



Sheffield City Council Race Equality Commission Inquiry

Crown Prosecution Service Submission

Summary

- The CPS publishes data on charging decisions and prosecution outcomes by defendant ethnicity however it is not possible to draw any conclusions as to why any differences occur between ethnic groups without applying statistical controls to understand the impact of relevant factors that might explain those variations.
- The CPS is one of the most diverse departments within the Civil Service and has developed numerous programmes to support the development of Black and ethnic minority staff.
- The CPS has well-established national and local mechanisms in place to listen to communities to inform CPS decision-making and policy development.

Introduction

The Crown Prosecution Service (CPS) prosecutes criminal cases that have been investigated and referred to us by the police and other investigative organisations in England and Wales. The CPS is independent, and we make our decisions independently of the police and government.

Our duty is to make sure that the right person is prosecuted for the right offence, and to bring offenders to justice wherever possible, working closely with the police, courts, the Judiciary and other partners.

The CPS:

- decides which cases should be prosecuted
- determines the appropriate charges in more serious or complex cases, and advises the police during the early stages of investigations
- prepares cases and presents them at court and
- provides information, assistance and support to victims and prosecution witnesses.

When deciding whether to prosecute a criminal case, our lawyers must follow the Code for Crown Prosecutors. This means that to charge someone with a criminal offence, prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction, and that prosecuting is in the public interest.

CPS Yorkshire and Humberside has been asked to submit written evidence to this inquiry and Deputy Chief Crown Prosecutor, Gale Gilchrist, will be giving oral evidence at the criminal justice session on 15 July. We were asked to consider the following questions:

1. Evidence of racial inequality in Sheffield that you hold, and which may be of use to the Commission.

The CPS nationally publishes quarterly data on the CPS website showing charging decisions and prosecution outcomes by defendant demographics, including ethnicity. The most recent published data is for October to December 2020. The data for January to March 2021 is due to be published on or shortly after 22 July 2021. It can be accessed via this [link](#).

To note - The data provided may be useful for the Committee to understand how ethnicity is reflected in available charging and prosecutions data. It is not supplied as evidence of 'racial inequality' in the Criminal Justice System. In particular, it is not possible to draw any conclusions as to why charge and/or conviction rates might differ without applying statistical controls to understand the impact of 'relevant factors' that might explain those variations. Such relevant factors would include e.g. age, gender, regional geography, offence type and previous offending history.

Charging decisions by ethnicity:

Nationally, 74.5% of all defendants referred to the CPS between 1 January 2020 and 31 December 2020 were charged. White defendants and Asian defendants had the lowest charge rate at 76.5% and 76.3% respectively. Defendants with Mixed ethnicity had the highest charge rate at 81.3%.

In Yorkshire and Humberside, the picture is different as 67.6% of all defendants referred to the CPS were charged. The figure was 73.6% for White defendants and similar at 74% for Black defendants. Asian defendants had the highest charge rate at 81.4%.

In South Yorkshire, 60.6% of defendants referred to the CPS were charged. 64.2% of White defendants were charged compared with 61.2% of Black and ethnic minority defendants. Defendants in the Asian and Black categories had the lowest charge rate, both at 59.9%.

Convictions by ethnicity:

The CPS nationally prosecuted 367,842 defendants between 1 January 2020 and 31 December 2020. 309,777 of those were convicted giving a national conviction rate of 84.2%. All Black and ethnic minority groups had a conviction rate that was the same or lower than the national conviction rate. White British defendants however had a significantly higher conviction rate at 87.3% meaning that White British defendants are most likely to be convicted.

During the same time period, CPS Yorkshire and Humberside prosecuted 36,981 defendants. 31,785 of those were convicted giving a regional conviction rate of 85.9%. The only ethnic group with a conviction rate significantly higher than this is White and Black African at 92.0%.

8,734 of the defendants prosecuted in Yorkshire and Humberside were dealt with in South Yorkshire. 7,359 of those were convicted giving a South Yorkshire conviction rate of 84.2%. The conviction rate is significantly higher for three of the Mixed categories - White and Black Caribbean

at 88.5%, White and Black African at 92.3% and any other Mixed background at 96.3%. It is also slightly higher for White British defendants at 86.7%.

Workforce representation by ethnicity:

The Lammy Review 2018 found that “One of the most notable features of the CPS within the family of CJS institutions is the diversity of its workforce and that this diversity runs throughout the organisation’s structure.”

We are one of the most diverse departments within the Civil Service. The CPS nationally has a higher percentage of Black and ethnic minority staff than in the general population at 18.1% compared with 14.0% (source 2011 National Census).

At the end of Q4 2020-21, CPS Yorkshire and Humberside employed 505 people. 10.9% of whom declared their ethnicity as Black or minority ethnic compared with 11.2% of the local population (source 2011 National Census). This is an increase from 9.7% at the end of 2019-20 and 8.1% at the end of 2018-19. The highest percentage of Black and ethnic minority staff is at Crown Prosecutor and Senior Crown Prosecutor grade at 19.3%.

Ethnic diversity of external advocates:

We also take an interest in the diversity of external advocates who prosecute cases on our behalf. The CPS has established the CPS Advocate Panel to quality assure advocates to undertake criminal prosecution advocacy for the CPS in the Crown Court and Higher Courts. There are currently 329 members of the Advocate Panel in the North Eastern Circuit region, which comprises Yorkshire and Humberside and the declaration rate for ethnicity mirrors the national figure of 24%. Of those, 9% are from a Black or ethnic minority background, which is higher than the national figure of 5%. The steps we have taken to increase the diversity of external advocates are included under question 3.

2. Your organisation’s analysis of the cause or causes of racism and/or racial inequality within criminal justice.

The cause of racism is prejudice, which can be found throughout society therefore criminal justice organisations are not impervious to it. It is well documented that criminal justice outcomes are less favourable for people from Black and ethnic minority backgrounds.

On the issue of disproportionality in charging decisions, the Lammy Review 2018, found that there was no significant race disproportionality in relation to CPS charging decisions, which is supported by our own reviews of our national charging data going back to 2017/18.

In addition to the publication of our quarterly data, the CPS nationally has commissioned academic research on disproportionality for a more detailed, independent assessment of this issue. The researchers will be considering disproportionality in CPS decision-making to look at both national and local trends.

3. Examples of good practice in relation to reducing racism and/or racial inequality.

National CPS activity:

The CPS has developed and is involved in a number of programmes to support the development of Black and ethnic minority staff. These include the development of reverse mentoring programmes and mentoring circles, career coaching and work shadowing opportunities for over 100 Black and ethnic minority staff, an outcome of the 2019, “Leading our Career” conference. We have seen a significant increase in Positive Action Programme participants and more recently, we have developed a Black and ethnic minority Role Model Development Group, the aim of which is to identify and further address barriers to career progression.

Across July and August 2020, we ran a series of Race Confidence webinars to better equip colleagues to both understand and challenge racism in all its forms.

In October 2020, we celebrated Black History Month with black role model events and diversity and inclusion listening circles with senior leaders.

Earlier this year we launched our Count Me In campaign, asking all colleagues to update their personal data on our HR system to make sure we understand diversity across the CPS so we can better target our actions in line with our ambitions to be a properly diverse and inclusive workplace.

We are also making sure we learn from the experiences of our wider communities. The CPS has well-established national and local mechanisms in place to listen to communities to inform CPS decision-making and policy development. These include a national Community Accountability Forum, chaired by the CPS Chief Executive Officer, as well as National Scrutiny Panels and Local Scrutiny Involvement Panels in every CPS Area. In November, we held a Community Accountability Forum to help us better understand community experiences of racism and how that relates to the criminal justice system. The purpose of the forum was to gather evidence from a range of experts about Black and ethnic minority people’s experiences of the criminal justice system as both victims and defendants. As a result, the CPS have made a number of commitments including working with relevant stakeholders to identify opportunities to promote and encourage young people from Black and ethnic minority communities to apply for our apprenticeship and work experience programmes, particularly in areas where our workforce does not sufficiently mirror the communities we serve.

Later this year we will be launching our national 2025 Inclusion and Community Engagement strategy which will set out the full breadth of our ambitions for diversity and inclusion both inside and outside of the CPS. Race equality across the criminal justice system is a key focus of the strategy, which is due to be published in August.

The CPS 2025 Advocacy Strategy recognises that the communities we serve are more likely to have confidence in our work if they can see themselves reflected in the diversity of our advocates. This includes our quality assured panel of external advocates who prosecute on our behalf. Currently, just 24% of the Advocates Panel nationally have declared their ethnicity. The CPS is working with the Bar Council, the professional body which barristers, to increase the declaration rate and

improve the number of advocates from Black and ethnic minority backgrounds at all levels so we can better meet our Public Sector Equality Duty to advance equality of opportunity. This commitment is set out in our newly published CPS Diversity and Inclusion Statement for the Bar, together with other important requirements and expectations for individual advocates and sets of chambers who undertake or seek to undertake prosecution work on our behalf. We will be working with those chambers and individuals to monitor the ethnicity of advocates and the equitable allocation of work, underpinned by the new CPS Briefing Principles. They apply equally to in-house and external prosecution advocates and highlight the importance of advancing equality of opportunity for advocates with relevant protected characteristics, including ethnicity.

Local CPS Yorkshire and Humberside activity:

In July 2020, we held listening exercises with Black and ethnic minority colleagues to understand their experiences of race within the CPS and we also invited people to share their experiences anonymously using an online survey tool. Following on from this, we set up an internal Diversity and Inclusion Group in September 2020 to work with the management team on all inclusion matters.

CPS Areas have also been engaging with Black and ethnic minority communities to discuss the disproportionate impact of Covid-19 and some of the issues raised by the Black Lives Matter movement in relation to race disproportionality through a series of “community conversations” chaired by Chief Crown Prosecutors. In Yorkshire and Humberside, we began a series of these conversations last August, which provided an opportunity to gain insight into how local communities, particularly Black communities, view the CPS and the wider criminal justice system, and to respond to the concerns raised.

We have three CPS Local Scrutiny Involvement Panels in Yorkshire and Humberside, which include victims’ advocates and community representatives. They review finalised hate crime, domestic abuse and rape cases and provide feedback in relation to casework quality, including the support provided to victims and witnesses. This enables communities, including representatives from ethnic minority communities, to better understand the prosecution process, improve casework outcomes and helps us to ensure that the application of the Code is not influenced by factors that may be a product of bias.

4. What your organisation believes would be the best way to tackle racism and/or racial inequality in the city.

To ensure we put equality at the forefront of our work, we have implemented bespoke training across the CPS on the Public Sector Equality Duty, which became a mandatory requirement for all CPS lawyers in February 2020. This is to ensure that prosecutors understand the importance of “consciously considering” the needs of victims, witnesses and defendants with particular protected characteristics, including ethnicity, and are aware of some of the myths and stereotypes that can lead to conscious and unconscious bias.

One of the most effective ways of tackling racial inequality within any organisation is to ensure that the workforce is representative of the local community. For CPS Yorkshire and Humberside, this starts with ensuring work experience opportunities are allocated fairly and on merit. Our work

experience strategy recognises the need to promote opportunities among community groups which are currently under-represented with a focus on Black and ethnic minority communities, disabled people and those from low socio-economic backgrounds. We have introduced a “blind” sifting approach to the applications, and we monitor the ethnicity of applicants and outcomes.

Work with young people in schools, colleges and universities is also vital to raise awareness of racist hate crime, as well as other types of crime, with potential victims and perpetrators. CPS staff go into educational settings on a regular basis, sometimes as part of the PSHE curriculum. This is an effective way of ensuring young people understand the consequences of engaging in criminal and anti-social behaviour and what to do if they are a victim. This is an important part of building a tolerant and cohesive society.

Seeking and promoting sentence uplifts in appropriate racially and religiously aggravated hate crime cases in which a conviction has been secured also helps to tackle racism by sending a clear message to perpetrators and wider society that we do not tolerate prejudice and hostility in our society. CPS Yorkshire and Humberside publishes quarterly summaries of sentence uplifts on our website and these are promoted at public events and through our community contacts. We also work with the media to promote positive outcomes in cases involving racially and religiously aggravated hate crime and incitement to racial or religious hatred. We have a proactive national press office and every CPS Area has a Communications Manager to liaise with the local and national media.

6 July 2021