principle these two factors may be important ones to monitor. Consideration needs to be given to the feasibility of monitoring deployment and case allocation (and using what 'measurables'). In particular the requirement for 'suitable deployment' will determine progress from non-jury to jury training and work, so suitable measures need to be devised. One might be the time elapsed between completion of non-jury training and jury training, but other suitable ones may be identified. (Statistical packages can cope with converting dates into elapsed time, so the need would be to ensure that dates were correctly recorded, not to calculate manually the elapsed time.)

The Annual Equalities in Employment Report

13.2.12 Based on inspection of the 2004-5 report, it appears that some improvements to the Report could enhance its considerable potential as a regular review tool. Occasional inconsistencies between text and tables appeared, and these need to be identified prior to publication. The presentation of data only as percentages makes for clarity, but is not always sufficient to make for an informed assessment of observed patterns. For example a disparity in appointment (from interview) rates showing 50% of female and 100% of male interviewees to have been appointed would be cause for concern if there were 20 interviewees in each group, but not if there were only two. It is recognised that including raw numbers may overload presentation, but it may be possible to include some numerical data (eg total applications received) to help readers to assess the meaning of patterns.

13.3 Age

13.3.1 The current assessment looked only at the diversity strands of ethnicity, gender and disability, and treated age and length of service variables as possibly 'confounding' ones, that might serve to 'explain' differences on the other strands. It may be that in future the CPS will want to include age as a diversity theme in its own right.